

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

_____	}	
STATE OF UTAH,	)	
	)	VOLUME V
Plaintiff,	)	
	)	
vs.	)	Case No. 141400517 FS
	)	
MEAGAN DAKOTA GRUNWALD,	)	
	)	
Defendant.	)	
_____	}	

Jury Trial  
Electronically Recorded on  
May 4, 2015

BEFORE: THE HONORABLE DAROLD MCDADE  
Fourth District Court Judge

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P R O C E E D I N G S

(Electronically recorded on May 4, 2015)

1  
2  
3 THE COURT: Are we ready? All right, we'll go on the  
4 record. Today is Monday, May 4<sup>th</sup>, 2015. This is Fourth District  
5 Court, Division 10. We're in the matter of State of Utah vs.  
6 Meagan Grunwald, case 141400517. Parties are present, including  
7 the defendant, Ms. Grunwald. We're in the fifth day of trial.  
8 Counsel?

9 MR. PEAD: We're missing an attorney. Can we have just  
10 a minute.

11 THE COURT: Okay.

12 MR. PEAD: May I step out in the hall so I can --

13 THE COURT: Sure. All right, we ready to go?

14 MR. PEAD: Thank you, Judge. I just want to make sure  
15 we don't have any witnesses --

16 MR. ZABRISKIE: Your Honor, may I inquire the gallery  
17 as to if there are any witnesses --

18 THE COURT: Sure.

19 MR. ZABRISKIE: Are there any witnesses here that have  
20 been subpoenaed by the defense? Thanks, Judge.

21 THE COURT: Okay, go ahead.

22 MR. TAYLOR: Thank you, Judge. Judge, on or about  
23 December 29<sup>th</sup>, 2014 State filed a motion in limine requesting  
24 an admission of a co-conspirator's statements, and we had the  
25 preliminary hearing, and we intended -- we wanted to introduce

1 a certain document that was written in Spanish by Jose Garcia,  
2 and then had been translated into English.

3 The Court ruled at that time, and the Court's order  
4 is, is that the Court finds that the alleged conversation --  
5 excuse me. So the conversa -- the document was a conversation  
6 which too, place on January 30<sup>th</sup>, 2014 between Angel Garcia and  
7 his uncle, Jose Garcia. So we wanted to introduce that 1102  
8 statement.

9 The Court ruled that the Court finds that the alleged  
10 conversation which took place between Uncle Jose Garcia and  
11 Angel Juaregi took place in Spanish, then was later translated  
12 to English by the State of Utah. The Court finds that the  
13 interpretation from Spanish into English constitutes hearsay  
14 and is not admissible.

15 However, the Court finds that if Uncle Jose Garcia  
16 appears at trial and a certified Court translator is present,  
17 the Court may reconsider its ruling. So, Judge, we have Jose  
18 Garcia here, and we have a Spanish interpreter here today. So  
19 we would renew our motion that based upon the co-conspirator's  
20 statements and 801, which we laid out in our motion already  
21 previous to that, and I don't think the Court addressed that  
22 issue, we would ask that the uncle, Jose Garcia, be permitted  
23 to testify. He will be speaking in Spanish. We have an inter-  
24 preter here with regards to that. So that's our motion.

25 THE COURT: Okay.

1           MR. ZABRISKIE: Your Honor, before I start, my apologies  
2 for --

3           THE COURT: That's fine.

4           MR. ZABRISKIE: --delaying the Court proceedings today.  
5 It was unforeseeable. Your Honor, this is one that I think we  
6 argued rather extensively in prior hearings as it relates to  
7 the reliability, lack of foundation and et cetera, and it --  
8 and the Court ruled that it lacked the appropriate foundation  
9 to be allowed in at the time, but then gave leave to the State  
10 to readdress the issue.

11           The primary concerns that we had still exist. That is  
12 the duplication of the -- of the existing circumstances during  
13 this call. There's no name given. We don't know the nature  
14 of their conversation excepting for this brief -- this brief  
15 conversation that we think will have some prejudicial impact if  
16 taken in the wrong way.

17           So we renew our original -- our original objection to  
18 this. It's a -- we haven't even established nor do we think  
19 that it's become an issue, this issue of whether in fact there  
20 was a conspiracy, when in fact the crux of our whole case was  
21 that there was never an agreed to course of conduct that day.  
22 So this is sort of placing the cart in front of the horse, but  
23 it does create an enigma, both for the Court and for our side.

24           We would ask leave of the Court in that we have not  
25 had the opportunity to talk to this particular witness to voir

1 dire outside the presence of the jury to find out exactly if  
2 in fact what is claimed to have been said. It's not a recorded  
3 comment. This is kind an after-the-fact inquiry by the Court  
4 from an uncle long way off. Again, we don't know that it was  
5 recorded, at least it hasn't been offered as a recording.

6           So we would like to test, one, his recall, the circum-  
7 stances, who the respective parties as he saw them were, what  
8 he thought the circumstances were. All of this is subject to  
9 misinterpretation by the listener. Evidently, based on what we  
10 already know, the uncle knew little or nothing about what was  
11 going on at the time, excepting for an excited call from his  
12 nephew.

13           So we'd renew our original motion, and ask that if the  
14 Court needs further -- further time to contemplate or further  
15 representation, then we'd ask leave of the Court to voir dire.

16           THE COURT: Thank you.

17           MR. ZABRISKIE: Thank you.

18           THE COURT: Anything else, Mr. Taylor?

19           MR. TAYLOR: Judge, I think that any questions with  
20 regards to Mr. Garcia could be handled appropriately on cross  
21 examination. We have provided them recorded interviews that  
22 Mr. Jose Garcia had with our detective when he went down to  
23 Texas and spoke with him. We -- it's also trans -- it's not  
24 transcribed, but the reports associated with those interviews,  
25 they've had the -- the statement that Mr. Garcia has written

1 for many, many months.

2 I'm not sure if they attempted to contact him or not;  
3 but I think that if the Court is going to permit that, that if  
4 -- if the Court would like to bring him in and they ask a few  
5 questions, I guess that's okay but I'm not quite sure why it  
6 just couldn't happen on cross examination.

7 With regards to the conspiracy, Judge, we've already  
8 laid that out in our motion, and we went quite extensively  
9 with regards to the case law, and I don't -- I'm not going to  
10 rehash that again, Judge, because I think that we put forth a  
11 pretty extensive reason why this should be permitted under Rule  
12 801(d)-2(e). So we'd ask that the Court permit us to go ahead  
13 and move forward with that.

14 THE COURT: Okay, thank you.

15 MR. ZABRISKIE: Response, your Honor.

16 THE COURT: Sure.

17 MR. ZABRISKIE: One, in response to Counsel's statement,  
18 we did make several attempts to contact this witness and we  
19 were unsuccessful in that effort. The Court has already ruled  
20 on most of this that was presented by Counsel. We would ask  
21 the Court to stand by its original order.

22 THE COURT: All right, well, if he's here ready to  
23 testify, I'll find that the probative value outweighs the  
24 prejudice. Of course, there's some prejudice to it, but I'm  
25 sticking with my ruling that I entered before that if he did



1 come to testify I would allow that. Of course, you still  
2 have the opportunity to cross or object, whatever you feel is  
3 necessary, but I don't see any reason why you couldn't testify  
4 today, so I'm going to grant your motion.

5 MR. TAYLOR: Thank you, Judge.

6 THE COURT: Are we ready for the jury, then?

7 MR. TAYLOR: Yes, sir, we are.

8 COURT BAILIFF: All rise for the jury.

9 (Jury enters the courtroom)

10 THE COURT: Thank you. Please be seated. All right,  
11 good morning. We're back on the record. All parties are  
12 present including the defendant, and all members of the jury.  
13 Counsel, are we ready to proceed?

14 MR. TAYLOR: Yes, sir, the State is.

15 MR. ZABRISKIE: We are, too.

16 THE COURT: Call your next -- thank you. Call your next  
17 witness.

18 MR. TAYLOR: The State calls Jerry Stansfield.

19 THE COURT: Come forward, sir, let's have you sworn in.

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

24 THE WITNESS: I do.

25 THE COURT: Thank you, sir. Please have a seat here in

1 the witness box. Just make sure we get the microphone close  
2 enough to you that it will pick you up okay.

3 THE WITNESS: Okay.

4 JERRY WAYNE STANSFIELD,

5 having been first duly sworn,

6 testified as follows:

7 DIRECT EXAMINATION

8 BY MR. TAYLOR:

9 Q. Good morning, Mr. Stansfield.

10 A. Good morning.

11 Q. Would you please state your full name for the record  
12 and then spell your last name.

13 A. Jerry Wayne Stansfield, S-t-a-n-s-f-i-e-l-d.

14 Q. Where do you reside, Mr. Stansfield?

15 A. Henderson, Nevada.

16 Q. What do you do for a living?

17 A. Well, I'm kind of semi-retired, but I've been in the  
18 publishing business for a number of years.

19 Q. Okay, were you involved in a car accident on January 30  
20 of 2014?

21 A. I was.

22 Q. Approximately where did that car accident take place?

23 A. Took place between the first and second off-ramps  
24 southbound on I-15 near Nephi.

25 Q. Okay, and could you just describe a little bit what

1 was happening prior to the accident.

2 A. Sure. I was traveling down I-15 southbound probably  
3 early afternoon. It was snowing. There was a lot of snow  
4 sticking to the road and I noticed an awful lot of police  
5 presence as I was traveling from Provo in that direction.

6 As I went past the first Nephi off-ramp I noticed on  
7 the left-hand side there was some sheriff vehicles or a sheriff  
8 vehicle, and a sheriff was attempting to throw a tire strip out  
9 on the road. I went a little bit farther and I heard shots,  
10 five to six shots, and I could hear the shots hitting. Sounded  
11 like they were hitting the ground or some object near me.

12 I was very close to a semi tractor trailer rig who  
13 was in the right-hand lane, and I was in the left-hand lane.  
14 Not long after the shots occurred, as I was just about to pass  
15 the semi on the left-hand lane, the left-hand side, I saw a  
16 gentleman with a -- looked like a cable stretched across the  
17 road, and he was on the right side of the freeway. As I just  
18 was getting ready to pass, I was hit very hard on the right  
19 rear panel of the vehicle.

20 Q. What kind of vehicle were you driving?

21 A. I was driving a 2007 Lincoln Town Car.

22 Q. Okay, so I'm going to show a little video.

23 MR. TAYLOR: Judge, we'd like to publish -- this is  
24 Exhibit No. 105, which has already been introduced and accepted  
25 into evidence. We're just going to show a little 30 second

1 clip, if we could.

2 MR. ZABRISKIE: No objection, your Honor.

3 THE COURT: Thank you.

4 Q. BY MR. TAYLOR: So is there --

5 MR. TAYLOR: May I approach the witness, please.

6 THE COURT: Sure.

7 Q. BY MR. TAYLOR: Mr. Stansfield, this is a laser pointer  
8 and so just push this top button like that.

9 A. Okay.

10 Q. So I'm going to move back here. Mr. Stansfield, we're  
11 going to -- oh, sorry. We're going to go ahead and play this  
12 video, and if you could just kind of describe what you see on  
13 the screen there.

14 A. Looks like a vehicle, I assume the sheriff's vehicle,  
15 moving up on the left-hand side of the road; or that could be  
16 the sheriff's vehicle that threw out the tire strip. I'm not  
17 sure where the video is originated.

18 Q. Okay.

19 A. Going on down I-15 southbound, obviously I'm not  
20 seeing anything here. Okay, now that's my vehicle on the  
21 right-hand side of the road right there. That was right  
22 after the accident I had pulled off to the right-hand side  
23 of the road.

24 Q. Okay. All right, thank you. So that is your vehicle?

25 A. Yes.

1 Q. Okay, so Mr. Stansfield, you started talking about up  
2 to the point where you were hit. Okay, so if you could continue  
3 from there. So you said you were hit in the right rear quarter  
4 panel of your vehicle, correct?

5 A. That's correct.

6 Q. Okay, go ahead and continue what else you observed,  
7 and explain what happened.

8 A. I was hit hard on the right rear quarter panel of  
9 the vehicle. I remember the pick-up, white pick-up coming  
10 up to the side on the right-hand side, and it floated as it  
11 came past me it floated to the left, or the front end of that  
12 vehicle floated to the left, right in front of my vehicle. It  
13 was sliding sideways.

14 As it floated to the left, the driver looked at me.  
15 His head turned like this and looked at me. I couldn't make  
16 out eye color. I couldn't make out other kinds of things  
17 such as complexion, but I could make out features, features  
18 as to brow, the overall face -- or appearance of the face. I  
19 could see a collar, like a winter coat that the individual was  
20 wearing, and I could see his hand very clearly on the top of  
21 the steering wheel.

22 Q. Okay, now you're describing a "him."

23 A. Yes.

24 Q. So are you describing a him as the driver?

25 A. Yes.

1 Q. Okay, and so did you see anyone else in the vehicle?

2 A. I did not.

3 Q. Okay, so you saw one person in the vehicle?

4 A. That's right.

5 Q. Okay, continue, please.

6 A. After this took place, the car or the truck then  
7 skidded to the right, over towards the tractor trailer rig.  
8 It skidded to the front of the tractor trailer rig. I thought  
9 it was going to hit the tractor trailer rig but it did not. It  
10 skidded clear up to the front of the tractor trailer rig. Then  
11 it skidded to the left.

12 He got control of the vehicle and the vehicle stopped  
13 in the middle of the freeway facing east. It sat there for  
14 probably 10 to 15 seconds, and nothing happened. The vehicle  
15 just sat, and then it took off slowly, and then gained speed  
16 and went on down the freeway.

17 Q. Did you see any damage on -- you called it a white  
18 pick-up?

19 A. Yes.

20 Q. Do you have any other further description as to make  
21 or model or anything like that; do you know?

22 A. Looked like a white Tundra pick-up. It had tinted  
23 windows, and yes, there was damage.

24 Q. Okay, and where did you see that damage?

25 A. On the left front quarter panel of the pick-up.

1 Q. Okay, were any words exchanged between you and the  
2 persons in the vehicle -- or person in the vehicle? Excuse me.  
3 What did you do at that point?

4 A. Well, I pulled over to the side of the road, stopped  
5 the vehicle and waited for the authorities to come by.

6 Q. Did the person in the Tundra pull over to the side of  
7 the road?

8 A. No.

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

10 THE COURT: Yeah.

11 MR. TAYLOR: Thank you.

12 Q. BY MR. TAYLOR: Okay, I'm going to hand you, Mr. Stans-  
13 field, what's been marked Exhibits 263, 264 and 265.

14 A. Okay.

15 Q. If you would take a look at that, and let's start with  
16 263. Do you recognize what that is?

17 A. Yeah, again, that's a picture of my vehicle parked on  
18 the right-hand side of the road.

19 Q. Did you observe that same image in the video that we  
20 just watched?

21 A. I did.

22 Q. Okay, and the next exhibit, 264?

23 A. That is a shot of the right rear quarter panel of my  
24 vehicle by -- taken by the insurance company.

25 Q. Does that accurately reflect the damage that occurred

1 to your vehicle on that day?

2 A. Well, there is damage on the other side as well, where  
3 the impact crinkled the fender on the left-hand side as well,  
4 which is not shown here.

5 Q. Okay, okay, and then the next exhibit, 260 --

6 A. Again, a different angle of the damage that occurred  
7 on the vehicle.

8 MR. TAYLOR: The State would offer into evidence  
9 Exhibits 263, 264 and 265.

10 MR. ZABRISKIE: No objection.

11 THE COURT: Thank you. I'll accept and receive State's  
12 Exhibits 263, 264, 265.

13 (Exhibit Nos. 263 thru 265 received into evidence)

14 MR. TAYLOR: May we publish these, please, Judge.

15 MR. ZABRISKIE: No objection.

16 THE COURT: Thank you.

17 Q. BY MR. TAYLOR: So this is 263, Mr. Stansfield. Can  
18 you see this up there?

19 A. I can.

20 Q. Okay, and so could you describe once again what that  
21 is.

22 A. That's a photo or an image of my vehicle on the right-  
23 hand side of the road.

24 Q. Okay, 264?

25 A. That is the image of the vehicle taken by the insurance



1 company showing the damage on the right rear quarter panel.

2 Q. And 265?

3 A. A different angle showing damage on the right rear  
4 quarter panel and portions of the rear taken by the insurance  
5 company.

6 Q. Okay, thank you. So, Mr. Stansfield, with regards to  
7 the damage to the vehicle were you able to go through insurance  
8 company and get a total of the damage to your vehicle?

9 A. Yes.

10 Q. Okay, I'm going to show you what's been marked State's  
11 Exhibit No. 266 and ask if you recognize that?

12 A. (No verbal response).

13 Q. Do you recognize that?

14 A. I do.

15 Q. What is that?

16 A. That's a record of proof of loss from the insurance  
17 company indicating the amount of loss that they appraised the  
18 vehicle for.

19 Q. So what was the total value of the damage to your  
20 vehicle?

21 A. 8,100.

22 Q. Okay, does that accurately reflect the same document?  
23 Did you sign that document?

24 A. I did.

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

1 Exhibit No. 266.

2 MR. ZABRISKIE: Thank you. I'll accept and receive  
3 State's Exhibit 266.

4 (Exhibit No. 266 received into evidence)

5 Q. BY MR. TAYLOR: Mr. Stansfield, after you were -- your  
6 vehicle was hit, how did -- did you have a tow truck come get  
7 your vehicle; what happened at that point?

8 A. No, it was still drive-able. It clunked a little bit  
9 back there, but it was still drive-able. So I actually drove  
10 it home.

11 Q. You did drive it home?

12 A. Uh-huh.

13 MR. TAYLOR: Okay. All right, nothing further.

14 THE COURT: Thank you. Cross examination?

15 MR. ZABRISKIE: No cross --

16 THE COURT: No cross?

17 MR. ZABRISKIE: No cross from the defense.

18 THE COURT: Anything else, then, from Mr. Stansfield?

19 MR. TAYLOR: No, Judge.

20 THE COURT: May he be excused?

21 MR. TAYLOR: Yes.

22 MR. ZABRISKIE: No objection to that.

23 THE COURT: Thank you, sir. That's all.

24 THE WITNESS: Thank you.

25 THE COURT: Next witness?

1 MR. TAYLOR; The State calls Jose Garcia.

2 THE COURT: Okay, thank you. Let's go ahead and get  
3 the interpreter sworn in, and we'll go from there.

4 COURT CLERK: You do solemnly swear that you shall  
5 interpret the testimony and proceedings now pending before the  
6 Court truthfully and to the best of your ability, so help you  
7 God?

8 COURT INTERPRETER: Yes.

9 THE COURT: Thank you. Come forward, sir. Let's get  
10 you sworn in.

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

15 THE WITNESS: Yes.

16 THE COURT: Thank you, sir. Please have a seat here in  
17 the witness box.

18 MR. TAYLOR: Good morning.

19 THE COURT: Just make sure you come a little bit closer  
20 so we'll pick you up okay. Thank you.

21 JOSE ANGEL GARCIA GOMEZ,  
22 having been first duly sworn,  
23 testified as follows:

24 DIRECT EXAMINATION

25 ///

1 BY MR. TAYLOR:

2 Q. Good morning.

3 A. Good morning.

4 Q. Would you please state your name.

5 A. Jose Angel Garcia Gomez.

6 Q. Where do you live, Mr. Garcia?

7 A. In San Antonio, Texas.

8 Q. How long have you lived there?

9 A. Approximately three years.

10 Q. What do you do for a living?

11 A. I'm a trailer driver.

12 Q. Are you familiar with Angel Garcia Juaregi?

13 A. Yes.

14 Q. How do you know him?

15 A. He's my nephew.

16 Q. What kind of relationship did you have with your

17 nephew?

18 A. A very good one.

19 Q. Did you talk with him very often?

20 A. He would call me frequently.

21 Q. So that's how you usually interacted with him was

22 through the telephone?

23 A. Yes.

24 Q. Do you remember the last time that you saw Angel?

25 A. Yes.

1 Q. When was that?

2 A. It was approximately seven years ago.

3 MR. TAYLOR: Okay, may I approach the witness, please,  
4 Judge.

5 THE COURT: Yes.

6 Q. BY MR. TAYLOR: Do you recognize that person?

7 A. Yes.

8 Q. Who is that?

9 A. It's my nephew, Jose Angel Garcia Juaregi.

10 MR. TAYLOR: For the record, that's Exhibit No. 120.

11 THE COURT: Thank you.

12 MR. TAYLOR: Judge, can we give the interpreter a mic.

13 THE COURT: Sure.

14 COURT INTERPRETER: Thank you so much.

15 Q. BY MR. TAYLOR: How often would you speak with Angel  
16 on the telephone?

17 A. Well, he'd call me on special occasions like for  
18 birthdays, or just to call me to say hi.

19 Q. Are you familiar with his voice?

20 A. Of course.

21 Q. So if he called you, you would recognize his voice?

22 A. A hundred percent.

23 Q. Did you speak with Angel on January 30<sup>th</sup>, 2014?

24 A. Yes.

25 Q. Could you please explain who called who?

1 A. He called me.

2 Q. Do you remember approximately what time he called you?

3 A. He called me at 2:28 San Antonio, Texas time.

4 Q. How do you know exactly what time he called you?

5 A. I checked the phone, the call register.

6 Q. Have you spoken with Detective Greg Knapp about this

7 matter?

8 A. Yes.

9 Q. Did you show him your phone?

10 A. Yes.

11 Q. That was the time and date was on that phone?

12 A. Yes.

13 MR. ZABRISKIE: What was that time again, Tim?

14 Q. BY MR. TAYLOR: What was the time again?

15 A. 2:28.

16 Q. Okay, and so 2:28 that would be in Texas, correct?

17 A. Yes, yes.

18 Q. Okay. All right, when you received the phone call did

19 you recognize the telephone number?

20 A. I recognized the area, 801. That's here in Utah.

21 Q. Okay, and so what were you doing at the time when you

22 received the telephone call?

23 A. I was preparing some things for my truck. I was

24 checking.

25 Q. Did you write out a statement -- did -- strike that.

1 Did Detective Greg Knapp ask you to write out a statement with  
2 regards to this telephone call?

3 A. Yes.

4 Q. Did you write out a statement?

5 A. Yes.

6 Q. Have you reviewed that statement?

7 A. Yes.

8 Q. In that statement did you put the telephone number  
9 that you received a call from Angel from?

10 A. Yes.

11 Q. Would it help you to review that statement to help you  
12 remember that telephone number?

13 A. Yes.

14 MR. TAYLOR: May I approach the witness.

15 THE COURT: Yes.

16 Q. BY MR. TAYLOR: Mr. Garcia, I'm going to show you the  
17 statement. Could you just read it and review it to yourself,  
18 but don't read it out loud.

19 A. That's fine.

20 MR. TAYLOR: May I approach the witness.

21 THE COURT: Yes.

22 MR. TAYLOR: We don't have an exhibit number, sorry.

23 Let's just go ahead and mark it as the next (inaudible).

24 COURT CLERK: (Inaudible).

25 MR. TAYLOR: We're not going to mark it as an exhibit.

1 THE COURT: Okay.

2 Q. BY MR. TAYLOR: Is there a second page, too?

3 A. (No verbal response).

4 Q. Does that statement accurately reflect the telephone  
5 number that Angel called you from on January 30<sup>th</sup>, 2014?

6 A. Yes.

7 Q. Could you please tell us that telephone number.

8 A. Yes, it's 801-809-4149.

9 Q. Did you write that down?

10 A. Yes.

11 Q. So you received a telephone call from this number.  
12 Could you please explain what happened when you answered the  
13 phone.

14 A. Well, when I received the call, when he called me I  
15 answered it because I recognized the area. The number I didn't  
16 recognize, but the area I did. When I answered he said, "Me,  
17 me. Don't say my name."

18 (Witness addresses interpreter)

19 THE WITNESS: No.

20 COURT INTERPRETER: No?

21 (Witness addresses interpreter)

22 COURT INTERPRETER: He said, "Oh, Joe."

23 THE WITNESS: Joe.

24 COURT INTERPRETER: Oh, okay, I'm sorry. I understood  
25 "Yo," which means --



1 MR. TAYLOR: Okay.

2 COURT INTERPRETER: -- yes, "Joe, Joe. Don't say my  
3 name. I'm fine."

4 Q. BY MR. TAYLOR: Mr. Garcia, did Angel refer to you as  
5 "Joe"?

6 A. Yes, he would call me "Joe," and I would call him  
7 "Joe," because we both have the same name except for our last  
8 surname.

9 Q. Did you refer to him as "Joe," or did you have another  
10 name that you called him?

11 A. Pepe. Yeah, he was always known as Pepe since he was  
12 born to our whole family.

13 Q. Okay, so Angel said, "It's me. Don't say my name"?

14 A. Uh-huh.

15 Q. Could you describe how his voice sounded?

16 A. He was like anguished, like pressured, very nervous.  
17 Truthfully I couldn't really connect his conversation with  
18 mine. He was very agitated.

19 Q. Was this unusual?

20 A. Yes.

21 Q. What did he tell you next?

22 MR. ZABRISKIE: Your Honor, we would --

23 THE COURT: Hold on.

24 MR. ZABRISKIE: -- excuse me, we would renew in the way  
25 of a standing objection for the record, even though the Court's

1 ruled on this as to hearsay.

2 THE COURT: Thank you. Overruled.

3 Q. BY MR. TAYLOR: Thank you. Go ahead, what did Angel  
4 tell you next?

5 A. Said, "I'm okay, I'm okay." I said, "What happened?"  
6 you know, "How are you?" It's kind of an expression. It was  
7 "Mother." It was --

8 COURT INTERPRETER: The interpreter doesn't know how to  
9 interpret that.

10 MR. ZABRISKIE: If I may, your Honor, the record should  
11 only reflect what would be a direct translation, not an inter-  
12 pretation.

13 MR. TAYLOR: Can I ask --

14 COURT INTERPRETER: (Inaudible) expression, so I'm not  
15 sure the best English under --

16 THE COURT: Rephrase the question and try again.

17 COURT INTERPRETER: Yeah.

18 Q. BY MR. TAYLOR: Okay, did Angel -- with regards to what  
19 Angel told you, what did -- what did you hear him say? Could  
20 we just have that again, please, Judge.

21 COURT INTERPRETER: Uh-huh. So he said, "(Inaudible),"  
22 like it wasn't worth it.

23 THE COURT: Uh-huh.

24 THE WITNESS: "I did the -- I messed up again. I did  
25 what I did before. I'm fine." I said, "You need to contact

1 your parole officer. They're looking for you. You need to  
2 contact him." He said, "You don't understand. Wasn't worth  
3 it. I did the same thing. I messed up again. I'm fine.  
4 I'm with my girlfriend's family. They're protecting me.  
5 I'm good." I said, "You need to turn yourself in." He told  
6 me, "I'm going to go to California. I'm okay." "You need to  
7 speak to your -- you need to hand yourself in and speak to your  
8 officer." He just said, "I need to go. I need to go." That  
9 was everything we said.

10 MR. ZABRISKIE: May I -- at the risk of interrupting  
11 again, I don't know that I heard direct translation (inaudible)  
12 what did he say?

13 COURT INTERPRETER: (Inaudible).

14 MR. ZABRISKIE: (Inaudible)?

15 COURT INTERPRETER: (Inaudible) with a v. Correct,  
16 (inaudible).

17 MR. TAYLOR: May I ask the witness, Judge, if he has an  
18 English interpretation, what it meant to him for that phrase?  
19 I think that based upon his conversation with Angel, and the  
20 context of it, if he knows it in English, if he -- if he does  
21 know it in English.

22 MR. ZABRISKIE: Your Honor, again, I object that he's  
23 calling for speculation. If we have a direct translation under  
24 (inaudible). To ask for a speculative response, I would object.

25 THE COURT: Overruled. It's not speculation if he

1 understands what it means.

2 MR. TAYLOR: Thank you, Judge

3 Q. BY MR. TAYLOR: Now, Mr. Garcia, you speak English,  
4 too, correct?

5 A. Yes.

6 Q. That word, did it mean something to you? Do you know  
7 an English translation for that?

8 A. The expression of (inaudible)?

9 Q. Yes.

10 A. Yes, I messed up again.

11 MR. TAYLOR: Okay. All right, thank you, Judge. That's  
12 (inaudible). We'll go back to the interpreter.

13 MR. ZABRISKIE: Your Honor, may I voir dire just as to  
14 that one question?

15 THE COURT: Sure.

16 VOIR DIRE EXAMINATION

17 BY MR. ZABRISKIE:

18 Q. With that expression dealing with (inaudible), is that  
19 a common interpretation? By that, in your community?

20 A. Yes.

21 MR. ZABRISKIE: No further questions.

22 THE COURT: Thank you.

23 DIRECT EXAMINATION (resumed)

24 BY MR. TAYLOR:

25 Q. Mr. Garcia, did Angel say anything about carnitas?

1 A. Yes.

2 Q. Could you explain the context about him using that  
3 word?

4 A. What I understood that he was saying is that he had  
5 done something similar to -- or just like he'd done before.  
6 That he'd messed up again. That's what I understood when he  
7 said "carnitas."

8 Q. Okay, thank you very much. Did Angel tell you where  
9 he was at when he called you?

10 A. No, no. The only thing he said is that they were with  
11 his girlfriend, that they were protecting him, and that's all  
12 -- that's what I understood that he said to me.

13 Q. Did you hear anything in the background from Angel's  
14 phone?

15 A. No.

16 Q. Did you hear any sirens?

17 A. No.

18 Q. Did you hear any crying?

19 MR. ZABRISKIE: Your Honor, asked and answered. He  
20 didn't hear anything. Objection.

21 THE COURT: Sustained.

22 Q. BY MR. TAYLOR: So you -- could you tell whether he was  
23 in a car or not?

24 A. I perceived that he was speaking as if he was hiding  
25 himself. I couldn't tell if he was in a room, in a car. Just

1 it seemed he -- like when you're hiding.

2 Q. Okay, thank you. Approximately how long did this  
3 conversation last?

4 A. I don't know. Maybe over a minute or two minutes.  
5 It was very repetitive. He was very nervous.

6 Q. Was that the last time that you spoke with Angel?

7 A. Yes.

8 Q. How confident are you that it was Angel on the phone?

9 A. Totally.

10 Q. After the conversation what did you do?

11 A. I called his dad in Mexico. He was in a party. I  
12 didn't dare tell them how strange, how nervous Pepe seemed in  
13 the call. Then I called his brother Gustavo, and I told him my  
14 concern about how his voice sounded, and how strange he sounded  
15 and I gave him the phone number where I received the call so he  
16 could call him. Then later on was when he, himself, called me  
17 back and explained the situation. That was everything.

18 Q. Okay, had you ever met Angel's girlfriend?

19 A. No, just photographs.

20 Q. Okay, do you recognize this person sitting over here  
21 in the Court today -- and I'm pointing to Meagan Grunwald --  
22 have you ever met her?

23 A. Yes, from photographs, yes.

24 Q. Okay, and who sent you those photographs?

25 A. Pepe had photographs on his Facebook with her. That's

1 how I knew what his girlfriend was like (inaudible).

2 Q. Did you ever talk to her?

3 A. No.

4 Q. Mr. Garcia, on the statement in front of you, you  
5 listed a telephone number up at the top. Can you see that?

6 A. Yes.

7 Q. What telephone number is that?

8 A. 210-419-3398.

9 Q. Was that the telephone number that you received the  
10 telephone call from Angel on that date?

11 A. Yes.

12 Q. Were you ever aware that Angel had been in prison?

13 A. I found out two years after he was in jail.

14 Q. So you never talked to him during that time period?

15 A. Well, I never spoke to him, I never wrote to him. His  
16 dad didn't want to give his phone number or his address for I  
17 guess personal reasons.

18 Q. So you don't know why Angel was in prison?

19 A. After, after I found out.

20 Q. Just back to the question about when you testified  
21 that Angel told you that his girlfriend was protecting him --

22 MR. ZABRISKIE: Your Honor, if I may, that's a mis-  
23 statement fo the evidence. He was with his girlfriend. My  
24 understanding is he referred to her family.

25 THE COURT: Sustain the objection.

1 Q. BY MR. TAYLOR: Could you just repeat again what you  
2 heard from Angel with regards to the protection that he was  
3 receiving from his girlfriend.

4 MR. ZABRISKIE: Objection again, your Honor. He's  
5 misstating the evidence.

6 THE COURT: Sustained.

7 Q. BY MR. TAYLOR: Okay, did Angel talk about receiving  
8 protection?

9 A. He mentioned that he was okay and that his girlfriend's  
10 family was protecting him.

11 Q. Did he say how his girlfriend's family was protecting  
12 him?

13 A. No.

14 Q. Did he say why he was going to go to California?

15 A. No.

16 MR. TAYLOR: No further questions, Judge.

17 THE COURT: Thank you. Cross examination?

18 MR. ZABRISKIE: Thank you, Judge. May I proceed, your  
19 Honor.

20 THE COURT: Sure.

21 CROSS EXAMINATION

22 BY MR. ZABRISKIE:

23 Q. It's -- do you go by Gomez or Garcia?

24 A. Garcia.

25 Q. Mr. Garcia, correct me if I'm wrong, but the conversa-



1 tion that you've referred to in your testimony was entirely in  
2 Spanish?

3 A. Yes.

4 Q. I think you indicated that when he called you, that he  
5 sounded agitated and nervous?

6 A. Yes, yes, very agitated, very nervous.

7 Q. That you said the whole conversation lasted a minute,  
8 two minutes?

9 A. It's an approximate. Truthfully, I wasn't conscious  
10 of the time.

11 Q. Conscious of the time?

12 A. Uh-huh.

13 Q. Now, he -- this was approximately 2:30 or 2:28 in San  
14 Antonio?

15 A. Yes.

16 Q. Correct me if I'm wrong, San Antonio would be one hour  
17 ahead of Utah time?

18 A. Yes.

19 Q. Now, you indicated in your testimony that you were  
20 not aware that he had been in prison until two years after the  
21 fact?

22 A. That's correct.

23 Q. So while you were close, he didn't share everything  
24 with you?

25 A. Well, I don't know why his family --

1 Q. A yes or know will do.

2 A. -- they didn't share it with me.

3 Q. Okay, and you indicated that you were very close?

4 A. I'm very close to his whole family. That's my brother,  
5 and it's his family.

6 THE COURT: Okay, excuse me, sir. I need to have you  
7 pull up a little closer to this microphone. Pull it there.  
8 Pull it there. There you go. Thank you.

9 Q. BY MR. ZABRISKIE: When he talked to you on the tele-  
10 phone did he tell you he had a gun?

11 A. No.

12 Q. When he talked to you on the telephone did he mention  
13 Meagan Grunwald?

14 A. No.

15 Q. When was the last time you actually saw your nephew?

16 A. Approximately seven years ago.

17 Q. So while you were close, you hadn't talked to him for  
18 several years; or how many years had it been during that seven  
19 that you did not talk to him?

20 A. Well, he disappeared when he went into jail, and as  
21 soon as he got out of jail we were in contact again.

22 Q. I see. Did he ever discuss with you why he was in  
23 jail?

24 A. Well, he mentioned some details, but we were never  
25 face-to-face and he never explained it all.

1 Q. Tell me and tell the jury what he did tell you.

2 A. He just -- he just mentioned that he had had a problem  
3 with another person and he had to do what he had to do.

4 Q. Okay, so he didn't mention anything about assault or  
5 attempted homicide?

6 A. No.

7 Q. So as close as you were, he did not tell you every-  
8 thing?

9 MR. ZABRISKIE: Objection, asked and answered, your  
10 Honor.

11 THE COURT: Overruled. Go ahead and answer, sir.

12 THE WITNESS: Well, it was just over the phone and I  
13 didn't have the confidence to ask things that personal.

14 Q. BY MR. TAYLOR: now, you indicated that -- and again,  
15 I -- this may be redundant, but did -- during this telephone  
16 call that we're talking about on January 30<sup>th</sup> of 2014, you  
17 indicated that he sounded different?

18 A. Yes, very nervous, as I've explained.

19 Q. In fact, you called his brother -- his father and his  
20 brother Gustavo shortly after the telephone call?

21 A. We could say it was immediately after I hung up with  
22 him that I spoke to his family.

23 Q. In fact, when you talked to Gustavo, you told him that  
24 you just talked to Jose --

25 A. Yes.

1 Q. -- and he was saying crazy things?

2 A. I told them that he was really nervous, that he sounded  
3 strange, and that I was really worried. That he should commun-  
4 icate with him and try to find out what was happening.

5 Q. Uh-huh. Did you tell Gustavo what Jose had mentioned  
6 to you or said to you during your telephone call with him?

7 A. No.

8 Q. Was there any particular reason that you didn't tell  
9 him, or is it -- go ahead, I'm sorry.

10 A. No.

11 Q. Or is it that you didn't understand what he was talking  
12 about?

13 A. Well, it was a conversation that was confusing for me,  
14 and even until later when I was able to know more that I could  
15 understand a little.

16 Q. Now, you indicate -- did you write down --

17 MR. TAYLOR: Excuse me, strike that, your Honor.

18 Q. BY MR. TAYLOR: Did you write down-- how long -- excuse  
19 me, how long after the conversation with Jose did you write  
20 anything down, or did you write anything down, short of what  
21 we've reviewed here today?

22 A. I'm not sure I understand the question.

23 Q. Did -- shortly after this conversation did you write  
24 anything down?

25 A. No.

1 Q. When was the first time that you talked -- other than  
2 the telephone calls to your family, when was the next time you  
3 talked about that conversation?

4 A. With Officer Gregory.

5 Q. When was that?

6 A. The 24<sup>th</sup> of March.

7 Q. So it was almost two months after the incident?

8 A. Yes.

9 Q. Did you talk to anyone else about that conversation?

10 A. No.

11 Q. Your -- your nephew indicated, "I'm okay" during the  
12 telephone conversation?

13 A. Yes.

14 Q. Did you know anything about what was going on at the  
15 time?

16 A. No.

17 Q. Did he indicate in his conversation that he thought  
18 you already knew?

19 A. No.

20 Q. When he said "carnita," what is the translation for  
21 carnita?

22 A. You could say like a barbecue.

23 Q. So he's cooked?

24 A. Or cooking.

25 Q. When he said, "I've done what I did before," and I'm

1 probably misstating it, so you correct me, did he say, "I've  
2 done the same thing I did before"?

3 A. Yes.

4 Q. Yet you didn't know what he had done before, at least  
5 in detail?

6 A. That's correct.

7 Q. After this conversation with Jose and the conversations  
8 with your brother -- I don't think you talked to your brother.  
9 He was in a party, a fiesta, right?

10 A. Yes.

11 Q. Did you call the police?

12 A. No.

13 Q. When did you find out for sure what was happening? I  
14 want the time.

15 A. When his brother Gustavo called me that same afternoon,  
16 later that day and explained to me what was happening.

17 Q. Thank you. You indicated that you had some -- some  
18 acquaintance with Meagan, who's seated at the table here?

19 A. Well, just photographs on Facebook and like on my  
20 birthday by voice through Pepe, just you know, saying, "Happy  
21 birthday."

22 Q. Were you aware of the fact that she was a minor? By  
23 that, underage?

24 A. No.

25 Q. Were you aware when he called that he was in an auto-

1 mobile with a minor?

2 A. Of course not.

3 Q. Now, you had not had close contact excepting for tele-  
4 phonic with your nephew in approximately seven years?

5 A. Yes, the whole time he was in prison I never spoke to  
6 him and --

7 Q. That's fine. So as far as his social life, would you  
8 know whether in fact he had many girlfriends?

9 A. Well, when -- the last time I saw him he had a family  
10 in Mexico.

11 Q. In fact, he had children in Mexico?

12 A. Yes.

13 Q. Did he mention anything to you about a girlfriend  
14 being pregnant?

15 A. No.

16 Q. So, again, there were things that he did not share  
17 with you?

18 A. Uh-huh.

19 Q. He indicated to you that he was going to California?

20 A. Yes.

21 Q. Then he asked if you would -- if you would help him,  
22 or something like that. Correct me if I'm wrong.

23 A. No.

24 Q. Did he ask you if you would lend him support or aid,  
25 anything like that?

1 A. No.

2 Q. Had he asked for that, would you give it to him?

3 A. If it were like a family situation, yes. If it were  
4 a situation like what he indicated, never.

5 Q. So had you known what he was involved in at the time,  
6 you would not have offered him any aid?

7 A. Never.

8 Q. Did he at any time during this conversation mention  
9 Meagan's name?

10 A. He just mentioned that he was with his girlfriend.

11 Q. When he mentioned, or you claim that he said, "Her  
12 people are protecting me," did he mention who those people  
13 were?

14 A. No.

15 Q. Okay, if there's a police report to the effect that he  
16 asked you, "Will you help me?" or "Can I count on you?" and you  
17 answered "Yes," is it your testimony today you can't remember  
18 saying that or it was not said?>

19 MR. TAYLOR: Objection, Judge, I think that mischarac-  
20 terizes -- I think Mr. Zabriskie asked if he would help him go  
21 to California. Maybe he could clarify that.

22 THE COURT: Sustain the objection. Please restate your  
23 question.

24 MR. ZABRISKIE: I'll read directly from the -- I'll  
25 read directly from the police report.



1 MR. TAYLOR: Could I see what police report (inaudible).

2 MR. ZABRISKIE: It's the one prepared by your office  
3 and provided to our office.

4 (Counsel conferring off the record)

5 MR. ZABRISKIE: Your Honor, there's -- do you want me  
6 to state what your objection is? I will not read directly from  
7 his report, but this is a synopsis prepared by a superior as to  
8 what the case consists of.

9 THE COURT: I see.

10 MR. ZABRISKIE: But I will ask him in the generic  
11 whether in fact he said this. I've already (inaudible). So  
12 I'm just waiting for (inaudible).

13 THE COURT: No problem with that.

14 MR. TAYLOR: That's fine.

15 THE COURT: Okay, thank you.

16 Q. BY MR. ZABRISKIE: Did you in fact say that?

17 A. No.

18 Q. So it would be a mistake?

19 A. Probably.

20 Q. Then it was later that day when you found out what was  
21 going on?

22 A. Yes, through the voice of his brother.

23 Q. Did you see it on the news later?

24 A. Yes.

25 Q. Now, he indicated to you he was going to California,

1 and you live in Texas?

2 A. Yes.

3 MR. ZABRISKIE: May I have a second, your Honor.

4 THE COURT: Sure.

5 (Counsel conferring off the record)

6 MR. ZABRISKIE: Thank you.

7 THE COURT: Thank you. Redirect?

8 MR. TAYLOR: Just a couple of questions, Judge.

9 REDIRECT EXAMINATION

10 BY MR. TAYLOR:

11 Q. Mr. Garcia, just to clarify, the statement that is in  
12 front of you with regards to the telephone number that starts  
13 201, do you see that?

14 A. Yes.

15 Q. Whose telephone is that?

16 MR. ZABRISKIE: If you know.

17 THE WITNESS: My number.

18 Q. BY MR. TAYLOR: Okay, before January 30<sup>th</sup>, 2014, when  
19 was the last time that you spoke with Angel on the phone?

20 A. The 8 -- the 18<sup>th</sup> of January, my birthday.

21 Q. Did he call you on your birthday?

22 A. Yes.

23 Q. Did he sound different when he called you on his  
24 birthday than on January 30<sup>th</sup>?

25 A. He was really happy. He was traveling with his girl-

1 friend and his mother-in-law, and he just was giving me a lot  
2 of well wishes.

3 Q. Okay, do you know when Angel's birthday is?

4 A. Yes.

5 Q. When is that?

6 A. The 25<sup>th</sup> of January.

7 Q. Did you talk to him on January 25<sup>th</sup> on his birthday?

8 A. I left a voice mail on his telephone because he never  
9 answered my calls.

10 Q. Okay, just so that I understand, did you testify that  
11 Angel told you, "I made carnitas"?

12 A. Yes.

13 Q. So what does that mean to you?

14 A. Well, I don't know how to say. It was kind of like to  
15 give me a clue that he had -- to help me to understand that he  
16 had done something similar to what he had done before. Not  
17 directly, but like giving me an idea.

18 MR. TAYLOR: Okay, nothing further, Judge. Thank you,  
19 Mr. Garcia.

20 THE COURT: Okay, thank you.

21 MR. ZABRISKIE: Short recross, your Honor.

22 THE COURT: Okay,

23 RE CROSS EXAMINATION

24 BY MR. ZABRISKIE:

25 Q. You and your nephew had a very close relationship?

1 A. Yes, a family relationship.

2 Q. I'm not criticizing; I'm just commenting. He would  
3 not have wanted you to worry, would he?

4 A. I'd like to think that.

5 Q. In fact, he told you, "I'm okay."

6 A. Yes.

7 Q. Because he knew you cared for him?

8 A. Yes.

9 MR. ZABRISKIE: Thank you.

10 THE COURT: Thank you. Anything else?

11 MR. TAYLOR: Nothing, Judge.

12 THE COURT: May Mr. Garcia be excused?

13 MR. TAYLOR: From the State, yes.

14 THE COURT: Mr. Zabriskie?

15 MR. ZABRISKIE: (No verbal response).

16 THE COURT: That's all, sir. Thank you.

17 MR. TAYLOR: So is he able to return back to his home,  
18 then, Judge?

19 MR. ZABRISKIE: We don't have another subpoena, so we'd  
20 have no objection to him --

21 THE COURT: Okay. All right, thank you.

22 MR. TAYLOR: Your Honor, this might be a good time for  
23 a break.

24 THE COURT: All right, we'll take a recess at this  
25 point. Remind the jury of the instructions. Always want to

1 make sure you understand that, even though I know you do; but  
2 maybe ten minutes.

3 COURT BAILIFF: All rise for the jury.

4 (Jury exits the courtroom)

5 THE COURT: Thank you. I want to remind everybody the  
6 decorum order. It should be outside. Everybody should read  
7 that so you understand what it means and what it says, especi-  
8 ally with regard to electronic devices. Also with regard to  
9 the media. Please abide by the media order. I don't want  
10 to have to shut you down. I don't, but I will. So make sure  
11 that we know what those orders say, so that you're not out of  
12 (inaudible). Okay, thank you. We'll be in recess.

13 (Recess taken)

14 THE COURT: Thank you. Please be seated. Okay, we're  
15 back on the record. State ready for its next witness?

16 MR. PEAD: Yes, the State calls Jeff Adams.

17 THE COURT: Okay.

18 MR. PEAD: May I approach here to make sure we haven't  
19 left anything up here, your Honor.

20 THE COURT: Sure.

21 MR. PEAD: It appears that we have.

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

23 COURT CLERK: Raise your right hand. You do solemnly  
24 swear that the testimony you shall give in the case now pending  
25 before the Court will be the truth, the whole truth and nothing

1 but the truth, so help you God?

2 THE WITNESS: Yes, I do.

3 THE COURT: Thank you, sir. Please have a seat here in  
4 the witness box. All right, thank you.

5 JEFFERY VAL ADAMS,

6 having been first duly sworn,

7 testified as follows:

8 DIRECT EXAMINATION

9 BY MR. PEAD:

10 Q. Will you please state your name and spell it for the  
11 record.

12 A. Yes, my name's Jeffery Val Adams. It's J-e-f-f-e-r-y  
13 V-a-l A-d-a-m-s.

14 Q. How are you employed?

15 A. I work for the Utah Department of Public Safety.

16 Q. How long have you worked for the Department of Public  
17 Safety?

18 A. I've worked for them -- it will be ten years in June.

19 Q. Okay, and are you a certified peace officer in the  
20 State of Utah?

21 A. Yes, I am.

22 Q. How long have you been such?

23 A. For the past ten years.

24 Q. Okay, are you current -- you're currently certified?

25 A. Yes, I am.

1 Q. What is your current assignment?

2 A. Right now I'm assigned to the Utah County Major Crimes  
3 Task Force.

4 Q. Okay, and what was your assignment on January 30<sup>th</sup> of  
5 2014?

6 A. I was assigned to that task force.

7 Q. Okay, what are the primary duties of the Major Crimes  
8 Task Force?

9 A. We investigate major crimes that occur within Utah  
10 County, and we assist other agencies outside of that County as  
11 well. We investigate a numerous -- or numerous crimes such as  
12 drug violations, and we also investigate crimes against persons  
13 and we help out wherever we can.

14 Q. Okay, you know what case we're here on today?

15 A. Yes, I do.

16 Q. What role did you play in this case?

17 A. I was assigned to search a -- to assist in a search  
18 warrant at 632 East Pioneer Road. My specific role was to  
19 search a specific bedroom. It was the northwest bedroom.

20 Q. Okay, what city are we talking about that 632 Pioneer  
21 Road is?

22 A. I apologize, it's in Draper.

23 Q. Draper, Utah?

24 A. Yes.

25 Q. You were assigned a specific room to search?

1 A. Yes, I was.

2 MR. PEAD: May I approach the witness.

3 THE COURT: Yes.

4 Q. BY MR. PEAD: Detective Adams, I'm going to show you  
5 what's been marked as Plaintiff's Exhibits 154 through 185.

6 A. Okay.

7 Q. Will you look at those briefly.

8 A. Yes, I will.

9 Q. Do you recognize those?

10 A. Yes, I do.

11 Q. What are they?

12 A. Those are pictures that were taken inside the north-  
13 west bedroom.

14 Q. Do they fairly and accurately document your search of  
15 that bedroom?

16 A. Yes, they do.

17 MR. PEAD: Okay, at this time, your Honor, I would move  
18 to enter those exhibits into evidence.

19 THE COURT: Any objection?

20 MR. ZABRISKIE: No objection.

21 THE COURT: Thank you. Accept and receive State's  
22 Exhibits 154 through 185.

23 (Exhibit Nos. 154 thru 185 received into evidence)

24 MR. PEAD: I now move to publish those.

25 MR. ZABRISKIE: No objection.



1 THE COURT: Thank you.

2 Q. BY MR. PEAD: Detective Adams, we have here a laser  
3 pointer. If you'll use that as we publish these. Now, for the  
4 record, this is Plaintiff's Exhibit 154. What does this show?

5 A. This is the residence in which we searched at 632 East  
6 Pioneer Road in Draper.

7 Q. Okay, and whose residence was this?

8 A. This was the residence of the Grunwald family.

9 Q. Plaintiff's Exhibit 155. What does this exhibit show?

10 A. This is the northwest bedroom which I was assigned to  
11 search.

12 Q. Okay, and there's a name above that. What does that  
13 name say?

14 A. It says, "Meagan."

15 Q. Plaintiff's Exhibit 156. What is this a picture of?

16 A. This is the northwest corner. There's an entertainment  
17 center there, and there's a -- it's like a deodorant, male Old  
18 Spice deodorant there, and just an entertainment center, a  
19 birthday balloon.

20 Q. Okay, Plaintiff's Exhibit 157?

21 A. This is the northeast corner of that bedroom, and  
22 there's the bedroom -- or I apologize, the twin bed, and then  
23 there's also a little lockbox right there on the south, south-  
24 east corner.

25 MR. ZABRISKIE: Sorry, what number was that?

1 MR. PEAD: No. 157.

2 MR. ZABRISKIE: Sorry, thanks.

3 Q. BY MR. PEAD: Is that like a little alcove in the  
4 bedroom?

5 A. Yes, it is.

6 Q. Plaintiff's Exhibit 158?

7 A. This is just an overall picture of the northwest  
8 bedroom. So the bed is back right in that corner. There's  
9 a closet right here, and here's the entry to the room right  
10 there.

11 Q. Plaintiff's Exhibit 159?

12 A. This is on the east wall. There's the closet and the  
13 entrance is right there, the bed over here.

14 Q. Plaintiff's Exhibit 160?

15 A. This is the lockbox that I pointed out earlier. This  
16 is a three-ring binder which was on the north wall and I had  
17 moved it over in this area, and was searching this area.

18 Q. Okay, and is this where the safe was when you first  
19 saw it searching that room?

20 A. Yes, it was. It was.

21 Q. The little alcove area?

22 A. Yes, it was.

23 Q. Okay, but out from underneath the bed?

24 A. Yes, that's correct, just on the side.

25 Q. Okay, Plaintiff's Exhibit 161. What is this?

1           A.    This is a closet that we had searched.  We noticed  
2 that there were -- appeared to be male clothing hanging in the  
3 closet as well.

4           Q.    Was there female clothing, too?

5           A.    Yes, there was a lot of female clothing.

6           MR. ZABRISKIE:  So that's 161?

7           MR. PEAD:  Right.

8           Q.    BY MR. PEAD:  No.  162?

9           A.    This United Healthcare card to Jose Garcia was on the  
10 beside table on the east wall.

11          Q.    This is where it was located?

12          A.    Yes.

13          Q.    Plaintiff's Exhibit 163?

14          A.    This is some more correspondence for Meagan Grunwald  
15 also on the east table.  Table at east wall.

16          MR. PEAD:  Plaintiffs -- before I go onto Plaintiff's  
17 Exhibit 164, your Honor, the parties have entered a stipulation  
18 that this exhibit has the writing, "Angel, I love you" on it,  
19 but obviously this detective cannot testify to who wrote that  
20 or when that was written or anything like that.

21          THE COURT:  Is that correct?

22          MR. ZABRISKIE:  Yeah, that's an accurate agreement --  
23 or stipulation.

24          THE COURT:  Okay, thank you

25          MR. PEAD:  Publish Exhibit 164.

1 MR. ZABRISKIE: No objection.

2 THE COURT: Thank you.

3 THE WITNESS: This is the three-ring binder which I had  
4 noted earlier was up against the north wall, and this is just  
5 some handwriting --

6 MR. ZABRISKIE: Objection as to any description of  
7 what's below the statement, "Angel, I love you."

8 THE COURT: Sustained.

9 MR. PEAD: I'm not asking for it.

10 Q. BY MR. PEAD: Plaintiff's Exhibit 165?

11 A. This is the contents of the lockbox, which was lo --  
12 the same lockbox which was located next to the bed.

13 Q. Okay.

14 A. We could not find a key, so we used a screwdriver to  
15 pry it open.

16 Q. Okay, and this is right after you opened it?

17 A. Yes, this is the first picture as soon as it was open.

18 Q. Okay, Plaintiff's Exhibit 166?

19 A. These are some .40 caliber rounds which were located  
20 inside the lockbox.

21 Q. Did you notice anything particular about these rounds?

22 A. Just -- just that they are -- just they're .40 caliber  
23 and there was a few that were missing. This one on the right  
24 appears to be what I would -- would be consistent with a hollow  
25 point round.

1 Q. Did you remove the other rounds and look at them?

2 A. No, they are -- no, I didn't remove any of the rounds.

3 Q. Looking at this I note that there's different words  
4 around some of them.

5 A. There are. There are some that are Federal and some  
6 that are Winchester. I believe that one right there is a  
7 Winchester and those ones are Federal.

8 Q. From your training and experience is that consistent  
9 with anything?

10 A. They're consistent with .40 caliber pistol rounds.

11 Q. Okay, Plaintiff's 167?

12 A. This is another picture that -- of the hollow point  
13 round.

14 Q. Okay, and then there's another container with other  
15 .40 rounds?

16 A. Also, yeah, and I believe that -- that one there is  
17 also a hollow point round; and the hollow point rounds -- from  
18 my training and experience we use our hollow point rounds for  
19 our duty ammunition, and the other rounds we use for our -- for  
20 our practicing.

21 Q. So the other is target ammo?

22 A. Target ammo, yes, sir.

23 Q. Okay, Plaintiff's Exhibit 168?

24 A. So this is another picture of the contents of the  
25 lockbox. There's just numerous items in there, some of the

1 evidentiary items.

2 Q. This is before you kind of --

3 A. This is before we went through it --

4 Q. Okay.

5 A. -- and pulled everything out.

6 Q. Plaintiff's Exhibit 169?

7 A. This is one of the contain -- or the container that  
8 was inside the lockbox. It appears that there was -- that that  
9 was consistent with crystal methamphetamine. So we took that  
10 and it was field tested and booked into evidence.

11 Q. Okay, Plaintiff's Exhibit 170?

12 A. This is some currency that was in a -- I believe it  
13 was in a Wells Fargo envelope. Also inside the lockbox we  
14 pulled that cash out and laid it out. There was a picture  
15 later on.

16 Q. To be clear, on the last exhibit, Plaintiff's 169,  
17 that white substance you described that you believed it was  
18 crystal meth amphetamine, where was that located?

19 A. That was inside the lockbox.

20 Q. Okay, Plaintiff's 171?

21 A. There's the currency laid out. There's \$545.

22 Q. Why do you lay it out like that?

23 A. We lay it out just to show the different denominations  
24 and try to document how much was there, so --

25 Q. Plaintiff's Exhibit 172?

1           A.    This is a birth certificate and a birth certificate  
2 card for Meagan Grunwald which was in the lockbox.

3           Q.    Okay, Plaintiff's Exhibit 173?

4           A.    This is a plastic bag which had a corner torn off in  
5 it and it had some -- it appeared to be more meth residue  
6 inside right in there.  So we took that also, I believe.

7           Q.    Where was that located?

8           A.    That was also rolled up and in the lockbox.

9           Q.    Okay, Plaintiff's Exhibit 174?

10          A.    This is just a temporary permit, driving permit for  
11 Meagan Grunwald in a lockbox.

12          Q.    Plaintiff's Exhibit 175?

13          A.    This is kind of just a -- it's kind of an overview  
14 shot of some important items.  It's just a secondary shot.

15          Q.    Will you point out what those are?

16          A.    So, yeah, so these are the rounds in the red container  
17 and also in the Styrofoam.  I believe that that's the plastic  
18 container.  This is a little metal container, and there's the  
19 -- I think that's the plastic bag which was torn off -- has the  
20 little torn off piece, and I can't -- I can't see what's under  
21 it.  The black -- black and red.  I'm not really sure what that  
22 is.

23          Q.    Okay, Plaintiff's Exhibit 176?

24          A.    This is out of the three-ring binder also.  It's just  
25 the writing assignment by Meagan Grunwald.

1 Q. Plaintiff's Exhibit 177?

2 A. This is on the west wall. There's a -- it's a desk  
3 like a writing desk or a computer type desk with a happy  
4 birthday card, some drawing notepads.

5 Q. I note something below that. What is that, for the  
6 benefit of the jury?

7 A. Are you talking about the blue thing right there?

8 Q. No, I'm talking about the NW bedroom.

9 A. I apologize. This is just a -- this is a notebook  
10 that the individual who was taking the photograph just lays  
11 out with the pictures and notes which bedroom it was -- the  
12 pictures were taken from.

13 Q. So that wasn't there originally, but you put that down  
14 to note where that picture was taken?

15 A. That's correct.

16 Q. Plaintiff's Exhibit 178?

17 A. This is a framed picture which was on that desk on  
18 the west side of the room. We thought this would be needed,  
19 so it states up top, states, "Meagan, Angel," some different --  
20 different pictures there.

21 Q. Yeah, let's go to -- let's go to 179. Is this where  
22 that picture was located?

23 A. Yes, that's correct.

24 Q. Where is that again?

25 A. So that's the west wall, and that's the west window.



1 Q. Okay, and Plaintiff's Exhibit 180?

2 A. These appeared to us to be male clothing, so we took a  
3 picture of those clothing. We didn't take those as evidence,  
4 but we just photographed them.

5 MR. ZABRISKIE: What number was that?

6 MR. PEAD: No. 180.

7 Q. BY MR. PEAD: Plaintiff's Exhibit 181?

8 A. This is a calendar which is on -- hung on the south  
9 wall of the bedroom, and there were some different things that  
10 we thought were important right there. It says "Angel" there,  
11 and it appears to be a calendar for -- for possibly both Angel  
12 and Meagan.

13 Q. Okay, Plaintiff's 182?

14 A. This is an expired -- or invalid driver's license  
15 for Kansas -- or I believe it's a driver's license. It's an  
16 identification card. This was located on the fridge on the  
17 south wall.

18 Q. Whose --

19 A. I apologize, this is for Jose Angel Garcia.

20 Q. Okay, Plaintiff's 183?

21 A. This is another bank statement for Jose Angel Garcia  
22 which was on the fridge also with the same spot as the driver's  
23 license.

24 Q. Plaintiff's 184?

25 A. This is more correspondence, a letter for Jose Angel

1 Garcia, which was also on the fridge.

2 Q. Plaintiff's 185?

3 A. This is a certificate of citizenship which was also  
4 located on the fridge as well in the south -- on the south  
5 wall.

6 Q. Detective Adams, I'm going to approach you with a  
7 number of items. If you will just identify these and identify  
8 how they relate to what we've just seen. This is Plaintiff's  
9 187.

10 A. Okay, and this is a letter to Meagan Grunwald. So  
11 this was the letter that was on the east-- the east side table.

12 Q. The picture we saw?

13 A. Yes, that's correct.

14 Q. Okay, Plaintiff's 188, and I'll note our earlier  
15 stipulation on this.

16 A. Okay, this was some handwriting which was in the  
17 three-ring binder, which was taken out of -- taken out of the  
18 three-ring binder up against the north wall as the letter that  
19 -- at the -- I can see the top, at the top says, "Angel, I love  
20 you."

21 Q. Okay, and you don't know who wrote that --

22 A. No.

23 Q. -- or when it was written?

24 A. No.

25 Q. Plaintiff's 191?

1           A.    This is the happy birthday card which was on the west  
2 wall, the picture which we -- which we took on the table up  
3 against the west wall by the window.

4           Q.    Okay, Plaintiff's 190?

5           A.    This is the writing assignment also taken out of the  
6 three-ring binder.

7           Q.    Plaintiff's 194?

8           A.    This is a -- I believe it's a fishing license for Jose  
9 Garcia; and I believe this was on the west wall as well.

10          Q.    Plaintiffs 186?

11          A.    This appears to be -- this is a wallet, and there's a  
12 money card with Jose Garcia and also the -- if I can see it,  
13 sorry. So this is the United Healthcare card for Jose Garcia.

14               MR. ZABRISKIE: If I may, some of that has not been  
15 published. May I approach and (inaudible) with Counsel?

16               THE COURT: Yes. Is that 190 -- 186 as well?

17               MR. ZABRISKIE: Correct.

18               THE COURT: Okay.

19               (Counsel conferring off the record)

20               THE WITNESS: Okay, so this was the United Healthcare  
21 card for Jose Garcia which was on the east table.

22          Q.    BY MR. PEAD: Plaintiff's Exhibit 195?

23          A.    This is the -- I believe this is the citizenship  
24 certificate which was on the fridge on the south wall.

25          Q.    Plaintiff's Exhibit 193?

1 A. Okay, these are the items which were in the lockbox.

2 Q. What do they appear to be?

3 A. There's a glass pipe, glass smoking pipe, and it's  
4 like a camouflaged tin with some baggies on the -- that were  
5 located inside there, too.

6 Q. Detective Adams, from your training and experience  
7 what are glass pipes used for?

8 A. For smoking drugs, typically, when we find them.

9 Q. Plaintiff's Exhibit 192?

10 A. This is the -- this is the plastic container with the  
11 -- with methamphetamine in it, as well as the -- I believe  
12 that's the torn off piece of the plastic bag, which had the  
13 residue and meth inside of it.

14 MR. ZABRISKIE: Objection, lack of foundation, your  
15 Honor.

16 MR. PEAD: To?

17 MR. ZABRISKIE: I don't object to him saying it looks  
18 like meth, but to --

19 MR. PEAD: Oh.

20 MR. ZABRISKIE: -- it's not been established as being  
21 tested.

22 MR. PEAD: We would stipulate he's basing that only on  
23 his training and experience and not on chemical testing.

24 THE COURT: Sustained.

25 Q. BY MR. PEAD: Plaintiff's Exhibit 189?

1           A.    These are the rounds which we found inside the lock-  
2 box.

3           MR. PEAD: So at this point, your Honor, I would move  
4 to admit Exhibits 189, 193, 192, 195, 186, 194, 190, 191, 188  
5 and 187. Did I do these ones?

6           THE WITNESS: Yeah, we went through them.

7           MR. PEAD: And if I didn't say it, 192, 193 and 198.

8           MR. ZABRISKIE: No objection, your Honor.

9           THE COURT: Looks like it goes from 186 to 195, as I've  
10 written it. So I'll accept and receive State's Exhibits 186  
11 through 195.

12          MR. PEAD: Thank you, your Honor.

13          (Exhibit Nos. 186 thru 195 received into evidence)

14          Q.    BY MR. PEAD: Detective Adams, I'm going to show you  
15 what's been marked as Plaintiff's Exhibit 195 and has been  
16 accepted. Do you see that?

17          A.    Yes, I do.

18          Q.    There's two objects in this exhibit, correct?

19          A.    That's correct.

20          Q.    I'm having you look at the back object. What is that?

21          A.    So this is the driver's license for Jose Angel Garcia,  
22 the Kansas DL, which was --

23          Q.    Does that show a date of birth on that?

24          A.    The date of birth on it is 1/25 of '87.

25          Q.    Okay, thank you. Then Exhibit 191. Do you have some-

1 thing to open this with?

2 A. I don't.

3 MR. PEAD: Your Honor, does the Court have a pair of  
4 scissors. I'll note for the record that right now this is  
5 sealed, but that I'm op -- I'm cutting this.

6 THE COURT: Okay.

7 Q. BY MR. PEAD: Detective Adams, will you remove this  
8 from here. Okay, and will you describe what you see on the  
9 outside of that envelope.

10 A. The outside says, "Happy birthday."

11 Q. And on the envelope?

12 A. On the envelope it says, "To Angel."

13 Q. Okay, and then will you recite what is written on that  
14 part.

15 MR. ZABRISKIE: Excuse me, may I approach, your Honor.

16 THE COURT: Yes.

17 MR. PEAD: Oh, sorry, Dean.

18 Q. BY MR. PEAD: Detective Adams, will you read that part.

19 A. Yeah, it states, "Dear my love, I know sometimes you  
20 get mad at each -- you get mad at each other and just want to  
21 hurt each other, but I still and will always love you. Today  
22 I'm going to try my best to make you feel like a king. I hope  
23 one day I will be able to grow old with you. You're my best  
24 friend, soul mate, and my future amazing boyfriend --" I think  
25 that says future; I'm not sure -- "I could ever ask for. Never

1 forget how much you mean to me, sexy. With love, your babby  
2 girl." Do you want me to read this side, too?

3 Q. Yeah, just the writing.

4 A. The writing says, "I love you so much, honey. Love,  
5 your babby girl."

6 Q. Okay, now does -- what letter does that look like  
7 right there?

8 A. That one right there?

9 Q. Uh-huh.

10 A. I can't tell if it's an "r" or an "n."

11 Q. Okay, if it was an "n" what would that be saying?

12 A. If it's an "n" it looks like my -- is it --

13 MR. ZABRISKIE: Your Honor, may I re-approach?

14 THE COURT: Yes.

15 MR. PEAD: Sure.

16 Q. BY MR. PEAD: What I'm asking is we don't know exactly,  
17 but could it be "my fucking amazing boyfriend"?

18 A. Yes, it could.

19 Q. Okay.

20 MR. ZABRISKIE: Could it also be "my fuching"? Is it  
21 not spelled f-u-c-h?

22 THE WITNESS: It's pos -- I guess it's possible. I  
23 don't know what it means.

24 MR. ZABRISKIE: Could somebody be trying to avoid the  
25 word "fucking"?

1 THE WITNESS: It's possible.

2 MR. ZABRISKIE: Your Honor, I should have asked for  
3 permission to voir dire. I apologize.

4 THE COURT: Do you still want to?

5 MR. ZABRISKIE: (Inaudible) exception.

6 THE COURT: Thank you.

7 MR. PEAD: I think those are all the questions I have  
8 for Detective Adams.

9 THE COURT: Okay, cross examination?

10 MR. ZABRISKIE: Thanks, Judge.

11 CROSS EXAMINATION

12 BY MR. ZABRISKIE:

13 Q. Detective, were you -- you were involved in the group  
14 or the task force that went to that home up in Draper, the one  
15 you've described and the one we're talking about?

16 A. That's correct.

17 Q. How many officers were involved in that -- in that  
18 exercise?

19 A. I would have to guess, if that's all right. I'm not  
20 exactly sure how many. I would -- I would say there were  
21 probably 20 officers.

22 Q. I'm sorry?

23 A. Probably 20. There were a few that were in Utah  
24 County, and the there were probably at least ten -- I would  
25 say ten to twelve at the residence, I think.



1 Q. I see, and was Draper City involved?

2 A. Yes, Draper City was on the scene.

3 Q. You belong to which agency?

4 A. The Department of Public Safety Utah, DPS.

5 Q. Okay, and so yours is a statewide agency?

6 A. That's correct.

7 Q. Is this one of the things that's part of your job  
8 description, these circumstances to supervise or at the very  
9 least be involved in this type of exercise of search and  
10 possibly seizure?

11 A. So being assigned to the Major Crimes Task Force, I --  
12 yeah, this -- they're some of my duties to assist with the task  
13 force.

14 Q. Okay, now were you aware -- well, let me back up a  
15 little bit. Strike that, please. What time of the evening  
16 did you approach that house?

17 A. I believe it was around -- around 5:30, 6 o'clock,  
18 maybe.

19 Q. Well, I note in the picture of the house it's dark.  
20 Is that an accurate reflection of how the house looked when you  
21 arrived?

22 A. It may have been earlier. We were on-scene prior to  
23 for quite a while, in fact.

24 Q. I'm assuming that the reason you were on-scene is that  
25 you were keeping the house under surveillance?

1 A. We were conducting surveillance, yes, that's correct.

2 Q. Isn't it true you didn't know who was inside that  
3 house?

4 A. I did not know.

5 Q. How long did you have the house under surveillance?

6 A. I would guess the house was under surveillance for  
7 probably two hours, maybe.

8 Q. During that period of time were you able to note any  
9 coming and going? By that, cars arriving, cars leaving?

10 A. Two individuals were detained, I believe, leaving the  
11 residence.

12 Q. Okay, and who were they?

13 A. Tori Grunwald and James Buckley Mays.

14 Q. Okay, and do you know who Tori Grunwald is?

15 A. Yes.

16 Q. Who is she?

17 A. I believe she's the defendant's mother.

18 Q. Okay, and you indicated that Mr. Buckley was also  
19 leaving?

20 A. That's correct.

21 Q. Okay, now if you can, and based on your recollections,  
22 what time did you -- did you intervene, or what time did you  
23 intercept them?

24 A. I can tell you what time I interviewed James Buckley  
25 Mays. I can tell you what time I interviewed him.

1 Q. Well, tell us what time -- what time did they leave  
2 the residence?

3 A. I'm not exactly sure. Can I look at my notes to see  
4 my interview? Is that all right with you?

5 Q. As long as I can see them, too.

6 A. Yeah.

7 Q. All right.

8 A. It's just the report. So if you want to take a look  
9 at that. It's just my --

10 MR. PEAD: Your Honor, may I observe as well?

11 THE COURT: Yes.

12 THE WITNESS: Yeah, so the interview began at 16:43,  
13 4:43 in the afternoon. So I would imagine that we probably  
14 intercepted them right around 4:30'ish.

15 Q. BY MR. ZABRISKIE: So the picture of the house that's  
16 been admitted into evidence was taken in the evening. Was it  
17 the same night you took a picture of that house?

18 A. Yeah, that was the same, the same.

19 Q. Okay, and you took it -- evidently the sun had set,  
20 and I can't remember what the cycle is that time of the year,  
21 but --

22 A. Right, it was later on in the evening.

23 Q. Now, were there -- was there anyone else that  
24 attempted to leave the house?

25 A. Those are the only two individuals that I recall.

1 Q. Was it later determined they were the only two in the  
2 house?

3 A. At that time while we were conducting surveillance,  
4 yes.

5 Q. Okay, and did you note anyone else driving by the  
6 house, anything that would be of interest to this jury?

7 A. I did not.

8 Q. At that time had you secured a search warrant?

9 A. Yes, we had.

10 Q. Do you know who the affiant was on the search warrant?

11 A. I believe it was Detective Ray Flores.

12 Q. If I may, it's noted the affiant believes the property  
13 in evidence described above is evidence of the crime or crimes  
14 of murder, attempted murder, illegal possession of a firearm  
15 and fleeing. Were those your primary parameters in going into  
16 that house to proceed with the search?

17 A. That's -- that was my understanding.

18 Q. Okay, and so you weren't there going -- you weren't  
19 looking for drugs or anything like that?

20 A. No, not at that time.

21 Q. That was a collateral finding. That's kind of a blind  
22 squirrel finding and that type of thing?

23 A. That's correct.

24 Q. Okay, now did you have any information that excepting  
25 for what had happened that day, that would lead you to think

1 that any of this -- any evidence would be found there? By  
2 that, was there another source of information?

3 A. I -- I didn't have a part in securing the search  
4 warrant, so I didn't personally. I didn't know if there would  
5 be evidence found there or not.

6 Q. Now, when you -- you entered the home, you indicated  
7 that you had the responsibility, I think it's been -- a picture  
8 has been designated as State's Exhibit 155. That room was your  
9 responsibility?

10 A. That's correct.

11 Q. Based on your best estimate, what were the dimensions  
12 of that room?

13 A. I'm really bad with estimates. Probably maybe 12-to-  
14 15 by -- maybe by 20.

15 Q. So it was not what would be characterized as a -- as a  
16 large room?

17 A. It wasn't -- it wasn't large at all, no.

18 Q. Now, what -- were you able to make any notations as  
19 to the condition of the house upon arrival? In other words,  
20 you walk in the house. Did you have -- tell me how you were  
21 dressed.

22 A. I believe I was in street clothes, jeans. I was in  
23 jeans and either jeans and a tee shirt, maybe a sweatshirt,  
24 something like that, and boots.

25 Q. Uh-huh, and boots, and other police officers followed

1 you in or -- you went in in mass, right?

2 A. I don't believe I was masked up, no.

3 Q. I mean, not -- I'm sorry, just --

4 A. Oh, sorry, I couldn't hear you.

5 Q. No, no, it was my fault. I --

6 A. So we all went in together.

7 Q. Okay, now you -- the other officers had guns and --

8 A. Yes, identifiers.

9 Q. -- the protective gear on, things like that?

10 A. Yes.

11 Q. Do you have a gun?

12 A. Yes.

13 Q. Okay, did you -- when the two people that were there,  
14 where were they when you entered the home?

15 A. I -- I'm not 100 percent sure. I don't believe that  
16 James Buckley Mays was there. I think that he had been told he  
17 could leave. I'm not 100 percent, and I'm not sure where Tori  
18 was at.

19 Q. That's fine.

20 A. Where Ms. --

21 Q. Okay, but to the best of your recollection, other than  
22 the police, a substantial amount of police, you don't know if  
23 Mr. Buckley was there, but Tori was there?

24 A. She may have been. I really don't know. I can't -- I  
25 can't recall.

1 Q. Isn't it true that there appeared to be packing boxes  
2 and things like that?

3 A. That's correct.

4 Q. Did it give the impression to you that they were  
5 getting to move or that they just arrived?

6 A. That they were -- based off of my interview with  
7 Mr. Mays, they were getting ready to move.

8 Q. Okay, and in fact, didn't Mr. Mays tell you that was  
9 his purpose in being there, is to help them move?

10 A. That's correct.

11 Q. Now, in that you restricted your observations, one,  
12 to the condition you've described, there appeared to be packing  
13 boxes, things of that nature -- and this is not meant to be a  
14 criticism, but the house appeared to be in somewhat a state of  
15 disarray?

16 A. It did.

17 Q. Okay, now when you entered that bedroom, wherein you  
18 were required -- or you were going to dedicate your efforts, do  
19 you know who had access to that room?

20 A. I was in that room and Detective Chad Black was in  
21 that room. He and I were both assigned to search that room,  
22 and we were the only two that were inside.

23 Q. Uh-huh, and was the door opened or closed when you  
24 arrived?

25 A. I believe the -- I'm not 100 percent sure on that. I

1 believe the door was open, but I can't --

2 Q. Now, you've described in multiple exhibits different  
3 items, some belonging to Jose Garcia?

4 A. That's correct.

5 Q. I still can't pronounce that last name, Juaregi or  
6 -- let's go with Garcia, okay? In fact, the closet had male  
7 clothes in it?

8 A. It appeared to me, yeah.

9 Q. Some of his stuff had been packed up?

10 A. Yes.

11 Q. Okay, you saw some stuff there that was characterized  
12 as belonging to Meagan Grunwald?

13 A. Yes, that's correct.

14 Q. Was there anything else in there that you could  
15 distinguish apart from those two people?

16 A. Not that I -- not that I recall. I wasn't looking for  
17 any -- any other items to any other people, so --

18 Q. But in reality, you really don't know who else was  
19 using that room or who may have used it?

20 A. Those were just items that I located, so --

21 Q. Uh-huh, and in reality you don't know who the last  
22 person was that resided in that room?

23 A. No.

24 Q. In reality, you don't know if someone had been in that  
25 room for days?



1 A. No.

2 Q. Excepting maybe to pack?

3 A. Right.

4 Q. Now, you found Old Spice, things like that. I think  
5 you -- Old Spice, is that a perfume or a cologne?

6 A. A cologne. It looked like there was some Old Spice  
7 aftershave also.

8 Q. Okay, and you ultimately found a lockbox that you -- I  
9 think it was identified as Exhibit 160. Did you check that for  
10 fingerprints before you proceeded to open it?

11 A. No.

12 Q. Do you know if anyone took fingerprints off that box?

13 A. I don't believe so, but I'm not sure.

14 Q. Okay, was it of interest to you as to who might have  
15 access to that box, other than what you found inside?

16 A. Sure, yeah. I was just looking at the inside of the  
17 contents of the box. I wasn't really concerned about finger-  
18 prints on the outside.

19 Q. So you don't know who-- based on any exterior evidence  
20 who had access to that box, who may have touched it, picked it  
21 up, anything like that?

22 A. I have no knowledge of any of that.

23 Q. Yeah, uh-huh. You did note that it was locked?

24 A. That's correct.

25 Q. Was it a key lock or a combination?

1 A. It was a key, I believe.

2 Q. Uh-huh, and was the key available?

3 A. We looked for the key and couldn't find it.

4 Q. Did you ever determine where the key was?

5 A. I don't believe so.

6 Q. If there was a key?

7 A. Yeah, I don't believe so.

8 Q. Okay, and you -- looks like an artful effort to --  
9 what did you use to open it up?

10 A. It was just a screwdriver.

11 Q. When you opened it up and the contents therein -- and  
12 let me -- let me address this right up front -- did you take  
13 any fingerprints as it relates to anything that was in that  
14 box?

15 A. I don't believe so.

16 Q. Would it have been of interest to you in the investi-  
17 gation of this to have those fingerprints?

18 A. Yeah, of course.

19 Q. Yet that was not accomplished, to the best of your  
20 knowledge?

21 A. Yeah, I don't believe so.

22 Q. Was there anything in that box that indicated when or  
23 whom -- well, let's make it the one question. When was the  
24 last time someone had been in that lockbox?

25 A. I'm not sure. Restate that question so I'm --

1 Q. It's almost rhetorical, but --

2 A. Sorry.

3 Q. -- is there anything in there that would indicate to  
4 you when was the last time someone had been in that box?

5 A. I don't believe so. Not to my knowledge.

6 Q. So it could have been a week, it could have been a  
7 day, it could have been more?

8 A. Yeah.

9 Q. Because we don't know?

10 A. Yes, of course.

11 Q. Was inquiry made from Tori by you as to when the last  
12 -- if she knew when somebody had been in that box?

13 A. I don't -- I'm not sure. I did not ask her any  
14 questions.

15 Q. Did you interview her?

16 A. No, I didn't.

17 Q. Okay, now you indicated in 60 -- excuse me, Exhibit  
18 161 that there was male clothing in the closet?

19 A. Yes.

20 Q. A lot of male clothing?

21 A. From my recollection I believe that there were a few  
22 items. I wouldn't say a lot.

23 Q. Uh-huh, but there was male clothing?

24 A. Yes, in one of the pictures it shows a basketball  
25 jersey. It appears to me to be a male basketball jersey, so --

1 Q. Which team?

2 A. I'm not sure. It's red and black, so you can choose  
3 the Bulls or whoever you want.

4 Q. I'd go with the Bulls. There was a health card, 162,  
5 and whose name was that in again?

6 A. The health card was Jose Angel Garcia.

7 Q. Is that -- and I don't have it with me, but did it  
8 appear to be a service card or a membership card or an entre  
9 for any type of medical treatment?

10 A. I'm not 100 percent sure on that. It was just a  
11 United Health card.

12 Q. Uh-huh, and that was in whose name?

13 A. In Jose -- Jose Angel Garcia's.

14 Q. And 163 there was a letter. Did you check that letter  
15 for fingerprints?

16 A. No. To the best of my knowledge I don't believe we  
17 checked anything for fingerprints inside the room.

18 Q. Well, that -- let's talk a little bit about the  
19 ammunition you found there. I think that was Exhibit 166 and  
20 167. Again, if -- all I -- let me back up a little bit. It's  
21 your testimony that you didn't check anything in there for  
22 fingerprints?

23 A. I didn't personally. I found the evidence. I had  
24 it photographed and that evidence was taken to -- it was taken  
25 to Detective Scott Gardner and Detective Russ Billings. From

1 there on they may have -- they may have submitted fingerprints  
2 on something but I did not do anything as far as fingerprinting  
3 of any of the evidence inside the room.

4 Q. Uh-huh, I see. Am I right, then, in assuming that no  
5 one has told you that any fingerprints were found in there?

6 A. I haven't talked to -- no, no.

7 Q. So if I were to tell you that Meagan Grunwald never  
8 touched those bullets, never touched that meth or touched any-  
9 thing that would be considered contraband, there's no proof one  
10 way or another, is there?

11 A. Not unless the -- someone else had submitted finger-  
12 prints, but --

13 Q. Okay.

14 A. -- not to my knowledge. So --

15 Q. Now, you indicated that there was a birth certificate  
16 in there belonging to Meagan; isn't that correct?

17 A. That's correct.

18 Q. Exhibit 172?

19 A. Yes, that's correct.

20 Q. Anything unique about that birth certificate?

21 A. Nothing that I noticed that night, so --

22 Q. I noticed in Exhibit 175-- and if I miss these numbers  
23 by one digit I apologize both to the jury and the Judge, but it  
24 appeared to me it was 175. I notice some weights in that room,  
25 weights -- exercise weights. Do you remember those?

1 A. Vaguely. Not very well, so --

2 Q. I wasn't able to measure the poundage or anything, but  
3 they appear to be pretty heavy.

4 A. Yeah, that's possible. I can't testify to any of  
5 that. I'm not that sure.

6 Q. If they were heavy would you assume that they were  
7 used by a man or a woman?

8 MR. PEAD: Objection.

9 MR. ZABRISKIE: Heavy -- that's such a rhetorical --  
10 I'll strike it, your Honor.

11 THE COURT: Thank you.

12 Q. BY MR. ZABRISKIE: If I indicated to you that they  
13 looked rather heavy to me, would you agree with that?

14 A. I can't recall.

15 Q. Jose's driver's license was in there?

16 A. That's correct.

17 Q. Was it an up-to-date driver's license?

18 A. I believe it was an older driver's license.

19 Q. Was that the Kansas driver's license?

20 A. That's correct.

21 Q. His wallet was also in there?

22 A. That's correct.

23 Q. You indicated that you found a bank statement that  
24 belonged to Jose; that was 183?

25 A. That's correct.

1 Q. Was that -- or do you recall the date on that bank  
2 statement?

3 A. I'd have to look at the picture. I'm not --

4 Q. His citizenship pictures you found, 185?

5 A. That's correct.

6 Q. Did you check any of this for fingerprints, anything  
7 at all?

8 MR. PEAD: Objection asked and answered.

9 THE COURT: Sustained.

10 Q. BY MR. ZABRISKIE: Now, you indicated that there was  
11 his fishing license there?

12 A. That's correct.

13 Q. You would agree that if there's anything sacred to a  
14 man it's his fishing license?

15 A. Sure.

16 Q. Almost like a citizenship. There was a health card.  
17 Did you note the date on that?

18 A. No, I didn't.

19 Q. But that belonged to -- well, do you remember who it  
20 belonged to?

21 A. Uh --

22 Q. Well, you've already testified it belonged to Jose.

23 A. Right, right.

24 Q. His driver's license indicated his birth date was  
25 1/25/87; is that correct?

1 A. I believe so, yes.

2 Q. Now, just a few questions. You testified briefly  
3 about that birthday card.

4 A. That's correct.

5 Q. Uh-huh. Was there a postmark on the envelope?

6 A. I didn't see one, no, not on the envelope.

7 Q. Was there a date on the envelope?

8 A. No.

9 Q. So were you able to determine based on your -- on your  
10 recollection and your notes as to when or if that was given to  
11 Jose?

12 A. I have no knowledge of when it was -- when or if.

13 Q. So, I'm sorry, so if his birthday was on 1/25, that  
14 card could very easily have been given to him sometime before  
15 his birthday?

16 A. That's possible.

17 Q. Let's say that the last time he was in that house was  
18 some -- a couple of weeks before, you wouldn't know whether in  
19 fact that's when he got it or otherwise, would you?

20 A. I wouldn't. I wouldn't, but based off of my interview  
21 with James Buckley Mays, he had stated that Angel was in the  
22 house.

23 Q. That day?

24 A. That day, and had been in the house the -- I believe a  
25 couple of weeks prior, so --



1 Q. Well, Mr. Mays will have the opportunity to testify,  
2 so --

3 A. Oh, okay.

4 Q. All right, anything else in that house, anything that  
5 you found in that room that -- were you surprised? I mean,  
6 you're looking for implements of murder, attempted murder,  
7 firearm. You didn't find a firearm in there, did you?

8 A. No.

9 Q. You don't know who had access to that box?

10 A. No.

11 Q. You don't know who it belonged to? By that, you  
12 didn't fingerprint anything, excepting for what had names on?

13 A. That's correct.

14 Q. Uh-huh. Do you know if there were fingerprints taken  
15 anywhere in that house that day?

16 A. Not to my knowledge. I'm not sure.

17 Q. Do you folks when you -- after you finish your desig-  
18 nated assignments do you get together and match notes or brain-  
19 storm; what do you guys do?

20 A. We talk about it. We debrief a little bit, yeah.

21 Q. Yeah, so what the others had been doing or what they  
22 had found, you would have been privy to?

23 A. They --

24 Q. Maybe?

25 A. Yeah. So when we had talked about it, we just talked

1 about the different areas that we were involved in and the  
2 different parts of the search, the search warrant, things of  
3 that nature.

4 Q. Uh-huh. How long did the search last?

5 A. I would -- I would have to guess on that also, and I  
6 would probably guess -- I would probably guess two hours. Hour  
7 and a half, maybe, two hours.

8 Q. Were you aware that the two adults that normally live  
9 there, Tori Grunwald and Jerry Grunwald, that they're both  
10 handicapped?

11 A. No.

12 Q. Anyone tell you that?

13 A. No.

14 Q. No one told you they're disabled?

15 A. Not that I remember.

16 MR. ZABRISKIE: Thank you.

17 THE COURT: Thank you. Redirect?

18 MR. ZABRISKIE: Excuse me, your Honor, just one second.

19 THE COURT: I'm sorry, go ahead.

20 (Counsel conferring off the record)

21 Q. BY MR. ZABRISKIE: I think -- I think you may have  
22 answered this, but I can't remember, so -- but it appeared the  
23 house was being packed up, preparing to move?

24 A. That's correct.

25 MR. ZABRISKIE: All right, thank you.

1 THE COURT: All right, redirect?

2 REDIRECT EXAMINATION

3 BY MR. PEAD:

4 Q. Detective Adams, why were you dressed in street  
5 clothes?

6 A. Prior to this incident happening we were conducting a  
7 drug investigation in Salt Lake County.

8 Q. How do Major Crimes detectives normally dress?

9 A. We're always dressed in street clothes.

10 Q. I notice you look pretty cleaned up today. Have you  
11 always looked like this?

12 A. No, I haven't.

13 Q. What did you look like before?

14 A. Long hair, long beard.

15 Q. What is the purpose of that?

16 A. For undercover work.

17 Q. Okay, do you wear a badge when you do search warrants  
18 and you're dressed in plainclothes?

19 A. When we make entry, yes, we have police identifiers  
20 on.

21 Q. You had those in this case?

22 A. Yes, I did.

23 Q. Including your firearm?

24 A. Yes, I did.

25 Q. Before you execute a search warrant do you have an

1 understanding of the layout of the home and such?

2 A. We go over it to the best of our -- what we have  
3 available.

4 Q. Are you familiar with the layout of this home?

5 A. Yes.

6 Q. How many bedrooms were there in this home?

7 A. I believe there were -- I believe there were two.  
8 There may have been three; I can't recall.

9 Q. You recall there were two bedrooms?

10 A. Yes.

11 Q. Okay, and you searched one of those?

12 A. That's correct.

13 Q. Do you know who the other room belonged to?

14 A. I believe the other room belonged to Tori Grunwald,  
15 but I'm not 100 percent sure on that one, so --

16 Q. And it wasn't your responsibility to interview her?

17 A. No.

18 MR. PEAD: Okay, thank you.

19 THE COURT: Okay, thank you. Anything else for --

20 MR. ZABRISKIE: No further cross, your Honor.

21 THE COURT: Thank you. Can he be excused or --

22 MR. PEAD: Yeah, I'd ask that he be released from his  
23 subpoena.

24 MR. ZABRISKIE: Agreed.

25 THE COURT: Thank you. That's all, Officer Adams.

1 We'd admonish you to-- at least remind you that others might be  
2 testifying that are officers, so please refrain from speaking  
3 to those that may soon testify. Thank you.

4 MR. PEAD: State calls Ryan Barney.

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

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

10 THE WITNESS: Yes.

11 THE COURT: Thank you, sir. Please have a seat here in  
12 the witness box. Get close enough to the microphone that it  
13 will pick you up okay. Thank you.

14 RYAN BARNEY,

15 having been first duly sworn,

16 testified as follows:

17 DIRECT EXAMINATION

18 BY MR. PEAD:

19 Q. Will you please state your name and spell it for the  
20 record.

21 A. Ryan Barney, B-a-r-n-e-y.

22 Q. How are you employed?

23 A. I work for the State of Utah for the Bureau of Forensic  
24 Services.

25 Q. Okay, and how long have you worked in that employment?

1 A. About ten years.

2 Q. What is your primary duty in doing that?

3 A. I analyze evidence that comes in from various sources,  
4 agencies. Mostly biology and controlled substance analyzation.

5 Q. Then you do what with it?

6 A. I analyze -- well, for biology, I analyze for DNA,  
7 controlled substance. Whatever is brought in I analyze to see  
8 if the substance that is present is a controlled substance.

9 Q. Okay, what kind of training, experience and education  
10 have you had to attain in order to function as a crime lab  
11 scientist?

12 A. Well, I have a Bachelor's in Biology, with a minor in  
13 Chemistry. I also have a Master's Degree in Forensic Science,  
14 with an emphasis in DNA analysis. I have had classes in analy-  
15 tical chemistry, as well as various trainings in-house at the  
16 crime lab, as well as across the country with nationally  
17 recognized organizations.

18 Q. Are you aware of whether or not the Utah State Crime  
19 Lab is certified for this kind of testing?

20 A. They're not certified; they are accredited, though.

21 Q. Oh, that's what I meant. They are accredited?

22 A. Yeah.

23 Q. Thank you for correcting me on that.

24 A. Yeah, they are accredited.

25 MR. PEAD: May I approach the witness, your Honor?

1 THE COURT: Yes.

2 Q. BY MR. PEAD: Mr. Barney, I'm going to show you what's  
3 been marked as State's Exhibit 192. Will you look at that. Do  
4 you recognize that?

5 A. I do.

6 Q. How do you recognize that?

7 A. The seal on one end has my initials and date and my  
8 handwriting, as well as the case number and another date and  
9 initials in my handwriting.

10 Q. Okay, and do you know what this is?

11 A. (No verbal response).

12 Q. Is this a sample you tested?

13 A. This is a sample I've tested, yes.

14 Q. Does it bear a crime lab sticker on it as well?

15 A. Yes, it does.

16 Q. That's what bears your initials?

17 A. Just below the sticker right here.

18 Q. Oh, okay, right here?

19 A. Uh-huh.

20 Q. "RB"?

21 A. Yes.

22 Q. Okay, and you're saying that you tested this sample?

23 A. Yes, I did.

24 Q. Okay, will you tell us how it is that you test a  
25 sample like this.

1           A.    Normally we receive evidence from our evidence section  
2 along with an assignment to do the casework from our manager.  
3 As I receive a piece of evidence I will -- I make sure my area  
4 is clean, all my instrument -- instrumentation is clean. I  
5 will open up the piece of evidence, take notes on what I see,  
6 what I expect to find inside.

7                    As I look through the evidence I will take a small  
8 portion and run a color test on it. A color test is used as  
9 a couple of different chemicals to kind of give a presumptive  
10 test, to kind of lead us to where we should look next. After I  
11 do a --

12           Q.    Can I stop you there real quick.

13           A.    Uh-huh.

14           Q.    Before you test it, do you look at identifiers or any  
15 other thing -- any other kind of information to ensure that  
16 you're testing what is marked, and that it's appropriately  
17 marked?

18           A.    Yes.

19           Q.    Tell us about that.

20           A.    I will look at the markings on the case, make sure  
21 the -- the case numbers are the same, the evidence matches the  
22 description that was submitted by the agency, and make notes on  
23 that as well.

24           Q.    Okay, and then do you do the color test to kind of  
25 give yourself a direction as to where to go?



1 A. Correct.

2 Q. Is the color test a confirmation test?

3 A. No, it is not.

4 Q. Okay, and so again, the purpose of that?

5 A. Is just -- just to kind -- give a preliminary test,  
6 kind of lead me to where I need to go next.

7 Q. Okay, and when you tested this example in Exhibit 192  
8 with the color test, what was the result?

9 A. It was a positive test for -- um, it's called nitro-  
10 prusside. It's a sodium nitroprusside test.

11 Q. Okay, and what does that mean?

12 A. It means that it has what's called a secondary amine  
13 inside of that chemical, which mean -- which it's a chemical  
14 group that is made up of a nitrogen and usually two hydrogens.  
15 A secondary amine has two of those usually. Just about any  
16 secondary amine will give that same color test; but most of  
17 the time in our laboratory when we see that color change, it  
18 is indicative of methamphetamine.

19 Q. Does that name include the amine portion of that  
20 substance?

21 A. Amine, yeah, methamphetamine.

22 Q. Okay, and so once you've gotten some direction on  
23 where to go, what do you do to confirm if this is in fact  
24 methamphetamine?

25 A. I take a small sample, and I put it in a vial and I

1 dilute it into -- in this case it would have been methanol,  
2 which is an alcohol, which as a solvent it dissolves that  
3 piece of substance. Then I run it on an instrument called a  
4 GCMS, and it is run -- as it runs through that GCMS it gives a  
5 specific signature, you could call it, that will tell me what  
6 type of a chemical it is, and I run it alongside a standard.  
7 When you look at those two, we compare them to see if they are  
8 the same substances.

9 Q. What does "GCMS" stand for?

10 A. It's actually two different instruments. It's a gas  
11 chromatograph and a mass spectrometer.

12 Q. Okay, so you run -- you run the unknown substance,  
13 which in this case was Plaintiff's Exhibit 192?

14 A. Yes.

15 Q. Then you run it against a -- what is a standard?

16 A. Yes.

17 Q. What is the standard?

18 A. The standard is a known sample of methamphetamine that  
19 we receive from a chemical -- a chemical supply company.

20 Q. So what does the gas chromatograph portion of the  
21 instrument do?

22 A. So the gas chromatograph has a long capillary tube  
23 that takes the chemical that we inject -- it's injected inside  
24 with a small syringe, and it volatilizes or it burns at a very  
25 high rate, and it causes it to go into a gas.

1           Then we have a gas -- another gas, in this case it's  
2 helium that carries that chemical through the tube, the capil-  
3 lary tube. As it's going through that capillary tube, it will  
4 separate different compounds.

5           The sides of the tube have affinities for certain  
6 chemicals. So some of them will be held back while others will  
7 go faster through it. As it passes through the gas chromato-  
8 graph at the very end, most chemicals will be separated out  
9 into certain groups, and they'll come out as a single peak.

10          Q.    Okay, and did you get a single peak in this case?

11          A.    Yes, I did.

12          Q.    What was that indicative of?

13          A.    It was indicative of methamphetamine.

14          Q.    Okay, and then did you do something else with the mass  
15 spectrometer?

16          A.    Well, it's kind of hooked together so it does it on  
17 its own. I -- we don't have to do anything --

18          Q.    But it's a sec --

19          A.    -- but it's a --

20          Q.    -- it's an additional step?

21          A.    Right.

22          Q.    Okay.

23          A.    It moves on from there. After it has been separated  
24 through the gas chromatograph it goes into the mass spectro-  
25 meter where that chemical -- that chemical compound is hit with

1 electrons, and then electrons break that chemical into pieces.

2 Every chemical will fracture in a predictive way.

3           Then we get -- as it goes through this instrument, we  
4 get a pattern of those fractures that is very specific to each  
5 chemical, and we can match that up to the standard.

6       Q.    Okay, and so in this case you saw, after the mass  
7 spectrometer, chunks act in a predictive and a known way for  
8 a particular substance?

9       A.    Basically, yes.

10       Q.    And it was the same with the standard?

11       A.    Yes.

12       Q.    And the standard was methamphetamine?

13       A.    Yes.

14       Q.    Okay, so based on that, your testimony is that this  
15 substance is what?

16       A.    Methamphetamine.

17       Q.    Okay, I'm going to show you what's been marked as  
18 Plaintiff's Exhibit 197. Will you look at this.

19       A.    Okay.

20       Q.    Do you recognize that?

21       A.    I do.

22       Q.    What is that?

23       A.    It's the report that I wrote from my analysis of this  
24 sample.

25       Q.    Of 192?

1 A. Of 192, yes.

2 Q. Okay, and what does it show your opinion as being?

3 A. That methamphetamine was identified in the plastic  
4 container. The total weight of the white crystalline solid was  
5 692 milligrams, plus or minus 2 milligrams.

6 MR. PEAD: Your Honor, I'd move to offer Exhibit 197.

7 THE COURT: Any objection?

8 MR. ZABRISKIE: No, your Honor.

9 THE COURT: Accept and receive State's Exhibit 197.

10 (Exhibit No. 197 received into evidence)

11 MR. PEAD: Thank you, Mr. Barney.

12 THE COURT: Thank you. Cross examination?

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

14 THE COURT: Thank you.

15 CROSS EXAMINATION

16 BY MR. ZABRISKIE:

17 Q. How are you?

18 A. Good.

19 MR. ZABRISKIE: May I proceed, your Honor.

20 THE COURT: Sure.

21 Q. BY MR. ZABRISKIE: You-- your specific responsibilities  
22 for the State are what you've described; you work in a lab?

23 A. Yes.

24 Q. Does -- is CSI a true impression of what you folks do?

25 A. It's a little Hollywood of what we do.

1 Q. But it makes you guys look very heroic anyway. You  
2 indicated that you identified the substance that you -- that  
3 you examined as meth?

4 A. Yes.

5 Q. But there's nothing in your review or your examination  
6 of that particular substance that indicates who it belongs to?

7 A. No.

8 Q. You indicated, too, that one of your -- or one of the  
9 things that you look for are DNA and things like that. I know  
10 this sounds simplistic, but you didn't find any DNA or anything  
11 on that -- that product that would identify who its owner was?

12 A. No, I wasn't asked to test it for DNA. So --

13 Q. Uh-huh, and so --

14 A. -- I did not.

15 Q. --it is what it is, but you don't know who it belonged  
16 to?

17 A. Correct.

18 MR. ZABRISKIE: Thank you. No further questions.

19 THE COURT: Thank you. Anything else?

20 MR. PEAD: No, your Honor.

21 THE COURT: May Mr. Barney be excused?

22 MR. PEAD: I would ask that he be able to be excused.

23 MR. ZABRISKIE: No objection.

24 THE COURT: Thank you, sir. That's all.

25 THE WITNESS: Thank you.

1 THE COURT: Next witness?

2 MR. PEAD: Your Honor, my next witness will probably  
3 be 40 minutes. I don't know if the Court or the jury has a  
4 preference on that.

5 THE COURT: I would assume let's keep moving.

6 MR. PEAD: Okay.

7 (Counsel conferring off the record)

8 MR. PEAD: The State calls Bonnie Wilder-Estes.

9 THE COURT: Thank you. Come forward, ma'am. Let's  
10 have you sworn in.

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

15 THE WITNESS: Yes, I do.

16 THE COURT: Thank you. Please have a seat here in the  
17 witness box. Make sure you have the microphone close enough to  
18 you that it will pick you up okay. Thank you.

19 BONNIE WILDER-ESTES,

20 having been first duly sworn,

21 testified as follows:

22 DIRECT EXAMINATION

23 BY MR. PEAD:

24 Q. Will you please state your name and spell it for the  
25 record.

1 A. Bonnie Wilder-Estes, W-i-l-d-e-r dash E-s-t-e-s.  
2 Q. Have you been known by something else previously?  
3 A. Yes, Bonnie Holden.  
4 Q. Okay, so I take it something has changed in your life?  
5 A. Yes.  
6 Q. Okay, how are you employed?  
7 A. I work for the Utah State Crime Lab, which is also  
8 known as the Utah Bureau of Forensic Services.  
9 Q. How long have you worked there?  
10 A. Eight years.  
11 Q. What are your specific responsibilities with the crime  
12 lab?  
13 A. Currently I'm a latent print examiner and crime scene  
14 -- a member of the crime scene response team.  
15 Q. Have those always been your responsibilities?  
16 A. No, before -- when I first was hired I was an evidence  
17 technician, as well as crime scene.  
18 Q. So what is your official title?  
19 A. Forensic Scientist 2.  
20 Q. Was it the same on January 30<sup>th</sup> of 2014?  
21 A. Yes.  
22 Q. What formal education have you received to perform the  
23 duties you do?  
24 A. I have a Bachelor's Degree in Criminalistics from  
25 Weber State University. I graduated in 2005. I also have an



1 Associate's of Applied Science in Chemistry as well.

2 Q. What other trainings have you had?

3 A. Um, before we're allowed to do any casework we have  
4 to go through an internal training program. It depends on how  
5 fast you go, but it can take up to two years. Before we do any  
6 casework we go through a moot court, we get competency tested  
7 and proficiency tested.

8 Q. Okay, are you certified for your current duties?

9 A. Yes, I am.

10 Q. Are you currently a member of any professional  
11 organizations?

12 A. I am. I am a member of the International Association  
13 for Identification, which is a body that certifies us and  
14 provides us training and provides us standards that we should  
15 go by.

16 Q. Have you also provided training in the field of finger-  
17 prints?

18 A. Yes, I have.

19 Q. Is the Utah State Crime Lab accredited?

20 A. Yes.

21 Q. You mentioned in order to be proficient, you have to  
22 undergo a review system. Does your lab to that continually?

23 A. Yes, every case we do, at least in the fingerprint  
24 section, gets reviewed before the reports are issued.

25 Q. Generally what has been the results of these reviews?

1 A. I don't know what you mean.

2 Q. Well, have you passed your proficiency test and such?

3 A. Oh, yes, yes.

4 Q. My understanding is that you had two main roles in  
5 this case; is that correct?

6 A. Yes.

7 Q. What was the first role that you had in this case?

8 A. The first role was I was asked by our crime scene  
9 leader, Chad Grundy, to assist him in processing some vehicles  
10 that were being held at the Utah County Sheriff's Office.

11 Q. Okay, and did you do that?

12 A. Yes, I did.

13 Q. What particular vehicles did you help process?

14 THE WITNESS: May I refer to my notes, your Honor.

15 Q. BY MR. PEAD: If -- will that help refresh your recol-  
16 lection?

17 A. Yes, there was -- well, there was a white Toyota truck  
18 and a tan Toyota Highlander.

19 Q. Okay, and was your evidentiary processing of the white  
20 Toyota Tundra documented with photographs?

21 A. Yes, it was.

22 Q. Have you reviewed those photographs?

23 A. Yes.

24 Q. Do those fairly and accurately depict your forensic  
25 processing of that vehicle?

1 A. Yes, it does.

2 MR. PEAD: Okay, your Honor, may I approach the witness

3 THE COURT: Yes.

4 Q. BY MR. PEAD: Ms. Wilder-Estes, I'm going to show you  
5 what's been marked as Plaintiff's Exhibit 198 through 245.

6 Will you look at those briefly.

7 A. (Witness reviewing exhibits).

8 Q. Did you have a chance to review those?

9 A. Yes, sir.

10 Q. Again, those fairly and accurately reflect your  
11 forensic processing of that vehicle?

12 A. Yes.

13 MR. PEAD: Your Honor, at this time I would move to  
14 offer those exhibits into evidence.

15 MR. ZABRISKIE: No objection, your Honor.

16 THE COURT: Thank you. I'll accept and receive State's  
17 Exhibits 198 through 245.

18 (Exhibit Nos. 198 through 245 received into evidence)

19 MR. PEAD: I ask for permission to publish those to the  
20 jury.

21 MR. ZABRISKIE: No objection, your Honor.

22 THE COURT: Okay, thank you.

23 Q. BY MR. PEAD: Ms. Wilder-Estes, if necessary there are  
24 laser pointers here.

25 A. Okay.

1 Q. Can you see that okay?

2 A. Uh-huh.

3 Q. I note for the record this is Plaintiff's Exhibit 198.

4 Will you tell us what this shows.

5 A. This is just an overall view of kind of the front  
6 diagonal end of this white Toyota truck.

7 Q. Okay, Exhibit 199?

8 A. This is the VIN number from the windshield.

9 Q. Why do you take a picture of that?

10 A. Just to double check that we can identify that vehicle  
11 and we also take -- make sure it's the same VIN that's on the  
12 frame as well.

13 Q. All right, Plaintiff's Exhibit 200?

14 A. This is just the rear of the vehicle showing the  
15 license plate.

16 Q. What does that license plate show?

17 A. D870EC.

18 Q. Plaintiff's Exhibit 201?

19 A. This is just a side view of the truck with the doors  
20 open. The doors were where they come towards you, they open  
21 out towards you. So this is just a side. Before we even looked  
22 in we just opened the doors and took pictures from the side.

23 Q. Do you know what a king cab is?

24 A. No, I do not.

25 Q. Okay, this is -- it's not a two-door truck; it's got

1 another door there for access to the back?

2 A. Right.

3 Q. If I could go back to 199.

4 MR. PEAD: Is that 199? Oh, sorry, 200, Jessie, I  
5 apologize. Next one.

6 ASSISTANT: Sorry.

7 Q. BY MR. PEAD: I note that there's some kind of tape or  
8 something around the vehicle. Do you see that?

9 A. Uh-huh.

10 Q. When you processed it, was there anything around this  
11 or around the doors?

12 A. I believe so, and we --

13 Q. What was the purpose of that?

14 A. Just to make sure that no one entered the vehicle  
15 until we cut the tape.

16 Q. Okay, so was there tape over the doors, themselves?

17 A. Yes.

18 Q. Did that have markings on it?

19 A. I don't remember if it had markings on it.

20 Q. Is that normally how evidence is preserved?

21 A. Sometimes, yes.

22 Q. Okay, so there's no normal, I guess is what you're  
23 saying?

24 A. Right.

25 Q. If we could go to Exhibit 202. What does this show?

1           A.    This is the other side view from the passenger side  
2 with the doors open.

3           Q.    For the record, will you note the position the passen-  
4 ger seat is in.

5           A.    (No verbal response).

6           Q.    Do you see the passenger seat?

7           A.    Yes.

8           Q.    What position is it in?

9           A.    It's laid back.

10          Q.    If we could go to Exhibit 203.  What does this show?

11          A.    This is the front passenger side kind of the shoe mat,  
12 without any markers or evidence or anything.

13          Q.    Okay, now in processing this is it your custom to  
14 collect evidence you see as well?

15          A.    Yes.

16          Q.    So if you would use your laser pointer, I want you to  
17 go -- I don't know if that's a cup holder or something in the  
18 console.  What do we see in that console right there?

19          A.    Oh, this right here?

20          Q.    Uh-huh.

21          A.    This is portions of a phone.

22          Q.    Okay, let's go to Exhibit 204.  Where is this?

23          A.    This is the center console in between the driver and  
24 passenger side.

25          Q.    Okay, and I see something in the middle there.  Can

1 you tell what that is?

2 A. It's a Social Security card.

3 Q. Do you know what name is on it?

4 A. I'd have to look at the pictures for the full name of  
5 the specific card. What I can see is Dakota Grunwald?

6 Q. Okay, can you see the whole thing in that picture?

7 A. No, you cannot.

8 Q. If we could go to Exhibit 205. What do we see here?

9 A. This is from the side and the passenger side we have  
10 started to put evidence markers marking down pieces of evidence  
11 that we were going to photograph and/or collect later.

12 Q. Those are the yellow placards?

13 A. Yes.

14 Q. What is each number associated with?

15 A. Each number is associated with one particular piece  
16 of evidence that we document.

17 Q. Okay, Plaintiff's 206?

18 A. This is the passenger back door with the evidence  
19 marker No. 3.

20 Q. Okay, 207?

21 A. This is also from the passenger side, showing No. 10  
22 near that gray bag, plastic bag.

23 MR. PEAD: Okay, could we go back a couple, Jess.

24 ASSISTANT: Again?

25 MR. PEAD: One more, yeah.

1 Q. BY MR. PEAD: Ms. Wilder-Estes, do you know what parti-  
2 cular pieces of evidence each of those numbers we see is asso-  
3 ciated with?

4 A. Yes, I can look at my notes.

5 Q. Could you tell us briefly.

6 A. Sure.

7 Q. The ones we're seeing right now.

8 A. Item No. 1 is a white oblong tablet, a pill of some  
9 sort.

10 Q. Okay.

11 A. No. 2 is a casing.

12 Q. For the benefit of the jury, what is a casing?

13 A. A casing is the part of a cartridge that holds the  
14 powder when a bullet is fired.

15 Q. It's what's left after the bullet has fired?

16 A. Yes.

17 Q. Okay, No. 4?

18 A. No. 4 is also a casing.

19 Q. No. 5?

20 A. Is a white Samsung Galaxy cell phone.

21 Q. No. 8?

22 A. Is a casing.

23 MR. PEAD: Okay, we can move on, Jess.

24 Q. BY MR. PEAD: What is No. 3?

25 A. No. 3 is a casing.



1 Q. Okay, next exhibit. This is Plaintiff's Exhibit 208.

2 I see a No. 10 there. What is item 10?

3 A. It is also a casing.

4 Q. Next picture. What is this a view of?

5 A. This is a view from the driver's side of the vehicle,  
6 kind of looking down towards the middle, towards the passenger  
7 side. It shows 1, 4 and 8, which we have seen before, and the  
8 new items, 6 and 7.

9 Q. What are items 6 and 7?

10 A. They are casings.

11 Q. Is it my understanding that these items are marked  
12 before they're removed?

13 A. Yes.

14 Q. Okay, and that's Exhibit 208. If we could go to 209.  
15 What is this?

16 A. This is another side view of the vehicle, just showing  
17 that we've added 8, 10, 6 and 7.

18 Q. Okay.

19 A. Or 8, 11, excuse me.

20 Q. What is 11?

21 A. No. 11 is a glass pipe.

22 Q. Where was that found?

23 A. In between the center console storage area and the  
24 passenger front seat.

25 Q. Okay, Plaintiff's Exhibit 210?

1           A.    This is a picture of the driver's side, just kind of  
2 standing on the side of the vehicle looking down to the floor.  
3 It's with marker No. 9.

4           Q.    Okay, and what is 9 marking?

5           A.    It is a casing.

6           Q.    Okay, Plaintiff's Exhibit 211.  Is this a better view  
7 of 6 and 7?

8           A.    Yes, sir.

9           Q.    Plaintiff's 212, what is this showing?

10          A.    This is showing where items 8 and 11 were in place  
11 prior to removing them for packaging.

12          Q.    So I see 8 near a casing?

13          A.    Yes.

14          Q.    And 11 near what you described as a pipe?

15          A.    Yes.

16          Q.    Plaintiff's 213, what is this showing?

17          A.    This is showing a casing that's kind of under the  
18 seat.

19          Q.    This is item 9?

20          A.    Yes.

21          Q.    So we had a big overview of where these items were  
22 located, but we couldn't see them specifically?

23          A.    Right.

24          Q.    In this picture we can now see item 9?

25          A.    Yes.

1 Q. Okay, Plaintiff's 214?

2 A. This is item 10 once we removed that gray plastic bag.

3 Q. Okay, and it's showing item 10 as a casing?

4 A. Yes.

5 Q. Item 215 -- or excuse me, Exhibit 215?

6 A. This is showing from the back seat area items 6 and 7,  
7 and then we have added 12, and you can see No. 9 a little bit  
8 on the bottom left.

9 Q. What is item 12?

10 A. Item 12 is a cell phone battery.

11 Q. In a few pictures we've seen like a box or -- with  
12 some kind of fabric on the outside of it. Do you know what  
13 I'm talking about there on the left side of this picture?

14 A. Yes.

15 Q. What was that?

16 A. We determined it was some kind of a speaker system.

17 Q. It's -- where was it located in the car?

18 A. It's located in the rear of the driver's side.

19 Q. Okay, Plaintiff's Exhibit 216, what are we seeing  
20 here?

21 A. We're seeing another kind of mid-range shot with some  
22 of the items we've already seen before, but we've added No. 13.

23 Q. Okay.

24 A. So we re-photo'd.

25 Q. Okay, and as you're going through and processing is it

1 normal to find stuff while you're kind of going along?

2 A. Absolutely.

3 Q. Is that what happened here with item 13?

4 A. Yes.

5 Q. What is item 13?

6 A. Item 13 is a broken Nokia cell phone and battery.

7 Q. Plaintiff's Exhibit 217?

8 MR. PEAD: Will you flip that, Jess. Well, it's okay,  
9 it's okay.

10 Q. BY MR. PEAD: For the benefit of the jury, will you  
11 orient which direction this picture is facing?

12 A. It just needs to turn right 90 or -- yeah, 90 degrees.

13 Q. So if we were laying sideways --

14 A. Clockwise.

15 Q. -- we'd see this?

16 A. Yeah.

17 Q. Is this a closer image of item 13?

18 A. Yes, this is a closer picture of the phone.

19 Q. You described it as a broken phone?

20 A. Yes.

21 Q. With a missing battery -- or removed battery?

22 A. With a removed battery.

23 Q. I apologize. Plaintiff's Exhibit 218?

24 A. This is from the back seat, from the driver's side  
25 back door. This is a picture of that speaker system, and it's

1 showing evidence marker No. 14.

2 Q. Okay, next picture? Is this a closeup of item 14?

3 A. It is. It's a better-- trying to get a better picture  
4 of the casing that is item 14.

5 Q. It's that little metal thing sitting kind of between  
6 the seat?

7 A. Right, yeah, right there.

8 MR. PEAD: This is, for the record, Plaintiff's Exhibit  
9 219. We could go to 220.

10 THE WITNESS: This is an overall once we -- we thought  
11 we were finished, taking a picture trying to get all of the  
12 evidence markers in so that everything can be oriented properly  
13 and there's no evidence missing.

14 Q. BY MR. PEAD: Okay, and in doing this, did you move the  
15 passenger seat forward a little bit?

16 A. Yes.

17 Q. Did you move that speaker box that you've described?

18 A. Yes.

19 Q. Okay, if we could go to 221. What is this?

20 A. This is an up close picture of the head stamp of the  
21 casing that was marked as item 2.

22 Q. Okay, 222?

23 A. A closeup of the head stamp of the casing marked as  
24 item 3.

25 Q. No. 223?

1           A.    A closeup of the casing marked as item 4.

2           Q.    No. 224?

3           A.    A closeup of the head stamp of the casing marked as

4 item 6.

5           Q.    No. 225?

6           A.    A closeup of the head stamp marked as item 7.

7           Q.    No. 226?

8           A.    A closeup of the head stamp of the casing of item 8.

9           Q.    Okay, 227?

10          A.    A closeup of the head stamp of item 9.

11          Q.    No. 228?

12          A.    A closeup of the head stamp of the casing as item 10.

13          Q.    Now, up to -- up to now, all of these items 2 through

14 10, did you examine those head stamps?

15          A.    I did.

16          Q.    What kind of ammunition were these casings for?

17          A.    It looks like they were all .40 caliber different kind

18 -- brands.

19          Q.    Okay, Plaintiff's Exhibit 229, what is this?

20          A.    This is a picture of the item 5, the phone.

21          Q.    What kind of phone again was this?

22          A.    It's a white Samsung Galaxy.

23          Q.    No. 230?

24          A.    This is the back of the same phone.

25          Q.    Is anything missing from this phone?

1 A. The back cover.

2 Q. Okay, do you see a sim card in that photo?

3 A. I can't tell.

4 Q. Plaintiff's Exhibit 231?

5 A. This is a closeup of the item 11, the pipe.

6 Q. Plaintiff's 232?

7 A. This is a closeup of the Samsung battery we labeled  
8 as item 12.

9 Q. When you found item 12, was it separated from the  
10 Samsung phone we saw in -- I believe it is item No. 5?

11 A. Yes.

12 Q. Plaintiff's 233?

13 A. This is the closeup of the phone, the Nokia phone that  
14 had a battery along with it.

15 Q. For the record, what is the condition of the Nokia  
16 phone?

17 A. It's broken.

18 Q. And is --

19 A. The screen is broken.

20 Q. Okay, and was the battery separated from that?

21 A. Yes, sir.

22 Q. Plaintiff's Exhibit 234?

23 A. This is a picture sitting inside the back seat of the  
24 vehicle, looking out the back window; and we see items No. 15  
25 and 16.

1 Q. Now, previously we've talked about you having two  
2 different roles in this case; is that correct?

3 A. Yes.

4 Q. So you were not only processing the vehicle, but what  
5 were you doing as it relates to items 15 and 16?

6 A. Because I'm a latent print examiner they'll -- I was  
7 asked to help process specifically for fingerprints and photo-  
8 graph fingerprints if we did see them.

9 Q. Why do you take a photograph of latent prints?

10 A. We photograph them just in case when we actually do  
11 the lift with the powder sometimes it doesn't work. So that  
12 way we have a photograph of what it looked like before, so  
13 maybe we can use the photograph instead.

14 Q. You can use photographs or lifts, depending on the  
15 amount of detail in order to match with other samples?

16 A. Yes.

17 Q. So what specifically were items 15 and 16 as it  
18 relates to fingerprints?

19 A. Nos. 15 and 16 were -- 16 I believe was multiple  
20 fingerprints, and then 15 was just one on that back window by  
21 the latch.

22 Q. Okay, Plaintiff's 235, what is this showing?

23 A. This is showing the fingerprints I labeled 17 and 18.  
24 These are on the rear passenger window, inside window.

25 Q. Okay, and now if I didn't ask this, for 15, 16, 17 and



1 18 were you able to accomplish lifts, meaning to get latent  
2 fingerprints using fingerprint powder from those?

3 A. Yes, I was.

4 Q. Okay, Plaintiff's 236, what do we see here?

5 A. Once we did our overalls and took photos of our  
6 fingerprints so we didn't destroy any of the fingerprint  
7 evidence, we then removed the speaker box and lifted up the  
8 back seat and did some more searching, and we found -- this is  
9 a picture looking from the passenger back into the back seat  
10 with item 20.

11 Q. Can we go to Plaintiff's 237. What is this showing us?

12 A. This is showing item 20 and 21; and this picture's  
13 been taken from the driver's side back.

14 Q. Could you point out items 20 and 21 with the --

15 A. No. 20 is right here. It's a --

16 Q. What is it?

17 A. It's a casing.

18 Q. Okay.

19 A. Then 21 is down in here.

20 Q. What is it?

21 A. It's also a casing.

22 Q. Okay, No. 238?

23 A. Here's a better image of item 20, showing the location  
24 of the casing.

25 Q. Okay, Plaintiff's 239?

1           A.    This is an attempt to try to visualize the casing down  
2 in the crack of that little area as item 21.

3           Q.    It looks like there's a little bump or something in  
4 there?

5           A.    Yes.

6           Q.    The frame over there, but that's also a casing?

7           A.    Yes, sir.

8           Q.    Plaintiff's 240?

9           A.    This is a picture of the driver's side back window  
10 with the fingerprint labeled as 19.

11          Q.    Plaintiff's 241?

12          A.    This is an up close picture of the head stamp of the  
13 casing as item 20.

14          Q.    Plaintiff's 242?

15          A.    This is also an up close picture of a head stamp for  
16 item 21.

17          Q.    For items 20 and 21, what kind of ammunition was this,  
18 based on the head stamp?

19          A.    Both .40 caliber.

20          Q.    Okay, Plaintiff's 243?

21          A.    This is a picture of a fingerprint labeled as item 19.

22          Q.    Plaintiff's 244?

23          A.    This is a better picture of the fingerprint labeled as  
24 item 19.

25          Q.    So is this the kind of detail you're trying to get

1 when you're taking pictures?

2 A. Yes.

3 Q. Has anything been done to that fingerprint prior to  
4 this picture?

5 A. I may have powdered it with white powder prior.

6 Q. What is the purpose of doing that?

7 A. Just to get a little bit of contrast between the  
8 fingerprint and the black background, so that I can photograph  
9 it and you can actually see a difference between ridges and the  
10 window.

11 Q. Okay, Plaintiff's 245?

12 MR. ZABRISKIE: Could you get a foundation as to where  
13 the prints were located in the car? I don't think we mentioned  
14 that.

15 MR. PEAD: She said it, back window. Well, there's  
16 different ones. I can -- well, I'll go through them again.

17 Q. BY MR. PEAD: What do we see in Plaintiff's 245?

18 A. This appears to be from the back window by that latch  
19 area.

20 Q. Has this been powdered?

21 A. Yes, it appears to be.

22 Q. Okay, thank you. Ms. Wilder-Estes, I'm going to show  
23 you what's been marked as Plaintiff's Exhibits 257, 256, 255 --  
24 I'm going backwards. Let me go this way -- 247, 248, 249, 250,  
25 251, 252, 253, 254, 255, 256 and 257. Do you recognize these?

1 A. I do.

2 Q. What are they?

3 A. These are -- well, the plastic bag isn't ours, but the  
4 original manilla envelope from packaging it at the scene, the  
5 casings.

6 Q. Okay, and are these associated with particular item  
7 numbers?

8 A. Yes.

9 Q. What are those item numbers?

10 A. Nos. 21, 20, 14, 10, 9, 8, 7, 6, 4, 3 and 2.

11 Q. So these are the casings you've-- we just saw pictures  
12 of?

13 A. Yes.

14 MR. PEAD: Okay, I'd move to offer in, your Honor,  
15 Exhibits -- I believe it's 247 through 256.

16 MR. ZABRISKIE: No objection, your Honor.

17 MR. PEAD: Am I right on those numbers?

18 THE COURT: I thought you'd went to 257, but maybe not.

19 MR. PEAD: Oh, you're correct, your Honor. Yeah, to  
20 257.

21 THE COURT: Any objection, then?

22 MR. ZABRISKIE: No, your Honor.

23 THE COURT: Accept and receive State's Exhibits 247  
24 through 257.

25 (Exhibit Nos. 247 through 257 received into evidence)

1 Q. BY MR. PEAD: While I believe there will be reports on  
2 these, is there also a number associated with these for the  
3 purposes of evidence?

4 A. Yes, so we have different evidence numbers than the  
5 Utah County Sheriff's Department, who was the one who processes  
6 these. They also have a white bar code on all of their evidence  
7 that has an evidence number as well.

8 Q. What is the number, not in terms specific to these,  
9 but what digits?

10 A. Usually it's the year, so in this case it would be 14,  
11 and then Utah County, UC and then E for evidence, and then 1,  
12 2, 3 until --

13 Q. So Exhibit 248 would be item 736?

14 A. Yes.

15 Q. Is that how you tested these as well, because you  
16 also performed tests on these?

17 A. Yes.

18 Q. Okay, I'm going to show you what's been marked as  
19 Plaintiff's Exhibit 258. Do you recognize this?

20 A. Yes.

21 Q. What is that?

22 A. This is the glass pipe that was found in the console  
23 -- between the console and the passenger front.

24 Q. That we saw a picture of?

25 A. Yes.

1 MR. PEAD: Move to offer 258, your Honor.

2 MR. ZABRISKIE: No objection, your Honor.

3 THE COURT: Accept and receive State's Exhibit 258.

4 (Exhibit No. 258 received into evidence)

5 Q. BY MR. PEAD: Do you recognize Plaintiff's Exhibit 259?

6 A. Yes, this is the phone battery from the cup holder

7 kind of in that center console area.

8 MR. PEAD: Okay, move to offer Plaintiff's Exhibit 259.

9 MR. ZABRISKIE: No objection, your Honor.

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

11 Exhibit 259 as well.

12 (Exhibit No. 259 received into evidence)

13 Q. BY MR. PEAD: Let's go to your fingerprinting process.

14 How many fingerprints were you able to find on this white

15 Toyota Tundra?

16 A. Seven.

17 Q. Okay, can you tell us what item numbers those are and

18 where those were located?

19 A. Sure. Item No. 15, which we added "HM" to it --

20 that's who was in charge of the crime scene that day -- HM15

21 had three prints, A, B and C, and they were located on the back

22 window on the inside by that latch.

23 Q. Okay.

24 A. No. 16 had two prints, A and B. Those were also

25 located on the back window on the inside by the latch.

1 Q. Okay.

2 A. No. 17 was on the rear passenger inside window; and 22  
3 is from the inside driver's side window.

4 Q. Okay, I'm going to show you what's been marked as  
5 Plaintiff's Exhibit 260. Do you recognize this?

6 A. Yes, these are the lifts I took in the packaging.

7 MR. ZABRISKIE: I'm sorry, I missed that. What are  
8 they?

9 THE WITNESS: The lifts that I took from the Toyota  
10 vehicle.

11 MR. ZABRISKIE: Thank you.

12 Q. BY MR. PEAD: These are the hard evidence of those?

13 A. Yes.

14 Q. Will you tell us the process by which those lifts were  
15 accomplished.

16 A. Like I've said a little bit before, we make sure that  
17 we photograph everything before we try to lift it; and in this  
18 case we used a white or like a silvery colored powder because  
19 the windows were so dark. So I would apply powder with a  
20 brush, photograph it again if needed. Then I would just put  
21 some tape on it, and lift the tape up, trying to remove that  
22 fingerprint from that surface.

23 Q. Okay, is that how you've been trained to make lifts?

24 A. Yes.

25 MR. PEAD: Your Honor, I'd move to offer Plaintiff's

1 Exhibit 260.

2 THE COURT: Any objection?

3 MR. ZABRISKIE: No, your Honor.

4 THE COURT: Accept and receive State's Exhibit 260.

5 (Exhibit No. 260 received into evidence)

6 Q. BY MR. PEAD: Did you analyze these seven prints? I  
7 will note that they were HM15A, HM15B, HM15C, HM16A, HM16B,  
8 HM17A, and HM22A.

9 A. Yes.

10 Q. Did you have any other samples to compare these to?

11 A. Yes, I had two ten print cards that I printed from the  
12 data -- our database that holds the ten print cards for Jose  
13 Garcia Juaregi. Then I also had major case prints from Meagan  
14 Dakota Grunwald.

15 Q. Who took those major case prints?

16 A. I believe Utah County Sheriff's Office.

17 Q. I'm going to show you what's been already admitted as  
18 Plaintiff's Exhibit 38. Do you recognize this?

19 A. I do.

20 Q. What is that?

21 A. These are the major case prints that bear the name  
22 Meagan Dakota Grunwald.

23 Q. Okay, and then the others you were able to obtain from  
24 a database?

25 A. Yes.



1 Q. Those were for Jose Angle Garcia Juaregi?

2 A. Yes.

3 Q. Okay, will you tell us if you were able to make a  
4 match of fingerprints for HM15A?

5 A. I was.

6 Q. What did that match with?

7 A. The left ring finger of Jose Juaregi.

8 MR. ZABRISKIE: That's the back window, Sam?

9 MR. PEAD: Yeah.

10 THE WITNESS: Yes.

11 Q. BY MR. PEAD: Where was that located?

12 A. The back window by the latch.

13 Q. Okay, were you able to determine a match for HM15B?

14 A. Yes, this was also by the -- on the back window by the  
15 latch, and it was the left middle finger of Juaregi.

16 Q. Okay, and to simplify this, we've been referring to  
17 him as Jose Angel Garcia.

18 A. Okay, that's easy. Thank you.

19 Q. Okay, thanks. HM15C?

20 A. HM15C is also from that back window by the latch,  
21 and it was identified to the left index finger of Jose Angel  
22 Garcia.

23 Q. Okay, HM16A?

24 A. HM16A is also from the back latch area, back window by  
25 the latch, and it was identified to the left ring of Jose Angel

1 Garcia.

2 Q. Okay, so this is a separate of the left ring?

3 A. Yes.

4 Q. HM16B?

5 A. B was determined to not have enough in -- characteris-  
6 tics or information for me to either include or exclude someone  
7 and so we call that "insufficient ridge detail." Basically I  
8 just can't -- there's not enough information there for me to  
9 make any kind of an analysis or a conclusion.

10 Q. When you say "ridge detail," what do you mean?

11 A. The ridge detail is what we call the ridges on your  
12 hands. If you look on your hands and feet they have a little  
13 bit different kind of skin than the rest of our skin. These  
14 are designed to help you grip and grasp so that things don't  
15 fall and slip out of your hands, or you don't fall and slip as  
16 you're walking. In these pat -- in this friction ridge skin  
17 there's patterns and characteristics that we use that can --  
18 are individual to a person.

19 Q. So you didn't have enough detail to analyze that one?

20 A. Correct.

21 Q. One way or the other?

22 A. Right.

23 Q. Okay, HM17A?

24 A. HM17A is from the rear passenger inside window, and  
25 I excluded Meagan Grunwald, but I had no palms for Jose Angel

1 Garcia to compare.

2 Q. So for this one you could definitely say that was not  
3 the defendant?

4 A. Yes.

5 Q. Okay, what about HM22A?

6 A. This one was on the driver's side inside front window,  
7 and it was a palm as well, not a finger. It was ID'd to the  
8 left palm of Meagan Grunwald.

9 Q. So that one matched for the defendant?

10 A. Yes.

11 Q. In addition to comparing the fingerprints that you  
12 lifted, did you also compare fingerprints-- or look for finger-  
13 prints on other items?

14 A. I did.

15 Q. I'm going to show you what's been previously marked as  
16 Plaintiff's Exhibit 119. Do you recognize this?

17 A. I did.

18 Q. What is this?

19 A. It's the gun and the two magazines that were submitted  
20 as item 647.

21 Q. Okay, and did you perform fingerprint analysis on  
22 these items?

23 A. I did.

24 Q. To what results?

25 A. Um, I found no ridge detail at all on the gun, and

1 insufficient ridge detail, which means there was a little bit  
2 there but nothing that had enough information for me to make an  
3 ID either way.

4 Q. So you weren't able to say anyone who would have  
5 touched this based on fingerprints?

6 A. Right.

7 Q. Okay, did you also perform latent print examination  
8 on all of the cartridge casings you found in the Tundra?

9 A. Yes, I did.

10 Q. Did you do it on additional casings as well?

11 A. There was one casing that was submitted as item  
12 No. 560 that was not one that I collected.

13 Q. Okay, but did you perform fingerprint analysis on it?

14 A. Yes.

15 Q. Will you tell the jury what your fingerprint results  
16 were for all of the cartridge casings, both the one you were  
17 supplied that you did not find, but was found elsewhere and has  
18 already been admitted into evidence, and all those you found in  
19 the Tundra?

20 A. I found that there were some ridges on some of the --  
21 some of the casings, but there was not enough information for  
22 me to make any conclusion.

23 Q. So you couldn't make any conclusions as it relates to  
24 any of those cartridge casings?

25 A. Correct.

1 MR. PEAD: Okay, if I could approach the witness.

2 THE COURT: Okay.

3 Q. BY MR. PEAD: I'm going to show you what's been marked  
4 as Plaintiff's Exhibit 246. Do you recognize that?

5 A. Yes, it's my fingerprint report.

6 Q. Okay, and does that fairly and accurately depict and  
7 describe what we've learned today from your analysis?

8 A. Yes.

9 Q. This relates to all the fingerprints you lifted, the  
10 cartridge casings, and the handgun?

11 A. Yes.

12 MR. PEAD: Your Honor, I would move to offer State's  
13 Exhibit 246.

14 MR. ZABRISKIE: Can I take a look at that.

15 MR. PEAD: Oh, sorry.

16 THE COURT: Any objection?

17 MR. ZABRISKIE: No, your Honor.

18 THE COURT: Accept and receive State's Exhibit 246.

19 (Exhibit No. 246 received into evidence)

20 Q. BY MR. PEAD: You said you also performed processing of  
21 the -- was it a Toyota Highlander?

22 A. Yes.

23 Q. What color was that Highlander?

24 A. It was a tan or a gold color.

25 Q. What if anything did you find as it relates to the

1 Highlander?

2 A. We -- there -- the gun was found at the scene and  
3 collected by Chad Grundy, our lead for this scene. So I did  
4 not physically see the gun. Then we attempted some finger-  
5 prints, to process some of the items for fingerprints on the  
6 door, like the door handle. It says there was a Motorola  
7 phone, a cell phone, an unfired shotgun shell and a small  
8 cartridge, an unfired round.

9 Q. What kind of round was that?

10 A. It doesn't have a real head stamp. It just has a  
11 picture of a hummingbird on it.

12 Q. Okay, did that appear to have anything to do with this  
13 crime?

14 A. No, it did not.

15 Q. You said you found a shotgun shell as well?

16 A. Yes.

17 Q. Where was that located?

18 A. From the glove box.

19 Q. Did that appear to have anything to do with this  
20 crime?

21 A. No, it did not.

22 Q. Lastly, the phone that you've talked about, where was  
23 that located?

24 A. It looks like it's up near-- oh, inside the glove box.

25 Q. Did that appear to have anything to do with this case?

1 A. No, it did not.

2 Q. Again, you tried to lift some latent prints from the  
3 Highlander but none of them had sufficient detail for analysis?

4 A. Correct?

5 MR. PEAD: Okay, could I have just a moment.

6 THE COURT: Yes.

7 MR. PEAD: I believe those are all the questions I  
8 have, your Honor.

9 THE COURT: Thank you.

10 MR. PEAD: Thank you.

11 THE COURT: Cross examination?

12 MR. ZABRISKIE: Thank you, your Honor.

13 CROSS EXAMINATION

14 BY MR. ZABRISKIE:

15 Q. I'm not going to review everything that's been admitted  
16 into evidence. Certainly I trust that you've done the -- what  
17 your responsibility required of you. Just a few questions for  
18 purposes of clarification. Did you inventory everything that  
19 was in that car?

20 A. The truck, the Toyota truck?

21 Q. I'm sorry, the truck.

22 A. Not everything. We only photographed and marked items  
23 of evidence that we felt needed to be marked as evidence and  
24 collected.

25 Q. I see. Well, based on your recollection and what you

1 viewed here today, did you find any -- any bag with overnight  
2 clothes, any extra clothes that appeared to be packed for a  
3 trip?

4 A. Not to my knowledge, but if I needed to I could look  
5 at the pictures.

6 Q. Uh-huh. Well, again, if that would help you, that  
7 would be fine, but based on your recollection you didn't see  
8 anything that would indicate a long journey?

9 A. No, sir.

10 Q. Okay, you indicated that you'd -- and again, I'm not  
11 going to go over the -- there seems to be some duplication,  
12 but you have a different way of tagging evidence as opposed  
13 to those other agencies that you deal with. So you kind of  
14 combine them so that we don't lose track?

15 A. Yes, sir. As the State lab, we have our own computer  
16 system; and Utah County has their own computer system. So once  
17 we're doing these cases where multiple agencies are working  
18 together, there's usually a good two or three different numbers  
19 associated with the same item.

20 Q. You can keep track of that?

21 A. Sooner or later we figure it out.

22 Q. I think you've done a good job, although you lost  
23 me a couple of times. Now, you took the prints that you've  
24 designated -- and again, I'll just, for purposes of brevity  
25 and my -- and my memory, you had Nos. 15, No. 16 and of course



1 there are sub designations.

2 A. Right.

3 Q. Yeah, and those were all fingerprints that you took I  
4 think off the back window, the passenger side window and the  
5 driver's window?

6 A. Yes.

7 Q. Did you find prints anywhere else that were of  
8 interest to you?

9 A. No.

10 Q. Okay, now you indicate that -- well, let me ask this.  
11 How do you determine what's relevant or what -- what you want  
12 to see if there are prints? In other words, you just don't  
13 blow smoke through the whole car and then look for prints.  
14 What leads you to something of interest?

15 A. There's different ways, but with such a dark tinted  
16 window we would just use a flashlight and kind of -- we call  
17 it "oblique lighting," where you have your window and we just  
18 take it right against the side of it, to see if we can create  
19 any shadows that those fingerprints will be on that surface.  
20 If we see anything, then that would give us reason to either  
21 photo-graph it and then powder it or process it, or go ahead  
22 and process it and then try to photograph it.

23 Q. I see. Well, certainly you did that, and you found  
24 the prints that you've described and where they were located?

25 A. Yes.

1 Q. Okay, and again, so that I understand, the only place  
2 you found Meagan's prints, Meagan Grunwald was on the driver's  
3 side -- on that driver's side window?

4 A. Yes, on the inside, yes.

5 Q. You evidently look for prints or some signs of prints  
6 on the casings?

7 A. Yes.

8 Q. The shell casings?

9 A. Yes.

10 Q. That was not -- it's a small surface; is it not?

11 A. It is. It's a small surface, and with the ejection  
12 of that casing from the gun and that firing of that gun just  
13 usually creates such a hot situation that the -- the prints are  
14 evaporated usually.

15 Q. Well, that's -- that's interesting. When the casing  
16 comes out of the gun, when it's ejected, is that casing hot?

17 A. I have no idea.

18 Q. It's just been subject to an explosion. Would you --  
19 would you surmise that it's hot?

20 A. I would make no surmi --

21 Q. I appreciate that.

22 A. Yeah.

23 Q. But you didn't find any prints, usable prints on the  
24 casing?

25 A. No, no, sir.

1 Q. One explanation could be heat?

2 A. Yes.

3 Q. Amongst others?

4 A. Right.

5 Q. Now, so you looked at the casings. You indicated that  
6 you -- you had a chance to look for prints on the gun?

7 A. Yes.

8 Q. You indicated that while there was some -- some  
9 indicators there, there was not sufficient definition for you  
10 to determine whose prints were on the gun?

11 A. That is correct.

12 Q. Or did I misstate that?

13 A. No, you are correct.

14 Q. Okay, don't scare me like that. Now, why -- there was  
15 what's been characterized as a pipe in that car. You didn't  
16 think that was worthy of a search for prints or --

17 A. That wasn't my call, what was submitted to the lab for  
18 processing in the lab.

19 Q. So you didn't make that decision?

20 A. No, sir.

21 Q. Who made it?

22 A. I have no idea.

23 Q. What happened to that pipe, then? Did anyone that  
24 you're aware of try to lift prints from that pipe?

25 A. Not that I'm aware of. I know I didn't.

1 Q. Okay, so you wouldn't know who had -- who had used it,  
2 who had handled it, anything like that?

3 A. No.

4 Q. Did you see the pipe in the car?

5 A. Yes.

6 Q. Again, you didn't see any clothing, any overnight  
7 bags, things like that?

8 A. Not to my recollection.

9 MR. ZABRISKIE: May I, just for a second.

10 THE COURT: Sure.

11 MR. ZABRISKIE: It's a fascinating job you have. I  
12 have no further questions, your Honor.

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

14 MR. PEAD: Just two questions, your Honor.

15 REDIRECT EXAMINATION

16 BY MR. PEAD:

17 Q. You've been doing this for a while, Ms. Wilder-Estes?

18 A. Yes, sir.

19 Q. How often do you find fingerprints on cartridge  
20 casings?

21 A. So far I've never found one that's comparable in case  
22 work.

23 Q. Can you say why that's the case?

24 A. Like I was saying, a little bit of the heat or the  
25 ejection of the bullet actually being pressed into the magazine

1 then being fired from the gun just seems to not really produce  
2 any -- it's not a good surface for those fingerprints.

3 Q. What about the surface area?

4 A. It's a very small surface area, especially if --  
5 depending on the caliber; and the way that an unfired round  
6 is usually handled is being put into a magazine, gives us a  
7 little bit less area to put -- to look for.

8 Q. Okay, have you -- how often do you find fingerprints  
9 that are comp -- are able to be compared on guns?

10 A. So far I've found two, total.

11 Q. Out of how many?

12 A. Probably at least hundreds of guns.

13 Q. So that doesn't sound very common either.

14 A. No.

15 Q. Why is that?

16 A. It depends on the gun, but usually they're more of a  
17 rough metal, and where people are holding on the handle is  
18 usually some kind of a grip, more of a rough surface so that  
19 people can grip the handgun better; and where they're pulling  
20 the slide back is usually very rough and corrugated. So it  
21 just depends on the type of gun you get, but usually with the  
22 type of surface it is on those rough surfaces, it's really,  
23 really hard to get a good comparable, usable fingerprint. We  
24 don't see very many, very often.

25 MR. PEAD: Okay, thank you.

1 THE COURT: Okay, thank you.

2 MR. ZABRISKIE: No further cross, your Honor.

3 THE COURT: All right, may she be excused?

4 MR. PEAD: Yes, we'd ask that she be released.

5 THE COURT: Mr. Zabriskie, any objection to that?

6 MR. ZABRISKIE: No, your Honor.

7 THE COURT: I'll go ahead and thank you for being here.

8 You're dismissed.

9 THE WITNESS: Thank you.

10 THE COURT: There may be others in your department or--

11 THE WITNESS: Yes.

12 THE COURT: -- people that you know. So please refrain

13 from speaking with them about the case.

14 THE WITNESS: Yes, sir.

15 THE COURT: Thank you.

16 THE WITNESS: Thank you.

17 THE COURT: All right, I guess we're to lunch break.

18 We'll come back at 1:30 and be ready to go as soon as we can

19 thereafter. How many witnesses do you anticipate this after-

20 noon, Mr. Pead?

21 MR. PEAD: It's a bit of a work in process, your Honor,

22 but as many as we can get.

23 MR. TAYLOR: About nine or ten.

24 THE COURT: Okay. All right, anything else before we

25 release the jury for lunch?

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MR. PEAD: No, your Honor.

MR. ZABRISKIE: No.

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

COURT BAILIFF: All rise for the jury.

(Jury exits the courtroom)

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

(Recess taken)

THE COURT: Okay, thank you. Please be seated. Okay, we're back on the record, State of Utah vs. Grunwald. Parties are present, including the defendant, all members of the jury. Mr. Pead, still your case.

MR. PEAD: Your Honor, the State calls Justin Bechaver.

THE COURT: Okay, come forward, sir. Let's get you sworn in.

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

THE WITNESS: I do.

THE COURT: Thank you, sir. Please have a seat in the witness box.

JUSTIN BECHAVAR,

having been first duly sworn,

testified as follows:

DIRECT EXAMINATION

1 BY MR. PEAD:

2 Q. Will you please state your name for the record.

3 A. It's Justin Bechaver, B-e-c-h-a-v-e-r.

4 Q. How are you employed?

5 A. I am a Senior Forensic Scientist with the Utah State  
6 Crime Lab.

7 Q. How long have you worked for the State Crime Lab?

8 A. I've been employed with the lab since November of  
9 2005.

10 Q. What are your current duties?

11 A. I am the technical leader for the firearm and tool  
12 mark section. I perform casework in firearms, tool marks,  
13 distance determinations, (inaudible) restorations, reconstruc-  
14 tions, paint, and I'm also a certified drug chemist.

15 Q. With regard to firearms do you perform ballistic  
16 analysis?

17 A. Yes, we call it "firearms comparisons." Ballistic  
18 analysis would be more with reconstructions and that kind of  
19 thing.

20 Q. Okay, what formal education have you received in order  
21 to be a crime lab scientist with these kinds of duties?

22 A. I have a Bachelors of Science Degree in Biochemistry  
23 from Eastern Oregon University.

24 Q. What kind of other trainings have you had?

25 A. In regards to firearms, I'm a graduate of the NFEA or



1 the National Firearms Examiner Academy. Through that academy  
2 that's hosted by the ATF there's -- it's about a year long.  
3 It's broken up into four different phases.

4 In the first phase you write a number of papers after  
5 you read various journals, books, articles, things like that.  
6 You start a research project and then you move onto phase two,  
7 where you go back east to Maryland, you attend lectures, do lab  
8 practicals, visit ammunition manufacturing, fire manufacturing  
9 companies and museums.

10 Then you come back to your home lab for phase three,  
11 where the ATF will send you four mock cases. You work those  
12 up, just like you would anything else. Send it back to them.  
13 They review it.

14 You go back for phase four where you present your  
15 research, and then you also perform two mock trials, where the  
16 jury, Judge, prosecution and defense are all firearms examiners  
17 who have evaluated two of the four cases that you worked.

18 After you graduate from there I came to my home lab.  
19 I worked on the bench for another year-and-a-half performing  
20 case work under a supervised analyst. I completed a number of  
21 competency tests and proficiency tests, and then was finally  
22 qualified to work casework on my own about 2011, end of 2011.

23 Q. Are you still currently qualified for that analysis?

24 A. Yes, I am.

25 Q. Just for the benefit of the jury, when you say "ATF"

1 you mean?

2 A. Alcohol, Tobacco, Firearm. The Bureau of Alcohol,  
3 Tobacco and Firearms.

4 Q. This is that Federal agency that oversees jurisdiction  
5 on those things?

6 A. Yes, sir.

7 Q. So you are currently a graduate of that firearms  
8 comparison training?

9 A. Yes, sir.

10 Q. Are you a member of any professional organizations?

11 A. I'm a member of AFTE, or the Association of Firearm  
12 and Tool Mark Examiners, as well as a number of other agenc --  
13 or associations like CLIC, Clandestine Laboratory Investigating  
14 Chemists.

15 Q. Is your lab accredited?

16 A. Yes, we are.

17 Q. It's my understanding that you had two main roles in  
18 this case; is that fair to say?

19 A. As far as --

20 Q. Did you have a role where you actually went to the  
21 scene and then a role where you performed analysis?

22 A. Yes, I was called out to one of the initial scenes and  
23 then I performed a firearms comparison two separate times.

24 Q. Okay, I want to talk about first when you go to the  
25 scene. What day are we talking about?

1           A.    I don't recall the actual date, but it was -- the day  
2 the incident happened --

3           Q.    Was it January 30<sup>th</sup> of 2014?

4           A.    I believe so.

5           Q.    Okay, what was the weather like that day?

6           A.    It was cold and snowing.

7           Q.    Okay, and did you -- did you help in the collection of  
8 evidence?

9           A.    Briefly. I was just -- I was called out to the scene  
10 on the interstate where the officer involved shooting, one of  
11 them happened. I was called to help either try to find any  
12 firearms evidence, trajectories, anything like that. So I  
13 basically walked around and looked for different evidence.

14          Q.    What scene was that?

15          A.    The one down in Juab County, or --

16          Q.    Was it just off the freeway?

17          A.    Yes, it was.

18          Q.    Okay, was that near mile marker -- was it 215?

19          A.    I believe so.

20          Q.    216?

21          A.    Yes.

22          Q.    Your kind of the go to guy when it comes to firearms;  
23 is that fair to say?

24          A.    I'm one of them, yes.

25                MR. PEAD: Okay, may I approach the witness, your

1 Honor.

2 THE COURT: Yes.

3 Q. BY MR. PEAD: I want to show you what's been marked and  
4 already admitted as Plaintiff's Exhibit 119. Do you recognize  
5 that?

6 A. I do.

7 Q. What is that?

8 A. That is the firearm that I used in the comparisons.

9 Q. Okay, was this something we saw at the scene there as  
10 well?

11 A. It was.

12 Q. When you saw it where was it?

13 A. It was on the driver's front seat of the vehicle. It  
14 was down by the fence.

15 Q. Okay, do you remember what kind of a vehicle that was?

16 A. I believe it was a smaller SUV; I don't recall the  
17 exact make and model.

18 Q. Can you tell the jury what three things we're seeing  
19 right here?

20 A. We're seeing the Taurus Pistol, and then two separate  
21 detachable magazines.

22 Q. Was the (inaudible)-- is this in a lock back position?

23 A. It is.

24 Q. Okay, who directed the packaging of this weapon?

25 A. I did.

1 Q. Why did you do that?

2 A. I was just -- they had questions on how to render it  
3 safe, and I was just instructing how to package it properly.

4 Q. Okay, and why -- why put it in a box?

5 A. You put it in a box to help preserve the evidence that  
6 may or may not be on it. So if there's fingerprints or possible  
7 DNA or anything like that, you want to preserve it as best you  
8 can in a box like that. With the zip ties like you can see  
9 there, we put a zip tie through the action and down through the  
10 bottom of the gun. That helps let people know that the gun is  
11 opened and that it's cleared. Then the rest of the zip ties  
12 help secure it in the box so it doesn't move.

13 Q. Okay, and did you perform analysis on both the weapon  
14 and the two magazines?

15 A. I did.

16 Q. What are these envelopes?

17 A. The bottom envelope contains I believe DNA swabs.  
18 Those were conducted prior to my analysis. The second bigger  
19 envelope is the envelope in which I keep all my test fires. So  
20 whenever I make test fires with the firearm, they get retained  
21 with the firearm for any future analysis.

22 Q. That's what's in there?

23 A. Correct.

24 Q. The same weapon you saw on the scene is what you  
25 performed your analysis on?

1 A. It is.

2 Q. What type of a gun is this?

3 A. It's a Taurus model PT100AF.

4 Q. Tell us how you began your analysis on a weapon.

5 A. When a firearm is submitted to the crime lab it's  
6 submitted generally in one of those boxes. I would document  
7 the condition of the box as I received it. I take note of the  
8 case numbers, the date that are on it, and whether or not it's  
9 in a sealed condition, meaning that there is tape all the way  
10 around the box.

11 After that I'll then open up the box. If it hasn't  
12 been swabbed or previously analyzed then I would at that point  
13 swab it for any possible DNA evidence. Then I'll conduct an  
14 overall documentation of the make and model of the serial  
15 number. I'll then take some photographs of the firearms as  
16 it is in that condition.

17 Then I'll do a work-up on the firearm, which I do a  
18 more thorough documentation of the condition of the firearm,  
19 the condition of the barrel, number of lands and grooves that  
20 I see inside the barrel, all the safeties that are on it. I  
21 measure the trigger pull, the barrel length, all of that, just  
22 to make sure that the firearm is in a good working condition,  
23 because I then have to go and make test fires with it.

24 Q. Was this gun in fact in a good working condition?

25 A. It was.

1 Q. Was it able to shoot ammunition out of both magazines?

2 A. It was.

3 Q. Is there anything remarkable or unique about these two  
4 magazines?

5 A. One of the magazines was marked .40 caliber Smith  
6 and Wesson, which is the caliber of the firearm. The second  
7 magazine was actually a .9 millimeter magazine. The interesting  
8 thing about those two magazines is they are roughly the same  
9 size. With the .9 millimeter pistol generally the frame or the  
10 grip area is the same size for both .9 millimeter and .40 Smith  
11 and Wesson models. So the magazines can be interchangeable.

12 In this case, with it being a .9 millimeter magazine  
13 that was converted to .40 Smith and Wesson, the magazine lips  
14 at the top that hold the cartridge cases in needed to be spread  
15 out just a little bit, but it worked just fine.

16 Q. So it appeared that the magazine that was a .9 milli-  
17 meter had been pried open a little in order to enable a .40  
18 caliber ammunition to feed?

19 A. Yes.

20 Q. When you say, just for clarification, .40 Smith and  
21 Wesson, you're talking about a size and a type of ammunition,  
22 not a brand?

23 A. Correct, it is a type of -- it is a caliber. What  
24 we're referring to is actually the diameter of the bullet and  
25 the cartridge size itself.

1 Q. So, for example, we have Cornflakes that Kellogg's  
2 made, and we call them "cornflakes," and any copies of those  
3 we call "cornflakes" still, but that is kind of that principal?

4 A. Correct. The reason it's called Smith and Wesson is  
5 Smith and Wesson is the one that designed and developed the  
6 cartridge; but Remington makes .40 Smith and Wesson cartridges;  
7 Spear, CCI, a number of different brands of ammunition manufac-  
8 turers manufacture ammunition in that caliber.

9 Q. So you were able to test both magazines. Were you  
10 able to determine the mag -- the capacity for ammunition for  
11 each of those magazines?

12 A. I was.

13 Q. What was that?

14 A. If I could refer to my notes to refresh my memory.

15 Q. Sure, do that.

16 MR. ZABRISKIE: It's for refreshing, right, just to --

17 MR. PEAD: Yeah.

18 Q. BY MR. PEAD: I don't want you to read it. I just want  
19 you to look up when you're done.

20 A. Right. The .40 caliber --

21 Q. If I can stop you real quick.

22 A. Sorry.

23 Q. So did looking at that refresh your recollection of  
24 how much each held?

25 A. Yes, it did.



1 Q. What was that?

2 A. The caliber that -- or the magazine that was stamped  
3 for .40 Smith and Wesson, it would hold eleven .40 Smith and  
4 Wesson cartridges. The .9 millimeter magazine would hold twelve  
5 .40 Smith and Wesson magazine -- or .40 Smith and Wesson cart-  
6 ridges, or it held sixteen .9 millimeter cartridges.

7 Q. For the benefit of the jury will you point out which  
8 one is which?

9 A. The top one in the box is the one for .40 caliber, and  
10 the one on the bottom is for .9 millimeter.

11 Q. So did you perform test fires of this gun?

12 A. Yes, I did.

13 Q. Will you tell us how that is done.

14 A. When I perform test fires, there's a couple different  
15 ways that I can do them. When I'm trying to collect the ammu-  
16 nition, I need to collect the bullets in as pristine condition  
17 as I can, and I also need to collect the cartridge cases as  
18 pristine as I can.

19 So I have a water tank that will go into, and I'll  
20 shoot three cartridges generally to start with into the water  
21 tank. The water then slows the bullet down and can generally  
22 retrieve them in a pristine condition.

23 Q. Mr. Bechaver, just a second.

24 A. Yes.

25 Q. We're hearing some --

1 THE COURT: Mr. Zabriskie, is your computer on or  
2 what's going -- is your computer on, Mr. Zabriskie? We're  
3 getting some feedback.

4 MR. ZABRISKIE: Sorry, your Honor.

5 THE COURT: I can't allow that.

6 MR. ZABRISKIE: It's (inaudible).

7 THE COURT: Close it up. Can't allow that.

8 MR. ZABRISKIE: Can we approach, your Honor.

9 THE COURT: Sure.

10 (Discussion at the bench)

11 MR. ZABRISKIE: I didn't realize I could be heard. I  
12 had these little tiny headphones in my client's listening to,  
13 but I'll just turn that off, but --

14 THE COURT: However, you're the closest one to the  
15 jury.

16 MR. ZABRISKIE: -- I need it (inaudible). I didn't  
17 realize that would be heard.

18 THE COURT: That can't be had.

19 MR. ZABRISKIE: But I need that computer because it has  
20 all of our notes on.

21 THE COURT: I understand that, but you're the closest  
22 one to the jury.

23 MR. ZABRISKIE: I understand that. I will take this as  
24 an appropriate admonishment and I will not turn it on again in  
25 the (inaudible).

1 THE COURT: All right.

2 MR. ZABRISKIE: Thank you.

3 (Discussion at the bench completed)

4 Q. BY MR. PEAD: Okay, I apologize, Mr. Bechaver, would  
5 you continue. We were talking about the ways in which you can  
6 test fire a gun.

7 A. Okay, I forgot where I was at, but I'll kind of start  
8 over. I shoot the firearm. I begin with three test fires. I'll  
9 shoot them into the water tank and then collect the bullets  
10 from the water tank as they -- it slows them down in a way that  
11 it prevents any -- usually prevents damage to the bullets.

12 I'll then collect the cartridge cases, and then I'll  
13 take them back to our comparison microscope and perform my  
14 analysis on them. In this case, with the second magazine, I  
15 wanted to determine whether or not the magazine functioned in  
16 the firearm.

17 I used the .40 Smith and Wesson magazine for my test  
18 fires for comparisons, but then I went and used the other  
19 magazine in our test fire range, which is just basically a  
20 shooting range, and I fired a number of shots in there, just  
21 to see if the gun would fire and cycle and function as normal.  
22 I didn't collect any of those test fires. I just documented in  
23 my notes that I performed that test.

24 Q. Okay, and is this kind of like what we see on TV where  
25 they fire into a big thing of water?

1 A. Yes.

2 Q. The reason you don't want bullets damaged is because  
3 then you can't analyze them because they're too broken up?

4 A. Correct.

5 Q. Is this a control sample or is that something else?

6 A. It would be a control sample. It would be known test  
7 fires from a firearm.

8 Q. What is a reference collection?

9 A. As far as?

10 Q. Is this a known ammunition?

11 A. Yeah, the reference collection, I have a number of  
12 different brands of ammunition manufacturers. I can go to our  
13 reference collection there collecting ammo to make the test  
14 fires, if that's what you're referring to.

15 Q. Yeah, and that's how you can compare as well?

16 A. Yes, when you're performing casework with firearms,  
17 it's really important to try to have ammunition of the same  
18 make. Different ammunition can mark differently in the same  
19 gun. So to try to have as close to ammunition as possible, it  
20 helps with the identification process.

21 Q. Okay, just a second.

22 (Counsel conferring off the record)

23 Q. Mr. Bechaver, we're going to talk about specific items  
24 that you've analyzed, but I want to make a record briefly for  
25 the Court and for the jury that we're going to be giving them

1 your report which outlines this, but we're also going to be  
2 giving an evidentiary summary that will outline all of the  
3 fragments, all of the casings and such so that they don't have  
4 to worry about keeping track of all of this stuff, that it will  
5 be on that data sheet, okay?

6 A. Okay.

7 Q. What kinds of evidence were you given to test in this  
8 case?

9 A. In this case I was given a firearm, some cartridge  
10 cases, fire cartridge cases, there was some fired bullets,  
11 fired bullet jackets, fired bullet jacket fragments, and then  
12 bullet fragments as well, as well as some unfired ammunition.

13 Q. Okay, so when you have that evidence and you've done  
14 a controlled sample through test fires, how were you able to  
15 analyze this evidence?

16 A. What I would do is I would take those test fires that  
17 I made in the -- in the water tank. I'll compare them on a  
18 comparison microscope. Essentially all it is, is two micro-  
19 scopes hooked together with an optical bridge that allows me  
20 to view both sides of the microscope at the same time. I can  
21 manipulate both stages independently of each other, and observe  
22 fired bullets or cartridge cases or any other tool marks under-  
23 neath the microscope.

24 If I may use a model that I brought with me, when I  
25 look at the cartridge case -- or the bullets underneath the

1 microscope I'll have one bullet on the left side of the stage,  
2 one bullet on the right side of the stage, and when I look at  
3 them underneath the comparison scope they'll be like they're  
4 together almost. They'll have a dividing line that I can see  
5 and move on either side on the bullets and that.

6           So what I'll do is I will start with my test fires and  
7 I'll pick a definitive feature in one of these marks, which are  
8 called "lands and grooves" -- "land and groove impressions,"  
9 excuse me, and I'll find something that stands out to me.  
10 Maybe it's a big (inaudible) line or some other prominent  
11 point. I'll start there and then I'll turn the other bullet  
12 and see if any of the other lands and grooves impressions match  
13 up.

14           Once I find some that have agreement, I'll then circle  
15 both bullets and continue what we call in phase and go all the  
16 way around the bullet and compare the fine microscopic markings  
17 on both bullets at the same time. After I've determined that  
18 the kind of match all the way around, I'll then actually turn  
19 them out of phase and see if they disagree all the way around.  
20 Then I'll go back and put them back in phase and see if they  
21 agree again.

22           I'll do that with all the test fires, and what I'm  
23 doing is I'm trying to find reproduce-ability. So I want to  
24 see how well does the firearm not only mark the bullets and  
25 the cartridge cases, but how do those marks reproduce on the

1 ammunition that I've fired. If I feel that it's reproduced  
2 well, then I'll then compare the test fires to the evidence,  
3 the unknown evidence.

4 I do the same thing with cartridge cases, only with  
5 cartridge cases I'm going to be looking at the firing -- the  
6 firing pin impression or the primer area, which will leave the  
7 breach face marks. We've also got extractor marks, chamber  
8 marks that go around the outside of it. I'll compare those  
9 marks again with the test fires to begin with, looking for the  
10 reproduce-able markings. Then I will then go and compare those  
11 cartridge cases to the evidence.

12 Q. Okay, for the benefit of the jury will you describe  
13 which is the land and which is the groove.

14 A. Yes, if you're looking at the firearm, the land -- if  
15 you look down the barrel, the land would be the raised portion,  
16 okay? If you look -- and again at the barrel, the recessed  
17 area inside the barrel would be the groove, okay? They cut  
18 the grooves into the barrel, essentially. They leave the lands.

19 On a bullet it's just the opposite. Because the lands  
20 are raised, they're now impressed on the bullet. So the lowered  
21 areas on a bullet are a lined impression. The raised areas are  
22 the groove impressions.

23 Q. For the benefit of the jury will you explain the  
24 spiraling twist principal.

25 A. Yes, all barrels nowadays when they're manufactured,

1 they're manufactured with what they call "twists." The twists  
2 could be either a right-hand twist or a left-hand twist. Now,  
3 think about when you throw a football. If you want to throw a  
4 football accurately and far, you put a nice perfect spiral on  
5 it. Well, the same is true with bullets. As a bullet goes  
6 down the barrel, it actually twists the bullet into a spiral,  
7 or so to speak, and it comes out spinning. That helps keep the  
8 bullet accurate and on target.

9 Q. Okay, I want to ask you about the specific bullet, and  
10 I'm going to use the word "fragments" generally. I recognize  
11 each will have a potentially slightly different description,  
12 but I want to ask you about those, and then find out what your  
13 testing result was for those, okay? The first one I want to  
14 ask you about is item 555, and this was previously admitted as  
15 State's Exhibit 11.

16 A. Okay, if I can refer to that section.

17 Q. Sure. This was testified to by Dr. Christensen as  
18 coming from Sergeant Wride's neck.

19 A. Which bullet was that again?

20 Q. This is item 555.

21 A. Okay, that is a bullet core fragment that was deemed  
22 unsuitable for comparison, meaning I couldn't find any landing  
23 groove impressions on it.

24 Q. So you couldn't match it or say it didn't come from  
25 that gun?



1 A. Correct.

2 Q. Item 556. This was previously admitted as State's  
3 Exhibit 12, and was testified to as coming from Sergeant  
4 Wride's head.

5 A. Again, that was another bullet core fragment that  
6 was unsuitable for comparison.

7 Q. Item 559. This was a metal fragment that was taken  
8 from Sergeant Wride's neck and previously admitted as State's  
9 Exhibit 13.

10 A. Again, the same thing. It's a metal fragment consis-  
11 tent with lead, meaning from the bullet core. That was also  
12 unsuitable for comparisons.

13 Q. Okay, item 755-1. This was part of Exhibit 36, and  
14 was testified to as coming from Sergeant Wride's inside vehicle  
15 hood. I note there were four portions of 751. Do you see those,  
16 Mr. Bechaver?

17 A. Yes, and which one were you referring to here?

18 Q. So let's -- let's go to 751-1 first.

19 A. Okay, that one there was a fired bullet; and then the  
20 ones that I marked as 751-2 was a fired bullet jacket; and 751-  
21 3 was a crumpled -- sorry, was some bullet core fragments and  
22 jacket fragments. Then I believe that one was unsuitable.

23 Q. Okay, so what was your -- what was your analysis of  
24 751-1, that fired bullet you just testified to?

25 A. I have that it was ID'd as being fired in the pistol.

1 Q. Okay, so you were able to positively identify that  
2 that fragment was shot from the Taurus handgun?

3 A. Yes.

4 Q. Okay, how about 751-2?

5 A. That one was also identified as being fired in the  
6 pistol.

7 Q. From the Taurus handgun?

8 A. Yes, the Taurus pistol.

9 Q. Okay, and I think you just said 751-3 was unsuitable  
10 for comparison, as you were talking about that coin jacket  
11 fragment?

12 A. There -- I have 751-3-1 was -- that one was identified  
13 as being fired in the pistol. The 753-2 was unsuitable.

14 Q. Okay, so 2 was, and 75 -- 751-3-1 was you identified  
15 as having been fired from the Taurus handgun?

16 A. Correct.

17 Q. So in State's Exhibit 36 there were one, two, three,  
18 four individual fragments, and three of those four you identi-  
19 fied as being shot from the handgun?

20 A. Correct.

21 Q. Okay, let's go to item 606. This is State's Exhibit  
22 32 and was located in the console of Sergeant Wride's vehicle.

23 A. That was also identified as being fired in the Taurus  
24 pistol.

25 Q. What kind of a fragment was this?

1 A. It was a jacket fragment.

2 Q. Okay, and what's a jacket fragment?

3 A. When bullets are manufactured they'll take a piece  
4 of lead and they'll -- through a process called "swaging," and  
5 they'll make it in the shape of a bullet. Then they'll take  
6 a copper jacket and put around the outside of the bullet, and  
7 it helps with keeping the bullet intact as it goes down the  
8 barrel. You can achieve higher velocities. That's why most  
9 rifle bullets are jacketed that way. It also -- or they can  
10 control the way the bullet performs terminally with the jackets  
11 as well.

12 Q. So for this and the others you've identified as being  
13 fired from the Taurus handgun, you saw lands and grooves that  
14 match the pattern of that weapon?

15 A. Correct.

16 Q. Item 607, this is -- was admitted as State's Exhibit  
17 33 and was located on the rear passenger floor of Sergeant  
18 Wride's vehicle.

19 A. No. 607 is consistent with a core fragment, and it  
20 was also unsuitable for comparison.

21 Q. Okay, so you couldn't say one way or the other?

22 A. Correct.

23 Q. Item 613, this was a fragment from Deputy Sherwood's  
24 head.

25 MR. PEAD: Your Honor, before I go to this one I think

1 the parties have agreed to stipulate to 196-A and 196 which is  
2 that fragment.

3 THE COURT: As exhibits?

4 MR. PEAD: Yes.

5 MR. ZABRISKIE: Yes, your Honor.

6 THE COURT: Just 196 or A?

7 MR. PEAD: No. 196 and 196-A.

8 THE COURT: Okay.

9 MR. PEAD: For the record, this is a fragment from  
10 Deputy Sherwood's head.

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

12 MR. ZABRISKIE: It is, your Honor.

13 THE COURT: All right, I'll accept and receive State's  
14 Exhibits 196 and 196-A.

15 (Exhibit No. 196 and 196-A received into evidence)

16 Q. BY MR. PEAD: So State's Exhibit 196 is from Deputy  
17 Sherwood's head. What was your analysis of this? This is item  
18 613.

19 A. It was consistent with a bullet core, also unsuitable  
20 for comparison.

21 Q. So you couldn't compare that one?

22 A. Correct.

23 Q. When I -- for the benefit of the jury, when you say  
24 you can't compare it, is that what we're talking about earlier  
25 where a bullet is too beat up to tell one way or the other?

1           A.    Right.  If the markings aren't visible -- I mean, if  
2 we have land and groove impressions on a small jacket fragment  
3 we can compare that if I can show the class characteristics  
4 which are the width and the -- the width of the lands and  
5 grooves.  If it's a core, and the jacket is separated away  
6 from it, all of the rifling marks would be on the jacket  
7 and not on the core.  So there's nothing I can do as far  
8 as comparison-wise goes to identify it as being fired in a  
9 particular firearm.

10          Q.    For the benefit of the jury will you explain what  
11 you mean by "rifling."

12          A.    Rifling is the lands and grooves within the barrel.

13          Q.    So when it goes from the chamber through the barrel,  
14 that's rifling?

15          A.    Correct.  The rifling is what imparts the spin on the  
16 twi -- on the bullet.

17          Q.    Before I go on with the other items I want to ask you  
18 if you've had any experience with analyzing ammunition that has  
19 been fired through glass or intermediate targets?

20          A.    Yes, I have.

21          Q.    What has your experience been with that?

22          A.    I have performed -- I've taught a number of crime  
23 scene academies, as well as a three-day shooting trajectory  
24 class where we go over what bullets do when they hit different  
25 objects such as vehicles, glass, walls, that kind of thing.  In

1 part of that we collect those bullets and then observe what the  
2 --what happens to the bullet as it goes through these barriers.

3 Q. Okay, item 654, this was another fragment from Deputy  
4 Sherwood. Would you tell us about that one.

5 A. It's also consistent with a core fragment that was  
6 unsuitable for comparison.

7 Q. Okay, item 739, this was a fragment found on Deputy  
8 Sherwood's radio console. What was the result of analysis on  
9 that?

10 A. That one there was also consistent with a core frag-  
11 ment, was unsuitable for comparison; but I also noted that it  
12 did have some possible glass present on it.

13 Q. Okay, item 740. This was found at Deputy Sherwood's  
14 vehicle on the driver's side on the floor under the console.

15 A. That bullet, it was a fired bullet jacket, and it was  
16 identified as being fired in the pistol, the Taurus pistol.

17 Q. Okay, so that one was -- you could confirm that was  
18 fired from the Taurus handgun?

19 A. Correct.

20 Q. Okay, item 746. This is a fragment found in Deputy  
21 Sherwood's driver's headrest.

22 A. No. 746 is another jacket fragment, and it was identi-  
23 fied as being fired in the Taurus pistol.

24 Q. Okay, item 749. This is previously admitted as State's  
25 Exhibit 34, and it was found at the front hood grill area of

1 Sergeant Wride's vehicle. What was your re -- the results of  
2 that analysis?

3 A. That one there was one that had -- the core and jacket  
4 were together but separate. You could see where the jacket had  
5 kind of peeled off of the core. I was able to identify that as  
6 being fired in the Taurus pistol.

7 Q. Okay, item No. 750. This was previously admitted as  
8 State's Exhibit -- or excuse me, 35, and was found in Sergeant  
9 Wride's rear driver's seat -- driver's side passenger floor.

10 A. That was another metal fragment that was consistent  
11 with being from the bullet core, was unsuitable for comparison.

12 Q. So this is just the core of the bullet?

13 A. Yeah, core fragment.

14 Q. Therefore you couldn't say where it came from?

15 A. Correct.

16 Q. Item 826. This is previously admitted as State's  
17 Exhibit 37, and was found in the rear seat vertical portion  
18 of Sergeant Wride's vehicle.

19 A. That one there was a fired bullet jacket, and was  
20 identified as being fired in the Taurus pistol.

21 Q. So that was positively identified as being fired?

22 A. Yes, sir.

23 Q. From that gun? Item No. 1560, this was previously  
24 admitted as State's Exhibit 104, and was a fragment from a semi  
25 tire of Alonzo Vantassell's truck. What was the results of

1 that?

2 A. I'm sorry, which item number was that again?

3 Q. No. 1560.

4 A. No. 1560 was -- it was a fired -- fired bullet, and  
5 it was inconclusive. The bullet -- the rifling marks and  
6 impressions that were on the bullet are consistent in class,  
7 which means that the width of the lands and grooves and the  
8 direction of the twist were consistent with the Taurus pistol.  
9 However, the microscopic markings were insufficient. So I was  
10 not able to conclusively identify it as being fired from that  
11 pistol.

12 Q. Okay, what are "class characteristics"?

13 A. Class characteristics in regards to firearms are  
14 the number of lands and grooves, the width of the lands and  
15 grooves, direction of twist, and the caliber. On the breach  
16 face, it would be the breach face mark. So if they would be  
17 parallel or hemispherical -- excuse me, circular marks or cross  
18 hatch marks, and then the firing pin would be, you know, if  
19 it's circular or hemispherical shaped, the location and shape  
20 of the ejector, the extractor, those types of things are class  
21 characteristics.

22 What they mean is all guns are -- all guns of partic-  
23 ular makes and models will have similar class characteristics.  
24 So in this case all the guns that are made around the same  
25 time as the Taurus, that are manufactured in Taurus will have



1 similar lands and grooves.

2           So they'll have six right, which is six lands and  
3 grooves with a right-hand twist. They'll be the same width.  
4 The breach face marks will be the same. Basically it narrows  
5 it down to particular makes and models of firearms, but it  
6 doesn't individualize.

7           So we could -- if I had one fired bullet that was a  
8 left-hand twist with six lands and grooves, and another bullet  
9 that was a right-hand twist with six lands and grooves, I would  
10 eliminate those as being fired in the same gun, based on a  
11 class characteristic. They don't -- they can't be fired in the  
12 same gun. Does that help?

13         Q.    Yeah, that does. So was item 1516 consistent with  
14 class characteristics?

15         A.    It was.

16         Q.    Okay, but you couldn't -- you couldn't individualize  
17 it to the gun?

18         A.    Correct.

19         Q.    Okay, what about item 1766. This is a fragment taken  
20 from the bearing of Alonzo Vantassell's semi truck tire and is  
21 previously admitted as Exhibit 101.

22         A.    Again, that one there is inconclusive. It was consis-  
23 tent in class, meaning the width of the lands and grooves that  
24 I was able to observe were the same size, but I was unable to  
25 identify or eliminate that pistol.

1 Q. Okay, did you also analyze cartridge casings in this  
2 case?

3 A. I did.

4 Q. Okay, I want to ask you about some specific ones.  
5 Item 560 which was previously admitted as State's Exhibit 140;  
6 item 737 which was found in the Toyota Tundra; item 736 which  
7 was also found in the Toyota Tundra; item 735 found in the  
8 Toyota Tundra; item 734 found in the Toyota Tundra; item 733  
9 found in the Toyota Tundra; item 732 found in the Toyota  
10 Tundra; item 731 found in the Toyota Tundra; item 730 found  
11 in the Toyota Tundra; item 729 found in the Toyota Tundra;  
12 item 728 found in the Toyota Tundra; and item 727 found in the  
13 Toyota Tundra; and these were admitted through Bonnie Wilder-  
14 Estes. Are you familiar with her?

15 A. Yes.

16 Q. How do you know her?

17 A. She works in the fingerprint section of the State  
18 Crime Lab.

19 Q. Okay, with one exception, and this was a -- a casing  
20 that was found in the Main Street Nephi scene.

21 MR. PEAD: If I could approach the witness, your Honor.

22 THE COURT: Sure.

23 Q. BY MR. PEAD: Do you recognize these item numbers?

24 A. (No verbal response).

25 Q. You don't have to mark them individually, but are

1 these the ones we're talking about that you tested?

2 A. Yes, sir, they are.

3 Q. Okay, and so was it 12 that you tested?

4 A. I believe so.

5 Q. Okay, and how do you -- how do you test to see if a  
6 cartridge casing -- which these are, correct? This is what's  
7 left after a bullet's fired?

8 A. Correct.

9 Q. Cartridge casing. How do you test to see if a cart-  
10 ridge casing has been fired from a particular weapon?

11 A. Much the same way that we would for the fired bullets;  
12 but now we're looking at the brass casing that's generally left  
13 near where the gun was fired. When you fire the gun, the bullet  
14 goes down the barrel down range, and the cartridge cases are  
15 ejected out of the gun.

16 If you were to look at a complete cartridge, the bullet  
17 would actually sit inside of the cartridge case, and then there  
18 would be powder and then a primer. After they fired, obviously  
19 the bullet's gone, the powder's been expended, and there are  
20 now markings on the head stamp area or the breach face where it  
21 slammed into the breach face.

22 We also have extraction marks where it's extracted  
23 out of the chamber, the chamber marks where the casing actually  
24 swells to take up the extra space in the chamber to help make a  
25 seal. All of those marks we can compare back to firearm.

1 Q. Okay, and so for my benefit -- could I see that?

2 A. Yes.

3 Q. You're sit -- you call this a head stamp where the  
4 type of ammunition, the brand is?

5 A. Correct.

6 Q. Then it hits what you call the breach face?

7 A. Correct.

8 Q. The breach face is from the weapon?

9 A. That's right.

10 Q. Then the breach face leaves an impression on this  
11 metal?

12 A. That's right.

13 Q. You can also look where the -- where the ammunition  
14 is cycled; it can leave marks here?

15 A. Correct.

16 Q. Or here?

17 A. Correct.

18 Q. With those 12 cartridge casings were you able to  
19 determine whether or not those were fired from the Taurus  
20 handgun?

21 A. I was.

22 Q. What was your conclusion?

23 A. All 12 of the fired cartridge cases were fired in  
24 the Taurus pistol.

25 Q. Did you compare these cartridge casings to other

1 bullets that were given to you?

2 A. I didn't directly compare them. On item 732, the  
3 breach face markings were not as prominent as the other cart-  
4 ridge cases were; and this is a completely normal thing. Every  
5 now and again cartridge cases they might not impress the breach  
6 face marks as well as other ones.

7 That can be for various-- or for a variety of reasons.  
8 Maybe the pressure wasn't the same inside the cartridge case,  
9 maybe the recoil wasn't the same. Because as the firearm  
10 functions, it's a -- it uses a little bit of the recoil energy  
11 to help cycle the weapon.

12 In some cases if there's not as much pressure, not as  
13 much velocity, or whoever's holding or shooting the gun doesn't  
14 hold it as tightly, it can take away some of that energy, and  
15 that can take away some of the breach face marks.

16 On that particular cartridge case I noticed some  
17 different circular rings that were on the primer area of the  
18 cartridge. So I wanted to -- that could be a class character-  
19 istic. So I wanted to try to figure out where those rings came  
20 from. So as a result of that, I compared that cartridge to  
21 some of the other ammunition that had been submitted in the  
22 case.

23 MR. PEAD: If I could -- if I could approach, your  
24 Honor.

25 THE COURT: Okay.

1 Q. BY MR. PEAD: Okay, I'm going to show you what's been  
2 previously marked as State's Exhibit 189. For the benefit of  
3 the jury will you point out where the primer on the cartridge  
4 is.

5 A. Yes, it's the silver portion in this model. It's in  
6 the center of the head of the cartridge.

7 Q. Is that the part that you were just talking about that  
8 part that you were just talking about, that you could make some  
9 comparison to this other ammunition?

10 A. It was.

11 Q. Will you explain briefly what that is.

12 A. When I was comparing it against the ammunition that  
13 was submitted in the case, I noticed that on this ammunition  
14 there were circular rings on the -- on the primers. It can  
15 be a -- when we're looking at the tool marks, we're looking at  
16 tool marks that could be from the ammunition manufacturing as  
17 well as the firearm itself.

18 In this case the circular rings are consistent with  
19 coming from the primer seating that seated the primers into the  
20 live cartridges, and therefore was ruled out as being part of  
21 the breach face from the firearm.

22 Q. Okay, so I want to understand if I under -- I want  
23 to make sure I understand this correctly. So we have a number  
24 of casings -- or cartridge casings that you've analyzed, and  
25 you're saying that on this-- this other ammunition you compared

1 it to, there were marks from the primer being seated that were  
2 consistent with those?

3 A. Yes, sir.

4 Q. Okay, and what kind of ammunition is this that you  
5 looked at in what was previously marked was -- what does it say  
6 on that?

7 A. Item 189.

8 Q. Yeah, Exhibit 189?

9 A. It's consistent with reloaded ammunition. There's  
10 various extractor marks and other firing marks that have been  
11 on it as well. You could see some -- some sizing marks inter-  
12 mittently on some of the casings from where you resized the  
13 cartridge case down to the dimensions. Then on the primer  
14 there's a little indentation and then some circular rings;  
15 and when you seat the primer on those sometimes the little  
16 pin that helps seat the primer can actually transfer marks  
17 from that to the primer.

18 Q. Those marks were on both the fired cartridge casings  
19 and on this ammunition?

20 A. On that one particular one, yes.

21 Q. Okay, and what if any conclusions can you draw from  
22 that?

23 A. Again, I was looking at it as far as ruling out breach  
24 face marks, and trying to note that it was from the primer  
25 itself and not the firearm. So, I mean, my conclusions are

1 that it was already on the primer before, and ruled out as  
2 being a breach face mark.

3 Q. It was on these primers as well as the fired ones?

4 A. Correct.

5 Q. Okay, I'm going to show you what's been marked as  
6 Plaintiff's Exhibit 261 and 262. Do you recognize those?

7 A. Yes, I do.

8 Q. What are those?

9 A. These are copies of my reports.

10 Q. Are those fair and accurate in terms of what we just  
11 talked about, in relation to item numbers and your conclusions?

12 A. Yes, the only exception would be that I have in my  
13 report that item 529 was documented and not analyzed; but  
14 again, that was -- I was ruling out the breach face marks.  
15 I didn't actually compare those cartridge cases to anything --  
16 or those cartridges to anything else.

17 MR. PEAD: Move to offer Plaintiff's Exhibits 261 and  
18 262.

19 MR. ZABRISKIE: No objection, your Honor.

20 THE COURT: Thank you. I'll accept State's Exhibits  
21 261 and 262

22 (Exhibit Nos. 261 and 262 received into evidence)

23 MR. PEAD: Thank you, Mr. Bechaver.

24 THE COURT: Before cross, Mr. Zabriskie, maybe we ought  
25 to just have a quick stand and stretch type thing so that my



1 jurors can at least get up for a bit. I don't know how long  
2 your cross is going to be, but --

3 MR. ZABRISKIE: Hours.

4 THE COURT: -- so if you don't mind, I'm going to stand  
5 up myself before I -- I don't even know if this is appropriate,  
6 but we're going to do it anyway.

7 All right, go ahead Mr. Zabriskie.

8 MR. ZABRISKIE: Jumping jacks are just a distant memory  
9 to me. May I proceed, your Honor.

10 THE COURT: Yes, go ahead.

11 CROSS EXAMINATION

12 BY MR. ZABRISKIE:

13 Q. You indicated that your primary responsibility, at  
14 least at this level, is what you've testified to here today;  
15 and that's dealing with firearms?

16 A. Firearms and tool marks, yes.

17 Q. Uh-huh, ad you indicated that -- your credentials, and  
18 certainly I don't question them. Are you -- are you schooled  
19 in all sorts of different firearms or are pistols your primary  
20 concern?

21 A. All firearms.

22 Q. Did you get military experience, things like that?

23 A. I do not.

24 Q. You don't need it, do you?

25 A. (No verbal response).

1 Q. I'm kind of curious, and I'm not going to -- I'm not  
2 going to go back and reiterate nor question the identification  
3 and your conclusions as it relates to this particular evidence,  
4 because quite frankly, both the State and defense are in agree-  
5 ment that these elements had to be on the record; and therein  
6 we submit ourselves to your expertise but there are a few other  
7 things I would like to ask, taking advantage of your expertise.  
8 You have -- you had -- do you have ongoing training, by that  
9 continuing education as it relates to firearms?

10 A. Yes, we try to attend the annual AFTE conference that's  
11 every year, in which we would hear other firearms examiners  
12 and other experts from manufacturing companies and that sort  
13 of thing. They'll come in and give workshops and lectures and  
14 present papers and that sort of thing. So we try to do that  
15 every year if funding's allowed -- allows.

16 Q. In this day and age that's never a guarantee, is it?

17 A. No, it isn't.

18 Q. Now, so that we are making advances as it relates --  
19 and we hear so much about technology and things like that, are  
20 we making advancements and improvements on the use -- or excuse  
21 me, the mechanics of handguns, things like that?

22 A. I believe so.

23 Q. Okay, and therein is the marketing ability of these  
24 manufacturers, right, to improve upon their product?

25 A. Correct.

1 Q. Now, you-- I trust you've had classes or experience as  
2 it relates to the environmental impact, not just the projectile  
3 but what happens around the gun, things like that?

4 A. As fra as when it's fired?

5 Q. Uh-huh.

6 A. Sure, I've had, you know, throughout the course of my  
7 trainings and casework and that, I'm familiar with it.

8 Q. Well, I note that -- I fancy myself as kind of a make  
9 believe cowboy until I've heard all of these things that you've  
10 covered here today. The dynamics and the mechanics of these --  
11 these devices, it even goes back to how you hold the gun. I  
12 mean, there's a lot of things that contribute, right, to the  
13 efficiency or lack of efficiency as it relates to that gun.  
14 I'm talking in generalities, not just this one.

15 A. Correct.

16 Q. So, for example -- and I've heard this, and you can  
17 correct me if I'm wrong, but you can even tell -- I presume  
18 that the counsel would be to hold the gun -- a pistol rather  
19 tightly?

20 A. Correct.

21 Q. What's the purpose of that, other than the fact that  
22 it will probably end up on the second story, but what's the --

23 A. Well, depending -- depending on the type of pistol it  
24 is, one reason to hold it tight is, one, to be able to control  
25 it. When a pistol is fired, their, you know, their generally

1 short recoil can be significant in some of them; and it will  
2 cause kind of a pivot action, and it will bring the muzzle up.  
3 So you want to hold onto it tight and kind of counterbalance  
4 that.

5           Now, along with the actions of particular models such  
6 as semi-automatics, which the Taurus PT is, if you don't hold  
7 it tight enough, like I was explaining earlier, it can take  
8 away the energy from the slide and you can actually have what  
9 we call a "failure to feed" or a "failure to extract," where  
10 the slide doesn't move back far enough to expend the fired  
11 cartridge case, or it doesn't -- or it may eject it out, but  
12 it doesn't have -- it's not back far enough to pick up the next  
13 round in the magazine.

14           So you want to be able to hold them on -- hold onto  
15 them tightly so that you ensure that the slide goes back to  
16 its rearmost position and then continues forward afterwards  
17 to complete the cycle of fire. In revolvers, that's not as  
18 big of an issue, because when you fire it, the cylinder doesn't  
19 rotate until you manually cock or pull the trigger.

20           Q. So occasionally you'll have a gun and it will -- I  
21 notice, for example, when -- and this is not meant to be a  
22 criticism of women, but in our family we seem to have more  
23 problems with an automatic or a semi-automatic jamming with  
24 our little gals than we do with the men. You've just explained  
25 to me a possible explanation. Could that be the case?

1 A. That could be one reason, yes.

2 Q. So perhaps the less strength that a woman would have  
3 would possibly result in more of a jamming. In other words,  
4 the slide does not have the --

5 A. Yeah, and maybe it's not even just the strength, but  
6 the technique. Maybe you're not holding it firmly enough in  
7 a straight line. Maybe you're kind of -- you have the gun  
8 kind of angled out a little bit or something like that; but  
9 certainly that could cause what we would call or classify as  
10 limp wristing, which the energy is absorbed into the wrist,  
11 and it causes it to short cycle. It can happen with males and  
12 females. It doesn't necessarily --

13 Q. But not Dirty Harry?

14 A. Probably not.

15 Q. Okay, and his is a revolver, right? That's a big --  
16 that's a big, big caliber gun?

17 A. Correct.

18 Q. Now, would you characterize this particular caliber as  
19 a powerful handgun? I mean, is it in the higher end of power  
20 or is it in the lower?

21 A. It would be -- it would -- yeah, probably more towards  
22 the higher end, I would suppose.

23 Q. Uh-huh.

24 A. Most .40 calibers do have more recoil to them than  
25 say a .9 millimeter or even a .45 caliber, which is actually a

1 bigger diameter bullet, but it travels slower than the .40. So  
2 that could be -- it's a little more --

3 Q. Now, a little more --

4 A. -- a little more zippy, I guess, maybe.

5 Q. Okay, zippy's good?

6 A. Yeah.

7 Q. You have a -- I notice, for example in certain TV  
8 shows they'll slow the whole process down to where you can  
9 actually -- slow it down enough to where you can actually see  
10 the bullet coming out the end of the barrel and things of that  
11 nature. I'm always amazed at the length of -- sometimes the  
12 flame that comes out the end. What causes that? In other  
13 words, the bullet leaves, and there appears to be --

14 A. Yeah, depending on the type of powder and the barrel  
15 length, you can have a flash associated with the gunshot. That  
16 flash is essentially unburnt powder igniting as it goes out the  
17 barrel. To ideally control all of your internal ballistics,  
18 you would ideally want all of your powder to be burnt up just  
19 as the bullet leaves the muzzle, and that gets the most amount  
20 of energy possible.

21 If -- that rarely ever happens. So with some powders  
22 that are-- they might flash a little bit more. So as the bullet  
23 leaves the muzzle and it mixes with the air, you'll get a nice  
24 big flash that comes out the end of the muzzle. Some powders  
25 are designed to not flash. So you won't see that flash, but

1 the powder is still actually coming out of the barrel. It just  
2 doesn't keep burning like that.

3 Q. Well, were you able to determine, at least in this  
4 case, from the -- from the exhibits that you examined, would  
5 you expect to see some type of flash or -- I call it a flame,  
6 you call it flash -- out of this particular gun shooting this  
7 particular ammo?

8 A. I was -- I did not shoot any of the ammunition that  
9 was submitted in the case, so I don't know, and I don't recall.  
10 I mean, when I shoot into the water tank I literally -- there's  
11 a little hole about yay big that I stick the muzzle in, and I  
12 shoot into that, and I don't recall seeing a flash, but I was  
13 obviously also using different ammunition.

14 Q. I see. Well, in this particular case here if you  
15 were to buy, for lack of a better term, flashless cartridges,  
16 it would probably announce that on the box or whatever was  
17 delivered?

18 A. Not necessarily, no.

19 Q. Would you have to ask for it?

20 A. No, it's kind of -- whatever the manufacturer is  
21 trying to do with the powder. It may be just incidental to  
22 it. I don't -- I don't recall ever seeing one that is less  
23 flash or more -- you know, had more flame.

24 Q. You ever make any flash?

25 A. No.

1 Q. You will now. Anyway, you have -- does -- does it  
2 have a unique smell or odor about it? By that, gun powder, is  
3 there a generic thing that smells?

4 A. To determine between powders or --

5 Q. Well, just any powder. Let's assume for the moment  
6 gun powder. Does it smell when it -- when you fire it?

7 A. Sure, yeah.

8 Q. Has it kind of a pungent odor, maybe like sulphur,  
9 something like that?

10 A. It could.

11 Q. Okay, and assuming for the moment that this is not --  
12 we're not talking about flashless powder here, potential for  
13 smoke, things like that?

14 A. Yes.

15 Q. I notice that when we go to the shooting range, espec-  
16 ially the enclosed ones, after a very short period of everyone  
17 shooting, that begins to fill up with smoke. Is that unusual?

18 A. That's not unusual, no.

19 Q. Okay, and so if -- you've actually examined 12 cart-  
20 ridges; did I get that right?

21 A. I believe there was 12 cartridge cases, yes.

22 Q. Okay, and there's -- and there's -- those are the  
23 cartridges that you had to examine as it relates to this part-  
24 icular incident we're talking about?

25 A. Correct.



1 Q. Okay, so we had the potential for a flash. We had  
2 the potential for a unique odor, not unpleasant, but a unique  
3 odor --

4 A. Uh-huh.

5 Q. -- caused by the gunpowder. Possibility of smoke  
6 surrounding it?

7 A. Correct.

8 Q. If that were an enclosed environment like the cab of  
9 a car or a truck, would it accumulate there, at least for a  
10 short term?

11 A. If the windows were closed it would, you know, be  
12 in there longer. If the windows were open then it would, you  
13 know, it could be flushed out just as quickly.

14 Q. Uh-huh. Do you -- do you go to the firing range?

15 A. I do.

16 Q. Do you wear ear protection?

17 A. I do.

18 Q. This will sound like an answer begging a question.  
19 Why do you wear ear protection?

20 A. To protect your ears.

21 Q. Okay, saving not being able to do that, are you aware  
22 of any potential damage that could happen to your ears if in  
23 fact you're exposed to that sound at close range?

24 A. Yes, it could damage your ears, rupture your ear drum,  
25 that type of thing.

1 Q. Have you seen that happen?

2 A. Not personally, no.

3 Q. You've read about it?

4 A. Yes.

5 Q. Okay, and so we have -- I don't know about heat. Is  
6 the cartridge, when it's ejected, is that hot?

7 A. Yes, it is.

8 Q. It's been -- or it's just recently experienced an  
9 explosion; isn't that the case?

10 A. Yeah. Well, it's a rapid burning that looks like an  
11 explosion, but yes, it's --

12 Q. Sounds like an explosion.

13 A. Yes, it does, and there are -- it does produce a  
14 significant amount of heat.

15 Q. Okay, for the unexperienced, has it been -- have you  
16 seen inexperienced people shoot a gun?

17 A. Yes.

18 Q. The noise, smoke, the flash, does it startle the  
19 uninitiated?

20 A. If you haven't shot, usually it does, yes.

21 Q. Scare the heck out of you?

22 A. It can.

23 MR. ZABRISKIE: All right. Thanks. Oh, I'm sorry, one  
24 more question, your Honor.

25 THE COURT: Okay.

1 MR. ZABRISKIE: It's the one I approached with. All  
2 that stretching threw me off.

3 Q. BY MR. ZABRISKIE: On that gun, and more particularly  
4 the Taurus, you -- let's assume for the moment that a right-  
5 handed person is shooting the gun. I'm not even going to  
6 pretend like I know what I'm doing, but he's got the gun in his  
7 right hand.

8 A. Uh-huh.

9 Q. Which way does the shell eject?

10 A. Depending on how he's holding it, it would generally  
11 be to the right somewhere. Either to the right and to the  
12 back, or I've seen him go to the front even, but generally to  
13 the right. The ejector on that particular pistol is on the  
14 left-hand side. So as the cartridge case is ejected out, it  
15 kicked up and out that way; but if you're holding the gun in  
16 any other orientation, obviously that can be-- that can change.

17 Q. Well, let's assume that it's the orthodox position  
18 with your thumb up.

19 A. Right.

20 Q. It would eject to the right?

21 A. Generally, yes.

22 MR. ZABRISKIE: All right, thank you.

23 THE WITNESS: Uh-huh.

24 MR. PEAD: No redirect, your Honor.

25 THE COURT: Thank you. Mr. Bechaver, I believe that's

1 all. Can he be excused?

2 MR. PEAD: Yes.

3 MR. ZABRISKIE: No objection.

4 THE COURT: All right, thank you. There may be others  
5 from your department that testify, so please refrain from  
6 speaking. Thank you.

7 THE WITNESS: Thank you.

8 THE COURT: All right, I think we probably need a  
9 recess at this point, five, ten minutes. Anything before then?

10 MR. PEAD: No, your Honor.

11 THE COURT: Okay.

12 COURT BAILIFF: All rise for the jury.

13 (Jury exits the courtroom)

14 THE COURT: Okay, thank you. We'll be in recess.

15 (Recess taken)

16 THE COURT: Thank you. Please be seated. Okay, we're  
17 back on the record. All parties are present, including the  
18 defendant, Ms. Grunwald. All members of the jury, as well.  
19 State's case.

20 MR. TAYLOR: Judge, may we just approach just real  
21 quick.

22 THE COURT: Okay.

23 (Discussion at the bench)

24 MR. TAYLOR: Jerry Grunwald is going to testify now,  
25 and this has to do with the incident involving the gun that the

1 Court already ruled upon. There was one incident in November  
2 two months prior where there was a little altercation there  
3 also. So I wasn't necessarily going to go down that path with  
4 Jerry, but he may talk about it. I do have another officer out  
5 here who is going to get into that incident. So I think with  
6 Counsel here, wanted to address that before we got into that  
7 incident.

8 MR. ZABRISKIE: With Jerry it's an incident in November.  
9 We would want him instructed before he takes the stand not to  
10 mention that until the Court has heard argument on it and made  
11 a ruling as to whether it should be admitted or not. We didn't  
12 know about this until -- well, you guys gave us a copy of --

13 MR. TAYLOR: It was in our --

14 MR. ZABRISKIE: -- it was in the witness statement.

15 MR. TAYLOR: -- it was in our witness exhibit list.

16 MR. ZABRISKIE: Oh, okay.

17 MR. TAYLOR: Yeah, so --

18 MR. ZABRISKIE: That was the only notice, of course.

19 MR. TAYLOR: --so the notice -- we gave the police  
20 report and the photographs. We just barely got witness state-  
21 ments today that we didn't know about from that incident. So  
22 it's a statement from Meagan, and that's what we would look to  
23 introduce is a statement from her; but I think that they're  
24 concerned about even talking about that incident at all. I  
25 can go out and tell Mr. Grunwald that we're not going to talk

1 about that incident, instead of having you instruct him or any-  
2 thing like that.

3 THE COURT: That's fine. I mean, we don't know what  
4 he's going to say. So if you object, I'll more than likely --

5 MR. ZABRISKIE: Yeah, we just don't want something  
6 coming out that we --

7 THE COURT: -- I understand. Okay.

8 MR. TAYLOR: I'll just go out.

9 THE COURT: Thank you.

10 (Discussion at bench completed)

11 MR. TAYLOR: The State calls Jerry Grunwald.

12 THE COURT: Okay, I guess we can -- let's have you  
13 sworn in, sir.

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

18 THE WITNESS: Yes.

19 THE COURT: Thank you. Are you okay just on the side  
20 or would you be able to get up into the witness box? We can do  
21 either. Just pull that microphone down so we can pick you up  
22 okay. Go ahead.

23 MR. TAYLOR: Thank you, Judge.

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JERRY DEAN GRUNWALD,

having been first duly sworn,

testified as follows:

DIRECT EXAMINATION

BY MR. TAYLOR:

Q. Will you please state your full name for the record.

A. Jerry Dean Grunwald.

Q. In what city do you live in, Mr. Grunwald?

A. Draper, Utah.

Q. What's your address?

A. 632 East Pioneer Road in Draper.

Q. Are you currently employed?

A. No.

Q. What was your previous employment?

A. I was working for Draper City.

Q. Doing what?

A. Maintenance.

Q. Okay.

A. Street maintenance.

Q. Did you incur an injury while working with Draper  
City?

A. Yes.

Q. What happened?

A. I was a volunteer fireman and a ladder collapsed.

Q. How many years ago was that?

1 A. It was about 15, I don't -- close to 17 years ago.

2 Q. Okay, and --

3 A. Approximately.

4 Q. -- did that cause you to be in the wheelchair today?

5 A. Yes.

6 Q. Do you know Meagan Grunwald?

7 A. Yes.

8 Q. How do you know her?

9 A. She's my daughter.

10 Q. Is this her right here?

11 A. Yes.

12 Q. Mr. Grunwald, is it fair to say that you'd rather not  
13 be here today?

14 A. Yes.

15 Q. Okay, but you've been given a subpoena and you agreed  
16 to come here and testify, correct?

17 A. I had no choice.

18 Q. Okay, what kind of relationship do you have with  
19 Meagan?

20 A. Before this happened I had a great relationship with  
21 Meagan. I loved her all of my -- I still love her. She's my  
22 daughter of my dreams.

23 Q. Is she your only child?

24 A. Yes.

25 Q. When you say you had a great relationship with her



1 before this incident happened, what incident are you talking  
2 about?

3 A. When Angel came in her life.

4 Q. Do you remember when you first met Angel Garcia?

5 A. Not recalling.

6 Q. Okay, how did you first meet Angel Garcia?

7 A. Meagan brought her out -- brought him in the house in  
8 the garage, and I was working on his -- her truck.

9 Q. Okay, do you remember what year that was?

10 A. It was last year. I'm not sure, no.

11 Q. Could it have been in 2013?

12 A. Yes.

13 Q. If I said it was around the end of September 2013  
14 would you disagree with that?

15 A. I don't know.

16 Q. Okay, fair enough. So after you first met him, how  
17 often did you see him after that?

18 A. Meagan asked if she could -- he could spend the night.  
19 I says, "You can only spend one night, but you're sleeping in  
20 my bedroom and he's sleeping in your -- in the -- in the front  
21 room --

22 Q. Okay.

23 A. -- and only one night, and that's it.

24 Q. Did he end up spending more nights?

25 A. Yes.

1 Q. Did he end up moving into your house?  
2 A. Yes.  
3 Q. Do you remember approximately when he moved into your  
4 home?  
5 A. I don't know.  
6 Q. Okay, approximately total how long did he live in your  
7 home?  
8 A. I can't recall.  
9 Q. Did you support him moving into your home?  
10 A. No, I didn't.  
11 Q. Why not?  
12 A. Because I always thought the kid was too old for  
13 Meagan.  
14 Q. Okay, did you know how old he was when he moved into  
15 your home?  
16 A. Not really.  
17 Q. But you said that you thought that he was older than  
18 Meagan?  
19 A. Yes.  
20 Q. Did you ever find out how old he was at some point?  
21 A. I didn't that point, no.  
22 Q. Okay, did you ever find out how old he was?  
23 A. Yes.  
24 Q. How old?  
25 A. He was 27.

1 Q. Okay, do you know how old Meagan was in September  
2 2013?

3 A. She would be 17.

4 Q. Okay, when Angel moved into your home did that cause  
5 any conflict?

6 A. Yes.

7 Q. Who's Tori Grunwald?

8 A. My ex-wife.

9 Q. So when Angel moved into your home, who else was  
10 living in your home at the time?

11 A. Just Tori and Meagan and Angel and me.

12 Q. Okay, where would Angel stay when he was at your home;  
13 did he have his own bedroom?

14 A. No, he -- he was told to stay in the front room at all  
15 times, not in Meagan's room, and I would catch him -- caught  
16 him many times in Meagan's room.

17 Q. Did that make you upset?

18 A. It pissed me off.

19 Q. Okay, did you ever get in an argument with Angel about  
20 him going into her room?

21 A. I had some discussions about it, yes. I talked to  
22 him, but I mostly had Tori tell Meagan that I want him out.  
23 I told Meagan and Tori, "I want him out of the house."

24 Q. Based on your observations what did Tori -- how did  
25 she respond with Angel in the house; did she support it or not

1 support it?

2 A. Supporting it, supporting that Meagan could have him  
3 there, because think that we should have more money.

4 Q. Okay.

5 A. More money. I says, "We don't need that much money."

6 Q. Was he paying any rent?

7 A. I don't know. He gave me \$200 and I gave it to Tori.  
8 I says, "It's got to stop."

9 Q. Okay, do you know if he ever was paying for groceries  
10 or anything?

11 A. I can't -- I can't tell you.

12 Q. Okay.

13 A. It was a hush, hush thing with me.

14 Q. So when Angel moved in, do you know if he brought any  
15 clothes with him, or what were your observations?

16 A. He had clothes there, but I don't know when they came.

17 Q. Okay, but at some point --

18 A. I was gone quite a bit. I go to the bishop warehouse  
19 and donate time. I'm there quite a bit.

20 Q. Okay, okay. So were you -- in the evenings when you  
21 would get -- or would you work at the bishop's storehouse  
22 during the day or in the evenings?

23 A. During the day.

24 Q. Okay, and when you came home at night would Angel  
25 normally be there?

1 A. Yes.

2 Q. Okay, in January 2014 are you familiar with an  
3 incident where the police were called to your home?

4 A. Yes.

5 Q. Could you please explain what led up to that incident.

6 A. Tori got after me for some stupid things that I was  
7 doing out in the garage, and I went in and talked to Tori about  
8 it, and Meagan came into the -- my bedroom, and I said that  
9 Angel needed to go. It's just drawing too much pressure on  
10 everybody. She said. "If he has to go, I'm leaving."

11 Q. Who said that?

12 A. Meagan.

13 Q. Okay.

14 A. I says, "You're not going nowhere."

15 Q. So did you want Angel out of the house at that point?

16 A. Yes.

17 Q. Do you remember what the date of that incident was?

18 A. I'm not sure.

19 Q. Okay, but it was in January 2014?

20 A. Yes.

21 Q. Okay, so did you end up getting in an argument with  
22 Tori and Meagan about this?

23 A. All three of them.

24 Q. So Angel was there also?

25 A. Yes.

1 Q. Were you arguing with Angel?

2 A. Yes.

3 Q. How did Angel end up responding to you?

4 A. He pulled a gun on me.

5 Q. How far away -- let me ask you -- strike that. Where  
6 were you when he pulled a gun on you?

7 A. I was in the -- either down the hallway or in the  
8 kitchen. I can't -- I don't know.

9 Q. Okay, and who else was there when he pulled the gun on  
10 you?

11 A. Tori and Meagan.

12 Q. Did Angel say anything to you when he pulled the gun?

13 A. He said, "I ought to kill you, motherfucker."

14 Q. What did you do at that point?

15 A. I was scared and I was trying to get out of the door,  
16 and Meagan trying to think I was going after him, but I wanted  
17 to get out of the house.

18 Q. Okay, how far away from you when Angel pulled a gun on  
19 you was --

20 A. About here to -- here to you.

21 THE COURT: Let him finish the question, sir.

22 Q. BY MR. TAYLOR: Okay, let me -- I'll just go ahead and  
23 rephrase that, okay, Mr. Grunwald? So could you please describe  
24 in how many feet Angel was away from you when he pulled a gun  
25 on you?

1 A. I can't tell you in feet.

2 Q. Okay, but comparing a distance to where I'm at from  
3 you right here, was he closer to you or farther away where I am  
4 standing to you?

5 A. About the same.

6 Q. About the same, okay. How far away was Tori at this  
7 time?

8 A. Tori was in the kitchen, and we had a little window in  
9 the kitchen --

10 Q. Okay.

11 A. -- and he -- she was looking out the window.

12 Q. When he pulled the gun?

13 A. Yes.

14 Q. What did Meagan do when Angel pulled the gun?

15 A. She would stand by me and say she not going to touch  
16 him.

17 Q. So she was kind of protecting you?

18 A. I don't know if she was trying to protect me or trying  
19 to -- I don't know.

20 Q. Okay, fair enough. Fair enough. But anyways, did she  
21 stand between you and Angel?

22 A. Yes.

23 Q. Okay, after Angel said, "I ought to blow your fucking  
24 mind away," what happened after that?

25 A. My ex-wife told me to "Go ahead and shoot him. I'll

1 get you off."

2 Q. So Tori said that?

3 A. Yes.

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

5 A. I left the house. I was in the kitchen -- I mean, I  
6 went in the garage.

7 Q. Did you -- did Angel stay at that point; did he leave;  
8 what happened?

9 A. He was gone.

10 Q. Okay, did you end up getting into an argument with  
11 Meagan and Tori after he left?

12 A. No.

13 Q. Okay.

14 A. The cops was there.

15 Q. Okay, and so during this -- during the altercation in  
16 the home, did it ever get physical?

17 A. Yeah, I slapped Meagan.

18 Q. Okay, so you admitted that you slapped her?

19 A. Yes.

20 Q. Okay, and did -- were you ever touched?

21 A. Yes.

22 Q. What happened?

23 A. Meagan has hit me a couple of times.

24 Q. Okay, and was -- did this occur when Angel had already  
25 left the house or was he still there; do you remember?



1 A. I don't remember.

2 Q. Okay, do you remember what the gun looked like that  
3 Angel had?

4 A. No, I don't.

5 Q. Okay, do you remember speaking with a Patty Johnston  
6 about this incident?

7 A. Yeah, and I want to know why she taped everything and  
8 I'm in here now. Isn't that against the law.

9 Q. Sure, let me just go ahead, if I could just follow up  
10 with a couple of questions, Mr. Grunwald. Did she meet with  
11 you in your home?

12 A. In my mother's home.

13 Q. In your mother's home, and do you remember her asking  
14 you the question about what kind of gun it was?

15 A. Yeah, and I told her I didn't know what kind it was.

16 Q. Okay, if she said that -- if she made in her notes  
17 that you described it as being a brown --

18 MR. ZABRISKIE: Your Honor, I'm going to object. That's  
19 leading. He's already answered the question.

20 MR. TAYLOR: He says --

21 THE COURT: Overruled. Go ahead and respond.

22 MR. TAYLOR: Thank you.

23 MR. ZABRISKIE: Your Honor, this is not cross.

24 THE COURT: Overruled.

25 MR. TAYLOR: Thank you.

1 Q. BY MR. TAYLOR: So in meeting with Patty Johnston you  
2 said that you remember her asking you a question about the type  
3 of gun. Do you recall telling her that it was -- you thought  
4 it was a brown handled gun?

5 A. I am not sure.

6 Q. Okay, fair enough. Fair enough, Mr. Grunwald. So did  
7 the police come to your home?

8 A. Yes.

9 Q. Okay, were -- what happened when the police came to  
10 your home?

11 A. They took me to jail.

12 Q. Okay, I'm just going to back up a little bit. Before  
13 this incident you talked about your relationship with Meagan  
14 and you said you had a good relationship with her before Angel  
15 came into her life, correct?

16 A. Yes.

17 Q. Based upon your observations did you notice any  
18 changes in Meagan after Angel became a part of her life?

19 A. She was -- she was -- I don't know. I guess she just  
20 rebellion, being a rebellion teenager.

21 Q. Being rebellion?

22 A. Yeah, a teenage.

23 Q. Was she more rebellion after Angel came or about the  
24 same before he came?

25 A. After.

1 Q. He was more -- she was more rebellion after he came  
2 into her life?

3 A. Yes.

4 Q. Okay, and when you say "rebellion," could you just  
5 kind of describe a little bit what you mean by that?

6 A. More mouthy, didn't want to do some of the things I  
7 wanted them to do.

8 Q. Okay, but you still care about your daughter obviously?

9 A. Love my daughter. Still love her today. She won't  
10 talk to me, but I still love her.

11 Q. Okay, I'm going to show you what's been marked Exhibit  
12 120.

13 MR. TAYLOR: May I approach the witness, please.

14 THE COURT: Yes.

15 Q. BY MR. TAYLOR: Whoops, I'm sorry. Do you recognize  
16 that picture, Mr. Grunwald?

17 A. Yes.

18 Q. Who is that?

19 A. Angel.

20 Q. Okay, based upon your observations are you aware of  
21 a ring that Angel gave to Meagan?

22 A. I was there when he give her the ring, and it was  
23 supposed to be a friendship ring.

24 Q. A friendship ring?

25 A. Only a friendship ring.

1 Q. That was your understanding that it was a friendship  
2 ring?

3 A. Yes.

4 Q. Okay, and so do you know where you were at when you  
5 saw Angel give her that ring?

6 A. We go out junking.

7 Q. What does that mean?

8 A. Well, we go -- Sandy City has their cleanup, and we go  
9 pick up metal to turn them in and make a little extra money.

10 Q. Okay.

11 A. We was out junking, and we was there. He picked a box  
12 up and put it in a box and had -- and gave it to Meagan.

13 Q. Okay, he put the ring in the box and then gave the box  
14 to Meagan?

15 A. Yes.

16 Q. Did you see her open up that box?

17 A. I didn't see her. She was in the back seat.

18 Q. Okay, okay. Did you ever see her wear the ring?

19 A. I did.

20 Q. Okay, but it was your understanding it was a friend-  
21 ship ring?

22 A. Yes.

23 Q. Okay, now when the police arrived at your residence  
24 that night, do you remember the officer asking you about what  
25 kind of gun it was that you saw that angel had?

1 A. Something like that.

2 Q. Okay, do you remember what you told the officer?

3 A. It was a long -- I don't know.

4 Q. Okay.

5 A. I can't remember.

6 Q. Okay, and just -- just to clarify, the incident that  
7 happened in January of 2013, what caused that argument?

8 A. Say again.

9 Q. What was the reason for the argument in January 2013  
10 where Angel pulled a gun on you; why were you arguing?

11 A. Well, I was arguing with my wife, and Tori come --  
12 Meagan came in and I told Meagan that I want that kid out.

13 Q. Okay, so it was about Angel leaving the home is what--

14 A. Yes.

15 MR. TAYLOR: Okay. All right, nothing further at this  
16 time, Judge.

17 THE COURT: Thank you.

18 MR. TAYLOR: Oh, just a sec. I'm sorry, Judge.

19 THE COURT: Okay.

20 (Counsel conferring off the record)

21 MR. TAYLOR: If I can just ask him one more question.

22 THE COURT: Sure.

23 Q. BY MR. TAYLOR: Mr. Grunwald, how many bedrooms are in  
24 your home?

25 A. There's two.

1 Q. Okay, and does Meagan have her own bedroom, then?

2 A. Yes.

3 Q. Okay, did you ever talk to Meagan about having sex  
4 with Angel?

5 A. I (inaudible) talked to Meagan about it, but I knew it  
6 was going on. I didn't want it.

7 Q. You didn't want it going on?

8 A. No.

9 Q. Okay.

10 A. That's why I wanted him out.

11 Q. Okay, because you suspected that they were having a  
12 sexual relationship?

13 A. Yes.

14 MR. TAYLOR: Okay. All right, nothing further. Thank  
15 you.

16 THE COURT: Okay, thank you. Cross examination.

17 MR. ZABRISKIE: May I proceed, your Honor.

18 THE COURT: Yes.

19 CROSS EXAMINATION

20 BY MR. ZABRISKIE:

21 Q. Mr. Grunwald, that was not -- let me rephrase that.  
22 The police had been to your home frequently, had they not,  
23 because of fighting between you and your wife?

24 A. Yes.

25 Q. You and your wife had been at odds about a lot of

1 things long before Angel arrived at that home?

2 A. Yes.

3 Q. Now, you indicated that when Angel came to your home  
4 he paid you some rent, or did you characterize it as rent?

5 A. Yeah, but I gave it to Tori. I didn't want it. I  
6 told him I wanted it out. I said, "Here's the money that Angel  
7 gave me, but I want him out."

8 Q. But you didn't give it back to him, did you?

9 A. No, I gave it Tori. Gave it to Tori, letting her  
10 handle it, because Tori wanted it there. I didn't want him  
11 there.

12 Q. Well, you're -- and again, I don't mean to embarrass  
13 you, but you're -- financially it's -- life has been difficult  
14 for you; has it not?

15 A. Yes.

16 Q. You've had some difficulties with your health?

17 A. Yes.

18 Q. Your source of income is disability?

19 A. Yes.

20 Q. As is -- your wife gets disability?

21 A. Yes.

22 Q. You are aware that your wife has suffered a brain  
23 damaging accident before she met you?

24 A. Yes.

25 Q. In fact, again, and I -- I hope you don't think I'm

1 doing this to embarrass you, but you also have problems with  
2 your brain; do you not?

3 A. Yes.

4 Q. Because of that, you were not able to learn to read or  
5 write?

6 A. Yes, but what does that matter?

7 Q. It doesn't, but I'm leading up to a point here. The  
8 fact that this was your life situation, one you did not ask  
9 for, that cause you a lot of frustration?

10 A. Yes.

11 Q. Anger?

12 A. Yes.

13 Q. Now, you indicated that money was -- you had monies  
14 but -- no one ever has enough, but did you have enough to live?

15 A. If we manage our money better, yes.

16 Q. In fact, Meagan worked, did she not, when she was in  
17 high school?

18 A. Yes.

19 Q. In fact, she worked two and three jobs at a time; did  
20 she not?

21 A. Yes, by her choice.

22 Q. Uh-huh. Well, by her choice, I'm not saying you  
23 forced her to work, but she was working when she was 16 years  
24 old, wasn't she?

25 A. Yes.



1 Q. Now, you talked about the relationship you had with  
2 your daughter. Taught her how to work on cars?

3 A. Yes.

4 Q. You a mechanic, an amateur mechanic?

5 A. I would say part.

6 Q. Uh-huh, and taught her how to rebuild a carburetor,  
7 things like that?

8 A. Yes.

9 Q. When she became a teenager was it -- did you notice a  
10 change in her as she got older?

11 A. No. She would more and more want to -- she wanted  
12 more and more -- wanted to get more into cars.

13 Q. Well, she could work on them, couldn't she?

14 A. Yeah, she liked to go four-wheeling with me.

15 Q. I see. Let's talk a little bit about guns. Do you  
16 have guns in your home?

17 A. No, I don't.

18 Q. In fact, you don't allow guns in your home; isn't that  
19 the case?

20 A. Yes.

21 Q. As far as I know, you don't allow those that live  
22 there to have guns?

23 A. Right.

24 Q. By that, Tori, your wife, doesn't have a gun, that  
25 you're aware of?

1 A. No.

2 Q. And Meagan doesn't have a gun, that you're aware of?

3 A. No. Had a b.b. gun.

4 Q. You never took her out and showed her how to use a  
5 rifle or anything like that?

6 A. No.

7 Q. You didn't like guns?

8 A. No.

9 Q. Was it your experience that Meagan didn't have any  
10 experience with guns?

11 A. No.

12 Q. Now, the -- it's unfortunate that you and your wife  
13 had reached a point where you argued all the time, didn't you?

14 A. Yes.

15 Q. So even without Angel Garcia there, there would have  
16 been conflict between you and your wife; isn't that the case?

17 A. Yes.

18 Q. Now, you indicated on -- I think the date was January  
19 11<sup>th</sup> of 2014 you had this argument. It started with Tori, and  
20 then Angel got involved; is that correct?

21 A. Yes.

22 Q. Let me back up a little bit. Isn't it true that Angel  
23 moved out of your home in December and you invited him back for  
24 Christmas?

25 A. No, he was there. I didn't want him there.

1 Q. Was he there for Christmas?

2 A. Yes.

3 Q. Did you ever go to any effort -- by that, did you talk  
4 to law enforcement about moving him out of the house?

5 A. I talked to some of my -- my bishop about it.

6 Q. Okay, so your bishop was aware of what was --

7 A. Yeah.

8 Q. -- was going on there?

9 A. Yes.

10 Q. Now, on -- let me jump back forward to the January 11<sup>th</sup>  
11 date. The police came to your home; did they not?

12 A. That time?

13 Q. On the one -- the incident in January.

14 A. Okay.

15 Q. That's the one that we've testified about. The police  
16 came to your home, correct?

17 A. Yes.

18 Q. You told them your side of the story, correct?

19 A. Yes.

20 Q. They arrested you?

21 A. Yes.

22 Q. Took you to jail, right?

23 A. Yes.

24 Q. Charged you with assault?

25 A. Yes.

1 Q. In fact, a protective order was issued protecting your  
2 daughter against you?

3 A. Between both of them.

4 Q. But a protective order ordered you to stay away from  
5 your daughter, correct?

6 A. Yeah, and Meagan. I mean, and Tori.

7 Q. Okay, and with that, you weren't able to -- to have  
8 any contact with Meagan?

9 A. Right.

10 Q. Okay, now when the police came to your home that night  
11 and they asked you -- you indicated to them that there was a  
12 gun, and that Angel had it; do you remember that?

13 A. Yes.

14 Q. Isn't it true when they first asked you, you said,  
15 "Well, it was a long gun or an air gun."

16 A. I didn't say an air gun.

17 Q. That you couldn't quite remember what it was?

18 A. I didn't say an air gun.

19 Q. But you didn't remember what it was?

20 A. No.

21 Q. Then you made a statement about a .22 caliber --

22 A. I did not say what -- I don't know guns.

23 Q. So -- well, isn't it true that when first asked by --  
24 let's talk about Ms. Johnson. When first asked whether in fact  
25 you could identify the gun, at first when you talked to her,

1 you indicated it was a silver gun?

2 A. It looked like a silver gun.

3 Q. Okay, and then when you talked --

4 A. Like (inaudible).

5 Q. Uh-huh, and then when you talked to her after that, I  
6 think you indicated it was --

7 A. Like I say, I have-- I want to know my rights, because  
8 they come over to my house and they tape everything. Then I've  
9 got to come testify again against my daughter. There's got to  
10 be something wrong here.

11 Q. Isn't it true you gave three different descriptions of  
12 a gun you thought you saw?

13 A. That's my ability. I'm not sure. I don't know. You  
14 give me the gun now, I don't know if I could testify it or not,  
15 to see it.

16 Q. Isn't it true when asked by the police to describe the  
17 gun or what happened, you said, "I can't remember."

18 A. Yes.

19 Q. I'm not criticizing you. I'm just saying that's what  
20 -- do you remember saying that? Huh?

21 A. (No verbal response).

22 MR. ZABRISKIE: No further questions, your Honor.

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

24 MR. TAYLOR: No, Judge.

25 THE COURT: All right, Mr. Grunwald. That's all. Thank

1 you.

2 MR. TAYLOR: Okay, Judge, may he be released from his  
3 subpoena?

4 MR. ZABRISKIE: We're not prepared to do that just yet,  
5 your Honor.

6 THE COURT: All right, Mr. Grunwald, you're still under  
7 subpoena, so I'd appreciate and admonish you not to speak with  
8 this --

9 THE WITNESS: Can I leave?

10 THE COURT: Not yet. I don't know if you're planning  
11 to call him again today or --

12 MR. ZABRISKIE: We wouldn't call him today.

13 THE COURT: Okay.

14 MR. ZABRISKIE: We would call him --

15 THE COURT: So today he can go ahead and go.

16 MR. TAYLOR: You can go. She can leave, too. Thank  
17 you, Mr. Grunwald.

18 (Counsel speaking with witness off the record)

19 THE COURT: Call your next witness.

20 MR. TAYLOR: The State calls Sonja Ferrufino.

21 THE COURT: Okay, I guess at this moment we need to  
22 take a short recess once again.

23 MR. TAYLOR: Okay, we can do that.

24 COURT BAILIFF: All rise for the jury.

25 (Jury exits the courtroom)

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

2 (Recess taken)

3 THE COURT: Thank you. Please be seated. Okay, back  
4 on the record. All parties are present, including members of  
5 the jury.

6 MR. PEAD: We're waiting for one attorney in the hall.

7 THE COURT: Okay. All right, call your next witness,  
8 Mr. Taylor.

9 MR. TAYLOR: The State calls Sonja Ferrufino.

10 THE COURT: Thank you. Come forward, ma'am, let's have  
11 you sworn in. Just right here is good.

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

16 THE WITNESS: Yes, I do.

17 THE COURT: Thank you, ma'am. Please have a seat here  
18 in the witness box.

19 SONJA FERRUFINO,

20 having been first duly sworn,

21 testified as follows:

22 DIRECT EXAMINATION

23 BY MR. TAYLOR:

24 Q. Good afternoon. Would you please state your full name  
25 and then spell your last name.

1           A.    My name is Sonja Ferrufino, F as in Frank e-r-r-u-f as  
2 in Frank again i-n-o.

3           Q.    Where are you employed, Sonja?

4           A.    Riverton High School.

5           Q.    What do you teach at Riverton High School?

6           A.    I teach animal science, biology and a concurrent  
7 enrollment class.

8           Q.    How long have you been a teacher at Riverton High  
9 School?

10          A.    Fifteen years.

11          Q.    Okay, are you familiar with Meagan Grunwald?

12          A.    Yes.

13          Q.    Is she in the courtroom today?

14          A.    Yes.

15          Q.    Is she over here in the white blouse?

16          A.    Yes.

17          Q.    Okay, the white sweater.

18          A.    Uh-huh.

19          Q.    How do you know Meagan Grunwald?

20          A.    She was my student for two-and-a-half years.

21          Q.    So two-and-a-half years. So do you remember when --  
22 what year you would have first had her as a student?

23          A.    Let's see, 2013, '14 -- 2012, '13, 2011, '12 school  
24 year, I believe.

25          Q.    Okay, so would she have been a sophomore at that time?



1 A. Yes.

2 Q. Okay, and so in what capacity, in what class did you  
3 have her as a student; do you remember?

4 A. Oh, heavens. I think my animal science class. I would  
5 have to check for sure.

6 Q. Okay, and so throughout the course of the two-and-a-  
7 half years did you get to know Meagan pretty well?

8 A. Yes.

9 Q. Tell us how you got to know her pretty well. Was  
10 it just in class or was it outside of class or why don't you  
11 explain that.

12 A. She was my student, and I'm also a club advisor, and  
13 she was a member of my club.

14 Q. A member of what club?

15 A. The Future -- the FFA.

16 Q. Okay, and so in what capacity was Meagan a member of  
17 the club; what did she do, I guess?

18 A. She was a member of the club and participated in  
19 regular activities, and she also was on one of my teams.

20 Q. What team was that?

21 A. My ag issues team. It's a speaking team.

22 Q. So explain a little bit about what do you do with  
23 regards to the ag issues team.

24 A. They choose a controversial topic in agriculture, and  
25 then they have to research and study. Basically they have a

1 script that they -- that they memorize about the controversial  
2 topic, their pros and cons to that issue.

3 Q. So is this kind of an extracurricular outside of  
4 classroom sort of thing?

5 A. Yes.

6 Q. So -- and Meagan participated in that?

7 A. Yes, it corresponds to what you teach in class as well.

8 Q. Okay, okay. How did Meagan do in that extracurricular  
9 activity?

10 A. She did -- she did great. She was on the 2012 State  
11 winning agricultural issues team.

12 Q. Did you guys ever travel with regards to this club?

13 A. Yes.

14 Q. Did she travel with you?

15 A. Yes.

16 Q. Okay, and where did you travel to?

17 A. To Indianapolis, Indiana for the national convention.

18 Q. Would you compete against other schools at this point?

19 A. We competed against other states; we were representing  
20 Utah.

21 Q. Okay, so you guys won State here in Utah, and then you  
22 went out to Indianapolis to --

23 A. Yes.

24 Q. -- represent the State of Utah?

25 A. Uh-huh, yes.

1 Q. Okay, and Meagan went with you?

2 A. Yes.

3 Q. Okay, in your interactions with Meagan how would you  
4 describe her as a young woman?

5 A. She was a normal student.

6 Q. Did you -- how would you describe her behavior while  
7 she was in class?

8 A. She was quiet but attentive and asked questions of me  
9 personally, not necessarily in front of the class.

10 Q. Okay, so you said you first had her in school in 2011,  
11 I guess probably about halfway, last semester or something like  
12 that, if that would be two-and-a-half years?

13 A. Yeah, it was two -- up until January 2014, yes.

14 Q. Okay, so did you have her in a class at the beginning  
15 of the school year of 2013?

16 A. Yes.

17 Q. Okay, so that would be the 2013, '14 school year,  
18 correct?

19 A. Yes.

20 Q. Do you recall what class you would have had her in at  
21 that point?

22 A. I believe it was my agriculture biology class.

23 Q. Okay.

24 A. I think.

25 Q. Okay, let me ask you this. So when you traveled to

1 Indianapolis as part of your club, was that before the  
2 beginning of school year 2013?

3 A. Yes.

4 Q. Do you remember approximately when that would have  
5 been?

6 A. It would have been October, the last week in October  
7 of 2012.

8 Q. Of 2012?

9 A. Yes, yes.

10 Q. Okay, and so school year starts up again in 2013.  
11 Meagan's part of your class again, correct?

12 A. Uh-huh.

13 Q. Do you notice any differences in Meagan with regards  
14 to her behavior?

15 A. She was just very quiet.

16 Q. Okay, as the school year progressed did you notice any  
17 differences in her behavior?

18 A. Again, she was just more withdrawn. She came less.

19 Q. Okay, so you say "more withdrawn." Are you comparing  
20 her as before that school year?

21 A. Uh-huh, yes.

22 Q. Okay, and when you say --

23 A. She was just quiet, very quiet.

24 Q. Less so than what she had been?

25 A. Yes.

1 Q. I mean, more so, I guess?

2 A. Yes, yes.

3 Q. Did -- was she part of any clubs?

4 A. Mine.

5 Q. In the year 2013?

6 A. Mine.

7 Q. Okay, that same club?

8 A. Uh-huh.

9 Q. Okay.

10 A. I'm not aware of any others; I don't know.

11 Q. Okay, and was this the same -- the speaking issues  
12 club?

13 A. No, she -- once you win at State, you are no longer  
14 eligible to be on that specific team.

15 Q. Okay.

16 A. She was still a member of the club, but just not on  
17 that team.

18 Q. Okay, okay. So you -- so she wasn't participating  
19 anymore in 2013 with regards to the speaking issues club?

20 A. No, uh-huh, no.

21 Q. Okay. All right, would Meagan ever talk to you about  
22 boys?

23 A. Not a lot, no.

24 Q. Did she ever talk to you about a guy named Angel?

25 A. Yes.

1 Q. Do you remember where you were at; were you at school?

2 A. Yes.

3 Q. Was it just you and her when she talked to you about  
4 it?

5 A. I believe so, yes.

6 Q. Do you remember where in school; was it in your class-  
7 room?

8 A. It was in my classroom.

9 Q. Okay, and just generally what did Meagan tell you  
10 about Angel?

11 A. Just that he was an older guy and that she was just  
12 with him.

13 Q. Okay, did she describe him as a boyfriend, a friend,  
14 or do you recall how she referred to him as?

15 A. As far as I remember, just a friend.

16 Q. Okay.

17 A. Yes.

18 Q. Did she talk about any of her plans with Angel?

19 A. Not to me.

20 Q. Okay, so she didn't talk about getting married with  
21 him or anything like that?

22 A. No, uh-huh.

23 Q. Do you know whether or not she was working at the  
24 time?

25 A. Yes.

1 Q. Okay, and when I say "working," I mean employed out-  
2 side of school?

3 A. Yes.

4 Q. Did Meagan talk to you about that employment?

5 A. Yes.

6 Q. Okay, did she ever talk to you about quitting that  
7 employment?

8 A. Not -- I don't remember. I don't know.

9 Q. Okay, fair enough. Did Meagan ever confide in you  
10 about an altercation that occurred between her dad and Angel?

11 A. Yes.

12 Q. What did she -- what do you recall from that conver-  
13 sation about that?

14 A. I recall that she told me that there was a physical  
15 altercation between her father and Angel and that someone had a  
16 gun. That's all I know.

17 Q. Okay, did she describe who had the gun?

18 A. No.

19 Q. Did she describe what kind of gun it was?

20 A. No.

21 Q. When you received that information, did you do any-  
22 thing with that information?

23 A. No, because she had already -- she told me that there  
24 was a restraining order. So that led me to believe that it had  
25 been taken care of through the proper authorities.

1 Q. Okay.

2 A. Yes.

3 Q. Okay, was that the first time that Meagan had talked  
4 to you about a gun?

5 A. Yes.

6 Q. Was that the only time that she had mentioned --

7 A. That's the only time, yes.

8 Q. Okay. All right. When -- when Meagan was in your  
9 class, how did she do with regards to her grades; how did she  
10 do overall, as far as you recall?

11 A. She's an average student. She was an average student.

12 Q. Okay.

13 A. Yes.

14 Q. Any problems with Meagan in school at all?

15 A. No.

16 Q. Okay.

17 A. No.

18 MR. TAYLOR: All right, nothing further.

19 THE COURT: Okay, thank you. Cross?

20 MR. ZABRISKIE: We waive cross, your Honor.

21 THE COURT: All right, thank you. Any reason why  
22 Ms. Ferrufino can't be excused?

23 MR. TAYLOR: No.

24 MR. ZABRISKIE: No.

25 THE COURT: Okay, thank you. That's all, ma'am.



1 THE WITNESS: Thank you.

2 THE COURT: Next witness?

3 MR. TAYLOR: The State calls Eric Braegger.

4 THE COURT: Come forward, sir, let's have you sworn in.

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

9 THE WITNESS: Yes.

10 THE COURT: Thank you, sir. Please have a seat in the  
11 witness box. Pull that down a little bit if you could. Thank  
12 you.

13 ERIC BRAEGGER,

14 having been first duly sworn,

15 testified as follows:

16 DIRECT EXAMINATION

17 BY MR. TAYLOR:

18 Q. Would you please state your name and then spell your  
19 last name.

20 A. It's Eric Braegger. It's spelled B-r-a-e-g-g-e-r.

21 Q. What city do you live in, Mr. Braegger?

22 A. West Point.

23 Q. Okay, and what is your occupation?

24 A. Currently?

25 Q. Yes.

1 A. Currently sales at RC Willey.

2 Q. Okay, and how long have you done that?

3 A. Since June of last year.

4 Q. Okay, so since June of 2014?

5 A. Correct.

6 Q. Where did you work before that?

7 A. Draper City Police.

8 Q. How long had you worked for Draper City Police  
9 Department?

10 A. Draper City Police Department, started there in 2003,  
11 retired 2014. So what is that, eleven years.

12 Q. Okay, and before -- so at the time that you were with  
13 Draper City PD, were you a certified police officer?

14 A. Correct.

15 Q. Okay, and what were your responsibilities there at the  
16 police department?

17 A. Well, we could name a whole bunch if you want me to,  
18 but --

19 Q. Just generally?

20 A. Generally speaking, patrol. I've done patrol, SWAT,  
21 traffic, records management, bunch of different things.

22 Q. Okay, so total, how many years have you been in law  
23 enforcement?

24 A. Twenty years.

25 Q. Okay, so you put in your twenty years and then you

1 retired, and this is your second occupation; is that correct?

2 A. That is correct.

3 Q. Okay, and so were you employed with Draper Police  
4 Department in January 2014?

5 A. Yes, I was.

6 Q. Did you respond to the Jerry Grunwald residence?

7 A. Yes, I did.

8 Q. Do you recall what day that you responded to that  
9 residence?

10 A. I could look if I am wrong, but I think it was like  
11 January 11<sup>th</sup> of 2014.

12 Q. Okay, and do you know -- do you remember what the  
13 address was?

14 A. Not exactly. I could probably look that up if you  
15 want me to, but I would say it was about 600 East'ish, and  
16 Pioneer Road.

17 Q. Okay, and what was the purp --

18 MR. ZABRISKIE: Tim, I'm sorry, we're talking January?

19 MR. TAYLOR: Yeah, January 2014 -- January 11th.

20 Q. BY MR. TAYLOR: Okay, so what was the purpose of you  
21 responding to that address?

22 A. I had a call of a domestic violence situation.

23 Q. Okay, and were you the only one who responded?

24 A. No, there was myself and two other officers that  
25 responded to that one.

1 Q. Okay, when you get -- when you got to the residence  
2 could you describe briefly what your observations were?

3 A. Well, frankly I'd have to say as a police officer,  
4 anything coming up on a domestic violence situation, it's good  
5 to take your time and listen and watch to see if there's some-  
6 thing that you need to be aware of or what's going on.

7 So I was walking up quietly to the house. There was  
8 a stereo playing in the garage. The garage door was open. So  
9 to hear anything else really going on was kind of difficult.  
10 I did pass by I believe it was the kitchen window that I saw  
11 Tori Grunwald standing in that window.

12 So I pointed that out to another officer that was  
13 following me, just so that he would be aware that there was a  
14 possibility that they may know that we're already there. They  
15 may not. Don't know, but I just kind of pointed that out.

16 Q. Okay, was this during the day or during the night?

17 A. This was during the day.

18 Q. Okay, at some point did you make contact with Jerry  
19 Grunwald?

20 A. Yes, we were standing just inside the garage at the  
21 garage door entranceway, and I then -- when I felt it was time,  
22 I just went ahead and knocked on the door. The door opened,  
23 and Jerry Grunwald exited very quickly out of the home and got  
24 into his motorized wheelchair.

25 Q. How would you describe his demeanor?

1           A.    Well, there were a lot of different emotions that were  
2 playing. So to describe his demeanor was kind of multi-faceted,  
3 but I would say angry, upset, concerned.

4           Q.    Was he yelling?

5           A.    Yeah, he was yelling. He was swearing at me. He was  
6 difficult to calm down at first while I'm trying to figure out  
7 what's going on essentially.

8           Q.    So when he came out of the garage, did he tell you  
9 anything? What did he tell you?

10          A.    He made some statements that a guy pulled a gun  
11 on him and that he was going to take care of it because law  
12 enforcement wouldn't. There was kind of some discussion about  
13 that.

14          Q.    Okay, so you're dealing with Mr. Grunwald and you've  
15 got a couple of other officers there. At some point did you  
16 interview Meagan Grunwald?

17          A.    Yes, I did.

18          Q.    Where was that at?

19          A.    That was inside the home, primarily in the living room  
20 area.

21          Q.    Okay, and what was the purpose of interviewing Meagan  
22 Grunwald?

23          A.    She was the reported victim, if you would. Also, by  
24 talking to Mr. Grunwald, there was a -- some statements that he  
25 made that he had been fighting with his daughter. So between

1 what I was dispatched to as well as what his statements were,  
2 I still needed to talk to her to kind of get her side of the  
3 story and kind of figure out how this -- what was going on.

4 Q. When Mr. Grunwald came out of the garage he said some-  
5 one pulled a gun on him. Did he mention a name?

6 A. Yes, the name was Angel.

7 Q. Okay, and so was Angel there at the home when you  
8 arrived?

9 A. He was not.

10 Q. So when you arrived, who all besides Jerry Grunwald,  
11 Meagan Grunwald and Tori Grunwald, was there anyone else that  
12 you saw that was there?

13 A. No, those were the only people that were at the  
14 residence that I saw.

15 Q. Okay, and on that day were you wearing a body camera?

16 A. Yes, I was.

17 Q. Were you wearing that body camera when you interviewed  
18 Meagan Grunwald?

19 A. Yes, I was.

20 Q. Have you reviewed that body camera in anticipation of  
21 testifying today?

22 A. Yes, I have.

23 Q. Does that body camera footage that you saw accurately  
24 depict what happened on January 11<sup>th</sup>, 2014?

25 A. Yes, it does.

1 MR. TAYLOR: Okay, may I approach the witness, Judge.

2 THE COURT: Yes.

3 MR. ZABRISKIE: I'm sorry, Tim.

4 (Counsel conferring off the record)

5 MR. TAYLOR: I guess may I approach again, please.

6 THE COURT: Sure.

7 MR. TAYLOR: Thank you.

8 Q. BY MR. TAYLOR: Officer Braegger, I've asked you --  
9 excuse me, I've handed you what's been marked Exhibit No. 273.  
10 Do you see a title on that?

11 A. Yes, I do.

12 Q. What is the title of that?

13 A. Utah County Attorney's Office DVD case No. 141400517.  
14 Case name, State vs. Meagan Grunwald." There's a No. 273. It  
15 looks like a plaintiff's exhibit, and I've got to open it just  
16 a -- there's a little thing covering.

17 Q. Sure.

18 A. "Officer Braegger's body cam video."

19 Q. So would that have been your body cam video that we  
20 were just talking about?

21 A. That would -- I would assume so, yes.

22 MR. TAYLOR: Okay, Judge, the State would like to  
23 publish this to the jury. There's a little extra footage on  
24 there that we don't intend to show at this point, so we're not  
25 going to introduce the whole thing into evidence at this point.

1 THE COURT: Okay, any objection?

2 MR. ZABRISKIE: No, your Honor.

3 THE COURT: Accept and receive State's Exhibit 273,  
4 then, with regard to what you actually show.

5 (Exhibit No. 273 received into evidence)

6 THE COURT: Any problem with publishing it at this  
7 point? Any objection to publishing?

8 MR. ZABRISKIE: No, your Honor.

9 THE COURT: Thank you.

10 Q. BY MR. TAYLOR: Officer Braegger -- or Mr. Braegger,  
11 there's a --

12 A. You can call me whatever I want -- whatever you want,  
13 I should say.

14 Q. There's a -- if I need to -- you to point out anything  
15 there's a --

16 A. Okay.

17 Q. Okay, so just for the record purposes, this is Exhibit  
18 No. 273 and we've -- the video's shown up on the screen. Can  
19 you see that?

20 A. Yes, I can.

21 Q. Who is that right there?

22 A. That would be Meagan Grunwald.

23 Q. Okay, go ahead and play that. I'll stand here.

24 A. Am I supposed to hit play here?

25 Q. No, just a second.



1 (Body camera video played in the courtroom)

2 MS. GRUNWALD: (Inaudible) and I'm getting ready to do  
3 my EMT, and then I have college classes like in high -- I'm  
4 doing college classes right now. I'm doing my CNA, and I'm  
5 getting ready to do my EMT, and then I have college classes  
6 like in high school, like my science classes and everything  
7 like that. My mom has a brain injury, so she can't help me  
8 study, and my dad can't read or write.

9 So Angel's the only one that's like helping me through  
10 like through everything like through school and everything,  
11 like he's always been there. Like I have other friends, too,  
12 but it's like I know he's older than me, but like we don't --  
13 like we're just friends. Like we don't do anything, and my dad  
14 is like we're the baddest people in the (inaudible). He's done  
15 most of (inaudible) help and everything.

16 Like I understand he's (inaudible), but like come on,  
17 you know, I'm 17. It's just really (inaudible). It's like I  
18 just want to move out, but I can't until I'm 18. My mom and  
19 dad get in fights all the fucking time, and my dad always  
20 causes them, and then he makes me sit here and (inaudible).  
21 I'm just like, "Dad, just do it if you're going to. I'll just  
22 make sure your ass goes to jail then."

23 It's just so stupid. I'm like (inaudible) everything  
24 (inaudible) my mom. Like everything in the house that needs  
25 done, like he helps me with. Like me and Angel are always

1 working on the house. We cook dinner every night. We get  
2 (inaudible) breakfast and lunch and like everything. Like  
3 that's just how we are. Angel pays rent and groceries, and like  
4 he pays like half the water and electricity and everything.  
5 It's just like my dad hates him. I don't get why. Like I  
6 understand I'm his only daughter and stuff, but (inaudible)  
7 life sooner or later.

8 OFFICER: Okay.

9 MS. GRUNWALD: Meagan, (inaudible) that you're okay.

10 OFFICER: Just so you do or don't (inaudible).

11 MS. GRUNWALD: (Inaudible) 125 of (inaudible).

12 (This portion of recording is too inaudible to be  
13 transcribed accurately due to dispatch and others  
14 speaking simultaneously.)

15 OFFICER: Listen. Ask him to come back. We need to  
16 talk to him.

17 MS. GRUNWALD: Hey, Angel, the officer wants you to  
18 come back here and talk to him about what happened. Do you  
19 want to talk to the officer? Really? Angel, please talk to  
20 me. Why? Just will you please talk to me?

21 OFFICER: Let me talk to him.

22 MS. GRUNWALD: The thing is, is the officer needs to  
23 talk to you.

24 OFFICER: Angel, this is Officer Braegger, Draper City  
25 Police. Can you come back so we can talk to you. Okay. Okay,

1 (inaudible). Okay, give me your exact address. We'll come get  
2 you to talk to you. What's the number on it?

3 MR. JUAREGI: 31229.

4 OFFICER 31229 what?

5 MR. JUAREGI: (Inaudible) State Street.

6 OFFICER: State Street?

7 MR. JUAREGI: Yeah, it's just the motel.

8 OFFICER: What are you driving so that we can find you?

9 MR. JUAREGI: White Cadillac.

10 OFFICER: What?

11 MR. JUAREGI: White Cadillac.

12 OFFICER: White Cadillac what?

13 MR. JUAREGI: Seville (inaudible).

14 OFFICER: (Inaudible) Seville?

15 MR. JUAREGI: My phone's about to die.

16 OFFICER: Okay, give me the address one more time. Are  
17 you there? Okay, (inaudible) call me.

18 DISPATCHER: Okay, would you like the (inaudible)?

19 OFFICER: If there's something pending that's major,  
20 yes. If not, hold it.

21 DISPATCHER: 10/4.

22 OFFICER: Looks like he hung up. Did -- okay, let's  
23 just put that down for a minute. Did -- was there a gun  
24 involved?

25 MS. GRUNWALD: No.

1 OFFICER: Why would your dad say there was?

2 MS. GRUNWALD: Because my dad is so psychotic. Like  
3 I'm not even joking.

4 OFFICER: So if we go down there, we won't find the  
5 gun?

6 MS. GRUNWALD: No.

7 OFFICER: So you wouldn't lie about that?

8 MS. GRUNWALD: No.

9 OFFICER: Because that's pretty important that you  
10 don't lie.

11 MS. GRUNWALD: I'm not lying.

12 OFFICER: If there is one --

13 MS. GRUNWALD: Angel wouldn't carry --

14 OFFICER: -- and somebody's using it for self-defense,  
15 that's okay.

16 MS. GRUNWALD: Yeah.

17 OFFICER: But if somebody's got one and threatening  
18 people with it without being self-defense, that's another  
19 thing; but (inaudible) if he's got one --

20 MS. GRUNWALD: He doesn't got one. He (inaudible) he  
21 doesn't got one. He's trying to get his life straight. I'm  
22 helping him trying to go back to school. Like he's turning  
23 his life around from -- like he's on parole, but he's trying  
24 to turn his life around.

25 OFFICER: (Inaudible). What's Angel's last name?

1 MS. GRUNWALD: Garcia. Angel --

2 OFFICER: Could you get an agency assist to (inaudible)  
3 there at 3100 Brock in that area of State Street. Look for  
4 a white Cadillac Seville and a suspect by the name of Angel  
5 Garcia, possibly has a gun. We don't know his situation yet  
6 in this. So we just need him detained for a moment until we  
7 can get with him.

8 DISPATCHER: 10/4.

9 OFFICER: I was just talking to him on the phone.  
10 He's claiming he ran out of gas at that area. So -- and he's  
11 expecting the police to come that direction.

12 DISPATCHER: 10/4.

13 (Radio traffic too inaudible to be transcribed)

14 OFFICER: Okay, so your dad claims Angel had some kind  
15 of a gun.

16 MS. GRUNWALD: He didn't have a gun. I didn't see a  
17 gun.

18 OFFICER: Did he have anything that would resemble  
19 something like that?

20 MS. GRUNWALD: He didn't pull -- I didn't see him pull  
21 anything.

22 OFFICER: You didn't see him pull anything?

23 MS. GRUNWALD: Uh-uh.

24 OFFICER: Then why did Angel leave?

25 MS. GRUNWALD: Because we told him to leave because

1 my dad was trying to tackle and fight Angel, and I didn't want  
2 Angel to get hurt by my dad, and I didn't want Angel to go back  
3 to prison because he's trying to get his life straightened out.

4 OFFICER: What was he in prison for?

5 MS. GRUNWALD: It was some self-defense thing, and he  
6 got five years, and then I guess in the State of Utah like if  
7 you -- I don't know the whole story, but he killed someone  
8 because like they -- like they came onto him, and then he was  
9 trying to do self-defense and I guess he took it way too far,  
10 and they charged him for manslaughter.

11 Then he got caught up with some other stuff like in  
12 prison, like he got in trouble, but not like with drugs or  
13 anything, but I guess he got in a bunch of fights and stuff  
14 and they just kept him there longer.

15 OFFICER: Okay. Okay, let's go in here by your mom.  
16 We'll talk there.

17 MS. GRUNWALD: Like just (inaudible), and my dad's  
18 going to see me and start (inaudible) --

19 OFFICER: (Inaudible).

20 MS. GRUNWALD: -- charge. I can tell you his number.

21 OFFICER: It's okay.

22 MS. GRUNWALD: (Inaudible) go to jail.

23 OFFICER: Which one?

24 MS. GRUNWALD: Probably in there.

25 OFFICER: Will you have her come out.

1 MS. GRUNWALD: Mom. I don't know where my paper is.

2 OFFICER: Where did all this occur at?

3 MS. GRUNWALD: In my bedroom and in the front room  
4 right there and right here.

5 OFFICER: Anything broken or anything?

6 MS. GRUNWALD: No. My dad fell back on that, but I  
7 don't know if it's broke. I don't know -- Mom, where's my  
8 paper?

9 OFFICER: Is this hers?

10 MS. GRUNWALD: Yeah, it's not mine. So I don't know  
11 where my paper went. I guess (inaudible) the cops took it. Do  
12 you know where my paper went?

13 MS. GRUNWALD: Over there.

14 OFFICER: Okay, so what -- have a seat so we can get  
15 comfortable and let me talk to you about what happened.

16 MR. TAYLOR: Okay, go ahead and stop there.

17 Q. BY MR. TAYLOR: So, Mr. Braegger, after you got done  
18 speaking with Meagan at that point, did you go ahead and inter-  
19 view Tori Grunwald?

20 A. Yes, I did.

21 Q. Okay, were you ever able to locate a gun there on --  
22 at the residence?

23 A. No, I wasn't.

24 Q. Do you know if that -- you talked about an agency  
25 assist. Could you just explain what that was, what you were

1 doing there?

2 A. Where Angel Garcia was on the phone telling me that he  
3 had run out of gas, so he couldn't come back to see me, he had  
4 told me where he was located, so since I did need to talk to  
5 him I just wanted to get an agency down there. So I called my  
6 dispatch to get South Salt Lake where he had told me he was,  
7 to go check that area to see if they could find the Cadillac,  
8 where he was, where he was claiming to be, so that we could  
9 locate him. Then if so, then I would have driven out there  
10 just to talk to him to get his story as well.

11 Q. Did you ever make contact with Angel Garcia?

12 A. I did not.

13 Q. Okay, and do you know if -- did any of the police  
14 agencies report back to you that they had made contact with  
15 Angel Garcia?

16 A. I was informed that they were not able to locate  
17 him or the Cadillac.

18 Q. Okay, so after you interviewed Meagan and Tori  
19 Grunwald, did you make any arrests?

20 A. Yes, I did.

21 Q. What happened? I mean, who did you arrest? I'm sorry.

22 A. I arrested Jerry Grunwald the father.

23 Q. Okay, and what was he charged with?

24 A. He was charged with a domestic violence assault as  
25 well as resisting arrest, because he did resist that arrest



1 when I tried to make that arrest.

2 MR. TAYLOR: Okay, nothing further at this time.

3 THE COURT: Thank you. Cross examination?

4 MR. ZABRISKIE: Yes, your Honor.

5 CROSS EXAMINATION

6 BY MR. ZABRISKIE:

7 Q. Officer, how are you?

8 A. Okay, you?

9 Q. I didn't know you'd retired.

10 A. It's better that way.

11 Q. I'm going to get you. You -- you indicated that when  
12 you got there you found Jerry Grunwald in kind of an angry  
13 mood?

14 A. Yes, that was one of the characteristics that he  
15 displayed.

16 Q. Did he indicate to you that he was going to take care  
17 of it himself?

18 A. Yes, he did.

19 Q. Some sort of a vigilante response, something like  
20 that?

21 A. I guess you could construe it as that. I kind of  
22 looked at it as -- as I obviously learned the situation more  
23 and more, what he was explaining, then I did see it as kind of  
24 a possible trying to get even type of situation, yes.

25 Q. You indicated he resisted arrest?

1           A.    Yes, he did.

2           Q.    Tell me again how -- in what form that took.

3

4           A.    When I actually did inform him that I was going to be  
5 placing him under arrest, I did go out -- I think I got one  
6 cuff on one hand. Then he just started to struggle and what  
7 have you. There were three officers there, so we just -- he  
8 was in his wheelchair at the time. So we just laid over the  
9 wheelchair, got him on the ground.

10                    Then at that point he decided to comply and actually  
11 verbalize that he was complaining, "No more." No more resisting  
12 after that. We did get him cuffed up, but there was a resisting  
13 so that he was charged with it.

14           Q.    Okay, when he indicated to you that there was a gun  
15 involved, did he describe to you what the gun looked like,  
16 what the nature of the confrontation was, anything like that?

17           A.    I really tried to get into that information. I tried  
18 to get description of the gun, tried to get more specifics of  
19 the information. The anger seemed to be more overwhelming to  
20 him that he wanted to take care of it.

21                    He kind of pointed out to me that if he took care of  
22 it, then it would be taken care of. If the police took care of  
23 it, it might not ever get taken care of. He might just get a  
24 fine and that's about it. So that's kind of the things that he  
25 would say.

1           I did finally get a little bit of a description of  
2 what he was saying, and he said that he thought it might be a  
3 .22 caliber, but it might have been an air soft. So he did  
4 kind of go down that direction a little bit.

5           Q. So I -- and I note that in your report you refer to  
6 that, that he wasn't clear or refused to give sufficient facts  
7 as it relates to the allegation of the gun; does that sound  
8 correct?

9           A. It made it hard to follow up on that specific part.  
10 You know, obviously I'm there with the domestic charge, and  
11 then this is a whole other thing that kind of came up with the  
12 process that I tried to delve into. So, yeah, I didn't get a  
13 lot of information to go down, but I did the best I could and  
14 you pretty much heard the facts that I did get.

15          Q. Okay, it's my understanding that in the world of law  
16 enforcement domestic disputes are probably potentially the most  
17 explosive and maybe even dangerous that you see on a regular  
18 basis; is that correct?

19          A. Yeah, they're definitely dangerous.

20          Q. Yeah, because emotions run very high; do they not?

21          A. Yeah, it's family.

22          Q. Uh-huh. I note in your report Jerry would not describe  
23 the gun and refuse -- and refused to -- you have "gun" there,  
24 but I think give any information about it. He made some state-  
25 ments about an air soft, and other statements about a .22. He

1 never clearly explained this situation or threat. Do you  
2 recall that?

3 A. Yeah, that's pretty much what I just explained.

4 Q. Uh-huh. I'm not going to comment on the fact that he  
5 -- he didn't give a written report. You were aware he can't  
6 read or write or --

7 A. Yeah, he explained to me that he couldn't read or  
8 write. So I took advantage of the video that I had on to get  
9 his statement that way.

10 Q. Do you like your new job?

11 A. A lot less stress.

12 MR. ZABRISKIE: Good seeing you. No further questions,  
13 your Honor.

14 THE COURT: Thank you. Redirect?

15 REDIRECT EXAMINATION

16 BY MR. TAYLOR:

17 Q. Just real quickly. Were you able to get any written  
18 statements from anyone other than Jerry Grunwald?

19 A. Officer Doitch was with me and he did go in and ask  
20 for statements. You saw part of the video there where Meagan  
21 Grunwald was actually pulling a paper off a clipboard that was  
22 her written statement. I didn't personally collect them. I  
23 actually transported Jerry Grunwald to jail. So I left that to  
24 Officer Doitch and Officer Herbertson. That's the best I got  
25 for you on that.

1 Q. Do you -- did you ever see -- so Meagan wrote out a  
2 statement, but you didn't collect that at that time?

3 A. I did not. I asked the other officers to take care of  
4 that.

5 Q. Okay, and so but they did collect that statement; is  
6 that correct?

7 A. I would assume so. That's the best I got for you.

8 Q. Okay, and so do you -- do you have your old report  
9 there in front of you?

10 A. I do.

11 Q. Okay, and so are you able to reference -- by looking  
12 at that report does it refresh your memory as to the case  
13 number that -- on this incident?

14 A. Yes.

15 Q. Could you please just look at that.

16 A. Okay, it's case No. 2014-000234.

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

18 THE COURT: Yes.

19 Q. BY MR. TAYLOR: I'm handing you Exhibit 234. Do you  
20 recognize that?

21 A. Sorry, I just want to -- it says, "Exhibit 276." Do  
22 you want that?

23 Q. Oh, what did I say?

24 A. 234. You gave the case number.

25 Q. I'm sorry. I'm sorry, go ahead.

1 A. Okay.

2 Q. Yeah, Exhibit 276.

3 A. Yeah, so this would be-- this has got the case number,  
4 the case number they gave for the Draper Police Department, and  
5 this is our Draper City witness statement that Meagan Grunwald  
6 filled out.

7 MR. TAYLOR: Okay, the State would offer into evidence  
8 Exhibit 276.

9 MR. ZABRISKIE: No objection, your Honor.

10 THE COURT: Accept and receive State's Exhibit 276.

11 (Exhibit No. 276 received into evidence)

12 Q. BY MR. TAYLOR: So when you arrested Jerry Grunwald and  
13 with regards to resisting arrest, what were your observations  
14 at that time as to why he was resisting? Did he want to go  
15 somewhere, or do you understand why he was arrested -- or  
16 resisting?

17 A. The best I could say is the anger that he had, for  
18 lack of a better term, of wanting to take care of the point  
19 that he kept telling me that Angel put a gun in his face kind  
20 of was his primary focus of the entire situation that he was  
21 dealing with. So why he was resisting, I can't remember right  
22 off exactly if there was anything else --

23 Q. Okay.

24 A. -- but I would say that, you know, those feelings were  
25 kind of always with him. So for me to take him away from what

1 he wanted to do is probably a little bit difficult for him,  
2 would be the best I got for you.

3 Q. So he wanted to take care of the situation with Angel  
4 himself?

5 A. Yeah, he kept stating that he wanted to do that.

6 Q. Okay, so did Jerry admit that he went ahead and  
7 slapped Meagan?

8 A. Yes, he did.

9 Q. Okay, and then that's why he was arrested at that  
10 point?

11 A. Yes.

12 MR. TAYLOR: Okay. All right, nothing further.

13 THE COURT: Thank you.

14 MR. ZABRISKIE: Just briefly.

15 RE CROSS EXAMINATION

16 BY MR. ZABRISKIE:

17 Q. Did you know any -- excuse me, I know it's part of  
18 your job to --

19 MR. ZABRISKIE: I didn't ask the Court's permission.

20 May I --

21 THE COURT: Sure.

22 MR. ZABRISKIE: -- recross?

23 Q. BY MR. ZABRISKIE: He admitted that he had slapped her  
24 in the face; is that correct?

25 A. Yes.

1 Q. Did you note any red marks on her neck or anything  
2 like that?

3 A. Meagan had stated that she had had her -- that he had  
4 had his hands on her neck, and then there was the obviously  
5 slapping that I was told about as well. There was some redness  
6 per se, but I can't tell you specifically where it was, because  
7 I don't remember and I haven't reviewed the pictures, and I  
8 asked another officer to take those pictures and stuff.

9 MR. ZABRISKIE: Thank you. No further questions, your  
10 Honor.

11 THE COURT: Okay, thank you.

12 MR. TAYLOR: Nothing further.

13 THE COURT: May Mr. Braegger be excused?

14 MR. TAYLOR: Yes.

15 MR. ZABRISKIE: Yes, your Honor.

16 THE COURT: Thank you, sir. That's all.

17 Okay, next witness?

18 MR. TAYLOR: May we just approach real quick, Judge.

19 (Discussion at the bench off the record)

20 MR. TAYLOR: Danny Platis.

21 THE COURT: Okay, thank you.

22 MR. TAYLOR: May I retrieve this?

23 THE COURT: Sure. Come forward, sir, and let's have  
24 you sworn in. Just come right up here.

25 COURT CLERK: Raise your right hand. You do solemnly



1 swear that the testimony you shall give in the case now pending  
2 before the Court will be the truth, the whole truth and nothing  
3 but the truth, so help you God?

4 THE WITNESS: I do.

5 THE COURT: Thank you, sir. Please have a seat here in  
6 the witness box. Go ahead and have a seat right here and make  
7 sure we get the microphone close enough to you that it will  
8 pick you up okay.

9 DANNY PLATIS,  
10 having been first duly sworn,  
11 testified as follows:

12 DIRECT EXAMINATION

13 BY MR. TAYLOR:

14 Q. Will you please state your name and spell your last  
15 name.

16 A. Danny Platis, P-l-a-t-i-s.

17 Q. Where do you work?

18 A. Department of Corrections, Adult Probation and Parole.

19 Q. What is your responsibility there, Mr. Platis?

20 A. I supervise parolees who are released from prison.

21 Q. Okay, and are you a peace officer?

22 A. Yes.

23 Q. Okay, are you a certified peace officer with the State  
24 of Utah?

25 A. Yes, yes.

1 Q. Okay, and how long have you been a certified police  
2 officer?

3 A. Since 2002.

4 Q. Okay, and so is that how long you've worked for the  
5 State of Utah?

6 A. No, I've worked there almost 34 years.

7 Q. Okay. All right, what did you do before 2002?

8 A. I worked at different halfway houses and facilities  
9 around the valley until I went to Adult Probation and Parole  
10 in 2002.

11 Q. Okay, so as part of your responsibilities -- strike  
12 that. Did you supervise Jose Angel Garcia Juaregi as part of  
13 your parole officer responsibilities?

14 A. Yes, I did for approximately a month and a half.

15 Q. Okay, do you remember when you first got him as part  
16 of your supervision?

17 A. It was on December 10<sup>th</sup>.

18 Q. Of what year?

19 A. Of 2012. No, that's when he paroled, sorry.

20 Q. Okay, I'm just going to ask you. So do you have some  
21 notes up there with regards to his parole supervision?

22 A. Yes, I do. It was actually on 11/21/13 was when he  
23 moved to Salt Lake, and he first reported to me on 12/10/14.

24 Q. Okay, and so did those help -- notes help you remember  
25 exactly --

1 A. Yeah.

2 Q. Who -- who made those notes that you're looking at  
3 there?

4 A. I did.

5 Q. Okay, so you made those notes?

6 A. Right.

7 Q. Okay, so he came to you in November of 2013?

8 A. Yes, he moved to Salt Lake City, then transferred his  
9 parole from Ogden to Salt Lake.

10 Q. Okay, so when was he first placed on parole; do you  
11 know that information?

12 A. Yes, that was 12/4/12.

13 Q. December 4<sup>th</sup> of 2012?

14 A. Uh-huh.

15 Q. Okay, so do you only supervise parolees?

16 A. Yes.

17 Q. Do you supervise probationers?

18 A. No.

19 Q. What's the difference between a person that's on  
20 parole or on probation?

21 A. Person on parole has been to prison. A person on  
22 probation has not been to prison yet, been sentenced to prison  
23 yet.

24 Q. Okay, when -- I'll just refer to him as "Angel." When  
25 Angel first reported to you, what kind of information do you

1 have about him at the time that he reported?

2 A. He reported to me the first time, like I said, on  
3 12/10/14. He reported that he was employed at Dale T. Smith  
4 Packing, and that's why he moved to Salt Lake -- it's in Draper  
5 -- to be closer to his -- to his work. That he said he --

6 Q. Okay, can I just back up. I'm sorry, Mr. Platis. Can  
7 you just tell me once again when he first reported to you. I  
8 thought you said 12/10/2014.

9 A. Let me see. Sorry, that would be '13.

10 Q. Okay, thank you very much.

11 A. Sorry, that was a mistake.

12 Q. Go -- okay, go ahead, Mr. Platis.

13 A. Okay, he moved up to Draper, he said, to be closer  
14 to his work at Dale T. Smith Packing in Draper. He said he  
15 moved in with some friends, friends that live in Draper. He  
16 scheduled his next reporting day for 1/14/14. He was not  
17 ordered to complete any treatment or anything. So all he had  
18 to do was really work and stay out of trouble and complete his  
19 parole, and he could possibly get off his thirty-six months  
20 parole.

21 Q. Okay, and is that normally how long a person would be  
22 on parole for?

23 A. Thirty-six months is what they're ordered.

24 Q. When -- when Angel reported to you did he give you an  
25 address of where he was staying?

1 A. I had that information in the computer.

2 Q. What was that information that you had?

3 A. You know what, I don't have the -- well, have that  
4 exact address with me, I don't think. It was in Draper living  
5 with the Grunwalds.

6 Q. Okay. Okay, and so he told you that?

7 A. Yes.

8 Q. Okay. All right, and how often was he supposed to  
9 report to you?

10 A. Monthly.

11 Q. Was he supposed to report in person or was he supposed  
12 to call in; how would he report?

13 A. No, it was in person at the office.

14 Q. Okay, and so you met him -- he reported to you on  
15 December 10<sup>th</sup>, 2013. When did you tell him to report the next  
16 time?

17 A. Uh, 1/14 -- you know, I think I have my dates mixed up  
18 here. Sorry. He paroled in 12, 12/12. He was to a halfway  
19 house. He was released on 12/11 from the halfway house. Then  
20 he moved to Ogden on 9/20 -- or approximately 9/20/13. Him and  
21 his brother got a place in Provo. So he moved from the halfway  
22 house to Provo. On 11/21/13 he moved to Salt Lake City, and on  
23 12/10/13 he reported to me.

24 Q. Okay.

25 A. His next report day was 1/14/13. Sorry.

1 Q. So the next day he was supposed to report to you was  
2 January 13, 2014?

3 A. No, 1/14/13.

4 Q. Okay, I'm --

5 A. The next month.

6 Q. Okay, so I'm just a little confused. He said -- you  
7 said that he first reported to you on December 10<sup>th</sup>, 2013.

8 A. Uh-huh.

9 Q. And he was supposed to report to you in January, the  
10 next month?

11 A. Yeah, the next month.

12 Q. So in 2014.

13 A. Would be '14, right.

14 Q. Yeah, okay, thank you.

15 A. A month later.

16 Q. Yes, and so did you give him a date to report?

17 A. A date?

18 Q. Yes.

19 A. Yeah, on 1/14/14.

20 Q. Okay, and did --

21 A. That's my reporting date.

22 Q. Okay, and so he's supposed to show up to you and --

23 A. Uh-huh.

24 Q. -- check in at that time, correct?

25 A. Uh-huh.

1 Q. Did he show up on that date?

2 A. He did show up on 1/14 as scheduled.

3 Q. How are things going with regards to your notes?

4 A. Well, on 1/13/14 I received a phone call from a female  
5 identifying herself as Jeri Ping; and she reported that Garcia  
6 and Grunwald got into an altercation at the home on Saturday  
7 on 1/11/14. I wasn't aware that Draper PD was called. They  
8 didn't notify me or AP&P of the incident.

9 So that's when I -- when I tried to get a hold of  
10 Garcia on 1/13. I called him immediately to call me back, and  
11 he didn't ever -- he never called me back. The next thing he  
12 -- he did report the next day.

13 Q. Okay, so with regards to a person who was on parole,  
14 if they have any contact with a police officer with regards to  
15 an incident, what is their responsibility as it -- with regards  
16 to you?

17 A. To contact me within 48 hours.

18 Q. Okay, and so he contacted you the following day; is  
19 that correct?

20 A. No, he didn't.

21 Q. Okay, when did --

22 A. He didn't contact me until the 14<sup>th</sup>. The incident  
23 occurred on the 11<sup>th</sup>.

24 Q. Okay, I see. I see. Did you talk to him about this  
25 incident on --

1 A. Yes, I did.

2 Q. Okay, based upon the information that you had at the  
3 time, did you take him in custody or anything like that, or  
4 what did you do?

5 A. No, I asked him about the incident. He wasn't -- he  
6 left on the 11<sup>th</sup> before the police arrived.

7 Q. Okay.

8 A. He also failed to report a new residence to me, which  
9 was a violation, as well as not telling me about the police  
10 contact. So a report was written to the Board for the two  
11 violations, recommending an alternative event, which means --  
12 it was his first violation, so it was just a verbal warning at  
13 that time.

14 So on the 14<sup>th</sup> I asked him about the incident over the  
15 weekend, over the -- on 1/11/14. I asked him if he pointed a  
16 gun at Mr. Grunwald, as I was told by his aunt. The information  
17 that I got from her; or if he had an firearms in his possession  
18 at the time, and he denied both.

19 He reported he was staying at the Comfort Inn in  
20 Draper the last few nights, due to the problems at the home.  
21 I also asked him at the time how he got to the office, and he  
22 said Meagan drove him to the office, and she was out in the  
23 vehicle. His car was out of gas.

24 Q. So we're talking about January 14<sup>th</sup>?

25 A. That's when he reported, yeah.



1 Q. Okay, so you see him in person on January 14<sup>th</sup>, 2014?

2 A. Uh-huh.

3 Q. And he said Meagan brought him to the office?

4 A. Uh-huh.

5 Q. So you just kind of went over the incident with him,  
6 didn't take him into custody or anything like that?

7 A. No.

8 Q. Told him to stay away from the residence?

9 A. Right, I said he cannot go back to that residence due  
10 to the problems there. He also -- he agreed at that time to  
11 move back to his brother's in Provo. He got his brother on the  
12 phone. I talked to Gustavo, his brother, and he agreed that  
13 Garcia could move back in with him at the home. I instructed  
14 Garcia to report to Provo AP&P the next day on 1/15/14, and  
15 that would transfer his case back to Provo.

16 Q. Okay, so let's just talk a little bit about -- you're  
17 talking about transferring cases. Why do you transfer cases?

18 A. Well, they're in a different -- different region.

19 Q. Okay.

20 A. Provo is region four. We're region three.

21 Q. So when a person moves out of one region to another  
22 then you transfer their case?

23 A. We transfer their case, right.

24 Q. Okay, so you're -- you're in Salt Lake County?

25 A. Uh-huh.

1 Q. And he's going to go to Utah County?

2 A. Go back to Utah County.

3 Q. Okay, and so that's why you're looking to transfer?

4 A. Yeah.

5 Q. Was that the last time that you heard from Angel?

6 A. No, it wasn't

7 Q. So --

8 A. On the -- go ahead.

9 Q. -- when was the next time you heard from him?

10 A. On the 17<sup>th</sup> I talked to him. I completed a transfer  
11 summary on him, and I talked to him and instructed him to  
12 report on 1/18 -- on 1/18/2014. I also confronted him about  
13 not reporting on 1/15/14, as instructed, and he told me he  
14 reported, but they told him to come back after his case was  
15 transferred, which happens on occasion.

16 Q. Okay.

17 A. No notes were put in the computer. It should have  
18 done. They should have done that when he came in. He failed  
19 to report on the 18<sup>th</sup>.

20 Q. Okay, so he failed to report on the 18<sup>th</sup>?

21 A. As instructed, yeah.

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

23 A. Well, I contacted agent -- contacted his prior Agent  
24 Reed, and he conducted a field visit of Garcia's brother's  
25 residence in Provo, as he failed to report as instructed on

1 1/18. We reported an unknown male answered the door and told  
2 him he just moved in and doesn't know Jose Garcia. Several  
3 messages were left on Garcia's cell phone, instructing him to  
4 contact us immediately, both me and Mr. Reed, but he failed  
5 to do so. So we were both working together trying to locate  
6 Mr. Garcia.

7 Q. So at this point you're trying to -- you don't know  
8 where he is; is that correct?

9 A. Don't know, no, he's --

10 Q. He's not calling you?

11 A. No.

12 Q. You're not talking to him?

13 A. No.

14 Q. When is the next time that you make contact with Angel  
15 Garcia?

16 A. The next time I made contact with him was on the 24<sup>th</sup>.

17 Q. Of January?

18 A. Uh-huh.

19 Q. How do you contact him?

20 A. Well, I left several messages on his cell phone at  
21 that time, and he failed to call me, as instructed. I started  
22 a Board of Pardons warrant on him for absconding, employment  
23 -- for failing to get employment because he was fired from  
24 his job. I didn't mention that. I called his work to try to  
25 locate him also, but they told me he never showed up. Hadn't

1 been showing up to work and he was fired from his work.

2 Q. So let me just ask you, when you say that you were  
3 starting a Board of Pardons warrant, what is that?

4 A. Well, it's a warrant request for violations of their  
5 parole, and his -- the Board did issue the warrant on 1/29 for  
6 absconding, which means he's a fugitive. We have no idea where  
7 he's at, and failing to report a new residence or establish  
8 a residence of record, which goes along with absconding; and  
9 also for employment, for being fired from his employment. Not  
10 reporting that, and not being -- and being unemployed.

11 Q. Okay, so you started this on you said January 24<sup>th</sup>.  
12 Did you talk to Angel on that same day?

13 A. Yeah, I did. I started the warrant late that after-  
14 noon at 17:38 hours. He finally returned my call. He reported  
15 he was in St. George looking for a place to live. He claimed  
16 he was staying at the Comfort Inn there. I asked him how he  
17 was going to afford an apartment there without being employed,  
18 and he told me he would probably borrow some money. He also  
19 told me Tori and Meagan Grunwald were also going to move to  
20 St. George.

21 Q. Okay.

22 A. He was instructed to come back to Salt Lake.

23 Q. So you -- when you say "as he instructed." Did you  
24 instruct in this?

25 A. I did --

1 Q. Okay, what did you tell him?

2 A. -- over the phone. He didn't have a job. He was  
3 living in a motel. He had no place to live down there. So I  
4 told him to come back -- go back to his brother's that weekend  
5 and stay with his brother, which his brother, he agreed, could  
6 stay there, and to contact me Monday morning, 1/17/14, and we  
7 would figure out something to do with him. Place him in a  
8 halfway house, place him in a treatment center --

9 Q. Okay, so did you --

10 A. -- or find him another place to live.

11 Q. -- did you talk to Angel specifically about possibly  
12 putting him in a halfway house?

13 A. Yeah.

14 Q. Okay, and explain just what is a halfway house?

15 A. Oh, it's a place where the offenders, parolees live.  
16 They either stabilize there, which means they just get a job,  
17 find a place to live, and they release them. A lot of them  
18 don't have a place to go when they're released from prison.  
19 They save money, get their own apartment, or they find another  
20 place to go, that we approve and they go to.

21 They have a completion program where they stay there  
22 longer, do their treatment, complete their treatment, you know,  
23 work, save money, get a place to live; and they're -- they're  
24 actually there longer.

25 Q. Okay, and so approximately how long does a person

1 normally stay in a halfway house?

2 A. Well, he stayed there about three weeks. When he was  
3 -- he paroled to a halfway house --

4 Q. Okay, okay.

5 A. -- in Salt Lake, Bonneville Community Correctional  
6 Center. He gained employment, and then he decided to move to  
7 Provo with his brother. They rented a room and a house there  
8 together.

9 Q. Okay, so if Angel would have gone to a halfway house  
10 this time, approximately how long would he have had to stay in  
11 that --

12 A. Probably just until he secured employment, saved some  
13 money and got his own place, or found a suitable place to live.

14 Q. Okay. All right, so it just kind of depends, I guess,  
15 is the answer to that question?

16 A. Yeah. At that time I wasn't ready to take him back to  
17 prison. That was his first violation, and the other allegations  
18 Draper PD was looking into, and was waiting to see what was  
19 going to happen on it. I had nothing to get a Board warrant  
20 at that time.

21 Q. Okay, so he calls you from St. George. You tell him  
22 to come back and to actually check in with you the following  
23 Monday?

24 A. From the contact be Monday morning, the 27<sup>th</sup>.

25 Q. Did he do that?

1 A. No, he didn't.

2 Q. Okay, and so on Monday the 27<sup>th</sup>, 2014, what did you do  
3 at that point?

4 A. Tried to contact him numerous times. So did Mr. Reed.  
5 I waited a day to see if he was going to call me. He didn't.  
6 On the 29<sup>th</sup> I completed the Board of Pardons warrant. The Board  
7 of Pardons issued the warrant on the afternoon of 1/29/14.

8 Q. Okay, so when the Board of Pardons warrants issued,  
9 explain what happens with regards to -- what does that mean?

10 A. Well, if the Board of Pardons issues a warrant, I  
11 mean, there's options you can do. You could -- I mean, the  
12 guy could go back to prison on the warrant.

13 Q. Okay.

14 A. We can recall the warrant and put him in a program. I  
15 mean, it's up to the Board. We could recommend things. They  
16 do what they want to do. Whatever is, you know, best for the  
17 offender.

18 Q. When a warrant's issued, is it listed on any systems  
19 as to notify other law enforcement officers that there's --

20 A. Yeah.

21 Q. -- an outstanding warrant?

22 A. Yeah, it's called "NCIC." It's a nationwide warrants  
23 system that they list them on.

24 Q. Did you request that this warrant be listed on NCIC?

25 A. I did. I emailed the region three fugitive unit that

1 evening, and he was placed on NCIC on 1/30/14.

2 Q. Okay, and so on January 30<sup>th</sup>, 2014 a warrant was out --  
3 do you remember what time of the day that you made that request  
4 for NCIC?

5 A. Well, I made it -- I emailed them the evening of  
6 1/29/14.

7 Q. Okay, okay.

8 A. I just contacted -- actually before I came in here I  
9 contacted the fugitive unit, and it looks like he wasn't pla --  
10 they didn't place him on that until like 15:25 hours.

11 Q. In the afternoon of --

12 A. Right.

13 Q. -- January 30<sup>th</sup>?

14 A. Right, yeah.

15 Q. Okay. All right, so on January 27<sup>th</sup>, 2014, is that the  
16 last time that you actually spoke with Angel Garcia?

17 A. No, it was 1/24/14. He was instructed to go back to  
18 Provo --

19 Q. Okay, I'm sorry.

20 A. -- and to call me on the 27<sup>th</sup>, and he failed to call  
21 me.

22 Q. Okay, so the last time he contacted you was on the  
23 24<sup>th</sup>?

24 A. On 1/24, yeah.

25 Q. Okay.



1 A. From St. George, when he claimed he was in St. George.

2 MR. TAYLOR: Okay. All right, nothing further, thank  
3 you.

4 THE COURT: Thank you. Cross examination?

5 MR. ZABRISKIE: Yes, your Honor. May I proceed?

6 THE COURT: (No verbal response).

7 CROSS EXAMINATION

8 BY MR. ZABRISKIE:

9 Q. Mr. Platis, you indicated that you actually came in  
10 contact with Garcia when in fact he moved out of the Utah  
11 district -- excuse me, Utah County district up to Salt Lake.

12 A. Right.

13 Q. Were you acquainted with him before that?

14 A. No, I wasn't.

15 Q. The transfer was based on his employment?

16 A. That's what he was requesting to transfer to be closer  
17 to his work in Draper.

18 Q. And indicated to you that he would be living with the  
19 Grunwald family?

20 A. No, he indicated to his parole officer in Provo that's  
21 where he was --

22 Q. That's Mr. Reed?

23 A. -- moving to?

24 Q. Okay, now you indicated that the effective date of the  
25 change of address from Utah County to Salt Lake County -- and

1 feel free to correct me if I'm not getting these dates right.  
2 The effective date of the change was 11/21/13; does that sound  
3 correct?

4 A. Yeah, that's when he actually moved to Salt Lake City.  
5 There's a few days where we -- the transfer has to be approved  
6 by supervisors, by both supervisors. Then they rotate. We're  
7 on rotation and it came to my desktop.

8 Q. Okay, and so at least the paperwork that you have,  
9 that you rely upon for your reporting, indicated that he had  
10 moved to the Grunwald home on November 21<sup>st</sup>, 2013?

11 A. Yeah, yeah, approximately.

12 Q. Did it indicate to you the terms and conditions of his  
13 residing in the Grunwald home? By that, was he going to pay  
14 rent or whatever?

15 A. No, he didn't.

16 Q. Did you -- when that request is made, what is the  
17 protocol? Do you go check the place where he's going to live?

18 A. Normally the agent who transfers him will check the  
19 place and approve it.

20 Q. Uh-huh, and so that would have been Agent Reed?

21 A. Uh-huh.

22 Q. If I told you that Agent Reed did in fact do that,  
23 then you would not disagree with that?

24 A. Yeah, I wouldn't disagree with that.

25 Q. Okay, and then your name and your -- you become his

1 contact or his agent in Salt Lake County, and you wanted to see  
2 him I think for the first time on December 10<sup>th</sup> --

3 A. Uh-huh.

4 Q. -- 2013?

5 A. Right.

6 Q. That's within keep -- that's within the protocol where  
7 they establish themselves and then you want to see them within  
8 a month's time evidently to set up the terms, conditions and  
9 what your expectations are?

10 A. Yeah, it's usually -- I mean, it depends on how long  
11 the transfer takes place and when they put him on my desktop.  
12 Normally it's sooner than a month. Sometimes it's about a  
13 month. I've seen it longer than that.

14 Q. Okay, but you did see him on 12/10/13?

15 A. Uh-huh, for the first time.

16 Q. You set a date for him thereafter at -- to be seen on  
17 January 14<sup>th</sup> of 2014; does that sound correct?

18 A. Yeah.

19 Q. Now, aside from reporting to you, do you -- do you  
20 have them phone in periodically, or do you not maintain direct  
21 contact with them until the date that you meet with them?

22 A. No, normally it's the date I meet with him unless  
23 there's a problem and I need to get a hold of him, or he needs  
24 to contact me with a problem.

25 Q. Along with that, the process of kind of matriculating

1 them back into trusted society, you say, "If anything goes  
2 wrong, you have to call me"?

3 A. Right.

4 Q. In other words, if you get a ticket or you have --

5 A. Yeah, any type of -- yeah, yeah.

6 Q. That therein you can kind of measure their commitment  
7 to living by the rules. "If something goes wrong, you call me"?

8 A. Right, yeah, right.

9 Q. Okay, and during that period of time between, well,  
10 11/21 and 12/10, I trust you did not get a call?

11 A. No, I didn't.

12 Q. Okay, now you indicated he was going to work for Smith  
13 Packing House. Did you contact Smith Packing House?

14 A. At the time I did contact him when I was looking for  
15 Mr. Garcia. They verified he was employed there, but he was  
16 fired because he didn't return to work. Mr. Garcia claimed he  
17 had a head concussion --

18 Q. Yes.

19 A. -- and couldn't go back to work, and had to get some  
20 medical documentation. He never provided it. He never contacted  
21 his work to let them know what was going on, so they fired him.

22 Q. Yeah, and in fact, if I'm reading your -- your report,  
23 a synopsis of your report correctly, when you talked to -- and  
24 I presume it was one of the Smiths at the meat packing place --

25 A. Uh-huh.

1 Q. -- they reported to you that he had given an excuse  
2 for his absence that he had a head injury?

3 A. Right.

4 Q. Do you know the nature of the head injury?

5 A. I -- no, he never discussed the head injury with me.  
6 He said he hit his head on a -- chasing a dog, hit his head on  
7 a door --

8 Q. Do you know --

9 A. -- top of the door.

10 Q. -- I'm sorry, I didn't mean to interrupt you. Go  
11 ahead.

12 A. He hit his head on a door -- in a doorway when he was  
13 playing with a dog, is what he told me.

14 Q. Were you able -- again, things are moving pretty fast  
15 here. Were you able to verify with either Jose or Angel or  
16 any medical provider as to whether in fact he received medical  
17 treatment for that?

18 A. No, I didn't.

19 Q. Now, you told him that you wanted to see him on a  
20 certain date, and I think you indicated January the 14<sup>th</sup>.

21 A. Right.

22 Q. Is that correct?

23 A. Uh-huh.

24 Q. There's one little thing that I -- you indicated that  
25 part of the reason for your concern about his whereabouts and

1 his conduct was he did not report a new residence. Is that  
2 after the Grunwald residence?

3 A. Right.

4 Q. Okay, and the approximate date or the parameters for  
5 your concern were what dates? Where was he supposed to be and  
6 what was the new residence?

7 A. Well, he was-- he was supposed to be at the Grunwalds,  
8 where he was supposedly living until the incident occurred on  
9 the 11<sup>th</sup>. He had the police contact. He never contacted me  
10 about the police contact. He never contacted me where he was  
11 -- where he was living until the 14<sup>th</sup> when he reported, which  
12 was longer than 48 hours.

13 Q. But you seem to -- again, this is his first -- his  
14 first problem. It appears that maybe you gave him a little  
15 slack there. It wasn't 48 hours, but it was sort of within  
16 that time zone?

17 A. No, actually I didn't give a little slack. I wrote a  
18 probation violation report to the Board of Pardons.

19 Q. In the litany of troubles that you have to deal with,  
20 would this be considered a major problem or a minor problem,  
21 not reporting -- or not re-giving the change of address?

22 A. Somewhat major. We have to know where these guys live  
23 at all time. We have to have a permanent residence.

24 Q. Well, again, you're -- or you indicated that there  
25 were some options as it relates to sanctions. If you would

1 please remind me of what they were. Let's assume that his only  
2 problem was he didn't report a change of address. Under most  
3 circumstances what would that result in as it relates to your  
4 recommendations?

5 A. Mine would be the first violation a verbal warning or  
6 just continue on probation or continue on parole.

7 Q. Then you'd kind of give them a head's up, "Don't do  
8 that again"?

9 A. Yeah.

10 Q. Okay, well, what -- give me an example of -- if that's  
11 -- I mean, any violation is cause for a concern; is it not?

12 A. Right.

13 Q. But there are certain degrees of violation that you  
14 have to concern yourself with?

15 A. Right.

16 Q. A more serious one that would have resulted, let's  
17 say, in a go out and pick them up and bring them in, what --  
18 where would that be; what kind of violation would that require?

19 A. Well, if he was the absconder as a fugitive and you  
20 can't locate him and you found him, or if he committed a new  
21 crime when you located him, things like that.

22 Q. In other words, a new -- would it be just a serious  
23 misdemeanor or just anything that would bring the -- come to  
24 the attention of law enforcement would be more serious?

25 A. Normally if it's a minor misdemeanor, a C or something,

1 we wouldn't go out and arrest him or anything on that.

2 Q. What was the change of address? Evidently he's out  
3 of the Grunwald home. Where -- what address did he ultimately  
4 give you as a place of his residence?

5 A. He left the Grunwalds on the 11<sup>th</sup> and he said he stayed  
6 at the Comfort Inn in Draper for two nights. That -- he told  
7 me that when he reported on the 14<sup>th</sup>.

8 Q. So that would account -- that's the change of address  
9 that you're concerned about; he didn't call you and say --

10 A. "This is where I'm living now," yeah.

11 Q. Yeah. Where did he indicate to you or where did you  
12 agree that he would move to from the Comfort Inn? He's not  
13 going to go back to the Grunwalds.

14 A. No, his brother's in Provo.

15 Q. Okay.

16 A. I verified that with his brother over the phone while  
17 he was at the office.

18 Q. Is that Gustavo?

19 A. Yeah, yes.

20 Q. Okay, and you talked to him?

21 A. Uh-huh.

22 Q. He indicated that in fact he would provide housing or  
23 shelter for his brother?

24 A. Yes.

25 Q. What happened that he didn't, that you're aware of?



1 A. Mr. Garcia never showed up to his place.

2 Q. Was there a problem with another resident in Gustavo's  
3 home -- Gustavo, excuse me -- that would have impeded or maybe  
4 even made it impossible for Angel to move there?

5 A. No. Supposedly there was a guy renting a room there  
6 that may have been on probation. That was never verified; but  
7 for the short period of time for those two nights over the  
8 weekend I said, "It's okay for you to stay there. Contact me  
9 Monday morning and we'll place you somewhere else."

10 Q. Okay, even -- even with that, there are -- there are  
11 degrees of sanction. You can find a halfway house, things of  
12 that nature?

13 A. Yeah.

14 Q. Okay, and that was a consideration for you?

15 A. Yes.

16 Q. You indicated -- I don't know if you made reference to  
17 it only in the generic but you indicated the treatment program.  
18 Was there anything that you had found out or anything brought  
19 to your attention that would indicate that he needed treatment  
20 for -- let's say for drugs?

21 A. No.

22 Q. Okay, so again, that was just offered as -- depending  
23 on who you're dealing with, there's always the option of treat-  
24 ment, things of that nature?

25 A. Well, not necessarily treatment. They do life skills

1 training there, thinking errors type of groups, classes at this  
2 treatment facility, and they do drug treatment there, too. They  
3 will do an evaluation to see if he needs drug treatment.

4 Q. Okay, and then -- but that was not the case. As it  
5 relates to drug treatment, you were not anticipating any drug  
6 treatment as it relates to Angel Garcia?

7 A. No, no.

8 Q. In fact, I think in your report-- and I can't remember  
9 if it was yours or Mr. Reed -- that he had been evaluated and  
10 drugs were not considered to be a concern at that time?

11 A. Yeah, when he first paroled. When he was in Utah  
12 County he did an evaluation and they didn't recommend any  
13 treatment at the time.

14 Q. Now, without getting into what ultimately led to his  
15 going to prison some seven, eight years ago, I don't -- right  
16 now I don't know how long ago it was, did you note anything  
17 that would cause -- anything about his behavior, any reported  
18 conduct other than what we've talked about here that wherein  
19 you would classify him as a threat or a danger to the family  
20 he was living with?

21 A. No, not until the incident on the 11<sup>th</sup>, when he was  
22 accused of pulling the gun on Jerry Grunwald.

23 Q. But prior to that you did not hear anything or --

24 A. No, no. No, he didn't have any violations. He was  
25 really -- he was really quiet, didn't give out much information

1 when I met with him. You had to kind of drag things out of him.

2 Q. Okay, now ultimately he's -- he's not reporting as  
3 you've requested him to do. You talked to him on the 14<sup>th</sup>. He  
4 was supposed to evidently report to -- was it Agent Reed by the  
5 15<sup>th</sup>?

6 A. Yeah. Well, just down to Utah County. Agent Reed  
7 wasn't his agent at the time.

8 Q. Okay, but to report to --

9 A. To the office.

10 Q. -- Utah County?

11 A. Right.

12 Q. He did not do that?

13 A. They don't have any documentation that he did. He  
14 claims he did and they told him to come back after his trans --  
15 transfers come through, and that happens sometimes. So he may  
16 have reported. I don't know.

17 Q. So he offered that as an explanation, and because it  
18 was kind of within the realm of possibility, there was no  
19 retaliation on the part of parole?

20 A. No, no, not at that time, no.

21 Q. Okay, and so finally you tell him to report on -- what  
22 was the next date that he was to report or have contact with  
23 either you or Utah County?

24 A. Well, I did the transfer summary on the 17<sup>th</sup>. That's  
25 when I spoke with him again and told him to report tomorrow,

1 which would be 1/18/14 to the Utah County Office, because his  
2 transfer had been done.

3 Q. I see. Evidently he -- it was Agent Reed that became  
4 involved thereafter.

5 A. Uh-huh.

6 Q. I note in the notes Reed reported Garcia was supposed  
7 to report to him on the 18<sup>th</sup>, which he failed to do.

8 A. Right.

9 Q. Is that what triggered now the -- the request -- the  
10 documentation to go to the Board seeking a Board warrant?

11 A. At that time we were still trying to locate him, both  
12 of us, through phone conver -- you know, phone contact, his  
13 employer. Ultimately, yes, to start the Board warrant since  
14 we couldn't contact him and he wouldn't return several phone  
15 calls we made to him.

16 Q. I'm not doing this to criticize you. I admire your  
17 patience and I know you worked with the man. Then ultimately  
18 you talked to him on the 24<sup>th</sup>, if I recall?

19 A. I did, yeah. He called me.

20 Q. Then your instructions to him at that time consisted  
21 of what, and just remind me.

22 A. He was in -- claims he was in St. George staying at a  
23 motel. He had no job, nowhere to stay. I don't know why he  
24 wanted to go to St. George. I said, "That's not going to work.  
25 If you want to transfer there, you need to come back up and

1 we'll do it appropriately."

2 I told him to return the next day. He told me he would  
3 take the St. George shuttle and be back the next morning, stay  
4 at his brother's house over the weekend, which I agreed he  
5 could do. He agreed he would contact me Monday on the 27<sup>th</sup>,  
6 and we would figure out what to do with him, and he failed to  
7 contact me.

8 Q. So on January 29<sup>th</sup>, is that when you applied for the  
9 Board warrant?

10 A. Actually -- yeah, yeah. I started it on the 24<sup>th</sup>, but  
11 he did contact me, so I held off on it. He never called me on  
12 the 27<sup>th</sup>, so that's when I next day try to contact him, give him  
13 his daily weigh. He never called me, so I did it on the 29<sup>th</sup>.

14 Q. I note in the record that you requested the warrant on  
15 January 29<sup>th</sup> for absconding and failure to notify of an address  
16 change, changing addresses without prior permission and failing  
17 to notify of employment change. Does that sound like a -- the  
18 complete litany --

19 A. Yeah, yeah.

20 Q. -- of things that were reported?

21 A. Yeah, pretty much.

22 Q. But you indicated also that the Board warrant did not  
23 take effect until January 30<sup>th</sup>. Is that the lapse time that you  
24 talked about, 15 hours or such before it's actually published  
25 and becomes a matter of record?

1           A.    Yeah, normally it's done the same day, but this --  
2           their off -- they were closed. I mean, the office was closed  
3           over there. The fugitive unit had put some warrants, listed  
4           them on NCIC, were gone. I said I emailed them that evening,  
5           and they put him on the next day. I'm not sure why they took  
6           him -- took them so long to put them on. I'm not sure the time  
7           that I gave you is even that accurate. I called the fugitive  
8           unit and that's when they made an entry in the computer --

9           Q.    I note that -- I'm sorry. I interrupted you. What  
10          was the last thing you said?

11          A.    No, they did place him on NCIC on the 30<sup>th</sup>, the next  
12          day.

13          Q.    Okay, and of course you realize that -- well, I think  
14          you realize, if you don't -- that's the day of the incident  
15          that is the subject of these proceedings.

16          A.    Right.

17          Q.    Did you call the Grunwalds or anyone else and advise  
18          them that in fact there was a warrant, a Board warrant out for  
19          Angel?

20          A.    No, I didn't.

21          Q.    Did you leave a note or any type of message with any  
22          member of his family that a Board warrant had been issued?

23          A.    No, I didn't. At the time he wasn't living with the  
24          Grunwalds.

25          Q.    I know it would be difficult, but I'm just asking that

1 for purposes of the record.

2 A. No.

3 Q. So we don't know how, where or if he knew about the  
4 Board warrant or when he got the notice on the 30<sup>th</sup>?

5 A. Yeah, he wouldn't have got the notice without me  
6 telling him.

7 Q. I see.

8 A. I mean, there's no notice that goes out to him. I  
9 think he knew he was in trouble.

10 Q. Why doesn't -- he sounds like a pretty savvy guy. He  
11 knows he's in violation and now he must have understood that  
12 your patience with the man was wearing thin?

13 A. Right.

14 Q. We don't know whether he knew that day. When is it --  
15 is it published on the date of effect by -- in the NCIC? I'm  
16 asking for my information now.

17 A. Yeah, it is.

18 Q. Okay, so it would have been published on that day?

19 A. Right.

20 Q. For anyone interested that knew how to do it, they  
21 could access it?

22 A. Right.

23 MR. ZABRISKIE: All right, thank you very much.

24 THE COURT: Okay.

25 MR. ZABRISKIE: Wait just a second, please.

1 Q. BY MR. ZABRISKIE: This is a tribute to my failing  
2 memory. Why -- do you know why he went to prison in the first  
3 place?

4 A. I believe it was an aggravated assault and attempted  
5 homicide, attempted murder.

6 Q. But it was not for a fait accompli? By that, it was  
7 not for murder. It was an attempt or assault?

8 A. Right, right.

9 Q. He didn't kill anybody on that count?

10 A. No.

11 MR. ZABRISKIE: All right, thank you.

12 THE COURT: Thank you. Redirect?

13 MR. TAYLOR: Just a couple questions.

14 REDIRECT EXAMINATION

15 BY MR. TAYLOR:

16 Q. Officer Platis, when Angel Garcia reported that he was  
17 living in the -- at the Comfort Inn, did you go to verify that  
18 to see whether he was actually there?

19 A. At what time would Comfort Inn --

20 Q. So this would have been on January 14<sup>th</sup>, 2014, when --  
21 after the incident with the Grunwalds --

22 A. Right.

23 Q. -- which was on the 11<sup>th</sup>, and you said he couldn't go  
24 back there, and he's saying he's staying at the Comfort Inn,  
25 did -- did you verify whether or not he was actually there at



1 the Comfort Inn?

2 A. He said he stayed there the last few nights.

3 Q. Okay.

4 A. The 12<sup>th</sup> and 13<sup>th</sup>. On the 14<sup>th</sup> he reported and he was  
5 instructed to move back to his brother's.

6 Q. Okay.

7 A. Yeah.

8 Q. When a person starts on parole, are they supposed to  
9 sign a parole agreement?

10 A. Right, yes.

11 Q. So just generally with regards to that parole agree-  
12 ment, it's part of it that they agree to report to you on time?

13 A. Yes.

14 Q. And to keep an accurate address, keep it updated with  
15 you?

16 A. Yes.

17 Q. Or with the agency? If a person doesn't do that, does  
18 it talk about that there could be a warrant issued for their  
19 arrest if they failed to do that?

20 A. Yes, if we can't locate them within a certain amount  
21 of time or they don't contact us. We call that absconding,  
22 supervision.

23 Q. Is that part of the -- are they put on notice with  
24 regards to that agreement, that parole agreement that that  
25 could happen to them?

1       A.    Oh, yeah, they sign it, they initial it.  Actually  
2 they do it twice at the prison.  I had to do it when they  
3 report.

4           MR. TAYLOR: Okay.  Okay, nothing further.  Thank you.

5           THE COURT: Okay, thank you.

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

7           THE COURT: Okay.

8   RECROSS EXAMINATION

9 BY MR. ZABRISKIE:

10         Q.    Just one thing.  Again, this is somewhat superfluous,  
11 but I note in the report -- and again, this is a synopsis of  
12 your report, but in the two interactions Platis -- excuse me,  
13 that you had with Garcia, you never noticed any violent or  
14 angry reactions or tendencies from him.  I think you indicated  
15 that Agent Reed had never reported any such reactions either.  
16 That Reed had reported that Garcia reported every month, never  
17 had a problem with him.  Does that sound correct, or is that  
18 your recollection?

19         A.    Yes.

20         Q.    So there was -- even with this going on, where there  
21 seems to be some stress building up as to his ability or in-  
22 ability to comply, he didn't show any anger or any threatening  
23 behavior?

24         A.    No, I didn't see any --

25         Q.    Uh-huh.

1 A. -- the times I met with him.

2 Q. All right, so at any time was there ever a -- up to  
3 these reported incidents that you've talked about, which would  
4 have included January or the incidents before the Grunwald  
5 residence, you didn't hear of anything, any threatening things,  
6 any fighting, anything like that that involved Jose Garcia?

7 A. Are we talking about before the 11<sup>th</sup> of January?

8 Q. We're talking about before he moved in with the  
9 Grunwalds.

10 A. No, I didn't hear anything of -- any problems. He  
11 had no violations.

12 Q. Uh-huh.

13 A. There was a transfer summary done by Mr. Reed, who  
14 didn't indicate -- indicated he was doing well, no violations;  
15 and he approved the Grunwalds' residence.

16 MR. ZABRISKIE: May I have just a second, your Honor.

17 (Counsel conferring off the record)

18 Q. BY MR. ZABRISKIE: One thing I -- we were trying to  
19 pull up his record, and I apologize, but correct me if I'm  
20 wrong. It was my understanding that ultimately he pled to an  
21 aggravated assault, was probably in the way of a plea bargain  
22 before he went to prison. Does that sound correct or not?

23 A. I believe so, yeah.

24 MR. ZABRISKIE: All right, thank you. No further  
25 questions.

1 THE COURT: Anything else?

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

3 THE COURT: Any reason why Mr. Platis couldn't be  
4 excused?

5 MR. TAYLOR: Not from the State, Judge.

6 MR. ZABRISKIE: He can be excused.

7 THE COURT: Thank you, sir. That's all.  
8 Counsel, please approach.

9 (Discussion at the bench)

10 THE COURT: Want to make sure that defense has enough  
11 time to present their case. So I need to know about where  
12 we're going with this and how long you think Mr. Zabriskie is  
13 going to -- you're going to need. We only have --

14 MR. TAYLOR: We think we'll be done across the board by  
15 Thursday afternoon. We haven't discussed it together, but if  
16 that is the case, we would hope the Court would instruct and  
17 then allow us Friday for closings.

18 THE COURT: Friday morning, and deliberation --

19 MR. ZABRISKIE: Yeah, our aspiration is to instruct  
20 Thursday afternoon, and then close Friday morning.

21 MR. TAYLOR: We're pretty much on schedule.

22 THE COURT: Okay.

23 MR. TAYLOR: I know that it doesn't seem like it with  
24 these --

25 THE COURT: I can't really tell, but all right. Thank

1 you.

2 (End of discussion at the bench)

3 THE COURT: That would take care of it for today. Go  
4 ahead and recess, and remind you to comply with the caution --  
5 or with the instructions that I've given you, and we'll be back  
6 again at 8:30, unless if somebody has something they need to do  
7 or -- all right, any reason why we can't break for the day?

8 MR. TAYLOR: No. Thank you, Judge.

9 MR. ZABRISKIE: No, your Honor.

10 THE COURT: Okay.

11 COURT BAILIFF: All rise for the jury.

12 (Jury exits the courtroom)

13 THE COURT: All right, thank you. We'll break for the  
14 day. We'll lock up tonight, and if you wanted to leave things,  
15 you can.

16 MR. TAYLOR: Judge, with regard to that one issue that  
17 we talked about previously about defense Counsel wanting to  
18 address that matter -- talking about the November incident --  
19 can we address that first thing in the morning?

20 THE COURT: Sure.

21 MR. TAYLOR: So would that be okay?

22 MR. ZABRISKIE: Yeah, I think it's buried in my notes  
23 anyway.

24 MR. TAYLOR: Okay. All right, we'll do that, then,  
25 Judge.

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2  
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4

THE COURT: Okay.

MR. ZABRISKIE: Thank you, Judge.

THE COURT: All right, we'll be in recess.

(Fifth day of trial concluded)

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