

STATE OF UTAH,
Plaintiff,
vs.
MEAGAN DAKOTA GRUNWALD,
Defendant.

VOLUME III
Case No. 141400517 FS

INDEX

<u>WITNESS: GREGORY BRENT SHERWOOD</u>	<u>PAGE</u>
DIRECT EXAMINATION BY: MR. PEAD	454
CROSS EXAMINATION BY: MR. ZABRISKIE	472
 <u>WITNESS: QUINTON FACKRELL</u>	
DIRECT EXAMINATION BY: MR. TAYLOR	477
 <u>WITNESS: LEE FOX</u>	
DIRECT EXAMINATION BY: MR. TAYLOR	486
 <u>WITNESS: JEFF BLANKENAGEL</u>	
DIRECT EXAMINATION BY: MR. TAYLOR	497
CROSS EXAMINATION BY: MR. ZABRISKIE	508
REDIRECT EXAMINATION BY: MR. TAYLOR	515
 <u>WITNESS: ALONZO VANTASSELL</u>	
DIRECT EXAMINATION BY: MR. TAYLOR	517
CROSS EXAMINATION BY: MR. ZABRISKIE	530
REDIRECT EXAMINATION BY: MR. TAYLOR	535
 <u>WITNESS: ALAN TAYLOR</u>	
DIRECT EXAMINATION BY: MS. HOWARD	539
VOIR DIRE EXAMINATION BY: MR. ZABRISKIE	555
DIRECT EXAMINATION (resumes) BY: MS. HOWARD	556
CROSS EXAMINATION BY: MR. ZABRISKIE	578
REDIRECT EXAMINATION BY: MS. HOWARD	613
RECROSS EXAMINATION BY: MR. ZABRISKIE	619
 <u>WITNESS: TROY PACE</u>	
DIRECT EXAMINATION BY: MS. HOWARD	624
CROSS EXAMINATION BY: MR. ZABRISKIE	638
 <u>WITNESS: DONOVAN G. STEELE</u>	
DIRECT EXAMINATION BY: MS. HOWARD	644
 <u>WITNESS: JOEY LUNT</u>	
DIRECT EXAMINATION BY: MS. HOWARD	653
 <u>WITNESS: CHETNEY WILLIAMS</u>	
DIRECT EXAMINATION BY: MS. HOWARD	663
 <u>WITNESS: KELLY BALLOW</u>	
DIRECT EXAMINATION BY: MS. HOWARD	677

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EXHIBIT

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
No. 58	Dash Cam Video	460
Nos. 59 thru 74	Still Shots of Dash Cam Video	471
Nos. 65 thru 71	Crime Scene Photographs	481
No. 73	Crime Scene Photograph	481
Nos. 74 thru 75	Crime Scene Photographs	490
Nos. 77 thru 79	Crime Scene Photographs	490
Nos. 82 thru 91	Crime Scene Photographs	490
Nos. 134 thru 136	Retrieved Bullet Fragments	494
No. 92	Dash Cam Video	499
Nos. 93-100	Photograph of Damage to Truck	526
No. 103	Receipt for Tires	529
No. 101	Bullet Fragment from Tire	536
No. 102	Bullet Fragment from Wheel	537
No. 104	Bullet Fragments	537
No. 105	Dash Cam Video	543
Nos. 106 thru 108	Still Shots from Dash Cam Video	550
No. 110	Still Shot from Dash Cam Video	550
No. 111	Still Shot from Dash Cam Video	558
No. 115	Still Shot from Dash Cam Video	563
No. 112	Still Shot from Dash Cam Video	564
No. 113	Still Shot from Dash Cam Video	564
No. 118	Gun	576
No. 119	Gun with Magazines	576
No. 120	Photograph of Male Suspect	576
No. 121	Exit 222 with Markings	635
No. 123	Exit 222 With Markings	649
No. 122	Exit 222 With Markings	655
No. 124	Diagram	671
No. 125	Photograph of Vehicle	675
No. 126	Photograph of Cell Phone	675
No. 127	Photograph of Cell Phone	675
No. 128	Photograph of Exit	679

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1
2
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4
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P R O C E E D I N G S

(Electronically recorded on April 30, 2015)

THE COURT: Okay, hank you. Please be seated. All right, good morning. We'll go on the record in the matter of State of Utah vs. Meagan Grunwald. This is Thursday, April 30, 2015. We're in the third day of trial. All parties are present including the defendant, Ms. Grunwald, and all members of the jury as well. All right, still the State's case. Mr. Taylor.

MR. TAYLOR: Thank you, Judge. The State calls Deputy Greg Sherwood.

THE COURT: Okay, thank you. Deputy, come forward, let's get you sworn in.

COURT CLERK: Raise your right hand. You do solemnly swear that the testimony you shall give in the case now pending before the Court will be the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: Yes.

THE COURT: Thank you, sir. Please have a seat in the witness box. Just pull that mic down a little bit and it will pick you up. Thanks.

GREGORY BRENT SHERWOOD,

having been first duly sworn,

testified as follows:

DIRECT EXAMINATION

///

1 BY MR. TAYLOR:

2 Q. Good morning, Deputy Sherwood, how are you doing?

3 A. Okay.

4 Q. Good, good. Could you please state your full name for
5 the record and then spell your last name.

6 A. Gregory Brent Sherwood, S-h-e-r-w-o-o-d.

7 Q. Where are you currently employed?

8 A. Utah County Sheriff's Office.

9 Q. How long have you been employed with the Utah County
10 Sheriff's Office?

11 A. Since the spring of 2012.

12 Q. Okay, and how long have you been a police officer?

13 A. Just under 14 years.

14 Q. Where did you work before you came to the Utah County
15 Sheriff's Office?

16 A. I worked for Spanish Fork City. Before that I worked
17 for Springville City for about, combined, 10 or 11 years.

18 Q. Okay, and are you a certified police officer?

19 A. Yes.

20 Q. Okay, and so what are your responsibilities -- let me
21 back up. Strike that. Before January 30th, 2014, what were you
22 responsibilities with the sheriff's office?

23 A. I was currently serving as a patrol deputy, canine
24 handler. I was a member of the Utah County Metro SWAT team.

25 Q. Okay, so a little bit about the canine handler. How

1 long have you been a canine handler?

2 A. Since the fall of 2012.

3 Q. So what kind of training did you have to do with
4 regards to the canine handler?

5 A. I went through three courses. The first course was
6 called the "patrol dog," where we train the dog for bite work,
7 criminal apprehension, suspect searches, tracking, article
8 searches. That was a two-month course. The second two-month
9 course was a -- called "detector dog." We go through and train
10 the dog on several different illegal drugs. We train them to
11 search out, find, indicate on the drug order.

12 Q. Okay, and then also you said you were a member of the
13 metro SWAT team?

14 A. Yes.

15 Q. How long had you been a member of the SWAT team?

16 A. I started training with them in 2006, and spring
17 of 2007 I went through their basic training course and was
18 officially a member at that time.

19 Q. Okay, just want to make sure that you're speaking up
20 there so that the audio picks that up, and so --

21 A. All right.

22 Q. All right, great. Thank you. Okay, so were you on
23 duty on January 30th, 2014?

24 A. Yes.

25 Q. In the afternoon of January 30th, 2014 explain where

1 you were at and what you were doing.

2 A. Around noon I was in the area of Elberta, which is
3 southwest portion of Utah County, and I had responded there on
4 a traffic accident. I cleared that area around 12:30. At that
5 point I was going to head into Spanish Fork to grab some lunch.

6 Q. Okay, and were you listening to the radio traffic at
7 that time?

8 A. Yes.

9 Q. Okay, what were you listening to? Did something come
10 across that caught your attention?

11 A. Yes, our County is divided into zones. We have a north
12 zone and a south zone. The border line is Center Street and
13 Provo. That's the divide, east/west divide line, and we have
14 two separate channels; a north channel and a south channel.

15 Q. Okay.

16 A. I was listening to the south channel, and I heard some
17 chatter about an attempt to locate on a vehicle. We've talked
18 about the 10/200's. It's the protocol where vehicles -- where
19 there's a serious crime and there's a vehicle description, then
20 there's protocol for agencies throughout the State to go to
21 specific geological areas to watch the roadways and attempt to
22 find the suspect vehicle.

23 Q. Okay, and so after you were eating lunch is that what
24 you proceeded to do?

25 A. I never got to lunch.

1 Q. Okay.

2 A. I was -- arrived and heard the chatter. I switched my
3 radio to start scanning the north channel because the attempt
4 to locate that we heard yesterday on the radio dispatch, audio,
5 was not the same broadcast that I heard.

6 Q. Okay, okay, so you were where did you go ahead and
7 respond to?

8 A. I actually had a phone call that gave me some more
9 information than the rest of the officers had at the time.

10 Q. Who was that phone call with?

11 A. It was from a fellow canine handler, Deputy Shawn
12 Carter.

13 Q. Okay, and so after that phone call what was your
14 understanding of the situation?

15 A. He told me that Sergeant Cory Wride had checked out
16 with a vehicle, and they were unable to get a code 4 check on
17 him, which means dispatch is asking if he's okay, and he was
18 not responsive to the radio, and an officer went out -- a
19 deputy went out to check on him, and they found that he was
20 deceased.

21 Q. Okay, so at that point --

22 A. From a gunshot wound, sorry. Yeah.

23 Q. Okay, at that point where did you go?

24 A. So I decided that I would head to an area in south
25 county, southwest county. It was in the Elberta area. It's a

1 crossroads from two highways.

2 Q. Okay.

3 A. One highway was Highway 6. It is basically starts
4 at I-15, and is Santaquin's Main Street. It goes in a west
5 direction towards -- goes through Goshen, Genola, Elberta,
6 heads out towards Eureka, which will eventually take you out
7 towards the Sand Dunes.

8 The intersection that I was going to was Highway 68.
9 It is the highway that travels north and south from on the west
10 side of Utah Lake, and it turns into Redwood Road. I thought
11 that would be a key location since there's no law enforcement
12 down there. I was -- me and another deputy were the only ones
13 covering south county. So I thought that that was an escape
14 route that the vehicle could have taken from the Eagle Mountain
15 area.

16 Q. Okay, so are you on I-15 at this time?

17 A. Yes, I get on I-15 in Spanish Fork, and I head south,
18 south on I-15.

19 Q. Okay, at some point is your dash -- do you have a dash
20 cam in your vehicle?

21 A. Yes.

22 Q. At some point is your dash cam on with regards to when
23 you're heading southbound on I-15?

24 A. Yes.

25 Q. Have you watched that dash cam?

1 A. I have seen it.

2 Q. Does that dash cam video accurately depict what was
3 going on on that day?

4 A. Yes.

5 MR. TAYLOR: Okay, this is State's Exhibit No. 58.
6 So, Judge, we'd like to -- well, let me go ahead and -- may I
7 approach?

8 THE COURT: Yes.

9 MR. TAYLOR: Already up here.

10 Q. BY MR. TAYLOR: That's State's Exhibit No. 58. Is
11 that the dash cam video that, as far as you know, that you've
12 watched and reviewed?

13 A. Yes.

14 MR. TAYLOR: Okay, the State would offer into evidence
15 Exhibit No. 58.

16 MR. ZABRISKIE: No objection, your Honor.

17 THE COURT: Thank you. I'll accept and receive State's
18 Exhibit 58.

19 MR. TAYLOR: Thank you.

20 (Exhibit No. 58 received into evidence)

21 MR. TAYLOR: Judge, we'd like to publish this if we
22 could at this time.

23 THE COURT: Any objection?

24 MR. ZABRISKIE: No objection.

25 THE COURT: Thank you.

1 Q. BY MR. TAYLOR: Okay, Deputy Sherwood, I'm going to --
2 I'm going to start and stop you just a couple of times so that
3 you can just kind of give us a little bit of orientation with
4 regards to -- so this right here -- and I'm referring, just for
5 the record, I'm referring to the video which is being displayed
6 upon the screen.

7 (Dash cam video played in the courtroom and is turned
8 off and on during this witness' examination. Please
9 refer to the Court file to review this video.)

10 Q. Do you recognize this?

11 A. Yes.

12 Q. What is this?

13 A. That's my dash cam video showing the hood of my
14 vehicle and southbound I-15.

15 Q. Okay, let's go ahead and -- so could we go ahead and
16 start that, please. So once again, you said you're heading
17 southbound on I-15?

18 A. Yes.

19 Q. Okay, go ahead. Okay, where are we at here?

20 A. The sign, as you can see, is Main Street. It shows
21 Highway 6 west. This is Santaquin Main Street exit.

22 Q. Okay, go ahead. Are your lights on at this time?

23 A. Yes, the way this digital video camera is set up, it's
24 capable of a pre-record, and it's set at 30 seconds. So when I
25 activate my lights it goes back 30 seconds and shows the video.

1 Then once that 30 seconds has come up it starts with the audio.

2 Has an interior microphone inside my vehicle.

3 Q. Okay, go ahead. Okay, so what just happened there?

4 Where are you turning there?

5 A. This is Main Street. The overpass you see there is

6 I-15. I turned east onto the Main Street. My intentions were

7 to get on the northbound on-ramp because I heard Officer Greg

8 Gurney say that he spotted a vehicle matching the description.

9 It made a very erratic, illegal U-turn on southbound I-15,

10 turned northbound.

11 Being an officer long enough, you have instincts that

12 suspicious activity, erratic driving of vehicles set off your

13 instincts, the red flags. In my feelings I knew this was

14 the vehicle and it was coming right towards me, and I was in

15 perfect position to intercept.

16 Q. So did you have a description of this vehicle at the

17 time?

18 A. Yes, I did.

19 Q. What was the description of that vehicle?

20 A. It was a 2003 white Toyota Tacoma with a Utah license

21 plate of Delta -- D as in Delta 870 Echo Charley.

22 Q. Thank you. Okay, let's go ahead and -- so what --

23 what are you doing here?

24 A. I am stopping to get in position so I can watch the

25 northbound I-15 traffic. I stopped short of I-15, so I wasn't

1 committed to driving north. I wanted to watch the off-ramp.
2 I wanted to watch the other streets in the area, and I was --
3 positioned myself so I could watch that area, not just I-15
4 north.

5 Q. Okay, go ahead. Okay, so what are you -- you're
6 turning around here. Why are you turning around?

7 A. Because I saw a white pick-up truck exit the north-
8 bound I-15 off-ramp at Santaquin Main Street. When you're
9 looking for a white pick-up, they're everywhere, and the time
10 frame just fit. We heard Officer Gurney's testimony yesterday,
11 how he said they were approaching, passing this southmost
12 Santaquin exit. This exit is the very next exit. There's
13 nothing in between that. The time frame fit. I felt that
14 this was the vehicle. It matched the description. I make a
15 U-turn on the northbound off-ramp. I go against traffic.

16 Q. Okay, I'm going to go -- I'm going to go ahead and
17 show that. So what I'm going to do is I'm going to just let
18 this run for a little bit. Then I'm going to back up a little
19 bit, because there's a lot. So we'll just let this run for a
20 little bit if we could.

21 Okay, I'll go ahead and stop that here. So, Greg,
22 I want to back up just a little bit because there was a lot
23 of things that happened. So if we could just back up to the
24 time that you turned around, and then I'm just going to kind
25 of walk through this so you can explain a couple of things just

1 up until the time that your vehicle stops, if you could do
2 that, please. So I think that -- stop right here. Okay, so
3 could you please put on the record what are your observations
4 at this point.

5 A. When I rounded the corner from the on-ramp, I saw the
6 light was red, and this suspect vehicle here was approaching so
7 I could read the license plate. I had to get close enough to
8 make a positive identification. They were signaling to turn
9 left to get on southbound I-15. There were cars traveling
10 eastbound. So they were not able to turn onto southbound I-15
11 because of the vehicles.

12 I pulled up close enough I could read the license
13 plate. I was -- looking here I was pretty -- the adrenalin
14 was going. I was pretty nervous. I knew what these people
15 were capable of, and I was angry because what they had done
16 to Cory Wride, my coworker. Worked side-by-side with him on
17 the SWAT team. I was ready to hold these people accountable
18 for their actions.

19 Q. So based upon your observations, you said that this
20 vehicle looked like it was -- was it signaling to turn left
21 there?

22 A. Yes.

23 Q. Okay, and so -- and you were -- you said you were
24 able to positively identify the license plate?

25 A. Yes, I saw the license plate was Delta 870 Echo

1 Charley.

2 Q. Okay, go ahead. Okay, stop there. So could you just
3 explain for the record what we're seeing there.

4 A. Okay, I think it's important to know that I didn't
5 have my lights on. I wasn't trying to stop this vehicle. I
6 knew what they were capable of. I have a lot of training in
7 tactics and this is not the best tactic to use. My plans were
8 to follow at a safe distance, coordinate other officers to come
9 and assist me and do this the safest manner possible, because
10 I knew they were not going to just pull over and give up, put
11 their hands up. They killed a cop and they're not going to
12 stop.

13 My lights were not on. When they spotted me, they
14 just took off. They -- they left the lane that they were in.
15 You'll see that they -- the signal stays on for a block or
16 two. There's a truck right there on the southbound off-ramp.
17 They're trying to turn but they thought the lane was clear but
18 this Tundra cut them off.

19 Q. Okay, let's go ahead and go forward, then. Stop there.
20 So at this point we hear -- are those your sirens?

21 A. Yeah. Yes, they -- I'm trying to call out that I have
22 the vehicle, and I did that. In order to turn my lights on I
23 had to hang up the police radio microphone. I activate the
24 lights, siren at that point.

25 Q. Okay, go ahead. Stop there. Okay, so what are your

1 observations at this point?

2 A. The vehicle I was driving was a large SUV. It was
3 a Ford Expedition. It's not the best pursuit vehicle. I've
4 worked in cities a lot and it's very easy to lose someone that
5 you're trying to chase. If you're a block behind them you can
6 lose them. They can make a turn, you can be a block behind and
7 you don't see where they go. I was trying to keep up with them
8 so I didn't lose them, but they started to brake.

9 At the time, my perception was that they actually just
10 slammed on their brakes and stopped in the middle of the road
11 for no reason. The video shows different from that, but you'll
12 see them kind of suck me in, for lack of a better description.
13 They slow. You'll see my hood dip down as I brake pretty
14 aggressively, and --

15 Q. Based on your vantage point at this point is there
16 anything that you could observe that would have -- that would
17 have been directly in front of that Tundra that would have
18 caused them to hit the brakes?

19 A. Not at this point, no.

20 Q. Okay. All right, go ahead. Okay, stop. So what
21 happened there?

22 A. I got shot. You'll see two flickers on -- from the
23 camera, two shots came through my windshield. You'll see the
24 brake lights. This is very interesting to me, as soon as that
25 second shot rings off, you see the flicker, and immediately the

1 brake lights go off, they accelerate and make an aggressive
2 U-turn, and they run over a snow bank and pass me going the
3 opposite direction.

4 Q. So what are you doing at this point? Did you stop
5 your vehicle at this point?

6 A. Somehow I did it. I don't have a clue how I was able
7 to do that. Again, my perception at the time is they were
8 stopping in the middle of the road. I think muscle memory
9 just came in. I put the vehicle in park. I stopped. I was
10 blacked out for probably 30 or 40 seconds. I had no vision,
11 couldn't see where they were. I didn't know if they'd stopped.
12 I didn't know if they were -- had exited the vehicle. I didn't
13 know if they were going to come back and continue firing at me.

14 I was in no position to defend myself. I couldn't
15 see. I was incapacitated. I couldn't -- I knew I couldn't
16 stand up. I knew I couldn't open my door. I couldn't drive.
17 I couldn't draw my weapon. I couldn't defend myself.

18 Q. Okay, so Deputy Sherwood, could you please explain
19 the injuries that you received as a result of that gunshot.

20 A. Yes, I -- the bullet -- the main bullet, slug struck
21 me right here. There's a void through here, and this area that
22 I'm going to touch is where the bullet actually penetrated my
23 skull. I have no skull here right now. That area, the main --
24 the largest bullet fragment went into my brain, into my right
25 temporal lobe of my brain.

1 It -- we heard from the Medical Examiner yesterday how
2 the shockwave, the impact, the temporary wound channel causes
3 more damage than just the bullet. I had other lobes of the
4 brain that were impacted. I had other fragments go through my
5 ear into my mastoid bone. The bone's here, but on the other
6 side.

7 I had a fragment damage the bone structure for the
8 middle ear, had fragments in my face, shrapnel from glass. The
9 lobe damage, I had therapy that we discussed what each lobe of
10 the brain is responsible for, and the right temporal lobe -- I
11 have notes; is that okay?

12

13 Q. If that would help --

14 A. It jogs my memory.

15 Q. -- let me just go ahead and ask you first just a
16 couple of questions if I could, Greg.

17 A. Okay.

18 Q. So you've had surgeries with regards to this; is that
19 correct?

20 A. Yes, I've had three surgeries.

21 Q. Okay, and during those surgeries are you aware of
22 whether or not they got fragments out of your skull?

23 A. Yes, the first brain surgery was the day of the
24 shooting. They retrieved the fragment from the mastoid area,
25 a couple of fragments there. They retrieved a frag -- the

1 fragment that impacted my middle ear, inside my skull. The
2 main -- the large fragment in my brain they left and was
3 removed on a subsequent surgery.

4 Q. Did this injury affect your speech at all?

5 A. Yes.

6 Q. How?

7 A. There were times that I would try to speak and I knew
8 what word I wanted to say, but it just wouldn't come out.

9 Q. Has it affected your balance?

10 A. Yes.

11 Q. How?

12 A. They took my license away because of my balance. It
13 was terrible. I couldn't -- I couldn't stand normally. I had
14 to use aids, use things for support.

15 Q. Are you -- when you compare yourself now to before
16 January 30th, 2014, on a scale of 1 to 100, where are you on
17 that, based on your perception?

18 A. Probably 60, 70 percent.

19 Q. Have you returned to work?

20 A. In a very limited capacity.

21 Q. What are you doing?

22 A. Before I was working 86-plus hours, a two-week period.
23 I was training a canine every week for 8 to 10 hours. I was
24 attending SWAT training. All these things are physical, take
25 a lot of energy. I'm not -- I'm not doing any patrol. I do a

1 ride-along with another officer, and I'm in plainclothes. I
2 just ride along and observe for a few hours. I work in our
3 evidence building and just for a few hours once a week.

4 Q. Okay, going -- going back to January 30th, 2014, were
5 you able to see any occupants in the vehicle from your vantage
6 point?

7 A. No, the windows were too dark. I couldn't see anybody.

8 Q. Did you see the back window open on that vehicle before
9 you were shot; do you remember?

10 A. No.

11 Q. Okay, did you see any hand protruding either out the
12 side window or the back window before you were shot?

13 A. No.

14 MR. TAYLOR: Okay, may I approach, your Honor.

15 THE COURT: Yes.

16 Q. BY MR. TAYLOR: Deputy Sherwood, I'm going to hand you
17 what's been marked State's Exhibits 59, 60, 61, 62, 63 and 64.
18 Will you please take a look at those. Do you recognize those?

19 A. Yes.

20 Q. What are those?

21 A. They are still shots from the video footage.

22 Q. Okay.

23 A. My dash cam.

24 Q. Do those accurately depict what both you saw in person
25 and that you've observed on your dash camera at the time on

1 January 30th, 2014?

2 A. Yes.

3 MR. TAYLOR: The State would offer into evidence those
4 exhibits, Judge.

5 MR. ZABRISKIE: No objection, your Honor.

6 THE COURT: Thank you. I'll accept and receive.

7 MR. TAYLOR: Thank you.

8 (Exhibit Nos. 59 thru 64 received into evidence)

9 THE COURT: Tell me again what -- Mr. Taylor, 59 --

10 MR. TAYLOR: Nos. 59 through 64, I believe.

11 THE COURT: Okay, thank you..

12 Q. BY MR. TAYLOR: Is that right?

13 A. Yes.

14 MR. TAYLOR: Nothing further at this point, Judge.

15 THE COURT: Thank you. Cross examination?

16 MR. ZABRISKIE: If I may, your Honor.

17 THE COURT: Okay.

18 CROSS EXAMINATION

19 BY MR. ZABRISKIE:

20 Q. Officer, how are you?

21 A. Okay.

22 Q. Just a few questions relating to your experience on
23 that day. This isn't in the form of a hypothetical question,
24 but I hold you in the highest esteem. Your 60 or 70 percent
25 exceeds the 100 percent of most men. During the video, not on

1 the off-ramp, but I did note that when you come down the off-
2 ramp, the northbound off-ramp and you turn west on Main Street,
3 do you recall that sequence of events?

4 A. Yes.

5 Q. Evidently when the Tundra recognizes you, or for what-
6 ever reason a high speed chase then begins down Main Street in
7 Santaquin?

8 A. Yes.

9 Q. You would characterize that as a high speed chase?

10 A. Yes.

11 Q. You were in a NS -- for lack of a better term, a four-
12 wheel drive -- I'm a Chevy man, but a Ford?

13 A. Yes.

14 Q. Were you able to determine at the fastest you were
15 going down that street, and again, I don't know that the --
16 that the video that we saw truly reflects the speed, but it
17 looked like you were going very fast.

18 A. Yes.

19 Q. Were you able to determine how fast and can you recall
20 that today?

21 A. You know, I never looked at my speedometer, but I
22 believe that's a 35 mile an hour zone. Initially it was -- it
23 was definitely exceeding that. I don't know how -- how fast.

24 Q. Uh-huh. Based on your many years of experience, I
25 would accept your estimation as to how fast you were going

1 at top speed before your incident. Are you able to make that
2 determination?

3 A. At the time of the pursuit?

4 Q. Yes, I'm talking about down Main Street.

5 A. Probably 50, 60 miles an hour.

6 Q. But it was fast for that part of town, wasn't it?

7 A. Yes.

8 Q. Now, I also note in the video that there are other
9 cars on that road, and this was at approximately what time of
10 the day?

11 A. It was around 3 o'clock, just before 3, somewhere
12 around that.

13 Q. So again, based on your experience did that appear to
14 be a typical day of traffic on that road at that time of the
15 day?

16 A. Yes.

17 Q. Am I right in it appeared to me that there were quite
18 a few cars going back and forth?

19 A. Yes.

20 Q. It's the Main Street. It's the main artery in Santa-
21 quin; is it not?

22 A. Yes.

23 Q. I also note both in the still and in part of the video
24 -- I'm not going to replay the video. We'll have the opport-
25 unity to do that at some later time -- there are other cars,

1 more particularly there's a bus in front of both you and the
2 Tundra?

3 A. (No verbal response).

4 Q. Would you take my word for it that there's a car or a
5 bus out in front?

6 A. There's some vehicle; I don't recall what it was.

7 Q. Well, actually it looked like a bus, but I don't know
8 either.

9 A. Yeah.

10 Q. But it was a larger vehicle; was it not?

11 A. Yes.

12 Q. In one of the -- one of the sequences there's also --
13 it's very brief, but do you recall seeing there was another car
14 between the Tundra and the bus; do you recall that?

15 A. I believe that car pulled over; is that --

16 Q. No, there's another car, but if you can't remember,
17 that's fine. Now, going at that speed, if you were to avoid
18 hitting the car in front of you, you would have to, at the very
19 least, slow down; would you not?

20 A. Yes.

21 Q. Okay, and there was a slowing process. You indicated
22 your first impression was that they had come to a complete
23 stop; was that your testimony?

24 A. When I was -- about the time that I was shot, yes,
25 that was my perception.

1 Q. You did hear some testimony-- were you here yesterday?
2 I can't recall, Officer.

3 A. Yes.

4 Q. -- where witness Arms indicated that it had slowed
5 down but she didn't necessarily see them stop; it was just a
6 slow pass through. Would you disagree with that, or is your
7 recollection different?

8 A. I've reviewed the video. It's consistent with what
9 she said.

10 Q. Uh-huh. Glad you're back at work.

11 A. Yeah.

12 MR. ZABRISKIE: Thank you.

13

14 THE COURT: Okay, thank you. Redirect?

15 MR. TAYLOR: Judge, no --

16 (Counsel conferring off the record)

17 MR. TAYLOR: Judge, this is Exhibit 58A, and the
18 parties have agreed to a stipulation, number one, we'd offer
19 that into evidence, and we'd ask if the Court would read that
20 to the jury at this time.

21 MR. ZABRISKIE: So stipulated, your Honor.

22 THE COURT: Thank you. So this is Exhibit 58A?

23 MR. TAYLOR: Yes, sir.

24 THE COURT: All right, members of the jury, what this
25 exhibit states is stipulation No. 1, "Serious bodily injury

1 means bodily injury that creates or causes serious permanent
2 disfigurement, protracted loss or impairment of the function
3 of any bodily member or organ, or creates a substantial risk
4 of death. The parties stipulate that Deputy Greg Sherwood
5 sustained serious bodily injury as a result of the gunshot
6 wound to his head."

7 MR. TAYLOR: Thank you, Judge. No further questions
8 for Deputy Sherwood.

9 THE COURT: May he be excused or do you plan to pass --

10 MR. ZABRISKIE: No further cross, your Honor, and he
11 may be excused.

12 THE COURT: Thank you, Deputy.

13 Your next witness, Mr. Taylor?

14 MR. TAYLOR: The State calls Deputy Quinn Fackrell.

15 THE COURT: Come forward, sir. Let's get you sworn in.

16 COURT CLERK: Raise your right hand. You do solemnly
17 swear that the testimony you shall give in the case now pending
18 before the Court will be the truth, the whole truth and nothing
19 but the truth, so help you God?

20 THE WITNESS: Yes.

21 THE COURT: Thank you, sir. Please have a seat in the
22 witness box. Just make sure we get you close enough to the mic
23 that we'll pick you up okay.

24 THE WITNESS: Yeah.

25 QUINTON FACKRELL,

1 having been first duly sworn,

2 testified as follows:

3 DIRECT EXAMINATION

4 BY MR. TAYLOR:

5 Q. Good morning. Excuse me, good morning.

6 A. Good morning.

7 Q. Would you please state your name and spell your last
8 name for the record.

9 A. My name is Quinton Fackrell. It's F-a-c-k-r-e-l-l.

10 Q. Where are you employed?

11 A. I'm employed at the Utah County Sheriff's Office.

12 Q. How long have you been employed by them?

13 A. I've been employed with the sheriff's office since
14 2008, but I've been in law enforcement since 1998.

15 Q. Okay, where did you work prior to the sheriff's
16 office?

17 A. I worked for American Fork Police Department for
18 approximately ten years, and Heber City Police Department
19 before that for a short -- like eight months or so.

20 Q. Okay, so what are your current responsibilities with
21 the sheriff's office?

22 A. I'm assigned to the investigations division at the
23 sheriff's office as a detective.

24 Q. Okay, and how long have you been assigned to that
25 division?

1 A. Going on three years now.

2 Q. Okay, are you a certified police officer?

3 A. I am.

4 Q. Okay, and were you on duty on the date of January 30th
5 of 2014?

6 A. I was.

7 Q. Did you respond to a scene in Santaquin, Utah?

8 A. Yes, I did.

9 Q. Do you recall approximately what time you responded
10 to that scene?

11 A. It was approximately, from my recollection, about
12 14:30 in the afternoon, 14:35'ish.

13 Q. Okay, explain what you saw when you responded to the
14 scene.

15 A. Well, I had heard emergency traffic, obviously, and
16 had been responding to that area. As I was exiting Santaquin
17 Main Street I could see the ambulance that was carrying Deputy
18 Sherwood coming to the top of the ramp as I was exiting the
19 ramp; and then I proceeded east -- or west, excuse me, west on
20 Santaquin Main Street towards the emergency lights that I could
21 see in the road that were down the road, and stopped directly
22 behind Deputy Sherwood's vehicle, where it had come to a rest.

23 Q. Okay, and what was -- what did you do at that point
24 after you stopped your vehicle?

25 A. Well, at that point I observed that there was other

1 officers in the area. You know, we were -- they were shutting
2 roads down, access to the road, basically securing the scene at
3 that point. As I exited my vehicle I was met by Chief Deputy
4 Durfee and Lieutenant Higley who had also heard the emergency
5 traffic who had arrived shortly before me, and met with them
6 briefly. They said, "Yeah, this is Greg's vehicle. This is
7 what we've got so far," and began directing the -- basically
8 securing the scene at that point, is what I began to do.

9 Q. Okay, and so what were your responsibilities at the
10 scene on that day?

11 A. At this point my responsibility was to secure the
12 crime scene, secure the evidence that was at the scene, try
13 to identify witnesses. You know, basically collect evidence.
14 Identify any evidence, video in the area, basically preserve
15 the scene until it could be documented. Then my ultimate
16 responsibility was to document the scene.

17 Q. Okay, so did you take a look both inside and outside
18 of Deputy Sherwood's vehicle?

19 A. Yes, I did.

20 Q. So just what were your observations?

21 A. Initially when I first got there, Deputy Durfee,
22 you know, kind of brought me around to the front of Deputy
23 Sherwood's vehicle, and I -- you know, obviously I -- and he
24 pointed out two immediate bullet holes in the windshield.
25 There was also a bullet strike on the hood of his vehicle,

1 and you know, there was things that we needed to take care
2 of at that point.

3 You know, it was still kind of, you know, chaos, if
4 you will. They were still trying to figure out exactly what
5 was going on; but that's -- I did notice the bullet strikes
6 immediately and just began what I was doing, just continued
7 to secure the scene.

8 Q. Did you have a camera with you at that -- on that day?

9 A. Yes, I did.

10 Q. Did you take some photographs of the scene, both
11 vehicle inside and outside of that --

12 A. Yes, I did.

13 Q. Okay, I'm going to show you what's been marked State's
14 65, 66, 67, 68, 69, 70, 71 -- we'll remove 72 -- and then 73.
15 May I approach, please, Judge.

16 THE COURT: Yes.

17 (Counsel conferring with clerk off the record)

18 MR. TAYLOR: Thank you very much, Leslie.

19 Q. BY MR. TAYLOR: Deputy Fackrell, I'm going to hand --
20 let me just put this down.

21 A. Okay.

22 Q. I've handed you those exhibits. Could you please take
23 a look at them; and I ask you if you recognize those?

24 A. Yes.

25 Q. What are those?

1 A. These are -- these are the initial photos I took on
2 the scene.

3 Q. Okay, and so that's why the vehicle is still there in
4 Santaquin; is that correct?

5 A. Correct.

6 Q. Do those accurately depict what you saw on that day?

7 A. Yes, they do.

8 MR. TAYLOR: The State would offer into evidence 65,
9 66, 67, 68, 69, 70, 71 and 73.

10 MR. ZABRISKIE: So stipulated, your Honor.

11 THE COURT: Thank you. I'll accept and receive Exhibits
12 65 through 71 and 73.

13 MR. TAYLOR: Thank you, Judge.

14 (Exhibit Nos. 65 thru 71 and 73 received into evidence)

15 MR. TAYLOR: May we publish those, please.

16 MR. ZABRISKIE: No objection.

17 THE COURT: Thank you. Go ahead.

18 Q. BY MR. TAYLOR: Okay, there's a pointer right there, a
19 laser pointer right here in front of you.

20 A. Yeah.

21 Q. So could you please explain what you're looking at
22 here.

23 A. I'm looking to the east. So down -- this is east
24 towards the freeway in Santaquin. The credit union is right
25 over here, and this is basically the westbound travel lane of

1 Santaquin's Main Street. Zion's Bank is right here, and the
2 intersection is just a little bit further down the road, to
3 orient -- to orient you.

4 Q. Okay, great. Thank you very much. This is Exhibit 65
5 for the record. So go ahead.

6 A. This is the front of Deputy Sherwood's vehicle. These
7 markings on the ground, I did those. I marked the position of
8 the vehicle prior to taking any photographs. The bullet strike
9 -- I noticed a bullet strike in the hood, which is right here.
10 The bullet appeared to have ricocheted, or you know, basically
11 ricocheted up here. It took out part of his windshield wiper,
12 and then it entered -- entered the windshield, you know, here.
13 Then there's another bullet strike, you know, right in this
14 area here.

15 Q. Okay, let's go to Exhibit No. 66. Okay, does that
16 show a better picture of what you're just describing there?

17 A. Yes.

18 Q. Okay.

19 A. So, you know, you've got the bullet strike on the hood
20 here, bullet strike here, and a bullet strike here.

21 Q. Okay, 67?

22 A. This is a closeup with a photo scale of the bullet
23 strike on the hood.

24 Q. Okay, 68?

25 A. Okay, this is the bullet strike that is lower on the

1 windshield, lower closer to the windshield wiper, you know,
2 down, down kind of just above the dash area there.

3 Q. Okay, 69?

4 A. This is the one that's higher up on the windshield, up
5 on the higher right side.

6 Q. Okay, 70?

7 A. Okay, 70, this is the interior of his vehicle, driver's
8 side. As you open the door, you've got that little area between
9 the door jam and the door seat. The item in question right
10 here is a bullet fragment, and it's that item right there.

11 Q. Okay, thank you. No. 71?

12 A. Okay, this is the center -- this is the center console
13 or emergency equipment console for the vehicle. Basically
14 right here -- I mean, you know, there was -- there was plenty
15 of glass fragments and some -- some debris there, but what I
16 -- the reason I took this photo is right here, this item right
17 here is also a bullet fragment.

18 Q. Okay, and 73?

19 A. No. 73, this is -- this is the driver's side headrest.
20 Directly behind you've got a tear inside -- you know, in the --
21 in the headrest here, and then there's tissue and some blood
22 there on the headrest. That's the reason that photo was taken
23 as well.

24 Q. Okay. All right, thank you. Did you remove anything
25 from the vehicle at that time?

1 A. I did not remove any of those items that I photographed
2 from the vehicle at that time. It was snowing. It was kind of
3 -- well, snowing, sleeting. It was -- it was bad weather, and
4 it was determined at that point that I would secure the vehicle
5 as it was, and then we would remove the vehicle and process it
6 later in a controlled and dry environment, so we didn't drop
7 anything.

8 Q. Okay, do you know who Lee Fox is?

9 A. Yes, I do.

10 Q. Who is he?

11 A. He is -- currently is one of our evidence technicians
12 for the County.

13 Q. Did he respond to the scene?

14 A. He did.

15 Q. Okay, and as far as you're aware did you observe him
16 taking pictures and going over the evidence also at the scene?

17 A. Yes.

18 MR. TAYLOR: Okay, thank you. Nothing further.

19 THE COURT: Thank you.

20 MR. ZABRISKIE: No cross, your Honor.

21 THE COURT: Thank you, Deputy. That will be all. Can
22 he be excused?

23 MR. TAYLOR: Yes.

24 MR. ZABRISKIE: Yes.

25 THE COURT: Okay, thank you.

1 MR. TAYLOR: Want me to do one more witness?
2 THE COURT: Sure, yeah.
3 MR. TAYLOR: State calls Lee Fox.
4 THE COURT: Come forward, sir, let's get you sworn in.
5 COURT CLERK: Raise your right hand. You do solemnly
6 swear that the testimony you shall give in the case now pending
7 before the Court will be the truth, the whole truth and nothing
8 but the truth, so help you God?
9 THE WITNESS: I do.
10 THE COURT: Thank you, sir. Please have a seat in the
11 witness box. Thank you.
12 MR. TAYLOR: We're just going to remove a couple photos
13 here, Judge.
14 THE COURT: Okay.
15 (Counsel conferring off the record)
16 MR. TAYLOR: Thank you, Judge.
17 LEE FOX,
18 having been first duly sworn,
19 testified as follows:
20 DIRECT EXAMINATION
21 BY MR. TAYLOR:
22 Q. Good morning, Mr. Fox. How are you?
23 A. Very good, thank you.
24 Q. Could you please state your name for the record.
25 A. Lee R. Fox.

1 Q. Where are you employed, Mr. Fox?

2 A. I'm employed by the Utah County Sheriff's Department.

3 Q. What are your responsibilities with the Utah County
4 Sheriff's Office?

5 A. My job title is that of evidence technician.

6 Q. Okay, and how long have you been employed as an
7 evidence technician?

8 A. For the past ten years or so.

9 Q. What kind of training have you had to go through with
10 regard to your current responsibilities?

11 A. Well, I have a Bachelor of Science Degree in Law
12 Enforcement, 25 years as a certified police officer in the
13 State of Utah, and then the past ten years as an evidence
14 technician. During that 35 years of service I've attended
15 numerous training courses and seminars dealing with evidence
16 collection, preservation, documentation, and the crime scene
17 processing.

18 Q. So over the last ten years approximately how many
19 crime scenes do you respond to in a single year, do you think?

20 A. Oh, I would say probably 15.

21 Q. Okay, and so -- so you had training with regards to
22 the collection of evidence; is that correct?

23 A. Yes.

24 Q. Where do you receive that training at?

25 A. A lot of it was, as I mentioned, with these training

1 seminars and courses that I've attended, and then of course on-
2 the-job training for 35 years.

3 Q. Okay. All right, so were you on duty on the day of
4 January 30th, 2014?

5 A. Yes, I was.

6 Q. Did you respond to a scene in Santaquin, Utah?

7 A. I did.

8 Q. Could you please explain when you responded and what
9 your responsibilities were when you responded.

10 A. I arrived at the scene at approximately 4:40 in the
11 evening, 4:40 p.m.

12 Q. Okay.

13 A. The scene was located at approximately 1:20 East Main
14 Street in Santaquin. My responsibility was to process the
15 scene, or assist in processing it by taking photographs and
16 documentation and collecting -- or recovering and collecting
17 any evidence that was there.

18 Q. Okay, so did you remove any evidence-- well, let me --
19 let me back up. What were your observations when you responded
20 to the scene?

21 A. I observed Deputy Sherwood's patrol vehicle parked
22 in the traffic lane westbound at approximately 120 East Main
23 Street.

24 Q. Okay.

25 A. I observed that there were what appeared to be two

1 bullet holes in the front windshield, and a bullet impact mark
2 on the hood. Then I observed evidence of an injury to Deputy
3 Sherwood. There was blood in the vehicle. There was also paint
4 chips behind the vehicle that came from the impact -- that
5 appeared to come from the impact mark on the hood from the
6 bullet impact. Paint chips were left in the street behind the
7 vehicle, as well as some parts of the driver's side windshield
8 wiper that had been, I think, operating at the time of the
9 shooting.

10 Q. Okay, and so was there a decision to process the
11 inside of the vehicle at that time or at another -- another
12 location?

13 A. It was decided to transport the vehicle back to our
14 facility at the sheriff's department, where -- where we would
15 process it further inside.

16 Q. Okay, and so did you go ahead and do that?

17 A. Yes, I did.

18 Q. So when the vehicle got back to the other facility,
19 inside, what did you -- what were your responsibilities and
20 what did you do in relation to that vehicle?

21 A. Well, I documented it by -- with photography, first of
22 all, the exterior and the interior of the vehicle. I marked
23 evidence that I found on the exterior and the interior of the
24 vehicle. Photographed that again, and then I collected that
25 evidence.

1 MR. TAYLOR: Okay, may I approach, please, Judge.

2 THE COURT: Sure.

3 Q. BY MR. TAYLOR: Okay, I'm going to show you what's been
4 marked State's Exhibit 74, 75, 77, 78, 79, 82, 83, 84, 85, 86,
5 87, 88, 89, 90 and 91. Ask if you would go ahead and take a
6 look at those, and see if you recognize those.

7 A. Yes, I do recognize each one of these exhibits.

8 Q. Do those accurately reflect what you observed both on
9 the 30th and then also the vehicle when you took it back to the
10 other facility?

11 A. Yes.

12 MR. TAYLOR: The State would offer into evidence those
13 exhibits that I just mentioned, your Honor.

14 THE COURT: Thank you. I'll accept and receive 74, 75,
15 77, 78, 79, 82, 83, 84, 85, 86, 87, 88, 89, 90 and 91.

16 MR. TAYLOR: Thank you, Judge.

17 (Exhibit Nos. 74 and 75, 77 thru 79, and 82 thru 91
18 received into evidence)

19 MR. TAYLOR: Could we publish those to the jury.

20 MR. ZABRISKIE: No objection.

21 THE COURT: Thank you.

22 Q. BY MR. TAYLOR: Okay, I'm -- I'll just identify these
23 exhibits. So this Exhibit No. 74, could you just explain what
24 this is.

25 A. This is the area of the street directly east of Deputy

1 Sherwood's vehicle, which you could see parked there on the far
2 side of the photo. The markers in the street indicate either a
3 piece of the windshield wiper or a fragment of paint from the
4 hood where the bullet impact took place.

5 Q. Okay, next, this is Exhibit 75. What is this.

6 A. This is a front -- the front view of Deputy Sherwood's
7 vehicle. You can see on the hood right there the bullet crease
8 caused by bullet impact on the -- on the hood. There's also a
9 bullet hole there in the windshield, and one there.

10 Q. Okay, Exhibit 77. So what is this?

11 A. This is a picture taken from inside the vehicle from
12 the driver's seat, looking through the front area of the wind-
13 shield directly in front where the driver would be.

14 Q. Okay, 78?

15 A. This again is a view of the front windshield with two
16 bullet holes. Also it includes the bullet crease in the hood.

17 Q. Do you have any markers that you've placed there?

18 A. Yes, I've placed one there, there and there.

19 Q. Okay, 79?

20 A. This is the headrest directly behind the driver. Also
21 there's a marker where there's a bullet hole.

22 Q. Okay, 82?

23 A. This is the radio console area, directly to the right
24 of where the driver would sit. I've placed a marker there
25 indicating that there's a bullet fragment laying on top of the

1 radio.

2 Q. No. 83?

3 A. This is the bottom portion of that radio console,
4 where it connects to the floor. I've placed a marker there
5 indicating that there's another bullet fragment laying on the
6 floor there.

7 Q. Okay, 84, what are we seeing here?

8 A. This is the front view of the front windshield with
9 the driver's door open. I've placed a trajectory rod connecting
10 the entrance hole in the windshield to the bullet hole where
11 the bullet lodged in the headrest.

12 Q. No. 85 is just another --

13 A. Another view of that same depiction.

14 Q. No, 86?

15 A. This is again a trajectory rod placed at the impact
16 area on the hood going up to where the bullet deflected into
17 the windshield and then on into the vehicle.

18 Q. No. 87?

19 A. Again, another view of the same thing.

20 Q. Okay, thank you. No. 88?

21 A. This is a view from inside the driver's seat to show
22 the path of the bullet where it entered the windshield coming
23 up from the deflection point on the hood and into the vehicle.

24 Q. No. 89?

25 A. This is the headrest I removed from the driver's seat,

1 again with the marker indicating the bullet hole.

2 Q. No. 90?

3 A. This is a closeup of the -- where I cut the headrest
4 open to retrieve the bullet that's down inside the padding
5 there.

6 Q. No. 91?

7 A. That's the bullet fragment that I retrieved from the
8 headrest.

9 Q. Okay, thank you. Okay, so you said that you retrieved
10 some bullet fragments from the vehicle. I'm going to show you
11 what's been marked Exhibit No. 134, 135 and 136. That's out of
12 order, sorry. Do you recognize those?

13 A. Yes, I do.

14 Q. What are those?

15 A. These are the -- the bullet fragments that I retrieved
16 from the vehicle.

17 Q. Okay, and once you retrieve those bullet fragments,
18 what do you do with them?

19 A. I place them in one of these envelopes.

20 Q. Okay.

21 A. And seal them up and enter them into evidence, assign
22 a number to them, et cetera.

23 Q. Do you have a way that this bullet fragment is referred
24 to with regards to assigning a number to it?

25 A. Yes.

1 Q. So if we're looking -- if I said bullet fragment
2 No. 739, do you know what that means?

3 A. Yes, I do.

4 Q. What does that mean?

5 A. Well, that would be the evidence control number, and
6 739 would be the last three digits of that number. That's the
7 number we use to submit these items to the State Crime Lab for
8 processing.

9 Q. Okay, so could you please read the -- based upon those
10 exhibits, could you read the last three numbers, the control
11 numbers of how you identify those and associate those with an
12 exhibit number?

13 A. Yes, Exhibit No. 134 we would identify with inventory
14 control No. 739.

15 Q. Okay, the next one?

16 A. Exhibit No. 135 would be referenced to our control
17 No. 740.

18 Q. Then one more?

19 A. Exhibit No. 136 would be referenced to our control
20 No. 746.

21 Q. Okay, do you know whether or not these bullet fragments
22 were sent to the State Crime Lab for analysis?

23 A. Yes, they were.

24 MR. TAYLOR: Okay, the State would offer into evidence
25 these exhibits.

1 MR. ZABRISKIE: No objection, your Honor.

2 THE COURT: Thank you. I'll accept and receive State's
3 Exhibits 134, 135, 136.

4 (Exhibit Nos. 134 thru 136 received into evidence)

5 MR. TAYLOR: Nothing further. Thank you, Judge.

6 THE COURT: Okay, thank you.

7 MR. ZABRISKIE: No cross, your Honor.

8 THE COURT: All right, Mr. Fox, I believe that's all.
9 Any reason why he can't be excused?

10 MR. TAYLOR: Not from the State.

11 MR. ZABRISKIE: No, your Honor.

12 THE COURT: Okay, thank you, sir. At this point we'll
13 go ahead and take a short recess. Come back in about ten
14 minutes if we can.

15 MR. ZABRISKIE: Could we have a brief sidebar, your
16 Honor, before the Court recesses.

17 THE COURT: Sure.

18 (Discussion at the bench with Court and Counsel)

19 MR. ZABRISKIE: We've let a lot of witnesses go,
20 released them from their subpoena, and they're in Court.
21 Would the Court admonish when it returns that those that are
22 in attendance not discuss the testimony with those that are
23 yet to testify. I trust these men that they are men of high
24 integrity, but again, I think an admonition might be in order.

25 MR. TAYLOR: I think that's a good idea, but could we

1 do the admonition outside the presence of the jury.

2 MR. ZABRISKIE: I agree.

3 MR. TAYLOR: Just so the Court can know, also, that we
4 have been admonishing them the whole time, and we're going to
5 do that, but --

6 MR. ZABRISKIE: Okay, we're more worried about the
7 civilian witnesses, too, though. That's why I --

8 MR. TAYLOR: Okay, yeah.

9 THE COURT: Sure, thank you.

10 (Discussion at the bench completed)

11 COURT BAILIFF: All rise for the jury.

12 (Jury exits the courtroom)

13 THE COURT: Thank you. Please be seated. Before this
14 recess I would like to admonish those of you who have already
15 testified as witnesses and who have been excused to refrain
16 from discussing the case with anybody who might still be called
17 to testify at a later time. In other words, the information
18 that you glean by sitting here in trial now should be, you
19 know, held to yourself at this point and so we don't have any
20 problems with the -- with the trial. Anything else, then?

21 MR. TAYLOR: No, thank you, Judge.

22 THE COURT: Okay, we'll be in recess.

23 COURT BAILIFF: All rise.

24 (Recess taken)

25 THE COURT: Thank you. Please be seated. All right,

1 we're back on the record. All parties are present, including
2 members of the jury. Mr. Taylor.

3 MR. TAYLOR: Thank you, Judge. The State calls Trooper
4 Jeff Blankenagel.

5 THE COURT: Come forward, sir, let's get you sworn in.

6 COURT CLERK: Raise your right hand. You do solemnly
7 swear that the testimony you shall give in the case now pending
8 before the Court will be the truth, the whole truth and nothing
9 but the truth, so help you God?

10 THE WITNESS: I do.

11 THE COURT: Thank you, sir. Please have a seat here in
12 the witness box. Yeah, that chair's kind of small for -- go
13 ahead and pull the microphone down if you would. Thank you.

14 JEFF BLANKENAGEL,

15 having been first duly sworn,

16 testified as follows:

17 DIRECT EXAMINATION

18 BY MR. TAYLOR:

19 Q. Good morning, Trooper Blankenagel. How are you?

20 A. I'm good.

21 Q. Will you please state your full name and then spell
22 your last name.

23 A. Yeah, it's Jeff Blankenagel, B-l-a-n-k-e-n-a-g-e-l.

24 Q. Okay, and where are you currently employed?

25 A. I'm employed with the Utah Highway Patrol.

1 Q. How long have you been employed with UHP?

2 A. I've been with UHP for approximately two-and-a-half
3 years.

4 Q. Okay, and what are your responsibilities at UHP?

5 A. I'm a patrol officer within Juab County.

6 Q. Okay, are you divided in different sections or
7 districts or --

8 A. Yes, I'm assigned to Section 14, which is essentially
9 Juab and Millard Counties, and assigned to the Juab crew.

10 Q. Okay, and are you a certified police officer?

11 A. I am.

12 Q. Okay, were you on duty on the afternoon of January
13 30th, 2014?

14 A. I was.

15 Q. Okay, at some point were you involved in a high speed
16 chase?

17 A. I was, yes.

18 Q. Why don't you explain a little bit, just lay a little
19 foundation as to how you happened to be involved in this chase.

20 A. All right, this was January 30th. I was just headed
21 into town. I was actually just about to check off duty. I was
22 monitoring both -- Richfield dispatch is our primary dispatch
23 center and we also monitor Juab County's radio traffic as well.

24 As I was coming into town, started to hear traffic on
25 Juab County's dispatch of requests for help from Utah County

1 for a 10/200, which is essentially to lock down Utah County,
2 the major roadways leaving Utah County, at that point I noti-
3 fied my dispatch of the traffic that I'd heard, and started
4 heading north out of town and onto I-15.

5 Q. Do you remember approximately what time we're talking
6 about here?

7 A. I believe it was -- it was going to be right around
8 3 o'clock, I would imagine, 2:45 to 2:50, sometime right around
9 then.

10 Q. Okay, so you're in your patrol vehicle, correct?

11 A. Correct.

12 Q. Okay, and so you hear this traffic and then you start
13 to respond. Does your vehicle have a dash cam video?

14 A. Yes, it was.

15 Q. Was your dash cam video turned on that day?

16 A. Yes. As soon as I initiated my emergency lights, it
17 automatically goes back 30 seconds and starts recording from
18 that point on.

19 Q. Okay, so had you viewed a copy of that dash cam video?

20 A. Yes.

21 Q. Does that accurately depict what you saw on January 30
22 of 2014?

23 A. Yes.

24 MR. TAYLOR: Okay, may I approach the witness.

25 THE COURT: Yes.

1 Q. BY MR. TAYLOR: I'm handing you what's been marked
2 State's Exhibit No. 92. Do you see a title on that?

3 A. Yes.

4 Q. What is that title?

5 A. The title is going to be Trooper Blankenagel's dash
6 cam video.

7 MR. TAYLOR: Okay, the State would offer into evidence
8 Exhibit No. 92.

9 THE COURT: Any objection?

10 MR. ZABRISKIE: No objection.

11 THE COURT: Thank you. I'll accept and receive State's
12 Exhibit 92.

13 (Exhibit No. 92 received into evidence)

14 MR. TAYLOR: May we publish this to the jury, Judge.

15 THE COURT: Any objection to that?

16 MR. ZABRISKIE: No objection.

17 THE COURT: Okay, thank you.

18 Q. BY MR. TAYLOR: Okay, I'm going to -- just for the
19 record, is this the video that we talked about that was on
20 January 30th, 2014?

21 A. Yes, it is.

22 (Dash cam video played in the courtroom. Dispatcher
23 communication with officer is too inaudible to be
24 transcribed accurately. Please refer to the Court
25 file to review this video. Video is turned on and

1 off throughout officer's examination.)

2 Q. Okay, so why don't we go ahead and -- why don't you
3 explain where you're at right now.

4 A. So right here, this is SR-28, which is a State road,
5 which is essentially Nephi Main Street. This is the north end
6 of Nephi as you leave Nephi and head towards exit 228 for the
7 interchange with the freeway, at I-15.

8 Q. Okay, go ahead. So at this point do you know what
9 kind of vehicle you're looking for?

10 A. At this point I believe I had received or I had heard
11 a vehicle description. I hadn't quite got the full description
12 at this point, but I do get that at a later point.

13 Q. Okay, so where are we at right now?

14 A. This is the 228 interchange for I-15 and SR-28.

15 Q. Okay, which direction are you heading?

16 A. This is going to be northbound.

17 Q. Okay, can I just ask, where are you going at this
18 point; where are you heading?

19 A. At this point the previous radio traffic was that
20 there had been an officer shot on Santaquin Main Street. At
21 that point I was just heading north towards the Utah County
22 line to offer any assistance that I could offer.

23 Q. Okay, thanks. Can I just ask, is that your siren that
24 we're hearing in the background?

25 A. Yes.

1 Q. Okay, you have lights and sirens going at this point?

2 A. Yes.

3 Q. Okay, why don't you explain what's going on here.

4 A. So right here this is the Mona interchange, and this
5 is a crossover just prior to that. This is Deputy Warwood and
6 Deputy Taylor.

7 Q. Can you just point that -- with that laser.

8 A. Yeah, so that's going to be their vehicle right there.

9 Q. Okay.

10 A. At this point I'm slowing down. I had to pull over
11 and ask them for the vehicle information.

12 Q. Okay, go ahead. Okay, so I know that's pretty explan-
13 atory but why don't you go ahead and explain what just happened
14 there.

15 A. So Deputy Worwood gave me a vehicle description as
16 well as the license plate number on the vehicle.

17 Q. Okay, go ahead. Okay, stop right there. So what did
18 we just see right there?

19 A. So at this point we have been told that a vehicle
20 matching the description has been southbound on I-15. This
21 is a vehicle that we observed approaching us that matched the
22 description that we were given.

23 Q. Okay, and so you -- is that you pulling in behind it,
24 then?

25 A. Correct, this is me pulling out. As the vehicle went

1 by me I initiated my emergency lights and entered traffic right
2 behind the vehicle.

3 Q. Okay, go ahead. Okay, stop right there. So what just
4 happened right there?

5 A. So at this point I got close enough to the vehicle
6 to verify the license plate information which did match the
7 vehicle -- or the information that we were given.

8 Q. Did you call out a speed at about how fast you were
9 going?

10 A. At that point we were approximately 93 miles per hour.

11 Q. Okay, go ahead. (Inaudible) time until -- just to
12 make sure, so are your lights and sirens engaged at this time?

13 A. My lights are on right now. My siren is not on yet.

14 Q. Okay, okay. Stop right there. So did you hear some-
15 thing on that video?

16 A. I did.

17 Q. Okay, so what was that?

18 A. That was what I perceived to be a gunshot.

19 Q. So explain what you were observing at this point.

20 A. At this point after I hear that, I just got done
21 calling out to another speak to my dispatch. I heard what
22 I believed to be a gunshot. At that point I look up at the
23 vehicle and observe the rear sliding window is open. There
24 was also what I thought was a gun and an arm pulling back into
25 the vehicle.

1 Q. Okay, could you, from your vantage point, before that
2 -- you saw that window opened, could you see into that vehicle
3 from the back?

4 A. I could not.

5 Q. Okay. All right.

6 MR. ZABRISKIE: Tim, can you back up just a little. I
7 didn't hear --

8 MR. TAYLOR: Okay, could we back up just a little bit.

9 Q. BY MR. TAYLOR: Stop right there. So is that your
10 voice that we hear?

11 A. Yes.

12 Q. What is that?

13 A. That's me notifying dispatch that there were shots
14 fired out of the back window of the vehicle.

15 Q. Okay, and so what did you do at that point?

16 A. At that point I slowed down and created a greater
17 following distance to minimize danger.

18 Q. Okay, go ahead. Okay, could we stop for just a second.
19 So what's happening here?

20 A. At this point making arrangements for other units to
21 be available. Also notifying supervisors of what's going on,
22 and just continuing to follow the vehicle.

23 Q. Okay, go ahead. Stop it there. Did you say something
24 there?

25 A. Notified dispatch of my location, also the speed of

1 approximately 105 miles per hour.

2 Q. Okay, hold on another sec. Did you call out another
3 speed there?

4 A. I did call out 110 miles per hour.

5 Q. Okay, so what did we just see there in the video?

6 A. So this is continuing southbound. We'd just gone
7 under the 228 structure, and this is a Nephi City officer that
8 is entering into the pursuit as well.

9 Q. Okay, go ahead. Okay, could we -- what did you see
10 just there on your left-hand side?

11 A. Right there was Deputy Thompson. He had set up at
12 a crossover right there, and had deployed spikes, or a spike
13 strip. As I went by he gave me a thumbs up, which I took as a
14 positive indication that he had been able to successfully spike
15 at least one or two of his tires.

16 Q. Okay, go ahead. Okay, what happens -- so what happens
17 there.

18 A. So right there, continuing southbound, there was
19 another deputy that was set up on the 225 southbound off-ramp
20 to prevent the vehicle from exiting the freeway. He also had
21 a spike strip that was set up on the inside shoulder of the
22 freeway. Unfortunately the deployment was a little late and
23 ended up getting my tires.

24 Q. Okay, and so were all four of your tires spiked?

25 A. They were, yes.

1 Q. Okay, so you're out of the pursuit at this point,
2 correct?

3 A. Yes.

4 MR. TAYLOR: Okay, so Chelsea, can we back up just a
5 little bit. I want to go just --

6 (Counsel conferring with assistant off the record)

7 MR. TAYLOR: Okay, slow down, Chelsea. So you can stop
8 here for just a second.

9 Q. BY MR. TAYLOR: So what do you-- what are you observing
10 at this point?

11 A. At this point, due to weather, it's hard to see in the
12 video, but I observed the vehicle swerve in between -- you can
13 see a vehicle in the No. 1 lane and also a larger vehicle in
14 the No. 2 lane. At this point the suspect vehicle had swerved
15 in between those two vehicles, coming into contact with at
16 least one of them. You will also see some debris on the free-
17 way as well as the video continues.

18 Q. Okay, go ahead. So that stuff in the road is -- could
19 you explain what your observations were from that.

20 A. That was debris from the vehicle, from the collision
21 of the -- of the two vehicles.

22 Q. Okay, let's see, go ahead and just finish that. Okay,
23 so I think we're good. I think we're good. Okay, so at some
24 point were you able to look at the exterior of your vehicle to
25 see if it had been hit by a gunshot?

1 A. Yes, we were -- after everything was said and done we
2 did take my vehicle in and put it up on a vehicle lift. At
3 which point we did a pretty close examination of the under-
4 carriage and the exterior of the vehicle.

5 Q. So what were the determinations?

6 A. We were unable to find anywhere obvious that the --
7 that my vehicle had been struck.

8 Q. Okay, based upon your observations at the time and
9 what both you heard and saw, how confident are you that someone
10 from that vehicle in front of you was firing at you?

11 A. I'm very confident.

12 Q. Okay, so after your patrol vehicle was disabled did
13 you have any further involvement in this incident?

14 A. After my vehicle was spiked and the pursuing units all
15 passed by me, I drove my vehicle off the exit right there into
16 the Big O Tires, at which point I got four new tires put on and
17 then proceeded to the 222 interchange where I assisted with
18 closing the road and diverting traffic.

19 Q. Okay, hold on just a second.

20 (Counsel conferring off the record)

21 MR. TAYLOR: Judge there's one more little part that I
22 left out, if I could publish that.

23 THE COURT: Okay.

24 Q. BY MR. TAYLOR: I'm going to ask you one more question
25 here in just a second.

1 A. Okay.

2 Q. Okay, go ahead. What are your observations of what's
3 happening right there?

4 A. So this is Deputy Worwood and Deputy Taylor who's in
5 with Deputy Worwood, continuing with the pursuit.

6 Q. Okay, go ahead.

7 A. That was Officer --

8 THE COURT: You need to pull the microphone down.

9 THE WITNESS: Oh, sorry. That was Officer Robinson
10 with Nephi City that was also continuing with the pursuit.

11 MR. TAYLOR: Okay. All right, thank you. Nothing
12 further, Judge.

13 THE COURT: Okay, thank you. Cross examination?

14 MR. ZABRISKIE: Just a few questions, your Honor.

15 THE COURT: Thank you.

16 CROSS EXAMINATION

17 BY MR. ZABRISKIE:

18 Q. Trooper, how are you?

19 A. I'm good.

20 Q. You indicated during the chase that you were pretty
21 well able to keep up with the vehicle that you were following,
22 and that would be the Tundra, and in fact close enough to where
23 you could determine the speed; is that correct?

24 A. Correct.

25 Q. Would you -- or you weren't able to see inside the

1 vehicle?

2 A. No.

3 Q. That's because the window was tinted?

4 A. Yes.

5 Q. So you weren't able to determine what was going on
6 inside the cab between the respective parties?

7 A. No, uh-uh.

8 Q. You don't know what was being said, if threats were
9 being made, anything of that nature?

10 A. No.

11 Q. Now, as you pursued them was it your purpose, one,
12 to pursue them until they were disabled, and you would be in
13 close proximity to assist in their apprehension, things of that
14 nature?

15 A. Correct.

16 Q. Until you heard what is characterized and what I think
17 came across in your video as a popping sound --

18 A. Correct.

19 Q. -- and you interpreted that to be a gunshot?

20 A. Correct.

21 Q. Now, it was determined later that in fact that was a
22 .40 caliber pistol. Are you acquaint -- are you acquainted
23 with that particular caliber and --

24 A. Yes.

25 Q. Would you characterize it -- I trust that you were

1 trained in weaponry and what you need for your business for
2 what you do?

3 A. Yes.

4 Q. Is that a loud report that you would hear from a
5 pistol like that?

6 A. Yeah, it would be a pretty loud -- pretty loud pop.

7 Q. Well, espec -- I'm sorry, I didn't mean to interrupt
8 you. Go ahead.

9 A. I just -- it would be a pretty loud pop.

10 Q. Uh-huh. Well, it was loud enough, and I assume your
11 window was up?

12 A. Correct.

13 Q. And your sirens were on?

14 A. The siren was not on at that point.

15 Q. Okay, but there's road sound, your windows are up, and
16 you're -- while you're close -- how close were you to the car
17 when you heard that popping sound?

18 A. Within 100 yards, I would imagine.

19 Q. So 300 feet; does that sound right?

20 A. Probably not quite that far.

21 Q. Length a football field?

22 A. I was close enough that I could read the license plate
23 and had just started to back away slightly to create a little
24 larger following distance. So 50 to 100 feet.

25 Q. Do you have a spy glass in those cars? That's still

1 quite a distance.

2 A. No, just my glasses.

3 Q. I see. The point I'm trying to make, though, is that
4 that gun, according to your experience is -- makes a humongous
5 sound; does it not?

6 A. It's pretty loud.

7 Q. What you heard was over the distance that we've
8 discussed and the distractions that were accompanying you
9 during that period of time?

10 A. Uh-huh.

11 Q. So would you -- if you were inside the cab of that
12 truck, the sound would be extremely loud; would it not?

13 A. It would be, very loud.

14 Q. Uh-huh, and again in that we've referenced the sound,
15 do you go to the shooting range on occasion?

16 A. I do.

17 Q. Are you required to do that?

18 A. Yes.

19 Q. Isn't it true you're required to wear ear protection?

20 A. Yes.

21 Q. In fact, if I -- I've read the protocol. You can
22 actually be disciplined for not wearing protection over your
23 ears when you're there.

24 A. Correct.

25 Q. That's to keep from injuring your ears?

1 A. Correct.

2 Q. Have you ever had a gun of that caliber go off close
3 to your ear without protection?

4 A. I have.

5 Q. What's the end result?

6 A. You have a definite ringing in your ears.

7 Q. Uh-huh. I think we call it "tinnitus"?

8 A. Yes.

9 Q. Did you have tinnitus when it went off in your ear?

10 A. At the time, yes.

11 Q. Uh-huh. Now, and I have no reason to doubt your word.
12 Your experience far exceeds mine in any type of experience like
13 we've just described here. When -- when you realize that some-
14 one is shooting at you or in your direction, you immediately
15 create a distance between you?

16 A. Correct.

17 Q. That is, one, to reduce the possibility that you'll
18 get shot?

19 A. Correct.

20 Q. Then you continue your pursuit thereafter; is that
21 correct?

22 A. Yes.

23 Q. Were you able to hear just the one report, or did you
24 hear others?

25 A. At the time I believe that there had been two shots.

1 You can definitely hear one on the video.

2 Q. Uh-huh, and evidently there was no contact as it
3 relates to what you've described as a gunshot?

4 A. Correct.

5 Q. I'm glad you're here.

6 A. Me, too.

7 Q. One other little matter. You indicated that you
8 evidently hit the road spikes that were out and put there to
9 disable the Tundra, and it disabled your car?

10 A. Correct.

11 Q. You were able to pull off. There was an off-ramp
12 there, and you went into Nephi and got a tire exchange?

13 A. Correct.

14 Q. How long did that take?

15 A. I would imagine approximately ten to fifteen minutes.
16 They were -- they were very quick to get four new tires put on
17 my car.

18 Q. You obviously have more influence than I would have.
19 Ten minutes, amazing.

20 A. Yeah.

21 Q. There was also a collision on the road, and it wasn't
22 quite clear on your cam recorder -- camcorder; is that what we
23 call it?

24 A. Dash cam, yes.

25 Q. Dash cam. There was a collision evidently between the

1 Tundra and another car?

2 A. Correct.

3 Q. Were you able to see that collision or was it just the
4 debris in the road that you saw?

5 A. At that point I did see the vehicle, the Tundra
6 swerving through traffic. I did not necessarily observe the
7 collision or the contact, but I did see the debris in the
8 roadway afterwards.

9 Q. I see. Were you able to determine at that time or
10 thereafter what the collision consisted of? By that, the --
11 what part -- what cars were involved?

12 A. I did not. There were other officers that investigated
13 that collision.

14 Q. So you don't know what car was hit or collided with?

15 A. I do not.

16 Q. One little matter. You indicated that you never --
17 did you see that back window open?

18 A. I never saw it opening. I did see it after the shot.
19 I did see it open, as well as an arm pulling back into the
20 vehicle towards the passenger side.

21 Q. I noted in your report that you saw exactly what
22 you've described, but you weren't able to determine whether
23 in fact there was a gun there, excepting for the popping sound?

24 A. Correct.

25 Q. Okay, and am I right in assuming that that shot, based

1 on your experience, came from the passenger?

2 A. Based on experience and what I observed, I believe it
3 was from the passenger.

4 Q. Okay, after you fixed your car, after you got your
5 tires, where did you go from there?

6 A. From there, like I say, went to the next exit, the
7 exit 222, where there was another incident involved with the
8 entire scheme of things, and assisted with shutting down the
9 freeway, as well as SR-28, which goes underneath the freeway
10 at that point.

11 Q. Uh-huh. Were you in any way involved with the appre-
12 hension of those that were in the Tundra after that?

13 A. I was not.

14 Q. I see. Just for my own information, you had a gun
15 pointed at you, and somebody shot at you, and I think I read
16 in your report that that has a traumatic effect on you?

17 A. I don't -- I did note that I believe there was a gun
18 pointed or that shots were fired, but I didn't indicate any
19 traumatic event with it.

20 Q. I think you indicated in your report, and I can't
21 recall the exact words, that there was a period there where
22 you had to kind of regain your -- what's the word I'm looking
23 for? Come to balance, come to terms with things and then re-
24 engage. It is a scary experience, isn't it?

25 A. Yeah, it is a scary experience, yes.

1 MR. TAYLOR: Thank you. No further questions.

2 THE COURT: Okay, thank you. Any redirect?

3 MR. TAYLOR: Just a couple followup questions, Judge.

4 REDIRECT EXAMINATION

5 BY MR. TAYLOR:

6 Q. So, Trooper Blankenagel, when you looked up after you
7 heard that sound and you looked up towards that vehicle and you
8 saw that window open, was the hand outside of the cab at that
9 point?

10 A. I believe it was, yes.

11 Q. Okay, you saw -- you said you saw the hand retreating
12 back into --

13 A. Correct.

14 Q. -- the cab at that point; is that correct?

15 A. Correct, yes.

16 Q. Okay, so have you been involved in other pursuits as a
17 trooper?

18 A. Yes.

19 Q. Based upon your training and experience, how would you
20 describe the ability of the driver in this Tundra?

21 A. Seemed to be driving pretty well. I mean, maintaining
22 the lane of travel pretty well. On the video you can see right
23 after the shot was fired, it did cross the center line slightly
24 and then continue back into the No. 1 lane, but was able to
25 maintain high rates of speed throughout the pursuit.

1 Q. Based upon your observation did you see whether the
2 Tundra was ever disabled by the spike strips?

3 A. I never saw that. Like I say, it was indicated that
4 Deputy Thompson had spiked the vehicle; but as far as disabling
5 it, my vehicle was disabled before we got to that point.

6 Q. Okay, and so -- but you didn't see the Tundra stop
7 after that vehicle struck another vehicle, did you?

8 A. No.

9 MR. TAYLOR: Okay, nothing further, Judge. Thanks.

10 THE COURT: Okay.

11 MR. ZABRISKIE: No recross, your Honor.

12 THE COURT: All right, thank you. That's all, Trooper.
13 Can he be excused?

14 MR. TAYLOR: Yes, from the State.

15 MR. ZABRISKIE: No objection.

16 THE COURT: Thank you, sir. Next witness?

17 MR. TAYLOR: The State calls Alonzo Vantassell.

18 THE COURT: Come forward, sir. Let's get you sworn in.

19 COURT CLERK: Raise your right hand. You do solemnly
20 swear that the testimony you shall give in the case now pending
21 before the Court will be the truth, the whole truth and nothing
22 but the truth, so help you God?

23 THE WITNESS: I do.

24 THE COURT: Thank you, sir. Please have a seat here
25 in the witness box. Just go ahead and get close enough that we

1 can pick you up on the microphone, okay? All right, thank you.

2 ALONZO VANTASSELL,

3 having been first duly sworn,

4 testified as follows:

5 DIRECT EXAMINATION

6 BY MR. TAYLOR:

7 Q. Would you please state your name and spell your last
8 name for the record.

9 A. Alonzo Vantassell, V-a-n-t-a-s-s-e-l-l.

10 Q. What city do you reside in?

11 A. I live in Lehi, Utah.

12 Q. Okay, how are you employed?

13 A. I'm self-employed.

14 Q. Okay, what do you do?

15 A. I have a trucking company.

16 Q. Okay, were you -- so on January 30th, 2014, what was
17 your responsibilities with regards to that employment?

18 A. I was traveling to Los Angeles, California.

19 Q. Okay, were you driving a truck?

20 A. Yes, I was.

21 Q. Okay, and so you were involved in an incident on that
22 day; do you recall that?

23 A. Yes, I do.

24 Q. Okay, and why don't you just go ahead and describe
25 what your observations were, where you were at and what your

1 observations were.

2 A. Okay, I was driving down the freeway, I-15 south when
3 I passed Spanish Fork, Payson area I was passed by multiple
4 officers with sirens and lights flashing. They all got off in
5 Santaquin in front of me. So I thought something is going on
6 in Santaquin.

7 Q. Okay.

8 A. Well, as I-- as I passed Santaquin I thought that they
9 all got off and I had left it behind me. So as I'm coming up
10 to Nephi, as I got to the -- near Nephi, there was an officer
11 on the shoulder, and that day it was snowing. It had low
12 visibility. The visibility was, you know, less than a mile.
13 So I wasn't doing that fast. I saw an officer on the shoulder
14 with his lights on. In my mind I thought that maybe there was
15 an accident, maybe there was something up ahead of me.

16 Q. Okay.

17 A. So I'm slowing down, and then as I get -- approach the
18 vehicle, I see the officer standing -- he's in the middle of
19 the freeway in the slow lane. So now I really think something's
20 happening. I move over because he is actually standing in the
21 freeway.

22 Q. Okay.

23 A. He had something in his hands. I didn't know at the
24 time what it was. I thought, in my mind, as I'm approaching
25 him, I thought he was pulling like the tire counters that count

1 vehicles. That's just the first thing that came to my mind.

2 Q. Okay.

3 A. I thought this is a terrible time for them to be
4 pulling counters in the middle of a storm.

5 Q. Okay.

6 A. Can't really see them.

7 Q. Approximately how fast were you going at this time, do
8 you think?

9 A. Oh, I was doing, I'm sure, 65 going down the freeway.
10 As I approach him, I just turn on my engine brakes.

11 Q. Okay.

12 A. The truck slows -- it slows down on its own. As I see
13 him on the -- on the freeway standing in the middle of the
14 road, I slow down more and move over to the fast lane.

15 Q. Okay.

16 A. So I drive past him. I drive across the -- what in
17 my mind I thought was the tire counters, and I pass him. I --
18 at that point in the road it was just enough of a bend that in
19 the driver's side mirror I can't see anything past my trailer.

20 Q. Okay.

21 A. So I'm watching out my passenger mirror. As soon as
22 I pass him, he runs off the road.

23 Q. Okay.

24 A. I'm like, well, good, at least he's out of the way,
25 you know. At least someone else isn't going to hit him.

1 Q. Okay.

2 A. So behind me there was a vehicle pulling a camper
3 trailer, and I see them come up to the officer. Then I see
4 them like out of control -- not out of control, but they were
5 all over the road. I'm like, oh, man, I thought in my mind
6 that something had happened. They lock up their brakes, you
7 know. Maybe they were -- I didn't know what was happening to
8 them either.

9 Q. Okay, so then what happens?

10 A. So as I continue along, I'm watching this out my rear-
11 view mirror, and then I hear a loud "bang" on my left side,
12 which in my mind I thought I had blown a tire. I thought I had
13 some equipment failure, you know.

14 Q. Okay.

15 A. So I'm like, oh, man. So I'm -- again, I'm slowing
16 down again after that, and next thing I know there was a white
17 Toyota pick-up next to me; and again, I thought that it was my
18 -- my equipment failure. I thought my trailer had blown a tire.

19 Q. Okay.

20 A. So as the -- as the vehicle pulls up next to me, I
21 look over and I thought I was -- I might have scared them,
22 because I thought it was my tire that had blown.

23 Q. Okay.

24 A. I didn't know at the time. So the pick-up pulls up
25 next to me, gets right next to my tractor, and as they pass me,

1 the tractor, someone leaned out the window like this and fires
2 two more shots, and shoots out my -- shoots my steer tire, hit
3 my steer tire and also hit the wheel.

4 Q. Okay, so I just want to go ahead and just back up just
5 a little bit with regards to -- so you see this white Toyota
6 pick-up next to you after you had heard this first sound?

7 A. After, yes.

8 Q. Okay.

9 A. So knowing now what was a gunshot at my trailer tires
10 -- which in my mind I didn't know that someone was shooting at
11 me --

12 Q. Okay.

13 A. -- and my tire, because I was watching out the pass-
14 enger mirror at what was going on behind me --

15 Q. Okay.

16 A. -- and so when I heard that first gunshot, I thought
17 it was a tire blowing, because I've had multiple tires blow on
18 other equipment; and if a tire explodes, it sounds like a gun-
19 shot, sounds like a small bomb.

20 Q. Okay, so this Toyota pick-up is now to the side of
21 you, and you say you see someone hanging out the window or arm
22 out the window; describe what you see.

23 A. Yeah, so they -- they pull up next to me. As they're
24 passing me, the gentleman in the vehicle hangs out the window
25 just like this, leans out the window, bang, bang, and shoots

1 two more shots at me.

2 Q. Okay, so it was -- it was a man, then, what you're
3 describing?

4 A. Yes.

5 Q. Okay, how far away were you from this Toyota when they
6 fired -- when this man fired at you?

7 A. Maybe from here to the pulpit, your pulpit.

8 Q. Okay.

9 A. If that.

10 Q. So --

11 A. When you pass somebody -- they were -- I looked right
12 at them as they passed me, because I thought, in my mind, that
13 I had scared them with my tire blowing. So I was -- I was
14 looking to see if they were concerned or whatever, and I looked
15 right at them. They were right -- right next to me, you know.
16 When you pass somebody on the freeway you're only four or five
17 feet away from them.

18 Q. Okay, okay, so could you -- could you see what kind of
19 gun it was? Was it a handgun or rifle or --

20 A. It was -- it was a pistol, a black pistol.

21 Q. Okay, so when those shots were fired, and you saw this
22 individual shooting at your vehicle, what did you do?

23 A. When I realized he was shooting at me, I automatically
24 I just in my mind thought, oh, man, I need to get away from
25 these guys. So I hit my brakes. The vehicle continues driving

1 down the road, and as he -- as they're driving away from me I
2 realized that they had a tire blown. They were driving on three
3 tires and one rim, sparks flying out the back. I thought, oh,
4 my heck, what's going on here, you know.

5 Q. Okay.

6 A. They're driving on three tires and one wheel.

7 Q. Okay, and so what did you do?

8 A. So I instantly hit my brakes. I pull over. This was
9 right at the Nephi exit. By the time I stopped, I was -- I had
10 stopped and pulled over on the shoulder on the on-ramp, and I
11 had come to a complete stop on the shoulder of the on-ramp, and
12 I backed down just enough so I am completely off of the freeway
13 out of the way.

14 Q. Based upon your observations, did you see any damage
15 -- other than the tire that you're talking about, did you see
16 any other damage to that Toyota vehicle?

17 A. Not that I -- not that I can recall. Just the tire,
18 from what I remember.

19 Q. Okay, so at the time that you first saw that vehicle
20 next to you, were you about even with the cab of the truck or--

21 A. Oh, no. When I first saw the pick-up?

22 Q. Yeah.

23 A. No, they were behind me.

24 Q. Oh, they were behind you? So you saw them in your --

25 A. Because once I -- once I --

1 Q. -- mirror?

2 A. -- yeah, once I heard the gunshot at the trailer --

3 Q. Okay.

4 A. -- I instantly am checking my own vehicle to make my
5 own assessment of what's going on with my own vehicle.

6 Q. Okay, okay. So you -- you stop your vehicle, then?

7 A. Yeah, as soon as I -- as soon as they shot at the
8 tractor, I instantly pull over. I back down so I'm out of
9 the way. I'm completely off the freeway. I'm on the shoulder
10 of the on-ramp.

11 Q. Okay.

12 A. I instantly grab my phone. I call 911, and I told them
13 that somebody was shooting at me. They asked me where I'm at.
14 I gave them my location. They tell me to stay put; we will
15 call you back or we will send somebody to you. So I hang up
16 with 911, and then I get out of my vehicle and I walk around my
17 vehicle to see -- I thought that they were -- had maybe hit my
18 fuel tank. So I -- I jumped out to make sure I wasn't leaking
19 fuel.

20 Q. What were your observations?

21 A. They had shot out my steer tire, and also my trailer
22 tire, and also they had shot out the wheel seal on the other
23 axle of my trailer.

24 MR. TAYLOR: Okay, excuse me. May I approach the
25 witness, please, Judge?

1 THE COURT: Sure.

2 Q. BY MR. TAYLOR: Mr. Vantassell, I'm going to hand you
3 what's been marked State's Exhibits No. 93, 94, 95, 96, 97, 98,
4 99 and 100. Could you please just go ahead and take a look at
5 those real quick.

6 A. (Witness reviewing exhibits).

7 Q. Do you recognize those?

8 A. I do.

9 Q. Generally what are those?

10 A. No. 93 is a picture of my tractor/trailer that I was
11 driving that day.

12 Q. Okay, I'm going to have you -- I'm going to see if we
13 can publish those to the jury and show them up here, but is
14 that a picture of your vehicle on the day of January 30th, 2014?

15 A. Yes.

16 Q. And also the tires?

17 A. Yes.

18 Q. And of the hub of your tire?

19 A. Yes.

20 MR. TAYLOR: Okay, the State would offer into evidence
21 those exhibits.

22 THE COURT: Any objection?

23 MR. ZABRISKIE: No.

24 THE COURT: Thank you. I'll go ahead and accept and
25 receive State's Exhibits 93 through 100.

1 MR. TAYLOR: Thank you.

2 (Exhibit Nos. 93 thru 100 received into evidence)

3 MR. TAYLOR: Judge, we'd ask that they be published for
4 the jury.

5 THE COURT: Any objection to that?

6 MR. ZABRISKIE: No objection, your Honor.

7 THE COURT: Okay, thank you.

8 Q. BY MR. TAYLOR: There's a pointer right there, too.

9 A. Okay.

10 Q. So I'm just going to -- I'll just go ahead and ask you
11 some questions. Then you can point that out.

12 A. Okay.

13 Q. So we're looking at Exhibit No. 93. What's this?

14 A. That is my tractor and trailer that I was traveling
15 with that day.

16 Q. Okay, 94, what's that?

17 A. That is the steer tire that was shot out, and it just
18 shows right there the flat tire.

19 Q. Okay, 95?

20 A. That is the hole in the tire.

21 Q. No. 96?

22 A. So here it shows the trailer tire. You can only see
23 the outside tire that was flat, but it also got the inside
24 tire, and right there you can kind of see the -- where they
25 shot the wheel seal also, the hub.

1 Q. Okay, so 97?

2 A. Bullet hole in the tire.

3 Q. No. 98? So let me ask you, so this picture was taken
4 later on; is that correct?

5 A. Yes.

6 Q. Okay, so why don't you describe how you found out
7 about this.

8 A. At the time, if you'll go back two pictures, right
9 there, I only at that moment realized that I had two flat
10 tires; and because of the day, it was cold enough that the
11 oil in the front axle -- you can kind of see the hole right
12 there. I didn't -- I didn't realize at that time that I had
13 also got a hole in that hub right there; and because it was
14 cold enough, no oil, you can see, has leaked on the wheel.

15 So if you'll go back to the other picture, when I
16 got to California -- or actually when I got to (Inaudible),
17 Nevada, I get out and I always when I get out I go around and
18 make sure I don't have flat tires, you know, just do a quick
19 vehicle inspection, I realized that I had got a hole in the
20 hub and had lost all my oil also.

21 Q. Okay, and so did you contact an officer to come and
22 talk about this?

23 A. I did later, yes. I didn't at the time. At the
24 time I was -- I was still -- I had to make my deliveries in
25 California the next day, and I had to get this replaced because

1 I didn't want to cause further damage to the axle and to my
2 trailer.

3 Q. Okay, so next picture. So what's this?

4 A. So when I was in -- when I was down there I had to get
5 this replaced, and when I pulled it off, I kept this myself,
6 and I talked to the officer, and he told me to keep it and to
7 -- that he would come and take a look at it.

8 Q. Did you find anything inside that hub?

9 A. Yeah, I did. You can see right here they had fragments
10 of the shell.

11 Q. Let's go to the next picture. Is that what you're
12 talking about right there?

13 A. Yes, yeah.

14 Q. Okay, and so did the officer take control of those
15 fragments at that time?

16 A. Yes, he did.

17 Q. Okay, thanks. So at the time when you're out on the
18 freeway did you have to go ahead and get your tires fixed?

19 A. Yeah, I had three flat tires. I couldn't move.

20 Q. So who did you call?

21 A. It was the -- I can't even think of their name now.

22 Q. Let me show you Exhibit No. 103. I'm showing you
23 Exhibit No. 103. Do you recognize that?

24 A. Yeah.

25 Q. What is that?

1 A. This is the receipt for the tires that I had to
2 purchase in order to get moving again.

3 Q. How much were those three tires to replace?

4 A. \$1095.

5 Q. Okay, have you ever been compensated for that?

6 A. No, I have not.

7 MR. TAYLOR: Okay, the State would offer into evidence
8 Exhibit No. 103.

9 THE COURT: Any objection?

10 MR. ZABRISKIE: No objection, your Honor.

11 THE COURT: Accept and receive State's Exhibit 103.

12 (Exhibit No. 103 received into evidence)

13 Q. BY MR. TAYLOR: Are you still a truck driver?

14 A. Since this -- sorry.

15 Q. There's a tissue next to you.

16 A. I had to take a lot of -- a look at my own life and
17 realized that being gone wasn't worth it to me. Just made me
18 realize that I did not want to be gone. I wanted to be home
19 with my family. At the time I had three trucks. I sold them.
20 I sold two of the three. I have one just in case, and I don't
21 drive anymore.

22 Q. Okay.

23 A. I work in the office now.

24 Q. I forgot to ask a question. If I could just go back
25 to the scene once again, Mr. Vantassell. When that vehicle

1 was next to you were you able to see a driver in that vehicle?

2 A. No, I didn't see the driver.

3 Q. Okay, and based upon your observations -- strike that
4 question.

5 MR. TAYLOR: Nothing further at this time.

6 THE COURT: Thank you. Cross examination?

7 CROSS EXAMINATION

8 BY MR. ZABRISKIE:

9 Q. Good morning, Alonzo.

10 A. Good morning.

11 Q. I appreciate you being here. I don't know if you're
12 traveling here from out of state or -- do you live in Utah?

13 A. I live in Lehi, yes.

14 Q. Oh, in Lehi, okay.

15 A. It's not too far.

16 Q. All right, so you had a lot of experience it sounds
17 like in trucking. You had three trucks --

18 A. Yeah.

19 Q. -- at the time of this incident anyhow?

20 A. Yes.

21 Q. Those -- in this industry that you're in, it gives
22 you opportunity to travel about quite a bit; is that right?

23 A. Yes.

24 Q. I take it this was the first time you had a weapon
25 pulled on you while you were out trucking?

1 A. Yes.

2 Q. Okay, you've described it, it sounds like it was a
3 pretty traumatizing experience for you?

4 A. Yeah, it was -- it affected me, definitely.

5 Q. I understand, yeah. I want to ask you a few of the
6 details from your memory about that day. As you describe the
7 hub on your -- on your rig, there's a -- like an encased seal
8 where you've got some oil in there; is that right?

9 A. Uh-huh. So that was the actual hub that -- on the
10 axle of any vehicle you have your axle, and then you have the
11 bearings which the wheel -- allows the wheel to roll around the
12 axle, and the axle stays solid. So to keep your bearing from
13 burning up, it has oil in there, and you have to have a way to
14 put the oil in there, which is that -- which was the axle hub
15 that you saw.

16 Q. Okay, so on a -- on a warmer day, you would have
17 expected with that hole that was put there by the bullet, you
18 would have expected some of the oil to come out; is that --

19 A. Oh, yeah, I just would have -- I would have expected
20 that I would have seen it while it was parked there, rather
21 than it being when it's cold the oil gets thicker, you know,
22 and it doesn't run like it would when it was warm, yes.

23 Q. This was a pretty cold day, in your description?

24 A. Yeah, it was snowing.

25 Q. Okay, cold enough at least to keep that oil from

1 leaking out when the hole was put there?

2 A. Yeah, and from where -- where the hole was when I was
3 stopped, maybe -- maybe it couldn't get out, because in there
4 you only fill it half full anyways. So maybe the hole was
5 just enough that -- and parked when I had stopped, it was in
6 a position where the oil was lower than the hole was, and I
7 didn't -- I didn't see that at that time, yes.

8 Q. Okay, so when you're driving in these kind of weather
9 conditions, I'm assuming you're driving with your windows up;
10 am I right?

11 A. Yes.

12 Q. Okay, this type of rig that you're in, what make,
13 model, what can you tell us about that truck?

14 A. It's a 1998 Peterbilt.

15 Q. Okay, when you're driving down the road at freeway
16 speeds, I would imagine you've got a pretty large motor in that
17 machine, right?

18 A. Yep, has a --

19 Q. Is there a lot of noise?

20 A. Yeah, they're fairly noisy?

21 Q. Like from the motor?

22 A. Yes.

23 Q. Okay, do you get a lot of road noise, too?

24 A. Road noise is not so much. The most noise is from the
25 motor, yeah.

1 Q. What about the exhaust system, where does that vent
2 at? Is it --

3 A. It goes out the back. Goes out above the cab.

4 Q. When your windows are down, is that -- do you hear
5 this noise a lot more?

6 A. When they're down, definitely.

7 Q. Yeah, so generally do you drive with your windows up?

8 A. I do.

9 Q. Okay, do the -- when you're sitting in the cab and the
10 windows are up, does it drown out a lot of this outside noise?

11 A. Outside noise as far as what?

12 Q. From -- maybe from the motor, noise from the exhaust?
13 Does it kind of quiet things in the cab?

14 A. Oh, it's definitely quieter more -- when the windows
15 are down I hear more wind noise than motor noise.

16 Q. Okay, but you just --

17 A. When I roll the windows up I hear more motor than --
18 yeah.

19 Q. That makes sense. So when the gun was pulled on you,
20 though, did you see the gun before the shot was fired, or did
21 you hear a shot fired first? What order did that happen in?

22 A. I heard the -- I heard the shot fired at the trailer,
23 which like I said, I thought was equipment failure. I thought
24 I had a tire that blew.

25 Q. Uh-huh.

1 A. I did not see it then. No, I did not.

2 Q. Okay.

3 A. When they pulled up next to me I saw the gun -- as he
4 leans out the window, I saw him pull the gun out, point it at
5 the vehicle and shoot, yes.

6 Q. Okay, and then when -- when he shot at that time, how
7 would you describe the sound from it?

8 A. Just as a bang, a loud bang. I mean, I saw him do it,
9 so I knew it was happening.

10 MR. ZABRISKIE: Yeah. All right, I don't -- I don't
11 have any further questions. Thank you.

12 THE COURT: Thank you. Anything else?

13 MR. TAYLOR: Just a quick followup.

14 REDIRECT EXAMINATION

15 BY MR. TAYLOR:

16 Q. Mr. Vantassell, did that vehicle after it shot -- or
17 the individual inside that vehicle, did that vehicle make any
18 attempt to stop at that point?

19 A. No, I -- as soon as I slowed down, my instincts, when
20 someone's shooting at me, is to -- I need to get away from this
21 person or vehicle or whatever is shooting at me. I instantly
22 slowed down. They continued driving down the freeway.

23 Q. So you said you saw sparks or whatever. Was the
24 person -- did they look like they were slowing down at all?

25 A. No.

1 MR. TAYLOR: Okay, thank you. Nothing further.

2 THE COURT: Thank you.

3 MR. ZABRISKIE: No further recross.

4 THE COURT: All right, thank you. Anything else for
5 Mr. Vantassell, or can he be excused?

6 MR. TAYLOR: No, he can be excused, Judge.

7 MR. ZABRISKIE: No objection.

8 THE COURT: Thank you, sir. Next witness?

9 MR. TAYLOR: Yeah, State calls --

10 (Counsel conferring off the record)

11 MR. TAYLOR: Okay, Judge, the parties, instead of
12 calling Scott Finch who received that bullet fragment from
13 Mr. Vantassell's hub. The State would offer into evidence
14 Exhibit No. 101, which is identified in the County numbering
15 system as 1766, as the bullet fragment from Alonzo Vantassell's
16 tire; and I think the parties are stipulating to that.

17 THE COURT: Is that correct? Just one fragment?

18 MR. TAYLOR: Yes.

19 THE COURT: Is that correct, Mr. Zabriskie?

20 MR. ZABRISKIE: Yes. Yeah, I apologize, your Honor.

21 MR. TAYLOR: Sorry.

22 MR. ZABRISKIE: I wasn't listening, but I know whatever
23 it is, it's correct.

24 THE COURT: I'll accept and receive Plaintiff's Exhibit
25 101.

1 (Exhibit No. 101 received into evidence)

2 MR. TAYLOR: Thank you. Maybe we can take just a
3 second, Judge. I'm going to see if we can maybe go through
4 a couple witnesses (inaudible).

5 THE COURT: Okay.

6 (Counsel conferring off the record.

7 MR. TAYLOR: I appreciate Counsel's willingness to go
8 ahead and stipulate. So the State would offer into evidence
9 Exhibit No. 102, which are bullet fragments which were found in
10 the wheel of Alonzo Vantassell's vehicle; and Exhibit No. 104,
11 which is identified as -- the identification number is 1560,
12 and these are the bullet fragments. So the State would offer
13 into evidence both Exhibit No. 102 and 104.

14 THE COURT: No objection?

15 MR. ZABRISKIE: No objection, your Honor.

16 THE COURT: Thank you. I'll accept and receive State's
17 Exhibit 102 and 104.

18 (Exhibit Nos. 102 and 104 received into evidence)

19 MR. TAYLOR: Okay, turn it over to Ms. Howard now.

20 MS. HOWARD: Your Honor, our next anticipated witness,
21 we-- excuse me, our next witness we anticipate will be probably
22 about an hour on the stand, but it is an officer witness. So
23 if it pleases the Court we could proceed and just get as far as
24 you would like until we take a lunch break, or we could take an
25 early lunch break.

1 MR. ZABRISKIE: Have you included cross in your estima-
2 tion?

3 MS. HOWARD: No, actually we have him slated for about
4 90 minutes total.

5 MR. ZABRISKIE: Okay, so it could go well past an hour.

6 MS. HOWARD: He is here and ready to proceed.

7 THE COURT: All right, well, probably best to take a
8 lunch at this time and come back at 12:45 and commence just as
9 soon as we can thereafter. Remind the members of the jury with
10 regard to the instructions that you've received, to strictly
11 comply with those instructions. Again, Pona will let you know
12 where he needs you to come back. Anything before we take a
13 lunch recess?

14 MR. TAYLOR: Nothing from the State, Judge.

15 MR. ZABRISKIE: Nothing, your Honor. What time, your
16 Honor? Would 12:45 be all right or --

17 THE COURT: That's when I'll have the jury come back,
18 and we'll start just as soon as we can thereafter. Okay, we'll
19 be in recess.

20 COURT BAILIFF: All rise for the jury.

21 (Jury exits the courtroom)

22 THE COURT: Thank you. We'll be in recess.

23 (Recess taken)

24 THE COURT: Thank you. Please be seated. Okay, we're
25 back on the record in State vs. Grunwald matter. All parties

1 are present, including Counsel, the defendant, as well as all
2 members of the jury. Are we ready to proceed, Ms. Howard.

3 MS. HOWARD: Yes, thank you, your Honor. We'll call Al
4 Taylor, please.

5 THE COURT: Okay. Come forward, sir. Let's have you
6 sworn in.

7 COURT CLERK: Please raise your right hand. You do
8 solemnly swear that the testimony you shall give in the case
9 now pending before the Court will be the truth, the whole truth
10 and nothing but the truth, so help you God?

11 THE WITNESS: I do.

12 THE COURT: Thank you, sir. Please have a seat in
13 the witness box. Just make sure you get the microphone close
14 enough to you that it will pick you up.

15 THE WITNESS: Okay, thank you.

16 THE COURT: Thank you.

17 ALAN TAYLOR,
18 having been first duly sworn,
19 testified as follows:

20 DIRECT EXAMINATION

21 BY MS. HOWARD:

22 Q. Would you please state your name and spell your last
23 name for the record.

24 A. My name is Alan Taylor, T-a-y-l-o-r.

25 Q. What is your occupation?

1 A. Deputy at the Juab County Sheriff's Office.

2 Q. Are you a certified officer with the State of Utah?

3 A. Yes.

4 Q. How long have you been a certified officer?

5 A. Since May of 1989.

6 Q. Of '89? Where is it that you're -- what is your
7 current assignment?

8 A. Chief Deputy of Juab County Sheriff's Office.

9 Q. Okay, and how long have you worked for the Juab County
10 Sheriff's Department?

11 A. Since 2003; part-time 2003 to 2009, and full-time from
12 2009 until now.

13 Q. Okay, and prior to being Chief Deputy, what was your
14 other assignment?

15 A. A task force commander.

16 Q. Okay.

17 A. And deputy before that.

18 Q. A task force commander, just briefly what is that?

19 A. There are several agencies that are -- form a task
20 force. In our case it was the Major Crimes Task Force for
21 Sanpete and Juab County. We investigate all major crimes;
22 narcotics being the primary focus of our investigations.

23 Q. Okay, and on occasion when you were acting as task
24 force commander, what did wear?

25 A. Just normal street clothes; blue jeans, usually a

1 hoodie, tee shirts, just something to blend in.

2 Q. Okay, were you working within Juab County on or about
3 January 30th of the year 2014?

4 A. Yes, I was.

5 Q. On that date did you receive information about a
6 pursuit?

7 A. Yes.

8 Q. What information did you receive?

9 A. I was just dropping off one of our task force cars to
10 be serviced, to be fixed for an undercover operation we had
11 going on later in the afternoon. Had Deputy Kellen Worwood
12 there to pick me up from dropping off the car to be repaired.

13 When I come outside he was motioning me to hurry and
14 come on over to the truck. So I got there and he said that
15 the radio traffic, that two Utah County deputies had just been
16 killed, and they believed the suspects were coming towards us.

17 Q. Okay, and so what did you do at that point?

18 A. At that point I told Deputy Worwood that I didn't
19 have any of my gear with me. I didn't have a vest, I didn't
20 have any of my other equipment; and he asked if I wanted to go
21 to the sheriff's office and get that. I said, "No, let's just
22 go." So I directed him out to the freeway.

23 We went north of Mona where we could see a long stretch
24 of I-15, take a dip down towards Mona interchange. We took a
25 -- pulled into a turnout right there in the median so we could

1 observe the traffic coming towards us down I-15.

2 Q. Okay, so you were with Deputy Kellen Worwood?

3 A. Yes.

4 Q. Was he operate -- excuse me, driving?

5 A. Yes, he was driving.

6 Q. What were you doing?

7 A. I was the passenger in the front seat.

8 Q. Okay, and what were you wearing on that date?

9 A. I was wearing blue jeans, a red Utah Utes hoodie, tan
10 boots, and that was it.

11 Q. Did you also have a badge on?

12 A. Yes, I had a badge and a gun on my side.

13 Q. Okay, and was the badge-- where was the badge located?

14 A. Right next to my firearm on my right side.

15 Q. Would it have been visible?

16 A. Yes.

17 Q. What type of vehicle were you in?

18 A. Oh, I'm not sure. I think -- I'm not sure if Kellen
19 was driving a Chevrolet at that time or a Ford, but it was a
20 half-ton pick-up truck, white.

21 Q. Was it marked?

22 A. Yes, it was marked "Sheriff" on the sides and on the
23 back.

24 Q. Did it have lights?

25 A. Yes, lights and sirens.

1 Q. Where were they located?

2 A. Lights and sirens are inside of the cab above the
3 windshield and in the back window, and we also had flashing
4 lights and the taillights and some other LED red and blue
5 lights about the vehicle.

6 Q. Did that vehicle have a dash cam?

7 A. Yes.

8 Q. Was it recording that day?

9 A. Yes.

10 Q. Have you watched that recording?

11 A. Yes.

12 Q. Does it accurately depict the events of that day?

13 MS. HOWARD: May I approach.

14 THE COURT: Sure.

15 Q. BY MS. HOWARD: I have what's been marked Plaintiff's
16 Exhibit No. 105, ask you if you can identify that?

17 A. Yes, this is a DVD of the dash cam video of Deputy
18 Worwood's truck.

19 Q. Okay, and this is the video that you have watched?

20 A. Yes.

21 MS. HOWARD: Your Honor, I'd like to move to enter into
22 evidence Plaintiff's Exhibit No. 105.

23 THE COURT: Any objection?

24 MR. ZABRISKIE: No objection, your Honor.

25 THE COURT: Thank you. I'll accept and receive State's

1 Exhibit 105.

2 (Exhibit No. 105 received into evidence)

3 MS. HOWARD: Thank you, your Honor. I'd also like to
4 publish it at this time.

5 MR. ZABRISKIE: No objection, your Honor.

6 THE COURT: Thank you.

7 (Dash cam video played in the courtroom. There is
8 no audio heard when this is played. Video is turned
9 on and off throughout officer's examination. Please
10 refer to the Court file to review this video.)

11 Q. BY MS. HOWARD: Okay, Officer, at this juncture we're
12 going to be making a record of what it is that you see. So I
13 will be asking you questions about what you see so that you can
14 describe that for the record, okay?

15 A. Okay.

16 Q. What is this first image that you see?

17 A. This is when Deputy Worwood and I pulled up into the
18 interchange -- or into the median just south of the Mona inter-
19 change. We are -- our vehicle is facing westward, kind of a
20 northwest in that interchange. Trooper Blankenagel will pull
21 up right next to us a few minutes after we had stopped here.

22 Q. Okay, is there audio?

23 A. There usually is, but I don't know why it wasn't
24 working on this day.

25 Q. So the entire video has no audio?

1 A. No.

2 Q. Okay. All right, we'll go ahead and play.

3 A. Okay, we're going to be watching southbound traffic,
4 and about this time I see a white Toyota Tundra approaching our
5 position at a high rate of speed. I yell out to Deputy Worwood
6 and Trooper Blankenagel that "Here it comes. Here it comes."
7 You're going to see it come by. Right there.

8 Q. Okay, so at this point you said that it was traveling
9 at a high rate of speed?

10 A. Yes. I could see the vehicles coming for all the
11 way on the other side of Mona interchange. We could see the
12 vehicles coming down through the dip and then towards us,
13 and it was passing the other vehicles as it was -- as it was
14 approaching.

15 Q. Okay, did you have an estimation of the speed at that
16 point?

17 A. I would have estimated 90 to 100.

18 Q. Okay, and who pursues first; who pulls out first?

19 A. Trooper Blankenagel pulls out first. Then we pull out
20 behind him.

21 Q. As you follow behind this vehicle are you making
22 observations?

23 A. Yes.

24 Q. Are you also announcing those over to dispatch?

25 A. Yes.

1 Q. Okay.

2 A. I took care of the radio traffic during the pursuit.

3 Q. Do you know whether at this point the emergency equip-
4 ment is on?

5 A. Yes, it is. As soon as we pulled out -- before we
6 even pulled out, we activated our emergency lights. So did
7 Trooper Blankenagel.

8 Q. Were sirens on as well?

9 A. Yes.

10 Q. Okay.

11 A. There's Trooper Blankenagel out ahead of us right
12 there.

13 Q. During this can you hear Trooper Blankenagel?

14 A. No, he's on a different radio frequency.

15 Q. He's with the Highway Patrol, right?

16 A. Yes. We are traveling southbound on I-15 as fast as
17 Deputy Worwood's truck would go. They're approaching the Nephi
18 north interchange.

19 Q. Officer Worwood has moved into the No. 2 lane or the
20 slow lane. Is there a purpose behind that?

21 A. Well, usually it keeps people from coming around the
22 pursuit and it kind of blocks that lane off. If there was
23 anything to happen to Trooper Blankenagel then it would be
24 easier to avoid a rear-end collision this way.

25 Q. Where are you at at this point?

1 A. We're about one mile north of the Nephi interchange.
2 It's the 228 interchange. Right here is the off-ramp coming up
3 for Nephi north. Here in just a few moments Deputy Thompson
4 will be in the median and get a successful spike on the vehicle
5 and deploys his spike strip.

6 Q. Prior to that do you see an officer join the pursuit
7 right here?

8 A. Yes, this right here is Officer Sarah Robison of the
9 Nephi City Police.

10 Q. Okay.

11 A. There's Deputy Thompson. He gives us a thumbs up as
12 he's pulling the spike strips out of the way. Then right up
13 here will be Deputy Craig Ryan on the middle Nephi interchange
14 who also puts out a spike strip to help disable the vehicle.
15 There's Deputy Ryan over here. Right there.

16 Q. Then what happens.

17 A. That -- okay, right here he spikes Deputy Blankenagel
18 and that camper trailer right there. We slow down, because we
19 don't -- we didn't know what happened to Deputy Blankenagel,
20 didn't know if there was another vehicle off the road. Then
21 we realized the vehicle was still traveling south on I-15, so
22 we pick up the pursuit again.

23 Q. So who's in lead? Oh, pause.

24 A. Deputy Worwood and I are in the lead vehicle from
25 this point.

1 Q. Back up just a little bit. Okay, there. Do you
2 recall seeing that vehicle when you went through the first
3 time?

4 A. I don't recall that vehicle the first time we went
5 through.

6 Q. But as you've watched it again, you have noticed it?

7 A. Yes.

8 Q. Is it -- what could you describe about it?

9 A. I believe this vehicle was involved in a collision
10 with the Toyota Tundra. Don't remember the make of the vehicle,
11 but they had pulled over -- as we go by they're trying to flag
12 us over that they had been in an accident.

13 Q. You didn't know why they were flagging you over there?

14 A. No, no.

15 Q. Okay, and from the rear that-- what could you describe
16 of that vehicle?

17 A. Looks like a Cadillac. Not quite sure the color,
18 maybe white or an off-white color.

19 Q. I'm maybe not asking a really great question, but is
20 one of the lights out?

21 A. Yeah, one of the lights is out.

22 Q. Okay. All right, thanks.

23 A. The right rear brake light is out. I remember passing
24 one of these semis that we'd passed. They were trying to flag
25 us over. Didn't understand why at the time either.

1 Q. Okay, and so that's something you learned later on?

2 A. Yes. So coming around here we're approaching the
3 south Nephi interchange, interchange No. 222. The suspect
4 vehicle exits the freeway towards Nephi Main Street. At this
5 point this is Deputy Worwood and I are in the lead vehicle, and
6 behind us is Officer Sarah Robison of Nephi Police Department.

7 Q. This is approaching the south end of Nephi; is that
8 correct?

9 A. Yes. You can see the suspect vehicle out here in
10 front of us. Okay, they're getting out of the vehicle.

11 Q. Pause. Okay, what can you -- Officer, what do you
12 observe at that point?

13 A. This is the male passenger here coming out of the
14 passenger side. This is Ms. Grunwald getting out of the
15 driver's seat. This over here is a local tow truck operator
16 Donovan Steele, and the vehicle that left just before they came
17 to a stop was a Nephi citizen, Joey Lunt.

18 Q. Okay, Officer, are you aware that there are several
19 screen shots that were taken from the Worwood dash cam?

20 A. Yes.

21 Q. Have you observed those?

22 A. Yes.

23 Q. Are they fair and accurate representations of what you
24 see on the dash cam as well as what you saw that day in person?

25 A. Yes.

1 MS. HOWARD: Okay, your Honor, I have what's been marked
2 Plaintiff's Exhibit 106, 107, 108 and 110.

3 Q. BY MS. HOWARD: We'll just walk through these slowly,
4 but at this point, Officer, I direct your attention to Exhibit
5 106 for right now. Is that an accurate representation of what
6 is being seen on that?

7 A. Yes, this is the scene where they were exiting the
8 vehicle.

9 MS. HOWARD: Okay, your Honor, I would like to move
10 to offer into -- excuse me, I'd like to move into evidence
11 Plaintiff's Exhibit 106. I have already shown it to Counsel.

12 MR. ZABRISKIE: No objection.

13 THE COURT: Thank you. Are you going to do them one at
14 a time or all at once?

15 MS. HOWARD: One at a time, your Honor, as we walk
16 through. Well, you know what, I could do them all at once if
17 there's no objection. I have shown them all to Counsel.

18 MR. ZABRISKIE: No objection.

19 THE COURT: Thank you. I'll accept and receive State's
20 Exhibits 106, 107, 108, 110.

21 MS. HOWARD: Thank you, your Honor.

22 (Exhibit Nos. 106 thru 108 received into evidence)

23 (Exhibit No. 110 received into evidence)

24 Q. BY MS. HOWARD: Okay, if we can go ahead, then. So
25 with your laser pointer, though, if you would direct your

1 attention to this, and indicate what it is that you're seeing
2 there again.

3 A. Okay, this is -- are the two individuals that were in
4 the vehicle. This is the male. They are running across the
5 freeway towards this vehicle here. This is Donovan Steele of
6 Steele Towing in Nephi. This is Ms. Grunwald behind him. You
7 are also going to see Officer Robison come down -- start to
8 come down this on-ramp right here towards them -- or yeah.

9 Q. Officer, if you could, can you estimate the distance
10 between the male and the defendant?

11 A. Maybe 10 to 15 yards.

12 Q. Okay, can you describe him? These are a little
13 pixilated (inaudible).

14 A. I don't remember what he was wearing. I just remember
15 him running with a gun in his hand and he was pointing that gun
16 at everybody in that intersection. Anybody and anything, it
17 seemed like he was pointing that gun at them.

18 Q. Okay, as he was moving forward -- excuse me, can you
19 describe the female, what you recall?

20 A. I remember she was a lot slower than he was as far
21 as the running and moving. She was a lot slower than him. I
22 didn't observe any weapons with -- in her possession. She just
23 followed him. Anywhere he went, she followed. She wouldn't
24 -- didn't slow down or stop. She just followed. Wherever he
25 went, she followed him.

1 Q. Okay, did you notice whether or not there was any
2 communication going on between the two of them?

3 A. I didn't.

4 Q. Did you notice whether he ever turned around -- or
5 either of them turned around, actually?

6 A. No.

7 Q. Okay.

8 A. Well, he turns around towards us a little bit later
9 in this footage, and he also focuses his direction on Officer
10 Robison; but I don't think she ever looked back towards us at
11 all.

12 Q. Okay, go ahead.

13 A. Okay, you're going to see --

14 Q. Pause.

15 A. -- you're going to see Donovan Steele drive away from
16 this incident, and also him stop and take one shot at Officer
17 Robison coming down this interchange right here.

18 Q. Okay, and so at this point you had seen him point the
19 gun at whom?

20 A. Officer Sarah Robison.

21 Q. Anybody else?

22 A. Donovan Steele.

23 Q. Anybody else?

24 A. I didn't see anything prior to that. The little girl
25 that he hijacks, that he takes her car, the gun was pointed at

1 her, too; and there were some other vehicles down in there that
2 looked like the gun was pointed towards them as well.

3 Q. Okay.

4 A. Right there was a shot at Officer Robison. She was
5 yelling over her intercom.

6 Q. What was she yelling; do you recall?

7 A. I don't remember what it was. I just could hear her
8 yelling over her mic on her radio.

9 Q. Okay, and what were you doing?

10 A. I was out of the vehicle yelling for them to "Stop,
11 stop, stop. Get down. Get down." Officer Worwood was out of
12 his vehicle as well yelling at them.

13 Q. Okay, and at this point when they leave the camera --
14 or the dash cam recording, what do you see?

15 A. He -- they were on the opposite side of that road
16 there, and they started to run towards the victim that they
17 took her car. He stops roughly the middle of the road and
18 fires two rounds back towards Deputy Worwood and I.

19 The female -- he gets a hold of the driver's door
20 of the victim that they hijacked her car. He gets a hold
21 of the door, driver's side door, gets that young lady out,
22 and Ms. Grunwald runs around, jumps in the passenger side of
23 that vehicle, and he jumps in the driver's side while Chetney--
24 Chetney Williams -- she's the victim -- while she's struggling
25 to get her child out of that back seat of the car, out of the

1 car seat. As soon as she gets that child out of that child
2 seat and steps back, the car takes off. She's left standing
3 there, clutching onto her child, and then they drive off
4 towards -- well, we can see a lot of that footage here.

5 Q. So at this point where it stops, do you get in or out
6 of your vehicle?

7 A. We got out, and now we're getting back -- you'll see
8 the camera rock on here as we're getting back into the vehicle.

9 Q. Then you pulled down around; is that correct?

10 A. Yes, we pulled down around.

11 Q. So while you're out, what is it that you're doing?

12 A. While we're out of the vehicle we're yelling at them
13 to "Stop, stop, stop," and "Get down." I was trying to get a
14 shot, but there was so many people down under that interchange
15 I didn't dare fire my weapon towards him.

16 Q. After you yelled at both of them what did you see?
17 What did they do?

18 A. They got -- they got in Ms. Williams' car. They just
19 went right for her car. She stopped, and I don't know why she
20 stopped, but she did, and they went right straight to her car,
21 got her out and jumped in.

22 Q. So when you were yelling, "Stop, stop, stop," did
23 anyone obey that command?

24 A. Oh, no. No.

25 Q. Okay. All right, go ahead.

1 A. Okay, right there. This is Ms. Williams' vehicle
2 here. She had stopped at the underpass. The driver's side
3 door is open. Mr. Juaregi's in there. Ms. Grunwald is already
4 in that vehicle.

5 Q. Which direction does this picture face?

6 A. This is --

7 Q. If you're looking at it, which direction are you
8 looking?

9 A. We are looking south, and -- we're looking south.

10 Q. The Chetney Williams' vehicle that you've identified
11 as the Chetney Williams' vehicle is facing north; is that
12 correct?

13 A. Yeah. Yes, she was traveling northbound on south
14 Nephi Main Street.

15 Q. Okay, and did you see how it is that she was stopped?

16 A. Yeah, she stopped partially in the lane of travel.

17 Q. Do you know why?

18 A. I don't know why she stopped like that, but I believe
19 these two stopped her vehicle.

20 Q. That was actually a poorly asked question. Do you
21 know if anyone was in front of her?

22 A. Yes, Ms. Grunwald and Mr. Juaregi were in front of
23 her.

24 Q. Okay, and did you see what he was doing?

25 A. Yeah, he was getting her out of that driver's seat.

1 Q. Do you know how he was doing that, from what you
2 observed? Can you describe that?

3 A. He opened that door and told her to get out, I believe,
4 and she got out and --

5 MR. ZABRISKIE: Your Honor, may I voir dire --

6 THE COURT: Okay.

7 MR. ZABRISKIE: -- as to personal knowledge?

8 THE COURT: All right.

9 VOIR DIRE EXAMINATION

10 BY MR. ZABRISKIE:

11 Q. You think he did what -- do you know of your own
12 personal knowledge what led up to Ms. Williams being -- gotten
13 out of that car?

14 A. No, I don't.

15 Q. So what you're testifying to is what others have told
16 you?

17 A. No, I haven't talked to anybody about this. What I
18 seen was him open that door, her get out, run around the pass-
19 enger side.

20 Q. Okay, but you don't -- you don't know what they said,
21 what was --

22 A. I have no idea what they said, no.

23 MR. ZABRISKIE: Okay, with that caveat, your Honor, I
24 would object as to speculation, but I have no objection as to
25 what he saw.

1 THE COURT: Okay, sustain the objection.

2 MS. HOWARD: Yes, thank you, your Honor. I was going
3 to back him up and try to walk through it a little bit care-
4 fully.

5 THE WITNESS: Thanks. A little nervous.

6 MS. HOWARD: No, that's okay. That's okay.

7 DIRECT EXAMINATION (resumed)

8 BY MS. HOWARD:

9 Q. So what you saw is going to be what you can testify
10 to, Officer?

11 A. Yeah.

12 Q. So as you approached that vehicle what do you see him
13 do?

14 A. So I approach the vehicle, he opens the driver's side
15 door, and Ms. Williams gets out and runs around the vehicle
16 to get her child out of that passenger side rear door of that
17 vehicle.

18 Q. Okay, and so what happens next?

19 A. As she struggles to get the child out of the seat, she
20 stands up with the child and is clutching the child and this
21 vehicle pulls away.

22 Q. Okay.

23 A. There's -- there's Ms. Williams right there, and her
24 child.

25 Q. Okay, and what happens at that point, then?

1 A. Well, at that point we had both started to partially
2 get out of our vehicle and get back in. This -- they drive up
3 the off-ramp -- or on-ramp here, southbound on I-15. There's
4 Officer Robison. That vehicle's up there now. This is the --
5 the suspect vehicle here, Ms. Williams' vehicle.

6 Q. If we can pause. So back under 222 -- it's hard for
7 me to see the time stops, I'm sorry. Back under 222, you're
8 familiar with exit 222; is that correct?

9 A. Yes, yes.

10 MS. HOWARD: I have what's been marked Plaintiff's
11 Exhibit No. 111, your Honor.

12 THE COURT: Okay.

13 Q. BY MS. HOWARD: Can you identify that?

14 A. Yes, this looks like a nighttime photo of the 222
15 interchange with the white Toyota Tundra or Tacoma, whatever
16 that is, right there, where it was left by the suspects.

17 Q. Okay, other than it being dark, is that -- does that
18 fair and accurate depiction of what you saw that day?

19 A. Yes, it is.

20 MS. HOWARD: Okay, your Honor, I'd like to move to
21 enter into evidence Plaintiff's Exhibit No. 111.

22 MR. ZABRISKIE: No objection.

23 THE COURT: Accept and receive State's Exhibit 111.

24 (Exhibit No. 111 received into evidence)

25 MS. HOWARD: If we could publish that.

1 MS. ZABRISKIE: No objection, your Honor.

2 THE COURT: Thank you.

3 Q. BY MS. HOWARD: Okay, Officer, if you could with your
4 laser pointer just indicate to the jury the different paths
5 that both -- well, let's start with the first, the female.
6 Which way did the female run?

7 A. The female got out of the driver's side of that vehicle
8 and at this point the male had already started out in here and
9 she followed him over towards the towing vehicle that was over
10 there, and then from there back across underneath to -- under-
11 neath the overpass of Ms. Williams' vehicle.

12 Q. Okay, and if you could describe for the jury the path
13 that the male took.

14 A. Almost identical, except for he got out of the passen-
15 ger's side, ran across here towards the Steele towing vehicle.
16 It was right in this area here where he fired one round up at
17 Officer Robison, come across -- I'm sorry I'm so bouncy -- come
18 back across Ms. Williams' vehicle, and about in the middle of
19 this road right here is where he fired two rounds at Deputy
20 Worwood and I that were parked right here.

21 Q. Then where did he go after that?

22 A. He went right straight to the driver's side door of
23 that vehicle.

24 Q. Okay, thank you. Okay, back to the video again, we're
25 at nine minutes, just for the record. Which direction are you

1 heading?

2 A. We are traveling southbound I-15. This is south of
3 Nephi.

4 Q. Who's in front of you?

5 A. This -- these are the two suspects, male, female in
6 that vehicle there.

7 Q. Okay, and at some point do you see an item come from
8 the vehicle?

9 A. Yes, I believe it was around mile marker 220 we see
10 an item thrown from the vehicle that landed on the edge of the
11 road right in here. It was either black, black and red. Ended
12 up landing right on the edge of that snow.

13 Q. Which side did it come from again, Officer?

14 A. Driver's side.

15 Q. Driver's side, okay.

16 A. We're now approaching another trooper that had set up
17 a position to spike this vehicle at mile marker 217.

18 Q. Just for the record again, this is now a Highlander
19 vehicle?

20 A. Yes.

21 Q. What color?

22 A. Gold.

23 Q. When you were back at 222 and the suspects entered
24 this vehicle, did you announce that over dispatch?

25 A. Yes, I told them it was a gold colored SUV.

1 Q. Okay, did you make any other announcements?

2 A. Speed, direction of travel, lane. I can't remember
3 all the other --

4 Q. Okay, you're just giving general information; is that
5 what you're saying?

6 A. Yes, just general information. This is Trooper Kelsey
7 right here. He has a spike strip set up. You will see the
8 vehicle avoid -- try to avoid this, so right back at Trooper
9 Kelsey, who is right -- was right there in front of his car.
10 We slowed down to avoid the spike strip, and this is did get
11 the two driver's side tires.

12 Q. What speeds are the vehicles through this segment?

13 A. Oh, it seemed like it was about 70 at the most. As
14 those tires begin to deflate, their speed slows considerably.

15 Q. At some point, Officer, are there other vehicles that
16 join you?

17 A. Yes, Deputy Ryan right in here starts to catch up to
18 us, and then Deputy Thompson also catches up.

19 Q. Then do you know if there were any other vehicles?

20 A. A UHP trooper right around here somewhere.

21 Q. Officer, can you indicate, if you know, are your
22 lights and sirens on at this point?

23 A. Yes, they're on.

24 Q. Okay.

25 A. This is the broke down vehicle right here. Okay,

1 you're going to start to see some power lines coming up and
2 this vehicle is going to lose a tire and go down through the
3 median into the opposing traffic.

4 Q. Do you know approximately what mile marker you were
5 at?

6 A. At 216. There goes the tire. They're going to go
7 across the median and into oncoming traffic.

8 Q. Okay, could you pause. So, Officer, at this point
9 what is -- where is the Highlander and what is it doing?

10 A. The Highlander is on the other side of the freeway
11 traveling southbound in the northbound lanes, and they side-
12 swipe a little gray car.

13 Q. You can see that?

14 A. Yes.

15 Q. Is it on -- is it on the Worwood dash camera?

16 A. No.

17 Q. Have you reviewed any other officers' dash cameras?

18 A. Yes.

19 Q. Have you reviewed Deputy Craig Ryan's dash camera?

20 A. Yes.

21 Q. Did you find that to be fair and accurate?

22 A. Yes.

23 MS. HOWARD: May I re-approach, your Honor.

24 THE COURT: Okay.

25 Q. BY MS. HOWARD: I have what's been marked as Plaintiff's

1 Exhibit No. 115, and ask you if you can identify this?

2 A. Yes, this picture is of Craig -- from Craig Ryan's
3 vehicle. That's Deputy Worwood and I in the vehicle in front
4 of him; and on the other side of the freeway you'll see the
5 Highlander traveling southbound in the northbound lanes, and
6 the approaching traffic coming towards that vehicle.

7 Q. Okay, and again you said that -- is this a fair and
8 accurate depiction of what you saw that day?

9 A. Yes.

10 MS. HOWARD: Your Honor, I move to enter into evidence
11 Plaintiff's Exhibit No. 115.

12 MR. ZABRISKIE: No objection.

13 THE COURT: Thank you. Accept and receive State's
14 Exhibit No. 115.

15 (Exhibit No. 115 received into evidence)

16 MS. HOWARD: May we publish it to the jury.

17 MR. ZABRISKIE: No objection.

18 THE COURT: Thank you.

19 Q. BY MS. HOWARD: Okay, if you could describe for the
20 jury what you just said, with the laser pointer.

21 A. Okay, this is Deputy Worwood and I in this vehicle.
22 This is the Highlander in the opposing lanes of traffic. There
23 is a van right there, and a gray car that this vehicle side-
24 swipes. There's -- I don't know what this vehicle is here.

25 Q. Okay. All right, will you switch back. Actually

1 if we could move to Plaintiff's Exhibit 112. Let me see. I
2 think it's Exhibit 113. Officer, have you also -- are you
3 aware whether or not Deputy Rod Thompson also had a dash cam
4 recording of the incident?

5 A. Yes, he did.

6 Q. Have you watched that?

7 A. Yes.

8 Q. Is it a fair and accurate recording of the events as
9 you saw them?

10 A. Yes.

11 MS. HOWARD: I'd like to move to enter into evidence
12 Plaintiff's Exhibit 113 -- no, excuse me, I've numbered it
13 wrong -- 112. I've previously showed it to Counsel.

14 MR. ZABRISKIE: What is it?

15 MS. HOWARD: No. 112.

16 MR. ZABRISKIE: Can I see which one has that --

17 MS. HOWARD: Yes.

18 MR. ZABRISKIE: No objection. No objection, Judge.

19 THE COURT: Accept and receive State's Exhibit 112.

20 (Exhibit No. 112 received into evidence)

21 Q. BY MS. HOWARD: Officer, what I have is Plaintiff's
22 Exhibit 113. Ask you if you can identify this?

23 A. Yes, Exhibit 113 shows-- this is from Deputy Thompson's
24 vehicle. It shows Deputy Ryan directly in front of him; and
25 in front of that is myself and Deputy Worwood. It shows us

1 exiting our vehicles. It also shows across the freeway the
2 Highlander had come to a stop and it shows two people running
3 away from that vehicle back to the north. There's considerable
4 -- considerable difference between the two. The male was a lot
5 faster than the female was.

6 MS. HOWARD: Your Honor, I don't know if I previously
7 moved to enter in Plaintiff's Exhibit 113, but I do so now.

8 MR. ZABRISKIE: No objection.

9 THE COURT: Accept and receive State's Exhibit 113.

10 (Exhibit No. 113 received into evidence)

11 MS. HOWARD: May we publish this to the jury, please.

12 MR. ZABRISKIE: No objection.

13 THE COURT: Okay, thank you.

14 Q. BY MS. HOWARD: Okay, if you would describe for the
15 jury what it is that this picture shows.

16 A. Okay, this is Deputy Ryan's vehicle and directly in
17 front of that is Deputy Worwood and I. This is Deputy Ryan.
18 This is the Highlander over here. This is the female suspect
19 there and the male right there running towards the vehicle that
20 had been side-swiped because they had stopped right -- they
21 stopped right down where we can't see it.

22 MS. HOWARD: Okay, thank you. At this time I'd like to
23 switch to video for Deputy Rod Thompson. I have moved -- if I
24 have not, your Honor, I move to enter into evidence Plaintiff's
25 Exhibit No. 112. I believe I have.

1 MR. ZABRISKIE: If not, we don't object, your Honor.

2 MS. HOWARD: Also to publish it at this point.

3 MR. ZABRISKIE: We don't object, your Honor.

4 MS. HOWARD: Thank you.

5 THE COURT: Thank you.

6 Q. BY MS. HOWARD: We'll move forward to approximately
7 time stop 1:30.

8 A. There's some power lines there. Right there.

9 Q. Pause. Okay, so what have you seen?

10 A. Okay, what happened is this is the suspect vehicle
11 here. This is the little gray car that they side-swiped.
12 Deputy Ryan again -- and you'll see Deputy Worwood's door
13 that's open also getting out of the other side of that vehicle.

14 Q. Across the way what do you see?

15 A. Across the way you see the male suspect getting out of
16 this vehicle. This vehicle here is coming to a stop.

17 Q. What does the male do?

18 A. He runs directly towards that vehicle right there.

19 Q. As he's running, what -- do you notice anything about
20 what he's doing?

21 A. He's running as fast as he can go towards this vehicle
22 that had stopped. We were all yelling at him to stop and "Get
23 down, get down." "Stop, stop." Just as he reaches the passen-
24 ger side of that vehicle is when gunfire erupted.

25 Q. As he gets out at this point do you notice if he's

1 carrying anything?

2 A. Yes, he's carrying a handgun in his right hand.

3 Q. What is he doing with it?

4 A. He's pointing it -- at that vehicle he points it over
5 at us. Yeah.

6 Q. Okay, if we can proceed to 1:57. Okay, what does that
7 depict.

8 A. Okay, that short clip showed him running towards the
9 vehicle, and this is the female suspect running towards him
10 down the freeway. It shows all of us out of our vehicles
11 yelling out.

12 Q. What are you yelling?

13 A. I'm yelling, "Go, go, go, go" to the guy -- the old
14 fellow that had stopped. I'm just screaming, "Go, go, go."

15 Q. Are you yelling anything at anyone else?

16 A. At that point I yelled, "Go, go, go, go," and as soon
17 -- I made eye contact with him, and just about that time the
18 gun fire started. He takes off. Then I started yelling, "Get
19 down, get down, get down."

20 Q. To whom?

21 A. To the suspect and the female that was running towards
22 him.

23 Q. Okay, will you play to 2:24. We'll pause there. What
24 has happened, Officer?

25 A. At this point the officers Thompson, Ryan and Worwood

1 had engaged the suspect in gunfire. I had taken up a kneeling
2 position right here. As soon as I got the old guy out of the
3 way, I was running towards him trying to get him to go, go,
4 go, go; and as soon as the gunfire erupted, I took a knee and
5 started yelling at both of them to get down. She took a knee
6 right there, and that -- she took a knee after the gunfire had
7 started.

8 Q. So who was the first to fire a shot that you heard?

9 A. I think it was Deputy Thompson fired three real quick
10 rounds just as he got to the vehicle.

11 Q. Okay.

12 A. Then Deputy Ryan fired two and Deputy Worwood fired
13 one.

14 Q. What was the suspect doing? Excuse me, what was the
15 male suspect doing?

16 A. The male suspect, as soon as the gunfire erupted and
17 that car took off, he ran off the side of the freeway where he
18 was out of our visibility.

19 Q. Okay, and are you watching the female suspect on the
20 side of the road?

21 A. Just out of the corner of my eye I was watching her.
22 Mainly watching him run off the other side of the freeway.

23 Q. Okay, if we can go back to time stop 1:57 and just
24 pause. Well, close. It must have been 1:56, but do you know
25 what the distance is between the male and the female?

1 A. I don't know what the exact distance is, but it was
2 quite a ways, because he was moving pretty fast.

3 Q. Okay, is he -- you said the male was running toward
4 the struck vehicle?

5 A. Yes, and so is she.

6 Q. Is there any --

7 A. She's following him down that freeway.

8 Q. -- any communication between the two of them?

9 A. Not that I know of.

10 Q. Okay.

11 A. Right, right at this point, this is Deputy Ryan,
12 Deputy Worwood, and this is me. As soon as I come up out of
13 that median I was confronted by the male suspect pointing a gun
14 directly at me. You're going to hear another exchange of gun-
15 fire between me and the suspect right there.

16 Q. Okay, prior to playing, where is the male suspect from
17 where you were at?

18 A. He's --

19 Q. I know it's off screen, but if you could just indicate
20 for the jury exactly --

21 A. He is just directly across the freeway from me.

22 Q. Adjacent to you is another body. Who is that, again?

23 A. Yes, Ms. Grunwald is right over in here on the other
24 side of where I'm at.

25 Q. There are two vehicles approaching you at this point.

1 A. Yes.

2 Q. Do you know who one of them is?

3 A. I have no idea.

4 Q. Do you know if any other officers come that direction?

5 A. Yes, Trooper Sheets passed by us and he hit a turn-
6 around up here and come back towards us.

7 Q. Okay, and so you're about to take a knee; is that what
8 you said?

9 A. Yes, what happens here is I exchange gunfire with
10 the suspect, and he disappeared from out of sight, and I was
11 yelling, you know, "Show me your hands. Show me your hands."
12 I thought I'd -- I thought I'd hit the gun in the exchange of
13 gunfire because I seen a black object fall off to the side.

14 So I at that point I didn't know if he was running
15 down along the fence, but I took a knee, because I didn't want
16 him to pop up and see me still standing there. I took a knee
17 and was yelling at him to get down, or "Show me your hands.
18 Show me your hands" many times, as loud as I could yell.

19 Q. Officer, again, you don't have any protective gear on?

20 A. No.

21 Q. Go ahead and -- well, just a minute. At this point,
22 then, you will be firing; is that correct?

23 A. Yes, I will -- I fire two rounds. The first round
24 that I fire I know I missed. I was pretty much in his sites.
25 I was bracing for impact, and I hired two quick rounds.

1 Q. Then what do you hear?

2 A. After I'd taken a knee, he disappeared from my sight,
3 and I kind of -- I almost thought he was running down along
4 the fence. So I'm yelling, "Show me your hands. Show me your
5 hands." I wasn't sure he was there when I took a knee. Then
6 the next thing I hear is a female voice yell, "You shot him in
7 the head." I'm not sure if she said that once or twice. My
8 focus was directly towards the threat that was coming towards
9 me; but she yelled, "You shot him in the head."

10 Q. Can you pause. Was that that sound that you heard?
11 Did you hear that?

12 A. Yes, I did.

13 Q. What was it again?

14 A. That was her yelling, "You shot him in the head."

15 Q. Can you describe the tone?

16 A. It was a loud yell, a real loud yell. Kind of a -- I
17 don't know how to describe it. Just a loud yell.

18 Q. Okay.

19 A. Frantic, I guess. Couldn't --

20 Q. Okay, and then at this point (inaudible). So, Officer,
21 I'm just going to have you then describe, you hear her yell,
22 "You shot him in the head;" and then what do you do?

23 A. At this point I stood up and stepped into the lane of
24 travel, which I don't remember doing. I kind of checked my
25 peripheral, and at some point I'd crossed the freeway to where

1 he was at.

2 Q. What happened at that point?

3 A. At that point I could see him lying face down on the
4 ground.

5 Q. What happened next?

6 A. I waited for the other officers to come across the
7 freeway, and when they did, when I had other people there, I
8 could see he was looking -- looking at us as we came across the
9 freeway. As soon as the other officers come across, I pinned
10 him to the ground so that he couldn't move.

11 Q. What happens next?

12 A. As soon as I touched him it was a struggle, and both
13 hands were underneath him in this area, and I put my knee on
14 his shoulder to hold him down. I could see he had a head wound,
15 and I held him down and I started to struggle for his left arm
16 to get it out from underneath him.

17 Q. If I could just pause. Now, just for the record, you
18 said that he had his arms under him and you're indicating that
19 they're near his abdomen --

20 A. Yes.

21 Q. -- two hands together --

22 A. Yes.

23 Q. -- underneath him, and he was laying which way?

24 A. He was facing the freeway towards. So he had gone
25 off the freeway and turned around to face us as we were coming

1 across the freeway.

2 Q. So he's laying prone on his abdomen?

3 A. He's -- he's prone on his -- on his face.

4 Q. Okay just making sure that the record's clear. Okay,
5 so what happened next?

6 A. Deputy Worwood steps in to try to get control of his
7 other hand. I'd got his left hand out, and Deputy Thompson
8 says, "Where's the gun?" I thought I'd hit the gun when I
9 exchanged gunfire with him. So I looked up to see if I could
10 see the gun anywhere and I noticed that it was a pair of sun-
11 glasses that I'd seen pop off to the side.

12 Then it was at that point we realized he still had the
13 gun in his possession. So Deputy Worwood is struggling with
14 him to get that right hand out, and as he pulls his right hand
15 out from under him, he's got a gun in his right hand, and as
16 soon as that comes out Deputy Ryan hurries and stomps on that
17 hand so that the gun can't, you know, go any farther.

18 Q. Do you know who takes the gun?

19 A. Deputy Worwood does.

20 Q. How does he do that?

21 A. He just kind of wrestles with him and gets it out of
22 his hand.

23 Q. Okay, and do you know what he does with that?

24 A. He just retained possession of it.

25 Q. Okay.

1 A. At that point I was worried about getting him hand-
2 cuffed.

3 Q. So what happened next? What happens next?

4 A. I handcuffed him, and I'm telling him, "Relax, relax,"
5 and he starts to struggle with me again, and he's trying to
6 reach under his left side towards me into his waistband area.
7 I said, "What the hell are you reaching for?" because I fig --
8 was afraid he had another gun. So I was able to get his hands
9 back behind him, and I reached in underneath and in his left
10 front pants pocket I found an empty magazine for another -- for
11 his weapon.

12 Q. What happened with that magazine?

13 A. I handed it off to Deputy Worwood, and I continued to
14 deal with him.

15 Q. What happened with that? Did you provide care?

16 A. Yes, I started treatment on Mr. Juaregi.

17 Q. Okay, and you communicated with him?

18 A. Yes, just like we're talking right now.

19 Q. What did he tell you?

20 A. At first he said -- he asked me for a drink of water.
21 I said, "I can't give you a drink because you're probably going
22 to need surgery." He said that "I'm thirsty. I'm so fucking
23 thirsty." I said, "Well, I can't give you a drink," you know,
24 "I can't do it right now.

25 Q. Then what?

1 A. I kept asking him to stay calm, remain calm. Within a
2 few minutes -- or not minutes, probably seconds, he looks up at
3 me and he said, "Why don't you let me kiss my girlfriend with
4 my last dying breath."

5 Q. What was your response to that?

6 A. I told him, "That ain't going to happen."

7 Q. So you gave the magazine to Deputy Worwood; is that
8 correct?

9 A. Yes.

10 Q. Did you also -- were you able to see the gun?

11 A. Yes.

12 Q. Were you also able to see the suspect's face, the male
13 suspect?

14 A. Yes.

15 MS. HOWARD: May I approach.

16 THE COURT: Okay.

17 MS. HOWARD: I have what's been marked Plaintiff's
18 Exhibit 118, your Honor, and Plaintiff's Exhibit 120.

19 Q. BY MS. HOWARD: First, Plaintiff's Exhibit No. 118.
20 Can you identify this?

21 A. Yes, this is the gun that Deputy Worwood took out of
22 the hands of the male suspect.

23 Q. It also has something with it; is that correct?

24 A. It has a magazine.

25 MS. HOWARD: I also have, your Honor, 119 that goes

1 with that.

2 Q. BY MS. HOWARD: Can you identify this?

3 A. Yes, this is the -- this is the gun and magazines that
4 Deputy Worwood -- or Deputy Worwood took that gun and I took
5 one of these magazines.

6 Q. Okay, and are there two in this box?

7 A. Yes.

8 Q. So why are there two?

9 A. One was in the gun; the other one was in his left
10 front pants pocket.

11 MS. HOWARD: Okay, your Honor, I'd like to move into
12 evidence Plaintiff's Exhibits 118 and 120, with the provision
13 that with Plaintiff's Exhibit 120 we'd leave it here for Court
14 purposes and at the end of the day our evidence takes it and
15 keeps it with them overnight.

16 THE COURT: I'm not sure. You've got 118, 119 and 120.
17 You haven't identified --

18 MS. HOWARD: I'm sorry, your Honor. No. 118 was ident-
19 ified.

20 THE COURT: We got that one. Which one is 119?

21 MS. HOWARD: Is the one that he was describing --

22 THE COURT: Okay, and so what's 120?

23 Q. BY MS. HOWARD: Could you identify Plaintiff's Exhibit
24 120?

25 A. Yes, this is a picture of the male suspect.

1 Q. Is that the person you dealt with that day?

2 A. Yes.

3 MS. HOWARD: Okay, so then I would move to offer-- move
4 into admission Exhibits 118, 119 and 120, with that special
5 provision on Exhibit 119.

6 MR. ZABRISKIE: No objection.

7 THE COURT: Okay, thank you. I'll accept and receive
8 State's Exhibits 118, 119 and 120, with the note on 119.

9 (Exhibit Nos. 118 thru 120 received into evidence)

10 MS. HOWARD: Thank you, your Honor. Apologize for
11 getting those numbers off track. Your Honor, if I could step
12 back to Plaintiff's Exhibit No. 119.

13 THE COURT: Okay.

14 MS. HOWARD: I neglected to show that to the jury. May
15 I publish in the fashion of me holding it and just showing it
16 to the jury.

17 THE COURT: Any problem with that, Counsel?

18 MR. ZABRISKIE: (No verbal response).

19 MS. HOWARD: Forget that it's in a box.

20 Q. BY MS. HOWARD: Officer, back you up just quickly to
21 when the vehicle -- the Highlander crossed the road and struck
22 that other vehicle.

23 A. Yes.

24 Q. As you were watching that, did it appear to be --
25 could you describe the driving pattern of the Highlander.

1 A. It looked like he was -- tried to hit another vehicle
2 in a head-on collision.

3 MS. HOWARD: Okay. Okay, nothing further for this
4 witness. Thank you, your Honor.

5 THE COURT: Thank you. Cross examination?

6 MR. ZABRISKIE: Your Honor, we're going to have to set
7 up our video. It will take two or three minutes. Maybe we can
8 take a --

9 MR. TAYLOR: We're sharing the projectors. We have to
10 swap some (inaudible), change the input.

11 THE COURT: Sure.

12 MS. HOWARD: Your Honor, before we do that, I did not
13 publish also the defendant's picture. May I just do that? Do
14 you have any objection?

15 THE COURT: Go ahead.

16 MS. HOWARD: thank you, your Honor.

17 MR. TAYLOR: Your Honor, I just -- I want to make a
18 brief record about the gun to put everyone at ease. Sergeant
19 Finch has examined the gun. There is nothing in the chamber.
20 It's in a lock back position. There is no ammunition associated
21 with it. It's in perfectly safe condition at this point.

22 THE COURT: Okay, anything else? We'll take a short
23 recess at this time to allow cross.

24 COURT BAILIFF: All rise for the jury.

25 (Jury exits the courtroom)

1 THE COURT: Thank you. We'll be in recess.

2 (Recess taken)

3 THE COURT: Okay, thank you. Please be seated. Okay,
4 we're back on the record. All parties are present, including
5 the defendant, Counsel, all members of the jury. Ready for
6 cross examination.

7 MR. ZABRISKIE: Thank you, Judge.

8 CROSS EXAMINATION

9 BY MR. ZABRISKIE:

10 Q. Officer Taylor, I have just -- well, I was going to
11 say I have just a few questions. I have some questions for you
12 as it relates to your testimony on direct.

13 A. Okay.

14 Q. I would like to talk a little bit about your training
15 and review some of the answers that you've already given as it
16 relates to your experience; and at the risk of being redundant,
17 indulge me, okay? Now, you've indicated that you've been a
18 police officer or in law enforcement for how long?

19 A. Since 1989.

20 Q. I trust you were what, 12, 13 years old at that time?

21 A. I started out when I was 26.

22 Q. Uh-huh, and you've been at law enforcement ever since
23 that day -- or that year?

24 A. Yes. Well, I -- there for -- right after this incident
25 I left law enforcement for eight months before I came back.

1 Q. Went into something less stressful?

2 A. I don't know if it was less stressful, but --

3 Q. What was that; what did you do?

4 A. I did human resources for a -- some friends of mine,
5 for their trucking company.

6 Q. I see. Now, as part of being a police officer, and
7 especially in the areas that you've worked in, it requires not
8 only experience, but a certain amount of training; would you
9 agree with that?

10 A. Yeah.

11 Q. Well, and I'd like you to describe for me and maybe
12 to the benefit of the jury what kind of training -- do you get
13 yearly training?

14 A. It's ongoing throughout the year.

15 Q. What does the training consist of? By that, is there
16 a special theme that we follow? Certainly your training exceeds
17 that of the person in the street; does it not?

18 A. Yeah, I guess.

19 Q. Well, you're a certified police officer.

20 A. Yes.

21 Q. So starting with that, what is your training?

22 A. I started in the Academy in 1989. I started with the
23 Department of Corrections. When I graduated from the Academy,
24 the Corrections Academy, I was asked if I'd be interested in
25 being with the Department of Corrections SWAT team. At that

1 time I didn't know what it was, but I said, "Yeah, I'll do
2 that."

3 I spent six months inside of the institution after I
4 graduated from the Corrections Academy to get a feel for what
5 the correctional institutions were like. In 1990, the beginning
6 of 1990 I went through the Police Academy. Then I was moved
7 right onto that full-time SWAT team. So I was there for --
8 until October of 2002.

9 In October 2002 I left the Swat team and -- well,
10 in the SWAT training I had to go through numerous high risk
11 training things throughout my career. I've been through several
12 SWAT schools, things like that. Then in 2002 -- October 2002
13 I was promoted to Adult Probation and Parole, where I was an
14 Adult Probation and Parole agent for -- until 2007. In 2007 I
15 was promoted to supervisor with Adult Probation and Parole.

16 During this time, since 2002, I started with the Juab
17 County Sheriff's Office working part-time, mainly at Little
18 Sahara on the weekends, on their big high traffic weekends.
19 In 2009 I retired from the Department of Corrections, was
20 offered a position with the Juab County Sheriff's Office full-
21 time as a member of their task force, the Multi-Agency Task
22 Force. During that time I received a lot of training as far
23 as investigative type work.

24 Q. If I may just interject a thought. Did you receive
25 training as it relates to the type of turmoil, the type of

1 stuff that we've talked about these last couple of days? By
2 that, guns involved, high speed chases, things like that, what
3 to do under those circumstances, what the protocol is? Let me
4 tell you why I'm interested in that. Isn't one of the primary
5 objects of your training is to protect the public from any type
6 of violence?

7 A. Yes.

8 Q. At the same time, you're taught to protect yourself;
9 isn't that the case?

10 A. Yes.

11 Q. The reason I know that, I had started my career as a
12 juvenile probation officer. This was in Los Angeles and we had
13 to take special trailing. It was amazing what we had to learn
14 because we would -- we would ride around with law enforcement
15 on certain occasions. You're taught, one, that there's always
16 the possibility of some type of injury, especially if you're
17 trying to apprehend somebody, depending on the nature of the
18 person; isn't that the case?

19 A. Yeah, there's always that chance.

20 Q. Uh-huh, and so just with that theme in mind, what kind
21 of training do you have as it relates to circumstances wherein
22 let's say there's a shootout? Any particular type, and I know
23 there are different types of shootouts, but try to keep it as
24 close to the them of this trial as you can.

25 A. Well, in this incident, it could actually even be

1 called an active shooter situation, but this was mobile, some-
2 thing that you usually don't see. Go from one location and
3 exchange rounds. Go to another. Just, you know, there's
4 multiple locations for this incident. Really there's nothing
5 that I've ever been to that covers that type of a situation.

6 Q. Except for life's experience?

7 A. Right.

8 Q. In fact, I would suspect that a law enforcement
9 officer could go a whole career and not be faced with what
10 we've seen in this case.

11 A. Well, I was hoping to go my entire career without
12 having to face something like this.

13 Q. I see, but certainly the training and experience you
14 had, or have assisted you in your efforts to pursue a success-
15 ful end to this experience.

16 A. I think it did, yes.

17 Q. In fact, one of the reason for your training is that
18 you'll know what to do under highly stressful conditions espec-
19 ially if they're civilians, innocents in attendance; isn't that
20 the case?

21 A. Yes.

22 Q. Now, along with that, and I've indicated this, you're
23 instructed to try to keep yourself and your fellow officers as
24 safe as possible?

25 A. Yes.

1 Q. That, of course, involves wearing protective gear?

2 A. Yeah.

3 Q. I know you're grinning because you didn't have it on
4 that day, but --

5 A. Well, sometimes things, you know, in order to protect
6 other people you put yourself at risk.

7 Q. Uh-huh. I trust that everyone else, though, including
8 yourself -- and you and I talked about that before -- that day
9 had bulletproof vests on?

10 A. I would assume they did, yes.

11 Q. Uh-huh, but you weren't aware of anyone other than
12 yourself --

13 A. No.

14 Q. -- that wasn't geared up?

15 A. No.

16 Q. Okay, and under normal circumstances on that day, you
17 would have had your gear on?

18 A. If I was working patrol, yes, but I was preparing
19 for an undercover narcotics investigation; and those types of
20 things you go dressed down, and obviously if you're wearing a
21 vest, then that's a dead giveaway that you're a law enforcement
22 officer.

23 Q. That doesn't -- in looking at you, that stretches
24 credibility to see you as a drug dealer, but I expect you've
25 had some success at it.

1 A. You'd be surprised.

2 Q. This is in Juab County, right, not Utah County?

3 A. Well, we worked a couple of counties, yeah.

4 Q. All right, but the point I'm trying to make is that
5 the person in the street would not be, under most circumstances
6 would not have the training or the experience to deal with this
7 type of an instant crises as you would?

8 A. I think I would be a little bit more prepared than the
9 normal person on the street.

10 Q. That's to all our benefits, especially yours; is it
11 not?

12 A. I hope so.

13 Q. Yeah. Now, I notice, too, that when the highway
14 patrolman talked, there's an effort, and it appears to me to
15 be a good effort to stay out of harm's way, and like there --
16 for example, there are certain zones of danger; and if you're
17 standing right on top of someone that is armed and dangerous,
18 you are certainly at more risk than somebody that's created
19 distance between -- between themselves; isn't that the case?

20 A. Right.

21 Q. Is there a -- is there a rule that you follow other
22 than the fact that I notice when you came down to highway
23 marker 222, where there -- they exit the car, you and Officer
24 Worwood, you stop substantially back from the abandoned car?

25 A. Yes, and the reason for that is the initial radio

1 traffic was they were armed with a high powered rifle. So we
2 assumed that they were probably armed with an assault rifle.

3 Q. One of the reasons that we maintain this distance is
4 that it reduces the chances of becoming a victim --

5 A. Right.

6 Q. -- yourself?

7 A. Yes.

8 Q. I note here that they exit the car -- and we'll have
9 a chance to look at the video once again -- they exit the car,
10 and you park substantially behind them. What was the distance
11 between the two? It appears to me you're at the top of the
12 off-ramp.

13 A. Oh, no, we're a lot -- we're within -- I'd say 20 to
14 -- between 20 to 30 yards behind that vehicle.

15 Q. Uh-huh.

16 A. At the most.

17 Q. You exit the car. Are you using the car as a barrier?

18 A. Yes.

19 Q. That's -- you don't have to be trained to realize it's
20 nice to have something in front of you and gun?

21 A. Yes.

22 Q. During this period of time you saw them together as
23 they exited the car and started going south?

24 A. Yes.

25 Q. Let me here pose a hypothetical, for example. You

1 indicate that it appeared to you that they were somewhat in
2 lockstep; that she was following him and staying in close
3 proximity to him?

4 A. Yeah, she was following him. Wherever he went, she
5 followed.

6 Q. You would -- I think that's based on what you would
7 conclude was a voluntary act on her part?

8 A. Yes.

9 Q. All right, now let me pose you a hypothetical, in that
10 one of your primary imperatives is to protect the innocent and
11 the public, or even one that would be under duress.

12 A. Okay.

13 Q. Isn't that the case?

14 A. At this --

15 Q. Yes or no?

16 A. What's that?

17 Q. Can be answered "yes" or "no."

18 A. Repeat the question, will you.

19 Q. One of your primary imperatives is to protect and
20 keep out of harm's way innocent bystanders or those that are
21 acting under duress or whatever. In other words, you focused
22 on somebody that you characterize as a suspect; but let me pose
23 a hypothetical based on the premise that I've given you.

24 A. Okay.

25 MS. HOWARD: Your Honor, I just think that might be a

1 little bit of a confusing question.

2 THE COURT: Are you objecting?

3 MS. HOWARD: Objection, your Honor.

4 THE COURT: Under what grounds?

5 MS. HOWARD: Just for simplicity sake.

6 THE COURT: Compound question, maybe?

7 MS. HOWARD: Compound question. Thank you, your Honor.

8 THE COURT: Let's go one at a time, Mr. Zabriskie.

9 MR. ZABRISKIE: All right.

10 Q. BY MR. ZABRISKIE: Let me pose a hypothetical to you.

11 Just answer one. Let's suppose for the moment that Meagan

12 Grunwald -- let me back up. Strike that. Let me back up a

13 little bit. You were not privy to what happened earlier that

14 day on -- up in Saratoga Springs, were you?

15 A. No.

16 Q. Or Eagle Mountain?

17 A. No.

18 Q. And that what had happened between them and the

19 circumstances of that tragedy, while you may have heard some

20 radio contact, you weren't there?

21 A. No.

22 Q. And no one had debriefed you or given you an update on

23 what happened there?

24 A. No.

25 Q. In fact, I think originally your information was there

1 were two officers that were killed?

2 A. Yes.

3 Q. So the information was not totally accurate?

4 A. That's correct.

5 Q. All right. Well, this is-- let me pose a hypothetical.

6 If in fact Meagan Grunwald had been threatened with her life,
7 threatened by a man with a gun, "If you don't do what I tell
8 you to do, I'll shoot you where you stand," would that inform-
9 ation, had you had that available to you, have had influence or
10 impact on your conclusion that she appeared to be voluntarily
11 following him?

12 A. It's hard to say. If there would have been any ---

13 Q. Is there a possibility?

14 A. It's a possibility, I guess. You obviously want to
15 rescue anybody from that situation that was there. You
16 wouldn't want them in harm's way.

17 Q. Uh-huh.

18 A. You wouldn't want them to be threatened like that.

19 Q. Well, let me back up a little bit more. If -- if
20 that same person had been exposed to two hours of violence,
21 gun play, threats, along with that she started that day with
22 a .40 caliber pistol going off in her ear not once, not twice,
23 maybe seven times, maybe more than a dozen, would that have
24 impact on -- based on your experience, would being in close
25 proximity to that type of violence have some impact on your

1 decision making process?

2 MS. HOWARD: Objection, your Honor, speculation.

3 THE COURT: Overruled.

4 MR. ZABRISKIE: Your Honor, this is cross examination.

5 THE COURT: Overruled.

6 MR. ZABRISKIE: All right.

7 THE WITNESS: Well, it's hard to say.

8 Q. BY MR. ZABRISKIE: Generally speaking?

9 A. Are you asking for my opinion?

10 Q. Yes.

11 A. Well, my opinion if someone were involved in that,
12 they -- there's plenty of opportunity to get away from that.
13 If a law enforcement officer shows up, you would think that
14 that person would want to go towards that safety.

15 Q. Uh-huh.

16 A. You wouldn't think they would continue to follow at a
17 distance that person, because that person's obviously running a
18 lot faster than -- you know, in my opinion, I think the person
19 if they were in that situation, as soon as a law enforcement
20 officer comes up or somebody that they could run to safety,
21 they would do that. I would.

22 Q. You would, but you're an experienced police officer.

23 A. Yeah.

24 Q. With years of experience, being taught what to do
25 under unpredictable circumstances.

1 A. Yeah.

2 Q. Have you ever had a .40 caliber go off in your ear a
3 dozen times in less than an hour, without ear protection? In
4 other words, you're basing that on your -- I didn't give you a
5 chance to answer that. Answer.

6 A. Yeah, in training I have.

7 Q. Uh-huh.

8 A. But under this -- these circumstances I haven't. I
9 wouldn't be able to even guess.

10 Q. If we reduce that -- let me pose another hypothetical.

11 MR. ZABRISKIE: It's not a compound question, your
12 Honor, but it's compounded on the hypothetical you already
13 have.

14 Q. BY MR. ZABRISKIE: Let's suppose for the moment that a
15 17-year-old girl who has had no experience around firearms, has
16 lived somewhat of a protected life, based on her circumstances,
17 and that person, male or female was faced with the same charged
18 environment as I've just described to you, would you expect
19 them to not perhaps be disoriented, maybe not totally focused?
20 Again, I'm not assuming that you have any type of degree in
21 child psychology or behavioral psychology, but --

22 MS. HOWARD: Your Honor, I'll object if he's trying to
23 get into the defendant's state of mind. That is speculation.

24 MR. ZABRISKIE: I'm asking -- it's a hypothetical, your
25 Honor, and this is cross examination.

1 THE COURT: How much farther are you going to go with
2 this, Mr. Zabriskie?

3 MR. ZABRISKIE: When I get, perhaps, an answer.

4 THE COURT: State a question. State a question, okay?

5 MR. ZABRISKIE: Okay.

6 THE COURT: Sustain the objection.

7 Q. BY MR. ZABRISKIE: Okay, would the age, experience and
8 the circumstances I've described, would you think that would
9 have somewhat of a distractive impact on someone?

10 A. It could have, I would imagine.

11 Q. Okay, but you didn't know that. You didn't know any
12 of this, and even the hypothetical or what happened prior to
13 highway marker 222?

14 A. No, I didn't know how many suspects we had, I didn't
15 know gender --

16 Q. Uh-huh.

17 A. -- any of that stuff. We had no idea what we were
18 dealing with or who we were dealing with.

19 Q. If it's any comfort to you, no one else did either.

20 A. Yeah.

21 Q. You weren't inside that truck.

22 A. No.

23 Q. We've not heard anybody that -- anybody that -- you
24 have not talked to anybody that was privy to what was going on
25 in that truck?

1 A. No.

2 Q. Okay, in fact, you followed that truck. Would you
3 characterize it as difficult even to see through the -- could
4 you see through the window?

5 A. Yeah, we could.

6 Q. Would it surprise you that no one else could that's
7 testified in this trial?

8 A. Could see through the windshield of our trucks?

9 Q. No, the windshield of the truck in question, that --

10 A. Oh, no, I have no idea what they were seeing or any-
11 thing. I didn't even look at their vehicle.

12 Q. I see. Now, so when they exit the car, you do not
13 know what exchange took place between the two of them?

14 A. No.

15 Q. If Meagan Grunwald testifies here next week that she
16 was threatened that if she did not do what he says, he would
17 kill her, you would have no way of refuting that because you
18 don't know and you weren't there?

19 A. You're right; I wouldn't have any idea.

20 Q. So when you're -- when you base your decision and
21 your testimony on what you observed, that was based on -- and
22 you've artfully described your experience, it was based on your
23 experience?

24 A. Yes.

25 Q. Okay, now in the video you commented that it appeared

1 that he was running and she wasn't; but you also testified that
2 he was firing that gun in all directions, all directions north,
3 south, west, east?

4 A. He pointed that gun in all those directions. He didn't
5 fire it in all those directions.

6 Q. Okay, and I stand corrected --

7 A. Yeah.

8 Q. --but he pointed that gun just randomly. You indicated
9 he pointed up the hill at Officer Robison?

10 A. Yeah, he did.

11 Q. Pointed the gun at you?

12 A. Yes.

13 Q. We have another person here who exercised the greatest
14 caution, got his tail out of there. There was a shot fired at
15 him; do you recall that?

16 A. I don't believe there was ever a shot fired at him --

17 Q. Uh-huh.

18 A. -- but he seen it coming and he took off.

19 Q. Smart guy.

20 A. Yeah.

21 Q. There were other people that were under the underpass?

22 A. Yes.

23 Q. Did you see him point the gun at them?

24 A. Yes.

25 Q. Now, you would admit -- and again, we'll watch it

1 here, and I'm beginning to just dread the thought of going
2 to a mechanical device. I'm kind of Jurassic when it comes
3 to this stuff, but would you characterize the day as foggy?

4 A. Not really foggy, but a lot of heavy snow down, a lot
5 of heavy snow.

6 Q. Well, if the video is anything close to an accurate
7 reflection of what the visibility was, it was not a bright
8 summer day, was it?

9 A. No, no, it was snowing really hard.

10 Q. In fact, you're -- and you're somewhat removed from
11 what was going on in that intersection until they actually went
12 south; you're somewhat back?

13 A. Yes, until they got off at 222 we were still trying to
14 catch up.

15 Q. Uh-huh, and then Dr. -- Dr. -- Officer Robison --
16 Dr. Robison -- Officer Robison, at her -- she's on her mega-
17 phone, whatever you call that thing?

18 A. Yes.

19 Q. There was a lot of chaos, and I think when you were
20 under oath during the preliminary hearing I -- I asked you,
21 there was chaos and action all around you and the turmoil, and
22 you said that was an accurate description of what was going on.
23 You would agree with that?

24 A. I would agree with that, yes.

25 Q. All right, now again, with all of this going on, you

1 indicated that you were not able to hear anything that went --
2 any exchange between Meagan and Jose when they were right there
3 in front of the car as they were moving south?

4 A. No, I didn't hear any verbal exchange between those --
5 those guys.

6 Q. Uh-huh, but if -- there could have been?

7 A. There could have been.

8 Q. In fact, he turns around, as again as he's waving that
9 gun, and it's not very clear in the video, but he's waving that
10 gun, and he's waving it everywhere. Went up the hill, looks
11 like he turns around and looks north. Certainly he's looked to
12 where you guys are at.

13 Q. Yeah, he --

14 A. Unless he's shooting over his shoulder.

15 Q. So this gun, this deadly weapon is -- it's like a
16 Ouija Board. It's -- he could pull that trigger anytime,
17 couldn't he?

18 A. Yeah.

19 Q. And it was loaded?

20 A. Yes.

21 Q. If she were to testify that it was her feeling that he
22 could shoot her, would that surprise you?

23 A. No.

24 Q. Okay, because there had been plenty of shooting going
25 on that day?

1 A. Yeah.

2 Q. Uh-huh, now let's --

3 MR. ZABRISKIE: If we could, your Honor, if we could go
4 to the Worwood video. Let's see, that would be extension --

5 (Counsel conferring off the record)

6 MR. ZABRISKIE: Exhibit 105, and we'd go to 645, your
7 Honor. Now, we are taking our life in our hands now.

8 THE COURT: Now, is this State's Exhibit 105, or your
9 exhibit?

10 MR. ZABRISKIE: Huh?

11 THE COURT: This is State's Exhibit or your Exhibit
12 105?

13 MR. ZABRISKIE: We'll use the State's exhibit --

14 THE COURT: Okay.

15 MR. ZABRISKIE: -- since it's (inaudible).

16 THE COURT: All right, thank you. It's already been
17 received.

18 (Various people talking simultaneously about getting
19 video set up, not speaking into microphones. Unable
20 to accurately transcribe this portion.)

21 MR. ZABRISKIE: Let's -- if I may have just a second,
22 your Honor.

23 (Counsel conferring off the record)

24 (Dash cam video played in the courtroom. There is
25 no audio heard when this is played. Please refer to

1 the Court file to review this video.)

2 Q. BY MR. ZABRISKIE: Okay, you've already described --
3 okay, this is the off-ramp of 222; is it not?

4 A. Yes.

5 Q. And that what you've described as the car down at the
6 bottom?

7 A. Yes.

8 Q. You've estimated that the distance between the two of
9 you is how far?

10 A. Oh, boy. Well, we're getting up a little closer.

11 MR. ZABRISKIE: All right, Rhome, pause and then take
12 it back maybe ten seconds. Okay, now play it through. Okay,
13 stop.

14 Q. BY MR. ZABRISKIE: Does it not appear to you that she's
15 almost -- she's slowing down and almost coming to a stop there?
16 (Inaudible) motion. Do you want to play it over right there?

17 A. Yeah.

18 Q. Okay, we'll be at the 726 mark. Right there. Does it
19 not look like she came almost to a stop?

20 A. Not to me it didn't.

21 Q. Right there, if she were to testify that he turned to
22 her with that gun, and that there was an exchange of words, and
23 if you weren't -- could you hear everything that was going on?

24 A. No, we couldn't hear everything that was going on.

25 Q. Okay, so if she were to testify that he turned to her

1 with that gun pointed at her, at least in her direction --

2 MS. HOWARD: Your Honor, objection. That is not in
3 evidence.

4 MR. ZABRISKIE: Well, let me pose a hypothetical.

5 THE COURT: Sustained.

6 Q. BY MR. ZABRISKIE: If there was an exchange between the
7 two of them -- and this has not been entered into evidence --
8 by that, an exchange, I'm talking about a verbal exchange, you
9 would not have been able to hear it?

10 A. No.

11 Q. You have testified that -- both at the preliminary
12 hearing and during your debriefing -- after the incident,
13 that he was turning and pointing that gun in all directions?

14 A. Yeah, it seemed like it. That gun was pointed in
15 every direction; but I never ever seen that gun pointed back
16 at her.

17 Q. But if she were to testify that in -- well, that's
18 fine. So when you say "all directions," and you excluded her,
19 north, south, east, west --

20 A. Yeah, when they left that vehicle, that -- when he
21 got out of that vehicle, he pointed kind of north towards Joey
22 Lunt. When they were running this way that firearm pointed up
23 to Sarah Robison right there. Then as he came back towards the
24 car, he turned to his left and that gun came up towards Deputy
25 Worwood and I, and he fired two rounds.

1 Q. So in your testimony that --

2 MR. ZABRISKIE: You can go ahead and turn that off,
3 Rhome.

4 Q. BY MR. ZABRISKIE: Your testimony that he was pointing
5 that gun all directions would have excluded where the direction
6 that she's in?

7 A. Yeah, I never seen that gun pointed at her.

8 Q. Northern hemisphere.

9 A. Yeah.

10 Q. So the answer that you should have given was that he
11 pointed it everywhere but in her direction?

12 A. Sure.

13 Q. Uh-huh. Let's -- the issue of -- you jump in your
14 car. They're -- they -- they're in this other car, and they're
15 headed -- the continue to head south; is that the case?

16 A. Yes.

17 MR. ZABRISKIE: Let's put that one on, Rhome. Your
18 Honor, that would be -- let's see, that would be the Thompson
19 video. That would be evidence No. 112.

20 MR. TAYLOR: State's Exhibit 112.

21 MR. ZABRISKIE: Yeah, Exhibit 112, and it would be time
22 line 1:40. This has sound, so don't anyone be shocked by it.
23 Those speakers might be a little louder than expected.

24 ASSISTANT: Tell me when you're ready, Rhome.

25 MR. ZABRISKIE: Okay. I'm waiting for the instruction.

1 MR. ZABRISKIE: Play.

2 (Dash cam video played in the courtroom. Dispatcher
3 communication with officer is too inaudible to be
4 transcribed accurately. Video is turned on and off
5 throughout officer's examination. Please refer to the
6 Court file to review this video.)

7 Q. BY MR. ZABRISKIE: Pause. You've testified that that
8 object to the left evidently is the car, the SUV, and you've
9 identified the lead figure as Jose?

10 A. Yes.

11 Q. The male suspect?

12 A. Yes.

13 Q. Then the second one that we can barely see there, you
14 characterize as the female suspect?

15 A. Yes.

16 Q. Now, again, this will sound almost rhetorical, but you
17 don't know what was said or what threats were made or anything
18 as it relates to inside that car?

19 A. No.

20 Q. So you don't know whether in fact he said, "Come with
21 me." You don't know if he said, "If you don't, I'm going to
22 kill you," or he may -- he may not have said anything, but you
23 don't know?

24 A. No, I don't know.

25 Q. So when you state that it appears that she's following

1 him, you don't know if that's the end result of a threat or a
2 voluntary effort?

3 A. I don't. Could be either.

4 MR. ZABRISKIE: Stop. Pause, Rhome.

5 Q. BY MR. ZABRISKIE: Now, is -- 0what is she doing there?

6 A. She -- as soon as the gunfire started, she took a knee
7 right there.

8 THE COURT: I need you to use the microphone. Thank
9 you.

10 Q. BY MR. ZABRISKIE: The gunfire had already started?

11 A. Yes.

12 Q. So then she went down to a knee?

13 A. Yes.

14 Q. We don't quite know where he's at because he's off the
15 screen; isn't that the case?

16 A. Yeah, he's off the screen trying to get in the silver
17 car that stopped, the gray car that stopped.

18 Q. Right. Pause. I note that -- is that you that's
19 saying, "Get down, get down"?

20 A. That's Deputy Thompson. He's wearing a body mic or
21 the in-car audio from -- that's his vehicle. That's his voice
22 from his vehicle.

23 Q. Okay, and I note that she's already down before we
24 hear, "Get down, get down."

25 A. Yes, because I was yelling, "Get down, get down." If

1 you can play that earlier, you'll hear me yelling, "Get down"
2 as well.

3 Q. So is it your opinion she was responding to your voice
4 or the gunfire?

5 A. I think initially it was the gunfire that caused her
6 to stop and take a knee. Then she went -- she proned out once
7 we started to cross the freeway.

8 Q. Okay, and then ultimately I think she ends up on her
9 stomach; does she not?

10 A. Yes.

11 Q. Again, just for purposes of adding a little atmosphere
12 to this, is it cold that day?

13 A. Very cold.

14 Q. The ground is wet?

15 A. Yes.

16 Q. She's very, very close to the traffic lane; is she
17 not?

18 A. Yes.

19 Q. So she lays flat on the ground. There was no tarp or
20 anything underneath her?

21 A. No.

22 Q. She was exposed to the elements?

23 A. Right.

24 MR. ZABRISKIE: Thank you. That's all I'm going to
25 need.

1 Q. BY MR. ZABRISKIE: Now, you've testified that there was
2 some exchange of shots. You've -- I think you've named four
3 officers, all of whom were armed. I think yours was an AR-15?

4 A. Yes.

5 Q. There was another AR-15?

6 A. There were two other AR-15's.

7 Q. Okay, and so that's three, and then there was a long
8 gun, a shotgun?

9 A. A shotgun.

10 Q. Uh-huh, and the shotgun I think was Worwood's?

11 A. Yes.

12 Q. Okay, so you're armed and you're slowly closing on
13 him?

14 A. Yes.

15 Q. Now, you indicated that -- in fact, I think you've
16 described when you were shooting, if I recall, we can hear a
17 "boom." That -- I would consider that to be a shotgun; but
18 are all four of the officers now shooting?

19 A. At that point, no. I didn't -- I didn't fire any
20 rounds until I came up the other side of the median and was
21 confronted him -- by him on the other side of the freeway.

22 Q. Okay, now during everything that happened thereafter
23 that you've described, she remains prostrate on the ground?

24 A. At the point where I had confronted this male suspect
25 on the other side of the freeway and exchanged grounds with

1 him, I -- my vision went right to him and where he was at.

2 Q. I understand why that would be.

3 A. I kind of lost track of her, but the other deputies --

4 Q. Uh-huh.

5 A. -- I -- I don't know who handled her.

6 Q. Now, if I recall in prior testimony that you've given
7 under oath, there is no conclusive evidence as to which of the
8 police officers -- we know it had to be an AR-15 -- which of
9 the three rendered the fatal shot to Jose?

10 A. That's right.

11 Q. I suspect that in our heart of hearts we find that
12 somewhat comforting.

13 A. Yes.

14 Q. A man's down, but being responsible is still a diffi-
15 cult burden, even under the worst circumstances; wouldn't you
16 agree?

17 A. I would agree, yes.

18 Q. Now, you claim that you hear -- and we'll go ahead and
19 play this through.

20 MR. ZABRISKIE: Don't flip it off yet (inaudible). It's
21 the tail wagging the dog.

22 Q. BY MR. ZABRISKIE: You heard her say -- recite for me
23 what you heard.

24 A. I heard her yell, "You shot him in the head."

25 Q. Okay, and if I'm correct, and you correct me if I'm

1 wrong, in the video we only hear that one time?

2 A. It could have been more than once.

3 Q. Okay, but that's all that's recorded?

4 A. Yeah, it probably is. I don't know; I haven't heard

5 it all the way through, I don't think.

6 Q. All right, could it -- based on your recollection

7 could it have been, "He's shot in the head"?

8 A. "He's shot in the head"?

9 Q. Uh-huh.

10 A. I don't think so. That's not how I remember it.

11 Q. If it were played back to you, would that refresh your

12 memory or --

13 A. Yeah, let's play it.

14 MR. ZABRISKIE: We'll start it at 2:30. Perhaps you

15 want to listen to it at 2:34.

16 MR. ZABRISKIE: Okay. Again, your Honor, this is

17 People's Exhibit 112.

18 THE COURT: Okay.

19 MR. ZABRISKIE: Where at in the time line?

20 MR. ZABRISKIE: 2:34 mark is where we hear it. The

21 video (inaudible) play at 2:30. Can we play.

22 Q. BY MR. ZABRISKIE: Right there. That's it.

23 A. Yeah, that's it.

24 Q. (Inaudible) what did she say?

25 A. She said, "You shot him in the head."

1 MR. ZABRISKIE: Play it one more time.

2 THE WITNESS: Right there.

3 Q. BY MR. ZABRISKIE: Now, you would -- you would concede
4 that it's very hard to understand?

5 A. Yeah, that is very hard to understand.

6 Q. If her testimony was to the effect that "He's shot in
7 the head" --

8 MS. HOWARD: That's not evidence, your Honor, again.

9 MR. ZABRISKIE: Well, if I were to offer that as a
10 possible interpretation, having not --

11 THE COURT: Hold on. Is there an objection?

12 MS. HOWARD: Objection, your Honor.

13 MR. ZABRISKIE: I'll rephrase it, your Honor.

14 THE COURT: Sustained.

15 Q. BY MR. ZABRISKIE: If I were to hypothetically pose to
16 you that it could just as easily have been "He's shot in the
17 head," would you agree or disagree with that?

18 A. Shot in the head, I'd agree with that, yeah.

19 Q. Now, you indicated --

20 A. But -- yeah.

21 Q. -- I'm sorry, I didn't mean to interrupt.

22 A. No, go ahead.

23 Q. (Inaudible). You -- when you approach him, you've
24 testified that there were four officers involved; am I right?

25 A. Yes.

1 Q. In fact, it's Al Taylor, and that's you?

2 A. Yes.

3 Q. Then Kellen Worwood, Craig Ryan and Rod Thompson?

4 A. Yes.

5 Q. Were there any other officers at that time that were
6 there as it relates to one restraining him or attending to his
7 needs?

8 A. Not that I know of.

9 Q. Okay, and in fact I think you worked in tandem. One,
10 to make sure that he no longer posed a threat; isn't that the
11 case?

12 A. Yes.

13 Q. One was involved in securing his shoulder, his arm,
14 his hand, and then ultimately I think it was Kellen Worwood
15 that took the gun?

16 A. Yes.

17 Q. Then there was some movement after that, that involved
18 extracting an empty clip from him?

19 A. Yes.

20 Q. Okay, now describe to us, if you can, what -- based on
21 your observations at that time what wounds he had incurred.

22 A. He had a wound started right about in this area of his
23 forehead that went straight back about -- it was open about an
24 inch, maybe bigger, wide going across the top of his head.

25 Q. I think you've testified in prior hearing, both at the

1 debriefing and the preliminary hearing, that his brain was
2 exposed?

3 A. Well, at the time it looked like it was. It was
4 really, really bloody. It looked like brain matter to me.

5 Q. Uh-huh.

6 A. But I come to find out since then that it wasn't.

7 Q. Uh-huh, but there was portions of his skull that had
8 been --

9 A. Well, I don't know if they were gone or not.

10 Q. Okay, now you stayed to render aid to him?

11 A. Yes.

12 Q. I think you testified at the preliminary hearing back
13 in April that you secured some type of gauze, and that you were
14 trying to in some way or another stem the bleeding?

15 A. I had Deputy Ryan go to his patrol vehicle and get
16 some gauze to cover up the wound. There was no pressure applied
17 because I was afraid that his brain was exposed, and I didn't
18 want to put anymore pressure on there than was there. So I
19 just applied gauze to kind of keep the water and the dirt and
20 anything else that was out there out of that wound.

21 Q. This is jumping a little bit ahead, but just so I
22 don't lose my place, but he ultimately died; did he not?

23 A. Yes.

24 Q. He ultimately died from that wound --

25 A. Yes.

1 Q. -- that you've described?

2 A. Yes.

3 Q. Do you know when he died?

4 A. No.

5 Q. So if I told you it was the next day, you wouldn't
6 object to that because you don't know?

7 A. No, I don't know.

8 Q. Okay, now there was some -- there was some talk as it
9 relates between the two of you?

10 A. Yes.

11 Q. During this time, the three or four of you that are
12 still there are making sure he's comfortable or making sure he
13 doesn't hurt himself?

14 A. I'm the only one that stayed down on the ground with
15 him and talked to him. Everybody else, I'm not sure what they
16 did, other than Deputy Ryan went to get some first aid stuff
17 for me.

18 Q. Uh-huh. You indicated that he had communicated
19 something to you about thirst?

20 A. Yes.

21 Q. Once again, tell us what he said.

22 A. He said, "I'm thirsty. I'm so fucking thirsty." I
23 told him, "You can't have any -- we can't give you anything to
24 drink, because you probably need to go have surgery or medical
25 assistance."

1 Q. You also indicated that the next thing that you heard
2 was "Why don't you let --" or "Will you let me kiss my --"

3 A. Yes, he looked up at me, and he said, "Why don't you
4 let me kiss my girlfriend with my last dying breath."

5 Q. Uh-huh, and had anyone mentioned to him that "Hey,
6 you're going to die from this"?

7 A. No, I didn't think he would.

8 Q. In other words, you didn't know the extent or how
9 serious his injuries were?

10 A. No.

11 Q. Okay, if I were to indicate to you that not one other
12 policeman that was in attendance -- and again, maybe -- maybe
13 they weren't there, but of the four that restrained him, you're
14 the only one that recorded that particular comment by him?

15 A. Wouldn't surprise me. I'm the only one that stayed
16 there with him to treat him.

17 Q. Well, in -- I've curry combed, I've looked through all
18 their reports --

19 A. Uh-huh.

20 Q. -- and they report some incidents of communication,
21 and in fact, Worwood remembers him wanting water.

22 A. Uh-huh.

23 Q. Worwood also testified both at his debriefing and
24 other times that he was there the entire time; is that your
25 recollection?

1 A. I'm not sure if he was there the entire time or not.
2 I know he wasn't stay -- or wasn't kneeling down with him like
3 I was. He may have been there.

4 Q. If he has commented during his debriefing that he as
5 there during the entire time, would you disagree with that?

6 A. No, I wouldn't disagree with that.

7 Q. When after if he -- let's assume for the moment that
8 during his debriefing he was asked directly, "Did you hear Jose
9 say anything about the girl?" and he said, "No," would that --
10 would that conflict with what your recollection is?

11 A. No, it wouldn't conflict. He -- he may have been
12 doing something else, or talking to somebody else.

13 Q. If his testimony was that he was attending to the
14 wounds suffered by Jose, would that in any way impact that
15 last response?

16 A. I wouldn't believe he said he attended to his wounds
17 on him, because he didn't.

18 Q. Uh-huh, so again, if there's testimony offered some-
19 where along the way, that would be in conflict; you wouldn't
20 agree with that?

21 A. I can't agree or disagree with that. I don't know
22 what he -- what he did or what he said he did.

23 MR. ZABRISKIE: May I have just a second, your Honor.

24 THE COURT: Okay.

25 Q. BY MR. ZABRISKIE: Why -- you've made police work your

1 life's work. I mean, we all have days when we wish we were
2 dentists instead of what we're doing, but --

3 A. Yeah.

4 Q. -- what was the reason you left police -- police work?

5 MS. HOWARD: Objection, your Honor, that isn't relevant.

6 MR. ZABRISKIE: Well, he's offered it in his testimony,
7 your Honor.

8 THE COURT: Sustain the objection.

9 MR. ZABRISKIE: All right, thank you.

10 THE WITNESS: Well, it --

11 THE COURT: Hold on.

12 MR. ZABRISKIE: It's sustained.

13 THE COURT: You don't have to respond.

14 THE WITNESS: Okay.

15 Q. BY MR. ZABRISKIE: But it was -- was it shortly after
16 this incident?

17 A. Yes.

18 Q. Did this incident have any impact on it?

19 A. Yeah, it did.

20 Q. You're a trained professional?

21 A. Yeah.

22 Q. Know how to handle these things?

23 A. Yeah.

24 Q. And it's still traumatic, isn't it?

25 A. It was very traumatic.

1 MR. ZABRISKIE: Thank you. No further questions, your
2 Honor.

3 THE COURT: Okay, thank you. Redirect?

4 MS. HOWARD: Thank you, your Honor.

5 REDIRECT EXAMINATION

6 BY MS. HOWARD:

7 Q. Officer, there was some moving back and forth between
8 mile marker 216 and 222 in cross examination. I'm going to try
9 and follow 216 -- or 222 and then 216.

10 A. Okay.

11 Q. At 222, not based upon the video, but based upon what
12 you personally recall, in your own recollection from that
13 incident, did you see the male suspect point his gun at the
14 female suspect?

15 A. I never did see him point the weapon at her.

16 Q. Did you see any pause in her step?

17 A. Only when the gunfire erupted.

18 Q. At mile marker 222?

19 A. Oh, no, I didn't.

20 Q. Did you see any verbal exchange between the two of
21 them?

22 A. No.

23 Q. Did you ever observe whether or not Jose Angel Garcia
24 ever looked behind him at the defendant?

25 A. No.

1 Q. At 222?

2 A. No.

3 Q. At 222 were you focusing on -- what were you focusing
4 on?

5 A. Mainly him because he had the gun.

6 Q. Uh-huh.

7 A. And her secondary because we didn't know what kind of
8 a threat she still posed, or if she was any kind of a threat at
9 all. We didn't know anything about her.

10 Q. So you were focusing on actions?

11 A. Actions, yes.

12 Q. Based upon the actions you saw of the defendant at
13 222, what were your conclusions?

14 A. I thought she was part of it. I thought she wanted
15 to be with him. I thought she was part of the whole thing.

16 Q. Why is that, based upon the actions?

17 A. Because she followed wherever he went. She didn't
18 even try to get away when I think she had perfect opportunity.

19 Q. Okay, Mr. Zabriskie gave you some hypotheticals about
20 what a person may have said.

21 A. Uh-huh.

22 Q. You're basing your opinion based upon what a person
23 did; is that what you're saying?

24 A. Yes, what I seen.

25 Q. Okay, based upon what you saw at mile marker 222,

1 still focusing there, was there anything that would have
2 prevented the defendant from staying in her Tundra?

3 A. Not that I know of.

4 Q. Based upon what you observed at mile marker 222, did
5 the defendant ever change course of direction that she was
6 running?

7 A. No.

8 Q. Have you in your experience as an officer had occasion
9 where someone did one action and tried to explain that away
10 later?

11 A. Yeah, but I can't think of any right off the top of
12 my head.

13 Q. That's good enough. Now, I'm going to direct your
14 attention to mile marker 220 -- or 216, and the questions
15 Mr. Zabriskie asked you about there. At 216, how many times
16 did the male suspect fire shots?

17 A. At 216?

18 Q. At 216.

19 A. I know of at least one back towards me. He could have
20 fired at -- he could have fired at that guy that stopped in the
21 car. The gun was pointed at him. It was pointed back at us.

22 Q. But you recall -- is it your testimony you recall one
23 gunshot for sure?

24 A. I recall exact -- just one.

25 Q. Where was that at?

1 A. That was when I confronted him on the other side of
2 the freeway.

3 Q. When you were down adjacent to the freeway; is that
4 what you're saying?

5 A. Yes.

6 Q. Okay, just to be clear. Did he point -- did he point
7 the gun at you at another time at 216?

8 A. Yes, as he's approaching the car, the gun was pointed
9 back at all four of us.

10 Q. Okay, was the gun ever pointed behind him at the
11 defendant?

12 A. No.

13 Q. As he was running towards the car, which way was he
14 facing?

15 A. He was facing north.

16 Q. Did he ever turn around and face south or look to make
17 sure anyone was running toward him?

18 A. Not that I seen.

19 Q. At 216 we've heard some audio; is that correct?

20 A. Yes.

21 Q. That mic appears to be cutting in and out.

22 A. Yes.

23 Q. Is that fair to say?

24 A. Yes.

25 Q. There's a particular portion where that microphone

1 cuts in and out, and that's been played a number of times.

2 Direct your attention to that.

3 A. Yes.

4 Q. As it was played multiple times, you were asked
5 questions about it based upon what the video was.

6 A. Yes.

7 Q. Stepping aside from the video, do you independently
8 recall what she yelled at you that day?

9 A. She yelled, "You shot him in the head."

10 Q. Okay, that's based upon your own personal experience
11 at that roadside?

12 A. Yes.

13 Q. Okay, at 116 -- oh, I said 216.

14 A. 216.

15 Q. At 216 do you ever see an exchange of communication
16 between the two?

17 A. No.

18 MS. HOWARD: I apologize, your Honor. I'm looking
19 through my notes.

20 Q. BY MS. HOWARD: At 216 when you're attending to the
21 male suspect, Mr. Zabriskie asked you questions about that.

22 A. Yes.

23 Q. Officer, do you know the male suspect? Did you know
24 him?

25 A. No.

1 Q. Do you know Ms. Grunwald?

2 A. No.

3 Q. When you say that he said, "Why don't you let me kiss
4 my girlfriend with my last dying breath," is that something
5 that you have made up?

6 A. No, I -- no.

7 Q. Why is it that you say that he said that?

8 A. Because that's what he said.

9 Q. Is there a possibility that others did not hear that?

10 A. There is, yes.

11 Q. If they did not hear that -- well, I'll strike that.

12 At mile marker 216, Officer, based upon your observation, is
13 there anything that would have prevented Ms. Grunwald from
14 staying in the Highlander?

15 A. Not that I know of.

16 Q. Is there anything that would have prevented her from
17 running the other direction?

18 A. Not that I know of.

19 Q. What factors did you have in your possession based upon
20 her actions at 216 that you used to formulate your opinions?

21 A. Just her actions, just what she did.

22 Q. What were they?

23 A. Just tried to follow him, again.

24 MS. HOWARD: Okay, just a minute, your Honor.

25 (Counsel conferring off the record)

1 MS. HOWARD: Nothing further. Thank you, your Honor.

2 THE COURT: Thank you.

3 MR. ZABRISKIE: Recross, your Honor?

4 THE COURT: Okay.

5 RECROSS EXAMINATION

6 BY MR. ZABRISKIE:

7 Q. Officer Taylor, you indicated that you have -- that
8 you concluded at that time that they were in concert because
9 she followed after him?

10 A. It seemed like they were to me.

11 Q. Uh-huh, and that was based on limited information as
12 it relates to any precedent -- any preposition to what happened
13 at 222?

14 A. Yes.

15 Q. In other words, you didn't know all the facts?

16 A. Yeah, I didn't know all --

17 Q. Uh-huh.

18 A. -- anything between them two.

19 Q. Well, let's -- let me ask you. You've indicated
20 that she followed him, and therein that showed some type of
21 affirmative act on her part. She didn't have a bulletproof
22 vest on, that you're aware of?

23 A. I don't know.

24 Q. Uh-huh. You wouldn't assume that she did?

25 A. Probably not.

1 Q. There was -- was there anything that she could hide
2 behind, jump behind; anything like that?

3 A. At 222?

4 Q. Uh-huh.

5 A. She could have stayed there with the vehicle.

6 Q. Uh-huh.

7 A. But other than that, once --

8 Q. Again, you don't know what went on in that vehicle?

9 A. No.

10 Q. So you're -- so you're sort of making that comment
11 in a vacuum. You don't know what he said to her, what the
12 circumstances -- could have stayed in the vehicle; but when
13 she's out of that vehicle, tell me again what you would have
14 her do. Let's assume for the moment that don't follow him.
15 What would you do? Run -- would she run towards -- what would
16 she do?

17 A. Well, if it were me --

18 Q. No, what would you do? Put yourself in her skin.
19 What would you do?

20 A. I would run away.

21 MS. HOWARD: Your Honor, objection. That is speculation.

22 MR. ZABRISKIE: Your Honor, he's offered an opinion
23 based on his experience. Now I'm asking was there an alter-
24 native.

25 THE COURT: Overruled. Go ahead and respond.

1 THE WITNESS: I would run away from the situation. I
2 would get away from it.

3 Q. BY MR. ZABRISKIE: The man has a gun.

4 A. Yeah.

5 Q. So you would run from the gun?

6 A. You bet.

7 Q. You would -- you would prescribe that for someone that
8 -- well, you're pretty fast, I guess?

9 A. Well, I don't know about that, but --

10 Q. Uh-huh, but you would have them place even more risk
11 upon their shoulders by running?

12 A. Well, I --

13 Q. Run to where? Run to where?

14 A. You could run back to the officers. You could run a
15 different direction.

16 Q. Suppose -- just suppose that the horror that's gone on
17 that day has affected her hearing or her judgment.

18 A. Uh-huh.

19 Q. What other alternatives would she have? Just run?
20 Run is your response; just run?

21 A. Well, could have stayed there in the vehicle.

22 Q. I've already told you, she's out of the vehicle.

23 A. Yeah, she's out.

24 Q. That's a foregone conclusion.

25 A. She's out. She could have stopped when we were yelling

1 at her to stop.

2 Q. But to get away from him, just stop?

3 A. Well, he was running away.

4 Q. Uh-huh. Let me remind you of -- again, at your -- you
5 had a debriefing after this --

6 A. Yes.

7 Q. -- particular matter, and that was with two police
8 officers?

9 A. Yes.

10 Q. Two officers, and they -- they questioned you about
11 what had happened that day?

12 A. Yes.

13 Q. Again, there's a time line, if you recall this, but
14 I'm sure you remember this. "He was waving the gun at every-
15 body."

16 A. Yeah.

17 Q. You said that. Then I think at the preliminary
18 hearing, which was in -- oh, I can't find it, but something
19 akin to that; that he was pointing the gun in all directions.
20 Is -- you're saying that he never pointed it at her. Not
21 knowing what was in her mind, could she have thought that he
22 pointed the gun at her?

23 A. I don't know --

24 MS. HOWARD: Objection, your Honor, that is speculation.

25 MR. ZABRISKIE: He can offer an opinion.

1 THE COURT: Sustained. Sustained.

2 Q. BY MR. ZABRISKIE: So your advice would be run? That's
3 your first response; run?

4 A. Either that or go towards the officers or stay. Any-
5 thing, but he was running away.

6 Q. What --

7 A. He was running.

8 Q. Did he lay that gun down and all of a sudden -- he's
9 shooting at everything --

10 A. He never laid the gun down.

11 Q. Exactly.

12 A. Uh-huh.

13 MR. ZABRISKIE: Thank you. No further questions.

14 THE COURT: Thank you.

15 MS. HOWARD: Nothing further for this witness.

16 THE COURT: Thank you. Is that all for Deputy Alan?

17 MS. HOWARD: Yes, it is.

18 THE COURT: Any reason why he can't be excused?

19 MS. HOWARD: The State has no reason.

20 MR. ZABRISKIE: We want to keep him under subpoena,
21 your Honor.

22 THE COURT: All right, possibility that you could be
23 called again.

24 THE WITNESS: Okay.

25 THE COURT: Thank you.

1 THE WITNESS: Thanks.

2 THE COURT: Next witness? Are we doing okay, members
3 of the jury? Do we need a recess, anyone?

4 (No verbal response)

5 THE COURT: Okay, who's the next witness?

6 MS. HOWARD: Just pulling his name. Troy Pace, your
7 Honor.

8 THE COURT: Troy Pace. Come forward, sir. Let's get
9 you sworn in.

10 COURT CLERK: Right here is good. Raise your right
11 hand. You do solemnly swear that the testimony you shall give
12 in the case now pending before the Court will be the truth, the
13 whole truth and nothing but the truth, so help you God?

14 THE WITNESS: I do.

15 THE COURT: Thank you, sir. Please have a seat here
16 in the witness box. Need to make sure the microphone's close
17 enough to you that it will pick you up okay. Thank you.

18 TROY PACE,

19 having been first duly sworn,

20 testified as follows:

21 DIRECT EXAMINATION

22 BY MS. HOWARD:

23 Q. Would you please state your name and spell your last
24 name for the record.

25 A. Troy Pace, P-a-c-e.

1 Q. Mr. Pace, what -- what city do you live in?

2 A. Needles.

3 Q. So what town do you live in?

4 A. Needles.

5 Q. Mr. Pace, were you within Juab County on or about
6 January 30th of the year 2014?

7 A. Yes, I was.

8 Q. Okay, and are you familiar with the events of that
9 day?

10 A. I am.

11 Q. What brought you to the south end of Nephi on that
12 day?

13 A. We was coming home from work and -- my partner and I,
14 and we usually get off the Center exit, because that's where
15 he lives. Going to drop him off there, and they -- the police
16 officers wouldn't let us get off there, so we had to go to the
17 last exit.

18 Q. Okay, and the last exit is coming from --

19 A. North to south.

20 Q. -- north to south, and so that's exit what?

21 A. 222.

22 Q. 222, okay. You said you were with your partner, and
23 who is that?

24 A. Joey Lunt.

25 Q. Okay, he's a partner in employment; is that correct?

1 A. Yeah, he works for me.

2 Q. He works for you?

3 A. Yeah.

4 Q. So you're the boss?

5 A. I'm the boss.

6 Q. But he was driving?

7 A. Yes.

8 Q. Okay, and what were you in?

9 A. A Ford pick-up.

10 Q. A Ford pick-up?

11 A. Yeah.

12 Q. So this was after your day of work?

13 A. Yes.

14 Q. Approximately what time was it, Mr. Pace?

15 A. It was between 4 and 5, I would guess right there.

16 Q. Sometime in the afternoon --

17 A. Yes.

18 Q. -- of that day?

19 A. Of that day.

20 Q. Okay, as you were traveling south, then, from your

21 employment, what is it that you see that's unusual from what

22 you would ordinarily see in that travel?

23 A. When we got to about the Santaquin exit there was a

24 lot of cops everywhere on both sides of the freeways, at the

25 on-ramps, and all the way clear to Nephi.

1 Q. Okay.

2 A. To where the event started.

3 Q. All right, and so you get closer to Nephi and what do
4 you see?

5 A. Well, they had the -- the exits blocked off so we had
6 -- we couldn't get to that point; and we -- they just waved us
7 on down the freeway to the final exit.

8 Q. Okay, and so that -- the first exit of Nephi is --
9 do you know what exit that is?

10 A. I think it's 228.

11 Q. 228?

12 A. I think.

13 Q. All right, so you tried to exit at 228. You were
14 waved down to the next exit, which is what?

15 A. 225.

16 Q. Okay, and then at that final south Nephi exit what do
17 you do?

18 A. We got off the exit and was going down to the bottom
19 of the ramp, and we got right to the bottom of the ramp and
20 Joey says, "There they are, right there." Then that's when
21 they ran into a reflector pole behind us in the white pick-up,
22 and we started to make that turn. Then that's when I seen the
23 guy coming in front of the truck, and he shot once towards us,
24 and then twice across the road at a service truck.

25 Q. Okay, so I'm going to back you up a little bit, okay?

1 A. Okay.

2 Q. So you're at the bottom of 222?

3 A. Uh-huh.

4 Q. And someone who you're with said something?

5 A. Yes.

6 Q. So then what did you do?

7 A. I turned to see what was going on behind us.

8 Q. Okay, and what did you see?

9 A. I seen the guy in front of the truck, and he was --

10 started to come towards us, and then we was far enough away

11 that he ended up going the other direction.

12 Q. Okay, and so you said in front of a truck. Where is

13 the truck at?

14 A. It is right at the bottom of the exit, maybe 50 feet

15 from the -- from the road.

16 Q. Okay, and can you describe the truck?

17 A. It was a white Toyota or Nissan or --

18 Q. Okay, so there's a white Toyota at that bottom, and

19 then you said that you saw a male; is that correct?

20 A. Yes.

21 Q. Okay, and where did you see him?

22 A. He was in front of the truck.

23 Q. In front of the truck?

24 A. Yes.

25 Q. Where did he go?

1 A. He ran towards south going towards the underpass --
2 the overpass.

3 Q. Okay, and you are at this point where in relation to
4 that Toyota -- or that white truck?

5 A. We are probably 50 yards from it.

6 Q. In which direction?

7 A. To the north.

8 Q. To the north. You said that you saw the male in
9 front?

10 A. Yes.

11 Q. Then what did he do?

12 A. He just -- well, after he'd shot the three shots he
13 just started running towards the south towards another vehicle.
14 Then there was a girl behind him running toward -- behind him
15 running towards another vehicle.

16 Q. Okay, and what vehicle was that that he was running
17 toward?

18 A. It was like an SUV.

19 Q. Okay, and you said that there was a female running
20 behind him?

21 A. Yes.

22 Q. When is the first time you saw that female?

23 A. When she -- he was running towards the other vehicle,
24 and she was probably 30 feet behind him, and she was probably
25 30 feet in front of the truck at that point.

1 Q. Okay, was that the first time you saw her?

2 A. Yes.

3 Q. Okay, and he was running south?

4 A. Yes, yes.

5 Q. Which direction was she running?

6 A. She was running south behind him.

7 Q. Okay, describe for the jury what it is you saw at that

8 point.

9 A. What I --

10 Q. When they are both running south.

11 A. Yeah, they're both running south, and he was running

12 in front of her, and she was probably 30 to 40 feet behind --

13 running after him.

14 Q. Then where did they go?

15 A. They ran to that SUV.

16 Q. Okay, and at the SUV what happened?

17 A. That's where I seen them run up to this door of the

18 SUV, and then the next thing -- I mean, it happened really

19 fast. The next thing, the SUV was going up the on-ramp.

20 Q. Okay, so Mr. Pace, when you first -- so you see him

21 for a bit of time.

22 A. Uh-huh.

23 Q. Can you describe to the jury what you recall of his

24 characteristics -- excuse me, what -- his appearance.

25 A. He was a Hispanic male, and he had a black handgun.

1 The thing that I remember most was his eyes was just huge and
2 white. He was just bouncing because he was running. I don't
3 -- I don't know how to describe, just kind of bouncing as he
4 ran.

5 Q. Was that at a slow pace or a fast pace or a medium
6 pace?

7 A. Probably medium.

8 Q. Okay, and then if you could describe for the jury
9 what she looked like, her appearance.

10 A. She -- I could just tell it was a girl. She had
11 longer hair, and she -- yeah, just the way she ran, she ran
12 like a girl. I mean, nothing offensive.

13 THE COURT: That's enough.

14 Q. BY MS. HOWARD: So she had a different run than he did?

15 A. Yes.

16 Q. How would you describe her speed?

17 A. She was running pretty hard.

18 Q. Okay, running hard?

19 A. Yeah.

20 Q. Is that -- does that indicate speed for you?

21 A. Yes

22 Q. Okay, is that a fast, maybe?

23 A. She was running fast.

24 Q. I do understand the qualifier based upon gender,
25 running like a girl.

1 A. Yes.

2 Q. I'm sure you didn't mean that --

3 A. No.

4 Q. -- disparaging at all. So you see them, you see them
5 go to another car?

6 A. To the -- yeah.

7 Q. Then you see him get in the car?

8 A. Yes.

9 Q. But -- and what do you see the female do? Not the
10 owner of the car, but the female that is running with the male?

11 A. She went to the passenger side.

12 Q. What did she do?

13 A. She got in the -- in that side.

14 Q. Okay, now Mr. Pace, when you see all of this going on,
15 where are you at, relative again to this -- this vehicle that's
16 on the end of the off-ramp?

17 A. We just made that corner and just kind of stopped
18 right there for a minute.

19 Q. Okay, right there at the bottom of 222 off-ramp?

20 A. Yes.

21 Q. When you're looking at the male and the female, how
22 are you looking at them?

23 A. I'm looking out the back window.

24 Q. So you have turned?

25 A. Yes.

1 Q. Okay, and are there any obstructions in your way?

2 A. No.

3 Q. Okay, and when you're looking at them, Mr. Pace, can
4 you say whether or not you saw them interacting in any way?

5 A. No, I didn't.

6 Q. Can you describe for the jury whether or not there
7 were any pauses or alterations in the way that they ran?

8 A. I -- no.

9 Q. Okay, now Mr. Pace, when you saw the male suspect, you
10 described he had a gun?

11 A. Yes.

12 Q. I don't recall if you said the color.

13 A. Black.

14 Q. Black, and did you see who the gun was directed at?
15 Meaning who did he point the gun at?

16 A. He pointed towards us once, and then there was a white
17 service truck across the street with its lights flashing, and
18 he shot twice at that truck.

19 Q. Okay, and who else did he point the gun at?

20 A. At the driver of the vehicle that he took.

21 Q. Okay, and then did you see him point the gun at anyone
22 else?

23 A. No

24 Q. Okay, when you were observing him pointing this gun,
25 where was the female, if you can recall?

1 A. She was running behind him.

2 Q. Okay, if you can recall, based upon what you saw that
3 day, did the female ever go to anyone other than to follow the
4 male?

5 A. No.

6 Q. I have what's been previously marked --

7 MS. HOWARD: I apologize, your Honor, I didn't mark the
8 exhibit. May I approach.

9 THE COURT: Okay.

10 MS. HOWARD: Well, I think it would be simpler if we
11 moved to (inaudible).

12 Q. BY MS. HOWARD: Mr. Pace, are you familiar with that
13 222 exit?

14 A. Yes.

15 Q. You've taken it before?

16 A. Yes.

17 Q. You could recognize it if you saw it?

18 A. Yes.

19 MS. HOWARD: Okay, I have what's been marked Plaintiff's
20 Exhibit 121, your Honor. May I approach.

21 THE COURT: Okay.

22 Q. BY MS. HOWARD: I have what's been marked Plaintiff's
23 Exhibit No. 121. See if you can identify this.

24 A. This is a -- this is north.

25 Q. Okay.

1 A. This is exit 222, and this is --

2 Q. Okay, so generally this is exit 222?

3 A. Yes.

4 Q. Okay.

5 (Counsel conferring off the record)

6 MS. HOWARD: I'd like to offer Plaintiff's Exhibit 121

7 into evidence.

8 MR. ZABRISKIE: No objection, your Honor.

9 THE COURT: Accept and receive State's Exhibit 121.

10 (Exhibit No. 121 received into evidence)

11 MS. HOWARD: I'd like to publish it to the jury.

12 MR. ZABRISKIE: No objection.

13 THE COURT: Thank you.

14 MS. HOWARD: Your Honor, I'd like to have the witness

15 be able to approach our projection device, so that he may mark

16 this exhibit. Counsel already knows that that is the next step

17 in this procedure.

18 THE COURT: He needs a microphone.

19 MS. HOWARD: Yes, he does.

20 Q. BY MS. HOWARD: Okay, Mr. Pace, before you start to

21 draw on that, if you could just orient the jury, who I'm

22 standing in front of, which direction is north.

23 A. Just a second.

24 Q. Oh, okay.

25 A. Oh.

1 Q. Which direction is north?

2 A. (Inaudible).

3 Q. That's going to be a little tricky.

4 A. Okay, north is this direction.

5 Q. Okay, if you could put an "N" there. Okay, and if you
6 could, Mr. Pace, draw the white truck that you saw, where it
7 stopped.

8 A. (Witness writing).

9 Q. Okay, and is that the bottom of the off-ramp for 222?

10 A. Yes.

11 Q. Okay, and when you first see -- where is it that you
12 stop in your vehicle?

13 A. We stopped right here.

14 Q. Okay, so if you could put -- perhaps just put "my
15 truck," or just write something so that when the jury gets
16 this later they are able to decide what that is.

17 A. (Witness writing).

18 Q. Then if you could mark the other dot with "white
19 truck."

20 A. (Witness writing).

21 Q. You said that there was a Mr. Steele somewhere. Where
22 is his vehicle?

23 A. His vehicle would have been right here.

24 Q. Okay, if you would just mark that with "Steele."

25 A. (Witness writing).

1 Q. Okay, when you first saw the female, where was she at?

2 A. She was approximately right here.

3 Q. If you could mark that with an "F."

4 A. (Witness writing).

5 Q. When you first saw the male, where was he at?

6 A. He was right here.

7 Q. If you could mark that with an "M."

8 A. (Witness writing).

9 Q. Then, Mr. Pace, go ahead and diagram where you saw
10 the female go, and feel free to narrate what it is that you're
11 diagraming for the jury.

12 A. Okay, this is where the male, I first seen him, and he
13 ran all the way over and just under this underpass right here,
14 and the female ran right behind him all the way the same --
15 right to the same vehicle that was under this underpass.

16 Q. Okay, you can just mark the trail that they ran from
17 the male -- "F," and then from the "M." The male was in front?

18 A. Yes.

19 Q. Mr. Pace, if you could mark where it was that -- well,
20 they go under the overpass, so that's a little bit tricky,
21 right?

22 A. Yes, because the stop, from where I could see, was
23 almost right directly under the underpass. So right there.

24 Q. Okay, and then where is it they go once they -- that
25 vehicle is taken?

1 A. They get ongoing southbound on the freeway headed
2 south.

3 Q. Okay. Okay, thank you. Oh, yes, if you'd sign this.

4 A. (Witness writing).

5 Q. Okay, you can sit (inaudible).

6 MS. HOWARD: Now that it's marked, it's more proper for
7 me to offer this as Plaintiff's Exhibit No. 121.

8 THE COURT: Didn't we already accept and receive that?

9 MS. HOWARD: Just making sure I cover -- dot my i's and
10 cross my t's.

11 Q. BY MS. HOWARD: Mr. Pace, Mr. Steele's truck, can you
12 describe it more particularly than a white vehicle? What was
13 it; do you know?

14 A. It's a -- it's a pick-up truck with a utility bed on
15 it for tools and -- I think he uses it for recovering vehicles.

16 MS. HOWARD: Okay, just a minute, your Honor. Nothing
17 further for this witness.

18 THE COURT: Thank you. Just make sure we get that
19 microphone in front of you. Thank you.

20 THE WITNESS: I've got two microphones here.

21 THE COURT: Cross examination?

22 MR. ZABRISKIE: Thank you, Judge.

23 CROSS EXAMINATION

24 BY MR. ZABRISKIE:

25 Q. Troy, right?

1 A. Yes, sir.

2 Q. How are you doing today?

3 A. Nervous.

4 Q. Yeah. Appreciate you being here. I just have a few
5 questions. Appreciate you taking such care to diagram out what
6 you witnessed that day. I'm going to test your recollection of
7 directions a little bit, where things were --

8 A. Okay.

9 Q. -- and your orientation as to the spacing between
10 things that were going on there.

11 A. Okay.

12 Q. You've said that there -- you witnessed two people get
13 out of the Toyota truck, right?

14 A. Yes.

15 Q. When -- who did you see exit first, or did you see
16 either of them exit the vehicle?

17 A. I seen -- I mean, like I say, it happened really fast.
18 When I first seen him, he was right in front of the vehicle --

19 Q. Uh-huh.

20 A. -- and then she was -- she got out after -- and I
21 didn't see her get out. I just seen them both running across
22 the road after that.

23 Q. Okay, so you've recognized at least that there are two
24 people that had exited the vehicle --

25 A. Yes.

1 Q. -- a male and a female?

2 A. Yes.

3 Q. Okay, and at the time you made that recognition, that
4 you noticed that there were two individuals in the vehicle,
5 how long was it before you noticed that a gun or something was
6 pointed at you?

7 A. Not -- I mean, as soon as -- as soon as that truck hit
8 that barrier --

9 Q. Uh-huh.

10 A. -- and I seen him come around the front of the -- or
11 right in front of that truck, and then you -- he just shot once
12 towards us and then twice towards the other truck. It was only
13 three or four seconds.

14 Q. Okay, where was the other truck that he shot towards?

15 A. Straight across on the other side of the road.

16 Q. Do you know -- was that on the same road that you were
17 on or was that on one of the ramps? I kind of missed that in
18 your testimony.

19 A. It was on the white Steele truck that I drew.

20 Q. Okay.

21 A. That truck.

22 Q. Closer to the underpass?

23 A. Yes.

24 Q. Okay, and what -- you guys pulled off on the side
25 of the road. You were with a friend that you worked with; is

1 that --

2 A. Yes.

3 Q. -- Joey?

4 A. Joey.

5 Q. Is that his name? Okay.

6 A. Yes.

7 Q. Is Joey here today?

8 A. He is.

9 Q. Okay, have you guys discussed this case together?

10 A. We've talked about it.

11 Q. Okay, and what -- what direction would you say that

12 you were in from where the male was shooting at you?

13 A. We was north.

14 Q. Okay, and did you -- after he shot at you, what was

15 your reaction to that?

16 A. To keep going. We made the corner, and then just --

17 they turned and was running that way, and we just stopped right

18 there and just watched them run to that other vehicle.

19 Q. After the shots were fired, is that when you guys

20 stopped your vehicle?

21 A. Yes.

22 Q. Okay, you maintained your visual after being shot at?

23 A. Yes.

24 Q. Watching what was going on? Okay, did you see the

25 individual with the gun point the gun at you again after that?

1 A. No.

2 Q. Did you see him swinging the gun around in other
3 directions?

4 A. He -- when he shot the two shots across the road, he
5 actually -- I don't know if the gun jammed, but he was trying
6 to work the action --

7 Q. Okay.

8 A. -- as he was running across that road.

9 MR. ZABRISKIE: Give me just a second, okay? I don't
10 have any further questions. Thank you.

11 THE COURT: Thank you. Anything else for Mr. Pace?

12 MS. HOWARD: No, thank you, your Honor.

13 THE COURT: Can he be excused?

14 MS. HOWARD: Yes, thank you, your Honor.

15 MR. ZABRISKIE: Yes, your Honor.

16 THE COURT: Thank you. Mr. Pace, I'll leave you with
17 the admonishment that you can't discuss this with anyone else
18 until such time as we're -- okay. All right, thank you. Shall
19 we take a short recess at this point.

20 MS. HOWARD: Okay.

21 THE COURT: How many more witnesses do you intend to
22 call today?

23 MS. HOWARD: As many as we can get through.

24 THE COURT: That doesn't help me.

25 MS. HOWARD: Your Honor, we have four more witnesses.

1 THE COURT: Okay.

2 MR. ZABRISKIE: I'm sorry, how many?

3 MS. HOWARD: Four.

4 THE COURT: All right, we'll take a short recess at
5 this point and see how far we can get.

6 COURT BAILIFF: All rise for the jury.

7 (Jury exits the courtroom)

8 THE COURT: Okay, we'll be in recess.

9 MR. ZABRISKIE: Thanks, Judge.

10 (Recess taken)

11 THE COURT: Okay, thank you. Please be seated. We are
12 back on the record, State vs. Grunwald matter. All parties are
13 present, including Counsel, all members of the jury as well.

14 Ms. Howard, your next witness?

15 MS. HOWARD: Thank you, your Honor. Mr. Donovan Steele.

16 THE COURT: Steele, Donovan Steele. Come forward, sir.
17 Let's get you sworn in.

18 COURT CLERK: Raise your right hand. Do you solemnly
19 swear that the testimony you are about to give in the case now
20 pending before the Court will be the truth, the whole truth and
21 nothing but the truth, so help you God?

22 THE WITNESS: Yes.

23 THE COURT: Thank you, sir. Please have a seat here in
24 the witness box. Just make sure the microphone is close enough
25 to you it will pick you up all right.

1 THE WITNESS: Okay.

2 DONOVAN G. STEELE,

3 having been first duly sworn,

4 testified as follows:

5 DIRECT EXAMINATION

6 BY MS. HOWARD:

7 Q. Would you please state your name and spell your last
8 name for the record.

9 A. It's Donovan G. Steele, S-t-e-e-l-e.

10 Q. Mr. Steele, what city do you live in?

11 A. Nephi.

12 Q. Did you have occasion to be in Nephi on January 30th of
13 2014?

14 A. Yes, I did.

15 Q. What were you doing on that day?

16 A. I was working, and I was driving out to get some parts
17 at Freightliner.

18 Q. Okay, and what is your job?

19 A. I own a towing company, so I tow cars.

20 Q. Were you in a -- what vehicle were you in that day?

21 A. I was in my white service truck.

22 Q. Okay, and were you at some point at 222 exit that day?

23 A. I was.

24 Q. Approximately what time, if you recall?

25 A. That I -- I do not remember the time.

1 Q. Do you remember what time of -- or what part of the
2 day it was?

3 A. I think it was -- it was later afternoon.

4 Q. Okay.

5 A. Mid-afternoon.

6 Q. Okay, you're familiar with exit 222; is that correct?

7 A. Yes.

8 MS. HOWARD: Okay, may I approach my witness.

9 THE COURT: Sure.

10 Q. BY MS. HOWARD: I have what's been marked Plaintiff's
11 Exhibit No. 123, and ask you if you can identify this.

12 A. You need to turn it so I can -- yes.

13 Q. What -- just -- if you could just tell -- or just
14 announce what this is a picture of.

15 A. This is a picture of exit 222, of where the vehicle
16 exited and where I was sitting.

17 Q. You have drawn on this; is that correct?

18 A. That is correct.

19 Q. You just did that prior to coming into Court just now;
20 is that correct?

21 A. That's correct, yeah.

22 Q. This is in your own handwriting?

23 A. Yes.

24 MS. HOWARD: Okay, and your Honor, if I may, prior to
25 moving actually to offer it as evidence, we'll have the witness

1 come to the -- we'll call it the (inaudible), and we'll display
2 this or complete this exhibit.

3 THE COURT: Have you seen this exhibit, Mr. Zabriskie?

4 MR. ZABRISKIE: We have.

5 THE COURT: Okay. All right, go ahead.

6 THE WITNESS: You want me up there?

7 THE COURT: Yeah.

8 Q. BY MS. HOWARD: Mr. Steele, this is a microphone that
9 will pick up your voice, okay?

10 A. Okay.

11 Q. You just need to make sure you answer questions in
12 here.

13 A. Okay.

14 Q. Then this is your drawing; is that correct?

15 A. That's correct.

16 Q. Okay, you're a very tall man, and the jury is back
17 there. So we'll have to figure out a way for them to see --

18 MS. HOWARD: Your Honor, perhaps we can inquire if the
19 jury can see around him or if I need to move him.

20 THE COURT: Everybody can see okay?

21 (No verbal response)

22 THE COURT: All right.

23 Q. BY MS. HOWARD: All right, if you would describe for
24 the jury-- first orient them to the directions on that picture.

25 A. It's hard to tell on that one, but --

1 Q. Well, just point.

2 A. All right, this is south, this is north, this is east,
3 and this is west. The vehicle came off of the off-ramp, and
4 exit -- or stopped at this point right here.

5 Q. Okay, Mr. Steele, you're saying "the vehicle." What
6 is "the vehicle"?

7 A. That would be the white truck that the cops were
8 chasing.

9 Q. Okay, so you were where?

10 A. I was sitting right here.

11 Q. What did you observe?

12 A. I observed this truck come off the exit, and come to a
13 halt right here as the doors flew open and the occupants exited
14 the vehicle. Then he turned and ran towards me across here,
15 towards my vehicle. At that point, as he was running across
16 here, I thought what I'd saw were two recoils of his gun.

17 So I started to proceed forward, and watching him
18 in my mirror as I was pulling away. Then I got past here,
19 and Chetney's vehicle was coming this way towards the north,
20 underneath the overpass as I passed it.

21 Q. Okay, you said that you saw a male. Did you see what
22 side of the vehicle he got out of?

23 A. I -- he got out of the right side of the vehicle, and
24 I just remember a counter clockwise motion as he ran around the
25 door and pursued towards me.

1 Q. Okay, and did you see what side the female got out of?

2 A. She would have been out the driver's side, but at that
3 point I didn't remember because I was paying attention to him;
4 but he had come out of this side, so she would have had to get
5 out that side.

6 Q. Okay, and then you said that he got into the middle
7 of the road, and you saw two recoils?

8 A. Yes, I did.

9 Q. Where were you at at that point when you saw the
10 recoils?

11 A. I was still parked at this point right here as he
12 was coming across there with the two recoils.

13 Q. Okay, did you hear the gun?

14 A. I did not hear the gun. My window was up and my
15 scanner was going in the truck. So I did not hear it.

16 Q. Okay, and then you said they drove -- they went under-
17 neath to where you described Chetney's vehicle was?

18 A. Yeah, Chetney's vehicle was sitting -- at that point
19 -- well, not sitting, I guess. It was driving. As I was
20 pulling away, she was driving towards me in the other lane;
21 and he had made it to about right here where I was at that
22 point. I was pulling away, and then he ran towards Chetney's
23 vehicle.

24 Q. What did you see the female do?

25 A. The female was running behind him, and as I got on the

1 other side of the overpass here, in my mirror I could see him
2 at the side of Chetney's vehicle and her at the front. Then
3 at that point I lost contact because I pulled away.

4 Q. Okay. All right, go ahead and -- oh, if you would
5 sign it with that marker first, please.

6 A. Sign this?

7 Q. Yes. Go ahead and take the stand.

8 MS. HOWARD: Move to enter Plaintiff's Exhibit No. 123.

9 MR. ZABRISKIE: No objection.

10 THE COURT: Accept and receive State's Exhibit 123.

11 (Exhibit No. 123 entered into evidence)

12 Q. BY MS. HOWARD: Could you describe the male for the
13 jury, what you can recall.

14 A. I just recall a tall dark haired man running towards
15 me.

16 Q. Can you describe the female.

17 A. At the time, I was paying a lot of attention to him.
18 I did see the second individual running. I couldn't explain
19 the clothes or what they were wearing, but I just remember that
20 figure running behind him.

21 Q. Okay, do you know how far behind?

22 A. Wow, maybe 15, 25 yards.

23 Q. Okay, and as he was running towards you, what was she
24 doing?

25 A. Running behind him.

1 Q. As he was running towards you, what was he doing, like
2 with his hands or anything like that?

3 A. He -- he had his gun pointed at me as he was running.
4 Then at the time I started to pull away I could see frustration
5 in him as I was pulling away, like we ain't going to get that
6 car, or whatever. I don't know what he was thinking, but he
7 had frustration and then he was fiddling with the action on his
8 gun as I pulled out.

9 Q. What do you mean by "fiddle with the action"?

10 A. Like it was jammed or out of bullets or something had
11 gone wrong. Something. He just fiddled with it for a little
12 bit.

13 Q. Okay, and while he was doing that, what was she --
14 what did she do?

15 A. Had been -- she headed straight towards the front of
16 Chetney's car, and by -- as soon as he got done fiddling, he
17 went towards the driver's door.

18 Q. Okay, so from when you first saw her until she's in
19 the front of Chetney's car, what did she do?

20 A. Just run.

21 Q. When you first saw him until he's to the side of
22 Chetney's car, you saw him do a number of things; is that
23 correct?

24 A. Him, yes.

25 Q. Okay, then it ended up with him being behind her in

1 approaching Chetney's car?

2 A. Behind her? No.

3 Q. Okay, go ahead and --

4 A. He would have run to the side. They would have --
5 it's hard to explain, I guess, without seeing the picture,
6 but he was running towards me. She was running towards the
7 straight -- to the front of that car, and then he turned and
8 went to the driver's side of her car.

9 Q. Okay, did you see if he turned around or communicated
10 with the female?

11 A. No.

12 Q. Did you see if either of them stopped running?

13 A. They did not until they got to Chetney's vehicle.

14 Q. When he had the gun, can you describe what you saw,
15 what kind of gun it was?

16 A. I couldn't tell what kind of gun it was, just a figure
17 of a gun in his hand coming at me.

18 Q. So a handgun?

19 A. Yes.

20 Q. Okay, and what does he do with the gun while you're
21 watching him?

22 A. Well, shooting at me. That's what I thought. Firing.

23 Q. Okay.

24 A. It looked like recoils of the gun.

25 Q. Did you see him point it at anyone else?

1 A. No.

2 MS. HOWARD: Okay, just a minute, your Honor.

3 THE COURT: Okay.

4 (Counsel conferring off the record)

5 MS. HOWARD: Nothing further for this witness. Thank
6 you, your Honor.

7 THE COURT: Thank you. Cross examination?

8 MR. ZABRISKIE: No cross, your Honor.

9 THE COURT: All right, anything else from Mr. Steele?

10 MS. HOWARD: No, thank you.

11 THE COURT: Can he be excused?

12 MR. ZABRISKIE: Yes.

13 THE COURT: Mr. Steele, I need to admonish you not to
14 talk to anybody that may still intend to testify, if you would.

15 THE WITNESS: No problem.

16 THE COURT: Thank you.

17 THE WITNESS: Thanks.

18 THE COURT: Next witness?

19 MS. HOWARD: Oh, excuse me, the State is calling Joey
20 Lunt. Thank you, your Honor.

21 THE COURT: Thank you. Come forward, sir, let's get
22 you sworn in. Raise your right hand, if you would.

23 COURT CLERK: Do you solemnly swear that the testimony
24 you are about to give in the case now pending before the Court
25 will be the truth, the whole truth and nothing but the truth,

1 so help you God?

2 THE WITNESS: Yes.

3 THE COURT: Thank you, sir. Please have a seat here in
4 the witness box. Do you want to just pull the microphone down
5 a little bit, so we can pick you up. Thank you.

6 JOEY LUNT,

7 having been first duly sworn,

8 testified as follows:

9 DIRECT EXAMINATION

10 BY MS. HOWARD:

11 Q. Please state your name and spell your last name for
12 the record.

13 A. Joey Lunt, L-u-n-t.

14 Q. What city do you reside in?

15 A. In Nephi.

16 Q. Mr. Lunt, are you familiar with the events that
17 happened on January 30th of the year 2014?

18 A. I'm not sure the date what it was, but --

19 Q. Do you recall -- do you know why you're here today?

20 A. Yes, I do.

21 Q. What is it you're here for?

22 A. For the shooting and what took place on the south
23 interchange, Nephi.

24 Q. Okay, and that was at the interchange south of Nephi.
25 Is that interchange 222?

1 A. I'm not sure of that, but --

2 Q. That's okay. The south interchange?

3 A. Yes.

4 Q. Okay, and how is it that you were there that day?

5 A. I was going home from work.

6 Q. Who was with you?

7 A. My supervisor, Troy Pace.

8 Q. Were you driving?

9 A. Yes.

10 Q. Okay, and what were you driving?

11 A. A company truck with a rack -- glass rack on it.

12 Q. Okay, and do you recall approximately what time of day

13 that was?

14 A. I don't know exactly. It would have been approximately

15 2, 3 o'clock. I don't know, somewhere in that area.

16 Q. So the afternoon?

17 A. Afternoon, yes.

18 Q. Okay, and you're familiar with that south interchange

19 of Nephi; is that correct?

20 A. Yes, I'm familiar with it.

21 Q. Okay, and prior to coming into Court recently, you saw

22 a diagram; is that true?

23 A. Right.

24 Q. Then did you make notations on that diagram?

25 A. Yes.

1 Q. Are those notations about the events that happened on
2 that day?

3 A. Yes.

4 Q. Were they done by you?

5 A. Yes.

6 MS. HOWARD: Your Honor, I have what's been marked
7 Plaintiff's Exhibit No. 122. May I approach my witness.

8 THE COURT: Sure.

9 Q. BY MS. HOWARD: Mr. Lunt, I have what's been marked
10 Plaintiff's Exhibit No. 122. If you can just identify generally
11 what this picture is.

12 A. That is the south interchange in Nephi.

13 Q. Markings on here are blue. Are they all by you?

14 A. Yes.

15 Q. Is this your signature, saying, "Joey Lunt"?

16 A. Yes, it is.

17 Q. With today's date of -- with today's date?

18 A. Yes.

19 MS. HOWARD: Your Honor, I would like to move to enter
20 into evidence Plaintiff's Exhibit No. 122.

21 MR. ZABRISKIE: No objection, your Honor.

22 THE COURT: Thank you. I'll accept and receive State's
23 Exhibit 122.

24 (Exhibit No. 122 received into evidence)

25 MS. HOWARD: At this point, your Honor, I'd like to

1 publish it to the jury.

2 THE COURT: Any problem with that?

3 MR. ZABRISKIE: No, your Honor.

4 THE COURT: Thank you.

5 Q. BY MS. HOWARD: Okay, Mr. Lunt, can you familiarize
6 yourself with the directions on this?

7 A. Yes.

8 Q. Okay, and which way is north?

9 A. I believe north would be -- no, wait, north is down
10 here, right? Yes.

11 Q. I was going to say I put that right in front of the N.

12 A. Yeah, I can't see very well.

13 Q. Okay, so go ahead and describe for the jury -- can you
14 not see?

15 A. I can vaguely see, yes.

16 Q. Okay, we'll go ahead and have you approach this. If
17 you'd go ahead and -- well, yeah, let's do that. Well, over
18 here.

19 A. Okay.

20 Q. So that the jury can see. So where were you at when
21 you first saw the vehicle?

22 A. We were here.

23 Q. Okay, and what did you see?

24 A. The white truck came up over here and slid off --
25 (Adjusting the microphone)

1 A. We were here, and the white truck came up along the
2 side of us and slid off right here in this area.

3 Q. Okay, and what happened next?

4 A. I looked over and the door came open here, and I seen
5 the male open the door, and I seen the gun. So I immediately
6 gassed it and went up this way, turned that direction.

7 Q. Okay, and you've marked on that picture for the jury.
8 What does that say next to where your vehicle was?

9 A. That's -- this is my truck.

10 Q. It says, "My truck"?

11 A. My work vehicle, yes.

12 Q. What do the other words say?

13 A. This would be "Their truck."

14 Q. Okay, and then you saw the male get out, and what did
15 he do?

16 A. He stepped out of the truck; and when I seen the gun I
17 immediately sped around to get away. Then that's when we heard
18 a bang. I don't know -- we don't know if he shot at us or what.
19 I didn't actually see, but that's what I saw.

20 Q. Okay, and I'll just ask you just to testify as to what
21 you personally know, okay?

22 A. Okay.

23 Q. So what did you hear?

24 A. I heard the bang.

25 Q. Okay, and so what did you do?

1 A. I crouched down, and then I -- then at this point I
2 looked in the mirror and looked back and he was running out
3 this direction at that point. Should I go on?

4 Q. The male?

5 A. Yes.

6 Q. What do you -- is he holding still that firearm?

7 A. Yes, you can see the firearm.

8 Q. Can you describe the firearm?

9 A. Automatic, big caliber. It looked like a big caliber
10 automatic, black. Black gun.

11 Q. Was it a long gun or a handgun or --

12 A. A handgun, yes.

13 Q. Okay, and could you describe what he looked like?

14 A. At that time I didn't -- no, I couldn't describe that.

15 Q. Okay. All right, so what happens next?

16 A. We pulled to this point and stopped. He was running
17 this direction, and the wrecker service truck was right here
18 and we watched him. I am -- I know of two, I'm guessing three
19 shots he was firing at them. I could hear the gun popping as
20 he was firing --

21 Q. Okay.

22 A. -- towards them.

23 Q. You hear the gun popping as he's running?

24 A. He has the gun up, and you can see the recoil of the
25 gun as he's firing at that truck.

1 Q. Okay, where is the female?

2 A. At this point he's in this area, I'm guessing, as he's
3 shooting here. Then I caught -- I caught a glimpse and looked
4 here, and this is when I seen the female in this area right
5 here.

6 Q. Okay, and so what happens after he fires and you see
7 those recoils; what's next?

8 A. He -- this truck sped off. Then he started to go
9 towards this area where these vehicles were coming towards him.

10 Q. Uh-huh.

11 A. Then he was pointing the gun towards them, and then we
12 seen the female here and she just immediately followed right
13 behind him right to the point. Then they got to the vehicle
14 here, and then the vehicle -- I can't remember, the semi or
15 vehicle blocked our view, and we couldn't see what took place
16 after that. I couldn't see anyway. That's --

17 Q. Okay, and at any point were you able to get some kind
18 of a description of the male, or what is it that you recall
19 about him?

20 A. I remember the description -- and I told the officers
21 then I couldn't place or picture his face at the time or any-
22 thing. It was too -- I mean, I was just trying to get away
23 from the whole thing. So, yeah, I couldn't -- couldn't put a
24 picture on his face at that time.

25 Q. Okay, any description of him at all other than --

1 A. It was -- it was hard. Not that I remember. I remember
2 I thought he had a bigger coat on or something, I can re -- or
3 baggie clothing or something, I thought, but I do not -- I do
4 not recall.

5 Q. Okay, so one is a male?

6 A. Uh-huh.

7 Q. Then the other person that got out of the vehicle,
8 could you describe that person?

9 A. Long hair, long, ratty hair. Other -- and again, I
10 couldn't see, and I didn't like picture seeing her face at the
11 time when it all took place --

12 Q. When you say "her," is that --

13 A. -- but I knew if he --

14 Q. -- oh, I apologize. It was a female?

15 A. Yes.

16 Q. Okay, a female with long hair?

17 A. Yes.

18 Q. Did you see the male or the female interacting in any
19 way?

20 A. No.

21 Q. Did you see them pause?

22 A. No.

23 Q. What did the female do once that male shot at your --
24 toward -- those two shots that you saw recoiling?

25 A. I had not seen her at that point.

1 Q. When did you first see her?

2 A. When I first seen her was when he was directing
3 towards the other two vehicles.

4 Q. Do you know how far behind she was?

5 A. I would guess 30 feet, probably.

6 Q. Okay, when they're under the overpass do you know what
7 happened?

8 A. I -- like I said, the view was blocked. I wondered if
9 the person that they were taking the vehicle from had gotten
10 out. We wasn't sure.

11 Q. Okay.

12 A. Then we seen them -- we seen that vehicle that they
13 ran up to speed up the on-ramp.

14 Q. Okay, and did you see who got in either side of the
15 vehicle?

16 A. I did not.

17 Q. Okay, as the male was running toward that vehicle
18 that he ended up in, did you see whether or not he turned any
19 direction forward or backward?

20 A. He just went directly to the vehicle. I didn't see
21 him look back. Nothing. He just directly towards the vehicle.

22 Q. The female, which direction did she go? Did you see
23 her ever turn, go back or just --

24 A. She directly went to the vehicle also.

25 Q. Okay, go ahead and take the stand. Just one followup

1 -- or excuse me, one additional question. Mr. Lunt, when you're
2 watching the male run to you, how is it that you see him?

3 A. To me?

4 Q. The first time, before you drive away.

5 A. He -- all I seen was him step out of the vehicle.
6 The door came open and I seen him step out, and as he came to
7 the ground, and I just turned and looked and seen the weapon.
8 That's when I -- that's when I just gassed it away.

9 Q. So you turned and looked out your window?

10 A. I looked just like that at him.

11 Q. Okay, and then when you -- when you gas away and you
12 see what's going on behind you, how is it that you're seeing
13 that?

14 A. I -- in the beginning I looked in the mirror --

15 Q. Uh-huh.

16 A. -- and then to the point where I turned up, and then
17 I could look out the side of the door window and could see.

18 Q. Okay, so you're turning around and looking backwards?

19 A. I'm looking back like this.

20 MS. HOWARD: Okay, I'd like to offer Plaintiff's Exhibit
21 No. 122 into evidence.

22 THE COURT: Already -- already received it.

23 MS. HOWARD: Very good. I'll just move that. Thank
24 you. Nothing further.

25 THE COURT: Cross examination?

1 MR. ZABRISKIE: No cross, your Honor.

2 THE COURT: Thank you. May Mr. Lunt be excused?

3 MS. HOWARD: Yes, your Honor. Thank you.

4 MR. ZABRISKIE: Yes, your Honor.

5 THE COURT: Thank you, Mr. Lunt. I remind you that
6 you're not allowed to speak with anybody about this that might
7 testify later. Thank you.

8 THE WITNESS: Thank you.

9 THE COURT: Next witness?

10 MS. HOWARD: Chetney Steele, your Honor. State calls
11 Chetney Williams, your Honor.

12 THE COURT: Come forward, ma'am. Let's have you sworn
13 in.

14 COURT CLERK: Raise your right hand. Do you solemnly
15 swear that the testimony you shall give in the case now pending
16 before the Court will be the truth, the whole truth and nothing
17 but the truth, so help you God?

18 THE WITNESS: Yes.

19 THE COURT: Thank you. Please have a seat up here in
20 the witness box. Just make sure to get the microphone close
21 enough to you that it will pick you up okay.

22 CHETNEY WILLIAMS,

23 having been first duly sworn,

24 testified as follows:

25 DIRECT EXAMINATION

1 BY MS. HOWARD:

2 Q. Would you please state your name for the record and
3 spell both your first and last names.

4 A. Yes, my name is Chetney Reva Williams. My first name
5 is Chetney, C-h-e-t-n-e-y, and last name is Williams, W-i-l-
6 l-i-a-m-s.

7 Q. Ms. Williams, at one point you were a resident of Juab
8 County; is that correct?

9 A. Yes.

10 Q. I understand you've now moved to Utah County; is that
11 correct?

12 A. Yes.

13 Q. When you were in Juab County, where did you reside?

14 A. In Levan.

15 Q. In Levan?

16 A. Yeah.

17 Q. Ms. Williams, are you aware of the reason you're here
18 today?

19 A. Yes.

20 Q. What is that?

21 A. Because I was a carjacked victim, me and my daughter,
22 in this episode.

23 Q. Okay, and Ms. Williams, was that around January 30th of
24 2014?

25 A. Yes.

1 Q. Okay, if you could describe for the jury what brought
2 you to that location that day.

3 A. Yes, I was coming into town that morning. My daughter
4 had a parent/teacher conference, and I had an appointment to
5 meet with her teacher about school, so I was coming into town.

6 Q. Do you recall about what time that was?

7 A. I can't remember.

8 Q. The morning or the evening?

9 A. It was the morning.

10 Q. Afternoon?

11 A. It was in the morning.

12 Q. Okay, and what were you driving?

13 A. My Toyota Highlander.

14 Q. Okay, and did you have occupants in the vehicle?

15 A. Yes, it was my daughter, five years old, PW.

16 Q. At that point how old was she?

17 A. She was five -- no, four, sorry. She was four.

18 Q. That's okay, and where was she at?

19 A. She was in the car seat behind my driver's seat.

20 Q. So directly behind the driver's seat in a car seat
21 was your four-year-old daughter?

22 A. Yes.

23 Q. Okay. All right, so as you're coming into Nephi, as
24 you approach exit 222, what did you see?

25 A. I was on my phone with my realtor and I was talking on

1 the phone. I didn't see anybody pass me. I thought I was the
2 first car, but I saw that there was a young -- or a woman on
3 the side of the -- or not on the side, but on the road flagging
4 me down (inaudible) and I thought she had wrecked.

5 Q. Can you describe her?

6 A. Yeah, she had long brown hair, a medium build, medium
7 height, white complexion. She had a sweatshirt on, dark sweat-
8 shirt. She wasn't saying anything but -- she didn't say any-
9 thing, but she was just waving me like panicked.

10 Q. Okay, and so you were heading to the -- into Nephi?

11 A. Yeah.

12 Q. So you're facing north?

13 A. North, yes.

14 Q. Now, you said that you saw a female waving you. What
15 were her actions?

16 A. She was waving her hands like this in the air.

17 Q. Where was she at?

18 A. She was in -- not on the side of the road. She was in
19 the lane that I was driving in, but kind of off to the side,
20 but not directly in my lane, like in the middle of my lane.

21 Q. How close to you was she when you saw her?

22 A. She was -- she was about a car distance, my car
23 distance away.

24 Q. So what did you do?

25 A. I hurried and threw down my phone and pulled to the

1 side to help her. When I pulled off to the side I put my car
2 in park and was just kind of pulling off to the side so other
3 people could get in front of me and go ahead of me. That's
4 when I saw Jose, the other guy.

5 Q. The other guy. You didn't know his name at that time;
6 is that right?

7 A. No.

8 Q. Okay, so the female, once you stopped, did you do
9 something with your window or a door?

10 A. Yeah, once I stopped, I didn't look at her once I
11 stopped the car. I heard the passenger door open; but when I
12 threw my phone down I looked up, I saw him at the gun -- with
13 the gun walking towards me.

14 Q. Okay, and can you just describe him?

15 A. Yeah, he was darker complexion, dark hair. I believe
16 he had a sweatshirt on also, and he was waving his gun like
17 this when he was walking towards my car.

18 Q. So just for the record, your hand is up by your head
19 and it's waving back and forth in a gun -- like you're holding
20 a gun; is that correct?

21 A. Yeah.

22 Q. Okay.

23 A. That's what he was doing at me.

24 Q. Okay, and you said that you didn't look at the female?

25 A. No.

1 Q. But you heard your door --
2 A. The passenger door open.
3 Q. And shut?
4 A. I didn't hear it shut.
5 Q. Okay, and did anybody say anything to you when they
6 got in?
7 A. No.
8 Q. Who -- do you know who got in?
9 A. He -- he did --
10 Q. I'm going to say just I'm directing your attention to
11 the passenger side. Do you know who got in?
12 A. Oh, no.
13 Q. Okay, where did the female go after you saw her?
14 A. I don't know.
15 Q. Okay, but somebody got in your vehicle?
16 A. Yeah.
17 Q. Okay, and then where did he -- what happened next with
18 him?
19 A. He came to the driver's side of my door. I didn't
20 keep my eyes off of him after he had that gun.
21 Q. Okay, and what happened next?
22 A. He screamed through the door, "Get out. Get out." I'm
23 sorry. I said, "Can I please get my baby?" and I opened the
24 door and he pointed the gun towards my torso, and he said, "You
25 better hurry." That's when I turned. Luckily she was right

1 behind me and I turned to get her out.

2 Q. Okay, when you got out, what happened right next, the
3 very next thing when you got -- stepped out of the vehicle?

4 A. I didn't grab anything from my car. I just turned.
5 She was right directly behind me. I opened her door, and that
6 morning her car seat was hard for me. I was pregnant at the
7 time. It was hard for me to do the crotch buckle up in her car
8 seat. So that morning I was running late and I only had done
9 her top buckle up.

10 So I went to undo that top buckle and trying to get
11 her out, but her big, heavy coat, the right -- her right arm
12 got stuck, and I just yanked as hard as I could, and she event-
13 ually got out, and I heard the car be put in drive while I was
14 trying to get her out, and I could feel the car slowly start to
15 move, and I ripped her out and slammed the door, and they took
16 off.

17 Q. You didn't have any assistance from anyone while you
18 were trying to take her out?

19 A. No.

20 Q. Okay, anyone say anything to you when you were trying
21 to take her out?

22 A. No.

23 Q. What do you recall -- as far as the gun, how would you
24 describe it?

25 A. I come from a family that knows a lot about guns. So

1 it looked like a 9 millimeter gun, a longer barrel, though, so
2 -- and it was black, a solid black.

3 Q. Okay, and Ms. Williams, when you were interviewed
4 previously, did you draw a diagram of what you saw?

5 A. Yes.

6 Q. It's not to scale; is that correct? It's just what
7 you have drawn yourself?

8 A. Yeah.

9 MS. HOWARD: Okay, and may I approach.

10 THE COURT: Okay.

11 Q. BY MS. HOWARD: I have what's been marked Plaintiff's
12 Exhibit 124 and ask you if you can identify this?

13 A. Yes.

14 Q. Is this your diagram?

15 A. Yes.

16 Q. Just for the orientation of -- well, first of all,
17 this is a diagram that you have done yourself?

18 A. Yes.

19 MS. HOWARD: I'd like to offer Plaintiff's Exhibit
20 No. 124 into evidence.

21 MR. ZABRISKIE: Your Honor, we have no objection because
22 we have agreed that it's accurate in positioning but not to
23 scale.

24 THE COURT: Thank you.

25 MR. ZABRISKIE: With that, we have no objection.

1 THE COURT: Okay. All right, I'll accept and receive
2 Plaintiff's Exhibit 124.

3 (Exhibit No. 124 received into evidence)

4 Q. BY MS. HOWARD: Before it goes into -- before I put it
5 into evidence, can you just explain to the jury that you have
6 written this -- these letters. What are those?

7 A. Female and male.

8 Q. The actual letters are what?

9 A. "FE" for female and "M" for male.

10 Q. Then you have two X's down here. What does that mean?

11 A. That -- that's where my car -- wait. That's where I
12 saw him first, when I first had pulled up. The two X's are
13 where I saw him first.

14 MR. ZABRISKIE: May I approach, your Honor.

15 THE COURT: Yes.

16 MR. ZABRISKIE: I've lost track of the X's. Do you
17 mind?

18 THE WITNESS: I don't mind at all.

19 THE COURT: Thanks, Judge.

20 THE COURT: Okay.

21 Q. BY MS. HOWARD: Then you have this written here. What
22 is that?

23 A. "Cop."

24 Q. What is this?

25 A. That's where the cop pulled to after my car was taken.

1 Q. Then you have a circle here. What is that?

2 A. That's where I saw a cop car but not -- nobody in it.

3 Q. Okay.

4 A. It was just the car.

5 Q. Okay, so --

6 A. Or a truck.

7 MS. HOWARD: Just a minute, your Honor.

8 (Counsel conferring off the record)

9 MS. HOWARD: I would submit this as evidence, then.

10 THE COURT: Okay.

11 MR. ZABRISKIE: No objection, your Honor.

12 THE COURT: Okay.

13 Q. BY MS. HOWARD: Okay, after -- after you got the child
14 out of the car seat and your vehicle left, what happened next?

15 A. I ran to the side of the road so somebody could drive
16 past, because I noticed that there was traffic backed up behind
17 my car. That's when a gentleman that I grew up with in my same
18 hometown pulled up behind me to help me, and he said, "Chetney,
19 get in the car. I'm here to help."

20 I didn't recognize him. I've known him for years, and
21 him and his kids were in this car, and I just held my daughter
22 on his seat, because I didn't dare let her go after what had
23 happened. I didn't know if he was going to take off with her,
24 too, but I just -- he ran across the street, because he noticed
25 a cop car had pulled up, that rectangle on the diagram. After

1 my car left, she pulled up, and he ran across and said, "I've
2 got the two that just came out of their car."

3 Q. Okay, and you don't rem -- do you recall who that
4 officer was?

5 A. Yeah, it was Officer Robison.

6 Q. Okay, and so what happened next?

7 A. Yeah, he -- she came and got me from his car, and she
8 says, "Are you hurt? Did they shoot you?" and I said, "No, but
9 I'm really stressed and I'm pregnant and I think I need to go
10 to the doctor," because I felt like I was having a hard time
11 breathing. So she ran me to the hospital with my child.

12 Q. Okay, and Ms. Williams, you had -- you had mentioned
13 that you had been on a phone?

14 A. Yes.

15 Q. And that you threw it down on the passenger's side on
16 the floor?

17 A. Yes.

18 Q. Okay, and what kind of phone was it; do you recall?

19 A. It was a Verizon Samsung Galaxy, I believe.

20 Q. Okay, what color was it?

21 A. White.

22 MS. HOWARD: Okay, I'd like to approach, your Honor,
23 with Plaintiff's Exhibits 125, 126 and 127.

24 THE COURT: Okay.

25 Q. BY MS. HOWARD: I have what's been marked Plaintiff's 1

1 -- Exhibit 125 first, Ms. Williams. Can you identify this?

2 A. Yes, that's my car that they took.

3 Q. This is not where you left it?

4 A. No.

5 Q. But this is your vehicle?

6 A. Yeah.

7 Q. Okay, Plaintiff's Exhibit No. 126, if you can identify
8 this?

9 A. Yeah, that was my phone.

10 Q. That's not where you left it?

11 A. No.

12 Q. But that is your phone?

13 A. Yes.

14 Q. Plaintiff's Exhibit No. 127, can you identify this?

15 A. Yep, that's my phone.

16 Q. Was it in this condition when you left it in your car?

17 A. No, it was pretty much brand new.

18 Q. Okay, and how would you describe it, if you could
19 describe it?

20 A. I did --

21 Q. In this condition?

22 A. -- it was -- I think we had just bought it. It didn't
23 have a cracked screen. It had a sheet protector over the
24 screen. I didn't have a case on it, but -- or yeah, I did have
25 a pink case on it, but the pink case is gone.

1 MS. HOWARD: Okay, I'd like to offer these as evidence,
2 your Honor.

3 MR. ZABRISKIE: No objection, your Honor.

4 THE COURT: Thank you. I'll accept and receive State's
5 Exhibits 125 through 127.

6 (Exhibit Nos. 125 thru 127 received into evidence)

7 Q. BY MS. HOWARD: Ms. Williams, as far as your vehicle,
8 did you ever get that back?

9 A. No.

10 Q. What happened to it?

11 A. It was taken into -- the State took it for -- to
12 check out or for, I don't know, evaluation, I guess, or I'm
13 not -- evidence. So I never did get to see it for a few weeks.
14 My daughter had all of her homework and dance stuff in there,
15 and -- but I did eventually get to see it at a wrecking yard,
16 to get her dance stuff out.

17 Q. Was it damaged?

18 A. Yes.

19 Q. Was it totaled?

20 A. Yes.

21 Q. Okay, so you never did get that vehicle back?

22 A. No.

23 MS. HOWARD: Okay, thank you. Just a minute, your
24 Honor.

25 (Counsel conferring off the record)

1 MS. HOWARD: Okay, if we could, your Honor, publish
2 Plaintiff's Exhibit 125, and then 126.

3 THE COURT: Any objections?

4 MR. ZABRISKIE: No, your Honor.

5 THE COURT: Thank you.

6 Q. BY MS. HOWARD: Ms. Williams, Plaintiff's Exhibit 125,
7 is that the car you were just describing?

8 A. Yes.

9 Q. Again, that's not where you left it?

10 A. No.

11 Q. That's not the condition you left it in?

12 A. No.

13 Q. Okay, Plaintiff's Exhibit No. 126, is that the phone
14 you were just describing?

15 A. Yes.

16 Q. Again, that's not where you left it?

17 A. No.

18 Q. Or in it's condition?

19 A. No.

20 MS. HOWARD: Okay, nothing further, your Honor.

21 THE COURT: Thank you. Cross?

22 MR. ZABRISKIE: No cross, your Honor.

23 THE COURT: Anything else for Ms. Williams?

24 MR. ZABRISKIE: No, your Honor.

25 MS. HOWARD: No, your Honor.

1 THE COURT: May she be excused?

2 MR. ZABRISKIE: Yes, your Honor.

3 THE COURT: Thank you. Ms. Williams, I would admonish
4 you not to speak with anybody else that may testify later in
5 this matter. Thank you.

6 MS. HOWARD: State calls Kelly Ballow.

7 THE COURT: How long is that going to take?

8 MS. HOWARD: Brief. I'll be more specific, your Honor.
9 Probably 10, 15 minutes.

10 THE COURT: Okay. Come forward, sir. Let's get you
11 sworn in.

12 COURT CLERK: Do you solemnly swear that the testimony
13 you shall give in the case now pending before the Court will be
14 the truth, the whole truth and nothing but the truth, so help
15 you God?

16 THE WITNESS: I do.

17 THE COURT: Thank you, sir. Please have a seat here in
18 the witness box. Just pull that microphone down just a little
19 so we can pick you up all right. Thank you.

20 KELLY BALLOW,

21 having been first duly sworn,

22 testified as follows:

23 DIRECT EXAMINATION

24 BY MR. HOWARD:

25 Q. Would you please state your name and spell your last

1 name for the record.

2 A. Kelly Ballow, B-a-l-l-o-w.

3 Q. Mr. Ballow, where is it that you reside? Not your
4 address; your city?

5 A. Levan, Utah.

6 Q. Mr. Ballow, are you familiar with the events of
7 January 30th, 2014?

8 A. I am.

9 Q. On that day did you have occasion to go into the town
10 of Nephi?

11 A. I was. I was going into a teacher's conference with
12 my kids.

13 Q. Okay, and were your kids in your vehicle?

14 A. They were.

15 Q. Okay, and approximately what time of day was that?

16 A. I think it was about 3 o'clock, if I remember right.

17 Q. Okay, and as you were going into town, who were you
18 following, if you know?

19 A. I was following Chetney.

20 Q. Okay, Chetney Williams?

21 A. Yes.

22 Q. How is it you know her?

23 A. She's from Levan as well -- or she was then.

24 Q. She has left?

25 A. Yes.

1 Q. That happens on occasion.

2 A. Yeah.

3 Q. Mr. Ballow, are you familiar with exit 222 in Nephi?

4 A. Yes.

5 Q. Okay, and prior to coming into Court, very recently
6 actually, did you have -- see a diagram of exit 222?

7 A. Yes.

8 Q. Did you have occasion to write markings on that
9 diagram indicating what happened on January 30th, 2014?

10 A. I did.

11 MS. HOWARD: Okay, may I approach.

12 THE COURT: Sure.

13 Q. BY MS. HOWARD: Okay, now I have what's been marked
14 Plaintiff's Exhibit 128 and ask you if you can identify this,
15 just generally?

16 A. That's fine.

17 Q. This is the picture in the (inaudible)?

18 A. Uh-huh.

19 Q. I had you sign it; you have?

20 A. Yeah.

21 MS. HOWARD: I'd like to move into evidence Plaintiff's
22 Exhibit No. 128 after I show it.

23 MR. ZABRISKIE: No objection, your Honor.

24 THE COURT: Accept and receive State's Exhibit 128.

25 (Exhibit No. 128 received into evidence)

1 MS. HOWARD: I'd like to publish it now to the jury.

2 MR. ZABRISKIE: No objection.

3 THE COURT: Thank you.

4 Q. BY MS. HOWARD: Mr. Ballow, some of our witnesses are
5 more able to see it than others. Can you see that -- what you
6 have written?

7 A. I can.

8 Q. Can you see it well enough to describe what you've
9 written to the jury, or would it be better for you to move
10 closer?

11 A. I think I can sit okay. I know that the way the phone
12 was taken it's a little out of context, but I did the best I
13 could with it there.

14 Q. That's okay. Mr. Ballow, there's a laser pointer. If
15 you could use that first and orient us to which direction is
16 north on that drawing.

17 A. North would be -- let's see.

18 Q. Did you put the letters "NB" on there?

19 A. I did, yes, northbound would be coming this way.

20 Q. Okay, and then you have other markings on there.

21 What are those?

22 A. Okay, this right here is where I seen the white
23 wrecked vehicle. Right here is where I first seen the male and
24 female come into the middle of the highway.

25 Q. So the "F" is for female, and the "M" is for male?

1 A. Correct.

2 Q. And the "X's" mean their location?

3 A. Yes.

4 Q. Okay.

5 A. Right there was Chetney's vehicle, and that is my
6 vehicle right behind her.

7 Q. Okay, and that's a little bit --

8 A. That's southbound. They were walking -- or yeah,
9 going -- walking southbound as we were coming northbound.

10 Q. So that top -- those top words say "My vehicle"?

11 A. Yes, those right there.

12 Q. Okay, go ahead and describe for the jury what you saw
13 then?

14 A. Okay, I've got to move this way just a little bit.
15 Okay, I was following Chetney. I came underneath the overpass.
16 I was just out far enough that I could see the front end of
17 this white vehicle that had obviously been wrecked; and two
18 people got out of the vehicle.

19 The female was walking down the middle of the road.
20 The male was on this right hand shoulder. He was walking
21 down the road, and the female started waving Chetney over to
22 the side of the road, which she gradually just -- I call it
23 "hazing" -- hazed her right to the side of the road where she
24 had to stop.

25 At that point in time I thought there had been an

1 accident because I seen this car. So I pulled right up behind
2 Chetney and stopped, and that's when the male came across the
3 road, pulled a handgun out from the right-hand side of -- I
4 don't know if it was behind his coat or he was just carrying
5 it that way, but that's when he ran over to the car, or walked
6 fast over to the car and stuck it through the window, Chetney's
7 window, and had her get out.

8 Q. Can you describe the male?

9 A. He was wearing a hoodie. I remember camouflage like
10 army fatigue pants, and that's all I recall.

11 Q. Okay, and can you describe the female?

12 A. I think she was wearing fatigues as well, and her hair
13 was done -- messed up, stood up. I don't remember what she had
14 on as far as a coat or anything.

15 Q. Do you remember colors of hair or anything like that?

16 A. Her hair was I thought kind of a -- I don't know, a
17 strawberry blonde, maybe. I don't recall his because he had
18 his hoodie on.

19 Q. Okay, when they were going to Ms. Williams' vehicle
20 did you -- were you able to make observations about -- were you
21 able to see their faces?

22 A. He looked at me, but I-- by then I'd seen the handgun,
23 my kids were crying and I -- no, I don't.

24 Q. Okay, when they approached the vehicle was there one
25 that was in front and one behind, or were they side-by-side?

1 A. Chetney -- or the female went to the right front
2 fender, or bumper area, like she was going to get in on the
3 passenger side. The male went to the driver's side window.

4 Q. Was one in front of the other as they approached the
5 vehicle?

6 A. Yes, the woman would have been in front, because she
7 flagged the vehicle over before the guy come across the road.

8 Q. When you saw the gun, could you describe it?

9 A. I thought it was a Desert Eagle. It was a big framed
10 handgun. He was holding it sideways, and that's what I think
11 it was, was a Desert Eagle automatic handgun.

12 Q. Mr. Ballow, do you know who entered the vehicle first?

13 A. I think it was -- it was the woman. She was getting
14 in as Chetney was getting out to get her baby out of the rear
15 seat, and that's when the male got in.

16 Q. As the male approached you, you saw the gun; is that
17 what you just said?

18 A. Correct.

19 Q. Did you see him pointing at anyone, and if so, who?

20 A. At her. That's --

21 Q. At who "her"?

22 A. -- Chetney.

23 Q. Did you see him point it at anyone else?

24 A. I did not.

25 Q. As the male and the female approached the vehicle did

1 you see whether or not there was any communication between the
2 two of them?

3 A. I did not.

4 Q. Okay, were you able to see what their demeanors were?

5 A. Like I said, at first I thought they'd been in an
6 accident in that white truck and they was wanting help; but
7 they were frantic. They were panicked.

8 Q. Okay, so once he got Chetney out, what happened?

9 A. She opened the rear door, grabbed the baby. He jumped
10 in, and they took off almost with the baby still in the car
11 seat. She -- it was close to not getting the baby out before
12 they pulled away.

13 Q. If you could describe for the jury how it is that the
14 woman -- the female waved over. What did you see with her
15 hands?

16 A. She was waving, you know, waving, and then started
17 like pushing her to the side of the road. As she walked across
18 the lane, Chetney started to pull over, and they just kind of
19 met like that against the wall underneath the overpass.

20 Q. So initially you had your arms up with your hands
21 in front, palms forward, waving them back and forth; is that
22 correct?

23 A. Yes.

24 Q. Then after that you waved like from a left to right
25 direction?

1 A. Yeah, she just started yelling --

2 Q. Kind of a pushing?

3 A. -- directing almost like, you know, a highway flagger
4 or something directing traffic.

5 MS. HOWARD: Okay, just a moment, your Honor. No more
6 questions.

7 (Counsel conferring off the record)

8 MS. HOWARD: Nothing further for this witness. Thank
9 you, your Honor.

10 THE COURT: Thank you.

11 MR. ZABRISKIE: No cross, your Honor.

12 THE COURT: Thank you. Is it okay if Mr. Ballows is
13 excused?

14 MR. ZABRISKIE: Yes, your Honor.

15 MS. HOWARD: Yes, your Honor.

16 THE COURT: Thank you, Mr. Ballow. I would remind you
17 and admonish you that there are others that may still testify.
18 Please do not speak about this with anybody that may have --

19 THE WITNESS: Fine, your Honor.

20 THE COURT: Thank you. Resting for today?

21 MS. HOWARD: Yes, your Honor.

22 THE COURT: All right, well, we'll go ahead and recess
23 for today, start up again at 8:30 tomorrow, unless if we have
24 any conflicts of any sort. Same rules as I keep mentioning to
25 you, if you'll continue to abide by those instructions that we

1 already have in place. Anything else from Counsel before we
2 break for the evening?

3 MR. TAYLOR: No, your Honor.

4 THE COURT: How about defense, anything else?

5 MR. ZABRISKIE: Nothing. Thank you, Judge.

6 THE COURT: All right, we'll go ahead and recess.

7 COURT BAILIFF: All rise for the jury.

8 (Jury exits the courtroom)

9 THE COURT: All right, we'll be in recess. Have a good
10 evening.

11 MR. TAYLOR: Your Honor, I don't know if this was clear
12 but our intent was to have Sergeant Finch take the handgun with
13 him and bring it back each day, if that's okay.

14 THE COURT: Any problem with that?

15 (No verbal response)

16 THE COURT: Okay, that's fine. All right, have a good
17 evening.

18 MR. TAYLOR: Thank you.

19 (Third day of trial concluded)

Keyword Index

<p>\$</p> <p>\$1095 [1] 529:2</p> <p>/</p> <p>/// [1] 454:25</p> <p>0</p> <p>Owhat [1] 601:3</p> <p>1</p> <p>1 [5] 469:15 475:23 505:11 515:22 673:23</p> <p>1:20 [1] 487:11</p> <p>1:30 [1] 565:5</p> <p>1:40 [1] 599:20</p> <p>1:56 [1] 567:22</p> <p>1:57 [2] 566:4 567:21</p> <p>10 [4] 455:17 469:22 550:9 677:7</p> <p>10/200 [1] 497:24</p> <p>10/200's [1] 457:18</p> <p>100 [8] 469:15 471:24 509:16,22 525:2,23,25 544:15</p> <p>101 [4] 453:14 535:12,23,24</p> <p>102 [5] 453:15 536:7,11,15,16</p> <p>103 [6] 453:13 528:20,21 529:6,9,10</p> <p>104 [5] 453:16 536:8,11,15,16</p> <p>105 [9] 453:17 503:24 542:14,20,24,25 596:4,6,10</p> <p>106 [6] 453:18 548:25 549:3,9,18,20</p> <p>107 [2] 548:25 549:18</p> <p>108 [4] 453:18 548:25 549:18,20</p> <p>11 [1] 455:17</p> <p>110 [5] 453:19 504:2 548:25 549:18,21</p> <p>111 [5] 453:20 557:9,19,21,22</p> <p>112 [11] 453:22 562:24 563:11,13,17,18 564:23 599:17,18,19 605:15</p> <p>113 [8] 453:23 562:25 563:</p>	<p>10,20,21 564:5,7,8</p> <p>115 [5] 453:21 561:24 562:9,12,13</p> <p>116 [1] 617:11</p> <p>118 [9] 453:24 574:16,17 575:10,14,16 576:2,6,7</p> <p>119 [9] 453:25 574:23 575:14,18 576:2,3,6,6,10</p> <p>12 [2] 578:18 687:23</p> <p>12:30 [1] 457:4</p> <p>12:45 [2] 537:6,14</p> <p>120 [11] 453:26 487:20 574:16 575:10,11,14,20,22 576:2,6,7</p> <p>121 [7] 453:27 634:18,21 635:4,7,8 638:5</p> <p>122 [7] 453:29 655:5,8,18,21,22 662:19</p> <p>123 [5] 453:28 645:9 649:6,8,9</p> <p>124 [5] 453:30 670:10,18,25 671:1</p> <p>125 [7] 453:31 673:21,24 675:3,4,25 676:4</p> <p>126 [5] 453:32 673:21 674:5 675:25 676:11</p> <p>127 [5] 453:33 673:21 674:12 675:3,4</p> <p>128 [5] 453:34 679:12,20,22,23</p> <p>13 [1] 578:18</p> <p>134 [5] 453:10 492:9 493:11 494:1,2</p> <p>135 [3] 492:9 493:14 494:1</p> <p>136 [5] 453:10 492:9 493:17 494:1,2</p> <p>14 [2] 455:13 497:6</p> <p>14:30 [1] 478:10</p> <p>14:35'ish [1] 478:10</p> <p>15 [4] 486:18 550:9 649:20 677:7</p> <p>1560 [1] 536:9</p> <p>1766 [1] 535:13</p> <p>17-year-old [1] 590:13</p> <p>1989 [3] 539:3 578:17 579:20</p> <p>1990 [2] 580:3,4</p>	<p>1998 [2] 477:12 532:12</p> <p>1st [1] 687:21</p> <p>2</p> <p>2 [3] 505:12 545:17 654:13</p> <p>2:24 [1] 566:21</p> <p>2:30 [2] 605:12,19</p> <p>2:34 [2] 605:13,18</p> <p>2:45 [1] 498:6</p> <p>2:50 [1] 498:6</p> <p>20 [2] 585:11,12</p> <p>2002 [5] 580:6,7,10,10,14</p> <p>2003 [3] 462:20 539:9,9</p> <p>2006 [1] 456:16</p> <p>2007 [3] 456:17 580:12,12</p> <p>2008 [1] 477:12</p> <p>2009 [3] 539:9,10 580:17</p> <p>2012 [2] 455:11 456:2</p> <p>2014 [20] 455:21 456:23,25 469:15 470:3,25 478:3 487:2 497:11 498:20 499:18 517:14 525:12 540:1 625:4 644:11 653:15 664:22 678:5 679:7</p> <p>2015 [3] 454:2,6 687:21</p> <p>2016 [1] 687:23</p> <p>216 [16] 561:4 613:6,7,7 615:12,13,15,16 616:5,17 617:11,12,13,18 618:10,18</p> <p>217 [1] 559:15</p> <p>220 [2] 559:7 615:12</p> <p>222 [41] 453:27,28,29 506:15 514:5 548:1 557:4,5,6,12 559:21 584:21 591:11 594:11 597:1 613:6,7,9,16,24 614:1,11,23 615:2 619:11 620:1 625:19,20 627:25 632:17 634:11,24,25 636:7 644:20 645:4,13 653:23 665:22 679:1,4</p> <p>225 [2] 504:17 627:13</p> <p>228 [7] 500:4,12 504:5 545:25 627:8,9,11</p> <p>25 [2] 486:10 649:20</p> <p>26 [1] 578:19</p> <p>3</p> <p>3 [5] 473:10,10 498:6 654:</p>	<p>13 678:14</p> <p>30 [13] 454:2,5 461:24,25 462:1 467:10 498:15,19 585:12 629:22,23 630:10 661:3</p> <p>300 [1] 509:17</p> <p>30th [21] 455:21 456:23,25 469:15 470:3,25 478:2 487:2 489:7 497:11,18 499:18 517:14 525:12 540:1 625:4 644:10 653:15 664:21 678:5 679:7</p> <p>35 [3] 472:21 486:12,25</p> <p>4</p> <p>4 [2] 458:16 626:13</p> <p>4:40 [2] 487:8,9</p> <p>40 [5] 467:10 508:20 588:20 589:25 630:10</p> <p>460 [1] 453:3</p> <p>471 [1] 453:4</p> <p>481 [2] 453:5,6</p> <p>490 [3] 453:7,8,9</p> <p>494 [1] 453:10</p> <p>499 [1] 453:11</p> <p>5</p> <p>5 [1] 626:13</p> <p>50 [4] 473:4 509:22 628:12 629:3</p> <p>526 [1] 453:12</p> <p>529 [1] 453:13</p> <p>536 [1] 453:14</p> <p>537 [2] 453:15,16</p> <p>543 [1] 453:17</p> <p>550 [2] 453:18,19</p> <p>558 [1] 453:20</p> <p>563 [1] 453:21</p> <p>564 [2] 453:22,23</p> <p>576 [3] 453:24,25,26</p> <p>58 [6] 453:3 460:5,10,15,18,20</p> <p>58a [2] 475:15,20</p> <p>59 [5] 453:4 470:16 471:7,8,9</p> <p>6</p> <p>6 [2] 459:3 461:21</p>
--	---	--	---

Keyword Index

<p>60 [4] 469:17 470:16 471:23 473:4</p> <p>61 [1] 470:16</p> <p>62 [1] 470:16</p> <p>63 [1] 470:16</p> <p>635 [1] 453:27</p> <p>64 [3] 470:16 471:7,9</p> <p>645 [1] 596:4</p> <p>649 [1] 453:28</p> <p>65 [7] 453:5 480:12 481:6,10,12 482:2 519:7</p> <p>655 [1] 453:29</p> <p>66 [3] 480:12 481:7 482:13</p> <p>67 [3] 480:12 481:7 482:19</p> <p>671 [1] 453:30</p> <p>675 [3] 453:31,32,33</p> <p>679 [1] 453:34</p> <p>68 [4] 459:8 480:12 481:7 482:22</p> <p>69 [3] 480:12 481:7 483:1</p> <hr/> <p style="text-align: center;">7</p> <hr/> <p>70 [7] 469:17 471:23 480:12 481:7 483:4,5 560:11</p> <p>71 [6] 453:5 480:12 481:7,10,12 483:9</p> <p>72 [1] 480:12</p> <p>726 [1] 597:16</p> <p>73 [7] 453:6 480:12 481:7,10,12 483:16,17</p> <p>739 [3] 492:25 493:4,12</p> <p>74 [6] 453:4,7 489:2,12,15,21</p> <p>740 [1] 493:15</p> <p>746 [1] 493:18</p> <p>75 [5] 453:7 489:2,12,15 490:3</p> <p>77 [5] 453:8 489:2,13,15 490:8</p> <p>78 [3] 489:2,13 490:12</p> <p>79 [5] 453:8 489:2,13,15 490:17</p> <hr/> <p style="text-align: center;">8</p> <hr/> <p>8 [1] 469:22</p> <p>8:30 [1] 685:21</p> <p>82 [5] 453:9 489:2,13,15 490:20</p>	<p>83 [3] 489:2,13 490:25</p> <p>84 [3] 489:2,13 491:5</p> <p>85 [3] 489:2,13 491:10</p> <p>86 [3] 489:2,13 491:12</p> <p>86-plus [1] 469:21</p> <p>87 [3] 489:3,13 491:16</p> <p>870 [2] 462:21 464:25</p> <p>88 [3] 489:3,13 491:18</p> <p>89 [4] 489:3,13 491:22 539:4</p> <hr/> <p style="text-align: center;">9</p> <hr/> <p>9 [1] 669:24</p> <p>90 [5] 489:3,13 491:25 537:2 544:15</p> <p>91 [5] 453:9 489:3,13,15 492:4</p> <p>911 [2] 524:10,14</p> <p>92 [5] 453:11 498:25 499:6,10,11</p> <p>93 [6] 502:8 525:1,8,23,25 526:11</p> <p>93-100 [1] 453:12</p> <p>94 [2] 525:1 526:14</p> <p>95 [2] 525:1 526:17</p> <p>96 [2] 525:1 526:19</p> <p>97 [2] 525:1 526:24</p> <p>98 [2] 525:1 527:1</p> <p>99 [1] 525:2</p> <hr/> <p style="text-align: center;">A</p> <hr/> <p>abandoned [1] 584:22</p> <p>abdomen [2] 571:17,25</p> <p>abide [1] 685:23</p> <p>ability [1] 515:18</p> <p>able [32] 464:10,24 467:6 470:4 472:13,18,25 504:12 505:22 507:19,23 508:3 511:21 512:9 513:1,7,20 515:22 529:24 573:6 574:8,10 590:7 594:24 598:7 635:13 636:14 659:15 680:3 682:18,19 684:2</p> <p>about [73] 455:17,25 457:17,18 473:3 474:23 478:9 494:11 495:4 497:19 498:4 499:17 502:6 523:13,18 527:5,20 528:10 530:20</p>	<p>531:4 532:11,24 536:20 537:1 539:25 540:3 542:3 543:11 544:2 545:24 547:6 555:15 558:16 560:11 565:17 566:15 569:5 572:24 577:16 578:12 580:24 583:6 596:16 598:6 607:20,21,21 609:17 611:7 614:7,17 615:13 617:3,19 621:7 622:8 625:3 626:21 641:8 643:17 648:19 652:22 654:24 659:17 663:4 665:3,4 666:20 669:23 678:14 682:18 685:16 686:2</p> <p>above [3] 482:25 533:1 541:25</p> <p>academy [5] 579:20,21,22 580:2,4</p> <p>accelerate [1] 467:1</p> <p>accept [25] 460:17 471:5 472:24 481:9 489:12 493:25 499:9 525:22 529:9 535:22 536:14 542:23 549:17 557:21 562:11 563:17 564:7 576:5 635:7 638:6 649:8 655:20 670:24 675:2 679:22</p> <p>access [1] 478:25</p> <p>accident [5] 457:4 518:13 547:10 681:24 684:4</p> <p>accompanying [1] 510:6</p> <p>according [1] 510:2</p> <p>accountable [1] 464:17</p> <p>accurate [10] 548:21 549:3 557:16 561:19 562:6 563:6 588:1 594:4,20 670:20</p> <p>accurately [9] 460:2 470:23 481:4 489:6 498:19 499:22 542:10 596:18 600:2</p> <p>acquaint [1] 508:20</p> <p>acquainted [1] 508:20</p> <p>across [32] 457:10 508:15 519:14 550:2 558:8,13,15,16 561:5 563:24 565:12,13 568:19 571:4,6,7,24 607:22 627:22 633:15 639:19 640:13 642:2,6 647:12,13 648:</p>	<p>10 672:22,24 681:25 683:5 684:15</p> <p>act [2] 586:5 619:19</p> <p>acting [2] 539:21 586:19</p> <p>action [5] 594:19 615:7 642:4 650:5,7</p> <p>actions [8] 464:18 614:8,9,10,14 618:18,19 666:13</p> <p>activate [2] 461:25 465:23</p> <p>activated [1] 545:4</p> <p>active [1] 581:24</p> <p>activity [1] 462:12</p> <p>actual [2] 531:7 671:6</p> <p>actually [18] 458:8 466:9 467:22 474:6 497:19 510:20 518:18 527:14 537:1 551:3 554:18 562:23 581:23 594:9 642:3 645:23 657:17 679:4</p> <p>adding [1] 602:9</p> <p>additional [1] 661:24</p> <p>address [1] 678:2</p> <p>adjacent [2] 568:20 616:1</p> <p>adjusting [1] 656:23</p> <p>admission [1] 576:2</p> <p>admit [1] 593:23</p> <p>admonish [5] 494:19 495:12 652:11 677:1 685:15</p> <p>admonishing [1] 495:2</p> <p>admonishment [1] 642:15</p> <p>admonition [2] 494:22,24</p> <p>adrenalin [1] 464:13</p> <p>adult [3] 580:11,12,13</p> <p>advice [1] 622:25</p> <p>affect [1] 469:3</p> <p>affected [3] 469:8 531:2 621:15</p> <p>affirmative [1] 619:19</p> <p>afraid [2] 573:6 608:15</p> <p>after [51] 457:23 458:13 478:22 502:18 505:24 506:10,12 513:16 514:2,2,10 515:4,21 516:5 520:14 521:4,5 534:14 543:19 553:14 558:19 567:4 569:25 578:22 580:1 598:10 607:15</p>
--	--	---	--

Keyword Index

<p>611:5 612:13 619:7 622:3 626:10 629:10 630:11 639: 18,20 641:12,17,20,23 659: 4,14 668:11,18 671:23 672: 11,11,20,23 679:20 684:22 afternoon [9] 456:25 478: 10 497:10 540:9 626:14 645:1 654:14,15 665:8 afterwards [1] 513:6 again [54] 461:16 467:7 471:8 472:14 473:12 488: 22 490:13 491:13,17,24 494:22 510:12 520:13,14, 15 528:25 529:23 537:9 546:20 547:4 549:25 558: 22 559:11,16 562:5 565:10 568:20 569:17 570:11 573: 3 585:7 590:18 593:23 594: 23 595:6 600:14 602:9 605: 14 606:6 609:19 610:10 611:16 618:21 620:6,11 622:2,11 623:21 632:13 641:23 660:7 676:7,14 685: 21 against [2] 463:15 684:17 age [1] 591:5 agencies [2] 457:20 539: 17 agent [1] 580:12 aggressive [1] 467:1 aggressively [1] 466:14 agree [10] 494:25 579:7 594:21,22 604:14,15 606: 15,16 611:18,19 agreed [2] 475:16 670:20 ahead [72] 458:6 460:6 461:15,15,19,22 462:3,22 463:5,16,21 465:2,19,25 466:20 468:14 481:15 482: 3 488:14 489:3 494:11 496: 11 499:25 500:6 501:10,11, 15 502:1,9 503:16,21 504:7, 14 505:16,20 506:25 507:4 509:6 516:23 517:22 518: 13 521:2 525:2,22 526:8 528:16 536:6 543:25 545:9 549:22 551:10 553:23 569:</p>	<p>19 577:13 598:25 604:16 606:20 608:19 620:23 637: 7 646:3 649:2,5 651:1 656: 11,14,15 661:23 667:1 681: 10 685:20 686:4 aid [2] 608:8 609:14 aids [1] 469:13 ain't [2] 574:4 650:3 air [1] 666:14 akin [1] 622:17 al [2] 538:1 606:24 alan [3] 538:15,22 623:14 allow [1] 577:21 allowed [1] 663:4 allows [1] 531:9 almost [9] 558:12 570:1 597:13,13,17 600:14 637: 21 684:8 685:1 along [8] 470:1 520:8 569: 13 570:1 582:20 588:19 611:17 656:24 alonzo [6] 516:15,25 517:7 530:7 535:13 536:8 already [17] 460:9 495:12 549:9 554:1 558:6 578:13 590:10 596:14,25 601:8,21 621:20 635:14 638:6 662: 20,20 685:24 also [55] 456:12 473:7,22 474:11 479:2,23 483:15 484:14 488:1 489:7 490:6, 14,18 495:1 497:21 502:22 503:19,23 504:18 505:11, 14 507:8 512:19 521:1 524: 19,20 525:14 526:21,23 527:11,18 541:9 542:1 543: 1 544:22 546:12 550:5 551: 7,14 560:16 562:25 563:1, 24 564:25 565:11 574:8,10, 21,23 577:11 592:24 609: 24 610:21 661:22 667:14 alter [1] 620:21 alterations [1] 633:5 alternatives [1] 621:17 always [3] 527:15 581:13, 17 am [13] 462:24 473:16 478:</p>	<p>1 497:9 513:23 523:10 524: 2 532:8 606:22 625:8 658: 16 678:6 687:16 amazing [2] 512:17 581: 11 ambulance [1] 478:15 american [1] 477:15 ammunition [1] 577:18 amount [1] 579:6 an [70] 457:17 458:18,24 459:13 462:2,11 467:1 472: 21 473:4 486:4,11 487:25 493:9 494:22 500:18 502: 22 512:9 513:17 517:19 518:8,11,13 527:19 531:5 536:20,20,22 537:3 540:8 544:13 546:4 547:10,16 549:3 559:5,8 573:8 580: 11 581:24 583:17 584:5,12, 25 587:20 589:20 590:1 591:1 594:4,20 597:20 598: 4,6 603:1 604:6 606:9 607: 16,21 615:6 617:13 620:20, 21 622:23 629:16 636:3 637:1,5 665:2 681:23 684: 3 687:10 analysis [1] 493:20 angel [1] 613:21 angeles [2] 517:16 581:10 angry [1] 464:15 announce [2] 559:22 645: 12 announcements [1] 559: 24 announcing [1] 544:22 another [34] 459:12 469: 25 474:12,15 482:11 488:9, 9 491:3,10,11,17 502:19 503:25,25 504:17 512:24 514:5 516:5 546:18 559:14 568:12,20 573:6,8 576:24 582:1 590:8 593:11 603:3 608:12 616:5 629:11,13 632:3 answer [6] 587:9 590:3,3 591:1 599:8 646:9 answered [1] 586:15</p>	<p>answers [1] 578:13 anticipate [1] 536:19 anticipated [1] 536:18 any [85] 460:23 469:24 470: 4,10 476:1 479:12 482:6 483:24 487:15,16 490:15 494:7 495:17 499:7,13 500: 20 506:11 511:10 514:9,16, 25 523:12,14 525:20 526:3 529:7 531:8 534:9,15 540: 17,18 542:21 550:20,24 559:24 560:17 561:15 568: 4,6 569:2,17 572:15 576:15 577:12 581:3,20 588:10 590:18 591:9,15,17 592:8, 17 594:25 595:2 603:17 607:3 609:21 611:12 612: 16 613:14,18 614:6 615:9 619:10,10 623:2,16 632:24 633:2,5 642:8 655:25 659: 15,19,23 660:16 661:16 666:6 669:15 676:1 683:24 685:22,22 686:12 anybody [16] 470:6 495: 14 550:14 551:19,21 555: 15 588:13 591:21,21,22 652:12 663:4 665:24 668:3 677:2 685:16 anyhow [1] 530:17 anymore [2] 529:19 608: 16 anyone [16] 553:21 554:19 566:13 583:9 599:20 610:3 616:15 624:1 633:19 634:1 642:15 651:23 669:15,18 683:17,21 anything [44] 466:16 483: 22 484:5 495:18 508:7 519: 17 528:6 534:10 535:2 537: 10 545:21 550:14 551:22 565:17,24 566:13 577:20 594:4,24 600:15,20 602:18 608:18 609:21 611:7 614:7, 24 618:11,14 619:16,24,25 642:9 649:25 652:7 666:6 668:3 669:2,18 676:21 682: 12,13 685:24 686:2</p>
--	--	--	---

Keyword Index

<p>anytime ^[1] 595:14</p> <p>anyway ^[1] 659:14</p> <p>anyways ^[1] 532:2</p> <p>anywhere ^[3] 506:4 550:21 572:8</p> <p>apologize ^[5] 535:18 576:8 617:16 634:5 660:12</p> <p>appear ^[3] 473:12 576:22 597:12</p> <p>appearance ^[2] 630:22 631:7</p> <p>appeared ^[7] 473:16 482:8 487:23 488:3 585:24 588:8 592:23</p> <p>appears ^[4] 584:12 585:9 600:23 616:19</p> <p>applied ^[2] 608:14,17</p> <p>appointment ^[1] 665:2</p> <p>appra ^[1] 514:9</p> <p>appreciate ^[4] 530:9 536:5 639:2,3</p> <p>apprehend ^[1] 581:15</p> <p>apprehension ^[2] 456:7 508:11</p> <p>approach ^[23] 460:7 470:13 480:13 488:24 498:22 518:15 519:8 524:22 542:11 556:12 574:13 606:21 634:6,18 635:13 645:6 655:5 656:14 665:22 670:7 671:12 673:20 679:9</p> <p>approached ^[5] 556:10 682:22 683:2,14,23</p> <p>approaching ^[14] 463:11 464:6 501:19 518:22 544:2,12 545:15 547:25 548:5 559:14 562:4 568:23 616:6 650:24</p> <p>appropriately ^[1] 687:11</p> <p>approximately ^[22] 473:8 477:16 478:7,9 486:16 487:8,11,20 496:25 498:3 502:8 503:24 512:13 519:5 561:2 565:4 626:12 636:25 644:22 654:10,12 678:13</p> <p>april ^[3] 454:2,5 608:11</p> <p>ar-15 ^[3] 603:1,3 604:6</p>	<p>ar-15's ^[1] 603:4</p> <p>area ^[31] 457:2,4 458:24,25 459:15 463:2,3 467:21,23 468:23 478:14,24 479:12 482:12,25 483:6 489:23 490:10,21 491:14 518:1 558:14 571:11 573:4 607:20 654:13 656:25 658:25 659:2,7 682:25</p> <p>areas ^[2] 457:21 579:5</p> <p>arm ^[6] 502:22 513:17 521:19 571:13 607:11 669:9</p> <p>armed ^[5] 584:15,24,25 603:1,10</p> <p>arms ^[3] 475:3 571:16 684:18</p> <p>army ^[1] 682:8</p> <p>around ^[41] 457:2,4 463:6,6,24 473:10,11 479:20 498:5,6 524:14 527:15 531:9 545:19 547:25 551:2,3,6 552:20 553:7,8 555:16 556:13 559:7 560:18 569:4 571:23 581:12 590:13 594:19 595:6,9 616:14 640:8 641:25 646:17 647:22 651:7 657:15 662:16 664:21</p> <p>arrangements ^[1] 503:18</p> <p>arrived ^[3] 458:2 479:3 487:8</p> <p>artery ^[1] 473:19</p> <p>artfully ^[1] 592:20</p> <p>article ^[1] 456:7</p> <p>aside ^[1] 617:5</p> <p>ask ^[21] 468:14 475:17 480:21 489:3 500:15,21 501:9 506:22 526:1,8 527:1 529:22 531:3 542:14 561:24 563:20 619:17 645:9 657:18 670:10 679:12</p> <p>asked ^[10] 524:11 540:18 554:18 573:18 579:22 594:18 611:6 615:13 617:2,19</p> <p>asking ^[7] 458:17 543:11 547:17 573:24 589:7 590:22 620:21</p> <p>assault ^[1] 584:25</p>	<p>assessment ^[1] 524:3</p> <p>assign ^[1] 492:19</p> <p>assigned ^[4] 477:20,22 497:6,7</p> <p>assigning ^[1] 492:22</p> <p>assignment ^[2] 539:5,12</p> <p>assist ^[3] 465:9 487:13 508:11</p> <p>assistance ^[3] 500:20 609:23 669:15</p> <p>assistant ^[2] 505:4 599:22</p> <p>assisted ^[3] 506:15 514:6 582:12</p> <p>associate ^[1] 493:9</p> <p>associated ^[2] 577:18 687:19</p> <p>assume ^[5] 509:8 583:8 611:5 619:22 620:12</p> <p>assumed ^[1] 584:25</p> <p>assuming ^[3] 513:23 532:7 590:18</p> <p>ation ^[1] 588:7</p> <p>atmosphere ^[1] 602:9</p> <p>atory ^[1] 501:11</p> <p>attempt ^[4] 457:17,21 458:3 534:16</p> <p>attendance ^[3] 494:20 582:17 610:10</p> <p>attended ^[3] 486:12,24 611:14</p> <p>attending ^[4] 469:23 607:4 611:11 617:18</p> <p>attention ^[8] 457:10 549:2,24 615:12 616:25 648:1 649:15 668:8</p> <p>audible ^[1] 687:15</p> <p>audio ^[9] 456:20 458:4 462:1 543:6,20,23 596:23 601:19 616:17</p> <p>august ^[1] 687:21</p> <p>authorized ^[2] 687:9,11</p> <p>automatic ^[3] 658:7,8 683:9</p> <p>automatically ^[2] 498:15 522:21</p> <p>available ^[2] 503:19 588:7</p> <p>avoid ^[5] 474:16 545:22</p>	<p>560:6,6,8</p> <p>aware ^[7] 468:20 484:13 548:16 563:1 583:9 619:20 664:15</p> <p>away ^[33] 469:11 509:21 522:3,15,22,24 534:18 551:13 556:19 564:1 589:10 614:16 615:7 620:18,24,25 621:25 622:1 623:3 628:8 647:16 648:18,20 649:1 650:2,3 657:15 659:20 662:2,6,9 666:21 684:10</p> <p>axle ^[8] 524:21 527:9,24 531:8,8,10,10,12</p>
B			
<p>baby ^[5] 668:21 683:12 684:7,8,9</p> <p>bachelor ^[1] 486:9</p> <p>back ^[98] 455:21 461:25 463:18,22,23 467:13 470:3,7,11 473:17 475:9 487:17 488:11,16 489:7 494:11 495:24 498:15 502:22 503:1,4,6,12 505:2 509:21 513:15,17 515:10,22 521:2 523:1 524:6,13 527:6,13 529:22 533:1 537:6,10,15,23 541:21 542:1 546:24 551:8 552:16,23,25 553:5,6 556:1,25 557:4,5 558:8,16,22 559:21 560:6 562:23 564:1 567:21 569:4 573:7 576:10,18 577:18 578:2,23 584:22 587:10,10 588:17 594:10 597:10 598:13,21 605:9 607:21 608:10 613:5 615:17,19 616:7 621:12 627:23 632:21 643:10 646:14 657:25 661:19,21 662:17 667:17 675:6,19 684:19 686:11</p> <p>backed ^[2] 523:10 672:14</p> <p>background ^[1] 500:22</p> <p>backward ^[1] 661:17</p> <p>backwards ^[1] 662:16</p> <p>bad ^[1] 484:1</p> <p>badge ^[4] 541:9,10,11,11</p>			

Keyword Index

baggie ^[1] 660:1 bailiff ^[6] 495:9,21 537:18 577:22 643:4 686:5 balance ^[3] 469:8,11 514:21 ballow ^[10] 677:4,18,25 678:1,4 679:1 680:2,12 683:10 685:14 b-a-l-l-o-w ^[1] 677:25 ballows ^[1] 685:10 bang ^[7] 520:9 521:23,23 534:6,6 657:16,22 bank ^[2] 467:2 481:24 barely ^[1] 600:11 barrel ^[1] 669:24 barrier ^[2] 585:15 640:6 base ^[1] 592:18 based ^[36] 464:19 466:15 469:16 472:23 473:12 493:7 506:6 513:23,25 515:17,24 523:12 530:1 586:4,21 588:22 590:14 592:19,20 605:4 607:18 613:9,9 614:10,14,20,23 615:2 617:3,8 618:10,17 619:9 620:21 631:22 633:25 basic ^[1] 456:17 basically ^[8] 459:3 478:25 479:5,11,12 481:23 482:8 483:11 basing ^[2] 590:2 614:20 bearing ^[1] 531:10 bearings ^[1] 531:9 because ^[57] 458:3 462:7 463:7,19,22 464:11,15 465:9 469:11 508:1 518:18 520:20 521:11,15 522:10 523:23 527:8,11,23 532:1 546:16 564:18 567:25 569:11,13 573:5,19 581:12 583:1 589:15 592:15 595:22 601:12,23 608:15 609:4,22 611:15 614:3,5,15 618:6 619:6 625:12 630:25 637:20 648:1 649:1 664:19 670:19 672:14,20,22 673:8 681:24 682:15 683:4	becoming ^[1] 585:2 bed ^[1] 638:12 been ^[92] 454:22 455:9,12 456:1,15 466:17 470:16 476:24 477:10,11,12,22 478:14 480:11 485:16 486:4 488:6 489:1 492:9 495:2,13 496:13,24,25 498:24 500:18 501:17,18 504:12 505:23 506:5 511:23 515:14 517:1 525:1 529:3 538:16 539:2 540:13 541:13 542:13 547:10 548:24 557:8 561:23 564:18 567:22 574:15 578:15,20 580:9 582:3 588:4,10,18 595:4,5,22 596:14 598:5,7 604:25 605:5 606:14 608:6 611:1,9 616:24 624:17 634:4,17,20 636:21 644:1 645:8 647:25 650:13 653:5 654:12 655:4,7 663:21 670:9 673:11,23 677:19 679:11 681:15,23 683:4 684:3 687:9 before ^[44] 454:15 455:14,16,21 469:14,21 470:7,11 472:25 473:10 476:16 477:17 479:3 485:5 494:14 495:11 496:6 502:24 516:3,19 533:18 537:10 538:7 539:15 545:3 548:14 577:10 578:23 583:6 601:21 624:10 634:13 635:18 640:3 643:18 652:22 662:2 663:14 671:2,2 677:11 683:5 684:9 685:24 began ^[3] 479:5,6 480:4 begin ^[1] 560:12 beginning ^[3] 580:3 593:24 662:12 begins ^[1] 472:5 behavioral ^[1] 590:19 behind ^[55] 466:5,6 478:20 483:18 488:2,4 490:18 501:21,25 518:7 519:25 521:12 523:21,22 544:18,19 545:18 548:4 550:4 573:7 585:8,12 613:22 616:8 619:25,25 627:19 628:5 629:12,12,18,22 630:4,10 633:24 637:12 648:23 649:18,19,23 650:23,25 659:11 661:2 662:10 665:17,18 668:24 669:3 672:14,16 681:4,24 682:2,23 being ^[21] 461:5 462:11 508:6,7 529:15 530:9 531:19 539:11,20 549:4 555:10 557:15 578:14 579:4,23 588:22 589:22 604:12 639:2 641:20 650:23 believe ^[20] 471:9 472:21 474:14 494:6 498:5 500:8 511:23 513:25 514:15 515:8 547:7 554:16 555:1 559:7 564:23 593:14 611:14 656:7 667:13 673:17 believed ^[2] 502:20 540:14 bench ^[2] 494:16 495:8 bend ^[1] 519:16 benefit ^[1] 579:10 benefits ^[1] 584:8 best ^[4] 465:7 466:3 537:5 680:10 bet ^[1] 621:4 better ^[5] 466:12 472:10 482:14 668:23 680:7 between ^[32] 463:13 474:13 483:6 505:10,13 508:4 511:13 512:23 550:8,25 564:2 567:23 568:6,13 584:17,17 585:9,12 587:16 592:11 594:25 595:2 597:6 598:4 609:7 613:5,18 617:14 619:16 626:13 639:7 683:24 beverly ^[2] 687:9,28 big ^[6] 506:14 580:16 658:7,7 669:9 683:7 bigger ^[2] 607:22 659:25 bit ^[30] 454:19 455:25 461:3 463:18,19,20,22 481:25 497:16 503:6 505:3 521:3	530:20 546:24 551:6 556:1 578:12 584:6 586:24 587:11 588:17 608:19 627:23 630:19 637:18 639:5 650:10 653:3 681:5,12 bite ^[1] 456:6 black ^[11] 522:18 559:9,9 569:11 630:23 633:11,12 658:8,8 669:25,25 blacked ^[1] 467:10 blankenagel ^[14] 496:2,12,17,21 515:4 543:18 544:4,17 545:5,9,11,21 546:15,17 b-l-a-n-k-e-n-a-g-e-l ^[1] 496:21 blankenagel's ^[1] 499:3 bleeding ^[1] 608:12 blend ^[1] 539:24 blew ^[1] 533:22 block ^[3] 465:15 466:5,6 blocked ^[3] 627:3 659:13 661:6 blocks ^[1] 545:20 blonde ^[1] 682:15 blood ^[2] 483:19 488:1 bloody ^[1] 608:2 blow ^[1] 521:15 blowing ^[2] 521:15 522:11 blown ^[4] 520:10,16,20 522:25 blue ^[4] 539:23 541:7 542:2 655:11 board ^[1] 595:14 bodily ^[4] 475:23,24 476:1,3 body ^[3] 568:20 601:18 622:13 bomb ^[1] 521:17 bone ^[2] 468:5,7 bone's ^[1] 468:5 boom ^[1] 603:15 boots ^[1] 541:8 border ^[1] 457:12 boss ^[2] 626:2,3 both ^[22] 470:23 473:22,25 479:15 480:8 489:6 497:20
--	---	---

Keyword Index

<p>506:7 536:11 553:14 556:24 558:3 567:3 571:10 598:9 607:23 610:21 626:22 630:8,9 639:19 664:1</p> <p>bottom [9] 491:1 597:4</p> <p>627:16,17,25 628:12,16 632:17 636:7</p> <p>bought [1] 674:20</p> <p>bouncing [2] 630:25 631:1</p> <p>bouncy [1] 558:15</p> <p>bound [1] 463:8</p> <p>box [13] 454:19 476:20 485:9 496:10 516:23 538:11 575:4 576:17 624:14 643:22 653:2 663:18 677:16</p> <p>boy [1] 597:8</p> <p>bracing [1] 569:23</p> <p>brain [9] 467:24,25 468:4,10,22 469:1 607:24 608:2,15</p> <p>brake [5] 466:8,13,24 467:1 547:21</p> <p>brakes [6] 466:10,18 519:8 520:4 522:23 523:6</p> <p>brand [1] 674:15</p> <p>break [3] 536:22,23 685:25</p> <p>breath [3] 574:2 610:2 618:2</p> <p>breathing [1] 673:9</p> <p>brent [2] 454:21 455:6</p> <p>brief [4] 474:12 494:13 577:16 677:6</p> <p>briefly [2] 479:4 539:16</p> <p>bright [1] 594:5</p> <p>bring [1] 686:11</p> <p>broadcast [1] 458:5</p> <p>broke [1] 560:23</p> <p>brought [3] 479:20 625:9 664:24</p> <p>brown [1] 666:4</p> <p>buckle [3] 669:5,7,8</p> <p>build [1] 666:4</p> <p>building [1] 470:2</p> <p>bullet [54] 453:10,14,15,16 467:20,20,22,24 468:3 479:22,23 480:3 482:6,7,8,11,</p>	<p>17,18,18,20,23 483:8,15 487:24,24 488:4 490:2,5,6,7,14,14,19,23 491:3,8,9,14,20,24 492:2,5,8,13,15,21,24 493:19 526:25 531:15 535:10,13 536:7,10</p> <p>bulletproof [2] 583:7 619:19</p> <p>bullets [1] 650:8</p> <p>bumper [1] 682:25</p> <p>burden [1] 604:13</p> <p>burning [1] 531:11</p> <p>bus [4] 473:25 474:4,6,13</p> <p>business [1] 508:24</p> <p>bystanders [1] 586:18</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>c [1] 454:1</p> <p>cab [9] 508:4 510:9 515:6,12 523:18 533:1,7,11 541:25</p> <p>cadillac [1] 547:15</p> <p>caliber [7] 508:20,21 510:25 588:20 589:25 658:7,7</p> <p>california [3] 517:16 527:14,23</p> <p>call [17] 458:8,10,13 465:21 502:6 503:25 504:2 511:5 512:21 524:10,13 528:18 538:1 594:15 642:20 645:24 681:20</p> <p>called [5] 456:6,9 495:14 581:24 623:21</p> <p>calling [3] 502:19 535:10 652:17</p> <p>calls [8] 454:9 476:12 485:1 496:1 516:15 535:7 663:8 677:4</p> <p>calm [2] 573:24,24</p> <p>cam [35] 453:3,4,11,17,18,19,20,21,22,23 459:20,22,25 460:2,11 461:7,13 470:22 498:11,13,17 499:4,20 512:20,22,23 542:4,15 543:5 548:17,22 552:12 563:1 596:22 599:25</p> <p>camcorder [1] 512:20</p>	<p>came [26] 455:14 466:23 467:9 488:2 508:15 513:24 518:24 548:14 571:6 578:23 584:20 597:17 598:21,22 603:18 647:1 656:22,24 657:2 662:4,4 668:17 672:25 673:5 681:13,25</p> <p>camera [8] 461:23 466:23 470:24 480:6 552:11 553:6 561:13,17</p> <p>cameras [1] 561:15</p> <p>camouflage [1] 682:7</p> <p>camper [2] 519:25 546:16</p> <p>canine [6] 455:23,25 456:1,4 458:11 469:22</p> <p>can't [23] 474:15 475:1 494:7 514:18 519:4,17 528:19 559:25 564:19 572:15 573:19,21,22 609:21,21 611:19 615:9 622:16 623:16 642:15 656:10 659:12 665:5</p> <p>capable [3] 461:24 464:15 465:6</p> <p>capacity [1] 469:19</p> <p>car [89] 474:3,12,14,15,17 509:14 512:7,15,24 513:12 514:2 540:10 551:23 552:15,18,23,24,25 553:16,17,18 555:11 560:7 561:10 562:21 565:9 567:15 584:21,22 585:6,7,15,15,21 592:10 595:1 597:3 598:22 599:12,12 600:6,16 601:15,15 615:19 616:6,11 632:3,5,8 650:4,14,17,20,24 651:5,6 665:17,18,25 666:20,20,24 667:9,15 669:2,4,5,11,12 671:9,23,25 672:2,12,15,17,19,23,24,25 673:5,25 674:14 676:5 681:24 682:3,4 684:8</p> <p>care [5] 479:24 544:25 556:1 573:13 639:3</p> <p>career [4] 580:9 581:9 582:7,9</p> <p>carjacked [1] 664:19</p> <p>carriage [1] 506:2</p>	<p>carrying [4] 478:15 565:24,25 682:2</p> <p>cars [8] 464:9 473:8,17,24 509:23 513:9 540:7 644:17</p> <p>carter [1] 458:12</p> <p>case [28] 454:8,14 476:15 485:4 495:14 496:5 516:18 529:18 538:6 539:18 581:7,16 582:8,18 584:17 586:11 599:13 601:13 607:9 624:10 641:7 643:17 652:22 663:13 674:22,23,23 677:11</p> <p>catch [2] 560:15 594:12</p> <p>catches [1] 560:16</p> <p>caught [3] 457:10 659:1,1</p> <p>cause [1] 527:24</p> <p>caused [3] 466:18 490:6 602:3</p> <p>causes [2] 468:2 475:24</p> <p>caution [1] 593:12</p> <p>caveat [1] 555:21</p> <p>ccr/cct [1] 687:28</p> <p>cct [1] 687:24</p> <p>cell [2] 453:32,33</p> <p>center [6] 457:12 483:10,10 497:21 515:21 625:12</p> <p>certain [4] 579:6 581:13 584:14 687:18</p> <p>certainly [4] 579:14 582:11 584:16 595:9</p> <p>certificate [1] 687:1</p> <p>certified [8] 455:18 477:25 486:10 497:8 538:25 539:2 579:17 687:11</p> <p>certify [2] 687:6,16</p> <p>cetera [1] 492:20</p> <p>chair's [1] 496:10</p> <p>chamber [1] 577:17</p> <p>chance [3] 581:17 585:7 590:3</p> <p>chances [1] 585:2</p> <p>change [3] 543:17 577:8 615:3</p> <p>channel [5] 457:14,14,16 458:3 468:2</p> <p>channels [1] 457:14</p>
--	---	--	---

Keyword Index

<p>chaos ^[3] 480:1 594:17,19</p> <p>characteristics ^[1] 630:22</p> <p>characterize ^[6] 472:8 508:23 586:20 592:1 594:1 600:12</p> <p>characterized ^[1] 508:14</p> <p>charged ^[1] 590:15</p> <p>charley ^[2] 462:21 465:1</p> <p>chase ^[6] 466:5 472:5,8 497:14,17 507:18</p> <p>chases ^[1] 580:25</p> <p>chasing ^[1] 647:6</p> <p>chatter ^[2] 457:17 458:2</p> <p>check ^[4] 458:16,19 497:19 675:10</p> <p>checked ^[2] 458:15 570:22</p> <p>checking ^[1] 524:2</p> <p>chelsea ^[2] 505:2,5</p> <p>chetney ^[20] 552:21,22 554:8,9 663:8,9,20 664:2,3 672:16 678:17,18 681:13,19,25 682:24 683:12,20 684:6,16</p> <p>c-h-e-t-n-e-y ^[1] 664:3</p> <p>chetney's ^[12] 647:17 648:15,16,20,25 650:14,17,20,24 651:11 681:3 682:4</p> <p>chevrolet ^[1] 541:17</p> <p>chevy ^[1] 472:11</p> <p>chief ^[3] 479:1 539:6,11</p> <p>child ^[12] 552:23,24,24 553:1 556:14,17,18,18,22 590:19 672:11 673:9</p> <p>chips ^[2] 488:2,4</p> <p>circle ^[1] 671:24</p> <p>circumstances ^[11] 581:1,19 583:14 584:3 587:17 589:23 590:6,14 591:6 604:13 620:10</p> <p>cities ^[1] 466:4</p> <p>citizen ^[1] 548:15</p> <p>city ^[11] 455:16,17 477:16 504:5 507:8 517:8 546:7 624:24 644:8 653:12 678:2</p> <p>civilian ^[1] 495:5</p>	<p>civilians ^[1] 582:17</p> <p>claim ^[1] 604:16</p> <p>clear ^[7] 465:17 512:20 572:2 595:7 616:4 626:23 686:9</p> <p>cleared ^[1] 457:4</p> <p>clerk ^[12] 454:13 476:14 480:15 485:3 496:4 516:17 538:5 624:8 643:16 652:21 663:12 677:10</p> <p>clip ^[2] 566:6 607:16</p> <p>clockwise ^[1] 647:22</p> <p>close ^[24] 464:7,12 476:20 502:3 506:1 507:20 508:11 509:14,14,20 510:25 516:23 538:11 567:22 581:22 585:25 588:22 594:4 602:14 624:14 643:22 663:18 666:19 684:9</p> <p>closer ^[5] 482:24 597:8 627:1 640:20 680:8</p> <p>closeup ^[2] 482:20 492:1</p> <p>closing ^[2] 506:16 603:10</p> <p>clothes ^[2] 539:23 649:17</p> <p>clothing ^[1] 660:1</p> <p>clue ^[1] 467:6</p> <p>clutching ^[2] 553:1 556:18</p> <p>coat ^[4] 659:25 669:9 682:2,12</p> <p>code ^[1] 458:16</p> <p>cold ^[7] 527:8,12 531:19,21,23 602:10,11</p> <p>collect ^[1] 479:11</p> <p>collected ^[1] 488:22</p> <p>collecting ^[2] 487:14,14</p> <p>collection ^[2] 486:14,20</p> <p>collided ^[1] 513:12</p> <p>collision ^[10] 505:18 512:19,23 513:1,5,8,11 545:22 547:7 576:25</p> <p>color ^[5] 547:15,16 559:19 633:10 673:18</p> <p>colored ^[1] 559:23</p> <p>colors ^[1] 682:13</p> <p>combed ^[1] 610:15</p> <p>combined ^[1] 455:17</p>	<p>come ^[57] 454:11 457:9 462:1 465:8 467:13 469:7 471:25 474:21 476:13 478:20 485:2 488:3 494:11 496:3 514:21,21 516:16 520:1 523:9 527:19 528:5 531:16 537:6,10,15 538:3 540:11,12 544:5 550:5,6 558:15,15 559:5,11 563:25 568:10 569:2,4 571:4,7 600:18 608:4 624:6 628:8 640:8 643:14 645:24 647:10,10 648:2 652:19 663:10 669:23 677:8 680:22 683:5</p> <p>comes ^[5] 544:4,4 572:14 589:18 593:25</p> <p>comfort ^[1] 591:17</p> <p>comfortable ^[1] 609:10</p> <p>comforting ^[1] 604:10</p> <p>coming ^[37] 462:14 478:16 491:20 497:22 505:13 518:7 540:14,24 544:8,10 545:19,25 547:25 548:11 551:15 560:24 562:4 565:14 570:6 571:23 593:16 597:13 625:11,16 627:21 645:17 647:17 648:10 651:15 654:19 659:7 665:1,3,21 679:3 680:17 681:7</p> <p>command ^[1] 553:21</p> <p>commander ^[3] 539:13,16,22</p> <p>commence ^[1] 537:6</p> <p>comment ^[2] 610:12 620:8</p> <p>commented ^[2] 592:23 611:2</p> <p>commission ^[1] 687:22</p> <p>committed ^[1] 463:1</p> <p>communicated ^[3] 573:15 609:16 651:7</p> <p>communication ^[7] 499:21 550:25 568:6 600:1 610:18 617:13 683:24</p> <p>company ^[4] 517:13 579:3 644:17 654:9</p> <p>compare ^[1] 469:14</p>	<p>compensated ^[1] 529:3</p> <p>complete ^[3] 474:21 523:9 645:25</p> <p>completed ^[1] 495:8</p> <p>completely ^[2] 523:10 524:7</p> <p>complexion ^[2] 666:5 667:13</p> <p>comply ^[1] 537:9</p> <p>compound ^[3] 587:4,5 590:9</p> <p>compounded ^[1] 590:10</p> <p>concede ^[1] 606:1</p> <p>concerned ^[1] 522:12</p> <p>concert ^[1] 619:6</p> <p>conclude ^[1] 586:5</p> <p>concluded ^[2] 619:6 686:17</p> <p>conclusion ^[2] 588:8 621:22</p> <p>conclusions ^[1] 614:11</p> <p>conclusive ^[1] 604:5</p> <p>condition ^[5] 577:19 674:14,19 676:9,16</p> <p>conditions ^[2] 532:7 582:16</p> <p>conference ^[2] 665:2 678:9</p> <p>conferring ^[15] 475:14 480:15 485:13 505:4 506:18 535:8 536:4 596:3,21 618:23 635:3 652:2 672:6 675:23 685:5</p> <p>confident ^[2] 506:7,9</p> <p>conflict ^[3] 611:8,9,17</p> <p>conflicts ^[1] 685:22</p> <p>confronted ^[4] 568:11 603:19,22 615:24</p> <p>confusing ^[1] 586:24</p> <p>connecting ^[1] 491:7</p> <p>connects ^[1] 491:2</p> <p>consider ^[1] 603:15</p> <p>considerable ^[2] 564:1,2</p> <p>considerably ^[1] 560:12</p> <p>consist ^[1] 579:13</p> <p>consisted ^[1] 513:8</p> <p>consistent ^[1] 475:7</p>
---	---	---	--

Keyword Index

<p>console [4] 483:10,11 490:21 491:1</p> <p>contact [7] 505:13 511:25 513:5 527:19 566:15 587:18 649:1</p> <p>contains [1] 687:13</p> <p>context [1] 680:10</p> <p>continue [7] 467:13 511:18 515:22 520:8 589:14 599:13 685:23</p> <p>continued [3] 480:4 534:20 573:11</p> <p>continues [2] 505:15 522:23</p> <p>continuing [5] 503:20 504:4,16 507:3,8</p> <p>contractor [1] 687:10</p> <p>control [9] 493:3,8,12,14,17 520:2,2 528:12 572:4</p> <p>controlled [1] 484:4</p> <p>coordinate [1] 465:8</p> <p>cop [5] 465:11 671:21,23,25 672:23</p> <p>cops [2] 626:22 647:5</p> <p>copy [1] 498:17</p> <p>corner [4] 464:5 567:19 632:15 641:14</p> <p>correct [62] 468:18 481:2,3 486:20 498:8,9 501:23 504:25 507:21,22 508:13,16,18 509:10 510:22,24 511:14,17,19 512:2,8,11,25 513:22 515:11,12,13 527:2 535:15,17,21 548:6 553:7 554:10 557:6 569:20 574:6,21 588:2 604:23,23 616:17 625:23 628:17 645:4,15,16,18,19 646:12,13 650:21 654:17 664:6,9 667:18 670:4 680:24 683:16 684:20 687:13,20</p> <p>corrected [1] 593:4</p> <p>correctional [1] 580:3</p> <p>corrections [5] 579:21,22,23 580:2,17</p> <p>cory [2] 458:15 464:16</p> <p>couldn't [27] 467:11,14,15,</p>	<p>15,16,16,17,17 469:12,12 470:6 528:17 532:1 570:17 571:8 595:15 597:22 627:4 649:16 651:14 658:12 659:13,14,19,21,21 660:8</p> <p>counsel [25] 475:14 480:15 485:13 494:16 505:4 506:18 535:8 536:4 537:24 549:9,15 563:11 576:15 578:3 596:3,21 618:23 635:3,14 643:11 652:2 672:6 675:23 685:5,24</p> <p>counsel's [1] 536:5</p> <p>count [1] 518:23</p> <p>counter [1] 647:22</p> <p>counters [3] 518:23 519:2,15</p> <p>counties [2] 497:7 584:1</p> <p>county [35] 455:8,9,14,24 457:3,11 458:25,25 459:13 477:9 484:10 485:25 486:1 497:3,23,24,25 500:19 535:12 538:24 539:6,7,19,25 540:13 580:15,18 583:25,25 625:3 664:6,8,11 687:4,26</p> <p>county's [2] 497:21,23</p> <p>couple [9] 461:2 463:25 468:15,24 485:10 515:1 536:2 580:24 584:1</p> <p>course [7] 456:5,8,9,17 486:24 582:24 615:3</p> <p>courses [3] 456:5 486:13,24</p> <p>courtroom [10] 461:7 495:10 499:20 537:19 543:5 577:23 596:22 599:25 643:5 686:6</p> <p>cover [2] 608:14 638:7</p> <p>covering [1] 459:13</p> <p>covers [1] 582:3</p> <p>coworker [1] 464:16</p> <p>cracked [1] 674:21</p> <p>craig [5] 546:11 561:17,25,25 607:1</p> <p>crease [2] 490:5,14</p> <p>create [2] 509:21 511:13</p>	<p>created [2] 503:14 584:16</p> <p>creates [2] 475:24 476:1</p> <p>credibility [1] 583:22</p> <p>credit [1] 481:22</p> <p>crew [1] 497:7</p> <p>crime [11] 453:5,6,7,8,9 457:19 479:10 486:14,17 493:5,20</p> <p>crimes [2] 539:18,19</p> <p>criminal [1] 456:7</p> <p>crises [1] 584:5</p> <p>cross [29] 471:14,17 476:8 484:18 494:5 507:11,14 515:21 530:4,5 536:24 577:3,21 578:4,6 589:2 590:23 602:5 613:6 638:8,19,21 652:5,6 662:23,24 676:19,20 685:9</p> <p>crossed [2] 570:23 576:19</p> <p>crossover [2] 501:3 504:10</p> <p>crossroads [1] 459:1</p> <p>crotch [1] 669:5</p> <p>crouched [1] 657:24</p> <p>crying [1] 682:21</p> <p>cuffed [1] 572:25</p> <p>cult [1] 604:13</p> <p>current [3] 477:18 486:8 539:5</p> <p>currently [4] 455:7,23 484:9 496:22</p> <p>curry [1] 610:15</p> <p>cut [2] 465:18 492:1</p> <p>cuts [1] 616:24</p> <p>cutting [1] 616:19</p>	<p>darker [1] 667:13</p> <p>dash [40] 453:3,4,11,17,18,19,20,21,22,23 459:19,19,22,25 460:2,11 461:7,13 470:22,24 482:25 498:11,13,17 499:3,20 512:22,23 542:4,15 543:5 548:17,22 552:12 561:13,15,17 563:1 596:22 599:25</p> <p>date [6] 478:2 540:3 541:6 653:16 655:15,15</p> <p>daughter [6] 664:19 665:1,13,19 672:19 675:12</p> <p>day [64] 454:6 460:3 468:22 471:22 473:9,13,14 479:8 480:6 481:4 487:1 498:13 517:20 518:9 525:9,12 526:13 527:8,23 531:4,14,21 542:6,10 543:22 548:22 557:16 562:6 575:12,24 578:21 583:2,6,14 587:12 588:19 594:1,6 595:23 602:10 609:3 617:6 621:15 622:9 625:7,10 626:10,16,17 634:1 639:4 644:13,18,20,25 654:2,10,25 664:25 678:7,13 686:11,17 687:21</p> <p>days [2] 580:24 611:24</p> <p>dead [1] 583:19</p> <p>deadly [1] 595:13</p> <p>deal [2] 573:12 584:4</p> <p>dealer [1] 583:22</p> <p>dealing [3] 486:13 591:16,16</p> <p>dealt [1] 575:24</p> <p>death [1] 476:2</p> <p>debriefed [1] 587:20</p> <p>debriefing [6] 598:10 607:24 610:21 611:2,6 622:3</p> <p>debris [5] 483:13 505:14,18 513:2,5</p> <p>deceased [1] 458:20</p> <p>decide [1] 636:14</p> <p>decided [2] 458:24 488:11</p> <p>decision [3] 488:8 588:24 592:18</p> <p>defend [2] 467:14,17</p>
--	--	--	---

D

d [2] 454:1 462:21

damage [7] 453:12 468:3,7,9 523:12,14 527:24

damaged [1] 675:15

dance [2] 675:12,14

danger [2] 503:15 584:14

dangerous [1] 584:15

dare [2] 553:13 672:20

dark [5] 470:6 557:15 649:12 666:5 667:13

Keyword Index

<p>defendant ^[9] 454:7 537:24 550:8 578:3 613:22 614:10,25 615:3 616:9</p> <p>defendant's ^[2] 577:11 590:21</p> <p>defense ^[1] 686:2</p> <p>definite ^[1] 511:4</p> <p>definitely ^[5] 472:22 511:24 531:2 533:4,12</p> <p>deflate ^[1] 560:12</p> <p>deflected ^[1] 491:14</p> <p>deflection ^[1] 491:21</p> <p>degree ^[2] 486:9 590:18</p> <p>deliveries ^[1] 527:22</p> <p>delta ^[3] 462:21,21 464:25</p> <p>demeanors ^[1] 684:2</p> <p>dentists ^[1] 611:25</p> <p>department ^[9] 477:15,16 485:25 488:12 539:8 548:4 579:21,23 580:17</p> <p>depending ^[1] 581:15</p> <p>depict ^[6] 460:2 470:23 481:4 498:19 542:10 566:5</p> <p>depiction ^[3] 491:11 557:16 562:6</p> <p>deployed ^[1] 504:10</p> <p>deployment ^[1] 504:20</p> <p>deploys ^[1] 546:3</p> <p>deputies ^[2] 540:13 604:1</p> <p>deputy ^[92] 454:9,11 455:2,23 458:11,19 459:12 461:1 467:18 470:15 476:2,6,10,12 478:15,20 479:1,16,19,20 480:17 482:4 484:19 487:19,25 489:23 490:4 501:3,4,13 504:9,17 507:2,2,3 516:2 538:24 539:6,11,15 540:9,16,25 542:15 543:15 544:3 545:15 546:1,9,11,13,15,17,22 548:3 552:16 558:17 560:15,16 561:17 562:1,19 563:1,21,22,23 564:14,15,15,21 565:10,10 567:7,10,10 568:9,10 572:4,5,11,14,17 573:11 574:5,19 575:2,2 598:22 601:18 608:13 609:14 623:14</p>	<p>describe ^[50] 515:18 517:22 521:20 527:4 531:4 534:5 543:12 547:6,13 550:10,17 554:25 558:10 562:17 564:12 570:13,15,19 576:23 579:9 607:18 628:14 630:5,21 631:1,6,14 633:4 638:10 646:21 649:10,14 651:12 656:11 658:6,11,12 660:6 664:24 666:3 667:12 669:22 674:16,17 680:6 681:10 682:6,9 683:6 684:11</p> <p>described ^[14] 511:11 512:1 513:20 530:25 590:16 591:6 592:20 596:25 597:3 603:14,21 608:24 633:8 648:15</p> <p>describing ^[5] 482:14 522:1 575:19 676:5,12</p> <p>description ^[17] 453:2 457:19 462:8,16,19 463:14 466:12 500:9,9 501:13,18,20 531:21 594:20 659:16,18,23</p> <p>desert ^[2] 683:7,9</p> <p>details ^[1] 531:4</p> <p>detective ^[1] 477:21</p> <p>detector ^[1] 456:9</p> <p>determination ^[1] 473:1</p> <p>determinations ^[1] 506:3</p> <p>determine ^[6] 472:13,18 507:21 508:3 513:7,20</p> <p>determined ^[2] 484:2 508:19</p> <p>device ^[2] 593:25 635:13</p> <p>diagram ^[11] 453:30 637:7 639:3 654:20,22 670:2,12,15 672:23 679:4,7</p> <p>diagraming ^[1] 637:9</p> <p>didn't ^[85] 465:4 466:8 467:11,12,12 475:4 484:4 503:5 509:5 514:16 516:4 518:21 520:5,22 521:8 527:10,10,21,24 529:25 532:5,5 540:16,17,17 546:17,18 547:11,23 550:20,22 551:1,22 553:</p>	<p>13 569:12,13 579:24 583:1 590:2 591:9,9,12,12 592:9 593:2 595:2 597:18 603:17,17 606:19 608:15 610:5,6 611:15 613:17 614:5,7,15 619:13,14,19 631:25 633:3 634:5 638:6 639:19 648:1 657:17 658:12 660:8 661:18 665:24 666:6 667:3,8,22 668:2,17 669:2,15 672:18,20,21 674:20,22</p> <p>die ^[1] 610:4</p> <p>died ^[3] 608:20,22 609:1</p> <p>difference ^[1] 564:2</p> <p>different ^[9] 456:10 466:11 475:6 497:4 545:12 558:2 581:21 621:13 631:12</p> <p>diffi ^[1] 604:12</p> <p>difficult ^[1] 592:1</p> <p>digital ^[1] 461:23</p> <p>digits ^[1] 493:4</p> <p>dip ^[3] 466:13 540:22 544:10</p> <p>dire ^[2] 555:3,7</p> <p>direct ^[17] 454:24 477:1 485:18 496:15 517:3 538:18 549:2,23 556:5 578:10 615:11 616:25 624:19 644:3 653:7 663:23 677:21</p> <p>directed ^[2] 540:20 633:12</p> <p>directing ^[5] 479:5 660:25 668:8 685:1,2</p> <p>direction ^[32] 459:5 467:3 500:13 511:12 551:7 554:3,5 558:23 559:25 569:2 597:24 598:13 599:3,9 615:3 618:15 621:13 628:9 629:4 630:3 635:20,24 636:2 641:9 657:4 658:1,15 661:17,20 680:13 684:23 687:7</p> <p>directions ^[12] 592:25,25 593:2,3 598:11,16 599:3 622:17 639:5 642:1 646:22 656:4</p> <p>directly ^[21] 466:17 478:19 483:18 489:23 490:11,18,21 563:22 564:14 565:16</p>	<p>568:12,19 570:6 611:6 637:21 661:18,19,22 665:18 666:18 669:3</p> <p>dirt ^[1] 608:17</p> <p>disable ^[2] 512:7 546:12</p> <p>disabled ^[5] 506:10 508:10 512:7 515:25 516:3</p> <p>disabling ^[1] 516:2</p> <p>disagree ^[5] 475:5 606:15 611:3,4,19</p> <p>disappeared ^[2] 569:8,25</p> <p>disciplined ^[1] 510:20</p> <p>discuss ^[2] 494:20 642:15</p> <p>discussed ^[3] 468:9 510:6 641:7</p> <p>discussing ^[1] 495:14</p> <p>discussion ^[2] 494:16 495:8</p> <p>disfigurement ^[1] 475:25</p> <p>disoriented ^[1] 590:17</p> <p>disparaging ^[1] 632:2</p> <p>dispatch ^[11] 458:4,17 497:20,20,23 498:1 502:19 503:11,23 544:22 559:22</p> <p>dispatcher ^[2] 499:20 599:25</p> <p>display ^[1] 645:24</p> <p>displayed ^[1] 461:5</p> <p>distance ^[16] 465:8 503:15 509:22,24 510:5 511:13 550:7 567:23,24 584:17 585:1,8 589:15 597:6 666:20,21</p> <p>distractions ^[1] 510:6</p> <p>distractive ^[1] 591:7</p> <p>districts ^[1] 497:5</p> <p>diverting ^[1] 506:16</p> <p>divide ^[2] 457:13,13</p> <p>divided ^[2] 457:11 497:4</p> <p>division ^[2] 477:20,23</p> <p>doctor ^[1] 673:8</p> <p>document ^[1] 479:14</p> <p>documentation ^[2] 486:14 487:14</p> <p>documented ^[2] 479:13 488:19</p> <p>does ^[28] 460:2 482:13 493:</p>
--	---	---	---

Keyword Index

<p>2 498:11,19 509:17 510:3 532:24 533:8,11 542:10 554:3 557:15 565:15 566:4 572:17,18,21 579:13,15 597:12,16 602:7 631:18 635:17 651:18 657:6 671:8 doesn't [4] 531:20 583:21 609:11 642:22 dog [5] 456:6,9,10 604:19 doing [30] 455:2 457:1 462: 23 467:4 469:20,24 480:4 518:11 519:7 541:4 552:7 553:9 554:22,24 561:7 565: 18 566:1 567:12,13 570:22 601:3 611:10,25 623:25 638:25 644:13 649:22,24 650:11 667:21 done [8] 464:15 502:18 505:24 650:14 655:2 669:6 670:15 682:11 donovan [8] 548:14 550:3 551:13,20 643:13,14,25 644:7 don't [99] 466:7 467:6 472: 14,22 474:5,6 495:17 497: 16 499:25,25 501:1,11 508: 6 513:12 514:15 517:22 527:4,16 529:18 530:9 534: 8,8 543:21 546:17 547:2,8 550:12 551:8 552:5 553:17 554:16 555:12,18,18 562: 22 564:4,24 565:1 567:24 569:17 570:15,22 574:1 578:25 581:25 585:17 588: 5 592:16 593:14 599:20 600:15,18,19,19,21,22,24 601:1,12 604:3,18 605:2,3, 8 608:7,20 609:4,5,25 610: 1 611:19 612:11 618:1 619: 21 620:6,9,12 621:7 622:21 630:25 631:1 633:10 642:3, 7 650:4 654:12,13 657:16, 16 668:12 671:16 673:1 675:10 682:2,11,14,15,21 686:9 door [32] 467:16 483:6,7,7 491:7 552:17,19,19 554:1</p>	<p>555:1,16 556:13,14 558:20 565:10 630:15 647:23 650: 15 657:2,3 662:4,15 667:7, 9,24,25 668:17,20,22 669:3, 13 684:7 doors [1] 647:11 dot [2] 636:16 638:7 doubt [1] 511:9 dozen [2] 588:21 590:1 dr [3] 594:13,13,14 draw [4] 467:17 635:19 636:4 670:2 drawing [2] 646:12 680:14 drawn [2] 645:15 670:5 dread [1] 593:24 dressed [1] 583:18 drew [1] 640:17 drink [4] 573:18,19,21 609: 22 drive [12] 467:16 472:11 519:14,14 529:19 533:5 551:13 553:1 556:25 662:2 669:11 672:13 driver [8] 490:11,18,22 515: 18 529:11,24,25 633:18 driver's [27] 483:5,17 488: 5 490:10 491:7,19,23 519: 17 548:13 552:17,19,21 553:25 554:23 556:12 558: 5,20 559:12,13 560:9 647: 25 650:15 651:6 665:17,18 668:17 683:1 driving [27] 462:12 463:1 466:2 515:19 517:17,25 522:23,24,25 523:4 525:9 532:6,7,13 534:20 541:2,3, 17 576:23 626:4 644:14 648:17,18 654:6,8 665:10 666:17 drop [2] 484:4 625:13 dropping [2] 540:7,10 drove [2] 506:13 648:14 drown [1] 533:8 drug [2] 456:11 583:22 drugs [1] 456:10 dry [1] 484:4 due [1] 505:9</p>	<p>duly [11] 454:22 476:24 485:16 496:13 517:1 538: 16 624:17 644:1 653:5 663: 21 677:19 dunes [1] 459:7 duress [2] 586:9,19 durfee [2] 479:2,19 during [18] 461:8 468:20 471:24 486:12 507:18 510: 7 544:25 545:11 580:14,20 585:20 594:18 598:10 603: 20 609:9 611:2,3,6 duty [5] 456:23 478:2 487: 1 497:10,19 dvd [1] 542:15 dying [3] 574:2 610:2 618: 2 <hr/>E<hr/> e [2] 454:1,1 each [3] 468:9 489:5 686: 11 eagle [4] 459:14 587:14 683:7,9 ear [9] 468:5,8,25 510:17 511:1,7 588:20 589:25 590: 1 earlier [2] 587:11 601:24 early [1] 536:23 ears [3] 510:21,23 511:4 ease [1] 577:16 easier [1] 545:22 easily [1] 606:14 east [10] 462:6 478:17 481: 21,21 487:11,20 489:23 593:1 598:17 646:25 east/west [1] 457:13 eastbound [1] 464:10 easy [1] 466:4 eating [1] 457:23 echo [2] 462:21 464:25 edge [2] 559:8,10 effect [2] 514:14 606:4 effort [3] 584:12,13 600:25 efforts [1] 582:12 eight [2] 477:17 578:23 either [13] 470:10 474:7</p>	<p>489:25 520:6 547:23 551:3 559:9 591:17 601:1 623:2 639:14 651:10 661:12 elberta [3] 457:2 458:25 459:5 electronically [1] 454:2 elements [1] 602:20 else [26] 495:18 519:23 534:10 535:2 551:19,21 566:13 577:20 583:5 591: 17 592:4 608:18 609:13 611:10,10 633:17,20 642:9, 15 651:23 652:7 676:21 677:2 683:21 685:24 686:2 emergency [8] 478:13,18 479:2 483:11 498:14 501: 24 545:1,4 employed [13] 455:7,9 477:8,9,10,11 485:24,25 486:4 496:22,23,24 517:10 employment [3] 517:15 625:23 626:19 empty [2] 573:8 607:16 encased [1] 531:5 end [9] 500:3 511:3 548:5 575:12 582:13 600:24 625: 9 632:14 681:14 ended [5] 504:21 559:9 628:9 650:23 661:16 ends [1] 602:6 energy [1] 469:24 enforcement [11] 459:11 477:12 486:10 578:16,20, 23 581:12 582:6 583:19 589:11,17 engage [1] 514:22 engaged [2] 502:10 566: 24 enger [2] 521:12 555:17 engine [1] 519:8 enough [24] 462:11 464:7, 12 476:20 502:3 507:20 509:8,20 516:23 519:16 523:10 527:8,12 531:23 532:3 538:12 615:11 624: 15 628:8 631:11 643:22 663:19 680:6 681:14</p>
--	--	---	---

Keyword Index

<p>enter [9] 492:19 542:19 557:19 562:8 563:9 564:5, 22 649:6 655:17</p> <p>entered [8] 482:10,10 491: 20 501:24 559:21 598:5 649:9 683:10</p> <p>entering [1] 504:6</p> <p>entire [6] 514:6 543:23 582:9 610:22,24 611:3</p> <p>entrance [1] 491:8</p> <p>envelopes [1] 492:17</p> <p>environment [2] 484:4 590:16</p> <p>episode [1] 664:20</p> <p>equip [1] 545:1</p> <p>equipment [6] 483:11 520: 11,16 521:16 533:21 540: 18</p> <p>erratic [2] 462:9,12</p> <p>erupted [4] 565:22 567:2, 14 613:15</p> <p>escape [1] 459:13</p> <p>espec [2] 509:5 582:16</p> <p>especially [3] 579:5 581: 14 584:8</p> <p>essentially [3] 497:6,24 500:3</p> <p>esteem [1] 471:23</p> <p>estima [1] 536:24</p> <p>estimate [1] 550:7</p> <p>estimated [2] 544:15 597: 6</p> <p>estimation [2] 472:24 544: 13</p> <p>et [1] 492:20</p> <p>eureka [1] 459:6</p> <p>evaluation [1] 675:10</p> <p>even [12] 523:18 528:19 545:4 581:23 586:9 590:7 591:10 592:1,9 604:13 614: 16 621:8</p> <p>evening [5] 487:9 665:6 685:25 686:8,15</p> <p>event [3] 514:17 626:25 669:10</p> <p>events [7] 472:2 542:10 563:6 625:6 653:14 654:24</p>	<p>678:4</p> <p>eventually [2] 459:6 675: 13</p> <p>ever [20] 472:5 510:25 515: 25 529:3 551:2,8 578:20 582:3 589:25 593:14 598: 13 613:21,22 615:3 616:8, 14 617:13 634:1 661:21 675:6</p> <p>every [3] 469:22 598:13 622:12</p> <p>everybody [3] 550:14 609: 13 646:18</p> <p>everyone [2] 577:16 583:5</p> <p>everything [5] 505:24 597: 21,22 603:20 623:7</p> <p>everywhere [4] 463:9 595: 8 599:9 626:22</p> <p>evidence [78] 460:14,20 470:2 471:2,7 475:17 479: 10,11,12 481:6,12 484:9,14 486:3,5,11,13,20 487:15,16, 25 488:21,23 489:10,16 492:19 493:3,22 494:2 499: 5,11 525:18,25 529:5,10 535:11,24 536:6,11,16 542: 20,25 549:8,20,21 557:19, 22 562:8,13 563:9,18 564:8, 22 575:10,12 576:7 598:1,5 599:17 604:5 606:6 635:5, 8 645:23 649:9 655:18,22 662:19 670:18 671:1,3 672: 7 674:24 675:4,11 679:19, 23 687:14</p> <p>evidently [5] 472:4 511:25 512:6,23 600:6</p> <p>exact [3] 514:19 567:24 615:22</p> <p>exactly [5] 480:2 513:19 568:18 623:9 654:12</p> <p>examination [38] 454:24 461:8 471:14,17 477:1 485: 18 496:15 499:24 506:1 507:11,14 515:2 517:3 530: 4,5 534:12 538:18 543:7 555:7 556:5 577:3 578:4,6 589:2 590:23 600:3 613:3,</p>	<p>6 619:3 624:19 638:19,21 644:3 652:5 653:7 662:23 663:23 677:21</p> <p>examined [1] 577:17</p> <p>examiner [1] 468:1</p> <p>example [2] 584:14 585: 23</p> <p>exceeding [1] 472:22</p> <p>exceeds [3] 471:24 511: 10 579:14</p> <p>except [2] 558:12 582:4</p> <p>excepting [1] 513:21</p> <p>exchange [15] 512:10 568: 12 569:7,10 582:1 592:11 594:25 595:2 597:20 598:4, 6,6 602:25 613:18 617:13</p> <p>exchanged [2] 572:7 603: 23</p> <p>excluded [2] 598:16 599:3</p> <p>excuse [12] 477:3 478:17 524:22 536:19 541:2 549:8 550:16 563:10 567:12 630: 22 652:17 661:24</p> <p>excused [14] 476:7,9 484: 20 494:7 495:13 516:11 535:3,4 623:16 642:11 652: 9 662:25 676:24 685:11</p> <p>exercised [1] 593:11</p> <p>exhaust [2] 532:24 533:10</p> <p>exhibits [20] 470:16 471:3 480:20 481:9 489:5,11,21 493:8,23 494:1 525:1,4,19, 23 549:18 575:10 576:2,6 673:21 675:3</p> <p>exit [46] 453:27,28,29,34 461:21 463:7,12,12,12 500: 4 506:13 514:4,5 523:7 557:6 584:21 585:6,7,15 592:10 625:12,15,16,18 626:21 627:5,6,7,11,12,14, 16 628:12 634:11,24,25 639:13,14 644:20 645:4,13 647:2,10 665:22 679:1,4</p> <p>exited [6] 467:12 479:1 585:21 639:22 645:14 647: 11</p> <p>exiting [5] 478:14,16 504:</p>	<p>18 549:5 563:24</p> <p>exits [7] 495:10 537:19 548:2 577:23 627:3 643:5 686:6</p> <p>expect [2] 583:22 590:16</p> <p>expected [4] 531:15,16,17 599:21</p> <p>expedition [1] 466:3</p> <p>experience [28] 471:21 472:23 473:12 510:2 511: 10,10 513:24,25 514:22,23 515:17 530:14 531:1 578: 14 579:6 582:4,11,13 584:4 588:22 589:22 590:13 591: 5 592:20,21 615:6 617:8 620:21</p> <p>experienced [1] 589:20</p> <p>expires [1] 687:22</p> <p>explain [18] 456:25 463:25 465:3 467:18 478:11 481: 19 487:6 489:21 497:16 500:1 501:1,11 502:17 505: 17 615:7 649:16 651:3 671: 3</p> <p>explain [1] 501:10</p> <p>explodes [1] 521:16</p> <p>exposed [4] 588:18 602: 20 607:25 608:15</p> <p>extension [1] 596:2</p> <p>extent [1] 610:6</p> <p>exterior [4] 488:20,21 505: 22 506:2</p> <p>extracting [1] 607:16</p> <p>extremely [1] 510:10</p> <p>eye [2] 566:15 567:19</p> <p>eyes [2] 630:24 668:18</p>
<hr/> <p style="text-align: center;">F</p> <hr/>			
<p>f [3] 637:1,15 680:23</p> <p>face [11] 468:8 554:3 571:1, 23 572:1 574:10 582:10 616:14 659:19,22 660:8</p> <p>faced [2] 582:7 590:15</p> <p>faces [1] 682:19</p> <p>facility [3] 488:12,16 489:8</p> <p>facing [6] 543:17 554:9 571:22 616:12,13 666:10</p>			

Keyword Index

fackrell ^[4] 476:12,23 477:7 480:17 f-a-c-k-r-e-l-l ^[1] 477:7 fact ^[17] 507:20 508:19 510:19 513:21 582:6,15 584:20 587:23 588:4 591:25 594:8 595:6 600:18 603:13 606:24 607:7 610:19 factors ^[1] 618:17 facts ^[1] 619:13 failure ^[3] 520:11,16 533:21 fair ^[6] 548:21 557:16 561:19 562:5 563:6 616:21 fairly ^[1] 532:18 fall ^[2] 456:2 569:11 familiar ^[9] 557:6 625:6 634:10 645:4 653:14 654:16,18 678:4 679:1 familiarize ^[1] 656:3 family ^[2] 529:17 669:23 far ^[22] 460:11 479:5 484:13 489:24 509:18 511:10 516:2 522:3 530:13 533:9 536:21 550:18 580:20 597:7 628:8 643:3 649:19 661:2 669:21 675:5 681:14 682:12 farther ^[2] 572:15 590:24 fashion ^[1] 576:13 fast ^[19] 472:16,18,22,24 473:5 502:6 518:11 519:5,12 545:14 565:19 567:25 621:6 630:17 631:3,20,21 639:15 682:4 faster ^[2] 564:3 589:16 fastest ^[1] 472:13 fatal ^[1] 604:7 fatigue ^[1] 682:8 fatigues ^[1] 682:10 fe ^[1] 671:7 feel ^[3] 580:2 637:8 669:12 feeling ^[1] 595:19 feelings ^[1] 462:13 feet ^[8] 509:17,22 522:15 628:12 629:22,23 630:10 661:3	fellow ^[3] 458:11 566:12 582:21 felt ^[2] 463:13 673:8 female ^[54] 550:17 552:17 558:3,4,5 559:3 564:3,16 566:7,19 567:17,23 570:4 590:15 600:12 613:12 629:17,20 632:7,8,19 633:23 634:1 636:24 637:8,12 639:24 647:24 648:22,23 649:14 651:8 658:24 659:2,10 660:12,14,16,21 661:20 666:12 667:6,22 668:11 671:5,7 680:22,23 681:17,19 682:9,24 683:23 684:12 fence ^[2] 569:13 570:2 fender ^[1] 682:25 few ^[12] 470:1,2 471:21 473:17 507:12 531:3 543:19 546:1 573:25 578:9 639:2 675:11 fiddle ^[1] 650:7 fiddled ^[1] 650:9 fiddling ^[2] 650:5,14 fied ^[1] 498:1 field ^[1] 509:19 fifteen ^[1] 512:13 fig ^[1] 573:5 figure ^[5] 480:2 600:7 646:15 649:18 651:14 file ^[5] 461:9 499:23 543:8 596:24 600:4 fill ^[1] 532:2 final ^[2] 627:5,14 finch ^[3] 535:10 577:17 686:10 find ^[8] 456:11 457:22 506:4 528:6 561:19 604:9 608:4 622:16 fine ^[5] 474:16 598:16 679:14 685:17 686:14 finish ^[1] 505:20 fire ^[9] 553:13 566:16 567:6 568:13 569:21,22 593:3 603:17 615:14 firearm ^[5] 541:12 598:20 658:4,5,6	firearms ^[1] 590:13 fired ^[20] 503:12 514:16 515:21 522:4,4,19 533:18,19,20 558:14,17 567:7,10,10 593:12,14 598:23 615:18,18 641:17 fires ^[3] 520:24 552:16 659:4 firing ^[8] 467:13 506:8 569:20 592:25 651:20 658:17,18,23 first ^[67] 454:22 456:5 468:14,22 474:21 476:24 479:19 485:16 488:19 496:13 517:1 518:24 521:4,14 523:17,19 530:22 533:19 538:16 543:14 544:16,16,17 546:25 547:2 558:3 567:6 569:21 573:18 574:17 609:14 623:1 624:17 627:6 629:20,24 630:18 636:9,24 637:3,10 639:13,16 644:1 646:22 649:3 650:16,19 653:5 656:19 660:24,25 662:2 663:21 664:1,2 665:25 670:14 671:10,10,11 673:24 677:19 680:13,21 683:10 684:3 fit ^[2] 463:10,13 five ^[3] 522:14 665:13,15 fixed ^[3] 514:2 528:16 540:8 flag ^[2] 547:9,22 flagged ^[1] 683:5 flagger ^[1] 685:1 flagging ^[2] 547:11 666:1 flags ^[1] 462:13 flashing ^[3] 518:2 542:1 633:15 flat ^[6] 526:16,21 527:7,16 528:17 602:17 flew ^[1] 647:11 flicker ^[1] 466:25 flickers ^[1] 466:22 flip ^[1] 604:18 floor ^[3] 491:2,4 673:14 flying ^[1] 523:1	focus ^[2] 539:20 570:6 focused ^[2] 586:19 590:17 focuses ^[1] 551:7 focusing ^[4] 614:1,1,8,24 foggy ^[2] 594:1,2 follow ^[10] 465:8 503:20 544:19 579:14 584:19 589:14 613:7 618:21 620:12 634:1 followed ^[11] 550:21,21,22,23 558:7 586:3 591:25 614:15 619:7,18 659:10 following ^[11] 503:15 507:19 509:22 568:5 585:25 586:2 588:9 600:23 678:16,17 681:13 follows ^[11] 454:23 476:25 485:17 496:14 517:2 538:17 624:18 644:2 653:6 663:22 677:20 followup ^[3] 515:1 534:11 661:23 footage ^[3] 470:20 551:7 553:2 football ^[1] 509:19 force ^[8] 539:13,16,18,18,22 540:7 580:19,20 ford ^[5] 466:3 472:11 541:17 626:7,8 foregone ^[1] 621:22 forehead ^[1] 607:21 forget ^[1] 576:17 forgot ^[1] 529:22 fork ^[5] 455:16 457:5 459:17 477:15 518:1 form ^[2] 471:22 539:17 formulate ^[1] 618:18 forth ^[4] 473:17 613:5 667:17 684:19 forward ^[17] 454:11 465:19 476:13 485:2 496:3 516:16 538:3 550:16 565:4 624:6 643:14 647:15 652:19 661:17 663:10 677:8 684:19 found ^[5] 458:19 488:21 527:4 536:7 573:8
---	---	---	---

Keyword Index

foundation ^[1] 497:17 four ^[16] 472:10 504:22 506:14 512:14 522:14 602:25 603:16 606:22 609:9 610:11 616:7 640:11 642:23 643:1 665:15,15 four-year-old ^[1] 665:19 fox ^[7] 484:6 485:1,15,20,23,24 494:6 frag ^[1] 468:24 fragment ^[18] 453:14,15 467:24 468:7,23,25 469:1 483:8,15 490:1,23 491:3 492:5,21,24 535:10,13,15 fragments ^[15] 453:10,16 468:4,8,21,24 483:13 492:8,13,15 493:19 528:7,13 536:7,10 frame ^[2] 463:10,13 framed ^[1] 683:7 frantic ^[2] 570:17 684:5 free ^[2] 505:14 637:8 freeway ^[41] 481:22 500:5 504:18,20 514:7,7 517:25 518:17,19 519:7,11 522:14 523:10 524:7 528:16 532:13 534:20 540:20 548:2 550:3 561:8 562:2 563:24 566:8 567:15,20 568:5,19 570:23 571:5,7,22,23,24 602:5 603:19,23 615:25 616:1 627:5 637:24 freeways ^[1] 626:22 freightliner ^[1] 644:15 frequency ^[1] 545:12 friend ^[1] 640:23 friends ^[1] 579:2 front ^[58] 466:17 473:25 474:4,17 479:20 481:17 482:4 487:24 490:4,4,10,11,13 491:6,6 506:8 518:3 527:9 541:5 548:8 554:19,20 559:2 560:7 562:1 563:22,23 564:15 573:8 575:8 585:18 595:1 627:21 628:7,10,20,21 629:7,23 630:10 635:20 637:15 638:17 639:	16 640:8,9 648:25 650:13,17 651:5 656:9 667:1 681:14 682:23,24 683:2,4 684:19 frustration ^[2] 650:2,5 fucking ^[2] 573:20 609:20 fuel ^[2] 524:16,17 ful ^[1] 582:13 full ^[6] 455:4 496:19 500:9 532:2 580:18 687:13 full-time ^[2] 539:9 580:5 fully ^[1] 556:2 function ^[1] 475:25 further ^[28] 471:13 476:5,8 481:25 484:16 488:13 494:3 506:11 507:10 514:24 516:7 527:24 530:3 534:9,24 535:1 577:1 612:24 618:24 623:11,13 638:15 642:8 652:3 662:22 676:18 685:6 687:16 <hr/> G <hr/> g ^[3] 454:1 643:25 644:7 galaxy ^[1] 673:17 garcia ^[1] 613:21 gas ^[1] 662:9 gassed ^[2] 657:4 662:6 gauze ^[3] 608:11,14,17 gave ^[6] 458:8 501:13 504:11 524:12 574:5 614:17 gear ^[4] 540:17 569:17 582:24 583:15 geared ^[1] 583:12 gender ^[2] 591:13 631:22 general ^[2] 560:2,4 generally ^[5] 525:7 533:5 589:6 634:25 655:8 generally7 ^[1] 679:13 genola ^[1] 459:5 gentleman ^[2] 521:22 672:15 geological ^[1] 457:21 ger ^[1] 565:22 ger's ^[1] 558:13 gets ^[10] 520:23 531:19 552:17,18,19,24 556:13	565:23 572:19 636:13 getting ^[15] 504:21 548:8,12 553:5,6 554:23 565:11,13 572:24 576:9 596:16 597:8 683:11,12 684:9 girl ^[7] 551:22 590:13 611:7 629:12 631:8,10,23 girlfriend ^[3] 574:1 610:2 618:2 give ^[18] 454:14 461:3 465:10 476:15 485:4 496:5 516:18 538:6 573:19,21 590:2 609:21 624:9 642:7 643:17 652:22 663:13 677:11 giveaway ^[1] 583:19 given ^[7] 501:20 502:5 578:13 586:21 587:20 599:8 604:4 gives ^[2] 530:19 546:9 giving ^[1] 560:2 glad ^[2] 475:9 512:3 glass ^[4] 468:8 483:13 509:23 654:9 glasses ^[2] 509:25 572:9 glean ^[1] 495:16 glimpse ^[1] 659:1 god ^[11] 454:16 476:17 485:6 496:7 516:20 538:8 624:11 643:19 652:24 663:15 677:13 goes ^[10] 459:4,5 461:25 498:15 514:7 533:1,1 561:4 574:23 671:2 gold ^[2] 559:20,23 gone ^[8] 504:4 529:15,16 571:22 608:7 621:14 650:9 674:23 good ^[24] 454:4 455:2,4,4 477:3,3,4 485:20,21 494:23 496:17,18 505:21,21 507:17 519:22 530:7,8 584:13 615:11 624:8 662:21 686:7,14 goshen ^[1] 459:5 got ^[76] 457:25 466:22 468:21 479:5,19 482:17 483:6,18 488:16 500:9 502:3,18	506:14 512:10 514:2 516:3 518:2,7,8 526:21 527:11,14,14,17 531:6 532:14 540:12 553:5,16,16,19 555:2 558:5,12 566:25 567:8 572:5,13 575:14,18 593:12 594:11 598:19 626:21 627:16,17 632:11 638:18 639:18 647:16,20,21,24 648:2,4,23 650:14 651:11 659:11 660:5 661:12 668:4,6,9,13,25 669:1,10,11 672:11,25 673:5 681:12,16 683:13 684:6 gotten ^[2] 555:10 661:7 grab ^[3] 457:5 524:10 669:2 grabbed ^[1] 684:7 gradually ^[1] 681:20 graduated ^[2] 579:21 580:2 gray ^[4] 561:10 562:21 565:9 601:15 great ^[3] 456:22 482:2 547:17 greater ^[1] 503:14 greatest ^[1] 593:11 greg ^[5] 454:10 462:7 463:21 468:15 476:2 gregory ^[2] 454:21 455:6 greg's ^[1] 479:4 grew ^[1] 672:15 grinning ^[1] 583:1 ground ^[8] 482:5 571:2,8 602:12,17 603:21 609:12 662:5 grounds ^[2] 587:2 603:23 grunwald ^[15] 454:5,7 537:23 548:12 550:4 552:20 554:1,20 568:21 587:10 588:4 592:13 617:24 618:11 643:10 guess ^[10] 570:17 579:16 588:12 590:7 621:6 626:13 648:17 651:3 661:3 675:10 guessing ^[2] 658:16,25 gunfire ^[13] 565:22 566:24 567:2,4,14 569:7,11 572:7
--	---	---	--

Keyword Index

<p>601:4,8 602:2,3 613:15 guns [2] 580:25 669:23 gunshot [12] 458:22 467:19 476:3 502:16,20 505:23 508:17 512:1 521:7,14 523:25 615:21 gurney [1] 462:8 gurney's [1] 463:10 guy [9] 566:11,25 593:17 615:18 627:21 628:7 667:2,3 683:5 guys [6] 522:23 595:3,10 640:22 641:7,17</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>hadn't [1] 500:9 hair [9] 631:9 660:7,7,14 666:4 667:13 682:10,13,14 haired [1] 649:12 half [1] 532:2 half-ton [1] 541:18 halt [1] 647:11 hand [31] 454:13 470:10,15 476:14 480:17 485:3 496:4 515:6,9 516:17 524:25 538:5 550:13 565:25 572:5,5,12,12,13,15,20,24 607:12 624:9 643:16 651:15 652:20 663:12 667:16 681:18 687:21 handcuffed [1] 573:2 handed [2] 480:20 573:11 handgun [11] 522:17 565:25 630:23 651:16 658:9,10 682:1,20 683:8,9 686:10 handing [1] 498:24 handle [1] 612:20 handled [1] 604:3 handler [5] 455:24,25 456:1,4 458:11 hands [17] 465:11 518:21 569:9,9,15,16 570:2,3 571:11,19 573:6 574:20 596:5 649:25 666:14 684:13,18 handwriting [1] 645:20 hang [2] 465:23 524:13 hanging [1] 521:19</p>	<p>hangs [1] 521:22 hank [1] 454:3 happen [3] 533:19 545:21 574:4 happened [39] 462:3 463:23 466:21 497:17 501:11 502:2 520:4 546:17 565:8 566:22 570:25 571:3 572:3 573:1,10,13 587:11,16,21 591:10 603:20 619:10 622:9 630:14,16 639:15 653:15 654:24 657:1 661:5 668:15,19,25 672:12,21 673:4 675:8 679:7 684:6 happening [5] 503:17 507:1 518:18 520:5 534:7 happens [12] 504:14,14 520:7 546:14 556:16,23 569:7 571:9 573:1 658:13 659:4 678:24 hard [16] 505:9 557:4 588:10 589:5 594:7 606:2,3 631:15,16 646:23 651:3 659:24 669:4,5,10 673:8 harm's [3] 584:13 586:18 588:14 has [26] 462:1,2 469:8 501:18 514:14 527:12 531:11 532:16 543:23 545:17 560:5 563:14 566:22 574:21,22 577:17 590:13,13 598:5 599:20 611:2 621:1,15 623:17 658:22 678:22 haven't [4] 555:15 575:15 590:6 605:2 having [14] 454:22 476:24 485:16 496:13 517:1 538:16 582:10 606:8 624:17 644:1 653:5 663:21 673:8 677:19 haws [2] 687:5,24 hazed [1] 681:21 hazing [1] 681:21 head [22] 457:5 458:24 459:17 476:4 500:4 570:5,7,12,20 571:12 599:13 604:22 605:5,6,23 606:5,15,16 607:</p>	<p>22 615:10 617:7 667:16 headed [4] 497:18 599:13 637:24 650:13 heading [8] 459:23 461:16 498:2 500:13,16,19 558:24 666:8 head-on [1] 576:25 headrest [8] 483:17,19,20 490:18 491:9,23 492:1,6 heads [1] 459:6 hear [45] 465:20 474:25 497:22 498:10 502:12,18 503:5,8 509:2 511:21,22,24 520:9 533:2,13,15,19 545:11 552:5 568:12 569:24 570:4,9,19 594:24 595:2 597:21,22 598:7 601:22,24 603:14 604:16,24 605:18 611:6 618:7,9 648:11,12,13 657:21 658:17,21 668:2 heard [39] 457:16 458:2,4,5 462:7 463:10 468:1 478:13 479:2 498:1 500:8 502:19 506:7 508:14 509:15 510:5 515:5 521:4,14 523:25 533:20,20 543:6 567:6 570:8 587:17 591:21 596:23 604:20,21,22 605:2 609:24 616:17 657:15,22 667:9,24 669:11 hearing [8] 500:22 594:18 598:10 607:23,24 608:10 621:15 622:16 heart [1] 604:9 hearts [1] 604:9 heavy [3] 594:2,3 669:9 heber [1] 477:16 heck [1] 523:2 he'd [1] 629:10 height [1] 666:5 held [3] 495:17 571:13 672:19 hell [1] 573:5 help [19] 454:16 468:12 476:17 485:6 496:7 497:23 516:20 538:8 546:12 624:11 642:22 643:19 652:24</p>	<p>663:15 666:24 672:16,17 677:12 684:4 hemisphere [1] 599:6 hension [1] 514:10 hereby [1] 687:6 he's [43] 458:17 518:16 519:22 545:12,13 546:10 565:17,18,19,23,25 566:2 568:16 571:25 572:1,1,13 573:3 590:20 595:6,7,8,9,12 601:12,12,14,18 605:5,6 606:4,14 609:10 612:4 616:6 620:20 623:6 625:23 650:19 658:21,23,25,25 hey [1] 610:3 hide [1] 619:24 high [11] 472:5,8 494:21 497:13 515:23 544:3,7 580:8,16,25 584:24 higher [2] 483:2,3 highest [1] 471:23 highlander [11] 559:16 561:7,8 562:3,20 563:25 564:16 576:19,23 618:12 665:11 highly [1] 582:16 highway [12] 459:3,3,8,9 461:21 496:23 545:13 584:11,20 591:11 680:22 685:1 highways [1] 459:1 higley [1] 479:2 hijacked [1] 552:18 hijacks [1] 551:23 hill [2] 593:7 595:8 himself [1] 609:11 hired [1] 569:23 his [80] 476:4 479:23 482:9 483:5 504:13 518:12,21 546:3 550:13 551:7 552:10 560:7 565:25 569:22 571:12,13,16,17,25 572:1,1,4,5,11,12,13,20 573:4,4,6,7,9 575:7 593:12 595:12 598:22 601:19,19,20 607:4,11,11,12,20,22,24 608:5,13,15 610:7,21 611:2,6,11,14 612:4 613:11 620:21 624:4 630:</p>
---	--	--	---

Keyword Index

<p>21,22,24 636:20,21 641:3 647:14 649:25 650:1,5 651: 15 659:19,22 667:3,14 672: 19,20 673:5 682:2,15,16 hispanic [1] 630:23 hit [15] 466:18 505:23 512: 6 513:12 519:23 520:25 521:1 522:23 523:6 524:15 569:3,10 572:6 576:24 640: 5 hitting [1] 474:17 hold [9] 464:17 471:23 503: 25 506:17 552:17,18 571: 12 606:9 612:9 holding [4] 576:13 658:4 667:17 683:8 hole [15] 490:7,19 491:8,8, 24 526:18,25 527:9,11,17 531:15,24,25 532:2,4 holes [3] 479:22 487:24 490:14 home [3] 529:16 625:11 654:3 hometown [1] 672:16 homework [1] 675:12 hood [14] 461:13 466:13 479:23 482:7,17,21 487:25 488:3 490:2,5,6,14 491:14, 21 hoodie [4] 539:24 541:7 682:7,16 hope [1] 584:10 hoping [1] 582:9 horror [1] 621:14 hospital [1] 673:9 hour [8] 472:21 473:4 502: 8 503:24 504:2 536:20 537: 3 590:1 hours [5] 469:21,22 470:1, 2 588:18 how [71] 455:2,9,12,25 456: 15 463:11 467:6 468:1 469: 5,10 471:19 472:18,22,22, 24 477:10,22 485:20 486:4, 16 493:9 496:17,24 497:17 502:6 506:7 507:16 509:14 512:12 515:17 517:10 519:</p>	<p>5 522:3 527:4 529:1 534:4 539:2,7 554:13,24 570:15 572:18 578:16 590:24 591: 12 597:7 605:8 610:6 612: 20 615:13 631:1,14 632:19 638:25 640:3 642:19,25 643:3 649:19 654:2 661:2, 25 662:10 665:14 666:19 669:21 674:16 677:5 678: 20 684:11 686:2 hub [9] 525:16 526:23 527: 11,18 528:6 531:5,7,12 535: 11 huge [1] 630:24 huh [1] 596:8 human [1] 579:2 humongous [1] 510:2 hurried [1] 666:23 hurries [1] 572:14 hurry [2] 540:11 668:23 hurt [2] 609:11 673:6 hypothetical [11] 471:22 585:23 586:7,21 587:8 588: 3 590:8,10,22 591:10 598:2 hypothetically [1] 606:13 hypotheticals [1] 614:17 <hr/>I i-15 [26] 459:4,16,17,18,23 461:14,17 462:6,9,25,25 463:3,8 464:9,10 498:2 500:5,12 501:18 517:25 540:22,24 545:14 546:19 557:1 558:25 ially [1] 582:17 i'd [31] 498:1 542:19 543:1 549:8 557:18 563:9 564:20 569:10,10,25 570:23 572:5, 6,9 575:9 579:9,22 585:11 606:16 635:4,9,12 647:14 655:23 662:18 670:17 673: 20 674:24 679:19,24 682: 20 idea [6] 494:23 555:20 569: 1 591:15 592:8,17 ident [1] 575:16 identical [1] 558:12</p>	<p>identification [2] 464:8 536:9 identified [6] 535:12 536: 9 554:8 575:15 600:7 687: 18 identify [21] 464:24 479:11, 12 489:20 493:9,11 542:14 557:11 561:24 563:20 574: 18,25 575:21 634:21 645:9 655:8 670:10 673:24 674:5, 12 679:12 ified [1] 575:17 i'll [28] 460:17 463:21 471:5 481:9 489:12,20 493:25 499:9 525:22 526:8 535:22 536:14 537:15 542:23 549: 17 576:5 579:24 588:6 590: 20 606:11 618:9 642:14 655:20 657:18 662:21 670: 24 675:2 677:6 illegal [2] 456:10 462:9 image [1] 543:14 imagine [5] 498:6 509:16 512:13 532:14 591:8 immediate [1] 479:22 immediately [6] 466:25 480:4 511:12 657:3,15 659: 10 impact [15] 468:2 487:24 488:2,3,4 490:2,6 491:13 569:23 588:8,22,23 591:7 611:12 612:16 impacted [2] 468:4,25 impairment [1] 475:25 imperatives [2] 586:8,17 important [1] 465:4 impression [1] 474:21 inaudible [20] 499:21 502: 9 527:14 536:2 550:11 570: 18 577:8 596:13 597:14 600:1 604:18 605:19,22 606:21 634:9 635:25 638:3 645:24 666:2 679:15 incapacitated [1] 467:15 in-car [1] 601:19 inch [1] 607:22 incident [14] 472:25 506:</p>	<p>11 514:5 517:19 530:17 551:14 563:2 578:22 581: 23 582:2 598:10 612:14,16 613:11 incidents [1] 610:18 included [1] 536:24 includes [1] 490:14 including [6] 454:7 495: 24 537:24 578:2 583:5 643: 11 incurred [1] 607:19 independent [1] 687:10 independently [1] 617:5 indicate [10] 456:11 489: 25 514:16 549:24 558:2 560:19 568:17 585:24 610: 9 631:18 indicated [17] 474:20 475: 3 507:18 512:5 513:14 514: 18 516:1 578:15 582:20 593:6 594:24 603:13 606: 17 609:16,24 619:5,17 indicating [5] 490:23 491: 3,24 571:16 679:7 indication [1] 504:12 individual [4] 522:20 534: 15 641:23 649:16 individuals [2] 550:1 640: 2 indulge [1] 578:15 industry [1] 530:19 influence [2] 512:16 588: 7 inform [1] 588:6 information [13] 458:9 495:15 501:9 502:4,5 514: 12 540:3,6 560:2,4 587:23 588:1 619:9 initial [2] 480:24 584:23 initially [4] 472:21 479:19 602:3 684:18 initiated [2] 498:14 501:24 injuries [2] 467:19 610:7 injuring [1] 510:23 injury [6] 469:3 475:23,24 476:3 487:25 581:14 innocent [2] 586:8,18</p>
--	---	---	--

Keyword Index

<p>innocents ^[1] 582:17</p> <p>input ^[1] 577:8</p> <p>inquire ^[1] 646:16</p> <p>inside ^[22] 462:2 468:25 479:15 480:9 483:18 488:9, 13,17 490:9 491:19 492:2 504:19 507:23 508:4 510:9 526:21 528:6 534:15 541: 25 580:1 591:19 600:16</p> <p>inspection ^[1] 527:17</p> <p>instant ^[1] 584:5</p> <p>instantly ^[5] 523:6 524:2,6, 10 534:19</p> <p>instead ^[2] 535:9 611:25</p> <p>instincts ^[3] 462:11,13 534:17</p> <p>institution ^[1] 580:1</p> <p>institutions ^[1] 580:3</p> <p>instructed ^[1] 582:21</p> <p>instruction ^[1] 599:23</p> <p>instructions ^[3] 537:8,9 685:23</p> <p>integrity ^[1] 494:22</p> <p>intend ^[2] 642:19 652:12</p> <p>intent ^[1] 686:10</p> <p>intentions ^[1] 462:6</p> <p>inter ^[1] 543:16</p> <p>interacting ^[2] 633:2 660: 16</p> <p>intercept ^[1] 462:15</p> <p>interchange ^[23] 500:5, 12 501:2 506:15 540:22 543:16,18 544:9 545:16,24, 25 546:11 548:1,1 551:15 553:12 557:13 653:21,22, 23,25 654:16 655:10</p> <p>intercom ^[1] 552:3</p> <p>interested ^[3] 579:22 581: 2 687:16</p> <p>interesting ^[1] 466:24</p> <p>interior ^[4] 462:2 483:5 488:20,21</p> <p>interject ^[1] 580:22</p> <p>interpretation ^[1] 606:8</p> <p>interpreted ^[1] 508:17</p> <p>interrupt ^[2] 509:5 606:19</p> <p>intersection ^[4] 459:8</p>	<p>481:25 550:14 594:9</p> <p>interviewed ^[1] 670:1</p> <p>into ^[100] 457:5,11 459:10 460:14,20 467:24,24 468:5 471:2,7 475:17 481:6,12 489:10,16 491:14,15,21 492:19 493:22 494:2 497: 19,22 499:5,11 502:22,25 504:6 505:13 506:13 512: 10 513:17 515:10,22 525: 18,25 529:5,10 535:11,24 536:6,11,16 540:23 542:19, 25 543:15,16 545:17 549:8, 8,20,21 553:6 557:19,22 561:1,5 562:8,13 563:9,18 564:8,22 570:21 573:4 575: 9 576:2,7 578:24 590:21 596:17 598:5 627:19 635:5, 8 645:17 648:4 649:9 654: 19 655:18,22 662:19 665:1, 3,21 666:8 670:18 671:1,2, 3 675:4,9 678:7,9,15 679:3, 19,23 680:22</p> <p>inventory ^[1] 493:11</p> <p>investigate ^[1] 539:19</p> <p>investigated ^[1] 513:10</p> <p>investigation ^[1] 583:17</p> <p>investigations ^[2] 477:20 539:20</p> <p>investigative ^[1] 580:21</p> <p>involved ^[13] 497:13,17 513:9 514:5,9 515:14 517: 19 547:7 580:25 589:9 606: 22 607:11,15</p> <p>involvement ^[1] 506:11</p> <p>involves ^[1] 582:24</p> <p>i's ^[1] 638:7</p> <p>isn't ^[14] 471:22 510:17 514:22 519:23 581:2,7,16 582:17 584:17 586:11 601: 13 607:8 612:3,22</p> <p>issue ^[1] 599:11</p> <p>item ^[5] 483:7,8,14 559:5,8</p> <p>items ^[2] 483:24 493:5</p> <p>its ^[2] 519:10 633:15</p> <p>it's ^[61] 457:18 458:25 461: 23,24 465:4 466:3,4 473:19,</p>	<p>19 474:12 475:7 477:7 483: 8 496:21 505:9 510:4 530: 13 531:19 532:12 533:12 535:21 545:25 557:4 562: 25 568:17 576:17 577:18, 19 579:12 585:17 588:10, 12 589:5 590:9,10,22 591: 17 595:7,13,14 596:13,14 604:18 606:2,24 612:10,22 627:8 638:4,4,12,12 644:7 646:23 651:3 667:17 670:4, 4,20 676:16 680:10</p> <p>i've ^[31] 466:3 468:19 475:7 477:11,12 480:20 486:12, 24 490:16,22 491:2,7 496: 25 510:19 521:15 563:10, 11 580:9 582:3,20 586:21 590:16 591:6 610:15,15 621:20 638:18 671:14 672: 18,24 681:12</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>jam ^[1] 483:7</p> <p>jammed ^[2] 642:3 650:8</p> <p>january ^[22] 455:21 456:23, 25 469:15 470:3,25 478:2 487:2 497:10,18 498:19 499:18 517:14 525:12 540: 1 625:4 644:10 653:15 664: 21 678:5 679:7 687:23</p> <p>jeans ^[2] 539:23 541:7</p> <p>jeff ^[3] 496:2,12,21</p> <p>job ^[2] 486:3 644:16</p> <p>joey ^[11] 548:15 598:19 625:22 627:18 641:1,2,5 652:17 653:4,11 655:13</p> <p>jogs ^[1] 468:13</p> <p>join ^[2] 546:4 560:14</p> <p>jose ^[7] 594:25 600:7 604:7 611:6,12 613:21 667:2</p> <p>juab ^[16] 497:3,7,7,21,23 538:24 539:6,7,19,25 580: 14,18 583:25 625:3 664:5, 11</p> <p>juaregi ^[2] 554:20 573:14</p> <p>juaregi's ^[1] 554:1</p> <p>judge ^[34] 454:9 460:6,21</p>	<p>471:3,13 475:13,15 476:5 480:13 481:11 485:11,14 488:24 489:14 494:3 495: 19 496:1 499:12 506:19 507:10 515:1 516:7 524:23 526:1 535:4,9 536:1 537: 12 563:16 578:5 638:20 643:7 671:17 686:3</p> <p>judgment ^[1] 621:15</p> <p>jump ^[2] 599:11 619:25</p> <p>jumped ^[3] 524:16 553:19 684:7</p> <p>jumping ^[1] 608:19</p> <p>jumps ^[2] 552:20,21</p> <p>junction ^[1] 543:9</p> <p>jurassic ^[1] 593:25</p> <p>jury ^[57] 454:8 475:18,22 489:17 494:24 495:9,10,25 499:12 525:11 526:2 537:7, 15,18,19,25 558:2,10 562: 14,18 564:9,13 568:18 576: 12,14 577:22,23 578:3 579: 10 624:1 630:5,21 631:6 633:4 635:9,19 636:13 637: 9 643:4,5,11 646:14,17,22 649:11 655:24 656:11,18 657:5 664:24 671:3 679:24 680:7 681:10 684:11 686:5, 6</p> <p>juvenile ^[1] 581:10</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>keep ^[14] 466:7 507:19 510: 23 528:4 531:10,23 581:21 582:21 586:18 608:17 623: 18 641:14 668:18 685:22</p> <p>keeps ^[2] 545:19 575:13</p> <p>kellen ^[5] 540:9,25 541:16 607:1,12</p> <p>kelly ^[3] 677:4,18,25</p> <p>kelsey ^[2] 560:4,7</p> <p>kept ^[2] 528:3 573:24</p> <p>key ^[1] 459:11</p> <p>kids ^[4] 672:19 678:10,11 682:21</p> <p>kill ^[2] 592:15 600:20</p> <p>killed ^[3] 465:11 540:14</p>
---	---	---	---

Keyword Index

<p>587:24 kind [43] 456:3 461:3 463:24 466:12 479:20 480:1 482:25 483:25 486:7 496:10 500:7 514:20 522:16 526:22 527:9 532:6 533:11 543:17 545:20 570:1,14,22 572:19 579:10 581:18 593:25 598:19 604:1 608:17 614:5,6 631:1 632:15 640:15 651:13,14 659:15 666:17,25 673:16 682:14 684:16,25 kiss [4] 574:1 609:25 610:2 618:1 knee [12] 567:2,3,4 569:5,13,14,25 570:3 571:11 601:4,10 602:4 kneeling [2] 566:24 610:25 knew [9] 462:13 464:14 465:6,10 467:15,16 469:6 534:7 660:11 knowing [2] 521:7 622:19 knowledge [2] 555:5,10 known [1] 672:18 knows [2] 635:14 669:23</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>lab [2] 493:5,20 lack [2] 466:12 472:10 lady [1] 552:19 laid [1] 623:8 lake [1] 459:10 landed [1] 559:8 landing [1] 559:10 lane [22] 465:14,17 481:23 487:20 505:11,12 515:20,22 518:17 519:12 545:17,18,20 554:14 559:25 570:21 602:14 648:18 666:17,18,18 684:16 lanes [3] 561:9 562:3,20 large [3] 466:2 469:1 532:14 larger [3] 474:9 505:11 509:22</p>	<p>largest [1] 467:24 laser [6] 481:17 501:5 549:23 558:2 562:18 680:12 last [21] 455:5 477:5 486:16 493:4,8 496:20 517:5 538:20 574:2 580:24 610:2 611:13 618:2 624:21 625:15,16 644:5 653:9 664:1,3 677:23 late [2] 504:20 669:6 later [15] 473:24 484:4 495:15 500:10 508:19 527:2,21 540:9 547:24 551:6 615:8 636:14 645:1 663:5 677:2 law [11] 459:11 477:12 486:9 578:16,20,23 581:12 582:6 583:19 589:11,17 lay [2] 497:16 623:6 laying [4] 490:23 491:3 571:21,25 lays [1] 602:17 lead [4] 546:21,22 548:3 600:7 leaked [1] 527:12 leaking [2] 524:16 531:24 leaned [1] 520:24 leans [2] 521:23 534:2 learn [1] 581:11 learned [1] 547:24 least [9] 474:18 504:13 505:14 519:22,23 531:23 597:24 615:17 639:21 leave [4] 500:4 552:11 575:11 642:14 leaving [1] 497:25 led [2] 542:2 555:10 lee [4] 484:6 485:1,15,23 left [32] 464:9,20 465:14 469:1 488:4 506:20 518:7 520:9 548:14 552:25 557:14 571:13 572:5 573:4,7 575:7 578:23 580:7 598:18,22 600:6 612:2 672:12,24 674:1,8,14 676:7,9,14 678:22 684:22 left-hand [1] 504:8 lehi [3] 517:9 530:11,12</p>	<p>length [1] 509:19 leslie [1] 480:16 less [4] 518:10 578:24,25 590:1 let [33] 455:20 460:6 463:17,19 468:14 480:18 487:16,17 494:17 527:1 528:20 537:9 562:24 574:1 581:1 585:23 586:7,20 587:8,10,10 588:3,17 590:8 598:2 609:25,25 610:2 618:1 619:17 622:2 625:14 672:20 let's [35] 454:12 461:15 462:22 465:19 476:13 482:13 485:2 496:3 505:20 516:16 528:9 538:3 540:19 558:3 581:20 587:6,9 590:12 595:25 596:2,19 599:11,15,16 605:11 611:5 619:17 620:12 624:6 643:15 652:19 656:15 663:10 677:8 680:15 letters [3] 671:4,6 680:16 levan [4] 664:12,13 678:3,21 l-i-a-m-s [1] 664:4 license [10] 462:20 464:7,12,24,25 469:11 501:14 502:4 509:20 687:11 lieutenant [1] 479:2 life [4] 529:14 588:4 590:14 596:5 life's [2] 582:4 611:24 lift [1] 505:25 light [2] 464:6 547:21 lights [26] 461:22,25 465:5,13,22,24 466:24 467:1 478:18 498:14 500:24 501:24 502:10,11 518:2,12 541:22,23,25 542:2,3 545:4 547:18,19 560:20 633:15 limited [2] 469:19 619:9 line [7] 457:12,13 500:20 515:21 599:20 605:17 622:11 lines [2] 560:24 565:6 listen [1] 605:13</p>	<p>listening [4] 457:6,9,16 535:20 little [48] 454:19 455:25 461:3 463:18,18,20,22 481:25 483:6 497:16,16 503:4,6 504:20 505:3 506:19 509:21 512:5 513:14 521:3 546:24 550:10 551:6,22 556:1,3 561:10 565:9 578:12 580:15 584:6 586:24 587:11 588:17 597:8 599:21 602:9 608:19 627:23 636:1 637:18 639:5 650:9 653:3 677:16 680:10 681:5,12 live [6] 517:9 530:10,11 624:24 625:1 644:8 lived [1] 590:14 lives [1] 625:13 loaded [1] 595:17 lobe [4] 467:25 468:9,9,10 lobes [1] 468:3 local [1] 548:13 locate [2] 457:17 458:4 located [3] 487:11 541:11,24 location [7] 459:11 488:10 503:23 524:12 581:25 664:25 680:25 locations [1] 582:2 lock [3] 497:24 520:4 577:18 lockstep [1] 585:25 lodged [1] 491:9 long [22] 455:9,12 456:1,15 462:11 477:10,22 486:4 496:24 512:12 539:2,7 540:21 578:16 603:5 640:3 658:9 660:7,7,14 666:4 677:5 longer [3] 607:8 631:9 669:24 look [19] 470:17 479:15 480:21 489:4 502:20 505:22 520:19 525:2 528:5 529:14 534:22 585:7 592:9 597:17 616:14 661:19 662:15 667:8,22 looked [33] 464:20 472:16,</p>
---	---	---	---

Keyword Index

<p>20 474:6 515:4,5 522:9,12 551:8,25 572:7 576:24 595: 9 608:1,2 610:1,15 613:22 631:7 651:22 657:2,25,25 658:7,11 659:1 662:5,7,8, 12 667:10 669:24 682:20 looking [24] 463:9 464:13 481:19,21 490:10 492:24 500:7 514:20 522:12 526: 11 554:5,6,7,7 571:6,6 583: 21 617:16 632:19,20,21 633:1 662:16,17 looks [5] 547:15 557:12 573:25 595:8,9 los [2] 517:16 581:10 lose [5] 466:4,6,8 560:25 608:20 loss [1] 475:25 lost [4] 527:18 604:1 649:1 671:14 lot [26] 463:19,22 465:6 466:4 469:24 486:23 494: 17 529:14 530:14 532:17, 21 533:3,8 550:18,19 553:2 564:2 580:20 585:11 589: 16 594:2,2,17 626:22 649: 15 669:23 loud [14] 509:2,4,4,7,8 510: 4,10,11 520:9 534:6 569:16 570:14,14,15 louder [1] 599:21 low [1] 518:9 lowe [2] 687:9,28 lower [3] 482:23,24 532:4 luckily [1] 668:23 lunch [7] 457:5,23,25 536: 22,23 537:6,11 lunt [13] 548:15 598:20 625: 22 652:18 653:4,11,14 655: 7,13 656:3 661:24 662:25 663:3 l-u-n-t [1] 653:11 lying [1] 571:1</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p>m [4] 637:5,15 671:7 680: 23</p>	<p>ma'am [1] 663:10 machine [1] 532:15 made [12] 462:9 508:7 529: 15 566:15 600:15 611:23 618:3 632:15 640:1 641:14 648:19 687:8 magazine [4] 573:8,10 574:5,22 magazines [3] 453:25 575:1,3 main [23] 459:4 461:20,21 462:5,6 463:8 467:20,23 469:1 472:1,5 473:3,19,19 478:15,18 481:24 487:11, 20 500:3,18 548:2 554:12 mainly [3] 567:20 580:15 614:3 maintain [2] 515:23 585:1 maintained [1] 641:20 maintaining [1] 515:19 major [3] 497:25 539:18,19 make [30] 456:19 463:14 464:8 466:6 467:1 472:25 476:20 502:10 510:1 524:2, 16 527:16,22 532:10 534: 15 538:11 547:8 559:24 577:15 584:2 607:8 616:14 624:14 627:20 638:16 643: 22 646:9 654:22 663:18 682:18 makes [2] 510:2 533:17 making [9] 503:18 543:10 544:19 572:2 588:24 609: 10,10 620:8 638:7 male [62] 453:26 548:11 550:2,8 558:6,11 559:3 564:2,17 565:13,15 567:13, 14,23 568:1,11,14 574:10, 20 575:23 590:15 600:9 603:22 613:11 615:14 617: 19,21 628:17 629:6 630:23 632:8,19 633:7 634:2 637: 3,10,15,15 639:24 641:10 647:19 649:10 657:3,12 658:2 659:16 660:3,16,21 661:15,25 671:5,7 680:21, 23 681:18,25 682:6 683:1,</p>	<p>13,14,23 man [10] 472:11 520:3,13 521:25 522:4,22 588:5 621: 1 646:14 649:12 manner [1] 465:9 man's [1] 604:12 many [9] 472:23 486:16 553:12 569:16 591:12 615: 13 642:19,21,25 mark [12] 487:24 488:3 597:16 605:18 634:5 635: 13 636:16,22 637:1,5,14,17 marked [26] 470:16 480: 11 482:5 488:20 489:2 492: 9 498:24 525:1 541:19,20 542:13 548:24 557:8 561: 23 574:15 634:4,17,20 638: 4 645:8 655:4,7 657:5 670: 9 673:23 679:11 marker [16] 490:19,22 491: 2,24 559:7,15 561:2 584:21 591:11 613:6,16 614:23 615:2,12 618:10 649:3 markers [2] 489:25 490:15 markings [7] 453:27,28, 29 482:5 655:11 679:6 680: 18 mastoid [2] 468:5,23 match [1] 502:4 matched [2] 463:14 501: 19 matching [2] 462:8 501: 18 matter [8] 454:4 512:5 513: 14 537:23 608:2 622:5 643: 10 677:3 matters [1] 687:14 may [45] 460:6 470:13 471: 15 476:7,9 480:13 481:13 488:24 498:22 499:12 524: 22 539:3 542:11 555:3 561: 21 562:14 564:9 574:13 576:12 577:11 580:22 587: 17 596:19 600:20,20 611:1, 9,21 614:18 634:6,18 635: 13 645:6,22 652:12 655:5 662:25 670:7 671:12 676:</p>	<p>24 677:2 679:9 685:15,16 687:19 maybe [28] 518:12,13 520: 5 522:5 524:15 532:1,1,2 533:10 535:25 536:1 547: 16,17 550:9 577:5 579:9 587:4 588:21,21 590:17 597:10 607:22 610:10,10 628:12 631:20 649:20 682: 15 meagan [5] 454:5 587:9 588:4 592:13 594:25 mean [16] 483:12 493:2 509:5 515:19 534:6 606:19 611:24 630:16 631:10,25 639:15 640:5 650:7 659:20 671:8 680:25 meaning [1] 633:13 means [3] 458:17 475:24 492:25 mechanical [1] 593:25 median [7] 540:23 543:16 546:2 561:1,5 568:11 603: 18 medical [2] 468:1 609:22 medium [4] 631:3,5 666:4, 4 meet [1] 665:3 mega [1] 594:14 member [6] 455:24 456:12, 15,18 476:1 580:19 members [8] 454:7 475: 22 495:25 537:7,25 578:3 623:25 643:11 memory [4] 467:8 468:13 531:4 605:10 men [3] 471:24 494:21,21 ment [1] 545:2 mentioned [4] 486:23 489: 11 610:3 673:10 mentioning [1] 685:22 messed [1] 682:11 met [3] 479:1,3 684:17 metro [2] 455:24 456:13 mic [5] 454:19 476:20 552: 6 601:18 616:19 microphone [16] 462:2</p>
--	---	--	--

Keyword Index

<p>465:23 496:11 507:6 516:24 538:11 601:6 616:23 635:16 638:17 643:22 646:6 653:2 656:23 663:18 677:16</p> <p>microphones [2] 596:17 638:18</p> <p>microphone's [1] 624:14</p> <p>mid-afternoon [1] 645:3</p> <p>middle [14] 466:10 467:8 468:8,25 518:16 519:2,11 546:11 552:15 558:16 648:4 666:18 680:22 681:17</p> <p>might [6] 494:22 495:14 520:19 586:23 599:21 663:4</p> <p>mile [12] 472:21 518:10 545:24 559:7,15 561:2 613:6,16 614:23 615:2,12 618:10</p> <p>miles [4] 473:4 502:8 503:24 504:2</p> <p>millard [1] 497:7</p> <p>millimeter [1] 669:24</p> <p>mind [14] 518:12,22,24 519:15 520:3,10 521:8 522:10,22 581:18 590:21 622:19 671:15,16</p> <p>mine [2] 511:10 579:2</p> <p>minimize [1] 503:15</p> <p>minute [7] 569:19 618:22 632:16 638:14 651:25 672:5 675:21</p> <p>minutes [10] 494:12 512:13,17 537:2 543:19 558:23 573:25,25 577:5 677:7</p> <p>mirror [9] 519:17,19 520:9 521:12 523:24 647:16 648:24 657:25 662:12</p> <p>missed [2] 569:22 640:15</p> <p>mobile [1] 581:24</p> <p>model [1] 532:11</p> <p>moment [6] 527:7 587:9 590:12 611:5 620:12 685:3</p> <p>moments [1] 546:1</p> <p>mona [5] 501:2 540:21,22 543:16 544:9</p>	<p>monitor [1] 497:21</p> <p>monitoring [1] 497:20</p> <p>months [3] 477:17 578:23 580:1</p> <p>more [30] 458:8 468:3 473:25 484:24 493:16 495:4 506:19,22 512:16 519:12 520:25 521:24 533:3,12,13,15 584:6,16 588:17,21 604:25 605:24 621:8 638:4,10 642:19,23 677:6 680:3 685:3</p> <p>morning [15] 454:4 455:2 477:3,3,4 485:20 496:17 530:7,8 665:1,6,7,9 669:4,6</p> <p>most [6] 471:24 532:22 560:11 584:3 585:14 630:24</p> <p>motion [2] 597:14 647:22</p> <p>motioning [1] 540:11</p> <p>motor [6] 532:14,19,23 533:10,13,15</p> <p>mountain [2] 459:14 587:14</p> <p>move [24] 518:18 519:12 528:17 542:19 549:7,8 557:18 562:8,24 563:9 564:22 565:4 571:8 575:9 576:1,1 646:17 649:6 655:17 662:21 669:13 679:19 680:7 681:12</p> <p>moved [6] 545:17 564:5,21 580:4 634:9 664:8</p> <p>movement [1] 607:15</p> <p>moving [7] 528:25 550:16,19 567:25 595:1 613:5 645:23</p> <p>much [7] 480:16 482:2 529:1 532:22 569:22 590:24 674:15</p> <p>multi-agency [1] 580:19</p> <p>multiple [4] 518:1 521:15 582:2 617:2</p> <p>muscle [1] 467:8</p> <p>must [1] 567:22</p> <p>myself [5] 463:3 467:14,17 528:3 563:23</p>	<p>N</p> <p>n [3] 454:1 636:3 656:9</p> <p>name [31] 455:4,5 477:5,6,7 485:22 496:19,20 517:5,6 528:19 538:20,21,22 624:4,21,22 641:3 644:5,6 653:9,9 663:25 664:2,2,3 667:3 677:23,24 687:19,20</p> <p>named [1] 602:25</p> <p>names [1] 664:1</p> <p>narcotics [2] 539:20 583:17</p> <p>narrate [1] 637:8</p> <p>native [1] 620:22</p> <p>nature [3] 508:7,12 581:15</p> <p>nb [1] 680:16</p> <p>near [2] 518:8 571:17</p> <p>neath [2] 558:9 648:15</p> <p>necessarily [2] 475:4 513:4</p> <p>need [15] 507:6 508:24 522:22 534:18 573:20 601:6 602:23 609:22 624:1,14 645:10 646:9,17 652:11 673:7</p> <p>needed [1] 479:24</p> <p>needles [2] 624:25 625:2</p> <p>needs [3] 537:10 607:5 635:16</p> <p>neglected [1] 576:12</p> <p>nephi [38] 500:3,4,4 504:5 507:8 512:10 518:8,8 523:7 545:15,24 546:1,7,11 548:1,2,4,5,15 550:4 554:12 559:1 625:9 626:23 627:1,6,14 644:9,10 653:13,21,22 654:17 655:10 665:21 666:8 678:8 679:1</p> <p>nervous [3] 464:14 556:3 639:1</p> <p>nevada [1] 527:15</p> <p>never [12] 457:25 472:20 513:14,16 516:1 598:13 599:5 613:13 622:18 623:8 675:11,19</p> <p>new [3] 506:14 512:14 674:15</p>	<p>15</p> <p>next [55] 463:12 476:11 490:3 493:13 514:4 516:14 520:14,15,18,23,23 521:4,21 522:13 523:18 527:23 528:1,9 529:13,24 534:1 535:6 536:18,19 541:12 543:19 556:16 570:4 571:3,9 572:3 573:1,1 592:13 609:3,24 623:25 624:3 627:12 630:16,17 635:14 643:12 652:16 657:1,6 658:13 659:5 663:7 668:15,19,25 669:1 672:12 673:4</p> <p>nice [1] 585:18</p> <p>nighttime [1] 557:12</p> <p>nine [1] 558:23</p> <p>nissan [1] 628:15</p> <p>nobody [1] 671:25</p> <p>noise [10] 532:17,21,22,22 533:3,8,9,10,13,13</p> <p>noisy [1] 532:18</p> <p>noon [1] 457:2</p> <p>normal [3] 539:23 583:14 584:7</p> <p>normally [1] 469:12</p> <p>north [39] 457:11,14 458:3 459:9 463:1,4,7 498:2 500:3,19 540:21 545:16,24 546:1 554:9 564:1 592:25 595:9 598:17,19 616:13 625:17,18 629:5,6 634:22 635:20,24 636:2 641:11 646:25 647:17 656:6,7,7 666:10,11 680:14,15</p> <p>northbound [11] 462:7,10,25 463:15 472:1 500:14 554:11 561:9 562:3 680:17 681:7</p> <p>northern [1] 599:6</p> <p>northwest [1] 543:18</p> <p>nos [18] 453:4,5,7,8,9,10,12,18 471:7,9 481:12 489:15 494:2 525:25 536:16 549:20 576:7 675:4</p> <p>notary [2] 687:5,25</p> <p>notations [2] 654:22,24</p>
--	---	--	---

Keyword Index

<p>note ^[8] 471:25 473:7,22 514:15 576:6 585:6 601:16, 21</p> <p>noted ^[1] 513:19</p> <p>notes ^[2] 468:11 617:17</p> <p>nothing ^[34] 454:15 463:13 471:13 476:16 484:16 485:5 494:3 496:6 507:9 516:7,19 530:3 534:24 537:12,13 538:8 577:1,17 582:2 618:24 623:13 624:11 631:10 638:14 643:19 652:3,23 661:19 662:22 663:14 676:18 677:12 685:6 686:3</p> <p>noti ^[1] 497:25</p> <p>notice ^[7] 480:3 550:24 551:2 565:17,23 584:11,20</p> <p>noticed ^[7] 482:7 547:4 572:8 640:2,3 672:14,22</p> <p>notified ^[1] 503:23</p> <p>notifying ^[2] 503:11,19</p> <p>now ^[76] 454:14 467:23 469:14 473:7 474:16 476:15 477:24 485:4 495:16 496:5 500:1,11 502:11 508:9,19 511:9 516:18 518:17 521:7,18 528:19 529:21 536:17 538:7 539:10 549:3 553:5 557:2 559:14,16 564:5 571:15 573:16,22 578:15 579:4 582:20 584:11 586:7 592:10,23 593:23 594:23 595:25 596:5,5,6 597:10 600:14 601:3 602:24 603:13,16,20 604:4,16 606:1,17 607:18 608:8 609:6 615:11 620:21 624:10 632:12 633:7 638:4 643:17 645:17 652:22 663:13 664:8 666:12 677:11 679:11,24</p> <p>ns ^[1] 472:10</p> <p>number ^[12] 453:2 475:16 492:20,22 493:3,4,5,10 501:14 536:9 616:24 650:20</p> <p>numbered ^[1] 563:10</p> <p>numbering ^[1] 535:12</p> <p>numbers ^[3] 493:8,9 576:</p>	<p>9</p> <p>numerous ^[2] 486:13 580:8</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>o ^[2] 454:1 506:14</p> <p>o0o ^[1] 453:35</p> <p>oath ^[2] 594:18 604:5</p> <p>obey ^[1] 553:21</p> <p>object ^[7] 555:22 564:24 565:1 569:11 590:20 600:6 609:4</p> <p>objecting ^[1] 586:25</p> <p>objection ^[58] 460:16,23, 24 471:4 481:14 489:18 493:24 499:7,8,13,14 516:13 525:20 526:3,4 529:7,8 535:5 536:12,13 542:21,22 543:3 549:10,15,16 555:22, 24 557:20,24 562:10,15 563:16,16 564:6,10 576:4 577:12 587:1 588:25 591:4 597:25 606:9,10 612:3,6 620:19 622:22 635:6,10 649:7 655:19 670:19,23 672:9 675:1 679:21,25</p> <p>objections ^[1] 676:1</p> <p>objects ^[1] 581:3</p> <p>observation ^[2] 515:24 618:10</p> <p>observations ^[16] 464:3, 19 466:1 479:18 487:17 505:17 506:6,25 517:23,24 523:12 524:18 530:1 544:20 607:19 682:18</p> <p>observe ^[10] 466:16 470:1 484:13 502:21 513:4 540:24 548:10 550:20 613:21 647:9</p> <p>observed ^[14] 470:24 478:23 487:19,23,25 489:6 501:19 505:10 513:25 548:19 554:25 592:19 615:2 647:10</p> <p>observing ^[3] 502:17 505:7 633:22</p> <p>obstructions ^[1] 632:24</p>	<p>obvious ^[1] 506:4</p> <p>obviously ^[7] 478:13 479:21 512:16 583:18 588:12 589:15 681:15</p> <p>occasion ^[7] 510:13 539:21 615:6 644:10 678:7,24 679:6</p> <p>occasions ^[1] 581:13</p> <p>occupants ^[3] 470:4 647:11 665:12</p> <p>occupation ^[1] 538:23</p> <p>o'clock ^[4] 473:10 498:6 654:13 678:14</p> <p>october ^[3] 580:6,7,10</p> <p>off ^[79] 461:8 462:12 465:14,18 466:25 467:1 471:25 475:14 480:15 485:13 497:19 499:24 505:4 506:13,18 510:25 511:7 512:9 518:2, 7 519:20 523:10 524:7 528:3 535:8 536:4 540:7,10 543:7 545:20 546:18 552:25 553:1 566:16 567:15,15, 20 568:17 569:11 571:23 572:9 573:11 576:9 588:20 589:25 593:16 594:11 596:3,21 598:25 600:2 601:12, 14 604:18 615:9 618:23 625:12,13,14 627:3,16 635:3 640:22 647:1,10 652:2 656:22,25 659:6 666:17,24, 25 668:18 669:14 672:6,21 675:23 684:8 685:5</p> <p>offensive ^[1] 631:10</p> <p>offer ^[24] 460:14 471:2 475:16 481:6 489:10 493:22 499:5 500:20,20 525:18 529:5 535:11 536:6,10 549:8 576:1 606:7 622:23 635:4 638:5 645:23 662:18 670:17 674:24</p> <p>offered ^[4] 580:18 611:16 612:4 620:20</p> <p>office ^[16] 455:8,10,15,22 477:9,11,14,19,21 486:2 529:21 538:24 539:6 540:19 580:15,18</p>	<p>officer ^[79] 455:12,18 458:18 462:7,11 463:10 469:25 471:19 475:1 477:25 486:10 497:3,8 499:21 500:18 504:5 507:5,7 518:8,11,16 520:1 527:19 528:4,12 536:20 538:25 539:2 543:9 545:17 546:4,6 548:4,9,16 549:2 550:5,7 551:7,14,18 552:2,9 556:8 557:2 558:1,15 559:11 560:13,19 561:6 562:25 563:19 566:22 569:17 570:18 576:18 578:8,16 579:4,17 581:10 582:7 583:20 584:21 589:11,18,20 593:7 594:13,14 600:1 613:5 615:6 617:21 618:10 619:5 673:2,3</p> <p>officers ^[22] 458:9 465:8 478:24 513:10 518:2 566:23 569:2 571:4,7 582:21 587:24 603:1,16 604:6 606:22 607:3 621:12 622:6,8 623:2 625:14 659:18</p> <p>officers' ^[1] 561:15</p> <p>officer's ^[3] 499:24 543:7 600:3</p> <p>officially ^[1] 456:18</p> <p>off-ramp ^[16] 463:1,8,15 465:16 471:25 472:1 504:17 512:9 545:25 557:1 585:10 597:1 632:14,17 636:7 647:1</p> <p>off-white ^[1] 547:16</p> <p>oh ^[29] 486:18 507:7 519:7 520:3,13 522:22 523:1,19, 22 530:12 531:17 533:12 541:16 546:21 553:22 560:11 585:11 592:8 597:8 613:17 617:11 622:16 635:22, 23 638:1 649:2 652:17 660:12 668:10</p> <p>oil ^[10] 527:9,12,18 531:6, 11,12,16,19,23 532:4</p> <p>old ^[5] 566:11,25 578:18 665:13,14</p> <p>once ^[26] 461:16 462:1 470:</p>
--	---	---	--

Keyword Index

<p>2 492:15 523:23,23,25 529:23 549:12,14 570:5 585:7 588:20 602:4 604:25 609:19 620:5 627:21 633:14 637:22 640:9 660:21 667:6,8,8 684:6</p> <p>oncoming ^[1] 561:5</p> <p>one ^[83] 459:3 474:11,11 475:16 483:2 484:9,24 489:5 490:7,16 492:17 493:13,16 504:13 505:14 506:19,22 508:9 511:12,15,21,24 512:5 513:14 523:1,4 529:18 535:15 540:7 545:24 547:18,19,22 549:11,13 551:14 558:14 563:14 567:11 568:25 575:3,7,7,18,18,19 581:2,13,25 582:15 585:1 586:8,9,17 587:6,9,20 591:17 592:4 599:15 600:11 604:24 605:24 607:4,7,11 609:12 610:9,12,13 615:7,17,20,22 640:15 646:23 660:3 661:23,24 664:5 682:22,23 683:2</p> <p>ones ^[1] 459:12</p> <p>ongoing ^[2] 579:12 637:24</p> <p>only ^[13] 459:12 522:14 526:20 527:7 532:2 579:6 604:24 609:12 610:12,13 613:15 640:10 669:6</p> <p>on-ramp ^[9] 462:7 464:5 523:8,9 524:8 550:6 557:1 630:17 661:11</p> <p>on-ramps ^[1] 626:23</p> <p>onto ^[5] 462:6 464:10 498:2 553:1 580:5</p> <p>open ^[19] 467:16 470:7 483:6 491:7 492:2 502:21 513:15,17 515:6 554:1 555:16 565:11 607:21 647:11 657:2,3 662:4 667:9,25</p> <p>opened ^[5] 502:25 555:1 668:21 669:3 684:7</p> <p>opening ^[1] 513:16</p> <p>opens ^[1] 556:12</p>	<p>operate ^[1] 541:2</p> <p>operating ^[1] 488:6</p> <p>operation ^[1] 540:8</p> <p>operator ^[1] 548:13</p> <p>opinion ^[7] 589:7,9,16 602:1 614:20 620:20 622:23</p> <p>opinions ^[1] 618:18</p> <p>opport ^[1] 473:23</p> <p>opportunity ^[3] 530:20 589:10 614:16</p> <p>opposing ^[2] 561:1 562:20</p> <p>opposite ^[2] 467:3 552:13</p> <p>order ^[7] 456:11 465:22 492:10 494:22 528:25 533:19 583:3</p> <p>ordinarily ^[1] 626:20</p> <p>organ ^[1] 476:1</p> <p>orient ^[5] 482:1,1 635:19 646:22 680:13</p> <p>orientation ^[3] 461:3 639:7 670:14</p> <p>originally ^[1] 587:23</p> <p>other ^[87] 463:2 465:8 468:3,4,5 473:7,24 478:23 488:16 489:8 495:15 503:18 512:5 513:10 515:14 521:16 523:13,14 524:20 527:13 539:12 540:18 542:2 544:9,11 551:24 557:15 559:24 560:1,13,17 561:8,15 562:2 565:11 567:20 568:21 569:2 571:4,5,7 572:5 575:7 576:20 583:4,9 584:19 586:19 590:2 593:19 599:12 603:4,18,19,23 604:1 607:3 609:14 610:6,9,22 615:24 618:15 619:13 620:5 621:17 628:9 629:21 634:1 636:16 640:10,12,13 641:16,25 648:18,24 657:10 659:23 660:5,7 661:1 666:25 667:2,3 680:18 683:2</p> <p>others ^[5] 511:22 555:13 618:7 680:3 685:15</p> <p>ouija ^[1] 595:14</p>	<p>our ^[30] 457:11 470:1 484:9 488:11 493:14,17 497:20 536:18,19 539:18,20 540:7 543:17 544:2 545:4 556:25 563:24 566:8 567:16 575:12 577:5 584:8 592:6 596:5,5 604:9 635:13 659:13 680:2 686:10</p> <p>outcome ^[1] 687:16</p> <p>outside ^[8] 479:15 480:9 494:24 515:6 526:21 533:8,9 540:11</p> <p>over ^[46] 465:10 467:2 474:14 481:23 484:14 486:16 501:8 510:5,20 518:18 519:12 520:3,19 523:6,8 524:6 536:17 540:12 544:22 546:13 547:9,10,11,23 548:13 552:3,6 558:7,7 559:22 564:16 566:2 568:21 595:12 597:14 637:11 656:15,22 657:2 674:21 681:19 682:3,4 683:5 684:12,16</p> <p>overnight ^[1] 575:13</p> <p>overpass ^[9] 462:5 558:9 628:25 637:18 647:18 648:24 661:4 681:13 684:17</p> <p>overruled ^[3] 589:1,3 620:23</p> <p>own ^[11] 514:12 519:10 524:2,3,3 529:14 555:9 613:10 617:8 644:17 645:20</p> <p>owner ^[1] 632:8</p>	<p>pair ^[1] 572:8</p> <p>palms ^[1] 684:19</p> <p>panicked ^[2] 666:7 684:5</p> <p>pants ^[3] 573:8 575:8 682:8</p> <p>parent/teacher ^[1] 665:2</p> <p>park ^[3] 467:9 585:8 666:25</p> <p>parked ^[6] 487:19 489:24 531:18 532:3 558:18 648:9</p> <p>parole ^[3] 580:11,12,13</p> <p>part ^[11] 473:5,22 482:9 506:19 513:9 579:4 586:5 614:12,13 619:19 644:24</p> <p>partially ^[2] 554:14 556:24</p> <p>particular ^[5] 508:21 581:20 610:12 616:23 622:5</p> <p>particularly ^[2] 473:25 638:10</p> <p>parties ^[11] 454:6 475:16 476:2 495:24 508:4 535:9,14 537:23 578:2 643:10 687:18</p> <p>partner ^[3] 625:11,20,23</p> <p>parts ^[2] 488:5 644:14</p> <p>part-time ^[2] 539:9 580:15</p> <p>pass ^[10] 467:2 475:5 519:15,20 520:23 521:11 522:9,14 555:16 665:24</p> <p>passed ^[8] 506:13 518:1,1,6 522:10 547:22 569:3 647:18</p> <p>passen ^[2] 558:12 565:21</p> <p>passenger ^[14] 513:18,24 514:1 519:19 541:5 548:11,12 552:20 556:14 632:9 667:9,25 668:9 683:1</p> <p>passenger's ^[1] 673:13</p> <p>passing ^[4] 463:11 521:22 544:11 547:21</p> <p>past ^[7] 486:6,11 519:14,17 537:3 647:16 672:14</p> <p>path ^[2] 491:20 558:10</p> <p>paths ^[1] 558:2</p> <p>patrol ^[11] 455:23 456:6 469:24 487:19 496:23 497:3 498:8 506:10 545:13 583:</p>
---	---	--	---

P

p ^[1] 454:1

p.m ^[1] 487:9

pace ^[23] 624:4,6,16,23,24 625:3 626:12 630:18 631:3,3,4 632:12 633:1,7 634:10 635:18 636:4 637:7,17 638:9 642:9,14 654:5

p-a-c-e ^[1] 624:23

padding ^[1] 492:2

page ^[1] 453:2

paint ^[3] 488:1,4 490:1

Keyword Index

<p>16 608:13 patrolman [1] 584:12 pattern [1] 576:23 pause [16] 546:21 548:9 551:12 557:4 561:6 565:7 566:21 567:22 570:8 571: 15 597:9 600:5 601:2,16 613:14 660:19 pauses [1] 633:5 paying [2] 648:1 649:15 payson [1] 518:1 pending [11] 454:14 476: 15 485:4 496:5 516:18 538: 7 624:10 643:18 652:22 663:13 677:11 penetrated [1] 467:22 people [13] 464:14,17 545: 19 553:12 563:25 571:5 583:4 593:19 596:16 639: 10,22 667:1 681:16 people's [1] 605:15 per [3] 502:8 503:24 504:2 perceived [1] 502:16 percent [3] 469:17 471:23, 24 perception [4] 466:9 467: 7 469:16 474:24 perfect [2] 462:15 614:16 perfectly [1] 577:19 perhaps [5] 590:17 591:1 605:12 636:12 646:16 period [4] 469:21 510:7 514:19 585:20 peripheral [1] 570:23 permanent [1] 475:24 person [20] 470:23 534:19, 22 548:22 575:24 579:15 581:16 584:3,7 588:18 589: 12,15,16 590:15 593:11 614:18,20 660:5,6 661:7 personal [3] 555:5,10 617: 8 personally [2] 613:10 657: 19 person's [1] 589:15 peterbilt [1] 532:12 phone [18] 453:32,33 458:</p>	<p>8,10,13 524:10 594:15 665: 23,24 666:23 667:10 673: 11,16 674:7,10,13 676:11 680:9 photo [5] 482:20 483:14,20 489:25 557:12 photograph [7] 453:6,12, 26,31,32,33,34 photographed [2] 483:24 488:22 photographs [7] 453:5,7, 8,9 480:8 482:6 487:13 photography [1] 488:19 photos [2] 480:24 485:10 physical [1] 469:23 pick [12] 454:20 476:21 516:24 538:12 540:10 546: 20 624:15 643:23 646:7 653:3 663:19 677:17 picks [1] 456:20 pick-up [12] 463:7,9 520: 15,22 521:4,18 523:19 541: 18 626:7,8 627:19 638:12 picture [23] 482:14 490:9 525:8,12 527:1,13 528:1,9 554:3 561:25 564:13 575: 23 577:11 645:12,13 646: 22 651:3 655:9 657:5 659: 19,22 660:8 679:15 pictures [2] 484:14 527:6 piece [1] 490:1 pink [2] 674:23,23 pinned [1] 571:7 pistol [5] 508:20 509:3 522: 18,18 588:20 pixilated [1] 550:11 place [10] 490:2 492:17 592:11 608:20 621:8 653: 20 659:13,19 660:9 685:24 placed [6] 490:15,16,22 491:2,7,13 plainclothes [1] 469:25 plaintiff's [43] 535:22 542: 13,20 548:25 549:9 557:8, 19 561:23 562:9,24 563:10, 19 564:5,22 574:15,16,17 575:10,11,21 576:10 634:</p>	<p>17,20 635:4 638:5 645:8 649:6 655:5,8,18 662:18 670:9,17,25 673:21,23 674: 5,12 675:25 676:4,11 679: 12,19 plan [1] 476:7 plans [1] 465:7 plate [8] 462:21 464:7,13, 24,25 501:14 502:4 509:20 play [12] 543:25 566:21 588:19 597:10,14 599:24 601:24 604:17 605:11,19, 19,24 played [10] 461:7 499:20 543:5,6 596:22,23 599:25 605:9 616:24 617:2 playing [1] 568:14 please [53] 454:3,18 455:4 461:8,16 464:2,3 467:18 470:17 476:19 477:5 480: 13,20 481:13,19 485:8,22 487:6 488:24 493:7 495:11, 23 496:9,19 499:22 516:22 517:5 524:23 525:2 537:22 538:2,5,10,20 543:7 564:9 578:1 596:23 600:3 624:13, 21 643:9,21 644:5 649:3 653:1,9 663:17,25 668:21 677:15,23 685:16 pleases [1] 536:21 plenty [3] 483:12 589:10 595:22 pocket [2] 573:8 575:8 pointed [26] 479:22 514: 13,16 551:23,25 593:2,6,7, 9 597:24 598:12,13,19,20 599:5,9 615:19,19 616:6,8 622:18,20 633:14 640:4 650:1 668:22 pointer [7] 481:16,17 526: 6 549:23 558:2 562:18 680: 12 pointing [10] 550:13,15 566:2 568:11 598:11 599:2 622:17 633:22 659:9 683: 17 points [1] 566:2</p>	<p>pole [1] 627:19 police [21] 455:12,18 465: 23 477:15,16,25 486:10 497:8 546:7 548:4 578:16 579:4,17 580:4 589:20 604: 6 611:23 612:2,2 622:5 625:13 policeman [1] 610:10 pona [1] 537:9 poorly [1] 554:18 pop [4] 509:4,7 569:14 572: 9 popping [5] 508:15 509: 15 513:21 658:17,21 portion [4] 457:3 491:1 596:18 616:23 portions [1] 608:5 pose [8] 585:23 586:7,20 587:8 588:3 590:8 598:2 606:13 posed [2] 607:8 614:6 position [10] 462:15,24 467:14 482:5 532:4 544:3 559:15 566:25 577:18 580: 18 positioned [1] 463:3 positioning [1] 670:20 positive [2] 464:8 504:12 positively [1] 464:24 poss [1] 476:7 possession [4] 550:20 572:11,22 618:17 possibility [6] 511:15 581: 14 588:11,12 618:7 623:20 possible [3] 465:9 582:22 606:8 power [2] 560:24 565:6 powered [1] 584:24 precedent [1] 619:10 pregnant [2] 669:4 673:7 preliminary [5] 594:18 598:9 607:24 608:10 622: 15 premise [1] 586:21 prepare [1] 687:9 prepared [1] 584:6 preparing [1] 583:16</p>
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Keyword Index

<p>preposition ^[1] 619:10</p> <p>pre-record ^[1] 461:24</p> <p>prescribe ^[1] 621:5</p> <p>presence ^[1] 494:24</p> <p>present ^[5] 454:6 495:24 537:24 578:2 643:11</p> <p>preservation ^[1] 486:14</p> <p>preserve ^[1] 479:12</p> <p>pressure ^[2] 608:14,16</p> <p>pretty ^[20] 464:13,14 466:13 501:10 506:1 507:18 509:4,4,7 510:4 515:19,20 531:1,21 532:14 567:25 569:22 621:6 631:15 674:15</p> <p>prevent ^[1] 504:18</p> <p>prevented ^[3] 614:25 618:11,14</p> <p>previous ^[1] 500:17</p> <p>previously ^[4] 563:11 564:4 634:4 670:2</p> <p>primary ^[5] 497:20 539:20 581:2 586:8,17</p> <p>prior ^[14] 477:13 482:6 501:3 539:11 546:4 551:22 568:14 591:10 604:4 607:23 645:17,22 654:19 679:3</p> <p>privy ^[2] 587:11 591:22</p> <p>probably ^[20] 467:10 469:17 473:4 486:18 509:18 536:19 537:5 573:19,25 584:25 605:2 609:22 619:23 629:3,22,22 630:10 631:5 661:3 677:7</p> <p>probation ^[4] 580:11,12,13 581:10</p> <p>problem ^[4] 576:15 652:13 655:25 686:12</p> <p>problems ^[1] 495:18</p> <p>procedure ^[1] 635:15</p> <p>proceed ^[5] 536:21 537:4,25 566:4 647:15</p> <p>proceeded ^[3] 457:24 478:17 506:15</p> <p>proceeding ^[1] 687:7</p> <p>proceedings ^[1] 687:8</p> <p>process ^[6] 474:20 484:3</p>	<p>487:12 488:8,13 588:24</p> <p>processing ^[3] 486:15 487:13 493:6</p> <p>professional ^[1] 612:18</p> <p>projection ^[1] 635:13</p> <p>projectors ^[1] 577:7</p> <p>promoted ^[2] 580:11,13</p> <p>prone ^[2] 571:25 572:1</p> <p>proned ^[1] 602:4</p> <p>proper ^[1] 638:4</p> <p>prostrate ^[1] 603:21</p> <p>protect ^[5] 581:3,6 583:3 586:8,17</p> <p>protected ^[1] 590:14</p> <p>protection ^[4] 510:17,20 511:1 590:1</p> <p>protective ^[2] 569:17 582:24</p> <p>protector ^[1] 674:21</p> <p>protocol ^[4] 457:18,20 510:19 581:1</p> <p>protracted ^[1] 475:25</p> <p>protruding ^[1] 470:10</p> <p>provide ^[1] 573:13</p> <p>provision ^[2] 575:10 576:3</p> <p>provo ^[1] 457:13</p> <p>proximity ^[3] 508:11 586:1 588:23</p> <p>psychology ^[2] 590:19,19</p> <p>public ^[4] 581:3 586:9 687:5,25</p> <p>publish ^[17] 460:21 481:13 489:17 499:12 506:20 525:11 543:2 557:23 562:14 564:9,25 576:13 577:11 635:9 655:24 675:24 679:24</p> <p>published ^[1] 526:1</p> <p>pull ^[17] 454:19 465:10 496:11 501:8 507:6 512:9 521:21 523:6 524:6 534:2 543:18 544:17 595:14 650:2 653:2 677:16 684:16</p> <p>pulled ^[28] 464:12 474:14 523:8 528:3 530:23 533:17 534:1 540:23 543:15 545:3,</p>	<p>4 547:9 553:7,8 640:22 649:1 650:6 658:14 666:23,24 671:10,23 672:16,23,24 681:24 682:1 684:10</p> <p>pulling ^[14] 501:21,23 502:22 513:17 518:23 519:2,25 546:10 624:4 647:16 648:18,20 650:3 666:25</p> <p>pulls ^[6] 520:18,22 544:16,17 556:19 572:12</p> <p>pulpit ^[2] 522:5,5</p> <p>purchase ^[1] 528:25</p> <p>purpose ^[2] 508:9 545:18</p> <p>purposes ^[2] 575:12 602:9</p> <p>pursue ^[2] 508:10 582:12</p> <p>pursued ^[2] 508:9 647:23</p> <p>pursues ^[1] 544:16</p> <p>pursuing ^[1] 506:12</p> <p>pursuit ^[13] 466:3 473:2 504:6,24 507:3,8 511:18 515:23 540:4 544:25 545:20 546:4,20</p> <p>pursuits ^[1] 515:14</p> <p>pushing ^[2] 684:15,25</p> <p>put ^[27] 464:3 465:10 467:9 480:18 505:25 506:14 512:6,14 524:12 531:12,15,24 571:11 577:16 583:4 599:15 608:16 620:16 636:3,12,12 656:9 659:21 666:24 669:11 671:2 680:16</p> <p>puts ^[1] 546:12</p> <p>pw ^[1] 665:13</p>	<p>617:3,19 623:11 639:3 642:8 646:9 685:4</p> <p>quick ^[6] 512:14 525:3 527:16 534:11 567:7 569:23</p> <p>quickly ^[1] 576:18</p> <p>quiet ^[1] 533:11</p> <p>quieter ^[1] 533:12</p> <p>quin ^[1] 473:20</p> <p>quinn ^[1] 476:12</p> <p>quinton ^[2] 476:23 477:7</p> <p>quite ^[9] 473:16 500:9 509:18,24 512:20 530:20 547:15 567:25 601:12</p>
<h2>R</h2>			
<p>r ^[2] 454:1 485:23</p> <p>rack ^[2] 654:9,9</p> <p>radio ^[16] 457:6 458:3,4,18 465:23 490:21,24 491:1 497:21 500:17 540:13 544:25 545:12 552:6 584:23 587:18</p> <p>raise ^[10] 454:13 476:14 485:3 496:4 516:17 538:5 624:8 643:16 652:20 663:12</p> <p>ramp ^[5] 472:1 478:16,17 627:17,17</p> <p>ramps ^[1] 640:15</p> <p>ran ^[21] 558:13 567:15 627:19 628:24 630:13 631:2,9,9 633:5 637:11,12,14 647:12,22 648:20 661:11 672:13,22,24 673:9 682:3</p> <p>randomly ^[1] 593:6</p> <p>range ^[1] 510:13</p> <p>rate ^[2] 544:3,7</p> <p>rates ^[1] 515:23</p> <p>rather ^[1] 531:18</p> <p>ratty ^[1] 660:7</p> <p>re ^[2] 514:21 659:25</p> <p>reach ^[1] 573:4</p> <p>reached ^[1] 573:7</p> <p>reaches ^[1] 565:21</p> <p>reaching ^[1] 573:5</p> <p>reaction ^[1] 641:13</p> <p>read ^[8] 464:7,12 475:17</p>			
<h2>Q</h2>			
<p>qualifier ^[1] 631:22</p> <p>question ^[16] 471:22 483:7 506:22 529:22 530:2 547:17 554:18 586:16,24 587:4,5 590:9 591:2,2 592:7 661:24</p> <p>questioned ^[1] 622:8</p> <p>questions ^[20] 468:15 471:21 476:5 507:12 514:24 515:1 526:9 534:9 543:11 578:9,9 612:24 615:12</p>			

Keyword Index

<p>493:7,8 509:20 510:19 514:13</p> <p>ready [5] 464:17 537:4,25 578:3 599:22</p> <p>real [3] 525:3 567:7 570:14</p> <p>realize [4] 511:11 527:10 529:16 585:17</p> <p>realized [7] 522:21,25 527:7,17 529:15 546:19 572:10</p> <p>really [11] 518:17 519:4 547:17 582:2 594:2,7 608:2,2 630:16 639:15 673:7</p> <p>realtor [1] 665:23</p> <p>re-approach [1] 561:21</p> <p>rear [7] 502:21 520:8 547:13,21 556:14 683:12 684:7</p> <p>rear-end [1] 545:22</p> <p>reason [13] 466:11 472:5 483:14,20 494:7 511:9 581:9 582:15 584:23 612:2 623:16,17 664:15</p> <p>reasons [1] 585:1</p> <p>recall [40] 472:2,18 474:5,12,13 475:1 478:7 514:19 517:20 523:15 546:25 547:2 550:17 552:4 593:13 603:14 604:4 613:10 615:20,20,22 617:6 622:11 630:21 633:10,23,25 644:22 649:11,12 653:17 654:10 659:16 660:2 665:4 669:21 673:1,16 682:8,15</p> <p>receipt [2] 453:13 528:24</p> <p>receive [28] 460:17 471:5 481:9 486:22 489:12 493:25 499:9 525:23 529:9 535:22 536:14 540:3,6 542:23 549:17 557:21 562:11 563:17 564:7 576:5 580:22 635:7 638:6 649:8 655:20 670:24 675:2 679:22</p> <p>received [30] 460:20 467:19 471:7 481:12 489:16 494:2 499:11 500:8 525:25 529:10 535:10,24 536:16 537:8 542:25 549:20,21 557:22 562:13 563:18 564:</p>	<p>8 576:7 580:20 596:15 635:8 655:22 662:20 671:1 675:4 679:23</p> <p>recently [2] 654:19 679:3</p> <p>recess [19] 494:11 495:12,20,22 537:11,17,20,21 577:21,24,25 624:1 642:17 643:2,6,8 685:20 686:4,7</p> <p>recesses [1] 494:14</p> <p>recite [1] 604:20</p> <p>recognition [1] 640:1</p> <p>recognize [10] 461:10 470:17 480:21 489:4,5 492:10 525:5 528:21 634:15 672:18</p> <p>recognized [1] 639:21</p> <p>recognizes [1] 472:4</p> <p>recoil [1] 658:22</p> <p>recoiling [1] 660:22</p> <p>recoils [6] 647:14 648:5,8,10 651:22 659:5</p> <p>recollection [7] 475:6 478:9 605:4 610:23 611:8 613:10 639:4</p> <p>record [43] 454:4 455:5 461:5 464:3 465:3 475:14 477:6 480:15 482:3 485:13,22 495:24 499:17 505:4 506:18 517:6 535:8 536:4 537:23 538:21 543:10,12 558:23 559:16 571:15 577:16 578:2 596:3,21 618:23 624:22 635:3 643:10 644:6 652:2 653:10 663:25 667:16 672:6 675:23 677:24 685:5 687:18</p> <p>recorded [3] 454:2 605:1 610:12</p> <p>recorder [1] 512:20</p> <p>recording [7] 498:15 542:6,8 552:12 563:2,6 687:15</p> <p>records [1] 687:8</p> <p>record's [1] 572:2</p> <p>recovering [2] 487:14 638:13</p> <p>recross [4] 516:9 535:1 619:1,3</p>	<p>rectangle [1] 672:23</p> <p>red [5] 462:13 464:6 541:7 542:2 559:9</p> <p>redirect [6] 475:12 514:25 515:2 534:12 613:1,3</p> <p>reduce [2] 511:15 590:8</p> <p>reduces [1] 585:2</p> <p>redundant [1] 578:14</p> <p>redwood [1] 459:10</p> <p>refer [5] 461:9 499:22 543:8 596:23 600:3</p> <p>referenced [3] 493:14,17 510:12</p> <p>referred [1] 492:21</p> <p>referring [2] 461:4,5</p> <p>reflect [1] 489:6</p> <p>reflection [1] 594:5</p> <p>reflector [1] 627:19</p> <p>reflects [1] 472:15</p> <p>refrain [1] 495:13</p> <p>refresh [1] 605:9</p> <p>refuting [1] 592:15</p> <p>regain [1] 514:20</p> <p>regard [2] 486:8 537:8</p> <p>regards [8] 456:4 459:22 461:4 468:17 486:19 492:22 517:15 521:3</p> <p>related [1] 687:14</p> <p>relates [9] 512:1 578:10,14 580:23 581:19 600:16 607:4 609:7 619:10</p> <p>relating [1] 471:21</p> <p>relation [2] 488:18 629:1</p> <p>relative [1] 632:13</p> <p>relax [2] 573:2,2</p> <p>released [1] 494:18</p> <p>relevant [1] 612:3</p> <p>rem [1] 673:1</p> <p>remain [1] 573:24</p> <p>remains [1] 603:21</p> <p>remember [29] 470:8 474:15 498:3 523:16 547:8,21 550:12,12,18 552:5 559:25 570:22 605:8 622:12 630:24 644:23,24 647:22 648:1 649:17 659:12,18,24,24 665:5 678:14 682:7,11,13</p>	<p>remembers [1] 610:19</p> <p>remind [4] 537:7 622:2 663:3 685:14</p> <p>remove [6] 480:12 483:22,24 484:3 485:10 487:16</p> <p>removed [3] 469:2 491:23 594:8</p> <p>render [1] 608:8</p> <p>rendered [1] 604:7</p> <p>repaired [1] 540:10</p> <p>repeat [1] 586:16</p> <p>rephrase [1] 606:11</p> <p>replace [1] 529:1</p> <p>replaced [2] 527:23 528:3</p> <p>replay [1] 473:23</p> <p>report [6] 509:2 511:21 513:19 514:14,18 610:18</p> <p>reporter [1] 687:11</p> <p>reporter's [1] 687:1</p> <p>reports [1] 610:16</p> <p>representation [1] 549:3</p> <p>representations [1] 548:21</p> <p>requests [1] 497:23</p> <p>required [2] 510:15,17</p> <p>requires [1] 579:5</p> <p>rescue [1] 588:13</p> <p>reside [4] 517:8 653:12 664:11 678:1</p> <p>resident [1] 664:5</p> <p>residing [1] 687:26</p> <p>resources [1] 579:2</p> <p>respective [1] 508:4</p> <p>respond [8] 458:7 478:5 484:11 486:17 487:4 498:11 612:11 620:23</p> <p>responded [6] 457:3 478:7,11 487:6,7,17</p> <p>responding [2] 478:14 602:1</p> <p>response [9] 474:2 574:3 576:16 611:13 621:18 623:1 624:2 646:19 686:13</p> <p>responsibilities [10] 455:20,22 477:18 479:7 486:1,8 487:7 488:17 497:2 517:15</p> <p>responsibility [3] 479:9,</p>
---	--	--	--

Keyword Index

<p>14 487:12 responsible [2] 468:10 604:12 responsive [1] 458:18 rest [2] 458:9 478:20 resting [1] 685:18 restrained [1] 610:11 restraining [1] 607:4 result [4] 467:19 476:3 511:3 600:24 resumed [1] 556:5 retained [1] 572:22 retired [1] 580:17 retreating [1] 515:9 retrieve [2] 492:2,15 retrieved [6] 453:10 468: 23,24 492:5,7,13 returned [1] 469:18 returns [1] 494:19 reva [1] 664:2 review [6] 461:9 499:23 543:8 578:13 596:24 600:4 reviewed [4] 460:12 475:7 561:15,17 reviewing [1] 525:4 rhetorical [1] 600:14 rhyme [5] 597:9 599:1,15, 22 601:2 richfield [1] 497:20 ricocheted [2] 482:8,9 ride [2] 470:1 581:12 ride-along [1] 469:25 rifle [3] 522:17 584:24,25 rig [2] 531:5 532:10 right-hand [1] 682:1 rim [1] 523:1 ringing [1] 511:4 rings [1] 466:25 ripped [1] 669:13 rise [6] 495:9,21 537:18 577:22 643:4 686:5 risk [6] 476:1 578:14 580:8 583:4 584:16 621:8 road [50] 459:10 466:10 467:8 473:8,13 478:19,19, 25 481:25 500:2 505:16 506:16 509:13 512:6,19</p>	<p>513:2 519:12,16,20 520:3 522:24 532:13,21,22 546: 18 552:13,15 558:17 559:9 567:18 576:19 627:22 628: 13 639:20 640:13,14,23 642:2,6 648:5 666:1,16 672:13 681:17,19,20,21 682:1 683:5 684:15 roads [1] 478:25 roadside [1] 617:9 roadway [1] 513:6 roadways [2] 457:21 497: 25 robinson [1] 507:7 robison [15] 546:6 548:4 550:5 551:8,15,18 552:2 557:2 558:15 593:7 594:13, 14,14 598:21 673:3 rock [1] 553:6 rod [5] 491:7,13 563:1 564: 21 607:1 roll [2] 531:9 533:15 roughly [1] 552:15 round [2] 558:14 569:21 rounded [1] 464:5 rounds [8] 552:16 558:17 567:8 569:21,23 582:1 598: 23 603:18 route [1] 459:14 rule [1] 584:19 rules [1] 685:22 run [29] 463:18,19 467:2 531:20 552:14 555:16 558: 4 567:20 589:18 620:13,13, 18,24 621:3,11,11,12,12,17, 18,18 622:25 623:1 630:15 631:12 641:16 650:18 651: 2 661:25 running [65] 550:2,13,19 563:25 564:17 565:17,19 566:6,7,19 567:1 568:1 569:12 570:1 589:15 592: 24 598:20 615:4 616:11,15 618:15 621:9 622:1 623:3, 5 629:11,12,13,14,17,21 630:1,3,4,8,9,9,11,25 631: 15,16,21,23 632:8 633:24</p>	<p>639:19 641:15 642:6 647: 13 648:23 649:12,16,18,21, 23,24 650:1 651:4,4,10 657: 25 658:14,21 661:15 669:6 runs [4] 519:20 552:20 556: 13 565:16 ryan [13] 546:11,13 560:15 563:22 564:15 565:10 566: 23 567:10 568:9 572:14 607:1 608:13 609:14 ryan's [3] 561:17,25 564: 14 <hr/> <h2>S</h2> <hr/> s [1] 454:1 safe [3] 465:8 577:19 582: 22 safest [1] 465:9 safety [2] 589:12,18 sahara [1] 580:16 said [75] 456:12 461:16 463:11 464:19,23 475:8 479:4 492:7,24 505:24 508: 6 515:9 533:21 534:21 540: 12,19 544:6 555:18,20 562: 5,18 568:1 569:6 570:5 571:16 573:5,18,19,20,21 574:1 579:24 594:20 600: 15,18,19,20 605:23 609:19, 20 610:1 611:7,14,20 614: 18 617:11 618:1,5,6 620:9 622:15 625:20 628:2,10,17 629:6,17 633:10 636:19 639:10 647:19 648:4,14 661:6 666:12 667:22 668: 21,22 672:16,24 673:6 683: 15 684:3 687:9,15 sake [1] 587:3 same [12] 458:5 491:11,17 581:6 588:18 590:15 637: 12,13 640:14 672:15 685: 22 687:14 samsung [1] 673:17 sand [1] 459:7 sanpete [1] 539:19 santa [1] 473:19 santaquin [16] 461:21</p>	<p>463:8,12 472:6 478:5,14,18 481:2,22 487:4,12 500:18 518:3,4,6 626:21 santaquin's [2] 459:4 481: 24 sarah [4] 546:6 548:4 551: 18 598:21 saratoga [1] 587:12 saw [75] 463:7 464:5,25 470:23 472:15 478:11 481: 4 498:19 502:25 506:7 513: 2,16,19 515:6,9,9 516:1 518:11 522:19 523:17,19, 22 531:13 534:1,2,6,21 548: 22 555:23 556:7 557:16 562:6 563:7 585:20 614:10, 23 628:17 629:6,20,24 630: 5 633:2,7,25 634:15 636:4, 24 637:3,7 647:14,19 648:5, 7 650:16,19,20 651:12 654: 19 656:19 657:12,17 660: 22 665:25 666:12,19 667:2, 10 668:11 670:2 671:10,11, 25 681:10 683:6,14 say [31] 462:8 469:7 486:18 503:21 514:4 516:1 521:19 578:9 581:20 585:11 588: 10 589:5 598:16 604:20 605:22 611:7 616:21 618:1, 5 633:2 639:15 641:9 656: 9 657:6,10 660:10 666:6 668:3,8 669:18 681:8 saying [8] 560:3 601:17 614:21 616:2 622:18 647:3 655:13 666:6 says [5] 572:6 592:14 627: 18 657:8 673:6 scale [4] 469:15 482:20 670:4,21 scanner [1] 648:13 scanning [1] 458:3 scared [2] 520:19 522:11 scary [2] 514:22,23 scene [28] 453:5,6,7,8,9 478:5,8,12,25 479:6,8,10, 10,13,14 480:5,8,25 484:11, 14 486:14 487:4,8,11,13,18</p>
--	---	---	---

Keyword Index

<p>529:23 549:5 scenes [1] 486:17 scheme [1] 514:6 school [1] 665:3 schools [1] 580:10 science [1] 486:9 scott [1] 535:10 screamed [1] 668:20 screaming [1] 566:12 screen [7] 461:6 548:17 568:17 601:13,14 674:21, 22 seal [5] 492:19 524:20 526: 23 531:5 687:21 search [1] 456:11 searches [2] 456:7,8 seat [32] 454:18 476:19 483:7 485:8 490:10 491:19, 23 496:9 516:22 538:10 541:5 548:13 552:23,24,25 554:23 556:17 624:13 643: 21 653:1 663:17 665:17,17, 18,18 669:4,6 672:12,20 677:15 683:13 684:9 seated [6] 454:3 495:11,23 537:22 578:1 643:9 sec [1] 503:25 second [13] 456:8 466:25 503:16 505:6 506:17,23 536:1 596:19 600:11 611: 21 635:21 642:7 649:16 secondary [1] 614:5 seconds [8] 461:24,25 462:1 467:10 498:15 573: 25 597:10 640:11 section [1] 497:6 sections [1] 497:4 secure [4] 479:9,10 480:5 484:2 secured [1] 608:11 securing [3] 478:25 479:6 607:11 seeing [9] 465:3 474:12 491:5 546:25 549:24 592:8 651:3 660:8 662:10 seemed [5] 515:19 550:15 560:11 598:12 619:8</p>	<p>seen [39] 460:1 531:18 549: 4 551:16 555:16 565:7 569: 11 572:9 582:8 593:16 598: 13 599:5 614:22 616:16 627:20 628:7 630:15 637: 10 639:15,16,19 640:8 646: 1 657:2,3,14 659:2,10 660: 23,25 661:10,10 662:3,4,5 680:20,21 681:24 682:20 segment [1] 560:10 self-employed [1] 517:11 semi [1] 659:12 seminars [2] 486:13,24 semis [1] 547:22 send [1] 524:13 sense [1] 533:17 sent [1] 493:20 separate [1] 457:14 sequence [1] 472:2 sequences [1] 474:11 sergeant [3] 458:15 577: 16 686:10 serious [5] 457:19 475:23, 24 476:3 610:7 service [5] 486:12 627:22 633:15 644:19 658:15 served [1] 540:8 serving [1] 455:23 set [10] 461:23,24 462:12 504:9,17,19 559:14 560:5 577:4 596:17 seven [1] 588:21 several [4] 456:10 539:17 548:16 580:9 shall [10] 454:14 476:15 485:4 496:5 516:18 538:6 624:9 642:16 663:13 677: 11 sharing [1] 577:7 shawn [1] 458:11 sheet [1] 674:21 sheets [1] 569:3 shell [1] 528:8 sheriff [1] 541:20 sheriff's [18] 455:8,10,15, 22 477:9,11,13,19,21 485: 25 486:2 488:12 538:24</p>	<p>539:6,8 540:19 580:15,18 sherwood [11] 454:10,21 455:2,6 461:1 467:18 470: 15 476:2,6 478:16 488:1 s-h-e-r-w-o-o-d [1] 455:6 sherwood's [7] 478:20 479:16,21 482:4 487:19 489:24 490:4 she's [17] 552:22,22,25 568:5 594:14 597:12,13 599:4 600:23 601:21 602: 14 620:11 621:20,21,23 650:16 678:21 shield [1] 490:11 shirt [1] 666:6 shirts [1] 539:24 shocked [1] 599:20 shockwave [1] 468:2 shoot [4] 534:3 588:6 595: 20 673:6 shooter [1] 581:24 shooting [19] 468:23 488: 7 510:13 511:12 521:8 522: 20,21 524:11 534:18,19 595:12,22 603:14,16 623:7 641:10 651:20 653:20 659: 1 shootout [1] 581:20 shootouts [1] 581:21 shoots [3] 520:25,25 521: 23 short [7] 462:25 477:17 494:11 566:6 577:20 642: 17 643:2 shortly [2] 479:3 612:13 shot [56] 453:19,20,21,22, 23 466:22,25 470:8,11 474: 23 500:18 511:16 513:16, 23 514:13 515:21 521:17 524:5,19,20 526:15,23 533: 18,19,20 534:4,14 551:14 552:2 553:12 567:6 570:4, 7,12,20 593:12,14 604:7,22 605:5,6,23 606:4,14,16 617: 7 627:21 629:10 633:16 640:9,12 641:12,20 642:2 657:16 660:21</p>	<p>shotgun [4] 603:6,7,8,15 shots [18] 453:4,18 466:23 470:20 503:11 511:23 514: 16 520:25 521:24 522:19 548:17 602:25 615:14 629: 10 641:17 642:2 658:17 660:22 should [3] 495:16 599:8 658:1 shoulder [10] 504:19 518: 9,11 523:8,9 524:7 571:12 595:12 607:11 681:18 shoulders [1] 621:9 show [16] 463:17 480:11 482:14 489:1 491:19 492:8 525:11 528:20 569:9,9,15, 16 570:2,2 576:12 679:20 showed [3] 563:11 566:6 619:18 showing [3] 461:13 528: 20 576:13 shown [2] 549:9,15 shows [13] 461:20,25 466: 11 526:16,20 563:21,22,23, 24,25 564:13 566:8 589:11 shrapnel [1] 468:8 shut [2] 668:1,2 shutting [2] 478:24 514:6 side [84] 459:10 468:6 470: 11 483:3,6,17 488:5 489:25 504:8 513:18 519:17 520:9 521:18 541:10,12 544:9 548:12 552:13,19,20,21 553:25 555:17 556:12,14 558:5,13,20 559:11,12,13 560:9 561:8,9 562:2,21 565:11,22 567:15,18,20 568:22 569:11 572:9 573:4 603:18,19,23 615:24 632:9, 11 640:13,22 647:20,21,24, 25 648:2,3,24,25 650:19 651:2,6 656:25 661:12 662: 15 666:1,1,16,17,24,24,25 668:9,17 672:13 673:13 681:20,21 682:1 683:1,1 684:15 sidebar [1] 494:13</p>
---	--	---	--

Keyword Index

side-by-side [2] 464:16 682:23 sides [2] 541:20 626:22 side-swiped [2] 564:18 565:9 sideways [1] 683:8 sight [2] 569:8,25 sign [5] 461:20 638:1 649: 3,4 679:17 signal [1] 465:15 signaling [2] 464:8,20 signature [1] 655:13 signed [1] 687:27 silver [1] 601:14 simpler [1] 634:8 simplicity [1] 587:3 simultaneously [1] 596: 16 since [13] 455:11 456:2 459:11 477:11,12 529:12 539:3,9 578:17,20 580:14 596:13 608:4 single [1] 486:17 sir [24] 454:18 475:21 476: 13,19 485:2,8 494:10 496:3, 9 516:14,16,22 535:6 538:3, 10 624:6,13 638:24 643:14, 21 652:19 653:1 677:8,15 siren [4] 465:24 500:21 502:11 509:12 sirens [9] 465:20 500:24 502:10 509:11 518:2 541: 23,25 545:6 560:20 sit [3] 490:22 638:3 680:9 sites [1] 569:22 sitting [6] 495:16 533:7 645:14 647:8 648:16,17 situation [6] 458:14 581: 24 582:3 588:13 589:17 620:24 six [1] 580:1 skin [1] 620:16 skull [5] 467:23,23 468:21, 25 608:5 slammed [2] 466:10 669: 13 slated [1] 537:1	sleeting [1] 484:1 slid [2] 656:22,25 sliding [1] 502:21 slightly [2] 509:21 515:21 slow [10] 466:13 474:18 475:5 505:5 518:17 519:12 545:18 546:16 550:22 631: 3 slowed [5] 475:3 503:14 534:17,20 560:8 slower [2] 550:18,19 slowing [6] 474:20 501:8 518:15 520:13 534:22 597: 13 slowly [3] 549:1 603:10 669:12 slows [3] 519:10,10 560: 12 slug [1] 467:20 small [2] 496:10 521:17 smart [1] 593:17 snow [4] 467:2 559:10 594: 2,3 snowing [5] 483:25 484:1 518:9 531:22 594:7 sold [2] 529:17,18 solemnly [11] 454:13 476: 14 485:3 496:4 516:17 538: 6 624:9 643:16 652:21 663: 12 677:10 solid [2] 531:10 669:25 some [57] 457:5,16 458:8 459:19,22 473:24 474:5,25 480:8 483:13,13,19 488:5 492:8 497:13 502:12 505: 14,21 511:11 520:11 526:9 531:6,16 542:2 551:24 559: 5 560:13,24 565:6 570:23 577:8 578:9,13 579:2 581: 14,24 583:23 587:17 588: 23 602:25 607:15 608:11, 12,14 609:6,6,14 610:18 611:16 613:5 614:17 616: 17 619:18 644:14,20 659: 15 680:2 somebody [12] 514:13 522:9,14 524:11,13 581:15	584:16 586:20 589:18 611: 10 668:13 672:13 somehow [1] 467:6 someone [12] 466:4 506:7 519:23 520:24 521:8,19 584:15 589:9 591:7 615:7 621:5 628:2 someone's [1] 534:18 something [25] 457:9 503: 21 518:3,13,21 520:4 539: 24 547:24 574:21 578:24 582:10 585:18 609:17 611: 10 618:2 622:16 628:2 636: 13 640:3 650:8,9 659:25 660:1 667:7 685:2 something's [1] 518:17 sometime [2] 498:6 626: 14 sometimes [1] 583:3 somewhat [6] 585:24 590: 14 591:7 594:8,10 604:10 somewhere [4] 473:10 560:18 636:19 654:13 soon [23] 466:24 498:14 519:19 524:5,5 534:17 537: 7,16 545:3 552:24 566:14, 25 567:2,14 568:10 571:7, 10 572:14 589:17 601:4 640:5,5 650:14 sorry [13] 458:22 492:10 507:7 509:5 529:12 535:19 557:5 558:15 575:16 606: 19 642:25 665:15 668:21 sort [2] 620:8 685:22 sound [14] 508:15 509:13, 15,17 510:3,10,12 513:21 515:5 521:4 534:5 570:8 599:20 600:14 sounds [4] 521:16,17 530: 14,25 south [42] 457:12,14,16 458:24 459:9,13,17,18 517: 25 543:16 546:19 548:1,5 554:7,7,11 558:25 585:21 593:1 594:10 595:1 598:17 599:13 616:14 625:9,17,18 626:18 627:14 628:24 629:	11 630:1,4,8,9 637:25 646: 25 653:20,22,25 654:16 655:10 southbound [20] 459:23 461:14,17 462:9 464:9,10 465:16 501:18 504:4,16,17 544:1 545:14 557:1 558:25 561:9 562:3 637:24 681:6, 7 southmost [1] 463:11 southwest [2] 457:3 458: 25 spacing [1] 639:7 spanish [4] 455:16 457:5 459:17 518:1 sparks [2] 523:1 534:21 speak [5] 469:6 502:19 663:4 677:2 685:16 speaker [1] 687:20 speakers [1] 599:21 speaking [3] 456:19 589:6 596:17 special [3] 576:2 579:14 581:11 specific [2] 457:21 677:6 speculation [5] 555:22 588:25 590:21 620:19 622: 22 sped [2] 657:15 659:6 speech [1] 469:3 speed [20] 472:5,8,15,25 474:16 497:13 502:6 503: 23 504:1 507:21 515:23 544:3,7,13 559:25 560:12 580:25 631:14,18 661:11 speedometer [1] 472:20 speeds [2] 532:14 560:10 spell [10] 455:5 477:5 496: 19 517:5 538:20 624:21 644:5 653:9 664:1 677:23 spent [1] 580:1 spike [11] 504:10,12,19 515:25 546:2,3,10,12 559: 15 560:5,8 spiked [3] 504:22 506:12 516:2 spikes [3] 504:10 512:6
---	---	---	--

Keyword Index

<p>546:15 spotted [2] 462:8 465:13 spring [2] 455:11 456:16 springs [1] 587:12 springville [1] 455:17 spy [1] 509:23 sr-28 [3] 500:2,12 514:7 stand [7] 467:16 469:12 536:20 588:6 593:4 649:5 661:23 standing [7] 518:16,18 519:11 552:25 569:14 584: 15 635:20 stands [1] 556:18 start [12] 458:3 461:2,16 498:10 537:16 550:5 558:3 560:24 605:12 635:18 669: 12 685:21 started [36] 456:16 466:8 497:22 498:1 509:21 552: 14 556:24 558:6 566:16,16 567:3,5 571:13 573:14 578: 19 579:20,20 580:14 581:9 585:21 588:19 601:4,8 602: 5 607:20 626:25 627:20 628:8 629:11 647:15 650:2 659:6 681:19 684:14,16,24 starting [1] 579:19 starts [5] 459:3 462:1 498: 15 560:15 573:3 state [52] 454:5,9 455:4 457:20 460:14 471:2 476: 12 477:5 481:6 485:1,22 486:11 489:10 493:5,20,22 494:8 496:1,19 499:5 500: 2 516:12,15 517:5 525:18 529:5 530:10 535:7,11 536: 6,10 537:12,23 538:20,25 590:21 591:2,2 600:23 623: 17 624:21 643:10 644:5 652:17 653:9 663:8,25 675: 9 677:4,23 687:2,5 statement [1] 687:19 states [1] 475:23 state's [30] 454:8 460:5,10, 17 470:16 480:11 489:2 493:25 498:25 499:9 525:1,</p>	<p>23 529:9 536:14 542:23 549:17 557:21 562:11 563: 17 564:7 576:6 596:6,9,11 599:18 635:7 649:8 655:20 675:2 679:22 statutes [1] 687:12 stay [5] 524:12 573:24 584: 13 610:25 623:2 stayed [6] 608:8 609:12 610:13 620:3,10 621:19 staying [3] 585:25 614:25 618:12 stays [2] 465:15 531:10 steele [20] 548:14 550:3,4 551:13,20 558:13 636:19, 22 640:17 643:13,14,14,25 644:7,8 646:6 647:3 652:7, 11 663:8 s-t-e-e-l-e [1] 644:7 steele's [1] 638:9 steer [4] 520:25 521:1 524: 19 526:15 stem [1] 608:12 step [5] 576:9 613:14 635: 14 662:3,4 stepped [3] 570:21 657:14 669:1 stepping [1] 617:5 steps [2] 552:25 572:4 still [31] 453:4,18,19,20,21, 22,23 454:8 470:20 473:22 480:1,2 481:1 495:14 509: 23 527:22 529:11 546:19 569:14 572:10 594:11 604: 12 609:10 612:22 614:6,24 648:9 652:12 658:4 684:8 685:15 stipulate [2] 476:2 536:6 stipulated [2] 475:19 481: 8 stipulating [1] 535:14 stipulation [2] 475:16,23 stomach [1] 602:7 stomps [1] 572:14 stood [2] 570:21 682:11 stop [53] 461:2 463:21 464: 2 465:2,5,12,19,25 466:20</p>	<p>467:4 474:22 475:4 501:15 502:1,12 503:7,16,21 505:5 516:4 523:9 524:4 534:16 548:15 550:22 551:14 552: 8,9,9 553:11,11,11,20,20, 20 563:25 565:5,14,20,21, 21 567:21 584:22 597:11, 13,17 601:2 602:4 621:24, 25 636:10 637:20 681:22 stopped [38] 462:25 466: 10 467:9,11 478:19,22 523: 7,8 532:1,3 543:19 553:17, 18,25 554:13,14,16,17 564: 18,19 565:20 566:12 601: 15,15 615:18 621:23 632: 15 636:5,11 641:15,18 647: 2 651:10 658:14 667:6,8,9 681:25 stopping [2] 462:24 467:8 stops [4] 464:1 552:15 553: 3 557:5 storm [1] 519:2 straight [6] 553:18 558:20 607:21 640:13 650:13 651: 5 strawberry [1] 682:15 street [30] 457:12 459:4 461:20,21 462:5,6 463:8 472:1,5,14 473:3,19 478:15, 18 481:24 487:12,21 488:4 489:23,25 500:3,18 539:23 548:2 554:12 579:15 584:3, 7 633:15 672:22 streets [1] 463:2 stressed [1] 673:7 stressful [3] 578:24,25 582:16 stretch [1] 540:21 stretches [1] 583:21 strictly [1] 537:8 strike [13] 455:21 479:23 482:6,7,11,17,18,18,21,23 530:1 587:10 618:9 strikes [1] 480:3 strip [6] 504:11,19 546:3, 12 560:5,8 strips [2] 515:25 546:10</p>	<p>struck [5] 467:20 506:5 516:5 568:2 576:19 structure [2] 468:7 504:5 struggle [3] 571:10,13 573:3 struggles [1] 556:17 struggling [2] 552:22 572: 11 stuck [2] 669:10 682:4 stuff [7] 505:16 580:24 591: 15 594:1 609:14 675:12,14 submit [2] 493:5 672:7 subpoena [2] 494:18 623: 18 subsequent [1] 469:2 substantial [1] 476:1 substantially [2] 584:22 585:8 success [2] 582:12 583: 23 successful [1] 546:2 successfully [1] 504:12 such [2] 639:3 642:16 suck [1] 466:12 sudden [1] 623:6 suffered [1] 611:12 summer [1] 594:6 sun [1] 572:8 supervisor [2] 580:13 654:5 supervisors [1] 503:19 support [1] 469:13 suppose [4] 587:9 590:12 621:14,14 sure [43] 456:19 476:20 484:25 488:25 494:15 495: 7 502:10 519:7 524:16,24 527:16 538:11 541:16,16 542:12 547:15 570:3,5 572: 2 575:14 577:9 599:10 607: 8 609:10,10,13 610:24 615: 21 616:15 622:12 624:14 631:25 638:7,16 643:22 645:7 646:9 653:16,24 655: 6 661:8 663:18 679:10 surgeries [3] 468:17,19, 20</p>
--	--	--	--

Keyword Index

<p>surgery ^[4] 468:22 469:2 573:20 609:22</p> <p>surprise ^[3] 592:4 595:20 610:13</p> <p>surprised ^[1] 583:24</p> <p>suspect ^[37] 453:26 456:7 457:22 464:6 505:12 548:1, 7 557:3 564:16 565:8,13 566:7,19,24 567:12,13,14, 17 568:11,13,14 569:8 574:11,20 575:23 582:6 586:20 600:9,12 603:22 604:9 613:11,12 615:14 617:19,21 633:7</p> <p>suspects ^[5] 540:14 557:14 559:3,21 591:12</p> <p>suspect's ^[1] 574:10</p> <p>suspicious ^[1] 462:12</p> <p>sustain ^[3] 555:24 591:4 612:6</p> <p>sustained ^[6] 476:3 598:3 606:12 612:10 622:24,24</p> <p>suv ^[8] 466:2 559:23 600:6 629:16 630:13,14,16,17</p> <p>swap ^[1] 577:8</p> <p>swat ^[10] 455:24 456:13,15 464:17 469:23 579:23 580:5,7,8,10</p> <p>swear ^[11] 454:14 476:15 485:4 496:5 516:18 538:6 624:9 643:17 652:21 663:13 677:10</p> <p>sweat ^[1] 666:5</p> <p>sweatshirt ^[2] 666:5 667:14</p> <p>swerve ^[1] 505:10</p> <p>swerved ^[1] 505:12</p> <p>swerving ^[1] 513:4</p> <p>swinging ^[1] 641:25</p> <p>swipe ^[1] 561:10</p> <p>swipes ^[1] 562:22</p> <p>switch ^[2] 562:23 564:21</p> <p>switched ^[1] 458:2</p> <p>sworn ^[22] 454:12,22 476:13,24 485:2,16 496:3,13 516:16 517:1 538:4,16 624:7,17 643:15 644:1 652:20</p>	<p>653:5 663:10,21 677:9,19</p> <p>system ^[2] 532:24 535:13</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>tacoma ^[2] 462:20 557:13</p> <p>tactic ^[1] 465:7</p> <p>tactics ^[1] 465:7</p> <p>tail ^[2] 593:12 604:19</p> <p>taillights ^[1] 542:2</p> <p>take ^[40] 459:6 469:23 470:17 474:3 479:15,24 480:8, 20 489:3 494:11 505:25 512:12 525:2 528:5,12 529:14 530:22 535:25 536:22, 22 537:5,10 540:22 551:14 569:5 577:5,6,20 581:11 597:9 602:4 642:17 643:2 649:5 661:23 669:16,19 672:21 677:5 686:10</p> <p>taken ^[16] 459:14 483:20 490:9 495:22 527:1 537:21 548:17 566:24 569:25 577:25 634:13 637:23 643:8 671:23 675:9 680:10</p> <p>takes ^[5] 551:23 552:25 566:16 572:16 575:12</p> <p>taking ^[6] 482:6 484:14 487:13 596:5 639:3 661:7</p> <p>talk ^[4] 527:20 578:12 609:6 652:12</p> <p>talked ^[10] 457:17 499:17 528:4 555:15 580:24 583:6 584:12 591:22 609:13 641:8</p> <p>talking ^[9] 473:3 498:3 523:13 528:10 573:16 596:16 598:6 611:10 665:23</p> <p>tall ^[2] 646:14 649:12</p> <p>tan ^[1] 541:7</p> <p>tandem ^[1] 607:7</p> <p>tank ^[1] 524:16</p> <p>tarp ^[1] 602:17</p> <p>task ^[8] 539:13,16,17,18,21 540:7 580:19,19</p> <p>taught ^[3] 581:6,13 589:22</p> <p>t-a-y-l-o-r ^[1] 538:22</p> <p>teacher ^[1] 665:3</p>	<p>teacher's ^[1] 678:9</p> <p>team ^[7] 455:24 456:13,15 464:17 579:23 580:5,7</p> <p>tear ^[1] 483:18</p> <p>technician ^[3] 486:3,5,12</p> <p>technicians ^[1] 484:9</p> <p>tee ^[1] 539:24</p> <p>tell ^[13] 471:8 524:12 532:11 573:17 581:2 588:5 599:22 609:19 620:11 631:8 645:11 646:23 651:14</p> <p>telling ^[1] 573:2</p> <p>temporal ^[2] 467:25 468:10</p> <p>temporary ^[1] 468:2</p> <p>ten ^[8] 477:16 486:6,11,16 494:11 512:13,17 597:10</p> <p>term ^[1] 472:10</p> <p>terms ^[1] 514:21</p> <p>terrible ^[2] 469:12 519:1</p> <p>test ^[1] 639:4</p> <p>testified ^[21] 454:23 476:25 485:17 495:13 496:14 517:2 538:17 592:5,24 598:9 600:5 602:24 606:22 607:23 608:10 610:21 624:18 644:2 653:6 663:22 677:20</p> <p>testifies ^[1] 592:13</p> <p>testify ^[12] 494:21 495:15 556:7 595:19 597:19,23 598:15 652:12 657:18 663:5 677:2 685:15</p> <p>testifying ^[1] 555:13</p> <p>testimony ^[26] 454:14 463:10 474:22,25 476:15 485:4 494:20 496:5 516:18 538:6 578:10 592:19 598:24 599:2 604:4 606:4 611:11,16 612:4 615:20 624:9 640:16 643:17 652:21 663:13 677:10</p> <p>than ^[30] 458:9 468:3 512:16 518:10 523:13 531:19 532:4 533:13,15 550:18,19 557:15 564:3 583:9 584:6, 16,20 588:21 589:16 590:1 599:21 604:25 608:16 609:</p>	<p>14 620:5 631:12 634:1 638:10 659:23 680:3</p> <p>thanks ^[10] 454:20 500:21 516:7 528:15 547:20 556:3 623:24 643:7 652:15 671:17</p> <p>their ^[21] 456:17 464:18 465:11 466:10 494:18 501:6 508:11 520:4 528:19 560:12 579:3 580:16,19 592:9 610:16 621:9 657:11 672:25 680:25 682:19 684:2</p> <p>the-job ^[1] 486:25</p> <p>them ^[89] 456:10,16 465:18 466:5,6,7,8,12,18 475:4 477:10 479:3 480:21 492:16,17,19,19,20 494:18 495:2 501:9 505:14 508:9,10 519:1,4 520:1,2,6,19 522:10,11,13,15 523:22 524:10, 12 525:11 529:17 549:11, 14,15 550:6,15,25 551:3,25 552:8,10 553:10,14 559:23 563:7 567:3 568:6,25 575:13 581:22 585:8,20 587:16 588:14,16 590:17 592:11 593:21 598:5 613:19 619:16 621:8 630:15 632:2,2,20 633:1,2 639:14,19 641:16 646:15,22 651:10 658:17, 20 659:9 660:19 661:10 683:25 684:19</p> <p>theme ^[2] 579:14 581:18</p> <p>themselves ^[1] 584:17</p> <p>therapy ^[1] 468:9</p> <p>thereafter ^[5] 511:18 513:8 537:7,16 603:20</p> <p>therefore ^[1] 687:19</p> <p>therein ^[1] 619:18</p> <p>thereof ^[1] 687:17</p> <p>there's ^[48] 457:19,19,20 459:11 463:12,19 465:16 467:21 473:25 474:3,5,11, 15 481:16 482:11 483:19 490:6,19,19,23 491:3 506:19 509:13 526:6 529:13 531:5 545:9 546:9,13 549:</p>
--	---	--	---

Keyword Index

<p>15 556:21,21 557:1 562:22 564:1 565:6 581:13,17,20 582:1,2 584:12 589:10 611: 16 616:23 622:11 628:16 680:12 these ^[31] 464:14,17 469: 23 480:24,24 482:4 486:23 489:5,20 492:13,17 493:5, 19,23 494:21 522:23 532:6 536:10 547:22 549:1 550: 10 554:17 559:3 575:3 580: 24 590:6 612:20 659:7 671: 4 674:24 687:8 they'd ^[2] 467:11 684:3 they're ^[21] 463:9 465:11, 17 494:18 521:21 522:24 523:4 532:18 533:4 545:15 547:9 548:8 560:21 561:4 571:17 582:17 599:12,12, 12 630:9 661:4 thicker ^[1] 531:19 thing ^[18] 491:17 502:13 518:24 520:14 570:4 581: 25 592:9 594:15 609:24 614:13 623:3 630:16,17,24 659:20,21 666:7 669:1 things ^[18] 463:23,25 469: 13,23 479:24 508:11 514:6, 21 533:11 580:9,10,25 583: 3,18 612:20 639:5,8 650:20 think ^[60] 464:2 465:4 467: 8 486:17 488:6 494:22,23 505:21,21 508:14 511:5 514:13,18 518:17 519:6 528:19 535:14 541:16 551: 8 555:9 562:25 567:7 582: 14 584:6 586:4,23 587:23 589:11,14,16 591:6 594:17 602:3,6,25 603:1,8,13 605: 3,8 607:7,12,23 608:10 610: 5 614:16 615:9 622:15 627: 8,10 634:8 638:13 645:1 673:7 674:20 678:14 680:9 682:10 683:8,11 thinking ^[1] 650:4 third ^[2] 454:6 686:17 thirst ^[1] 609:17</p>	<p>thirsty ^[4] 573:20,21 609: 20,20 thompson ^[13] 504:9 516: 2 546:1,9 560:16 563:1 564:21 566:23 567:7 572:5 599:16 601:18 607:1 thompson's ^[1] 563:21 those ^[61] 465:20 468:20 470:17,17,19,23 471:2 480: 20,21,23 481:4,13 482:5 483:24 489:4,4,6,10,17 492: 10,12,15 493:7,9,9 494:19, 20 495:12 505:13 509:23 514:10 522:19 525:3,5,7,11, 19 528:12 529:1 530:19 537:9 544:22 548:19 560: 12 576:9 581:1 583:17 586: 18 593:2,3 595:2,3 599:21 654:24 659:5 660:22 671:4 680:19 681:8,9 685:23 though ^[6] 495:5 510:1 533:18 549:23 583:5 669: 24 thought ^[45] 459:10,13 465:17 502:22 518:3,6,12, 22,23 519:1,15 520:3,10,10, 15,16,19,20 521:14 522:10, 22 523:1 524:15 533:21,21 569:10,10 570:1 572:6 580: 22 593:24 614:12,12,13 622:19 647:14 651:20 659: 25 660:1 665:24 666:2 681: 23 682:14 683:7 684:3 threat ^[5] 570:6 600:24 607:8 614:6,6 threatened ^[4] 588:4,5,16 592:14 threats ^[3] 508:6 588:19 600:15 three ^[20] 456:5 468:19 477:24 493:4,8 522:25 523: 4 528:17 529:1,17,18 530: 15 567:7 577:5 603:5 604: 7 609:9 629:10 640:11 658: 16 threw ^[3] 666:23 667:10 673:13</p>	<p>through ^[40] 456:5,9,17 459:5 463:25 466:23 467: 21 468:4 471:9 475:5 481: 10 486:7 490:10 513:4 525: 23 536:1 544:10 546:25 547:3 549:1,14 556:1 560: 10,25 580:4,8,9 592:1,2,6 597:10 604:17 605:3 610: 15 617:17 642:21 668:20 675:3 682:4 687:15 throughout ^[7] 457:20 499:24 515:23 543:7 579: 12 580:9 600:3 thrown ^[1] 559:8 thru ^[16] 453:4,5,7,8,9,10, 18 471:7 481:12 489:15,15 494:2 525:25 549:20 576:7 675:4 thumbs ^[2] 504:11 546:9 thursday ^[1] 454:5 tim ^[1] 503:4 times ^[9] 461:2 469:6 569: 16 588:21 590:1 610:22 615:13 616:24 617:2 tinnitus ^[2] 511:5,7 tinted ^[1] 508:1 tion ^[1] 536:25 tire ^[30] 453:14 512:10 518: 23 519:15 520:10,16,20,25 521:1,11,15,16 522:11,25 523:13,15 524:19,20 525: 16 526:15,16,18,20,21,22, 25 533:22 535:14 560:25 561:4 tires ^[21] 453:13 504:13,21, 22 506:14,14 512:14 514:3 521:7,15 523:1,4 525:14 527:8,16 528:16,17,24 529: 1 560:9,12 tissue ^[2] 483:19 529:13 title ^[4] 486:3 498:25 499:2, 3 today ^[8] 472:19 638:25 641:5 642:20 653:17 664: 16 685:18,21 today's ^[2] 655:15,15 together ^[3] 571:19 585:</p>	<p>20 641:7 told ^[13] 458:15 501:17 524: 10 528:4 540:16 555:1,13 559:23 574:4 609:3,21 621: 20 659:18 tomorrow ^[1] 685:21 tone ^[1] 570:13 too ^[12] 470:6 495:5 499:21 512:4 526:6 530:13 532:21 551:24 584:11 600:1 659: 20 672:22 took ^[34] 465:14 469:11 480:24 482:9 483:14 489:7 490:2 504:11 540:22 544: 25 552:15 558:11 567:2,3,4, 15 569:13,14 570:3 574:19 575:2,2 592:11 593:16 601: 4 607:13 633:18 653:20 659:13 660:9 669:13 673: 25 675:9 684:8 tools ^[1] 638:13 top ^[11] 472:25 478:16 490: 23 584:15 585:9 607:22 615:9 669:7,8 681:8,8 torso ^[1] 668:22 total ^[1] 537:2 totaled ^[1] 675:17 totally ^[2] 588:1 590:17 touch ^[1] 467:22 touched ^[1] 571:10 tow ^[2] 548:13 644:17 toward ^[6] 568:1 616:15 629:12,15 660:22 661:15 towards ^[81] 459:5,6,7 462:14 478:18 481:22 500: 4,19 513:18 515:5 540:14, 22,24 544:10 548:2 550:3,6 551:6,8,25 552:14,16 553:2, 13 558:7,13 562:4 564:17 565:16,19 566:6,7,19 567:1 569:4 570:6,6 571:22 573: 4 589:12 598:19,21,22 615: 17 616:11 620:13 623:2 627:21 628:8,24,24 629:11, 11,13,21 633:14 640:10,10, 12 647:12,13,17,23 648:18, 20 649:12,21,24 650:13,15</p>
---	--	---	--

Keyword Index

<p>651:4,4 658:20 659:7,7,9 661:1,19 667:11,15 668:22 towing [4] 550:4 558:7,13 644:17 town [9] 473:5 497:19,22 498:2 625:1 665:1,3 678:7, 15 toyota [14] 462:20 520:15 521:3,18 522:3 523:14 544: 2 547:8 557:13 628:15,16 629:2 639:11 665:11 track [3] 576:9 604:1 671: 14 tracking [1] 456:7 tractor [4] 520:23,24 524:6 526:12 tractor/trailer [1] 525:8 traffic [29] 457:4,6 462:25 463:15 473:13 478:13 479: 3 487:20 497:21,22 498:1, 10 500:17 501:24 506:16 513:4 540:13,24 544:1,25 561:1,5 562:4,20 580:16 584:24 602:14 672:14 685: 2 tragedy [1] 587:17 trail [1] 637:14 trailer [12] 519:17 520:1,16 521:7 523:25 524:19,21 526:12,20 527:25 533:20 546:16 trailing [1] 581:11 train [3] 456:6,9,10 trained [3] 508:24 585:17 612:18 training [30] 456:3,16,17 465:6 469:22,23 486:7,13, 19,22,23,25 515:17 578:12 579:6,10,11,13,14,19 580:8, 9,20,23 581:3,19 582:11,15 584:4 590:4 trajectory [2] 491:7,13 transcribe [1] 596:18 transcribed [3] 499:22 600:2 687:7 transcript [2] 687:10,13 transmitter [1] 687:8</p>	<p>transport [1] 488:11 traumatic [4] 514:14,17 612:22,23 traumatizing [1] 531:1 travel [7] 481:23 515:20 530:20 554:14 559:25 570: 22 626:20 traveling [12] 464:9 517: 16 526:12 530:10 544:6 545:14 546:19 554:11 558: 25 561:9 562:3 626:18 travels [1] 459:9 treat [1] 610:14 treatment [1] 573:14 trial [6] 454:6 495:16,18 581:22 592:5 686:17 tricky [2] 636:1 637:18 tried [4] 576:24 615:7 618: 21 627:11 trigger [1] 595:14 trooper [19] 496:1,17 499: 3 507:16 515:4,15 516:10 543:18 544:4,17 545:5,9,11, 21 559:14 560:4,6,18 569:3 troy [6] 624:4,6,16,23 638: 23 654:5 truck [58] 453:12 463:7 465:16 510:10 517:17 519: 10 523:18 529:11 532:11 540:12 541:18 542:16 545: 15 548:13 591:19,23,25 592:7 627:21,22 628:7,10, 11,14,20,21 629:2,23 633: 15,16 636:4,13,17 638:9,12 639:11 640:5,9,10,12,17,19 644:19 647:5,10 648:13 654:9 656:22,24 657:7,8,11, 14 658:15,23 659:6 672:4 684:4 trucking [4] 517:13 530: 15,23 579:3 trucks [3] 529:17 530:15 592:6 true [3] 510:17 654:20 687: 13 truly [1] 472:15 trust [4] 494:21 508:23 578:</p>	<p>18 583:5 truth [33] 454:15,15,16 476: 16,16,17 485:5,5,6 496:6,6, 7 516:19,19,20 538:7,7,8 624:10,11,11 643:18,18,19 652:23,23,23 663:14,14,15 677:12,12,12 try [9] 469:6 479:10 556:1 560:6 572:4 581:21 582:21 613:6 614:16 trying [24] 465:5,17,21 466: 5,7 480:2 510:1 547:9,22 553:11 567:1 573:3 581:15 584:2 590:20 594:11 601: 14 608:12 642:3 659:20 669:8,12,16,18 t's [1] 638:8 tundra [17] 465:18 466:17 472:4 474:1,13 507:20 512: 7,24 513:3 514:10 515:18, 25 516:4 544:2 547:8 557: 13 614:25 turmoil [2] 580:23 594:19 turn [15] 464:8,10,20 465: 17,22 466:6 472:1 519:8 536:17 569:3 598:25 616: 14 627:20 645:10 661:21 turned [28] 461:7 462:6,10 463:24 498:13 499:23 543: 6 551:2,3 571:23 597:19,23 598:22 600:2 628:5 632:22 641:15 647:12 651:5,7 657: 4 661:16 662:5,7,14 668:23, 24 669:2 turning [5] 462:4 463:6,6 598:11 662:16 turnout [1] 540:23 turns [4] 459:10 551:6 595: 6,9 twice [5] 570:5 588:20 627: 22 633:16 640:10 two [66] 457:14 459:1 465: 16 466:22,23 479:22 487: 23 490:13 504:13 505:13, 19 511:23 520:25 521:24 527:6,7 529:18 540:13 550: 1,25 552:16 554:17 558:17</p>	<p>559:3 560:9 563:25 564:2 567:10 568:6,23 569:21,23 571:19 575:4,6 577:5 585: 9 587:24 588:18 592:11 597:6 598:5,23 603:4 609: 7 613:18 617:14 619:16 622:5,8 638:18 639:10,21 640:2 642:2 647:14 648:5, 10 658:16 660:22 661:1 671:8,10 672:25 681:15 683:25 two-and-a-half [1] 496: 25 two-month [2] 456:8,8 two-week [1] 469:21 type [15] 511:10 532:10 541:15 580:21,23,23 581:3, 14,20 582:3 584:5 588:23 590:18 608:11 619:18 types [2] 581:21 583:17 typical [1] 473:13</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>ually [1] 669:11 uh-huh [54] 472:23 475:9 509:8 510:8,12 511:5,9,25 514:9 531:7 533:23 578:20 581:18 583:5,9 585:13 588: 15 589:13 590:5 591:14 593:15 594:13 595:4,25 599:11 603:8 604:2 605:7 608:3,5 609:16 610:3,17,20 611:16 614:4,19 619:9,15, 22 620:2,4 621:8,16 622:2 623:10 628:1 630:20 639: 17 640:7 659:8 660:4 662: 13 679:16 uhp [4] 496:24,25 497:2 560:18 uh-uh [1] 508:5 ultimate [1] 479:13 ultimately [4] 602:6 607: 12 608:20,22 unable [3] 458:16 506:4 596:17 under [33] 455:13 504:5 506:1 553:12 557:4,5 558:</p>
--	---	---	--

Keyword Index

<p>8 571:16 572:13 573:4 581:1 582:16 583:14 584:3 586:9,19 587:2 589:23 590:6 593:19 594:18 604:5,13 623:18 637:11,13,18,21 648:14 661:4 687:7,10,12 undercover [2] 540:8 583:17 underneath [10] 514:7 558:8 571:11,14,21 573:7 602:18 647:18 681:13 684:17 underpass [7] 553:25 593:19 628:24 637:11,13,21 640:20 understand [7] 531:3 547:23 603:25 606:2,3 631:22 664:8 understanding [1] 458:14 undo [1] 669:8 unfortunately [1] 504:20 union [1] 481:22 units [2] 503:18 506:12 unity [1] 473:24 unless [2] 595:12 685:21 unpredictable [1] 589:23 until [16] 464:1 479:13 502:9 508:10,14 536:22 539:10 580:6,12 594:9,11 603:18 642:16 650:16,19 651:11 unusual [1] 626:19 update [1] 587:20 upon [22] 461:6 464:19 493:7 506:6 515:17,24 523:12 530:1 613:9,9 614:10,14,20,23 615:2 617:3,8 618:10,17 621:9 631:22 633:25 us [38] 461:3 501:19 532:11 540:14,24 543:19 544:10 545:9 546:9 547:10,23 548:4,8 551:6,8 560:16 563:23 566:3,8 569:3,4 571:6,23 607:18 609:19 615:19 616:7 625:14 627:4,19,21 628:5,8 633:14 640:10 656:25 657:16 680:13</p>	<p>use [7] 465:7 469:13,13 493:5 596:11 601:6 680:13 used [1] 618:18 uses [1] 638:13 using [1] 585:15 usually [5] 539:23 543:21 545:19 581:25 625:12 utah [32] 454:5 455:8,9,14,24 457:3 459:10 462:20 477:9 478:5 485:25 486:1,11 487:4 496:23 497:23,24,25 500:19 517:9 530:10 538:25 540:13 541:7 583:25 664:8 678:3 687:2,4,6,12,26 utes [1] 541:7 utility [1] 638:12 u-turn [3] 462:9 463:15 467:2</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>vacuum [1] 620:9 vaguely [1] 656:13 van [1] 562:21 vantage [3] 466:15 470:4 502:24 vantassell [7] 516:15,25 517:7 524:25 529:23 534:14 535:3 v-a-n-t-a-s-s-e-l-l [1] 517:7 vantassell's [3] 535:11,13 536:8 various [1] 596:16 vehicles [19] 457:18 462:12 464:11 505:13,19 518:24 544:8,10,11 551:24 560:10,13,17 563:24 566:8 568:23 638:13 659:7 661:1 vehicle's [1] 557:2 vent [1] 532:24 verbal [8] 474:2 576:16 595:2 598:6 613:18 624:2 646:19 686:13 verify [1] 502:4 verizon [1] 673:17 very [26] 462:9 463:12 466:</p>	<p>4,24 469:19 472:16 474:12,17 480:16 482:2 485:21 506:9 510:11 512:14 595:7 602:11,14,14 606:2,3 612:23 646:14 656:10 662:21 669:1 679:3 vest [3] 540:17 583:19 619:20 vests [1] 583:7 victim [5] 552:14,18,22 585:2 664:19 video [68] 453:3,4,11,17,18,19,20,21,22,23 460:2,11 461:5,7,9,13,23,25 466:11 470:20 471:24 472:15 473:7,22,23 475:7 479:12 498:11,13,17 499:4,17,20,23,23 502:13 504:3 505:10,15 508:15 511:24 515:20 542:15,17 543:5,6,8,23 558:22 564:21 577:5 585:7 592:23 594:4 595:7 596:2,17,22,24 599:17,25 600:2,4 604:24 605:19 613:9 617:3,5 view [9] 490:4,13 491:6,11,17,19 520:9 659:13 661:6 viewed [1] 498:17 violence [3] 581:4 588:18,23 visibility [4] 518:10,10 567:16 594:5 visible [1] 541:13 vision [2] 467:10 603:24 visual [1] 641:20 voice [5] 503:8 570:4 601:19 602:1 646:7 void [1] 467:21 voir [2] 555:3,7 voluntarily [1] 588:8 voluntary [2] 586:5 600:25 vs [3] 454:5 537:23 643:10</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>wagging [1] 604:19 waistband [1] 573:4 wait [2] 656:7 671:9</p>	<p>waited [1] 571:4 waiting [1] 599:23 walk [5] 463:25 524:14 549:1,13 556:1 walked [2] 682:3 684:15 walking [6] 667:11,15 681:6,7,17,18 wall [1] 684:17 want [20] 456:19 463:22 484:24 505:3 521:2 527:24 529:16 531:3 569:13 577:15 588:12,14,16 589:12 597:14 605:13 608:16 623:18 646:4 653:2 wanted [6] 463:1,2 469:7 529:16 540:18 614:12 wanting [2] 610:19 684:4 warm [1] 531:20 warmer [1] 531:14 warwood [1] 501:3 wasn't [17] 462:25 465:5 473:5 512:19 518:11 524:16 529:15 535:20 543:21 570:3 583:12 592:24 608:4 610:25,25 661:8 666:6 watch [6] 457:21 462:24 463:1,2,3 593:23 watched [8] 459:25 460:12 542:8,17 547:4 563:4 641:16 658:16 watching [12] 519:19 520:8 521:11 544:1 567:17,19,20 576:22 641:22 647:15 651:19 661:25 water [3] 573:18 608:17 610:19 waved [4] 627:4,12 684:12,22 waving [13] 595:6,7,8 622:12 666:7,12,14 667:14,17 681:19 684:14,14,19 way [43] 461:23 492:21 505:15 514:9 519:22 523:11 524:7 531:11 544:9 545:22 546:10 558:4 565:12,13 567:1 571:21 584:13 586:18 588:14 592:15 598:20</p>
---	---	---	---

Keyword Index

<p>605:3 608:12 611:12,17 616:11 626:23 631:9 632: 24 633:2,5 637:11,12 641: 15 646:15 647:17 656:6 657:4 660:17 680:9,17 681: 12 682:3 ways ^[1] 567:25 weapon ^[7] 467:17 530:22 553:13 573:9 595:13 613: 13 662:5 weaponry ^[1] 508:24 weapons ^[1] 550:20 wear ^[2] 510:17 539:22 wearing ^[10] 510:20 541:6, 7 550:12 582:24 583:18 601:18 649:17 682:7,10 weather ^[3] 484:1 505:9 532:6 we'd ^[9] 460:6,21 475:16, 17 504:4 526:1 547:22 575: 11 596:4 week ^[3] 469:22 470:2 592: 13 weekends ^[2] 580:16,16 weeks ^[1] 675:11 well ^[89] 454:8 460:6 474:6 478:13,23 483:21 484:1 486:9 487:16 488:5,19 493: 3 497:21 501:14 504:6 505: 15 507:19 509:5,8 513:17 514:7 515:19,20 518:6 519: 22 537:3,5,24 545:6,19 548: 22 549:14 551:6,25 552:10 553:2 556:24 558:3 567:22 569:19 573:21 578:8,22 579:9,17 580:7 581:23 582: 9 583:3 584:1 588:3,17 589:5,9 594:4 597:8 598:2, 15 601:25 606:7 608:1,7 610:15 612:4,8 618:9 619: 17 620:15 621:6,7,10,19 622:1 627:3 629:10 634:8 637:17 643:11 646:24 648: 17 651:20 656:10,15,15 670:14 678:21 680:6 682: 10 685:20 we'll ^[33] 454:4 463:19 473:</p>	<p>23 476:21 480:12 494:10 495:20 537:16,16,20 538:1 543:25 549:1 565:4 566:21 577:20,24 585:6 593:23 596:11 597:16 604:16 605: 12 643:2,6 645:23,24,24 646:15 656:14 685:20 686: 4,7 wendy ^[2] 687:5,24 went ^[41] 456:5,17 458:18, 19 467:24 501:23 504:11 511:7 512:10 514:4 540:21 546:25 547:2 550:21,23 553:17,18 558:20 578:24 580:4 586:2 594:9,24 595: 8 601:10 602:4 603:24 607: 21 609:14 614:15 620:6 632:9 648:14 650:15 651:6 657:4 661:18,22 669:8 682: 24 683:1 we're ^[33] 454:6 465:3 485: 10 492:24 495:2,4,24 498:3 500:22 505:21,21 526:11 537:22 543:9 544:1 545:24 547:25 553:5,6,10,10 554:7 558:22 559:14 573:16 577: 4,7 578:2 585:11,11 597:8 611:25 642:16 weren't ^[9] 507:23 508:3 513:20 583:9 587:18 591: 19 592:16 597:21 610:11 west ^[9] 459:4,9 461:21 472:1 478:17,17 593:1 598: 17 647:1 westbound ^[2] 481:23 487:20 westward ^[1] 543:17 wet ^[1] 602:12 we've ^[11] 457:17 479:5 494:17 510:5,12 511:11 580:24 582:8 591:21 616: 17 641:8 whatever ^[8] 522:12 534: 19,21 535:20 557:13 586: 19 594:15 650:4 what's ^[35] 470:16 480:11 489:1 492:9 498:24 501:1</p>	<p>503:17,19 506:25 511:3 514:20 523:2 524:3 525:1 526:11,14 528:1 542:13 548:24 557:8 561:23 574: 15 575:20 586:14 634:4,17, 20 645:8 655:4,7 659:5 662:10 670:9 673:23 679: 11 wheel ^[10] 453:15 472:11 521:1 523:4 524:20 526:23 527:12 531:9,9 536:8 wherein ^[1] 581:19 where's ^[1] 572:6 wherever ^[3] 550:22 586: 2 614:15 whether ^[14] 468:21 493: 19 513:20 515:24 545:1 550:24 551:2 563:1 600:18 613:21 633:2,4 661:16 683: 24 which ^[50] 457:2 458:17 459:6 461:5 482:7 489:24 497:6,24 500:2,3,13 502:4 504:11 506:1,14 514:7 520: 10 521:8 531:9,12,12 533: 21 535:12 536:7,7,9 554:3, 5 558:4,23 559:11 563:14 570:22 571:21 575:18 604: 5,6 616:11 622:16 627:12 629:4 630:3 635:20,24 656: 6 661:20 680:13 681:20 687:14,15 while ^[12] 509:14 530:23 531:18 552:21,22 553:9,10 587:17 650:11 651:18 669: 11,15 white ^[28] 462:20 463:7,9 520:14 521:3 541:18 544:2 547:16 557:13 627:19 628: 15,16 629:2 630:25 633:14 636:4,16 638:10 640:17 644:19 647:5 656:22,24 666:5 673:19 680:20 681: 15 684:4 who ^[39] 458:10 479:2,3 484:6,8 495:12,13,14 528: 18 535:10 544:16,16 546:</p>	<p>12 560:7 567:6 568:20,25 572:16 590:13 591:16 593: 11 604:3 625:21 628:2 633: 12,13,17 635:19 639:13 654:4 661:12 668:6,6,9 673:1 678:15 683:10,17,19 whole ^[15] 454:15 476:16 485:5 495:2 496:6 516:19 538:7 582:7 614:13 624:11 643:18 652:23 659:21 663: 14 677:12 whom ^[3] 551:17 566:18 603:1 who's ^[4] 507:2 546:21 559:2 624:3 why ^[29] 463:6 481:1 494:7 495:5 497:16 499:25,25 501:1,11 517:22 527:4 543: 21 547:11,23 553:17 554: 15,16 574:1 575:6 581:2 603:25 609:25 610:1 611: 23 614:14 618:1,5 623:16 653:17 wide ^[1] 607:22 w-i-l ^[1] 664:3 will ^[40] 454:15,19 459:6 470:17 476:16 480:2 484: 19 485:5 496:6,19 505:14 516:19 524:12,13 536:19 537:9 538:7,12 543:11,18 546:2,11 560:5 562:23 566: 21 569:20,21 577:5 586:16 600:14 609:25 624:10,15 643:18,23 646:7 652:23 663:14,19 677:11 williams ^[19] 552:22 555: 10 556:13,21 663:9,20 664: 2,3,5,15,21 670:1 673:10, 24 675:5 676:4,21 677:1 678:18 williams' ^[8] 553:16,24 554:8,9 557:3 558:9,16 682:17 willingness ^[1] 536:5 wind ^[2] 490:10 533:13 window ^[26] 470:7,11,11 502:21,25 503:12 508:1</p>
--	---	--	---

Keyword Index

<p>509:9 513:15 515:6 520:24 521:19,20,22,23 534:2 542: 1 592:2 632:21 648:12 662: 7,15 667:7 682:4,5 683:1 windows [8] 470:6 509:13 532:7 533:2,5,8,12,15 windshield [19] 466:23 479:22 482:9,10,24,24 483: 2 487:24 488:5 490:1,7,13 491:6,8,15,20 542:1 592:6, 7 wiper [4] 482:9,24 488:6 490:1 wish [1] 611:24 within [6] 497:3 509:16 539:25 573:24 585:11 625: 3 without [4] 511:1 582:9 590:1 651:3 witness [74] 454:17,19 475:3 476:11,18,20,22 484: 24 485:7,9 496:8,10 498:22 507:7 516:14,21,23 524:23 525:4 535:6 536:18,19,20 538:9,11,13 556:3 577:2 589:5 605:25 612:8,12 620: 24 623:13,22,24,25 624:3, 12,14 635:12 636:6,15,18, 23 637:2,6 638:2,15,18 643: 12,20,22,24 645:6,23 646:4 652:3,13,15,16,25 653:2 655:5 663:6,7,16,18 671:16 677:14,16 685:6,17 687:21 witness' [1] 461:8 witnessed [2] 639:4,10 witnesses [8] 479:11 494: 17 495:5,13 536:2 642:19, 23 680:2 woman [4] 665:25 683:4, 11 684:12 wondered [1] 661:6 word [4] 469:7 474:3 511:9 514:20 words [9] 495:15 514:19 586:19 590:2 597:20 610:6 619:13 657:10 681:8 work [16] 455:14 456:6</p>	<p>469:18 470:1 475:9 477:13 529:21 580:21 611:23,24 612:2 625:11 626:10 642:4 654:3 657:9 worked [10] 455:16,16 464: 16 466:4 477:15 539:7 579: 5 584:1 607:7 640:23 working [7] 469:21 539:25 543:22 580:15 583:16 644: 14 687:10 works [2] 625:24,25 worried [2] 495:4 572:24 worst [1] 604:13 worth [1] 529:15 worwood [38] 501:13 507: 2,3 540:9,16,25 543:15 544: 3 545:17 546:22 548:3,17 552:9,16 558:18 561:13 562:1,19 563:23 564:15 566:23 567:10 568:10 572: 4,11,17 573:11 574:5,19 575:2,2 584:22 596:2 598: 23 607:1,12 610:19,21 worwood's [4] 542:16 545:15 565:10 603:8 wouldn't [16] 469:7 550: 21 588:14,16 589:14 590:7 592:17 604:13 609:3 610: 13 611:4,9,14,17 619:22 625:14 wound [8] 458:22 468:2 476:4 571:12 607:20 608: 14,18,22 wounds [3] 607:19 611:12, 14 wow [1] 649:20 wrecked [3] 666:2 680:21 681:15 wrecker [1] 658:15 wrecking [1] 675:13 wrestles [1] 572:19 wride [2] 458:15 464:16 write [2] 636:13 679:6 writing [7] 636:6,15,18,23 637:2,6 638:2 written [4] 671:4,19 680:4, 7</p>	<p>wrong [3] 563:11 604:24 650:9</p> <hr/> <p>X</p> <hr/> <p>x's [4] 671:8,10,14 680:25</p> <hr/> <p>Y</p> <hr/> <p>yanked [1] 669:10 yard [1] 675:13 yards [5] 509:16 550:9 585: 12 629:3 649:20 year [6] 486:17 540:1 578: 21 579:12 625:4 653:15 yearly [1] 579:11 years [16] 455:13,17 472: 23 477:16,24 486:6,10,11, 12,16,25 497:1 578:18 589: 22 665:13 672:18 yell [8] 544:3 569:16 570:4, 14,14,15,19 604:22 yelled [5] 553:14 566:14 570:7 617:6,7 yelling [22] 552:3,4,6,8,10 553:10,20 565:20 566:9,10, 11,13,16 567:3 569:9,15 570:2,12 601:23,24 621:23 684:24 yep [2] 532:16 674:13 yesterday [4] 458:4 463: 10 468:1 474:25 yet [3] 494:21 502:11 604: 18 you'd [3] 583:24 638:1 656: 15 you'll [14] 465:15 466:11, 13,22,23 511:15 527:6,13 553:5 562:2 565:10 582:16 601:24 685:23 young [2] 552:19 665:25 yours [2] 584:8 603:1 yourself [12] 469:14 495: 17 581:6 582:21 583:4,6,10 585:4 620:16 656:4 670:5, 15 you've [45] 460:11 468:17 470:24 482:17 483:6,18 490:15 512:1 513:20 530: 25 531:6 532:14 537:8 547:</p>	<p>4 554:8 575:14 578:13,15, 15,20 579:5 583:22 592:20 596:25 597:3,6 600:5,6 602:24,25,25 603:13,21 604:4 606:21 607:23 608: 24 611:23 619:17 634:13 639:10,21 657:5 664:8 680: 6</p> <hr/> <p>Z</p> <hr/> <p>zion's [1] 481:24 zone [3] 457:12,12 472:21 zones [2] 457:11 584:14</p>
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