

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

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3 STATE OF WISCONSIN,

4 PLAINTIFF, PARTIAL MOTION HEARING

5 vs. Case No. 05 CF 381

6 STEVEN A. AVERY,

7 DEFENDANT.

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8  
9 **DATE:** AUGUST 9, 2006

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

12 **APPEARANCES :**

13 KENNETH R. KRATZ  
Special Prosecutor  
On behalf of the State of Wisconsin.

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

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

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

17 STEVEN A. AVERY  
Defendant  
Appeared in person.

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22  
23 **PARTIAL TRANSCRIPT OF PROCEEDINGS**

24 Reported by Diane Tesheneck, RPR

25 Official Court Reporter

I N D E X

WITNESSES PAGE

**DETECTIVE MARK WIEGERT, CONTINUED**

Cross-Examination by ATTORNEY FALLON	6
Redirect Examination by ATTORNEY BUTING	18
Recross-Examination by ATTORNEY FALLON	30
Further Redirect Examination by ATTY. BUTING	32

**DETECTIVE DAVID REMIKER**

Direct Examination by ATTORNEY BUTING	33
Continued Direct Examination by ATTY. BUTING	125
Cross-Examination by ATTORNEY FALLON	148
Redirect Examination by ATTORNEY BUTING	161

**RYAN HILLEGAS**

Direct Examination by ATTORNEY BUTING	61
Cross-Examination by ATTORNEY FALLON	90
Redirect Examination by ATTORNEY BUTING	116

**EARL AVERY**

Direct Examination by ATTORNEY FALLON	162
Cross-Examination by ATTORNEY BUTING	175

**LIEUTENANT JAMES M. LENK**

Direct Examination by ATTORNEY BUTING	187
Cross-Examination by ATTORNEY FALLON	215
Redirect Examination by ATTORNEY BUTING	219

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
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15  
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19  
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21  
22  
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<u>EXHIBITS</u>	MARKED	OFFERED	RECEIVED
18	109	116	116
19	110	116	116
20	129	159	160

1 THE COURT: At this time the Court calls  
2 State of Wisconsin vs. Steven Avery. It's Case No.  
3 05 CF 381. We are here this morning on a  
4 continuation of a hearing regarding some pretrial  
5 motions filed by the defense; specifically, the  
6 remaining testimony on the **Franks** motion that's been  
7 filed by the defense, and also to your testimony on  
8 defense motions regarding the execution of the  
9 search warrant that was issued. And a motion to  
10 suppress statements made by the defendant to the  
11 Marinette County Sheriff's Department.

12 Will the parties state their appearances  
13 for the record, please.

14 ATTORNEY KRATZ: The State appears by  
15 Calumet County District Attorney Ken Kratz,  
16 appearing as Special Prosecutor in this matter. Tom  
17 Fallon, from the Department of Justice, also appears  
18 having been appointed Special Prosecutor.

19 ATTORNEY BUTING: Good morning, your Honor.  
20 Buting and Williams by Attorney Jerome Buting,  
21 appearing on behalf of Mr. Avery, who is present.  
22 Also, Attorney Dean Strang, appearing on behalf of  
23 Mr. Avery.

24 THE COURT: All right. As I recall, when  
25 we left off, Mark Wiegert was testifying. The

1 defense had completed its direct exam, and the State  
2 is going to cross-examine the witness today; is that  
3 correct?

4 ATTORNEY FALLON: That's correct, Judge.

5 THE COURT: All right. Is Mr. Wiegert  
6 here?

7 ATTORNEY FALLON: Yes, he is.

8 THE COURT: The Court will have the clerk  
9 re-swear the witness.

10 **DETECTIVE MARK WIEGERT**, called as a  
11 witness herein, having been first duly sworn, was  
12 examined and testified as follows:

13 THE CLERK: Please be seated.

14 ATTORNEY BUTING: Judge, I assume the  
15 sequestration order remains, as to any other  
16 witness?

17 THE COURT: Yes, it does.

18 ATTORNEY FALLON: Yes, it does. I don't  
19 believe any other witnesses, relative to the **Franks**  
20 matter, is present. Our Victim/Witness person  
21 advises me that is the case. Officer Fassbender is  
22 here for the next motion, unless there is any  
23 objection, by counsel, on him sitting in on this  
24 part.

25 ATTORNEY BUTING: No.

1 ATTORNEY FALLON: Very well.

2 THE COURT: All right. Mr. Fallon, you may  
3 proceed.

4 ATTORNEY FALLON: All right. Thank you.

5 **CROSS-EXAMINATION**

6 BY ATTORNEY FALLON:

7 Q. Detective Wiegert, before you spoke to Pam Sturm  
8 on that Saturday morning, November 5th, you had  
9 spoken only to one other volunteer searcher in  
10 this particular matter; is that correct?

11 A. That is correct.

12 Q. As a matter of fact, you received only one call  
13 from that person?

14 A. Yes.

15 Q. And to this day, you don't really recall the name  
16 of the person who called you?

17 A. No, I do not.

18 Q. All right. You were informed by that person that  
19 the searchers would be searching county roads,  
20 and ditches, etcetera, for evidence of Teresa  
21 Halbach, their thinking perhaps that she had some  
22 type of motor vehicle accident?

23 A. That's correct.

24 Q. All right. The volunteers indicated they would  
25 be searching from Manitowoc to Mishicot to the

1 area where she lived, that general stretch of  
2 road?

3 A. Right, the Mishicot area over towards the Hilbert  
4 area.

5 Q. All right. And you spoke to no other volunteers  
6 on that particular day, November 4th, that's a  
7 Friday; is that right?

8 A. That's correct.

9 Q. All right. So, with respect to the events of  
10 November 4th, you did not organize any volunteer  
11 search group?

12 A. No, not at all.

13 Q. You did not coordinate anything with that  
14 particular group?

15 A. No.

16 Q. You did not direct them in any way?

17 A. No.

18 Q. You did not instruct them in any way?

19 A. Did not.

20 Q. You did not suggest any locales where they should  
21 commence their search?

22 A. No.

23 Q. And you certainly didn't give them any details of  
24 any other places, or buildings, or things to  
25 search?

1 A. No.

2 Q. And it's fair to say you gave them no  
3 instructions, whatsoever; you basically were a  
4 conduit of information received from them?

5 A. That's correct.

6 Q. All right. As a result of receiving that  
7 information, you then called the Manitowoc  
8 Sheriff's Office?

9 A. Yes, I contacted the shift commander at the  
10 Manitowoc County Sheriff's Department.

11 Q. And you advised the shift commander of the  
12 information you received from this volunteer  
13 searcher; is that correct?

14 A. That's correct, yes.

15 Q. All right. And because -- You did this because  
16 there were some safety issues or concerns, with  
17 respect to people being out on the roads, either  
18 late at night or early in the morning, looking  
19 for Teresa Halbach?

20 A. Yeah. My concern was that they would be parked  
21 on the side of the road and there would be a lot  
22 of people, obviously, in the area, for their  
23 safety.

24 Q. All right. Now, on Saturday, November 5th, that  
25 particular morning, you contacted Detective



1           Remiker; is that correct?

2       A.    Yes.

3       Q.    And you wanted to meet with him at the Manitowoc  
4            Sheriff's Office?

5       A.    Yes.

6       Q.    In thinking you were wanting to come up with some  
7            type of game plan, or organization as to how you  
8            were going about this, finding the missing person  
9            of Theresa Halbach?

10      A.    That's correct.

11      Q.    You wanted to -- And one of the things, I believe  
12            you indicated you wanted to ask consent  
13            because -- of the Avery family -- because one of  
14            the places you wanted to search, or look for her,  
15            was their property; is that correct?

16      A.    Yes.

17      Q.    And that's because, as far as anyone knew at that  
18            point, that was the last place she had been seen  
19            alive?

20      A.    Correct.

21      Q.    All right.  And it was at that point, with  
22            respect to your discussions with Detective  
23            Remiker, that it was your thinking, at least in  
24            your mind, that if consent were granted to look  
25            at the Avery property and the surrounding area,

1           you might, at that point, call upon the  
2           volunteers to assist in a search of that area?

3    A.    Yes.  We had an idea of how big the salvage yard  
4           was, and we thought if they would grant us  
5           permission, since we were there with people in  
6           the area, we would ask them for their help.

7    Q.    All right.  Now, up to this particular point, you  
8           had not asked for any volunteers help, correct?

9    A.    No, did not.

10   Q.    Were you actually planning on meeting with  
11           volunteers at the Sheriff's Department, or just,  
12           at some point later on, asking for their help in  
13           search of various locales?

14   A.    No, our purpose was to meet with Detective  
15           Remiker, to discuss with him our ideas and see  
16           what kind of ideas he might have.  But no, we had  
17           no intentions of meeting with any volunteer  
18           searchers at that time.

19   Q.    As a matter of fact, no such meeting with  
20           Detective Remiker, regarding your thoughts, ever  
21           occurred that morning, did it?

22   A.    That's correct.

23   Q.    You never asked for any volunteers for assistance  
24           on November 5th, correct?

25   A.    Correct.

1 Q. You did not organize them on that day?

2 A. No.

3 Q. You did not direct them on that day?

4 A. No.

5 Q. You did not coordinate any of their efforts?

6 A. Did not.

7 Q. You did not suggest a place to search?

8 A. No.

9 Q. And prior to that day, you had never had any  
10 telephone or contact with Pamela Sturm regarding  
11 her intentions?

12 A. That's correct.

13 Q. All right. After your discussion with Detective  
14 Remiker, it was at that point where your  
15 department received a phone call from Pamela  
16 Sturm; is that correct?

17 A. Yes.

18 Q. All right. And it was pursuant to that phone  
19 call, that you then responded to the scene, to  
20 the Avery property?

21 A. Yes.

22 Q. All right. And, again, prior to that phone  
23 conversation from her, you had no idea that  
24 anyone was actually going to that property that  
25 morning did you?

1 A. No idea.

2 Q. All right.

3 ATTORNEY FALLON: Your Honor, does the  
4 Court have Exhibit 15 available for our perusal, for  
5 the witnesses perusal?

6 THE COURT: We will in a minute.

7 ATTORNEY FALLON: Very well.

8 Q. (By Attorney Fallon)~ Detective, you were the  
9 affiant in the search warrant, issued on November  
10 5th, 2005?

11 A. Yes, I was.

12 Q. All right. And that means you set forth specific  
13 facts which you believed established probable  
14 cause to justify a search warrant of the Avery  
15 property, correct?

16 A. Correct.

17 Q. All right. Now, in that particular affidavit,  
18 and until we get the official one, I will let you  
19 examine my copy of Exhibit 15. I would like to  
20 direct your attention to Paragraph 5.

21 ATTORNEY FALLON: May I approach the  
22 witness?

23 THE COURT: Yes.

24 ATTORNEY FALLON: Thank you.

25 Q. (By Attorney Fallon)~ For the record, Detective,

1           you have a copy of Exhibit 15?

2       A.    I do, yes.

3       Q.    Now, that copy of the Exhibit 15, however, does  
4           not have the return of the officers on it,  
5           correct?

6       A.    It does not, you are correct.

7       Q.    All right.

8                   THE COURT:   Just for my benefit, is this --  
9           This affidavit is attached to the defense motion,  
10          correct?

11                   ATTORNEY FALLON:   Yes, the warrant and  
12          affidavit are attached to the defense motion.

13                   THE COURT:   Because I have got a copy of  
14          the motion here, so at least I have something to  
15          follow along with.

16                   ATTORNEY FALLON:   All right.   Very well.

17       Q.    (By Attorney Fallon)~ Now, in Paragraph 5, you  
18           use a phrase, a vehicle matching the description  
19           of the vehicle owned by Teresa Halbach was found  
20           on the Avery property; is that correct?

21       A.    Yes.

22       Q.    All right.   Now, there was much questioning  
23           regarding the discussion of matching.   And, first  
24           of all, let me begin by asking you this question,  
25           Detective Wiegert.   What were the sources of

1 information that you used to prepare that  
2 warrant?

3 A. Actually had three different sources: One was  
4 Pam Sturm, and the information she called in,  
5 such as the color of the vehicle, the sticker on  
6 the back of the vehicle, the Le Mieux Toyota  
7 sticker; the vehicle that was covered up by --  
8 was covered up by branches, for example; and the  
9 partial VIN number that she provided me. Also,  
10 information I received from Karen Halbach,  
11 Teresa's mother, that the Le Mieux Toyota sticker  
12 should be on the back of her truck, which matched  
13 the one that was out at the scene.

14 Also, information that I had gotten from  
15 Detective Remiker. He had went to the scene and  
16 verified the complete and entire VIN number,  
17 which matched Teresa Halbach's vehicle.

18 Q. All right. Now, Detective Remiker arrived at  
19 that scene, before you and other members of the  
20 Calumet County Sheriff's Department arrived  
21 there, correct?

22 A. Yes, he did.

23 Q. All right. Were you in communication with  
24 Detective Remiker, by telephone, prior to your  
25 arrival at the salvage yard?

1 A. By telephone, and I believe, also, on the radio,  
2 one or two times, yes.

3 Q. All right. Now, you also, did you not, have  
4 information from the Wisconsin Department of  
5 Transportation, some teletype communication, with  
6 a more detailed description of the vehicle  
7 registered to Teresa Halbach?

8 A. Yes, we did.

9 Q. All right. So you knew, then, that it was a  
10 1999, or 2000, Toyota RAV 4?

11 A. Yeah. And as a matter of fact, when Pam Sturm  
12 had called, she had told me that she believed it  
13 was a '99 or 2000 RAV 4, so that also matched.

14 Q. All right. And with respect to -- For purposes  
15 of our discussion now, would you describe for  
16 us -- Well, first of all, let me ask this: When  
17 you arrived at the scene, did you have an  
18 opportunity to examine the vehicle yourself?

19 A. I stayed at least 100 yards from the vehicle.

20 Q. All right.

21 A. I did not get close to the vehicle.

22 Q. All right. Since that time, have you had an  
23 opportunity to get a close look at the vehicle?

24 A. Absolutely, yes.

25 Q. All right. Now, for purposes of our discussion,

1 describe the color of that vehicle for us?

2 A. I would say it's a greenish, bluish color. It  
3 depends on when the light hits it, you know, what  
4 color it is. It kind of differs with the  
5 different type of light you have. But it's a  
6 greenish blue.

7 Q. All right. And in your particular affidavit  
8 there, you use the phrase dark blue; is that  
9 correct?

10 A. Yes.

11 Q. All right. Now, with respect to the information  
12 provided by Ms Sturm, you indicated that she --  
13 you received a partial VIN number. First of all,  
14 with respect to VIN's, to be more grammatically  
15 correct, how many characters are commonly  
16 associated with a VIN.

17 A. Seventeen characters in a VIN number.

18 Q. And with respect to the information provided by  
19 Ms Sturm, how many characters did she provide of  
20 that number?

21 A. She provided 10 of the 17 numbers, off the VIN.  
22 And those matched, obviously, Teresa's vehicle.

23 Q. All right. And with respect to Detective  
24 Remiker's involvement here, did Detective Remiker  
25 advise you that he had confirmed the remaining



1 numbers?

2 A. Yes, he did. As a matter of fact, he indicated  
3 that he had a match, and that all the numbers  
4 were verified.

5 Q. All right. Now, so -- And that all occurred  
6 before you applied for the search warrant, which  
7 is reflected in Exhibit 15?

8 A. That's correct, yes.

9 Q. All right. So, at the time you prepared that  
10 warrant, you knew that you were -- a vehicle that  
11 was dark blue, or greenish blue, had been located  
12 at the Avery property?

13 A. Yes.

14 Q. You knew the vehicle was secreted in some way, in  
15 so far as it was covered by brush and other  
16 automobile parts?

17 A. Yes.

18 Q. You knew that the -- that you had 10 of 17 VIN  
19 characters from Ms Sturm, and the remaining seven  
20 provided by Detective Remiker?

21 A. Yes.

22 Q. You had a teletype from the Department of  
23 Transportation regarding the registration and  
24 description of the vehicle?

25 A. Yes.

1 Q. And you also confirmed, with Karen Halbach, that  
2 there was a Le Mieux Toyota sticker available --  
3 or located on that vehicle?

4 A. Yes.

5 Q. All right. And at the time of -- As a matter of  
6 fact, you knew before you even got there, from  
7 your discussion with Ms Sturm, that such a  
8 sticker -- dealer sticker, was on that vehicle?

9 A. Yes, I did.

10 Q. All right. Now, Detective, did you deliberately  
11 misstate any facts in that affidavit?

12 A. Absolutely not.

13 Q. And in your mind, did you omit any significant  
14 facts which would affect the determination of  
15 probable cause by this Court?

16 A. No.

17 ATTORNEY FALLON: No other questions.

18 THE COURT: Mr. Buting.

19 **REDIRECT EXAMINATION**

20 BY ATTORNEY BUTING:

21 Q. Now, Detective, so it's your testimony that you  
22 did not tell Detective Remiker, from the  
23 Manitowoc Sheriff's Department, that you had --  
24 I'm referring now to Saturday morning, the  
25 November 5th before the vehicle was discovered.

1 A. Mm-hmm.

2 Q. Is it your testimony that you did not tell him  
3 that you had volunteers that were willing and  
4 interested in going to the Avery property?

5 A. I did not tell him that there were volunteers  
6 willing to go to the Avery property, that's  
7 correct.

8 Q. Okay. And you did not tell him that several of  
9 the volunteer search parties would be coming to  
10 the Manitowoc Sheriff's Department to meet and  
11 coordinate efforts; is that your testimony?

12 A. That's correct.

13 Q. Okay. And you are familiar -- We have discussed  
14 it briefly, but just to refresh your  
15 recollection, we talked about it earlier, you  
16 have had training in how to apply for search  
17 warrants, right?

18 A. Yes.

19 Q. And you know that it's very important that you be  
20 completely truthful and honest when you prepare  
21 an affidavit for a search warrant, right?

22 A. That's correct, yes.

23 Q. And that that's so that the judge, or the  
24 magistrate, can form his or her own opinion, as  
25 to whether or not there's probable cause to

1           justify the warrant, right?

2    A.    Yes.

3    Q.    In other words, the judge is not supposed to  
4           simply rely on your belief that probable cause  
5           exists, correct?

6    A.    Yes.

7    Q.    That you have to provide the facts to him or her  
8           so that an independent decision can be made,  
9           correct?

10   A.    That's correct.

11   Q.    And in your affidavit, Exhibit 15 --

12                    THE COURT:   The record should reflect that  
13           he's holding the actual Exhibit 15 at this point.  
14           It was handed to him during his testimony on  
15           cross-examination.

16                    ATTORNEY BUTING:   Thank you, your Honor.

17   Q.    (By Attorney Buting)~ In Exhibit 15, directing  
18           your attention to Paragraph 5, you prepared the  
19           words -- the wording in this paragraph are your  
20           words, are they not?

21   A.    Yes.

22   Q.    Anybody else help you formulate this?

23   A.    Detective Remiker was there when we put it  
24           together.

25   Q.    Okay.   So it was -- was it a mutual effort

1           between you and Detective Remiker?

2     A.    Yes.

3     Q.    Both of you read it over?

4     A.    I can't say if he read it over.  I know I did.  I  
5           can't testify to what he did, for sure.

6     Q.    All right.  And you read it over and you swore to  
7           it?

8     A.    I did.

9     Q.    And in that, you specifically said that the  
10          volunteer searchers had located -- I'm sorry, I  
11          will use the exact phraseology here -- that  
12          officers had received information, quote, from  
13          volunteer searchers, that they had located a  
14          vehicle matching the description of the vehicle  
15          owned by Teresa Halbach, closed quote, right?

16    A.    Yes.

17    Q.    But, in point of fact, you had no information  
18          that the volunteers told you the vehicle matched  
19          the description?

20    A.    No, she told me what type of vehicle it was.  She  
21          told me that there was a sticker on the back.  
22          She told me the color of the vehicle.  She told  
23          me the year of the vehicle.  To me, that's  
24          matched.

25    Q.    So, the volunteers did not tell you that it

1           matched, you concluded that it matched?

2       A.    I concluded, from the information that the  
3           searcher gave me, that there was a match.

4       Q.    And you did not, however, put in your affidavit,  
5           for the judge to make his or her own  
6           determination on whether or not the vehicle  
7           matched, the following facts:  You did not  
8           mention anything about a Le Mieux sticker; isn't  
9           that correct?

10      A.    It is not in the affidavit, that's correct.

11      Q.    You did not mention anything about the model  
12           year; is that correct?

13      A.    I would have to review the affidavit to be sure.

14      Q.    Take your time.

15      A.    That's correct.

16      Q.    And you did not put anything in your affidavit to  
17           tell the judge that the volunteer you personally  
18           spoke with, that is, Pamela Sturm, told you that  
19           she was concerned that the color did not appear  
20           to match the description of the vehicle as she  
21           understood it?

22      A.    She indicated that it was a bluish green color.  
23           And I don't know exactly what's in the affidavit,  
24           again, without looking at it, but that's what she  
25           told me.

1 Q. And she told you, though, also, that she was --  
2 as a result of the fact that the information had  
3 gone out that the vehicle was green, that's  
4 correct, is it not?

5 A. Yes, that's correct.

6 Q. She told you, therefore, that she was not certain  
7 that this was really the same vehicle, right?

8 A. She initially was concerned about the color,  
9 because she said it was bluish green. However,  
10 after discussing other facets of the vehicle:  
11 The sticker, what she said was the year of the  
12 vehicle, and the VIN number, I took it that she  
13 believed that it was the vehicle.

14 Q. But she never told you that, you just took it at  
15 that?

16 A. She asked me several times, is this the vehicle,  
17 and I said I can't tell you that at this time.

18 Q. Okay. And that uncertainty, about the difference  
19 in the color, that she expressed to you, was not  
20 something that you included in your affidavit;  
21 isn't that right?

22 A. No, because I believed --

23 Q. That's fine. Answer the question. The answer is  
24 no; is that right?

25 A. That's correct.

1 Q. The sources of the information that you said went  
2 into this Paragraph 5, you included information  
3 from Detective Remiker, who had actually arrived  
4 at the scene, correct?

5 A. Yes.

6 Q. Now, are you aware that Detective Remiker did not  
7 have any consent from the property owners, to be  
8 in the location he was at, when he made his  
9 observations?

10 A. No.

11 ATTORNEY FALLON: Objection.

12 THE COURT: What is the objection?

13 ATTORNEY FALLON: Speculation, it's  
14 irrelevant at this point.

15 THE COURT: Mr. Buting?

16 MR. BUTING: Well, it is relevant. It goes  
17 directly to the issue of what can be relied upon in  
18 a search warrant.

19 ATTORNEY FALLON: I don't see how that is  
20 relevant to the averments in the affidavit, under  
21 the circumstances in which the affidavit was  
22 presented.

23 THE COURT: All right. I'm not going to  
24 say that it's not relevant for purposes of the  
25 defense motion, but I think for purposes of this



1 witness's testimony, I agree with Mr. Fallon. The  
2 Court will sustain the objection.

3 Q. (By Attorney Buting)~ All right. As part of your  
4 experience and training with regard to search  
5 warrant applications, you know that you cannot  
6 put information into a warrant, for a judge to  
7 rely on, that was obtained unlawfully by the  
8 police; is that right?

9 A. Yes.

10 Q. And that you are also aware that observations  
11 that an officer may make on private property, the  
12 lawfulness of those observations would depend on  
13 whether that officer had a lawful purpose in  
14 being there at the time he made such  
15 observations, right?

16 A. Yes.

17 Q. And that if Detective Remiker, in this instance,  
18 did not have a lawful reason to be in the place  
19 where he made the observations you relied upon,  
20 you would not have included those in this  
21 affidavit, right?

22 A. If I knew he wasn't there lawfully, are you  
23 asking --

24 Q. Yes.

25 A. -- would I have included that? If I knew he was

1           there illegally, I would not include that, no.

2       Q.    Okay.  And he was with you when you prepared this  
3           affidavit?

4       A.    That's correct.

5       Q.    Did you ask him whether he had consent to be in  
6           the -- that portion of the Avery property where  
7           he was making his observations of the RAV 4  
8           vehicle?

9       A.    I did not ask him if he had permission to be  
10          there; I assumed he did.

11      Q.    And he never told you that he had permission to  
12          be there?

13      A.    I never asked him.

14      Q.    That's not my question.  Did he ever tell you?

15      A.    No, not specifically.

16      Q.    Okay.  And you actually arrived at the scene  
17          later, yourself, correct?

18      A.    Later than?

19      Q.    Than Detective Remiker?

20      A.    Yes.

21      Q.    A matter of a few minutes, I believe, correct?

22      A.    Correct.

23      Q.    And you had an opportunity to speak with one of  
24          the property owners or managers, correct?

25      A.    I did speak with Earl Avery, that's correct.

1 Q. And you did so when you -- after you had been  
2 there for a period of time, right?

3 A. Yes.

4 ATTORNEY FALLON: Objection, on two  
5 grounds. Irrelevant and, two, beyond the scope of  
6 cross-examination.

7 THE COURT: Sustained, as beyond the scope.

8 Q. (By Attorney Buting)~ Did you -- Did you know --  
9 Well, first of all, when you first arrived, did  
10 you see Mr. Earl Avery, or any other property  
11 owner, speaking or standing next to Detective  
12 Remiker?

13 A. Earl Avery was in the area. I don't know if he  
14 was speaking to anybody or not. I don't recall  
15 that.

16 Q. In fact, it wasn't until five or so minutes later  
17 that Mr. Avery, Earl Avery, came up to where you  
18 were located and asked what was going on; isn't  
19 that right?

20 A. I believe Earl Avery was already in that area, on  
21 a four-wheeler, when we arrived.

22 Q. Was he over by the vehicle?

23 A. He was probably within feet of one of the squad  
24 cars. I don't know that.

25 Q. Did you have personal knowledge about whether he

1 had consented to Detective Remiker being in the  
2 location he was when he made his observations of  
3 the vehicle?

4 ATTORNEY FALLON: Again, objection, beyond  
5 the scope. It's irrelevant.

6 THE COURT: The Court will sustain the  
7 objection. It is beyond the scope of redirect.

8 Q. (By Attorney Buting)~ So, just so we're clear,  
9 then, the information you relied upon in terms of  
10 the description of the vehicle, and whether or  
11 not it was similar to, or matched, the Teresa  
12 Halbach vehicle, did not come from your own  
13 personal observations?

14 A. No, it came from other people, that's correct.

15 Q. Because even when you arrived at the scene, you  
16 did not physically walk up to the vehicle to  
17 check out any of the information you had received  
18 about it, right?

19 A. I could see the vehicle. I did not walk up to  
20 the vehicle.

21 Q. So you couldn't see its VIN number, for instance?

22 A. That's correct.

23 Q. And it's your testimony that Detective Remiker  
24 told you that he had walked up to the vehicle?

25 A. Yes.

1 Q. And that he had actually obtained the entire VIN  
2 number, all 17 numbers?

3 A. Yes.

4 Q. When you say that, in Paragraph 5, that  
5 Investigator Remiker -- this is half way down --  
6 your affiant is informed that Investigator  
7 Remiker was provided with the VIN number of the  
8 RAV 4, located at the Avery Auto Salvage, you are  
9 saying that it was provided by somebody else to  
10 him or?

11 A. I'm not understanding your question. He was  
12 provided with the VIN to match up to the one that  
13 was on the truck at the salvage yard.

14 Q. But you say that he was provided with the VIN  
15 number of the RAV 4, that was located at the  
16 Avery property, right? And then the rest of your  
17 sentence after the semicolon, goes on, the  
18 searchers provided the VIN number, and you list  
19 all 17 numbers, right?

20 A. Yes. Well, I believe what happened is, the  
21 number that Pam Sturm called in, I discussed that  
22 with Detective Remiker, I believe that's what  
23 that's referring to.

24 Q. So, when you say, in this affidavit, that the  
25 searchers provided the VIN number, and you list

1 all 17 characters, that, in fact, is not true;  
2 isn't that right?

3 A. No, they provided 10 of the 17 numbers.

4 ATTORNEY BUTING: All right. I have no  
5 other questions.

6 THE COURT: Any recross?

7 ATTORNEY FALLON: A couple questions.

8 **RECROSS-EXAMINATION**

9 BY ATTORNEY FALLON:

10 Q. Counsel asked you about your experience in  
11 applying for search warrants and the need for  
12 accurate, reliable, truthful information, so I  
13 have a few questions regarding that. With  
14 respect to your experience in applying for search  
15 warrants, you are aware that the legal standard  
16 is probable cause?

17 A. That's correct.

18 Q. All right. And that is a standard of proof  
19 that's somewhat, or significantly, less than  
20 beyond a reasonable doubt?

21 A. Yes.

22 Q. It's a standard of proof which is less than --  
23 more likely than not, by less than 50 percent?

24 A. Yes.

25 Q. Probability?

1 A. Yes.

2 Q. All right. And based on the information that you  
3 had at the time, from Ms Sturm, that you had a  
4 dark blue or bluish green, late model, 1999-2000  
5 Toyota RAV 4; that it had a Le Mieux sticker on  
6 it; that it was secreted in brush and other  
7 automobile parts; that you had, at minimum,  
8 before you even arrived, 10 of the VIN  
9 characters; in your mind, did you believe that  
10 was probable cause right there?

11 A. Absolutely. I think that would have been enough  
12 to get a search warrant, right there, in my  
13 opinion.

14 Q. As a matter of fact, setting aside for the VIN  
15 number, the fact that Teresa Halbach was last  
16 seen on the Avery property on October 31st; the  
17 fact that the defendant, Steven Avery,  
18 acknowledged her being there as recently as  
19 November 4th, that she was there to take pictures  
20 of a vehicle he was selling; the fact that he was  
21 the last person known to have seen her alive; the  
22 fact that a late model, dark blue, greenish RAV 4  
23 was located on that property; setting aside the  
24 VIN number, setting aside all that; in your mind  
25 is that probable cause?

1 A. Absolutely, yes.

2 ATTORNEY FALLON: That's all I have.

3 ATTORNEY BUTING: Just one quick follow up.

4 **RE-REDIRECT EXAMINATION**

5 BY ATTORNEY BUTING:

6 Q. Until the vehicle was located by Ms Sturm on the  
7 5th, you did not believe there was probable cause  
8 to get a warrant; isn't that right?

9 A. Maybe not at that point, but looking at it now,  
10 yeah, I believe it would have.

11 Q. You didn't -- In other words, the mere fact that  
12 Mr. Avery -- that Teresa Halbach had been at the  
13 Avery property four or five days earlier, and  
14 that Mr. Avery had acknowledged that, was not  
15 enough for you to get probable cause for a search  
16 warrant?

17 A. I think the fact that she was missing for that  
18 many days, coupled with the fact it was the last  
19 place she was seen, I think looking back on it  
20 now, we may have been able to use that for enough  
21 probable cause.

22 Q. But you did not seek a warrant at that time?

23 A. At that point, we did not, no.

24 Q. And during that period of time, you were  
25 obviously concerned about doing whatever you



1           could to locate Teresa Halbach?

2       A.     That's correct.

3       Q.     And, nevertheless, you did not seek a warrant  
4           until after Ms Sturm located the vehicle on the  
5           property?

6       A.     That is true, yes.

7                    ATTORNEY BUTING:   Thank you.  No further  
8           questions.

9                    ATTORNEY FALLON:  Nothing else.

10                   THE COURT:  Witness is excused.

11                   THE WITNESS:  Thank you.

12                   THE COURT:  Mr. Buting, you may call your  
13           next witness.

14                   MR. BUTING:  I call Detective Remiker.

15                   THE CLERK:  Raise your right hand.

16                   **DETECTIVE DAVID REMIKER**, called as a  
17           witness herein, having been first duly sworn, was  
18           examined and testified as follows:

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

21                   THE WITNESS:  Dave Remiker, R-e-m-i-k-e-r.

22                                    **DIRECT EXAMINATION**

23       BY ATTORNEY BUTING:

24       Q.     And you are a detective; is that correct?

25       A.     Yes.

1 Q. How long have you been a police officer, or in  
2 law enforcement?

3 A. About 13 years.

4 Q. And how long have you been a detective?

5 A. I have been an investigator since January of '99.  
6 Part of that included narcotics.

7 Q. And you are employed by whom?

8 A. Manitowoc County Sheriff's Department.

9 Q. And on November 4th, 5th, in that time period of  
10 last year, were you also so employed?

11 A. Yes.

12 Q. And in your experience as a officer or detective,  
13 with the Manitowoc County Sheriff's Department,  
14 have you had experience in applying for search  
15 warrants?

16 A. Yes.

17 Q. Have you had training to do so as well?

18 A. Depends on what part of the search warrant you  
19 are talking about. I don't recall any specific  
20 training in reference to applying for search  
21 warrants.

22 Q. Never had any training on how to prepare an  
23 affidavit in order to get a search warrant, on  
24 the job, or otherwise?

25 A. On the job experience, that type of training.

1 Q. Okay. You do know, though, that when you prepare  
2 an application for a search warrant and, in fact,  
3 when you prepare an affidavit in support of that,  
4 that you must be truthful in the information  
5 that's provided?

6 A. Definitely.

7 Q. Could you tell me when you first became involved  
8 in the Teresa Halbach matter?

9 A. I believe it was on a Thursday, that would have  
10 been November 3rd, I believe.

11 Q. And how did that come about?

12 A. I was paged. I was requested to come into the  
13 Sheriff's Department. I arrived there and I met  
14 with some of the detectives from our department  
15 and Calumet County.

16 Q. And you were asked to come in by who; was that  
17 Lieutenant Lenk?

18 A. Probably.

19 Q. When you came in, did you meet with Lieutenant  
20 Lenk?

21 A. He was there, yes.

22 Q. As well as an investigator from the Calumet  
23 County Sheriff's Department?

24 A. Investigator Dederling, correct.

25 Q. And at that time, was it your understanding that

1           you were being called in to assist with a Calumet  
2           County matter, or a Manitowoc County matter, or  
3           which?

4           A.    Missing person.

5           Q.    But an investigation involving which department?

6           A.    Well, the female that was missing was from  
7           Calumet County.  They had received some  
8           information that some of her last contacts  
9           included an address in Manitowoc County.

10          Q.    Okay.  And did that address, in fact, turn out to  
11          be the Avery property in Manitowoc, Town of  
12          Gibson?

13          A.    That was one of the locations, yes.

14          Q.    Okay.  And did you have occasion to check with  
15          Steven Avery on Thursday night, November 3rd, as  
16          to whether he had any information about the  
17          missing woman?

18          A.    I did not.

19          Q.    Someone from your department did?

20          A.    Correct.

21          Q.    And that would have been?

22          A.    Sergeant Colborn.

23          Q.    You know, did he go out to the property, or was  
24          it by phone?

25          A.    I believe he went out to the property and spoke

1 with Steven, and maybe some additional people.

2 Q. Okay. And the following day, did you, in fact,  
3 have an opportunity to go out to the Avery  
4 property as well?

5 A. Yes.

6 Q. Were you asked to do that, or did you do that on  
7 your own?

8 A. I was asked.

9 Q. By?

10 A. It was Calumet County. I believe one of the main  
11 contacts we had was with Investigator Wiegert.

12 Q. Okay. And do you know what time it was you went  
13 to the Avery property on the 4th?

14 A. 10:30.

15 Q. 10:30 in the morning?

16 A. Correct.

17 Q. Did you have a warrant at that time?

18 A. No.

19 Q. And did you approach the trailer in which Steven  
20 Avery resided in?

21 A. At one point, yes.

22 Q. Do you know the address, actual address of that?

23 A. 12932.

24 Q. Avery Road?

25 A. Correct.

1 Q. Okay. Did you speak with other -- You are aware,  
2 from your investigation, that there are other  
3 people that live at that same general area or  
4 compound, correct?

5 A. That was the first time I have ever been on the  
6 Avery property.

7 Q. Okay.

8 A. I had no idea who lived out there.

9 Q. So at that time, you didn't know -- you were  
10 directed to go to that specific address?

11 A. Correct.

12 Q. And that specific address related to the trailer  
13 resided in by Mr. Steven Avery?

14 A. I believe that's the information I received, yes.

15 Q. And when you drove on to the property, you had to  
16 turn right and go down sort of a dirt road to get  
17 to the end of the road before you reached that  
18 particular trailer; isn't that right?

19 A. I recall, when we first got out there, I had no  
20 idea where to go. I wasn't sure where his  
21 trailer was. At one point, we went down that  
22 road that leads to Steve's trailer, yes.

23 Q. And when you knocked on the door, was he there?

24 A. No.

25 Q. Did you enter without him being there?

1 A. No.

2 Q. After a period of time, did he arrive, or did he  
3 come up to you?

4 A. We attempted to make contact at that trailer,  
5 then we went to another trailer. That was the  
6 trailer that was resided by Barb Janda. And  
7 then, when there was no contact there, we started  
8 leaving. And as we were driving down the road,  
9 Steven, and I believe Delores, arrived, made  
10 contact with us. They were in a golf court.

11 Q. When you say us and we, who are you referring to?

12 A. Myself and Lieutenant Lenk.

13 Q. Lieutenant Lenk was actually out there with you?

14 A. Yes.

15 Q. Okay. And, so, did you talk with Mr. Steven  
16 Avery at that point?

17 A. Yes.

18 Q. Do you explain what your purpose was in being  
19 there?

20 A. Yes.

21 Q. And what was that? What did you tell him?

22 A. I told him that we were investigating a missing  
23 female. He seemed a little surprised. I told --  
24 I explained to him that he had contact with  
25 Sergeant Colburn the night before, and then I

1           asked if I could search his trailer.

2    Q.    Okay.  And did he agree to do that?

3    A.    Yes.

4    Q.    Gave his consent freely?

5    A.    Freely.

6    Q.    Appeared to cooperate fully?

7    A.    Yes.

8    Q.    And, so, then did you walk back, or drive back,

9           to the end of the road where his trailer was

10          located?

11   A.    Yeah, he told me to go ahead and search.  I told

12          him I wanted him to come with me, and then we

13          drove over to his trailer, and then he followed

14          in the golf cart.

15   Q.    So he was willing to let you just go into his

16          trailer and let you search without him even being

17          there?

18   A.    I believe so, yes.

19   Q.    But you wanted him to be there?

20   A.    Correct.

21   Q.    And when you walked into the trailer, did you

22          look around, through the complete trailer?

23   A.    Yes.

24   Q.    And can you just briefly describe what the

25          layout -- or what the layout of the trailer is



1           inside?

2                   ATTORNEY FALLON:  Objection, relevant.

3                   THE COURT:  Mr. Buting?

4                   ATTORNEY BUTING:  Well, we're going to get  
5           to it eventually, so to make the record clear, I  
6           think it's helpful.

7                   THE COURT:  We may get to it eventually, as  
8           part of the case, but I'm hoping that the testimony  
9           here will focus on your motion.  And I am having  
10          trouble understanding the relevance of what he found  
11          in the trailer, or what he observed in the trailer,  
12          to the motion.

13                   ATTORNEY BUTING:  Well, we do have a burden  
14          to establish some standing, and so some of these  
15          questions need to go towards that so.  I can --

16                   THE COURT:  I'm not sure I follow that.

17                   ATTORNEY BUTING:  I can rephrase it.

18   Q.    (By Attorney Buting)~ When you went in the  
19          trailer, did it become clear to you that  
20          Mr. Steven Avery did in fact reside in that  
21          trailer?

22   A.    Yes.

23   Q.    Okay.  You had no reason to doubt that?

24   A.    No, he let us in.

25   Q.    Okay.  And you went and searched all of the rooms

1 and opened up all the doors and closets at that  
2 time, right?

3 A. Yes.

4 ATTORNEY FALLON: Your Honor, I'm going to  
5 renew my objection as to the relevance of this. If  
6 Counsel is trying to lay foundational evidence for a  
7 standing argument, as I already argued last week,  
8 and in written pleadings, we do not challenge the  
9 fact that Mr. Avery has standing to challenge a  
10 search of his residence or his garage. Our argument  
11 goes to everywhere else. I'm not sure how this  
12 questioning, on November 4th, is relevant to the  
13 events on November 5th.

14 MR. BUTING: Nevertheless, Judge, we do  
15 have to make a record to establish standing, as  
16 Mr. Fallon has pointed out. And this is -- This  
17 detective was there and can testify about  
18 Mr. Avery's standing to object to this warrant,  
19 which included this particular trailer. That's what  
20 I'm trying to establish.

21 THE COURT: I don't know that that's  
22 disputed. I think that that's established already.  
23 I don't know how, what he found in the various  
24 rooms, relates to that, so I'm going to sustain the  
25 objection.

1                   ATTORNEY BUTING: All right.

2    Q.    (By Attorney Buting)~ In any event, you walked  
3           through the trailer and then came out, right?

4    A.    Correct.

5    Q.    Didn't find anything inside that gave you any  
6           reason to think that Teresa was there, or had  
7           been there?

8    A.    I had no reason to believe that Teresa was there.

9    Q.    Okay. And then, did Steve allow you to -- Well,  
10           let me go back for a second. There's also a  
11           detached garage that's near that particular  
12           trailer; isn't that right?

13   A.    Yes.

14   Q.    And it has a door on it?

15   A.    Correct.

16   Q.    Actually, two doors, a service door and an  
17           overhead door?

18   A.    Correct.

19   Q.    And were those doors opened?

20   A.    I don't recall.

21   Q.    Did Steve allow you to go in and look into the  
22           garage as well?

23   A.    I didn't ask to go in the garage.

24   Q.    I'm sorry?

25   A.    I didn't ask to go in the garage.

1 Q. Okay. And he didn't do anything to prevent you  
2 from going in the garage, though?

3 A. There wasn't any discussion about the garage.

4 Q. Did you look around to see if there was any  
5 evidence that her vehicle was on the property  
6 somewhere, in that area?

7 A. We may have looked as we were driving in and out,  
8 that's about it.

9 Q. Did you walk around any of the property to the  
10 side or back of the trailer?

11 A. No.

12 Q. Did you see any burn barrels located nearby the  
13 Steven Avery trailer?

14 A. On the day of the consent search?

15 Q. Or before you actually filed the warrant?

16 A. I know there's burn barrels out there, from my  
17 contact out there. When I exactly seen them, I  
18 don't know.

19 Q. Did it appear to you that the burn barrels you  
20 saw were in some way connected to the Steven  
21 Avery trailer, that somehow there was some  
22 connection between them, as opposed to anywhere  
23 else?

24 A. Well, when I was out there on Saturday and  
25 Sunday, and I seen the burn barrels, at that

1 point, obviously, I sensed that there was some  
2 connection between Steven's house and the burn  
3 barrels, yes.

4 Q. And that's because of the proximity to the house,  
5 or what?

6 A. Yes.

7 Q. The barrels you are referring to were in the --  
8 Are we talking about one or more barrels?

9 A. I believe there's one, just prior to you arriving  
10 at Steven's trailer, and on the right hand side  
11 of the driveway.

12 Q. Sort of in the front, still, of the trailer?

13 A. Correct.

14 Q. And did you -- Did you at any point see a  
15 burning -- a burn pit to the rear of the detached  
16 garage, next to Mr. Avery's trailer?

17 A. Are you still talking about that Friday, or into  
18 Saturday/Sunday; what date are we talking about?  
19 They are quite different.

20 Q. For purposes of clarifying the record, on this  
21 question, we can include your subsequent.

22 A. Saturday and Sunday?

23 Q. Yes.

24 A. Yes, I seen a burn pit back there.

25 Q. And did that burn pit appear to be connected in

1           any way to the Steven Avery residence, as opposed  
2           to any of the neighboring ones?

3    A.    It's right behind his garage.

4    Q.    So your answer would be?

5    A.    Yes, it is.

6    Q.    Did you do anything else before you left the  
7           Avery property on November 4th?

8    A.    No.

9    Q.    So you and Detective Lenk came together in the  
10           same vehicle?

11   A.    Correct.

12   Q.    Now, the following day, Saturday, November 5th,  
13           were you working?

14   A.    Yes.

15   Q.    Do you know what time you started?

16   A.    8:00 a.m.

17   Q.    Did you receive a call from Investigator Wiegert  
18           that morning?

19   A.    Yes.

20   Q.    Do you know what time?

21   A.    I would say between 8:00 a.m. and 10:00 a.m.

22   Q.    And did, in that -- I'm talking about the first  
23           conversation that you had with Investigator  
24           Wiegert, did you have a discussion about  
25           volunteer searchers?

1 A. Yeah, he gave me some information about some  
2 volunteer searchers.

3 Q. And did Investigator Wiegert tell you that there  
4 were numerous volunteer searchers who were  
5 coordinating their efforts to do some searches of  
6 properties within Manitowoc county?

7 A. Not those exact words, no.

8 Q. Have you reviewed anything prior to your  
9 testimony today?

10 A. Yes.

11 Q. What was that?

12 A. My report, um, recorded phone calls, um, recorded  
13 radio transmissions.

14 Q. And are those transcribed, those radio  
15 transmissions you are talking about?

16 A. No.

17 Q. Did you bring those with you today?

18 A. I did not.

19 Q. Where are they located?

20 A. At the Sheriff's Department.

21 Q. What radio transmissions are you referring to?

22 A. There's recorded conversations, phone  
23 conversations between myself and Investigator  
24 Wiegert. And I also reviewed the radio traffic  
25 that I participated in.

1 Q. And those recordings, are they -- what day are  
2 they referring to?

3 A. Saturday, the 5th.

4 Q. So this is around the time of this phone call  
5 that we were talking about?

6 A. Correct.

7 Q. And, thereafter, as you are approaching the Avery  
8 property, later?

9 A. Yes.

10 Q. How many different recordings did you listen to?

11 A. Phone calls or radio conversations?

12 Q. Do you have tape recordings of the phone calls  
13 too?

14 A. Yes.

15 Q. Which ones?

16 A. There were a couple conversations between myself  
17 and Investigator Wiegert, prior to me arriving at  
18 the Avery property.

19 Q. Were those while you were located, still, at the  
20 Sheriff's Department, or while you were on the  
21 road?

22 A. At the Sheriff's Department.

23 Q. And would that include your first conversation  
24 with Investigator Wiegert that morning?

25 A. I believe so.



1 Q. And, so, approximately how many phone  
2 conversations did you have, or did you review,  
3 before your testimony today, that concerned your  
4 conversations with Investigator Wiegert?

5 A. I believe there's two phone calls between myself  
6 and Investigator Wiegert.

7 Q. And did both of those take place while you were  
8 still located at the station?

9 A. Correct.

10 Q. And the radio transmissions that you are  
11 referring to that you reviewed, were those ones  
12 that took place after you had left the station?

13 A. Correct.

14 Q. And included what period of time?

15 A. From the time I left the south parking lot of the  
16 Sheriff's Department until the time that --  
17 shortly after I confirmed the VIN number on the  
18 vehicle.

19 Q. And did those radio transmissions also include  
20 your conversation, in other words, statements you  
21 were making on the radio?

22 A. Yes.

23 Q. I will get back to the recordings in a minute.  
24 But you also indicated that you reviewed your  
25 report?

1 A. Yes.

2 Q. As part of your testimony today?

3 A. Correct.

4 Q. And by your report, are we talking about a -- a  
5 portion of a 22 page report prepared by the  
6 Manitowoc County Sheriff's Department?

7 A. Yes.

8 Q. And that goes in a sort of sequential,  
9 chronological time, the way it's organized?

10 A. For the most part, yes.

11 Q. And is that something you dictate, your part of  
12 it?

13 A. Yes.

14 Q. And then it gets transcribed by somebody?

15 A. Correct.

16 Q. And then you review it?

17 A. Yes.

18 Q. To make sure that it's accurate?

19 A. Yes.

20 Q. And that's done shortly after the events that you  
21 are investigating, right?

22 A. I can tell you, that report was probably dictated  
23 about a week after the last day I was out there.

24 Q. Okay. Now, would you agree with me, since you  
25 reviewed your report, that in your report, you

1 state, quote, I, Detective Remiker, was working  
2 at the MTSO -- is that an abbreviation for  
3 Manitowoc County Sheriff's Department?

4 A. Yes.

5 Q. -- at which time I received a phone call from  
6 CASO -- Calumet Sheriff's Department, right?

7 A. Correct.

8 Q. -- Investigator Mark Wiegert. Investigator  
9 Wiegert indicated there were numerous volunteer  
10 searchers who were coordinating their efforts to  
11 do some searches of properties within Manitowoc  
12 County. Does this all sound familiar with what  
13 you reviewed?

14 A. That's what my report says.

15 Q. Did you bring it with you today?

16 A. Yes.

17 Q. Do you want to retrieve it quickly?

18 A. Sure.

19 Q. I believe we're on Page 4 of 22?

20 A. Got it.

21 Q. Okay. And do you also go on to say in your  
22 report, quote, Wiegert indicated that several  
23 searchers were willing to go to the Avery  
24 property, on Avery road, to search the  
25 junkyards/salvage area.

1 A. That's what it says.

2 Q. And does it also say, quote, Investigator Wiegert  
3 stated he and several of the volunteer search  
4 parties would be coming to the MTSO within the  
5 next hour, to meet and coordinate efforts.

6 Right?

7 A. Correct.

8 Q. That's what your report says?

9 A. Correct.

10 Q. And, finally, Investigator Wiegert requested my  
11 assistance for this follow up. Closed quote.

12 A. Yes.

13 Q. That's what your report says, right?

14 A. Yes.

15 Q. And is your report true and accurate?

16 A. It's close.

17 Q. You try to make a complete and true report, I  
18 assume, right?

19 A. Absolutely.

20 Q. And when you say it's close, what -- that's based  
21 upon what?

22 A. Well, during my conversations with Investigator  
23 Wiegert, um, in the first conversation I had with  
24 him, he indicates that, he says to me, just so  
25 you know, the family is doing their own thing out

1           there with searches. In case you get calls of  
2           trespassers, in case you get calls that there's  
3           people walking the ditches, the family is out  
4           there doing their own thing. That was my first  
5           conversation with him.

6    Q.    And this -- this conversation that you are  
7           relating right now, is that based on some  
8           independent recollection you have now, of an  
9           event?

10   A.   That's based on my review of the phone calls.

11   Q.   That's based on your review of the phone calls  
12           that you did to prepare for today's testimony?

13   A.   Yeah, I mean, some of the conversation I can  
14           recall, but I was able to, I guess, verify a  
15           little bit more once I reviewed that.

16   Q.   Anything else about your report, or is there  
17           anything about your report that's not true?

18   A.   Well, I guess I misunderstood Investigator  
19           Wiegert in which -- at some point I had thought  
20           that he was bringing some people to our  
21           department, some volunteer searchers to  
22           coordinate our efforts, that wasn't the case.

23   Q.   Well, that is what you put in your report,  
24           though?

25   A.   Correct.

1 Q. So, is your report not true on that?

2 A. I would say that part is a little, yeah, a  
3 little -- it's not quite accurate.

4 Q. Not quite accurate, doesn't really cut it. My  
5 question is, did Wiegert say that several  
6 searchers were willing to go to the Avery  
7 property to search the junkyard/salvage yard  
8 area.

9 A. The part that there were volunteer searchers out  
10 there, that's accurate. Another conversation  
11 that I had with Wiegert after that was, he calls  
12 me, he says, Hey, we have a change of plans. I  
13 think we should reinterview Steven and another  
14 individual. And he also indicated that there  
15 were some volunteer searchers who were willing to  
16 go out and do some searches in different  
17 locations. And he had thought that we should  
18 meet up and talk about that and it was possible  
19 that we would go and try to get consent from the  
20 Avery's to search the salvage yard. That was the  
21 second conversation I had with him.

22 Q. And all of this recollection that you are  
23 relating to us now comes from your review of the  
24 phone calls?

25 A. It's a little bit of both. As I reviewed the

1 phone calls, I remembered a couple more things,  
2 an independent recollection of that exact date.

3 ATTORNEY BUTING: Judge, at this time, I  
4 request we take a break. We have not had an  
5 opportunity, did not even know of such recordings,  
6 even though we have requested them. And I think at  
7 this point we have got to take a break so that we  
8 have an opportunity to review those before I can  
9 complete my cross-examination of Detective Remiker.

10 THE COURT: Mr. Fallon.

11 ATTORNEY FALLON: We don't have any  
12 objection to that. Counsel and I were unaware that  
13 Manitowoc actually had recordings of those, I  
14 believe. We had some information from Calumet  
15 County, or things that they had recorded. And,  
16 quite frankly, never dawned on us that they would  
17 have recordings of something 10 months old, so.

18 THE COURT: All right. Does anyone have  
19 any idea how long it's going to take to get these  
20 together?

21 THE WITNESS: I know they are in the  
22 process of getting it all together. There's a lot  
23 of information, a lot of recordings. I don't know  
24 where they are at. I believe they are -- they are  
25 finishing up.

1                   ATTORNEY FALLON: Let me ask, this, If I  
2 may, Judge?

3                   THE COURT: Go ahead.

4                   ATTORNEY FALLON: Detective, is it  
5 possible -- Apparently there's a lot of radio  
6 traffic relative to that day, so let me ask this  
7 question. Is it possible to obtain, for instance, a  
8 recording of the telephone conversations you had  
9 with Investigator Wiegert and, perhaps, what would  
10 you say, gentlemen, the first hour of radio traffic,  
11 and then we can wait, for the rest of it may not  
12 have any pertinence at all to the balance of the  
13 motion? What do you think, if we just -- Is there  
14 any way we can get like --

15                   THE WITNESS: Probably have it to you  
16 within the hour.

17                   ATTORNEY FALLON: Within the hour.

18 Q. (By Attorney Buting)~ Can I ask you this, when  
19 you reviewed them, were they on -- did you just  
20 review them through some central system, or were  
21 they on cassettes already, or what?

22 A. The individual that was collecting the  
23 information, doing the recordings, he had -- I  
24 had requested that I be able to listen to a few  
25 things. And he had centralized, or itemized



1           those specific ones. And I think they are all on  
2           some hard drive, some main data base within the  
3           Department.

4   Q.   When you listened to them, you had some  
5           headphones plugged into something, or what?

6   A.   No, they were just right on the computer.

7   Q.   Okay. Is that right next door?

8   A.   Correct.

9                   THE COURT: Well, let me ask this, what are  
10           the other witnesses that the parties anticipate  
11           calling, with respect to this motion? Does the  
12           defense have any further witnesses?

13                   ATTORNEY BUTING: We do, your Honor, but I  
14           view this new information as extremely important to  
15           all of the witnesses. If we're talking about actual  
16           recordings of communications that are directly at  
17           issue here, that is, Detective Wiegert's testimony  
18           and Detective Remiker's testimony, about their  
19           contacts with the volunteers and all of that, if  
20           that's recorded somewhere, then that's obviously  
21           very important. And it would really, potentially,  
22           impact how I would question other witnesses, if I  
23           had that information, which I had requested but --  
24           and apparently it was in the process of being  
25           prepared, but had not yet been prepared to us.

1                   THE COURT:  What I'm wondering is, if we  
2                   can't continue taking testimony either on this  
3                   motion, or one of the other motions, while people at  
4                   the Sheriff's Department are getting the recordings  
5                   together, so perhaps over an hour and a half break  
6                   for lunch, the parties could listen to the  
7                   recordings, but not put us too far behind schedule  
8                   here today.

9                   I understand perfectly, before you  
10                  complete your examination of Detective Remiker,  
11                  you are going to want to listen to those  
12                  recordings.  I also acknowledge that it may well  
13                  play a role in your examination of other  
14                  witnesses on this particular motion.  But I would  
15                  prefer that we not be wasting time, with  
16                  everybody here, while somebody at the Sheriff's  
17                  Department is compiling the information.

18                  I would hope that someone over at the  
19                  Sheriff's Department could be instructed to get  
20                  that together so that it's ready over the noon  
21                  hour.  And we can take testimony, either  
22                  additional testimony on this motion, or move on  
23                  to one of the other motions before the lunch  
24                  break.

25                  ATTORNEY BUTING:  Let me ask one other

1 question, first, of Detective Remiker.

2 Q. (By Attorney Buting)~ These phone calls that are  
3 recorded that you reviewed, do any of them  
4 involve discussions with an individual by the  
5 name of Ryan Hillegas?

6 A. That name is never mentioned.

7 Q. I'm sorry?

8 A. That name is never mentioned.

9 Q. Or any phone conversations with the Halbach  
10 family?

11 A. No.

12 Q. Or Patricia (sic) Sturm?

13 A. That's all it is, is I think two phone calls  
14 between myself and Investigator Wiegert, and then  
15 some radio traffic from myself going out to the  
16 Avery property. I have it kind of written down,  
17 word for word --

18 (Court reporter couldn't hear.)

19 A. I have it written down almost word for word what  
20 the conversation is.

21 ATTORNEY BUTING: All right. We could call  
22 one other witness, then, if we would take a break,  
23 and Detective Remiker be instructed to contact the  
24 Sheriff's Department and expedite making copies of  
25 those.

1 THE COURT: All right. Is that  
2 satisfactory to everyone?

3 ATTORNEY FALLON: That's fine.

4 DETECTIVE REMIKER: Clarify exactly what  
5 you want.

6 ATTORNEY BUTING: I'm talking about the  
7 phone conversations, as well as the radio traffic,  
8 right up to the point where you say you stopped  
9 reviewing it, that is, I think you were looking at  
10 the VIN number or something.

11 THE WITNESS: There's myself talking about  
12 the VIN number quickly, and then dispatch contacts  
13 me and tells me that there's somebody waiting at the  
14 Sheriff's Department, the media shows up at the  
15 Sheriff's Department. And that's about where it  
16 ended.

17 ATTORNEY BUTING: Okay. So all of that, up  
18 to that point. After that, if you haven't reviewed  
19 that for today, then we'll deal with it later.

20 DETECTIVE REMIKER: Correct.

21 THE COURT: Is the -- Is someone at the  
22 Sheriff's Department in the process of transcribing  
23 these conversations?

24 DETECTIVE REMIKER: We're in the process of  
25 providing radio, telephone, various types of

1 communication that's recorded, to the defense, in  
2 it's original form.

3 THE COURT: All right. Why don't I excuse  
4 you at this time. You can contact the Sheriff's  
5 Department and ask them to get that together. We'll  
6 move on to the next witness. Okay. And, hopefully,  
7 it will be ready to be reviewed over the noon hour.

8 (Witness excused.)

9 ATTORNEY BUTING: We are waiting for Ryan  
10 Hillegas. That's H-i-l-l-e-g-a-s, Ryan with a y.

11 THE CLERK: Please remain standing. Please  
12 raise your right hand.

13 **RYAN HILLEGAS**, called as a witness  
14 herein, having been first duly sworn, was  
15 examined and testified as follows:

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

18 THE WITNESS: Ryan Hillegas,  
19 H-i-l-l-e-g-a-s.

20 **DIRECT EXAMINATION**

21 BY ATTORNEY BUTING:

22 Q. And, Mr. Hillegas, do you reside in Calumet or  
23 Manitowoc County?

24 A. I don't anymore.

25 Q. Where do you reside?

1 A. I'm in Waukesha County now. I moved in February.

2 Q. Okay. In November of 2005, did you reside in  
3 this area?

4 A. I did.

5 Q. In which county?

6 A. Calumet.

7 Q. And what is your occupation?

8 A. I'm a registered nurse.

9 Q. Do you know, or did you know Teresa Halbach?

10 A. I did.

11 Q. And what was the nature of your relationship with  
12 her?

13 A. Um, we were close friends. We dated for a while  
14 in high school; basically, just remained friends.

15 Q. So for a period of time you were  
16 boyfriend/girlfriend?

17 A. Mm-hmm.

18 Q. You have to say yes or no for the court reporter?

19 A. Yes.

20 Q. And when did you discover that she was missing?

21 A. That Thursday right after Halloween.

22 Q. Thursday, November 3rd, would that?

23 A. That's correct.

24 Q. Okay. And how did you learn this?

25 A. Her roommate called me and, basically, asked me

1           if I had talked to her, or heard anything about  
2           her?

3    Q.    Her roommate being who?

4    A.    Scott Bloedorn.

5    Q.    B-l-o-e --

6    A.    -d-o-r-n.

7    Q.    -d-o-r-n.   Okay.   And had you seen her recently,  
8           before that?

9    A.    I saw her -- let's see, I believe it was --  
10           Halloween was a Monday, I saw her on Sunday.

11   Q.    So the very day before?

12   A.    I believe so, yes.

13   Q.    And were you familiar with her vehicle?

14   A.    Yup.   Yes.

15   Q.    Did you ever personally see it, in other words?

16   A.    Yes.

17   Q.    Did you ever drive it?

18   A.    No.

19   Q.    Ever ride in it?

20   A.    Yes.

21   Q.    And did you, at some point, become involved in  
22           some searches of the area?

23   A.    Yes.

24   Q.    And how did you become involved in that?

25   A.    Um, once we -- I heard she was missing, I believe

1           it was Friday morning, it would have been the  
2           4th. I talked to the family that morning, and we  
3           had arranged to pick up posters and -- pick up  
4           posters in Appleton, at a missing person  
5           organization and, basically, it kind of started  
6           there.

7    Q.    Did you help put together the posters or  
8           suggest--

9    A.    Um, the posters were already put together. I'm  
10           not sure if the family collaborated. I'm pretty  
11           sure it was the family that got together with the  
12           missing person organization. They put the  
13           posters together and printed them up for us.

14   Q.    Did you use those posters yourself and later  
15           distribute them to others?

16   A.    Yes.

17   Q.    What sort of information was contained on them?

18   A.    Um, there was a picture of Teresa, some of the  
19           posters had a picture of Teresa as well as the  
20           vehicle. There was information about her,  
21           describing her, her height, weight, what she was  
22           possibly wearing, and then, I believe, just a  
23           little information that if anybody seen her that  
24           they should call the number and there was the  
25           number for the Sheriff's Department there, for



1           them to call.

2    Q.   And so after you -- you picked up some of these  
3           posters -- and this was Friday morning you said,  
4           right?

5    A.   Yes.

6    Q.   How did you then go from there to becoming  
7           involved in some kind of search?

8    A.   I agreed to go pick the posters up, and I guess I  
9           kind of had the most access to, like, phone  
10           numbers of her friends, stuff like that. And we  
11           just started calling, basically, anybody we new,  
12           to come help. And by the time I returned with  
13           the posters that afternoon there was, I don't  
14           know, 50, 60 people waiting in the driveway to go  
15           out and hang the fliers.

16   Q.   So, the idea, then, was to have these people go  
17           out and post the fliers, not actually search?

18   A.   On Friday, we put up the posters, correct. So it  
19           wasn't so much a search. It was more or less  
20           getting the information out, and getting people  
21           in the local areas to realize what was going on.

22   Q.   So, did you sort of become the coordinator of all  
23           of this, the volunteers?

24   A.   Basically, yes.

25   Q.   And, then, at some point did your -- did your

1 thinking go from just a matter of putting up  
2 posters to actually using these people to do some  
3 searches?

4 A. Yes. Basically, how I was advised, through the  
5 missing person agency, was they kind of go in  
6 steps. First, you get posters out, make people  
7 aware. And you kind of move, you get a little  
8 more invasive from there, I guess.

9 Q. Do you know the name of this agency?

10 A. It is the -- I believe it's the YES Foundation,  
11 in Appleton.

12 Q. Is it connected with the police department there?

13 A. I have no idea.

14 Q. Okay. But you knew the police were already  
15 involved in their own investigation at that time,  
16 right?

17 A. Yup.

18 Q. So, why did you feel it necessary to do any other  
19 searches with these volunteers, if the police  
20 were already involved?

21 A. Well, the more help you could get, the better  
22 odds we would have of finding her quick, I guess.

23 Q. Did you have any experience in --

24 A. No.

25 Q. -- searches of this sort?

1 A. No.

2 Q. And did you talk to anybody, any police officers,  
3 or anybody, to help explain to you how you could  
4 go about doing these searches?

5 A. No, I talked to the police, but none of it was --  
6 none of it really regarded how to search, or I  
7 guess I didn't get any pointers from the cops on  
8 that.

9 Q. When you say you talked to the police, who did  
10 you speak with?

11 A. Let's see, I know Thursday night, when we were at  
12 the house, I went over -- after Scott called me,  
13 I went to the house and we kind of started  
14 calling around and started calling friends then.

15 But I believe it was Jerry Pagel and  
16 Detective Wiegert, who were at the house Thursday  
17 night, collecting belongings and asking  
18 questions. The family was there also.

19 Q. Did you know either of those individuals before  
20 that night?

21 A. No, I had heard of Jerry Pagel before, only  
22 because he was the County Sheriff, but I don't  
23 think I had ever met him before.

24 Q. Didn't have any other dealings with him on  
25 anything?

1 A. No.

2 Q. And, then, after Thursday night, did you also  
3 have some contact with police, or law  
4 enforcement, on Friday?

5 A. I believe on Friday -- I believe on Friday I  
6 talked to Jerry Pagel. And I'm pretty sure it  
7 was regarding, you know, more -- they had -- I  
8 spoke to the police every day regarding questions  
9 about Teresa, personal items, and friends of  
10 hers, people who may know information about her.

11 I did talk to -- I talked to Jerry on  
12 Friday, just shortly, and just mentioned what we  
13 were doing. I said we had put up posters and  
14 just kind of told him the game plan for things.

15 Q. And did you tell him that -- When you say him,  
16 you are referring to?

17 A. Jerry Pagel.

18 Q. Jerry Pagel, Sheriff Pagel. Did you tell him  
19 that you were intending to use these volunteers  
20 and go out and do searches?

21 A. I believe so. And I believe what we had -- what  
22 we had told them was -- or what I had told them,  
23 sorry, was that we were just going out on  
24 Saturday to do car searches. I told him we were  
25 putting up flyers on Friday. And our plan was to

1 go out on Saturday and drive around the  
2 countryside and look for anything that was  
3 interesting, or worth taking a second look at.

4 Q. So, did you tell Sheriff Pagel that you had sort  
5 of become the coordinator of all of this?

6 A. I don't believe so. I think it was just kind of  
7 assumed, I was kind of the contact for the whole  
8 search. If anybody wanted to help, they were  
9 instructed to call me. Basically, I guess it  
10 started with me.

11 Q. Did you also speak with Investigator Wiegert on  
12 Friday?

13 A. I don't know that for sure.

14 Q. What about Saturday morning, did you speak with  
15 him?

16 A. I don't know that for sure either.

17 Q. Is it possible that you did?

18 A. I don't know.

19 Q. Well, did you -- Let me ask it this way. Did you  
20 speak to any law enforcement people on Saturday  
21 morning, November 5th?

22 A. I don't know.

23 Q. And why is it that you don't know?

24 A. Well, I guess a lot was going on. We had been up  
25 for, you know, most of Thursday night, planning

1 all day Friday, all day Friday night, making maps  
2 and posters, and sizing them and scaling them, to  
3 hand out to everybody to their assigned driving  
4 areas. Yeah, I guess, you know, three days  
5 without sleep will -- I don't know what else to  
6 tell you.

7 Q. Did Sheriff Pagel or any other law enforcement  
8 individual tell you that they did not want you to  
9 do any of these searches?

10 A. No.

11 Q. They didn't say, like, butt out, this is our  
12 investigation, anything of that sort?

13 A. No.

14 Q. Did they -- any of them tell you that they had  
15 some concerns about whether your searches might  
16 compromise their own investigation?

17 A. No.

18 Q. Did you have any concerns of your own about  
19 whether searchers, or all these volunteers going  
20 out over the countryside, might somehow  
21 compromise the police investigation?

22 A. No, not really. I guess our main concern was to  
23 find Teresa, and find her quick, if she was still  
24 alive, or still somewhere.

25 Q. But had you considered the possibility that she

1           was not alive at that point?

2       A.    It was always a possibility, I guess.

3       Q.    And were your searchers instructed to search, not  
4           just for her, but anything, any evidence of her,  
5           or anything that might point to her?

6       A.    Sure, yes.

7       Q.    And did you tell that to Sheriff Pagel, that that  
8           was your purpose?

9       A.    Maybe not specifically like that but, you know, I  
10          think the intent was just to go out there and  
11          search for anything that would lead to her, yeah.

12      Q.    And so to that effect you conveyed that  
13          information to Sheriff Pagel?

14      A.    Yeah.

15      Q.    Other than the Thursday, November 3rd, which is  
16          the day I think you said you actually met with  
17          Investigator Wiegert, right?

18      A.    Yes.

19      Q.    Did you have any phone conversations with him  
20          after that, between that time and when the  
21          vehicle was located?

22      A.    Detective Wiegert, I don't know.

23      Q.    Is it possible, or are you sure either way?

24      A.    I don't know, like I said. I talked to so many  
25          of the detectives and police throughout the whole

1 search, not just those first two days, you know,  
2 regarding personal items, numbers of contact for  
3 Teresa, people who knew her. I can't say for  
4 sure.

5 Q. All right. So I take it then that you put the  
6 word out to these volunteers to get together  
7 somewhere, you talked about working on maps and  
8 all of that?

9 A. Mm-hmm, yes.

10 Q. And was there some group meeting of these  
11 volunteers?

12 A. Yeah, I guess Friday, when I got back with the  
13 posters, most of the calls were put out, you  
14 know, family and friends. I know the family had  
15 contacted a lot of people. A lot of people were  
16 just calling to see what they could do.

17 Basically, we were just telling them to  
18 meet at the house. So, Friday, everybody met me  
19 there, when I came back with the posters. And  
20 Saturday morning -- Friday night we planned that  
21 Saturday morning everybody would meet at the  
22 house. I'm not sure what time it was, 6, 7.

23 Q. So, you had a big meeting on Friday night of  
24 everybody, as well as Saturday?

25 A. Not -- Not so much a meeting as it was everybody



1 just met and then we kind of divvied up, I guess,  
2 driving assignments and where everybody should  
3 go.

4 ATTORNEY FALLON: Excuse me, just for  
5 purposes of clarification, we're losing the  
6 sequence. Is this Friday night, or is this  
7 Saturday, that we're talking about right now?

8 ATTORNEY BUTING: We'll talk about Friday  
9 and then we'll move immediately to Saturday.

10 THE WITNESS: Right now, I think we're  
11 talking about both days, yeah.

12 Q. (By Attorney Buting)~ So, Friday evening there  
13 was a gathering of 50 some people, something like  
14 that?

15 A. Yes.

16 Q. When you say at the house, which house are you  
17 referring to?

18 A. At Teresa's house, where Teresa lived.

19 Q. Okay. And were there assignments made on Friday  
20 night as to who would do what or was that --

21 A. Friday wasn't as organized as Saturday was. It  
22 was, you know, rather fly by the moment. I  
23 picked the posters up and everybody met. And  
24 when we got back, just had a big circle around  
25 me, I guess, and started telling people what

1 cities we needed posters put up in. And  
2 people -- people volunteered for mostly the areas  
3 they knew, but people just kind of picked areas,  
4 we wrote them down for what cities, and made sure  
5 that all the surrounding.

6 Q. Is this still Friday night we're talking about?

7 A. This is Friday afternoon, Friday night, yeah.

8 Q. And then, so what was the purpose of meeting  
9 again then on Saturday?

10 A. To get a group of people together to do a road  
11 search, a car search.

12 Q. So, were there other assignments handed out on  
13 Friday evening, that were different than that?

14 A. Friday was just putting up posters. Friday  
15 wasn't driving around the countryside looking for  
16 a vehicle or anything like that. It was  
17 basically --

18 Q. I'm talking about Friday evening, when you had  
19 this gathering?

20 A. Friday was all posters. We had one gathering.  
21 Everybody met. I handed out posters to  
22 everybody, gave them city assignments. They went  
23 and handed their posters out and that was it for  
24 that day.

25 Q. Okay. So the Friday meeting didn't have any

1 discussion with actual doing any searches, it was  
2 just where are we going to put the posters?

3 A. Getting the information out, correct.

4 Q. I gotcha. Okay. So, then, on Saturday morning,  
5 did it change to, let's now use them for  
6 searches?

7 A. Saturday morning, right, it changed. Everybody  
8 met and we decided to do a car search, basically.

9 Q. Was that your decision?

10 A. Basically, yeah. We were up all night Friday  
11 night, making maps. Basically, just took  
12 satellite images off the internet, blew them up  
13 to scale, gave everybody a blown up version of  
14 their roads that we wanted them to search.

15 Q. And did the areas you selected -- How did you  
16 select what areas to search?

17 A. Um, well, we -- we searched pretty much every  
18 town and every road from just about the St. John,  
19 Sherwood area, to all the way to Lake Michigan,  
20 off to Green Bay.

21 Q. Let me ask you this way. Did you have any  
22 information from the police, or otherwise, as to  
23 where Teresa was last seen or where she was going  
24 on the day she was last seen.

25 A. I'm not sure. I don't believe that -- that we

1           knew where she was last seen then. I'm not real  
2           clear about that, like I say.

3       Q.    Did you know anything about her travels, her  
4           activities on the 31st?

5       A.    I knew that she had been taking pictures out in  
6           the Manitowoc County area.

7       Q.    Okay. And did you know that one of the locations  
8           was the Avery Salvage property?

9       A.    I believe I did, yes.

10      Q.    Okay. You are saying you just don't know if you  
11           knew it was the last place that she was seen, but  
12           you --

13      A.    Right. I don't know when that information was  
14           specifically figured out.

15      Q.    Okay. But you did know when you were gathering  
16           these searchers together, that the Avery property  
17           was one place she had been?

18      A.    Yes.

19      Q.    And so as you are dividing up the property, or  
20           the areas to search, did you give that particular  
21           area to any individual?

22      A.    I didn't, per se, give it to anybody, somebody  
23           volunteered -- Well, we had -- we had that whole  
24           area covered anyways, all the roads, all the back  
25           country roads. But the property itself was --

1           was went through, I guess.

2       Q.    Was what?

3       A.    I guess you could say went through.  Pam -- Pam  
4           Sturm had went there, found the vehicle, yes.

5       Q.    I'm talking, now, about the meeting on Saturday  
6           morning?

7       A.    Sure.

8       Q.    Did one of the -- one of the sectors -- or you  
9           said you had maps, right?

10      A.    Mm-hmm, yes.

11      Q.    Okay.  And you divided them up in certain  
12           sectors, would we say, or sections?

13      A.    Yeah.

14      Q.    And then people were assigned, or volunteered, to  
15           take certain sections?

16      A.    Yes.

17      Q.    And one of those sections included the Avery  
18           property?

19      A.    No, that's not correct.

20      Q.    So, you did not -- That was not something that  
21           was considered, by you, to be an area that should  
22           be searched?

23      A.    By me, I considered it an area that, you know, we  
24           definitely should look at.  That morning, as you  
25           were talking, we did not specifically tell

1           anybody to go there. It was more or less the  
2           surrounding areas and the counties around there.

3    Q.    Okay. And there's like gravel pits, and  
4           quarries, and things like that in that area, too?

5    A.    Right.

6    Q.    And were people actually going to be walking over  
7           land, or just driving on the roads?

8    A.    No. That morning, the plan was for everybody to  
9           go out in their cars and look for anything  
10           conspicuous, tracks going into the ditch, her  
11           vehicle, anything, basically, that would lead to  
12           where she was.

13   Q.    But my question is, were they restricted to just  
14           the roads, or was it anticipated that people  
15           would then get out and walk?

16   A.    I did not restrict anybody. If they wanted to  
17           get out of their vehicles and walk spots, that  
18           was kind of up to them. My plan was just to get  
19           the people out there and have them looking.

20   Q.    All right. Now, Pamela Sturm, did you know her  
21           before that day?

22   A.    No.

23   Q.    Never met her?

24   A.    No.

25   Q.    Did she -- So you had never talked with her at

1 all before Saturday morning?

2 A. Um, she may have been there on Friday, when we  
3 handed out the posters. I took names down, I  
4 don't remember who I talked to. Basically, we  
5 were in such a hurry by the time I got back, that  
6 I didn't have time to meet and greet with  
7 anybody.

8 Q. Okay. By the way, did you review anything before  
9 your testimony today, to help you refresh your  
10 recollection about your testimony?

11 A. No.

12 Q. No reports or notes of your own?

13 A. No.

14 Q. Okay. So, did Pamela Sturm arrive with all the  
15 other groups?

16 A. No.

17 Q. When did she arrive?

18 A. I don't remember the time. The large group that  
19 met that morning left the house at approximately  
20 between 7 and 8, I'm going to guess. Pam showed  
21 up maybe an hour or two after everybody else had  
22 left.

23 Q. And what was discussed at that point?

24 A. Pam came to the house and, basically, introduced  
25 herself and asked what she could do. I explained

1 to her what we were doing for the day, what our  
2 plan was, showed her the maps.

3 By that time, most of the areas were  
4 already covered. And she, basically, mentioned  
5 to me, you know, has anybody gone to the Avery  
6 car lot, or Avery's Salvage Yard. I don't  
7 remember the correct terms for it that she used  
8 but.

9 Q. And did you know that she was a former private  
10 investigator?

11 A. At that time, I don't know if I did.

12 Q. Did she -- Do you recall her telling you anything  
13 about any experience she might have had, with  
14 searches?

15 A. I don't remember that. I don't know.

16 Q. Okay. When she mentioned that she might want to  
17 take that section and search the Avery Salvage  
18 lot, did you understand she meant actually going  
19 onto the property?

20 A. Yes.

21 Q. Not just the roads nearby?

22 A. Yes.

23 Q. And did you discuss with her at all, you know,  
24 whether she should get permission, or what her  
25 procedure should be, or anything of that sort?



1 A. I don't remember that. I really don't remember  
2 what was discussed. Basically, that she wanted  
3 to go in there and just said, well, if that's  
4 what you want to do. I wasn't going to tell her  
5 no, but I, specifically, didn't want to tell  
6 anybody that they should either, but.

7 Q. But you were coordinating all this, right?

8 A. Yes.

9 Q. So there wouldn't be overlap?

10 A. Yes.

11 Q. And did you talk to her at all about, well, you  
12 know, the police might also be searching that  
13 area and you should check with them, or did you  
14 have any discussion like that?

15 A. I do not think so. I guess I'm not real sure,  
16 though. I don't believe so.

17 Q. Okay. Did she tell you that she had spoken to  
18 any police officers about it?

19 A. No.

20 Q. No, she didn't or --

21 A. No, she did not.

22 Q. She did not tell you that?

23 A. She didn't tell me that.

24 Q. Okay. Now, you mentioned that these fliers had  
25 phone numbers on them, like a hot line number or

1 something?

2 A. Some type of number, yes.

3 Q. Not a number that you got yourself?

4 A. Excuse me?

5 Q. I mean, not a number -- You didn't have anything  
6 to do with putting that number on the flier?

7 A. No.

8 Q. You got some other numbers that you could also  
9 use to contact the law enforcement, right?

10 A. Yes.

11 Q. And what were those?

12 A. Most of the investigators that I had been  
13 speaking to.

14 Q. Okay. They all gave you their phone numbers?

15 A. Pretty much, yes, and cards.

16 Q. So that would be their direct lines?

17 A. Yes.

18 Q. So Sheriff Pagel gave you his card, with his  
19 phone number?

20 A. Yes.

21 Q. Investigator Wiegert gave you his card, with his  
22 phone number?

23 A. Yes.

24 ATTORNEY FALLON: Objection, leading.

25 ATTORNEY BUTING: I'm asking, did he. I

1 will rephrase it.

2 Q. (By Attorney Buting)~ Did Investigator Wiegert?

3 THE COURT: You may answer.

4 A. Ask me that again, please.

5 Q. Did Investigator Wiegert give you his business  
6 card with his phone number?

7 A. Yes.

8 Q. And did you provide those phone numbers to the  
9 volunteer searchers?

10 A. I don't -- not that morning, I did not, but I had  
11 also -- I had tried to call that number for  
12 information and it was -- the number on the  
13 flier, I believe, was the number for the general  
14 dispatch in Calumet County, which it is not a  
15 fast way to get a hold of anybody you need to, if  
16 you have direct numbers.

17 Q. So, the faster way was to call which number,  
18 then?

19 A. Well, for me, I had direct access to all the  
20 investigators, so I could just call their  
21 numbers.

22 Q. So, what was the plan, were the volunteers, if  
23 they found anything, were they supposed to call  
24 you? Were they supposed to call the sheriff?  
25 How did you organize that?

1 A. The plan was to call the sheriff, or to call 911,  
2 or whatever number they had available to them, to  
3 get a hold of somebody.

4 Q. So, did you give them any of those direct phone  
5 numbers?

6 A. I gave Pam -- Pam Sturm, I gave her Jerry Pagel's  
7 number that morning. The cell phone coverage out  
8 in that area is absolutely horrid. And to get a  
9 call out to -- most of the time when I used my  
10 phone out there, I only had 30 seconds or a  
11 minute to talk before your phone cut off on you.  
12 But I gave Pam that number, Jerry Pagel's number,  
13 that morning, with the intent that if she was  
14 going into the car lot and needed to call  
15 somebody quick, and get somebody out there, that  
16 would be the best way for her to.

17 Q. Is she the only one you gave that personal number  
18 to?

19 A. I believe so.

20 Q. Who else was -- Who else had already been on that  
21 Avery property, to your knowledge?

22 A. To my knowledge, I don't know if anybody had. I  
23 knew that there were cars that were in that area,  
24 whether any of them got out and got into the  
25 property, I do not know.

1 Q. When you say cars in that area, you mean other  
2 volunteers?

3 A. Yeah, searchers from that morning.

4 Q. What about the prior day, were there any  
5 searchers in that area, volunteer searchers in  
6 that area?

7 A. Not searchers, per se, more or less handing out  
8 fliers at, you know, bars, restaurants, grocery  
9 stores, post offices.

10 Q. So a volunteer may, in fact, have actually gone  
11 to the Avery property and left a flier?

12 A. There is a possibility, if that was their choice  
13 to go there and put a flier up, maybe they did.  
14 I never instructed anybody or heard that it  
15 happened.

16 Q. Okay. Before the morning of November 5th, had  
17 you ever been out to the Avery property?

18 A. The 5th, no.

19 Q. That Saturday morning?

20 A. No.

21 Q. So, before the vehicle was located, you had never  
22 been -- in your whole life, you had never been to  
23 that Avery property?

24 A. No.

25 Q. I mean, that's correct?

1 A. That is correct.

2 Q. Okay. Did you have any idea, though, how many  
3 vehicles might have been on that property, that  
4 Pam Sturm was going to have to --

5 A. I didn't know how many vehicles were there, no.

6 Q. You hadn't seen any aerial photographs that would  
7 give you a clue, or anything of that sort?

8 A. I don't know if I had seen the aerial photographs  
9 by then, when the news was covering it.  
10 Obviously, there was coverage from above,  
11 helicopter shots of the property. I don't recall  
12 when I saw those and realized the scale of it,  
13 though.

14 Q. So, you don't know whether that was before the  
15 vehicle was found, or not?

16 A. No, I don't.

17 Q. Did you -- Did you at some point ever go to the  
18 property, the Avery property?

19 A. Yes.

20 Q. When was that?

21 A. Geez, when did we go there? I'm not real sure on  
22 the dates. It was possibly that Monday or  
23 Tuesday, which would have been, let's see, was  
24 that the 6th or 7th, that Monday?

25 Q. Let me ask you this. When you went to the

1 property, was it still, to your knowledge, in the  
2 custody of the law enforcement?

3 A. Yes.

4 Q. Did you pass through any checkpoints?

5 A. Yes.

6 Q. And what were you doing there? What were you  
7 supposed to be?

8 A. We had met, let's see -- we went and we talked  
9 to, I believe it was Jerry Pagel, and just showed  
10 him our maps, showed him the lands that we had  
11 searched. We had been walking fields and  
12 outlying areas of the sector off areas of the  
13 Avery property. We had went through county parks  
14 around there, river bottoms, fields, forest,  
15 basically, to show on the maps and show them the  
16 lands we have covered.

17 Q. So, did you actually go into the salvage lot  
18 area, though, and start searching on that day?

19 A. No.

20 Q. I don't understand.

21 A. Well, I will correct myself. We had went there  
22 and showed them the maps, yes, that morning. And  
23 I believe it was that -- like I say I'm not clear  
24 on the days that we were out there. But we did  
25 go into -- I don't know if it was the sector off

1 off areas, but the very outskirts areas of the  
2 enclosed areas, I guess.

3 We walked just a flat winter green field  
4 with nothing in it. Walked across the road  
5 on some -- I believe it was public land, just  
6 forested, and fields by some houses.

7 Q. But were you walking around in the Avery property  
8 area, or its immediate outskirts?

9 A. Not in the salvage yard. And I don't know who  
10 owned the land, if it was the Averys or not, it  
11 was farm field.

12 Q. But it was past the police checkpoint?

13 A. On the road, yes. Police checkpoint was a mile  
14 out on each side.

15 ATTORNEY FALLON: I'm going to object to  
16 the relevance of this. We don't even know what day  
17 it is. We don't know if it was Monday. We don't  
18 know if it was Tuesday. We don't know if it's  
19 inside, outside the property, and whether it is or  
20 isn't is irrelevant.

21 THE COURT: Mr. Buting?

22 ATTORNEY BUTING: I'm just trying to  
23 clarify whether it is or isn't.

24 THE COURT: I'm going to give Mr. Buting a  
25 little latitude here to answer some of the questions



1 raised by Mr. Fallon.

2 ATTORNEY FALLON: Just so the record is  
3 complete, I just would note that whatever is  
4 occurring here is well after the warrant was applied  
5 for.

6 ATTORNEY BUTING: We may have to recall the  
7 witness, potentially. But I'm almost done with my  
8 questions of him anyway, so.

9 THE COURT: All right. Go ahead.

10 Q. (By Attorney Buting)~ Just so we're clear, at  
11 some point, you were allowed in past some police  
12 checkpoint, to do some searches?

13 A. Correct.

14 Q. You are just alone or with other volunteers?

15 A. Myself at first, and then other volunteers to  
16 follow after we kind of got a land assignment.

17 Q. And did the officers who let you in know that you  
18 had a relationship as a former boyfriend with the  
19 missing woman, at that point?

20 A. I don't know if anybody knew I was an  
21 ex-boyfriend of hers. I guess I never saw the  
22 relevance in it.

23 Q. Did Sheriff Pagel know that?

24 A. What's that?

25 Q. Did Sheriff Pagel know of your relationship with

1 her?

2 A. I don't believe so. I think everybody just  
3 assumed I was a good friend.

4 Q. Did Sheriff Pagel know that you had seen Teresa,  
5 yourself, just the day before she disappeared?

6 A. I believe so.

7 MR. BUTING: That's all the questions I  
8 have, Judge?

9 THE COURT: All right. We'll take our  
10 morning break at this time and come back in 15  
11 minutes.

12 (Recess taken.)

13 THE COURT: Mr. Buting, it's my  
14 understanding that you have finished your direct  
15 examination of Mr. Hillegas?

16 ATTORNEY BUTING: Yes, your Honor.

17 THE COURT: Mr. Fallon, or Mr. Kratz?  
18 Mr. Fallon.

19 ATTORNEY FALLON: Thank you, Judge.

20 **CROSS-EXAMINATION**

21 BY ATTORNEY FALLON:

22 Q. Mr. Hillegas, the YES Organization which you  
23 mentioned, that is an acronym for the Youth  
24 Education and Safety Organization.

25 A. I believe so, yeah.

1 Q. And that's an organization that was founded by  
2 Mr. Breyer?

3 A. Yes.

4 Q. And as far as you know, he has no association  
5 with any law enforcement entity whatsoever?

6 A. I don't believe so, no.

7 Q. All right. Okay. So we're clear, you became  
8 involved in the efforts to find Teresa Halbach on  
9 Thursday, November 3rd?

10 A. Yes.

11 Q. And that's when you became aware of the fact that  
12 she was actually missing?

13 A. Yes.

14 Q. And you were aware of the fact that a missing  
15 persons report was filed by the Halbach family,  
16 regarding Teresa?

17 A. Yes.

18 Q. All right. And at some point, there was a  
19 gathering of people on Thursday evening?

20 A. Friday, it was Friday afternoon.

21 Q. Friday afternoon. Okay. I'm not clear from your  
22 testimony on direct examination, did you  
23 participate at all in any meeting with any  
24 volunteers, any family members, anyone, on  
25 Thursday night, November 3rd?

1 A. Yes.

2 Q. Okay. Where did that take place?

3 A. That was at Teresa's house.

4 Q. Teresa's house. And where she lived with her  
5 roommate, Mr. Bloedorn?

6 A. Yes.

7 Q. And there were other family members there?

8 A. Karen and Tom came over to the house that  
9 evening.

10 Q. All right. Now, as you sit and think now, as to  
11 that particular day, do you recall whether  
12 Sheriff Pagel was even present on Thursday  
13 evening, November 3rd? Do you have an  
14 independent recollection of that?

15 A. I believe that it was Pagel and Wiegert that were  
16 over Thursday night, with the family, looking for  
17 belongings.

18 Q. Looking for belongings. As opposed to Friday, as  
19 opposed to any other day?

20 A. I believe it was Thursday but, honestly, I  
21 believe there was somebody at the house for about  
22 the first four or five days, once she was filed  
23 missing, to pick up items and belongings.

24 Q. Now, would it be fair to say that, as a matter of  
25 fact, you became involved on Thursday, November

1           3rd, and your involvement didn't really end until  
2           the following Wednesday?

3       A.    Yes.

4       Q.    All right.  Which would be about the 9th, I  
5           believe?

6       A.    Yeah.

7       Q.    All right.  Now, during that particular time, you  
8           did have numerous contacts with law enforcement,  
9           throughout the days?

10      A.    Yes.

11      Q.    All right.  Specifically, my questions are going  
12           to be focussed on Thursday, Friday, and Saturday  
13           morning.  Think about those particular times, all  
14           right.  Now, first and foremost, you indicated  
15           that posters were obtained on Thursday,  
16           November 3rd?

17      A.    Actually, the posters were obtained Friday, on  
18           the 4th.

19      Q.    All right.  When did you become aware that  
20           posters were on order, as it were?

21      A.    I believe it was Friday morning.  I had spoken  
22           with the family and they had mentioned to me that  
23           this foundation in Appleton was printing up the  
24           posters.  And they asked me if I could pick them  
25           up.

1 Q. When did it become apparent, either directly or  
2 implicitly, that you were going to coordinate the  
3 volunteer effort?

4 A. Um, I guess it kind of just happened Friday, when  
5 I got back with the posters. Basically, had a  
6 whole group of people, I guess, wanting to know  
7 what they could do, and somebody had to get them  
8 on the way.

9 Q. All right. So would it be fair to say that, on  
10 Thursday evening, you volunteered to go get the  
11 posters?

12 A. Friday morning I volunteered to go pick them up.

13 Q. So, in terms of Thursday evening, there was no  
14 discussion really, no formal discussion,  
15 regarding the organization or coordination of a  
16 poster effort, or a volunteer effort, at that  
17 particular point?

18 A. No.

19 Q. And there was no -- no instruction, or guidance,  
20 or direction, provided by anyone from law  
21 enforcement, to you, relative to the creation of  
22 a volunteer effort on Thursday evening?

23 A. No.

24 Q. That's a correct statement?

25 A. That is a correct statement.

1 Q. All right. Now, let's -- let's go to Friday  
2 morning. Friday morning you volunteered to go  
3 pick up the posters?

4 A. Yes.

5 Q. And the posters were provided by this YES  
6 Organization?

7 A. Yes.

8 Q. They were not provided by law enforcement?

9 A. No.

10 Q. All right. You returned back with the posters,  
11 there's a group of individuals gathered at Teresa  
12 Halbach's residence?

13 A. Yes.

14 Q. All right. And at that particular point, you and  
15 Mr. Bloedorn discuss things and, apparently, or  
16 implicitly, you become the director, as it were,  
17 or the coordinator of this volunteer effort to  
18 find Teresa Halbach?

19 A. Yes.

20 Q. All right. Now, at that Friday morning meeting,  
21 regarding the placing of the posters, it was your  
22 decision to focus efforts, on that day, of  
23 getting the word out to the community?

24 A. That's correct.

25 Q. And it was your idea to organize people in such a

1 way as there would be specific areas targeted for  
2 the publication, as it were, of the information  
3 regarding Teresa's disappearance?

4 A. Yes.

5 Q. All right. And that information was going to be  
6 disbursed to the public by means of these  
7 posters?

8 A. Yes.

9 Q. And they were going to be tacked up in public  
10 places throughout Manitowoc and Calumet County?

11 A. Yes.

12 Q. All right. And in terms of taking that approach,  
13 that was your idea, correct?

14 A. Um, I guess it wasn't so much my idea to do it  
15 that way, it was the YES Foundation that had  
16 mentioned that, you know, first thing is get the  
17 information out. So I guess that's how I kind of  
18 pictured that we needed to do it.

19 Q. All right. So you got advice from them?

20 A. Yes.

21 Q. All right. Who were you in contact with, from  
22 the YES Organization, that provided that advice;  
23 do you recall?

24 A. Yup, Jay Breyer.

25 Q. All right. And you had a number of conversations



1 with him?

2 A. Yes.

3 Q. He had some experience, as it were, in trying to  
4 find missing persons, or engaging in this type of  
5 work?

6 A. Yeah, some type of experience. I know he had a  
7 daughter or a niece that was abducted or missing,  
8 and that's how he began. But he had helped out a  
9 lot of searches across the state.

10 Q. So you conferred with him regarding a relative  
11 game plan, as it were, to get the word out?

12 A. Yes.

13 Q. All right. So you were following his advice?

14 A. Yes.

15 Q. So with respect to the placing of the posters,  
16 and dividing people up and sending them to  
17 various locales in the two-county or tri-county  
18 area, there was no one from law enforcement  
19 telling you to do that?

20 A. No.

21 Q. There was no one coordinating you, or directing  
22 you, in that regard?

23 A. No, that is correct.

24 Q. All right. So you come back, you disburse the  
25 people to cover their respective areas for these

1 poster placements; did anything else occur on  
2 that particular day, other than disbursing the  
3 posters?

4 A. No.

5 Q. All right. Now, the phone number, which was on  
6 the poster, was the general dispatch number for  
7 the Calumet County Sheriff's Department, correct?

8 A. I believe so, yes.

9 Q. All right. Now, at some point during that day,  
10 you did have some contact with Sheriff Pagel,  
11 correct?

12 A. Yes.

13 Q. And you were -- The point of that conversation or  
14 contact was to advise him of what you were doing,  
15 correct?

16 A. Yes.

17 Q. All right. At no point during your conversation  
18 was Sheriff Pagel, that day --

19 ATTORNEY BUTING: I'm sorry, what day are  
20 we talking about?

21 ATTORNEY FALLON: Friday.

22 Q. (By Attorney Fallon)~ At no point during your  
23 conversation -- Well, first of all, before I even  
24 ask that question, how many times, your best  
25 recollection -- if you are not sure, tell us you

1           are not sure -- how many times you spoke with  
2           Sheriff Pagel on Friday, November 4th?

3    A.    I guess, how many times, I am not exactly clear  
4           or sure.

5    Q.    Could it have been once, could have been twice?

6    A.    It was at least once. I don't know if it was any  
7           more than that.

8    Q.    At some point during the course of your  
9           discussion, to advise him what you were doing,  
10          you obtained a more direct phone number for --  
11          from him, should somebody find something?

12   A.    Well, I had received his card the night before,  
13          when he was at the house.

14   Q.    All right.

15   A.    So, I guess that's when I obtained the number.

16   Q.    All right. But the night before, you didn't have  
17          any discussions with him regarding what you were  
18          doing, or how you were going to go about it, or  
19          anything like that?

20   A.    No, we didn't have a plan, basically, until  
21          Friday morning.

22   Q.    In fact, you don't even know if you talked to him  
23          that night, other than to receive his card and  
24          exchange pleasantries?

25   A.    Basically, yes.

1 Q. Okay. So, on Friday, when you did talk to him,  
2 at some point, either one or possibly two  
3 occasions, you did obtain a more direct phone  
4 number, or was that already on the card?

5 A. I had that on the card.

6 Q. All right. Now, on these conversations with  
7 Sheriff Pagel that day, in no way did he direct  
8 you to -- where to place these posters, correct?

9 A. That's correct.

10 Q. And there was no discussion with him, whatsoever,  
11 regarding any perceived or intended plan to  
12 actually conduct searches with the volunteers who  
13 were placing the information in the general  
14 public?

15 A. Yes.

16 Q. That's correct?

17 A. Yes.

18 Q. All right. And, similarly, you think that you  
19 may have had contact with Detective Wiegert on  
20 Friday, November 4th, or are you not sure about  
21 that?

22 A. I'm not sure if I had any contact with Wiegert on  
23 Friday.

24 Q. All right. And it's difficult for you to recall  
25 when you had contact, because at some point

1           during the seven days or so that you were  
2           involved in looking for Teresa, you did have  
3           contact with law enforcement from time to time?

4    A.    Yes.

5    Q.    Okay.  Now, with respect to later that Friday,  
6           were there -- on Friday was there -- when did it  
7           become apparent, or when did the idea come to you  
8           that maybe we should do more than put posters  
9           out, maybe we should actually use some of these  
10          folks to actually look for Teresa; when did that  
11          come about?

12   A.    I believe it was late Friday night.  I don't  
13          exactly recall how we got started on that idea.  
14          I did know that I had a whole lot of -- well, a  
15          whole lot of volunteers that wanted to do  
16          something.  Everybody was willing to help.  So I  
17          guess we just figured we would put them to use.

18   Q.    When you say, we figured we would put them to  
19          use, are you referring to yourself and  
20          Mr. Bloedorn?

21   A.    We means, me and Scott, yes.

22   Q.    Now, the decision that maybe we can take  
23          advantage of these folks in that regard, was  
24          entirely your decision?

25   A.    Um, I don't know if it was entirely my decision.

1           And I guess, like I said, I'm not clear how  
2           that -- how that started, or how we came upon the  
3           idea of it.

4    Q.    When I say your, I mean yours, meaning you and  
5           Mr. Bloedorn's.

6    A.    Right, yes.

7    Q.    No one from law enforcement told you that, hey,  
8           this would be a great idea if you collected some  
9           people and went out and helped to look, right?

10   A.    No, nobody from law enforcement told us that.

11   Q.    All right. Now, Saturday morning, you indicated  
12           that, at some point then, on Friday evening, you  
13           must have gotten word out to get everybody to  
14           come to the house on Saturday morning?

15   A.    Yup. Friday -- Friday evening, late evening, we  
16           had started telling people to just meet at the  
17           house the following morning and we would have a  
18           plan.

19   Q.    And you were drawing from the pool of 50 to 60  
20           people who assisted in putting posters up that  
21           day?

22   A.    That, and there were probably 20 to 40 more  
23           people that were there the following day, on  
24           Saturday morning.

25   Q.    All right. So on Saturday morning, you had

1           perhaps as few as 70 and maybe almost 80, 90  
2           people?

3           A.    I would say that's probably accurate.

4           Q.    All right.  Now, of that 80 to 90 people, it's  
5           true, is it not, that there was not one single  
6           solitary law enforcement officer present; is that  
7           true?

8           A.    That is true.  That's correct.

9           Q.    And the meeting, you said, was scheduled for  
10          somewhere between 6, maybe 7 o'clock in the  
11          morning, your best recollection?

12          A.    I believe, yeah.

13          Q.    All right.  Now, during the course of the  
14          meeting, you had a large gathering of individuals  
15          there and the decision was -- tell us how the  
16          meeting went.

17          A.    Well, by the time people had started showing up  
18          in the driveway on Saturday, to go out and do the  
19          search, me and Scott had already, basically, had  
20          maps of sectioned out areas that we were ready to  
21          hand out to people and, basically, when they got  
22          there, we had them line up and come through the  
23          house.  When they got in the kitchen, we made  
24          them take a look at the map, gave them a larger  
25          version of the map, and then we gave them a

1 smaller version, also, that we wanted them to  
2 cover, that's where they went from there.

3 Q. Where did the maps come from?

4 A. Me and Scott made them that night.

5 Q. And where did you make them? How did you make  
6 them? Where did you get the information to  
7 create the maps?

8 A. Satellite imaging off the internet.

9 Q. Your best estimate, how long did the meeting  
10 last, for you to process all the helpers, as it  
11 were?

12 A. To go through everybody, it was pretty quick,  
13 once they started filing through the house and  
14 taking assignments. From start, to the end of  
15 the large group that was there in the morning,  
16 probably maybe took an hour, hour and a half, to  
17 get everybody out of the house.

18 Q. So, after an individual group or person received  
19 their assignment, were they then released to go  
20 search that area, or did they stick around for  
21 any further instructions?

22 A. No, they left right away.

23 Q. They left right away. So it was basically in,  
24 get your assignment, and they were out the door?

25 A. As soon as they talked to me and got their



1 assignment, they were, basically, out on their  
2 own and ready to leave.

3 Q. All right. And you pretty much left it in each  
4 individual searchers discretion as to how they  
5 would go about conducting the search?

6 A. Yes.

7 Q. Similar to, I think you said, whether people  
8 wanted to get out of their vehicles and walk the  
9 area, that was up to them. You certainly didn't  
10 put any restrictions, or even give advice, as to  
11 how they should go about doing it?

12 A. No, I basically told them to look for anything  
13 suspicious, her vehicle, tracks, anybody who had  
14 seen her.

15 Q. As a matter of fact, the focus still, at that  
16 time, was under the impression or hope that there  
17 might have been just some automobile mishap and  
18 that perhaps her car was stuffed some side of the  
19 road somewhere and no one had discovered it?

20 A. I guess, yes.

21 Q. All right. Now, during the course of handing out  
22 these assignments, you didn't hand out any  
23 assignments to go search any personal property?  
24 By that, I mean any particular residence or  
25 buildings?

1 A. No.

2 Q. And the assignments to search areas were more or  
3 less public roads and lands which were readily  
4 accessible from public roads?

5 A. Yes.

6 Q. They included county parks, gravel pits, for  
7 instance, and fields, farms, etcetera?

8 A. Yes.

9 Q. All right. Now, after the initial group of  
10 people were processed and given their assignment  
11 and sent on their way, later that morning, Ms Pam  
12 Sturm and her daughter, Nikole, showed up?

13 A. Yes.

14 Q. Your best estimate, that was maybe as much as an  
15 hour, could be even more, after the general group  
16 had passed through?

17 A. Yes.

18 Q. Now, Ms Sturm comes to your particular meeting  
19 here, and by and large was she the only one left,  
20 had everyone else pretty much passed through?

21 A. The large group of people that left that morning,  
22 everybody was gone from that group. Throughout  
23 the entire day, people were stopping in, people  
24 who just got off work, or people who just found  
25 somebody to watch their kids. So all throughout

1 the day there were stragglers coming in.

2 Q. Stragglers coming in. Now, when Ms Sturm came  
3 in, as I understand it, just so that we're clear,  
4 it was she who asked, without any prompting from  
5 you, or anyone else, whether anyone had been  
6 given the assignment of going to the Avery  
7 property?

8 A. Yes.

9 Q. All right. And she said, well, then I'll take  
10 that; is that correct?

11 A. Yeah.

12 Q. It was her idea?

13 A. Basically, yes.

14 Q. All right. Well, when you say basically?

15 A. Yeah, it was entirely her idea. She was the one  
16 that mentioned it to me.

17 Q. And that's because she told you, well, isn't that  
18 the last place where Teresa was seen?

19 A. It was.

20 Q. That was her thinking, I might as well go there?

21 A. Yes.

22 Q. All right. So she and her daughter, then, took  
23 that assignment, and they left to go there,  
24 correct?

25 A. Yes.

1 Q. Now, before they left, did you give them a phone  
2 number, just in case they had problems, or they  
3 found anything?

4 A. I did.

5 Q. All right. And what number did you give them?

6 A. I gave them Jerry Pagel's, his cell number.

7 Q. His cell number. From the card that he gave you?

8 A. Yes.

9 Q. All right. And other than that, you had no other  
10 discussion with her regarding law enforcement's  
11 potential involvement in her effort to search the  
12 Avery property?

13 A. Right, that's correct.

14 Q. Okay. Her time at your -- at the meeting place  
15 was just, literally, a matter of minutes, maybe  
16 10 minutes?

17 A. I would say between 5 and 10 minutes.

18 Q. Did she take any maps or did she just kind of go  
19 on her own?

20 A. We gave her maps, I believe, of the area.

21 Q. The general area?

22 A. Right. The same map that we had handed to  
23 everybody else.

24 Q. Okay. Similarly, I know I asked you about  
25 Saturday, let me back up to the Friday meeting,

1 about divvying up the posters and deciding who  
2 was going to put the information and the posters  
3 in what particular area. There was no one from  
4 law enforcement involved in that meeting either?

5 A. No.

6 Q. All right. Let's talk about the Sunday, Monday,  
7 Tuesday.

8 ATTORNEY FALLON: If I may, and if the  
9 Court wants to put another exhibit on there, I would  
10 like to direct the witness's attention to Exhibit  
11 No. 2, from the preliminary examination, dated 12/6  
12 of 05. If the clerk would prepare another  
13 exhibit -- sticker, I would be happy to put it on  
14 here, whatever the next number in order is.

15 THE CLERK: 18.

16 (Exhibit 18 marked for identification.)

17 Q. (By Attorney Fallon)~ All right. Mr. Hillegas, I  
18 would like to direct your attention to  
19 Exhibit 18, which is an aerial photograph; do you  
20 recognize this particular property?

21 A. Yes.

22 Q. And what is that property?

23 A. That's the Avery Salvage Yard.

24 Q. All right.

25 ATTORNEY FALLON: And if the clerk would

1           prepare one more exhibit, 19, please.

2    Q.   And I would also like to direct your attention to  
3           the aerial photograph which is behind you on the  
4           chalkboard, which will be marked Exhibit No. 19.

5                   (Exhibit 19 marked for identification.)

6                   All right. I just want to clear up some  
7           perceived misconception from your examination.

8           First of all, let's look at 18. Now, you  
9           indicated at some point on Monday or Tuesday, you  
10          passed a checkpoint and were permitted -- you and  
11          a few of your volunteers were permitted to do  
12          some searching past a checkpoint; is that  
13          correct?

14    A.   Yes.

15    Q.   Now, with respect, first of all, to Exhibit 18,  
16          did any of the searching that you and your  
17          volunteers did, on either that Monday or Tuesday,  
18          occur within the parameters of Exhibit 18?

19    A.   No.

20    Q.   All right. As a matter of fact, the closest you  
21          got to Exhibit 18 is the far corner, upper right  
22          hand corner; is that correct?

23    A.   Yes.

24    Q.   You never passed in through this area, where  
25          we're -- into the main business area, correct?

1 A. That's correct.

2 Q. All right. And you had never been on  
3 this property before, in your life, correct?

4 ATTORNEY BUTING: Could the record just  
5 reflect where you are pointing?

6 ATTORNEY FALLON: Let the record reflect  
7 that I'm pointing a laser pointer, in the upper  
8 right hand corner, about 4 or 5 inches in from the  
9 right side and about 6 inches down from the top,  
10 between an area, wide spot in the road with four  
11 buildings.

12 ATTORNEY BUTING: That's fine.

13 ATTORNEY FALLON: Good enough?

14 Q. (By Attorney Fallon)~ And, now, you have never  
15 been in that particular area before that,  
16 correct?

17 A. Correct.

18 Q. All right. Now, directing your attention, again,  
19 to Exhibit 19, which is behind you, and if you  
20 would be so kind as to get up and use the  
21 pointer, the laser pointer, and tell us if you --  
22 First of all, can you identify Exhibit 19? You  
23 are familiar with what's depicted?

24 A. Right. It's an aerial -- it's like an aerial or  
25 a satellite image of, this would be the Avery

1 property, pretty much dead center of the map.

2 Q. All right. Would you point the laser pen,  
3 there's a button on there.

4 A. Sure. Right there is the salvage area.

5 Q. And what is depicted there is, in fact, a smaller  
6 version of Exhibit 18?

7 A. Yes.

8 Q. All right. Now, you indicated at some point  
9 during questioning by Counsel, that you passed a  
10 particular checkpoint, to assist law enforcement  
11 in doing a search. In looking at Exhibit 19, do  
12 you have an idea where that checkpoint would have  
13 been?

14 A. Yeah. Am I allowed to get up and look closer?

15 Q. Yes, please do.

16 A. The checkpoint I'm speaking of, I believe that  
17 the roads were blocked off here and here, and  
18 this is the checkpoint that I'm talking about.

19 Q. All right. I'm going to let you put your  
20 initials in red on the spot where that was, your  
21 best recollection. Okay. Now, as you are  
22 standing there --

23 ATTORNEY BUTING: If you could put a  
24 circle, it would make it a little bit more obvious.

25 ATTORNEY FALLON: Sure.



1 Q. (By Attorney Fallon)~ All right. Now, you have  
2 marked there, that's the checkpoint, you believe,  
3 that you were allowed to pass through with your  
4 volunteers?

5 A. Yes, the road block, one of the roads were  
6 blocked.

7 Q. Okay. You indicated on direct examination that  
8 on either this Monday or Tuesday, and you are not  
9 sure when that was, that you were allowed to  
10 assist in a search of a couple of areas. Can you  
11 draw a line, or put a series of X's to the  
12 property which you believe you and your group  
13 searched?

14 A. Sure.

15 Q. Just so we're clear.

16 A. Yes. To the edge of this, it's just a plain  
17 winter wheat field.

18 Q. All right. And you are making a series of X's?

19 A. I'm making a series of X's.

20 Q. Go ahead. Continue.

21 A. Just, you know, a strip like right here. And  
22 then we did some searches of here as well.

23 Q. Perhaps this red might be a little deeper. You  
24 could improve upon that. All right. So for  
25 purposes of our discussion here -- thank you --

1           you have marked an area, a rectangle as it were,  
2           with a series of X's, and that is below -- what  
3           is this road right here?

4    A.    That's a highway.

5    Q.    Do you recall what the name of that highway was?

6    A.    I don't recall what it is right now.

7    Q.    Okay. Fair enough. Below that highway, you have  
8           a rectangled box containing X's?

9    A.    Yes.

10   Q.    And above the highway you have a four-sided --  
11          the geographical -- the box here that --  
12          containing X's as well, reflecting an area that  
13          you searched?

14   A.    Yes.

15   Q.    Now, is the area above the road, which passed  
16          through, was that past the checkpoint, or was  
17          that --

18   A.    It was past where the roads were blocked.

19   Q.    Where the roads were blocked.

20                    ATTORNEY BUTING: Do you want to just  
21                    stipulate, for the record, what the name of that  
22                    road is, so it's clear?

23                    ATTORNEY FALLON: 147.

24                    ATTORNEY BUTING: Is that Highway 147?

25                    ATTORNEY KRATZ: Yes, I believe so.

1                   ATTORNEY FALLON: Highway 147. All right  
2                   Very good, have a seat.

3                   Q. (By Attorney Fallon)~ And just so that we're  
4                   clear, there was one other point during your  
5                   testimony, when you and/or Mr. Bloedorn were  
6                   collecting this information and coordinating  
7                   these searches, you would, from time to time,  
8                   check in with Sheriff Pagel and tell him what you  
9                   were doing?

10                  A. Yes.

11                  Q. And you would tell him the areas that you were  
12                  searching?

13                  A. Yes.

14                  Q. At no time, however, did he ask you to search any  
15                  particular place, did he?

16                  A. No.

17                  Q. He never directed any particular area to be  
18                  searched, correct?

19                  A. That's correct.

20                  Q. And, basically, all he did was, well, if you find  
21                  something, or anything interesting, call us?

22                  A. Yes.

23                  Q. That was the extent of the direction that you  
24                  received from Sheriff Pagel.

25                  A. Yes.

1 Q. And that was the extent of the direction you  
2 received from any law enforcement officer,  
3 relative to the search efforts for Teresa  
4 Halbach.

5 A. Yes.

6 ATTORNEY FALLON: That's all. Would move  
7 into evidence Exhibits 18 and 19.

8 ATTORNEY BUTING: No objection.

9 THE COURT: Those exhibits are admitted.  
10 Mr. Buting.

11 ATTORNEY BUTING: Thank you, Judge.

12 **REDIRECT EXAMINATION**

13 BY ATTORNEY BUTING:

14 Q. You mentioned that you had these satellite maps  
15 that you had generated off the internet; is that  
16 right.

17 A. Yes?

18 Q. Were they similar to Exhibit 19 that you were  
19 marking on?

20 A. Yes.

21 Q. Or were they more in, close up, that's a pretty  
22 high aerial shot?

23 A. No, our maps were probably like that, or actually  
24 farther out. We had no reason to go real close  
25 with them, we just wanted to see the roads.

1 Q. Okay. And you mentioned that there was a general  
2 map, a big one, and then like a smaller one of  
3 certain areas?

4 A. Mm-hmm. Yes.

5 Q. When you say smaller, in what way, were they  
6 closer up?

7 A. We handed out a general map to everybody, which  
8 covered, basically, the whole -- everything from  
9 Lake Winnebago to Lake Michigan, that whole strip  
10 of land in there, Manitowoc, Calumet Counties.

11 Q. Like a satellite deal?

12 A. No, that was just a far away -- just a road view.

13 Q. Okay.

14 A. Just a normal map, I guess you could say. And  
15 then we made closer versions also, on Friday, to  
16 give the people a closer look at the roads we  
17 wanted them to travel on. Because the larger  
18 maps didn't show all the small country roads and  
19 such.

20 Q. So, the smaller ones, were they -- did they cover  
21 smaller areas than is depicted in Exhibit 19?

22 A. No, no smaller.

23 Q. So they were about like that?

24 A. Some of them were like that. Some of them were  
25 just normal maps that we blew up. It just

1 depended if we could see the roads or not.

2 Q. By normal maps, are you referring to like a Map  
3 Quest map, or are you talking about satellite  
4 maps?

5 A. A Map Quest map, or just a plain piece of paper  
6 with lines on it that had boundaries and roads.

7 Q. Okay. In any event, one of them contained the  
8 Avery property as well, right?

9 A. Yup.

10 Q. And the map that you then gave to Pamela Sturm,  
11 was it similar to Exhibit 19, then?

12 A. No.

13 Q. What was it like?

14 A. I just gave her the general map that I gave  
15 everybody, the large view of all the highways and  
16 the roads, nothing close up.

17 Q. Okay. And she said that one of the reasons she  
18 wanted to go search that property was because she  
19 knew that Teresa had been there the day that she  
20 was last seen?

21 A. I believe so, yes.

22 Q. And you were aware of that as well, right?

23 A. Yes.

24 Q. And did you know what her purpose was in going  
25 there?

1 A. I knew that she was taking pictures for Auto  
2 Trader that day.

3 Q. Did she have any other purpose that you were  
4 aware of?

5 A. No.

6 Q. No other reason for being there?

7 A. Not that I'm aware of.

8 Q. Okay. Your discussions with Sheriff Pagel, you  
9 said you kept him informed about where people  
10 were going to search?

11 A. Just basically let him know what we were doing.

12 Q. And did he ever say, don't go to the Avery  
13 property?

14 A. No.

15 Q. Did he ever tell you not to actually go onto  
16 private property, without permission?

17 A. I don't know.

18 Q. Did he ever talk to you at all about making sure  
19 that the volunteers would get permission if they  
20 were on private property?

21 A. I don't recall. I don't know. Like I say, I  
22 never really received instruction from him, as to  
23 what to do. I basically just told him that we  
24 were going out to search.

25 Q. I understand, but what I'm getting at is maybe

1           any advice or instruction he gave you of what not  
2           to do. Did he warn you about not to do certain  
3           things?

4       A.    No.

5       Q.    There was no instruction or warning not to pick  
6           up evidence, if you found it, or anything like  
7           that?

8       A.    We -- I guess I pretty much knew that from common  
9           knowledge. I didn't need anybody to tell me that  
10          I shouldn't tamper with evidence. I, basically,  
11          just instructed people from my point of view and  
12          from the YES Foundation's, you know, that if  
13          anybody did find anything, the first thing you do  
14          is get a hold of somebody and leave it alone.

15      Q.    It wasn't clear to me from the way you were just  
16           testifying in the chronological sequence; did you  
17           have any phone conversation with Detective  
18           Wiegert, or Investigator Wiegert, on Saturday  
19           morning?

20      A.    I don't know.

21      Q.    Do you remember talking to him about how you were  
22           going to have this -- how this meeting was going  
23           to take place on Saturday morning to organize all  
24           these people?

25      A.    I don't know if I told that to Detective Wiegert.



1 I guess I'm not sure.

2 Q. Okay. But you told it to somebody at the  
3 Sheriff's Department?

4 A. That I had told Jerry Pagel that we were just  
5 going to go out and do a car search.

6 Q. Okay. By car search, you mean --

7 A. Driving the roads and looking for anything  
8 conspicuous.

9 Q. And you told him that you were going to do that  
10 Saturday morning?

11 A. Yeah.

12 Q. And when you searched the areas that you marked  
13 on Exhibit 19, was that just you alone, or was  
14 that other volunteers as well?

15 A. Me, as well as other volunteers.

16 Q. How many would you say?

17 A. Between 30 to 50 people came and went, some had  
18 prior obligations or couldn't get there until  
19 later, so.

20 Q. So, in terms of that little parcel that you first  
21 marked, that you searched, south of Highway  
22 150 -- 147, how many people were walking through  
23 that field with you?

24 A. Between 30 to 50.

25 Q. Okay.

1 A. Like I said, people came and went as they needed.

2 Q. And were there any police officers with you when  
3 you were doing that part?

4 A. Yes.

5 Q. Walking with you?

6 A. Yes.

7 Q. How many?

8 A. I believe two.

9 Q. Manitowoc or Calumet?

10 A. I do not know.

11 Q. Don't know their names?

12 A. No.

13 Q. And that first area that you marked is a field  
14 that is directly adjacent to the north -- on the  
15 north, to the Avery salvage property, right?

16 A. Yes.

17 Q. And did you get Sheriff Pagel's permission to do  
18 that?

19 A. Yes.

20 Q. And I'm sorry, I don't remember, but by that  
21 point had you told Sheriff Pagel that you were  
22 her -- Teresa's former boyfriend?

23 A. I don't know. Like I said earlier, I really  
24 wasn't, you know; I guess I didn't tell too many  
25 people about it. It never really occurred to me

1           that it was an issue. And it was quite a while  
2           ago, that we dated.

3    Q.    But you were still seeing her as recently as the  
4           day before, that she disappeared, right?

5    A.    Yes.

6    Q.    And Sheriff Pagel knew that?

7    A.    Yes, I believe so.

8                    ATTORNEY BUTING: All right. Thank you.  
9           No further questions.

10                   THE COURT: Anything else?

11                   ATTORNEY FALLON: Nothing for this witness.

12                   THE COURT: All right. You are excused.  
13           With the understanding, Mr. Buting, that you still  
14           have the right to recall Detective Remiker, are  
15           there any other witnesses for the defense on this  
16           motion?

17                   ATTORNEY BUTING: Well, Judge, I do know --  
18           I understand that the CD's are prepared now, of the  
19           information that we talked. I don't know whether  
20           you would like to take maybe an early break at this  
21           point and we could then proceed.

22                   THE COURT: All right. We'll take a lunch  
23           break now and resume at 1 o'clock; will that work  
24           for the parties?

25                   ATTORNEY KRATZ: Sure.

1                   ATTORNEY BUTING:   Okay.

2                   THE COURT:   Very well.  We'll take our  
3                   lunch break at this time and then resume at 1  
4                   o'clock.

5                                   (Lunch break taken.)

6                   THE COURT:   At this time, we'll go back on  
7                   the record.  Do I understand, Mr. Buting, you are  
8                   going to be recalling Detective Remiker?

9                   ATTORNEY BUTING:   Yes, if we could do that,  
10                  Judge.  And Detective Remiker is involved in both  
11                  motions, but we thought maybe we would finish his  
12                  testimony related to the **Franks** part of the motion,  
13                  including the State's cross-examination.  And then  
14                  we can recall him when we're ready to switch gears  
15                  into the next motion.

16                  THE COURT:   Is that acceptable to the  
17                  State?

18                  ATTORNEY FALLON:  I think that is  
19                  acceptable, as far as I know.  I told Lieutenant  
20                  Lenk to be available.  We thought it would be in the  
21                  morning; but I told him, don't plan anything for the  
22                  day depending on -- so we would have maximum  
23                  flexibility, so that should work.

24                  THE COURT:   All right.  Is Mr. Remiker  
25                  here?

1 ATTORNEY BUTING: Yes.

2 THE COURT: Mr. Remiker, you are still  
3 under oath. Mr. Buting, you may continue.

4 ATTORNEY BUTING: Thank you, Judge.

5 **CONTINUED DIRECT EXAMINATION**

6 BY ATTORNEY BUTING:

7 Q. All right. Detective, we had an opportunity over  
8 the noon hour to listen to the recordings that  
9 you used to refresh your recollection. And I  
10 guess, so we put on the record, that included,  
11 you had 2 CD's, one of which was phone  
12 conversations that you had that morning of  
13 November 5th; is that right?

14 A. Yes, that's correct.

15 Q. And the other one, the other CD contained radio  
16 dispatch information?

17 A. Correct.

18 Q. Okay. Now, the first call that you had on  
19 Saturday morning -- I'm sorry, what time did you  
20 say you got to work?

21 A. 8:00 a.m.

22 Q. Okay. If I understood from the records, at 9:03  
23 a.m., you made a phone call to Investigator  
24 Wiegert; is that right?

25 A. Yes.

1 Q. And during that time, you were asking him if they  
2 had a timeline or anything for the missing  
3 person?

4 A. Correct.

5 Q. And at that time, Investigator Wiegert had some  
6 phone records that he had relied on, evidently,  
7 and was telling you certain times the phone calls  
8 were made?

9 A. Yes.

10 Q. And at that time, the belief was that Teresa  
11 Halbach made an appointment -- or made it to her  
12 appointment in New Holstein, sometime around  
13 1:30 p.m. on October 31st?

14 A. I believe that was part of the conversation, yes.

15 Q. And that the understanding or belief, at that  
16 time, was that after that she went to the Avery  
17 property?

18 A. Yes.

19 Q. And then after that, she went to her appointment  
20 at the Zipperer, Z-i-p-p-e-r-e-r --

21 A. There were discussions about those appointments,  
22 whether you are in the correct order or how  
23 exactly that discussion took place, I'm not sure,  
24 but.

25 Q. But you do you recall at that time, there was a

1 belief or understanding that she had made a  
2 subsequent -- an appointment subsequent to  
3 meeting with Mr. Avery?

4 A. Correct.

5 Q. Okay. You also talked about some tips that  
6 various people had called in; is that right?

7 A. Yes.

8 Q. But in that conversation, there was no discussion  
9 about volunteer searchers -- Well, I take that  
10 back, there was a reference that Wiegert advised  
11 you that the family was doing their own search?

12 A. Yes. Investigator Wiegert tells me, he says,  
13 Just so you know, in case you get any calls, the  
14 family is doing their own thing. They are out  
15 there doing some searches, in case you see them  
16 or get some calls of somebody out in some yards  
17 or doing some stuff. Just so you know, they are  
18 doing their own thing.

19 Q. When he told you that, you said, Yes, I got that,  
20 or I read that note?

21 A. Yes, I say that on the phone call.

22 Q. Did you actually get some sort of written  
23 instruction about that?

24 A. I don't recall.

25 Q. You haven't seen any kind of written note or

1 instruction about that since?

2 A. No, based on the phone call, I'm assuming it was  
3 something in reference to maybe a note in the  
4 Shift Commander's Office, or somebody had called  
5 the shift commander and just let him know that  
6 there's people out there doing some searches --

7 Q. Okay.

8 A. -- in case you get any reports.

9 Q. Okay. And then you also got a second call  
10 from -- incoming, from Investigator Wiegert, at  
11 about 10:07 a.m., correct?

12 A. Yes.

13 Q. And in that call, did he tell you that there was  
14 a change of plans?

15 A. Yes.

16 Q. And did he tell you that his boss wanted them --  
17 I don't know if I have the exact words but,  
18 wanted to see about using the search -- the  
19 volunteer search party, to see if they would go  
20 to the Avery junkyard and search that property?

21 A. What he says to me is that, he identifies him as  
22 his boss, wants him to reinterview Steven Avery,  
23 and another individual, and that there also are  
24 some volunteer searchers out there who would be  
25 willing to do some searching and that he was



1 going to come and talk to me, and there was a  
2 chance maybe we could see if those searchers  
3 could get consent to go out on the Avery property  
4 and search. I think he called it the junkyard.

5 Q. Maybe we should -- Could we mark your copy? And  
6 then could you get another one, if we marked  
7 yours as an exhibit?

8 A. No problem.

9 Q. Do you have just the CD of the phone calls with  
10 you?

11 A. I had two copies, I gave one to you --

12 Q. Okay.

13 A. -- and one to the State.

14 ATTORNEY FALLON: Are you going to play it,  
15 Counsel?

16 ATTORNEY BUTING: No, I just want it  
17 marked.

18 ATTORNEY FALLON: Marked?

19 ATTORNEY BUTING: Yeah.

20 ATTORNEY FALLON: Is this the phone or --

21 ATTORNEY BUTING: It says phone call. This  
22 is the one, right?

23 THE WITNESS: Correct.

24 ATTORNEY BUTING: Could you mark this?

25 (Exhibit 20 marked for identification.)

1 Q. (By Attorney Buting)~ I'm showing you Exhibit 20,  
2 can you identify that for the record?

3 A. That is a CD recordable device that contains  
4 audio recordings of conversations on recorded  
5 phone lines at the Sheriff's Department.

6 Q. And that includes the phone conversation that we  
7 have been discussing this morning, or this  
8 afternoon now?

9 A. Should.

10 Q. And that would be the best evidence of what  
11 actually was said by Investigator Wiegert, to  
12 you, and vice versa?

13 A. That's exactly what he said.

14 Q. Okay. And then you also got another call from  
15 Investigator Wiegert; that was on your cell phone  
16 though, correct, later that morning?

17 A. The last recorded call that I have between myself  
18 and Investigator Wiegert, I give him my cell  
19 phone, that's the best way of getting a hold of  
20 me. And there were some additional calls that he  
21 made to me on my cell phone.

22 Q. And that was before you left the station, even,  
23 to go to the Avery property?

24 A. Yes.

25 Q. And we don't have a recording of those phone

1 calls, though?

2 A. We do not.

3 Q. Okay. And in those phone calls, did he talk with  
4 you any more about any searches of the Avery  
5 property?

6 A. At one point he calls me and says, Hey, I just  
7 got a call from some lady, supposedly they are  
8 out at the Avery property, they said they got  
9 permission from Earl to be out there, and they  
10 observed a vehicle that might be Teresa's.

11 Q. Okay. But before that call, were there any other  
12 discussions that he had about plans to search, or  
13 get consent of -- for a search of the Avery  
14 property?

15 A. No, the last recorded call you have there, the  
16 second recorded call, he says, I will meet you at  
17 the department in about an hour. So then I was  
18 waiting for him and then I receive a phone call  
19 from him, on my cell phone, advising me that  
20 somebody is out there, they found a car.

21 Q. So your understanding was then, the plan would be  
22 that he would come to your department and the two  
23 of you would go out to the Avery's, or would  
24 contact the volunteers, or what?

25 A. He just said we were going to come to your

1 department, we'll discuss it, we'll go from  
2 there. We never got to that point.

3 Q. But that his boss wanted to contact the volunteer  
4 searchers to see if they would be able to get  
5 permission to go onto the Avery property and look  
6 there?

7 A. He does make a statement similar to that, yeah.

8 Q. Okay. Now, after you got the call on your cell  
9 about -- from Wiegert -- about two women being at  
10 the Avery property, you got in your car and left  
11 the station, right?

12 A. Yes.

13 Q. And you also made a call to -- or had dispatch  
14 contact Lieutenant Lenk, sometime during that  
15 point?

16 A. A ways after that.

17 Q. And Lieutenant -- Was Lieutenant Lenk your  
18 supervisor at the time?

19 A. Yes.

20 Q. Was he -- He was directly involved with you on  
21 this particular Halbach missing person matter as  
22 well, wasn't he?

23 A. Yes.

24 Q. And he did also come to the Avery property then?

25 A. Eventually, yes.

1 Q. Do you know what time?

2 A. No idea.

3 Q. Within an hour or so after you called?

4 A. He was out of town. I would say within three  
5 hours of calling him, would be a fair guess.

6 Q. Do you know if he arrived before or after you  
7 obtained -- you and Investigator Wiegert obtained  
8 the actual search warrant?

9 A. Before.

10 Q. Before you did?

11 A. Yes.

12 Q. And then you left the property. You and  
13 Investigator Wiegert left the Avery property, to  
14 go get the warrant signed by Judge Fox, right?

15 A. Yes.

16 Q. So there's a period of time when you two are gone  
17 from the Avery property and from the vehicle,  
18 while you are getting that warrant, right?

19 A. Correct.

20 Q. About how long were you gone?

21 A. I'd have to look at my report, several hours.

22 Q. Okay. And then, during that time period, who was  
23 the highest ranking officer who would be in  
24 charge of your Department's involvement,  
25 Lieutenant Lenk, or someone else?

1 A. Deputy Inspector Schetter.

2 Q. Okay. And he arrived about when?

3 A. I would say within two hours after we had

4 verified that it was Teresa's car on the

5 property.

6 Q. And just so we have a time of that, time of the

7 reference, what -- you arrived at the property

8 and about what time was it when you made that

9 verification?

10 A. Approximately 11:00.

11 Q. Okay. Now, I'm sorry, did you actually -- did we

12 talk about you going to the -- We already talked

13 about you going to the Avery's property on the

14 4th, didn't we?

15 A. We did talk about that, yes.

16 Q. Okay. Did you ever -- Before you arrived at the

17 property on November 5th, and saw the vehicle,

18 did you ever talk to any volunteer searchers

19 yourself?

20 A. No.

21 Q. Any volunteers come to your department and say, I

22 want to help, I'm going to be involved in some

23 kind of a search, anything like that?

24 A. None.

25 Q. Any contact with the Halbach family that you had?

1 A. I have never met them.

2 Q. Okay. And when you arrived at the Halbach -- at  
3 the Avery property, if I could refer you to  
4 Exhibit 18. I'm going to hand you this pointer,  
5 maybe you could just show us where you went, how  
6 you arrived, with the pointer, and then we'll  
7 state it for the record as well?

8 A. I travelled from the Village of Mishicot onto  
9 147, which isn't pictured in this diagram. And I  
10 would have taken a left onto Avery Road, which is  
11 a town road. It actually extends above this a  
12 little bit.

13 Q. You are indicating the upper right hand corner of  
14 the exhibit?

15 A. Yeah. The picture doesn't actually show Avery  
16 Road real well. I would have travelled down this  
17 roadway. I wasn't sure where the searchers were.  
18 I continued -- this is just a main -- I think  
19 it's a gravel portion. There's shops, there's  
20 buildings, there's a residence right here. I  
21 just continued to go straight down. Continues a  
22 gravel portion, some sort of roadway. And then I  
23 just continued all the way down here. Right  
24 where this lighter area is, is about where I  
25 stopped, as it gets a little bit darker here.

1 Q. Let me just state, the record reflects then that  
2 your route of entry was a -- is a gravel dirt-  
3 type road on the far right of the exhibit, that  
4 runs sort of behind the cluster of buildings; is  
5 that right?

6 A. Correct.

7 Q. Did you stop at -- First of all, had you ever  
8 been to the Avery property? That's right, you  
9 were there the night before.

10 A. Friday was the first time I can ever recall ever  
11 being on Avery Road.

12 Q. Okay. And when you were there that night, were  
13 you aware that the main area where the public  
14 would go normally, would be branching on a fork  
15 to the right as you come in there, because there  
16 is an office building there; is that right?

17 A. Are you asking what my thoughts were when I first  
18 got there? I'm not sure what you are asking.

19 Q. Did you ever go to the office, the night before  
20 when you were there?

21 A. No.

22 Q. So you have never been there at all?

23 A. I have never been on that property, ever.

24 Q. Until --

25 A. With the exception of Friday, when I did the



1 consent search.

2 Q. I was going to say the morning before, it was  
3 Friday morning when you were there, right?

4 A. Correct, 10:30 a.m.

5 Q. Okay. And in any event, you didn't stop anywhere  
6 to talk with any of the owners or managers of the  
7 property, to see if you had permission to go all  
8 the way down to where you did; is that right?

9 A. Correct.

10 Q. And how far away from the Toyota RAV 4 were you,  
11 where you parked your vehicle?

12 A. My vehicle is parked right about where that dot  
13 is and, obviously, you see there is an indication  
14 of where the Toyota is.

15 Pam and Nikole Sturm are also standing  
16 right there. I remember them, they were pointing  
17 to me the direction as to where that vehicle was.  
18 I could see the vehicle from right here where I  
19 was standing.

20 ATTORNEY FALLON: All right. Let the  
21 record reflect the witness is using the laser  
22 pointer to indicate a spot on the exhibit, which is  
23 about five inches up from the bottom of the exhibit,  
24 on the right hand side, and slightly to the right of  
25 the area, or linear line where the RAV 4 was found.

1 In other words, about 4-inches from the far right  
2 side and about five inches up from the bottom, in  
3 the right hand corner.

4 THE COURT: Parties agree with that  
5 characterization?

6 ATTORNEY BUTING: That's fine.

7 THE COURT: All right. The record will so  
8 reflect.

9 ATTORNEY BUTING: I can clarify it a little  
10 bit more.

11 Q. (By Attorney Buting)~ Are you aware there's a  
12 little pond in that area, or a depression with  
13 some sort of water?

14 A. Yeah. There's a depression, I think eventually  
15 filled up one of those days because it was  
16 raining or snowing.

17 Q. You were -- Your car was parked to the north of  
18 that?

19 A. Yes.

20 Q. And you were looking across that depression or  
21 pond-type area, to the south, where the RAV 4 was  
22 found; is that fair?

23 A. That's pretty accurate.

24 Q. Okay. And about how many feet away from the  
25 vehicle would you say?

1 A. I'm going to guess at least 200 yards.

2 Q. Okay. Did you eventually go up to the RAV 4  
3 yourself?

4 A. Yes.

5 Q. And did you approach it yourself or with others?

6 A. I believe Sergeant Jason Orth was just ahead of  
7 me. He arrived just before me. Lieutenant Todd  
8 Hermann, we either walked together or we were  
9 very close together. I don't remember if we  
10 walked together or where he was.

11 Q. And when you did that, that was -- When you first  
12 approached the vehicle, that was before the  
13 Calumet people had arrived; that is, Investigator  
14 Wiegert, or Dederling, or Sheriff Pagel?

15 A. Yes.

16 Q. Okay. And what were you able to determine when  
17 you walked up to the vehicle?

18 A. Well, there was a Toyota RAV 4. I had in my hand  
19 a manila folder that had the, I call it a  
20 teletype or the registration of the vehicle, with  
21 me. It was the same make and model, didn't have  
22 license plates, it had a Le Mieux Toyota sticker  
23 on the back, I believe. There were tree branches  
24 covering it. There was a vehicle hood alongside  
25 the passenger side. I walked to the driver's

1 side and I just -- I just started looking at the  
2 VIN plate.

3 Q. Were you able to look inside the vehicle?

4 A. At one point I looked in the vehicle, yes.

5 Q. And did you see any blood or anything?

6 A. I did not observe any blood then, no.

7 Q. Didn't see any person, obviously?

8 A. Not that I could see.

9 Q. Did you have to use a flashlight to do that or  
10 was the daylight bright enough?

11 A. I had to use a flashlight to get the whole VIN  
12 number. I may have used -- I looked under the  
13 car, to see if Teresa was under there.

14 Q. Did it appear that the drive train was disengaged  
15 at all or did it look --

16 A. The grass was kind of high, just -- I made a  
17 quick determination that there was nobody under  
18 the vehicle, and from what I could see in the  
19 vehicle, and confirm the VIN number, and I walked  
20 out.

21 Q. Okay. Now, you -- you weren't actually able to  
22 get all of the VIN numbers; isn't that right?

23 A. No, that's not right.

24 Q. Do you still have your report with you?

25 A. Yes.

1 Q. If you could look at Page 5, please.

2 A. Okay.

3 Q. Right about in the middle, there was a reference  
4 of 11/05/05, 1100 hours?

5 A. Mm-hmm.

6 Q. Third line from the bottom, don't you say in your  
7 report, I was able to verify all but the first  
8 two numbers on the VIN.

9 A. That's what it says.

10 Q. So would that be more accurate than your memory  
11 today?

12 A. If you read the next paragraph, I think it  
13 explains it. The VIN was confirmed as the VIN  
14 number for missing Halbach vehicle.

15 Q. Confirmed how?

16 A. I read all 17 numbers.

17 Q. So four minutes later -- At first you couldn't  
18 read it, and then you did read it later?

19 A. The VIN plate was moved. And with the sunlight  
20 and the windshield, you couldn't see it real  
21 well. I got a flashlight from -- it was either  
22 Orth or Hermann -- and I used the flashlight to  
23 illuminate the numbers. I could get all the VIN  
24 numbers then.

25 Q. Is this the VIN number that's found up on the

1 dashboard, by the driver's side?

2 A. Correct.

3 Q. You say it was moved?

4 A. Well, it looked like somebody had tampered with  
5 it. It was bent. And it wasn't in original  
6 factory condition.

7 Q. Okay. And you weren't able to see it without the  
8 use of a flashlight?

9 A. I believe it was the first two numbers I couldn't  
10 get. Then when I got the flashlight, I shined it  
11 in there and I was able to get all 17 numbers.

12 Q. Okay. Did you check any of the doors?

13 A. I didn't touch that vehicle.

14 Q. Okay. So, how long were you in that presence of  
15 the vehicle?

16 A. Well, I -- I arrived at 1100 hours, 1106 I  
17 walked away from the vehicle. Sergeant Orth  
18 stayed by the vehicle as security.

19 Q. Okay. And then you went back to where your car  
20 was, or someplace else?

21 A. I went and made contact with Nikole and Pam, told  
22 them that it was the vehicle. They started  
23 crying, comforted them for a little bit, and then  
24 Calumet County showed up.

25 Q. Okay. And then how long was it after that that

1 Calumet County showed up?

2 A. 1110 hours.

3 Q. When you say Calumet County, it's Sheriff Pagel,  
4 Investigator Wiegert, and Investigator Dederling,  
5 right?

6 A. My report says Sheriff Pagel and Investigator  
7 Wiegert. I know Investigator Dederling was there  
8 also. When he arrived, I'm not sure.

9 Q. Did you see how they entered the property?

10 A. They came down -- They came down the road that --  
11 in the area where I was parked. So, that's all I  
12 know.

13 Q. And then also in that area then was, when they  
14 arrived, was yourself, Sergeant Orth -- and was  
15 Lieutenant Hermann down there near your car?

16 A. Sergeant Orth was standing by the vehicle.

17 Q. Okay.

18 A. Lieutenant Hermann was by me somewhere, and then  
19 Wiegert and Sheriff Pagel arrived.

20 Q. And you were all clustered in that lower right  
21 hand corner of Exhibit 18?

22 A. Yeah. I would say between where the road ends,  
23 and there's a car crusher right along the side  
24 here.

25 Q. Okay. So that's about 11:10 a.m., and at that

1           time point there's six law enforcement officers  
2           clustered in that area, including Orth?

3     A.     I would say at least five.

4     Q.     And to your knowledge, none of them had actually  
5           obtained consent to come into the property and go  
6           to that location, yet, from the property owners?

7     A.     They did not.

8     Q.     Okay. Did you actually have contact with the --  
9           one of the owners or managers of the property?

10    A.     Earl drove down there on his four-wheeler.

11    Q.     At what point was that?

12    A.     Well, I have Wiegert and Sheriff Pagel arriving  
13           at 1110 hours. In my report I indicate, a short  
14           time later a four-wheeler came to our location,  
15           so.

16    Q.     Five minutes or so?

17    A.     Yeah, I would say.

18    Q.     So in terms of time then, from about 11:00 a.m  
19           when you first arrived -- Were you the first one  
20           to arrive or Sergeant Orth?

21    A.     We were all within a minute or two.

22    Q.     Okay. So, from about 11 a.m. to about 11:15, one  
23           or more law enforcement officers was down in the  
24           Avery property, without yet having had any  
25           contact, to gain consent from one of the owners?



1 A. At one point, Lieutenant Hermann made contact  
2 with Earl and got consent for us to be there and  
3 to start conducting an investigation.

4 Q. And that was at about 1117; is that right?

5 A. It's in the report here, somewhere. Yeah, 1117,  
6 Lieutenant Hermann spoke with Earl Avery. Earl  
7 gave verbal consent at this time for conducting  
8 an investigation in the salvage yard.

9 Q. All right. Now, at what time was it determined  
10 that there might be a change in the leadership of  
11 the investigation?

12 A. I documented a time of 1145 hours. There was a  
13 decision made to turn over the scene to Calumet  
14 County Sheriff's Department and DCI.

15 Q. And did you participate in that decision?

16 A. I was present during the discussions. I don't --

17 Q. Who actually made the decision?

18 A. I think that was collectively made between Deputy  
19 Inspector Schetter, Calumet County Investigator,  
20 Sheriff Pagel. They were all in on the  
21 discussions.

22 Q. Okay. Were there any -- any attorneys on the  
23 scene at that point?

24 A. Attorney Kratz showed up.

25 Q. District Attorney Rohrer?

1 A. Yes. And I believe -- I believe Assistant  
2 District Attorney Griesbach was out there also.

3 Q. And did any of the attorneys involved -- or did  
4 they -- Were they involved at all in the decision  
5 to transfer authority from Manitowoc Sheriff's to  
6 the Calumet, if you know?

7 A. I don't know.

8 Q. Okay. Were you then asked to get information  
9 together that could be placed in a warrant -- a  
10 search warrant application?

11 A. I was asked to drive down some of the driveways  
12 and get some physical legal descriptions of  
13 certain pieces of property.

14 Q. And that would include the residences that you  
15 were aware of, and the properties?

16 A. Yes.

17 Q. Including Steven Avery's trailer and garage?

18 A. Yes.

19 Q. And you got physical description of that, that  
20 you could then -- but you had to drive over there  
21 to get it; is that right?

22 A. Yes.

23 Q. Did you go inside any buildings during that  
24 period of time?

25 A. Never left my vehicle.

1 Q. Okay. And then, did you participate in the  
2 drafting of the warrant?

3 A. I'm sure I was asked some questions and gave  
4 verbal information to Investigator Wiegert. We  
5 were in phone contact with Calumet County's  
6 paralegal or secretary, District Attorney Kratz.

7 Q. But did you -- Did you read the warrant before it  
8 was presented to the Judge? I understand you  
9 didn't sign it.

10 A. I may have, I don't know.

11 Q. It wasn't -- Since you weren't the one that was  
12 signing it, it wasn't as important that you make  
13 sure that everything in it was accurate?

14 A. I know there were some changes made, certain  
15 people would review it, a phone call was made  
16 back to the paralegal to change this or change  
17 that. Eventually there was sufficient  
18 information that we felt comfortable. I don't  
19 remember if I specifically read it at the end.

20 Q. Okay. In any event you didn't, or did you, make  
21 any corrections to the information in the  
22 affidavit before it was presented to the Judge?

23 A. I know there were changes made periodically,  
24 whether it was in direct correlation to what I  
25 say, or based on myself reviewing it, I don't

1 know.

2 Q. Okay. But your position was that you weren't --  
3 It wasn't directly your application, it was  
4 Investigator Wiegert's; would that be fair?

5 A. He was the lead investigator, so, we were all  
6 working together on it.

7 ATTORNEY BUTING: All right. I have no  
8 other questions on this *Franks* part.

9 THE COURT: Very well. Mr. Fallon.

10 ATTORNEY FALLON: Thank you.

11 **CROSS-EXAMINATION**

12 BY ATTORNEY FALLON:

13 Q. Is it detective or investigator; does it matter?

14 A. Either one is fine.

15 Q. Okay. Detective Remiker, on Friday,  
16 November 4th, you had no contact with any  
17 volunteer, or anyone associated with  
18 Mr. Hillegas' and Scott Bloedorn's volunteer  
19 search efforts; would that be correct, on Friday,  
20 November 4th?

21 A. No.

22 Q. All right. And on Saturday, November 5th, just  
23 so that we're clear, you did not have any  
24 conversations, on the phone or in person, with  
25 anyone representing themselves to be a member of

1 Mr. Hillegas's search efforts?

2 A. No.

3 Q. Okay. So that's correct, you had no contact?

4 A. I'm not sure who Mr. Hillegas is.

5 Q. Okay. Fair enough. Did you have contact with  
6 anyone representing themselves to be a searcher,  
7 anyone that you believed was a volunteer  
8 searcher, on Saturday?

9 A. The only contact I had was when I was attempting  
10 to get more information from Investigator  
11 Wiegert, about these two females down in the  
12 gravel pit or salvage yard. He said, Here's  
13 their number, call them.

14 Q. So --

15 A. And I called, I think I spoke to Nikole. And she  
16 told me where she was and what was going on.  
17 Other than that, I had no idea anybody was out  
18 there.

19 Q. Other than that. Very well.

20 A. Other than that.

21 Q. Okay. Now, I would like to clarify something  
22 regarding the phone conversations you had with  
23 Investigator Wiegert on Saturday morning,  
24 November 5th. On his second call with you,  
25 that's to you, Investigator Wiegert said, there's

1           been a change of plans, correct?

2       A.    Yes.

3       Q.    And in that call, he indicated that his boss,  
4           which you took to mean Sheriff Pagel?

5       A.    I don't know who I took it as. He just said his  
6           boss, whoever that is.

7       Q.    Indicated that at that time that he wanted them,  
8           presumably himself and other people involved in  
9           the missing persons case, to reinterview Steven  
10          Avery and another individual, possibly  
11          Mr. Zipperer or someone?

12      A.    That's correct.

13      Q.    And as a matter of fact, the intention was that  
14          we should go talk to them and see if we can gain  
15          consent to look around the salvage yard, correct?

16                    ATTORNEY BUTING:  Objection as to what --  
17          what their intent would be, since he's speculating  
18          as to that.

19                    ATTORNEY FALLON:  I'm saying the stated  
20          intent.

21                    ATTORNEY BUTING:  Okay.

22      Q.    (By Attorney Fallon)~ Is that correct?

23      A.    My understanding is that --

24                    THE COURT:  Your objection is withdrawn?

25                    ATTORNEY BUTING:  If it's focussed on what

1 was stated, yes.

2 THE COURT: Okay.

3 A. Can I hear your question again, I'm sorry?

4 Q. Sure. The reason for the reinterview was to --  
5 one of the reasons -- was to see if they would  
6 gain consent of Mr. Avery, or others at the  
7 property, to look around the property, correct?

8 A. My impression was, it's kind of separate, do  
9 some -- reinterview Steven and Mr. Zipperer; and  
10 there's some searchers that are out there, they  
11 are willing to do some searches. Maybe at some  
12 point we can contact the Averys and see if they  
13 would allow these searchers to go out on the  
14 property.

15 Q. Maybe?

16 A. Possibly.

17 Q. That meeting never took place, correct?

18 A. Correct.

19 Q. And there was no other further discussions  
20 regarding that idea, were there?

21 A. No.

22 Q. And the reason that occurred is because shortly  
23 thereafter you got a call from Mr. Wiegert,  
24 Investigator Wiegert, saying, Hey, we have one of  
25 these people on the property, they think they

1 found the car?

2 A. Correct.

3 Q. And that's when things really changed?

4 A. A lot.

5 Q. All right. Now, when you went to the property  
6 that Saturday morning, there were no gates  
7 around, at that particular time, precluding entry  
8 to the property, right?

9 A. No gates, no chains, nothing. I continued down a  
10 gravel portion, if you extend Avery Road, right  
11 down into the gravel pit. There was a road, went  
12 past a residence, went by shops.

13 Q. Well, obviously, and it hasn't been made clear  
14 yet, but this is a commercial business, right,  
15 this is a salvage yard?

16 A. Yes.

17 Q. They were open for the public that day, right?

18 A. I would assume so, yes.

19 Q. In fact, there were other people milling around,  
20 upon your arrival, right?

21 A. Yes.

22 Q. As a matter of fact, one of the reasons that Ms  
23 Sturm called, she indicated, Well, there's some  
24 people walking around here, and she was a little  
25 uncomfortable, right?



1 A. Yes, there were people walking around the salvage  
2 yard, traffic in and out.

3 Q. Traffic in and out. So people were coming and  
4 going. In fact, since people were coming and  
5 going, you actually had some of the officers  
6 stopping or checking license plate numbers for  
7 vehicles that were coming and going from the  
8 property, as you members of law enforcement were  
9 first arriving?

10 A. Yes.

11 Q. And that's because there was traffic in and out  
12 of the Avery property. When I say the Avery  
13 property, I'm referring to the salvage yard,  
14 which is depicted on Exhibit 18?

15 A. There were people walking around, within these  
16 cars, as we were down there. There were people  
17 coming in off 147 and Avery Road, constantly.

18 Q. All right. As a matter of fact, one of the  
19 reasons why it took Mr. Avery -- Mr. Avery, I'm  
20 referring to Earl Avery -- a few minutes to get  
21 down there is because he was talking to some  
22 people; is that right?

23 A. That, I don't know.

24 Q. All right. Now, with respect to the location of  
25 the vehicle, you did, yourself, walk from where

1           you parked your squad, up to the vehicle,  
2           correct?

3    A.    Yes.

4    Q.    All right.  Did Pamela Sturm and her daughter,  
5           Nikole, walk with you to the vehicle, or was it  
6           readily visible from where you stopped your car  
7           and parked?

8    A.    They stood right by my vehicle.  I did not allow  
9           them to go any further than that.  I walked back  
10          from my vehicle, back to where the Toyota was,  
11          they stayed there.  I returned, and they were in  
12          that same location.

13   Q.    All right.  So you walked to the vehicle alone?

14   A.    Lieutenant Hermann and Sergeant Orth were  
15          either -- I think Sergeant Orth was just ahead of  
16          me and Lieutenant Hermann was by me, or somewhere  
17          in the vicinity.

18   Q.    At the time you were investigating the VIN  
19          characters, were you alone or were the other two  
20          officers, with you?

21   A.    The other two were with me.

22   Q.    All right.  And as a matter of fact, when you  
23          first examined it, you were able to get 15 out of  
24          the 17 characters?

25   A.    First two, I couldn't see.

1 Q. Because of the light and position?

2 A. Yes.

3 Q. Now, a few minutes later you were able to borrow  
4 a flashlight?

5 A. Yes.

6 Q. And you were able to get the last two vehicle  
7 identification numbers?

8 A. I matched up all 17 from that -- that vehicle  
9 registration that I had in my hand, with the  
10 vehicle that was parked there.

11 Q. All right. And, now, describe for us, if you  
12 will, you indicated there was some trouble  
13 reading the VIN number, and why was that?

14 A. It was tampered with. It was moved. I guess my  
15 best recollection would be as if somebody maybe  
16 took a screwdriver or something and pushed it, or  
17 moved it, or bent it. It wasn't in its normal  
18 position. It wasn't flat.

19 Q. And did that contribute, along with the sunlight  
20 and difficulty in initially reading all of the  
21 numbers?

22 A. Yeah. Yeah, I'm sure it did.

23 Q. All right. If you would take the pointer and  
24 tell us, you said you never left your vehicle  
25 when you went out and looked for better -- or

1 physical descriptions of some of the buildings on  
2 the parcel of land here. Tell us how you went  
3 about that, if you would, with the pointer, show  
4 us what you did, where you drove?

5 A. I drove from this lower portion here, back up  
6 this road.

7 Q. So you are going south to north, back toward the  
8 entrance?

9 A. Yes. And then I know I travelled down this road,  
10 which actually leads to Steve's residence, Barb's  
11 residence. And I continued to drive down here.  
12 I parked at the end of this driveway.

13 Q. All right. Now, that's the driveway that runs  
14 across the top of the exhibit?

15 A. Correct.

16 Q. And you showed us a course of driving east to  
17 west; is that correct?

18 A. Yes.

19 Q. All right.

20 A. I either wrote down the legal descriptions, or I  
21 was on a phone with Calumet County and I was  
22 giving it to them. Then I drove back. I know I  
23 got a legal description of Barb's trailer, which  
24 is right there. And I don't know how many other  
25 buildings I got information from.

1                   And then I just drove back here and came  
2                   back down. In fact, my car battery went dead  
3                   here. I used somebody else's car. My car  
4                   actually stayed here. I used somebody else's car  
5                   and drove down here.

6    Q.   For the initial foray, or did you have to go back  
7           and redo it because -- or -- I'm not sure, when  
8           did the car die on you?

9    A.   When I went back -- When I was given instructions  
10           to go get legal descriptions, I went back to my  
11           car and then it was dead. And I went and grabbed  
12           somebody else's car and I drove here and got  
13           those descriptions and then I came right back.

14   Q.   Now, how about the area where there's a cluster  
15           of buildings in the northeast corner there,  
16           toward the entrance way, there is one, two,  
17           three, four, looks like five buildings; were  
18           those included in the general description that  
19           you were asked to get or did you somehow already  
20           have that information?

21   A.   I know I got Barb's and Steve's. I don't know --  
22           I don't recall if I got descriptions of all these  
23           other buildings. I don't know. I may have  
24           gotten Chuck's trailer, which is right here. I  
25           don't know about those other buildings. I don't

1 recall.

2 Q. All right. How that information was obtained?

3 A. I'm not sure.

4 Q. Okay. Now, when you first made contact with Earl  
5 Avery, shortly after 11:10 a.m., he indicated to  
6 you that most of the family, Charles, Allen,  
7 Delores, and Steven, were up at their family  
8 property in Marinette County, correct?

9 A. Yes.

10 Q. So he was the one that was more or less in charge  
11 of the property and the business area at that  
12 time, correct?

13 A. I think I asked him. I think he said he was part  
14 owner, or owner, of the property or the business.

15 Q. At any time during that particular meeting with  
16 him, the one shortly after 11:10 a.m., did he  
17 ever ask you to leave?

18 A. No.

19 Q. Did he ever indicate any displeasure or -- with  
20 your presence on the property?

21 A. Earl was very cooperative. He didn't know much  
22 about what was going on, but he was very  
23 cooperative.

24 Q. Right.

25 ATTORNEY FALLON: That's it.

1 THE COURT: Mr. Buting, any redirect?

2 ATTORNEY BUTING: Judge, I would move  
3 Exhibit 20 into evidence. And I wonder, just so we  
4 can clear the record, maybe the -- that second phone  
5 call, we could just play it. It's only about a  
6 minute or two and we would have the exact. There's  
7 been some -- It's been described various ways as to  
8 what Investigator Wiegert said about the use of  
9 volunteers in searching the Avery property. I think  
10 that would be the best evidence.

11 ATTORNEY FALLON: We could do that, or the  
12 Court could listen to it at your leisure as well.  
13 It doesn't matter to me; whatever you think is  
14 easiest.

15 THE COURT: You don't object to it's  
16 admission?

17 ATTORNEY FALLON: Not at all.

18 THE COURT: I will admit it into evidence.  
19 I think it's just as easy for me to listen to it  
20 later.

21 ATTORNEY BUTING: Okay.

22 THE COURT: It's in evidence.

23 ATTORNEY BUTING: The one thing that we  
24 should maybe clarify, though, or that he could  
25 clarify for here is, who's speaking. They don't

1 identify themselves. And the second phone call, the  
2 first voice, I don't know if it's obvious to the  
3 Court which one is Wiegert.

4 THE COURT: It's Detective Remiker calling  
5 Mr. Wiegert?

6 ATTORNEY BUTING: No, that's the first one,  
7 that's a longer call, the second one is much  
8 shorter.

9 THE COURT: I'm sorry, the second one is  
10 Wiegert calling Remiker.

11 ATTORNEY BUTING: Right.

12 THE COURT: Are they the only two  
13 participants in the call?

14 ATTORNEY BUTING: Yes.

15 ATTORNEY FALLON: Yes.

16 THE COURT: Okay. I think I can figure it  
17 out.

18 ATTORNEY FALLON: I have no objection to  
19 the receipt of the exhibit, that's fine.

20 THE COURT: Exhibit 20 then is received. I  
21 will ask the Clerk, are there any exhibits that have  
22 been marked today that haven't been received yet?

23 THE CLERK: No.

24 THE COURT: Okay.

25 ATTORNEY BUTING: I do have just one last



1 question, now that I think about it.

2 REDIRECT EXAMINATION

3 BY ATTORNEY BUTING:

4 Q. You indicated there were other customers or  
5 people in the salvage yard, right, when you were  
6 there?

7 A. Yes.

8 Q. Nobody else's vehicles were parked down where you  
9 were, right, operating vehicles, in other words,  
10 not junk ones?

11 A. I don't believe so.

12 Q. So any customers that would be in that area,  
13 their cars would be parked up by those business  
14 buildings, or don't you know?

15 A. I have no idea where they are parked.

16 ATTORNEY BUTING: Okay. No further  
17 questions.

18 ATTORNEY FALLON: Nothing.

19 THE COURT: Anything else? All right. The  
20 witness is excused. Does the defense, then, have  
21 any further witnesses on the **Franks** motion.

22 ATTORNEY BUTING: No, your Honor.

23 THE COURT: Does the State have any  
24 witnesses to call on the **Franks** motion?

25 ATTORNEY FALLON: Just one.

1 THE COURT: Very well.

2 ATTORNEY FALLON: We have just one witness,  
3 we call Earl Avery.

4 THE COURT: Mr. Avery, you can just step up  
5 to the witness stand, please. Remain standing and  
6 the Clerk will swear you in.

7 THE CLERK: Please raise your right hand.

8 **EARL AVERY**, called as a witness herein,  
9 having been first duly sworn, was examined and  
10 testified as follows:

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

13 THE WITNESS: Earl Avery A-v-e-r-y.

14 ATTORNEY FALLON: Thank you.

15 **DIRECT EXAMINATION**

16 BY ATTORNEY FALLON:

17 Q. Mr. Avery, you are the brother of Steven Avery?

18 A. Yes.

19 Q. All right. And what do you do for a living, sir?

20 A. I run a salvage yard with my brother.

21 Q. All right. And which brother do you run the  
22 salvage yard with?

23 A. Chuck.

24 Q. Is that short for Charles?

25 A. Yes.

1 Q. And you run the business which is depicted here  
2 on Exhibit 18; that's a picture of the property  
3 that you run?

4 A. Yes.

5 Q. All right. And just so I'm clear, who owns all  
6 that land or property?

7 A. My mom, my dad.

8 Q. All right. And their names are Delores and Allen  
9 Avery?

10 A. Yes.

11 Q. All right. And in terms of who keeps the books,  
12 and works on the purchasing orders, and sales,  
13 and things of that sort for the salvage yard  
14 business?

15 A. That would be my dad, Al.

16 Q. I'm sorry, I didn't hear your answer?

17 A. That would be my dad, Al.

18 Q. All right. And how long have you been running  
19 the business, as it were?

20 A. I couldn't tell you, last couple years.

21 Q. All right. And as of last November, that's how  
22 it was, you and your brother, Chuck, were running  
23 the business and your mom and dad were handling  
24 the books, as it were?

25 A. I guess, yes.

1 Q. All right. And what kind of decisions that you  
2 and your brother, Chuck, would make -- I mean  
3 what kind of business, what activities, did you  
4 do as in terms of running the business?

5 A. I mainly just disassembled cars, and picked up  
6 cars, picked up junk cars. I was mostly on the  
7 road.

8 Q. On the road. Who handled the customer traffic  
9 that would come in? Say, for instance, I wanted  
10 to come in and pick up an automobile part, or  
11 maybe I wanted to sell you some crushed cars, or  
12 I should say, not crushed, but crashed cars, or  
13 something like that?

14 A. Whoever was there.

15 Q. Whoever was there. So that would either be you  
16 or --

17 A. Me and Chuck.

18 Q. Chuck. Would your dad sometimes handle that  
19 work?

20 A. No.

21 Q. How about your mom?

22 A. No.

23 Q. All right. Now, did your brother, Steve, was he  
24 a co-owner of the business?

25 A. No.

1 Q. Was he an employee of the business?

2 A. No, he was just helping us out.

3 Q. He would help you out from time to time?

4 A. Yeah.

5 Q. What were some of the things that he would help

6 you out with?

7 A. The same thing, disassemble cars and get them

8 ready for to go down in the yard, and everything

9 else.

10 Q. All right.

11 A. Drain the fluids.

12 Q. And did your brother, Steve, have any say in how

13 the business was run, or pretty much you and

14 Chuck?

15 A. Mainly just me and Chuck.

16 Q. Any big decisions or final decisions, were those

17 made by you, or made by your dad?

18 A. Mostly my dad.

19 Q. All right. Now, in recent years, your dad was

20 gone quite a bit to your property up in Marinette

21 County; would that be fair?

22 A. Huh?

23 Q. Would that be fair, he would take a lot of time

24 off, you know, and go to the property in

25 Marinette County?

1 A. Yeah. Just Monday through Thursday, he was  
2 usually at the yard.

3 Q. Monday through Thursday. And he would take long  
4 weekends to go up north?

5 A. Yeah.

6 Q. All right. That had been going on for a couple  
7 years?

8 A. Yes.

9 Q. All right. So, for the day-to-day business, you  
10 and your brother, Chuck, would pretty much handle  
11 most things that came up?

12 A. Yes.

13 Q. All right. Now, what were the business hours for  
14 the salvage yard?

15 A. Eight to five, Monday through Friday.

16 Q. All right. How about Saturdays?

17 A. Eight till noon.

18 Q. Eight till noon. All right. If, for instance, I  
19 wanted to come in and see if you had any parts  
20 for a particular car that I needed to repair,  
21 would I come in and check in the office or could  
22 I, if I wanted to, just wander through the yard  
23 and see if I could find something that might fill  
24 my need?

25 A. No, you have to check in the office.

1 Q. Okay. And so then we probably would come in, say  
2 I'm looking for a part to a 1999 Chevrolet  
3 Impala, and you might say, well, try this part of  
4 the yard?

5 A. Yes.

6 Q. Okay. All right. Of your family, Mr. Avery, who  
7 actually lived in the parcel of land that's known  
8 as the Avery property, or the -- Who lived there,  
9 who had residences?

10 A. It was my brother, Chuck, and my ma and dad, and  
11 that was it.

12 Q. Your brother, Steve, had a residence, right?

13 A. Yeah, but that wasn't on Avery's Auto Salvages.

14 Q. I'm sorry?

15 A. That wasn't on Avery's Auto Salvages property.

16 Q. Of the 40 acres, 37 was actually salvage yard  
17 property; would that be about right?

18 A. I guess, yes.

19 Q. Something like that?

20 A. Yeah.

21 Q. All right. And your sister, Barb, was -- where  
22 was her property?

23 A. Hers was down on the end.

24 Q. All right.

25 A. Yeah.

1 Q. Now, I would like to direct your attention to  
2 Saturday morning, November 5th. Did their come a  
3 time where you had some people come to your  
4 property expressing an interest regarding the  
5 whereabouts of Teresa Halbach?

6 A. Yes.

7 Q. All right. Did you have more than one person  
8 come to the yard that morning?

9 A. Yes.

10 Q. Um, tell us about that, you had someone come?

11 A. Yeah, I had -- At first I had two -- two people  
12 come. I don't know what time it was, but there  
13 was a man and a lady there that asked if they  
14 could take a ride through the yard, just to take  
15 a look. And I told them, go ahead, I'm more than  
16 willing to help you guys out.

17 Q. Did they give you anything to hang up in the  
18 office?

19 A. Yeah, they gave me a poster or something to hang  
20 up in the office. Actually, they asked me if  
21 they could hang it up and I said, yes.

22 Q. Okay. So they did, and they kind of asked if  
23 they could take a ride around?

24 A. Yes.

25 Q. Do you know if they did?



1 A. As far as I know, they went down into the pit and  
2 they took a ride around, but I didn't see them  
3 leave after that.

4 Q. Okay. Now, did you have other visitors that had  
5 come that morning, expressing an interest in  
6 Teresa Halbach's whereabouts?

7 A. Yes.

8 Q. Tell us about that.

9 A. I was outside with a neighbor, talking to a  
10 neighbor outside. And they come up to me and  
11 they asked me -- there were two ladies, maybe it  
12 was about 45 minutes after.

13 Q. After the first group?

14 A. Yes.

15 Q. Okay.

16 A. And they asked me if they could take a walk. And  
17 I told them there was a man and a lady down there  
18 already, that they are more than welcome to go  
19 down and take a walk through the yard. And I  
20 kind of pointed to them, where they can start, or  
21 whatever.

22 Q. Mm-hmm. So these two women asked permission to  
23 look around?

24 A. Yes.

25 Q. All right. And you -- And they told you they

1           were looking for anything that would help them  
2           locate Teresa Halbach?

3    A.    Yes.

4    Q.    All right.  And you had no problem with that?

5    A.    I had no problem with it.

6    Q.    All right.  And what was your thinking there?

7    A.    Huh?

8    Q.    What was your thinking?  Why did you have no  
9           problem with that?

10   A.    I was just trying to help them out.

11   Q.    As a matter of fact, you would want someone to  
12           help out if it was your sister who was missing,  
13           right?

14   A.    Yes.

15   Q.    So, they came in and they started looking around,  
16           and they decided what direction they were going  
17           to go, or did you make any suggestions?

18   A.    Well, I told them, I kind of just pointed, you  
19           know, what was down in the -- how to get down  
20           into the pit and how to get on the top.  That's  
21           about all I did.

22   Q.    Did you give them any directions, or express  
23           anything about the roads, or the condition of the  
24           yard, or anything they should do to be careful,  
25           so they didn't get hurt?

1 A. No, I didn't. I don't think I did any way.

2 Q. Okay. After they came in and asked permission,  
3 you let them go and look around?

4 A. Mm-hmm, yes.

5 Q. All right. As being one of the owner's of the  
6 business, would it be a fair idea that you would  
7 have a pretty good idea of what kind of vehicles  
8 you have in the salvage yard?

9 A. Yes.

10 Q. All right. And you would need to know that for  
11 your own inventory purposes in case somebody came  
12 and asked questions about do you have a part for  
13 such and such and whether or not you have that  
14 vehicle on hand?

15 A. Yes. Like I said before, is a lot of times I was  
16 more on the road picking vehicles up. And I  
17 usually remember what kind of vehicles I pick up  
18 or what kind of vehicles I put down in the yard.

19 Q. All right.

20 A. With the loader and that.

21 Q. Okay. Did your brother, Chuck, do that kind of  
22 work or were you pretty much involved in securing  
23 the vehicles for use in the salvage yard?

24 A. No, he did it once in awhile to.

25 Q. Once in a while. Now, if a vehicle were brought

1 in by, say your brother, Chuck, or anyone else,  
2 at some point would you have knowledge that that  
3 was brought in just so that you would know what  
4 is on the property?

5 A. Yes.

6 Q. Okay. Now, were you surprised when they found  
7 this Toyota RAV 4 that appeared to be Teresa  
8 Halbach's vehicle?

9 A. Yes, I was.

10 Q. And did you even have any idea that that vehicle  
11 was there?

12 A. No. And I didn't, after I went down there to see  
13 what was going on, I still didn't know that it  
14 was down there. I still couldn't see it.

15 Q. All right.

16 A. I was down there for an hour, until they pointed  
17 it out to me. And then I finally seen it.

18 Q. All right. You had no idea that vehicle was  
19 there?

20 A. No. It was like two days -- two days or three  
21 days before that, we were just through there  
22 rabbit hunting with my brother-in-law and that  
23 vehicle wasn't there.

24 Q. All right. Well, tell me about that, that rabbit  
25 hunting; when did that happen, do you think?

1 A. It was during the week my brother-in-law come  
2 over. He wanted to hunt for some rabbits.

3 Q. Okay. And what's his name, by the way?

4 A. Robert Fabian.

5 Q. I'm sorry?

6 A. Robert Fabian.

7 Q. Fabian?

8 A. Yes.

9 Q. Okay. So, you were down in that portion of the  
10 yard where that vehicle was found?

11 A. Yes.

12 Q. All right. Now, is that something you guys did  
13 fairly regularly, you would hunt rabbit, or  
14 squirrel, or other small game, that --

15 A. That was --

16 Q. -- that might be on the property?

17 A. That was the first time we did it that year.

18 Q. That year?

19 A. Yeah. In the fall like that, yes.

20 Q. Yeah. So, two or three days earlier, as far as  
21 you know, that vehicle wasn't there?

22 A. No, it wasn't there. I'm not sure if it was  
23 Wednesday or Thursday.

24 Q. That you were rabbit hunting?

25 A. That we were right through that area. We were

1 through the whole yard and that vehicle wasn't  
2 there.

3 Q. Okay. Now, Mr. Avery, a couple last questions,  
4 originally, on that Saturday afternoon, after the  
5 police officers started showing up, I think one  
6 of them indicated that you may have drove down on  
7 a four-wheel drive -- a four-wheeler vehicle, to  
8 find out what was going on; is that right?

9 A. Yes.

10 Q. And you talked to one of the officers there?

11 A. Not at first. At first they just told me to sit  
12 there. For about 45 minutes I sat there. Then  
13 they came up to me and then they were telling me  
14 what was going on.

15 Q. What was going on. So they gave you a full  
16 debriefing then?

17 A. Somewhat, yes.

18 Q. All right. Now, before that, however, or shortly  
19 after they arrived, one of the officers asked  
20 you, just to make sure, that you had no  
21 problem --

22 ATTORNEY BUTING: Objection leading.

23 THE COURT: Sustained.

24 ATTORNEY FALLON: All right.

25 Q. (By Attorney Fallon)~ Somewhere between 11 and

1 11:30, were you approached by an officer, to your  
2 recollection?

3 A. I don't remember.

4 Q. You don't remember. All right.

5 A. All I know, I sat down there for about 3, 3 1/2  
6 hours.

7 Q. At some point -- Let me ask you this. At some  
8 point during your conversation with law  
9 enforcement, did they ask you if they had your  
10 continued permission to be there?

11 A. No, they didn't.

12 Q. You don't recall?

13 A. No, they didn't.

14 ATTORNEY FALLON: Nothing else.

15 ATTORNEY BUTING: I'm sorry?

16 ATTORNEY FALLON: That's it, your witness.

17 THE COURT: Mr. Buting.

18 ATTORNEY BUTING: Thank you.

19 **CROSS-EXAMINATION**

20 BY ATTORNEY BUTING:

21 Q. Now, you mentioned that this Avery Auto Salvage  
22 business was -- the day-to-day stuff was run  
23 primarily by you and your brother, Chuck, right?

24 A. Yes.

25 Q. Now, once Steven Avery was released from prison,

1 after his wrongful conviction, he came to live on  
2 the Avery area compound as well, did he not?

3 A. Yes.

4 Q. And that was about two years before this incident  
5 that we're here today about?

6 A. Yes.

7 Q. So, the fall of 2003 is when he came to live  
8 there?

9 A. Yes.

10 Q. And during that two years, you said he wasn't an  
11 employee, but he did do work at the yard,  
12 correct?

13 A. Yes, he helped us out.

14 Q. In fact, he did a lot of the same things that you  
15 and Chuck did, when it came to the cars?

16 A. Yes.

17 Q. He would disassemble them, prepare them for  
18 either crushing or storage, as a salvage vehicle?

19 A. Yes.

20 Q. He would go with you out on the road to go pick  
21 up vehicles on your tow truck or flat bed to  
22 bring to the yard?

23 A. Yes.

24 Q. And he was paid cash for his work as well, was he  
25 not?



1 A. That I don't know nothing about.

2 Q. Okay. Because you didn't have anything to do  
3 with that part of it?

4 A. No.

5 Q. And directing your attention to Saturday,  
6 November 5th, you are saying that it was only  
7 about 45 minutes before the two women came, that  
8 a different two -- a different couple arrived?

9 A. Yes, there was a man and a woman. I think they  
10 were more younger, and they took a ride through  
11 the yard, yes.

12 Q. When you say took a ride through the yard, on  
13 what kind of a vehicle?

14 A. I don't remember that.

15 Q. They would drive their own car, not a  
16 four-wheeler?

17 A. No, they drove their own vehicle. They asked me  
18 if it was all right. And I told them, yes, it  
19 was.

20 Q. So, the general custom, in fact, is -- maybe you  
21 could use your pointer and point to Exhibit 18  
22 and show me where your office is?

23 A. I have got to find the office. The new office is  
24 right in here.

25 Q. And the record should reflect he's pointing on

1 Exhibit 18 to the upper right hand corner, the  
2 building farthest to the right edge, actually  
3 appears to be about the largest building in the  
4 photograph.

5 ATTORNEY FALLON: That's fair -- That's  
6 fair, Judge.

7 THE COURT: The record will so reflect.

8 Q. (By Attorney Buting)~ And when you are open for  
9 normal business, 8 to 5 on weekdays and 8 to noon  
10 on Saturday, people come up to that office first,  
11 before they start roaming around in the yard?

12 A. Yes, they do.

13 Q. And that's part of your policy and custom?

14 A. Yes.

15 Q. You don't allow members of the public to just  
16 come at off hours and start roaming through the  
17 yard, without your permission?

18 A. Not unless they want to get chased down with a  
19 four-wheeler.

20 Q. Would it be fair to say that the area on Exhibit  
21 5, that shows really most of that area that is  
22 filled with cars; is that sort of like your  
23 stockroom of your business?

24 A. Yeah, you could say that, yes.

25 Q. So people first come to you to ask whether or not

1           you have a particular part for a particular  
2           vehicle, like a 1995 Chevy, something or other?

3       A.    Yes.

4       Q.    You have got these cars arranged in various  
5           groups?

6       A.    Somewhat, yes.

7       Q.    And you can tell them, from your inventory, yes,  
8           we have a '95 Chevy, whatever, and direct them,  
9           generally, where to go?

10      A.    Sometimes, yes.

11      Q.    Do they take the parts off themselves, or do you  
12           take the parts off for them?

13      A.    Sometimes they take a part off, sometimes we take  
14           the part off.

15      Q.    And you have regular customers, I assume, right,  
16           that you recognize?

17      A.    Yes.

18      Q.    Now, when the man and the woman arrived, they  
19           came up to the office that you mentioned there?

20      A.    Yes.

21      Q.    And you were the only one of the Avery's still  
22           left on the property, so were you up by the  
23           office, or in it?

24      A.    I don't recall, but I think I was in the office,  
25           yes, when the first two came.

1 Q. And they gave you the poster, or they hung the  
2 poster of Teresa?

3 A. Yes.

4 Q. And then they themselves started driving down  
5 looking through the junkyard, right?

6 A. I think so, yes.

7 Q. Did you see which way they went?

8 A. No, I didn't.

9 Q. But you never saw them leave.

10 A. No, I didn't see them leave.

11 Q. And you think, then, it was about 45 minutes or  
12 an hour later, when the two women came?

13 A. Yes. Roughly, yes.

14 Q. And were you inside the office at that time or  
15 were you out?

16 A. I was outside.

17 Q. You were outside when they drove up?

18 A. Yes.

19 Q. Can you show us on the pointer where they drove  
20 up?

21 A. I'm not sure where they drove up, but where this  
22 vehicle is right here is where I was standing, by  
23 a pickup truck. And they come from -- they --  
24 actually they must have been parked over here.

25 Q. Record should reflect you are pointing to sort of

1 an open, dirt parking kind of area in the front  
2 of the office, that you previously described. Is  
3 that area generally like a parking area, where  
4 people come up --

5 A. Yes, it is.

6 Q. -- customers?

7 A. Yes.

8 Q. So customers park in at that little area there?

9 A. Yes.

10 Q. In front of the office building? Yes?

11 A. Yes.

12 Q. Okay. And these two women did the same thing,  
13 basically?

14 A. Yes.

15 Q. And did you -- You said you pointed how to get  
16 down into the pit. Can you show me what you did  
17 and where you were when you were doing that?

18 A. We were standing right in here and I just -- I  
19 just verbally told them that this road here goes  
20 up on the top here and behind the blue building  
21 here.

22 Q. The record should reflect you're pointing to the  
23 upper six inches or so of the diagram where  
24 there's some vehicles.

25 A. And then I pointed down here. I told them to

1 take the main road down the pit hill and that  
2 goes down into the pit.

3 Q. So, did you walk out to the edge of where that  
4 dirt parking lot ends and kind of --

5 A. No.

6 Q. -- suggest anything?

7 A. No, I didn't.

8 Q. You didn't give them any direction as to which  
9 area to start.

10 A. No, I'm pretty sure they said that they would  
11 just walk around and look. I'm not sure.

12 Q. The road that runs along the sort of a dirt  
13 driveway, that runs along the right side of that  
14 exhibit, do you see that? It runs the full  
15 length, from the top down towards the bottom?

16 A. Yes.

17 Q. And that's behind the office?

18 A. Yes, it is.

19 Q. That's not a public road that's open for  
20 customers, right?

21 A. No, it isn't.

22 Q. So --

23 A. The public road ends up here.

24 Q. Public road ends up at the top right corner?

25 A. Yes.

1 Q. Customers are allowed to come onto the property  
2 into the parking area in front of the office,  
3 right?

4 A. Yes.

5 Q. But the road that goes behind it, all the way  
6 down to the lower left -- lower right corner of  
7 the property, is not an area that is open to the  
8 public; is that right?

9 A. Yes, that's correct. That's Chuck's driveway.

10 Q. Okay. Yes, because Chuck's -- Could you  
11 indicate -- maybe we should, just for the  
12 record--

13 A. Chuck's house is right here, and this is his  
14 driveway here.

15 Q. I'm going to have you, if you wouldn't mind, use  
16 this red marking pen and just put some numbers on  
17 some of these buildings?

18 A. What do you mean?

19 Q. If you could just put a number one on the top --  
20 on the roof area of the new office building, as  
21 you call it.

22 A. This is number one.

23 Q. Make a bigger number right in the middle, with a  
24 circle. Okay. And Chuck's residence is where,  
25 if you could put a number two. And the area that

1           would be the stopping point, beyond which the  
2           public is not generally invited, without  
3           permission, would be where, number 3? Well, they  
4           are allowed to come down into the parking lot  
5           area?

6    A.    Yes, they are, but this is kind of like a private  
7           road here. Yeah, I would say like right from --  
8           well, even with the buildings, but we still.

9    Q.    What about in this area?

10   A.    No. No, that there is -- I would say mostly like  
11           right into here.

12   Q.    All right. Why don't you put a number four where  
13           people are -- the public is not generally allowed  
14           to go beyond, without permission. Okay. And you  
15           have marked that with number four?

16   A.    Yeah, number 4.

17   Q.    And the private road that goes behind, that goes  
18           to Chuck's residence, could you put a number -- I  
19           see you put a four up there too.

20   A.    Yes.

21   Q.    At the top of that where, beyond which it is  
22           considered private. All right. You can sit  
23           down.

24                    ATTORNEY BUTING: I have nothing further at  
25           this time.



1 THE COURT: Mr. Fallon, any further  
2 questions for this witness?

3 ATTORNEY FALLON: Pass.

4 THE COURT: All right. Mr. Avery, you are  
5 excused.

6 ATTORNEY FALLON: We have no other  
7 additional witnesses per this particular motion.

8 THE COURT: All right. Given the number of  
9 witnesses we have got on the other motions, I don't  
10 think I'm going to hear oral argument at this time.  
11 Hopefully, there will be time for that tomorrow.

12 Which motion are the parties proposing  
13 to move on to next?

14 ATTORNEY BUTING: Judge, I think Lieutenant  
15 Lenk is standing by. Could I have just one moment  
16 to see whether there is one officer that we may not  
17 need to use and he's on vacation here today, with  
18 his family waiting. If I could just take a moment  
19 to look over my notes.

20 THE COURT: Go ahead.

21 ATTORNEY BUTING: All right. Judge, we're  
22 releasing one of the officers that was subpoenaed,  
23 who was on vacation today, and we do have Lieutenant  
24 Lenk that we wanted to take telephone testimony  
25 from. I think he's available. I'm not sure exactly

1           how we connect him.

2                   THE COURT: All right. We'll take just a  
3 quick couple minute break. You can come back with  
4 me. If you have got his number, I will have my  
5 Judicial Assistant get him on the line and we will  
6 be set to go.

7                   ATTORNEY BUTING: Okay. Thank you.

8                                 (Brief recess taken.)

9                   THE COURT: Lieutenant Lenk, you are now on  
10 the public address system in the courtroom. You are  
11 being called as a witness by Attorney Buting, on  
12 behalf of the defendant. Is that correct,  
13 Mr. Buting?

14                   ATTORNEY BUTING: Yes, it is, your Honor.

15                   THE COURT: Before we begin, Mr.Lenk, I'm  
16 going to ask you to raise your right hand. Do you  
17 have it raised?

18                   THE WITNESS: Yes.

19                                 **LIEUTENANT JAMES M. LENK**, called as a  
20 witness herein, having been first duly sworn, was  
21 examined and testified as follows:

22                   THE COURT: Please state your name and  
23 spell your last name for the record, please.

24                   THE WITNESS: James M. Lenk, L-e-n-k.

25                   THE COURT: All right. Mr. Buting, you may

1 proceed. You may have to sit to make sure you are  
2 close enough to the microphone so he can hear you.

3 ATTORNEY BUTING: All right. Can you hear  
4 me, Lieutenant?

5 THE WITNESS: Yes, I can.

6 **DIRECT EXAMINATION**

7 BY ATTORNEY BUTING:

8 Q. All right. How long have you been a police  
9 officer?

10 A. Total?

11 Q. Yes.

12 A. Approximately 24 years.

13 Q. And have you been, or are you, a detective rank?

14 A. Yes, I am.

15 Q. And how long has that been?

16 A. Approximately five years.

17 Q. And your present rank is what?

18 A. Lieutenant.

19 Q. And in the hierarchy of the Manitowoc Sheriff's  
20 Department, how many officers are above you in  
21 rank?

22 A. There would be four.

23 Q. That would be the sheriff himself?

24 A. Yes.

25 Q. And what, three other -- I'm sorry. And the

1 Inspector Hermann?

2 A. Yes.

3 Q. And then two deputy inspectors?

4 A. That's correct.

5 Q. So you are the 4th highest ranking officer at the  
6 department?

7 A. Yes.

8 Q. And was that also true on November 5th, 2005?

9 A. Yes.

10 Q. Now, I assume as part of your training and  
11 experience you have learned how to go about  
12 executing search warrants, right?

13 A. Yes.

14 Q. And can you tell me approximately how many search  
15 warrants you have executed, or participated in  
16 the execution of?

17 A. That would be hard to say, probably a couple  
18 dozen. It would be hard to say.

19 Q. Only a couple of dozen search warrants in your  
20 whole career?

21 A. In the whole career? Oh, probably, I don't know,  
22 30 or 40.

23 Q. Okay.

24 A. It's hard to tell.

25 Q. And have you had any training, or on the job type

1 training, that tells you how you are supposed to  
2 go about legally executing a warrant?

3 A. Just the training through the academy and while  
4 on the job.

5 Q. So you learned about no knocks, and whether you  
6 can just break in, or whether you have to knock  
7 first and all of that?

8 A. Correct.

9 Q. Now, how did you first become involved in the  
10 Teresa Halbach matter?

11 A. I first became involved on November 4th, when we  
12 received a call to assist on doing an interview  
13 on the Avery location by the Calumet County  
14 Sheriff's Department?

15 THE COURT: Excuse me, Mr. Lenk, I'm going  
16 to interrupt you a second here because I intended,  
17 before you began your testimony, to have a personal  
18 discussion with the defendant. And I believe,  
19 Counsel, you discussed this matter with your client?

20 ATTORNEY BUTING: That's correct, Judge.

21 THE COURT: Mr. Avery, your attorney's  
22 discussed this with me yesterday, and informed me  
23 that they talked to you about this, but do you  
24 understand, that if you wished, you may well have  
25 the right to have Mr. Lenk testify at this hearing,

1 in person, instead of by telephone? Do you  
2 understand that?

3 THE DEFENDANT: Yes, I do.

4 THE COURT: If that happened, you would not  
5 only be able to hear what he had to say, but you  
6 would also be able to observe his demeanor on the  
7 witness stand; do you understand that?

8 THE DEFENDANT: Yes, I do.

9 THE COURT: Have you had adequate  
10 opportunity to discuss, with your attorneys, your  
11 right to require Mr. Lenk to appear here in person  
12 today, as opposed to by telephone?

13 THE DEFENDANT: Yes, I did.

14 THE COURT: Do you wish any more time to  
15 discuss this matter with your attorneys?

16 THE DEFENDANT: No, this is good.

17 THE COURT: Okay. And for the purposes of  
18 this hearing only, that is, not any future  
19 proceedings or certainly a trial, do you have any  
20 objection to the Court allowing Mr. Lenk to testify  
21 and be cross-examined by telephone, rather than  
22 appearing in person?

23 THE DEFENDANT: No, I don't.

24 THE COURT: Very well. That applies to the  
25 testimony he's given thus far?

1 THE DEFENDANT: Yes, it does.

2 THE COURT: The Court is satisfied that  
3 Mr. Avery is willing to cooperate with this  
4 procedure and I have already been informed by  
5 counsel that neither counsel objects; is that  
6 correct, Counsel?

7 ATTORNEY FALLON: That is correct.

8 THE COURT: It's probably been implicit in  
9 the fact that we made arrangements for this  
10 telephone conversation, but it should be placed on  
11 the record as well. And, Mr. Buting, since he's  
12 your witness, you have no objection to the witness  
13 appearing by phone?

14 ATTORNEY BUTING: That's correct, Judge.  
15 We preferred his personal appearance, but he had  
16 plans that were important enough, out of state, that  
17 we agreed to arrange this by phone.

18 THE COURT: Very well. All right. You may  
19 proceed with your examination.

20 BY ATTORNEY BUTING:

21 Q. Lieutenant, you mentioned November 4th, but I  
22 want to direct your attention to November 3rd,  
23 which is actually Thursday night; do you recall  
24 being advised at that time about the Teresa  
25 Halbach missing person Complaint?

1 A. Yes, I believed our detective unit was called and  
2 advised that there was a missing -- that they  
3 needed assistance.

4 Q. And was it Sergeant Colborn who contacted you  
5 about this, or who did you speak with first?

6 A. I don't recall who I spoke with first.

7 Q. But at some point did you place a call to Calumet  
8 yourself and speak to Investigator Wiegert?

9 A. I'm not -- I don't believe I did. I believe it  
10 may have been Detective Remiker that did that.

11 Q. And at what point did you learn that Steven  
12 Avery's name had come up in this matter?

13 A. I'm not sure if it was the 3rd or the 4th, that  
14 he had been interviewed regarding this matter.

15 Q. And you learned that -- or did you learn that  
16 Sergeant Colborn had actually gone out to his  
17 residence and spoken with him about any knowledge  
18 he had regarding Teresa Halbach?

19 A. Yes, I learned later, I think it was possibly the  
20 4th, that he had already interviewed Mr. Avery.

21 Q. And, actually, you had a meeting on November 3rd  
22 with Detective Remiker and Investigator Dederling  
23 from Calumet County, did you not?

24 A. Yes, I believe it was up in our detective unit.

25 Q. Now, from that point forward, were you the lead



1 supervising officer with regard to Manitowoc  
2 County's involvement in the request for  
3 assistance from Calumet on this missing person  
4 Complaint?

5 A. At that time I would have been the lead officer,  
6 yeah.

7 Q. Okay. And so you would be kept informed by  
8 Detective Remiker, or others, Sergeant Colborn,  
9 as to what was going on?

10 A. Yes.

11 Q. And you would assign officers to work on the  
12 matter?

13 A. Yes, I would have assigned officers to assist  
14 Calumet County.

15 Q. Now, on the following day, November 4th, were you  
16 asked to go to Steven Avery's house or trailer?

17 A. I believe I received a call from Calumet County  
18 asking if we would go out and reinterview  
19 Mr. Avery.

20 Q. And this would have been the second interview,  
21 because Sergeant Colborn had spoken to him the  
22 prior night?

23 A. Correct.

24 Q. And at whose request was that made, somebody from  
25 Calumet County, you said, right?

1 A. Yes, sir.

2 Q. Do you know who that was?

3 A. I don't recall. It may have been Detective  
4 Wiegert, but I'm not totally positive.

5 Q. And did you go to Steven Avery's property?

6 A. Yes, I went along with Detective Remiker, to his  
7 property.

8 Q. Do you remember what time?

9 A. I don't recall offhand, I believe it was in the  
10 afternoon, but I don't recall.

11 Q. Could it have been 10:30 in the morning?

12 A. Like I said, I'm not sure what time it was.

13 Q. Okay. But there was only one time on that day,  
14 November 4th, when you went over to Steven  
15 Avery's residence; is that right?

16 A. That's correct.

17 Q. And did you -- you didn't have a warrant at that  
18 point, I assume?

19 A. No, sir.

20 Q. Did you speak with Mr. Avery?

21 A. Yes, we did.

22 Q. Did you ask permission to look through his  
23 trailer?

24 A. Yes, I believe Detective Remiker asked him,  
25 towards the end of the interview, if he would let

1           us look through his trailer.

2    Q.    And did he agree with that?

3    A.    Yes, he did.

4    Q.    Was he cooperative?

5    A.    Yes, he was.

6    Q.    And did you actually enter the trailer?

7    A.    Yes, we did.

8    Q.    So both you and Detective Remiker?

9    A.    That's correct.

10   Q.    And did you walk through the whole trailer?

11   A.    Detective Remiker walked through the trailer; I

12       stood in the living room, with Mr. Avery.

13   Q.    Did you walk back to the bedroom at all?

14   A.    No, sir.

15   Q.    Did Mr. Avery try to prevent yourself, or

16       Detective Remiker, from going in any particular

17       area of the trailer?

18   A.    No, sir.

19   Q.    And did you find anything that would indicate

20       that Teresa had ever been in the trailer?

21   A.    Not at that time, no, sir.

22   Q.    And then you left the residence; did you go into

23       any other buildings at that time?

24   A.    No, sir, we left and thanked him for his

25       cooperation.

1 Q. Didn't go to -- into the garage?

2 A. I don't believe so. I think we just went into  
3 the trailer.

4 Q. And did you have any other investigation, or  
5 involvement with the investigation, on that  
6 Friday?

7 A. No, sir.

8 Q. Did you ever have any phone conversations with  
9 any volunteer citizens who wanted to help search  
10 for Teresa or her vehicle?

11 A. No, sir.

12 Q. On any day?

13 A. No, sir.

14 Q. Are you aware whether or not anyone in your  
15 department had conversations with any volunteer  
16 citizens who wished to help search for Teresa, or  
17 her vehicle?

18 A. I'm not aware of any, no.

19 Q. Now, turning your attention to November 5th,  
20 Saturday, were you on duty on that day?

21 A. No, sir.

22 Q. Did you receive a call from somebody that told  
23 you that they believed that Teresa's vehicle had  
24 been located on the Avery property somewhere?

25 A. Yeah, I received a call from Detective Remiker,

1           who was on duty, and he gave me that information.

2   Q.   And where were you at the time of the call?

3   A.   I was actually looking at an RV in Menasha.

4   Q.   Okay.  And did you then place yourself on duty  
5           and come in?

6   A.   I informed him that I would be coming back and  
7           that I would be coming out to that location.

8   Q.   And did you, in fact, arrive at the Avery  
9           property?

10  A.   Yes.

11  Q.   Do you know what time?

12  A.   I'm not sure of the exact time, somewhere 6:30 or  
13           7 that evening.  I'm not positive.

14  Q.   Do you know whether a search warrant had been  
15           issued already?

16  A.   I don't know.  I don't think so, at that time,  
17           but I'm not positive.

18  Q.   Did you see the RAV 4 Toyota vehicle on the  
19           property?

20  A.   No, I didn't.

21  Q.   Did you go down to the area where it had been  
22           located?

23  A.   I went down there with another officer.  He  
24           showed me the location where it was, but I didn't  
25           get -- I didn't really see it.  I mean, from what

1 I seen, it was getting dark and it was hidden,  
2 but I didn't get a good look at it.

3 Q. Did it look like there was a tarp on it, at that  
4 time, or not?

5 A. I don't recall. I don't believe so, but I don't  
6 really recall.

7 Q. In any event, you didn't walk up to it?

8 A. No, sir.

9 Q. At what time were you advised that your  
10 department had turned over the investigative  
11 authority to Calumet County?

12 A. Shortly after I arrived, I received that  
13 information.

14 Q. You never got a call about that earlier?

15 A. No.

16 Q. And you didn't have any role in the search  
17 warrant that was obtained?

18 A. No, sir.

19 Q. All right. Now, on the evening of November 5th,  
20 did you participate in a search of Steven Avery's  
21 trailer?

22 A. Yes, I did.

23 Q. And this was about 7:30, I believe.

24 A. Approximately, yes.

25 Q. Were you also with Sergeant Colborn?

1 A. Yes, I was.

2 Q. And was there anyone else with you when you  
3 entered the trailer?

4 A. Detective Remiker and Sergeant Tyson from Calumet  
5 County.

6 Q. So four officers went into his residence to  
7 execute the search warrant?

8 A. Yes.

9 Q. And three of whom were from Manitowoc Sheriff's  
10 Department; is that right?

11 A. Correct.

12 Q. And do you know how long you were searching his  
13 trailer?

14 A. I think it was approximately 2 hours or so, 2 1/2  
15 hours.

16 Q. All right. Now, can you describe for me how many  
17 rooms there are in the trailer?

18 A. As you walk in, there's a living room area. If  
19 you turn to your left and go down the hall, there  
20 is a bedroom on the right. If you go down a  
21 little farther, it is the bathroom area. After  
22 the bathroom area, is the final bedroom,  
23 Mr. Avery's bedroom. If you come in the front  
24 door and go to the right, there is a small like  
25 kitchenette and the kitchen area.

1 Q. So, it's a relatively small residence; would that  
2 be fair to say?

3 A. Yes.

4 Q. And the four of you were in there for about 2 1/2  
5 hours, right?

6 A. Approximately, yes.

7 Q. And you seized a number of items during that  
8 search?

9 A. Yes.

10 Q. Including bedding, and photographs, and  
11 handcuffs; do you recall that?

12 A. I believe so, yes, sir.

13 Q. Okay. And then all four of you left the trailer  
14 at, what would it have been, about 10 o'clock?

15 A. I would -- Yeah, around at 10 o'clock I think it  
16 was.

17 Q. And then what area of the trailer were you  
18 searching in, personally?

19 A. I searched the part of the master bedroom which  
20 would have been Mr. Avery's bedroom, consisting  
21 of a dresser and a walk in closet. I believe I  
22 even looked under the bed, and things like that.  
23 That was the extent of my searching that room.

24 Q. Did -- Did all four officers go together in a  
25 room and search all together, or were you spread



1 out, some in one area, some in the other?

2 A. It's my recollection that we tried to stay at  
3 least two people in a location. There may have  
4 been a time when an officer may have split off  
5 from another officer for a few minutes. But  
6 generally speaking, we pretty much stayed  
7 together.

8 Q. And so was it you and Sergeant Colborn that were  
9 generally together during the search?

10 ATTORNEY FALLON: Objection, relevance to  
11 this particular point.

12 THE COURT: Mr. Buting.

13 ATTORNEY BUTING: It's really just  
14 foundational, the subsequent witnesses will testify.

15 THE COURT: The issue here is just the  
16 multiple execution of the search warrant, right?

17 ATTORNEY BUTING: Right.

18 THE COURT: How is what the -- was found at  
19 any particular time going to be relevant or  
20 significant for this motion?

21 ATTORNEY BUTING: It goes to when the  
22 search was executed, when the warrant was completed,  
23 or the search was completed. And I think that's  
24 going to be, ultimately, a legal question. But we  
25 need to lay a little bit of a factual foundation.

1 THE COURT: All right. I'll allow it.

2 Q. (By Attorney Buting)~ So, when you were --  
3 Lieutenant Lenk, when you were searching and  
4 paired off into two, were you generally with  
5 Sergeant Colborn, or with somebody else?

6 A. We were with different people, at different  
7 times. In Mr. Avery's bedroom, I was primarily  
8 with Detective Remiker, and searching with him,  
9 because of the volume of stuff that we were  
10 looking at. Other times, in other rooms, it all  
11 depended on who was available to assist.

12 Q. All right. But, in general, you searched --  
13 during that 2 1/2 hours you were able to search,  
14 the four of you, Mr. Avery's bedroom, the other  
15 bedroom, the living room, bathroom, and kitchen  
16 area; is that right?

17 A. Correct.

18 Q. And so when you left that evening, you had seized  
19 everything you could find that was of any  
20 evidentiary value, right?

21 A. Yes, at that time.

22 ATTORNEY FALLON: Objection, leading the  
23 witness, also conclusory.

24 Q. (By Attorney Buting)~ Well, had you -- did you in  
25 fact --

1 THE COURT: Just a minute. On the form of  
2 the question, I will sustain the objection.

3 Q. (By Attorney Buting)~ When you left that evening,  
4 did you believe you had seized everything of  
5 evidentiary value?

6 A. At that time, yes.

7 Q. Okay. Now, the next morning you returned to the  
8 Avery salvage property, did you not?

9 A. Yes.

10 Q. Do you recall about what time?

11 A. I think it was around 8 o'clock in the morning.

12 Q. And let me ask you, how were you assigned -- I'm  
13 going to go back a minute to the November 5th  
14 evening search. How was it that you were  
15 assigned to participate in that search, or did  
16 you just -- or were you doing the assigning?

17 A. I was not assigning, at any time. I was -- We  
18 were asked by Calumet County, after they decided  
19 to take the case, if we would assist them,  
20 because they had very short manpower, and we  
21 volunteered to assist them.

22 Q. So you volunteered to be one of the officers who  
23 searched Steven Avery's residence?

24 A. Yes, sir.

25 Q. And as far as you know, was that also true of

1 Sergeant Colborn?

2 A. Yes, and Detective Remiker.

3 Q. Okay. And so when you returned on the 6th --  
4 Going back to the 5th for a second, you had not  
5 yet had time, by 10 o'clock at night, to do a  
6 thorough search of the garage, the detached  
7 garage that was next to Mr. Avery's trailer; is  
8 that right?

9 A. Correct.

10 Q. So, did you do that the next morning when you  
11 arrived?

12 A. I believe we searched the garage.

13 Q. And were you --

14 A. I don't know if it was. I believe it was the  
15 next morning, yes.

16 Q. And were you also paired with Sergeant Colborn,  
17 Detective Remiker, again?

18 A. Yes, and Deputy Kucharski from Calumet County.

19 Q. Okay. And can you give me an estimate of the  
20 size of that garage, how many, you know, like  
21 20 feet by 15 or something, or what?

22 A. Boy, it was a two car garage, whatever a standard  
23 two car garage would be, about that size.

24 Q. And do you know about how long you were searching  
25 the garage that morning?

1 A. I don't recall how long it was, hour, two. I'm  
2 not sure.

3 Q. If I told you that you entered at 8:00 a.m. and  
4 left at 9:47 a.m. would that fit with your  
5 recollection?

6 A. That would be about right.

7 Q. So were all four officers in the garage during  
8 that entire time?

9 A. Yes.

10 Q. And you searched very thoroughly?

11 A. Yes, we tried to.

12 Q. And you seized anything that you thought was of  
13 evidentiary value in that garage?

14 A. At that time, yes.

15 Q. And when you all left, at 9:47 a.m., it was your  
16 understanding or belief, that you had seized  
17 anything that had evidentiary value, from that  
18 garage; is that correct? Or is that correct?

19 A. That's correct.

20 Q. Now, after you finished the search of the garage,  
21 you didn't go back into Mr. Avery's residence  
22 immediately, did you? The trailer?

23 A. No, I don't believe so, that was awhile after  
24 that.

25 Q. Okay. A couple hours later, were you asked to go

1 back into Mr. Avery's trailer?

2 A. Yeah, our team leader at the time, Deputy  
3 Kucharski, received information that we should go  
4 back into the trailer of the unit.

5 Q. And was it for a specific purpose?

6 A. We were told to go back and collect weapons, a  
7 vacuum cleaner, and bedding from the spare  
8 bedroom, in the trailer.

9 Q. So, three specific types of items you were asked  
10 to go back and retrieve, right?

11 A. Yes.

12 Q. Do you know who gave that order?

13 A. I don't know.

14 Q. So, once again you entered Mr. Avery's trailer,  
15 along with Sergeant Colborn?

16 A. Yes. Deputy Remiker, I believe, was there also,  
17 and Deputy Kucharski.

18 Q. And if I said that you entered at 12:25 p.m. and  
19 left at 12:48 p.m.; would that fit with your  
20 recollection?

21 A. Yes, that would be about right.

22 Q. And you did, in fact, seize a number of firearms  
23 or rifles, I believe, from the residence?

24 A. Yes.

25 Q. In fact, from Mr. Avery's bedroom, correct?

1 A. Correct.

2 Q. And did you actually go into the bedroom  
3 yourself?

4 A. I don't know who was -- actually took the  
5 firearms. I believe it was Deputy Kucharski who  
6 actually took the firearms. It wouldn't surprise  
7 me if I was actually back in the bedroom with  
8 him.

9 Q. So that was at least the second time when you had  
10 been in his bedroom?

11 A. Right.

12 Q. And did you do any more searches of Mr. Steven  
13 Avery's trailer or garage, on that day,  
14 November 6th?

15 A. Not that I recall, no.

16 Q. The next day, November 7th, which would be a  
17 Monday, did you again have an opportunity to go  
18 into Mr. Steven Avery's trailer?

19 A. Yes, we did.

20 Q. Was that, once again, with Sergeant Colborn?

21 A. Yes, this time we were also with Sergeant Tyson,  
22 from Calumet County.

23 Q. And did you go in there because you were  
24 instructed to do something in particular?

25 A. Sergeant Tyson had received information, from his

1           superiors, to go in there and get the serial  
2           numbers and things off the computer.

3       Q.    So there was, again, one specific reason to --  
4           that you were told to go back in, and that was to  
5           retrieve the actual serial number of the computer  
6           in the trailer; is that right?

7       A.    Correct.

8       Q.    And if I told you that you entered at 9:57 a.m.  
9           and exited at 10:04 a.m., would that fit with  
10          your recollection?

11      A.    That would be right.

12      Q.    Did you -- Do you have any recollection of going  
13           into Mr. Steven Avery's trailer or garage, again,  
14           later on that date?

15      A.    No, sir, I don't recall that.

16      Q.    The next day, November 8th, this would be a  
17           Tuesday, do you recall, again, going into Steven  
18           Avery's trailer with Sergeant Colborn?

19      A.    Yes, we went in with Deputy Kucharski, who was in  
20           charge.

21      Q.    And Sergeant Colborn and yourself?

22      A.    Correct.

23      Q.    And this was now the 5th time that you had been  
24           inside Mr. Avery's trailer, the 4th time since a  
25           search warrant was obtained; is that right?



1 A. Correct.

2 Q. And do you remember when you -- the time when you  
3 entered and exited?

4 A. On the 8th?

5 Q. Correct.

6 A. I believe it was somewhere around 8:30 in the  
7 morning. We left around 12:15.

8 Q. So, if I said 8:25 entered, and exited at 12:18,  
9 would that fit?

10 A. That would be about right, yes.

11 Q. Okay. And it was actually -- And you were once  
12 again searching in Mr. Avery's bedroom, on this  
13 occasion?

14 A. Correct.

15 Q. So this was at least the third time that you had  
16 been inside Mr. Avery's bedroom?

17 A. I believe so.

18 Q. And to your knowledge, the fourth time that  
19 officers had been in his bedroom, including  
20 Detective Remiker, on the November 4th consensual  
21 search, right?

22 A. Correct.

23 Q. And it was only at the very end of this search  
24 that you found something, in his bedroom, of  
25 interest?

1 A. Actually, we were searching -- Primarily, we were  
2 sent there to pick up any pornography materials,  
3 to retrieve the computer and related items, and I  
4 believe there was some swabs that needed to be  
5 taken of some blood spots that were found in the  
6 bathroom, by the State Crime Lab.

7 Q. And did you also find a key?

8 A. Yes, I observed a key.

9 Q. And I'm not going to go into the details of that,  
10 you testified at the preliminary hearing -- or,  
11 no, actually you didn't, but is that the -- the  
12 key was found by you, initially, correct?

13 A. I saw the key first, yes.

14 Q. And it was sitting in plain view on the floor  
15 next to a cabinet; is that right?

16 A. Yes, next to the back corner of the cabinet.

17 Q. Now, also on that same day, after completing the  
18 search of the -- Steven Avery's trailer, did you  
19 also go back into his garage?

20 A. Yes, we did.

21 Q. And that was, once again, you and Sergeant  
22 Colborn, correct?

23 A. And Deputy Kucharski.

24 Q. Okay. And if I said that you entered at 12:19  
25 p.m. and exited at 12:45 p.m.; would that fit

1 with your recollection?

2 A. Yes, sir.

3 (Court reporter couldn't hear.)

4 Q. And your answer to that was?

5 A. Yes, we exited about 12:45.

6 Q. Okay. So, that was your second search of the  
7 garage, correct?

8 A. That is correct.

9 Q. Now, on the next day, November 9th, in the  
10 morning, which would now be Wednesday, did you  
11 once again go into Mr. Avery's residence, the  
12 trailer, with Sergeant Colborn?

13 A. I don't recall the 9th, no.

14 Q. Do you have the Manitowoc report with you?

15 A. Yes.

16 Q. Do you -- Do you recall going into the Steven  
17 Avery garage or trailer at all on November 9th?

18 A. Not that I recall.

19 Q. If there were Calumet County officer's reports  
20 that indicated that you, and Sergeant Colborn,  
21 and Calumet County Deputy Wendling went into the  
22 garage on November 9th, looking for a garage door  
23 opener and things; would that fit with your  
24 recollection?

25 A. Yes, if it's in their report, then it probably

1           occurred.

2       Q.    And if I said that you entered at 10:39 a.m. on  
3           November 9th, this is in the trailer we're  
4           talking about, and left at 10:59 a.m., there for  
5           about 20 minutes looking for a garage door  
6           opener, and gloves, things like that; would that  
7           fit with your recollection?

8       A.    Yes.  If that's in the report, yes.

9                    ATTORNEY FALLON:  If Counsel is willing to  
10           stipulate, to facilitate that, my review of the  
11           records likewise indicate an entry, 10:39 to 10:59,  
12           which was interrupted by the arrival of a locksmith.  
13           They left the residence to attend to the need of the  
14           locksmith and then resumed between 11:40 and 11:50  
15           to complete.  I would be willing to stipulate to  
16           those facts, to facilitate the continued  
17           questioning.

18                   ATTORNEY BUTING:  That's fine.

19                    THE COURT:  All right.  The Court will  
20           accept that stipulation.

21       Q.    (By Attorney Buting)~ So then on November 9th,  
22           then, that was your 5th and 6th entry of  
23           Mr. Avery's trailer, after the warrant had been  
24           obtained; is that correct?

25       A.    Yes, it would be.

1 THE COURT: Was this the garage or the  
2 trailer?

3 ATTORNEY BUTING: This is the trailer.

4 THE COURT: Okay.

5 Q. (By Attorney Buting)~ So a total of six different  
6 times that you entered and left Mr. Avery's  
7 trailer, on the authority of that first search  
8 warrant, correct?

9 A. Yes. Assisting Calumet County, yes.

10 Q. Okay. And, finally, there was a third search of  
11 the garage also on that day, in which you entered  
12 with Sergeant Colborn at 11:51 a.m., left the  
13 garage at 12:10 p.m.?

14 A. This is on the 9th?

15 Q. On the 9th, yes.

16 A. If that's in the report, yes, that's what  
17 happened.

18 ATTORNEY BUTING: Do you have that,  
19 Counsel, can we stipulate to that?

20 ATTORNEY FALLON: I have them in the  
21 garage -- I have them in the garage 11:51 to 12:10,  
22 so that's fine.

23 ATTORNEY BUTING: Okay.

24 Q. (By Attorney Buting)~ So that would be your third  
25 search of the garage, Mr. Avery's garage,

1 correct?

2 A. Correct.

3 Q. Now, going back for just one minute, to  
4 November 5th, at around 6:30 p.m., were you, in  
5 fact, giving orders or directions, to officers,  
6 as to which buildings to search?

7 A. I don't know. I don't believe it was an order,  
8 it was more of a suggestion. We were looking at  
9 different buildings. I think it was a suggestion  
10 to go to a building.

11 Q. And so, do you recollect telling an investigator  
12 named Gary Steier, and Sergeant Bill Tyson, from  
13 the Calumet County Sheriff's Office, to check  
14 specific trailers and out buildings in the Avery  
15 Salvage Yard?

16 A. As I said, it was more of a suggestion that they  
17 check a couple buildings on that date.

18 Q. And you were aware at that time that the  
19 investigation had already been turned over to  
20 Calumet county?

21 A. Yes, sir.

22 Q. All right. So just to summarize and make sure  
23 the record is clear, then, between November 4th,  
24 when you went in on the consent search, to  
25 Mr. Avery's trailer, and about midday on November

1           9th, you were actually in Steven Avery's trailer  
2           seven different times?

3       A.    That sounds about right.

4       Q.    And six of those were on the execution of the one  
5           warrant?

6       A.    I'm not sure of how many warrants. Like I said,  
7           I didn't get the warrants.

8       Q.    Okay. And during that same time period, you were  
9           also in Mr. Avery's garage three times?

10      A.    Yes.

11      Q.    On the warrant?

12      A.    On some warrant, yes.

13                   ATTORNEY BUTING: All right. I have no  
14           further questions at this time.

15                   THE COURT: Very well. Mr. Fallon.

16                   THE DEFENDANT: Thank you, Judge.

17                                   **CROSS-EXAMINATION**

18   BY THE DEFENDANT:

19   Q.    Lieutenant Lenk, this is Mr. Fallon. As I  
20           understand it, there was a transfer of authority,  
21           to conduct this investigation, from the Manitowoc  
22           Sheriff's to the Calumet County Sheriff's  
23           Department, on the morning of November 5th,  
24           correct?

25   A.    I'm not sure when it would have been. Yes, it

1           would have been on the 5th.

2       Q.    All right.  And when did you arrive at the  
3           property, the morning or the afternoon?

4       A.    Late afternoon.

5       Q.    Late afternoon.

6       A.    Yes.

7       Q.    By the time you arrived in the late afternoon,  
8           you were made aware of the fact that the Calumet  
9           County Sheriff's Department was in charge of the  
10          investigation, correct?

11      A.    Correct.

12      Q.    But you were also aware of the fact that they  
13          were being assisted -- or by the Wisconsin  
14          Department of Justice, Division of Criminal  
15          Investigation?

16      A.    Correct.

17      Q.    And you were aware, as a matter of fact, that it  
18          was Special Agent Tom Fassbender and Investigator  
19          Mark Wiegert who were actually in charge, as it  
20          were, of the investigation, by the time you  
21          arrived late afternoon, November 5th?

22      A.    Yes, sir.

23      Q.    All right.  So, in terms of conducting these  
24          searches, you were doing these searches under the  
25          direction and/or supervision of Investigator



1           Wiegert and Special Agent Fassbender?

2       A.    Correct.

3       Q.    And in terms of authority, while you may be a  
4           lieutenant with the Manitowoc Sheriff's  
5           Department, you only had authority with respect  
6           to members of your own staff, that is, the  
7           Manitowoc Sheriff's officers, and did not have  
8           any independent authority over the Calumet  
9           deputies or sergeants, correct?

10      A.    Correct.

11      Q.    As a matter of fact, on each of the occasions you  
12           entered the residence of Mr. Avery, or his  
13           garage, you were accompanied by a member of the  
14           Calumet County Sheriff's Office?

15      A.    That is correct.

16      Q.    All right.  And in terms of, you used the phrase,  
17           you volunteered to assist, just so that we're  
18           clear on that, in terms of your willingness to  
19           help out as a member of the Manitowoc Sheriff's  
20           Department, in terms of what you were assigned,  
21           and where you were to do it, and how you were to  
22           go about it, was determined by either the  
23           Department of Justice, or the Calumet County  
24           Sheriff's Office?

25      A.    That's correct.

1 Q. As a matter of fact, there were a number of  
2 search teams that were put together, involved in  
3 searching various locations on the Avery  
4 property, correct?

5 A. That's correct.

6 Q. And the property itself, and the subject of the  
7 warrant, was about a 40 acre parcel of land?

8 A. I believe so, yes.

9 Q. Okay. Now, in response to a number of questions  
10 by counsel, regarding what your thought process  
11 was at the time you completed each of the  
12 searches of Mr. Avery's residence or garage, you  
13 indicated, Well, at that time, we thought we had  
14 gotten all of the information and evidence that  
15 we needed to get. What did you mean by that?

16 A. Well, what I meant was, at that particular time,  
17 with the information that we had about the case,  
18 we thought we had gotten what we needed to get.

19 Q. All right. And as a result of which, as far as  
20 you know, was there additional information coming  
21 in that then caused Wiegert and Fassbender to  
22 direct reentry, to continue searching these  
23 various locations?

24 A. Yes.

25 Q. Would it be fair to say, that when you and

1 members of Manitowoc Sheriff's Office were  
2 engaged in the searches of the residence and the  
3 garage of Mr. Avery, the person actually in  
4 charge of those searches was the Calumet County  
5 officer, whether it was a deputy, or sergeant, or  
6 lieutenant, or whatever?

7 A. That's correct.

8 Q. And they were the ones who actually collected the  
9 evidence, correct?

10 A. That's correct.

11 Q. Thank you.

12 ATTORNEY FALLON: That's all. Thank you.

13 THE COURT: Anything else, Mr Buting?

14 ATTORNEY BUTING: Just a couple.

15 **REDIRECT EXAMINATION**

16 BY ATTORNEY BUTING:

17 Q. You mentioned there were various search teams  
18 involved. How many officers do you think were  
19 involved in the search of the Avery compound, 40  
20 acre compound, on November 5th and 6th?

21 A. I would have no idea.

22 Q. Would you believe more than 50?

23 A. I wouldn't hazard a guess. I have no idea.

24 Q. Okay. But you do know that there were other  
25 search teams searching lots of other areas and

1 buildings on the property, right?

2 A. Yes.

3 Q. And that these search teams included

4 non-Manitowoc people, correct?

5 A. I believe so, I'm not sure.

6 Q. All right. You knew there were state troopers

7 out there?

8 A. On that particular day, I'm not sure who was all

9 there. We were pretty much focused on what we

10 were doing.

11 Q. All right. But during that time period when you

12 entered Mr. Avery's house six times -- or trailer

13 six times, there were DCI agents also on the

14 property who could have done the search, correct?

15 A. I believe so.

16 Q. And there were many, many non-Manitowoc County

17 officers who could have conducted the searches of

18 Mr. Avery's trailer, correct?

19 A. If they had been assigned that, yes.

20 Q. And as a matter of fact, there was a later, a

21 second warrant obtained, late on the day of

22 November 9th, that included Mr. Avery's

23 residence; isn't that right?

24 A. I wouldn't know. Like I said, I had nothing to

25 do with the warrants.

1 Q. In fact, though, after November 9th, you never  
2 entered Mr. Avery's trailer again, correct?

3 A. I don't believe so, no.

4 Q. Other officers were assigned to do that?

5 A. Yes.

6 Q. Officers from the DCI and Calumet County?

7 A. I'm not sure which officers and which  
8 departments, but there were other officers, yes.

9 Q. They were not Manitowoc County officers?

10 A. Not to my knowledge, no.

11 ATTORNEY BUTING: I have no further  
12 questions.

13 ATTORNEY FALLON: No redirect.

14 THE COURT: Very well. Mr. Lenk, you are  
15 excused.

16 THE WITNESS: Thank you.

17 ATTORNEY BUTING: Thank you, sir.

18 THE COURT: And we'll take our afternoon  
19 break at this time.

20 (Recess taken.)

21 (Partial transcript concluded.)

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25

1 STATE OF WISCONSIN )  
 )ss  
2 COUNTY OF MANITOWOC )

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I, Diane Tesheneck, Official Court Reporter for Circuit Court Branch 1 and the State of Wisconsin, do hereby certify that I reported the foregoing matter and that the foregoing transcript has been carefully prepared by me with my computerized stenographic notes as taken by me in machine shorthand, and by computer-assisted transcription thereafter transcribed, and that it is a true and correct transcript of the proceedings had in said matter to the best of my knowledge and ability.

Dated this 31st day of August, 2006.

\_\_\_\_\_  
Diane Tesheneck, RPR  
Official Court Reporter

		<b>7</b>
'95 [1] 179/8	175 [1] 2/20	70 [1] 103/1
'99 [2] 15/13 34/5	18 [17] 2/5 3/2 109/15 109/16	7:30 [1] 198/23
-	109/19 110/8 110/15 110/18	7th [2] 86/24 207/16
-	110/21 112/6 116/7 135/4 143/21	<b>8</b>
-d-o-r-n [2] 63/6 63/7	153/14 163/2 177/21 178/1	80 [2] 103/1 103/4
<b>0</b>	187 [1] 2/23	8:00 a.m [4] 46/16 46/21 125/21
05 [4] 1/5 4/3 109/12 141/4	19 [12] 3/3 110/1 110/4 110/5	205/3
<b>1</b>	111/19 111/22 112/11 116/7	8:25 [1] 209/8
1/2 [4] 175/5 199/14 200/4 202/13	116/18 117/21 118/11 121/13	8:30 [1] 209/6
10 [10] 16/21 17/18 30/3 31/8	1995 [1] 179/2	8th [2] 208/16 209/4
55/17 108/16 108/17 200/14	1999 [2] 15/10 167/2	
200/15 204/5	1999-2000 [1] 31/4	<b>9</b>
100 yards [1] 15/19	1:30 p.m [1] 126/13	90 [3] 2/16 103/1 103/4
109 [1] 3/2	<b>2</b>	911 [1] 84/1
10:00 a.m [1] 46/21	20 [7] 3/4 102/22 129/25 130/1	9:03 [1] 125/22
10:04 [1] 208/9	159/3 160/20 212/5	9:47 [1] 205/15
10:07 [1] 128/11	20 feet [1] 204/21	9:47 a.m [1] 205/4
10:30 [4] 37/14 37/15 137/4	200 yards [1] 139/1	9:57 a.m [1] 208/8
194/11	2000 [3] 15/10 15/13 31/4	9th [12] 93/4 211/9 211/13 211/17
10:39 [1] 212/11	2003 [1] 176/7	211/22 212/3 212/21 213/14
10:39 a.m [1] 212/2	2005 [3] 12/10 62/2 188/8	213/15 215/1 220/22 221/1
10:59 [1] 212/11	2006 [2] 1/9 222/15	<b>A</b>
10:59 a.m [1] 212/4	215 [1] 2/24	A-v-e-r-y [1] 162/13
11 [2] 144/22 174/25	219 [1] 2/25	a.m [20] 46/16 46/21 46/21 125/21
11/05/05 [1] 141/4	22 [2] 50/5 51/19	125/23 128/11 137/4 143/25
110 [1] 3/3	24 [1] 187/12	144/18 144/22 158/5 158/16 205/3
1100 [2] 141/4 142/16	<b>3</b>	205/4 205/15 208/8 208/9 212/2
1106 [1] 142/16	30 [5] 2/6 84/10 121/17 121/24	212/4 213/12
1110 [2] 143/2 144/13	188/22	abbreviation [1] 51/2
1117 [2] 145/4 145/5	31st [4] 31/16 76/4 126/13 222/15	abducted [1] 97/7
1145 [1] 145/12	32 [1] 2/7	ability [1] 222/14
116 [5] 2/17 3/2 3/2 3/3 3/3	33 [1] 2/9	able [16] 32/20 53/14 56/24 132/4
11:00 [1] 134/10	37 [1] 167/16	139/16 140/3 140/21 141/7 142/7
11:00 a.m [1] 144/18	381 [2] 1/5 4/3	142/11 154/23 155/3 155/6 190/5
11:10 [2] 158/5 158/16	3rd [12] 35/10 36/15 62/22 71/15	190/6 202/13
11:10 a.m [1] 143/25	91/9 91/25 92/13 93/1 93/16	about [162] 9/8 19/15 22/8 22/11
11:15 [1] 144/22	191/22 192/13 192/21	23/8 23/18 27/25 28/18 30/10
11:30 [1] 175/1	<b>4</b>	32/25 34/3 34/19 35/11 36/16
11:40 [1] 212/14	4-inches [1] 138/1	42/17 44/3 44/8 45/8 45/17 45/18
11:50 [1] 212/14	40 [5] 102/22 167/16 188/22 218/7	46/22 46/24 47/1 47/15 48/5 50/4
11:51 [1] 213/21	219/19	50/23 53/16 53/17 54/18 57/15
11:51 a.m [1] 213/12	45 [4] 169/12 174/12 177/7 180/11	57/18 60/6 60/11 60/15 63/1
12/6 [1] 109/11	4th [24] 7/6 7/10 31/19 34/9 37/13	64/20 67/4 68/9 68/10 69/14
125 [1] 2/10	42/12 46/7 64/2 93/18 99/2	70/15 70/18 72/7 73/7 73/8 73/11
129 [1] 3/4	100/20 134/14 148/16 148/20	74/6 74/18 75/18 76/2 76/3 77/5
12932 [1] 37/23	188/5 189/11 191/21 192/13	79/10 80/13 81/11 81/18 85/4
12:10 [1] 213/21	192/20 193/15 194/14 208/24	92/21 93/4 93/13 98/20 99/18
12:10 p.m [1] 213/13	209/20 214/23	100/20 101/11 105/5 105/11
12:15 [1] 209/7	<b>5</b>	108/24 109/1 109/6 111/8 111/9
12:18 [1] 209/8	5 inches [1] 111/8	112/18 117/23 118/3 119/9 119/18
12:19 [1] 210/24	50 [6] 65/14 73/13 102/19 121/17	120/2 120/21 122/25 126/21 127/5
12:25 p.m [1] 206/18	121/24 219/22	127/9 127/23 128/1 128/11 128/18
12:45 [2] 210/25 211/5	50 percent [1] 30/23	131/4 131/12 131/17 132/9 132/9
12:48 p.m [1] 206/19	5th [31] 6/8 8/24 10/24 12/10	133/20 134/2 134/8 134/12 134/13
13 [1] 34/3	18/25 32/7 34/9 42/13 46/12 48/3	134/15 135/24 137/12 137/23
147 [6] 114/23 114/24 115/1	69/21 85/16 85/18 125/13 134/17	138/1 138/2 138/24 141/3 143/25
121/22 135/9 153/17	148/22 149/24 168/2 177/6 188/8	144/18 144/22 144/22 145/4
148 [1] 2/11	196/19 198/19 203/13 204/4	149/11 156/3 157/14 157/25
15 [11] 12/4 12/19 13/1 13/3 17/7	208/23 212/22 214/4 215/23 216/1	158/22 159/5 159/8 161/1 164/21
20/11 20/13 20/17 90/10 154/23	216/21 219/20	166/16 167/17 168/10 169/8
204/21	<b>6</b>	169/12 170/21 170/23 171/12
150 [1] 121/22	60 [2] 65/14 102/19	172/24 174/12 175/5 176/4 176/5
159 [1] 3/4	61 [1] 2/15	177/1 177/7 178/3 180/11 184/9
160 [1] 3/4	6:30 [1] 197/12	188/11 189/2 189/5 189/23 191/24
161 [1] 2/12	6:30 p.m [1] 214/4	192/5 192/17 198/14 198/23 200/4
162 [1] 2/19	6th [5] 86/24 204/3 207/14 212/22	200/14 203/10 204/23 204/24
17 [10] 16/21 17/18 29/2 29/19	219/20	205/6 206/21 209/10 211/5 212/4
30/1 30/3 141/16 142/11 154/24		212/5 214/25 215/3 217/22 218/7
155/8		218/17

<b>A</b>		
<p><b>above</b> [5] 86/10 114/10 114/15 135/11 187/20</p> <p><b>absolutely</b> [6] 15/24 18/12 31/11 32/1 52/19 84/8</p> <p><b>academy</b> [1] 189/3</p> <p><b>accept</b> [1] 212/20</p> <p><b>acceptable</b> [2] 124/16 124/19</p> <p><b>access</b> [2] 65/9 83/19</p> <p><b>accessible</b> [1] 106/4</p> <p><b>accident</b> [1] 6/22</p> <p><b>accompanied</b> [1] 217/13</p> <p><b>accurate</b> [10] 30/12 50/18 52/15 54/3 54/4 54/10 103/3 138/23 141/10 147/13</p> <p><b>acknowledge</b> [1] 58/12</p> <p><b>acknowledged</b> [2] 31/18 32/14</p> <p><b>acre</b> [2] 218/7 219/20</p> <p><b>acres</b> [1] 167/16</p> <p><b>acronym</b> [1] 90/23</p> <p><b>across</b> [4] 88/4 97/9 138/20 156/14</p> <p><b>activities</b> [2] 76/4 164/3</p> <p><b>actual</b> [6] 20/13 37/22 57/15 75/1 133/8 208/5</p> <p><b>actually</b> [57] 10/10 11/24 14/3 24/3 26/16 29/1 39/13 43/16 44/15 55/13 65/17 66/2 71/16 78/6 80/18 85/10 87/17 91/12 93/17 100/12 101/9 101/10 116/23 119/15 127/22 130/11 134/11 135/11 135/15 140/21 144/4 144/8 145/17 153/5 156/10 157/4 167/7 167/16 168/20 178/2 180/24 191/23 192/16 192/21 195/6 197/3 207/2 207/4 207/6 207/7 209/11 210/1 210/11 215/1 216/19 219/3 219/8</p> <p><b>additional</b> [5] 37/1 58/22 130/20 185/7 218/20</p> <p><b>address</b> [7] 36/9 36/10 37/22 37/22 38/10 38/12 186/10</p> <p><b>adequate</b> [1] 190/9</p> <p><b>adjacent</b> [1] 122/14</p> <p><b>admission</b> [1] 159/16</p> <p><b>admit</b> [1] 159/18</p> <p><b>admitted</b> [1] 116/9</p> <p><b>advantage</b> [1] 101/23</p> <p><b>advice</b> [5] 96/19 96/22 97/13 105/10 120/1</p> <p><b>advise</b> [3] 16/25 98/14 99/9</p> <p><b>advised</b> [6] 8/11 66/4 127/10 191/24 192/2 198/9</p> <p><b>advises</b> [1] 5/21</p> <p><b>advising</b> [1] 131/19</p> <p><b>aerial</b> [7] 86/6 86/8 109/19 110/3 111/24 111/24 116/22</p> <p><b>affect</b> [1] 18/14</p> <p><b>affiant</b> [2] 12/9 29/6</p> <p><b>affidavit</b> [21] 12/17 13/9 13/12 16/7 18/11 19/21 20/11 22/4 22/10 22/13 22/16 22/23 23/20 24/20 24/21 25/21 26/3 29/24 34/23 35/3 147/22</p> <p><b>after</b> [49] 11/13 23/10 27/1 29/17 33/4 39/2 49/12 49/17 50/20 50/23 54/11 60/18 62/21 65/2 67/12 68/2 71/20 79/21 89/4 89/16 104/18 106/9 106/15 126/16 126/19 132/8 132/16 133/3 133/6 134/3 142/25 158/5 158/16 169/3 169/12 169/13 171/2 172/12 174/4</p>	<p>174/19 176/1 198/12 199/21 203/18 205/20 205/23 210/17 212/23 221/1</p> <p><b>afternoon</b> [13] 65/13 74/7 91/20 91/21 130/8 174/4 194/10 216/3 216/4 216/5 216/7 216/21 221/18</p> <p><b>again</b> [18] 11/22 22/24 28/4 74/9 83/4 111/18 151/3 204/17 206/14 207/17 207/20 208/3 208/13 208/17 209/12 210/21 211/11 221/2</p> <p><b>agency</b> [2] 66/5 66/9</p> <p><b>Agent</b> [2] 216/18 217/1</p> <p><b>agents</b> [1] 220/13</p> <p><b>ago</b> [1] 123/2</p> <p><b>agree</b> [5] 25/1 40/2 50/24 138/4 195/2</p> <p><b>agreed</b> [2] 65/8 191/17</p> <p><b>ahead</b> [8] 40/11 56/3 89/9 113/20 139/6 154/15 168/15 185/20</p> <p><b>AI</b> [2] 163/15 163/17</p> <p><b>alive</b> [4] 9/19 31/21 70/24 71/1 <b>all</b> [277]</p> <p><b>Allen</b> [2] 158/6 163/8</p> <p><b>allow</b> [6] 43/9 43/21 151/13 154/8 178/15 202/1</p> <p><b>allowed</b> [7] 89/11 112/14 113/3 113/9 183/1 184/4 184/13</p> <p><b>allowing</b> [1] 190/20</p> <p><b>almost</b> [3] 59/19 89/7 103/1</p> <p><b>alone</b> [5] 89/14 120/14 121/13 154/13 154/19</p> <p><b>along</b> [7] 13/15 143/23 155/19 182/12 182/13 194/6 206/15</p> <p><b>alongside</b> [1] 139/24</p> <p><b>already</b> [18] 27/20 42/7 42/22 56/21 64/9 66/14 66/20 80/4 84/20 100/4 103/19 134/12 157/19 169/18 191/4 192/20 197/15 214/19</p> <p><b>also</b> [54] 4/7 4/17 4/22 14/9 14/14 15/1 15/3 15/13 18/1 23/1 25/10 34/10 43/10 47/24 49/19 49/24 51/21 52/2 54/14 58/12 67/18 68/2 69/11 81/12 82/8 83/11 104/1 110/2 117/15 127/5 128/9 128/23 130/14 132/13 132/24 137/15 143/8 143/13 146/2 188/8 190/6 198/25 202/23 203/25 204/16 206/16 207/21 210/7 210/17 210/19 213/11 215/9 216/12 220/13</p> <p><b>always</b> [1] 71/2</p> <p><b>am</b> [4] 41/9 99/3 112/14 187/14</p> <p><b>and/or</b> [2] 115/5 216/25</p> <p><b>another</b> [11] 39/5 54/10 54/13 109/9 109/12 128/23 129/6 130/14 150/10 197/23 201/5</p> <p><b>answer</b> [7] 23/23 23/23 46/4 83/3 88/25 163/16 211/4</p> <p><b>anticipate</b> [1] 57/10</p> <p><b>anticipated</b> [1] 78/14</p> <p><b>any</b> [153] 5/15 5/19 5/22 7/10 7/16 7/18 7/20 7/23 7/24 10/8 10/17 10/23 11/5 11/9 18/11 18/13 24/7 27/10 28/17 30/6 34/19 34/22 36/16 43/2 43/5 44/3 44/4 44/9 44/12 45/14 46/1 46/2 55/11 55/19 56/12 56/14 57/12 59/3 59/9 66/18 66/23 67/2 67/7 67/24 69/20 70/7 70/9 70/14 70/18 71/4 71/19 74/25 75/1 75/21 76/21 80/13 81/14 81/18 84/4 84/24</p>	<p>85/4 86/2 86/6 87/4 91/5 91/23 91/23 91/24 92/19 99/6 99/17 100/11 100/22 104/21 105/10 105/22 105/23 105/24 107/4 108/18 110/16 115/14 115/17 116/2 118/7 119/3 120/1 120/17 122/2 123/15 127/13 127/25 128/8 131/4 131/4 131/11 134/18 134/21 134/25 137/5 137/6 140/5 140/6 140/7 142/12 144/24 145/22 145/22 146/3 146/23 147/20 147/21 148/16 148/23 154/9 158/15 158/19 159/1 160/21 161/12 161/21 161/23 165/12 165/16 166/19 170/17 170/22 171/1 172/10 182/8 185/1 188/25 190/14 190/18 190/19 192/17 195/16 195/23 196/4 196/8 196/9 196/12 196/15 196/18 198/7 198/16 201/19 202/19 203/17 207/12 208/12 210/2 217/8</p> <p><b>anybody</b> [21] 20/22 27/14 64/23 65/11 67/2 67/3 69/8 76/22 78/1 78/16 79/7 80/5 81/6 83/15 84/22 85/14 89/20 105/13 120/9 120/13 149/17</p> <p><b>anymore</b> [1] 61/24</p> <p><b>anyone</b> [14] 9/17 11/24 55/18 91/24 94/20 107/5 107/5 148/17 148/25 149/6 149/7 172/1 196/14 199/2</p> <p><b>anything</b> [51] 7/13 22/8 22/11 22/16 43/5 44/1 46/6 47/8 53/16 53/17 63/1 67/25 69/2 70/12 71/4 71/5 71/11 74/16 76/3 78/9 78/11 79/8 80/12 80/25 82/5 83/23 86/7 98/1 99/19 105/12 108/3 115/21 120/6 120/13 121/7 123/10 124/21 126/2 134/23 140/5 161/19 168/17 170/1 170/23 170/24 177/2 182/6 195/19 205/12 205/17 219/13</p> <p><b>anyway</b> [1] 89/8</p> <p><b>anyways</b> [1] 76/24</p> <p><b>anywhere</b> [2] 44/22 137/5</p> <p><b>apparent</b> [2] 94/1 101/7</p> <p><b>apparently</b> [3] 56/5 57/24 95/15</p> <p><b>appear</b> [5] 22/19 44/19 45/25 140/14 190/11</p> <p><b>appearance</b> [1] 191/15</p> <p><b>appearances</b> [2] 1/11 4/12</p> <p><b>appeared</b> [3] 1/21 40/6 172/7</p> <p><b>appearing</b> [5] 4/16 4/21 4/22 190/22 191/13</p> <p><b>appears</b> [3] 4/14 4/17 178/3</p> <p><b>Appleton</b> [3] 64/4 66/11 93/23</p> <p><b>application</b> [3] 35/2 146/10 148/3</p> <p><b>applications</b> [1] 25/5</p> <p><b>applied</b> [2] 17/6 89/4</p> <p><b>applies</b> [1] 190/24</p> <p><b>apply</b> [1] 19/16</p> <p><b>applying</b> [4] 30/11 30/14 34/14 34/20</p> <p><b>appointed</b> [1] 4/18</p> <p><b>appointment</b> [4] 126/11 126/12 126/19 127/2</p> <p><b>appointments</b> [1] 126/21</p> <p><b>approach</b> [4] 12/21 37/19 96/12 139/5</p> <p><b>approached</b> [2] 139/12 175/1</p> <p><b>approaching</b> [1] 48/7</p> <p><b>approximately</b> [9] 49/1 79/19 134/10 187/12 187/16 188/14 198/24 199/14 200/6</p>



<p><b>A</b></p> <p><b>are</b> [113] 4/3 13/6 13/12 16/15 19/13 20/19 20/20 24/6 25/10 25/22 29/8 30/15 33/24 34/7 34/19 38/1 38/2 39/11 45/7 45/8 45/17 45/18 45/19 47/14 47/15 47/19 47/21 48/1 48/1 48/7 49/10 50/4 50/21 53/6 54/22 55/21 55/24 55/24 55/24 57/1 57/9 57/16 58/4 58/11 59/2 61/9 68/16 71/23 73/16 75/2 76/10 76/19 89/14 93/11 98/19 98/25 99/1 100/20 101/19 111/5 111/23 112/21 113/8 113/18 116/9 118/2 118/3 123/12 123/14 123/18 124/7 125/2 126/22 127/14 127/17 128/23 129/14 131/7 133/16 133/18 135/13 136/17 136/18 137/15 138/11 151/10 151/11 156/7 160/12 160/21 161/15 162/17 163/8 169/18 177/6 178/8 180/25 183/1 184/4 184/6 184/13 185/4 185/12 186/9 186/10 187/1 187/13 187/20 188/5 189/1 196/14 199/17 221/14</p> <p><b>area</b> [81] 7/1 7/3 7/4 8/22 9/25 10/2 10/6 27/13 27/20 38/3 44/6 51/25 54/8 62/3 63/22 75/19 76/6 76/21 76/24 77/21 77/23 78/4 81/13 84/8 84/23 85/1 85/5 85/6 87/18 88/8 97/18 104/20 105/9 108/20 108/21 109/3 110/24 110/25 111/10 111/15 112/4 114/1 114/12 114/15 115/17 122/13 135/24 136/13 137/25 138/12 138/21 143/11 143/13 144/2 157/14 158/11 161/12 173/25 176/2 178/20 178/21 181/1 181/3 181/3 181/8 182/9 183/2 183/7 183/20 183/25 184/5 184/9 195/17 197/21 199/18 199/21 199/22 199/25 200/17 201/1 202/16</p> <p><b>areas</b> [24] 65/21 70/4 74/2 74/3 75/15 75/16 76/20 78/2 80/3 87/12 87/12 88/1 88/1 88/2 96/1 97/25 103/20 106/2 113/10 115/11 117/3 117/21 121/12 219/25</p> <p><b>argued</b> [1] 42/7</p> <p><b>argument</b> [3] 42/7 42/10 185/10</p> <p><b>around</b> [32] 40/22 44/4 44/9 48/4 67/14 69/1 73/24 74/15 78/2 87/14 88/7 104/20 126/12 150/15 151/7 152/7 152/19 152/24 153/1 153/15 168/23 169/2 169/23 170/15 171/3 178/11 182/11 200/15 203/11 209/6 209/7 214/4</p> <p><b>arrange</b> [1] 191/17</p> <p><b>arranged</b> [2] 64/3 179/4</p> <p><b>arrangements</b> [1] 191/9</p> <p><b>arrival</b> [3] 14/25 152/20 212/12</p> <p><b>arrive</b> [6] 39/2 79/14 79/17 144/20 197/8 216/2</p> <p><b>arrived</b> [31] 14/18 14/20 15/17 24/3 26/16 27/9 27/21 28/15 31/8 35/13 39/9 133/6 134/2 134/7 134/16 135/2 135/6 139/7 139/13 142/16 143/8 143/14 143/19 144/19 174/19 177/8 179/18 198/12 204/11 216/7 216/21</p> <p><b>arriving</b> [4] 45/9 48/17 144/12 153/9</p> <p><b>as</b> [167] 4/16 4/24 5/10 5/12 5/15</p>	<p>6/12 8/6 9/7 9/17 9/17 10/19 14/5 15/11 17/2 17/15 18/5 19/24 22/20 23/2 25/3 27/7 31/14 31/18 31/18 33/16 33/18 34/12 34/17 35/22 35/22 36/15 37/4 39/8 41/7 42/5 42/7 42/15 43/22 44/7 44/22 46/1 48/7 50/2 54/25 57/14 60/7 60/7 61/13 61/15 64/19 64/19 72/24 72/24 72/25 73/20 73/21 73/21 75/22 76/19 77/24 89/18 91/4 91/4 92/10 92/10 92/18 92/18 92/24 93/20 95/16 96/1 96/2 97/3 97/11 103/1 103/1 104/10 104/25 104/25 105/4 105/10 105/15 106/14 106/14 107/3 107/20 110/20 111/20 112/21 113/22 114/1 114/12 118/8 118/22 119/22 121/14 121/15 121/15 122/1 123/3 123/3 124/19 124/19 128/21 129/7 132/21 135/7 135/25 136/15 137/17 141/13 142/18 147/12 150/5 150/13 150/16 150/18 152/22 153/8 153/16 153/18 154/22 155/15 159/7 159/12 159/19 162/8 162/10 163/19 163/21 163/24 164/4 167/8 169/1 169/1 170/11 171/5 173/20 173/20 176/2 176/18 176/24 182/8 183/20 186/11 186/19 186/21 188/10 190/12 191/11 193/9 199/18 203/25 203/25 214/6 214/16 215/19 216/17 216/19 217/11 217/19 218/1 218/19 218/19 218/19 220/20 222/9</p> <p><b>aside</b> [3] 31/14 31/23 31/24</p> <p><b>ask</b> [27] 9/12 10/6 15/16 26/5 26/9 43/23 43/25 56/1 56/6 56/18 57/9 58/25 61/5 69/19 75/21 83/4 86/25 98/24 115/14 158/17 160/21 175/7 175/9 178/25 186/16 194/22 203/12</p> <p><b>asked</b> [35] 10/8 10/23 23/16 26/13 27/18 30/10 35/16 37/6 37/8 40/1 62/25 79/25 93/24 107/4 108/24 146/8 146/11 147/3 157/19 158/13 168/13 168/20 168/22 169/11 169/16 169/22 171/2 171/12 174/19 177/17 193/16 194/24 203/18 205/25 206/9</p> <p><b>asking</b> [9] 10/12 13/24 25/23 67/17 82/25 126/1 136/17 136/18 193/18</p> <p><b>assign</b> [1] 193/11</p> <p><b>assigned</b> [8] 70/3 77/14 193/13 203/12 203/15 217/20 220/19 221/4</p> <p><b>assigning</b> [2] 203/16 203/17</p> <p><b>assignment</b> [7] 89/16 104/19 104/24 105/1 106/10 107/6 107/23</p> <p><b>assignments</b> [8] 73/2 73/19 74/12 74/22 104/14 105/22 105/23 106/2</p> <p><b>assist</b> [10] 10/2 36/1 112/10 113/10 189/12 193/13 202/11 203/19 203/21 217/17</p> <p><b>assistance</b> [4] 10/23 52/11 192/3 193/3</p> <p><b>Assistant</b> [2] 146/1 186/5</p> <p><b>assisted</b> [3] 102/20 216/13 222/10</p> <p><b>Assisting</b> [1] 213/9</p> <p><b>associated</b> [2] 16/16 148/17</p> <p><b>association</b> [1] 91/4</p> <p><b>assume</b> [6] 5/14 52/18 152/18 179/15 188/10 194/18</p>	<p><b>assumed</b> [3] 26/10 69/7 90/3 <b>assuming</b> [1] 128/2</p> <p><b>at</b> [262]</p> <p><b>attached</b> [2] 13/9 13/12</p> <p><b>attempted</b> [1] 39/4</p> <p><b>attempting</b> [1] 149/9</p> <p><b>attend</b> [1] 212/13</p> <p><b>attention</b> [10] 12/20 20/18 109/10 109/18 110/2 111/18 168/1 177/5 191/22 196/19</p> <p><b>Attorney</b> [24] 1/17 1/19 2/4 2/5 2/6 2/9 2/11 2/12 2/15 2/16 2/17 2/19 2/20 2/23 2/24 2/25 4/15 4/20 4/22 145/24 145/25 146/2 147/6 186/11</p> <p><b>attorney's</b> [1] 189/21</p> <p><b>attorneys</b> [4] 145/22 146/3 190/10 190/15</p> <p><b>ATTY</b> [2] 2/7 2/10</p> <p><b>audio</b> [1] 130/4</p> <p><b>AUGUST</b> [2] 1/9 222/15</p> <p><b>authority</b> [7] 146/5 198/11 213/7 215/20 217/3 217/5 217/8</p> <p><b>Auto</b> [5] 29/8 119/1 167/13 167/15 175/21</p> <p><b>automobile</b> [4] 17/16 31/7 105/17 164/10</p> <p><b>available</b> [6] 12/4 18/2 84/2 124/20 185/25 202/11</p> <p><b>averments</b> [1] 24/20</p> <p><b>AVERY</b> [131] 1/6 1/20 2/18 4/2 4/21 4/23 9/13 9/25 11/20 12/14 13/20 17/12 19/4 19/6 26/6 26/25 27/10 27/13 27/17 27/17 27/20 29/8 29/16 31/16 31/17 32/12 32/13 32/14 36/11 36/15 37/3 37/13 37/20 37/24 38/6 38/13 39/16 41/20 42/9 44/13 44/21 46/1 46/7 48/7 48/18 51/23 51/24 54/6 59/16 76/8 76/16 77/17 80/5 80/17 84/21 85/11 85/17 85/23 86/18 87/13 88/7 107/6 108/12 109/23 111/25 118/8 119/12 122/15 126/16 127/3 128/20 128/22 129/3 130/23 131/4 131/8 131/13 132/5 132/10 132/24 133/13 133/17 135/3 135/10 135/15 136/8 136/11 144/24 145/6 150/10 151/6 152/10 153/12 153/12 153/17 153/19 153/19 153/20 158/5 159/9 162/3 162/4 162/8 162/13 162/17 162/17 163/9 167/6 167/8 174/3 175/21 175/25 176/2 185/4 189/13 189/21 191/3 192/20 193/19 194/20 195/12 195/15 196/24 197/8 203/8 211/17 214/14 217/12 218/3 219/3 219/19</p> <p><b>Avery's</b> [45] 42/18 45/16 54/20 80/6 131/23 134/13 146/17 167/13 167/15 179/21 192/12 193/16 194/5 194/15 198/20 199/23 200/20 202/7 202/14 203/23 204/7 205/21 206/1 206/14 206/25 207/13 207/18 208/13 208/18 208/24 209/12 209/16 210/18 211/11 212/23 213/6 213/25 214/25 215/1 215/9 218/12 220/12 220/18 220/22 221/2</p> <p><b>Averys</b> [2] 88/10 151/12</p> <p><b>aware</b> [20] 24/6 25/10 30/15 38/1 66/7 91/11 91/14 93/19 118/22 119/4 119/7 136/13 138/11 146/15 196/14 196/18 214/18 216/8</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<b>A</b>	9/17 13/13 23/9 23/22 28/15 45/4 67/22 100/25 107/17 117/17 118/18 136/15 138/15 151/22 153/11 153/21 155/1 157/7 177/2 183/10 189/16 193/21 202/9 203/20 207/23	196/2 198/5 198/23 200/12 200/21 203/4 204/12 204/14 205/23 206/16 206/23 207/5 209/6 209/17 210/4 214/7 218/8 219/22 220/5 220/15 221/3
aware... [2] 216/12 216/17 away [6] 104/22 104/23 117/12 137/10 138/24 142/17 awhile [2] 171/24 205/23	become [10] 41/19 63/21 63/24 65/22 69/5 93/19 94/1 95/16 101/7 189/9 becoming [1] 65/6 bed [1] 200/22 bedding [2] 200/10 206/7 bedroom [18] 195/13 199/20 199/22 199/23 200/19 200/20 202/7 202/14 202/15 206/8 206/25 207/2 207/7 207/10 209/12 209/16 209/19 209/24	believed [7] 12/13 15/12 23/13 23/22 149/7 192/1 196/23 belongings [4] 67/17 92/17 92/18 92/23 below [2] 114/2 114/7 benefit [1] 13/8 bent [2] 142/5 155/17 best [11] 84/16 98/24 103/11 104/9 106/14 112/21 130/10 130/19 155/15 159/10 222/13 better [2] 66/21 155/25 between [21] 21/1 44/22 45/2 46/21 47/23 48/16 49/5 59/14 71/20 79/20 103/10 108/17 111/10 121/17 121/24 130/17 143/22 145/18 174/25 212/14 214/23 beyond [8] 27/5 27/7 28/4 28/7 30/20 184/1 184/14 184/21 big [5] 10/3 72/23 73/24 117/2 165/16
<b>B</b>	been [83] 4/6 4/18 5/11 9/18 17/11 27/1 31/11 32/12 32/20 33/17 34/1 34/4 34/5 35/10 36/21 38/5 43/7 57/25 61/14 64/1 69/24 76/5 76/17 79/2 82/12 84/20 85/17 85/22 85/22 86/3 86/23 87/11 99/5 99/5 105/17 107/5 111/2 111/15 112/13 118/19 130/7 136/8 136/22 136/23 150/1 152/13 159/7 159/7 160/22 160/22 162/9 163/18 166/6 180/24 186/20 187/8 187/13 187/15 191/4 191/8 192/10 192/14 193/5 193/20 194/3 194/11 195/20 196/24 197/14 197/21 200/14 200/20 201/4 207/10 208/23 209/16 209/19 212/23 214/19 215/25 216/1 220/19 222/8	bigger [1] 183/23 Bill [1] 214/12 bit [9] 53/15 54/25 112/24 135/12 135/25 138/10 142/23 165/20 201/25 blew [2] 75/12 117/25 block [1] 113/5 blocked [4] 112/17 113/6 114/18 114/19 Bloedorn [5] 63/4 92/5 95/15 101/20 115/5 Bloedorn's [2] 102/5 148/18 blood [3] 140/5 140/6 210/5 blown [1] 75/13 blue [7] 16/6 16/8 17/11 17/11 31/4 31/22 181/20 bluish [4] 16/2 22/22 23/9 31/4 books [2] 163/11 163/24 borrow [1] 155/3 boss [5] 128/16 128/22 132/3 150/3 150/6 both [6] 21/3 49/7 54/25 73/11 124/10 195/8 bottom [4] 137/23 138/2 141/6 182/15 bottoms [1] 87/14 boundaries [1] 118/6 box [2] 114/8 114/11 Boy [1] 204/22 boyfriend [4] 62/16 89/18 89/21 122/22 boyfriend/girlfriend [1] 62/16 BRANCH [2] 1/1 222/5 branches [2] 14/8 139/23 branching [1] 136/14 break [13] 55/4 55/7 58/5 58/24 59/22 90/10 123/20 123/23 124/3 124/5 186/3 189/6 221/19 Breyer [2] 91/2 96/24 Brief [1] 186/8 briefly [2] 19/14 40/24 bright [1] 140/10 bring [3] 47/17 51/15 176/22 bringing [1] 53/20 brother [15] 162/17 162/20 162/21 163/22 164/2 164/23 165/12 166/10 167/10 167/12 171/21 172/1 172/22 173/1 175/23
bad [1] 176/21 balance [1] 56/12 Barb [2] 39/6 167/21 Barb's [3] 156/10 156/23 157/21 barrels [7] 44/12 44/16 44/19 44/25 45/3 45/7 45/8 bars [1] 85/8 base [1] 57/2 based [7] 31/2 52/20 53/7 53/10 53/11 128/2 147/25 basically [35] 8/3 62/14 62/25 64/5 65/11 65/24 66/4 69/9 72/17 74/17 75/8 75/10 75/11 78/11 79/4 79/24 80/4 81/2 87/15 94/5 99/20 99/25 103/19 103/21 104/23 105/1 105/12 107/13 107/14 115/20 117/8 119/11 119/23 120/10 181/13 bathroom [4] 199/21 199/22 202/15 210/6 battery [1] 157/2 Bay [1] 75/20 be [128] 5/13 6/19 6/25 8/20 8/21 14/12 16/14 19/9 19/19 20/8 22/13 24/7 24/17 25/18 26/5 26/9 26/12 33/19 35/4 36/11 40/19 45/25 46/4 52/4 56/24 58/15 58/19 59/23 61/7 61/7 61/16 77/21 77/22 78/6 80/25 81/9 81/12 82/16 84/16 87/7 92/24 93/4 93/12 94/9 96/1 96/5 96/9 102/8 106/15 109/13 110/4 111/20 111/25 113/23 115/17 124/8 124/20 124/20 128/24 130/10 131/9 131/10 131/21 132/4 133/5 133/23 134/22 136/14 141/10 145/2 145/10 146/9 148/4 148/19 148/25 149/6 150/17 155/15 159/10 161/12 161/13 162/11 163/15 163/17 164/15 165/21 165/23 167/17 170/24 171/6 172/7 173/16 175/10 178/3 178/20 184/1 184/3 185/11 186/6 187/22 187/23 188/17 188/18 190/5 190/6 190/21 191/10 193/7 197/6 197/7 200/2 201/19 201/24 203/22 204/23 205/6 206/21 207/16 208/11 208/16 209/10 210/4 211/10 212/15 212/25 213/24 217/3 218/25 became [5] 35/7 91/7 91/11 92/25 189/11 because [29] 8/15 8/15 9/13 9/13	before [56] 1/10 6/7 14/19 17/6 18/6 18/25 31/8 38/17 39/25 44/15 46/6 49/3 55/8 58/9 58/23 63/8 63/11 67/19 67/21 67/23 78/21 79/1 79/8 84/11 85/16 85/21 86/14 90/5 98/23 99/12 99/16 108/1 111/3 111/15 123/4 130/22 131/11 133/6 133/9 133/10 134/16 136/9 136/19 137/2 139/7 139/12 147/7 147/22 171/15 172/21 174/18 176/4 177/7 178/11 186/15 189/17 began [2] 97/8 189/17 begin [2] 13/24 186/15 behalf [7] 1/13 1/15 1/17 1/19 4/21 4/22 186/12 behind [9] 46/3 58/7 110/3 111/19 136/4 181/20 182/17 183/5 184/17 being [17] 8/17 25/14 28/1 31/18 36/1 38/25 39/18 40/16 57/24 63/3 119/6 132/9 136/11 171/5 186/11 191/24 216/13 belief [5] 20/4 126/10 126/15 127/1 205/16 believe [98] 5/19 9/11 15/1 26/21 27/20 29/20 29/22 31/9 32/7 32/10 35/9 35/10 36/25 37/10 38/14 39/9 40/18 43/8 45/9 48/25 49/5 51/19 55/14 55/24 63/9 63/12 63/25 64/22 66/10 67/15 68/5 68/5 68/21 68/21 69/6 75/25 76/9 81/16 83/13 84/19 87/9 87/23 88/5 90/2 90/6 90/25 91/6 92/15 92/20 92/21 93/5 93/21 98/8 101/12 103/12 108/20 112/16 113/2 113/12 114/25 118/21 122/8 123/7 126/14 139/6 139/23 142/9 146/1 146/1 161/11 189/18 192/9 192/9 192/24 193/17 194/9 194/24	

**B**

**brother-in-law** [2] 172/22 173/1  
**brought** [2] 171/25 172/3  
**brush** [2] 17/15 31/6  
**building** [7] 136/16 178/2 178/3  
 181/10 181/20 183/20 214/10  
**buildings** [21] 7/24 105/25 111/11  
 135/20 136/4 146/23 156/1 156/25  
 157/15 157/17 157/23 157/25  
 161/14 183/17 184/8 195/23 214/6  
 214/9 214/14 214/17 220/1  
**burden** [1] 41/13  
**burn** [8] 44/12 44/16 44/19 44/25  
 45/2 45/15 45/24 45/25  
**burning** [1] 45/15  
**business** [21] 83/5 110/25 152/14  
 158/11 158/14 161/13 163/1  
 163/14 163/19 163/23 164/3 164/4  
 164/24 165/1 165/13 166/9 166/13  
 171/6 175/22 178/9 178/23  
**but** [96] 10/16 16/5 19/14 21/17  
 22/24 23/14 24/25 29/14 32/9  
 32/22 36/5 40/19 41/8 49/24  
 53/14 57/13 57/23 57/25 58/7  
 58/14 66/14 67/5 67/15 67/22  
 70/25 71/4 71/9 74/3 76/11 76/15  
 76/25 78/13 80/8 81/5 81/6 81/7  
 83/10 84/12 87/24 88/1 88/7  
 88/12 89/7 92/20 97/8 99/16  
 119/25 121/2 122/20 123/3 124/11  
 124/21 126/24 126/25 127/8  
 128/17 131/11 132/3 141/7 146/20  
 147/7 148/2 152/14 158/22 164/12  
 167/13 168/12 169/2 176/11  
 179/24 180/9 180/21 183/5 184/6  
 184/8 189/23 190/5 191/10 191/15  
 191/21 192/7 194/4 194/10 194/13  
 197/17 197/24 198/2 198/5 201/5  
 201/24 202/12 210/11 216/12  
 219/24 220/11 221/8  
**BUTING** [32] 1/18 2/5 2/7 2/9 2/10  
 2/12 2/15 2/17 2/20 2/23 2/25  
 4/20 4/20 18/18 24/15 33/12 41/3  
 88/21 88/24 90/13 116/10 123/13  
 124/7 125/3 159/1 175/17 186/11  
 186/13 186/25 191/11 201/12  
 219/13  
**butt** [1] 70/11  
**button** [1] 112/3

**C**

**cabinet** [2] 210/15 210/16  
**call** [59] 6/12 10/1 11/15 11/19  
 33/12 33/14 46/17 48/4 51/5  
 59/21 64/24 65/1 69/9 83/11  
 83/17 83/20 83/23 83/24 84/1  
 84/1 84/9 84/14 115/21 125/18  
 125/23 127/21 128/2 128/9 128/13  
 129/21 130/14 130/17 131/7  
 131/11 131/15 131/16 131/18  
 132/8 132/13 139/19 147/15  
 149/13 149/24 150/3 151/23 159/5  
 160/1 160/7 160/13 161/24 162/3  
 183/21 189/12 192/7 193/17  
 196/22 196/25 197/2 198/14  
**called** [21] 5/10 6/16 8/7 14/4  
 15/12 29/21 33/16 36/1 61/13  
 62/25 67/12 127/6 128/4 129/4  
 133/3 149/15 152/23 162/8 186/11  
 186/19 192/1  
**calling** [8] 57/11 65/11 67/14  
 67/14 72/16 133/5 160/4 160/10

**calls** [23] 4/1 47/12 48/11 48/12  
 49/5 53/1 53/2 53/10 53/11 54/11  
 54/24 55/1 59/2 59/13 72/13  
 126/7 127/13 127/16 129/9 130/20  
 131/1 131/3 131/6  
**Calumet** [49] 4/15 14/20 35/15  
 35/22 36/1 36/7 37/10 51/6 55/14  
 61/22 62/6 83/14 96/10 98/7  
 117/10 122/9 139/13 142/24 143/1  
 143/3 145/13 145/19 146/6 147/5  
 156/21 189/13 192/7 192/23 193/3  
 193/14 193/17 193/25 198/11  
 199/4 203/18 204/18 207/22  
 211/19 211/21 213/9 214/13  
 214/20 215/22 216/8 217/8 217/14  
 217/23 219/4 221/6  
**came** [29] 27/17 28/14 35/19 43/3  
 46/9 72/19 79/24 92/8 102/2  
 107/2 121/17 122/1 143/10 143/10  
 144/14 157/1 157/13 166/11  
 170/15 171/2 171/11 174/13 176/1  
 176/7 176/15 177/7 179/19 179/25  
 180/12  
**can** [43] 19/24 20/8 24/17 40/24  
 41/15 41/17 42/17 45/21 50/22  
 53/13 55/8 56/11 56/14 56/18  
 58/21 61/4 101/22 111/22 113/10  
 124/14 130/2 136/10 138/9 150/14  
 151/3 151/12 159/4 160/16 162/4  
 169/20 179/7 180/19 181/16  
 184/22 186/3 187/2 187/3 187/5  
 188/14 189/6 199/16 204/19  
 213/19  
**can't** [5] 21/4 21/5 23/17 58/2 72/3  
**cannot** [1] 25/5  
**car** [29] 68/24 74/11 75/8 80/6  
 84/14 105/18 121/5 121/6 131/20  
 132/10 134/4 138/17 140/13  
 142/19 143/15 143/23 152/1 154/6  
 157/2 157/3 157/3 157/4 157/8  
 157/11 157/12 166/20 177/15  
 204/22 204/23  
**card** [8] 82/18 82/21 83/6 99/12  
 99/23 100/4 100/5 108/7  
**cards** [1] 82/15  
**career** [2] 188/20 188/21  
**careful** [1] 170/24  
**carefully** [1] 222/8  
**cars** [15] 27/24 78/9 84/23 85/1  
 153/16 161/13 164/5 164/6 164/6  
 164/11 164/12 165/7 176/15  
 178/22 179/4  
**cart** [1] 40/14  
**case** [15] 1/5 4/2 5/21 41/8 53/1  
 53/2 53/22 108/2 127/13 127/15  
 128/8 150/9 171/11 203/19 218/17  
**cash** [1] 176/24  
**CASO** [1] 51/6  
**cassettes** [1] 56/21  
**cause** [10] 12/14 18/15 19/25 20/4  
 30/16 31/10 31/25 32/7 32/15  
 32/21  
**caused** [1] 218/21  
**CD** [3] 125/15 129/9 130/3  
**CD's** [2] 123/18 125/11  
**cell** [8] 84/7 108/6 108/7 130/15  
 130/18 130/21 131/19 132/8  
**center** [1] 112/1  
**central** [1] 56/20  
**centralized** [1] 56/25  
**certain** [8] 23/6 77/11 77/15 117/3  
 120/2 126/7 146/13 147/14  
**certainly** [3] 7/23 105/9 190/19

**certify** [1] 222/6  
**CF** [2] 1/5 4/3  
**chains** [1] 152/9  
**chalkboard** [1] 110/4  
**challenge** [2] 42/8 42/9  
**chance** [1] 129/2  
**change** [7] 54/12 75/5 128/14  
 145/10 147/16 147/16 150/1  
**changed** [2] 75/7 152/3  
**changes** [2] 147/14 147/23  
**characterization** [1] 138/5  
**characters** [8] 16/15 16/17 16/19  
 17/19 30/1 31/9 154/19 154/24  
**charge** [6] 133/24 158/10 208/20  
 216/9 216/19 219/4  
**Charles** [2] 158/6 162/24  
**chased** [1] 178/18  
**check** [9] 28/17 36/14 81/13 115/8  
 142/12 166/21 166/25 214/13  
 214/17  
**checking** [1] 153/6  
**checkpoint** [11] 88/12 88/13 89/12  
 110/10 110/12 112/10 112/12  
 112/16 112/18 113/2 114/16  
**checkpoints** [1] 87/4  
**Chevrolet** [1] 167/2  
**Chevy** [2] 179/2 179/8  
**choice** [1] 85/12  
**chronological** [2] 50/9 120/16  
**Chuck** [13] 162/23 163/22 164/2  
 164/17 164/18 165/14 165/15  
 166/10 167/10 171/21 172/1  
 175/23 176/15  
**Chuck's** [6] 157/24 183/9 183/10  
 183/13 183/24 184/18  
**circle** [3] 73/24 112/24 183/24  
**CIRCUIT** [3] 1/1 1/10 222/5  
**circumstances** [1] 24/21  
**cities** [2] 74/1 74/4  
**citizens** [2] 196/9 196/16  
**city** [1] 74/22  
**clarification** [1] 73/5  
**clarify** [6] 60/4 88/23 138/9 149/21  
 159/24 159/25  
**clarifying** [1] 45/20  
**cleaner** [1] 206/7  
**clear** [22] 28/8 41/5 41/19 76/2  
 87/23 89/10 91/7 91/21 99/3  
 102/1 107/3 110/6 113/15 114/22  
 115/4 120/15 148/23 152/13 159/4  
 163/5 214/23 217/18  
**clerk** [5] 5/8 109/12 109/25 160/21  
 162/6  
**client** [1] 189/19  
**close** [10] 15/21 15/23 52/16 52/20  
 62/13 116/21 116/24 118/16 139/9  
 187/2  
**closed** [2] 21/15 52/11  
**closer** [4] 112/14 117/6 117/15  
 117/16  
**closest** [1] 110/20  
**closet** [1] 200/21  
**closets** [1] 42/1  
**clue** [1] 86/7  
**cluster** [2] 136/4 157/14  
**clustered** [2] 143/20 144/2  
**co** [1] 164/24  
**co-owner** [1] 164/24  
**Colborn** [18] 36/22 192/4 192/16  
 193/8 193/21 198/25 201/8 202/5  
 204/1 204/16 206/15 207/20  
 208/18 208/21 210/22 211/12  
 211/20 213/12

**C**

**Colburn [1]** 39/25  
**collaborated [1]** 64/10  
**collect [1]** 206/6  
**collected [2]** 102/8 219/8  
**collecting [3]** 56/22 67/17 115/6  
**collectively [1]** 145/18  
**color [9]** 14/5 16/1 16/2 16/4  
 21/22 22/19 22/22 23/8 23/19  
**come [46]** 9/6 28/12 35/11 35/12  
 35/16 39/3 40/12 65/12 90/10  
 97/24 101/7 101/11 102/14 103/22  
 104/3 129/1 131/22 131/25 132/24  
 134/21 136/15 144/5 164/9 164/10  
 166/19 166/21 167/1 168/2 168/3  
 168/8 168/10 168/12 169/5 169/10  
 173/1 178/10 178/16 178/25  
 180/23 181/4 183/1 184/4 186/3  
 192/12 197/5 199/23  
**comes [2]** 54/23 106/18  
**comfortable [1]** 147/18  
**comforted [1]** 142/23  
**coming [11]** 19/9 52/4 107/1 107/2  
 153/3 153/4 153/7 153/17 197/6  
 197/7 218/20  
**commander [3]** 8/9 8/11 128/5  
**Commander's [1]** 128/4  
**commence [1]** 7/21  
**commercial [1]** 152/14  
**common [1]** 120/8  
**commonly [1]** 16/15  
**communication [3]** 14/23 15/5  
 61/1  
**communications [1]** 57/16  
**community [1]** 95/23  
**compiling [1]** 58/17  
**Complaint [2]** 191/25 193/4  
**complete [7]** 14/16 40/22 52/17  
 55/9 58/10 89/3 212/15  
**completed [4]** 5/1 201/22 201/23  
 218/11  
**completely [1]** 19/20  
**completing [1]** 210/17  
**compound [4]** 38/4 176/2 219/19  
 219/20  
**compromise [2]** 70/16 70/21  
**computer [5]** 57/6 208/2 208/5  
 210/3 222/10  
**computer-assisted [1]** 222/10  
**computerized [1]** 222/9  
**concern [2]** 8/20 70/22  
**concerned [4]** 22/19 23/8 32/25  
 49/3  
**concerns [3]** 8/16 70/15 70/18  
**concluded [3]** 22/1 22/2 221/21  
**conclusory [1]** 202/23  
**condition [2]** 142/6 170/23  
**conduct [2]** 100/12 215/21  
**conducted [1]** 220/17  
**conducting [4]** 105/5 145/3 145/7  
 216/23  
**conduit [1]** 8/4  
**conferred [1]** 97/10  
**confirm [1]** 140/19  
**confirmed [5]** 16/25 18/1 49/17  
 141/13 141/15  
**connect [1]** 186/1  
**connected [3]** 44/20 45/25 66/12  
**connection [2]** 44/22 45/2  
**consensual [1]** 209/20  
**consent [17]** 9/12 9/24 24/7 26/5  
 40/4 44/14 54/19 129/3 131/13

137/1 144/5 144/25 145/2 145/7  
 150/15 151/6 214/24  
**consented [1]** 28/1  
**considered [4]** 70/25 77/21 77/23  
 184/22  
**consisting [1]** 200/20  
**conspicuous [2]** 78/10 121/8  
**constantly [1]** 153/17  
**contact [34]** 11/10 39/4 39/7 39/10  
 39/24 44/17 59/23 61/4 68/3 69/7  
 72/2 82/9 96/21 98/10 98/14  
 100/19 100/22 100/25 101/3  
 131/24 132/3 132/14 134/25  
 142/21 144/8 144/25 145/1 147/5  
 148/16 149/3 149/5 149/9 151/12  
 158/4  
**contacted [4]** 8/9 8/25 72/15 192/4  
**contacts [5]** 36/8 37/11 57/19  
 60/12 93/8  
**contained [3]** 64/17 118/7 125/15  
**containing [2]** 114/8 114/12  
**contains [1]** 130/3  
**continuation [1]** 4/4  
**continue [4]** 58/2 113/20 125/3  
 218/22  
**continued [9]** 2/10 125/5 135/18  
 135/21 135/23 152/9 156/11  
 175/10 212/16  
**Continues [1]** 135/21  
**contribute [1]** 155/19  
**conversation [20]** 11/23 46/23  
 48/23 49/20 52/23 53/5 53/6  
 53/13 54/10 54/21 59/20 98/13  
 98/17 98/23 120/17 126/14 127/8  
 130/6 175/8 191/10  
**conversations [20]** 47/22 47/23  
 48/11 48/16 49/2 49/4 52/22 56/8  
 59/9 60/7 60/23 71/19 96/25  
 100/6 125/12 130/4 148/24 149/22  
 196/8 196/15  
**conveyed [1]** 71/12  
**conviction [1]** 176/1  
**cooperate [2]** 40/6 191/3  
**cooperation [1]** 195/25  
**cooperative [3]** 158/21 158/23  
 195/4  
**coordinate [6]** 7/13 11/5 19/11  
 52/5 53/22 94/2  
**coordinating [5]** 47/5 51/10 81/7  
 97/21 115/6  
**coordination [1]** 94/15  
**coordinator [3]** 65/22 69/5 95/17  
**copies [2]** 59/24 129/11  
**cops [1]** 67/7  
**copy [5]** 12/19 13/1 13/3 13/13  
 129/5  
**corner [11]** 110/21 110/22 111/8  
 135/13 138/3 143/21 157/15 178/1  
 182/24 183/6 210/16  
**correct [191]** 5/3 5/4 6/10 6/11  
 6/23 7/8 8/5 8/13 8/14 9/1 9/10  
 9/15 9/20 10/8 10/22 10/24 10/25  
 11/12 11/16 12/15 12/16 13/5  
 13/6 13/10 13/20 14/21 16/9  
 16/15 17/8 19/7 19/12 19/22 20/5  
 20/9 20/10 22/9 22/10 22/12  
 22/15 23/4 23/5 23/25 24/4 26/4  
 26/17 26/21 26/22 26/24 26/25  
 28/14 28/22 30/17 33/2 33/24  
 35/24 36/20 37/16 37/25 38/4  
 38/11 40/20 43/4 43/15 43/18  
 45/13 46/11 48/6 49/9 49/13 50/3  
 50/15 51/7 52/7 52/9 53/25 57/8

60/20 62/23 65/18 75/3 77/19  
 80/7 85/25 86/1 87/21 89/13  
 94/24 94/25 95/24 96/13 97/23  
 98/7 98/11 98/15 100/8 100/9  
 100/16 103/8 107/10 107/24  
 108/13 110/13 110/22 110/25  
 111/1 111/3 111/16 111/17 115/18  
 115/19 125/14 125/17 126/4  
 126/22 127/4 128/11 129/23  
 130/16 133/19 136/6 137/4 137/9  
 142/2 148/19 149/3 150/1 150/12  
 150/15 150/22 151/7 151/17  
 151/18 152/2 154/2 156/15 156/17  
 158/8 158/12 176/12 183/9 186/12  
 188/4 189/8 189/20 191/6 191/7  
 191/14 193/23 194/16 195/9  
 199/11 202/17 204/9 205/18  
 205/18 205/19 206/25 207/1 208/7  
 208/22 209/1 209/5 209/14 209/22  
 210/12 210/22 211/7 211/8 212/24  
 213/8 214/1 214/2 215/24 216/10  
 216/11 216/16 217/2 217/9 217/10  
 217/15 217/25 218/4 218/5 219/7  
 219/9 219/10 220/4 220/14 220/18  
 221/2 222/12  
**corrections [1]** 147/21  
**correlation [1]** 147/24  
**could [62]** 28/19 33/1 35/7 40/1  
 58/6 58/19 59/21 66/21 67/3  
 72/16 77/3 79/25 82/8 83/20  
 93/24 94/7 99/5 99/5 106/15  
 111/4 112/23 113/24 117/14 118/1  
 123/21 124/9 129/2 129/3 129/5  
 129/6 129/24 135/3 135/5 137/18  
 140/8 140/18 141/1 141/23 146/9  
 146/20 159/5 159/11 159/12  
 159/24 166/21 166/23 168/14  
 168/21 168/23 169/16 177/21  
 178/24 183/10 183/19 183/25  
 184/18 185/15 185/18 194/11  
 202/19 220/14 220/17  
**couldn't [10]** 28/21 59/18 121/18  
 141/17 141/20 142/9 154/25  
 163/20 172/14 211/3  
**counsel [13]** 5/23 30/10 42/6  
 55/12 112/9 129/15 189/19 191/5  
 191/5 191/6 212/9 213/19 218/10  
**counties [2]** 78/2 117/10  
**country [2]** 76/25 117/18  
**countryside [3]** 69/2 70/20 74/15  
**county [65]** 1/1 4/11 4/15 6/19  
 8/10 14/20 34/8 34/13 35/15  
 35/23 36/2 36/2 36/7 36/9 37/10  
 47/6 50/6 51/3 51/12 55/15 61/23  
 62/1 62/5 67/22 76/6 83/14 87/13  
 96/10 97/17 97/17 98/7 106/6  
 142/24 143/1 143/3 145/14 145/19  
 156/21 158/8 165/21 165/25  
 189/13 192/23 193/14 193/17  
 193/25 198/11 199/5 203/18  
 204/18 207/22 211/19 211/21  
 213/9 214/13 214/20 215/22 216/9  
 217/14 217/23 219/4 220/16 221/6  
 221/9 222/2  
**County's [2]** 147/5 193/2  
**couple [14]** 30/7 48/16 55/1  
 113/10 163/20 166/6 174/3 177/8  
 186/3 188/17 188/19 205/25  
 214/17 219/14  
**coupled [1]** 32/18  
**course [4]** 99/8 103/13 105/21  
 156/16  
**court [22]** 1/1 1/10 1/25 4/1 5/8

**C**

**court...** [17] 12/4 18/15 25/2 28/6 39/10 59/18 62/18 109/9 159/12 160/3 190/20 191/2 211/3 212/19 222/4 222/5 222/19  
**courtroom** [1] 186/10  
**cover** [3] 97/25 104/2 117/20  
**coverage** [2] 84/7 86/10  
**covered** [7] 14/7 14/8 17/15 76/24 80/4 87/16 117/8  
**covering** [2] 86/9 139/24  
**crashed** [1] 164/12  
**create** [1] 104/7  
**creation** [1] 94/21  
**Crime** [1] 210/6  
**Criminal** [1] 216/14  
**cross** [16] 2/4 2/11 2/16 2/20 2/24 5/2 6/5 20/15 27/6 55/9 90/20 124/13 148/11 175/19 190/21 215/17  
**cross-examination** [14] 2/4 2/11 2/16 2/20 2/24 6/5 20/15 27/6 55/9 90/20 124/13 148/11 175/19 215/17  
**cross-examine** [1] 5/2  
**cross-examined** [1] 190/21  
**crushed** [2] 164/11 164/12  
**crusher** [1] 143/23  
**crushing** [1] 176/18  
**crying** [1] 142/23  
**custody** [1] 87/2  
**custom** [2] 177/20 178/13  
**customer** [1] 164/8  
**customers** [7] 161/4 161/12 179/15 181/6 181/8 182/20 183/1  
**cut** [2] 54/4 84/11

**D**

**dad** [9] 163/7 163/15 163/17 163/23 164/18 165/17 165/18 165/19 167/10  
**dark** [5] 16/8 17/11 31/4 31/22 198/1  
**darker** [1] 135/25  
**dashboard** [1] 142/1  
**data** [1] 57/2  
**date** [5] 1/9 45/18 55/2 208/14 214/17  
**dated** [4] 62/13 109/11 123/2 222/15  
**dates** [1] 86/22  
**daughter** [4] 97/7 106/12 107/22 154/4  
**Dave** [1] 33/21  
**DAVID** [2] 2/8 33/16  
**dawned** [1] 55/16  
**day** [58] 6/15 7/6 11/1 11/3 11/9 37/2 44/14 46/12 48/1 50/23 56/6 63/11 68/8 70/1 70/1 71/16 74/24 75/24 78/21 80/1 85/4 87/18 88/16 90/5 92/11 92/19 95/22 98/2 98/9 98/18 98/19 100/7 102/21 102/23 106/23 107/1 118/19 119/2 123/4 124/22 152/17 166/9 166/9 175/22 175/22 193/15 194/13 196/12 196/20 207/13 207/16 208/16 210/17 211/9 213/11 220/8 220/21 222/15  
**day-to-day** [2] 166/9 175/22  
**daylight** [1] 140/10  
**days** [14] 32/13 32/18 70/4 72/1 73/11 87/24 92/22 93/9 101/1

138/15 172/20 172/20 172/21 173/20  
**DCI** [3] 145/14 220/13 221/6  
**dead** [3] 112/1 157/2 157/11  
**deal** [2] 60/19 117/11  
**dealer** [1] 18/8  
**dealings** [1] 67/24  
**DEAN** [2] 1/16 4/22  
**debriefing** [1] 174/16  
**decided** [3] 75/8 170/16 203/18  
**deciding** [1] 109/1  
**decision** [11] 20/8 75/9 95/22 101/22 101/24 101/25 103/15 145/13 145/15 145/17 146/4  
**decisions** [3] 164/1 165/16 165/16  
**Dedering** [5] 35/24 139/14 143/4 143/7 192/22  
**deeper** [1] 113/23  
**defendant** [8] 1/7 1/17 1/19 1/21 4/10 31/17 186/12 189/18  
**defense** [11] 4/5 4/7 4/8 5/1 13/9 13/12 24/25 57/12 61/1 123/15 161/20  
**definitely** [2] 35/6 77/24  
**deliberately** [1] 18/10  
**Delores** [3] 39/9 158/7 163/8  
**demeanor** [1] 190/6  
**department** [56] 4/11 4/17 8/10 10/11 11/15 14/20 15/4 17/22 18/23 19/10 34/8 34/13 35/13 35/14 35/23 36/5 36/19 47/20 48/20 48/22 49/16 50/6 51/3 51/6 53/21 57/3 58/4 58/17 58/19 59/24 60/14 60/15 60/22 61/5 64/25 66/12 98/7 121/3 130/5 131/17 131/22 132/1 134/21 145/14 187/20 188/6 189/14 196/15 198/10 199/10 215/23 216/9 216/14 217/5 217/20 217/23  
**Department's** [1] 133/24  
**departments** [1] 221/8  
**depend** [1] 25/12  
**depended** [2] 118/1 202/11  
**depending** [1] 124/22  
**depends** [2] 16/3 34/18  
**depicted** [5] 111/23 112/5 117/21 153/14 163/1  
**depression** [3] 138/12 138/14 138/20  
**deputies** [1] 217/9  
**deputy** [12] 134/1 145/18 188/3 204/18 206/2 206/16 206/17 207/5 208/19 210/23 211/21 219/5  
**describe** [5] 15/15 16/1 40/24 155/11 199/16  
**described** [2] 159/7 181/2  
**describing** [1] 64/21  
**description** [10] 13/18 15/6 17/24 21/14 21/19 22/20 28/10 146/19 156/23 157/18  
**descriptions** [6] 146/12 156/1 156/20 157/10 157/13 157/22  
**detached** [3] 43/11 45/15 204/6  
**detailed** [1] 15/6  
**details** [2] 7/23 210/9  
**detective** [76] 2/3 2/8 5/10 6/7 8/25 9/22 10/14 10/20 11/13 12/8 12/25 13/25 14/15 14/18 14/24 16/23 16/24 17/20 18/10 18/21 18/22 20/23 21/1 24/3 24/6 25/17 26/19 27/11 28/1 28/23 29/22 33/14 33/16 33/24 34/4 34/12 42/17 46/9 51/1 55/9 56/4 57/17

57/18 58/10 59/1 59/23 67/16 71/22 100/19 120/17 120/25 123/14 124/8 124/10 125/7 148/13 148/15 160/4 187/13 192/1 192/10 192/22 192/24 193/8 194/3 194/6 194/24 195/8 195/11 195/16 196/25 199/4 202/8 204/2 204/17 209/20  
**detectives** [2] 35/14 71/25  
**determination** [3] 18/14 22/6 140/17  
**determine** [1] 139/16  
**determined** [2] 145/9 217/22  
**device** [1] 130/3  
**diagram** [2] 135/9 181/23  
**Diane** [3] 1/24 222/4 222/19  
**dictate** [1] 50/11  
**dictated** [1] 50/22  
**did** [368]  
**didn't** [58] 7/23 32/11 38/9 43/5 43/23 43/25 44/1 67/7 67/24 70/11 74/25 76/22 79/6 81/5 81/20 81/23 82/5 86/5 93/1 99/16 99/20 105/9 105/22 117/18 120/9 122/24 134/14 137/5 139/21 140/7 142/13 147/9 147/20 158/21 163/16 169/2 170/25 171/1 172/12 172/13 175/11 175/13 177/2 180/8 180/10 182/7 182/8 194/17 196/1 197/20 197/24 197/25 198/2 198/7 198/16 205/21 210/11 215/7  
**die** [1] 157/8  
**difference** [1] 23/18  
**different** [13] 14/3 16/5 45/19 48/10 54/16 74/13 177/8 177/8 202/6 202/6 213/5 214/9 215/2  
**differs** [1] 16/4  
**difficult** [1] 100/24  
**difficulty** [1] 155/20  
**direct** [32] 2/9 2/10 2/15 2/19 2/23 5/1 7/16 11/3 12/20 33/22 61/20 82/16 83/16 83/19 84/4 90/14 91/22 99/10 100/3 100/7 109/10 109/18 110/2 113/7 125/5 147/24 162/15 168/1 179/8 187/6 191/22 218/22  
**directed** [2] 38/10 115/17  
**directing** [4] 20/17 97/21 111/18 177/5  
**direction** [7] 94/20 115/23 116/1 137/17 170/16 182/8 216/25  
**directions** [2] 170/22 214/5  
**directly** [6] 24/17 57/16 94/1 122/14 132/20 148/3  
**director** [1] 95/16  
**dirt** [5] 38/16 136/2 181/1 182/4 182/12  
**disappearance** [1] 96/3  
**disappeared** [2] 90/5 123/4  
**disassemble** [2] 165/7 176/17  
**disassembled** [1] 164/5  
**disburse** [1] 97/24  
**disbursed** [1] 96/6  
**disbursing** [1] 98/2  
**discover** [1] 62/20  
**discovered** [2] 18/25 105/19  
**discretion** [1] 105/4  
**discuss** [6] 10/15 80/23 95/15 132/1 190/10 190/15  
**discussed** [6] 19/13 29/21 79/23 81/2 189/19 189/22  
**discussing** [2] 23/10 130/7  
**discussion** [18] 11/13 13/23 15/15

**D**  
**discussion...** [15] 15/25 18/7 44/3  
 46/24 75/1 81/14 94/14 94/14  
 99/9 100/10 108/10 113/25 126/23  
 127/8 189/18  
**discussions** [9] 9/22 59/4 99/17  
 119/8 126/21 131/12 145/16  
 145/21 151/19  
**disengaged** [1] 140/14  
**dispatch** [5] 60/12 83/14 98/6  
 125/16 132/13  
**displeasure** [1] 158/19  
**disputed** [1] 42/22  
**distribute** [1] 64/15  
**District** [4] 4/15 145/25 146/2  
 147/6  
**ditch** [1] 78/10  
**ditches** [2] 6/20 53/3  
**divided** [1] 77/11  
**dividing** [2] 76/19 97/16  
**Division** [1] 216/14  
**divvied** [1] 73/1  
**divvying** [1] 109/1  
**do** [139] 6/17 13/2 34/17 35/1  
 37/6 37/6 37/12 37/22 39/18 40/2  
 41/13 42/8 42/14 44/1 46/6 46/15  
 46/20 47/5 48/12 51/11 51/17  
 51/21 54/16 56/13 57/13 59/3  
 61/22 61/25 62/9 66/2 66/9 66/18  
 68/20 68/24 70/9 72/16 73/20  
 74/10 75/8 79/25 80/12 81/4  
 81/15 82/6 84/25 89/12 92/11  
 92/13 94/7 96/14 96/18 96/23  
 97/19 101/8 101/15 103/18 109/19  
 110/11 112/11 112/15 114/5  
 114/20 119/23 120/2 120/2 120/13  
 120/21 121/5 121/9 122/10 122/17  
 123/17 124/7 124/9 126/25 128/25  
 129/9 131/2 133/1 133/6 140/9  
 140/24 151/8 151/11 159/11  
 160/25 162/19 162/19 162/21  
 164/4 168/25 170/24 171/12  
 171/21 172/25 176/11 177/2  
 178/12 179/11 179/11 182/14  
 183/18 185/23 186/16 189/23  
 190/1 190/3 190/7 190/8 190/14  
 190/19 191/23 194/2 194/8 197/11  
 197/14 199/12 200/11 203/10  
 204/5 204/10 204/24 206/12  
 207/12 207/24 208/12 208/17  
 209/2 211/14 211/16 211/16  
 213/18 214/11 217/21 219/18  
 219/24 220/25 221/4 222/6  
**documented** [1] 145/12  
**does** [14] 5/17 5/18 12/3 13/3 13/6  
 51/12 52/2 55/18 57/11 132/7  
 148/13 161/20 161/23 191/1  
**doesn't** [3] 54/4 135/15 159/13  
**doing** [28] 32/25 52/25 53/4 56/23  
 67/4 68/13 75/1 80/1 87/6 98/14  
 99/9 99/18 105/11 112/11 115/9  
 119/11 122/3 127/11 127/14  
 127/15 127/17 127/18 128/6  
 181/17 189/12 203/16 216/24  
 220/10  
**don't** [128] 5/18 6/15 22/23 24/19  
 27/13 27/14 27/24 34/19 42/21  
 42/23 43/20 44/18 55/11 55/23  
 61/3 61/24 65/13 67/22 69/6  
 69/13 69/16 69/18 69/22 69/23  
 70/5 71/22 71/24 75/25 76/10  
 76/13 79/4 79/18 80/6 80/11

80/15 80/15 81/1 81/1 81/16  
 83/10 84/22 86/8 86/11 86/14  
 86/16 87/20 87/25 88/9 88/16  
 88/17 88/17 88/18 89/20 90/2  
 91/6 99/6 99/22 101/12 101/25  
 114/6 119/12 119/17 119/21  
 119/21 120/20 120/25 122/11  
 122/20 122/23 123/19 124/21  
 127/24 128/17 130/25 139/9 141/6  
 145/16 146/7 147/10 147/18  
 147/25 150/5 153/23 156/24  
 157/21 157/22 157/23 157/25  
 157/25 159/15 159/25 160/2  
 161/11 161/14 168/12 171/1 175/3  
 175/4 175/12 177/1 177/14 178/15  
 179/24 184/12 185/9 188/21  
 190/23 192/6 192/9 194/3 194/9  
 194/10 196/2 197/16 197/16 198/5  
 198/5 198/5 204/14 205/1 205/23  
 206/13 207/4 208/15 211/13 214/7  
 214/7 221/3  
**done** [3] 50/20 89/7 220/14  
**door** [9] 38/23 43/14 43/16 43/17  
 57/7 104/24 199/24 211/22 212/5  
**doors** [4] 42/1 43/16 43/19 142/12  
**dot** [1] 137/12  
**doubt** [2] 30/20 41/23  
**down** [58] 29/5 38/16 38/21 39/8  
 59/16 59/19 74/4 79/3 111/9  
 135/16 135/21 135/23 137/8  
 143/10 143/10 143/15 144/10  
 144/23 146/11 149/11 152/9  
 152/11 153/16 153/21 156/9  
 156/11 156/20 157/2 157/5 161/8  
 165/8 167/23 169/1 169/17 169/19  
 170/19 170/19 171/18 172/12  
 172/14 172/16 173/9 174/6 175/5  
 178/18 180/4 181/16 181/25 182/1  
 182/2 182/15 183/6 184/4 184/23  
 197/21 197/23 199/19 199/20  
**dozen** [2] 188/18 188/19  
**drafting** [1] 147/2  
**Drain** [1] 165/11  
**draw** [1] 113/11  
**drawing** [1] 102/19  
**dresser** [1] 200/21  
**drive** [10] 40/8 57/2 63/17 69/1  
 140/14 146/11 146/20 156/11  
 174/7 177/15  
**driver's** [2] 139/25 142/1  
**driveway** [8] 45/11 65/14 103/18  
 156/12 156/13 182/13 183/9  
 183/14  
**driveways** [1] 146/11  
**driving** [9] 39/8 44/7 70/3 73/2  
 74/15 78/7 121/7 156/16 180/4  
**drove** [14] 38/15 40/13 144/10  
 156/4 156/5 156/22 157/1 157/5  
 157/12 174/6 177/17 180/17  
 180/19 180/21  
**duly** [5] 5/11 33/17 61/14 162/9  
 186/20  
**during** [28] 20/14 32/24 52/22  
 93/7 98/9 98/17 98/22 99/8 101/1  
 103/13 105/21 112/9 115/4 126/1  
 132/14 133/22 145/16 146/23  
 158/15 173/1 175/8 176/10 200/7  
 201/9 202/13 205/7 215/8 220/11  
**duty** [3] 196/20 197/1 197/4

**E**  
**each** [4] 88/14 105/3 217/11  
 218/11

**EARL** [17] 2/18 26/25 27/10 27/13  
 27/17 27/20 131/9 144/10 145/2  
 145/6 145/6 153/20 158/4 158/21  
 162/3 162/8 162/13  
**earlier** [5] 19/15 32/13 122/23  
 173/20 198/14  
**early** [2] 8/18 123/20  
**easiest** [1] 159/14  
**east** [1] 156/16  
**easy** [1] 159/19  
**edge** [3] 113/16 178/2 182/3  
**Education** [1] 90/24  
**effect** [1] 71/12  
**effort** [7] 20/25 94/3 94/16 94/16  
 94/22 95/17 108/11  
**efforts** [11] 11/5 19/11 47/5 51/10  
 52/5 53/22 91/8 95/22 116/3  
 148/19 149/1  
**Eight** [3] 166/15 166/17 166/18  
**either** [20] 8/17 58/2 58/21 67/19  
 69/16 71/23 81/6 94/1 100/2  
 109/4 110/17 113/8 139/8 141/21  
 148/14 154/15 156/20 164/15  
 176/18 217/22  
**else** [25] 20/22 29/9 33/9 42/11  
 44/23 46/6 53/16 70/5 79/21  
 84/20 84/20 98/1 106/20 107/5  
 108/23 123/10 133/25 142/20  
 161/19 165/9 172/1 175/14 199/2  
 202/5 219/13  
**else's** [4] 157/3 157/4 157/12  
 161/8  
**employed** [2] 34/7 34/10  
**employee** [2] 165/1 176/11  
**enclosed** [1] 88/2  
**end** [9] 38/17 40/9 93/1 104/14  
 147/19 156/12 167/23 194/25  
 209/23  
**ended** [1] 60/16  
**ends** [4] 143/22 182/4 182/23  
 182/24  
**enforcement** [22] 34/2 68/4 69/20  
 70/7 82/9 87/2 91/5 93/8 94/21  
 95/8 97/18 101/3 102/7 102/10  
 103/6 109/4 112/10 116/2 144/1  
 144/23 153/8 175/9  
**enforcement's** [1] 108/10  
**engaged** [1] 219/2  
**engaging** [1] 97/4  
**enough** [9] 31/11 32/15 32/20  
 111/13 114/7 140/10 149/5 187/2  
 191/16  
**enter** [2] 38/25 195/6  
**entered** [15] 143/9 199/3 205/3  
 206/14 206/18 208/8 209/3 209/8  
 210/24 212/2 213/6 213/11 217/12  
 220/12 221/2  
**entire** [4] 14/16 29/1 106/23 205/8  
**entirely** [3] 101/24 101/25 107/15  
**entity** [1] 91/5  
**entrance** [2] 156/8 157/16  
**entry** [4] 136/2 152/7 212/11  
 212/22  
**establish** [3] 41/14 42/15 42/20  
**established** [2] 12/13 42/22  
**estimate** [3] 104/9 106/14 204/19  
**etcetera** [2] 6/20 106/7  
**even** [16] 18/6 28/15 31/8 40/16  
 55/5 55/6 88/16 92/12 98/23  
 99/22 105/10 106/15 130/22  
 172/10 184/8 200/22  
**evening** [17] 73/12 74/13 74/18  
 91/19 92/9 92/13 94/10 94/13

<p><b>E</b></p> <p><b>evening...</b> [9] 94/22 102/12 102/15 102/15 197/13 198/19 202/18 203/3 203/14</p> <p><b>event</b> [6] 43/2 53/9 118/7 137/5 147/20 198/7</p> <p><b>events</b> [3] 7/9 42/13 50/20</p> <p><b>eventually</b> [6] 41/5 41/7 132/25 138/14 139/2 147/17</p> <p><b>ever</b> [23] 10/20 26/14 38/5 63/15 63/17 63/19 67/23 85/17 86/17 119/12 119/15 119/18 134/16 134/18 136/7 136/10 136/10 136/19 136/23 158/17 158/19 195/20 196/8</p> <p><b>every</b> [3] 68/8 75/17 75/18</p> <p><b>everybody</b> [23] 58/16 70/3 72/18 72/21 72/24 72/25 73/2 73/23 74/21 74/22 75/7 75/13 78/8 79/21 90/2 101/16 102/13 104/12 104/17 106/22 108/23 117/7 118/15</p> <p><b>everyone</b> [2] 60/2 106/20</p> <p><b>everything</b> [5] 117/8 147/13 165/8 202/19 203/4</p> <p><b>everywhere</b> [1] 42/11</p> <p><b>evidence</b> [14] 6/20 42/6 44/5 71/4 116/7 120/6 120/10 130/10 159/3 159/10 159/18 159/22 218/14 219/9</p> <p><b>evidentiary</b> [4] 202/20 203/5 205/13 205/17</p> <p><b>evidently</b> [1] 126/6</p> <p><b>ex</b> [1] 89/21</p> <p><b>ex-boyfriend</b> [1] 89/21</p> <p><b>exact</b> [6] 21/11 47/7 55/2 128/17 159/6 197/12</p> <p><b>exactly</b> [8] 22/23 44/17 60/4 99/3 101/13 126/23 130/13 185/25</p> <p><b>exam</b> [1] 5/1</p> <p><b>examination</b> [44] 2/4 2/5 2/6 2/7 2/9 2/10 2/11 2/12 2/15 2/16 2/17 2/19 2/20 2/23 2/24 2/25 6/5 18/19 20/15 27/6 30/8 32/4 33/22 55/9 58/10 58/13 61/20 90/15 90/20 91/22 109/11 110/7 113/7 116/12 124/13 125/5 148/11 161/2 162/15 175/19 187/6 191/19 215/17 219/15</p> <p><b>examine</b> [3] 5/2 12/19 15/18</p> <p><b>examined</b> [7] 5/12 33/18 61/15 154/23 162/9 186/21 190/21</p> <p><b>example</b> [1] 14/8</p> <p><b>exception</b> [1] 136/25</p> <p><b>exchange</b> [1] 99/24</p> <p><b>excuse</b> [4] 61/3 73/4 82/4 189/15</p> <p><b>excused</b> [6] 33/10 61/8 123/12 161/20 185/5 221/15</p> <p><b>execute</b> [1] 199/7</p> <p><b>executed</b> [2] 188/15 201/22</p> <p><b>executing</b> [2] 188/12 189/2</p> <p><b>execution</b> [4] 4/8 188/16 201/16 215/4</p> <p><b>exhibit</b> [46] 12/4 12/19 13/1 13/3 17/7 20/11 20/13 20/17 109/9 109/10 109/13 109/16 109/19 110/1 110/4 110/5 110/15 110/18 110/21 111/19 111/22 112/6 112/11 116/18 117/21 118/11 121/13 129/7 129/25 130/1 135/4 135/14 136/3 137/22 137/23 143/21 153/14 156/14 159/3</p>	<p>160/19 160/20 163/2 177/21 178/1 178/20 182/14</p> <p><b>Exhibit 15</b> [6] 12/4 12/19 13/1 17/7 20/13 20/17</p> <p><b>Exhibit 18</b> [5] 109/19 110/18 153/14 163/2 177/21</p> <p><b>Exhibit 19</b> [5] 111/19 111/22 116/18 117/21 121/13</p> <p><b>exhibits</b> [4] 3/1 116/7 116/9 160/21</p> <p><b>exists</b> [1] 20/5</p> <p><b>exited</b> [5] 208/9 209/3 209/8 210/25 211/5</p> <p><b>expedite</b> [1] 59/24</p> <p><b>experience</b> [11] 25/4 30/10 30/14 34/12 34/14 34/25 66/23 80/13 97/3 97/6 188/11</p> <p><b>explain</b> [2] 39/18 67/3</p> <p><b>explained</b> [2] 39/24 79/25</p> <p><b>explains</b> [1] 141/13</p> <p><b>express</b> [1] 170/22</p> <p><b>expressed</b> [1] 23/19</p> <p><b>expressing</b> [2] 168/4 169/5</p> <p><b>extend</b> [1] 152/10</p> <p><b>extends</b> [1] 135/11</p> <p><b>extent</b> [3] 115/23 116/1 200/23</p> <p><b>extremely</b> [1] 57/14</p>	<p>218/21</p> <p><b>fast</b> [1] 83/15</p> <p><b>faster</b> [1] 83/17</p> <p><b>February</b> [1] 62/1</p> <p><b>feel</b> [1] 66/18</p> <p><b>feet</b> [3] 27/23 138/24 204/21</p> <p><b>felt</b> [1] 147/18</p> <p><b>female</b> [2] 36/6 39/23</p> <p><b>females</b> [1] 149/11</p> <p><b>few</b> [8] 26/21 30/13 56/24 103/1 110/11 153/20 155/3 201/5</p> <p><b>field</b> [5] 88/3 88/11 113/17 121/23 122/13</p> <p><b>fields</b> [4] 87/11 87/14 88/6 106/7</p> <p><b>figure</b> [1] 160/16</p> <p><b>figured</b> [3] 76/14 101/17 101/18</p> <p><b>filed</b> [5] 4/5 4/7 44/15 91/15 92/22</p> <p><b>filing</b> [1] 104/13</p> <p><b>fill</b> [1] 166/23</p> <p><b>filled</b> [2] 138/15 178/22</p> <p><b>final</b> [2] 165/16 199/22</p> <p><b>finally</b> [3] 52/10 172/17 213/10</p> <p><b>find</b> [15] 43/5 70/23 70/23 91/8 95/18 97/4 99/11 115/20 120/13 166/23 174/8 177/23 195/19 202/19 210/7</p> <p><b>finding</b> [2] 9/8 66/22</p> <p><b>fine</b> [8] 23/23 60/3 111/12 138/6 148/14 160/19 212/18 213/22</p> <p><b>finish</b> [1] 124/11</p> <p><b>finished</b> [2] 90/14 205/20</p> <p><b>finishing</b> [1] 55/25</p> <p><b>firearms</b> [3] 206/22 207/5 207/6</p> <p><b>first</b> [63] 5/11 13/23 15/16 16/13 27/9 27/9 33/17 35/7 38/5 38/19 46/22 48/23 52/23 53/4 56/10 59/1 61/14 66/6 72/1 89/15 92/22 93/14 96/16 98/23 110/8 110/15 111/22 120/13 121/20 122/13 125/18 136/7 136/10 136/17 139/11 141/7 141/17 142/9 144/19 144/19 153/9 154/23 154/25 158/4 160/2 160/6 162/9 168/11 169/13 173/17 174/11 174/11 178/10 178/25 179/25 186/20 189/7 189/9 189/11 192/5 192/6 210/13 213/7</p> <p><b>fit</b> [7] 205/4 206/19 208/9 209/9 210/25 211/23 212/7</p> <p><b>five</b> [10] 27/16 32/13 92/22 137/23 138/2 144/3 144/16 157/17 166/15 187/16</p> <p><b>flashlight</b> [7] 140/9 140/11 141/21 141/22 142/8 142/10 155/4</p> <p><b>flat</b> [3] 88/3 155/18 176/21</p> <p><b>flexibility</b> [1] 124/23</p> <p><b>flier</b> [4] 82/6 83/13 85/11 85/13</p> <p><b>fliers</b> [4] 65/15 65/17 81/24 85/8</p> <p><b>floor</b> [1] 210/14</p> <p><b>fluids</b> [1] 165/11</p> <p><b>fly</b> [1] 73/22</p> <p><b>flyers</b> [1] 68/25</p> <p><b>focus</b> [3] 41/9 95/22 105/15</p> <p><b>focused</b> [1] 220/9</p> <p><b>focussed</b> [2] 93/12 150/25</p> <p><b>folder</b> [1] 139/19</p> <p><b>folks</b> [2] 101/10 101/23</p> <p><b>follow</b> [5] 13/15 32/3 41/16 52/11 89/16</p> <p><b>followed</b> [1] 40/13</p> <p><b>following</b> [8] 22/7 37/2 46/12 93/2 97/13 102/17 102/23 193/15</p> <p><b>follows</b> [5] 5/12 33/18 61/15 162/10 186/21</p>
	<p><b>F</b></p> <p><b>Fabian</b> [3] 173/4 173/6 173/7</p> <p><b>facets</b> [1] 23/10</p> <p><b>facilitate</b> [2] 212/10 212/16</p> <p><b>fact</b> [53] 6/12 10/19 15/11 17/2 18/6 21/17 23/2 27/16 30/1 31/14 31/15 31/17 31/20 31/22 32/11 32/17 32/18 35/2 36/10 37/2 41/20 42/9 85/10 91/11 91/14 92/25 99/22 105/15 110/20 112/5 150/13 152/19 152/22 153/4 153/18 154/22 157/2 170/11 176/14 177/20 191/9 197/8 202/25 206/22 206/25 214/5 216/8 216/12 216/17 217/11 218/1 220/20 221/1</p> <p><b>factory</b> [1] 142/6</p> <p><b>facts</b> [6] 12/13 18/11 18/14 20/7 22/7 212/16</p> <p><b>factual</b> [1] 201/25</p> <p><b>fair</b> [16] 8/2 92/24 94/9 114/7 133/5 138/22 148/4 149/5 165/21 165/23 171/6 178/5 178/6 178/20 200/2 218/25</p> <p><b>fairly</b> [1] 173/13</p> <p><b>fall</b> [2] 173/19 176/7</p> <p><b>FALLON</b> [19] 1/14 2/4 2/6 2/11 2/16 2/19 2/24 4/17 6/2 25/1 42/16 55/10 89/1 90/17 90/18 148/9 185/1 215/15 215/19</p> <p><b>familiar</b> [4] 19/13 51/12 63/13 111/23</p> <p><b>family</b> [22] 9/13 52/25 53/3 59/10 64/2 64/10 64/11 67/18 72/14 72/14 91/15 91/24 92/7 92/16 93/22 127/11 127/14 134/25 158/6 158/7 167/6 185/18</p> <p><b>far</b> [15] 9/17 17/15 58/7 91/4 110/21 117/12 124/19 136/3 137/10 138/1 169/1 173/20 190/25 203/25 218/19</p> <p><b>farm</b> [1] 88/11</p> <p><b>farms</b> [1] 106/7</p> <p><b>farther</b> [2] 116/24 199/21</p> <p><b>farthest</b> [1] 178/2</p> <p><b>Fassbender</b> [4] 5/21 216/18 217/1</p>	

**F**  
**foray** [1] 157/6  
**foregoing** [2] 222/7 222/7  
**foremost** [1] 93/14  
**forest** [1] 87/14  
**forested** [1] 88/6  
**fork** [1] 136/14  
**form** [3] 19/24 61/2 203/1  
**formal** [1] 94/14  
**former** [3] 80/9 89/18 122/22  
**formulate** [1] 20/22  
**forth** [1] 12/12  
**forward** [1] 192/25  
**found** [20] 13/19 41/10 42/23 77/4  
83/23 86/15 106/24 108/3 120/6  
131/20 137/25 138/22 141/25  
152/1 172/6 173/10 201/18 209/24  
210/5 210/12  
**foundation** [4] 66/10 93/23 96/15  
201/25  
**Foundation's** [1] 120/12  
**foundational** [2] 42/6 201/14  
**founded** [1] 91/1  
**four** [23] 27/21 32/13 92/22  
111/10 114/10 141/17 144/10  
144/14 157/17 174/7 174/7 177/16  
178/19 184/12 184/15 184/19  
187/22 199/6 200/4 200/13 200/24  
202/14 205/7  
**four-sided** [1] 114/10  
**four-wheel** [1] 174/7  
**four-wheeler** [6] 27/21 144/10  
144/14 174/7 177/16 178/19  
**fourth** [1] 209/18  
**Fox** [1] 133/14  
**frankly** [1] 55/16  
**Franks** [6] 4/6 5/19 124/12 148/8  
161/21 161/24  
**freely** [2] 40/4 40/5  
**Friday** [66] 7/7 45/17 64/1 65/3  
65/18 68/4 68/5 68/5 68/12 68/25  
69/12 70/1 70/1 72/12 72/18  
72/20 72/23 73/6 73/8 73/12  
73/19 73/21 74/6 74/7 74/7 74/13  
74/14 74/14 74/18 74/20 74/25  
75/10 79/2 91/20 91/20 91/21  
92/18 93/12 93/17 93/21 94/4  
94/12 95/1 95/2 95/20 98/21 99/2  
99/21 100/1 100/20 100/23 101/5  
101/6 101/12 102/12 102/15  
102/15 108/25 117/15 136/10  
136/25 137/3 148/15 148/19  
166/15 196/6  
**friend** [1] 90/3  
**friends** [6] 62/13 62/14 65/10  
67/14 68/9 72/14  
**front** [5] 45/12 181/1 181/10 183/2  
199/23  
**full** [2] 174/15 182/14  
**fully** [1] 40/6  
**further** [13] 2/7 33/7 57/12 104/21  
123/9 151/19 154/9 161/16 161/21  
184/24 185/1 215/14 221/11  
**future** [1] 190/18

**G**  
**gain** [3] 144/25 150/14 151/6  
**game** [4] 9/7 68/14 97/11 173/14  
**garage** [41] 42/10 43/11 43/22  
43/23 43/25 44/2 44/3 45/16 46/3  
146/17 196/1 204/6 204/7 204/12  
204/20 204/22 204/23 204/25

205/7 205/13 205/18 205/20  
207/13 208/13 210/19 211/7  
211/17 211/22 211/22 212/5 213/1  
213/11 213/13 213/21 213/21  
213/25 213/25 215/9 217/13  
218/12 219/3  
**Gary** [1] 214/12  
**gates** [2] 152/6 152/9  
**gathered** [1] 95/11  
**gathering** [6] 73/13 74/19 74/20  
76/15 91/19 103/14  
**gave** [31] 8/2 22/3 40/4 43/5 47/1  
74/22 75/13 82/14 82/18 82/21  
84/6 84/6 84/12 84/17 103/24  
103/25 108/6 108/7 108/20 118/10  
118/14 118/14 120/1 129/11 145/7  
147/3 168/19 174/15 180/1 197/1  
206/12  
**gears** [1] 124/14  
**Geez** [1] 86/21  
**general** [13] 7/1 38/3 83/13 98/6  
100/13 106/15 108/21 117/1 117/7  
118/14 157/18 177/20 202/12  
**generally** [7] 179/9 181/3 184/2  
184/13 201/6 201/9 202/4  
**generated** [1] 116/15  
**gentlemen** [1] 56/10  
**geographical** [1] 114/11  
**get** [83] 12/18 15/21 15/23 31/12  
32/8 32/15 34/23 38/16 41/4 41/7  
49/23 53/1 53/2 54/19 55/19  
56/14 58/19 61/5 66/6 66/7 66/21  
67/7 72/6 74/10 78/15 78/17  
78/18 80/24 83/15 84/3 84/8  
84/15 94/7 94/10 96/16 97/11  
102/13 104/6 104/17 104/24 105/8  
111/20 112/14 119/19 120/14  
121/18 122/17 127/13 127/16  
127/22 128/8 129/3 129/6 131/13  
132/4 133/14 140/11 140/22  
141/23 142/10 142/11 146/8  
146/12 146/21 149/10 153/20  
154/23 155/6 157/10 157/19 165/7  
170/19 170/20 170/25 178/18  
181/15 186/5 197/25 198/2 208/1  
215/7 218/15 218/18  
**gets** [2] 50/14 135/25  
**getting** [10] 55/22 58/4 65/20  
65/20 75/3 95/23 119/25 130/19  
133/18 198/1  
**Gibson** [1] 36/12  
**girlfriend** [1] 62/16  
**give** [16] 7/23 76/20 76/22 83/5  
84/4 86/7 88/24 105/10 108/1  
108/5 117/16 130/18 168/17  
170/22 182/8 204/19  
**given** [5] 106/10 107/6 157/9  
185/8 190/25  
**giving** [2] 156/22 214/5  
**gloves** [1] 212/6  
**go** [120] 19/6 36/23 37/3 38/10  
38/16 38/20 40/11 40/15 41/15  
43/10 43/21 43/23 43/25 51/21  
51/23 54/6 54/16 54/19 56/3 65/6  
65/8 65/14 65/16 66/1 66/5 67/4  
68/20 69/1 71/10 73/3 78/1 78/9  
81/3 85/13 86/17 86/21 87/17  
87/25 89/9 94/10 94/12 95/1 95/2  
99/18 103/18 104/12 104/19 105/5  
105/11 105/23 107/20 107/23  
108/18 113/20 116/24 118/18  
119/12 119/15 121/5 124/6 128/19  
129/3 130/23 131/23 132/1 132/5

133/14 135/21 136/14 136/19  
137/7 139/2 144/5 146/23 150/14  
151/13 154/9 157/6 157/10 165/8  
165/24 166/4 168/15 169/18  
170/17 171/3 176/20 176/20 179/9  
184/14 185/20 186/6 188/11 189/2  
193/16 193/18 194/5 195/22 196/1  
197/21 199/19 199/20 199/24  
200/24 203/13 205/21 205/25  
206/3 206/6 206/10 207/2 207/17  
207/23 208/1 208/4 210/9 210/19  
211/11 214/10 217/22  
**goes** [10] 24/16 29/17 42/11 50/8  
181/19 182/2 183/5 184/17 184/17  
201/21  
**going** [80] 5/2 9/8 11/24 19/4  
24/23 27/18 41/4 42/4 42/24 44/2  
55/19 58/11 59/15 65/21 68/23  
69/24 70/19 75/2 75/23 78/6  
78/10 79/20 80/18 81/4 84/14  
86/4 88/15 88/24 93/11 94/2 96/5  
96/9 99/18 107/6 109/2 112/19  
118/24 119/10 119/24 120/22  
120/22 121/5 121/9 124/8 129/1  
129/14 131/25 134/12 134/13  
134/22 135/4 137/2 139/1 149/16  
153/4 153/5 153/7 156/7 158/22  
166/6 170/16 172/13 174/8 174/14  
174/15 183/15 185/10 186/16  
189/15 193/9 195/16 201/19  
201/24 203/13 204/4 208/12  
208/17 210/9 211/16 214/3  
**going to** [1] 134/12  
**golf** [2] 39/10 40/14  
**gone** [8] 23/3 80/5 85/10 106/22  
133/16 133/20 165/20 192/16  
**good** [7] 4/19 90/3 111/13 115/2  
171/7 190/16 198/2  
**got** [47] 13/13 18/6 38/19 51/20  
55/7 64/11 72/12 73/24 79/5 82/3  
82/8 84/24 84/24 89/16 94/5  
96/19 101/13 103/21 103/23  
104/25 106/24 110/21 125/20  
127/19 128/9 130/14 131/7 131/8  
132/2 132/8 132/10 136/18 141/21  
142/10 145/2 146/19 151/23  
156/23 156/25 157/12 157/21  
157/22 177/23 179/4 185/9 186/4  
198/14  
**gotcha** [1] 75/4  
**gotten** [5] 14/14 102/13 157/24  
218/14 218/18  
**grabbed** [1] 157/11  
**grammatically** [1] 16/14  
**grant** [1] 10/4  
**granted** [1] 9/24  
**grass** [1] 140/16  
**gravel** [8] 78/3 106/6 135/19  
135/22 136/2 149/12 152/10  
152/11  
**great** [1] 102/8  
**green** [6] 22/22 23/3 23/9 31/4  
75/20 88/3  
**greenish** [4] 16/2 16/6 17/11 31/22  
**greet** [1] 79/6  
**Griesbach** [1] 146/2  
**grocery** [1] 85/8  
**grounds** [1] 27/5  
**group** [15] 7/11 7/14 72/10 74/10  
79/18 94/6 95/11 104/15 104/18  
106/9 106/15 106/21 106/22  
113/12 169/13  
**groups** [2] 79/15 179/5



**G**

**guess [40]** 53/14 53/18 65/8 66/8  
66/22 67/7 69/9 69/24 70/4 70/22  
71/2 72/12 73/1 73/25 77/1 77/3  
79/20 81/15 88/2 89/21 94/4 94/6  
96/14 96/17 99/3 99/15 101/17  
102/1 105/20 117/14 120/8 121/1  
122/24 125/10 133/5 139/1 155/14  
163/25 167/18 219/23  
**guidance [1]** 94/19  
**guys [2]** 168/16 173/12

**H**

**H-i-l-l-e-g-a-s [2]** 61/10 61/19  
**had [254]**  
**hadn't [1]** 86/6  
**Halbach [29]** 6/21 8/19 9/9 13/19  
14/10 15/7 18/1 21/15 28/12  
31/15 32/12 33/1 35/8 59/9 62/9  
91/8 91/15 95/18 116/4 126/11  
132/21 134/25 135/2 141/14 168/5  
170/2 189/10 191/25 192/18  
**Halbach's [4]** 14/17 95/12 169/6  
172/8  
**half [3]** 29/5 58/5 104/16  
**hall [1]** 199/19  
**Halloween [2]** 62/21 63/10  
**hand [19]** 33/15 45/10 61/12 70/3  
103/21 105/22 110/22 111/8 135/4  
135/13 137/24 138/3 139/18  
143/21 155/9 162/7 171/14 178/1  
186/16  
**handcuffs [1]** 200/11  
**handed [7]** 20/14 74/12 74/21  
74/23 79/3 108/22 117/7  
**handing [2]** 85/7 105/21  
**handle [2]** 164/18 166/10  
**handled [1]** 164/8  
**handling [1]** 163/23  
**hang [4]** 65/15 168/17 168/19  
168/21  
**happen [1]** 172/25  
**happened [5]** 29/20 85/15 94/4  
190/4 213/17  
**happy [1]** 109/13  
**hard [4]** 57/2 188/17 188/18  
188/24  
**has [7]** 42/9 42/16 43/14 80/5 91/4  
187/15 222/8  
**hasn't [1]** 152/13  
**have [220]** 5/8 10/16 12/4 13/1  
13/4 13/13 13/14 15/3 15/17  
15/22 16/5 19/13 19/16 20/7  
22/13 24/7 25/18 25/20 25/25  
27/25 30/4 30/13 31/11 31/21  
32/2 32/10 32/20 34/1 34/4 34/5  
34/14 34/17 35/9 36/14 36/21  
37/3 37/17 38/5 41/13 42/15 44/7  
46/24 47/8 48/12 49/2 53/8 54/12  
55/4 55/6 55/7 55/8 55/11 55/17  
55/18 56/12 56/15 57/12 59/16  
59/19 62/18 64/1 65/16 66/13  
66/22 66/23 67/24 68/3 70/18  
71/19 74/25 75/21 78/19 79/2  
79/6 80/13 81/14 82/5 83/16  
85/10 86/2 86/3 86/4 86/23 87/16  
89/6 90/8 90/14 92/13 93/8 98/10  
99/5 99/5 99/16 99/20 100/19  
101/2 102/13 102/17 105/17  
111/14 112/12 112/12 113/1 114/1  
114/7 114/10 115/2 119/3 120/17  
120/22 123/14 124/22 128/17

129/9 130/7 130/17 130/25 131/15  
133/21 134/6 135/1 135/10 135/16  
136/22 136/23 139/21 140/9  
140/12 140/24 144/8 144/12  
147/10 148/7 148/23 149/5 151/24  
157/6 157/20 157/23 159/6 160/18  
160/21 160/25 161/15 161/20  
161/23 162/2 163/18 165/12  
166/25 168/7 169/4 170/8 171/7  
171/8 171/12 171/13 172/2 172/10  
174/6 177/2 177/23 179/1 179/4  
179/8 179/15 180/24 183/15  
184/15 184/24 185/6 185/9 185/15  
185/23 186/4 186/4 186/17 187/1  
187/8 187/13 188/11 188/15  
188/25 189/6 189/17 189/24  
189/25 190/9 190/19 191/4 191/12  
192/10 193/5 193/13 193/20 194/3  
194/11 194/17 196/4 196/8 198/16  
200/14 200/20 201/3 201/4 207/17  
208/12 211/14 213/18 213/20  
213/21 215/13 215/25 216/1 217/7  
219/21 219/23 220/14 220/17  
221/11  
**haven't [3]** 60/18 127/25 160/22  
**having [8]** 4/18 5/11 33/17 41/9  
61/14 144/24 162/9 186/20  
**hazard [1]** 219/23  
**he [161]** 5/7 10/16 14/15 14/22  
16/25 17/2 17/2 17/3 21/4 21/5  
24/8 24/8 25/14 25/19 25/22  
25/25 26/2 26/5 26/7 26/9 26/10  
26/11 26/11 26/14 27/13 27/22  
27/23 27/25 28/2 28/2 28/24 29/1  
29/11 29/14 31/20 31/20 35/21  
36/16 36/23 36/25 38/23 39/2  
39/2 39/23 39/24 40/2 40/11  
40/13 40/15 41/10 41/11 41/24  
42/23 44/1 47/1 52/3 52/24 52/24  
53/20 54/11 54/12 54/14 54/17  
56/23 56/25 67/22 82/25 91/4  
97/3 97/6 97/8 97/8 99/13 100/7  
108/7 115/14 115/15 115/17  
115/20 119/12 119/15 119/18  
120/1 120/2 126/6 127/12 127/19  
128/13 128/16 128/21 128/21  
128/25 129/4 130/13 130/20 131/3  
131/6 131/12 131/16 131/22  
131/25 132/7 132/20 132/20  
132/22 132/24 133/4 133/6 134/2  
139/7 139/10 143/8 148/5 149/12  
150/3 150/5 150/7 153/21 158/5  
158/10 158/13 158/13 158/16  
158/19 158/21 158/22 159/24  
164/23 165/1 165/2 165/3 165/5  
165/23 166/1 166/3 171/24 173/2  
176/1 176/2 176/7 176/10 176/11  
176/13 176/14 176/17 176/20  
176/24 176/24 187/2 190/5 191/15  
192/14 192/18 192/20 194/25  
195/2 195/3 195/4 195/5 197/1  
197/23  
**he's [7]** 20/13 150/17 177/25  
185/17 185/25 190/25 191/11  
**headphones [1]** 57/5  
**hear [8]** 59/18 151/3 163/16  
185/10 187/2 187/3 190/5 211/3  
**heard [4]** 63/1 63/25 67/21 85/14  
**hearing [5]** 1/4 4/4 189/25 190/18  
210/10  
**height [1]** 64/21  
**helicopter [1]** 86/11  
**help [21]** 10/6 10/8 10/12 20/22

64/7 65/12 66/21 67/3 69/8 79/9  
101/16 134/22 165/3 165/5 168/16  
170/1 170/10 170/12 196/9 196/16  
217/19  
**helped [3]** 97/8 102/9 176/13  
**helpers [1]** 104/10  
**helpful [1]** 41/6  
**helping [1]** 165/2  
**her [73]** 9/14 11/11 11/23 14/12  
19/24 20/7 22/5 31/18 31/21 36/8  
44/5 62/12 62/25 63/1 63/2 63/3  
63/7 63/9 63/10 63/13 64/20  
64/21 64/21 64/23 65/10 66/22  
68/10 70/23 71/4 71/4 71/5 71/11  
72/3 76/3 76/3 78/10 78/20 78/23  
78/25 80/1 80/2 80/12 80/23  
80/24 81/4 81/11 84/6 84/16 90/1  
92/4 105/13 105/14 105/18 106/12  
107/12 107/15 107/20 107/22  
108/10 108/11 108/14 108/19  
108/20 118/14 118/24 122/22  
123/3 126/11 126/19 154/4 167/22  
196/10 196/17  
**here [58]** 4/3 5/6 5/22 13/14 16/24  
21/11 41/9 57/17 58/8 58/16  
88/25 89/4 106/19 109/14 112/17  
112/17 113/21 113/22 113/25  
114/3 114/11 124/25 135/20  
135/23 135/25 137/18 143/24  
145/5 152/24 156/2 156/5 156/11  
157/1 157/3 157/4 157/5 157/12  
157/24 159/25 163/1 176/5 177/24  
180/22 180/24 181/18 181/19  
181/20 181/21 181/25 182/23  
183/13 183/14 184/7 184/11  
185/17 189/16 190/11 201/15  
**Here's [1]** 149/12  
**hereby [1]** 222/6  
**herein [5]** 5/11 33/17 61/14 162/8  
186/20  
**Hermann [9]** 139/8 141/22 143/15  
143/18 145/1 145/6 154/14 154/16  
188/1  
**hers [3]** 68/10 89/21 167/23  
**herself [1]** 79/25  
**hey [4]** 54/12 102/7 131/6 151/24  
**hidden [1]** 198/1  
**hierarchy [1]** 187/19  
**high [3]** 62/14 116/22 140/16  
**highest [2]** 133/23 188/5  
**highway [7]** 114/4 114/5 114/7  
114/10 114/24 115/1 121/21  
**highways [1]** 118/15  
**Hilbert [1]** 7/3  
**hill [1]** 182/1  
**HILLEGAS [10]** 2/14 59/5 61/10  
61/13 61/18 61/22 90/15 90/22  
109/17 149/4  
**Hillegas' [1]** 148/18  
**Hillegas's [1]** 149/1  
**him [73]** 5/23 9/3 10/15 19/2 19/5  
19/8 20/7 20/14 26/5 26/9 26/13  
29/10 38/25 39/21 39/22 39/24  
40/12 40/12 40/16 40/19 52/24  
53/5 54/21 67/23 67/24 68/14  
68/15 68/15 68/18 68/24 69/15  
71/19 87/10 87/10 89/8 97/1  
97/10 98/14 99/9 99/11 99/17  
99/22 100/1 100/10 115/8 115/11  
119/9 119/11 119/22 119/23  
120/21 121/9 124/14 124/21 126/1  
128/5 128/21 128/22 130/18  
131/18 131/19 133/5 158/13

**H**  
**him...** [10] 158/16 186/1 186/5  
 192/17 193/21 194/24 195/24  
 197/6 202/8 207/8  
**himself** [2] 150/8 187/23  
**his** [55] 19/24 20/14 22/5 24/8  
 26/7 28/2 38/20 40/1 40/4 40/9  
 40/13 40/15 42/10 42/10 46/3  
 82/18 82/18 82/21 82/21 83/5  
 83/6 97/13 99/12 99/23 108/6  
 108/7 124/11 128/16 128/22 132/3  
 144/10 149/24 150/3 150/5 173/3  
 176/1 176/24 183/13 185/18 186/4  
 190/6 191/15 192/16 194/6 194/22  
 195/1 195/24 199/6 199/12 207/10  
 207/25 209/19 209/24 210/19  
 217/12  
**hits** [1] 16/3  
**hmm** [8] 19/1 62/17 72/9 77/10  
 117/4 141/5 169/22 171/4  
**hold** [4] 83/15 84/3 120/14 130/19  
**holding** [1] 20/13  
**Holstein** [1] 126/12  
**Hon** [1] 1/10  
**honest** [1] 19/20  
**honestly** [1] 92/20  
**Honor** [8] 4/19 12/3 20/16 42/4  
 57/13 90/16 161/22 186/14  
**hood** [1] 139/24  
**hope** [2] 58/18 105/16  
**hopefully** [2] 61/6 185/11  
**hoping** [1] 41/8  
**horrid** [1] 84/8  
**hot** [1] 81/25  
**hour** [17] 52/5 56/10 56/16 56/17  
 58/5 58/21 61/7 79/21 104/16  
 104/16 106/15 125/8 131/17 133/3  
 172/16 180/12 205/1  
**hours** [16] 133/5 133/21 134/3  
 141/4 142/16 143/2 144/13 145/12  
 166/13 175/6 178/16 199/14  
 199/15 200/5 202/13 205/25  
**hours or** [1] 199/14  
**house** [25] 45/2 45/4 67/12 67/13  
 67/16 72/18 72/22 73/16 73/16  
 73/18 79/19 79/24 92/3 92/4 92/8  
 92/21 99/13 102/14 102/17 103/23  
 104/13 104/17 183/13 193/16  
 220/12  
**houses** [1] 88/6  
**how** [86] 9/7 10/3 16/15 16/19  
 19/16 24/19 34/1 34/4 34/22  
 35/11 42/11 42/23 48/10 49/1  
 55/19 57/22 62/24 63/24 65/6  
 66/4 67/3 67/6 75/15 83/25 86/2  
 86/5 96/17 97/8 98/24 99/1 99/3  
 99/18 101/13 102/1 102/2 102/2  
 103/15 104/5 104/9 105/4 105/11  
 120/21 120/22 121/16 121/22  
 122/7 126/22 133/20 135/5 137/10  
 138/24 141/15 142/14 142/25  
 143/9 156/2 156/24 157/14 158/2  
 163/18 163/21 164/21 165/12  
 166/16 170/19 170/20 181/15  
 186/1 187/8 187/15 187/20 188/11  
 188/14 189/1 189/9 199/12 199/16  
 201/18 203/12 203/14 204/20  
 204/24 205/1 215/6 217/21 219/18  
**however** [5] 13/3 22/4 23/9 115/14  
 174/18  
**Huh** [2] 165/22 170/7  
**hung** [1] 180/1

**hunt** [2] 173/2 173/13  
**hunting** [3] 172/22 172/25 173/24  
**hurry** [1] 79/5  
**hurt** [1] 170/25  
**I**  
**I'd** [1] 133/21  
**I'll** [2] 107/9 202/1  
**I'm** [100] 18/24 21/10 24/23 29/11  
 41/8 41/16 42/4 42/11 42/20  
 42/24 43/24 46/22 58/1 59/7 60/6  
 62/1 62/8 64/9 64/10 68/6 72/22  
 74/18 75/25 76/1 77/5 79/20  
 81/15 82/25 86/21 87/23 88/15  
 88/22 88/24 89/7 91/21 98/19  
 100/22 102/1 111/7 112/16 112/18  
 112/19 113/19 119/7 119/25 121/1  
 122/20 125/19 126/23 128/2 130/1  
 134/11 134/22 135/4 136/18 139/1  
 143/8 147/3 149/4 150/19 151/3  
 153/13 153/19 155/22 157/7 158/3  
 160/9 163/5 163/16 167/2 167/14  
 168/15 173/5 173/22 175/15  
 180/21 182/10 182/11 183/15  
 185/10 185/25 186/15 187/25  
 189/15 192/9 192/13 194/4 194/12  
 196/18 197/12 197/13 197/17  
 203/12 205/1 210/9 215/6 215/25  
 220/5 220/8 221/7  
**idea** [29] 10/3 11/23 12/1 38/8  
 38/20 55/19 65/16 66/13 86/2  
 95/25 96/13 96/14 101/7 101/13  
 102/3 102/8 107/12 107/15 112/12  
 133/2 149/17 151/20 161/15 171/6  
 171/7 172/10 172/18 219/21  
 219/23  
**ideas** [2] 10/15 10/16  
**identification** [4] 109/16 110/5  
 129/25 155/7  
**identifies** [1] 128/21  
**identify** [3] 111/22 130/2 160/1  
**if** [131] 9/24 10/4 21/4 25/17  
 25/22 25/25 26/9 27/13 40/1 42/5  
 44/4 56/1 56/13 57/15 57/19  
 57/22 58/1 59/22 60/18 63/1  
 64/10 64/23 66/19 69/8 70/23  
 76/10 78/16 80/11 81/3 83/15  
 83/22 84/13 84/22 85/12 86/8  
 87/25 88/10 88/17 88/18 88/18  
 89/20 93/24 98/25 99/6 99/22  
 100/22 101/25 102/8 109/8 109/8  
 109/12 109/25 111/19 111/21  
 112/23 115/20 118/1 119/19 120/6  
 120/12 120/25 124/9 125/22 126/1  
 128/17 128/19 129/2 129/6 132/4  
 133/6 135/3 137/7 139/9 140/13  
 141/1 141/12 146/6 147/19 150/14  
 150/25 151/5 151/12 152/10  
 155/11 155/15 155/23 156/3  
 157/22 160/2 166/18 166/19  
 166/22 166/23 168/13 168/20  
 168/22 168/25 169/16 170/12  
 171/25 173/22 175/9 177/18  
 183/15 183/19 183/25 185/18  
 186/4 189/24 190/4 192/13 193/18  
 194/25 199/18 199/20 199/23  
 203/19 204/14 205/3 206/18 207/7  
 208/8 209/8 210/24 211/19 211/25  
 212/2 212/8 212/9 213/16 220/19  
**illegally** [1] 26/1  
**illuminate** [1] 141/23  
**image** [1] 111/25  
**images** [1] 75/12

**imaging** [1] 104/8  
**immediate** [1] 88/8  
**immediately** [2] 73/9 205/22  
**impact** [1] 57/22  
**Impala** [1] 167/3  
**implicit** [1] 191/8  
**implicitly** [2] 94/2 95/16  
**important** [5] 19/19 57/14 57/21  
 147/12 191/16  
**impression** [2] 105/16 151/8  
**improve** [1] 113/24  
**in** [444]  
**in being** [1] 39/18  
**inches** [6] 111/8 111/9 137/23  
 138/1 138/2 181/23  
**incident** [1] 176/4  
**include** [5] 26/1 45/21 48/23 49/19  
 146/14  
**included** [14] 23/20 24/2 25/20  
 25/25 34/6 36/9 42/19 49/14  
 77/17 106/6 125/10 157/18 220/3  
 220/22  
**includes** [1] 130/6  
**including** [5] 124/13 144/2 146/17  
 200/10 209/19  
**incoming** [1] 128/10  
**independent** [5] 20/8 53/8 55/2  
 92/14 217/8  
**indicate** [6] 137/22 144/13 158/19  
 183/11 195/19 212/11  
**indicated** [23] 6/24 9/12 16/12  
 17/2 22/22 49/24 51/9 51/22  
 54/14 93/14 102/11 110/9 112/8  
 113/7 150/3 150/7 152/23 155/12  
 158/5 161/4 174/6 211/20 218/13  
**indicates** [1] 52/24  
**indicating** [1] 135/13  
**indication** [1] 137/13  
**individual** [9] 54/14 56/22 59/4  
 70/8 76/21 104/18 105/4 128/23  
 150/10  
**individuals** [3] 67/19 95/11 103/14  
**information** [66] 8/4 8/7 8/12 14/1  
 14/4 14/10 14/14 15/4 16/11  
 16/18 21/12 21/17 22/2 23/2 24/1  
 24/2 25/6 28/9 28/17 30/12 31/2  
 35/4 36/8 36/16 38/14 47/1 55/14  
 55/23 56/23 57/14 57/23 58/17  
 64/17 64/20 64/23 65/20 68/10  
 71/13 75/3 75/22 76/13 83/12  
 96/2 96/5 96/17 100/13 104/6  
 109/2 115/6 123/19 125/16 146/8  
 147/4 147/18 147/21 149/10  
 156/25 157/20 158/2 197/1 198/13  
 206/3 207/25 218/14 218/17  
 218/20  
**informed** [7] 6/18 29/6 119/9  
 189/22 191/4 193/7 197/6  
**initial** [2] 106/9 157/6  
**initially** [3] 23/8 155/20 210/12  
**initials** [1] 112/20  
**inside** [8] 41/1 43/5 88/19 140/3  
 146/23 180/14 208/24 209/16  
**Inspector** [3] 134/1 145/19 188/1  
**inspectors** [1] 188/3  
**instance** [6] 25/17 28/21 56/7  
 106/7 164/9 166/18  
**instead** [1] 190/1  
**instruct** [1] 7/18  
**instructed** [7] 58/19 59/23 69/9  
 71/3 85/14 120/11 207/24  
**instruction** [6] 94/19 119/22 120/1  
 120/5 127/23 128/1

**I**  
**instructions** [3] 8/3 104/21 157/9  
**intended** [2] 100/11 189/16  
**intending** [1] 68/19  
**intent** [4] 71/10 84/13 150/17  
150/20  
**intention** [1] 150/13  
**intentions** [2] 10/17 11/11  
**interest** [3] 168/4 169/5 209/25  
**interested** [1] 19/4  
**interesting** [2] 69/3 115/21  
**internet** [3] 75/12 104/8 116/15  
**interrupt** [1] 189/16  
**interrupted** [1] 212/12  
**interview** [3] 189/12 193/20  
194/25  
**interviewed** [2] 192/14 192/20  
**into** [44] 24/2 25/6 35/12 40/15  
40/21 43/21 45/17 57/5 78/10  
84/14 84/24 87/17 87/25 110/25  
116/7 124/15 144/5 152/11 159/3  
159/18 169/1 170/20 181/16 182/2  
183/2 184/4 184/11 195/22 196/1  
196/2 199/6 202/4 205/21 206/1  
206/4 207/2 207/18 208/13 208/17  
210/9 210/19 211/11 211/16  
211/21  
**introduced** [1] 79/24  
**invasive** [1] 66/8  
**inventory** [2] 171/11 179/7  
**investigating** [3] 39/22 50/21  
154/18  
**investigation** [16] 36/5 38/2 66/15  
70/12 70/16 70/21 145/3 145/8  
145/11 196/4 196/5 214/19 215/21  
216/10 216/15 216/20  
**investigative** [1] 198/10  
**investigator** [58] 29/5 29/6 34/5  
35/22 35/24 37/11 46/17 46/23  
47/3 47/23 48/17 48/24 49/4 49/6  
51/8 51/8 52/2 52/10 52/22 53/18  
56/9 59/14 69/11 71/17 80/10  
82/21 83/2 83/5 120/18 125/23  
126/5 127/12 128/10 130/11  
130/15 130/18 133/7 133/13  
139/13 143/4 143/4 143/6 143/7  
145/19 147/4 148/4 148/5 148/13  
149/10 149/23 149/25 151/24  
159/8 192/8 192/22 214/11 216/18  
216/25  
**investigators** [2] 82/12 83/20  
**invited** [1] 184/2  
**involve** [1] 59/4  
**involved** [22] 35/7 63/21 63/24  
65/7 66/15 66/20 91/8 92/25  
101/2 109/4 124/10 132/20 134/22  
146/3 146/4 150/8 171/22 189/9  
189/11 218/2 219/18 219/19  
**involvement** [6] 16/24 93/1 108/11  
133/24 193/2 196/5  
**involving** [1] 36/5  
**irrelevant** [4] 24/14 27/5 28/5  
88/20  
**is** [263]  
**isn't** [14] 22/8 23/21 27/18 30/2  
32/8 38/18 43/12 88/20 88/23  
107/17 135/9 140/22 182/21  
220/23  
**issue** [4] 24/17 57/17 123/1  
201/15  
**issued** [3] 4/9 12/9 197/15  
**issues** [1] 8/16

**it** [393]  
**it's** [49] 4/2 8/2 16/2 16/5 18/21  
19/19 24/13 24/24 28/5 28/23  
30/22 41/6 46/3 50/9 50/18 52/16  
52/20 54/3 54/25 55/19 58/20  
61/2 66/10 88/18 90/13 100/24  
103/4 111/24 111/24 113/16  
114/22 135/19 143/3 145/5 150/25  
151/8 159/5 159/7 159/15 159/19  
159/22 160/2 160/4 188/24 191/8  
200/1 201/2 201/13 211/25  
**itemized** [1] 56/25  
**items** [6] 68/9 72/2 92/23 200/7  
206/9 210/3  
**its** [4] 5/1 28/21 88/8 155/17  
**itself** [2] 76/25 218/6

**J**  
**JAMES** [3] 2/22 186/19 186/24  
**Janda** [1] 39/6  
**January** [1] 34/5  
**Jason** [1] 139/6  
**Jay** [1] 96/24  
**JEROME** [2] 1/18 4/20  
**Jerry** [11] 67/15 67/21 68/6 68/11  
68/17 68/18 84/6 84/12 87/9  
108/6 121/4  
**job** [4] 34/24 34/25 188/25 189/4  
**John** [1] 75/18  
**judge** [27] 1/10 5/4 5/14 19/23  
20/3 22/5 22/17 25/6 42/14 55/3  
56/2 90/8 90/19 116/11 123/17  
124/10 125/4 133/14 147/8 147/22  
159/2 178/6 185/14 185/21 189/20  
191/14 215/16  
**Judicial** [1] 186/5  
**junk** [2] 161/10 164/6  
**junkyard** [4] 54/7 128/20 129/4  
180/5  
**junkyard/salvage** [1] 54/7  
**junkyards** [1] 51/25  
**junkyards/salvage** [1] 51/25  
**just** [146] 10/11 13/8 19/14 23/14  
28/8 32/3 40/15 40/24 45/9 52/24  
56/13 56/19 57/6 62/14 64/22  
65/11 66/1 68/12 68/12 68/14  
68/23 69/6 71/4 71/10 72/1 72/16  
72/17 73/1 73/4 73/24 74/3 74/14  
75/2 75/11 75/18 76/10 78/7  
78/13 78/18 80/21 81/3 83/20  
87/9 88/3 88/5 88/22 89/2 89/3  
89/10 89/14 90/2 90/5 94/4  
101/17 102/16 105/17 106/24  
106/24 107/3 108/2 108/15 108/18  
110/6 111/4 113/15 113/16 113/21  
114/20 115/3 116/25 117/12  
117/12 117/14 117/25 117/25  
118/5 118/14 119/11 119/23  
120/11 120/15 121/4 121/13  
127/13 127/17 128/5 129/9 129/16  
131/6 131/25 134/6 135/5 135/18  
135/21 135/23 136/1 139/6 139/7  
140/1 140/1 140/16 148/22 150/5  
154/15 157/1 159/3 159/5 159/19  
160/25 161/25 162/2 162/4 163/5  
164/5 165/2 165/15 166/1 166/22  
168/14 170/10 170/18 172/3  
172/21 174/11 174/20 178/15  
181/18 181/19 182/11 183/11  
183/16 183/19 185/15 185/18  
186/2 189/3 189/6 196/2 201/13  
201/15 203/1 203/16 214/3 214/22  
217/17 219/14

**Justice** [3] 4/17 216/14 217/23  
**justify** [2] 12/14 20/1  
**K**  
**Karen** [3] 14/10 18/1 92/8  
**keeps** [1] 163/11  
**Ken** [1] 4/15  
**KENNETH** [1] 1/12  
**kept** [2] 119/9 193/7  
**key** [4] 210/7 210/8 210/12 210/13  
**kids** [1] 106/25  
**kind** [37] 10/16 16/4 59/16 64/5  
65/7 65/9 66/5 66/7 67/13 68/14  
69/6 69/7 73/1 74/3 78/18 89/16  
94/4 96/17 108/18 111/20 127/25  
134/23 140/16 151/8 164/1 164/3  
168/22 169/20 170/18 171/7  
171/17 171/18 171/21 177/13  
181/1 182/4 184/6  
**kitchen** [3] 103/23 199/25 202/15  
**kitchenette** [1] 199/25  
**knew** [21] 9/17 15/9 17/10 17/14  
17/18 18/6 25/22 25/25 66/14  
72/3 74/3 76/1 76/5 76/11 84/23  
89/20 118/19 119/1 120/8 123/6  
220/6  
**knock** [1] 189/6  
**knocked** [1] 38/23  
**knocks** [1] 189/5  
**know** [154] 16/3 19/19 21/4 22/23  
25/5 27/8 27/13 27/24 35/1 36/23  
37/12 37/22 38/9 42/21 42/23  
44/16 44/18 46/15 46/20 52/25  
55/5 55/21 55/23 62/9 62/9 65/14  
66/9 67/11 67/19 68/7 68/10  
69/13 69/16 69/18 69/22 69/23  
69/25 70/4 70/5 71/9 71/22 71/24  
72/1 72/14 72/14 73/22 76/3 76/7  
76/10 76/13 76/15 77/23 78/20  
80/5 80/9 80/11 80/15 80/23  
81/12 84/22 84/25 85/8 86/5 86/8  
86/14 87/25 88/9 88/16 88/17  
88/18 88/18 89/17 89/20 89/23  
89/25 90/4 91/4 94/6 96/16 97/6  
99/6 99/22 101/14 101/25 108/24  
113/21 118/24 119/11 119/17  
119/21 120/12 120/20 120/25  
122/10 122/11 122/23 122/24  
123/17 123/19 124/19 127/13  
127/17 128/5 128/17 133/1 133/6  
143/7 143/12 146/6 146/7 147/10  
147/14 147/23 148/1 150/5 153/23  
156/9 156/22 156/24 157/21  
157/21 157/23 157/25 158/21  
160/2 161/14 165/24 168/12  
168/25 169/1 170/19 171/10 172/3  
172/13 173/21 175/5 177/1 188/21  
194/2 197/11 197/14 197/16  
199/12 203/25 204/14 204/20  
204/24 206/12 206/13 207/4 214/7  
218/20 219/24 220/24  
**knowledge** [11] 27/25 84/21 84/22  
87/1 120/9 144/4 172/2 192/17  
209/18 221/10 222/14  
**known** [2] 31/21 167/7  
**KRATZ** [5] 1/12 4/15 90/17 145/24  
147/6  
**Kucharski** [6] 204/18 206/3 206/17  
207/5 208/19 210/23

**L**  
**L-e-n-k** [1] 186/24  
**Lab** [1] 210/6

**L**  
**ladies** [1] 169/11  
**lady** [3] 131/7 168/13 169/17  
**Lake** [3] 75/19 117/9 117/9  
**land** [9] 78/7 88/5 88/10 89/16  
 117/10 156/2 163/6 167/7 218/7  
**lands** [3] 87/10 87/16 106/3  
**large** [6] 79/18 103/14 104/15  
 106/19 106/21 118/15  
**larger** [2] 103/24 117/17  
**largest** [1] 178/3  
**laser** [4] 111/7 111/21 112/2  
 137/21  
**last** [26] 9/18 31/15 31/21 32/18  
 33/20 34/10 36/8 42/7 50/23  
 61/17 75/23 75/24 76/1 76/11  
 104/10 107/18 118/20 130/17  
 131/15 155/6 160/25 162/12  
 163/20 163/21 174/3 186/23  
**late** [10] 8/18 31/4 31/22 101/12  
 102/15 216/4 216/5 216/7 216/21  
 220/21  
**later** [21] 10/12 26/17 26/18 27/16  
 48/8 60/19 64/14 101/5 106/11  
 121/19 130/16 141/17 141/18  
 144/14 155/3 159/20 180/12  
 192/19 205/25 208/14 220/20  
**latitude** [1] 88/25  
**law** [27] 1/17 1/19 34/2 68/3 69/20  
 70/7 82/9 87/2 91/5 93/8 94/20  
 95/8 97/18 101/3 102/7 102/10  
 103/6 108/10 109/4 112/10 116/2  
 144/1 144/23 153/8 172/22 173/1  
 175/8  
**lawful** [2] 25/13 25/18  
**lawfully** [1] 25/22  
**lawfulness** [1] 25/12  
**lay** [2] 42/6 201/25  
**layout** [2] 40/25 40/25  
**Le** [6] 14/6 14/11 18/2 22/8 31/5  
 139/22  
**lead** [5] 71/11 78/11 148/5 192/25  
 193/5  
**leader** [1] 206/2  
**leadership** [1] 145/10  
**leading** [3] 82/24 174/22 202/22  
**leads** [2] 38/22 156/10  
**learn** [3] 62/24 192/11 192/15  
**learned** [4] 188/11 189/5 192/15  
 192/19  
**least** [9] 9/23 13/14 15/19 99/6  
 139/1 144/3 201/3 207/9 209/15  
**leave** [6] 105/2 120/14 158/17  
 169/3 180/9 180/10  
**leaving** [1] 39/8  
**left** [37] 4/25 46/6 49/12 49/15  
 79/19 79/22 85/11 104/22 104/23  
 105/3 106/19 106/21 107/23 108/1  
 130/22 132/10 133/12 133/13  
 135/10 146/25 155/24 179/22  
 183/6 195/22 195/24 199/19  
 200/13 202/18 203/3 205/4 205/15  
 206/19 209/7 212/4 212/13 213/6  
 213/12  
**legal** [6] 30/15 146/12 156/20  
 156/23 157/10 201/24  
**legally** [1] 189/2  
**leisure** [1] 159/12  
**length** [1] 182/15  
**LENK** [20] 2/22 35/17 35/20 39/12  
 39/13 46/9 124/20 132/14 132/17  
 133/25 185/15 185/24 186/9

186/19 186/24 189/25 190/20  
 202/3 215/19 221/14  
**less** [8] 30/19 30/22 30/23 65/19  
 78/1 85/7 106/3 158/10  
**let** [26] 12/18 13/24 15/16 40/15  
 40/16 41/24 43/10 56/1 56/6 57/9  
 58/25 69/19 75/21 86/25 89/17  
 108/25 111/6 112/19 119/11 128/5  
 136/1 137/20 171/3 175/7 194/25  
 203/12  
**let's** [9] 63/9 67/11 75/5 86/23  
 87/8 95/1 95/1 109/6 110/8  
**license** [2] 139/22 153/6  
**lieutenant** [28] 2/22 35/17 35/19  
 39/12 39/13 124/19 132/14 132/17  
 132/17 133/25 139/7 143/15  
 143/18 145/1 145/6 154/14 154/16  
 185/14 185/23 186/9 186/19 187/4  
 187/18 191/21 202/3 215/19 217/4  
 219/6  
**life** [2] 85/22 111/3  
**light** [3] 16/3 16/5 155/1  
**lighter** [1] 135/24  
**like** [58] 12/19 56/14 65/9 65/10  
 70/11 71/9 71/24 73/13 74/16  
 76/2 78/3 78/4 81/14 81/25 87/23  
 99/19 102/1 109/10 109/18 110/2  
 111/24 113/21 116/23 117/2  
 117/11 117/23 117/24 118/2  
 118/13 119/21 120/6 122/1 122/23  
 123/20 134/23 142/4 149/21  
 157/17 164/13 167/19 168/1  
 171/15 172/20 173/19 178/22  
 179/2 181/3 184/6 184/7 184/10  
 194/12 198/3 199/24 200/22  
 204/20 212/6 215/6 220/24  
**like a** [1] 181/3  
**likely** [1] 30/23  
**likewise** [1] 212/11  
**line** [6] 81/25 103/22 113/11  
 137/25 141/6 186/5  
**linear** [1] 137/25  
**lines** [3] 82/16 118/6 130/5  
**list** [2] 29/18 29/25  
**listen** [7] 48/10 56/24 58/6 58/11  
 125/8 159/12 159/19  
**listened** [1] 57/4  
**literally** [1] 108/15  
**little** [20] 39/23 53/15 54/2 54/3  
 54/25 64/23 66/7 88/25 112/24  
 113/23 121/20 135/12 135/25  
 138/9 138/12 142/23 152/24 181/8  
 199/21 201/25  
**live** [3] 38/3 176/1 176/7  
**lived** [6] 7/1 38/8 73/18 92/4 167/7  
 167/8  
**living** [4] 162/19 195/12 199/18  
 202/15  
**loader** [1] 171/20  
**local** [1] 65/21  
**locales** [3] 7/20 10/13 97/17  
**locate** [2] 33/1 170/2  
**located** [19] 17/11 18/3 21/10  
 21/13 27/18 29/8 29/15 31/23  
 32/6 33/4 40/10 44/12 47/19  
 48/19 49/8 71/21 85/21 196/24  
 197/22  
**location** [10] 24/8 28/2 144/6  
 144/14 153/24 154/12 189/13  
 197/7 197/24 201/3  
**locations** [5] 36/13 54/17 76/7  
 218/3 218/23  
**locksmith** [2] 212/12 212/14

**long** [14] 34/1 34/4 55/19 104/9  
 133/20 142/14 142/25 163/18  
 166/3 187/8 187/15 199/12 204/24  
 205/1  
**longer** [1] 160/7  
**look** [33] 9/14 9/24 15/23 40/22  
 43/21 44/4 69/2 69/3 77/24 78/9  
 101/10 102/9 103/24 105/12 110/8  
 112/14 117/16 132/5 133/21 140/3  
 140/15 141/1 150/15 151/7 168/15  
 169/23 171/3 182/11 185/19  
 194/22 195/1 198/2 198/3  
**looked** [6] 44/7 140/4 140/12  
 142/4 155/25 200/22  
**looking** [23] 8/18 22/24 32/9 32/19  
 60/9 74/15 78/19 92/16 92/18  
 101/2 112/11 121/7 138/20 140/1  
 167/2 170/1 170/15 180/5 197/3  
 202/10 211/22 212/5 214/8  
**looks** [1] 157/17  
**losing** [1] 73/5  
**lot** [21] 8/21 49/15 55/22 55/23  
 56/5 69/24 72/15 72/15 80/6  
 80/18 84/14 87/17 97/9 101/14  
 101/15 152/4 165/23 171/15  
 176/14 182/4 184/4  
**lots** [1] 219/25  
**lower** [4] 143/20 156/5 183/6  
 183/6  
**lunch** [5] 58/6 58/23 123/22 124/3  
 124/5

**M**  
**ma** [1] 167/10  
**machine** [1] 222/10  
**made** [36] 4/10 20/8 24/8 25/14  
 25/19 28/2 39/9 73/19 74/4  
 103/23 104/4 117/15 125/23 126/8  
 126/11 126/11 127/1 130/21  
 132/13 134/8 140/16 142/21 145/1  
 145/13 145/17 145/18 147/14  
 147/15 147/23 152/13 158/4  
 165/17 165/17 191/9 193/24 216/8  
**magistrate** [1] 19/24  
**main** [7] 37/10 57/2 70/22 110/25  
 135/18 136/13 182/1  
**mainly** [2] 164/5 165/15  
**make** [21] 22/5 25/11 39/4 41/5  
 42/15 50/18 52/17 66/6 104/5  
 104/5 112/24 132/7 139/21 147/12  
 147/20 164/2 170/17 174/20  
 183/23 187/1 214/22  
**making** [8] 26/7 49/21 59/24 70/1  
 75/11 113/18 113/19 119/18  
**man** [4] 168/13 169/17 177/9  
 179/18  
**managers** [3] 26/24 137/6 144/9  
**manila** [1] 139/19  
**MANITOWOC** [36] 1/1 6/25 8/7  
 8/10 9/3 18/23 19/10 34/8 34/13  
 36/2 36/9 36/11 47/6 50/6 51/3  
 51/11 55/13 61/23 76/6 96/10  
 117/10 122/9 146/5 187/19 193/1  
 199/9 211/14 215/21 217/4 217/7  
 217/19 219/1 220/4 220/16 221/9  
 222/2  
**manpower** [1] 203/20  
**many** [25] 16/15 16/19 32/18  
 48/10 49/1 71/24 86/2 86/5 98/24  
 99/1 99/3 121/16 121/22 122/7  
 122/24 138/24 156/24 187/20  
 188/14 199/16 204/20 215/6  
 219/18 220/16 220/16

<b>M</b>	102/4 105/24 121/6 150/4 164/2 183/18 197/25 218/15	<b>more [38]</b> 15/6 16/14 30/23 45/8 53/15 55/1 65/19 66/8 66/21 68/7 78/1 85/7 99/7 99/10 100/3 101/8 102/22 106/2 106/15 110/1 112/24 116/21 131/4 138/10 141/10 144/23 149/10 158/10 168/7 168/15 169/18 171/16 177/10 190/14 207/12 214/8 214/16 219/22
<b>map [13]</b> 103/24 103/25 108/22 112/1 117/2 117/7 117/14 118/2 118/3 118/5 118/5 118/10 118/14	<b>meaning [1]</b> 102/4	<b>morning [74]</b> 4/3 4/19 6/8 8/18 8/25 10/21 11/25 18/24 37/15 46/18 48/24 64/1 64/2 65/3 69/14 69/21 72/20 72/21 75/4 75/7 77/6 77/24 78/8 79/1 79/19 83/10 84/7 84/13 85/3 85/16 85/19 87/22 90/10 93/13 93/21 94/12 95/2 95/2 95/20 99/21 102/11 102/14 102/17 102/24 102/25 103/11 104/15 106/11 106/21 120/19 120/23 121/10 124/21 125/12 125/19 130/7 130/16 137/2 137/3 149/23 152/6 168/2 168/8 169/5 194/11 203/7 203/11 204/10 204/15 204/25 209/7 211/10 215/23 216/3
<b>maps [19]</b> 70/1 72/7 75/11 77/9 80/2 87/10 87/15 87/22 103/20 104/3 104/7 108/18 108/20 116/14 116/23 117/18 117/25 118/2 118/4	<b>meet [11]</b> 9/3 10/14 19/10 35/19 52/5 54/18 72/18 72/21 79/6 102/16 131/16	<b>most [10]</b> 50/10 65/9 69/25 72/13 80/3 82/12 84/9 158/6 166/11 178/21
<b>Marinette [4]</b> 4/11 158/8 165/20 165/25	<b>meeting [24]</b> 10/10 10/17 10/19 72/10 72/23 72/25 74/8 74/25 77/5 91/23 95/20 103/9 103/14 103/16 104/9 106/18 108/14 108/25 109/4 120/22 127/3 151/17 158/15 192/21	<b>mostly [4]</b> 74/2 164/6 165/18 184/10
<b>mark [7]</b> 2/3 4/25 5/10 51/8 129/5 129/24 216/19	<b>member [3]</b> 148/25 217/13 217/19	<b>mother [1]</b> 14/11
<b>marked [15]</b> 3/1 109/16 110/4 110/5 113/2 114/1 121/12 121/21 122/13 129/6 129/17 129/18 129/25 160/22 184/15	<b>members [7]</b> 14/19 91/24 92/7 153/8 178/15 217/6 219/1	<b>motion [23]</b> 1/4 4/6 4/9 5/22 13/9 13/12 13/14 24/25 41/9 41/12 56/13 57/11 58/3 58/14 58/22 123/16 124/12 124/15 161/21 161/24 185/7 185/12 201/20
<b>marking [2]</b> 116/19 183/16	<b>memory [1]</b> 141/10	<b>motions [6]</b> 4/5 4/8 58/3 58/23 124/11 185/9
<b>master [1]</b> 200/19	<b>Menasha [1]</b> 197/3	<b>motor [1]</b> 6/22
<b>match [4]</b> 17/3 22/3 22/20 29/12	<b>mention [2]</b> 22/8 22/11	<b>move [7]</b> 58/22 61/6 66/7 73/9 116/6 159/2 185/13
<b>matched [11]</b> 14/12 14/17 15/13 16/22 21/18 21/24 22/1 22/1 22/7 28/11 155/8	<b>mentioned [16]</b> 59/6 59/8 68/12 80/4 80/16 81/24 90/23 93/22 96/16 107/16 116/14 117/1 175/21 179/19 191/21 219/17	<b>moved [5]</b> 62/1 141/19 142/3 155/14 155/17
<b>matching [3]</b> 13/18 13/23 21/14	<b>mere [1]</b> 32/11	<b>Mr [2]</b> 4/21 219/13
<b>materials [1]</b> 210/2	<b>met [12]</b> 35/13 67/23 71/16 72/18 73/1 73/23 74/21 75/8 78/23 79/19 87/8 135/1	<b>Mr. [107]</b> 4/23 5/5 6/2 18/18 24/15 25/1 27/10 27/17 32/12 32/14 33/12 38/13 39/15 41/3 41/20 42/9 42/16 42/18 45/16 55/10 61/22 88/21 88/24 89/1 90/13 90/15 90/17 90/17 90/18 90/22 91/2 92/5 95/15 101/20 102/5 109/17 115/5 116/10 123/13 124/7 124/24 125/2 125/3 127/3 148/9 148/18 149/1 149/4 150/11 151/6 151/9 151/23 153/19 153/19 159/1 160/5 162/4 162/17 167/6 174/3 175/17 185/1 185/4 186/13 186/25 189/21 189/25 190/20 191/3 191/11 192/20 193/19 194/20 195/12 195/15 199/23 200/20 201/12 202/7 202/14 204/7 205/21 206/1 206/14 206/25 207/12 207/18 208/13 208/24 209/12 209/16 211/11 212/23 213/6 213/25 214/25 215/9 215/15 215/19 217/12 218/12 219/3 220/12 220/18 220/22 221/2 221/14
<b>matter [38]</b> 4/16 5/20 6/10 6/12 10/19 15/11 17/2 18/5 26/21 31/14 35/8 36/2 36/2 66/1 92/24 105/15 108/15 110/20 132/21 148/13 150/13 152/22 153/18 154/22 159/13 170/11 189/10 189/19 190/15 192/12 192/14 193/12 216/17 217/11 218/1 220/20 222/7 222/13	<b>Mieux [6]</b> 14/6 14/11 18/2 22/8 31/5 139/22	<b>Mr. Avery [23]</b> 4/23 27/17 32/12 32/14 42/9 127/3 151/6 153/19 153/19 162/4 162/17 167/6 174/3 185/4 189/21 191/3 192/20 193/19 194/20 195/12 195/15 217/12
<b>maximum [1]</b> 124/22	<b>might [17]</b> 10/1 10/16 70/15 70/20 71/5 80/13 80/16 81/12 86/3 105/17 107/20 113/23 131/10 145/10 166/23 167/3 173/16	
<b>may [32]</b> 6/2 12/21 25/11 32/20 33/12 41/7 44/7 56/2 56/11 58/12 68/10 79/2 83/3 85/10 89/6 100/19 109/8 125/3 140/12 147/10 157/23 174/6 185/16 186/25 187/1 189/24 191/18 192/10 194/3 201/3 201/4 217/3	<b>mile [1]</b> 88/13	
<b>maybe [29]</b> 32/9 37/1 71/9 79/21 85/13 101/8 101/9 101/22 103/1 103/10 104/16 106/14 108/15 119/25 123/20 124/11 128/3 129/2 129/5 135/5 151/11 151/15 155/15 159/4 159/24 164/11 169/11 177/20 183/11	<b>mind [5]</b> 9/24 18/13 31/9 31/24 183/15	
<b>me [106]</b> 5/21 13/24 14/9 15/12 15/16 21/20 21/21 21/22 21/23 21/23 22/3 22/25 23/16 35/7 40/11 40/12 43/10 47/1 48/17 50/24 52/24 54/12 56/1 56/6 57/9 58/25 60/13 60/13 62/25 62/25 67/12 69/9 69/10 69/19 72/18 73/4 73/25 75/21 77/23 80/5 81/23 82/4 83/4 83/19 86/25 93/22 93/24 101/21 103/19 104/4 104/25 107/16 108/25 120/9 120/15 121/15 122/25 127/12 128/21 129/1 130/20 130/21 131/6 131/19 136/1 137/17 139/7 139/7 139/21 143/18 149/16 154/16 154/16 154/21 159/13 159/19 164/17 165/15 168/19 168/20 169/10 169/11 169/16 172/17 172/24 174/11 174/13 174/13 175/7 177/17 177/22 181/16 186/4 187/4 188/14 189/15 189/22 189/22 197/1 197/24 199/16 203/12 204/19 207/7 222/8 222/9	<b>mind [5]</b> 9/24 18/13 31/9 31/24 183/15	
<b>mean [12]</b> 53/13 82/5 85/1 85/25	<b>minimum [1]</b> 31/7	
	<b>minute [9]</b> 12/6 49/23 84/11 144/21 159/6 186/3 203/1 203/13 214/3	
	<b>minutes [16]</b> 26/21 27/16 90/11 108/15 108/16 108/17 141/17 144/16 153/20 155/3 169/12 174/12 177/7 180/11 201/5 212/5	
	<b>misconception [1]</b> 110/7	
	<b>mishap [1]</b> 105/17	
	<b>Mishicot [3]</b> 6/25 7/3 135/8	
	<b>missing [25]</b> 9/8 32/17 36/4 36/6 36/17 39/22 62/20 63/25 64/4 64/12 66/5 89/19 91/12 91/14 92/23 97/4 97/7 126/2 132/21 141/14 150/9 170/12 191/25 192/2 193/3	
	<b>misstate [1]</b> 18/11	
	<b>misunderstood [1]</b> 53/18	
	<b>Mm [8]</b> 19/1 62/17 72/9 77/10 117/4 141/5 169/22 171/4	
	<b>Mm-hmm [8]</b> 19/1 62/17 72/9 77/10 117/4 141/5 169/22 171/4	
	<b>model [4]</b> 22/11 31/4 31/22 139/21	
	<b>mom [3]</b> 163/7 163/23 164/21	
	<b>moment [3]</b> 73/22 185/15 185/18	
	<b>Monday [12]</b> 63/10 86/22 86/24 88/17 109/6 110/9 110/17 113/8 166/1 166/3 166/15 207/17	
	<b>months [1]</b> 55/17	

**M**  
**Mr. Avery...** [1] 219/3  
**Mr. Avery's** [25] 42/18 45/16  
 199/23 200/20 202/7 202/14 204/7  
 205/21 206/1 206/14 206/25  
 208/24 209/12 209/16 211/11  
 212/23 213/6 213/25 214/25 215/9  
 218/12 220/12 220/18 220/22  
 221/2  
**Mr. Bloedorn** [4] 92/5 95/15 101/20  
 115/5  
**Mr. Bloedorn's** [1] 102/5  
**Mr. Breyer** [1] 91/2  
**Mr. Buting** [17] 18/18 24/15 33/12  
 41/3 88/21 88/24 90/13 116/10  
 123/13 124/7 125/3 159/1 175/17  
 186/13 186/25 191/11 201/12  
**Mr. Earl** [1] 27/10  
**Mr. Fallon** [11] 6/2 25/1 42/16  
 55/10 89/1 90/17 90/18 148/9  
 185/1 215/15 215/19  
**Mr. Hillegas** [5] 61/22 90/15 90/22  
 109/17 149/4  
**Mr. Hillegas'** [1] 148/18  
**Mr. Hillegas's** [1] 149/1  
**Mr. Kratz** [1] 90/17  
**Mr. Lenk** [3] 189/25 190/20 221/14  
**Mr. Remiker** [2] 124/24 125/2  
**Mr. Steven** [6] 38/13 39/15 41/20  
 207/12 207/18 208/13  
**Mr. Wiegert** [3] 5/5 151/23 160/5  
**Mr. Zipperer** [2] 150/11 151/9  
**Mr. Lenk** [3] 186/15 189/15 190/11  
**Ms** [11] 16/12 16/19 17/19 18/7  
 31/3 32/6 33/4 106/11 106/18  
 107/2 152/22  
**MTSO** [2] 51/2 52/4  
**much** [18] 13/22 65/19 72/25  
 75/17 82/15 96/14 105/3 106/14  
 106/20 112/1 120/8 158/21 160/7  
 165/13 166/10 171/22 201/6 220/9  
**multiple** [1] 201/16  
**must** [3] 35/4 102/13 180/24  
**mutual** [1] 20/25  
**my** [63] 8/20 12/19 13/8 26/14  
 31/12 42/5 44/16 47/12 51/14  
 52/10 52/22 53/4 53/10 54/4 55/9  
 78/13 78/18 84/9 84/22 89/7  
 90/13 93/11 96/14 101/25 120/11  
 130/18 130/21 131/19 133/21  
 136/17 137/12 139/18 143/6  
 144/13 146/25 150/23 151/8 154/8  
 154/10 155/9 155/14 157/2 157/3  
 157/10 162/20 163/7 163/7 163/15  
 163/17 165/18 166/24 167/10  
 167/10 172/22 173/1 185/19 186/4  
 200/23 201/2 212/10 221/10 222/9  
 222/13  
**myself** [11] 39/12 47/23 48/16  
 49/5 59/14 59/15 60/11 87/21  
 89/15 130/17 147/25

**N**  
**name** [17] 6/15 33/20 33/20 59/5  
 59/6 59/8 61/17 61/17 66/9 114/5  
 114/21 162/12 162/12 173/3  
 186/22 186/23 192/12  
**named** [1] 214/12  
**names** [3] 79/3 122/11 163/8  
**narcotics** [1] 34/6  
**nature** [1] 62/11  
**near** [2] 43/11 143/15

**nearby** [2] 44/12 80/21  
**necessary** [1] 66/18  
**need** [9] 30/11 41/15 83/15 120/9  
 166/24 171/10 185/17 201/25  
 212/13  
**needed** [9] 74/1 84/14 96/18 122/1  
 166/20 192/3 210/4 218/15 218/18  
**neighbor** [2] 169/9 169/10  
**neighboring** [1] 46/2  
**neither** [1] 191/5  
**never** [31] 10/23 11/9 23/14 26/11  
 26/13 34/22 55/16 59/6 59/8  
 78/23 78/25 85/14 85/21 85/22  
 89/21 110/24 111/2 111/14 115/17  
 119/22 122/25 132/2 135/1 136/22  
 136/23 146/25 151/17 155/24  
 180/9 198/14 221/1  
**nevertheless** [2] 33/3 42/14  
**new** [5] 57/14 65/11 126/12  
 177/23 183/20  
**news** [1] 86/9  
**next** [20] 5/22 27/11 33/13 45/16  
 52/5 57/7 61/6 109/14 124/15  
 141/12 185/13 203/7 204/7 204/10  
 204/15 207/16 208/16 210/15  
 210/16 211/9  
**niece** [1] 97/7  
**night** [30] 8/18 36/15 39/25 67/11  
 67/17 67/20 68/2 69/25 70/1  
 72/20 72/23 73/6 73/20 74/6 74/7  
 75/10 75/11 91/25 92/16 99/12  
 99/16 99/23 101/12 104/4 136/9  
 136/12 136/19 191/23 193/22  
 204/5  
**Nikole** [5] 106/12 137/15 142/21  
 149/15 154/5  
**no** [213] 1/5 4/2 5/25 6/17 7/5  
 7/12 7/15 7/17 7/22 8/1 8/2 10/9  
 10/14 10/16 10/17 10/19 11/2  
 11/4 11/8 11/23 12/1 18/16 18/17  
 21/17 21/20 23/22 23/24 24/10  
 26/1 26/15 28/14 30/3 30/4 32/23  
 33/7 37/18 38/8 38/19 38/24 39/1  
 39/7 41/23 41/24 43/8 44/11 46/8  
 47/7 47/16 57/6 59/11 62/18  
 63/18 66/13 66/24 67/1 67/5  
 67/21 68/1 70/10 70/13 70/17  
 70/22 77/19 78/8 78/22 78/24  
 79/11 79/12 79/13 79/16 81/5  
 81/19 81/20 81/21 82/7 85/18  
 85/20 85/24 86/5 86/16 87/19  
 91/4 91/6 94/13 94/14 94/18  
 94/19 94/19 94/23 95/9 97/18  
 97/20 97/21 97/23 98/4 98/17  
 98/22 99/20 100/7 100/10 102/7  
 102/10 104/22 105/12 105/19  
 106/1 108/9 109/3 109/5 110/4  
 110/19 115/14 115/16 116/8  
 116/23 116/24 117/12 117/22  
 117/22 118/12 119/5 119/6 119/14  
 120/4 120/5 122/12 123/9 127/8  
 128/2 129/8 129/16 131/15 133/2  
 134/20 136/21 140/6 140/23 148/7  
 148/16 148/21 149/2 149/3 149/17  
 151/19 151/21 152/6 152/9 152/9  
 158/18 160/6 160/18 160/23  
 161/15 161/16 161/22 164/20  
 164/22 164/25 165/2 166/25 170/4  
 170/5 170/8 171/1 171/24 172/12  
 172/18 172/20 173/22 174/20  
 175/11 175/13 177/4 177/17 180/8  
 180/10 182/5 182/7 182/10 182/21  
 184/10 184/10 185/6 189/5 190/16

190/23 191/12 194/19 195/14  
 195/18 195/21 195/24 196/7  
 196/11 196/13 196/18 196/21  
 197/20 198/8 198/15 198/18  
 205/23 207/15 208/15 210/11  
 211/13 215/13 219/21 219/23  
 221/3 221/10 221/11 221/13  
**No.** [1] 109/11  
**No. 2** [1] 109/11  
**nobody** [3] 102/10 140/17 161/8  
**non** [2] 220/4 220/16  
**non-Manitowoc** [2] 220/4 220/16  
**none** [4] 67/5 67/6 134/24 144/4  
**noon** [6] 58/20 61/7 125/8 166/17  
 166/18 178/9  
**normal** [5] 117/14 117/25 118/2  
 155/17 178/9  
**normally** [1] 136/14  
**north** [5] 122/14 122/15 138/17  
 156/7 166/4  
**northeast** [1] 157/15  
**not** [192] 6/17 7/10 7/12 7/13 7/16  
 7/18 7/19 7/20 10/8 10/9 11/1  
 11/3 11/5 11/6 11/7 13/4 13/6  
 15/3 15/21 18/12 18/22 19/2 19/5  
 19/8 19/25 20/3 20/20 21/25 22/4  
 22/6 22/7 22/10 22/11 22/16  
 22/19 23/4 23/6 23/19 24/6 24/23  
 24/24 25/18 25/20 26/1 26/9  
 26/14 26/15 27/14 28/11 28/12  
 28/16 28/19 29/11 30/1 30/23  
 32/7 32/9 32/14 32/22 32/23 33/3  
 36/18 41/16 42/8 42/11 47/7  
 47/18 53/17 54/1 54/3 54/4 55/4  
 55/5 56/11 57/25 58/7 58/15  
 64/10 65/17 70/8 70/22 71/1 71/3  
 71/9 72/1 72/22 72/25 72/25  
 75/25 76/1 77/19 77/20 77/20  
 77/25 78/16 80/21 81/15 81/15  
 81/21 81/22 82/3 82/5 83/10  
 83/10 83/14 84/25 85/7 86/15  
 86/21 87/23 88/9 88/10 91/21  
 95/8 98/25 99/1 99/3 100/20  
 100/22 102/1 103/5 103/5 113/8  
 118/1 119/7 119/15 120/1 120/2  
 120/5 121/1 122/10 126/23 131/2  
 136/18 140/6 140/8 140/23 143/8  
 144/7 148/23 149/4 154/8 157/7  
 158/3 159/17 161/10 164/12  
 171/13 173/22 174/11 176/2  
 176/25 177/15 178/18 178/25  
 180/21 182/11 182/19 183/7 184/2  
 184/13 185/16 185/25 190/4  
 190/18 192/9 192/13 192/23 194/4  
 194/12 195/21 196/14 196/18  
 197/12 197/13 197/17 198/4 203/8  
 203/17 204/4 205/2 207/15 210/9  
 211/18 215/6 215/25 217/7 220/5  
 220/8 221/7 221/9 221/10  
**note** [4] 89/3 127/20 127/25 128/3  
**notes** [3] 79/12 185/19 222/9  
**nothing** [10] 33/9 88/4 118/16  
 123/11 152/9 161/18 175/14 177/1  
 184/24 220/24  
**November** [63] 6/8 7/6 7/10 8/24  
 10/24 12/9 18/25 31/19 34/9  
 35/10 36/15 42/12 42/13 46/7  
 46/12 62/2 62/22 69/21 71/15  
 85/16 91/9 91/25 92/13 92/25  
 93/16 99/2 100/20 125/13 134/17  
 148/16 148/20 148/22 149/24  
 163/21 168/2 177/6 188/8 189/11  
 191/21 191/22 192/21 193/15

**N**

**November... [21]** 194/14 196/19  
 198/19 203/13 207/14 207/16  
 208/16 209/20 211/9 211/17  
 211/22 212/3 212/21 214/4 214/23  
 214/25 215/23 216/21 219/20  
 220/22 221/1  
**November 3rd [7]** 35/10 36/15  
 62/22 71/15 91/9 92/13 93/16  
**November 4th [9]** 7/6 31/19 34/9  
 42/12 99/2 100/20 148/16 194/14  
 209/20  
**November 5th [10]** 6/8 18/25  
 42/13 69/21 85/16 125/13 149/24  
 168/2 198/19 214/4  
**November 6th [1]** 207/14  
**November 8th [1]** 208/16  
**November 9th [4]** 211/17 211/22  
 212/3 221/1  
**now [105]** 8/24 10/7 12/17 13/3  
 13/17 13/22 14/18 15/3 15/15  
 15/25 16/11 17/5 18/10 18/21  
 18/24 24/6 32/9 32/20 46/12  
 50/24 53/7 53/8 54/23 62/1 73/7  
 73/10 75/5 77/5 78/20 81/24  
 92/10 92/10 92/24 93/7 93/14  
 95/1 95/20 98/5 98/9 100/6 101/5  
 101/22 102/11 103/4 103/13  
 105/21 106/9 106/18 107/2 108/1  
 110/8 110/15 111/14 111/18 112/8  
 112/21 113/1 114/6 114/15 123/18  
 123/23 125/18 130/8 132/8 134/11  
 140/21 145/9 149/21 152/5 153/24  
 155/3 155/11 156/13 157/14 158/4  
 161/1 164/23 165/19 166/13 168/1  
 169/4 171/25 172/6 173/12 174/3  
 174/18 175/21 175/25 179/18  
 186/9 188/10 189/9 192/25 193/15  
 196/19 198/19 199/16 203/7  
 205/20 208/23 210/17 211/9  
 211/10 214/3 218/9  
**number [70]** 14/9 14/16 16/13  
 16/17 16/20 23/12 28/21 29/2  
 29/7 29/15 29/18 29/21 29/25  
 31/15 31/24 49/17 60/10 60/12  
 64/24 64/25 81/25 82/2 82/3 82/5  
 82/6 82/19 82/22 83/6 83/11  
 83/12 83/13 83/17 84/2 84/7  
 84/12 84/12 84/17 96/25 98/5  
 98/6 99/10 99/15 100/4 108/2  
 108/5 108/6 108/7 109/14 140/12  
 140/19 141/14 141/25 149/13  
 155/13 183/19 183/22 183/23  
 183/25 184/3 184/12 184/15  
 184/16 184/18 185/8 186/4 200/7  
 206/22 208/5 218/1 218/9  
**number 3 [1]** 184/3  
**numbers [27]** 16/21 17/1 17/3  
 29/2 29/19 30/3 65/10 72/2 81/25  
 82/8 82/14 83/8 83/16 83/21 84/5  
 140/22 141/8 141/16 141/23  
 141/24 142/9 142/11 153/6 155/7  
 155/21 183/16 208/2  
**numerous [3]** 47/4 51/9 93/8  
**nurse [1]** 62/8

**O**

**o'clock [7]** 103/10 123/23 124/4  
 200/14 200/15 203/11 204/5  
**oath [1]** 125/3  
**object [3]** 42/18 88/15 159/15  
**objection [22]** 5/23 24/11 24/12

25/2 27/4 28/4 28/7 41/2 42/5  
 42/25 55/12 82/24 116/8 150/16  
 150/24 160/18 174/22 190/20  
 191/12 201/10 202/22 203/2  
**objects [1]** 191/5  
**obligations [1]** 121/18  
**observations [8]** 24/9 25/10 25/12  
 25/15 25/19 26/7 28/2 28/13  
**observe [2]** 140/6 190/6  
**observed [3]** 41/11 131/10 210/8  
**obtain [2]** 56/7 100/3  
**obtained [14]** 25/7 29/1 93/15  
 93/17 99/10 99/15 133/7 133/7  
 144/5 158/2 198/17 208/25 212/24  
 220/21  
**obvious [2]** 112/24 160/2  
**obviously [9]** 8/22 16/22 32/25  
 45/1 57/20 86/10 137/13 140/7  
 152/13  
**occasion [2]** 36/14 209/13  
**occasions [2]** 100/3 217/11  
**occupation [1]** 62/7  
**occur [2]** 98/1 110/18  
**occurred [5]** 10/21 17/5 122/25  
 151/22 212/1  
**occurring [1]** 89/4  
**October [2]** 31/16 126/13  
**October 31st [1]** 31/16  
**odds [1]** 66/22  
**off [21]** 4/25 16/21 75/12 75/20  
 84/11 87/12 88/1 104/8 106/24  
 112/17 116/15 153/17 165/24  
 178/16 179/11 179/12 179/13  
 179/14 201/4 202/4 208/2  
**OFFERED [1]** 3/1  
**offhand [1]** 194/9  
**office [26]** 8/8 9/4 128/4 136/16  
 136/19 166/21 166/25 168/18  
 168/20 177/22 177/23 177/23  
 178/10 179/19 179/23 179/24  
 180/14 181/2 181/10 182/17 183/2  
 183/20 214/13 217/14 217/24  
 219/1  
**officer [18]** 5/21 25/11 25/13 34/1  
 34/12 103/6 116/2 133/23 175/1  
 185/16 187/9 188/5 193/1 193/5  
 197/23 201/4 201/5 219/5  
**officer's [1]** 211/19  
**officers [31]** 13/4 21/12 67/2  
 81/18 89/17 122/2 144/1 144/23  
 153/5 154/20 174/5 174/10 174/19  
 185/22 187/20 193/11 193/13  
 199/6 200/24 203/22 205/7 209/19  
 214/5 217/7 219/18 220/17 221/4  
 221/6 221/7 221/8 221/9  
**offices [1]** 85/9  
**official [4]** 1/25 12/18 222/4  
 222/19  
**Oh [1]** 188/21  
**Okay [146]** 19/8 19/13 20/25 23/18  
 26/2 26/16 35/1 36/10 36/14 37/2  
 37/12 38/1 38/7 39/15 40/2 41/23  
 41/25 43/9 44/1 50/24 51/21 57/7  
 60/17 61/6 62/2 62/24 63/7 66/14  
 73/19 74/25 75/4 76/7 76/10  
 76/15 77/11 78/3 79/8 79/14  
 80/16 81/17 81/24 82/14 85/16  
 86/2 91/7 91/21 92/2 100/1 101/5  
 108/14 108/24 112/21 113/7 114/7  
 117/1 117/13 118/7 118/17 119/8  
 121/2 121/6 121/25 124/1 125/18  
 125/22 127/5 128/7 128/9 129/12  
 130/14 131/3 131/11 132/8 133/22

134/2 134/11 134/16 135/2 136/12  
 137/5 138/24 139/2 139/16 140/21  
 141/2 142/7 142/12 142/14 142/19  
 142/25 143/17 143/25 144/8  
 144/22 145/22 146/8 147/1 147/20  
 148/2 148/15 149/3 149/5 149/21  
 150/21 151/2 158/4 159/21 160/16  
 160/24 161/16 167/1 167/6 168/22  
 169/4 169/15 171/2 171/21 172/6  
 173/3 173/9 174/3 177/2 181/12  
 183/10 183/24 184/14 186/7  
 188/23 190/17 193/7 194/13 197/4  
 200/13 203/7 204/3 204/19 205/25  
 209/11 210/24 211/6 213/4 213/10  
 213/23 215/8 218/9 219/24  
**old [1]** 55/17  
**omit [1]** 18/13  
**on [338]**  
**on some [1]** 88/5  
**once [14]** 53/15 63/25 92/22 99/5  
 99/6 104/13 171/24 171/25 175/25  
 206/14 207/20 209/11 210/21  
 211/11  
**one [93]** 6/9 6/12 9/11 9/13 12/18  
 14/3 14/13 15/2 26/23 27/23  
 29/12 32/3 36/13 37/10 37/21  
 38/21 45/8 45/9 58/3 58/23 58/25  
 59/22 74/20 76/7 76/17 77/8 77/8  
 77/17 84/17 97/18 97/21 100/2  
 102/7 103/5 105/19 106/19 107/15  
 109/3 110/1 113/5 115/4 117/2  
 117/2 118/7 118/17 125/11 125/15  
 129/6 129/11 129/13 129/22 131/6  
 138/15 140/4 144/9 144/19 144/22  
 144/25 145/1 147/11 148/14 151/5  
 151/24 152/22 153/18 157/16  
 158/10 158/16 159/23 160/3 160/6  
 160/7 160/9 160/25 161/25 162/2  
 168/7 171/5 174/5 174/10 174/19  
 179/21 183/19 183/22 185/15  
 185/16 185/22 194/13 201/1  
 203/22 208/3 214/3 215/4  
**ones [7]** 46/2 48/15 49/11 57/1  
 117/20 161/10 219/8  
**only [17]** 6/9 6/12 67/21 84/10  
 84/17 106/19 149/9 159/5 160/12  
 177/6 179/21 188/19 190/5 190/18  
 194/13 209/23 217/5  
**onto [6]** 80/19 119/15 132/5 135/8  
 135/10 183/1  
**open [5]** 152/17 178/8 181/1  
 182/19 183/7  
**opened [2]** 42/1 43/19  
**opener [2]** 211/23 212/6  
**operating [1]** 161/9  
**opinion [2]** 19/24 31/13  
**opportunity [9]** 15/18 15/23 26/23  
 37/3 55/5 55/8 125/7 190/10  
 207/17  
**opposed [5]** 44/22 46/1 92/18  
 92/19 190/12  
**or [324]**  
**oral [1]** 185/10  
**order [7]** 5/15 34/23 93/20 109/14  
 126/22 206/12 214/7  
**orders [2]** 163/12 214/5  
**organization [9]** 9/7 64/5 64/12  
 90/22 90/24 91/1 94/15 95/6  
 96/22  
**organize [5]** 7/10 11/1 83/25 95/25  
 120/23  
**organized [2]** 50/9 73/21  
**original [2]** 61/2 142/5

**O**  
**originally** [1] 174/4  
**Orth** [9] 139/6 141/22 142/17  
 143/14 143/16 144/2 144/20  
 154/14 154/15  
**other** [82] 5/15 5/19 6/9 7/5 7/24  
 14/19 17/15 18/17 20/3 23/10  
 27/10 28/14 30/5 31/6 32/11 38/1  
 38/2 49/20 57/10 57/22 58/3  
 58/13 58/23 58/25 59/22 63/15  
 66/18 67/24 70/7 71/15 74/12  
 79/15 82/8 85/1 89/14 89/15 92/7  
 92/19 98/2 99/23 108/9 108/9  
 115/4 119/3 119/6 121/14 121/15  
 123/15 125/15 125/15 131/11  
 138/1 148/8 149/17 149/19 149/20  
 150/8 151/19 152/19 154/19  
 154/21 156/24 157/23 157/25  
 161/4 161/9 169/4 173/14 179/2  
 185/6 185/9 187/25 195/23 196/4  
 201/1 202/10 202/10 202/14  
 219/24 219/25 221/4 221/8  
**others** [4] 64/15 139/5 151/6  
 193/8  
**otherwise** [2] 34/24 75/22  
**our** [24] 5/20 10/14 10/15 12/4  
 15/15 15/25 35/14 42/10 53/20  
 53/22 68/25 70/11 70/22 80/1  
 87/10 90/9 113/25 116/23 124/2  
 144/14 192/1 192/24 206/2 221/18  
**out** [117] 8/17 14/13 23/3 28/17  
 36/10 36/23 36/25 37/3 38/8  
 38/19 39/13 42/16 43/3 44/7  
 44/16 44/17 44/24 50/23 52/25  
 53/3 54/9 54/16 59/15 65/15  
 65/17 65/20 66/6 68/20 68/23  
 69/1 70/3 70/11 70/20 71/10 72/6  
 72/13 74/12 74/21 74/23 75/3  
 76/5 76/14 78/9 78/15 78/17  
 78/19 79/3 84/7 84/9 84/10 84/15  
 84/24 85/7 85/17 87/24 88/14  
 95/23 96/17 97/8 97/11 101/9  
 102/9 102/13 103/18 103/20  
 103/21 104/17 104/24 105/1 105/8  
 105/21 105/22 116/24 117/7  
 119/24 121/5 127/14 127/16 128/6  
 128/24 129/3 131/8 131/9 131/20  
 131/23 133/4 140/20 146/2 149/17  
 151/10 151/13 153/2 153/3 153/11  
 154/23 155/25 160/17 165/2 165/3  
 165/6 168/16 170/10 170/12  
 172/17 174/8 176/13 176/20  
 180/15 182/3 191/16 192/16  
 193/18 197/7 201/1 214/14 217/19  
 220/7  
**outlying** [1] 87/12  
**outside** [5] 88/19 169/9 169/10  
 180/16 180/17  
**outsirt** [1] 88/1  
**outskirts** [1] 88/8  
**over** [25] 7/3 21/3 21/4 21/6 27/22  
 40/13 58/5 58/18 58/20 61/7  
 67/12 70/20 78/6 92/8 92/16  
 125/7 145/13 146/20 173/2 180/24  
 185/19 194/14 198/10 214/19  
 217/8  
**overhead** [1] 43/17  
**overlap** [1] 81/9  
**own** [19] 19/24 22/5 28/12 37/7  
 52/25 53/4 66/15 70/16 70/18  
 79/12 105/2 108/19 127/11 127/14  
 127/18 171/11 177/15 177/17

217/6  
**owned** [3] 13/19 21/15 88/10  
**owner** [4] 27/11 158/14 158/14  
 164/24  
**owner's** [1] 171/5  
**owners** [6] 24/7 26/24 137/6 144/6  
 144/9 144/25  
**owns** [1] 163/5  
**P**  
**p.m** [7] 126/13 206/18 206/19  
 210/25 210/25 213/13 214/4  
**page** [4] 2/2 50/5 51/19 141/1  
**paged** [1] 35/12  
**Page** [34] 67/15 67/21 68/6 68/17  
 68/18 68/18 69/4 70/7 71/7 71/13  
 82/18 87/9 89/23 89/25 90/4  
 92/12 92/15 98/10 98/18 99/2  
 100/7 115/8 115/24 119/8 121/4  
 122/21 123/6 139/14 143/3 143/6  
 143/19 144/12 145/20 150/4  
**Page's** [4] 84/6 84/12 108/6  
 122/17  
**paid** [1] 176/24  
**paired** [2] 202/4 204/16  
**Pam** [15] 6/7 14/4 15/11 29/21  
 77/3 77/3 79/20 79/24 84/6 84/6  
 84/12 86/4 106/11 137/15 142/21  
**Pamela** [7] 11/10 11/15 22/18  
 78/20 79/14 118/10 154/4  
**paper** [1] 118/5  
**paragraph** [7] 12/20 13/17 20/18  
 20/19 24/2 29/4 141/12  
**Paragraph 5** [3] 20/18 24/2 29/4  
**paralegal** [2] 147/6 147/16  
**parameters** [1] 110/18  
**parcel** [4] 121/20 156/2 167/7  
 218/7  
**park** [1] 181/8  
**parked** [13] 8/20 137/11 137/12  
 138/17 143/11 154/1 154/7 155/10  
 156/12 161/8 161/13 161/15  
 180/24  
**parking** [6] 49/15 181/1 181/3  
 182/4 183/2 184/4  
**parks** [2] 87/13 106/6  
**part** [26] 5/24 25/3 34/6 34/18  
 41/8 50/2 50/10 50/11 54/2 54/9  
 122/3 124/12 126/14 148/8 158/13  
 164/10 167/2 167/3 171/12 177/3  
 178/13 179/1 179/13 179/14  
 188/10 200/19  
**partial** [5] 1/4 1/23 14/9 16/13  
 221/21  
**participants** [1] 160/13  
**participate** [5] 91/23 145/15 147/1  
 198/20 203/15  
**participated** [2] 47/25 188/15  
**particular** [39] 6/10 7/6 7/14 8/25  
 10/7 12/17 16/7 38/18 42/19  
 43/11 58/14 76/20 92/11 93/7  
 93/13 94/17 95/14 98/2 105/24  
 106/18 109/3 109/20 111/15  
 112/10 115/15 115/17 132/21  
 152/7 158/15 166/20 179/1 179/1  
 185/7 195/16 201/11 201/19  
 207/24 218/16 220/8  
**parties** [8] 4/12 19/9 52/4 57/10  
 58/6 123/24 138/4 185/12  
**parts** [5] 17/16 31/7 166/19 179/11  
 179/12  
**party** [1] 128/19  
**pass** [3] 87/4 113/3 185/3

**passed** [6] 106/16 106/20 110/10  
 110/24 112/9 114/15  
**passenger** [1] 139/25  
**past** [6] 88/12 89/11 110/12  
 114/16 114/18 152/12  
**Patricia** [1] 59/12  
**Patrick** [1] 1/10  
**pen** [2] 112/2 183/16  
**people** [80] 8/17 8/22 10/5 28/14  
 37/1 38/3 53/3 53/20 58/3 65/14  
 65/16 65/20 66/2 66/6 68/10  
 69/20 72/3 72/15 72/15 73/13  
 73/25 74/2 74/2 74/3 74/10 77/14  
 78/6 78/14 78/19 91/19 94/6  
 95/25 97/16 97/25 102/9 102/16  
 102/20 102/23 103/2 103/4 103/17  
 103/21 105/7 106/10 106/21  
 106/23 106/23 106/24 117/16  
 119/9 120/11 120/24 121/17  
 121/22 122/1 122/25 127/6 128/6  
 139/13 147/15 150/8 151/25  
 152/19 152/24 153/1 153/3 153/4  
 153/15 153/16 153/22 161/5 168/3  
 168/11 178/10 178/25 181/4  
 184/13 201/3 202/6 220/4  
**per** [3] 76/22 85/7 185/7  
**perceived** [2] 100/11 110/7  
**percent** [1] 30/23  
**perfectly** [1] 58/9  
**perhaps** [6] 6/21 56/9 58/5 103/1  
 105/18 113/23  
**period** [11] 27/2 32/24 34/9 39/2  
 49/14 62/15 133/16 133/22 146/24  
 215/8 220/11  
**periodically** [1] 147/23  
**permission** [17] 10/5 26/9 26/11  
 80/24 119/16 119/19 122/17 131/9  
 132/5 137/7 169/22 171/2 175/10  
 178/17 184/3 184/14 194/22  
**permitted** [2] 110/10 110/11  
**person** [23] 1/21 5/20 6/13 6/16  
 6/18 9/8 31/21 36/4 64/4 64/12  
 66/5 104/18 126/3 132/21 140/7  
 148/24 168/7 190/1 190/11 190/22  
 191/25 193/3 219/3  
**personal** [8] 27/25 28/13 68/9 72/2  
 84/17 105/23 189/17 191/15  
**personally** [3] 22/17 63/15 200/18  
**persons** [3] 91/15 97/4 150/9  
**pertinence** [1] 56/12  
**perusal** [2] 12/4 12/5  
**phone** [65] 11/15 11/18 11/22  
 36/24 47/12 47/22 48/4 48/11  
 48/12 49/1 49/5 51/5 53/10 53/11  
 54/24 55/1 59/2 59/9 59/13 60/7  
 65/9 71/19 81/25 82/14 82/19  
 82/22 83/6 83/8 84/4 84/7 84/10  
 84/11 98/5 99/10 100/3 108/1  
 120/17 125/11 125/23 126/6 126/7  
 127/21 128/2 129/9 129/20 129/21  
 130/5 130/6 130/15 130/19 130/21  
 130/25 131/3 131/18 131/19 147/5  
 147/15 148/24 149/22 156/21  
 159/4 160/1 191/13 191/17 196/8  
**photograph** [3] 109/19 110/3  
 178/4  
**photographs** [3] 86/6 86/8 200/10  
**phrase** [3] 13/18 16/8 217/16  
**phraseology** [1] 21/11  
**physical** [3] 146/12 146/19 156/1  
**physically** [1] 28/16  
**pick** [12] 64/3 64/3 65/8 92/23  
 93/24 94/12 95/3 120/5 164/10



<p><b>P</b></p> <p><b>pick...</b> [3] 171/17 176/20 210/2</p> <p><b>picked</b> [5] 65/2 73/23 74/3 164/5 164/6</p> <p><b>picking</b> [1] 171/16</p> <p><b>pickup</b> [1] 180/23</p> <p><b>picture</b> [4] 64/18 64/19 135/15 163/2</p> <p><b>pictured</b> [2] 96/18 135/9</p> <p><b>pictures</b> [3] 31/19 76/5 119/1</p> <p><b>piece</b> [1] 118/5</p> <p><b>pieces</b> [1] 146/13</p> <p><b>pit</b> [10] 45/15 45/24 45/25 149/12 152/11 169/1 170/20 181/16 182/1 182/2</p> <p><b>pits</b> [2] 78/3 106/6</p> <p><b>place</b> [18] 9/18 11/7 25/18 32/19 49/7 49/12 76/11 76/17 92/2 100/8 107/18 108/14 115/15 120/23 126/23 151/17 192/7 197/4</p> <p><b>placed</b> [2] 146/9 191/10</p> <p><b>placements</b> [1] 98/1</p> <p><b>places</b> [3] 7/24 9/14 96/10</p> <p><b>placing</b> [3] 95/21 97/15 100/13</p> <p><b>plain</b> [3] 113/16 118/5 210/14</p> <p><b>PLAINTIFF</b> [1] 1/4</p> <p><b>plan</b> [14] 9/7 68/14 68/25 78/8 78/18 80/2 83/22 84/1 97/11 99/20 100/11 102/18 124/21 131/21</p> <p><b>planned</b> [1] 72/20</p> <p><b>planning</b> [2] 10/10 69/25</p> <p><b>plans</b> [5] 54/12 128/14 131/12 150/1 191/16</p> <p><b>plate</b> [3] 140/2 141/19 153/6</p> <p><b>plates</b> [1] 139/22</p> <p><b>play</b> [3] 58/13 129/14 159/5</p> <p><b>pleadings</b> [1] 42/8</p> <p><b>pleasantries</b> [1] 99/24</p> <p><b>please</b> [18] 4/13 5/13 33/19 33/19 61/11 61/11 61/16 61/16 83/4 110/1 112/15 141/1 162/5 162/7 162/11 162/11 186/22 186/23</p> <p><b>plugged</b> [1] 57/5</p> <p><b>point</b> [65] 9/18 9/21 10/1 10/7 10/12 11/14 20/13 21/17 24/14 32/9 32/23 37/21 38/21 39/16 45/1 45/14 53/19 55/7 60/8 60/18 63/21 65/25 71/1 71/5 79/23 86/17 89/11 89/19 91/18 94/17 95/14 98/9 98/13 98/17 98/22 99/8 100/2 100/25 102/12 110/9 112/2 112/8 115/4 120/11 122/21 123/21 131/6 132/2 132/15 140/4 144/1 144/11 145/1 145/23 151/12 172/2 175/7 175/8 177/21 184/1 192/7 192/11 192/25 194/18 201/11</p> <p><b>pointed</b> [6] 42/16 169/20 170/18 172/16 181/15 181/25</p> <p><b>pointer</b> [10] 111/7 111/21 111/21 135/4 135/6 137/22 155/23 156/3 177/21 180/19</p> <p><b>pointers</b> [1] 67/7</p> <p><b>pointing</b> [6] 111/5 111/7 137/16 177/25 180/25 181/22</p> <p><b>police</b> [21] 25/8 34/1 66/12 66/14 66/19 67/2 67/5 67/9 68/3 68/8 70/21 71/25 75/22 81/12 81/18 88/12 88/13 89/11 122/2 174/5 187/8</p> <p><b>policy</b> [1] 178/13</p>	<p><b>pond</b> [2] 138/12 138/21</p> <p><b>pond-type</b> [1] 138/21</p> <p><b>pool</b> [1] 102/19</p> <p><b>pornography</b> [1] 210/2</p> <p><b>portion</b> [7] 26/6 50/5 135/19 135/22 152/10 156/5 173/9</p> <p><b>position</b> [3] 148/2 155/1 155/18</p> <p><b>positive</b> [3] 194/4 197/13 197/17</p> <p><b>possibility</b> [3] 70/25 71/2 85/12</p> <p><b>possible</b> [5] 54/18 56/5 56/7 69/17 71/23</p> <p><b>possibly</b> [6] 64/22 86/22 100/2 150/10 151/16 192/19</p> <p><b>post</b> [2] 65/17 85/9</p> <p><b>poster</b> [6] 94/16 98/1 98/6 168/19 180/1 180/2</p> <p><b>posters</b> [43] 64/3 64/4 64/7 64/9 64/13 64/14 64/19 65/3 65/8 65/13 65/18 66/2 66/6 68/13 70/2 72/13 72/19 73/23 74/1 74/14 74/20 74/21 74/23 75/2 79/3 93/15 93/17 93/20 93/24 94/5 94/11 95/3 95/5 95/10 95/21 96/7 97/15 98/3 100/8 101/8 102/20 109/1 109/2</p> <p><b>potential</b> [1] 108/11</p> <p><b>potentially</b> [2] 57/21 89/7</p> <p><b>precluding</b> [1] 152/7</p> <p><b>prefer</b> [1] 58/15</p> <p><b>preferred</b> [1] 191/15</p> <p><b>preliminary</b> [2] 109/11 210/10</p> <p><b>prepare</b> [9] 14/1 19/20 34/22 35/1 35/3 53/12 109/12 110/1 176/17</p> <p><b>prepared</b> [8] 17/9 20/18 26/2 50/5 57/25 57/25 123/18 222/8</p> <p><b>presence</b> [2] 142/14 158/20</p> <p><b>present</b> [6] 4/21 5/20 92/12 103/6 145/16 187/17</p> <p><b>presented</b> [3] 24/22 147/8 147/22</p> <p><b>presumably</b> [1] 150/8</p> <p><b>pretrial</b> [1] 4/4</p> <p><b>pretty</b> [18] 64/10 68/6 75/17 82/15 104/12 105/3 106/20 112/1 116/21 120/8 138/23 165/13 166/10 171/7 171/22 182/10 201/6 220/9</p> <p><b>prevent</b> [2] 44/1 195/15</p> <p><b>previously</b> [1] 181/2</p> <p><b>primarily</b> [3] 175/23 202/7 210/1</p> <p><b>printed</b> [1] 64/13</p> <p><b>printing</b> [1] 93/23</p> <p><b>prior</b> [9] 11/9 11/22 14/24 45/9 47/8 48/17 85/4 121/18 193/22</p> <p><b>prison</b> [1] 175/25</p> <p><b>private</b> [7] 25/11 80/9 119/16 119/20 184/6 184/17 184/22</p> <p><b>Probability</b> [1] 30/25</p> <p><b>probable</b> [10] 12/13 18/15 19/25 20/4 30/16 31/10 31/25 32/7 32/15 32/21</p> <p><b>probably</b> [13] 27/23 35/18 50/22 56/15 102/22 103/3 104/16 116/23 167/1 188/17 188/21 191/8 211/25</p> <p><b>problem</b> [5] 129/8 170/4 170/5 170/9 174/21</p> <p><b>problems</b> [1] 108/2</p> <p><b>procedure</b> [2] 80/25 191/4</p> <p><b>proceed</b> [4] 6/3 123/21 187/1 191/19</p> <p><b>proceedings</b> [3] 1/23 190/19 222/13</p> <p><b>process</b> [6] 55/22 57/24 60/22 60/24 104/10 218/10</p> <p><b>processed</b> [1] 106/10</p>	<p><b>prompting</b> [1] 107/4</p> <p><b>proof</b> [2] 30/18 30/22</p> <p><b>properties</b> [3] 47/6 51/11 146/15</p> <p><b>property</b> [133] 9/15 9/25 11/20 11/24 12/15 13/20 17/12 19/4 19/6 24/7 25/11 26/6 26/24 27/10 29/16 31/16 31/23 32/13 33/5 36/11 36/23 36/25 37/4 37/13 38/6 38/15 44/5 44/9 46/7 48/8 48/18 51/24 54/7 59/16 76/8 76/16 76/19 76/25 77/18 80/19 84/21 84/25 85/11 85/17 85/23 86/3 86/11 86/18 86/18 87/1 87/13 88/7 88/19 105/23 107/7 108/12 109/20 109/22 111/3 112/1 113/12 118/8 118/18 119/13 119/16 119/20 122/15 126/17 128/20 129/3 130/23 131/5 131/8 131/14 132/5 132/10 132/24 133/12 133/13 133/17 134/5 134/7 134/13 134/17 135/3 136/8 136/23 137/7 143/9 144/5 144/6 144/9 144/24 146/13 151/7 151/7 151/14 151/25 152/5 152/8 153/8 153/12 153/13 158/8 158/11 158/14 158/20 159/9 163/2 163/6 165/20 165/24 167/8 167/15 167/17 167/22 168/4 172/4 173/16 179/22 183/1 183/7 194/5 194/7 196/24 197/9 197/19 203/8 216/3 218/4 218/6 220/1 220/14</p> <p><b>proposing</b> [1] 185/12</p> <p><b>Prosecutor</b> [4] 1/13 1/15 4/16 4/18</p> <p><b>provide</b> [3] 16/19 20/7 83/8</p> <p><b>provided</b> [17] 14/9 16/12 16/18 16/21 17/20 29/7 29/9 29/12 29/14 29/18 29/25 30/3 35/5 94/20 95/5 95/8 96/22</p> <p><b>providing</b> [1] 60/25</p> <p><b>proximity</b> [1] 45/4</p> <p><b>public</b> [16] 88/5 96/6 96/9 100/14 106/3 106/4 136/13 152/17 178/15 182/19 182/23 182/24 183/8 184/2 184/13 186/10</p> <p><b>publication</b> [1] 96/2</p> <p><b>purchasing</b> [1] 163/12</p> <p><b>purpose</b> [8] 10/14 25/13 39/18 71/8 74/8 118/24 119/3 206/5</p> <p><b>purposes</b> [9] 15/14 15/25 24/24 24/25 45/20 73/5 113/25 171/11 190/17</p> <p><b>pursuant</b> [1] 11/18</p> <p><b>pushed</b> [1] 155/16</p> <p><b>put</b> [35] 20/23 22/4 22/16 25/6 53/23 58/7 64/7 64/9 64/12 65/18 68/13 72/5 72/13 74/1 75/2 85/13 101/8 101/17 101/18 105/10 109/2 109/9 109/13 112/19 112/23 113/11 125/10 171/18 183/16 183/19 183/25 184/12 184/18 184/19 218/2</p> <p><b>putting</b> [5] 66/1 68/25 74/14 82/6 102/20</p>
		<p><b>Q</b></p> <p><b>quarries</b> [1] 78/4</p> <p><b>Quest</b> [2] 118/3 118/5</p> <p><b>question</b> [15] 13/24 23/23 26/14 29/11 45/21 54/5 56/7 57/22 59/1 78/13 98/24 151/3 161/1 201/24 203/2</p> <p><b>questioning</b> [4] 13/22 42/12 112/9 212/17</p>

**Q**

**questions [22]** 18/17 30/5 30/7  
30/13 33/8 41/15 67/18 68/8  
88/25 89/8 90/7 93/11 123/9  
147/3 148/8 161/17 171/12 174/3  
185/2 215/14 218/9 221/12  
**quick [7]** 32/3 66/22 70/23 84/15  
104/12 140/17 186/3  
**quickly [2]** 51/17 60/12  
**quite [6]** 45/19 54/3 54/4 55/16  
123/1 165/20  
**quote [6]** 21/12 21/15 51/1 51/22  
52/2 52/11

**R**

**R-e-m-i-k-e-r [1]** 33/21  
**rabbit [4]** 172/22 172/24 173/13  
173/24  
**rabbits [1]** 173/2  
**radio [15]** 15/1 47/13 47/14 47/21  
47/24 48/11 49/10 49/19 49/21  
56/5 56/10 59/15 60/7 60/25  
125/15  
**raining [1]** 138/16  
**raise [4]** 33/15 61/12 162/7 186/16  
**raised [2]** 89/1 186/17  
**rank [3]** 187/13 187/17 187/21  
**ranking [2]** 133/23 188/5  
**rather [2]** 73/22 190/21  
**RAV [14]** 15/10 15/13 26/7 29/8  
29/15 31/5 31/22 137/10 137/25  
138/21 139/2 139/18 172/7 197/18  
**re [2]** 5/9 32/4  
**RE-REDIRECT [1]** 32/4  
**re-swear [1]** 5/9  
**reached [1]** 38/17  
**read [10]** 21/3 21/4 21/6 127/20  
141/12 141/16 141/18 141/18  
147/7 147/19  
**readily [2]** 106/3 154/6  
**reading [2]** 155/13 155/20  
**ready [6]** 58/20 61/7 103/20 105/2  
124/14 165/8  
**real [6]** 76/1 81/15 86/21 116/24  
135/16 141/20  
**realize [1]** 65/21  
**realized [1]** 86/12  
**really [17]** 6/15 23/7 54/4 57/21  
67/6 70/22 81/1 93/1 94/14  
119/22 122/23 122/25 152/3  
178/21 197/25 198/6 201/13  
**rear [1]** 45/15  
**reason [9]** 25/18 41/23 43/6 43/8  
116/24 119/6 151/4 151/22 208/3  
**reasonable [1]** 30/20  
**reasons [4]** 118/17 151/5 152/22  
153/19  
**recall [42]** 4/24 6/15 27/14 34/19  
38/19 43/20 53/14 80/12 86/11  
89/6 92/11 96/23 100/24 101/13  
114/5 114/6 119/21 123/14 124/14  
126/25 127/24 136/10 157/22  
158/1 175/12 179/24 191/23 192/6  
194/3 194/9 194/10 198/5 198/6  
200/11 203/10 205/1 207/15  
208/15 208/17 211/13 211/16  
211/18  
**recalling [1]** 124/8  
**receipt [1]** 160/19  
**receive [4]** 46/17 99/23 131/18  
196/22  
**received [25]** 3/1 6/12 8/4 8/12

11/15 14/10 16/13 21/12 28/17  
36/7 38/14 51/5 99/12 104/18  
115/24 116/2 119/22 160/20  
160/22 189/12 193/17 196/25  
198/12 206/3 207/25  
**receiving [1]** 8/6  
**recent [1]** 165/19  
**recently [3]** 31/18 63/7 123/3  
**recess [3]** 90/12 186/8 221/20  
**recognize [2]** 109/20 179/16  
**recollect [1]** 214/11  
**recollection [20]** 19/15 53/8 54/22  
55/2 79/10 92/14 98/25 103/11  
112/21 125/9 155/15 175/2 201/2  
205/5 206/20 208/10 208/12 211/1  
211/24 212/7  
**record [29]** 4/13 12/25 20/12  
33/20 41/5 42/15 45/20 61/17  
89/2 111/4 111/6 114/21 124/7  
125/10 130/2 135/7 136/1 137/21  
138/7 159/4 162/12 177/25 178/7  
180/25 181/22 183/12 186/23  
191/11 214/23  
**recordable [1]** 130/3  
**recorded [11]** 47/12 47/12 47/22  
55/15 57/20 59/3 61/1 130/4  
130/17 131/15 131/16  
**recording [2]** 56/8 130/25  
**recordings [15]** 48/1 48/10 48/12  
49/23 55/5 55/13 55/17 55/23  
56/23 57/16 58/4 58/7 58/12  
125/8 130/4  
**records [3]** 125/22 126/6 212/11  
**recross [3]** 2/6 30/6 30/8  
**Recross-Examination [2]** 2/6 30/8  
**rectangle [1]** 114/1  
**rectangled [1]** 114/8  
**red [3]** 112/20 113/23 183/16  
**redirect [13]** 2/5 2/7 2/12 2/17  
2/25 18/19 28/7 32/4 116/12  
159/1 161/2 219/15 221/13  
**redo [1]** 157/7  
**reentry [1]** 218/22  
**refer [1]** 135/3  
**reference [5]** 34/20 127/10 128/3  
134/7 141/3  
**referring [13]** 18/24 29/23 39/11  
45/7 47/21 48/2 49/11 68/16  
73/17 101/19 118/2 153/13 153/20  
**reflect [9]** 20/12 111/5 111/6  
137/21 138/8 177/25 178/7 180/25  
181/22  
**reflected [1]** 17/7  
**reflecting [1]** 114/12  
**reflects [1]** 136/1  
**refresh [3]** 19/14 79/9 125/9  
**regard [4]** 25/4 97/22 101/23  
193/1  
**regarded [1]** 67/6  
**regarding [24]** 4/4 4/8 10/20 11/10  
13/23 17/23 30/13 68/7 68/8 72/2  
91/16 94/15 95/21 96/3 97/10  
99/17 100/11 108/10 149/22  
151/20 168/4 192/14 192/18  
218/10  
**registered [2]** 15/7 62/8  
**registration [3]** 17/23 139/20  
155/9  
**regular [1]** 179/15  
**regularly [1]** 173/13  
**reinterview [6]** 54/13 128/22 150/9  
151/4 151/9 193/18  
**related [3]** 38/12 124/12 210/3

**relates [1]** 42/24  
**relating [2]** 53/7 54/23  
**relationship [3]** 62/11 89/18 89/25  
**relative [5]** 5/19 56/6 94/21 97/10  
116/3  
**relatively [1]** 200/1  
**released [2]** 104/19 175/25  
**releasing [1]** 185/22  
**relevance [5]** 41/10 42/5 88/16  
89/22 201/10  
**relevant [6]** 24/16 24/20 24/24  
41/2 42/12 201/19  
**reliable [1]** 30/12  
**relied [4]** 24/17 25/19 28/9 126/6  
**rely [2]** 20/4 25/7  
**remain [2]** 61/11 162/5  
**remained [1]** 62/14  
**remaining [3]** 4/6 16/25 17/19  
**remains [1]** 5/15  
**remember [17]** 79/4 79/18 80/7  
80/15 81/1 81/1 120/21 122/20  
137/16 139/9 147/19 171/17 175/3  
175/4 177/14 194/8 209/2  
**remembered [1]** 55/1  
**REMIKER [55]** 2/8 9/1 9/23 10/15  
10/20 11/14 14/15 14/18 14/24  
16/24 17/20 18/22 20/23 21/1  
24/3 24/6 25/17 26/19 27/12 28/1  
28/23 29/5 29/7 29/22 33/14  
33/16 33/21 51/1 55/9 58/10 59/1  
59/23 123/14 124/8 124/10 124/24  
125/2 148/15 160/4 160/10 192/10  
192/22 193/8 194/6 194/24 195/8  
195/11 195/16 196/25 199/4 202/8  
204/2 204/17 206/16 209/20  
**Remiker's [2]** 16/24 57/18  
**renew [1]** 42/5  
**repair [1]** 166/20  
**rephrase [2]** 41/17 83/1  
**report [28]** 47/12 49/25 50/4 50/5  
50/22 50/25 50/25 51/14 51/22  
52/8 52/13 52/15 52/17 53/16  
53/17 53/23 54/1 91/15 133/21  
140/24 141/7 143/6 144/13 145/5  
211/14 211/25 212/8 213/16  
**reported [2]** 1/24 222/6  
**reporter [6]** 1/25 59/18 62/18  
211/3 222/5 222/19  
**reports [3]** 79/12 128/8 211/19  
**representing [2]** 148/25 149/6  
**request [3]** 55/4 193/2 193/24  
**requested [5]** 35/12 52/10 55/6  
56/24 57/23  
**require [1]** 190/11  
**reside [4]** 41/20 61/22 61/25 62/2  
**resided [3]** 37/20 38/13 39/6  
**residence [25]** 42/10 46/1 95/12  
105/24 135/20 152/12 156/10  
156/11 167/12 183/24 184/18  
192/17 194/15 195/22 199/6 200/1  
203/23 205/21 206/23 211/11  
212/13 217/12 218/12 219/2  
220/23  
**residences [2]** 146/14 167/9  
**respect [15]** 7/9 8/17 9/22 15/14  
16/11 16/14 16/18 16/23 30/14  
57/11 97/15 101/5 110/15 153/24  
217/5  
**respective [1]** 97/25  
**responded [1]** 11/19  
**response [1]** 218/9  
**rest [2]** 29/16 56/11  
**restaurants [1]** 85/8

<p><b>R</b></p> <p><b>restrict [1]</b> 78/16</p> <p><b>restricted [1]</b> 78/13</p> <p><b>restrictions [1]</b> 105/10</p> <p><b>result [3]</b> 8/6 23/2 218/19</p> <p><b>resume [2]</b> 123/23 124/3</p> <p><b>resumed [1]</b> 212/14</p> <p><b>retrieve [4]</b> 51/17 206/10 208/5 210/3</p> <p><b>return [1]</b> 13/4</p> <p><b>returned [5]</b> 65/12 95/10 154/11 203/7 204/3</p> <p><b>review [11]</b> 22/13 49/2 50/16 53/10 53/11 54/23 55/8 56/20 79/8 147/15 212/10</p> <p><b>reviewed [12]</b> 47/8 47/24 49/11 49/24 50/25 51/13 53/15 54/25 56/19 59/3 60/18 61/7</p> <p><b>reviewing [2]</b> 60/9 147/25</p> <p><b>ride [6]</b> 63/19 168/14 168/23 169/2 177/10 177/12</p> <p><b>rifles [1]</b> 206/23</p> <p><b>right [355]</b></p> <p><b>river [1]</b> 87/14</p> <p><b>road [46]</b> 7/2 8/21 37/24 38/16 38/17 38/22 39/8 40/9 48/21 51/24 74/10 75/18 88/4 88/13 105/19 111/10 113/5 114/3 114/15 114/22 117/12 135/10 135/11 135/16 136/3 136/11 143/10 143/22 152/10 152/11 153/17 156/6 156/9 164/7 164/8 171/16 176/20 181/19 182/1 182/12 182/19 182/23 182/24 183/5 184/7 184/17</p> <p><b>roads [22]</b> 6/19 8/17 75/14 76/24 76/25 78/7 78/14 80/21 106/3 106/4 112/17 113/5 114/18 114/19 116/25 117/16 117/18 118/1 118/6 118/16 121/7 170/23</p> <p><b>roadway [2]</b> 135/17 135/22</p> <p><b>roaming [2]</b> 178/11 178/16</p> <p><b>Robert [2]</b> 173/4 173/6</p> <p><b>Rohrer [1]</b> 145/25</p> <p><b>role [2]</b> 58/13 198/16</p> <p><b>roof [1]</b> 183/20</p> <p><b>room [5]</b> 195/12 199/18 200/23 200/25 202/15</p> <p><b>roommate [3]</b> 62/25 63/3 92/5</p> <p><b>rooms [4]</b> 41/25 42/24 199/17 202/10</p> <p><b>Roughly [1]</b> 180/13</p> <p><b>route [1]</b> 136/2</p> <p><b>RPR [2]</b> 1/24 222/19</p> <p><b>run [6]</b> 162/20 162/21 163/1 163/3 165/13 175/22</p> <p><b>running [3]</b> 163/18 163/22 164/4</p> <p><b>runs [5]</b> 136/4 156/13 182/12 182/13 182/14</p> <p><b>RV [1]</b> 197/3</p> <p><b>RYAN [6]</b> 2/14 59/5 61/9 61/10 61/13 61/18</p>	<p>176/10 181/15 182/10 193/25</p> <p>194/12 206/18 209/8 210/24 212/2</p> <p>214/16 215/6 220/24 222/13</p> <p><b>sales [1]</b> 163/12</p> <p><b>salvage [33]</b> 10/3 14/25 29/8 29/13 51/25 54/7 54/20 76/8 80/6 80/17 87/17 88/9 109/23 112/4 122/15 145/8 149/12 150/15 152/15 153/1 153/13 161/5 162/20 162/22 163/13 166/14 167/16 171/8 171/23 175/21 176/18 203/8 214/15</p> <p><b>Salvages [2]</b> 167/13 167/15</p> <p><b>same [11]</b> 23/7 38/3 46/10 108/22 139/21 154/12 165/7 176/14 181/12 210/17 215/8</p> <p><b>sat [2]</b> 174/12 175/5</p> <p><b>satellite [6]</b> 75/12 104/8 111/25 116/14 117/11 118/3</p> <p><b>satisfactory [1]</b> 60/2</p> <p><b>satisfied [1]</b> 191/2</p> <p><b>Saturday [44]</b> 6/8 8/24 18/24 44/24 45/18 45/22 46/12 48/3 68/24 69/1 69/14 69/20 72/20 72/21 72/24 73/7 73/9 73/21 74/9 75/4 75/7 77/5 79/1 85/19 93/12 102/11 102/14 102/24 102/25 103/18 108/25 120/18 120/23 121/10 125/19 148/22 149/8 149/23 152/6 168/2 174/4 177/5 178/10 196/20</p> <p><b>Saturday/Sunday [1]</b> 45/18</p> <p><b>Saturdays [1]</b> 166/16</p> <p><b>saw [8]</b> 44/20 63/9 63/10 86/12 89/21 134/17 180/9 210/13</p> <p><b>say [70]</b> 8/2 16/2 21/4 24/24 29/4 29/14 29/24 39/11 46/21 51/21 52/2 52/20 54/2 54/5 56/10 60/8 62/18 67/9 68/15 70/11 72/3 73/16 76/2 77/3 77/12 85/1 87/23 92/24 94/9 101/18 102/4 103/3 107/14 108/17 117/5 117/14 119/12 119/21 121/16 125/20 127/21 133/4 134/3 134/21 137/2 138/25 141/6 142/3 143/3 143/22 144/3 144/17 147/25 153/12 164/9 164/12 165/12 167/1 167/3 172/1 177/12 178/20 178/24 184/7 184/10 188/17 188/18 190/5 200/2 218/25</p> <p><b>saying [5]</b> 29/9 76/10 150/19 151/24 177/6</p> <p><b>says [13]</b> 51/14 52/1 52/8 52/13 52/24 54/12 127/12 128/21 129/21 131/6 131/16 141/9 143/6</p> <p><b>scale [2]</b> 75/13 86/12</p> <p><b>scaling [1]</b> 70/2</p> <p><b>scene [10]</b> 11/19 14/13 14/15 14/19 15/17 24/4 26/16 28/15 145/13 145/23</p> <p><b>schedule [1]</b> 58/7</p> <p><b>scheduled [1]</b> 103/9</p> <p><b>Schetter [2]</b> 134/1 145/19</p> <p><b>school [1]</b> 62/14</p> <p><b>scope [4]</b> 27/5 27/7 28/5 28/7</p> <p><b>Scott [6]</b> 63/4 67/12 101/21 103/19 104/4 148/18</p> <p><b>screwdriver [1]</b> 155/16</p> <p><b>se [2]</b> 76/22 85/7</p> <p><b>search [113]</b> 4/9 7/11 7/21 7/25 9/14 10/2 10/13 11/7 12/9 12/14 17/6 19/9 19/16 19/21 24/18 25/4 30/11 30/14 31/12 32/15 34/14</p>	<p>34/18 34/20 34/23 35/2 40/1 40/11 40/16 42/10 44/14 51/24 52/3 54/7 54/20 65/7 65/17 65/19 67/6 69/8 71/3 71/11 72/1 74/11 74/11 75/8 75/14 75/16 76/20 80/17 103/19 104/20 105/5 105/23 106/2 108/11 112/11 113/10 115/14 116/3 118/18 119/10 119/24 121/5 121/6 127/11 128/18 128/19 128/20 129/4 131/12 131/13 133/8 134/23 137/1 146/10 148/19 149/1 188/12 188/14 188/19 196/9 196/16 197/14 198/16 198/20 199/7 200/8 200/25 201/9 201/16 201/22 201/23 202/13 203/14 203/15 204/6 205/20 208/25 209/21 209/23 210/18 211/6 213/7 213/10 213/25 214/6 214/24 218/2 219/17 219/19 219/25 220/3 220/14</p> <p><b>searched [14]</b> 41/25 75/17 77/22 87/11 113/13 114/13 115/18 121/12 121/21 200/19 202/12 203/23 204/12 205/10</p> <p><b>searcher [5]</b> 6/9 8/13 22/3 149/6 149/8</p> <p><b>searchers [32]</b> 6/19 10/18 21/10 21/13 29/18 29/25 46/25 47/2 47/4 51/10 51/23 53/21 54/6 54/9 54/15 70/19 71/3 76/16 83/9 85/3 85/5 85/5 85/7 105/4 127/9 128/24 129/2 132/4 134/18 135/17 151/10 151/13</p> <p><b>searches [32]</b> 47/5 51/11 53/1 54/16 63/22 66/3 66/19 66/25 67/4 68/20 68/24 70/9 70/15 75/1 75/6 80/14 89/12 97/9 100/12 113/22 115/7 127/15 128/6 131/4 151/11 207/12 216/24 216/24 218/12 219/2 219/4 220/17</p> <p><b>searching [20]</b> 6/19 6/25 81/12 87/18 110/12 110/16 115/12 128/25 159/9 199/12 200/18 200/23 202/3 202/8 204/24 209/12 210/1 218/3 218/22 219/25</p> <p><b>seat [1]</b> 115/2</p> <p><b>seated [4]</b> 5/13 33/19 61/16 162/11</p> <p><b>second [16]</b> 43/10 54/21 69/3 128/9 131/16 149/24 159/4 160/1 160/7 160/9 189/16 193/20 204/4 207/9 211/6 220/21</p> <p><b>seconds [1]</b> 84/10</p> <p><b>secretary [1]</b> 147/6</p> <p><b>secreted [2]</b> 17/14 31/6</p> <p><b>section [1]</b> 80/17</p> <p><b>sectioned [1]</b> 103/20</p> <p><b>sections [3]</b> 77/12 77/15 77/17</p> <p><b>sectored [2]</b> 87/12 87/25</p> <p><b>sectors [2]</b> 77/8 77/12</p> <p><b>securing [1]</b> 171/22</p> <p><b>security [1]</b> 142/18</p> <p><b>see [48]</b> 10/15 24/19 27/10 28/19 28/21 44/4 44/12 45/14 63/9 63/15 67/11 72/16 86/23 87/8 116/25 118/1 127/15 128/18 128/19 129/2 132/4 137/7 137/13 137/18 140/5 140/7 140/8 140/13 140/18 141/20 142/7 143/9 150/14 151/5 151/12 154/25 166/19 166/23 169/2 172/12 172/14 180/7 180/10 182/14 184/19 185/16 197/18 197/25</p>
<p><b>S</b></p> <p><b>safety [3]</b> 8/16 8/23 90/24</p> <p><b>said [45]</b> 21/9 23/9 23/11 23/17 24/1 65/3 68/13 71/16 71/24 77/9 81/3 102/1 103/9 105/7 107/9 118/17 119/9 122/1 122/23 127/19 130/11 130/13 131/8 131/25 149/12 149/25 150/5 155/24 158/13 159/8 168/21 171/15</p>		

<b>S</b>	34/13 35/13 35/23 47/20 48/20 48/22 49/16 50/6 51/3 51/6 58/4 58/16 58/19 59/24 60/14 60/15 60/22 61/4 64/25 98/7 121/3 130/5 145/14 146/5 187/19 189/14 199/9 214/13 215/22 215/22 216/9 217/4 217/7 217/14 217/19 217/24 219/1	<b>so [219]</b> 7/9 13/14 15/9 15/13 17/5 17/9 17/15 18/21 19/23 20/8 20/25 21/25 27/1 27/16 28/8 28/8 28/21 29/24 30/12 34/10 34/17 38/9 39/15 40/8 40/15 40/18 41/5 41/14 41/15 42/24 46/4 46/9 48/4 48/25 49/1 52/24 54/1 55/7 55/17 56/6 58/5 58/20 60/17 62/15 63/11 63/12 65/2 65/16 65/18 65/19 65/22 66/18 68/21 69/4 69/6 71/12 71/24 72/5 72/18 72/23 72/25 73/12 74/8 74/12 74/25 75/4 76/19 77/20 78/25 79/14 81/9 81/15 81/16 82/16 82/18 83/17 83/20 83/22 84/4 84/19 85/10 85/21 86/14 87/17 89/2 89/8 89/10 90/2 90/6 90/25 91/6 91/7 94/9 94/13 96/14 96/17 96/19 97/10 97/13 97/15 97/24 98/8 99/15 100/1 101/1 101/16 102/25 104/18 104/23 106/25 107/3 107/22 111/20 113/15 113/24 114/22 114/25 115/3 117/20 117/23 118/21 121/19 121/20 123/7 124/22 124/23 125/10 127/13 127/17 131/17 131/21 133/3 133/16 134/6 136/22 138/7 141/10 141/17 142/14 143/11 143/25 144/15 144/16 144/18 144/22 148/5 148/23 149/3 149/14 152/18 153/3 154/13 156/7 158/10 159/3 161/11 161/12 163/5 164/15 166/9 167/1 168/22 169/22 170/15 170/25 172/3 173/9 173/20 174/15 176/7 177/20 178/7 178/25 179/22 180/6 181/8 181/23 182/3 182/22 187/2 188/5 189/5 193/7 195/8 196/2 197/16 198/5 199/6 199/14 200/1 200/12 201/8 202/2 202/18 203/22 204/3 204/10 205/7 205/23 206/9 206/14 207/9 208/3 209/8 209/15 209/17 211/6 212/21 213/5 213/22 213/24 214/11 214/22 216/23 217/17 218/8 220/5 220/15 221/3 <b>solitary [1]</b> 103/6 <b>some [119]</b> 4/4 6/21 8/16 9/6 10/12 15/5 17/14 35/14 36/7 36/8 37/1 41/14 41/14 44/20 44/21 45/1 47/1 47/1 47/5 51/11 53/7 53/13 53/19 53/20 53/21 54/15 54/16 55/14 56/20 57/2 57/2 57/4 59/15 63/21 63/22 64/18 65/2 65/7 65/25 66/2 68/3 70/15 72/10 73/13 82/2 82/8 86/17 88/5 88/6 88/25 89/11 89/11 89/12 91/18 97/3 97/6 98/9 98/10 99/8 100/2 100/25 101/9 102/8 102/12 105/17 105/18 110/6 110/9 110/12 112/8 113/22 117/24 117/24 121/17 126/5 127/5 127/15 127/16 127/16 127/17 127/22 128/6 128/24 128/25 130/20 131/7 134/22 135/22 138/13 146/11 146/12 147/3 147/14 151/9 151/10 151/11 151/11 152/23 153/5 153/21 155/12 156/1 159/7 164/11 165/5 168/3 172/2 173/2 175/7 175/7 181/24 183/16 183/17 192/7 201/1 201/1 210/4 210/5 215/12 <b>somebody [26]</b> 29/9 50/14 58/16 60/13 76/22 84/3 84/15 84/15 92/21 94/7 99/11 106/25 120/14
<b>seeing [1]</b> 123/3 <b>seek [2]</b> 32/22 33/3 <b>seemed [1]</b> 39/23 <b>seen [22]</b> 9/18 31/16 31/21 32/19 44/17 44/25 45/24 63/7 64/23 75/23 75/24 76/1 76/11 86/6 86/8 90/4 105/14 107/18 118/20 127/25 172/17 198/1 <b>seize [1]</b> 206/22 <b>seized [5]</b> 200/7 202/18 203/4 205/12 205/16 <b>select [1]</b> 75/16 <b>selected [1]</b> 75/15 <b>sell [1]</b> 164/11 <b>selling [1]</b> 31/20 <b>semicolon [1]</b> 29/17 <b>sending [1]</b> 97/16 <b>sensed [1]</b> 45/1 <b>sent [2]</b> 106/11 210/2 <b>sentence [1]</b> 29/17 <b>separate [1]</b> 151/8 <b>sequence [2]</b> 73/6 120/16 <b>sequential [1]</b> 50/8 <b>sequestration [1]</b> 5/15 <b>sergeant [31]</b> 36/22 39/25 139/6 142/17 143/14 143/16 144/20 154/14 154/15 192/4 192/16 193/8 193/21 198/25 199/4 201/8 202/5 204/1 204/16 206/15 207/20 207/21 207/25 208/18 208/21 210/21 211/12 211/20 213/12 214/12 219/5 <b>sergeants [1]</b> 217/9 <b>serial [2]</b> 208/1 208/5 <b>series [4]</b> 113/11 113/18 113/19 114/2 <b>service [1]</b> 43/16 <b>set [2]</b> 12/12 186/6 <b>setting [3]</b> 31/14 31/23 31/24 <b>seven [3]</b> 17/19 101/1 215/2 <b>Seventeen [1]</b> 16/17 <b>several [6]</b> 19/8 23/16 51/22 52/3 54/5 133/21 <b>she [92]</b> 6/21 7/1 9/18 14/4 14/9 15/12 15/12 16/12 16/19 16/21 21/20 21/20 21/22 21/22 22/19 22/20 22/22 22/24 23/1 23/1 23/6 23/6 23/8 23/9 23/11 23/12 23/14 23/16 23/19 31/19 32/17 32/19 62/20 63/25 64/21 70/23 70/25 75/23 75/24 76/1 76/5 76/11 76/17 78/12 78/25 79/2 79/17 79/25 80/4 80/7 80/9 80/12 80/13 80/16 80/16 80/18 80/24 81/2 81/17 81/17 81/20 81/21 81/22 81/23 84/13 84/17 90/5 91/12 92/4 92/22 106/19 107/4 107/9 107/15 107/17 107/22 108/18 108/18 118/17 118/17 118/18 118/19 119/1 119/3 123/4 126/16 126/19 127/1 149/15 149/16 152/23 152/24 <b>sheriff [31]</b> 67/22 68/18 69/4 70/7 71/7 71/13 82/18 83/24 84/1 89/23 89/25 90/4 92/12 98/10 98/18 99/2 100/7 115/8 115/24 119/8 122/17 122/21 123/6 139/14 143/3 143/6 143/19 144/12 145/20 150/4 187/23 <b>Sheriff's [46]</b> 4/11 8/8 8/10 9/4 10/11 14/20 18/23 19/10 34/8	<b>Sherwood [1]</b> 75/19 <b>shift [4]</b> 8/9 8/11 128/4 128/5 <b>shined [1]</b> 142/10 <b>shops [2]</b> 135/19 152/12 <b>short [3]</b> 144/13 162/24 203/20 <b>shorter [1]</b> 160/8 <b>shorthand [1]</b> 222/10 <b>shortly [8]</b> 49/17 50/20 68/12 151/22 158/5 158/16 174/18 198/12 <b>shot [1]</b> 116/22 <b>shots [1]</b> 86/11 <b>should [30]</b> 7/20 14/12 20/12 54/13 54/17 64/24 73/2 77/21 77/24 80/24 80/25 81/6 81/13 99/11 101/8 101/9 105/11 124/23 129/5 130/9 150/14 159/24 164/12 170/24 177/25 180/25 181/22 183/11 191/10 206/3 <b>shouldn't [1]</b> 120/10 <b>show [9]</b> 87/15 87/15 117/18 135/5 135/15 156/3 177/22 180/19 181/16 <b>showed [11]</b> 79/20 80/2 87/9 87/10 87/22 106/12 142/24 143/1 145/24 156/16 197/24 <b>showing [3]</b> 103/17 130/1 174/5 <b>shows [2]</b> 60/14 178/21 <b>sic [1]</b> 59/12 <b>side [13]</b> 8/21 44/10 45/10 88/14 105/18 111/9 137/24 138/2 139/25 140/1 142/1 143/23 182/13 <b>sided [1]</b> 114/10 <b>sign [1]</b> 147/9 <b>signed [1]</b> 133/14 <b>significant [2]</b> 18/13 201/20 <b>significantly [1]</b> 30/19 <b>signing [1]</b> 147/12 <b>similar [5]</b> 28/11 105/7 116/18 118/11 132/7 <b>similarly [2]</b> 100/18 108/24 <b>simply [1]</b> 20/4 <b>since [10]</b> 10/5 15/22 34/5 50/24 128/1 147/11 150/17 153/4 191/11 208/24 <b>single [1]</b> 103/5 <b>sir [20]</b> 162/19 194/1 194/19 195/14 195/18 195/21 195/24 196/7 196/11 196/13 196/21 198/8 198/18 200/12 203/24 208/15 211/2 214/21 216/22 221/17 <b>sister [2]</b> 167/21 170/12 <b>sit [4]</b> 92/10 174/11 184/22 187/1 <b>sitting [2]</b> 5/23 210/14 <b>six [6]</b> 144/1 181/23 213/5 215/4 220/12 220/13 <b>size [2]</b> 204/20 204/23 <b>sizing [1]</b> 70/2 <b>sleep [1]</b> 70/5 <b>slightly [1]</b> 137/24 <b>small [4]</b> 117/18 173/14 199/24 200/1 <b>smaller [7]</b> 104/1 112/5 117/2 117/5 117/20 117/21 117/22 <b>snowing [1]</b> 138/16	

**S**

**somebody...** [13] 121/2 127/16  
128/4 131/20 142/4 155/15 157/3  
157/4 157/12 171/11 193/24  
196/22 202/5  
**somehow** [3] 44/21 70/20 157/19  
**someone** [7] 36/19 58/18 60/21  
133/25 150/11 168/10 170/11  
**someplace** [1] 142/20  
**something** [24] 13/14 23/20 50/11  
55/17 57/5 60/10 73/13 77/20  
82/1 99/11 101/16 115/21 128/3  
149/21 155/16 164/13 166/23  
167/19 168/19 173/12 179/2  
204/21 207/24 209/24  
**sometime** [2] 126/12 132/14  
**sometimes** [4] 164/18 179/10  
179/13 179/13  
**somewhat** [3] 30/19 174/17 179/6  
**somewhere** [13] 44/6 57/20 70/24  
72/7 103/10 105/19 143/18 145/5  
154/16 174/25 196/24 197/12  
209/6  
**soon** [1] 104/25  
**sorry** [15] 21/10 43/24 59/7 68/23  
98/19 122/20 125/19 134/11 151/3  
160/9 163/16 167/14 173/5 175/15  
187/25  
**sort** [18] 38/16 45/12 50/8 64/17  
65/22 66/25 69/4 70/12 80/25  
86/7 127/22 135/22 136/4 138/13  
163/13 178/22 180/25 182/12  
**sound** [1] 51/12  
**sounds** [1] 215/3  
**sources** [3] 13/25 14/3 24/1  
**south** [4] 49/15 121/21 138/21  
156/7  
**spare** [1] 206/7  
**speak** [10] 26/23 26/25 38/1 67/10  
69/11 69/14 69/20 192/5 192/8  
194/20  
**speaking** [6] 27/11 27/14 82/13  
112/16 159/25 201/6  
**Special** [6] 1/13 1/15 4/16 4/18  
216/18 217/1  
**specific** [10] 12/12 34/19 38/10  
38/12 57/1 96/1 206/5 206/9  
208/3 214/14  
**specifically** [9] 4/5 21/9 26/15  
71/9 76/14 77/25 81/5 93/11  
147/19  
**speculating** [1] 150/17  
**Speculation** [1] 24/13  
**spell** [4] 33/20 61/17 162/12  
186/23  
**split** [1] 201/4  
**spoke** [9] 6/7 7/5 22/18 36/25 68/8  
99/1 145/6 149/15 192/6  
**spoken** [5] 6/9 81/17 93/21 192/17  
193/21  
**spot** [3] 111/10 112/20 137/22  
**spots** [2] 78/17 210/5  
**spread** [1] 200/25  
**squad** [2] 27/23 154/1  
**squirrel** [1] 173/14  
**ss** [1] 222/1  
**St** [1] 75/18  
**staff** [1] 217/6  
**stand** [2] 162/5 190/7  
**standard** [4] 30/15 30/18 30/22  
204/22  
**standing** [15] 27/11 41/14 42/7

42/9 42/15 42/18 61/11 112/22  
137/15 137/19 143/16 162/5  
180/22 181/18 185/15  
**start** [7] 87/18 104/14 145/3  
169/20 178/11 178/16 182/9  
**started** [18] 39/7 46/15 64/5 65/11  
67/13 67/14 69/10 73/25 101/13  
102/2 102/16 103/17 104/13 140/1  
142/22 170/15 174/5 180/4  
**state** [24] 1/1 1/3 1/13 1/15 4/2  
4/12 4/14 5/1 33/19 51/1 61/16  
97/9 124/17 129/13 135/7 136/1  
161/23 162/11 186/22 191/16  
210/6 220/6 222/1 222/5  
**State's** [1] 124/13  
**stated** [3] 52/3 150/19 151/1  
**statement** [3] 94/24 94/25 132/7  
**statements** [2] 4/10 49/20  
**station** [4] 49/8 49/12 130/22  
132/11  
**stay** [1] 201/2  
**stayed** [5] 15/19 142/18 154/11  
157/4 201/6  
**Steier** [1] 214/12  
**stenographic** [1] 222/9  
**step** [1] 162/4  
**steps** [1] 66/6  
**Steve** [5] 43/9 43/21 164/23  
165/12 167/12  
**Steve's** [3] 38/22 156/10 157/21  
**STEVEN** [35] 1/6 1/20 4/2 31/17  
36/15 37/1 37/19 38/13 39/9  
39/15 41/20 44/13 44/20 46/1  
54/13 128/22 146/17 150/9 151/9  
158/7 162/17 175/25 192/11  
193/16 194/5 194/14 198/20  
203/23 207/12 207/18 208/13  
208/17 210/18 211/16 215/1  
**Steven's** [2] 45/2 45/10  
**stick** [1] 104/20  
**sticker** [12] 14/5 14/7 14/11 18/2  
18/8 18/8 21/21 22/8 23/11 31/5  
109/13 139/22  
**still** [17] 45/12 45/17 48/19 49/8  
70/23 70/24 74/6 87/1 105/15  
123/3 123/13 125/2 140/24 172/13  
172/14 179/21 184/8  
**stipulate** [4] 114/21 212/10 212/15  
213/19  
**stipulation** [1] 212/20  
**stockroom** [1] 178/23  
**stood** [2] 154/8 195/12  
**stop** [2] 136/7 137/5  
**stopped** [3] 60/8 135/25 154/6  
**stopping** [3] 106/23 153/6 184/1  
**storage** [1] 176/18  
**stores** [1] 85/9  
**stragglers** [2] 107/1 107/2  
**straight** [1] 135/21  
**STRANG** [2] 1/16 4/22  
**stretch** [1] 7/1  
**strip** [2] 113/21 117/9  
**stuff** [4] 65/10 127/17 175/22  
202/9  
**stuffed** [1] 105/18  
**Sturm** [27] 6/7 11/10 11/16 14/4  
15/11 16/12 16/19 17/19 18/7  
22/18 29/21 31/3 32/6 33/4 59/12  
77/4 78/20 79/14 84/6 86/4  
106/12 106/18 107/2 118/10  
137/15 152/23 154/4  
**subject** [1] 218/6  
**subpoenaed** [1] 185/22

**subsequent** [4] 45/21 127/2 127/2  
201/14  
**such** [10] 10/19 14/5 18/7 25/14  
55/5 79/5 95/25 117/19 171/13  
171/13  
**sufficient** [1] 147/17  
**suggest** [4] 7/20 11/7 64/8 182/6  
**suggestion** [3] 214/8 214/9 214/16  
**suggestions** [1] 170/17  
**summarize** [1] 214/22  
**Sunday** [5] 44/25 45/18 45/22  
63/10 109/6  
**sunlight** [2] 141/19 155/19  
**superiors** [1] 208/1  
**supervising** [1] 193/1  
**supervision** [1] 216/25  
**supervisor** [1] 132/18  
**support** [1] 35/3  
**supposed** [5] 20/3 83/23 83/24  
87/7 189/1  
**supposedly** [1] 131/7  
**suppress** [1] 4/10  
**sure** [61] 21/5 22/13 38/20 41/16  
42/11 50/18 51/18 64/10 64/11  
68/6 69/13 69/16 71/6 71/23 72/4  
72/22 74/4 75/25 77/7 81/15  
86/21 98/25 99/1 99/4 100/20  
100/22 112/4 112/25 113/9 113/14  
119/18 121/1 123/25 126/23  
135/17 136/18 143/8 147/3 147/13  
149/4 151/4 155/22 157/7 158/3  
173/22 174/20 180/21 182/10  
182/11 185/25 187/1 192/13  
194/12 197/12 205/2 214/22 215/6  
215/25 220/5 220/8 221/7  
**surprise** [1] 207/6  
**surprised** [2] 39/23 172/6  
**surrounding** [3] 9/25 74/5 78/2  
**suspicious** [1] 105/13  
**sustain** [4] 25/2 28/6 42/24 203/2  
**Sustained** [2] 27/7 174/23  
**swabs** [1] 210/4  
**swear** [2] 5/9 162/6  
**switch** [1] 124/14  
**sworn** [1] 21/6  
**sworn** [5] 5/11 33/17 61/14 162/9  
186/20  
**system** [2] 56/20 186/10

**T**

**tacked** [1] 96/9  
**take** [40] 22/14 31/19 49/7 55/4  
55/7 55/19 58/21 59/22 72/5  
77/15 80/17 90/9 92/2 101/22  
103/24 107/9 108/18 120/23  
123/20 123/22 124/2 127/9 155/23  
165/23 166/3 168/14 168/14  
168/23 169/16 169/19 179/11  
179/12 179/13 179/13 182/1  
185/18 185/24 186/2 203/19  
221/18  
**taken** [7] 90/12 124/5 135/10  
186/8 210/5 221/20 222/9  
**taking** [6] 58/2 69/3 76/5 96/12  
104/14 119/1  
**talk** [17] 39/15 54/18 67/2 68/11  
73/8 81/11 84/11 100/1 109/6  
119/18 129/1 131/3 134/12 134/15  
134/18 137/6 150/14  
**talked** [19] 19/15 63/1 64/2 67/5  
67/9 68/6 68/11 71/24 72/7 78/25  
79/4 87/8 99/22 104/25 123/19  
127/5 134/12 174/10 189/23

<b>T</b>	<b>that you [1]</b> 179/16	131/17 131/18 131/21 132/24
<b>talking [24]</b> 34/19 45/8 45/17	<b>that's [139]</b> 4/6 5/4 6/23 7/6 7/8	133/12 133/22 135/6 135/22 136/1
45/18 46/22 47/15 48/5 50/4	8/5 8/14 9/10 9/17 10/22 11/12	140/6 141/18 141/24 142/10
57/15 60/6 60/11 73/7 73/11 74/6	17/8 19/6 19/12 19/22 19/23	142/19 142/23 142/25 143/13
74/18 77/5 77/25 98/20 112/18	20/10 21/23 22/10 22/15 22/24	143/13 143/18 144/18 146/8
118/3 120/21 153/21 169/9 212/4	23/3 23/5 23/23 23/25 26/4 26/14	146/20 147/1 156/9 156/22 157/1
<b>tamper [1]</b> 120/10	26/25 28/14 28/22 29/22 29/23	157/11 157/13 160/20 161/20
<b>tampered [2]</b> 142/4 155/14	30/17 30/19 32/2 33/2 35/5 38/14	167/1 172/17 174/12 174/13
<b>tape [1]</b> 48/12	42/19 42/21 42/22 43/11 44/8	174/16 180/4 180/11 181/25 188/3
<b>targeted [1]</b> 96/1	45/4 50/20 51/14 52/1 52/8 52/13	195/22 197/4 200/13 200/17
<b>tarp [1]</b> 198/3	52/20 53/10 53/11 53/17 54/10	211/25 212/14 212/21 212/22
<b>team [1]</b> 206/2	57/20 57/20 59/13 60/3 60/15	214/23 218/21
<b>teams [4]</b> 218/2 219/17 219/25	61/1 61/10 62/23 77/19 81/3	<b>there [269]</b>
220/3	85/25 90/7 91/1 91/11 94/24	<b>there's [30]</b> 19/25 43/10 44/16
<b>telephone [10]</b> 11/10 14/24 15/1	95/24 96/17 97/8 99/15 100/9	45/9 47/22 49/5 53/2 55/22 56/5
56/8 60/25 185/24 190/1 190/12	100/16 103/3 103/8 104/2 107/17	60/11 60/13 78/3 95/11 112/3
190/21 191/10	108/13 109/23 111/1 111/12 113/2	128/6 133/16 135/19 135/19
<b>teletype [3]</b> 15/5 17/22 139/20	114/4 115/19 116/6 116/21 125/14	135/20 138/11 138/14 143/23
<b>tell [44]</b> 18/22 19/2 19/5 19/8	130/13 130/19 136/8 138/6 138/23	144/1 149/25 151/10 152/23
21/25 22/17 23/17 26/14 35/7	140/23 141/9 141/25 143/11	157/14 159/6 181/24 199/18
39/21 47/3 50/22 68/15 68/18	143/25 149/3 149/25 150/12 152/3	<b>thereafter [3]</b> 48/7 151/23 222/11
69/4 70/6 70/8 70/14 71/7 77/25	153/11 156/13 158/25 160/6 160/7	<b>therefore [1]</b> 23/6
81/4 81/5 81/17 81/22 81/23	160/19 163/2 163/21 167/7 170/20	<b>Theresa [1]</b> 9/9
98/25 103/15 111/21 115/8 115/11	175/16 178/5 178/5 178/13 182/17	<b>these [39]</b> 41/14 55/19 59/2 60/23
119/15 120/9 122/24 128/13	182/19 182/19 183/9 183/9 188/4	65/2 65/16 66/2 66/19 67/4 68/19
128/16 155/24 156/2 163/20	189/20 191/14 194/16 195/9	70/9 70/19 72/6 72/10 76/16
168/10 169/8 172/24 179/7 188/14	201/23 205/19 212/8 212/18	81/24 96/6 97/25 100/6 100/8
188/24	213/16 213/16 213/22 217/25	101/9 101/23 105/22 115/7 116/14
<b>telling [8]</b> 72/17 73/25 80/12	218/5 219/7 219/10 219/12	120/24 149/11 151/13 151/25
97/19 102/16 126/7 174/13 214/11	<b>their [45]</b> 4/12 6/21 7/21 8/22 9/15	153/15 157/22 169/22 179/4
<b>tells [3]</b> 60/13 127/12 189/1	10/6 10/12 11/5 47/5 51/10 52/25	181/12 183/17 216/23 216/24
<b>Teresa [44]</b> 6/20 8/19 13/19 14/17	53/4 57/18 66/15 70/3 70/16	218/22 220/3
15/7 21/15 28/11 31/15 32/12	74/23 75/14 78/9 78/17 82/14	<b>they [180]</b> 6/24 7/20 8/20 10/4
33/1 35/8 43/6 43/8 62/9 64/18	82/16 83/20 85/12 97/25 104/19	20/20 21/13 30/3 36/7 39/10
64/19 68/9 70/23 72/3 73/18	104/25 105/1 105/8 106/10 106/11	45/19 47/19 48/1 48/2 55/15
75/23 90/4 91/8 91/16 95/11	106/25 122/11 127/11 127/14	55/16 55/21 55/24 55/24 55/24
95/18 101/2 101/10 107/18 116/3	127/18 149/13 150/17 158/7	56/19 56/21 57/1 57/6 64/12
118/19 126/10 140/13 168/5 169/6	161/13 163/8 168/2 177/15 177/17	64/24 66/5 68/7 69/8 70/8 70/11
170/2 172/7 180/2 189/10 191/24	211/25	70/14 70/14 72/16 74/3 74/22
192/18 195/20 196/10 196/16	<b>them [104]</b> 7/16 7/18 7/23 8/2 8/4	78/13 78/16 81/6 82/14 83/23
<b>Teresa's [10]</b> 14/11 16/22 73/18	10/6 11/1 11/3 44/17 44/22 55/6	83/23 83/24 84/2 85/13 93/22
92/3 92/4 96/3 122/22 131/10	56/19 56/20 57/4 59/3 61/5 64/13	93/24 94/7 95/8 96/9 103/21
134/4 196/23	64/15 64/17 65/1 68/22 68/22	103/23 104/2 104/13 104/19
<b>terms [13]</b> 28/9 80/7 94/13 96/12	70/2 70/2 70/14 72/17 74/4 74/22	104/20 104/22 104/23 104/24
121/20 144/18 163/11 164/4	75/5 75/12 75/14 77/11 78/18	104/25 105/1 105/4 105/11 106/6
216/23 217/3 217/16 217/18	78/19 81/13 81/25 84/2 84/4	107/23 108/1 108/2 108/2 116/18
217/20	84/24 87/15 87/22 93/24 94/7	116/21 117/5 117/20 117/20
<b>Tesheneck [3]</b> 1/24 222/4 222/19	94/12 96/19 97/16 101/17 101/18	117/23 119/19 122/1 126/1 127/14
<b>testified [6]</b> 5/12 33/18 61/15	103/22 103/24 103/24 103/25	127/17 128/19 131/7 131/8 131/8
162/10 186/21 210/10	104/1 104/4 104/5 104/6 105/9	131/9 131/20 132/4 137/16 142/22
<b>testify [5]</b> 21/5 42/17 189/25	105/12 108/1 108/5 108/6 116/25	143/9 143/10 143/10 143/13 144/7
190/20 201/14	117/17 117/24 117/24 118/7	145/20 146/4 146/4 151/5 151/10
<b>testifying [2]</b> 4/25 120/16	127/15 128/16 135/1 137/16	151/12 151/25 151/25 152/17
<b>testimony [26]</b> 4/6 4/7 18/21 19/2	142/22 142/23 144/4 149/13 150/7	154/8 154/11 154/11 159/25
19/11 20/14 25/1 28/23 41/8 47/9	150/14 154/9 156/22 165/7 168/15	160/12 161/15 168/13 168/17
49/3 50/2 53/12 57/17 57/18 58/2	169/2 169/17 169/20 170/1 170/10	168/19 168/20 168/21 168/22
58/21 58/22 79/9 79/10 91/22	170/18 170/22 171/3 174/6 176/17	168/22 168/23 168/25 169/1 169/2
115/5 124/12 185/24 189/17	176/17 177/18 179/7 179/8 179/12	169/10 169/11 169/16 169/16
190/25	180/9 180/10 181/19 181/25 182/8	169/18 169/20 169/25 169/25
<b>than [24]</b> 26/18 26/19 30/19 30/22	203/19 203/21 213/20 213/21	170/15 170/15 170/16 170/16
30/23 30/23 71/15 74/13 98/2	<b>themselves [5]</b> 148/25 149/6 160/1	170/24 170/25 171/2 172/6 172/16
99/7 99/23 101/8 108/9 117/21	179/11 180/4	174/11 174/13 174/13 174/15
141/10 149/17 149/19 149/20	<b>then [105]</b> 8/7 11/19 15/9 28/9	174/19 175/9 175/9 175/11 175/13
154/9 168/7 168/15 169/18 190/21	29/16 39/5 39/7 39/25 40/8 40/12	177/9 177/10 177/15 177/17
219/22	40/13 43/3 43/9 50/14 50/16	177/17 178/11 178/12 178/18
<b>thank [19]</b> 6/4 12/24 20/16 33/7	56/11 57/20 59/14 59/22 60/12	179/11 179/13 179/18 180/1 180/1
33/11 90/19 113/25 116/11 123/8	60/19 64/22 65/6 65/16 65/25	180/4 180/7 180/17 180/19 180/21
125/4 148/10 162/14 175/18 186/7	67/14 68/2 72/5 73/1 73/9 74/8	180/23 180/23 180/24 182/10
215/16 219/11 219/12 221/16	74/9 75/4 76/1 77/14 78/15 83/18	182/10 184/3 184/6 189/23 192/2
221/17	86/9 89/15 102/12 103/25 104/19	196/23 203/18 203/20 212/13
<b>thanked [1]</b> 195/24	107/9 107/22 113/22 117/2 117/15	214/16 216/12 219/8 220/19 221/9
<b>that [1147]</b>	118/10 118/11 123/21 124/3	<b>thing [9]</b> 52/25 53/4 96/16 120/13
	124/13 126/19 128/9 129/6 130/14	127/14 127/18 159/23 165/7

<b>T</b>	130/16 131/11 159/24 221/1	39/23 40/11 40/11 68/14 68/2/1
<b>thing... [1]</b> 181/12	<b>thought [9]</b> 10/4 53/19 54/17	68/22 68/24 102/7 102/10 105/12
<b>things [18]</b> 7/24 9/11 55/1 55/15	124/11 124/20 205/12 218/10	107/17 119/23 120/25 121/2 121/4
56/25 68/14 78/4 95/15 120/3	218/13 218/18	121/9 122/21 124/19 124/21
152/3 163/13 165/5 166/11 176/14	<b>thoughts [2]</b> 10/20 136/17	127/19 142/21 149/16 168/15
200/22 208/2 211/23 212/6	<b>three [10]</b> 14/3 70/4 133/4 157/17	169/17 169/25 170/18 174/11
<b>think [59]</b> 24/25 31/11 32/17	172/20 173/20 187/25 199/9 206/9	177/18 181/19 181/25 196/22
32/19 41/6 42/22 43/6 54/13 55/6	215/9	205/3 206/6 208/4 208/8
56/13 57/1 59/13 60/9 67/23 69/6	<b>through [35]</b> 40/22 43/3 56/20	<b>Tom [3]</b> 4/16 92/8 216/18
71/10 71/16 73/10 81/15 90/2	66/4 77/1 77/3 87/4 87/13 103/22	<b>tomorrow [1]</b> 185/11
92/10 93/13 100/18 105/7 124/18	104/12 104/13 106/16 106/20	<b>too [5]</b> 48/13 58/7 78/4 122/24
129/4 135/18 138/14 141/12	110/24 113/3 114/16 121/22 166/1	184/19
145/18 149/15 151/25 154/15	166/3 166/15 166/22 168/14	<b>took [18]</b> 23/12 23/14 49/12 75/11
158/13 158/13 159/9 159/13	169/19 172/21 173/25 174/1	79/3 104/16 107/22 126/23 150/4
159/19 160/16 161/1 171/1 172/25	177/10 177/12 178/16 180/5 189/3	150/5 151/17 153/19 155/16 169/2
174/5 177/9 179/24 180/6 180/11	194/22 195/1 195/10 195/11	177/10 177/12 207/4 207/6
185/10 185/14 185/25 192/19	<b>throughout [5]</b> 71/25 93/9 96/10	<b>top [8]</b> 111/9 156/14 170/20
196/2 197/16 199/14 200/15	106/22 106/25	181/20 182/15 182/24 183/19
201/23 203/11 214/9 219/18	<b>Thursday [25]</b> 35/9 36/15 62/21	184/21
<b>thinking [7]</b> 6/21 9/6 9/23 66/1	62/22 67/11 67/16 68/2 69/25	<b>total [2]</b> 187/10 213/5
107/20 170/6 170/8	71/15 91/9 91/19 91/25 92/12	<b>totally [1]</b> 194/4
<b>third [4]</b> 141/6 209/15 213/10	92/16 92/20 92/25 93/12 93/15	<b>touch [1]</b> 142/13
213/24	94/10 94/13 94/22 166/1 166/3	<b>tow [1]</b> 176/21
<b>this [167]</b> 4/1 4/3 4/16 5/23 6/10	173/23 191/23	<b>toward [2]</b> 156/7 157/16
6/15 8/12 8/15 9/8 10/7 13/8 13/9	<b>thus [1]</b> 190/25	<b>towards [4]</b> 7/3 41/15 182/15
13/24 15/16 18/15 20/13 20/19	<b>till [2]</b> 166/17 166/18	194/25
20/22 23/7 23/16 23/17 24/2	<b>time [131]</b> 4/1 10/18 15/22 17/9	<b>town [4]</b> 36/11 75/18 133/4 135/11
24/14 24/25 25/17 25/20 26/2	18/5 22/14 23/17 25/14 27/2 31/3	<b>Toyota [12]</b> 14/6 14/11 15/10 18/2
29/5 29/24 42/5 42/11 42/16	32/22 32/24 34/9 35/25 37/12	31/5 137/10 137/14 139/18 139/22
42/16 42/18 42/19 45/20 48/4	37/17 38/5 38/9 39/2 42/2 46/15	154/10 172/7 197/18
48/4 51/12 52/11 53/6 53/6 54/22	46/20 48/4 49/14 49/15 49/16	<b>tracks [2]</b> 78/10 105/13
55/3 55/7 56/1 56/6 56/18 57/9	50/9 51/5 55/3 58/15 61/4 62/15	<b>Trader [1]</b> 119/2
57/11 57/14 58/2 58/14 58/22	65/12 66/15 71/20 72/22 79/5	<b>traffic [9]</b> 47/24 56/6 56/10 59/15
61/4 62/3 62/24 65/3 65/23 66/9	79/6 79/18 80/3 80/11 84/9 90/10	60/7 153/2 153/3 153/11 164/8
66/25 69/5 69/19 70/11 73/6 73/6	93/7 101/3 101/3 103/17 105/16	<b>trailer [71]</b> 37/19 38/12 38/18
74/6 74/7 74/19 75/21 81/7 86/25	108/14 115/7 115/7 115/14 124/3	38/21 38/22 39/4 39/5 39/6 40/1
88/16 90/10 93/23 95/5 95/17	124/6 125/19 126/1 126/5 126/10	40/9 40/13 40/16 40/21 40/22
97/4 102/8 109/20 110/24 111/3	126/16 126/25 132/18 133/1	40/25 41/11 41/11 41/19 41/21
111/25 112/18 113/8 113/16	133/16 133/22 134/6 134/6 134/8	42/19 43/3 43/12 44/10 44/13
113/23 114/3 115/6 120/22 120/22	136/10 144/1 144/14 144/18 145/7	44/21 45/10 45/12 45/16 146/17
123/11 123/15 123/20 124/3 124/6	145/9 145/12 146/24 150/7 152/7	156/23 157/24 193/16 194/23
129/20 129/21 129/24 130/7 130/7	154/18 158/12 158/15 165/3 165/3	195/1 195/6 195/10 195/11 195/17
132/21 135/4 135/9 135/11 135/16	165/23 168/3 168/12 173/17	195/20 196/3 198/21 199/3 199/13
135/18 135/24 141/25 145/7	180/14 184/25 185/10 185/11	199/17 200/13 200/17 204/7
147/16 148/8 152/14 152/15 156/5	190/14 191/24 193/5 194/8 194/12	205/22 206/1 206/4 206/8 206/14
156/6 156/9 156/12 167/3 172/7	194/13 195/21 195/23 197/2	207/13 207/18 208/6 208/13
175/7 175/21 176/4 180/21 181/19	197/11 197/12 197/16 198/4 198/9	208/18 208/24 210/18 211/12
183/13 183/16 183/22 184/6 184/9	201/4 201/19 202/21 203/6 203/10	211/17 212/3 212/23 213/2 213/3
184/25 185/2 185/7 185/10 189/19	203/17 204/5 205/8 205/14 206/2	213/7 214/25 215/1 220/12 220/18
189/22 189/23 189/25 190/15	207/9 207/21 208/23 208/24 209/2	221/2
190/16 190/18 191/3 191/9 191/17	209/15 209/18 214/18 215/8	<b>trailers [1]</b> 214/14
192/5 192/12 192/14 193/3 193/20	215/14 216/7 216/20 218/11	<b>train [1]</b> 140/14
198/23 201/11 201/20 207/21	218/13 218/16 220/11 221/19	<b>training [10]</b> 19/16 25/4 34/17
208/16 208/23 209/12 209/15	<b>timeline [1]</b> 126/2	34/20 34/22 34/25 188/10 188/25
209/23 212/3 213/1 213/3 213/14	<b>times [15]</b> 15/2 23/16 93/13 98/24	189/1 189/3
215/14 215/19 215/21 221/19	99/1 99/3 126/7 171/15 202/7	<b>transcribed [3]</b> 47/14 50/14 222/11
222/15	202/10 213/6 215/2 215/9 220/12	<b>transcribing [1]</b> 60/22
<b>this property [1]</b> 111/3	220/13	<b>transcript [4]</b> 1/23 221/21 222/8
<b>THOMAS [1]</b> 1/14	<b>tips [1]</b> 127/5	222/12
<b>thorough [1]</b> 204/6	<b>today [15]</b> 5/2 47/9 47/17 49/3	<b>transcription [1]</b> 222/11
<b>thoroughly [1]</b> 205/10	50/2 51/15 58/8 60/19 79/9	<b>transfer [2]</b> 146/5 215/20
<b>those [41]</b> 16/22 25/12 25/20	141/11 160/22 176/5 185/17	<b>transfer of [1]</b> 215/20
43/19 47/7 47/14 47/14 47/17	185/23 190/12	<b>transmissions [5]</b> 47/13 47/15
48/1 48/19 49/7 49/11 49/19 55/8	<b>today's [1]</b> 53/12	47/21 49/10 49/19
55/13 57/1 58/11 59/25 64/14	<b>Todd [1]</b> 139/7	<b>Transportation [2]</b> 15/5 17/23
67/19 72/1 77/17 82/11 83/8 84/4	<b>together [24]</b> 20/24 46/9 55/20	<b>travel [1]</b> 117/17
86/12 93/13 116/9 126/21 129/2	55/22 58/5 58/20 61/5 64/7 64/9	<b>travelled [3]</b> 135/8 135/16 156/9
130/25 131/3 138/15 157/13	64/11 64/13 72/6 74/10 76/16	<b>travels [1]</b> 76/3
157/18 157/25 161/13 165/16	139/8 139/9 139/10 146/9 148/6	<b>tree [1]</b> 139/23
212/16 215/4 219/4	200/24 200/25 201/7 201/9 218/2	<b>trespassers [1]</b> 53/2
<b>though [13]</b> 23/1 35/1 44/2 53/24	<b>told [49]</b> 15/12 21/18 21/20 21/21	<b>tri [1]</b> 97/17
55/6 81/16 86/2 86/13 87/18	21/22 21/22 22/18 22/25 23/1	<b>tri-county [1]</b> 97/17
	23/6 23/14 26/11 28/24 39/22	<b>trial [1]</b> 190/19

**T**

**tried** [3] 83/11 201/2 205/11  
**troopers** [1] 220/6  
**trouble** [2] 41/10 155/12  
**truck** [4] 14/12 29/13 176/21 180/23  
**true** [12] 30/1 33/6 52/15 52/17 53/17 54/1 103/5 103/7 103/8 188/8 203/25 222/12  
**truthful** [3] 19/20 30/12 35/4  
**try** [4] 52/17 54/19 167/3 195/15  
**trying** [5] 42/6 42/20 88/22 97/3 170/10  
**Tuesday** [7] 86/23 88/18 109/7 110/9 110/17 113/8 208/17  
**turn** [4] 36/10 38/16 145/13 199/19  
**turned** [2] 198/10 214/19  
**turning** [1] 196/19  
**twice** [1] 99/5  
**two** [48] 15/2 27/4 27/5 43/16 49/5 59/13 72/1 79/21 97/17 100/2 122/8 129/11 131/22 132/9 133/16 134/3 141/8 142/9 144/21 149/11 154/19 154/21 154/25 155/6 157/16 159/6 160/12 168/11 168/11 169/11 169/22 172/20 172/20 173/20 176/4 176/10 177/7 177/8 179/25 180/12 181/12 183/25 188/3 201/3 202/4 204/22 204/23 205/1  
**two-county** [1] 97/17  
**type** [11] 6/22 9/7 16/5 21/20 34/25 82/2 97/4 97/6 136/3 138/21 188/25  
**types** [2] 60/25 206/9  
**Tyson** [4] 199/4 207/21 207/25 214/12

**U**

**ultimately** [1] 201/24  
**um** [13] 47/12 47/12 52/23 62/13 63/25 64/9 64/18 75/17 79/2 94/4 96/14 101/25 168/10  
**unaware** [1] 55/12  
**uncertainty** [1] 23/18  
**uncomfortable** [1] 152/25  
**under** [8] 24/20 105/16 125/3 140/12 140/13 140/17 200/22 216/24  
**understand** [12] 58/9 80/18 87/20 107/3 119/25 123/18 124/7 147/8 189/24 190/2 190/7 215/20  
**understanding** [10] 29/11 35/25 41/10 90/14 123/13 126/15 127/1 131/21 150/23 205/16  
**understood** [2] 22/21 125/22  
**unit** [3] 192/1 192/24 206/4  
**unlawfully** [1] 25/7  
**unless** [2] 5/22 178/18  
**until** [10] 12/18 27/16 32/6 33/4 49/16 93/1 99/20 121/18 136/24 172/16  
**up** [107] 9/6 10/7 14/7 14/8 27/17 28/16 28/19 28/24 29/12 32/3 39/3 42/1 52/11 54/18 55/25 60/8 60/14 60/17 64/3 64/3 64/13 65/2 65/8 65/18 66/1 68/13 68/25 69/24 73/1 73/23 74/1 74/14 75/10 75/12 75/13 76/19 77/11 78/18 79/21 85/13 92/23 93/23 93/25 94/12 95/3 96/9 97/16

102/20 103/17 103/22 105/9 106/12 108/25 109/1 110/6 111/20 112/14 116/21 117/6 117/25 118/16 120/6 137/23 138/2 138/15 139/2 139/17 141/25 142/24 143/1 145/24 154/1 155/8 156/5 158/7 161/13 162/4 164/5 164/6 164/10 165/20 166/4 166/11 168/17 168/20 168/21 169/10 171/16 171/17 174/5 174/13 176/21 178/10 179/19 179/22 180/17 180/20 180/21 181/4 181/20 182/23 182/24 184/19 192/12 192/24 198/7 210/2  
**upon** [8] 10/1 24/17 25/19 28/9 52/21 102/2 113/24 152/20  
**upper** [5] 110/21 111/7 135/13 178/1 181/23  
**us** [29] 10/4 15/16 16/1 39/10 39/11 41/24 54/23 55/16 57/25 58/7 64/13 98/25 102/10 103/15 111/21 115/21 135/5 145/2 155/11 155/24 156/2 156/4 156/16 165/2 168/10 169/8 176/13 180/19 195/1  
**use** [20] 13/18 16/8 21/11 32/20 64/14 68/19 75/5 82/9 101/9 101/17 101/19 111/20 140/9 140/11 142/8 159/8 171/23 177/21 183/15 185/17  
**used** [9] 14/1 80/7 84/9 125/9 140/12 141/22 157/3 157/4 217/16  
**using** [3] 66/2 128/18 137/21  
**usually** [2] 166/2 171/17

**V**

**vacation** [2] 185/17 185/23  
**vacuum** [1] 206/7  
**value** [4] 202/20 203/5 205/13 205/17  
**various** [10] 10/13 42/23 60/25 97/17 127/6 159/7 179/4 218/3 218/23 219/17  
**vehicle** [111] 6/22 13/18 13/19 14/5 14/6 14/7 14/17 15/6 15/18 15/19 15/21 15/23 16/1 16/22 17/10 17/14 17/24 18/3 18/8 18/25 21/14 21/14 21/18 21/20 21/22 21/23 22/6 22/20 23/3 23/7 23/10 23/12 23/13 23/16 26/8 27/22 28/3 28/10 28/12 28/16 28/19 28/20 28/24 31/20 32/6 33/4 44/5 46/10 49/18 63/13 64/20 71/21 74/16 77/4 78/11 85/21 86/15 105/13 131/10 133/17 134/17 137/11 137/12 137/17 137/18 138/25 139/12 139/17 139/20 139/24 140/3 140/4 140/18 140/19 141/14 142/13 142/15 142/17 142/18 142/22 143/16 146/25 153/25 154/1 154/5 154/8 154/10 154/13 155/6 155/8 155/10 155/24 171/14 171/25 172/8 172/10 172/18 172/23 173/10 173/21 174/1 174/7 176/18 177/13 177/17 179/2 180/22 196/10 196/17 196/23 197/18  
**vehicles** [14] 78/17 86/3 86/5 105/8 153/7 161/8 161/9 171/7 171/16 171/17 171/18 171/23 176/21 181/24  
**verbal** [2] 145/7 147/4  
**verbally** [1] 181/19  
**verification** [1] 134/9

**verified** [3] 14/16 17/4 134/4  
**verify** [2] 53/14 141/7  
**versa** [1] 130/12  
**version** [4] 75/13 103/25 104/1 112/6  
**versions** [1] 117/15  
**very** [22] 6/1 12/7 13/16 19/19 57/21 63/11 88/1 115/2 124/2 139/9 148/9 149/19 158/21 158/22 162/1 190/24 191/18 203/20 205/10 209/23 215/15 221/14  
**vice** [1] 130/12  
**vicinity** [1] 154/17  
**Victim** [1] 5/20  
**Victim/Witness** [1] 5/20  
**view** [5] 57/14 117/12 118/15 120/11 210/14  
**Village** [1] 135/8  
**VIN** [33] 14/9 14/16 16/13 16/16 16/17 16/21 17/18 23/12 28/21 29/1 29/7 29/12 29/14 29/18 29/25 31/8 31/14 31/24 49/17 60/10 60/12 140/2 140/11 140/19 140/22 141/8 141/13 141/13 141/19 141/23 141/25 154/18 155/13  
**VIN's** [1] 16/14  
**visible** [1] 154/6  
**visitors** [1] 169/4  
**voice** [1] 160/2  
**volume** [1] 202/9  
**volunteer** [33] 6/9 7/10 8/12 10/17 19/9 21/10 21/13 22/17 46/25 47/2 47/4 51/9 52/3 53/21 54/9 54/15 83/9 85/5 85/10 94/3 94/16 94/22 95/17 127/9 128/19 128/24 132/3 134/18 148/17 148/18 149/7 196/9 196/15  
**volunteered** [9] 74/2 76/23 77/14 94/10 94/12 95/2 203/21 203/22 217/17  
**volunteers** [33] 6/24 7/5 10/2 10/8 10/11 10/23 19/3 19/5 21/18 21/25 57/19 65/23 66/19 68/19 70/19 72/6 72/11 83/22 85/2 89/14 89/15 91/24 100/12 101/15 110/11 110/17 113/4 119/19 121/14 121/15 131/24 134/21 159/9

**W**

**wait** [1] 56/11  
**waiting** [5] 60/13 61/9 65/14 131/18 185/18  
**walk** [18] 28/16 28/19 40/8 44/9 78/15 78/17 105/8 153/25 154/5 169/16 169/19 182/3 182/11 195/11 195/13 198/7 199/18 200/21  
**walked** [14] 28/24 40/21 43/2 88/3 88/4 139/8 139/10 139/17 139/25 140/19 142/17 154/9 154/13 195/11  
**walking** [9] 53/3 78/6 87/11 88/7 121/22 122/5 152/24 153/1 153/15  
**wander** [1] 166/22  
**want** [14] 51/17 58/11 60/5 70/8 80/16 81/4 81/5 110/6 114/20 129/16 134/22 170/11 178/18 191/22  
**wanted** [27] 9/3 9/11 9/12 9/14 40/12 40/19 69/8 75/14 78/16 81/2 101/15 104/1 105/8 116/25



**W**

**wanted... [13]** 117/17 118/18  
 128/16 128/18 132/3 150/7 164/9  
 164/11 166/19 166/22 173/2  
 185/24 196/9  
**wanting [2]** 9/6 94/6  
**wants [2]** 109/9 128/22  
**warn [1]** 120/2  
**warning [1]** 120/5  
**warrant [46]** 4/9 12/9 12/14 13/11  
 14/2 17/6 17/10 19/21 20/1 24/18  
 25/5 25/6 31/12 32/8 32/16 32/22  
 33/3 34/18 34/23 35/2 37/17  
 42/18 44/15 89/4 133/8 133/14  
 133/18 146/9 146/10 147/2 147/7  
 189/2 194/17 197/14 198/17 199/7  
 201/16 201/22 208/25 212/23  
 213/8 215/5 215/11 215/12 218/7  
 220/21  
**warrants [11]** 19/17 30/11 30/15  
 34/15 34/21 188/12 188/15 188/19  
 215/6 215/7 220/25  
**was [591]**  
**wasn't [27]** 25/22 27/16 38/20 44/3  
 53/22 65/19 73/21 74/15 81/4  
 96/14 120/15 122/24 132/22  
 135/17 142/5 147/11 147/12 148/3  
 155/17 155/18 167/13 167/15  
 172/23 173/21 173/22 174/1  
 176/10  
**wasting [1]** 58/15  
**watch [1]** 106/25  
**water [1]** 138/13  
**Waukesha [1]** 62/1  
**way [31]** 7/16 7/18 17/14 29/5  
 44/20 46/1 50/9 56/14 69/19  
 71/23 75/19 75/21 79/8 83/15  
 83/17 84/16 94/8 96/1 96/15  
 100/7 106/11 117/5 120/15 130/19  
 135/23 137/8 157/16 171/1 173/3  
 180/7 183/5  
**ways [2]** 132/16 159/7  
**we [252]**  
**we'll [13]** 60/19 61/5 73/8 73/9  
 90/9 123/22 124/2 124/6 132/1  
 132/1 135/6 186/2 221/18  
**we're [21]** 28/8 41/4 51/19 57/15  
 60/24 73/5 73/7 73/10 74/6 89/10  
 91/7 107/3 110/25 113/15 115/3  
 124/14 148/23 176/5 185/21 212/3  
 217/17  
**weapons [1]** 206/6  
**wearing [1]** 64/22  
**Wednesday [3]** 93/2 173/23 211/10  
**week [3]** 42/7 50/23 173/1  
**weekdays [1]** 178/9  
**weekends [1]** 166/4  
**weight [1]** 64/21  
**welcome [1]** 169/18  
**well [82]** 6/1 12/7 13/16 15/16  
 24/16 27/9 29/20 34/17 35/22  
 36/6 37/4 41/4 41/13 43/9 43/22  
 44/24 52/22 53/18 53/23 57/9  
 58/12 60/7 64/19 66/21 69/19  
 69/24 72/24 75/17 76/23 81/3  
 81/11 83/19 87/21 89/4 98/23  
 99/12 101/14 103/17 107/9 107/14  
 107/17 107/20 113/22 114/12  
 115/20 118/8 118/22 121/14  
 121/15 123/17 124/2 127/9 132/22  
 135/7 135/16 139/18 141/21 142/4  
 142/16 144/12 148/9 149/19

152/13 152/23 159/12 162/1 167/3  
 170/18 172/24 176/2 176/24 184/3  
 184/8 189/24 190/24 191/11  
 191/18 202/24 215/15 218/13  
 218/16 221/14  
**Wendling [1]** 211/21  
**went [48]** 14/15 24/1 36/25 37/12  
 38/21 39/5 41/18 41/25 67/12  
 67/13 74/22 77/1 77/3 77/4 86/25  
 87/8 87/13 87/21 102/9 103/16  
 104/2 121/17 122/1 126/16 126/19  
 135/5 142/19 142/21 152/5 152/11  
 152/12 155/25 156/2 157/2 157/9  
 157/10 157/11 169/1 172/12 180/7  
 194/6 194/14 196/2 197/23 199/6  
 208/19 211/21 214/24  
**went back [1]** 157/9  
**were [331]**  
**weren't [4]** 140/21 142/7 147/11  
 148/2  
**west [1]** 156/17  
**what [168]** 10/16 13/25 16/3 21/5  
 21/20 22/24 23/11 24/12 24/17  
 27/18 29/20 29/22 34/18 37/12  
 39/18 39/21 39/21 40/24 40/25  
 41/10 41/11 42/19 42/23 45/5  
 45/18 46/15 46/20 47/11 47/21  
 48/1 49/14 51/12 51/14 52/1 52/8  
 52/13 52/20 52/21 53/23 56/9  
 56/13 56/21 57/5 57/9 58/1 59/19  
 60/4 62/7 62/11 64/17 64/21  
 65/21 68/12 68/21 68/21 68/22  
 69/14 70/5 72/16 72/22 73/20  
 73/25 74/4 74/8 75/16 77/2 79/23  
 79/25 80/1 80/1 80/24 81/2 81/4  
 82/11 83/22 85/4 87/6 87/6 88/16  
 94/7 98/14 98/19 99/9 99/17  
 108/5 109/3 109/22 112/5 114/2  
 114/5 114/6 114/21 115/8 117/5  
 118/13 118/24 119/11 119/23  
 119/25 120/1 125/19 128/21  
 130/10 130/13 131/24 133/1 134/7  
 134/8 136/17 136/18 139/16  
 140/18 141/9 144/11 145/9 147/24  
 149/16 150/16 150/17 150/25  
 156/4 158/22 159/8 162/19 164/1  
 164/3 164/3 165/5 166/13 168/12  
 170/6 170/8 170/16 170/19 171/7  
 171/17 171/18 172/3 172/13 174/8  
 174/14 174/15 177/13 181/16  
 183/18 184/9 187/17 187/25 190/5  
 192/11 193/9 194/8 194/12 197/11  
 197/25 198/9 200/14 200/17  
 201/18 203/10 204/21 213/16  
 217/20 218/10 218/15 218/16  
 218/18 220/9  
**what's [4]** 22/23 89/24 111/23  
 173/3  
**whatever [9]** 32/25 84/2 89/3  
 109/14 159/13 169/21 179/8  
 204/22 219/6  
**whatsoever [3]** 8/3 91/5 100/10  
**wheat [1]** 113/17  
**wheel [1]** 174/7  
**wheeler [6]** 27/21 144/10 144/14  
 174/7 177/16 178/19  
**when [137]** 4/24 15/11 15/16 16/3  
 19/20 20/23 24/8 26/2 27/1 27/9  
 27/21 28/2 28/15 29/4 29/24 35/1  
 35/3 35/7 35/19 38/15 38/19  
 38/23 39/7 39/11 40/21 41/18  
 44/17 44/24 52/20 56/18 57/4  
 62/20 67/9 67/11 68/15 71/20

72/12 72/19 73/16 73/24 74/18  
 76/13 76/15 79/2 79/17 80/16  
 84/9 85/1 86/9 86/12 86/20 86/21  
 86/25 91/11 93/19 94/1 94/4  
 99/13 99/15 100/1 100/25 101/6  
 101/7 101/10 101/18 102/4 103/21  
 103/23 107/2 107/14 113/9 115/5  
 117/5 121/12 122/2 124/14 127/19  
 133/16 134/2 134/8 135/2 136/12  
 136/17 136/20 136/25 137/3  
 139/11 139/11 139/16 142/10  
 143/3 143/8 143/13 144/19 149/9  
 152/3 152/5 153/12 154/22 155/25  
 157/7 157/9 157/9 158/4 161/5  
 172/6 172/25 176/7 176/15 177/12  
 178/8 179/18 179/25 180/12  
 180/17 181/17 189/11 194/14  
 199/2 201/4 201/21 201/22 202/2  
 202/3 202/18 203/3 204/3 204/10  
 205/15 207/9 209/2 209/2 214/24  
 215/25 216/2 218/25 220/11  
**where [83]** 7/1 7/20 11/14 25/19  
 26/6 27/17 38/20 38/20 40/9  
 47/19 55/24 60/8 60/15 61/25  
 73/2 73/18 75/2 75/23 75/23 76/1  
 78/12 92/2 92/4 100/8 104/2  
 104/3 104/5 104/6 107/18 110/24  
 111/5 112/12 112/20 114/18  
 114/19 119/9 135/5 135/17 135/24  
 135/24 136/13 137/8 137/11  
 137/12 137/14 137/17 137/18  
 137/25 138/21 139/10 142/19  
 143/11 143/22 149/16 153/25  
 154/6 154/10 156/4 157/14 161/8  
 161/15 167/21 168/3 169/20  
 173/10 177/22 179/9 180/19  
 180/21 180/21 180/22 181/3  
 181/17 181/23 182/3 183/24 184/3  
 184/12 184/21 197/2 197/21  
 197/24 217/21  
**whereabouts [2]** 168/5 169/6  
**whether [28]** 19/25 22/6 25/13  
 26/5 27/25 28/10 36/16 70/15  
 70/19 80/24 84/24 86/14 88/19  
 88/23 92/11 105/7 107/5 123/19  
 126/22 147/24 171/13 178/25  
 185/16 189/5 189/6 196/14 197/14  
 219/5  
**which [59]** 12/13 14/12 14/17 17/6  
 18/14 24/21 30/22 36/3 36/5  
 37/19 42/19 48/15 51/5 53/19  
 57/23 62/5 71/15 73/16 83/14  
 83/17 86/23 90/22 93/4 98/5  
 106/3 109/19 110/3 110/4 111/19  
 113/12 114/15 117/7 125/11 135/9  
 135/10 137/22 150/4 153/14  
 156/10 156/23 157/24 160/3  
 162/21 163/1 180/7 182/8 184/1  
 184/21 185/12 191/23 200/19  
 207/16 211/10 212/12 213/11  
 214/6 218/19 221/7 221/7  
**while [11]** 48/19 48/20 49/7 58/3  
 58/16 62/13 123/1 133/18 171/25  
 189/3 217/3  
**who [60]** 4/21 6/16 24/3 35/16  
 38/8 39/11 47/4 51/10 54/15 63/3  
 67/9 67/16 68/10 72/3 73/20 79/4  
 84/20 84/20 88/9 89/17 96/21  
 100/12 102/20 105/13 106/24  
 106/24 107/4 109/1 128/24 133/22  
 133/23 145/17 149/4 150/5 163/5  
 163/11 164/8 167/6 167/8 167/9  
 170/12 185/23 192/4 192/5 192/6

<p><b>W</b></p> <p><b>who...</b> [15] 194/2 196/9 196/16 197/1 202/11 203/22 206/12 207/4 207/5 208/19 216/19 219/8 220/8 220/14 220/17</p> <p><b>who's</b> [1] 159/25</p> <p><b>whoever</b> [3] 150/6 164/14 164/15</p> <p><b>whole</b> [14] 69/7 71/25 76/23 85/22 94/6 101/14 101/15 117/8 117/9 140/11 174/1 188/20 188/21 195/10</p> <p><b>whom</b> [2] 34/7 199/9</p> <p><b>whose</b> [1] 193/24</p> <p><b>why</b> [7] 61/3 66/18 69/23 153/19 155/13 170/8 184/12</p> <p><b>wide</b> [1] 111/10</p> <p><b>Wiegert</b> [69] 4/25 5/5 5/10 6/7 13/25 37/11 46/17 46/24 47/3 47/24 48/17 48/24 49/4 49/6 51/8 51/9 51/22 52/2 52/10 52/23 53/19 54/5 54/11 56/9 59/14 67/16 69/11 71/17 71/22 82/21 83/2 83/5 92/15 100/19 100/22 120/18 120/18 120/25 125/24 126/5 127/10 127/12 128/10 130/11 130/15 130/18 132/9 133/7 133/13 139/14 143/4 143/7 143/19 144/12 147/4 149/11 149/23 149/25 151/23 151/24 159/8 160/3 160/5 160/10 192/8 194/4 216/19 217/1 218/21</p> <p><b>Wiegert's</b> [2] 57/17 148/4</p> <p><b>WIEGERT,CONTINUED</b> [1] 2/3</p> <p><b>will</b> [28] 4/12 5/8 12/6 12/18 21/11 25/2 28/6 41/9 49/23 61/7 70/5 83/1 87/21 110/4 123/23 131/16 138/7 155/12 159/18 160/21 162/6 178/7 185/11 186/4 186/5 201/14 203/2 212/19</p> <p><b>Williams</b> [1] 4/20</p> <p><b>willing</b> [13] 19/3 19/6 40/15 51/23 54/6 54/15 101/16 128/25 151/11 168/16 191/3 212/9 212/15</p> <p><b>willingness</b> [1] 217/18</p> <p><b>Willis</b> [1] 1/10</p> <p><b>windshield</b> [1] 141/20</p> <p><b>Winnebago</b> [1] 117/9</p> <p><b>winter</b> [2] 88/3 113/17</p> <p><b>WISCONSIN</b> [9] 1/1 1/3 1/13 1/15 4/2 15/4 216/13 222/1 222/6</p> <p><b>wish</b> [1] 190/14</p> <p><b>wished</b> [2] 189/24 196/16</p> <p><b>withdrawn</b> [1] 150/24</p> <p><b>within</b> [13] 27/23 47/6 51/11 52/4 56/16 56/17 57/2 110/18 133/3 133/4 134/3 144/21 153/15</p> <p><b>without</b> [11] 22/24 38/25 40/16 70/5 107/4 119/16 142/7 144/24 178/17 184/2 184/14</p> <p><b>witness</b> [28] 5/2 5/9 5/11 5/16 5/20 12/22 33/10 33/13 33/17 59/22 61/6 61/8 61/13 89/7 123/11 137/21 161/20 162/2 162/5 162/8 175/16 185/2 186/11 186/20 190/7 191/12 191/12 202/23</p> <p><b>witness's</b> [2] 25/1 109/10</p> <p><b>witnesses</b> [14] 2/2 5/19 12/5 57/10 57/12 57/15 57/22 58/14 123/15 161/21 161/24 185/7 185/9 201/14</p> <p><b>woman</b> [4] 36/17 89/19 177/9 179/18</p> <p><b>women</b> [5] 132/9 169/22 177/7</p>	<p>180/12 181/12</p> <p><b>wonder</b> [1] 159/3</p> <p><b>wondering</b> [1] 58/1</p> <p><b>word</b> [8] 59/17 59/17 59/19 59/19 72/6 95/23 97/11 102/13</p> <p><b>wording</b> [1] 20/19</p> <p><b>words</b> [10] 20/3 20/19 20/20 32/11 47/7 49/20 63/15 128/17 138/1 161/9</p> <p><b>work</b> [10] 97/5 106/24 123/23 124/23 125/20 164/19 171/22 176/11 176/24 193/11</p> <p><b>working</b> [4] 46/13 51/1 72/7 148/6</p> <p><b>works</b> [1] 163/12</p> <p><b>worth</b> [1] 69/3</p> <p><b>would</b> [195] 6/19 6/24 8/20 8/21 10/4 10/6 12/19 15/15 16/2 18/14 19/9 22/13 25/12 25/20 25/25 26/1 31/11 32/10 35/9 36/21 46/4 46/21 48/23 50/24 52/4 54/2 54/19 55/16 56/9 57/21 57/22 58/14 58/18 59/22 62/22 64/1 66/22 71/11 72/21 73/20 77/12 78/11 78/15 82/16 84/16 86/6 86/23 89/3 92/24 93/4 94/9 96/1 101/17 101/18 102/8 102/17 103/3 105/5 108/17 109/9 109/12 109/13 109/18 109/25 110/2 111/20 111/25 112/2 112/12 112/24 115/7 115/11 116/6 119/19 121/16 123/20 124/11 124/20 124/22 128/19 128/24 130/10 131/21 131/22 131/23 131/23 132/4 133/4 133/5 133/23 134/3 135/10 135/16 136/14 136/14 138/25 141/10 143/22 144/3 144/17 146/14 147/15 148/4 148/19 149/21 150/17 151/5 151/13 152/18 155/15 155/23 156/3 159/2 159/6 159/10 161/12 161/13 163/15 163/17 164/2 164/9 164/15 164/18 165/3 165/5 165/21 165/23 165/23 166/3 166/10 166/21 167/1 167/17 168/1 170/1 170/11 171/6 171/6 171/10 172/2 172/3 173/13 176/17 176/20 177/15 178/20 182/10 184/1 184/3 184/7 184/10 187/22 187/23 188/17 188/18 190/4 190/6 193/5 193/7 193/11 193/13 193/18 193/20 194/25 195/19 197/6 197/7 200/1 200/14 200/15 200/20 203/19 204/23 205/4 205/6 206/19 206/21 207/16 208/9 208/11 208/16 209/9 209/10 210/25 211/10 211/23 212/6 212/15 212/25 213/24 215/25 216/1 218/25 219/21 219/22</p> <p><b>wouldn't</b> [5] 81/9 183/15 207/6 219/23 220/24</p> <p><b>written</b> [5] 42/8 59/16 59/19 127/22 127/25</p> <p><b>wrongful</b> [1] 176/1</p> <p><b>wrote</b> [2] 74/4 156/20</p> <hr/> <p><b>X</b></p> <p><b>X's</b> [6] 113/11 113/18 113/19 114/2 114/8 114/12</p> <hr/> <p><b>Y</b></p> <p><b>yard</b> [40] 10/3 14/25 29/13 54/7 54/20 80/6 88/9 109/23 145/8 149/12 150/15 152/15 153/2 153/13 161/5 162/20 162/22</p>	<p>163/13 165/8 166/2 166/14 166/22 167/4 167/16 168/8 168/14 169/19 170/24 171/8 171/18 171/23 173/10 174/1 176/11 176/22 177/11 177/12 178/11 178/17 214/15</p> <p><b>yards</b> [3] 15/19 127/16 139/1</p> <p><b>yeah</b> [50] 8/20 15/11 32/10 40/11 47/1 53/13 54/2 70/4 71/11 71/14 72/12 73/11 74/7 75/10 77/13 85/3 90/25 93/6 97/6 103/12 107/11 107/15 112/14 121/11 129/19 132/7 135/15 138/14 143/22 144/17 145/5 155/22 155/22 165/4 166/1 166/5 167/13 167/20 167/25 168/11 168/19 173/19 173/20 178/24 184/7 184/16 193/6 196/25 200/15 206/2</p> <p><b>year</b> [6] 21/23 22/12 23/11 34/10 173/17 173/18</p> <p><b>years</b> [8] 34/3 163/20 165/19 166/7 176/4 176/10 187/12 187/16</p> <p><b>yes</b> [394]</p> <p><b>yesterday</b> [1] 189/22</p> <p><b>yet</b> [6] 57/25 144/6 144/24 152/14 160/22 204/5</p> <p><b>you</b> [1211]</p> <p><b>you're</b> [1] 181/22</p> <p><b>younger</b> [1] 177/10</p> <p><b>your</b> [234]</p> <p><b>yours</b> [2] 102/4 129/7</p> <p><b>yourself</b> [16] 15/18 26/17 64/14 82/3 90/5 101/19 134/19 139/3 139/5 143/14 153/25 192/8 195/15 197/4 207/3 208/21</p> <p><b>Youth</b> [1] 90/23</p> <p><b>Yup</b> [5] 63/14 66/17 96/24 102/15 118/9</p> <hr/> <p><b>Z</b></p> <p><b>Z-i-p-p-e-r-e-r</b> [1] 126/20</p> <p><b>Zipperer</b> [3] 126/20 150/11 151/9</p>
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