IN THE FOURTH JUDICIAL DISTRICT COURT OF UTAH COUNTY, STATE OF UTAH

STATE OF UTAH,

Plaintiff,

vs.

Case No. 141400517 FS

MEAGAN DAKOTA GRUNWALD,

Defendant.

Jury Trial Electronically Recorded on May 1, 2015

BEFORE: THE HONORABLE DAROLD MCDADE Fourth District Court Judge

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PROCEEDINGS

(Electronically recorded on May 1, 2015)

COURT BAILIFF: All rise. Fourth District Court is now in session. The Honorable Darold J. McDade now presiding.

THE COURT: Thank you. Please be seated. Okay, we're going to go on the record, State of Utah vs. Meagan Grunwald, case 141400517. Today is Friday, May $1^{\rm st}$, 2015. This is the fourth day of the trial. Before we get started today I wanted to bring a matter to the attention of the media.

Those of you that are here will recall that we have an order limiting electronic media coverage of trial in relation to exhibits. It's pretty standard. I mean, the order is what it is, and it states, "The Court orders that the media and the general public and all other individuals are prohibited from filming, recording, taking pictures, recording sound, or transmitting any video images, pictures or sounds of exhibits that are offered at trial in this matter."

I don't know how it can get any more specific than that. So having said that, if there is a violation of this order any further, I will bar the media from being in here.

I don't have any choice. It's very specific, and so I don't think that everybody's having an issue with this, but those who are need to make sure we comply with this order.

So I'll leave it at that at this point, and then hopefully we won't have any problems with that in the future. So

1 we'll go ahead and call the jury in, unless we need anything 2 else to be taken of before we get started, Counsel? 3 MR. PEAD: No, your Honor. 4 THE COURT: Okay. 5 COURT BAILIFF: All rise for the jury. 6 (Jury enters the courtroom) THE COURT: Thank you. Please be seated. All right, 8 all Counsel are present today with the defendant Ms. Grunwald being present as well. All members of the jury as well are 10 present. Still the State's case. Ready to call your next 11 witness? 12 MS. HOWARD: Yes, your Honor. The State calls Kellen 13 Worwood. 14 THE COURT: Thank you. 15 MS. HOWARD: May I approach. 16 THE COURT: Sure. 17 THE COURT: Come forward, sir, let's get you sworn in. 18 COURT CLERK: Raise your right hand. You do solemnly 19 swear that the testimony you shall give in the case now pending 20 before the Court will be the truth, the whole truth and nothing 21 but the truth, so help you God? 22 THE WITNESS: Yes. 23 THE COURT: Thank you, sir. Please have a seat in the 24 witness box. Just make sure we get close enough to the mic 25 that it will pick you up okay.

1		KELLEN WORWOOD,
2		having been first duly sworn,
3		testified as follows:
4		DIRECT EXAMINATION
5	BY MS. H	OWARD:
6	Q.	Would you please state your name and spell your first
7	and last	names for the record.
8	А.	It's Kellen Worwood, K-e-l-l-e-n W-o-r-w-o-o-d.
9	Q.	What is your occupation?
10	Α.	I'm a deputy for Juab County Sheriff's Office.
11	Q.	Are you a certified officer with the State of Utah?
12	Α.	Yes, I am.
13	Q.	How long have you been certified ?
14	Α.	Two years.
15	Q.	How long have you worked with Juab County?
16	Α.	For seven years.
17	Q.	Okay, and what did you do prior to being a certified
18	officer?	
19	Α.	I was a corrections officer.
20	Q.	Okay, was that a category 2 officer?
21	Α.	Yes, that's correct.
22	Q.	Okay, and what is your current assignment?
23	A.	I'm a patrol deputy.
24	Q.	Okay, now, Deputy Worwood, I'm going to direct your
25	attentio	n to events that occurred on January 30 $^{\rm th}$ of 2014. Do
		603

1 you recall that date? 2 Α. Yes, I do. 3 In the early -- excuse me, at some point in that date did you receive information about a pursuit? Yes, I did. Α. 6 What was that information? Q. That there had been an officer down in Utah County, Α. and the last known location of the vehicle was eastbound in 9 Santaquin. 10 Okay, so what did you do based upon that information? Ο. 11 Α. I went to I-15 and headed north and stationed at mile 12 marker 232 in the median. 13 Okay, and was there anyone with you? Q. 14 Α. Yes, Deputy Taylor was with you. 15 Okay, and then what happened at that point? Q. 16 Α. At that time we were stationed in the median. Trooper 17 Blankenagel met us at that same location, and we waited to see 18 if the vehicle was coming southbound on the freeway. 19 Okay, and what happened next? Q. 20 A short time later a vehicle was spotted heading 21 southbound on I-15 at a high rate of speed. 22 Okay, you said "the vehicle." What was the vehicle? Ο. 23 The white Toyota truck. Α. 24 Q. Okay, and you had identifying information at that time 25 about it?

- 1 A. Yes.
- Q. Okay, and so you said at a high rate of speed. Are
- 3 | you certified as an officer, have you been trained to visually
- 4 estimate the speed of vehicles?
- A. Yes, I have.
- 6 Q. Did you do that on that date?
- 7 A. Yes.
- 8 Q. What was your estimation?
- 9 A. 110 miles an hour.
- 10 Q. Okay, so what happened next?
- 11 A. At that time the vehicle passed us. Trooper Blanken-
- 12 agel pulled out first and started to catch up to the vehicle.
- 13 | I pulled out behind Trooper Blankenagel and started to follow
- 14 as well.
- Q. Okay, now Deputy Worwood, you said that you were in a
- 16 | vehicle. What type of vehicle were you in?
- 17 A. I was in a truck, a Ford pick-up truck.
- 18 Q. Is it a marked vehicle?
- 19 A. Yes, it is.
- Q. How is it marked?
- 21 A. It has stickers that state "Sheriff," and there's
- 22 also a badge on the side. There's also emergency lights in
- 23 | the vehicle.
- Q. Okay, and on that date were you on duty?
- 25 A. Yes, I was.

- 1 Q. So how were you dressed?
 - A. I was dressed in my uniform.
- 3 0. What is it?

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- A. A tan shirt with my badge, and identifying patches on the shoulders, and our green pants.
- Q. Okay, so then after you pull in behind I believe you said Trooper Blankenagel --
 - A. Yes.
 - Q. -- what happens next?
- A. At that time we continued south towards Nephi, and at mile marker 226 Deputy Thompson was able to spike the vehicle.
- 12 Q. Then what happened next?
- A. Then the vehicle continued south at that point. A
 little bit later Deputy Ryan was there and also spiked the
 vehicle. He also got Trooper Blankenagel's vehicle.
 - Q. What happened when -- at that point when they were spiked?
- 18 A. The trooper pulled off the side of the road and the suspect vehicle continued south.
- Q. Okay, so what did you do?
- 21 A. I continued south after the vehicle.
- Q. So at this point behind the suspect vehicle is your marked vehicle; is that correct?
- A. Yes, that's correct.
- Q. Was your emergency equipment on?

1 A. Yes, it was.

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- 2 Q. Then also was there another vehicle with you in 3 pursuit?
- A. Behind me Deputy Thompson and Deputy Ryan fell in after they had got back in their vehicles.
 - Q. Okay, and do you know if there were any other agencies of law enforcement pursuing as well?
 - A. Utah County was still southbound at that time.
 - Q. Okay, so after that second spike what happens next?
- A. At that time the vehicle— there were several vehicles around the side of I-15 southbound that had either had their tires spiked as well or been involved in accidents, and I continued past those, still following the white Toyota truck.
 - Q. Okay, and then as it approaches the south end of town, what happened next?
- A. As we get to exit -- near exit 222, the white truck took the exit and went down the off-ramp, and I followed.
- Q. Deputy Worwood, you had a dash cam operating on that day; is that correct?
- 20 A. Yes, that's correct.
- Q. Okay, and you've watched that; is that correct?
- 22 A. Yes.
 - Q. Is it fair and accurate of what you saw that day?
- 24 A. Yes, it is.
- 25 Q. Deputy Worwood, have you also seen pictures or screen

1 shots of that dash cam recording? 2 Α. Yes. 3 In preparation for today; is that correct? Q. Yes, that's correct. Α. Ο. Are those also fair and accurate representations? 6 Α. Yes. MS. HOWARD: Your Honor, we have previously marked 8 Plaintiff's Exhibit 106 and it has already been entered into 9 evidence. We would like to start publishing those photographs 10 starting with Plaintiff's Exhibit 106. 11 MR. ZABRISKIE: No objection, your Honor. 12 THE COURT: Thank you. 13 Q. BY MS. HOWARD: So I'm out of the jury's way and out of 14 no disrespect to the Court I'm actually going to move back to 15 the table, if that's all right. 16 Α. Okay. 17 Deputy Worwood, okay, just making sure you can hear 18 me. All right, Deputy Worwood, what is it that you -- can you 19 describe what you see at this point? 20 This is at the bottom of the off-ramp at exit 222 on 21 I-15 on the --22 What is it that that picture is depicting, just so we 23 can make a record of what is it that you see? 24 A. The white Toyota truck, the suspect vehicle is at the 25 bottom, the doors are open, and the individuals inside the

- 1 truck are outside and starting to run westward towards the on-2 ramp.
- 3 Q. Okay, you said there were individuals getting out of the truck?
 - A. Yes.

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- Q. Can you describe them?
- 7 A. The one was a male, Mr. Garcia. The other was a 8 female, Ms. Grunwald.
 - Q. Okay, if you could with your laser pointer indicate to the jury which one is the male and which one is the female.
- A. At this point that one there would be the female -or correction, the male, and the female would be on that side.
- Q. Okay, and are you watching them as they exit that vehicle?
- 15 A. Yes, I am.
 - Q. What does the male do once he gets out?
- A. At that point the male raises a firearm, a handgun, and points it towards the truck that you can see there, and starts running towards it.
- Q. Okay, and what does the female do?
- 21 A. She follows close behind.
- Q. Do you see -- and you're at a distance, but at that point do you see any interaction from them from the distance that you're at?
- 25 A. No, I do not.

- Q. Okay, we could go to the next image, Plaintiff's Exhibit 107. Oh, if you could describe for the jury what it is you see there.
 - A. This is when the male and female had ran further out into the intersection. The male would be this one, and the female that one, and they continued to run over into this area towards that truck.
 - Q. Are you watching them this time?
 - A. Yes.

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- 10 Q. What is it that you actually -- what is it you see?
- 11 A. I see the male running towards a vehicle with his hand
 12 up and the gun pointed at individuals in the truck -- in the
- vehicles. The female is following close behind trying to keep up.
- 15 Q. About how close behind, would you say?
 - A. About 20 feet.
- Q. Okay, if we could go to image -- Plaintiff's Exhibit
- 18 | 108. Deputy what is this picture showing to you?
- A. At this time the white truck that you could see in
- 20 previous photos had went under the structure, and Officer
- 21 Robison with Nephi City is starting to come the on-ramp. The
- 22 | male points his qun up towards Officer Robison's vehicle, and
- 23 looks like he shoots at least one time.
- Q. Deputy Worwood, do you see which hand the gun is in?
- 25 A. It is in his right hand.

- Q. Do you -- can you see the gun with what type it is or how long it is?
 - A. I just see that it's a handgun.
- Q. Do you know what color it was?
- A. It was dark colored, black or blue.
- Q. Okay, at this point when he does that, the defendant is behind him?
 - A. Yes, that's correct.

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- Q. If you could just describe for the jury what it is that you see.
- A. I just see him looking up that way, and he fired a shot and then they continued to run.
- Q. Okay, did you see any stops or pauses or interaction at that point with him?
 - A. No, I did not.
- Q. Okay, what happens next on Plaintiff's Exhibit 108?
- MR. ZABRISKIE: Excuse me, what exhibit was that?
- 18 MS. HOWARD: No. 107.
- 19 MR. ZABRISKIE: Thank you.
- THE WITNESS: In this exhibit they have gone -- they've
- 21 | ran under towards the structure. The female flagged down this
- 22 | vehicle and got inside the vehicle. The owner of the vehicle
- 23 was seen getting her child out of the driver's side of the
- 24 vehicle, and then the vehicle left that area.
- 25 Q. BY MS. HOWARD: Okay, so from when you see the male

- suspect pointing the gun at Officer Robison, where does he go?
 - A. He turns and runs towards this vehicle as well.
 - Q. Okay, and where does the female go?
- 4 A. The female is waving her arms and goes towards the vehicle as well.
 - Q. Okay, and at some point you said that he has pointed the gun at a utility vehicle -- excuse me, go ahead and state for the jury what it is that you saw him pointing his gun at.
 - A. I seen him point the gun at the white truck --
- 10 Q. Okay.

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- 11 A. -- at the beginning. He also pointed it at Officer
- 12 Robison's car. After that, between where he pointed it at
- 13 Officer Robison's car and made contact with this vehicle,
- 14 he pointed the firearm in my direction and Deputy Taylor's
- 15 direction, and fired one round.
- Q. Okay, when he -- when he did that, where were you and Deputy Taylor?
- 18 A. We were outside the vehicle standing off to the sides.
- 19 Q. Okay, you said that he had pointed at a white truck.
- 20 Which white truck? Because there are two white trucks; is that
- 21 | correct, at that scene?
- A. Yes, that's correct. He pointed it at the utility
- 23 | truck that was traveling south --
- 24 Q. Okay.
- 25 A. -- under the structure.

- Q. So you saw him point the gun at three different groups or people; is that correct?
- 3 A. Yes, that's correct.
- Q. Then one shot fired at you and Deputy Taylor?
- A. Yes.
- Q. Where was he standing when he fired that shot at the two of you?
- 8 A. He was about halfway between the east side of the 9 pavement and that vehicle.
- 10 Q. So on that picture approximately where?
- 11 A. He would be about right in here.
- 12 Q. Okay.
- 13 A. Towards the edge.
- Q. All right, when you first pull up to the Tundra, do
- 15 you stop?
- 16 A. Yes, I did.
- 17 Q. Then what is it that you do at that point?
- 18 A. At that time myself and Deputy Taylor exit the vehicle
- 19 and give the individuals commands to stop running and to drop
- 20 the weapon.
- Q. Okay, and you specifically, do you recall what you
- 22 | were saying?
- A. Yes, I told them to stop running and to drop the
- 24 | weapon and get down on the ground at that point.
- 25 Q. Okay, and I apologize for talking over you. What was

- 1 | the reaction to that by the two suspects?
- 2 A. There was no reaction; they just continued running.
- 3 Q. Okay, Off -- or Deputy Worwood, do you hear anybody 4 else giving commands?
- A. Yes, Deputy Taylor was also giving the same instructions.
- Q. Okay, now you said that the female went in front of the vehicle waving hands?
 - A. Yes.

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- Q. Like if you would be so kind to show the jury what it is you saw.
- 12 A. She was just waving her hands like this, trying to get 13 the vehicle to stop.
- Q. Okay, that's hands up by your -- up by the sides of your head waving them back and forth?
- 16 A. Yeah, just like that.
- Q. What happened with the vehicle when she did that?
- A. The vehicle did come to a stop, and both individuals got into the vehicle.
- Q. Okay, and Deputy Worwood, were you able to see who got into what side?
 - A. The female was in the passenger's side and the male was in the driver's side.
- Q. Okay, and when the female went up to that vehicle, where was the male?

- A. He was on the driver's side of the vehicle.
- 2 Q. Okay, and did you see what he was doing?
- A. He had the gun pointed at the female inside the vehicle.
 - Q. What happened at that point?
 - A. At that point the driver of the vehicle got out and opened the door on the driver's side, the passenger door on the driver's side, and got her child out of the vehicle.
 - Q. Okay, and what happened next?
- 10 A. At that point she goes around the car and stands by
 11 the cement structure, and the individuals, the suspects got in
 12 the vehicle and started to drive.
- Q. Okay, and at that point what is it that you do?
- A. At that point I go back and get in the vehicle and we start to pursue this vehicle.
- 16 Q. Where is it that you go?
- A. We go on -- back onto I-15, the on-ramp. We pass

 Officer Robison and start heading southbound.
- 19 Q. You're falling behind the new vehicle?
- 20 A. Yes.

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- 21 Q. Do you know what type of vehicle that is?
- 22 A. It was a tan SUV.
 - Q. Okay, so they were following behind a tan SUV and what happened next?
- 25 A. We continue south around mile marker 219, and another

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- trooper spiked this vehicle's tires, which causes it to slow
 down. A short time later the vehicle lost a tire. It went
 through the median, and went and was then traveling southbound
 in the northbound lanes on I-15, and it collided with a blue
- 5 vehicle on the -- a blue passenger car that was traveling
- Q. Okay, and Deputy Worwood, have you -- well, okay, so it struck -- it headed northbound, and did you say what mile marker that was?
- A. It was spiked about mile marker 219, so it would have been about mile marker 217 when it crossed through the median.
 - Q. Okay, crossing over at 217?
- 13 A. Yes.

northbound.

- 14 Q. Then what happens at that point?
- 15 A. The vehicle, like I said, struck the other vehicle, and it went off the east side of the northbound lanes.
- Q. Okay, and what is it that you see at that point?
- A. At that point I see the male get out of the vehicle
 before it had came to a stop, and started running back towards
 the car.
- Q. What do you see of the female?
- A. The female was behind a few seconds, but she also exited the vehicle and began to run after the male.
- Q. Which direction is the male running?
- 25 A. They are running north.

1 Q. The female is running also north behind him? 2 Α. Yes. 3 Where is that struck vehicle? Ο. It's about 30 yards north of where their vehicle was. Α. Q. Okay, and the male is heading toward that? 6 Yes, that's correct. Α. Q. Okay, and what do you see him doing as he runs that 8 way? 9 A. He has his gun out again pointing at the vehicle, and 10 he is running at the car, and the female was following him 11 towards the vehicle. 12 Q. Okay, do you know about how -- what that distance is 13 at that point between the male and the female? 14 At that point it would have been about 20 yards 15 difference --16 Q. Okay. 17 Α. -- that the female was behind. 18 Now, have you also seen video from Deputy Thompson? 19 Α. Yes. 20 Q. Did you find that video to be fair and accurate? 21 Α. Yes. 22 Ο. Have you also seen, then, two screen shots taken from 23 Deputy Thompson's vehicle? 24 Α. Yes. 25 (Counsel conferring off the record) -707-

1 MS. HOWARD: Thank you, your Honor. We had a house-2 keeping item to take care of. 3 BY MS. HOWARD: So you've seen those screen shots and they're fair and accurate representations? Α. Yes. 6 Okay, I have what's before me marked Plaintiff's Exhibit 113 and 114. No. 114 was admitted yesterday, but let's take care of 114 first. No, let's -- yes, let's take care of 114. I have what's been marked Plaintiff's Exhibit 10 No. 114 and ask you if you can identify this? 11 A. Yes, that's a picture of where we stopped around mile 12 marker 216. 13 Which picture precedes -- does 113 precede 114? Q. 14 Α. Yes. 15 Q. Okay, and so 114 is -- is it a fair and accurate 16 representation of what you saw that day? 17 A. Yes, it is. 18 MS. HOWARD: Your Honor, I'd move to offer into evidence 19 Plaintiff's Exhibit 114. 20 MR. ZABRISKIE: No objection. 21 THE COURT: Accept and receive State's Exhibit 114. 22 (Exhibit No. 114 received into evidence) 23 MS. HOWARD: I would also move to publish it, but I 24 will be publishing it after 113. 2.5 MR. ZABRISKIE: No objection.

1 THE COURT: Thank you.

MS. HOWARD: Thank you.

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- Q. BY MS. HOWARD: You were describing for the jury that the male had jumped out and then the female had jumped out. On this picture can you indicate to them which one is the male?
- A. The male is the one that you can see on the very edge of the photo.
 - Q. Then which one is the female?
 - A. The female is this one back here by the vehicle.
- Q. Okay, and so at that point, then, he's heading toward the struck vehicle; and do you see what happens at that struck vehicle?
- 13 A. The male individual has his gun, and he's trying to -14 it looks like he's trying to open the doors to get inside the
 15 vehicle.
 - Q. Okay, so what happens next?
 - A. At that time me and the other deputies start through the median and tell the vehicle to just drive. The vehicle does leave, and at that point the male individual points the gun in our direction again, and that's when all of us fired at the male individual.
 - Q. Okay, you indicated that you were telling -- I believe the word was telling the struck vehicle to leave. Were there other commands or audible sounds that you were making?
- 25 A. At that time we were telling the vehicle to leave, as

- 1 | well as for the male suspect to drop the weapon.
- 2 Q. Drop the weapon?
- 3 A. Yes.

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- 4 Q. Any other commands?
- 5 A. Not at that time.
 - Q. Okay, and so then the male subject turns and points the gun, and then the reaction from the officers is fires back.

 What happens next?
- A. At that time the male individual gets down on his stomach and scoots back off of the pavement onto the east side of the freeway. The female gets down on the pavement at that time, and we start moving through the median towards the suspect.
- Q. Okay, are you watching the female?
- 15 A. Yes, we are.
- 16 Q. Are you spec -- are you, yourself?
- 17 A. Yes, I am.
- 18 Q. What is it that you see?
- A. At that point in time the female was laying on the cement, and then she would act like she was going to get up.

 She would lift her torso off the cement and kind of pull her knees up like she was going to stand or try to move, and we would -- I would tell her to not move and to stay there. Then

she would lay back down. Then a short time later she would do

25 the same thing, try to get back up.

- O. Okay, and if we could move to Plaintiff's Exhibit 114.
- 2 | If you would describe then what happened at this point.
- 3 A. At that point we -- I am moving through the median.
- 4 | The male is over here. You cannot see him in the photo, and
- 5 | that is the female right there.
- Q. Who else are the images you see?
- A. This individual is Deputy Ryan, and that -- the one
- 8 kneeling down is Deputy Taylor.
- 9 Q. Who is the individual up top?
- 10 A. That one right there is me.
- Q. Okay, and do you know where Deputy Thompson is?
- 12 A. He's back towards -- he's over in this area, walking
- 13 | through the median kind of at an angle.
- Q. Do you know if there are any officers that are now on
- 15 | the other side of the road approaching the defendant?
- 16 A. Not at this time.
- Q. Okay, do you know where the trooper went?
- 18 A. I seen the trooper pass, but he had to go further down
- 19 the freeway before he could turn through the median.
- Q. Okay. Okay, Officer, at that point where Sergeant --
- 21 excuse me, Deputy Taylor is kneeling, you're still up by your
- 22 vehicle, what happens next?
- A. At that point we continue to make our way through the
- 24 median. The male individual raises his head up and points the
- 25 gun at us again. Some of the other individuals fired at that

- 1 time, and he went down behind the pavement at that time, and we
 2 continued to make our way over towards him.
 - Q. Are you mindful of what the defendant is doing at that point?
- 5 A. Yes, we're-- I'm keeping an eye on the male individual 6 as well as her.
 - Q. Do you at some point after the shots were fired before you crossed the road, do you hear whether or not the defendant says anything to you?
- A. As I was almost reaching the pavement on the hillside
 of the median the defendant stated, "You shot him in the head."
 - Q. What was the exact quote, Officer?
- A. Her exact quote was, "You shot him in the fucking head."
 - Q. Could you describe for the jury what the tone was of her voice?
- 17 A. The tone was angry and upset.
- 18 Q. What happened next?

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- A. At that time myself and the other deputies went to the male individual, and Trooper Sheets arrived and took custody of the defendant.
- Q. Okay, as you're at the male what happens?
- A. Uh, when we got to the male, Deputy Taylor took the subject's left arm, Deputy Ryan took his right arm, and Deputy
 Thompson placed a foot on his shoulders. I went around to the

1 right arm of the individual and took the handgun out of his 2 hand.

- Q. Okay, and could you describe for the jury how easy that was.
- 5 A. I had to fight and pull pretty hard to get it out of 6 his hand. He still had a very good grip on the handgun.
 - Q. Okay, and you took that gun?
- 8 A. Yes, I did.

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- Q. What did you do with it?
- A. At that time I put it in the right pocket of my pants, in the cargo pocket.
- 12 Q. Okay, and what happens after that?
- A. After that, Deputy Taylor begins to search the individual and locates an empty magazine on the left pocket in the
 male individual's pants. He takes that out and gives it to me
 as well.
- Okay, and once you have the firearm and the magazine, where do you go?
- A. At that time I stand up and Deputy Shepherd with the
 Utah County Sheriff's Office came over at that time and took
 the firearm and the magazine from me.
- 22 Q. Does he have a special training; do you know?
 - A. Yes, he is firearms instructor, and he has other $$\operatorname{\textit{qualifications}}$$ for that.
- 25 Q. Okay.

23

1 Α. For firearms. 2 Q. So is that why you gave --3 Α. So, yes, that's why I gave it to him. Okay, so you stand up and you move away from the 0. suspect? 6 Α. Yes, for a moment. Okay, when you grab the gun from him, do you recall Q. 8 him saying anything? 9 When I knelt down and grabbed the gun, his exact words were, "I'm so fucking thirsty." 10 11 Then when you move away do you hear him say anything Q. 12 more? 13 I can -- I can't hear anything besides mumbles at that Α. 14 point. 15 Okay, and you're standing at this point where? Q. 16 Down by his feet. Α. 17 Q. But you can hear him mumbling? 18 Α. Yes. 19 You said they were just mumbles to you, though; is Q. 20 that fair? 21 Yes, I couldn't make out clearly what he was saying. 22 Okay, once you are at his feet, where is Deputy Q. 23 Taylor? 24 He is still kneeling down with -- near the right side 25 of the male individual.

- Q. Okay, and what happens at that point?
- A. At that time Deputy Ryan calls for an ambulance, and
 Deputy Thompson goes over to get a first aid kit out of his
 patrol vehicle.
 - Q. Where is his patrol vehicle?
 - A. It's across the median on the southbound side still.
 - Q. Okay, so while he goes up to where this is, and then he comes back, where are you?
 - A. I am still at the male subject's feet.
- Q. Okay, so when he comes back down with the medical kit, what do you do?
- A. At that time I -- Deputy Thompson gave me some guns and some bandages, and I held the bandage on the male individual's head until medical arrived.
- Q. Okay, and so for that pendency or that duration you are not by the suspect other than to be by his feet; is that what you're telling the jury?
- 18 A. Yes, that's correct.
- Q. Okay, now you said that you took the gun and you saw the gun, obviously, is that correct?
- 21 A. Yes.

6

- MS. HOWARD: Okay, your Honor, may I approach him with Plaintiff's Exhibit No. 119.
- 24 THE COURT: Yes.
- 25 Q. BY MS. HOWARD: I show you Plaintiff's Exhibit 119 and

ask you if you can identify that? 1 2 Yes, that is the handgun that I took out of the male individual's right hand. Okay, and it has two magazines; is that correct? Yes, that's correct. Α. 6 Were they with this gun? Q. Yes, one was inside of it and the other one is the one Α. Deputy Taylor handed me. 9 Okay, and then you gave these to (Inaudible) Shepherd? 10 Α. Yes, that's correct. 11 MS. HOWARD: Okay, just a minute, your Honor. 12 THE COURT: Okay. 13 (Counsel conferring off the record) 14 BY MS. HOWARD: Officer, backing you up to mile marker 15 222, I -- we had talked about who you had seen the male suspect 16 pointing the gun at; do you recall that? 17 A. Yes. 18 Do you recall seeing him ever point the gun at the 19 female that was with him? 20 Α. No, I do not. 21 Do you recall ever seeing him turn around and interact 22 with the female, or them have any interactions? 23 Α. No. 24 Do you recall if as he was running if he ever stopped

25

running?

1 Α. No, he did not. 2 How about for the female? 3 Α. No. 4 Directing your attention back to mile marker 216 where 0. we have just recently been talking about, once the male and the female get out of the -- I believe you call it an SUV --Α. Yes. 8 Q. -- what happens to that SUV? 9 Α. It continues to roll off the east side of the freeway 10 down into the barrow pit. 11 Okay, and as you're watching the male suspect at mile 12 marker 216, who all do you see him point the gun at? 13 He pointed the gun at the individual in the blue car. Α. 14 Q. Okay. 15 As well as myself and the other deputies. Α. 16 Do you see him ever point the gun behind him at anyone Ο. 17 else? 18 Α. No. 19 Do you see him ever point the gun at the defendant? Q. 20 Α. No. 21 At mile marker 216 do you see any interactions between 22 the male suspect and the female suspect?

MS. HOWARD: Okay, nothing further. Thank you, your

23

24

25

Α.

Honor.

No, I do not.

-717-

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THE COURT: Okay, thank you. Cross examination?
 1
 2
             MR. ZABRISKIE: May I have just a second, your Honor.
 3
             THE COURT: Okay.
 4
              (Counsel conferring off the record)
             MR. ZABRISKIE: May I proceed, your Honor.
 6
             THE COURT: Yes.
 7
                            CROSS EXAMINATION
    BY MR. ZABRISKIE:
 8
 9
         Q. Deputy, I have a few questions I'd like to ask you as
10
     it relates both to your testimony and your observations that
11
     day. Excuse me. You would admit that this was a traumatic and
12
    hectic day; would you not?
        A. Yes, I would.
13
14
        Q. More particularly your day began in real earnest at
15
     the top of -- or somewhere on that ramp, the off-ramp at mile
16
    marker 222?
17
        A. Yes.
18
        Q. Is that correct?
19
            Uh-huh.
        Α.
20
         Q. Tell me how you were -- you were dressed. You had
21
     your uniform on. Am I right in assuming that you had a bullet-
22
    proof vest on?
23
        Α.
             Yes.
24
             That's standard requirement when you're on duty?
        Q.
25
        Α.
             Yes.
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- 1 Q. This may sound superfluous, but why do you wear a
- 2 bulletproof vest?
- 3 A. So I will make it home to my family at night and 4 reduce the risk of being shot and dying.
- 5 Q. Uh-huh, and that's -- that's a legitimate and good 6 reason, isn't it?
- A. Yes.
- 8 Q. Not everyone that finds himself in harm's way has a 9 bulletproof vest on; isn't that the case?
- 10 A. Yes.
- 11 | Q. Talking about private citizens.
- 12 A. Yes.
- Q. Okay, now, I note that as you were pursuing the car --
- 14 excuse me, the truck, that ultimately you ended up on the off-
- 15 ramp. I'm assuming that that's in the furthest, most south
- 16 ramp in Ne -- is it Nephi?
- 17 A. Yes.
- 18 Q. Yeah, and you come to a stop somewhat behind the now
- 19 | stalled truck?
- 20 A. Yes.
- Q. Why was that; why the distance?
- A. I stopped a little bit behind. I didn't know if there
 was any other individuals in the vehicle.
- Q. Uh-huh, and is it not also your purpose is to stay out

25 of harm's way?

- 1 A. Yes.
- 2 Q. The greater the distance the more the chance of 3 surviving that day; isn't that the case?
- 4 A. Yes.
- Q. As to the occupants of that car -- I'm not talking
 about what you know now. Talking about what you knew them, if
 you'll indulge me just for a second -- you don't know what was
 going on inside of the cab of that truck, do you?
 - A. No.

- Q. In fact, at that particular moment you didn't know
 anything about the occupants of that car -- excuse me, that
 vehicle, other than the immediate needs and immediate emergency
 that you were faced with?
- 14 A. That's correct.
- Q. You didn't know anything or have any acquaintance -and let's talk about Meagan Grunwald. Had you ever met her
 before?
- 18 A. No.
- 19 Q. Didn't know anything about her?
- 20 A. No.
- 21 Q. Never heard her voice before?
- 22 A. No.
- Q. Didn't know how old she was?
- 24 A. No.
- Q. So if she, too, had been threatened by Jose, you

-720-

1 | wouldn't know that, would you?

MS. HOWARD: Your Honor, objection. It assumes a fact not in evidence. It's also speculation.

MR. ZABRISKIE: Well, your Honor, this is cross examination.

THE COURT: Overruled. Go ahead and respond, sir.

THE WITNESS: No.

- Q. BY MS. HOWARD: So your impressions and the things that you have testified to here today are more particularly an end result of having learned more about this situation. You now know more about what happened up in Lehi -- excuse me, on Eagle Mountain, things of that nature; isn't that the case?
- A. Yes.
- Q. Now, there's been -- there was a question asked you as it relates to the end of this, and I'm going to jump ahead just a little bit here, and if I confuse you, it's not my intention, just tell me to stop, okay? When you're at the final stanza of your involvement in this case, excepting your testimony here today, Garcia -- Jose Garcia is now on the ground, and there was a question asked you as to where you were standing or where you were located while in his presence, and I think you've indicated that after you took the gun you were at his feet; is that the case?
- A. Yes.
- 25 Q. Again, you're -- even at his feet you're just a few

1 short feet from his head; is that correct? 2 A. Yes, uh-huh. 3 Now, you indicated that's not very far. You could still hear what was coming out of his mouth? A. Just mumbles. 6 Okay, just mumbles. So you were close enough to hear that but you didn't hear any articulate words excepting "I'm thirsty"? 9 A. Yes. 10 Q. Okay, now are you able to determine --11 MR. ZABRISKIE: If we may, just for a second, could you 12 put up 106 for me, please. Would the Court indulge me, we're 13 going to put 106 back up. 14 THE COURT: Sure. 15 Q. BY MR. ZABRISKIE: This is the one here. There we go. 16 How far are you from -- how far is your vehicle from that car 17 that you see the truck? 18 Uh, 40 to 50 yards. Α. 19 Q. So it could be 150 feet? 20 Α. Yeah. 21 Half a distance of a football field? Q. 22 Yeah, about. Α. 23 Okay, and your statement is that you didn't hear any Q. 24 exchange; by that, any communication between Meagan Grunwald 25 and Jose Garcia?

- 1 A. No, I did not.
- 2 Q. So if they were speaking in a -- just a normal voice,
- 3 | not yelling, not screaming, would you not -- or would you
- 4 | anticipate hearing everything that they said to each other?
 - A. No.
- 6 Q. So when you say, "I didn't hear anything," that's from
- 7 | the distance that you are now at. There was shouting going on?
- 8 A. Yes.
- 9 Q. You were saying something, weren't you?
- 10 A. Yes, I am.
- 11 Q. You're a soft spoken fellow but I trust you have a
- 12 loud voice when needed?
- 13 A. Yes.
- Q. You're shouting?
- 15 A. Yes.
- 16 Q. Officer Taylor's shouting?
- 17 A. That's correct.
- 18 Q. Robison and the other -- let me ask this question.
- 19 Robison is on the other ramp, just across the road there.
- 20 There's noise coming from her direction; am I correct?
- 21 A. Yes.
- 22 Q. So during all of this concert of yelling and every-
- 23 thing, certainly something could have been said between them
- 24 | that you could not hear?
- 25 A. I did not hear anything.

1 Q. Now, there -- there has been testimony -- and again, 2 I don't know if you're privy to this testimony. If you are not, then stop me. There was also a truck, a work truck parked just this side -- and this is not going to be reflected in the record, but to the right of that stalled truck? 6 Yes. Α. That is -- that truck ultimately went to the right; Q. did it not? 9 Α. Yes. 10 Somebody was shooting at that truck, right? Ο. 11 Α. Yes. 12 Is that not in the direction where -- at least in 13 the proximate direction where Meagan and Jose ultimately --14 well, where they exited -- where she exited, would they not 15 be shooting towards that truck, and was that not where she 16 ultimately was standing? 17 A. I'm not sure of the angles. 18 Uh-huh. Well, that's because you're some distance 19 from there. I know you're trained to observe facts and minutia 20 so -- for future use; isn't that the case? 21 Α. Yes. 22 So your ability and your attention span I would assume 23 is much more finite than mine would be. I'm not trained like 24 you are?

25

A. Yes.

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1
        Q.
            Now, I noticed, too, in testimony --
 2
             MR. ZABRISKIE: Thank you, your Honor.
 3
             THE COURT: Thank you.
 4
             MR. ZABRISKIE: May I approach, your Honor.
 5
             THE COURT: Sure.
 6
         Q. BY MR. ZABRISKIE: This is a still now admitted into
    evidence -- excuse me, ladies and gentlemen. It's a reflection
    of what we just saw up on the screen here; is that correct?
 9
        A. Yes, it's a different picture, but it's the same
10
     scene.
11
             Is that an accurate reflection of what was seen that
        Q.
12
    day?
13
        Α.
             Yes.
14
             MR. ZABRISKIE: Offer to publish 106, your Honor, to
15
     the jury.
16
             THE COURT: Any objection?
17
             MS. HOWARD: No, your Honor.
18
             THE COURT: Okay.
19
            BY MR. ZABRISKIE: It was a foggy, windy -- will you
20
     explain to me what was the weather that day.
21
             It was snowing off and on throughout the pursuit,
22
     pretty heavily at times.
23
        Q. Not a postcard day for Nephi, was it?
24
        Α.
             No.
25
        Q. Unless you're a skier. There was also traffic on the
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1 freeway? 2 Α. Yes, that's correct. 3 Ο. Traffic going back and forth? 4 Yes. Α. 5 Q. On the road, and I can't remember the -- which roads 6 they are. The roads involved here, you weren't there alone. There was -- there are other cars there, other cars getting off. All of this -- all of this action was going on? 9 A. Yes. 10 So when you're asked did you observe any type of 11 exchange or communication between the respective parties --12 and by that, Meagan and Jose -- we're talking about all these 13 other things that were going on at the time. You're not alone 14 in this hemisphere with just these two people, are you? 15 Α. No. 16 Now, there's also been testimony offered, and I note, 17 and you can correct me if I'm wrong, that he was pointing that 18 gun in all directions? 19 He was pointing at vehicles. 20 Q. He wasn't -- maybe he didn't stop and point it, but 21 was -- he was -- correct me if I'm wrong, he's look -- moving 22 around, and when you say "all directions," he's -- he's got a 23 gun in his hand, doesn't he? 24 Α. Yes.

25

Q. He's right handed?

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- 1 A. Yeah.
- 2 Q. You indicated in your testimony that Officer Robison,
- 3 up the hill, he shot at her?
- 4 A. Yes.
- Q. You recall hearing that?
- 6 A. Yes.
- 7 Q. So you don't know how he got -- he's right handed.
- 8 Did he turn like this and point up the hill? Did he draw the
- 9 gun? Tell me -- tell me about what happened, what you saw.
- 10 A. He had the gun in his right hand when he exited the
- 11 | vehicle, the white Toyota truck at the bottom of the off-ramp.
- 12 Q. Okay, and so if he's -- if he's going to point that
- 13 gun at somebody, he has to turn to do that?
- 14 A. Yes.
- Q. So that gun -- he may have shot up the hill, but that
- 16 | gun, it's like a -- it's a needle on a compass, isn't it; it's
- 17 | going all directions?
- 18 A. It's pointing at the vehicles. He's not waving it
- 19 around. He deliberately points it at what vehicle he wants to.
- Q. That -- even at the distance that you were located,
- 21 | that's a -- was that traumatic? A man's got a gun down the
- 22 hill. Did he shoot at you?
- A. Yes, he did.
- Q. Fortunately he missed?
- 25 A. Yes.

- Q. That's a function of the distance and maybe excitement, things like that?
 - Α. Possibly.

2

3

4

- I mean, I'm glad -- I'm glad you're here, Officer. I'm not making light of it. You did the right thing. So your
- observations and what -- your auditory observations and the
- optics -- the visual observation, they're all the end result
- of a very chaotic few seconds, maybe a minute, maybe two at the
- most? Correct me if I'm wrong.
- 10 A. That's correct.
- 11 Q. Okay, and so again, I have no reason to doubt that
- 12 that's what you may have heard and may have seen, but I also
- 13 have no doubt that that may not be as accurate as it would have
- 14 been had you been standing right here.
- 15 MS. HOWARD: Your Honor, I'll object. Counsel is testi-
- 16 fying.
- 17 THE COURT: Sustained.
- 18 BY MR. ZABRISKIE: Certainly you would agree that had
- 19 you been closer to them, had there been no distractions, your
- 20 hearing and your observations would have been more clear?
- 21 Α. Possibly.
- 22 Okay, now again, you don't know what -- if there was
- 23 something said, if there's testimony hereafter, you didn't
- 24 hear it --
- 2.5 A. No, I didn't.

1 Q. -- between the two parties? 2 Α. No, I did not. 3 That does not necessarily mean that something was not said, does it? A. Not that I know of. 6 Q. All right, now again, you indicated that you saw -and again, you're in hot pursuit now. You're trying to, one, reduce the risk to yourself and others, right? 9 Α. Yes. 10 But ultimately you've got to work your way closer to 11 what's going on, right? 12 Α. Yes. 13 So you drive down the hill, and you're now at the 14 point wherein that truck was stalled, right? 15 Α. Yes. 16 You're looking now towards the underpass? 17 Α. Yes. 18 Do you stop there? Q. 19 Yes, briefly. Α. 20 Okay, and therein is where you observe this getting 21 into another car? 22 Α. Yes. 23 While you're in your car coming down the hill, were Q. 24 you in your car or did you run down the hill --25 A. I was --

- 1 Q. -- or down the ramp?
- 2 A. I was in the vehicle.
- Q. Okay, so while you're in that vehicle, and I assume that Officer Taylor was in there with you, that even reduces
- 6 A. Yes.
 - Q. Well, now you're inside your car, windows up.

more of what you could hear; isn't that the case?

8 A. Yes.

9

10

- Q. There's all sorts of stuff coming across the radar, right?
- 11 A. Yes.
- Q. So if something was said, some command given by Jose to Meagan, you would not have heard that anyway, would you?
- 14 A. No.
- Q. Okay, so again, when you make this observation or testify you didn't see or hear any exchange, there were other intervening causes that may have affected that, isn't it?
- 18 A. Possibly.
- Q. All right, now, do you know what was said -- you were not inside the car where Ms. Williams was. That's the lady that owned the car that ultimately was taken.
 - A. Yes.

22

- Q. Okay, and excepting for what's been testified to here today, you don't know what exchange was going on?
- 25 A. No.

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- 1 Q. Okay, you weren't there? 2 Α. No. 3 Okay, now they ultimately they get in the car and they Q. proceed up the southbound -- is that the southbound ramp where Officer Robison was? 6 Yes, it is. Α. She's still up there parked in her car? Q. 8 Α. Yes. 9 Q. Okay, and you proceed further south? 10 A. Yes, that's correct. 11 I think your testimony was to the effect ultimately --Q. 12 well, there has been testimony, and I can't remember if you 13 testified to it or not, ultimately that car front tires blown 14 out; is that correct? Front left tire? 15 Α. Yes. 16 Q. It loses control? 17 A. Yes. 18 Then it proceeds across the -- we call it a barrow 19 pit, but the center -- the divider between the two north and 20 south traffic, right?
- 21 A. Yes.
- Q. Now there's -- you men again place yourself in harm's way, and you've testified as to what -- what you observed. By that, when they -- when Meagan and Jose Garcia exit the car, that you did see?

1 Α. Yes. 2 Now, again, at the risk of being repetitive, you don't know what he said to her inside that car before they exited, do you? Α. No. 6 So in the way of hypothetical, if he said, "Get your ass out of the car now before I shoot you," you couldn't -you're not in a position to say that wasn't said, because you weren't there? 10 A. Correct. 11 Q. Okay, now there's been testimony to the effect that 12 she ultimately assumed a knee and then got down flat; is that 13 your recollection? 14 Α. Yes. 15 Q. She -- you made some comment that she kept trying to 16 get up? 17 Α. Yes, that's correct. 18 Well, let me ask you a few questions about that. You 19 have already characterized the day as cold; is that correct? 20 Α. Yes. 21 Q. Windy? 22 Α. (No verbal response). 23 Ο. There's -- the road's wet? 24 Α. Yes. 25 Q. Okay, and so she's laying flat on a surface that --

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1 describe it to me; was it wet? 2 Yeah, it was wet from the snow. 3 Ο. And cold? Yes. Α. Would you assume that she -- her clothing is now wet? Ο. 6 Α. Yes. Okay, so if she made some effort to get off that cold Q. ground would that possibly have been a reason that she tried to 9 get up? 10 A. I wouldn't think so, not that -- not as far as what 11 she was going. 12 Q. Uh-huh, so you would eliminate that as she's very 13 comfortable there on the ground? 14 MS. HOWARD: Your Honor, I will object. That is specu-15 lation putting the officer in the defendant's mind. He has no 16 personal knowledge to that. 17 MR. ZABRISKIE: Well, he was there, your Honor. He knows what the weather conditions were. This is --18 19 THE COURT: That's not what he testified to. 20 MR. ZABRISKIE: -- common obser -- well --21 THE COURT: Sustained. 22 Q. BY MR. ZABRISKIE: Was there anything between her, 23 excepting for her clothing and the environment; by that, the 24 ground? 25 A. No.

1 Q. Did you note whether in fact her clothing was wet? 2 I don't know that for a fact. 3 Uh-huh. So you didn't have the opportunity to observe her thereafter? Α. No. 6 In fact, was that the end of your contact with her, then, what you've testified to? 8 Α. Yes. 9 Okay, you don't know what -- what she was thinking, do 10 you? 11 Α. No. 12 Q. You indicated that her voice sounded angry. How close 13 were you to her when you made this observation? 14 Α. Just across the freeway, the dis --15 Q. With cars going by? 16 -- the distance of the two lanes. Α. 17 Uh-huh, and you'd never been acquainted with her 18 before? 19 Α. No. 20 So you don't know what the nature of her voice is, 21 anything excepting what you heard? 22 A. That's correct. 23 Now, you indicated that four of you officers converged Q. 24 on Jose while he's on the ground? 25 A. Yes.

- 1 Q. I see Officer -- it's Worwood, Thompson, Taylor and 2 who else? Did I lose --
 - Deputy Ryan. Α.
 - Q. -- and excuse me, Deputy Ryan; and each of you had a strategic spot that you -- you had to secure this guy to the ground, right?
 - Yes. Α.

8

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17

- Q. Make sure you get that gun?
- Α. Yes.
- 10 Okay, now you were debriefed -- you were debriefed 11 after this incident by officers in law enforcement?
- 12 Α. Yes.
- 13 That's standard fair, especially where there's been a Q. 14 fatality; isn't that the case?
 - Α. Yes.
 - Do you recall the date and who interviewed you at the time?
- 18 I don't recall the exact name.
- 19 The exact name of those that interviewed you? Q.
- 20 Α. Yes.
- 21 Okay, you indicated in your response to their inquiry 22 as to what happened while you were there along with the now 23 reclined Jose Garcia; and you said, "At the time I got some 24 blood and some gauze, and I held pressure on the wound until 25

the EMT's arrived." So you were the one administering to the

1 wound on the head? 2 Α. Yes. 3 Okay, and you were at that head until -- if you held it there, you were there until the EMT's got there? Α. Yes. 6 Were you standing at his feet when you were holding Q. that on his head? 8 A. No, I was standing at his feet until I received the gloves and the gauze from Deputy Thompson. 10 Q. Okay, and then you administered to them? 11 Α. Yes. 12 Q. Now, the question was asked you whether in fact you 13 heard him verbalize, and your response -- and correct me if I'm 14 wrong. I'm not trying to ambush you. If you can't remember, 15 let me know and I'll reread it. 16 The only think I remember, I mean, he 17 was moaning and grunting while he was trying to 18 fight a little bit, but after we got him cuffed 19 and that, the only -- the only phrase --20 MR. ZABRISKIE: That's time line 15:26, if you're 21 following his interview. 22 BY MR. ZABRISKIE: (Continuing to quote) 23 The only phrase that I can remember him 24 saying is, "I'm so f-ing thirsty," and that's it. 25 Q. Did he say anything about the girl?

1	A. No.
2	Q. Nothing you can remember?
3	A. No, nothing I can remember.
4	So the only thing you heard and you were in the
5	proximity either at the feet or holding something on his head
6	during the entire time; were you not?
7	A. Yes, that's correct.
8	MR. ZABRISKIE: Thank you. I have no further questions.
9	THE COURT: Thank you. Redirect?
LO	MS. HOWARD: Thank you, your Honor.
11	REDIRECT EXAMINATION
L2	BY MS. HOWARD:
L3	Q. Just a couple of things, Deputy Worwood. I'm going to
L 4	back you up to mile marker 222 or exit 222 at the off-ramp.
L5	Now, when you first pull down and you're at that 50 yard mark,
L 6	I think is what we were talking about, the half the distance of
L 7	a football field, are you out of your vehicle or are you still
L 8	in your vehicle?
L 9	A. At that time I was probably still in the vehicle at
20	the 50 yard mark. We went a little bit closer before we got
21	out of the vehicle for the first time.
22	Q. Okay, so what you're observing there isn't necessarily
23	sound, but sight?
24	A. Yes.
25	Q. Are you observing the defendant's actions?

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- 1 A. Yes.
- Q. What are her actions when she first gets out of that vehicle?
- A. She was just following Garcia.
- Q. Where does she get out?
- A. She gets out of the vehicle out of the driver's side.
- 7 Q. Where does she go directly after she gets out of that
- 8 driver's side?

9

- A. Right behind Garcia?
- 10 Q. Where does -- talking direction-wise, does she go
- 11 | south, north, east, west?
- 12 A. They were going east, kind of south, southeast -- or
- 13 | correction, southwest, sorry. Would have been southwest towards
- 14 | the southbound on-ramp.
- Q. Okay, and you see the male suspect get out of what
- 16 | side of the vehicle?
- 17 A. Out of the passenger side.
- 18 Q. Which direction does he go, then?
- 19 A. He goes southwest.
- Q. Okay, and as you watch him run, what side of him is
- 21 | the male -- the female?
- 22 A. She's right behind him, if not to the left a tiny bit.
- Q. Okay, and as she's to the left and -- to the left a
- 24 | tiny bit and behind him, do you see the distance there -- and
- 25 | I don't recall what you said the distance was. What was the

- 1 distance between the two of them?
 2 A. Uh, 15, 20 feet maybe.
- 3 Q. Okay, do you see him point the gun to his left or
- 4 behind him?

- A. No, I do not.
- Q. When you see him, he points his gun where?
- A. He points it up the hill right in front of him towards

 Officer Robison, as well as right in front of him towards the

 right utility truck that we could see in the pictures, and he

 also swings it around to his right towards myself and Deputy

 Taylor.
- Q. Okay, and then Mr. Zabriskie asked you if he was pointing it in all directions. Was "all directions" a word that you used or that Mr. Zabriskie used?
- 15 A. Just Mr. Zabriskie.
- Q. So you didn't say that he was pointing it in all directions?
- 18 A. No.
- Q. Okay you said he was pointing it at vehicles; is that correct?
- 21 A. Yes, that's correct.
- Q. Okay, and Mr. Zabriskie asked you if there were other cars there; do you recall that?
- 24 A. Yes.
- 25 Q. You said that there were other cars there?

-739-

- 1 A. Yes.
- 2 Q. There were a lot of -- how many people would you say 3 were about that area around the defendant?
- A. There was just the white utility truck you can see in the photo, and then the vehicle under the overpass that they took, and a work truck to the right that you cannot see on any
- Q. Okay, do you see the defendant going to any of those vehicles?
- 10 A. Just the one under the structure.
- 11 Q. Okay.

of the photos.

- 12 A. The one that they took the SUV.
- Q. That is the direction that the male suspect was going?
- 14 A. Yes.
- Q. Did you ever see her turn and go to anybody else?
- 16 A. No.
- Q. Did you see her -- I'll strike that. As they were running towards Chetney's vehicle -- I believe that's what you called it, was Chetney's vehicle?
- 20 A. Yes.
- Q. Okay, I don't want to put words in your mouth. As he was -- as they were running to Chetney's vehicle, what's the
- 23 distance between the two of them there?
- A. It's about 10 to 15 feet there as well.
- 25 | 0. Still the same distance?

- 1 A. Yes.
- Q. Okay, and where is she located with regard to the male suspect?
 - A. She's just behind him.
- \bar{b} Q. Behind him to the right, to the left?
- A. It would have been behind him still to the left a little bit.
- Q. Okay, and you were further left than that, or are you
 9 now behind them?
- A. Yeah, at that point I was next to the white Toyota

 11 facing southbound.
- Q. Okay, and was he in front of her or behind her or to the side of her?
- A. He was in front of her at that time.
- Q. Did you see him turn around toward her?
- 16 A. No.
- Q. Directing your attention to questions at mile marker
- 18 216 that Mr. Zabriskie asked you, when you initially testified
- 19 you said that you were watching the female on the side of the
- 20 | road; is that -- do you recall that?
- 21 A. Yes.
- 22 Q. You based -- you told the jury some things. I just
- 23 | want to ask you, was that based upon your observations?
- 24 A. Yes.
- 25 Q. Based upon your observations of the defendant; is that

-741-

1 what you're telling the jury? 2 Α. Yes. 3 Q. What was your -- what was it that you, based upon that, your opinion as to what the defendant was doing? She was trying to get up to move towards Garcia. 6 That's not based upon what anyone has told you; is Q. that right? 8 A. No. 9 Q. It's based upon her actions? 10 Α. Yes. 11 Q. Okay, now, as you converged down to Jose -- or the 12 male suspect --13 A. Uh-huh. 14 Q. -- you said that you retrieved the gun from him. Do 15 you recall that conversation you had --16 A. Yes. 17 Q. -- with Mr. Zabriskie? When you heard him say that he 18 was thirsty, where were you at? 19 I was down on a knee on -- near the subject's right 20 arm, taking the gun out of his hand. 21 So you were within feet of his head? 22 Α. Inches. 23 Inches of his head, okay. Then after that you then 24 moved down to his feet? 25 A. Yes.

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1 Q. Is that where you told Mr. Zabriskie as well as the 2 jurors that you waited for that gauze to be brought to you? 3 Α. Yes. Q. Do you have an idea of the length of time you waited for that gauze to be brought? 6 A. Maybe a minute by the time they went through the median to their vehicle and back. 8 MS. HOWARD: Okay, just a minute, your Honor, please. 9 Nothing further. Thank you. 10 THE COURT: Thank you. Anything else for Deputy 11 Worwood? 12 MR. ZABRISKIE: Just a second, Judge. Thanks. No 13 further questions, your Honor. 14 THE COURT: Thank you. Is he going to be excused? 15 MS. HOWARD: Yes, thank you, your Honor. 16 MR. ZABRISKIE: No objection. 17 THE COURT: Deputy, I'd admonish you that there are 18 others still that need to testify. Please refrain from speaking 19 with any of those. Thank you. 20 MS. HOWARD: State calls Officer Sarah Robison. 21 THE COURT: Okay. 22 MS. HOWARD: May I approach, your Honor, with these 23 exhibits. 24 THE COURT: Yes. Come forward, ma'am, let's get you 25 sworn in.

1	COURT CLERK: You do solemnly swear that the testimony	
2	you shall give in the case now pending before the Court will be	
3	the truth, the whole truth and nothing but the truth, so help	
4	you God?	
5	THE WITNESS: Yes.	
6	THE COURT: Thank you, ma'am. Please have a seat here	
7	in the witness box. Just need to be close enough to the mic	
8	that we'll pick you up okay.	
9	THE WITNESS: Okay.	
10	THE COURT: Thank you.	
11	SARAH ROBISON,	
12	having been first duly sworn,	
13	testified as follows:	
14	DIRECT EXAMINATION	
15	BY MS. HOWARD:	
16	Q. Good morning.	
17	A. Good morning.	
18	Q. Officer Robison, would you please state your name and	
19	spell your last name for the record.	
20	A. Officer Sarah Robison, R-o-b-i-s-o-n.	
21	Q. What is your occupation?	
22	A. I'm a police officer for Nephi City.	
23	Q. Are you a category 1 off excuse me, are you a	
24	certified officer with the State of Utah?	
25	A. Yes.	

- Q. How long have you been certified?
- A. I've been certified as a cat 1 for four years, cat 2 for seven years.
- Q. Okay, and how long have you worked for Nephi City
 Police Department?
 - A. About four years.
- Q. Okay, Officer Robison, if I could direct your attention to the events that occurred on January 30th, 2014, are you familiar with those events?
- 10 A. Yes.

- Q. Okay, and at some point on that date were you aware of a vehicle pursuit?
- 13 A. Yes.

14

15

21

- Q. Would you describe for the jury how it is that you came by that information?
- 16 A. Yes, I was on just regular patrol that day, and just
 17 listening to radio traffic. I could hear traffic going back and
 18 forth with Juab that there had been a recent officer shooting,
 19 and that there was a high speed pursuit coming towards our -20 through the county on the freeway.
 - Q. So what did you do?
- A. So at that point I left Nephi, went up and sat at the
 23 228 southbound on-ramp and waited until I could see the -- the
 24 suspect vehicle and the other police officers that were in
 25 pursuit of it.

- Q. Now, situated with Ne -- the town of Nephi, 228 is which direction?
- A. 228 is the furthest north. There's three exits in Nephi; 228, 225 and 222. So 228 is closest to Santaquin.
 - Q. Officer Robison, were you in a marked patrol vehicle?
- 6 A. Yes, I was.

9

10

11

16

17

- Q. As you sat there at 228, were your emer -- was your emergency equipment on?
- A. I turned it on once I could see in my rearview mirror that they were approaching. I turned on my equipment and then merged onto the freeway from there.
- 12 Q. What did you see approaching you?
- A. I could see a white pick-up coming really quickly, and behind the pick-up I could see other police cars with their lights on.
 - Q. Okay, and in your marked patrol vehicle is there a dash cam recording system?
- 18 A. Yes, there is.
- 19 Q. Did you initiate that that day?
- 20 A. Yes, I did.
- 21 Q. Have you seen it since?
- 22 A. Yes.
- Q. The footage?
- 24 A. Yes, I have.
- 25 Q. Is it a fair and accurate representation of what you

```
1
     saw that day?
 2
            Yes, it is.
 3
        Q. I have what's been marked Plaintiff's Exhibit No. 129.
             MS. HOWARD: May I approach my witness.
             THE COURT: Yes.
 6
         Q. BY MS. HOWARD: I have what's been marked Plaintiff's
    Exhibit 129 and ask you if you can identify this?
        A. That's the dash cam footage from my patrol car.
 8
 9
             MS. HOWARD: I'd like to offer this as Plaintiff's
10
    Exhibit 129.
11
             MR. ZABRISKIE: No object-- let me look at the exhibit.
12
    No objection.
13
             THE COURT: Thank you. I'll accept and receive State's
    Exhibit 129.
14
15
             (Exhibit No. 129 received into evidence)
16
             MS. HOWARD: I would also like to publish it to the
17
    jury.
18
             MR. ZABRISKIE: No objection.
19
             THE COURT: Okay, thank you.
20
             MS. HOWARD: Sorry, your Honor, as I need to equip
21
    myself to move out of the jury's way.
22
             THE COURT: Okay.
23
         Q. BY MS. HOWARD: Officer Robison, what is the initial
24
     scene that you have on this?
25
        A. I'm having a hard time telling exactly where I'm at on
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-747-

1 the freeway. 2 Q. Okay, it says --3 A. Is this where my footage started that my camera started recording? Because I know it started recording around 225. It has to go through some startups. So it didn't start until around mile marker 225. Q. It says -- just explain to the jury. There's the word "Crowther" up there on the left side, right? 8 9 Α. Yes. 10 Do you know why it says "Crowther"? 11 Α. Crowther was a previous reserve officer for Nephi 12 City, and when he used the car he must have said his name on 13 the camera. So it was just there. It's his last name. 14 Q. You were unaware? 15 I was always thought Crowther was maybe the company 16 that made it. I didn't know what it was until this. 17 So if the jury were to ever watch this later, Crowther is your vehicle? 18 19 Yes, Crowther is my vehicle. 20 Okay, thank you. We'll go ahead and start to play so 21 you can orient yourself with it. 22 (Dash cam recording turned on and off throughout 23 officer's examination.) 24 So that's right around mile marker 225 where they had 25 attempted to -- they put spikes across the road. The suspect

-748-

- 1 | was able to pass by, but the trooper's vehicle was disabled.
- 2 | So about 2 -- about mile marker 225.
- 3 Q. Okay, and so what is in front of you at this point?
- 4 A. That's the -- like there's the deputy, Juab County
- 5 Deputy, and that's the trooper that was disabled.
- 6 Q. Okay, and the trailer on the right-hand side, what is
- 7 that?
- 8 A. It must be a trailer that stopped; I don't know.
- 9 Q. Okay, it's not part of this; is that correct?
- 10 A. Correct.
- 11 Q. Okay, go ahead. Okay, Officer Robison, what has
- 12 | happened up to this point?
- 13 A. This is exit 222. By the time I got around and could
- 14 | see, the suspect vehicle and the dep -- the Juab County deputy
- 15 had exited off of 222.
- Q. Okay, so at this point what is in front of you, just
- 17 to orient the jury?
- 18 A. This right here is exit 222. So I've passed it just
- 19 barely. I can't tell for sure, but I think that's the deputy;
- 20 but I'm not positive.
- 21 Q. Okay, and then I also was noting that the date on
- 22 | that is marked 11:13:13. Is that the correct date also on
- 23 | your video?
- 24 A. No.
- Q. Okay. All right, so you see them go off on 222?

- 1 A. Yes.
- 2 Q. So you're unable to go over; is that what you just
- 3 said?
- 4 A. Yes, I couldn't get over so I continued on just until
- 5 I could get to what would be the 222 southbound on-ramp. Did a
- 6 U-turn and come back down the opposite direction.
- Q. There is some sound that is on your dash cam. What is
- 8 | it that the jury is hearing?
- 9 A. The sound on my dash cam is me using the PA system
- 10 telling the suspects to stop, to put their hands in the air, to
- 11 stop running.
- 12 Q. At this juncture what is the sound?
- A. At this junction? I'm not sure.
- Q. Is there a high sound -- is your emergency --
- A. Oh, yes, my lights and sirens are both on.
- Q. Okay. All right, go ahead. Okay, Officer Robison, if
- 17 | you could describe for the jury what that was.
- A. The sound? The sound, okay, so that was me using my
- 19 PA system telling the suspects to stop running, to put their
- 20 hands in the air.
- Q. When you come down, who can you see; what can you se?
- 22 A. I can see two individuals running, arms in the air.
- 23 I can't tell which one is male, which one is female, but there
- 24 are two suspects, two individuals running towards a stopped
- 25

car.

1 Q. You can see the stopped car? 2 Α. Yes. 3 What is it? Ο. 4 It's a tan smaller SUV. Α. Where is it? Ο. 6 It was parked under -- well, there's two structures. It's parked under the north structure on the east side of the street. 9 Q. Okay, at this point what can you see with regard to 10 the two people? I know it's a blurry image, but it's one I 11 believe that you have looked at before. Do you remember -- do 12 you recall if there was a screen shot image taken of your dash 13 cam? 14 Yes, there was. Α. 15 When you saw that screen shot was it a fair and Q. 16 accurate representation of the dash cam? 17 A. Yes, it was. 18 MS. HOWARD: May I approach my witness. 19 THE COURT: Yes. 20 BY MS. HOWARD: I have what's been marked Plaintiff's 21 Exhibit 130. As you if you can identify this? 22 This is a still shot from my dash cam when I was 23 stopped on the 222 southbound on-ramp. 24 Q. Okay, and it's very nearly that image right there; is

25

that correct?

1 Α. Correct. 2 Is it a fair and accurate representation of what you 3 saw that day as well as your dash cam video? A. Yes, it's blurry, but yes, it is. 5 MS. HOWARD: Okay, I'd like to offer Plaintiff's 6 Exhibit 130. MR. ZABRISKIE: No objection, your Honor. THE COURT: Thank you. I'll accept and receive State's 8 Exhibit 130. 10 (Exhibit No. 130 received into evidence) 11 MS. HOWARD: With a flick of the wrist we're going to 12 project that up and publish it to the jury with the Court's 13 permission. 14 THE COURT: Any objection to that? 15 MR. ZABRISKIE: No, your Honor. 16 Q. BY MR. HOWARD: Okay, now Officer Robison, if you can, 17 indicate to the jury where -- if there is a human that you can 18 still see, although you can't tell gender. 19 Right. I think that the human is right there. 20 Okay, and that was what was just being portrayed on 21 that video; is that correct? 22 Α. Yes. 23 The other person, where have they gone? Ο. 24 I think at this point, without watching the video Α. 25 again, I think at this point the other person is next to the

1 | vehicle that was stopped.

2

13

17

18

- Q. Okay, and again, you don't know which is male or female; you just know that they are humans?
 - A. Yes, just two people.
- Q. Switch back to the video, back it up a few seconds, just to play it up here again. Okay, so what happened at that point?
- A. So at that point the vehicle is stopped right under
 here. I can see it with -- when I was there I could see it,
 but you can't see it on my camera. That's -- I said, "Stop
 running." Nobody stopped running. They just went towards the
 vehicle.
 - Q. Okay, and what happened?
- A. The vehicle -- the vehicle stopped. The occupants got out. The other-- the suspects got in and left. It was really, really quick.
 - Q. As you were observing that, what was your opinion of what was happening?
- A. When I observed that, I didn't see the suspects get
 out. My initial thought was the suspect vehicle must have
 called a friend to pick them up, because it was that smooth.
 I just thought how did they arrange this? The car stopped.
 They were in. They were gone. It was just really, really fast.
- Q. All right, so then what happened after you saw them in?

- 1 A. Then they -- the vehicle drove. It come towards me.
- 2 | I crouched down using my vehicle as cover, because I did have
- 3 | knowledge that one officer had been shot. At this point I
- 4 | didn't know two had, but I did know one had been shot. Once
- $5 \mid$ the suspect passed me, I sat back up in my chair and there was
- 6 a man in the bottom or underneath the structure waving his
- 7 hands at me.

- Q. Do you know who that man was?
- 9 A. That man was Kelly Ballow.
- 10 Q. Okay, and so what did you do next?
- 11 A. I drove down to the bottom and Kelly said that the
- 12 individuals that were in the hijacked vehicle were now inside
- 13 his vehicle.
- Q. So what did you do?
- A. So I took Chetney and her daughter. They got in with
- 16 | me, and then I gave Chetney a ride to the hospital because
- 17 | she was pregnant, just she was very upset and she wanted to be
- 18 | checked out and make sure everything was okay.
- 19 Q. Okay, go ahead and play. Across the way, Officer,
- 20 what is that that we see now?
- 21 A. Just straight through right there? Right there?
- 22 Q. Uh-huh.
- A. That looks like to me it's the deputy's vehicle.
- Q. Okay, since it is paused, what is the other vehicle
- 25 that you can see?

1 Α. That's the hijacked vehicle. 2 Q. Okay, play. So then down at that juncture is where 3 you've already told the jury you go over and you get Chetney; is that correct? Yes. Α. 6 MS. HOWARD: Okay, nothing further for this witness. Thank you, your Honor. 8 THE COURT: Thank you. Cross examination? 9 MR. ZABRISKIE: One minute, your Honor. 10 THE COURT: Okay. 11 CROSS EXAMINATION 12 BY MR. ZABRISKIE: 13 Q. Officer, how are you? 14 Good, thank you. Α. 15 You represent the City of Nephi; you're a City police Q. 16 officer? 17 A. Yes. 18 Okay, and you've had that position for how long? 19 Four years. Α. 20 Q. Always want to be a police officer? 21 Α. No. 22 I note that at least as far as the testimony has gone 23 so far, this is the first -- your first involvement is what 24 you've testified to what you heard on your radio and then your 25 -- strategically placing yourself to assist in the apprehension -755-

1 of these people; isn't that the case? 2 Α. This is the --3 In other words, you're in Juab County; you had nothing to do with what happened up in Utah County? Correct. Α. 6 You knew that there had been a police officer shot, Q. but you didn't know the extent of what had happened or any 8 of the dynamics that went into this experience short of what happened in Juab County? 10 Α. Correct. 11 Now, I note that you-- do you wear a bulletproof vest? Q. 12 Α. Yes, I do. 13 That's to protect you? Q. 14 Α. Yes. 15 Okay, and are you wearing it today? Q. 16 No, I'm not wearing it today. Α. 17 Yeah, it's not the most stylist dress in the world. 18 You were in your car that day. Were you on routine patrol? 19 Yes, I was. Α. 20 Q. Then that's when you received this head's up over your 21 radio? 22 Α. Yes. 23 Then you proceeded -- you knew exactly where they Q. 24 were going and you went on down to the next off-ramp after 222, 25 right? The -- I guess it would be the southbound off-ramp.

```
1
    You came -- turned around and came back?
 2
        Α.
             When I --
 3
        Q.
             Yeah.
             -- was origin -- when I originally heard the call?
        Α.
             Yeah, uh-huh.
        Q.
 6
             No, I went to 228. That's the furthest north Nephi
        Α.
    exit.
 8
        Q.
             Then you got involved in the pursuit of the car there-
    after?
 9
10
             Yes.
        Α.
11
             Okay, but when I say "the car," I'm talking about the
        Q.
12
     truck.
13
        Α.
            Correct.
14
            Then you proceeded past the off-ramp and went to the
15
     southbound off-ramp, and came down against the traffic there;
16
    am I correct?
17
        A. Yes.
18
             Okay, and that was not necessarily part of a plan.
19
     You had inadvertently passed the 222; isn't that the case?
20
        Α.
             Yes.
21
        Q.
             Now, you had your PA system; is that what you call it?
22
        Α.
             Yes.
23
             When did you activate that?
        Q.
24
             The PA system is already on. So all I did is pick up
        Α.
25
    -- it looks just like the radio, like one of these that you
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-757-

1 talk into. 2 Ο. Uh-huh. 3 So I picked it up just when I was coming down the 222 southbound on-ramp. Q. Uh-huh, and I -- it's a little difficult to measure 6 how loud it was. Did you have your windows up? Α. Yes. 8 Q. Did that in any way reduce what we could hear inside the cab where your mic was? 10 I don't have any way of knowing. The audio was from 11 the dash cam; it wasn't on my mic. 12 Q. I see, and so -- but you had your windows up, and I 13 presume that the voice that you're coming out -- I'm not doing 14 a very good job of this. The voice that came out over your PA 15 system, was that louder than we could hear? 16 Much louder. Α. 17 Q. Okay, and you activated that upon seeing them in that 18 intersection that thing went on and did you assume that they 19 could hear that? 20 Α. Yes. 21 You've characterized it -- would you characterize it 22 as a loud sound? 23 Α. Yes. 24 Would it have muffled or drowned out let's say a Q.

regular conversation down where they were located?

25

-758-

- 1 A. I don't know if it would or not.
- Q. Uh-huh. Certainly, though, it's loud enough where they can -- so they can hear it, or you wouldn't be announcing
- 4 | it in the first place; isn't that the case?
 - A. Yes.
- Q. From where you came to a stop, how far were you from where the two figures were moving?
- 8 A. I was about halfway down the on-ramp.
 - Q. Can you measure that in either yards or feet? How far were you from them? Now, guys say football fields. What --
- 11 A. Maybe not quite a football field.
- 12 Q. So --

10

- A. About that, about a football field.
- Q. -- that would be 100 yards or 300 feet.
- 15 A. I would say that's close.
- Q. Uh-huh, and you stopped there. Was that to maintain
- 17 | a safe distance between you and whatever was going on in that
- 18 intersection?
- 19 A. Yes, I stopped to assess the situation. I had --
- 20 there was radio traffic that the suspects were out of the
- 21 | vehicle and were firing at cars.
- Q. Uh-huh, and your -- your window -- or did they fire at
- 23 you?
- A. I don't know if they did or not.
- 25 Q. Uh-huh, could you see what was going on by that -- the

-759-

- 1 | movement of the respective parties?
- A. I could see one individual had a gun, and I could see waving arms. I couldn't tell who was who.
- 4 Q. Okay, were you able to see anything before that?
- 5 Because we're talking about where their truck was -- where the
- 6 truck was disabled, and what went on underneath the underpass.
- 7 Did you see anything before that? By "that," before they got
- 8 to the underpass?
- 9 A. No.
- 10 Q. Okay, so you don't know whether in fact there was any
- 11 exchange between Meagan Grunwald and Jose Garcia?
- 12 A. No, I don't know that.
- 13 Q. No conversation?
- 14 A. Nope.
- Q. Did you see him -- what his activities were as it
- 16 | relates to the gun that he had?
- 17 A. No.
- 18 Q. Okay, but you've identified the gun as -- did you
- 19 | identify him as having a gun?
- 20 A. Someone had a gun. I couldn't tell -- from where I
- 21 | was at, I couldn't tell who had a gun. Someone did.
- Q. Okay, did you keep that PA system with your respective
- 23 | instructions -- did that go during the entirety of that exper-
- 24 | ience underneath the overpass?
- 25 A. Yes, until -- I -- until they were in the vehicle and

```
1
    left.
 2
        Q. Okay, and then when they proceeded towards you, you
 3
    ducked down?
 4
        A. Yes, I crouched down, rolled down to get my head out
    of the window.
 6
        Q. Again, the purpose for that?
        A. I didn't want to get shot.
 8
            That's a good reason, isn't it?
        Q.
 9
        A. Yeah.
10
        Q. You don't know anything about what went on inside
11
    their truck or what went on inside the car that they ultimately
12
    ended up in?
13
        A. No.
14
        Q. Don't know anything about the exchange of what was
15
    said, anything like that?
16
        Α.
            No.
17
            Have any acquaintance with Meagan Grunwald before that
18
    day?
19
        Α.
             No.
20
             MR. ZABRISKIE: Okay, thank you, your Honor. No further
21
    questions.
22
             THE COURT: Okay, thank you.
23
            MS. HOWARD: Very briefly, your Honor.
24
    ///
25
    ///
                                                              -761-
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1		REDIRECT EXAMINATION
2	BY MS. H	OWARD:
3	Q.	You indicated to the jury that one individual had a
4	gun?	
5	Α.	Yes.
6	Q.	And that one individual was waving their arms?
7	Α.	Yes.
8	Q.	Were they different individuals or were they the same?
9	Α.	Different.
10		MS. HOWARD: Okay, thank you. Nothing further, your
11	Honor.	
12		MR. ZABRISKIE: No recross, your Honor.
13		THE COURT: Thank you. All right, Officer, that's all.
14	Can she be excused?	
15		MS. HOWARD: Yes, your Honor.
16		THE COURT: Any objection to that, Mr. Zabriskie?
17		MR. ZABRISKIE: No, your Honor.
18		THE COURT: All right, let's see, Officer Robison, I
19	remind yo	ou and admonish you that there are others that you
20	may know	that still need to testify, so please refrain from
21	speaking	about this case with anybody.
22		THE WITNESS: Okay.
23		THE COURT: Thank you.
24		MR. ZABRISKIE: Recess?
25		THE COURT: Yeah. All right, at this point we'll take

1	our first recess of the day. Come back in about ten or so
2	minutes.
3	COURT BAILIFF: All rise for the jury.
4	(Recess taken)
5	THE COURT: Okay, thank you. Please be seated. All
6	right, we're back on the record, State vs. Grunwald matter.
7	All parties are present, all members of the jury as well.
8	State's next witness?
9	MS. HOWARD: The State calls Dan Thomas.
LO	THE COURT: Come forward, sir. Let's get you sworn in.
L1	COURT CLERK: Raise your right hand. You do solemnly
L2	swear that the testimony you shall give in the case now pending
L3	before the Court will be the truth, the whole truth and nothing
L 4	but the truth, so help you God?
L 5	THE WITNESS: Yes.
L 6	THE COURT: Thank you, sir. Please have a seat here in
L 7	the witness box. Okay, let's make sure we get you close enough
L 8	to the microphone that it will pick you up okay.
L 9	<u>DAN THOMAS</u> ,
20	having been first duly sworn,
21	testified as follows:
22	DIRECT EXAMINATION
23	BY MS. HOWARD:
24	Q. Would you please state your name and spell your last
25	name for the record.

- 1 A. Detective Dan Thomas, T-h-o-m-a-s.
- Q. What is your occupation?
- 3 A. I'm a detective for the Utah County Sheriff's Office.
- 4 Q. Are you a certified officer with the State of Utah?
- 5 A. I am.
- 6 Q. How long have you been a certified officer?
- A. About eleven years.
- 8 Q. How long have you worked for the Utah County Sheriff's 9 Office?
- 10 A. Eleven years.
- 11 Q. So when you were certified, you went there and you
- 12 stayed there?
- 13 A. Yes.
- Q. Okay, Detective Thomas, I'd like to direct your attention to the events that happened on January 30th, 2014.
- 16 Are you familiar with them?
- 17 A. Yes.
- 18 Q. What was your involvement with those?
- A. I was initially contacted that evening, given a brief
- 20 synopsis kind of, that there was a death of Cory Wride out in
- 21 | Eagle Mountain. At that point there was a suspect that was
- 22 unknown somewhere possibly in the county. To continue to
- 23 respond out to Eagle Mountain until I get further details.
- Then that's when I heard some radio traffic and kind
- of shifted my focus down towards the south end of the county.

- 1 | Basically I was given orders to -- once things finally settled
- 2 down, to help other agencies with whatever they needed. So
- 3 | whether that be secure crime scene and you know take photos,
- 4 | all that kind of stuff, I was given orders to kind of do that.
- Q. So where did you go?
- 6 A. I went to mile marker 222, I-15 southbound off-ramp in
- 7 Nephi. At that point that's where the suspect vehicle was, and
- 8 I asked deputies there if they needed my assistance and they
- 9 said yes, so that's where I stayed.
- 10 Q. Okay, and while you wait for other officer to come,
- 11 | who will actually be the scene commander, you actually control
- 12 | the scene; is that correct?
- 13 A. That's correct.
- Q. Do you observe the conditions there?
- 15 A. Yes.
- Q. Do you walk around that crime scene, for lack of a
- 17 better word?
- 18 A. I do. I tried to secure it, and I do walk around a
- 19 little bit to try to verify, you know how big the crime scene
- 20 actually was. So I do have good observations what happened.
- 21 Q. Okay, and you're aware that photos were taken of that
- 22 area --
- 23 A. Yes.
- Q. -- is that correct?
- 25 A. Correct.

Q. You have previewed those also prior to coming to Court this day; is that correct?

A. I have.

Q. Officer, when you secure the scene, what else happened?

A. I started to give assignments out. Due to the scene kind of being large, we don't have a whole lot of information when I first get there, so I wasn't familiar with the whole scope kind of, of what happened. So I give out assignments, either interview witnesses or to, you know, kind of walk the area to look for evidence.

So once they go interview witnesses and they come back and report to me, I also — one of my main things is, you know, trying to preserve evidence, if need be. I called for an easy up tent, kind of like a canopy, to kind of put over the suspect vehicle. There's also footprints in the snow. With the weather conditions footprints can start disappearing pretty fast, especially with the soggy, wet rain and then snow, rain, then snow, start losing finger — or footprints that way. So I got that covered. I believe a lieutenant from Spanish Fork PD brought — drove an easy up tent all the way down there and helped to set that up.

- Q. Okay, and also were you involved in -- at some point did you receive information that shots had been fired?
- 24 A. I have.
 - Q. Then so at that time were you involved in scanning the

- 1 | area for anything that would be evidence from a gunshot?
- 2 A. Yes.
- Q. At mile marker 222 are you aware if there was some evidence found?
- A. There was.
- 6 Q. What was it?
- 7 A. There was a shell casing. It was found near an over-
- 8 pass, the I-15 overpass. I believe it's-- could be Main Street,
- 9 Nephi Main Street or main road that goes underneath the freeway
- 10 there, there was a shell casing that was found.
- 11 Q. Do you recall approximately where it was?
- 12 A. Wasn't quite underneath the overpass, but it was -- I
- 13 | couldn't tell you how many feet, per se. It was from out from
- 14 underneath the overpass.
- 15 Q. So that was maybe --
- 16 A. It was pretty close.
- 17 Q. -- improperly worded question. Do you know if it
- 18 was off on the side of the road, out in the weeds or on the
- 19 roadway?
- 20 A. It was on the roadway.
- Q. Okay, and are you aware of its general location and
- 22 | that photographs were taken of it there at the scene?
- 23 A. Yes.
- Q. And whether or not it was taken from the scene?
- 25 A. Yes.

- Q. Also, Detective, are you aware of a scene diagram that was made?
- A. Yes, yes, I believe the Highway Patrol came out and used their diagraming system that evening to -- it makes a diagram to kind of their equipment that they use, so -- and then I've seen that diagram as well.
- Q. You viewed that diagram prior to coming to Court; is that correct?
- 9 A. Yes, yes.
 - Q. As you viewed that, was it fair and accurate based upon what you saw that day of the scene?
- 12 A. It was.

- MS. HOWARD: Okay, your Honor, I'd like to approach the witness with Plaintiff's Exhibits 137, 138, 139, 141, 142, and out of order, 140. First I'd approach Counsel. Now may I approach.
- 17 THE COURT: Yes.
- 18 MS. HOWARD: Thank you.
- Q. BY MS. HOWARD: Officer, we're going to start with the photographs. I have what's been marked Plaintiff's Exhibits -- whoops -- 137, 138 and 139. Can you identify those?
- 22 A. Yes.
- Q. If you could start with Plaintiff's Exhibit 137, what is that a picture of?
- 25 A. This is the suspect vehicle, a white Toyota Tundra.

1 Q. Okay, and 138? 2 It's also a picture of it from the front end. 3 Okay, and 139? Q. This is the footprints that were next to the suspect vehicle. Q. 6 Okay, and Plaintiff's Exhibit 141? That's the shell casing that was found near the over-Α. pass. 8 9 Is it in the situation that it was found in on that 10 date? 11 Α. Yes. 12 Q. As far as this photograph, there's a marker with the 13 No. 5. Was that something that was placed there? 14 That would have -- wouldn't have been by me. It would Α. 15 have been by the SBI, whoever took over that. 16 That's not original to the picture; that was placed Q. 17 there? 18 Yes. Α. 19 Q. Is that correct? 20 Α. Yes. 21 Other than that this is a fair and accurate represent-22 ation of the casing --23 Α. Yes. 24 -- is that correct? Okay, and 140? Q. 25 A. The shell casing.

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1 Q. This is the one that's in the picture 141? 2 Α. Yes. 3 Okay, and 142? Q. That is the diagram made by UHP. Α. MS. HOWARD: Okay, your Honor, I would like to offer to 6 admit these exhibits into evidence today. THE COURT: Any objection? 8 MR. ZABRISKIE: No objection, your Honor. 9 THE COURT: Accept and receive exhibits from the State 10 137 through 142. 11 (Exhibit Nos. 137 thru 142 received into evidence) 12 MS. HOWARD: Your Honor, I would like to publish to the 13 jury 137, 138, 139, 141 and 142. 14 MR. ZABRISKIE: No objection, your Honor. 15 THE COURT: Thank you. 16 Q. BY MS. HOWARD: Okay, Officer, what we have projected 17 up is Plaintiff's Exhibit 137. Can you describe what that is 18 for the jury. 19 A. So this is the location. This road right here, this 20 is the off-ramp, and that goes into -- not sure if this is 21 called the Main Street for Nephi, but -- and then here's the 22 I-15 overpass. So this is the suspect vehicle. This is kind 23 of the place where it was really stopped, the original place. 24 With the door -- this door is open, and witnesses when I first

arrived said that this door was opened as well. This is the --

- 1 kind of the last place that was -- the vehicle was also turned 2 on right here, too, so it was started. The motor was running.
 - Q. It was still running when you approached?
- A. Correct.

- Q. What you had been told was two doors were open?
- A. Yes, this door was open, but the rain and snow were going in there, and so it was secured.
- 8 Q. Okay, next image, 138. Also, if you could describe 9 that for the jury.
- A. Yeah, this is the off-ramp again where the suspect vehicle came to a stop. You could see the -- with this door open there is also these footprints that are coming out from there.
- Q. Plaintiff's Exhibit 139, can you describe that?
- A. Yeah, these were footprints that were coming out from

 -- from that door. You can see that they're starting to lose

 some of their tread pattern and stuff due to the weather. Also

 here, there's drag marks with the footprint itself. So it's

 kind of hard to tell what the actual size is, because the toe

 kind of drags into the snow.
- 21 Q. Okay, and 142? Do you have 142? I'm skipping 141.
 22 No. 141?
- A. This is the shell casing that was located by deputies
 as they're walking through the crime scene. This is located
 near the overpass on that -- once again, I believe it's called

1 Nephi Main Street.

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- Q. Okay, and 142? That's not 142. Okay, and can you describe for the jury what this is?
- A. All right, this -- this looks like the off-ramp here, southbound I-15 at 222, and there's that Main Street as well. So coming down this is where the vehicle's final resting spot, and then down here should be the shell casing, spent shell casing that was located. This is -- this is north. I believe
- Q. Okay, thank you. Officer, when you arrived on-scene, were there vehicles passing through there, that had been driving through there?

there's a gas station or whatnot up over in here.

- 13 A. There was.
 - Q. The road conditions, could you describe them just generally?
- A. It was wet, and the weather kept on changing as far
 as being to that freezing point, because there was rain and
 then there was snow, rain, snow. So it was very slick at some
 spots. In that area, particular area of that crime scene it
 was wet, wet and soggy snow conditions.
 - Q. You found one bullet casing; is that correct?
- 22 A. Correct.
- Q. Can you explain to the jury why you didn't find others, based upon what you saw on that date?
- 25 A. The original -- as far as outside doing the sweep of

1 the crime scene, we did not know how large the crime scene was 2 when we first got there. I was unaware of a carjacking or anything that took place underneath the freeway. Once we started giving out assignments to deputies and officers to do some witness interviews, we determined that there was a carjacking that took place underneath the freeway. So during that time that we were trying to determine 8 that, there was vehicle traffic going back and forth. So as far as a chance of a vehicle running over evidence or anything 10 like that, could have lost some of the shell casings or whatnot 11 from that point. So --12 MS. HOWARD: Okay, may I approach, your Honor. 13 THE COURT: Yes. 14 BY MS. HOWARD: Just one housekeeping item, Detective. 15 Can you see the item number for the shell casing? 16 Α. Yes. Q. What is it? 17 18 560. Α. 19 MS. HOWARD: Okay, nothing further. Thank you, your 20 Honor. 21 THE COURT: Okay, thank you. Cross examination? 22 CROSS EXAMINATION 23 BY MR. ZABRISKIE: 24 Q. Officer, how soon after the incident on mile marker 222 did you arrive? 25

- A. That's hard to determine. I didn't hear any radio traffic, per se, as when the shots and carjacking stuff was taking place. I could say probably ten, ten minutes was behind the events.
 - O. I see.

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- A. Maybe even catching up closer to five. I don't know.
- Q. Okay, and when you -- when you arrived, were you in charge of that stage of the investigation? It appears to me that your credentials and your experience are you kind of -- you're kind of the Grand Poo Pah when you get there and you coordinate the search and the collection of evidence?
- A. What happened is I could see that things were still fresh, and so there was no -- as far as getting things managed and stuff like that, I did step up and I kind of take that ownership and more of a leadership role when I got there.
- Q. I see, and with that, your first determination is to determine the parameters, or the perimeter, maybe of what's relevant? By that, where everything took place and where you would expect to find some residual evidence?
- A. Correct.
- 21 Q. Okay.
- 22 A. So the security --
- 23 Q. Uh-huh.
- A. -- of the crime scene, as well as trying to determine the scope of the crime scene.

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- 1 Q. You try to reduce the traffic as much as possible --
- 2 | I think you've averred to that in your testimony -- so that
- 3 things are not moved around?
- A. Correct.
- 5 Q. In advertently. I don't think you would do it intent-
- 6 | ionally, but to try to indicate or to preserve the original
- 7 | site of where evidence lies, things like that?
- 8 A. Correct.
 - Q. There was snow on the ground?
- 10 A. There was snow in -- off to the sides of the roads,
- 11 but with blacktop, it obviously melts.
- 12 Q. Right, and again, I wasn't -- how many casings did you
- 13 find?

- 14 A. I believe it was one on the roadway.
- Q. On the roadway. Was there a perfunctory review of the
- 16 | surrounding area; did anyone look for more casings than that?
- 17 A. There was.
- 18 Q. You only found the one?
- 19 A. Correct.
- Q. How about inside the car; did you -- were you involved
- 21 | in searching the car?
- 22 A. I did not do the detail search of the car.
- 23 Q. I see, and so that -- what agency or what -- if you
- 24 know, what officer was in charge of searching inside the car?
- 25 A. I turned over the vehicle to evidence technicians from

1 Utah County. I am not sure of who -- who conducted the actual 2 forensic search of the vehicle. So I know there's several agencies like the State Bureau of Investigations that possibly helped with that. Ο. Uh-huh. 6 MR. ZABRISKIE: Can I have a moment with Counsel, your Honor. 8 (Counsel conferring off the record) 9 MR. ZABRISKIE: Okay, thank you very much. No further 10 questions. Thanks, Judge. 11 THE COURT: Okay, thank you. Any redirect? 12 MS. HOWARD: No, your Honor. Thank you. 13 THE COURT: Can Detective Thomas be excused? 14 MS. HOWARD: Yes. 15 MR. ZABRISKIE: Yes, your Honor. 16 THE COURT: Detective, that's all. I'd admonish you 17 there are other officers possibly that could testify, so please 18 refrain from speaking about the case with others. Thank you. 19 Next witness? 20 MS. HOWARD: Your Honor, the State calls Edward Felsing. 21 THE COURT: Come forward, sir. Let's have you sworn in. 22 COURT CLERK: Raise your right hand, please. You do 23 solemnly swear that the testimony you shall give in the case 24 now pending before the Court will be the truth, the whole truth 25 and nothing but the truth, so help you God?

1	THE WITNESS: I do.
2	THE COURT: Thank you, sir. Please have a seat here in
3	the witness box. There you go.
4	EDWARD FELSING,
5	having been first duly sworn,
6	testified as follows:
7	DIRECT EXAMINATION
8	BY MS. HOWARD:
9	Q. Would you please state your name for the record.
10	A. Edward Felsing.
11	Q. Spell your last name for the record.
12	A. F as in Frank e-l-s as in Sam i-n-g.
13	Q. Mr. Felsing, what city do you reside in?
14	A. I live in Nephi or Lehi.
15	Q. Lehi.
16	A. Yes.
17	Q. But you went to Nephi at some point; is that correct?
18	A. Yes.
19	Q. Okay, I direct your attention to the date of January 30
20	of 2014. Are you familiar with the events of that day?
21	A. Yes.
22	Q. On that day where were you traveling?
23	A. Traveling on interstate from Las Vegas back to Kamas
24	where I was living at the time.
25	Q. Okay, and on that date as you approach, as you enter

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into Juab County what happens?

A. I was driving. The highway wasn't crowded. It was about 3 in the afternoon. I saw a white vehicle come off the highway going southbound, came down over the hill through the median and came up and was then going southbound on a north-bound lane.

- Q. What vehicle were you in?
- A. I was in a blue Subaru.
- Q. The vehicle that came to you, describe it as best you can.
- A. It was a white van looking thing. It was -- I really

 12 -- it happened so quickly I really wasn't sure the make of the

 13 vehicle.
 - Q. Okay, and so you were traveling northbound, and this vehicle came over into your side of the interstate and was if you can describe for the jury what happened at that point.
 - A. I saw this vehicle coming, and there was probably 100 feet of space between the two lanes. The one -- the north -- the southbound lane is elevated. The northbound lane is lower. So the vehicle came down over the hill. It came up through a swell and then was headed down toward going south. Then it went down the road another hundred yards or so and then veered to the fence that was the border of the Interstate and stopped.
 - Q. Okay, as that— as you see that vehicle coming towards you, what do you do?

- A. I'm slowing down and I'm trying to avoid it, so I keep moving to the right.
 - Q. Do you know approximately what speed you're going?
- A. Well, I would say I was going 70 probably when I saw this whole thing happening, and saw the vehicle coming down the hill and heading toward my lane. I started to decelerate. So I was probably going less than 30 miles an hour by the time
- 9 Q. Okay, and --

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A. Or the northbound lane, pardon me.

that vehicle got onto the southbound lane.

- 11 Q. -- what side of the road were you on?
- 12 A. I kept moving right to the -- to the slow lane, and then to the berm, if you will.
- Q. Okay, and what did the vehicle do? As you were moving right, what was the vehicle doing that was coming at you?
 - A. It seemed to be just ignoring me, and I -- I kept trying to get out of its way but I couldn't seem to do that, and it proceeded to scrape the side of the car and then proceed south.
- Q. Okay, and then you said that it went over behind you
 to the south. Do you know approximately how many -- excuse me,
 what the distance was behind you?
- A. I'd say it was probably a good hundred yards, maybe further.
- Q. Okay, and at that point what do you do?

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A. Well, I thought I had been in a traffic accident, and so I stopped. I started thinking about where's my registration, my insurance card, my driver's license, and that was all going through my mind. So I was just sitting there on the berm of the road at a stop.

- Q. Okay, and do you notice what is going on behind you with that vehicle?
- A. No, I think I looked back once and it seemed to me that the two people -- there were two people, and they had gotten out of the vehicle, but that's all I noticed.
- Q. Okay, and then what happens next, once you're sitting there thinking through where all of your documents are?
- A. Well, I heard someone yelling, and I looked to my left, and up on the other lane of the freeway was a policeman carrying a rifle, and he started yelling at me to get out of there. So I didn't quite know what to do, so I looked at my mirror and then I saw someone running up the side of the highway, running toward my car. So then I started to move away and get back on the highway and get proceed north.
- Q. Okay, and so you saw someone running to your car. Did -- what happened at that point?
- A. Well, the person that was running to the car caught the car and tried to open the passenger door, in fact did open the passenger door about 12, 18 inches.
- Q. What did you do in return?

- 1 A. Then I accelerated faster.
 - Q. What happened next?
- 3 A. The man fell, and then a gun discharged. There was a gunshot.
- Q. Okay, could you describe the gunshot; was it close,
 was it far away, for the jury?
 - A. Well, I mean, the passenger door was, you know, an arm's length away, and that was open. So it was on the -- right at the very side of my -- the passenger side of my car.
- 10 Q. That sound, that gunshot sound?
- 11 A. Yes.

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- 12 Q. Okay, so then what did you do?
- 13 A. I just kept driving until I got to Nephi.
- 14 Q. Then in Nephi did you contact someone?
- A. Well, I went into the first gas station that I saw and I kind of explained there was a -- it's kind of a gas station restaurant. The clerk there, I said I was involved in this, and they said, "Well, we know about it. We'll call the police for you."
 - So I sat there and waited in the restaurant, and I waited for about two hours and nothing happened. Then finally I asked the man again and he said, "Well, they're very busy, but the police station is just down the road." So I drove down there and walked in and said I was involved in this situation.
 - Q. When you did that, were you interviewed at that point?

- A. Well, it took about another 30 minutes, I think, for someone to finally show up and interview me.
- Q. Okay, and then also do you know if pictures were taken of your vehicle that night?
 - A. Yeah, they did that fairly quickly. They had a garage or whatever you call it right next to the police station, and I pulled in and they photo'd the vehicle.
 - Q. Have you seen those pictures since then?
 - A. Yes.

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- 10 Q. In preparation for today?
- 11 A. Yes.
- Q. Are they fair and accurate depictions of your vehicle at that time -- on that date?
- 14 A. Yes.
- MS. HOWARD: Your Honor, I'd like to approach my witness with Plaintiff's 131 and 132.
- MR. ZABRISKIE: No objection, your Honor.
- Q. BY MS. HOWARD: I have what's been marked Plaintiff's

 Exhibits 131 and 132, if you can just generally describe -
 excuse me, just generally state what the pictures are of.
- 21 A. This is the passenger side of my car.
 - Q. That's -- you're saying on Plaintiff's Exhibit 131?
- A. Yes, that's the back portion of the passen -- or
 pardon me, of the driver's side, excuse me. It's the driver's
 side of the car, and it's the back portion of the car.

Q. Okay, and 132?

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- A. That's the front portion of the driver's side of the car.
 - MS. HOWARD: Okay, I'd like to move for admission into evidence Plaintiff's 131 and 132.
- 6 MR. ZABRISKIE: No objection.
- 7 THE COURT: Accept and receive State's 131 an 132.
- 8 (Exhibit Nos. 131 and 132 received into evidence)
 - MS. HOWARD: I'd like to publish them to the jury.
- 10 MR. ZABRISKIE: No objection.
- 11 THE COURT: Thank you.

for the jury what that shows.

- Q. BY MS. HOWARD: Plaintiff's Exhibit 132 is -- excuse
 me, 131 is being projected. Mr. Felsing, can you just describe
- 15 A. It shows that the bumper of that -- the other vehicle 16 that was on the -- or in the southbound lane scraped the --
- 17 essentially the whole length of my car. That wheel was bent,
- 18 the rear wheel, and had to be replaced. Then everywhere from
- 19 the front of the car to the very back of the car was scraped
- 20 and damaged.
- 21 Q. Through the car running into you that day?
- A. Yeah, the car that ran into me, the bumper just ran right down the side of the -- my vehicle and caused that gouge
- 24 that you see on both doors.
- 25 Q. Okay, Plaintiff's Exhibit 132, can you describe to the

1 jury what that depicts. 2 That's the front of the driver's side of the car, and again, that's the -- you can see the fender's smashed, and you can see a distinct line on the car there, and that was the bumper of the other vehicle. 6 MS. HOWARD: Okay, thank you. Nothing further for this witness. Thank you, your Honor. 8 THE COURT: Okay, thank you. Cross examination? 9 MR. ZABRISKIE: Waive cross, your Honor. 10 THE COURT: Anything else, then, for Mr. Felsing? 11 MS. HOWARD: Not from the State. 12 THE COURT: May he be excused? 13 MR. ZABRISKIE: Yes, your Honor. 14 THE COURT: Thank you, sir. 15 THE WITNESS: Thank you. 16 THE COURT: Next witness. Come forward, sir, let's 17 have you sworn in. 18 COURT CLERK: Raise your right hand, please. 19 THE COURT: Right there's good. Hold on. There you go. 20 COURT CLERK: You do solemnly swear that the testimony 21 you shall give in the case now pending before the Court will be 22 the truth, the whole truth and nothing but the truth, so help 23 you God? 24 THE WITNESS: I do. 25 THE COURT: Thank you, sir. Please have a seat in the

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1 witness box. Make sure to pull that down and get that close to 2 you. Thank you. 3 JAMES CLARKEN, 4 having been first duly sworn, 5 testified as follows: 6 DIRECT EXAMINATION BY MS. HOWARD: 8 Q. Good morning. 9 A. Good morning. 10 Could you please state your name and spell your last 11 name for the record. 12 It's James Leroy Clarken, C-l-a-r-k-e-n, Jr. 13 Q. Mr. Clarken, where do you reside? Not your address, 14 just your city. 15 A. Salt Lake City. 16 Q. If I could direct your attention to the events that 17 happened on January $30^{\rm th}$, 2014, were you in Juab County on that 18 date? 19 Yes, ma'am. Α. 20 Q. What is it that you were doing? 21 Traveling home from Las Vegas. 22 Okay, and did something happen south of Nephi that Ο. 23 you're familiar with from that date? 24 A. Yes, ma'am. 25 Q. If you could describe for the jury what happened that

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1 day.

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- A. Drove into what ended up being a shootout.
- Q. Okay, and what were you driving?
- A. A 2014 Audi A6, turbo diesel, white one.
- Q. A white; and who was in your vehicle with you?
 - A. My now ex-wife and my son were in the back seat.
- Q. Okay, and you were traveling which direction again?
- A. Northbound.
- Q. Northbound. Can you describe the weather conditions that day?
- A. It was snowing lightly. It had just started to snow.

 The further north we got, the more precipitation there became.
- Q. Okay, and what happened as you approached -- well,

 just describe for the jury what it is you first saw when you

 approached the area where you ended up stopping.
 - A. I had crested a cove at a high rate of speed. I was in the passing lane, and I saw a trooper pull onto the highway, and I believed I was getting cited for speeding.
- 19 Q. Okay, and what happened next?
 - A. Then I saw a significant amount more law enforcement, and slowed down, slowed way down. Another trooper came around on the right-hand side. I brought my vehicle to a stop at their command, and saw a significant amount of law enforcement, who I later found out were law enforcement, in the median. The highway's divided right there; northbound, southbound lanes are

- 1 divided. There's a significant amount of space in between the
- 2 lanes.

- Q. Okay, so you said that you pulled up and you were told to stop; is that correct?
- A. Yes, ma'am.
- Q. As you pull up, describe for the jury what you see around you.
 - A. When I'm stopping, or when I'm stopped?
 - Q. Yes, when you're stopping.
- 10 A. When I'm stopping I can see three -- immediately like
 11 three officers were -- I later found out they were officers.
- 12 I didn't know who they were. I didn't know what was going on.
- 13 There were three men with assault rifles in the median facing
- 14 the east. There were two men further beyond them, also armed,
- 15 facing the east. There was a couple -- there was a woman kind
- of in the shoulder of the road or the breakdown lane, and then
- 17 | further away there was another figure out on the ground.
- Q. Okay, in preparation for today's hearing were you
- 19 | shown an image from that scene?
- 20 A. Yes.
- Q. Are you aware of whether or not that's a dash cam
- 22 | screen shot?
- 23 A. Yes, yes.
- Q. When you saw that, did it fairly and accurately depict
- 25 | the scene as you recall it that day?

1 A. Yes, ma'am. 2 MS. HOWARD: Okay, approach with Plaintiff's Exhibit 3 116. THE COURT: Okay. Q. BY MS. HOWARD: I have what's been marked Plaintiff's 6 Exhibit 116. Could you just identify, is this the picture that you had been shown? 8 A. It is. 9 Q. It is the one that you said is fair and accurate 10 depiction of the events on that day? 11 A. It is. 12 MS. HOWARD: I'd like to offer Plaintiff's Exhibit 116 13 into evidence. 14 MR. ZABRISKIE: No objection. 15 THE COURT: Accept and receive State's Exhibit 116. 16 (Exhibit No. 116 received into evidence) 17 MS. HOWARD: At this time, your Honor, I'd like to 18 publish it to the jury. 19 MR. ZABRISKIE: No objection. 20 THE COURT: Thank you. Q. BY MS. HOWARD: Mr. Clarken, if you could, describe for 21 22 the jury what it is that this is depicting. 23 A. That's my Audi right here. I can tell it's my car 24 because it has a black license plate, and I recognize the car. 25 There's a law enforcement officer in the median that I saw.

- There's a person here on the shoulder of the road, and there
 was somebody else a little further up here, but this is where
 we were stopped.
 - Q. Did you remain there for a little while?
- A. Yes, ma'am.

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- Q. The trooper that you said you thought was pulling you over, do you know where he is?
 - A. I'm assuming this is his vehicle.
- Q. Okay, and that seems correct based upon what you recall from that day?
- 11 A. Yes, ma'am.
- Q. Okay, so at this point if you would describe for the jury what happened.
- A. I was a little bit stupefied when I saw the gentleman in the median. I didn't recognize him as law enforcement. They had on what appeared to be like winter outdoor work wear like coveralls or something like that. They weren't all uniforms.

 They were different colors, variation colors. I had no idea what we had just driven into --
- 20 Q. Okay.
 - A. -- but when I saw the assault rifles I became very alarmed. My child and my then wife were in the back seat.

 He was doing math homework on the way home, and he thought we were getting a ticket as well. He said, "Ah-oh, Dad, you're in trouble." I said, "I don't know what's going on," but then

I saw the guns, and I said, "You need to get down." He said,
"Why, what's going on?"

I told my then wife, "You need to get down as well.

Keep him down," because he kept squirreling up behind the

passenger seat to get a look at what was going on. So I

ultimately turned around, and you know, tried to hold him

down for a minute, and as I saw the men with guns getting

closer towards our lane, I reached for a concealed weapon

Q. All right.

10

16

17

just to protect my family.

- 11 A. I continued to survey what was going on, and watched
 12 more cars pull up, and I believe there was a smaller car that
 13 came first, and then a larger SUV. The smaller car and I kind
 14 of came together to keep the SUV contained. He was trying to
 15 drive through the scene.
 - Q. As you were sitting there, you identified that there was a person on the shoulder of the road.
- 18 A. Yes, ma'am.
- 19 Q. Did you have occasion to look at that person?
- 20 A. I did.
- 21 Q. Can you describe what you saw?
- A. I saw a younger woman who looked very erratic. It was strange to me that she was unclothed for the conditions, you know, snowing. I remember her having -- you know, she wasn't wearing a coat like everybody else was outside, and it seemed

- 1 | out -- she seemed out of place.
- 2 Q. Did you see what she was doing?
- A. She was kind of pacing around and frantically holding her hands up, you know.
 - Q. Your hands are up by your --
- 6 A. Yes, like this.
- 7 Q. -- was it by her face or more just in front of her 8 chest?
- 9 A. Initially here, and then up -- once shots were fired, 10 they went to her face.
- 11 Q. Okay.
- 12 A. She became very distraught.
- 13 Q. Okay, she became distraught when shots were fired?
- 14 A. Yes, started to scream, raise her voice.
- Q. Okay, so her hands are up to her face, and what happens next?
- 17 A. The officers in the median fired at the man out in
- 18 | the field, you know, off to the field, further beyond where
- 19 she was. She was close -- really close to my car. I mean,
- 20 | that's my car. There she is. Both of my windows are down
- 21 because I'm trying to ascertain what's happening. I'm trying
- 22 to hear, trying to see. I'm watching her hands, because I
- 23 don't know who she is. She obviously didn't belong there,
- 24 and I didn't know if she posed a threat to my family or not.
- 25 Q. Okay.

- 1 A. Then I see a person up there. I see officers fire at
- 2 | this person. My son sees this, and I'm turning around pushing
- 3 him back down.
- 4 O. How old is he?
- 5 A. He's now eleven. At the time he was ten.
- 6 Q. He was in the rear of your vehicle?
- 7 A. Yes, ma'am.

- Q. Okay, and shots were fired and what happens next?
- 9 A. She begins to yell and scream.
- 10 Q. What was she yelling and screaming?
- A. "You didn't have to shoot him. Oh, my God, you shot
- 12 him. You didn't have to f-ing shoot him."
- Q. Did she say "f-ing"?
- 14 A. Yes, ma'am, a couple of times the exploitive was used.
- Q. Did she say the actual word, f-ing, or --
- A. Yes, I believe the words she said verbatim were, "You
- 17 | fucking ass holes, you didn't have to shoot him. You fucking
- 18 | shot him. Oh, my God, you fucking shot him."
- 19 Q. This is while you were to the side of her?
- 20 A. Correct.
- 21 Q. So what happens next?
- 22 A. Quickly the remaining law enforcement officers from
- 23 here approach her and tell her, "Get on the ground. Get on
- 24 the ground. Hands behind your head. Get on the ground."
- Q. What happens next?

- A. She's on the ground. Next thing I know she's on
 her stomach. The officer who initially stopped us or another
 officer yelled into my passenger window, "Get out of here," and
 we got out. We left.
- 5 Q. You said that she was yelling and screaming those 6 words?
- 7 A. Yes, ma'am.

9

16

(Counsel conferring off the record)

- Q. Could you describe the tone?
- 10 A. It was hysterical.
- 11 Q. Hysterical in what way?
- 12 A. In that she was very upset with law enforcement for shooting this person. She was angry.
- Q. Now, did you know her?
- 15 A. None what -- not at all.
 - Q. Do you still know her as of this date?
- 17 A. I know who she is now.
- 18 Q. But no interaction with her?
- 19 A. No.
- Q. Okay, as far as describing the male, can you describe
- 21 | for the jury the male?
- 22 A. I really can't. He was at a distance far enough away
- 23 | from me that I didn't feel like he posed a threat. I mean,
- 24 he had -- I mean, I can remember seeing somebody in darker
- 25 clothing, and he was a good distance from me, outside of pistol

```
1
     range.
 2
            At some point you were interviewed by law enforcement;
 3
    is that correct?
 4
        A. Correct.
            Do you recall approximately when?
        Q.
 6
              I want to say it was probably May or June of last
     year.
 8
             Okay, and when you were interviewed by them did they
        Q.
 9
    have you draw a diagram?
10
        Α.
             Yes, they did.
11
        Q.
             Was it in your own handwriting?
12
        Α.
             Yes, ma'am.
13
             Did anyone tell you what to put on that diagram?
        Q.
14
             Not at all.
        Α.
15
             On that diagram was it -- does it represent what you
        Q.
16
     recall the events from that day?
17
        A. Very clearly.
18
              MS. HOWARD: May I approach with Plaintiff's Exhibit
19
     143.
20
              THE COURT: Yes.
21
             MR. ZABRISKIE: No objection, your Honor.
22
             THE COURT: Thank you.
23
            BY MS. HOWARD: I have what's been marked Plaintiff's
         Q.
24
     Exhibit 143. Ask you if you can identify generally what this
25
     is.
```

1 Α. Yes, I remember drawing that. 2 Q. This is your own handwriting? 3 Yes, ma'am. Α. 4 Is this your signature on the bottom right-hand side? Ο. 5 It is. Α. 6 With the date; is that correct? Q. Correct. Α. Q. What date is it? 8 9 A. I was off a little. It's April the 24^{th} , 2014. 10 MS. HOWARD: Okay, I -- State moves to enter this in 11 as evidence, your Honor, Plaintiff's Exhibit 143. 12 MR. ZABRISKIE: With the caveat, your Honor, that it 13 appears to represent the respective parties. I don't know 14 that it's to dimension. With that we have no objections to 15 it coming in. 16 THE COURT: Okay, thank you. Accept and receive State's Exhibit 143 --17 18 MS. HOWARD: I'd like to --19 THE COURT: -- noting the dimensions that are being 20 referred to. 21 MS. HOWARD: Thank you. 22 (Exhibit No. 143 received into evidence) 23 MS. HOWARD: I apologize, your Honor. I'd like to 24 publish this to the jury. 25 MR. ZABRISKIE: No objection.

1 THE COURT: Okay, thank you.

THE WITNESS: If we could zoom just a little bit. I'm sorry.

- 4 Q. BY MS. HOWARD: Well, we'll just orient at this point.
- 5 On -- Mr. Clarken, can you see at the top portion where we just
- 6 were, you have some markings there. If you could indicate what
- 7 | those are for the jury.
- 8 A. That's just showing that I was northbound on I-15.
- 9 This is a vehicle that was -- that I passed exiting that was
- 10 pulled over to the side of the road that looked like it had
- 11 been involved as well.
- 12 Q. A blue Subaru; is that what you've written?
- 13 A. Cor -- that's what I remember, yes. It was like a
- 14 | blue Subaru Imprezza, from my memory.
- Q. Okay, if we can pull down a little.
- 16 A. There was a person inside.
- 17 Q. What was he doing?
- 18 A. He was kind of slumped over the wheel, kind of had his
- 19 head in his hands. He looked distraught.
- Q. Okay, and next as we slide down the exhibit?
- 21 A. These are law enforcement vehicles that were pulled
- 22 over what would be the left-hand shoulder of the southbound
- 23 | lanes of I-15. I apologize, I'm not a topographist. This is
- 24 | not to scale or very representative, but this is hilly terrain
- 25 | in here, with brush, sagebrush and whatnot, and these are the

- law enforcement officers that I recollected seeing, and roughly
- 2 | the formation that they were in, sweeping towards this subject.
- 3 Q. Just for the jury's benefit, you have written on there, "LE vehicle"?
- A. Correct.
- 6 Q. What does that stand for?
- 7 A. Law enforcement vehicle.
- 8 Q. Also for the jury's benefit you have written "LEW/AR15
- 9 S." What does that stand for?
- 10 A. Correct, these are the law enforcement officials that
- 11 | I assumed were carrying AR15's.
- 12 Q. Okay, so they're descending down the hilly terrain?
- 13 A. Correct, sweeping southeast towards this direction --
- Q. Okay, and then that --
- A. -- as we're stopped. That's my car. This is a larger
- 16 SUV that was trying to get into the scene. This is another car
- 17 | that stopped. These cars were stopped subsequent to my car
- 18 stopping.
- 19 Q. Other markings you have written, you have an asterisk?
- 20 A. Here?
- 21 Q. Yes.
- 22 A. This is a female subject.
- 23 Q. Then another asterisk up above, I believe it says,
- 24 | "Male subject"?
- 25 A. Correct.

- 1 Q. Then you have also written something about a Dodge
 2 Challenger. If you can describe what that --
- 3 A. This is another law enforcement vehicle. It was 4 stopped here --
 - Q. Okay.
- A. -- when I drove onto the scene. This is where the Dodge was, the UHP.
- 8 Q. Utah Highway Patrol Dodge Charger?
 - A. Yes, when I crested the cove, he was right here.
- 10 Q. Okay.

- A. It was pretty unnerving. I was admittedly driving at a significant amount of speed, and came over a hilltop here and
- 13 saw the red and blue lights, and he pulled out in front of me,
- and I quickly grabbed a couple of gears and the brakes to avoid

 T-boning him, and he spun over to here.
- Q. Okay, okay, and (inaudible). Yeah, that's it. Thank
- 17 you.
- A. You're welcome.
- 19 (Counsel conferring off the record)
- Q. BY MS. HOWARD: I neglected to ask just a little bit
- 21 about you, Mr. Clarken. I moved right into your location and
- 22 | right into the events. Are you employed?
- 23 A. Yes, ma'am.
- Q. What is it that you do?
- 25 A. I'm a Vice-President of Origination for West North

1 America for Occidental Petroleum. 2 Okay, and again, you have never interacted with any of the people that you saw on that day at mile marker 216; is that fair? A. Yes, correct. 6 Excepting for your ex-wife and your child? Correct. Α. 8 MS. HOWARD: Okay, nothing further for this witness. 9 Thank you, your Honor. 10 THE COURT: Thank you. Cross examination? 11 CROSS EXAMINATION BY MR. ZABRISKIE: 12 13 Q. You must have been going pretty fast. 14 A. Correct. 15 Q. Did you think that's the way they handled speeding 16 tickets in Juab County? 17 A. You know --18 Q. SWAT team? 19 A. -- I didn't -- I wasn't sure what I was driving into. 20 I recognized the Highway Patrol, and I didn't know what else 21 was going on. 22 Q. I'm just making light of it. 23 A. You're fine. 24 Q. It's happened to me, too. You indicated you had your 25 son, and your wife was also in the car?

- 1 A. Yes, sir.
- Q. When you -- when you approached the scene that you
- 3 have described, in fact you've drawn a not to scale diagram of
- 4 | what --
- A. Yes.
- 6 Q. -- where the cars were. It had enough of an impression
- 7 on you where you armed yourself; did you not?
- 8 A. Yes, sir.
- 9 Q. That was in case of necessity you would defend your-
- 10 | self and your family?
- 11 A. My -- specifically my child and my wife, yes, sir.
- 12 Q. Okay, now you -- you indicated you had lowered the
- 13 | windows because you wanted to hear what was going on?
- 14 A. Yes, sir.
- 15 Q. Is that a gas driven car?
- 16 A. Diesel.
- 17 Q. It's a diesel. So diesels make quite a bit of noise,
- 18 | more noise than a gas driven car?
- 19 A. That di -- that diesel, you cannot tell the difference
- 20 between that German engineered diesel motor and a gas motor at
- 21 | all. There's no valve clutter whatsoever.
- 22 Q. It's not only fast; it's quiet?
- A. It was extremely fuel efficient as well, yes.
- 24 Q. I see.
- 25 A. Fast and -- yes.

- Q. You'd make a good advertisement for it. You indicated that you saw a -- you characterized there was a young girl
- 3 standing to the side of the road?
- 4 A. A young woman. I was much -- I was surprised later
- 5 to learn how young she was. That day she appeared much older
- 6 to me.
- 7 Q. In fact, you indicated in your report that you thought
- 8 | she could have been 40 years old or more?
- 9 A. Yes, yeah, she looked very haggard.
- 10 Q. Uh-huh, and you don't know what she had been through
- 11 | that day; you didn't know her, weren't acquainted with what was
- 12 going on up here in Utah?
- 13 A. No, sir.
- Q. Didn't know any stresses that she'd been through or
- 15 | what the circumstances were?
- A. Well, I think when I first spoke with Detective Finch--
- 17 Q. No, I mean before -- I'm talking right there.
- 18 A. Oh, prior to that day.
- 19 Q. Right at the time you approached there, you didn't
- 20 know anything about what had gone on that day?
- 21 A. Nope. No, sir.
- Q. So if I told you it had gone on for hours prior to
- 23 | your arrival, that -- you wouldn't be able to object to that
- 24 | because you -- you didn't know?
- 25 A. Correct.

- 1 Q. I'm not talking about what you found out thereafter.
- 2 A. Correct.
- 3 Q. So in observing her, I think you commented that her
- 4 hair was disheveled, that she looked old and haggard and et
- 5 | cetera; wasn't that your --
- 6 A. I don't know about old.
 - Q. Well, a 40 by my standard --
 - A. Yeah. Yeah, that's a --
 - Q. -- I'm still grounding kids that are 40, but --
- 10 A. Yeah.

- 11 Q. -- it's a little older than 17?
- 12 A. Oh, yes.
- 13 Q. Okay.
- 14 A. Yeah, that was my supposition.
- Q. Again, you would admit that you were -- there was some
- 16 stress and some distractions going on at the time; there are
- 17 | men surrounding you with guns?
- 18 A. Yeah.
- 19 Q. You also noted in describing what she was wearing,
- 20 that you were surprised that she was in summer wear, and in
- 21 | fact you indicated short sleeved shirt, pair of jeans, not
- 22 dressed for winter; was that your recollection?
- 23 A. I remember the short sleeved shirt and it being odd.
- 24 | That's why she didn't fit. That's why I was nervous about her
- 25 proximity to my vehicle.

- 1 Q. Uh-huh. If I indicated to you that she was --
- 2 A. Just her appearance.
- Q. -- dressed in a long sleeved sweatshirt with a hoodie,
 4 would that surprise you?
- A. It could be. I mean, yeah.
- Q. The point I'm trying to make is that our observations are not always what they seem.
- 8 A. Sure.
 - Q. Okay
- 10 A. That's a valid point.
- 11 Q. You didn't know why she was upset or anything like
- 12 that?

- 13 A. Didn't care.
- 14 Q. Now, there were police officers in close proximity.
- They're moving kind of in a sweeping action, evidently focused
- 16 on someone else slightly north, or more north?
- 17 A. I didn't know that they were directly focused on him
- 18 or her or both. I didn't know. I saw them moving toward me
- 19 with AR15's. I'm not sure specifically if there was just them
- 20 there, more people there. I couldn't see. It dips down off
- 21 | the side of the road, the breakdown lane does, and then pops
- 22 back up. I didn't know if there were more people over there
- 23 or less people.
- Q. Now, you -- but you did see people?
- 25 A. Correct.

1 Q. While the visibility was bad, you saw what later 2 proved to be police officers? 3 Α. Yes. You were close enough to see they had guns? Ο. Α. Oh, absolutely. 6 That's what alerted you and caused you some concern, Q. right? 8 I became concerned immediately when the Highway Patrol Α. officer seemed very upset --10 Q. Okay. 11 Α. -- and told me not to move. 12 Q. Now, when you looked at Ms. Grunwald, did you notice 13 whether she had a weapon or not? 14 I noticed she didn't, not in her hand. I was watching 15 her hands very closely. 16 Okay, and you didn't see any type of weapon? 17 Α. No, sir. 18 She didn't make any threatening gestures towards you? Q. 19 Α. No, sir. 20 Q. Okay, she did seem quite upset? 21 Α. Very, very much so. 22 Her hands were like this? Ο. 23 They were up, withdrawn closely, and then after the 24 shots became fired she put her hands up by her face. 25 Q. Uh-huh, and were you able to hear the shots?

- 1 A. Yes, sir.
- 2 Q. Were you able to determine what type of gun those 3 shots came from?
- A. No, sir.
- 5 Q. So if I told you that they came from a shotgun or an
- 6 AR15 or any other type of gun, you wouldn't -- you wouldn't be
- 7 able to disagree with that because you didn't know?
- 8 A. Correct.
- 9 Q. You didn't know who they were shooting at?
- 10 A. I assumed it was the further away figure that I'd saw,
- 11 as she was standing close to me.
- 12 Q. But you could hear it?
- 13 A. Correct.
- 14 Q. Was it loud?
- A. It was loud. Not horribly loud. I'm used to practicing
- 16 on a range; so to me that's loud, you know. So it was loud.
- 17 Q. Okay.
- 18 A. It upset my child.
- 19 Q. Probably upset you, too.
- 20 A. Seeing him upset, obviously I was upset.
- Q. Uh-huh, now you -- you indicated that you heard her
- 22 and she seemed to be upset. You had no acquaintance with her
- 23 | prior to that?
- 24 A. No, sir.
- 25 Q. You still don't know who she is?

1 Α. No, sir. 2 You don't know what her demeanor is or what upsets 3 her? 4 Α. No. 5 Her tone of voice, you wouldn't know if that was a 6 normal tone of voice, based on the fact you didn't know her? I think it's safe to say that you can tell when somebody's upset --8 9 Uh-huh. Q. 10 -- if you don't know them or --Α. 11 Q. In fact, you commented that she was crying and 12 screaming? 13 A. Yes. 14 Q. Waving her arms. That it looked like a person very 15 upset to you? 16 She was agitated, yeah. Α. 17 Q. Uh-huh, and what you claim you heard, that's with this 18 gunfire going off and things of that nature --19 A. Successive shots. Those ended, and she carried on 20 for a good while until she was subdued. Q. Uh-huh. If I told you that she was on the ground 21 22 either on a knee or flat before the firing ended, would that 23 be your recollection? 24 A. No. Maybe. I --25 Q. In other words, you don't know?

- 1 A. Well, I seem to remember her going to her knees, and
- 2 | I don't know if she was commanded to go to her knees and then
- 3 | became compliant, or if she got down on her knees when shots
- 4 rang out.
- O. Uh-huh.
- 6 A. It's possible.
- 7 Q. Did you -- did you arrive there in time to see her
- 8 or anyone else exit a car?
- 9 A. No, sir, she was outside of a vehicle already.
- 10 Q. How long were you there in that position?
- 11 A. I would guess three to five minutes.
- 12 Q. Uh-huh. You were told to come to a stop by law
- 13 | enforcement?
- 14 A. Yes, sir.
- 15 Q. That in fact is what happened?
- 16 A. Yes, sir.
- 17 Q. That exhibit that you observed and identified as
- 18 to where your car was, did that represent the true distance
- 19 between Meagan Grunwald, the girl, and where your car was?
- A. She's as close to me now as she was that day, sir.
- 21 Q. So -- well, that's from there to there?
- 22 A. Yeah, I would assume you could pull a 25-foot tape
- 23 between us, and that's about it.
- Q. Well, there's obviously a car there that has a tape --
- 25 excuse me, a camcorder or some type of camera taking pictures

1 of both your car and where she was -- she was? 2 A. Correct. 3 Q. That appeared to be pretty close also to what was going on? A. Yes, sir. 6 There were police officers also around you and around Q. her? 8 A. I remember most of the law enforcement being here. The officer that came up from behind me and ordered me to stop went on in front of us. 10 11 Q. Uh-huh, and so there -- there are police officers also 12 in close proximity to her? 13 A. Correct. 14 Q. Okay, and if --15 Beyond her, to the north. Α. 16 Q. -- would you expect them to have heard the same thing 17 you heard? 18 A. Maybe, maybe not. I think they were probably more 19 acutely focused on the subject that was being shot at or being 20 pursued right further north of her and myself. 21 Q. That, somebody being shot at was not of interest to 22 you? You weren't also acutely --23 A. I was more concerned with somebody being closer to my 24 vehicle.

Q. Uh-huh, a 17-year-old girl with no weapons?

```
1
         Α.
             I had no idea who she was, sir.
 2
             MR. ZABRISKIE: Thank you. No further questions.
 3
             THE COURT: Thank you. Anything else for Mr. Clarken?
 4
             MS. HOWARD: No, thank you.
 5
             THE WITNESS: Thank you very much.
 6
             THE COURT: May he be excused?
             MS. HOWARD: Yes, your Honor.
 8
             MR. ZABRISKIE: No objection, your Honor.
 9
             THE COURT: Thank you, sir. That's all.
10
             THE WITNESS: Appreciate it.
11
             MR. PEAD: Now seems a good time to take lunch, your
12
    Honor.
13
             THE COURT: Okay. All right, we'll go ahead and break
14
    for lunch. We'll get back here at 1 o'clock, get started as
15
    soon as we can thereafter. I admonish you with regard to the
    instructions that I've previously given you with regard to
16
17
    speaking about the case.
18
             Anything else, Counsel, before we break?
19
             MR. ZABRISKIE: No, your Honor.
20
             THE COURT: Okay, we'll be in recess.
21
             COURT BAILIFF: All rise for the jury.
22
             (Jury exits the courtroom.
23
             THE COURT: Okay, thank you. We'll be in recess.
24
              (Recess taken)
25
              COURT BAILIFF: All rise. All rise for the jury.
```

1	(Jury enters the courtroom)
2	THE COURT: Thank you. Please be seated. Okay, we're
3	back on the record. The parties are present, and the defendant
4	Ms. Grunwald, all members of the jury.
5	Next witness, Ms. Howard.
6	MS. HOWARD: Thank you, your Honor. State calls Craig
7	Ryan.
8	THE COURT: Okay.
9	COURT CLERK: Raise your right hand. You do solemnly
10	swear that the testimony you shall give in the case now pending
11	before the Court will be the truth, the whole truth and nothing
12	but the truth, so help you God?
13	THE WITNESS: Yes, I do.
14	THE COURT: Thank you, sir. Please have a seat in the
15	witness box.
16	CRAIG RYAN,
17	having been first duly sworn,
18	testified as follows:
19	DIRECT EXAMINATION
20	BY MS. HOWARD:
21	Q. Would you please state your name and spell your last
22	name for the record.
23	A. Craig Ryan, R-y-a-n.
24	Q. What is your occupation?
25	A. I'm a Patrol Lieutenant for Juab County Sheriff's

1 Office. 2 Are you a certified officer with the State of Utah? 3 Α. Yes, that's correct. How long have you been certified with the State of Ο. Utah? 6 Just almost eighteen years. Eighteen years; and what is your -- your current Q. assignment you said is you're a patrol lieutenant? 9 Α. Yes. 10 Ο. With Juab County? 11 Α. Yes. 12 Q. How long have you been employed at Juab County? 13 Α. My entire eighteen years. 14 The whole eighteen years? Q. 15 Yeah. Α. 16 Lieutenant now; is that what it is? Ο. 17 Α. Correct. At the time of this occurrence I was Patrol 18 Sergeant. 19 Okay, so Lieutenant Ryan, I'm going to direct your 20 attention to the events of January 30 of 2014. On that date 21 did you receive information about a pursuit? 22 Α. Yes? 23 Ο. What was the information you received? The initial information I'd received I was -- I was 24 Α. 25 actually in the office working on something and we got a report

-811-

- 1 of an officer shot in Santaquin, was the first initial informa-
- 2 | tion I had.
- 3 Q. At some point did you leave the office?
- 4 A. Yes, right after that.
- Q. Where did you go?
- 6 A. As I left the office I was -- we still didn't have a
- 7 | lot of details. I was trying to determine which way to go,
- 8 | and then as I pulled out of the office, which our sheriff's
- 9 office is just south of the 222 exit, the south exit in Nephi,
- 10 as I was leaving there almost debating whether to go through
- 11 | Nephi and the old road through Mona towards Santaquin, not
- 12 knowing which way, you know, something -- anyway, we got
- 13 | information that the vehicle had been spotted on I-15 south-
- 14 bound. So I got on I-15 going north at the 222 exit.
- Q. At that point -- well, at what point -- what vehicle
- 16 | are you in?
- A. It's an F-150 patrol truck, a Ford F-150.
- 18 Q. Is it marked?
- 19 A. It is unmarked.
- Q. It is an unmarked.
- 21 A. Yes.
- Q. Does it have lights and sirens?
- 23 A. Yes.
- Q. Does it also have a dash cam?
- 25 A. Yes.

- 1 Q. Okay, and at some point as you are traveling that day
- 2 do you turn on your dash cam?
- A. Yes, as soon as I activated my emergency lights the dash camera comes on.
 - Q. Where were you at when that happened?
- A. Probably just right as I -- about the time I got on the freeway.
- 8 Q. Okay, so on I-15?
- A. Correct. Actually I think review -- when I did get to review my video, I think my camera comes on as I'm leaving the sheriff's office, turning out onto Highway 28, heading towards the freeway.
- Q. Okay, and so your dash cam is recording all of the events from when you -- shortly after you get in the vehicle until the conclusion at 2:16; is that correct?
- 16 A. Correct.
- Q. Okay, and we're not going to play that portion right now, but does it have sound?
- 19 A. Yes.
- Q. A sound recording. So, Officer, you go to which -
 21 where do you go at that point?
- A. As I got on northbound at 222, my goal was to listen

 -- to get what updates I could of what the location was coming

 south, and to get as far north as I could to try and deploy

 spikes. As I was approaching -- almost approaching exit 225,

which is the center exit in Nephi, at that point I heard the chase was already almost at the 228, which is at the north exit.

So at that point I determined I didn't have enough time to get any farther north than that. So I exited the 225 exit, which is the center exit. In most cases in chases we do our best to try and block the exits so that they don't get into town. It's better to keep them on the freeway.

So I exited northbound at 225, went down and came up the southbound off-ramp. I came up against traf -- well, there was no traffic, but I came up at the 225 southbound exit, positioned my vehicle at the top of the exit with emergency lights on, and got my spikes across the road there.

- Q. Okay, and that's the center exit of Nephi; is that correct?
- A. Correct.

- Q. Okay, and you're blocking traffic from going down into town with your vehicle. Then you get out of your vehicle?
- A. Yes.
- Q. So just describe for the jury what happens at that point.
- A. At that point, after I exited my vehicle, I got my spikes laid out across the other side of the road, stretched the rope across the road so that I could just be able to pull it to attempt to spike the vehicle that was being pursued. At

which time they were on me, to my location very quickly.

The weather, as you've seen from the video, was bad weather, visibility was poor. When the suspect vehicle came by, I only got my spikes pulled partially out into the road, maybe enough to spike the left side or the driver's side of the vehicle, but that's as far as I could get them pulled out into the roadway.

- Q. Okay, so then what happens next?
- A. After that vehicle hit I continued to try and jerk my spikes across the road, at which point the first patrol the first patrol vehicle following that was a Highway Patrol car. He hit the spikes, and then I attempted to try and pull them and the spikes just nobody I don't know where the spikes went. They flew, which they end up spiking several other vehicles, but no other patrol vehicles other than the pursuing Highway Patrol car.
 - Q. Okay, so then at that point what do you do?
- A. I jumped in my patrol vehicle and tried to catch up to the pursuit.
- Q. Where is it that you catch up to the pursuit, roughly?
 - A. Actually I continued south on I-15 and just listening to radio traffic, I exited-- I could hear all the radio traffic at the 222, the south exit; but as I was coming off the top exit ramp of the southbound at the 222, the different but then suspect vehicle was just hitting the top of the ramp on the

- southbound 222 exit with one of our patrol trucks, which would be Deputy Kellen Worwood and Deputy Al Taylor in that same
- 3 | vehicle were headed up the ramp.
- 4 So I came off of the 222 exit, did not stop. Just
- 5 came to the bottom, went across the road and continued south
- 6 and caught up with them within a couple miles of the 222 exit.
- 7 | So at that point I was the second vehicle in the pursuit.
- 8 Q. Okay, and you were behind Deputies Taylor and Worwood;
- 9 is that correct?

A. Correct.

- Q. Okay, and then you follow them down roughly mile
- 12 | marker 216 -- 217?
- 13 A. Correct.
- Q. What happens at mile marker 217?
- A. At that point the vehicle that we were following had
- 16 | already been spiked again, and then that vehicle continued --
- 17 | was going southbound in the No. 1 lane. It left that lane,
- 18 | went down through the median, across the median and struck
- 19 another vehicle that was coming northbound. Then that vehicle
- 20 came to a rest.
- 21 Q. You said that that vehicle then spiked again. That
- 22 | vehicle, how many times was that actual Highlander spiked?
- 23 A. Just one time that I'm aware of.
- Q. Just once?
- 25 A. Yes.

1 Q. Okay, so then again your dash cam is recording all of this; is that correct? 2 3 A. Correct. 4 MS. HOWARD: I have what's been marked Plaintiff's Exhibit 133. May I approach the witness. 6 THE COURT: Yes. Q. BY MS. HOWARD: I have what's been marked Plaintiff's Exhibit 133. Can you identify this? 9 A. Yes, that should be the download from my dash cam 10 video. 11 Okay, and have you reviewed it? Q. 12 Α. Yes, I have. 13 Is it fair and accurate, depicting the events as you Q. 14 saw them that day? 15 A. That's correct. 16 MS. HOWARD: I move for Exhibit -- Plaintiff's Exhibit 133 into evidence. 17 18 MR. ZABRISKIE: No objection. 19 THE COURT: Accept and receive State's Exhibit 133. 20 (Exhibit No. 133 received into evidence) 21 MS. HOWARD: I would like to publish a portion of it 22 for the jury. 23 MR. ZABRISKIE: No objection. 24 THE COURT: Thank you. 25 Q. BY MS. HOWARD: Officer Ryan, can you see a laser

1 pointer up there? 2 Α. Yes. 3 Can you figure out which end to point? Okay, we're going to skip forward. We'll be going to 13 minutes. (Dash cam video played in the courtroom. Portions 6 of radio traffic are too inaudible to be transcribed accurately. Please refer to the Court file to review 8 this video. Video is turned on and off throughout 9 officer's examination.) 10 OFFICER: Yeah, they're (inaudible) get through. 11 OFFICER: (Inaudible). 12 OFFICER: So I guess we'll just stand by here at this 13 end until you tell us where you need us. 14 OFFICER: (Inaudible) 21, shots are fired. (Inaudible) 15 the highway headed through Nephi. (Inaudible) last known 16 location is down towards (Inaudible). 17 OFFICER: We're at milepost 216. We're down to about 60 miles an hour. 18 19 OFFICER: (Inaudible) we're going to head for the 20 freeway down there, then. 21 OFFICER: (Inaudible) just went down through the 22 median. 23 Q. BY MS. HOWARD: Lieutenant, could you describe for the 24 jury what that indicates? 2.5 A. Yes, that was my radio traffic to Juab where I advised

- 1 that the suspect vehicle at that time had just left the roadway
 2 and went down through the median.
- Q. There are voices on there. One of them -- the last voice was yours; is that correct?
 - A. Yes.

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- Q. Okay, and you said "radio traffic." That's -- what does that mean?
- A. That's when I had just call -- called Juab dispatch on the radio and let them know that the vehicle we were pursuing had went down through the median and was now going southbound in the northbound lane.
 - Q. Then what happens next?
- A. You will see as the video continues it strikes a vehicle that is coming northbound.
- 15 Q. Okay.
- 16 (Recording is turned back on.)
- OFFICER: They're on the north -- they're going southbound on the northbound side.
- Q. BY MS. HOWARD: Okay, so what -- as far as what was just shown, what did you see?
- A. Well, the video doesn't accurately -- I mean, it

 actually depicts what was seen, but the angle of the video

 doesn't actually show the impact on this video with the other

 vehicle. You can tell that it's in there, but you can't act -
 I don't believe you can actually see it hit the other vehicle.

Q. Okay, and -- well, I'll strike that. That will be good. Okay, go ahead and play.

(Recording turned on. This portion is too inaudible to transcribe.)

- Q. BY MS. HOWARD: Okay, and Officer, if you could just describe for the jury what just happened.
- Q. Okay, at that point as we had exited the vehicle after you seen the two officer exit the first vehicle, so that would be our lead patrol vehicle with Deputy Kellen Worwood driving, and Deputy Al Taylor getting out the passenger side. It is my dash cam from my video that you're seeing that.

As we exit the vehicle, you can hear -- and it's picking up my voice hollering, "Don't stop. Go, go," which the vehicle that had been struck when the vehicle crossed from the northbound into the south-bound lane, after he had been struck he came out and stopped. So we were hollering for him, "Go, go, go. Don't stop," because by then the male suspect from the vehicle was already running towards that vehicle.

- Q. Okay, and what happened next?
- A. Then you hear the -- some gunfire.
- 21 Q. Then what do you -- what do you do?
 - A. After the gunfire we advance down through the median and to the other side of the road.
- Q. Is that where you approach the male suspect?
- 25 A. Correct.

- Q. Is your attention directed to the female very often?
- A. My total focus was not to the female, other than to visually look at her initially as we seen both suspects and determined that she did not have a gun. Then focus -- my focus mainly stayed on the male that was -- that obviously had the gun.
 - Q. Okay, and so you approached the male with the other deputies; and do you know if the gun was secured at that point?
 - A. At that point, as we approached him, the gun was still in his hand.
 - Q. Do you know who retrieved that gun?
- A. As we approached I actually placed my foot on his hand or his wrist to hold it down, and Deputy Worwood actually reached down and removed the gun from his hand.
 - Q. Okay, and then once he was secured, were you -- did you leave to retrieve medical equipment?
 - A. Yes, once he was actually secured, you'll hear radio traffic on there where I had actually called Juab and advised them to send medical.
 - Q. Okay.

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- A. Then at that point, shortly right after that, I went back over to my patrol vehicle and received some medical to put bandages on -- or, you know, to apply bandage to him.
- Q. So you didn't stay there very long by the suspect, is that fair, at the beginning?

1 Α. Initially at the beginning, no. 2 MS. HOWARD: Okay, nothing further. Thank you, your 3 Honor. THE COURT: Thank you. Cross examination? MR. ZABRISKIE: Just a few questions, your Honor. 6 THE COURT: Okay. CROSS EXAMINATION BY MR. ZABRISKIE: 8 9 Q. Detective. 10 How you doing? Α. 11 Q. How are you? 12 Α. Good. 13 Q. Were you close enough to hear the female suspect --14 hear anything she said or might have yelled or screamed, any-15 thing like that? 16 A. I could not hear anything she said. As we approached 17 down through the median and up the other side, Deputy Taylor 18 was the one hollering commands for her; but it was -- I mean, 19 I could hear something, but I can't tell you what I heard. I 20 mean --21 Q. I think that's consistent with your testimony in the 22 preliminary hearing. 23 A. In the preliminary hearing, yeah. I mean, I could 24 hear something, but I can't tell you what it was. 25 Q. If I tell you how you described her voice, how it

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1
    sounded to you, tell me if you remember this. "I would say due
 2
    to the whole situation--" you describe her voice as "an excited
 3
    female voice, I mean, or stressed." Then you kind of trailed
    off, said, "I just can't tell." Do you recall that?
        A. Yes, and that's -- that is probably correct. I mean,
 6
    it was a stressful situation, but I couldn't tell what any
    words are.
 8
        Q. What her -- what her motives were, her emotion, any-
 9
     thing like that. You just sounded stressed?
10
        A. Correct.
11
             MR. ZABRISKIE: Okay, thank you. No further questions.
12
             THE COURT: Thank you. Anything else for Deputy Ryan?
13
             MS. HOWARD: No, thank you, your Honor.
14
             THE COURT: Thank you. Is he going to be excused or do
15
    you intend to call him again?
16
             MS. HOWARD: He will be excused.
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             MR. ZABRISKIE: No objection, your Honor.
18
             THE COURT: All right, Deputy, that's all. I admonish
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    you to remember that others might be still testifying, and so
20
    please refrain from speaking of the case about others that may
21
    come in. Thank you.
22
             THE WITNESS: Okay, thank you.
23
             THE COURT: Next witness.
24
             MS. HOWARD: State calls Rod Thompson.
25
             THE COURT: Come forward, sir. Let's get you sworn in.
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1 COURT CLERK: Raise your right hand. You do solemnly 2 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. 6 THE COURT: Thank you, sir. Please have a seat in the witness box. Just make sure we get up close enough to the microphone that it will pick you up okay. Thank you. 9 ROD THOMPSON, 10 having been first duly sworn, 11 testified as follows: 12 DIRECT EXAMINATION BY MS. HOWARD: 13 14 Q. Would you please state your name and spell your last 15 name for the record. 16 Α. Rod Thompson, T-h-o-m-p-s-o-n. 17 Q. What is your occupation? 18 Deputy with Juab County Sheriff's Office. Α. 19 Are you a certified officer with the State of Utah? Q. 20 Α. Yes, I am. 21 How long have you been certified with the State of 22 Utah? 23 With Utah not as long -- I've been an officer almost 24 seventeen years. Five of that was with Arizona, though. 25 Q. So Utah, doing math, it's twelve years?

- 1 A. Yeah, closer to twelve.
- 2 Q. Okay, and what is your current assignment?
- 3 A. Patrol deputy Juab County.
- 4 Q. Okay, and have you -- were you working in Juab County
- 5 on or about January 30th of the year 2014?
- 6 A. Yes, I was.
- 7 Q. On that date did you receive information of a vehicle
- 8 | pursuit?
- 9 A. Yes.
- 10 Q. What was the information you received?
- 11 A. It started off, my shift started at 3 o'clock in the
- 12 afternoon. It was about a quarter to. I was getting ready to
- go outside. I just turned on my radio, my handheld, and heard
- 14 basically some-- had an officer down. So I hurried and checked
- on and dispatch notified me of an officer down and the suspect,
- 16 anyway, pursued type thing.
- Q. Okay, and where did you go?
- 18 A. I live in Levan. So I headed northbound. By the time
- 19 I got into Nephi by I-15, we started realizing maybe he was a
- 20 little closer so I got onto I-15 right there in Nephi and
- 21 | continued north.
- 22 Q. What -- is that the 222?
- 23 A. The 222 exit, yes.
- Q. Okay, and so then you continued north?
- 25 A. Continued north, and by the time -- I only went a few

- miles. By the time I got to 226, I was overhearing traffic they were southbound on I-15. So I pulled over at 226.
 - Q. Okay, and what happened next?

- A. At 226 I just got my spikes ready so if they came my way I would be ready, and was able to sit there and watch until I saw them coming.
 - Q. Okay, and what happened next?
 - A. It was snowing and stuff, so it was a little tough, but a good break in the traffic. I could hear Trooper Blankenagel. So I kind of knew they were really close. I could see the truck come out of the snow. I was getting ready to deploy spikes. Still waiting to confirm. I could see it was going really fast, and then at that -- a few minutes later, because it was snowy, I could see the red and blues. I knew that was the truck, so I went ahead and stepped out and just threw my
- Q. Okay, so then what happened?
- A. The spikes, it lucked out for me. I didn't have to pull them out of the way. They just flipped them out of the way. I gave the thumbs up to the trooper to let him know that I did have a good hit, and got back in my vehicle and followed him southbound to try to catch up to him.

spikes and was able to get a good spike on the vehicle.

- Q. Okay, and where does the next event happen that you -- on this case?
- 25 A. For me, I -- Trooper Blankenagel ended up getting

-826-

- spiked. I just remember dodging his debris. The radio traffic a little confusing. There were two or three channels we're listening to all the time. I knew at somewhere on the 222,
- 4 but I did not know myself if they went off the exit or they
- 5 went down the freeway.
- So as I'm driving along I'm kind of listening. I

 actually pass the exit at 222, and then realize that they had

 got off the exit. So I pulled over at the top, past the exit

 but where the bridge is. So I got out of my vehicle and I had

 my rifle on the seat. I grabbed my rifle and ran -- I had to
- 11 run about 40 or 50 yards past my car so I could see off the
- 12 | bridge down to Main Street on Nephi.
- Q. Okay, so at this point you are up above Main Street of Nephi?
- 15 A. Correct.
- Q. On the 222 southbound portion of the Interstate 15?
- 17 A. Correct.
- Q. Okay, and so what did you do when you ran to the edge
- 19 of that bridge?
- 20 A. I ran to the edge and looked over, trying to see what
- 21 was going on, and just in time I noticed a male subject running
- 22 | with a gun pointed out like this. I only saw him like three to
- 23 | four steps, and he actually ran south underneath the overpass.
- 24 | So I couldn't see him again after that.
- Q. So you see a male suspect three or four steps he

1 takes, and he's --

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- A. He takes. Then he's out of my sight.
- Q. Okay, so then what do you see?
- A. I'm still watching and I see a female subject running southbound. It was maybe 40 or 50 feet behind, I don't know if that far, chasing him south underneath the freeway.
- Q. Okay, and she was a distance behind him?
 - A. Yeah, a little bit behind him.
- Q. Do you recall any descriptions of either of them at that point?
- 11 A. The male, when he ran underneath, he seemed to me,
 12 you know, 5'10" to 6 foot, slender, you know, moderate build.
- The female I can just remember the longer hair, a little bit shorter, running behind him.
- Q. Okay, and so he goes under the bridge, and then I don't recall the distance you said before she --
 - A. In my mind I'm just thinking it was 40 or 50 feet behind him.
- 19 Q. Okay, so then she runs under, and so where do you go?
- A. I run across southbound back across the lane, started to climb the fence that goes in between the two bridges. So I was going to see if I could see them down between the north and southbound lanes.
- Q. So just to be clear, are you saying there's a gap between the southbound traffic and the northbound traffic;

- 1 | there's a gap in those lanes?
- 2 A. Yes.
- 3 Q. Okay.
- 4 A. Like the bridge. There's two separate bridges. So
- 5 | there's a gap between.
- 6 Q. Okay, so what happens next?
- 7 A. So as I started to climb the fence I hear actually
- 8 Officer Robison from Nephi City say that something about they
- 9 hijacked a car and they're going a different direction. So I
- 10 kind of just watch for a minute. I didn't -- they didn't get
- 11 on the freeway. So from where I was watching I didn't see
- 12 them, so I ran back to my vehicle. Then actually I inquired
- 13 on the radio for somebody to tell me where they were at.
- Q. Okay, and you have a dash cam -- do you have a dash
- 15 | cam recording in your vehicle?
- 16 A. Yes.
- 17 Q. What vehicle were you in?
- 18 A. A Dodge Durango.
- 19 Q. Does it also have emergency equip-- lights and sirens?
- 20 A. Yes.
- Q. When does your -- when did you turn on your dash cam;
- 22 how is it turned on actually?
- A. Normally it is turned on by turning on the emergency
- 24 lights. For about two weeks, for some reason, that function
- 25 | failed. So I had to turn it on manually. So after I spiked

- 1 the vehicle and then run across the freeway and I got back in
- 2 | my vehicle, as I started to join the pursuit I realized, oh, my
- 3 camera's not on. So right after 222 I turned my camera on.
- 4 Q. Okay, and then you travel a little bit, and then you
- 5 -- do you see another officer?
- 6 A. Yes.

- Q. Who is it you see?
- 8 A. Trooper Sheets.
 - Q. What happens?
- 10 A. Trooper Sheets was in my way, kind of. I think he just
- 11 checked on duty and he was not sure what was going on either.
- 12 | So I was behind him quite a ways up the freeway, and as we
- 13 listened to traffic, finally caught up to the other guys and
- 14 Trooper Sheets pulled out of my way when basically we caught up
- 15 to the end of the pursuit there.
- 16 Q. Okay.
- 17 A. So we just went southbound for a while.
- Q. When is it that you catch up to the pursuit?
- 19 A. Right as it -- everybody is -- I can see him going
- 20 | -- when they call out the other vehicle went down through the
- 21 | median and got wrong side of the freeway, I caught up to them
- 22 right then.
- Q. Okay, and just to understand, your dash cam, does it
- 24 have sound?
- 25 A. Yes.

- Q. It's coming through what?
- A. I have a -- in that particular vehicle it has a -it's about this square. It's a portable microphone that comes
 with it, and it was in my pocket.
 - Q. Okay, and --

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- A. Then there's also audio inside the vehicle.
- Q. -- with your pocket audio, Deputy Thompson, was it functioning well?
- A. As well as it can. It's -- it's -- for some reason it didn't have good range on it. A lot of my traffic stops which are not that far away, it's -- sometimes you hear it, sometimes you don't. So --
 - Q. So if there are portions of that where there are static and it's cutting in and out, is that something you're doing or is that something that the mic is doing?
 - A. Just something the mic was doing.
- Q. Okay, and as you watch this video, was that the case, that the mic cuts in and out?
 - A. Yes.
- 20 MS. HOWARD: Okay. All right, your Honor, Plaintiff's
 21 Exhibit No. 112 has already been offered into evidence and
 22 received, and I believe at one time published. It's my intent
 23 to publish it -- or use it again at this point with the jury.
- MR. ZABRISKIE: No objection, your Honor.
- THE COURT: Okay, thank you.

- Q. BY MS. HOWARD: Okay, Officer, what -- at this point who is it that you see?
- 3 A. The only trooper that was in front of me was Trooper 4 Sheets. So it would have been him.
- 5 Q. Okay, and at this point you're traveling southbound I-6 15?
 - A. Southbound I-15.

Q. Okay, go ahead.

(Dash cam video played in the courtroom. Due to the sporadic audibility of the radio traffic, and the poor quality of the initial recording, and then being doubly recorded in Court, transcribing only patchy portions would greatly affect the accuracy of the record. Please refer to the Court file to review this video. Video is turned on and off throughout officer's examination.)

- Q. Okay, what happened there?
- A. Trooper Sheets, as we caught up to him there, he pulled out of the way. I could see the other vehicle going down to the median, and it appeared to me that it struck a car. So up to this point right here we're just watching -- I'm just watching the other vehicle as we're starting to pull over.
 - Q. Okay. Okay, what happened there?
- A. They had struck a vehicle. They had come to a stop,
 or the vehicle appeared to come to a stop, anyway. I could see

- 1 | the driver and a female jump out that appeared to be the same
- $2 \mid$ ones that I witnessed at the 222, and started to run after one
- 3 of the other cars that had pulled over, that's left out of the
- 4 screen there.
- Q. Okay, and Deputy Thompson, can you see that there's a
- 6 laser pointer up there for you?
- A. Oh, yes.
- 8 Q. Okay, so you say they looked like the same at 222.
- 9 Do you see if the -- what the man is doing at this point?
- 10 A. Yes, I'm watching -- I'm actually watching him close
- 11 | because he's running so hard, and he's basically sprinting
- 12 towards a car just left out of screen there.
- Q. Okay, and how about the female; are you watching her
- 14 as well?
- 15 A. Yes, I am.
- 16 Q. What do you see?
- 17 A. I see them both head that way, and I'm watching him,
- 18 and she's still kind of headed back north towards him until I
- 19 | fire my first shot. Then she stops.
- Q. Okay, at the point when you see both of them out on
- 21 the side of the road do you see whether anybody's holding any-
- 22 thing?
- 23 A. The male, I can still see him pretty good. He still
- 24 has a -- appears to be a handgun in his right hand.
- Q. A handgun in the right hand?

- A. Yes, as he's sprinting toward that vehicle.
- Q. Okay. Okay, so what happened there?
- 3 A. Just out of camera range as he runs up to that vehicle
- 4 | he opens the passenger door. At that point I'm really worried
- 5 about him shooting this person in that car or hijacking or
- 6 kidnaping or something. He opens the door, and from my angle
- 7 there I actually shoot across the hood of the person's car
- 8 trying to stop him from getting into that car. So I fire one
- 9 shot, and like I say, the other person there, the female, stops
- 10 about then, and that guy's kind of running around and then that
- 11 | car starts driving off.
- 12 Q. So in your video, that first sound was you firing?
- 13 A. Correct.
- Q. Then did you say the female stopped after that?
- 15 A. Yeah, once I could -- I could see the movement out
- 16 of the corner -- I'm watching him, but out of the corner of my
- 17 | eye I can see her stop after I fire a shot.
- 18 Q. Okay, and that's something that's reflected in the
- 19 video?

- 20 A. Yes, yes, it is.
- 21 Q. Okay, and then the Highlander, what happens to it?
- 22 A. Say that again.
- Q. What happens to that other vehicle?
- 24 A. The one that he tried to get into or --
- 25 O. On the screen.

- A. -- on the screen?
- Q. Yeah.

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- 3 A. It just kind of rolled out of my sight. I couldn't 4 really tell what happened to it from my angle.
- Q. Okay, and so what happens to the vehicle that he was trying to enter?
 - A. It drove off.
 - Q. Okay, and what happens next?
 - A. As it drives off, about the same time he turns and starts going back towards her. So I'm nervous about him ducking down behind the freeway or something. So I fire another round just as him and the car kind of separate.
- 13 Q. Okay.
- A. At that point he kind of turns around. He's kind of
 off the road a little ways. He's kind of ran off the road. He
 turns and I don't hear anything, but he points the weapon back
 over towards our direction.
- Q. Okay. Okay, so what happens there?
 - A. I fire the second shot. He drops down. The other officers I hear the farther ones shoot a couple of shots as he drops down, and then I fire a final shot there. That's when I -- when I -- when you hear me yell, "Get down, get down," it's because I was watching her as well, trying to make her stay down.
- Q. How is it you're watching her?

- 1 A. Through my scope and through the corner of my eye. My
- 3 to see field of vision still. It's a loophole kind of a CQ. I
- 4 don't know what it stands for, but it's a one-by-three power.
- $5 \mid So I've actually -- I've already turned it up to three power.$
- 6 | I have a three power scope. I'm able to watch him pretty well.
- 7 | So I'm watching as he ducks -- or he drops out of sight. Out
- 8 of the corner of my eye and the scope there I can see her kind
- 9 of bobbing up and down.
- 10 Q. So she's in the scope?
- 11 A. No. Well, after the -- after that third shot, yes. I
- 12 turned -- actually turned the scope onto her.
- Q. What are you seeing her do?
- 14 A. She's on the ground, but she kind of gets up on her
- 15 | hands and I thought she was going to get back up. Then she'd
- 16 go back down and she'd get back up. So I'm not sure. She just
- 17 | wanted to go somewhere. I couldn't tell what she was doing for
- 18 sure.
- 19 Q. Okay, so when -- after you fire, you said that the
- 20 female goes down. What does that mean to you; what did you see
- 21 after the first shot?
- 22 A. First shot, I think it startled her when the officers
- 23 | started shooting and it just --
- Q. Sorry, that was a poorly worded question. What do you
- 25 | see her do after the first shot?

- 1 Α. She stops and I can just remember her squatting like 2 she got down to her knees or something at the very first shot.
 - Squat like down to the knees or something? Q.
- 4 Yeah, she didn't quite -- she didn't prone out on the Α. She just kind of stopped and hunkered at first. ground.
- 6 Okay, and then you see the movement, and is -- who are you yelling that the jury just heard you say, "Get down, get down"?
- 9 Α. To her.

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- 10 Who were you directing that at? 0.
- 11 Α. To her.

Α.

- 12 Q. Okay, so what happens next?
- I yell at her to stay down. We're still concerned 14 about him and her as well. We don't -- I, myself, didn't know 15 if they were both carrying weapons or what was going on there.
- 16 So right here I'm still -- I'm still pointing my scope at her,
- 17 and then Deputy Taylor starts across, and then I'm worried
- 18 about him jumping up or whatever. So just a few seconds after
- 19 he heads across, I run across, too, just to help flank and
- 20 cover him.
- 21 Q. Okay, and from where -- well, we'll play up to that
- 22 point. Go ahead.
- 23 OFFICER: Get down.
- 24 BY MS. HOWARD: Okay, so at this point how far down the 25 road from these officers are you?

- A. I actually stayed by my vehicle. I had a rest on my door until that semi went by, and then I just -- I sprinted across the road. I think I actually beat them all across the
 - Q. You sprint straight across or diagonal?
 - A. Straight. Straight across, yes.

road when I got over there, so --

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- Q. Okay, and so from Deputy Taylor to the edge of the road where you crossed, about how far is that?
- A. I'm probably 40 or 50 yards farther than Deputy Taylor down towards the north still.
- Q. Okay, and at this point you were still up at your vehicle?
- A. Well, I'm probably leaving, because when that semi
 went by, and I could see her there again to make sure he wasn't
 getting shot by her or whatever, and then we had an opening in
 the traffic and that's when I hurried and ran across.
- Q. At this point you still don't know who all has weapons;

 18 is that what you're telling the jury?
- 19 A. Correct, yes.
- Q. Okay, and that sound, again, that -- is that your microphone making that rough sound?
- A. I'm not sure exactly which one -- I mean, the car has

 -- like I say, the car has an audio, and the mic has an audio.

 On -- it has the capability to switch into whichever one you
- 25 want to listen to. So I don't know which one we're listening

- 1 to; but the one in my pocket you would hear wind, you would
- 2 hear everything in that one.
- 3 Q. Okay.
- A. So it has -- it has different issues.
- 5 Q. So again, that's not something you're doing?
- 6 A. No.
- 7 Q. Okay, so there was a sound. Did you hear that sound
- 8 on the video?
- 9 A. The noise wind sound; is that what you're saying?
- 10 Q. Yes, and then a voice. Did you also hear a voice?
- 11 A. I wasn't sure.
- 12 Q. On that date did you hear a voice?
- A. Yes. By the time we got to the other side of the road
- 14 I did, yes.
- Q. Okay, but you didn't hear the female yelling on that
- 16 day; is that fair to say?
- 17 A. I could hear her I think scream, but I had no clue
- 18 what it was. I was too far down that I didn't really hear what
- 19 | was going on.
- Q. So you could hear a scream?
- 21 A. I thought I heard a voice yelling --
- 22 Q. Uh-huh.
- A. --that wasn't a male; but like I say, with the traffic
- 24 and as far as I was down, I didn't comprehend what was being
- 25 said.

- Q. So if there's a sound on the microphone, that's not a sound that you could hear very well; is that correct?
- A. No.

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- Q. Okay. Okay, if you can just describe, then, you've all crossed the road?
 - A. Yes.
 - Q. What happens at that point?
 - A. By the time they walked across the road I think I had already ran to the other side of the road and was just covering him, and we could see that he was down, and we just all kind of converged on him.
- 12 Q. What happened while you were by him?
 - A. We went to him. Deputy Taylor was there first. He just kind of verbally announced that yes, he had been shot in the head. Deputy Taylor grabbed one arm, Deputy Worwood grabbed another and grabbed the gun out of his hand, and I just kind of held like on his back with my foot to make sure he wasn't moving as we secured the weapon.
 - Q. Okay, and do you know who grabbed the weapon?
 - A. Deputy Worwood.
 - Q. Do you know what else happened there at that point? At some point do you leave?
- A. Yeah, after a few minutes there. We -- as soon as he was down like that and we had things secured, I handed some handcuffs to Deputy Taylor because he was in plain clothes and

1 didn't have any. Once he was secured we -- I think Deputy Ryan 2 called to the ambulance to make sure everything was coming. We just kind of gathered ourselves there for a minute and then I went back across for first aid. Q. Okay, and while you're there by the male suspect, do 6 you hear weather or not he's making -- he's saying anything? A. From where I'm standing and for what actions I'm 8 taking place I can hear him talk and mumbling, but I don't]hear anything coherent that I actually hear. 10 Q. You don't hear words; is that right? 11 Α. No, I don't. 12 MS. HOWARD: Okay, nothing further. Thank you. 13 THE COURT: Thank you. Cross examination? 14 MR. ZABRISKIE: (Inaudible), your Honor. If I can --15 MS. HOWARD: Oh, yes, your Honor. Sorry, I apologize. I've got to turn the mic off, too, so they can't hear you 16 17 apologizing. 18 MR. ZABRISKIE: Nobody heard that, right? If I may 19 have just a second, your Honor. 20 THE COURT: Okay. 21 CROSS EXAMINATION 22 BY MR. ZABRISKIE: 23 Q. Officer, how are you doing? 24 Α. Good. 25 Q. Been a little while. You indicated that when you

- 1 arrived at the scene -- and let me bring everything forward.
- 2 At 222 you've described what your participation was at that
- 3 | juncture before the car -- the other car was taken, right?
- A. Correct.
- 5 Q. Visibly, or your visibility as it relates to seeing
- 6 what -- everything that went on was somewhat impeded by your
- 7 position, by that, could you --
- 8 A. At 222?
- 9 Q. Yes.
- 10 A. At 222 everything's close enough now, the storm --
- 11 | it's not like it was when I was spiking them. It was -- it was
- 12 | cloudy, but I could see okay at 222.
- Q. Okay, and you've described everything that you
- 14 observed at that time?
- 15 A. Yes.
- Q. Okay, and then you proceeded on down to mile marker
- 17 226, which is where this -- the chase ends; is it not?
- A. 226 was first where I spiked him.
- 19 Q. Okay, and then -- so how long did he go after you
- 20 | spiked him?
- 21 A. He went off the 222 exit.
- 22 Q. I'm -- I think I've confused you because I'm confused.
- 23 A. I spiked him at 226.
- 24 O. Yes.
- A. He was going southbound.

- 1 Q. Okay.
- A. He got off the 226 exit. So basically he traveled four miles.
 - Q. Okay, well, and I'm sorry. Now I see where my problem is that I've now transferred to you. After 222, after the other car has been taken, they've left their car and they are -- they are proceeding south off of 222, you didn't spike them after that. You're in pursuit; are you not?
 - A. I'm in pursuit at that point, yes.
- 10 Q. Okay, that's what I'm talking about, so I apologize.
- 11 A. Yeah, a new vehicle, so a new pursuit.
- 12 Q. Okay, you're in a new vehicle?
- 13 A. No.

- Q. Never mind. You -- so when you get out and you say --
- 15 we can hear an awful lot of sound at that last stop, the last
- 16 stop, they're out of the car, they've traversed the center
- 17 divider, and they're going south on northbound traffic, that's
- 18 | what I'm talking about, the last thing we saw in the video, are
- 19 | we up to -- are we on the same page?
- A. No, apparently not. You've jumped ahead. You'll have
- 21 to re --
- 22 Q. Don't even worry about 222. Let's forget that.
- 23 A. Okay.
- Q. Now we're in -- we're chasing the car that they've now
- 25 | switched into, okay? 222 is behind us.

- 1 A. Okay.
- 2 Q. Are we up to speed?
- 3 A. All right, I'm that far, yes.
- Q. Okay, so you get out of your car; and I presume where the dash cam is your dash cam, and you're actually standing
- 6 somewhat close to it, just to the door, aren't you?
 - A. Yes.

- Q. Okay, and you're -- you're shouting, "Get down, get down."
- 10 A. Okay, yeah.
- Q. Okay, and did -- I notice an awful lot of traffic,
 your sirens are still on, the weather it may have been less
 inclement for you, but it still looked stormy to me. Is it
- 14 your testimony that you folks could be clearly heard on the
- 15 other side of the freeway where the two figures are?
- A. Well, I don't know if they heard me or not. I just shouted the best I could, hoping. I mean --
- 18 Q. You were hoping that they would hear you?
- 19 A. Yes, because I didn't want to shoot at anybody else.
- Q. Uh-huh, and -- but then you fired your rifle?
- 21 A. Correct.
- Q. Were you the first one to fire?
- 23 A. Yes.
- Q. Was that an AR15?
- 25 A. Yes.

- 1 Q. Is it pretty loud?
- 2 A. Yes.
- 3 Q. Okay, but certainly louder than the human voice?
- A. Yeah, I'm assuming.
- 5 Q. Okay, so while -- while your voices may not have been
- 6 heard, but there's certainly that gunshot was more potentially
- 7 hearable, right?
- 8 A. Yes.
- 9 Q. With that you saw the female suspect. Is it your
- 10 impression that because of that she dropped to the ground?
- 11 A. Yes.
- 12 Q. Okay, and did you -- did you hear a -- and again,
- 13 you've testified to this, but I was somewhat distracted there
- 14 for a second. You didn't hear anything she said, excepting you
- 15 heard a female voice?
- 16 A. Yes.
- Q. Okay, so -- and with that you didn't hear any explica-
- 18 | tives, anything that she may have said; just the female voice?
- 19 A. That's what I thought I heard, because I --
- 20 Q. Okay.
- 21 A. -- I knew where the officers were, and somebody else
- 22 | was yelling, so --
- 23 Q. Uh-huh, so -- but it was -- it was more a scream or a
- 24 | yell; was it not? Did you hear that?
- 25 A. No, I just heard a voice. I couldn't even describe

- how it was. I just could hear somebody else yelling.
- 2 Q. Uh-huh, now your -- the information that you had at
- 3 | that time was maybe incomplete in that -- or maybe it was, but
- 4 | you were still concerned that maybe both parties had a weapon?
- A. Correct.

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- 6 Q. Okay, and with that, you were -- you kept the female
- 7 under surveillance?
 - A. Yes.
 - Q. The male, you know he has a gun?
- 10 A. Yes.
- 11 Q. Suppose she'd have continue running. Let's suppose
- 12 instead of getting down she would have kept going. Did you
- 13 | have a plan in mind as to what you would do?
- 14 A. It would have depended on her.
- Q. Well, she's going to continue running. What would you
- 16 have done?
- 17 A. If she run -- just keeps running, the other car drove
- 18 | away, we'll just go -- I was going to drive over there and get
- 19 closer. If she would have stopped at him, I would have watched
- 20 her and see if she was going to pick up his gun or not, of if
- 21 | she produced one of her own.
- 22 Q. I see, so you would have -- you certainly would have
- 23 | made sure that in fact either she was armed or she was not?
- A. Yes, I can see them pretty good through my scope.
- 25 Q. All right, when you use your scope are you pointing

1 your weapon at whomever you're looking at? 2 Α. Yes. 3 Ο. So you pointed the gun at her? 4 Α. Yes. 5 Ο. Okay, now you -- you were involved in the apprehension and the disarming of Jose Garcia. He's the male, the male 6 suspect? 8 Α. Yes. 9 I can't remember what role you played, but I did -- I 10 think did you pin his shoulder down or --11 A. I approached him up with-- I just had my weapon drawn, 12 and so the other guys were grabbing the hands. So you still 13 have a tendency for your body to move. I actually put my foot 14 on the back like between his shoulder blades. That gives me a 15 head's up when I can feel the body moving if he's going to try 16 to get up. So I just kind of place my foot on his back to help 17 keep him down as they secured his hands. 18 I see, and so he's laying face down? 19 Α. Correct. 20 Okay, and then when they secure his hands, I think the 21 gun was in the right hand, that hand was secured? 22 Α. Yes. 23 Somebody stepped on his arm and then somebody removed Ο. 24 the pistol?

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A. Yes.

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- 1 Q. Okay, now you indicated that while you were there you
- 2 heard some mumbling from him?
 - Α. Yes.

- How close were you to him? Ο.
- A. Pretty close when I'm standing on him. I honestly 6 didn't really hear him say anything until after we had him
- 8 Q. Uh-huh.

secured.

- 9 A. I'd stepped off -- I don't know, we were three or four 10 feet away from him at that point, I think.
- 11 Uh-huh, and did you hear him say anything in reference Q. 12 to the shooting, anything like that?
- 13 I, myself, did not. I just heard the --Α.
- 14 Q. Mumbling?
- 15 -- mumbling. Α.
- 16 Uh-huh, and then did you remain on the scene until the 17 medics came and took his -- took him in?
- 18 Before they arrived I ran back over to my vehicle to 19 get first aid.
- 20 Q. I see, and how long did that take?

we wanted to help with infection or whatever.

21 I don't know, because I hurried, but I just walked. I 22 walked over and hurried and grabbed it and headed back over. I 23 actually handed it to Deputy Worwood, and we kind of bandaged 24 up his head just to make sure -- it wasn't really bleeding, but 25

1 Q. Uh-huh, and so did Deputy Worwood apply the --2 Α. Yes. 3 Q. -- the gauze to whatever it was --4 Yeah. Α. 5 -- to his head and the --Ο. 6 Α. Yes. Q. Then did the two of you there maintain surveillance until -- make sure he's secure and do what you could --9 A. He was secured. There was plenty of us around. We 10 were kind of talking about different things. We were wondering 11 where the -- you know, it always seems like it takes longer 12 than it is. We were waiting for the ambulance to get there. 13 We were make -- you know, we were looking over to make sure 14 that the female was secured and the troopers had taken her into 15 the vehicle and everything. 16 So basically we were starting to relax and the Utah 17 County -- the guys that were actually we knew were going to 18 take over the scene. We were kind of just letting them filter 19 in and do their thing. 20 Q. I would guess there was a deep feeling of relief, at 21 least that there seemed to be an end to it? 22 A. Definitely. 23 MR. ZABRISKIE: Thank you. No further questions. 24 THE COURT: Okay, thank you. Anything else for Deputy 25 Thompson?

1	MS. HOWARD: No, thank you, your Honor.
2	THE COURT: Can he be excused?
3	MS. HOWARD: Yes, your Honor.
4	MR. ZABRISKIE: Yes, your Honor.
5	THE COURT: Deputy, you're excused. However, there may
6	be other officers that testify, called on later. Please refrain
7	from speaking to any of them.
8	THE WITNESS: Yes, sir.
9	THE COURT: Thank you. Next witness?
10	MS. HOWARD: Yes, your Honor, call State calls
11	Sergeant Ryan Vanfleet. Come forward, sir. Let's get you
12	sworn in.
13	COURT CLERK: Raise your right hand. You do solemnly
14	swear that the testimony you shall give in the case now pending
15	before the Court will be the truth, the whole truth and nothing
16	but the truth, so help you God?
17	THE WITNESS: I do.
18	THE COURT: Thank you, sir. Please have a seat in the
19	witness box.
20	RYAN VANFLEET,
21	having been first duly sworn,
22	testified as follows:
23	DIRECT EXAMINATION
24	BY MS. HOWARD:
25	Q. Would you please state your name and spell your last

1 name for the record. 2 Ryan Vanfleet, V-a-n-f-l-e-e-t. 3 Q. What is your occupation? Major Crimes Sergeant for the State Bureau of Investi-Α. gation. 6 Are you a certified officer with the State of Utah? Q. Α. Yes, I am. 8 Q. How long have you been certified? 9 A. Just over sixteen years. 10 Sixteen years, and I believe in your name you said Q. 11 what your assignment is, but if you could do that one more 12 time. 13 Α. The Major Crimes Sergeant for State Bureau of Investi-14 gation. 15 Okay, Sergeant Vanfleet, do you recall the events of Q. 16 January 30th, 2014 as far as what you were involved in? 17 A. Yes. 18 At some point were you assigned to go to mile marker 216 in Juab County? 19 20 Α. Yes, I was. 21 Q. While you were there did you take photographs? 22 I did. Α. 23 It was a little bit later in the evening; is that 24 correct? 25 A. It started to get dark, yes.

- Q. Okay, and so your photographs reflect that it's dark?
- 2 A. Yes.

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- 3 Q. But did anything else change while you were there that 4 altered from how you saw it?
- 5 A. During the time we were there, the snow started and 6 then got worse and kind of varied throughout the evening.
 - Q. So not only is it dark, but there's also snow?
 - A. Yes.
 - Q. Okay, and have you -- you took photographs. Did you review them prior to coming to Court today?
- 11 A. Yes, I did.
- Q. Okay, the photographs that you were shown, were they accurate -- fair and accurate depictions of the scene as you saw them that day?
- 15 A. They were.
 - MS. HOWARD: Okay, your Honor, if I may approach my witness. These are out of order. Just a -- starting with Plaintiff's Exhibit No. 145, 146, 147, 148, 149, 150 and 151.
- Q. BY MS. HOWARD: Sergeant Vanfleet, also prior to coming to Court today, were you shown a diagram that was done on -- of mile marker 216?
 - A. Yes.
 - Q. Do you know who did that diagram?
- A. Trooper Jensen in Juab County, I believe.
- Q. It's called a "Total Station diagram"?

- A. The Total Station is the system, so yes, we refer to it as a Total Station diagram.
 - Q. You've reviewed that diagram; isn't that true?
- 4 A. Yes.

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- Q. Is it a fair and accurate depiction of the scene as
 you saw it that day?
 - A. It is.
- 8 MS. HOWARD: Okay, may I approach.
- 9 THE COURT: Yes.
- Q. BY MS. HOWARD: If you'll just walk through these and just generally identify what these are for the Court, 145 through 150.
- A. Would you like me to say which exhibit?
- 14 Q. Uh-huh.
- A. Okay, so 145 is an image looking to the southeast from the southbound lanes of I-15. It shows the three Juab County deputy vehicles parked on the left side of the roadway. It also shows the median, the northbound I-15 lanes, and the area off of the east side of northbound I-15 where the suspect was finally taken into custody.
 - Q. Okay, and the next picture?
- A. Exhibit 146 is an image taken facing roughly east showing mostly the median, tracks and tire tracks through the median. It also shows a view of northbound I-15 in that same area on the east shoulder.

Q. Okay, next?

- A. Exhibit 147 is an image taken from the left emergency
 lane of northbound I-15. It shows the northbound I-15 lanes,
 the median. It shows the location of the Juab County deputies'
 vehicles as they're parked on the southbound lanes of I-15.
 - Q. Okay, and the next picture?
 - A. Exhibit 148 is an image of the Toyota Highlander and its final resting position in the fence as it impacted the fence that runs along the east edge of the I-15 roadway, and it shows a little bit of the tire tracks leading up to that.
- 11 Q. Okay, next?
 - A. This is an image of the interior of -- I'm sorry, it's 149. It's an image of the interior of the Toyota Highlander as I found it. The door was open and took that image standing in the open doorway.
 - Q. The next picture?
 - A. It's Exhibit 150. It's taken from the southbound left emergency lane of I-15. It shows the Juab County deputies' vehicles. It shows the median and the northbound I-15 lanes, and in the edge of the picture it shows the tire tracks as they crossed through the median. Then 151 is the diagram that was generated from the Total Station.
 - MS. HOWARD: Okay, your Honor, at this time I'd like to move into-- the State would like to move into evidence exhibits as numerated 145 through 151 for evidence.

MR. ZABRISKIE: No objection, your Honor. 1 2 THE COURT: Thank you. Go ahead and accept and receive 3 State's Exhibits 145 through 151. 4 (Exhibit Nos. 145 thru 151 received into evidence) 5 MS. HOWARD: I'd like to publish those to the jury. 6 MR. ZABRISKIE: No objection. THE COURT: Thank you. 8 Q. BY MS. HOWARD: Lieutenant, this is Exhibit 145. Can you describe this for the jury. 10 This is the southbound lanes of I-15, and the vehicles 11 that are in the left emergency lane there are the three Juab 12 County deputies' vehicles. 13 So the next, 146? Q. 14 This is a view from the southbound I-15 left side 15 emergency lane of the median area and of the tracks that went 16 across that median area. In the background there is the area 17 where the suspect was taken into custody. 18 Lieutenant, is there a grade down from where you're at 19 up top down to that lower level? 20 Α. There is. 21 Q. Is it -- how would you describe it? 22 It's a fairly substantial grade, enough that you'll 23 be able to see in a later photograph that if you're standing 24 on the northbound lanes, that you're not really able to see

the southbound travel lanes from that vantage point. So it's

1 | substantial.

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- Q. Okay, Exhibit 147?
- A. This is what I'm talking about. This is a -- photograph was taken standing in the left emergency lane of northbound I-15. So the median there slopes somewhat into the center
 from the northbound site, but it's a much steeper slope coming
 from the southbound site down into the center of the median.
 - Q. Those red and blue lights on the vehicles up above, what vehicles are those?
- 10 A. Okay, the three vehicles that are clustered together
 11 right next to that bright light are the Juab County deputies'
 12 vehicles. That bright light is a portable lighting system
 13 provided by I believe the local fire department, and way down
 14 the road is a police vehicle conducting traffic control for
 15 southbound traffic.
- Q. So that cluster of lights, the deputies -- are their vehicles still running with those lights still on?
- A. I believe they were still running, just so that the batteries didn't run down, yes.
- Q. Okay, but that's their emergency equipment; is that correct?
 - A. Correct.
- 23 Q. Okay, Exhibit -- yes -- 148?
- A. So this is the Toyota Highlander that was taken from the altercation at milepost the interchange at 222. This

- vehicle rolled off the side of the freeway and impacted that
 fence that runs along the east side of the freeway road edge.
- 3 Q. Okay, Exhibit 149?
- A. This is the same Toyota Highlander. As I found it,
 that door was open and that's just a picture of the interior as
 I could view it standing in the open doorway.
 - Q. Do you know, Lieutenant, if the windows were up or down on that; do you have a recollection?
 - A. I don't recall.

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- Q. Okay, and that weapon was found in that location?
- 11 A. That was the weapon as I found it.
- 12 Q. And the magazine?
- 13 A. You can see the snow was falling on top of it there.
- 14 Q. Okay, Exhibit 150?
- 15 A. This is another view taken from the left emergency
 16 lane of southbound I-15. On the right edge of the image there
 17 you can see the Juab County deputies' vehicles. You can see
 18 the median, and then sort of in the center of the image is the
 19 -- the vehicles conducting northbound traffic; and you can see
 20 where the suspect location was, as well as the final rest point
 21 of that Toyota Highlander.
 - Q. The tracks are $\mbox{--}$ if you could indicate with your laser, where are they $\mbox{--}$ or the pointer?
- A. These tracks that run through here are where that

 Toyota Highlander crossed from the southbound I-15 lanes into

the northbound I-15 lanes across the median.

Q. Okay, and Exhibit 151?

- A. This is a -- what would be a bird's eye view created by a diagram, the Total Station diagram, and it indicates the main points that we were looking at; the roadway, the median, those tracks that cut from the southbound lanes to the north-bound lanes, the vehicle locations of the three deputies' vehicles.
 - Q. If you would just indicate those with your pointer.
- A. Three deputies' vehicles are indicated by these three vehicles here.
- Q. And the track crossing over the median?
- A. The track comes from the southbound lane through the median into the northbound lane there.
 - Q. Then what happens -- or what else is on there?
 - A. This mark right here indicates an impact between the Toyota Highlander and a northbound civilian vehicle. These tracks and that mark right there indicate the movement of the Toyota Highlander. After the suspects exited the vehicle, it rolled on its own down into the fence.

This mark right here is that sign that you'll see in several of those other pictures, the billboard sitting off to the side of the fence. This larger area here was an area where there was a lot of footprints and a lot of traffic right in there, and the area where we believe the suspect's final

1 location was before he was taken into custody. 2 This area here, on our initial walkthrough with people at the scene, it was indicated that this is where shots were fired by the deputies. So that was marked as part of the diagram as well. 6 Okay, and I neglected to ask you, but at 216 were you Q. the officer put in charge of that scene? 8 Α. I was. 9 Okay, and that's why you have the information about 10 t.hat.? 11 Α. Yes. 12 MS. HOWARD: Okay, may I approach the witness again. 13 THE COURT: Yes. 14 MS. HOWARD: Nothing further, your Honor. 15 THE COURT: Thank you. Cross examination? 16 MR. ZABRISKIE: Waive cross, your Honor. 17 THE COURT: Thank you. I believe that's all, Officer. 18 Anything else for him? Can he be excused? 19 MS. HOWARD: Yes, thank you. 20 THE COURT: Thank you, sir. Next witness? 21 MS. HOWARD: Your Honor, the next witness has two videos 22 that might go a little bit longer. Well, the total length of 23 the videos is over an hour. We anticipate that we'll be able 24 to skip through them. It will be actually substantially longer. 25 It will be an hour if we just play just the video.

1	THE COURT: Okay, do you wish to take a recess at this
2	point?
3	(No verbal response)
4	THE COURT: All right.
5	COURT BAILIFF: All rise for the jury.
6	(Jury exits the courtroom)
7	THE COURT: Thank you. We'll be in recess.
8	(Recess taken)
9	THE COURT: Thank you. Please be seated. Okay, we're
LO	back on the record. All parties are present, including the
L1	defendant Ms. Grunwald, and all members of the jury. State's
L2	next witness?
L3	MR. PEAD: Your Honor, the State calls Patty Johnston.
L 4	THE COURT: Okay, come forward, ma'am. Let's get you
L5	sworn in.
L 6	COURT CLERK: Raise your right hand. You do solemnly
L 7	swear that the testimony you shall give in the case now pending
L 8	before the Court will be the truth, the whole truth and nothing
L 9	but the truth, so help you God?
20	THE WITNESS: I do.
21	THE COURT: Thank you. Please have a seat in the
22	witness box.
23	PATTY JOHNSTON,
24	having been first duly sworn,
25	testified as follows:

1 DIRECT EXAMINATION BY MR. PEAD: 2 3 Will you please state your name and spell it for the 4 record. My name is Patty, P-a-t-t-y Johnston, J-o-h-n-s-t-o-n. Α. 6 How are you employed? Q. I am an Investigation Sergeant with the Utah County Α. 8 Attorney's Office, Bureau of Investigations. 9 Q. How long have you been employed in that capacity? 10 I've been with the County Attorney's Office ten years. Α. 11 Okay, and are you a certified peace officer in the Q. 12 State of Utah? 13 A. I am. 14 How long have you been such? Q. 15 Twenty-two years. Α. 16 Q. As an investigator for the Utah County Attorney's 17 Office, do you -- are you involved in cases that involved 18 officer involved shootings? 19 A. I am. 20 Q. Okay, and we anticipate that you may testify more than 21 once in this trial, but I want to talk to you today about a 22 couple specific things, okay? 23 Α. Okay. 24 Q. Were you called out on January 30th of 2014? 25 Α. I was.

- 1 Q. Okay, and do you recognize the person sitting right
- 2 here with the blue blouse and the white sweater on?
- 3 A. I do.
- 4 O. Who is that?
- 5 A. That's Meagan Grunwald.
- 6 Q. Okay, and on that date did you come to take custody of
- 7 her?
- 8 A. Yes, I did.
- 9 Q. Okay, and as part of taking custody of her did you take her belongings?
- 11 A. I did.
- 12 Q. What belongings did you take from her?
- 13 A. She only had two things on her; a wallet and a ring.
- Q. Okay, did she give you the wallet?
- 15 A. She did.
- 16 Q. Did she give you the ring?
- 17 A. No.
- Q. Will you tell us what happened when you asked for the
- 19 ring?
- 20 A. I needed to take custody of the ring. She told me
- 21 | that it was very important to her, that she did not want it
- 22 lost, that it was very valuable, and she wanted it to be given
- 23 to her mother for safekeeping. My thinking at the time was
- 24 | that I didn't want to take a chance on losing it. Obviously
- 25 | very important to her. So I let her give it to a third party

1 to give to her mother. 2 MR. PEAD: Okay, your Honor, may I approach the 3 witness. THE COURT: Yes. Q. BY MR. PEAD: Sergeant Johnston, I'm going to show you what's been marked as Plaintiff's Exhibit 152. Would you look at that. 8 A. Sure. 9 MR. ZABRISKIE: Your Honor, might we state an objection. 10 There's a foundational objection here, but Counsel, I think, 11 has indicated that it will be linked up later; but just to 12 preserve the record we will have an objection here as to 13 foundation before the -- anything's introduced to the jury 14 here. 15 THE COURT: Okay. 16 MR. PEAD: Your Honor, all I'm going to ask Ms. Johnston 17 is if that -- if she recognizes what's in that. 18 BY MR. PEAD: Do you recognize what's in that? 19 Α. Yes, I do. 20 Q. What is it? 21 That was the ring that Meagan was wearing the night of the 30^{th} . 22 23 This was a picture from somewhere else --Q. 24 A. Correct. 25 Q. -- but this is that same ring?

-863-

1 Α. That would be correct. 2 MR. PEAD: Okay, I'd move to offer Exhibit 152. 3 MR. ZABRISKIE: Our objection as stated earlier. 4 THE COURT: Overrule the objection, allow it to come in, noting your objection, however, as well. 6 MR. ZABRISKIE: Thank you, Judge. (Exhibit No. 152 received into evidence) 8 MR. PEAD: Could I just publish this briefly for the 9 jury, your Honor. 10 THE COURT: Same objection or --11 MR. ZABRISKIE: The same objection, yes. 12 THE COURT: Yes, I'll overrule the objection and allow 13 it to be published. 14 BY MR. PEAD: The second thing that I wanted to ask you 15 about, Sergeant Johnston, was, as a result of your role in this 16 investigation did you take samples from the defendant for drug 17 testing? 18 Yes, I did have them taken. 19 Okay, and what samples were taken? Q. 20 There was a urine sample, there was a blood sample, 21 and then her hands were swabbed for any gunshot residue. 22 Okay, were these samples associated with a particular 23 name? 24 Yes, with Meagan Grunwald. Α. 25 Q. Okay, and were they associated with a particular case

1 number? 2 Yes, it was associated with our case number from the 3 Bureau of Investigations. 4 What is that case number? Ο. A. It was 14CA00018. 6 Then what happened to those samples? Q. Forensic nursing took custody of those samples after Α. 8 they took them from Meagan. They were taken to the State 9 Toxicology Lab and tested. Then a report was issued to us. 10 MR. PEAD: Okay, thank you. 11 THE WITNESS: You're welcome. 12 THE COURT: Cross? 13 MR. ZABRISKIE: Your Honor, in anticipation (inaudible) 14 we recall before this trial was terminated, we have no cross at 15 this time. 16 THE COURT: Okay, anything else for Ms. Johnston now? 17 MR. PEAD: No, but she will still be under her subpoena, 18 your Honor. 19 MR. ZABRISKIE: That's preserving our objection subject 20 to further review by the Court. 21 THE COURT: It is. 22 MR. ZABRISKIE: Thank you, Judge. 23 THE COURT: All right, you're released today. However, 24 the subpoena still remains in effect. Thank you. 25 THE WITNESS: Thank you, your Honor.

1	MR. PEAD: State calls Nghia Nguyen.
2	THE COURT: Come forward, sir. Let's get you sworn in.
3	COURT CLERK: Raise your right hand. You do solemnly
4	swear that the testimony you shall give in the case now pending
5	before the Court will be the truth, the whole truth and nothing
6	but the truth, so help you God?
7	THE WITNESS: Yes, I do.
8	THE COURT: Thank you, sir. Please have a seat in the
9	witness box. Just make sure you're close enough to the mic
LO	that it will pick you up okay.
L1	NGHIA NGUYEN,
L2	having been first duly sworn,
L3	testified as follows:
L 4	<u>DIRECT EXAMINATION</u>
L5	BY MR. PEAD:
L 6	Q. Will you please state and spell your name for the
L7	record.
L 8	A. Yeah, my name is Nghia Nguyen. The first name is
L 9	N-g-h-i-a. The last name is N-g-u-y-e-n.
20	Q. Mr. Nguyen, how are you employed?
21	A. I'm a Forensic Toxicologist for the Bureau of Forensic
22	Toxicology.
23	Q. Okay, and what does that mean?
24	A. I analyze body fluids for the Medical Examiners and
25	law enforcement for the presence of drugs or alcohol. Then I

- 1 testify in Court regarding my findings.
 - Q. Okay, and how long have you been in this line of work?
- 3 A. Since 2007.

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- Q. Okay, and what kind of training and experience have you had to go through in order to do this job?
- A. I received my Bachelor's in Biology and Psychology
 from Westminster College. After college I did cancer research
 for four years. Then I worked in a pharmaceutical lab for four
 years. Then since 2007 I've worked for the Bureau of Forensic
 Toxicology.
- 11 Q. Have you had training specific to toxicological scientific research?
 - A. Yes, for every analysis that we're signed off on, we have to get certified every quarter. To get certified a senior analyst will spike a sample with a known concentration. I have to analyze it, and then if my results match that within plus or minus 20 percent I'm certified for the hands on part. Then I have to pass a written test, too.
 - Q. Okay, is -- are you and your lab currently certified for toxicological testing?
 - A. Yes, we're accredited by the American Bureau of Forensic Toxicology.
 - Q. Okay, now did you perform a toxicological analysis of samples from Meagan Grunwald?
- 25 A. Yes, I did.

1 MR. PEAD: May I approach the witness, your Honor. 2 THE COURT: Yes. 3 BY MR. PEAD: Mr. Nguyen, I'm going to show you what's Q. been marked as Plaintiff's Exhibit 153. Do you recognize that? Yes, I do. This is our final toxicology report. 6 Okay, and is there a subject associated with those Q. samples? 8 Yes, we assigned it a laboratory case number and a 9 sample number, and the subject name on this is Grunwald, Meagan 10 Dakota. 11 Okay, is there a case associated with that as well? Q. 12 Α. There's a laboratory case and an agency case. 13 What's the agency case number? Q. 14 14CA00018. Α. 15 Okay, is there a responsible officer or investigating 16 officer associated with these samples as well? 17 Α. There's a submitting officer. 18 Okay, and who is that? Q. 19 Patty Johnston. Α. 20 Okay, before we get into the specifics on this report, 21 will you tell us -- or let me ask -- go back a little bit. 22 What kinds of samples were you given to test in this case? 23 Α. In this case there was blood and urine. 24 Okay, and did you test those? Q.

I tested the urine.

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Q. Okay, will you tell us how these substances are tested for?

- A. Oh, for all of the analysis we do at the laboratory,
 we do a screen test, which is using different methodology. On
 the screen test it shows an indication of a family of drugs.

 Then if it shows up positive on a screen test, then we'll do a
 confirmation test, which is a very specific test that specifies
 exactly what drug compound is in that sample.
 - Q. At the risk of becoming too confused or not understanding everything, will you briefly explain to the jury how the screening test works chemically.
 - A. It's an Eliza test, and it's a sandwich Eliza test. There's a plate, and there's an antibody stuck to it, and if there's a presence of it, you know, that family of drugs in there, it will bind to that plate, and if there isn't, it won't.
 - Q. Okay, and so on a screen test if there is a binding of these chemicals for a finding of drugs, that will show up and you'll be able to see that?
 - A. That will indicate that there is the presence of that family of drugs.
 - Q. Then you know what to test for, for a confirmation test?
- A. It's like a flow chart, and if it shows up positive
 for a certain test -- drug family on the screen, then it will

- 1 | go to a confirmation test.
- 2 Q. Okay, so when it comes to the defendant's blood sample
- 3 what was the result of the screening test?
- 4 A. It screened-- it was negative for meth, at the amines,
- 5 | which is meth and amphetamine, THC, morphine, cocaine and a
- 6 panel of the prescription drugs that we test for.
- Q. Okay, so the blood was negative for any of those
- 8 intoxicants?
- 9 A. Yes.
- 10 Q. Okay, did you do a screening test on the ur -- excuse
- 11 | me, the urine as well?
- 12 A. Yes. I didn't do it personally. A different analyst
- 13 did the screen on the urine.
- Q. Okay, and what was the results of that?
- A. It indicated that there's a presence of the amines,
- 16 | which is the methamphetamines, MDA and MDMA drugs.
- Q. Okay, so based on that screening test what did you do?
- 18 A. I did a confirmation test where I could analyze it and
- 19 specialize which of the drugs were found.
- Q. What instrument do you use in order to confirm if a
- 21 drug is present in a sample or not?
- 22 A. For -- at this time for that test it was the GCMS.
- Q. Okay, and what is the GCMS?
- A. It's the gas chromatography mass spec.
- 25 Q. Okay, will you tell us how that works and how you're

able to confirm the presence of drugs through that.

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A. When we do testing on that, the GCMS has a column in it. It's like a -- I call it like a racetrack, and with every drug that goes through it, we know what time it finishes.

That's the retention time. Then with the mass spec part, we -- it gets blown up and it explodes in a certain pattern with certain ions. We also have commercially available controls and calibrators of these known substances, and we shoot it -- put it through the instrument, too, and we compared the unknown sample, the subject sample with the known samples, and that's how we can identify the drugs.

- Q. Okay, so you see a particular behavior on the gas chromatograph mass spectrometer?
 - A. Yes, a peak and an ion.
- Q. A peak and an ion. Then you take a known substance.

 In this case what was the known substance?
- A. For this one it's the same test for methamphetamine MDA and MDMA. We have the calibration curve and the controls. That's part of the run. Once we do that, the control the calibrators are at set concentrations, that generates a curve. It's a linear curve like this, and with an unknown sample we
- Q. Is that how you're able to identify if there is a substance in the sample?

can compare it to where it falls on the curve to identify it.

25 A. Yes, by comparing the retention time and the ions

1 | that are present.

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Q. Did you do that comparison in this -- with this sample?

- A. Yes, I did.
- Q. What was the result?
- A. It is positive for amphetamine, and it was positive for methamphetamine at greater than 2.0 micrograms per milli-
 - Q. Okay, can you explain the presence of amphetamine as well as methamphetamine in the urine?
- A. Methamphetamine is the primary drug, and amphetamine can also be a drug; but a small percentage of amphetamine can break down to amphetamine, but it does not go the other way.

 Like if you take amphetamine, it will never break down into methamphetamine; but if you take methamphetamine, some will break down into amphetamine. For the fact that in the urine,
- 18 Q. No, I'm not there yet.
- 19 A. Oh, okay.
- Q. So is amphetamine a metabolite of methamphetamine?

as opposed to the blood; is that what you're asking?

- 21 A. Yes, it is.
- Q. What does that mean?
 - A. It means that it's a breakdown product of methamphetamine.
- 25 Q. So if a person is using methamphetamine and that's

present in their system in some regard, they could be metabolizing that, and that would put amphetamine into their system?

A. That's correct.

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- Q. Okay, how certain are you that there was methamphetamine in this sample?
 - A. We have quality assurance measures in place, so I'm, yeah, very confident. We have, as I mentioned earlier, the calibrator, the control. We have a blank to make sure there's no carryover, and every 20 injections on a run we have a check standard; and if any of these fall outside our requirements, then the run is rejected and repeated.
- Q. Was there any problem with the check prior to or soon after the sample?
 - A. There was not.
 - Q. So in addition to understanding how to test for these kinds of substances in specimens, do you also have training and experience as it relates to the psychoactive properties of these drugs?
- A. About the general psychoactive properties, yes. Not in individuals.
- Q. Okay, what does -- what does it mean when -- or so if methamphetamine is in the urine, that means it's in the person's system, correct?
- 24 A. Yes.
- 25 Q. What does it mean to you when the methamphetamine is

-873-

1 | in the urine but not in the blood, like in this example?

2 A. Well, the urine is kind of a container for the waste

3 | products. So indicating -- when I see the urine, that would

4 | indicate that in the last three to five days that meth and

5 amphetamine were -- or amphetamine were consumed. The fact

6 it wasn't in the blood would indicate that there were -- it

7 | was not recent usage within the last day or so.

- Q. Okay, are you aware of any way in which a person can get amphetamine by itself?
- 10 A. Yes.

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- 11 Q. Is that common?
- 12 A. If you have a prescription for Adderall.
- Q. Okay, but you said previously that you cannot have
- 14 | methamphetamine in your system as a result of taking ampheta-
- 15 mines?
- 16 A. You cannot.
- Q. Okay, if methamphetamine is only in the urine and
- 18 | not in the blood, at that time can that methamphetamine have
- 19 | a pharmacological effect on that person?
- 20 A. No, it had already been metabolized and broken down.
- 21 | So there is no longer any pharmacological effect.
- 22 Q. Would you look at that exhibit again.
- 23 A. Yes.
- Q. Does this exhibit fairly and accurately depict your
- 25 report as it relates to the defendant's-- and your lab's report

1 as it relates to the defendant's urine and blood specimens? 2 Yes, it indicates the case number and sample number, 3 the subject name, and then my electronic signature. Okay, could I see that. Ο. 5 MR. PEAD: Your Honor, at this time the State offers 6 Exhibit 153. MR. ZABRISKIE: No objection. THE COURT: Thank you. I'll accept and receive State's 8 Exhibit 153. 10 (Exhibit No. 153 received into evidence) 11 MR. ZABRISKIE: I noted that there were some -- some 12 sorts of information that documents, your Honor. Our objection 13 would also include those by right of adoption. We would note 14 it would be hearsay. We accept that as an appropriate hearsay. 15 MR. PEAD: Thank you, Mr. Nguyen. 16 THE COURT: Thank you. Cross? 17 CROSS EXAMINATION BY MR. ZABRISKIE: 18 19 Q. Good afternoon, Mr. Nguyen. 20 A. Good afternoon. 21 Q. Appreciate you being here, and I really appreciate 22 your expertise. It's always fascinating for us, I guess 23 you could call us lay persons in this context, to hear such 24 expertise. So I have a question for you about the process 25 by which these samples come into your possession. Would you

explain how that works.

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A. Yes, the samples can come into our possession either by agency personnel, by Fed-Ex or by the postal service. Once we receive it there is a submission request form, and our evidence technicians receive it at that point. They make sure that the information on the request form corresponds with the information on the blood tube and the urine cups.

If it does correspond with all of that, our laboratory information management system assigns it a six-digit bar code number. That goes on each of the samples that come, and then there is a laboratory case number, which is like an umbrella number that is above all the sample numbers. Then at that point all of the requested testing is assigned to it, and depending on what testing is done, the screens are done and then the confirmations are done.

- Q. Okay, so along with this package of materials that you receive there is a specific -- more or less I guess you could call it an order form?
- A. Yeah.
- Q. Where someone down the chain is directing what you are going to test the sample for?
 - A. Requesting, yeah, the sample, a request form.
- Q. Okay, in other words it's not like a discretionary thing on your part where a sample comes to you and you just at your own whim determine what to test for?

- 1 A. No, it's all requested.
- Q. Okay, so in this case when you received the blood
 sample of Meagan Grunwald, what substances were you ordered to
 test for; can you tell me?
 - A. Like I mentioned earlier, the screen test was done, and that indicated the family of drugs. Then that triggers it, you know, down the line for me to do a test for the amines, which is the methamphetamines, MDA and MDMA.
 - Q. So your screen test, does that include testing for cocaine?
- 11 A. That is part of the screen test, yes.
- 12 Q. Okay, and can you tell us if you found results in regards to cocaine?
 - A. Are we talking about the blood or the urine?
- 15 Q. I'm talking about the blood exclusively here.
- A. Oh, on the blood exclusively?
- 17 O. Uh-huh.

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- A. I didn't do any testing on the blood, myself.
- Q. Okay, looking at the exhibit that you had placed before you today, this is -- who did the blood testing?
- 21 A. I couldn't tell you. One of the seven analysts did.
 - Q. Okay, and which of the seven analysts; do you know who did that blood testing?
- 24 A. I do not.
- Q. Okay, did you have an opportunity to review their

1 results, though, of the blood testing, the screen? 2 I did not review the negative result. 3 Okay, are you aware, though, of any other positive results other than the methamphetamine? A. No, that's the only one that went to further -- for 6 confirmation testing. Q. Okay, your standard screening, though, that includes 8 drugs other than methamphetamine? 9 Yes, it's like cocaine --Α. Uh-huh. 10 Ο. 11 -- morphine, THC, and then the amines. Α. 12 Q. All right, and if you had found -- or if any of those 13 other substances that are included in that screen other than 14 the methamphetamine had been found positive in the blood, would 15 you be aware of that today? 16 Α. Yes. 17 MR. ZABRISKIE: Okay, I have no further questions. 18 Thank you. 19 THE COURT: Thank you. Anything else? 20 MR. PEAD: No, your Honor. 21 THE COURT: Can he be excused? 22 MR. PEAD: Yes. 23 THE COURT: Thank you, sir. You're excused. Is there 24 somebody else from his office that is going to testify? 2.5 MR. PEAD: No, your Honor.

1	THE COURT: Okay, thank you. Next witness?		
2	MS. HOWARD: State calls John Sheets.		
3	THE COURT: Come forward, sir, and let's have you sworn		
4	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. Pull that down a little bit. It will pick you up		
12	a little better. Thank you.		
13	JOHN SHEETS,		
14	having been first duly sworn,		
15	testified as follows:		
16	DIRECT EXAMINATION		
17	BY MS. HOWARD:		
18	Q. Would you please state your name.		
19	A. John Sheets.		
20	Q. You have retired from		
21	A. The Utah Highway Patrol.		
22	Q. On January 30^{th} is that who you worked for?		
23	A. I did.		
24	Q. How long did you work for the Highway Patrol?		
25	A. Fifteen years.		

1 When you were employed with the Highway Patrol were 2 you a certified officer with the State of Utah? 3 Α. I was. How long were you a certified officer of the State of Ο. Utah? 6 Twenty-one-and-a-half. Prior to working for the State of Utah did you work Q. for another state? 9 A. I did. 10 O. What state was that? 11 Α. Texas. 12 Q. How long were you an officer there? 13 Α. Three years. 14 Q. So total how long were you a certified officer? 15 About twenty-five. Α. 16 Twenty-five years. On January 30th, 2014, I direct 17 your attention to that date, were you working within Juab 18 County? 19 I was. Α. 20 Q. On that date do you recall what time you checked on? 21 At 3 o'clock in the afternoon. 22 At 3 o'clock; and when you checked on at 3 o'clock on 0. 23 January 30th, what did you -- were you given information about a 24 pursuit? 25 A. I wasn't given information; I just heard it on the

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1 radio. 2 Q. So you check on and what happens? 3 I check on, I turn on my radio and I hear Trooper Α. Blankenagel advise that he was in a pursuit. Where are you at? Ο. 6 I'm just leaving my residence. Α. Okay, and that's in Juab County? Q. 8 Α. Yes, in Nephi. 9 Q. Okay, and so then what happens? 10 I hear that he's in a pursuit, and then a short time Α. 11 later he advised that he was being shot at. 12 Q. Okay, and then you -- you go through Nephi looking for 13 a location to be; is that correct? 14 A. Yes, he advised that he was southbound on I-15 from 15 the north end of Juab County, so I proceeded to head north 16 toward I-15. 17 Q. Okay, and then at some point you turn and you head south; is that correct? 18 19 A. Yes, I did. 20 Okay, and you end up south of Nephi heading south; is 21 that correct? 22 Α. Yes. 23 I'm used to calling you Trooper Sheets. Mr. Sheets, Q. 24 at that point do you -- what point do you turn on your dash cam

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recording?

- 1 A. South on I-15, just south of the 222, now milepost
- 2 220, somewhere around there.
- 3 Q. Okay, and when you -- when you turn it on, does it --
- 4 how long does it stay on; do you know?
- 5 A. I didn't -- I don't remember how long it was on the
- 6 whole time.
- 7 Q. So it was on while you go to 216; is that correct?
- 8 A. Yes.
- 9 Q. Then it's on while you're at 216?
- 10 A. Yes, it's -- the incident it's on, but I don't recall
- 11 how long it's on.
- 12 Q. Then it's on again as you transport a person to Santa-
- 13 quin; is that correct?
- 14 A. Yes.
- Q. So it's a lengthy piece of time?
- 16 A. Yes.
- Q. Okay, have you watched that video in preparation for
- 18 today's --
- 19 A. I did. We went over it.
- Q. Is it a fair and accurate recording of the incident as
- 21 | you saw it that day?
- 22 A. It was.
- MS. HOWARD: Okay, your Honor, I have what's been marked
- 24 | Plaintiff's Exhibits 144, labeled, "Trooper Sheets' Dash Cam
- 25 Video 2." Prior to that is 117, labeled, "Trooper Sheets' Dash

1 Cam Video 1." The actual DVD inside of these, by stipulation 2 of the parties will be replaced. These DVD's were enhanced, and they will be replaced with an un-enhanced DVD. The portion that we will play today is the stipulated portion that Counsel will have admitted into evidence. So I'm moving to enter in -- I'll be moving to enter into plaintiff's -- into evidence Plaintiff's Exhibit 117, 114 --THE COURT: 144? 8 9 MS. HOWARD: Excuse me, 144, I apologize, your Honor. 10 It would be with the agreement and permission of the Court that 11 we will be able to replace these two DVD's with un-enhanced 12 DVD's. 13 THE COURT: Is that another exhibit or is it just --14 just an enhancement? 15 MS. HOWARD: We will be actually taking these two DVD's out and replacing the cases, so they will be 117 and 114-- 144, 16 17 but not these two. 18 THE COURT: I see. Okay, is that correct, Mr. Zabriskie? 19 MR. ZABRISKIE: It is, your Honor. 20 THE COURT: Thank you. Go ahead. 21 MS. HOWARD: Is that -- okay, so I would move to --22 THE COURT: Already asked, okay. 23 MS. HOWARD: -- enter into evidence Plaintiff's 117, 24 144, with the understanding that we will be allowed to replace 25 those with the Court's permission.

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              THE COURT: Yeah, that's fine.
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              MR. ZABRISKIE: So just for clarification purposes,
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     the ones that will be ultimately submitted into evidence are
    un-enhanced copies?
             THE COURT: For today's purposes we're watching the
 6
     enhanced.
             MS. HOWARD: Un-enhanced.
 8
             MR. ZABRISKIE: Un-enhanced.
 9
             THE COURT: Un-enhanced, okay. All right.
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             MR. ZABRISKIE: Thank you, Judge.
11
             THE COURT: Thank you. Accept and receive State's
12
     Exhibits 117 and 144.
13
              (Exhibit Nos. 117 and 144 received into evidence)
14
              THE COURT: It's okay to publish those, I guess?
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             MS. HOWARD: Oh, I apologize, your Honor. The State
16
     requests to publish those to the jury.
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             MR. ZABRISKIE: No objection.
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             THE COURT: Thank you.
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             BY MS. HOWARD: So for the beginning portion of it you
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     were just traveling around, traveling to mile marker 222 -- or
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     excuse me, to 216. If we could start at 2:55.
22
             MR. ZABRISKIE: Your Honor, this is not going to be a
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     full display of the exhibit, but we have stipulated that they
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     can begin at that time.
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             THE COURT: Okay.
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1 MR. ZABRISKIE: We don't have any objection to it. 2 THE COURT: Thank you. 3 (Dash cam video played in the courtroom. Radio traffic 4 is too inaudible to be transcribed accurately. Please refer to the Court file to review this video. Video 6 is turned on and off throughout officer's examination) BY MS. HOWARD: Okay, now Trooper Sheets, what just Q. 8 happened at that point? 9 Α. Well, the vehicle went across the median, started 10 going southbound in the northbound lanes. 11 Do you see any -- you've sped up at this point; is Q. 12 that correct? 13 A. Yes, it -- when I speed up, the vehicle had gone off 14 the east side of the roadway into the snow. 15 Q. Do you see whether or not there are people exiting 16 that vehicle? 17 A. Yes, as the vehicle goes off the road, a short time 18 after it goes off the road, the subjects exit the vehicle. 19 Who do you see exiting? Q. 20 I observed two people exit the vehicle. 21 Were you able to get any kind of a description on them Q. 22 One exited the driver's side which was facing north-Α. 23 bound, and it appeared to be a male subject. 24 Q. Do you know which direction he -- what happened to 25 him, where he went?

- 1 A. He kind of went northbound in a northerly direction.
- 2 Then the other subject exited the passenger side and went up
- 3 toward the road.
- $4 \mid Q$. Okay, and that other subject, were you able to get a
- 5 description on them?
- 6 A. They were just wearing dark clothes. I couldn't tell
- 7 | if it was a male or female from my distance.
- 8 Q. Okay, so at that point you see two occupants out, and
- 9 | they're moving; is that correct?
- 10 A. Yes.
- 11 Q. So what do you decide to do?
- 12 A. The deputies were going after the subject that was
- 13 | headed north, and I didn't see anybody going after the other
- 14 subject, so I went down there to take care of that person, and
- 15 then take care of -- or block traffic that was coming north.
- Q. Okay. Okay, so what happened at that point?
- A. I turn around and head north. At that point I -- the
- 18 person that came out the passenger side had come up on the road
- 19 and proned out on the roadway.
- Q. Okay, on the left-hand side of the screen can you see
- 21 | a vehicle?
- 22 A. The left -- yes.
- Q. Okay, and do you know what type of a vehicle it was?
- A. I don't -- that one over there I don't recall what
- 25 kind of car that was.

1 Q. Okay, but what color was it?

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- 2 A. Looks like a light colored car.
 - Q. Okay, and so in front of you what do you see?
- A. I see the person -- one of the persons that came out of the car laying prone down on the ground.
- Q. Trooper Sheets, I believe you have a laser pointer up there. Can you find that and see which is the pointing --
 - A. Right there is who I was concentrating on right there, and that was the person that came out of the passenger side of the vehicle and prone on the ground.
- Q. Okay. All right, Trooper Sheets, what has happened up to that point?
- A. I'm (inaudible) place her in custody, and then I had to -- a car was coming over on that side of the road so I had to have it stop.
 - Q. While you're interacting with her are you paying attention to what is happening behind you -- or actually I guess it would be off on your right-hand side?
- A. No, not really. I'm paying attention to her -- or the subject on the ground, and then the cars that was coming up from my back.
 - Q. Okay, and as you approach the person that's in front of you are words being exchanged between you and that person?
- A. I'm just telling her typical things, "Keep your hands out," out in front of her and things like that.

- Q. Okay. All right. Okay, Trooper Sheets, what has happened there?
- A. I'm placing her in a vehicle, and as you can hear,

 she's crying, and she advised me that she was threatened to be

 shot and her family shot also.
 - Q. Do you recall her saying that she would be shot and her family would be shot?
 - A. Yes.

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8

- Q. Then what do you do with her at that point?
- 10 A. Place her in my vehicle.
- 11 Q. Okay, and is there audio on in your vehicle?
- 12 A. It is.
- Q. Okay, and have you -- well, strike that. So, Trooper
- 14 | Sheets, at this point what has happened?
- 15 A. I advised our dispatch that they were in custody.
- 16 Q. There's a -- the suspect, female suspect is in your
- 17 | vehicle?
- 18 A. Yes.
- Q. Can you hear breathing sounds on this video; were you listening?
- 21 A. I didn't -- I don't -- I believe so.
- Q. Okay, your audio in that vehicle is able to pick up --
- 23 as you listened to it previously did you notice whether or not
- 24 | it was able to pick up --
- 25 A. Yes.

- 1 Q. -- the suspect breathing?
- 2 A. Yes.
- 3 Q. So is it a fairly sensitive microphone?
- A. It is.
- Q. Okay. Okay, so Trooper Sheets, what has happened to this point?
- A. She is placed in my vehicle and then I go up there to see if they need any further assistance. Then I observed that the male subject had been shot.
- Q. Okay, and is that the first time you realized that someone was shot up over there?
- 12 A. It was.
- Q. Okay, so then as far as the audio on your recording did you notice anything in particular?
- 15 A. Which one, the one on this video here?
- 16 Q. Uh-huh, right now.
- 17 A. She seemed to be in the back of my car making some 18 sighs and --
- Q. Okay. Okay, so Trooper Sheets, what has happened at that point?
- A. Everything's under control up there with the other
 officers, so I walked back to my car and then Lieutenant Boze
 has arrived and I went back to speak with him.
- Q. Okay, and did you hear anything at that point from your audio?

1 Yes, it's fairly quiet, other than the radio, and 2 then when I walked by the -- walking toward the car I hear 3 some crying. 5 When you watched this video did you notice when that 6 crying -- or that sound stops? When I'm no longer in the video. Α. 8 Q. When you're no longer in the video? 9 Α. Yes. 10 When you're no longer around the vehicle; is that 11 what you're saying? 12 Α. Yes. 13 When you watch the video, Trooper Sheets, how many 14 times did the defendant cry or whimper? 15 Initially when I placed her in custody, and this time, Α. 16 and there might have been one more in between there. I wasn't 17 sure. 18 Okay, so those two times were times when you were near 19 her? 20 Α. Yes. 21 Okay. Officer, if you could describe for the jury 22 what happened there. 23 Sounded like the female said something like, "I told 24 you," and was crying a little bit.

Q. There's traffic being heard outside your vehicle. Are

1 your windows up or down? My driver's side window is cracked a little bit, so I 2 could get into it in case the vehicle got locked. MS. HOWARD: Okay, I would like to skip to 19 minutes. I'm not sure if under the rule of completeness defense wants us to play it through. MR. ZABRISKIE: We'd have an objection to that. We'd 8 want it played through. 9 MS. HOWARD: Okay. 10 THE COURT: Okay. 11 BY MS. HOWARD: Okay, so Trooper Sheets, what is -- are 12 you over there while there's activity happening on the right-13 hand side of the screen? 14 I believe I'm behind the vehicle. Α. 15 Behind your own vehicle? Q. 16 Α. Yes. 17 Okay, were you able to see what was happening over 18 there? 19 I don't believe I was watching what was going on, Α. 20 because I was now doing traffic control duties --21 Q. Oh, okay. 22 Α. -- and watching my person in my vehicle. 23 So you're able to see her from behind your vehicle? Ο. 24 Yes, the back window's there. Α. 25 Q. Okay, and as far as what the screen is showing, just

- 1 for the record, to make a record, what is it that is in front 2 of your vehicle? 3 An ambu -- well, there was two ambulances now --Α. Ο. Okav. A. -- and then the deputies, and then the male subject 6 was still over there. This is Nephi City PD Chief Morgan right there. 8 Q. Okay, can you describe for the jury what you heard there? 9 10 Sounded like the person in the vehicle said, "Why, baby?" 11 12 Q. Okay, and what did you hear there? 13 Sounded like, "Honey, why?" Α. 14 So up to this point did you hear any sounds made by 15 the defendant while she was seated in the car? 16
 - No, I was outside the vehicle. Α.
- 17 Q. No, on this recording?
- 18 Oh, just now, yes. When I watched the video, yes.
- 19 Okay, and what are you seeing her doing in the car? Q.
- 20 What is she doing?
- 21 Α. Just sitting there.
- 22 0. Okay, and in front of your car what is happening 23 still?
- 24 The male subject's being taken care of by ambulance Α. 25 and personnel and the deputies that were there.

1 Q. Okay, and what happens to him shortly? 2 He's put in the ambulance. 3 Okay. Trooper, do you know who that person is that's in front of your car with that gun in his right hand? A. I don't know him personally or by name. He's a Utah 6 County deputy. Do you know what he has? Q. A. He has a firearm in this hand. 8 9 Q. Do you know whose it is? 10 I believe it was the suspect's, or the male subject's Α. 11 that they recovered off of him. 12 MS. HOWARD: Okay, your Honor, at this point Counsel 13 has agreed that we can switch to the second video. 14 THE COURT: Is that correct? 15 MR. ZABRISKIE: We have no objection to terminating the 16 video here. 17 THE COURT: Okay, thank you. 18 MS. HOWARD: May we publish that to the jury. 19 THE COURT: Any objection to that? 20 MR. ZABRISKIE: No objection. 21 THE COURT: Thank you. 22 MS. HOWARD: Is there an objection to moving it forward 23 about 15 minutes? 24 MR. ZABRISKIE: No objection. 25 MS. HOWARD: Okay.

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1
             MR. ZABRISKIE: Oh, I'm sorry, which video is this?
 2
             MS. HOWARD: This is the video 2.
 3
             MR. ZABRISKIE: Which one's -- let's see. We'd want to
    play the first minute and then you can --
             MS. HOWARD: Okay.
 6
             MR. ZABRISKIE: -- move forward to -- where did you
    want to move forward to?
             MS. HOWARD: To 15, 15, 16, okay?
 8
 9
             MR. ZABRISKIE: (Inaudible).
10
         Q. BY MS. HOWARD: Well, just to make a record, Trooper
11
     Sheets, we've switched to the second portion of your dash cam;
12
     is that your understanding?
13
            Yes, this is the second video.
        Α.
14
             Do you know why your video was in two segments?
15
             Yeah, when I turned around I accidently shut it off
        Α.
16
     instead of leaving it on.
17
             Okay, and in front of your vehicle are -- what's the
18
     view from your vehicle?
19
             This is southbound.
        Α.
20
         Q. Okay, and in front of it are various vehicles, law
21
     enforcement vehicles; is that correct?
22
        A. Yeah, they have the vehicles blocked, and they're
23
     sending the traffic that was backed up to the median back down
24
     the other way.
25
        Q. Okay, and the female suspect is still in the back of
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1 your vehicle? 2 Yeah, she was in the back of my car the whole time. 3 The person that was in your vehicle, did you recognize -- do you know who she is? The female? Not by name. Do you recognize her here in the courtroom this day? 6 Α. Yes. Where is she at? Q. 8 Sitting at the table over there in the white sweater and looks like a blue dress. 10 MS. HOWARD: Okay. Oh, does the record indicate he's 11 indicating the defendant? 12 THE COURT: So reflected. 13 MS. HOWARD: Move to 16 minutes? 14 MR. ZABRISKIE: We have no objection to skipping that 15 portion, your Honor. 16 THE COURT: Okay. 17 BY MS. HOWARD: Trooper Sheets, what did you hear 18 there? 19 She said, "Fucking ho, man." Α. 20 Q. Who is around the vehicle at that time? 21 Α. Just law enforcement subjects. 22 There are no civilians out and about? Ο. 23 Just further down in those vehicles. Α. 24 Okay, go ahead and describe for the jury where you 25 are at this point, which way your patrol vehicle is facing and

1 those things.

- A. Okay, I was advised to move my vehicle here, so that's where I did. This is in the northbound lane facing southbound, just north of the crossover that you had seen me go through earlier.
- Q. So from where you were originally in the first video,
 where did you go to? Which direction did you go; how did you
 get there?
- A. I just did a U-turn and faced south.
- Q. Okay, so it's still approximately the same area, just across the road?
- 12 A. Just on the other side of the road. Instead of the 13 east side, we're on the west side of the northbound lane.
- Q. Okay, I see what you're saying. So still in the same lanes, just now turned and facing --
- 16 A. Yeah, we're facing southbound here.
- 17 Q. Facing south.
- 18 A. Before I was facing northbound.
- 19 Q. Okay, I understand. I'm going to pause it again.
- 20 Trooper, you've been an officer for a long time --
- 21 A. Yes.
- Q. -- and you've interacted with a lot of defendants along the way; is that fair to say?
- 24 A. Yes.
- 25 Q. Based upon your interactions and your experience, the

1 phrase "hos," "f-ing hos, man," what does that indicate to you? 2 It's a slang term for whore. 3 Q. Okay. Okay, so what has happened at this point? Just walked up to my car, back to my car, opened the Α. door. 6 You're opening the door on which side? Q. Looked like the passenger side. Α. 8 Q. Do you start a conversation with the defendant at that 9 point? 10 Yes. Α. 11 Q. What is the conversation about? 12 Α. I believe it's her handcuffs. 13 She talks to you about them? Q. 14 Α. Yes, that they're tight. 15 They're too tight? Q. 16 Yes. Α. 17 Q. What do you tell her? 18 I check them, and they weren't tight. So I place her 19 by the -- they're not tight, and put her in my car. 20 Do you recall her saying anything about her pants 21 falling down? 22 Α. Oh, yeah, she said her pants are falling down. 23 Okay, so over the next minute or so you're working Q. 24 with her on her handcuffs; is that correct? 25 A. Yes.

1 Q. Because she's complaining about them being too tight? 2 Α. Yes. 3 Q. Was that the part that you were just saying? What did she say there? 5 Her pants are falling down a little bit. Α. 6 Okay, and were you there talking to her? Q. 7 Α. Yes. 8 Q. Can you describe the tone of her voice? 9 Α. It was low. 10 Did she appear to be calm or agitated or anything? Q. 11 Α. It appeared to be calm and a low voice right there. 12 Q. Okay, is this the first time she's talked to you for 13 the last half hour, 45 minutes or so? 14 Α. Yes. 15 So what are you doing with her now? Q. 16 Α. I told her to sit back so I could get the seatbelt on 17 her. 18 Q. Okay. 19 You can hear it click when I put it on. 20 It clicks when -- so the breathing that you're hearing 21 from her again is in relation to you having her sit back and 22 put the seatbelt on? 23 Α. Yes. 24 That door shutting means that you have -- where are Q. 25 you going now?

1 Α. I believe I'm just going back to the other side of the 2 car. 3 Okay, so she's in the car by herself again? Q. 4 Yes. Α. Okay, and what did you hear her say there, Trooper? Q. 6 She said, "Fuck, fuck, why are these so damn tight?" Α. MS. HOWARD: Okay, move forward to 33, 23. 8 MR. ZABRISKIE: No objection. 9 THE COURT: Okay. 10 BY MS. HOWARD: Okay, Trooper, so what is happening at 11 this point? 12 Α. Lieutenant Boze has advised me to transfer her up to 13 Santaquin PD. 14 Q. So that's the beginning of this? 15 Α. Yes. 16 So -- okay, go ahead. Okay, what was that that you 17 heard, Sergeant -- or Trooper? 18 She said, "I tried to get him to stop." 19 Again, the tone of her voice, could you describe that? Q. 20 It sounded like a little bit sad this time, but --21 Q. Uh-huh. 22 -- not really crying or anything. Α. 23 Okay, from there on through to Santaquin, do you hear Q. 24 anything more from her?

25

A. I don't believe so.

1	Q.	Okay, and your pursuit excuse me, you drive to	
2	where?		
3	Α.	Santaquin PD.	
4	Q.	What happens at that point?	
5	Α.	I get her out of the car and release her to Utah	
6	County Officer Patty Johnston.		
7		MS. HOWARD: Okay, just a minute, please. Nothing	
8	further :	for this witness.	
9		THE COURT: Okay, thank you. Cross examination?	
10		MR. ZABRISKIE: Judge, we're going to be I'm not	
11	certain,	but it's going to be more than a half an hour. It	
12	might be	a good time to give the jury a break. Happy to	
13	proceed,	though, if the Court wants us to.	
14		THE COURT: Do we need a break? Happy to do that if we	
15	need to,	or do you want to just press forward? Anybody that	
16	needs a l	oreak, don't feel bad if you have to have a break.	
17		(No verbal response)	
18		THE COURT: All right, we'll press forward.	
19		(Counsel conferring off the record)	
20		CROSS EXAMINATION	
21	BY MR. Z	ABRISKIE:	
22	Q.	Trooper, how are you doing?	
23	Α.	Good.	
24	Q.	Good. I appreciated hearing your testimony. I thought	
25	you exer	cised a very high level of candor, and we wouldn't	

1 expect anything less. You've been in law enforcement for 2 -- trying to follow you there. You've had quite a lot of 3 experience. A. Yeah. Did you say 25 years, approximately? Q. 6 A. Close to 25. Q. Okay, and not all of that was here in Utah. You've been in --9 A. Texas. 10 -- did you say three different --Q. 11 Α. Texas. 12 Q. -- okay, in Texas? 13 Α. Yes. 14 Q. Okay, how long were you in Texas in law enforcement? 15 About three years. Α. 16 Three years. Okay, what was your capacity in law 17 enforcement? 18 A. Patrol officer. 19 Q. Okay, and then since you've been in Utah, the last 21-20 and-a-half, 22 years; is that right? 21 A. Yes. 22 Okay, you've been patrol officer also throughout the 23 duration of that time? 24 A. Yes, and then I worked at the jail for a while, a 25 short period, but --

- Q. Okay, and in your capacity as a patrol officer you have occasion to issue a variety of citations; am I right?
- 3 A. That's correct.
- 4 Q. Some of those include DUI citations; is that right?
- 5 A. Yes.

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- Q. Okay, in your capacity in law enforcement it's expected that you have a certain amount of expertise, obviously, and one of those areas of expertise that you have is you're trained in drug recognition; am I right?
- A. Yes.
- Q. Okay, and what goes into that training? Will you please explain to the jury what a drug recognition certificate requires.
 - A. I believe it's a 40 hour class where we learn the different drug categories and its effects on the human body, and then how to recognize those effects when we do a test.
- Q. How to recognize those, what you're talking about are the physiological and behavioral indicators; am I right?
- A. Yes, because drugs cause involuntary -- some drugs
 cause involun -- certain involuntary effects on the body that
 we can detect.
- Q. Okay, and those rug recognize -- recognition ex -excuse me -- observations have relevance in cases other than
 DUI?
- 25 A. Yes, they can be used for different things.

1 Q. Okay, so in your training not only are you trained 2 in DRE but there are other facets to being trained as a law 3 enforcement professional; are there not? 4 Α. Yes. That includes how to draft a report? Ο. 6 Yes. Α. That's something that you learn; and how to make Q. accurate observations and to report accurately? 9 Α. Yes. 10 There's a great emphasis placed upon that, right? Ο. 11 Α. Yes. 12 Q. The purpose for that is you want to have your facts 13 straight? 14 Α. Yes. 15 That's not only important to -- well, strike that 16 question. That's important to your investigation for more 17 reasons than one? 18 Α. Yes. 19 One is you want to provide evidence in cases of 20 prosecution against people who are guilty? 21 Α. Yes. 22 Another would be that you want to provide accurate 23 information so that those who are not guilty are treated 24 fairly? 25 A. Yes.

- Q. Okay, so in this case you became involved in the overall investigation, but you had -- you had a limited scope of involvement; am I right?

 A. That's correct.
- 5 Q. Where did your scope of involvement -- of involvement 6 in this case begin?
 - A. It initially started when I heard it on the radio.
- 8 Q. Okay, so when you heard it on the radio you're taking 9 mental notes of the overall circumstances; am I right?
- 10 A. Yes.
- Q. Then at some point someone initiates your involvement, or do you initiate that on your own?
- 13 A. I initiate it on my own.
- Q. Okay, is it because you were in the proximity, in the vicinity of where these things were unfolding?
- 16 A. Yes.
- Q. Okay, and duty bound at that point, right?
- 18 A. Yes, that was my job.
- Q. Got to provide support where others are in need of that support?
- 21 A. Yes.
- Q. Okay, and along with you initiating your involvement into this case, you take with you all of your expertise?
- 24 A. Yes.
- 25 Q. Which includes your expertise as a drug recognition

1 expert, your expertise as an observer, as a note taker, and 2 investigator? 3 A. Yes. Q. Okay, so shortly after initiating your involvement in this investigation you find yourself heading southbound on I-15, right? Α. Yes. 8 Q. This is in Juab County? 9 Α. Yes. 10 These are roadways that you are very familiar with, Q. 11 right? 12 Α. Yes. 13 I hope I haven't run into you there. A few of you 14 have sent me to traffic school. 15 A. I don't remember. 16 Q. So you find yourself on southbound I-15, and around 17 is it mile marker 216, somewhere around there, you see this 18 cluster of activity? 19 A. Yes, around 216. 20 Q. Okay, visibility is not ideal; would you say? 21 No, it's snowing and there's --22 But you recognize that you've arrived at the epicenter Ο. 23 of this because you see all the flashing lights? 24 Α. Yes. 25 Q. Well, that would be one indicator. Also you hear the

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- 1 chatter on the radio, so you know you're heading into the epi-2 center of this?
 - A. Yes.

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- Q. Okay, so you're heading -- do you pass mile marker
 216; do you drive -- or strike that. Do you pass where this
 cluster of activity is on southbound?
 - A. Eventually I do.
- Q. Okay, so you pass it, and then as I was watching the video -- strike that. I was listening to your testimony, and you indicated that in preparation for today's hearing you had the opportunity to review both of your dash camera videos before today.
 - A. Yes.
- Q. Before appearing here in the courtroom.
- 15 A. Yes.
 - Q. Okay, and then in addition to that you've had the opportunity to review those dash camera the dash camera footage from both of those videos here in the courtroom today?
- 19 A. Yes.
- Q. What you observed here today was consistent with what you observed before? In other words, none of the evidence on -- that we saw on the screen has been altered in any form?
- 23 A. No.
- Q. Okay, and besides these two times of reviewing your dash camera videos, were there other occasions were you refer

- 1 to those dash camera videos?
- 2 A. I believe I after the incident, we went over it with
- 3 the supervisors.
- 4 Q. Okay, so you sat down with supervisors, watched it,
- 5 looking for items of significance?
- 6 A. We watched it, yes.
- Okay, did you make notes while you were watching those
- 8 dash camera videos the first time?
 - A. I don't believe I did.
- 10 Q. Did you watch those dash camera videos for the first
- 11 | time before drafting the report that you prepared in this case?
- 12 A. I don't believe I did. It was after.
- Q. Okay, you drafted a report in this case; am I right?
- 14 A. Yes.

- Q. Do you recall the date that you drafted that report?
- A. Well, I wrote a statement for the investigators that
- 17 | -- right after -- when I dropped off the person. Then I wrote
- 18 | my department report later on.
- 19 Q. Okay, how much later on?
- 20 A. Probably the next day or that day.
- Q. Okay, was it the same day or was it thereafter?
- 22 A. I don't believe it was the same day, because all the
- 23 stuff was going on.
- Q. Okay, would you say that when you wrote that report
- 25 | these events were still fresh in your memory?

- 1 A. They were fairly fresh, yes.
- 2 Q. Okay, it's a very dramatic day; am I right?
- 3 A. Yes.
- 4 Q. What you observed -- may of the things that you
- 5 observed are ingrained in your memory; would you say?
- 6 A. Some of them are.
- 7 Q. Yeah, so at the time -- probably many that you wish
- 8 you could forget, as well, I'm confident. So when you wrote
- 9 your report though, when you drafted your report, I'm looking
- 10 | at what looks like a one-page report with your indicating your
- 11 | name on the second page. It's a --
- 12 A. Supplement?
- 13 | Q. -- two page -- two page report, yeah.
- 14 A. Yes, it was --
- 15 Q. Okay.
- 16 A. -- a supplement.
- Q. Okay, in that report you included what you consider to
- 18 be, I would say, highlights, or would you say highlights of
- 19 your observations that day?
- 20 A. What I remember happened, yes.
- 21 Q. Okay, but this is not an exhaustive report of all
- 22 things that you observed that day, is it?
- A. It's the best I could recollect.
- Q. Once this report is supplemented with the dash camera
- 25 | footage then there's a more complete picture; am I right? More

- 1 | complete picture of your involvement and what you witnessed?
- 2 A. Yeah, when I watched the video there is more.
- Q. Okay, and there's things that you see in the video
 that are obviously not included in your report; it's a one-page
- 5 report?
- 6 A. That's correct.
- Q. There's dash camera footage. We didn't see all of it today. It's rather lengthy. Yeah. There was additional dash camera footage that we have not reviewed here with the jury
- 10 | today; am I right?
- 11 A. We didn't watch --
- Q. Meaning -- meaning we didn't watch the entire -- the entire piece, right?
- 14 A. That's correct.
- Q. Okay, but you have reviewed the entire piece?
- 16 A. Yes.
- 17 Q. Before today?
- 18 A. Yes.
- Q. So you're familiar with the content, more so than at this point the jury would be because you've reviewed it all?
- 21 A. Yes.
- Q. All right, so taking you back now to I-15, you're southbound, you just passed through the cluster of activity.
- Your training and your instincts are not driving you away from
- 25 | it. You're not running from the scene. You're obviously, as the

- video indicates, you're trying to get in a strategic position
 there to offer the best help that you can; am I right?
- 3 A. Yes.
- Q. What you determine to do, you find a comfortable place or maybe a safe place to cross through the median, double back on northbound I-15; is that right?
 - A. Yes.
- 8 Q. As you initiate that left-hand turn from I-15 south9 bound, intending to engage yourself traveling northbound,
 10 there's -- your dash camera is on at that time?
- 11 A. Yes.
- Q. We saw the video there, and I made observations.

 I'm not here to testify to those, so I'm going to ask you to
- 14 confirm what you observed, what the jury observed and some of
 15 the things that I think are significant in that dash camera
- 16 video. So you enter the median; you're in the middle?
- 17 A. Yes.
- 18 Q. Your dash camera footage is rolling?
- 19 A. Yes.
- Q. So we see what's happening on northbound, not -- just
- 21 on that segment that is shown on your dash camera video; am I
- 22 right?
- 23 A. Yes.
- Q. One of the things that we see happening there, some of the activity, is there are two vehicles that pass by while

- you're initiating this turn to enter northbound traffic. One of them is a white SUV, an Audi; am I right?
- A. Yes. Well, I don't know -- recall what kind of make it was, but it was a white SUV.
- 5 Q. Okay, which you observed that a little bit later in 6 the dash camera footage as well?
 - A. Yes.
- Q. Well, moments later, huh? Also observed in that footage I saw a large semi, looked like it was pulling a trailer. You saw that as well?
- 11 A. It looked like a car hauler.
- 12 Q. Oh, maybe it was a car hauler, yeah.
- 13 A. Yes.
- Q. So it's -- in any case it's a very large vehicle,
- 15 right?

- 16 A. Yes.
- Q. You also see that again in the footage as you situate yourself on northbound I-15; am I right?
- 19 A. Yes.
- Q. Okay, and when you have -- let's skip forward a few seconds. We're not -- I'm not going to put the video back up here. Everybody's seen it, but while it's fresh in everyone's minds we'll -- I think this will be fruitful for us to discuss this. So you situated yourself now on northbound I-15, and

your intention is to quickly move forward to the crime scene,

1 offer your assistance; am I right? 2

- Α. Yes.
- In other words, there's no lallygagging; you're intent on getting there, providing help?
- Yes. Α.

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- So only seconds before you pass by the white SUV by the semi. When you pull out, traffic's clear enough for you to enter safely?
- Α. Yes.
- 10 That was something that was important to you; you 11 don't want to cause an accident in the midst of all this chaos?
- 12 Α. Yes.
 - Okay, so then you enter I-15. Your dash camera foot-Q. age shifts from looking across the roadway to looking north straight down the roadway, parallel with the roadway?
- 16 Α. Yes.
 - On that footage what can be seen is that the semi is at this point situated in the outside lane; am I right? The car hauler. It's on the outside lane, not the inside lane.
- 20 The one by the median, closest to the median?
- 21 Well, I guess when I say the outside lane I mean the 22 slow lane; is that fair description? If I call the fast lane 23 the inside lane, the slow lane the outside lane, does that give 24 you a point of reference?
- 2.5 A. I really don't remember --

-912-

- 1 Q. How about the right-hand lane?
- 2 A. Yes, but I don't remember. It could be.
- 3 Q. Okay, could have been. If I tell you my observation
- 4 | it was, you wouldn't have any reason to disagree with that?
 - A. No.
- 6 Q. Okay, and the inside lane was occupied by the white
- 7 SUV?
- 8 A. I believe so, yeah.
- 9 Q. Okay, so now as you move forward, you're traveling
- 10 forward very rapidly, only seconds later you're at a stop on
- 11 | the right-hand shoulder of the road?
- 12 A. Yes.
- Q. You pull off the road safely. Are you out of the lane
- 14 of travel there?
- 15 A. I believe I'm on the shoulder, yes.
- Q. On the shoulder, okay. Describe that shoulder; how
- 17 | wide is it in feet?
- 18 A. Maybe a car width.
- 19 Q. Okay.
- A. Twelve feet or so.
- Q. Okay, and marking the lane of travel, how do you
- 22 determine where the demarcation point is between the shoulder
- 23 of the road, the lane of travel?
- A. The fog line and the -- is the closest to the road,
- 25 and then --

- 1 Q. Okay, so you've --
- 2 A. -- the shoulder ends where the dirt --
- 3 Q. -- situated your car on the right-hand side of the fog
 4 line?
 - A. Yes.
- Q. You park there; and as I stated, this is only moments
 after you've entered the northbound lane of travel because
 you're traveling very quickly?
 - A. Yes.

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- Q. Okay, and as your vehicle is just coming to a stop
 there on the video, you can see off to the left there's this
 white SUV that passed you moments before?
- 13 A. Yes.
 - Q. Seconds before. No delay here, you jump out of your vehicle very quickly, right?
- 16 A. Yes.
 - Q. You've taken precautions, though, you check your mirrors, you don't want to jump out in front of a semi. It's a very dangerous place to be, right?
- 20 A. Yes.
 - Q. Okay, and after you're -- or after you've pulled over there's one more vehicle that comes driving through between you and the white SUV. It looks like some -- I don't know if it's a police vehicle. It looks like a Chevy Suburban or maybe an extended Ford SUV of some type. Can you account for who was in

- that vehicle? It pulls right in front of the white SUV maybe
 twenty feet and then it stops on the left-hand side of the
 road.
 - A. I don't know who was in any of those vehicles.
- Q. All right, but there was a vehicle that came through as I'm describing, right, stops in the view of your dash camera?
 - A. Yeah, I believe that's a white one, yes.
 - Q. Okay, and moments after that, you're seen in the dash camera footage out of your vehicle, moving forward toward the suspect that's laying on the ground in front of you?
- 11 A. Yes.

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- Q. Okay, and that's only a matter of seconds, right?
- 13 A. Yes.
- Q. Okay, so there's the sound of this motor passes
 between you and the white SUV to your left? This white SUV
 passes through before you're seen in the footage, right?
- 17 A. Yes.
- 18 Q. Okay, and the white SUV is pretty close to you, right?
- 19 A. Yes.
- Q. You're close enough to where you would have heard the sound of the motor going by, the road noise?
- 22 A. Maybe, yes.
 - Q. Okay, so then there on the ground in front of you is a young lady --
- 25 A. Yes.

- Q. -- laying on the ground. When you got out of your car did you hear her call anyone -- I don't -- pardon me for using
- 3 this language, but did you hear her call anyone an "asshole"?
- A. I didn't hear her say anything until I walked up to her.
- Q. All right, so then you walk up to her and you said at that point you did hear her say something when you walked up to her?
 - A. I believe when I -- when I first walked up to her she advised me when I was placing her into custody, she advised me she was kidnaped, I believe.
- Q. Okay, yeah, and that's consistent with your report.

 This is on page 1 of your report you put in quotation marks

 that, "As I was placing her into custody she stated, 'I was
- 16 A. Yes.

kidnaped.'"

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- Q. But that's not something that we heard here on the dash camera footage today?
- 19 A. Yeah, because I was out of --
- 20 Q. That was a little bit out of --
- 21 A. -- that was out of my car, yeah.
- Q. Okay, so I take it, based on your testimony here, that you did not have -- what do you call them, a lapel mic unit?
- A. Well, I had one, but I was having problems with it.
- 25 Q. Okay.

- 1 A. They were having problems with the battery.
- 2 Q. All right, but there was a sound recording going on
- 3 associate with your dash camera equipment, right?
 - A. Yes.

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- Q. But that was inside of the cab of your car?
- 6 A. Yes.
- Q. Now, you indicated that when you exit your vehicle with it running, you said you leave a window cracked?
- 9 A. No, I -- I had the window cracked when she was sitting 10 in the car, but I believe it wasn't cracked at that point.
- Q. Okay. All right, but when you have a suspect in the car is it your practice, then, to leave it cracked?
- A. That and then anytime I'm out of it so I don't lock myself out.
 - Q. That's a great practice. I should do that. I call Triple A all too often. It's embarrassing.
- Q. So now you -- going back to this young lady who's laying on the ground in front of you, you -- I saw on the dash camera footage she's very close to that white fog line, very
- 20 close to the lane of travel?
- 21 A. Yes.
- Q. It's your observation that she was laying there before you pulled up there, right?
- A. Yes, you can see on the video where she was laying there.

- Q. Okay, is there anything in your observation that would make you believe that she was not laying there when the car hauler drove by in the outside lane?
 - A. Uh --
- Q. Is that a confusing question? I can --
- 6 A. Yes, I --
- Q. -- I can (inaudible) that question for you. I think I confused myself there a little bit. So you've indicated earlier that the car hauler, what I thought was a semi, that that drove by. You didn't have any reason to disagree that it was in that right-hand lane?
- 12 A. Yes.
- 13 Q. Closest to the fog line?
- 14 A. Yes.
- Q. Not a very safe place to be laying on the ground?
- 16 A. No.
- 17 Q. You wouldn't advise that, right?
- 18 A. No.
- 19 Q. All right, so it would be natural for somebody who's
- 20 laying that close to traffic, big trucks driving by, poor
- 21 visibility, to feel uncomfortable laying on the ground that
- 22 close; would it not?
- 23 A. Yes.
- Q. Okay, so it wouldn't surprise you that she did not
- 25 | want to be laying on the ground right there?

1 Α. I don't think --2 MS. HOWARD: Objection, your Honor, that's speculation 3 asking the witness --4 MR. ZABRISKIE: I'm asking him --5 MS. HOWARD: -- something he has no personal knowledge. 6 MR. ZABRISKIE: -- if it would surprise him. THE COURT: Overruled. Go ahead and respond, sir. 8 THE WITNESS: Laying on a wet pavement is not comfort-9 able. 10 BY MR. ZABRISKIE: Thank you. I avoid it as much as I 11 can. So then you arrive next to her person there. Anybody 12 there to assist you? 13 Sergeant Kelsey arrives shortly after that. Α. 14 Q. Okay, you guys get her to her feet? 15 Α. Yes, I handcuff her and --16 No resistence there, right? Ο. 17 Α. No. 18 Okay, and then you handcuff her. Do you cuff her in 19 the front, cuff her in the back? 20 In the back. It's our policy it was in the back. 21 Okay, and then I observed that you escorted her to 22 your patrol vehicle, right? 23 Α. Yes. 24 Did you take her -- I don't recall from the vehicle, 25 but did you take her to the driver's side or did you take her

-919-

1 to the passenger's side? 2 I believe she was on the driver's side at that point. 3 Take her to the driver's side. You're getting pretty close to traffic there. I'm sure you made observations make sure it's safe, you --6 Yeah, you can see me on the video ---- protect yourself. Q. 8 Α. -- stopping traffic and --9 Okay, then just before you get in the video you can 10 hear her audibly complaining that she was threatened, right? 11 Α. Yes. 12 You can hear her at the 5:15 mark-- now, I'm referring 13 to the numbers that appear at the bottom of the screen, not at 14 the top. These are the numbers on the player, but the 5:1515 mark you can hear her saying, "He said if I didn't, he would 16 shoot me and my family." 17 Α. That's correct. 18 Q. You can also --19 That's what she said. Α. 20 Q. -- okay, and you can also hear her crying at that 21 time? 22 Α. Yes, she was crying. 23 Okay, so you place her in the back of the patrol Q. 24 vehicle, right? 25 A. Yes.

1 Q. You've indicated at this point you -- as a matter of 2 practice you leave the driver's side window cracked? 3 Α. Yes, I don't --4 When you say "cracked," is it you leave it open enough where you can get your arm in there and unlock it if you need 6 to? 7 Α. Yes. 8 Q. Okay, it's a cold day? 9 Α. Yes. 10 Any wind; is it windy at all? Q. 11 Α. I don't recall how windy it was. 12 Q. Just snowing a bit, though, huh? 13 It was snowing, quite heavily I believe. Α. 14 Q. All right, no doubt everyone agrees in this room that 15 it was a cold day? 16 Α. Yes. 17 Q. You just helped her peel herself up off of the ground? 18 She's laying on a wet ground? 19 Α. Yes. 20 Okay, not a place we'd want to find ourselves laying. Her clothes, she's not wearing any rain gear, right? 21 22 Α. No. 23 Not wearing any ski gear. She's in a -- I don't know 24 if it was -- how would you describe her clothing? 25 A. She was wearing a sweatshirt. I believe it was a brown

-921-

1 sweatshirt and brown just kind of jeans or denim. 2 Okay, these look like cotton material to you perhaps? 3 Α. Yes. Okay, she's obviously gotten herself somewhat wet, Ο. right? 6 Α. Yes. So then you got her in the back of the patrol vehicle. Q. Any device or means by which she can dry those clothes off there? 10 I had my heater turned up for her. 11 Had the heater turned up, but there was nothing beyond Q. 12 your heater that would help her to dry her clothes off, right? 13 Α. No. 14 Q. Did you provide a blanket for her? 15 No, I -- she didn't have one. Α. 16 Okay, so the window's down, she's wet, she's sitting 17 in your car? 18 Yeah. My vehicle has a cage, a plas -- or a plexi-19 glass cage. 20 Q. Okay. 21 So the back is separate from the front. So the window 22 didn't affect the back too much, you know, which-- weatherwise. 23 But there's air flow between the two? Ο. 24 Α. Yes. 25 Q. The front and the back, right?

- 1 A. Yes.
- 2 Q. So cold air getting into the front of the vehicle,
- 3 naturally some of that's going to make it into the back of the
- 4 vehicle?
- A. Yes.
- 6 Q. All right, do you have heater vents in the back of the
- 7 vehicle?
- 8 A. It was hot in there, yes. It was warm.
- 9 Q. There's heater vents in the back?
- 10 A. Not (inaudible), but it flows through and it's --
- 11 Q. All right, and we've had the opportunity to watch this
- dash camera footage projected from the front of your vehicle.
- 13 | Shows what's going on in front of your vehicle?
- 14 A. Yeah.
- 15 Q. There's no cameras that point backwards into the passenger compartment, right?
- 17 A. No, not --
- 18 Q. So there's no footage available to show her composure
- 19 to demonstrate what her demeanor was, nothing like that, right?
- 20 A. No.
- 21 Q. Nothing to -- that we could look at now evidentiary-
- 22 wise to determine whether or not she had tears in her eyes?
- 23 A. No.
- Q. No, but there is this -- evidently this audio capa-
- 25 bility inside of the passenger compartment of your vehicle?

- 1 A. Yes.
- 2 Q. So we can hear what's going on in there. We've heard
- 3 some of the things that Meagan said, we've heard her crying; do
- 4 you agree?
- 5 A. Yes, she was crying.
- 6 Q. Also on that footage, or on the audio feed, that is,
- 7 | we can hear what's going on on the radio?
- 8 A. Yes.
- 9 Q. Or over the radio waves, right?
- 10 A. Yes.
- Q. When I say "radio waves," what I'm talking about is
- 12 | whatever you guys call your -- the police radio?
- 13 A. Yes.
- Q. What do you call that?
- 15 A. The radio.
- Q. Okay, radio. Like that. It's not the radio I listen
- 17 to, but I like radio. So in your review, in anticipation of
- 18 | testifying here and in your investigation of the case, as
- 19 you have stated, you've looked back at this footage, not just
- 20 visually, but you've also audibly listened to what's on those
- 21 tapes?
- 22 A. Yes.
- Q. Okay, and you can -- you heard -- or strike that.
- 24 As you listen to it, you're able to hear what's going on over
- 25 the radio, probably refreshing your memory of much of the

1 | activities of that day?

- A. Yes.
- Q. What goes on over the radio, you guys don't speak in layman's terms. You don't call each other "dude," no slang.
 - A. No.

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- Q. Or could you call it slang, I guess. You guys have
 your own language, right; you speak in code? You use numbers,
 where a gangster --
 - A. It's called a ten code, yes.
 - Q. Okay, so you guys use numbers, where a gangster might use slang terms. You guys speak in a language that the lay person -- we don't understand, unless we've got the little manual that tells us what 10/320 means or something, but --
 - A. Yes.
 - Q. Okay, so as you're listening over that radio on the dash camera footage, you don't -- everything you hear is in this police talk, right?
- 18 A. Well, not everything. Some of it.
- 19 Q. Much of it?
- 20 A. Yes.
- Q. As you listen to it, you don't hear any -- correct me
 if I'm wrong. There's nowhere in this footage where details
 offered in layman's terms are offered -- or are provided,
 indicating what the injuries are that were suffered by the
 officers, Wride and Sherwood?

-925-

- A. No, I didn't even know -- at that point I didn't even know what happened.
- Q. Okay, but there's -- as you reviewed the dash camera
 footage, heard the audio, nobody's talking in layman's terms
 about "Hey, Officer Sherwood's been hit by a gun, by a bullet"?
 - A. No.

- 7 Q. You don't hear that?
- 8 A. No.
- 9 Q. You don't hear that. You don't hear that Sergeant
 10 Wride has been shot by a gun; you don't hear that?
- 11 A. No.
- Q. Nothing you heard in that audio would give indication
 to Meagan of the extent of the injury suffered by Jose; am I
 right?
- 15 A. No.
- Q. Okay, and in your contact with Meagan, you never disclosed to her the extent or whether or not an officer had been injured, did you?
- 19 A. I did not.
- Q. Okay, in fact, you didn't make any effort to interview her, did you?
- 22 A. No, I did not.
- Q. The only information you have that -- or the only
 comments or statements that she made to you, those were made
 voluntarily, right?

- 1 A. Yes. 2 Q. You d
 - Q. You didn't attempt to elicit those from her?
- 3 A. That's correct.
- Q. Okay, when you placed her in your vehicle, I imagine
- 5 | it's a standard practice, you're not going to put someone into
- 6 your vehicle without doing some kind of cursory search of their
- 7 person. Did this take place?
- 8 A. Yes, I patted her down.
 - Q. Okay, you didn't find any weapons on her?
- 10 A. No.

- 11 Q. No knives, no ammunition?
- 12 A. No.
- Q. You didn't find anything that would be associated with
- 14 | firearms, no magazines --
- 15 A. No.
- 16 Q. -- casing?
- 17 A. No.
- 18 Q. Okay, you didn't find any paraphernalia being-- strike
- 19 that. You didn't find any drug paraphernalia on her person,
- 20 did you?
- 21 A. I did not.
- Q. Okay, no drugs on her person?
- A. Not that I found, no.
- Q. All right. Okay, so at -- hang on just a minute here.
- 25 You've observed here, and you were aware of this before the

- 1 rest of us, that there was some interruption in the recording
- 2 | with your dash camera?
- 3 A. Yes.
- Q. Okay, but as soon as you recognized that, you quickly
- 5 | corrected the problem, got it going again?
- 6 A. That's correct, yes.
- Q. Okay, so on that second dash camera footage, you've
- 8 indicated that you didn't hear any crying? Or you heard very
- 9 | little crying; am I right?
- 10 A. I heard some crying, like I said.
- Q. Okay, so I noted that at the 55 second mark there was
- 12 | some crying.
- 13 A. Yes.
- 14 Q. By again, we don't see what's going on with her face,
- 15 right?
- 16 A. No.
- 17 Q. If you're driving the car, you're paying attention to
- 18 | the roadway; you're not noting details of what is happening to
- 19 her or her eyes, right?
- 20 A. Yes, I'm not -- no.
- 21 Q. So we don't know that perhaps there were tears coming
- 22 down her face; we don't know that?
- 23 A. That's correct, yeah.
- Q. Okay, so then you arrive a little -- I was a little
- 25 | confused when I was watching the second video. Your car is

- 1 parked. Are you parked on northbound or southbound?
- 2 A. At the beginning?
- 3 Q. Yeah, at the beginning of the second video.
- 4 A. I'm in the same lane that I was in originally, but I turned around to face southbound.
- Q. Oh, okay. I was -- I got a little disoriented watching that trying to figure out which direction you were pointed. So then you exited the vehicle at that point, right? Well, you parked your car there and you're not in the car?
- 10 A. That's correct.
- Q. Okay, and your dash camera footage is rolling, audio is being recorded, right?
- 13 A. That's correct.
- Q. Then at -- now, let me remind -- let me ask you again
 here. At this point when you got the car situated here and the
 second dash camera footage has been moved, it's pointing in a
 different direction, you're out of the vehicle, at this point
 do you observe our standard practice of leaving the vehicle
- 20 A. The vehicle is running, yeah, because the heat's on.

running with the suspect in the vehicle?

- Q. Okay, you've got to have the heat on, yeah; but you also have your front window down, right?
- A. Not all the way.

- Q. But you've got it open?
- 25 A. Yeah, it's open.

- 1 Q. Okay, and it's cold outside. Some of that cold air
- 2 | naturally is going to make its way into the back compartment
- 3 where the suspect is seated, right?
- A. Some of it.
- 5 Q. Okay, and this girl that you have in the back of the
- 6 car, this 17-year-old Meagan, her clothes are wet, right?
- 7 We've already established that.
- 8 A. Yes.
- 9 Q. Her clothes are wet. She's made some complaints to
- 10 you. Doesn't like how tight the handcuffs are?
- 11 A. Yes.
- 12 Q. Her pants are coming down, right?
- 13 A. Yes.
- 14 Q. Now, this isn't her statement, but again, she's got no
- 15 blanket, right?
- 16 A. Yes.
- 17 Q. Now, tell me -- I heard testimony from you earlier and
- 18 I listened to it -- the second dash camera, is this -- some of
- 19 the things that you hear there, not real clear, right? I mean,
- 20 this is not a recording studio, right?
- 21 A. No, it's --
- 22 Q. The vehicle, it's not a recording studio.
- 23 A. No.
- Q. It's not the best sound equipment that money can buy?
- 25 A. No.

1 Q. Okay, there's no special texturing on the walls to 2 optimize the sound qualities of the compartment, right? 3 Α. No. 4 Ο. It's just a car? Α. Just a car. 6 Okay, and the audio that we hear is not 100 percent clear, is it? 8 A. Not all of it. 9 Okay, so we go to that 16:11 mark, and I'm talking 10 about the numbers at the bottom on the screen of the second 11 video, the 16:11 mark, this is the second counter on the 12 player, not up at the top, not the imbedded time that's on 13 the video, but at the 16:11 mark you -- you interpreted a 14 statement that Meagan made, in your perception you believe 15 that she was saying, "Fucking hos, man." 16 That's what it sounded like, yes. Α. 17 You thought that was -- you associate that with 18 gangster talk, right? 19 It can be associated. Α. 20 Q. Okay, maybe street talk? 21 Α. Street talk I would say. 22 Ο. Street slang? 23 Α. Yeah. 24 All right, and you assumed that she was referring to Q. 25 who?

- 1 A. Just all of us that were -- all the law enforcement 2 people that were still there.
- Q. Okay, she hadn't said anything in her -- the time you were in the car she made no disparaging remarks to you, right?
 - A. No.
- Q. She had done nothing to resist your efforts to put her
 in the vehicle, right?
 - A. No.

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- 9 Q. She hadn't flailed around, tried to bust out of the 10 cuffs, none of that?
- 11 A. No.
- 12 Q. You would describe her as being very cooperative,
 13 right?
 - A. In terms of putting her into custody, yes.
- Q. Yeah, in terms of putting her into custody. Wouldn't it be ideal if every suspect treated you that way? It would, right?
- 18 A. Yes.

Pretty close, right?

Q. Okay, so she's been cooperative, she's in the back of the vehicle, she's been in there for some time now, and she mumbles a statement, and your perception -- well, she's cold. Her pants are falling down, she's wet, the window's open, she has been through a lot that day. Now, tell me if this rhymes, "Fucking cold, man." Does that rhyme with "Fucking hos, man"?

- 1 A. It's close, but --
- 2 Q. Mumbled footage, right? Nothing's been done to 3 enhance that audio?
 - A. Yeah.
- 5 Q. Would you be surprised if she was complaining of being 6 cold?
- A. Yes, because when I was -- she didn't say anything when I was with her, changing her -- or checking her cuffs.
- 9 Q. Well, you're not surprised that she -- I mean, you 10 know that she's wet?
- 11 A. Well, yes.
- Q. Okay, and the 16:11 mark, she'd been sitting in that car for some time, right, window down?
- 14 A. Like I --
- 15 Q. Wet?
- 16 A. -- yeah, not all the way down.
- Q. Wet, okay. So you'd be surprised that sitting there
 wet with the window cracked on cold day, she'd been laying on
- 19 the ground, you would be surprised if she was cold? Her pants
- are hanging down. She wants you to pull them up. You'd be
- 21 | surprised that she'd be cold?
- MS. HOWARD: Objection, your Honor, I believe that is speculation, getting into the defendant's mind.
- MR. ZABRISKIE: I'm not asking him if he was -- she was cold.

1 THE COURT: Hold on, Mr. Zabriskie. 2 MR. ZABRISKIE: Okay, thank you. 3 THE COURT: He's asked and answered that a couple times now. That's the objection. Should be. MR. ZABRISKIE: I've --6 THE COURT: You asking one more time --MR. ZABRISKIE: -- relaid foundation, and now I want to ask if he would be surprised if she would complain that she was cold under those conditions. 10 THE COURT: I'm sustaining the objection. I think we 11 got it. 12 MR. ZABRISKIE: All right, are you taking judicial 13 notice that she was complaining that she was cold? 14 THE COURT: No, I'm taking judicial notice of what the 15 deputy has -- or the trooper has already answered. 16 MR. ZABRISKIE: I just want to be clear on the record. 17 Thank you, Judge. 18 Q. BY MR. ZABRISKIE: So you observed in the footage, 19 as everybody in the courtroom did, this is video No. 1, dash 20 camera footage No. 1, ambulance arrives, right? 21 Α. Yes. 22 During this time that the ambulance is there, we don't 23 hear any crying, do we? 24 Α. No. 25 Q. Don't hear any sobbing, weeping or wailing, do we?

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1
        Α.
             No.
 2
             No. One thing that Meagan said to you -- or I'm
     sorry, one thing that is heard on the chatter over the radio
     is that something was thrown out the window, right? I heard
     that. Something was thrown out the window?
 6
             I don't remember that, no.
             So she's in the car when this radio chatter is going
        Q.
 8
    on, though, right?
 9
        Α.
             Yes.
10
        Q. You've got that radio turned up loud enough that
11
     people in the car can hear what's being said over the radio,
12
     right?
13
        Α.
             Yes, they can hear.
14
             Okay, and so if something was said over the radio
15
     indicating that an object was thrown out of the vehicle, she
16
     would have heard it, or could have heard it, could have?
17
        A. Yes, she could have.
18
        Q.
             Okay.
19
             Whether she did or not, I don't know.
        Α.
20
        Q.
             All right, fair enough.
21
             MR. ZABRISKIE: One moment, please. Thanks. Trooper,
22
     I appreciate your candor. I appreciate your testimony here
23
     today. I don't have any further questions for you. Thank you.
24
             THE COURT: Thank you.
25
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1 REDIRECT EXAMINATION BY MS. HOWARD: 2 3 Q. Okay, Trooper, when you were being questioned by Mr. Zabriskie, he told you that he saw an SUV pass in front of you; do you recall that, when you were doing -- going at the crossover? A. I believe there were two cars that passed me when I 8 was going through the median; one was that semi, and one was an SUV. 9 10 Q. Okay, if we could, Trooper, again, is this the cross-11 over that we're talking about? 12 A. It is. 13 MS. HOWARD: Your Honor, I would like to slow it down, 14 if we can. Pause. 15 Q. BY MS. HOWARD: What is that that's passing? 16 That's the car hauler. Α. 17 Q. Okay, and what lane is it in? 18 It's in the lane (inaudible) the median? Α. The No. 1 lane? 19 Q. 20 Α. Yes. 21 The fast lane? Q. 22 Α. Yes. 23 Okay, pause. What is that vehicle? Q. 24 Looks like a white passenger vehicle. Α.

Okay, and what lane is that in?

25

Q.

- 1 A. It's also in the No. 1 lane?
- Q. The No. 1 lane or the fast lane; is that correct?
- 3 A. Yes.
- 4 Q. Okay, play. Pause. Okay, and what do you see at that
- 5 | picture?
- 6 A. That white car stopped.
- Q. Okay, but you don't see a white SUV?
- 8 A. Not at this point, no.
- 9 Q. Okay, thank you. Those vehicles passing you are in
- 10 | the No. 1 lane; is that correct, the fast lane?
- 11 A. Yes.
- 12 Q. You don't actually see -- when you're turning, you
- don't know what the defendant was doing before this traffic got
- 14 to her; is that correct?
- 15 A. I saw them exit the vehicle, but after they exited
- 16 | the vehicle and started going in their separate directions, my
- 17 attention was divided between the traf -- getting through the
- 18 median and the traffic and then them. So I didn't see what she
- 19 was doing at the time she exited the car and started running
- 20 and the time she proned out. I didn't see her prone down.
- 21 Q. Okay.
- 22 A. Prone herself down.
- Q. Okay, but at this point you see a car hauler pass in
- 24 the No. 1 lane, a car pass in the No. 1 lane, and then the car
- 25 | stops in what lane?

- 1 A. It was -- looked like the left lane.
- Q. The No. 1 lane? Okay, now you said that the heat was turned on in your vehicle; is that correct?
- 4 A. Yes.
 - Q. Every now and then did you go check on the defendant?
- A. You can hear the door close and open and then closing several times.
- 8 Q. Okay, so when you checked on her, what door were you 9 opening?
- 10 A. Most of the time it was on the passenger side.
- Q. When you opened that door, what temperature -- not
- 12 like the number, but what kind of -- what temperature was the
- 13 | air when you would open that door?
- 14 A. It was warm inside, I would say.
- 15 Q. It was a warm car?
- 16 A. Yeah, because I had the heat turned up.
- Q. Okay, and when you approached her, did she ask you
- 18 | for a coat or a blanket?
- 19 A. No.
- Q. Okay, when you approached her, what was her only
- 21 | complaint that you heard?
- A. Her handcuffs were too tight, and then her pants were
- 23 | falling down.
- Q. And her pants were falling down. She didn't say any-
- 25 | thing about the temperature of the vehicle?

1 Α. No. 2 When you were talking about the window being down, how far are you talking of it being down? I believe it was just far enough to reach my hand in, unlock the door and --6 Would you show the jury what you recall with like your finger and your thumb how far? 8 I can't really tell how -- you know, describe how far. Just, you know --10 Enough to bet a hand through? Ο. 11 Α. Yeah, maybe a little -- maybe a little bit more --12 Q. Okay. 13 -- but it wasn't all the way down, and it wasn't quite Α. 14 down to the halfway point either. 15 Okay, and when you would go talk to her or would check Q. 16 on her, did you see tears in her eyes? 17 A. You know, I wasn't really looking. 18 Okay, but -- so you -- what you're telling the jury is 19 you -- you don't know, right? You didn't see them and you 20 didn't not see them? 21 MS. ZABRISKIE: Asked and answered, objection. 22 MS. HOWARD: I'm just clarifying, your Honor. 23 THE COURT: Sustained. 24 BY MS. HOWARD: Okay, and when you would observe her 25 was it always just going to the door and opening it, or would

- 1 | you also see her through the windows?
 - A. I saw her through the windows.
- 3 Q. Okay, and what was she doing?
 - A. Like I said, she was just mainly sitting there.
- 5 Q. Okay, and when you approached the vehicle -- excuse
- 6 me, when you approached in your vehicle, had you heard anything
- 7 | that she had been -- if she had been yelling right previous
- 8 that to officers or other people around?
- 9 A. No, I didn't hear her yelling or anything.
- 10 Q. Okay, when you put her in the vehicle did you tell her
- 11 | that your dash cam was recording?
- 12 A. I did not.

2

- 13 Q. How many occasions do you find yourself actually
- 14 | visiting with her, if you can recall?
- A. When I put her in the car, when I took her out, when
- 16 I changed her cuffs, and I believed that I moved her from the
- 17 passenger side -- or driver's side to the passenger side.
- Q. Okay, so those limit -- that was your limited contact
- 19 with her?
- 20 A. Yes.
- 21 Q. So when Mr. Zabriskie asked you if you were -- she
- 22 was cooperating with you, those were the only instances you
- 23 | actually dealt with her; is that correct?
- A. Yes, and when I first put her in custody.
- 25 Q. Okay, and based upon what you heard of the audio on

1 video 2 at time spot 16:07, what did you hear, Officer? 2 Α. I don't --Do you hear "cold," or do you hear "hos"? 3 Ο. Sounded like "hos" when I heard it. Α. Okay, and right after that you adjusted her handcuffs? Ο. 6 I checked her cuffs, and they didn't -- they were -didn't appear too tight. Q. So that --8 9 Α. Then I let her pull up her pants. 10 That was right after -- or that was after she said Ο. 11 that to -- that comment about the hos; is that correct? 12 A. That's correct. Like I said, she never said anything 13 about being cold. 14 MS. HOWARD: All right. Okay, nothing further. 15 you. 16 THE COURT: Thank you. 17 MR. ZABRISKIE: Thank you, Judge. 18 THE COURT: Okay. 19 REDIRECT EXAMINATION 20 BY MR. ZABRISKIE: 21 Q. So when you get yourself ready for the day to go out 22 on the road, you take into account what the conditions are 23 going to be; am I right? In other words, if it's going to be 24 10 degrees out, you might dress a little different than if it's 25 going to be 110?

```
1
        Α.
             Yes.
             Okay, so on this date you're dressed for the occasion,
 2
 3
     right? Dressed anticipating you might be outside a little bit?
            I had my uniform and my --
        Α.
        Q.
             Okay.
 6
             -- uniform coat with me and my raincoat.
             Your uniform coat on, and underneath that you've got
         Q.
     some kind of vest, right?
 9
        A. Yeah, my vest.
10
        Q. Okay, and you -- when you step out of the vehicle --
11
     well, strike that. When you're in the vehicle before getting
12
     out, you said you're comfortable, temperature's fine for you?
13
             The heat's on.
        Α.
             Right, but you're not wet. You haven't been laying on
14
15
     the ground for several minutes in the wet and cold?
16
        Α.
             No.
17
             MR. ZABRISKIE: All right, no further questions. Thank
18
     you.
19
             THE COURT: Thank you.
20
             MS. HOWARD: Nothing further. Thank you, your Honor.
21
             THE COURT: All right, thank you. Trooper Sheets,
22
     thank you. Is he excused?
23
             MS. HOWARD: Yes.
24
             MR. ZABRISKIE: He is, your Honor.
25
             THE COURT: All right. All right, that I think will
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1 cover it for today. So we start again on Monday. Be here at 2 8:30, unless there's any reason that you need a little bit more time. About 8:30 is when we'll start again. Plan to go Monday through Friday still. No change as far as the week goes. 6 Remember the admonishments, especially over the weekend, the cautionary instructions as I've given to you with 8 regard to speaking about this case, researching this case, 9 anything like that. As you can see, there's much importance, 10 and it's very important that you follow those instructions. 11 Anything else, Counsel, before we let the jury go? 12 MR. PEAD: Not from the State. 13 MR. ZABRISKIE: No, your Honor. 14 THE COURT: Thank you. 15 COURT BAILIFF: All rise for the jury. 16 (Jury exits the courtroom) 17 THE COURT: Okay, Counsel, I've been advised by people 18 more important than me that you'll need to clean up tonight and 19 take things with you so that the custodial people can come in. 20 So I have no choice in that. That's coming from people that 21 need to have it --22 MR. ZABRISKIE: Obviously we invest you with a lot more 23 power than you think you have. 24 THE COURT: That's true. 25 MR. ZABRISKIE: That black robe is a (inaudible).

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1
              MR. PEAD: Your Honor, as with -- as we requested
 2
     yesterday and we'll continue through the trial, let Sergeant
     Finch take the handgun, and then we're assuming Andy will take
    all the exhibits.
              THE COURT: That's correct.
 6
              ASSISTANT: Can we excuse -- oh.
              THE COURT: We'll keep the exhibits, and Detective
 8
    Finch will oversee the handgun.
 9
              MR. ZABRISKIE: Judge, I have one law enforcement
10
     witness that's under subpoena that we want to excuse on the
11
     record.
12
              THE COURT: Okay.
13
              MR. ZABRISKIE: It's Officer Kelsey. I think he's a --
14
     is he a trooper?
15
             MR. PEAD: He is.
16
              MR. ZABRISKIE: Yeah, so maybe you guys can communicate
17
     that to him, that he's excused.
18
              MR. PEAD: We will.
19
              THE COURT: Okay.
20
              MR. ZABRISKIE: Thank you, Judge.
21
              THE COURT: Anything else?
22
              MR. PEAD: No, thank you, your Honor.
23
              THE COURT: All right, everyone. Have a good weekend.
24
    We'll be in recess.
2.5
              (Fourth day of trial concluded)
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