

1 to knock the man out and then they were going to rob
2 the house.

3 He went to the back room he
4 said, and he went into the bedroom. He took the
5 tire iron, hit the person in the head. The person
6 came up. He said the person had kind of like sat
7 up, you know. He said he hit the person in the head
8 with the iron, iron, iron, iron, fist; iron, iron,
9 iron, iron, fist.

10 Q. Was this person making any noise or
11 doing anything?

12 A. Yes. Yes.

13 He told me the person was
14 gurgling in its own blood and to stop it he took a
15 pillow and put it over the person's face and
16 smothered the person out.

17 Q. The description to you, sir, I take it,
18 and correct me if I'm wrong, that this person -- if
19 the person had been sleeping that this person woke
20 up at some point in time?

21 A. Yeah. Yes.

22 Q. And actually sat up or came up off the
23 pillow?

24 A. After the first initial blow that's
25 what I gathered from his story.

Castillo, William
Rev'd 10/20/04 8JDC-305
8th JDC recs.

59

1 Q. Did he tell you, sir, how it was that
2 he got to that location?

3 A. He told me that he and Michelle had
4 taken Michelle's car.

5 Q. Did he tell you what, if anything, was
6 removed from the premises, what, if anything, was
7 taken?

8 A. From the house on Yale?

9 Q. Yes, uh-huh.

10 A. He told me that there was silverware, a
11 Hitachi VCR, and a hundred and twenty dollars in
12 cash.

13 Q. Did he tell you what he was going to do
14 with that property?

15 A. He asked me if I knew of anywhere he
16 could get rid of the silverware without having to
17 show ID. I told him I don't know.

18 Q. Did he -- I don't know if I asked you
19 this, sir.

20 Did he say anything about how
21 the fire was set in the house?

22 A. He told me that he used lighter fluid.

23 Q. While he was telling you this account,
24 sir, did Mr. Castillo exhibit any remorse?

25 A. Not that I could see.

60

Castillo, William
Rev'd 10/20/04 8JDC-306
8th JDC recs.

1 Q. Did you see any tears?

2 A. No tears.

3 MR. KOOT: I have nothing further of
4 this witness.

5 BY A JUROR:

6 Q. I have a question.

7 When Mr. Castillo found the key,
8 did he try it into one of the locks in the door to
9 see if it worked?

10 A. Not that I seen.

11 Q. He just put it back where he found it
12 originally?

13 A. He showed me. He said, "Look what I
14 found," you know. I said, "Well, put it back." And
15 that's as far as I know, he put it back.

16 Q. So as far as you know he was never
17 inside the home itself --

18 A. Not that day.

19 Q. -- prior to when this occurred?

20 A. No.

21 Q. Neither one of you were in the house?

22 A. No.

23 BY MR. KOOT:

24 Q. As a follow-up to that because I forgot
25 to ask you, do you know if anyone was home at the

Castillo, William
Rev'd 10/20/04 SJDC-307
8th JDC recs.

61

1 time you tore the roof off and during that four hour
2 period?

3 A. I have no idea if anybody was home or
4 not.

5 Q. I mean no one came out from inside the
6 house and you didn't go inside?

7 A. No.

8 Q. Okay, fine.

9 BY A JUROR:

10 Q. On Tuesday you said you drove by the
11 house. Was that during the time you were talking
12 with --

13 A. No. No. That was one of the rare days
14 that either he took a bus home or somebody else gave
15 him a ride home. I was by myself and I drove by and
16 looked at it.

17 BY A JUROR:

18 Q. You mentioned the lighter fluid. Did
19 he bring the lighter fluid with him or was it
20 already on the premises?

21 A. I don't know. He didn't say whether he
22 brought it with him or not.

23 BY A JUROR:

24 Q. You mentioned you participated only in
25 the removal of the roof, but you did not participate

1 in the restoration of the new roof.

2 Do you know whether materials of
3 the new roof -- did they come from your company?

4 A. No. They -- I think -- I do believe it
5 was Builders Square.

6 BY MR. KOOT:

7 Q. Did you guys help put that material up
8 on the roof --

9 A. Yeah.

10 Q. -- for the gentleman who ultimately put
11 the tabs on it?

12 A. Yeah. We loaded it.

13 BY A JUROR:

14 Q. You had a conversation with him after
15 the first truck ride where he confessed or shared
16 his crime. The second truck ride is what brought
17 you over to the house, right, got you more --

18 A. On the Tuesday?

19 Q. Right.

20 A. Yes.

21 Q. Okay. Could you go back to that
22 conversation between you and Mr. Castillo again on
23 the second truck ride? Basically how did it start?

24 A. Okay. That's when he got -- that's
25 when I picked him up the next morning and when he

Castillo, William
Rev'd 10/20/04 SJDC-309
8th JDC recs.

63

1 got into my car he asked me if I watched the news.
2 I hadn't. I had been out Christmas shopping.

3 And, you know, he told me that,
4 you know, like I said, there's a reward and how the
5 fires were strategically set. I guess that's
6 according to the fire marshal or whoever
7 investigates it. That was basically about it.

8 Q. Then -- but earlier you said something
9 about he said to you, well, now, there's a reward on
10 me.

11 When did that conversation come
12 up?

13 A. That was Tuesday morning.

14 Q. Could you talk about that part? How
15 did he say it? Why did he even mention that?

16 A. I don't know. He was just telling me
17 what he had seen on the news the night before.

18 Q. And that there was a reward?

19 A. Yeah.

20 Q. Did he give any warning to you like you
21 know it now?

22 A. No. He didn't say nothing like that.

23 Q. Was there any fear on his part do you
24 think?

25 A. As far as me saying something?

64

Castillo, William
Rcv'd 10/20/04 8JDC-310
5th JDC recs.

1 Q. Uh-huh.

2 A. I think so because there was just a
3 weird look in his eye that I had never seen before.
4 He was either paranoid about, you know, he's going
5 to get caught in some way or if I was just going to
6 bold say something.

7 Q. There was a question earlier from the
8 District Attorney who said -- who asked you why did
9 he share all this information with you, right, and
10 you said I don't know. So I'm going to ask you a
11 few questions, all right.

12 First of all, you've known him
13 for how many months again?

14 A. Approximately five.

15 Q. Okay. Five months.

16 In those five months has this
17 gentleman shared private or semi-intimate type of
18 life stories with you of his own life?

19 A. Yes.

20 He would tell me about fights
21 that would break out in prison and how he would
22 participate in fights in prison and whatnot.

23 MR. KOOT: Just basically to caution
24 you not to consider that. Please just disregard
25 that in your deliberations.

Castillo, William
Rev'd 10/20/04 SJDC-311
8th JDC recs.

65

1 BY A JUROR:

2 Q. So basically he has established a
3 confidant relationship with you or at least took you
4 in as a confidant, trusted you?

5 A. Apparently, yes.

6 BY MR. KOOT:

7 Q. Have you ever been arrested, sir?

8 A. One time.

9 Q. For what?

10 A. Traffic violation.

11 Q. That's it?

12 A. Yes.

13 Q. How old are you, sir?

14 A. How old was I then?

15 Q. How old are you?

16 A. I'll be 27 in two weeks. 26 right now.

17 Q. Are you married?

18 A. No.

19 BY A JUROR:

20 Q. When did that occur, that traffic
21 arrest?

22 A. Seven years ago.

23 Q. Let me go back to knowing Miss Platou
24 and Miss -- what was the other person's name?

25 MR. KOOT: Tammy Jo Bryant.

66

Castillo, William
Rev'd 10/20/04 8JDC-312
5th JDC recs.

WCastillo - 027-8JDC0312

1 BY A JUROR:

2 Q. Your relationship to Mr. William
3 Castillo also I guess became social besides being
4 professional; correct?

5 A. Yeah, kind of. Yes.

6 Q. Did you have -- please be honest with
7 us.

8 Did you have any inkling that
9 there was going to be a crime committed prior to the
10 commission of this crime?

11 A. Nope.

12 Q. Thank you.

13 THE DEPUTY FOREMAN: Any other
14 questions?

15 (No response.)

16 THE DEPUTY FOREMAN: By law, these
17 proceedings are secret, and you are prohibited from
18 disclosing to anyone anything that transpired before
19 us including evidence presented to the Grand Jury,
20 any event occurring or a statement made in the
21 presence of the Grand Jury, or any information
22 obtained by the Grand Jury.

23 Failure to comply with this
24 admonition is a gross misdemeanor, punishable by a
25 year in the Clark County Detention Center and a

Castillo, William
Rev'd 10/20/04 8JDC-313
8th JDC recs.

67

1 \$2,000 fine. In addition, you may be held in
2 contempt of court punishable by an additional \$500
3 fine and 25 days in the Clark County Detention
4 Center.

5 Do you understand?

6 THE WITNESS: Yes.

7 THE DEPUTY FOREMAN: Thank you.

8 (Witness excused.)

9 MR. KOOT: Face the Foreman and be
10 sworn in.

11 THE DEPUTY FOREMAN: You do solemnly
12 swear that the testimony that you are about to give
13 upon the investigation now pending before this Grand
14 Jury shall be the truth, the whole truth and nothing
15 but the truth, so help you God?

16 DETECTIVE LAU: I do.

17 THE DEPUTY FOREMAN: You may be seated.

18 You are here today to give
19 testimony in the investigation pertaining to the
20 offenses of conspiracy to commit burglary and/or
21 robbery, burglary, robbery involving victim 65 years
22 of age or older, murder with use of a deadly weapon,
23 conspiracy to commit burglary and arson, and first
24 degree arson involving William Patrick Castillo and
25 Michelle C. Platou; correct?

Castillo, William
Rev'd 10/20/04 8JDC-314
3rd JDC recs.

68

1 DETECTIVE LAU: That's correct.

2
3 THOMAS LAU.

4 having been first duly sworn by the
5 Deputy Foreman of the Grand Jury to
6 testify to the truth, the whole truth
7 and nothing but the truth, testified as
8 follows:

9
10 EXAMINATION

11
12 BY MR. KOOT:

13 Q. State your name, please.

14 A. Thomas Lau, L-a-u.

15 Q. And you're also known as T.J. Lau?

16 A. That's correct.

17 Q. And you're a commissioned officer with
18 the Las Vegas Metropolitan Police Department, sir?

19 A. Yes, I am. For the past ten and a half
20 years.

21 Q. And back on the 19th and 20th of
22 December, 1995, what substation were you assigned?

23 A. Worked plain clothes out of northwest.

24 Q. Northwest, okay.

25 Did you sometime late on

69

Castillo, William
Rev'd 10/20/04 8JDC-315
5th JDC recs.

1 December the 19th or in the early morning hours of
2 December 20th come in contact with a person by the
3 name of Kirk Rasmussen?

4 A. Yes, we did.

5 That was the 19th, early
6 evening. Probably about 8:00 o'clock.

7 Q. 8:00 p.m.?

8 A. Correct.

9 Q. I see.

10 And is that the same gentleman
11 that just left this Grand Jury chamber?

12 A. Yes, it is.

13 Q. Could you tell us about that -- how it
14 was that you came in contact with Mr. Rasmussen?

15 A. At that time of the night the station
16 is closed. My partner, Alan Klein, was outside. I
17 was sitting at a computer terminal doing reports and
18 my partner came in with Mr. Rasmussen behind him and
19 he motioned me to our conference room.

20 He had Mr. Rasmussen go in and
21 sit down. He turned to me and he said this is in
22 reference -- we used a 420 code. We said 420 which
23 means murder stating on Yale Street, and we were
24 familiar with that just having been briefed on it.

25 And we went inside, and I

Castillo, William
Rev'd 10/20/04 SJDC-316
8th JDC recs.

70

1 introduced myself to Mr. Rasmussen, and he began to
2 explain to us what had occurred. We stopped in the
3 middle of the interview -- we didn't start a tape on
4 it or anything -- to call Homicide Detective Morgan
5 and his boss, Sergeant Hefner, just to let them know
6 that we possibly had a lead into this case.

7 Q. Can you just very briefly -- I'm not
8 looking for details -- just briefly tell us what Mr.
9 Rasmussen told you?

10 MR. KOOT: And this would not be for
11 the truth of the matter asserted, but just to
12 explain what occurs afterwards.

13 THE WITNESS: He stated that he worked
14 for Dean Roofing and one of the gentlemen that
15 worked with him who he told us his name was Cabrillo
16 rides with him to work.

17 BY MR. KOOT:

18 Q. Could it be Castillo?

19 A. Yes, Castillo.

20 He rides with him to work every
21 day and that he's -- he said that he likes to brag a
22 lot. He's bragged that he's an ex-felon, and that
23 he has done all of these bad things in life and, you
24 know, told us about his tattoos.

25 And he said on the way to work

Castillo, William
Rev'd 10/20/04 SJDC-317
5th JDC recs.

1 two days prior he told him he killed somebody. He
2 went through and told us that he didn't believe it,
3 and he drove by the house on Yale just to see if it
4 was burned, and he did see that perhaps he was
5 telling the truth.

6 So he told us that he was told
7 that -- I don't recall the dates exactly, and I'm
8 not privy to having the reports in front of me.

9 Q. And I'm not asking for details, just a
10 general synopsis.

11 A. Okay. He said that Cas -- is it
12 Castillo?

13 Q. Yes, Castillo.

14 A. He said that Castillo said he went into
15 this house that they had roofed the weekend of
16 Thanksgiving. They had found a key on the back --
17 found a magnetic key holder on the fan in the back
18 yard.

19 And he stated he went back to
20 the house, burglarized the house, heard snoring,
21 took a tire iron, struck an old lady that was laying
22 there several times and heard blood gurgling sounds,
23 and went and got a pillow and then suffocated her.

24 Then they went back meaning --
25 he said his roommate meaning Michelle driving the

Castillo, William
Rev'd 10/20/04 8JDC-318
8th JDC recs.

1 white Mazda and then they went back and lit it on
2 fire.

3 Q. After learning this information, sir,
4 did you further involve yourself -- you and your
5 partner further involve yourself in the
6 investigation of this series of crimes?

7 A. In a backup role only.

8 We had Detective Morgan come in,
9 and at this point Homicide even excludes their own
10 officers just because of the nature of the crimes,
11 and they wanted to verify the information. There's
12 a lot of information that's not published and just
13 to see if this is -- went together in the case
14 because it was actually the first big lead in the
15 case. So they began their interview and we were
16 excluded from that at that point.

17 Q. Did you have any further contact with
18 Mr. Rasmussen?

19 A. Yes, we did.

20 We took -- the detectives
21 believed that the information was correct that they
22 received. They had had -- then their sergeant came
23 in. They responded down to their office, contacted
24 the on duty D.A. and began a procedure for a search
25 warrant.

Castillo, William
Rev'd 10/20/04 SJDC-319
8th JDC recs.

73

MCastillo - 027-8JDC0319

1 Myself and partner, Alan Klein,
2 took Mr. Rasmussen, showed us to Castillo's
3 apartment which was over by Lake Mead and Jones. We
4 conducted a surveillance on that for two, two and a
5 half hours. Mr. Rasmussen was with us the entire
6 time.

7 The reason he was with us, we
8 didn't have a picture of Castillo. If we saw him,
9 he would point him out to us. And we would be able
10 to detain him until the detectives come. Once the
11 detectives got the search warrant we went there to
12 make contact.

13 Q. And that was for the search warrant of
14 the apartment occupied presumably by Mr. Castillo?

15 A. That's correct, and also Michelle
16 Platon.

17 Q. Did you come in contact -- did you,
18 yourself, later on come in contact with Michelle?

19 A. Yes, I did.

20 Q. Could you tell us how that came about?

21 A. We were told that Michelle was a
22 roommate of his, and she wasn't there when we were
23 there. I believe it was about 2:00 a.m. I was
24 asking Castillo, along with his girlfriend -- I
25 can't recall her name right now -- where Michelle

74

Castillo, William
Rev'd 10/20/04 8JDC-320
8th JDC recs.

1 worked, and they said she worked as a 900 phone sex
2 operator in the area of Upland and Charleston. They
3 didn't know an exact address. I had prior knowledge
4 of investigations in that area -- what we call
5 boiler room.

6 Myself and Sergeant Jeff
7 Hammack, we went to try to contact Michelle. The
8 information we had was that her name was Michelle
9 Platou. She was driving an unregistered -- I think
10 it was a mid '80s RX7 with damage to the right
11 window.

12 We went to the area of Upland
13 and Charleston, northeast of that intersection, and
14 behind a fence we could see a white Mazda RX7 parked
15 back there. In this business complex there's very
16 few cars at this time of night. We found the car
17 back there.

18 Once we saw the car, we saw
19 there was an upstairs door with a video camera
20 pointing out, and it appeared to be occupied. There
21 were lights on that we could see inside. We went
22 up. The door was open. We walked in. A gentleman
23 walked towards us. There was probably 20, 25 people
24 in the room in little cubicles. We asked for
25 Platou. He pointed her out to us.

Castillo, William
Rev'd 10/20/04 8JDC-321
8th JDC recs.

75

1 At that point I walked over to
2 her, and I asked if she was Michelle Platou. She
3 said yes, she was. We identified ourselves, and we
4 told her she did have outstanding traffic warrants
5 that were confirmed at this point and that she
6 needed to grab her belongings and to come with us.

7 We just detained her, and we
8 didn't Mirandize or question her at this time about
9 any of the incidents except for the traffic
10 violations that she had outstanding as Homicide was
11 responding to take control of that portion.

12 Q. I'd like to show you a couple of
13 photographs.

14 Number 34, do you recognize
15 what's shown in that photograph?

16 A. Yes. That's the Mazda RX7.

17 Q. Okay. Also a couple of photographs
18 here.

19 Exhibit Numbers 4 and 4A, do you
20 recognize the person shown in that photograph?

21 A. Yeah.

22 That's Platou. And this is how
23 she looks currently with the -- the night that we
24 picked her up she had the blonder reddish hair
25 versus this brown.

Castillo, William
Rev'd 10/20/04 8JDC-322
8th JDC recs.

WCastillo - 027-8JDC0322

1 Q. So you were pointing to Exhibit 4A?

2 A. Correct.

3 Q. And do you recognize the two people
4 shown in Exhibit Number 2 and Exhibit Number 3?

5 A. Yeah.

6 That's Castillo, and that's his
7 girlfriend. I don't recall her name, but she was
8 living at the apartment on Jones and Lake Mead also.

9 MR. KOOT: I have nothing further.

10 BY A JUROR:

11 Q. I'd like to ask Officer Lau, you stated
12 that Rasmussen came in to talk to you. Was that on
13 a Monday or a Tuesday?

14 A. Would have had to be a Tuesday, ma'am,
15 because I'm off on Monday.

16 Q. So it was a Tuesday?

17 A. I think so.

18 Q. The reason I'm asking is because he had
19 told us that he had driven or he had gone and looked
20 at the house on Tuesday so I wanted to establish the
21 fact that he, in fact, had at that time seen 18 Yale
22 Street (sic.) after the fire.

23 THE DEPUTY FOREMAN: Any other
24 questions?

25 (No response.)

77

Castillo, William
Rcv'd 10/20/04 SJDC-323
8th JDC recs.

1 THE DEPUTY FOREMAN: By law, these
2 proceedings are secret, and you are prohibited from
3 disclosing to anyone anything that transpired before
4 us including evidence presented to the Grand Jury,
5 any event occurring or a statement made in the
6 presence of the Grand Jury, or information obtained
7 by the Grand Jury.

8 Failure to comply with this
9 admonition is a gross misdemeanor, punishable by a
10 year in the Clark County Detention Center and a
11 \$2,000 fine. In addition, you may be held in
12 contempt of court punishable by an additional \$500
13 fine and 25 days in the Clark County Detention
14 Center.

15 Do you understand?

16 BY MR. KOOT:

17 Q. Before you leave, sir, the same
18 admonition will hold after I ask these couple of
19 questions. I apologize to everyone for missing
20 this.

21 Did you cause that vehicle to be
22 placed into impound, sir?

23 A. Yes, I did.

24 Q. All right. And I want to show you
25 Grand Jury Exhibit Number 33.

Castillo, William
Rev'd 10/20/04 8JDC-324
8th JDC recs.

1 Is this a copy of the vehicle
2 impound?

3 A. Yes, it is, with Case Number
4 951217-0254 and my signature on the bottom.

5 Q. And that, in fact, has the VIN number
6 of the vehicle on it, does it not?

7 A. That's correct.

8 Q. And it has no license plate because it
9 didn't have a license plate?

10 A. That's correct.

11 MR. KOOT: Okay. Fine.

12 Thank you, sir. And the
13 admonition that you were previously given by the
14 Foreman applies.

15 THE WITNESS: Okay.

16 MR. KOOT: Thank you.

17 (Witness excused.)

18 MR. KOOT: Exhibit Number 32 which is a
19 certified copy of the vehicle registration for the
20 vehicle depicted in Exhibit Number 33, and it shows
21 registration to two individuals including Michelle
22 Platou.

23 The last witness I called, his
24 testimony was for the most part for probable cause
25 purposes to -- so I don't want you to regard the

79

Castillo, William
Rev'd 10/20/04 SJDC-325
8th JDC recs.

1 statements that he attributed to Kirk Rasmussen for
2 the truth of the matter asserted by Mr. Rasmussen.
3 Basically he was called for probable cause for the
4 arrest of Michelle Platou and going for the probable
5 cause for the search warrant which subsequently
6 followed. That is with regard to the hearsay
7 testimony that he offered us.

8 And I hope I admonished you
9 sufficiently with regard to Mr. Kirk Rasmussen's
10 testimony. I do not want you to use any of his
11 testimony against Michelle Platou.

12 The next witness that I would
13 call would be Detective Don Tremel.

14 I wonder at this time -- there's
15 a lot of witnesses out there including the daughter,
16 I believe, and I wonder if I might spend five
17 minutes with her so if we could take a recess.

18 THE DEPUTY FOREMAN: Sure.

19
20 (After a short break the
21 following proceedings were had:)

22
23 MR. KOOT: Would you raise your right
24 hand and be sworn?

25 THE DEPUTY FOREMAN: You do solemnly

80

Castillo, William
Rev'd 10/20/04 8JDC-325
8th JDC recs.

1 swear that the testimony that you are about to give
2 upon the investigation now pending before this Grand
3 Jury shall be the truth, the whole truth and nothing
4 but the truth, so help you God?

5 DETECTIVE TREMEL: I do.

6 THE DEPUTY FOREMAN: You may be seated.

7 You're here today to give
8 testimony in the investigation pertaining to the
9 offenses of conspiracy to commit burglary and/or
10 robbery, burglary, robbery, victim 65 years of age
11 or older, murder with use of a deadly weapon,
12 conspiracy to commit burglary and arson, and first
13 degree arson involving William Patrick Castillo and
14 Michelle C. Platou; correct?

15 DETECTIVE TREMEL: Yes.

16
17 DONALD J. TREMEL,
18 having been first duly sworn by the
19 Deputy Foreman of the Grand Jury to
20 testify to the truth, the whole truth
21 and nothing but the truth, testified as
22 follows:
23
24
25

81

Castillo, William
Rev'd 10/20/04 SJDC-327
8th JDC recs.

EXAMINATION

BY MR. KOOT:

Q. State your name and spell your last name.

A. Donald J. Tremel, T-r-e-m-e-l.

Q. And are you one of the detectives assigned to investigate the homicidal death of Isabelle Berndt?

A. Yes, I am.

Q. And what is the name of your partner?

A. Detective Dwayne Morgan.

Q. And what is the name of your sergeant?

A. Sergeant Kenneth Hefner.

Q. And did all three of you engage yourselves in the investigation of this homicide?

A. Yes, we did.

Q. Now, as part of that investigation, sir, did you come in contact with a gentleman by the name of Kirk Rasmussen?

A. Yes, we did.

Q. And is that the same Kirk Rasmussen who just left here?

A. Yes, it was.

Q. Could you describe him for us?

82

Castillo, William
Rev'd 10/20/04 SJDC-328
8th JDC recs.

1 A. White male, blond hair, kind of stocky,
2 had kind of a flat top haircut.

3 Q. Did you interview Mr. Rasmussen on or
4 about the 20th of -- I'm sorry -- on about the 19th
5 of December, 1995, pertaining to his knowledge of
6 the crimes at 13 North Yale?

7 A. Detective Morgan obtained a statement
8 from him, and I showed up a little bit later at the
9 substation and was briefed as to what the content of
10 the statement was.

11 Q. And was part of that interview with Mr.
12 Rasmussen, did you -- I don't know the answer to
13 this quite frankly -- did you accompany Mr.
14 Rasmussen to a residence you believed to be occupied
15 by Mr. Castillo?

16 A. I didn't. He was escorted there by
17 officers, patrol officers, who were working
18 specialized assignment. One of the officers that
19 just testified. He was taken there by them.

20 Q. That's Officer Lau?

21 A. Lau, his partner, and Sergeant Hammack.

22 Q. Did you, after obtaining the
23 information from Mr. Rasmussen, sir, did you, in
24 fact, obtain a search warrant for a residence at
25 1951 North Jones, Number G-106?

83

Castillo, William
Rev'd 10/20/04 8JDC-328
8th JDC recs.

1 A. Yes, we did.

2 Q. I'm showing you what's been marked as
3 Exhibit Number 40.

4 Is this, in fact, a certified
5 copy of the search warrant affidavit and return to
6 that search warrant?

7 A. Yes, it is.

8 MR. KOOT: For the purpose of this
9 Grand Jury proceeding, it's important for me to
10 introduce the entire document. I would ask the
11 Grand Jurors to restrict your viewing to the search
12 warrant -- that is the single page on top marked
13 search warrant. All of the rest of it would be
14 hearsay as far as this proceeding is concerned.
15 BY MR. KOOT:

16 Q. After obtaining that search warrant,
17 sir, did you, in fact, execute it?

18 A. Yes, we did.

19 Q. And could you tell us how the execution
20 of that search warrant came about?

21 A. We -- after getting the search warrant
22 signed, we met with the officer -- patrol officers
23 who were assisting us and Sergeant Hefner and
24 Sergeant Spinosa who is the Homicide lieutenant
25 decided how we were going to go approach the

1 residence which was basically we were going to knock
2 on the door, tell the occupants who we were, why we
3 were there, and allow the occupants a chance to open
4 the door and let us in.

5 At the time we went to the
6 residence, we didn't know if anybody was even home.
7 After knocking on the door of the residence a white
8 male, dark hair, mustache, tattoos all over his
9 body, opened the door. We identified ourselves, and
10 he granted us access into the apartment.

11 After we began talking with him
12 we asked if anybody else was in the residence. He
13 stated his girlfriend, Tammy Bryant, was in the
14 residence in the bedroom. We asked her to please
15 get dressed and to please come out where we were
16 because she was sleeping.

17 After she was dressed and came
18 out, we began interviewing Mr. Castillo and Miss
19 Bryant and found out that there was another occupant
20 of the apartment who was not present at the time,
21 was a roommate, friend of theirs, and she was not on
22 the lease. Actually it was not her apartment.

23 So we explained the nature of
24 our visit there. And since we had a third person
25 who was staying in the apartment, that had property

85

Castillo, William
Rec'd 10/20/04 8JDC-331
8th JDC recs.

1 in the apartment, we asked Tammy Jo Bryant and
2 William Castillo if we could have access to have
3 them sign the consent to search which would allow us
4 to search the entire apartment. We explained the
5 reason for the consent to search. They were
6 provided a couple of cards. They each read them.
7 They each signed them, and they each allowed us to
8 search the entire premises.

9 Q. Showing you Exhibit Number 26.

10 Is that a true and accurate copy
11 of that consent to search --

12 A. Yes, it is.

13 Q. -- by Mr. William Castillo?

14 A. Yes.

15 Q. And Exhibit Number 27, is that a true
16 and accurate copy of the consent to search executed
17 by Miss Bryant?

18 A. Yes.

19 Q. And did you in addition, of course, to
20 these consent to search execute the search warrant
21 itself?

22 A. Yes, we did.

23 Q. So you then subsequently searched the
24 apartment with the search warrant as well as these
25 consent to search?

Castillo, William
Nov's 10/20/04 8JDC-332
8th JDC recs.

1 A. Yes.

2 Q. You mentioned a male subject. Showing
3 you Exhibit Number 2. Who is that?

4 A. That's William Castillo.

5 Q. And Exhibit Number 3, who's that?

6 A. That's Tammy Jo Bryant.

7 Q. What I want to do is go through some of
8 the things that were recovered pursuant to that
9 search warrant and those consent to search. We had
10 some items marked here.

11 Did you recover from the
12 premises, sir, a VCR?

13 A. Yes, we did.

14 Q. And how would you describe that item?

15 A. It's a black, front loading Hitachi
16 VCR.

17 Q. Showing you Exhibit Number 55.

18 What does that photograph
19 depict?

20 A. That was the VCR in its position when
21 we were in the defendants' apartment.

22 Q. Does that truly and accurately depict
23 the scene as you observed it in the premises in
24 question?

25 A. Yes.

87

Castillo, William
Rev'd 10/20/04 SJDC-333
8th JDC recs.

1 Q. Is that the VCR that you recovered from
2 that premises?

3 A. Yes, it is.

4 Q. In addition to the VCR -- what's the
5 brand of that?

6 A. Hitachi.

7 Q. In addition to that VCR, did you
8 recover some silverware?

9 A. Yes, we did.

10 Q. And I notice you have a large evidence
11 bag in front of you; is that correct?

12 A. Yes.

13 Q. Is that presently sealed?

14 A. Yes, it is.

15 Q. Who actually placed that into evidence,
16 sir?

17 A. ID Specialist Kathy Adkins.

18 Q. Did she respond to that location while
19 you were there?

20 A. Yes, she did.

21 Q. And so after the stuff was recovered by
22 yourselves it was turned over to Miss Adkins. How
23 does that come about?

24 A. What happens, once we were in the
25 residence and began our search warrant, we called

1 for Criminalistics to respond to photograph the
2 property that we were going to take in its original
3 position as well as take custody.

4 When she showed up -- she
5 responded. She photographed all of the property
6 where it was when we found it and after
7 photographing it she took custody of it and
8 impounded it.

9 Q. All right. And that is presently
10 marked as Exhibit Number 53, sir?

11 A. Yes.

12 MR. KOOT: Grand Jury, is it in
13 presently a totally sealed condition?

14 THE DEPUTY FOREMAN: Yes. It's
15 completely sealed.

16 MR. KOOT: I'm going to ask you to open
17 this because I want to show this to someone else at
18 a later time, and we'll need some scissors.

19 Without disturbing any of the
20 seals, could you please open that evidence bag,
21 Number 53?

22 BY MR. KOOT:

23 Q. All right. You have removed from the
24 bag, Exhibit Number 53, a box which has now been
25 marked as 53A?

89

Castillo, William
Rcv'd 10/20/04 SJDC-335
8th JDC recs.

1 A. Yes.

2 Q. Is that correct?

3 A. Yes.

4 Q. You recognize that just by looking at
5 the box itself?

6 A. Yes, I do.

7 Q. Could you open it?

8 And does it contain the contents
9 again with which you are familiar?

10 A. Yes, it does.

11 Q. And just for the record, what does it
12 contain?

13 A. It contains silverware, various pieces
14 of forks, spoons, knives, all with the initial B at
15 the top.

16 Q. And you recognize the exterior of the
17 box itself?

18 A. Yes, I do.

19 Q. Showing you Exhibit Number 56.

20 What does that photograph
21 depict?

22 A. That is this silverware box in the
23 original position in the defendants' apartment where
24 we observed it.

25 Q. Where specifically in the apartment is

Castillo, William
Rev'd 10/20/04 8JDC-335
8th JDC recs.

90

1 that located?

2 A. That is in his and his girlfriend's
3 bedroom. It's the only bedroom in the apartment.
4 It's sitting on top of the -- kind of a closet
5 armoire, I guess you call it. It contained clothing
6 and personal items. It's sitting right on top.

7 Q. I have another photograph, Number 39.

8 Is this another view of the same
9 armoire?

10 A. Yes, it is.

11 Q. And I notice about in the middle of
12 that there's a yellow bottle?

13 A. Yes.

14 Q. Is that correct, sir?

15 A. Yes, it is.

16 Q. What is that?

17 A. That is a bottle of Ronsonol lighter
18 fluid.

19 Q. We have another Exhibit Number 52 which
20 is an evidence envelope.

21 I ask you, is that presently
22 sealed?

23 A. Yes, it is.

24 Q. Could you -- again is that Kathy Adkins
25 who sealed that?

91

Castillo, William
Rev'd 10/20/04 8JDC-337
8th JDC recs.

1 A. Yes, it is.

2 Q. Could you open the top of that without
3 disturbing any seals, and does that simply contain a
4 bunch of paperwork as well as a wallet?

5 A. Yes, it does.

6 Q. Okay. I am looking now at a document.
7 I'm going to ask that this be marked on the back --
8 having removed from that bag an item that's now been
9 marked as 52A.

10 What is that, sir?

11 A. This is a piece of paper from a little
12 notebook that we got inside the residence that's --
13 that is an inventory of the contents of this
14 silverware. It gives the type of item and how many
15 there are.

16 Q. That's an inventory of what you believe
17 to be contained in 53A?

18 A. Yes, the silverware.

19 Q. Is that something you had written up,
20 or is that something you found in the apartment or
21 what?

22 A. It was in the apartment. We found it
23 during the search warrant.

24 Q. We have the notebook. Is that 52B?

25 A. Yes.

Castillo, William
Rev'd 10/20/04 SJDC-338
8th JDC recs.

92

1 Q. There's a page that I'm looking at in
2 this notebook in 52B in the middle of it.

3 Can you tell us what that shows?

4 A. That shows a dollar amount for items;
5 \$50 for VCR, \$75 for camera, \$500 for silverware.
6 Just a dollar amount for each specific item.

7 Q. I notice also there's a wallet. Whose
8 wallet is that?

9 A. That is a wallet belonging to William
10 Patrick Castillo. It has his Nevada driver's
11 license.

12 Q. I'm going to return -- well, I will
13 simply show the members of the Grand Jury and I
14 would ask that -- for purposes of this hearing since
15 I don't know what all this contains and just to
16 expedite matters, I'm going to remove the driver's
17 license from the wallet, the driver's license for
18 Mr. Castillo that's contained in the wallet; is that
19 correct, sir?

20 A. Yes.

21 Q. I'll put the wallet back. Well, never
22 mind. There's not that much evidence here.

23 In addition to the wallet, I
24 notice that there is a power company receipt in the
25 name of Tammy Bryant; is that correct?

93

Castillo, William
Rcv'd 10/20/04 SJDC-338
8th JDC recs.

1 A. Yes.

2 Q. And a telephone receipt in the name of
3 William Castillo?

4 A. Yes.

5 Q. And then an employee check receipt in
6 the name of William Castillo, right?

7 A. Yes.

8 MR. KOOT: We'll just pass this
9 around to the members of the Grand Jury.

10 BY MR. KOOT:

11 Q. Now, do you recognize all of these
12 items, the paperwork from actually having come from
13 that apartment?

14 A. Yes.

15 Q. Even though it was impounded by Miss
16 Adkins and placed into evidence did you, yourself,
17 view all of these items?

18 A. Yes.

19 My partner and I was the ones
20 executing the search warrant, and we found the items
21 that we needed to take as evidence. We pointed them
22 out to her so we were the ones that found them.

23 Q. These items truly and accurately depict
24 them as you observed them on the evening in
25 question?

Castillo, William
Rev'd 10/20/04 8JDC-340
8th JDC recs.

1 A. Yes.

2 Q. Did you thereafter, sir -- and I'm
3 going to direct your attention to an automobile.

4 Did you come in contact with an
5 automobile which you believed to be the property of
6 Miss Platou?

7 A. Yes.

8 Q. Showing you what's been marked as
9 Exhibit Number 34.

10 Do you recognize what's depicted
11 therein?

12 A. Yes. That is Michelle Platou's
13 vehicle.

14 Q. And did you cause certain items from
15 that to be placed into evidence?

16 A. Yes.

17 Q. Showing you what's been marked as
18 Exhibit Numbers 35 and 36.

19 Do you recognize what's shown in
20 those two photographs?

21 A. Yes.

22 Q. And what is that, sir?

23 A. Item 35 is a plastic baggie containing
24 assorted watches as it was in the defendant's
25 vehicle.

1 And Exhibit Number 36 is the
2 watches photographed at the lab after they were
3 taken out and inventoried out of the plastic bag.

4 Q. Now, that search, did that take place
5 on December the 22nd, 1995?

6 A. I don't recall the exact date that the
7 search of the vehicle was done at the lab by
8 Identification Specialist Kathy Adkins.

9 Q. Showing you what's been marked as
10 Exhibit Number 49.

11 I'd ask you what that bag
12 allegedly contains.

13 A. This bag contains six watches and one
14 angel pin.

15 Q. Is that bag presently in a sealed
16 condition?

17 A. Yes, it is.

18 Q. Is that again sealed by Kathy Adkins?

19 A. Yes, it is.

20 Q. Would you open it up and remove the
21 contents, please?

22 You removed from the bag another
23 separate baggie, plastic baggie, which we will mark
24 as Exhibit Number 49A, containing a number of
25 watches; is that correct?

96

Castillo, William
Rev'd 10/20/04 SJDC-342
8th JDC recs.

WCastillo - 027-8JDC0342

1 A. Yes.

2 Q. And those are the same -- are those the
3 same watches depicted in the photographs which you
4 previously identified as Exhibits 36 and 35?

5 A. Yes.

6 Q. And did you see these watches in the
7 baggies when they were recovered from the vehicle?

8 A. Yes.

9 Q. Do you know these to be, in fact, the
10 same watches and the baggie of watches recovered
11 from the vehicle?

12 A. Yes.

13 Q. How did the search of that vehicle come
14 about? Can you tell us about that?

15 A. The vehicle was -- it had been driven
16 to work by Michelle Platou with the address of 5620
17 West Charleston. At the time of the arrest the
18 vehicle was towed to the lab. It was sealed and
19 towed to the lab for processing. And when the
20 vehicle was -- the seals were broken, and the
21 vehicle was searched for evidence, that's when they
22 were recovered.

23 Q. Did you acknowledge at that time, sir,
24 that that vehicle had, in fact, been used to
25 transport the parties to 13 North Yale?

97

Castillo, William
Rev'd 10/20/04 8JDC-343
5th JDC recs.

1 A. Yes. Both times.

2 Q. Did you return to that vehicle, sir?
3 I'm sorry, not the vehicle.

4 After you secured the search
5 warrant on the 19th of December, did you
6 subsequently return on about the 22nd of December
7 for the purpose of possibly recovering some other
8 property?

9 A. Yes.

10 Q. And what were you looking for at that
11 time?

12 A. We were looking for a large quantity of
13 little crocheted Christmas booties that the victim
14 distributed to children for Christmas.

15 Q. I stand corrected. That would be the
16 21st of December?

17 A. I don't recall the dates.

18 Q. Do your reports reflect the date?

19 A. Yes.

20 Q. Well, I'm going to show you an evidence
21 bag, Exhibit Number 51.

22 Do you recognize that bag?

23 A. Yes.

24 Q. And what does that bag allegedly
25 contain?

Castillo, William
Rev'd 10/20/04 8JDC-344
8th JDC recs.

98

1 A. This bag contains one red and white
2 crocheted booty and a plastic bag containing an
3 assortment of crocheted booties with some children
4 stickers in it. And that was on the 21st.

5 Q. Is that bag -- again, how did this come
6 about? Why did you go back looking for this
7 property?

8 A. The victim's daughter had called us and
9 asked us if we had recovered any booties that her
10 mother had given to their children and grandchildren
11 for Christmas, and the mention of the word booties
12 came about when she asked if we recovered any
13 savings bonds which she rolled up and put in the
14 booties. We didn't notice any savings bonds, but
15 when she mentioned booties, I thought I saw some in
16 the defendants' residence.

17 She told us that the next-door
18 neighbor, Mr. Russo, had a booty that his
19 granddaughter had been given by Mrs. Berndt, and she
20 was the only one that had been given one of these
21 gifts prior to her death.

22 So we made contact with Mr.
23 Russo and asked if we could come to look at his
24 little booty to see if I'd seen this particular type
25 at the residence on the search warrant. So he

99

Castillo, William
Rcv'd 10/20/04 8JDC-344
8th JDC recs.

1 provided us with his granddaughter's booty and it
2 had her name, Gianna, G-i-a-n-n-a. I believe that's
3 what it was.

4 The booty -- Mrs. Berndt would
5 roll up the stickers and stick it in the booty. I
6 specifically recalled seeing a shopping bag full of
7 these booties in the defendants' residence. We
8 retrieved the single booty and the stickers from Mr.
9 Russo and made contact with the defendant's
10 girlfriend, Tammy Jo Bryant.

11 Q. Again at 1951 North Jones, G-106?

12 A. Yes.

13 Q. Did you, in fact, get a consent to
14 search from Miss Bryant the second time around on
15 December 21, 1995 for the booties?

16 A. We called her on the telephone. We
17 went and she signed the consent to search.

18 Q. That is Exhibit Number 28.

19 Is that a true and a correct
20 copy of the consent to search?

21 A. Yes.

22 Q. And you state that Exhibit Number 51 is
23 presently sealed?

24 A. Yes, it is.

25 Q. Could you please open that?

100

Castillo, William
Rev'd 10/20/04 RJDC-345
8th JDC recs.

1 You recovered two bags from the
2 evidence bag 51; is that correct?

3 A. Both of these bags were in evidence bag
4 51, yes.

5 MR. KOOT: We've caused one of them
6 to be marked 51A and 51B.

7 BY MR. KOOT:

8 Q. Showing you 51A.

9 What item is this, sir?

10 A. This is the booty marked to Gianna from
11 Mrs. Berndt. It's red and white. This is what Mr.
12 Russo turned over to us stating that Mrs. Berndt had
13 given to his granddaughter.

14 MR. KOOT: Again the statements
15 attributed by Miss Berndt's daughter and Mr. Russo
16 are simply to explain the officer's conduct and for
17 probable cause.

18 BY MR. KOOT:

19 Q. And then 51B, is that, in fact, the bag
20 of booties recovered from the premises on December
21 21st, 1995?

22 A. Yes.

23 Q. And was Tammy Jo Bryant present at that
24 time?

25 A. Yes, she was.

101

Castle, William
Rev'd 10/20/04 SJDC-347
8th JDC recs.

1 Q. I take it neither Miss Platou or Mr.
2 Castillo was present at that time?

3 A. No. They were -- neither of them were
4 present.

5 Q. And do you recognize all of these items
6 as having been personally recovered by yourself and
7 then turned over to Miss Adkins for placing into
8 evidence impound?

9 A. Yes.

10 MR. KOOT: I'll just pass one of them
11 around.

12 BY MR. KOOT:

13 Q. You mentioned those stickers, and there
14 is a sticker on the outside of Exhibit Number 51A.

15 For the record, could you
16 describe what those stickers are?

17 A. The label on 51A is just a to from
18 label. The stickers that were in the -- in this bag
19 here are a plastic coated sheet full of stickers
20 that kids normally use to stick on school work,
21 things like that. They are plastic enclosed, and
22 she rolled them up and stuck them inside the boots.

23 Q. I see.

24 Did you subsequently return to
25 the Russo house on or about December the 22nd --

102

1 strike that. I'm not sure.

2 I'm going to show you Exhibit
3 Number 50 and ask you where that came from, where
4 the contents of that bag came from.

5 A. This is the one sheet of -- called
6 Classic Design Stickers. They're enclosed in
7 plastic. This was given to me by Mr. Russo at his
8 residence on North Yale.

9 Q. I see.

10 And that was on December the
11 22nd?

12 A. 3:00 p.m. in the afternoon.

13 Q. And was that placed in evidence by you?

14 A. Yes, it is was.

15 Q. So the evidence bag marked as Exhibit
16 Number 50 was actually filled out by you and the
17 contents was placed in it and sealed by you?

18 A. Yes.

19 MR. KOOT: Why don't we open that and
20 let's look at the contents?

21 So the contents we'll mark as
22 50 -- Exhibit 50A -- and these are just in the form
23 of balloons and these are like stick on things. You
24 moisten the back.

25 THE WITNESS: You don't need to moisten

Castillo, William
Rec'd 10/20/04 BJDC-348
5th JDC recs.

103

1 them. You just peel them off and stick them on.

2 MR. KOOT: See, I don't have kids.

3 BY MR. KOOT:

4 Q. Did you see any of these type of
5 stickers anywhere else in your investigation other
6 than in Mr. Russo's residence?

7 A. They were inside this bag here
8 containing the booties.

9 Q. Inside 51B?

10 A. Yes.

11 Q. Or are those in there now?

12 A. Yeah.

13 MR. KOOT: For the record, 51B is a
14 see through plastic bag and if you look at the
15 bottom of it you can see sheets of stickers.

16 BY MR. KOOT:

17 Q. Is that correct, Detective?

18 A. Yes.

19 Q. And those are the same type of stickers
20 that you recovered from Mr. Russo which are now
21 contained in 50?

22 A. Yes.

23 Q. I want to now show you what's been
24 marked as Exhibit Number 54 which is a bag
25 containing a cassette tape; is that correct, sir?

104

Castillo, William
Rev'd 10/20/04 8JDC-350
5" JDC recs.

1 A. Yes.

2 Q. And what does that -- and then the tape
3 itself is marked as 54A.

4 What is that a tape of?

5 A. This is a tape of the statement I took
6 from Michelle Platou.

7 Q. Where was that statement taken?

8 A. Taken at the Metro Police Detective
9 Bureau.

10 Q. When was that taken?

11 A. That was taken on the 20th of December,
12 1995.

13 Q. And what time did that interview start
14 on the tape?

15 A. 0150 a.m.

16 Q. Showing you what's been marked as Grand
17 Jury Exhibit Number 29.

18 Can you tell us what that is?

19 A. The top sheet is a sheet of paper that
20 I had Michelle Platou read. It's her Miranda rights
21 which is filled out by me with the exception of her
22 signature and the rest of the sheets are the
23 transcription of her tape recorded statement.

24 Q. And that would be how many pages, sir?

25 A. There's 18.

105

Castile, William
Rev'd 10/20/04 8JDC-351
8th JDC recs.

1 Q. Now, did you, yourself, take this
2 statement from Miss Platou?

3 A. Yes, I did.

4 Q. And did you subsequently review the
5 transcription of the tape with the tape?

6 A. Yes, I did.

7 Q. And is this a true and accurate
8 transcription of the tape --

9 A. Yes.

10 Q. -- and of the tape interview?

11 A. Yes.

12 Q. How was it that Miss Platou came to the
13 Detective Bureau?

14 A. I transported her there in my vehicle.

15 Q. And from what location is that?

16 A. 5620 West Charleston.

17 Q. And was that where she was located with
18 Officer Lau?

19 A. Yes. It was her place of employment.

20 Q. You took her up -- from there you took
21 her to the Detective Bureau and then took a
22 statement from her?

23 A. Yes.

24 Q. Was this statement voluntary on the
25 part of Miss Platou?

106

Castillo, William
Rev'd 10/20/04 8JDC-352
6" JDC recs.

WCastillo - 027-8JDC0351

027-8JDC0351

AA002921

1 A. Yes, it was.

2 Q. After reading her her rights, did she
3 indicate she understood her rights?

4 A. Yes.

5 Q. Is that contained on the tape itself?

6 A. Yes, it is.

7 Q. As well as the first sheet of Exhibit
8 Number 29; is that correct?

9 A. Yes.

10 Q. At any time during the interview did
11 Miss Platou invoke any of her rights?

12 A. No.

13 Q. And by rights, I'm talking about her
14 Miranda rights?

15 A. Not at all.

16 Q. Was she, to the best of your knowledge,
17 under the influence of any substance when you were
18 interviewing her?

19 A. She didn't appear to be and she did not
20 indicate that.

21 Q. Did she appear to be in good health and
22 in all other respects did she appear to have her
23 faculties about her?

24 A. Yes, she did.

25 MR. KOOT: Well, I will leave this

107

Castillo, William
Rev'd 10/20/04 SJDC-353
8th JDC reas.

1 transcription with the members of the Grand Jury.
2 And Exhibit Number 54, I would ask that we play this
3 later today, and if we don't get to it today next
4 Thursday since we have some witnesses waiting out
5 there and we only have an hour remaining to call the
6 rest of the witnesses.

7 BY MR. KOOT:

8 Q. Because we're going to do this at a
9 later time, can you please summarize what Miss
10 Platou -- so the ladies and gentlemen of the Grand
11 Jury can have a general idea of what Miss Platou
12 stated before they listen to the tape. Just
13 summarize it for us.

14 A. Miss Platou was asked by Mr. Castillo
15 to drive him to a specific location which wound up
16 being 13 North Yale. She said they parked her
17 car -- her '85 RX7 -- she wasn't sure of the street.
18 She said it was off Decatur, behind the 76 Station
19 which is at Decatur and Nebraska.

20 She said they walked to the
21 residence and entered the back yard through the side
22 gate. And Castillo at that time told her that he
23 did a roofing job there and knew of a spare key. So
24 he proceeded to get the spare key and open the back
25 door.

Castillo, William
Rev'd 10/20/04 8JDC-354
8th JDC recs.

108

1 He entered the residence and
2 coaxed her inside. She entered the residence. She
3 told me she had never done anything like this before
4 and was somewhat nervous.

5 At that point when you walk in
6 the back of the residence you were in the kitchen.
7 She walked in halfway to the kitchen. Mr. Castillo
8 walked to the living room area. The bedrooms would
9 be off to the left.

10 Castillo again told her to come
11 into the residence and begin to unhook the VCR which
12 was sitting on a console TV which was right in the
13 living room. She said she came into the hallway,
14 living room area of the residence. She heard
15 somebody in the house and knew that they were not
16 gone like he had anticipated. She knew someone was
17 in the residence.

18 He instructed her to unhook the
19 VCR. She tried. She fumbled with it. It was dark.
20 She eventually got the VCR unhooked. Mr. Castillo
21 told her to come back to the bedroom area which she
22 did.

23 She told me she was still
24 holding the VCR at the time she walked into the
25 bedroom area and it was at that time that he began

109

Castillo, William
Rev'd 10/20/04 8JDC-355
8th JDC recs.

1 to strike the victim with the crowbar about the face
2 and head area.

3 I asked her --

4 MR. KOOT: Again these statements can
5 not be used against Mr. Castillo. Only as they can
6 implicate Miss Platou.

7 THE WITNESS: I asked her how many
8 times he struck the victim, and she said she didn't
9 know. Too many. At the time she was crying.

10 Miss Platou then told me as they
11 started to exit the bedroom she heard the victim --
12 what she described as gurgling. She didn't know
13 what it was.

14 She saw Mr. Castillo turn on the
15 light in the bedroom and saw the victim bleeding and
16 then saw Mr. Castillo place a pillow over her head
17 apparently in an attempt to smother her. She then
18 observed him to remove an item of Miss Berndt's
19 property from the closet which later wound up being
20 this silverware. She didn't know what it was at the
21 time.

22 She said then she got scared and
23 exited the residence. And Mr. Castillo was
24 shortly -- came shortly after that. They got into
25 her car which was down by the 76 Station and drove

Castillo, William
Rev'd 10/20/04 8JDC-356
8th JDC recs.

110

1 back to their 1951 North Jones residence.

2 She told Mr. Castillo during the
3 trip back there which is when she noticed he had
4 gloves on. She said my fingerprints are all over
5 that place. I'm not going to take the fall for
6 that. She wasn't going to get blamed for something
7 she didn't do.

8 They went back to the 1951 North
9 Jones residence and unloaded Miss Berndt's property.
10 Tammy Jo Bryant was there at the time. Michelle and
11 William both told Tammy Jo what had happened and at
12 that point William Castillo asked Michelle Platou if
13 she would drive him back to the residence so he
14 could as she said cover up the tracks.

15 She observed him to grab a
16 bottle of lighter fluid. She described it as
17 yellow. They drove back to the same residence. He
18 ran to the residence, was gone. And she then saw
19 him running down the street as the house was ablaze.

20 Castillo got in the car. They
21 left. At the time he did not have any gloves on and
22 then instructed her not to say anything to anybody
23 and nobody would find out what had happened.

24 MR. KOOT: We don't need too many
25 more details. The Grand Jury will listen to the

111

Castillo, William
Rev'd 10/20/04 8JDC-357
8" JDC recs.

1 tape and hear that for themselves.

2 BY MR. KOOT:

3 Q. How old is Miss Platou?

4 A. She was born in '69 so she is 34, 35.

5 THE DEPUTY FOREMAN: 26.

6 THE WITNESS: 26, oh. I failed math.

7 BY MR. KOOT:

8 Q. How about Mr. Castillo? How old is he?

9 A. Twenty something.

10 A JUROR: 23 according to the driver's
11 license. I'm sorry. I don't mean to testify.

12 MR. KOOT: There's a driver's license
13 in evidence.

14 Ladies and gentlemen, for the
15 record, the driver's license shows DOB as 12/28/72.

16 BY MR. KOOT:

17 Q. Does that sound about right?

18 A. Yes.

19 Q. That he would be about 23, early
20 twenties?

21 A. Yes.

22 MR. KOOT: All right. I have no
23 further questions. Oh, yes I do. One more.

24 BY MR. KOOT:

25 Q. When you went in -- did you

112

Castillo, William
Rev'd 10/20/04 SJDC-358
8th JDC recs.

1 subsequently look in Miss Platou's vehicle, that is
2 the RX7, and determine whether or not there was a
3 lug wrench or tire iron in there?

4 A. I looked at it while it was currently
5 being secured at Quality Towing and there was no lug
6 wrench or tire iron in the vehicle.

7 Q. Was the lug wrench or tire iron that
8 was allegedly used ever located?

9 A. No.

10 When I asked her about that
11 directly she said they dumped it in a dumpster in a
12 7-Eleven across the street from where they live.
13 She said it was covered in blood. She'd never seen
14 anything like it.

15 Q. Do you know what happened to it?

16 A. We checked with the 7-Eleven people,
17 and the garbage was picked up every day there so it
18 probably went out in the garbage.

19 Q. Did you, yourself, look at the
20 dumpster?

21 A. We looked at the dumpster and it was
22 completely empty after we received the --

23 Q. So it was never recovered?

24 A. It was never recovered.

25 MR. KOOT: I was advised -- I'm

Castillo, William
Rev'd 10/20/04 8JDC-358
8th JDC recs.

113

1 offering this to the members of the Grand Jury only
2 as to it may exculpate the defendants.

3 BY MR. KOOT:

4 Q. It's my understanding that there was
5 some clothing recovered from the residence occupied
6 by Mr. Castillo and Miss Platou, men's clothing, and
7 that was tested for the presence of blood?

8 A. Yes.

9 Q. Is this your information that that came
10 out negative?

11 A. Yes.

12 MR. KOOT: I offer that simply as it
13 may tend to exculpate the defendants in this case.

14 And again, I want to caution the
15 Grand Jurors in case I don't at a later time, we
16 have a tape now in evidence of Miss Platou, and the
17 contents of that tape is only to be used to -- as it
18 may inculcate or exculpate Miss Platou.

19 Later on I expect a tape to be
20 introduced on Mr. Castillo and I expect you to --
21 and I direct you to use that -- the contents of that
22 tape and that interview only as it may tend to
23 inculcate or exculpate Mr. Castillo.

24 You can actually use both tapes
25 for exculpatory purposes, but not the inculpatory

T14

Castillo, William
Rev'd 10/20/04 8JDC-360
6th JDC recs.

1 purposes.

2 Thank you. I have nothing
3 further.

4 THE DEPUTY FOREMAN: Members of the
5 Grand Jury have any questions?

6 (No response.)

7 THE DEPUTY FOREMAN: By law, these
8 proceedings are secret, and you are prohibited from
9 disclosing to anyone anything that transpired before
10 us including evidence presented to the Grand Jury,
11 any event occurring or a statement made in the
12 presence of the Grand Jury, or information obtained
13 by the Grand Jury.

14 Failure to comply with this
15 admonition is a gross misdemeanor, punishable by a
16 year in the Clark County Detention Center and a
17 \$2,000 fine. In addition, you may be held in
18 contempt of court punishable by an additional \$500
19 fine and 25 days in the Clark County Detention
20 Center.

21 Thank you.

22 THE WITNESS: Thank you.

23 (Witness excused.)

24 THE DEPUTY FOREMAN: Would you stand
25 and raise your right hand?

115

Castillo, William
Rev'd 10/20/04 SJDC-361
5th JDC recs.

WCastillo - 027-8JDC0360

1 You do solemnly swear that the
2 testimony that you are about to give upon the
3 investigation now pending before this Grand Jury
4 shall be the truth, the whole truth and nothing but
5 the truth, so help you God?

6 DETECTIVE MORGAN: Yes, sir.

7 THE DEPUTY FOREMAN: You may be seated.

8 You are here today to give
9 testimony in the investigation pertaining to the
10 offenses of conspiracy to commit burglary and/or
11 robbery, burglary, robbery of a victim 65 years of
12 age or older, murder with use of a deadly weapon,
13 conspiracy to commit burglary and arson, and first
14 degree arson involving William Patrick Castillo and
15 Michelle C. Platou; correct?

16 DETECTIVE MORGAN: Yes, sir.

17 THE DEPUTY FOREMAN: Thank you.

18
19 DWAYNE MORGAN,

20 having been first duly sworn by the
21 Deputy Foreman of the Grand Jury to
22 testify to the truth, the whole truth
23 and nothing but the truth, testified as
24 follows:

25

116

Castillo, William
Rev'd 10/20/04 SJDC-362
8th JDC recs.

EXAMINATION

BY MR. KOOT:

Q. And your name, please, sir?

A. Detective Dwayne Morgan.

Q. And that's D-w-a-y-n-e?

A. Correct.

Q. Morgan, M-o-r-g-a-n?

A. Correct.

Q. Sir, on December the 19th -- on December the 20th, 1995, did you come in contact with a Mr. William Castillo?

A. Yes, sir.

Q. In fact, you accompanied -- in fact, it was you and Detective Tremel who actually did the search warrant at Mr. Castillo's residence; is that correct?

A. Yes, sir.

Q. And was Mr. Castillo taken from the residence to the Detective Bureau?

A. Yes, sir.

Q. And did you subsequently interview Mr. Castillo?

A. Yes, sir.

Q. Were those interviews tape recorded,

Castillo, William
Rec'd 10/20/04 8JDC-363
5th JDC recs.

117

1 sir?

2 A. Yes.

3 MR. KOOT: I'm going to cause those
4 to be marked as exhibits.

5 BY MR. KOOT:

6 Q. And how many interviews did you conduct
7 with Mr. Castillo?

8 A. Two.

9 Q. And can you tell us, Detective, whether
10 or not these two statements were taken -- were given
11 by Mr. Castillo voluntary?

12 A. Yes, they were.

13 Q. Was he impaired in any way during the
14 taking of those statements?

15 A. No.

16 Q. Was he explained his rights under the
17 Miranda decision prior to your interviewing him?

18 A. Yes, he was.

19 He was also given a card which
20 he read which explained the Miranda rights which he
21 said he understood and signed.

22 Q. And was that done before both the
23 first -- was that done before the first statement?

24 A. Yes, sir.

25 Q. Was that likewise done before the

118

Castillo, William
Rev'd 10/20/04 8JDC-364
8th JDC recs.

1 second statement?

2 A. Yes.

3 Q. And I believe you stated that they were
4 tape recorded; is that correct?

5 A. Yes, sir.

6 Q. Where did the statement actually --
7 where was the statement actually given?

8 A. At 400 East Stewart.

9 Q. Can you describe the surroundings?

10 A. That's the -- it's an interview room,
11 third floor of City Hall, which is a -- probably a
12 six by six room with a table and two chairs.

13 Q. Showing you what's now marked as 57 and
14 57A.

15 What is that, sir?

16 A. That's the envelope in which I used to
17 put the first interview tape into and have
18 transcribed.

19 Q. And is 57A, the tape, contained
20 therein?

21 A. Yes.

22 Q. In fact, the tape of that first
23 interview?

24 A. Correct.

25 Q. And showing you what's been marked as

119

Castle, William
Rev'd 10/20/04 SJDC-348
8th JDC recs.

1 37, is that a transcription of that tape?

2 A. Yes.

3 Q. And for the record, how many pages is
4 that transcript?

5 A. 27.

6 Q. Now, is that a true and accurate
7 transcript of the tape contained in Exhibit Number
8 57?

9 A. Yes, it is.

10 Q. Now, what time did that interview start
11 about?

12 A. 2355 which is 11:55 p.m.

13 Q. On the 19th?

14 A. Yes, sir.

15 Q. Showing you what's been marked as
16 Exhibit Number -- oh, it hasn't been marked yet.

17 This is 58.

18 Do you recognize that, sir?

19 A. This is another envelope which I used
20 to put a tape in for transcription.

21 Q. Would that be the -- does that contain
22 a tape, sir?

23 A. Yes, sir.

24 Q. And is that the tape of the second
25 interview?

120

Castillo, William
Rcv'd 10/20/04 8JDC-365
5th JDC recs.

1 A. Yes.

2 Q. Showing you Exhibit Number 38

3 consisting of a 19 page transcript, is that a true
4 and accurate transcription of the second interview
5 of that tape which has now been marked as 58A?

6 A. Yes.

7 Q. Can you tell us, sir, how the
8 interviews came about? And just summarize for us
9 the two different interviews, what the defendant
10 told you.

11 A. Initially the defendant was contacted
12 at his residence. We told him we was there
13 investigating a burglary and a death of a victim and
14 that we had reason to believe that he had some
15 knowledge of what occurred.

16 We asked him for his permission
17 to talk to him. We gave him a rights card and he
18 read and signed. We also asked for his permission
19 to search his residence. We gave him a card which
20 was a consent to search card which he read and
21 signed his approval.

22 I then talked to him briefly and
23 told him, you know, I wasn't saying he was directly
24 involved or that he did anything but, if possible,
25 if there was some property that belonged to that

121

Castillo, William
Rev'd 10/20/04 BJDC-367
8th JDC recs.

1 victim at his house, you know, would he help us
2 locate it.

3 He indicated that he did have
4 some items. It was a VCR. It was in the same room
5 we were in. He said there was some silverware in
6 the back room on top of the armoire. We located the
7 item and they matched what we were looking for.

8 There was other detectives there
9 and at that point I asked him if he'd be willing to
10 go down to the police station and give us a taped
11 interview. He consented at which time he was placed
12 in handcuffs and taken downtown.

13 We then got downtown and we and
14 another patrol officer took him downtown in my
15 vehicle. We got downtown and got to the interview
16 room. The patrol officer waited outside while the
17 defendant and myself went in the room.

18 I took out the tape recorder,
19 put a tape in there, and told him that the interview
20 was going to be taped. While the recorder was going
21 I asked him did you realize it was being taped? He
22 said yes. I asked for his permission.

23 Q. Yes.

24 A. I reminded him it was under Miranda,
25 and did he remember his Miranda rights? He stated

Castile, William
Rcv'd 10/20/04 8JDC-368
8th JDC recs.

122

1 yes.

2 Q. They were previously given to him at
3 the premises; is that correct?

4 A. Yes.

5 Q. Okay.

6 A. When I started the tape I said this is
7 a taped statement being done under Miranda so on and
8 so forth.

9 We then got into the interview
10 at which time I went into more detail of what we
11 were investigating, the murder of a lady off of Yale
12 Street and that, you know, the property that he had
13 given to us was property that was taken in this
14 murder and burglary.

15 I then asked him what knowledge
16 he had about it and in this first interview and at
17 which time he said, you know, he really didn't know
18 much about the murder, that he had received the
19 property from a friend of his.

20 I asked him what the friend's
21 name was, and he said he really didn't want to say
22 at the time because he didn't want to tell on the
23 friend. So we kept going along those lines of, you
24 know, the only thing he knew about was a friend of
25 his told him he was going to do a B and E. B and E

Castillo, William
Rcv'd 10/20/04 SJDC-368
8th JDC recs.

123

1 which is breaking and entering.

2 A friend told him he was
3 planning on doing a B and E. Apparently the friend
4 had done the breaking and entering and after he
5 stole the property he brought it to him in order for
6 him to sell. He was supposed to get a piece of the
7 sale.

8 We continued along those lines
9 at which time I told him I didn't believe what he
10 was saying. I told him I believed he was involved
11 in the breaking and entering and killing of the
12 victim. He continued to deny he had any
13 involvement.

14 Basically during this interview
15 I was using an interview technique we call a
16 re-interview technique basically where you get the
17 person to say whatever they want to say at the time,
18 kind of get some of the facts laid out.

19 We continued letting him say
20 what he wanted to say. All during this initial
21 interview he denied any involvement in the breaking
22 and entering or killing of the victim or taking the
23 property. He stayed with that someone broke in and
24 brought the property to his house and gave it to him
25 only to sell. This was a pretty lengthy interview.

Castillo, William
Rcv'd 10/20/04 SJDC-370
8th JDC recs.

124

1 I got out all of the facts. I
2 directly asked him was he involved and let him deny
3 it which he did. And then we concluded the first
4 interview. I then left him in the room and went out
5 and called the other detectives to find out what
6 more they had found out.

7 Also during that interview I
8 didn't want to confront him with the actual
9 witnesses that we had that had told us what had
10 happened because I didn't want him to make -- say
11 that person was the one that was involved and put it
12 on him.

13 So I didn't give him a name, but
14 towards the end of the interview I asked him if any
15 of his friends were involved who he worked with and
16 he said no. One of the witnesses, Mr. Rasmussen,
17 Kirk, I asked was he involved. He said no. He had
18 nothing to do with it.

19 So I left him in the first
20 interview. I went out and talked to the other
21 detectives. He told us that his girlfriend, Tammy,
22 had told him that he personally brought this
23 property home and showed it to her on the morning of
24 the murder.

25 So after talking with them I

Castillo, William
Rev'd 10/20/04 8JDC-371
8th JDC recs.

WCastillo - 027-8JDC0371

1 went back in and started the second interview and
2 this time I was going to confront him with what we
3 knew and tell him the two friends who told us
4 exactly what happened.

5 I went back in and started the
6 second interview. I again asked -- tried to get him
7 to voluntarily say what happened and he continued
8 with his denials of what happened. Then I
9 confronted him with the fact that both his friend,
10 Kirk, and his girlfriend, Tammy, had told us exactly
11 what had happened.

12 And at that time I told him
13 exactly what I knew. I told him him and another
14 lady by the name of Michelle went to the victim's
15 house because previously when doing some work on the
16 house he had found a key to the house. He went back
17 using that key alone and Michelle drove to the
18 victim's house, and he used that key to make entry.

19 He went in. He heard someone in
20 the back of the house snoring, and he had a tire
21 iron in his hand. He went in the back room and
22 struck the person with the tire iron repeatedly also
23 using his hands until he no longer heard any sound
24 coming from that person. He then took a pillow
25 which he removed from another bedroom and put it

Castillo, William
Rev'd 10/20/04 8JDC-372
8th JDC recs.

126

027-8JDC0371

AA002941

1 over the victim's face in an attempt to smother her.

2 After doing all that, they took
3 different items belonging to the victim and left.
4 And then after leaving they decided to come back and
5 set the house on fire in order to cover up the
6 evidence.

7 He pretty much gave a sigh of,
8 you know, he was relieved to know that I knew what
9 happened. At that point I knew he was going to give
10 a confession. Then he started asking for a
11 cigarette. I told him we didn't have any. We went
12 back and forth with that.

13 He kind of took a big sigh and
14 said everything you said is true and that's exactly
15 what happened. So I asked him to recount everything
16 in his own words, not just in mine, and he basically
17 walked me through the whole thing exactly as it
18 appears in his statement, that he came in and did
19 those exact actions.

20 Q. About how much time passed between the
21 first interview and the start of the second one?

22 A. I'd say no more than 15 minutes.

23 Q. And I have what's been marked here as
24 Exhibit Number 31. And what is that, sir?

25 A. That was his Miranda rights card which

127

Castillo, William
Rev'd 10/20/04 8JDC-373
8th JDC recs.

1 he signed and dated.

2 Q. Is this the Miranda rights card that
3 you previously alluded to that -- before the taking
4 of the first statement?

5 A. Yes.

6 Q. Is this a true and accurate copy of
7 that Miranda rights card?

8 A. Yes, it is.

9 MR. KOOT: Again, ladies and
10 gentlemen of the jury, because of the time
11 restraints, I would ask that we not play the tapes
12 at this time, but we might have some time later
13 today and if not, next Thursday afternoon.

14 With that, I have no further
15 questions of the detective.

16 THE DEPUTY FOREMAN: Any members of the
17 Grand Jury have any questions?

18 (No response.)

19 THE DEPUTY FOREMAN: By law, these
20 proceedings are secret, and you are prohibited from
21 disclosing to anyone anything that transpired before
22 us including evidence presented to the Grand Jury,
23 any event occurring or a statement made in the
24 presence of the Grand Jury, or information obtained
25 by the Grand Jury.

128

Castillo, William
Rec'd 10/20/04 8JDC-374
8th JDC recs.

1 Failure to comply with this
2 admonition is a gross misdemeanor, punishable by a
3 year in the Clark County Detention Center and a
4 \$2,000 fine. In addition, you may be held in
5 contempt of court punishable by an additional \$500
6 fine and 25 days in the Clark County Detention
7 Center.

8 Thank you.

9 THE WITNESS: Thank you.

10 (Witness excused.)

11 MR. KOOT: Stand here, sir, and face
12 the Foreman.

13 THE DEPUTY FOREMAN: Raise your right
14 hand and be sworn.

15 You do solemnly swear that the
16 testimony that you are about to give upon the
17 investigation now pending before this Grand Jury
18 shall be the truth, the whole truth and nothing but
19 the truth, so help you God?

20 MR. RUSSO: I do.

21 THE DEPUTY FOREMAN: Thank you. You
22 may be seated.

23 You are here today to give
24 testimony in the investigation pertaining to the
25 offenses of conspiracy to commit burglary and/or

129

Castillo, William
Rec'd 10/20/04 SJDC-375
8th JDC recs.

1 robbery, burglary, robbery of a victim 65 years of
2 age or older, murder with use of a deadly weapon,
3 conspiracy to commit burglary and arson, and first
4 degree arson involving William Patrick Castillo and
5 Michelle C. Platou; correct?

6 MR. RUSSO: Correct.

7 THE DEPUTY FOREMAN: Thank you.

8
9 JOHN F. RUSSO,

10 having been first duly sworn by the
11 Deputy Foreman of the Grand Jury to
12 testify to the truth, the whole truth
13 and nothing but the truth, testified as
14 follows:

15
16 EXAMINATION

17
18 BY MR. KOOT:

19 Q. What is your name, sir?

20 A. John Francis Russo.

21 Q. And where do you reside, sir?

22 A. At 9 North Yale Street, Las Vegas,
23 Nevada 89107.

24 Q. Where is that in relation to number 13
25 Yale?

130
Castillo, William
Rev'd 10/20/04 8JDC-376
8th JDC recs.

1 A. It's next door.

2 Q. And did you know Miss Isabelle Berndt
3 during her lifetime?

4 A. Yes.

5 Q. How long had you known Miss Berndt?

6 A. 38, 40 years.

7 Q. How long had you lived there on Yale?

8 A. 38 years. We moved in together.

9 Q. So you were a neighbor continuously for
10 that period of time?

11 A. Right.

12 Q. Showing you Exhibit Number 6.

13 Is this a photograph that you
14 recognize?

15 A. Yes, it is.

16 Q. And whose house is that that I'm
17 looking at?

18 A. This house here?

19 Q. Yes.

20 A. That is Mrs. Berndt's, Isabelle.

21 And this is mine right here.

22 Q. So the white one is --

23 A. -- the brown and white one is mine.

24 Q. My understanding is you're moving from
25 that location; is that correct?

131

Castillo, William
Rev'd 10/20/04 8JDC-377
8th JDC recs.

1 A. Yes. We just recently sold it.

2 Q. Showing you Exhibit Number 42.

3 Is this just a Xerox, but do you
4 recognize the person?

5 A. Yes. That's Isabelle Berndt.

6 Q. I have an item that's in front of you,
7 Exhibit Number 51A, and I would ask you if you
8 recognize that?

9 A. Yes.

10 That's a booty that Mrs. Berndt
11 knitted for my granddaughter. Usually every
12 Christmas she does something for Gianna.

13 Q. And the name Gianna is on that?

14 A. Yes.

15 Q. How old is Gianna?

16 A. Seven years old.

17 Q. And did the detectives come and recover
18 that from your house?

19 A. Yes. They recovered it from my house.

20 Q. Also have some stickers, Exhibit
21 Number, for the record, 50A.

22 Did they likewise recover those
23 items from your house?

24 A. Yes, they did.

25 Q. And where did they come 50A from?

132

Castillo, William
Rev'd 10/20/04 8JDC-378
5th JDC recn.

1 A. They were in the booty.

2 Q. All right. So how did you -- so Mrs.
3 Berndt gave the booty and the stickers to your
4 granddaughter?

5 A. Well, the way it was, my wife, Jean
6 Marie, Mrs. Berndt's daughter, were in the house,
7 and this was on the floor, and they picked it up and
8 Jean Marie gave that to my wife to give to Gianna,
9 but then the detectives come and wanted it as
10 evidence.

11 Q. And you were present when the
12 detectives recovered that?

13 A. Yes. Yes. I was there when Detective
14 Tremel came in.

15 Q. Okay, fine.

16 Did Mrs. Berndt reside alone in
17 that house?

18 A. Yes, she did.

19 Q. How long had she resided alone there,
20 do you know?

21 A. She was -- I can't remember when her
22 husband, Roy, died. That's quite a number of years.

23 Q. I'm going to show you a photograph,
24 sir. What I'm going to do is I'm going to cover up
25 part of it.

133

Castillo, William
Rev'd 10/20/04 SJDC-378
8th JDC recs.

1 I'm going to show you, sir,
2 what's been marked as Exhibit Number 59, and ask you
3 if you recognize the person in that photograph?

4 A. That's Isabelle.

5 MR. KOOT: For the record, this is a
6 photograph and I caused the sticker to cover all of
7 the -- all of the photograph except the head of Miss
8 or Mrs. Berndt.

9 BY MR. KOOT:

10 Q. Were you home, sir, when the -- when
11 the house was ablaze?

12 A. Yes, I was.

13 Q. And what do you remember of that?

14 A. Well, I was sleeping, and my son heard
15 pounding next door at Mrs. Berndt's. And he looked
16 out his window and he saw smoke. He said, "Dad,
17 Jesus, Mrs. Berndt's house is on fire. Get up." I
18 got up right away. He called 911. I went out and
19 said we got to get her out of there, but the smoke
20 was really coming out.

21 MR. KOOT: I have nothing further.

22 THE DEPUTY FOREMAN: Any members of the
23 Grand Jury have any questions?

24 (No response.)

25 THE DEPUTY FOREMAN: By law, these

1 proceedings are secret, and you are prohibited from
2 disclosing to anyone anything that transpired before
3 us including evidence presented to the Grand Jury,
4 any event occurring or a statement made in the
5 presence of the Grand Jury, or information obtained
6 by the Grand Jury.

7 Failure to comply with this
8 admonition is a gross misdemeanor, punishable by a
9 year in the Clark County Detention Center and a
10 \$2,000 fine. In addition, you may be held in
11 contempt of court punishable by an additional \$500
12 fine and 25 days in the Clark County Detention
13 Center.

14 Do you understand, sir?

15 THE WITNESS: I understand.

16 THE DEPUTY FOREMAN: Thank you, sir.

17 (Witness excused.)

18 MR. KOOT: Stand here. Face the
19 Foreman.

20 THE DEPUTY FOREMAN: You do solemnly
21 swear that the testimony that you are about to give
22 upon the investigation now pending before this Grand
23 Jury shall be the truth, the whole truth and nothing
24 but the truth, so help you God?

25 MS. HOSKING: I do.

1 THE DEPUTY FOREMAN: You may be seated.

2 You are here today to give
3 testimony in the investigation pertaining to the
4 offenses of conspiracy to commit burglary and/or
5 robbery, burglary, robbery of a victim 65 years of
6 age or older, murder with use of a deadly weapon,
7 conspiracy to commit burglary and arson, and first
8 degree arson involving William Patrick Castillo and
9 Michelle C. Platou; correct?

10 MS. HOSKING: Correct.

11 THE DEPUTY FOREMAN: Thank you.

12
13 JEAN MARIE HOSKING,

14 having been first duly sworn by the
15 Deputy Foreman of the Grand Jury to
16 testify to the truth, the whole truth
17 and nothing but the truth, testified as
18 follows:

19
20 EXAMINATION

21
22 BY MR. KOOT:

23 Q. Could you please give us your name?

24 A. Jean Marie Hosking, H-o-s-k-i-n-g.

25 Q. And you are the daughter of Isabelle

Castillo, William
Rev'd 10/20/04 SJDC-382
8th JDC recs.

136

1 Berndt?

2 A. That's correct.

3 Q. And what was your mother's date of
4 birth?

5 A. She was born August 3rd, 1909.

6 Q. So at the time of her death it would
7 have made her 86?

8 A. Yes.

9 Q. You brought some photographs to me
10 today and I'll show those to you.

11 Exhibit Number 44, is that a
12 photograph that you brought with you today?

13 A. Yes.

14 Q. Is that a photograph which depicts your
15 mother as you're looking at the photograph on the
16 right?

17 A. Yes.

18 Q. And who are the other two people?

19 A. The middle one in the cap and gown is
20 my oldest daughter, Ronda, without the H, and the
21 other one is me.

22 Q. And that has a date of June 11th, 1995?

23 A. Yes.

24 Q. You also brought at my request some
25 other photographs of an automobile; is that correct?

137

Castillo, William
Rev'd 10/20/04 SJDC-383
8" JDC recs.

1 A. Correct.

2 Q. And that would be Exhibits 45 through
3 48, inclusive.

4 And whose automobile is that?

5 A. That's my mother's car.

6 Q. And that car was at your mother's
7 residence on the day she died; is that correct?

8 A. That's correct.

9 Q. From where did you obtain that
10 automobile?

11 A. From her home.

12 Q. From her home?

13 A. Yes.

14 Q. You came to Las Vegas and actually
15 picked that up?

16 A. Yes. These are taken in California.

17 Q. You reside in California; is that
18 correct?

19 A. Correct.

20 Q. And did you at my request take those
21 photographs, or did you cause those photographs to
22 be taken at my request?

23 A. I went out and took them after I spoke
24 to you.

25 Q. And what were you -- did you at my

1 request open the trunk and photograph the inside of
2 the trunk?

3 A. Yes, I did.

4 Q. And what were you looking for?

5 A. You asked me to see if the tire iron
6 was there.

7 Q. Okay. And were you able to find a tire
8 iron in that particular trunk?

9 A. As soon as I opened the trunk it was
10 lying right where you see it in the picture.

11 Q. So the photographs that we're looking
12 at here, Exhibit Numbers 47 and 48, show the tire
13 iron that was in the car at the time you picked it
14 up from your mother's house?

15 A. Correct.

16 Q. Did you, in fact, go through the house
17 itself?

18 A. Yes, I did.

19 Q. Did you find any tire irons inside the
20 house?

21 A. No.

22 Q. Did you ever know your mother to have a
23 tire iron inside of her house?

24 A. No.

25 Q. Showing you what's been marked as

1 Exhibit Number 43.

2 What is that?

3 A. This is a card that we found in mom's
4 possessions. She had a tin box that she kept her
5 important papers and this was with them.

6 Q. And that is some sort of a business
7 card from Union Premiums Warehouse Showroom?

8 A. Yes.

9 Q. And there's some handwriting on that;
10 is that correct?

11 A. Yes.

12 Q. What does that handwriting say?

13 A. I didn't bring my glasses.

14 Hitachi 200. Is that a five or
15 an eight?

16 Q. An eight.

17 A. \$289.

18 That's in my mom's handwriting.

19 Q. That's your mom's handwriting?

20 A. Yes.

21 Q. You brought this Number 43 with you
22 today, didn't you?

23 A. Yes, I did.

24 Q. I also have in front of you some items.

25 Number 53A. For the record,

140

1 it's a box.

2 Do you recognize the box?

3 A. Yes.

4 Q. How do you recognize that box?

5 A. I have one just like it.

6 Q. With what in it?

7 A. Silverware.

8 Q. And when we open this box there is, in
9 fact, silverware in it and I notice a B on the
10 silverware?

11 A. Yes.

12 Q. And that stands for what?

13 A. Berndt.

14 Q. Had you seen this silverware and the
15 box in your mother's home on previous occasions?

16 A. Yes.

17 Q. Do you know when this was purchased?

18 A. I think probably before my time. She's
19 had it all that I can remember.

20 Q. I also have Exhibit Number 51A which is
21 a small booty and it's got some writing on it.

22 A. Uh-huh.

23 Q. Do you recognize the booty and the
24 writing?

25 A. Yes.

141

Castillo, William
Rev'd 10/20/04 BJDC-387
8th JDC recs.

1 Q. And what can you tell us about that
2 booty or booties?

3 Speak up, if you would.

4 A. I have eight grandchildren and every
5 Christmas my mom would make some little container in
6 which to put a bond in them for mom -- for my
7 grandchildren.

8 I had been here in -- when was
9 that -- October, and we were going to Albuquerque.
10 And mom showed me what she was making for the
11 grandchildren for Christmas this year and this is
12 what she showed me. And then she made them for
13 other little children but especially for my
14 grandchildren.

15 Q. We have a whole bag, 51B. This is more
16 booties?

17 A. Uh-huh.

18 Q. This is what you observed your mother
19 to be making?

20 A. Yes.

21 Q. They weren't completed?

22 A. No.

23 Q. Did the children ever get these?

24 A. No.

25 Q. Can you tell us anything at all about

Cast/No, William
Rcv'd 10/20/04 SJDC-388
6th JDC recs.

14

1 these little stickers or not?

2 A. Yes.

3 Q. What can you tell us about those?

4 MR. KOOT: That's 50A. And the
5 stickers are contained in the bag 51B.

6 THE WITNESS: Mother attended the
7 balloon festival in Albuquerque in October. When we
8 were shopping, she found those, and she bought all
9 they had in the store to give to each one of her
10 grandchildren, her great grandchildren.

11 BY MR. KOOT:

12 Q. I have a bag of some watches and a pin,
13 Exhibit Number 49A, and I'll just ask you to look
14 through those items and see if you recognize any of
15 these items.

16 For the record, there are six
17 watches and one pin.

18 A. I recognize these four. These two I
19 don't.

20 Q. You separated four watches that you
21 recognize?

22 A. Yes.

23 Q. And from where do you recognize those?

24 A. From mom's arms at different times.

25 Q. So she just collected --

143

Castle, William
Rev'd 10/20/04 SJDC-388
5th JDC recs.

1 A. Well, when they'd break she wouldn't
2 throw them away, I guess.

3 MR. KOOT: Okay. For the record --

4 THE WITNESS: I have some that don't
5 work too at my house.

6 MR. KOOT: For the record, the two
7 that were set aside that the witness did not
8 identify, number one is -- on the back it says Timex
9 with number 45 on the back. And the other one has a
10 number Y481 on the back.

11 BY MR. KOOT:

12 Q. And how about the pin? Do you
13 recognize that or not?

14 A. Yes.

15 She bought that because before
16 we went to Albuquerque we stopped in Sedona. I
17 believe that's the one she bought in Sedona.

18 MR. KOOT: For the record, there's a
19 pin and it's attached to a card which says a gift to
20 a friend.

21 BY MR. KOOT:

22 Q. Did your mother smoke?

23 A. No.

24 Q. And was she living alone?

25 A. Yes.

Castillo, William
Rev'd 10/20/04 SJDC-390
8th JDC recs.

144

1 Q. How long had she been living alone?

2 A. My father passed away in 1965 so she's
3 been alone since then.

4 Q. Do you know of anything else that was
5 missing from the residence?

6 A. I believe there was a VCR on top of the
7 stereo that's gone and we had -- I don't know of
8 anything else right now, no.

9 MR. KOOT: Okay. I have nothing
10 further.

11 THE DEPUTY FOREMAN: Any questions?

12 (No response.)

13 THE DEPUTY FOREMAN: By law, these
14 proceedings are secret, and you are prohibited from
15 disclosing to anyone anything that transpired before
16 us including evidence presented to the Grand Jury,
17 any event occurring or a statement made in the
18 presence of the Grand Jury, or information obtained
19 by the Grand Jury.

20 Failure to comply with this
21 admonition is a gross misdemeanor, punishable by a
22 year in the Clark County Detention Center and a
23 \$2,000 fine. In addition, you may be held in
24 contempt of court punishable by an additional \$500
25 fine and 25 days in the Clark County Detention

145

Castillo, William
Rev'd 10/20/04 SJDC-391
8th JDC recs.

1 Center.

2 Thank you.

3 THE WITNESS: Thank you.

4 (Witness excused.)

5 MR. KOOT: Raise your right hand and
6 face the Foreman and be sworn.

7 THE DEPUTY FOREMAN: You do solemnly
8 swear that the testimony that you are about to give
9 upon the investigation now pending before this Grand
10 Jury shall be the truth, the whole truth and nothing
11 but the truth, so help you God?

12 MS. BRYANT: (The witness moves head
13 up and down.)

14 MR. KOOT: You may be seated.

15 THE DEPUTY FOREMAN: You are here today
16 to give testimony in the investigation pertaining to
17 the offenses of conspiracy to commit burglary and
18 robbery, burglary, robbery of a victim 65 years of
19 age or older, burglary with use of a deadly weapon,
20 conspiracy to commit burglary and arson, and first
21 degree arson involving William Patrick Castillo and
22 Michelle C. Platou; correct?

23 MS. BRYANT: Yes.

24 MR. KOOT: You're going to have to
25 project your voice so I can hear you.

146

Castillo, William
Rcv'd 10/20/04 SJDC-392
8th JDC recs.

1 For the record, Mr. Foreman, and
2 I would ask that Miss Catherine Woolf be permitted
3 to stay at this point.

4 Miss Catherine Woolf is the
5 attorney for Miss Bryant.

6 I'd ask that you project your
7 voice so that I can hear you. Okay.

8
9 TAMMY JO BRYANT,

10 having been first duly sworn by the
11 Deputy Foreman of the Grand Jury to
12 testify to the truth, the whole truth
13 and nothing but the truth, testified as
14 follows:

15
16 EXAMINATION

17
18 BY MR. KOOT:

19 Q. Please tell me what your name is.

20 A. Tammy Bryant.

21 Q. And how do you spell your last name?

22 A. B-r-y-a-n-t.

23 Q. And I had a Tammy Jo Bryant, J-o. Is
24 that the middle name?

25 A. Yeah.

Castillo, William
Nov'd 10/20/04 SJDC-393
5th JDC recs.

1 Q. Miss Bryant, back on December the 27th,
2 28th and 29th -- I'm sorry -- the 17th, 18th, 19th
3 and 20th, where were you living?

4 A. At 1951 North Jones.

5 Q. And that's Apartment -- Building G,
6 Apartment 106?

7 A. Yes.

8 Q. And that's in Clark County, Nevada?

9 A. Yes.

10 Q. And with who were you residing at that
11 apartment?

12 A. With Michelle Platou and William
13 Castillo.

14 Q. Pardon me?

15 A. With Michelle Platou and William
16 Castillo.

17 Q. And how -- what were the sleeping
18 arrangements within that apartment?

19 A. We had one bedroom. She slept --

20 Q. Who occupied that one bedroom?

21 A. Me and William.

22 Q. And Miss Platou, where did she sleep?

23 A. In the front room.

24 Q. And where was Miss Platou working at
25 that particular time?

Castillo, William
Rev'd 10/20/04 SJD-394
8th JDC recs.

148

1 A. On West Charleston.

2 Q. In what capacity?

3 A. As a phone operator.

4 Q. And how about Mr. Castillo? Did he

5 have employment at that time?

6 A. He was a roofer.

7 Q. And for what company?

8 A. Dean Roofing.

9 Q. I'm going to show you a couple of

10 photographs.

11 First of all, Exhibit Number 2.

12 Do you recognize this person?

13 A. Yes.

14 Q. Who's that?

15 A. William.

16 Q. And Exhibit Number 4A.

17 Who is that?

18 A. Michelle.

19 Q. Now, I notice in that photograph she's

20 blonde, and I see the same person in Exhibit Number

21 4.

22 A. That's Michelle.

23 Q. And that's with dark hair; is that

24 correct?

25 A. Yes.

Castillo, William
Rev'd 10/20/04 SJDC-395
8th JDC recs.

1 Q. When in relation to the 17th or 18th
2 did she dye her hair, do you know?

3 A. Like two weeks, three weeks before
4 that.

5 Q. Okay. I also have a photograph here,
6 Exhibit Number 34.

7 Do you recognize that
8 automobile?

9 A. Yes.

10 Q. And whose automobile is that?

11 A. Michelle's.

12 Q. Did the three of you have any other
13 automobile besides this particular one?

14 A. No.

15 Q. Did you work at that time?

16 A. No.

17 Q. And so for transportation as far as
18 automobiles are concerned, you people were in the
19 habit of utilizing Michelle's?

20 A. We used the bus too.

21 Q. And the bus?

22 A. Yeah. William and I did.

23 MR. KOOT: Excuse me while I'm looking
24 for some paperwork.
25

150

Castillo, William
Rev'd 10/20/04 8JDC-395
8th JDC recs.

1 BY MR. KOOT:

2 Q. I'll show you a couple of documents.

3 Exhibit Number 60. It's a Las
4 Vegas Metropolitan Police Department consent to
5 search document dated December the 19th, 1995.

6 Was that signed by you?

7 A. Yes.

8 Q. And another one, a consent to search
9 document dated December the 21st, 1995 marked
10 Exhibit Number 28.

11 Is that likewise signed by you?

12 A. Yes.

13 Q. And on those two separate occasions did
14 the detectives with your consent engage in a search
15 of your apartment?

16 A. Yes.

17 Q. On the first occasion, that is the 19th
18 of December, did they remove certain property from
19 the premises?

20 A. Yes.

21 Q. And what, to the best of your
22 recollection, was removed from the premises at that
23 time?

24 A. This stuff in front of me.

25 Q. Okay.

151

Castillo, William
Rev'd 10/20/04 SJDC-387
8th JDC recs.

1 A. Some clothes.

2 Q. Pardon me?

3 A. And some clothes.

4 Q. How about a VCR?

5 A. Yes.

6 Q. A VCR.

7 And then I notice a box in front

8 of you which is marked 53A.

9 Was that likewise removed from

10 the premises?

11 A. Yes.

12 Q. I also have some papers here and a

13 wallet which were contained in Exhibit Number 52.

14 Do you recognize the wallet and

15 its contents?

16 A. Yes.

17 Q. And whose is that?

18 A. William's.

19 Q. And then there's a notebook and a piece

20 of paper which had been marked 52A and a notebook

21 has been marked as 52B.

22 Do you recognize the notebook at

23 all?

24 A. Yeah. It's mine.

25 Q. It's yours?

152

Castillo, William
Rev'd 10/20/04 SJD-396
8" JDC recs.

1 A. Uh-huh.

2 Q. Do you recognize the writing on that
3 which says \$50 VCR, \$75 camera, \$500 silverware?

4 A. Yes.

5 Q. Whose writing is that?

6 A. It's William's.

7 Q. 52A is a list -- it's an inventory of
8 apparently some silverware.

9 Do you recognize that writing?

10 A. Yes.

11 Q. Whose writing is that?

12 A. William's.

13 Q. We then have a power bill in your name;
14 is that correct?

15 A. Uh-huh.

16 Q. And that correctly reflects the
17 address?

18 A. Yes.

19 Q. And then we have a phone bill in the
20 name of William?

21 A. Yes.

22 Q. William Castillo?

23 A. Yes.

24 Q. And a pay stub for William Castillo?

25 A. Uh-huh.

Castillo, William
Rec'd 10/20/04 8JDC-399
8th JDC recs.

153

1 Q. How was it that the rent was paid at
2 that premises, who paid?

3 A. All three of us.

4 Q. All three of you?

5 A. Uh-huh.

6 Q. Everybody equally shared the best they
7 could?

8 A. Yes.

9 Q. Why don't you tell us about this box of
10 silverware, Number 53, and the VCR?

11 When did you first become aware
12 of their presence in your house?

13 A. Sunday morning.

14 Q. And that would have been Sunday morning
15 of the 17th of December?

16 A. No. The Sunday after it happened.

17 Q. Pardon me?

18 A. The Sunday after it happened. I don't
19 know the date. The 19th. No, the 17th. Tuesday
20 was the 19th.

21 Q. So it would have been the 17th. The
22 17th?

23 A. Yes.

24 Q. So it was the morning of the 17th?

25 A. Yes.

Castillo, William
Rev'd 10/20/04 8JDC-400
8th JDC recs.

1 Q. Why don't you tell me -- tell the
2 ladies and gentlemen of the Grand Jury how that came
3 about.

4 A. They brought it home with them.

5 Q. Who is "they"?

6 A. Michelle and William.

7 Q. Were you in the apartment at the time?

8 A. Yes.

9 Q. And did you know where they had gone
10 earlier that day before they brought it home?

11 A. No.

12 Q. When had you -- about what time was it
13 that they came into the door with it?

14 A. About 3:00 in the morning.

15 Q. 3:00 o'clock in the morning?

16 A. Yes.

17 Q. When was the last time before 3:00
18 o'clock that you had seen Mr. Castillo?

19 A. At 6:00.

20 Q. p.m.?

21 A. Uh-huh.

22 Q. So that would have been Saturday night?

23 A. Yes.

24 Q. How about Michelle Platou?

25 A. Same time.

155

Castillo, William
Rev'd 10/20/04 SJDC-401
5th JDC recs.

WCastillo - 027-8JDC0401

- 1 Q. Did they leave the apartment together?
- 2 A. Yes.
- 3 Q. Do you know where it was that they were
- 4 going?
- 5 A. No.
- 6 Q. Why did you not accompany them?
- 7 A. I didn't fit in the car. I just stayed
- 8 home.
- 9 Q. You did not know where they were going?
- 10 A. No, I didn't.
- 11 Q. So it's your testimony that at 6:00
- 12 o'clock on Sunday (sic.) evening you saw them, they
- 13 left the apartment, and then you saw them come back
- 14 at about 3:00 o'clock in the morning, Sunday
- 15 morning?
- 16 A. It was Saturday evening and Sunday
- 17 morning.
- 18 Q. Saturday evening they left and Sunday
- 19 morning they came back?
- 20 A. Yes.
- 21 Q. And they had this property with them?
- 22 A. Yes.
- 23 Q. Who was carrying the property?
- 24 A. William.
- 25 Q. William?

Castillo, William
Rev'd 10/20/04 SJDC-402
8th JDC recs.

156

1 A. (The witness moves head up and down.)

2 Q. And what was said about the source of
3 that property by either William or Miss Platou?

4 A. They said they got it from a house.

5 Q. And who said that?

6 A. William.

7 Q. Where was Miss Platou when he was
8 saying that?

9 A. Right next to him.

10 Q. Did she engage in this conversation as
11 well?

12 A. No.

13 Q. What else was said?

14 A. They just said they got this from this
15 house. I asked where the house was at and he told
16 me it was on Decatur.

17 Q. What else did he say?

18 A. That was it and then they left.

19 Q. Tammy, you must have been curious as to
20 how they got that property.

21 A. I assumed they stole it.

22 Q. Did you know that they were going out
23 that evening to steal property?

24 A. No.

25 Q. So they came home with property. Did

Castillo, William
Rec'd 10/20/04 8JDC-403
8th JDC recs.

157

1 you make inquiry as to how it was that they were
2 able to secure that?

3 A. I asked.

4 Q. Did you make --

5 A. Excuse me?

6 Q. Did you ask how they were able to
7 secure that without opposition of the homeowner?

8 A. He said he went into the house and took
9 it.

10 Q. Did they thereafter leave the house
11 again?

12 A. My house?

13 Q. Yes.

14 A. Yes.

15 Q. Both of them?

16 A. Yes.

17 Q. Did they tell you where they were
18 going?

19 A. No. Back to the house actually.

20 Q. Pardon me?

21 A. They said they were going back to the
22 house.

23 Q. Who said that?

24 A. They did. William and Michelle.

25 Q. And why were they going back to the

1 house?

2 A. To burn it.

3 Q. And why were they going to burn the
4 house?

5 A. Because Michelle's fingerprints were in
6 the house.

7 Q. Who said that?

8 A. William.

9 Q. What did Michelle have to say?

10 A. She didn't say much.

11 Q. Just tell me what she said.

12 A. She just said, "Oh, my God. Why is
13 this happening?" She said, "My prints are in the
14 house." That's what they went back to the house
15 for.

16 Q. Did they subsequently return from their
17 trip?

18 A. Yes.

19 Q. About how long were they gone?

20 A. About 15 minutes.

21 Q. Did they take anything with them when
22 they left the house?

23 A. No, not that I seen.

24 Q. Did William smoke cigarettes?

25 A. Yes.

Castillo, William
Rev'd 10/20/04 8JDC-406
8th JDC recs.

WCastillo - 027-8JDC0405

1 Q. What kind of cigarettes did he smoke?

2 A. Marlboros.

3 Q. Did he have a lighter?

4 A. Yes.

5 Q. What kind of a lighter was that?

6 A. A Zippo.

7 Q. And did he use lighter fluid in that
8 lighter?

9 A. Yes.

10 Q. Did he have any lighter fluid at home?

11 A. He just bought one that morning.

12 Q. What type of lighter fluid was that?

13 A. I have no idea. It's a little yellow
14 bottle. I don't know what kind it is.

15 Q. All right. When they came back -- you
16 said after about 10 or 15 minutes -- what was said
17 at that time?

18 A. That they burned the house to get rid
19 of Michelle's fingerprints.

20 MR. KOOT: Could I have a readback on
21 that?

22 (The record was read.)

23 BY MR. KOOT:

24 Q. Tell me what the two of them were
25 saying. Tell me what Bill was saying and what

Castillo, William
Rev'd 10/20/04 SJDC-405
8th JDC recs.

160

1 Michelle was saying.

2 A. When they came back?

3 Q. Yes, uh-huh.

4 A. I really don't remember.

5 Q. Okay. Were they both just kind of --

6 A. -- freaked out.

7 Q. Pardon me?

8 A. They were freaked out.

9 Q. Freaked out?

10 A. They were like all nervous and just
11 like freaked out. They didn't really talk about it
12 that much. I really don't remember what was said.

13 Q. Did he ever tell you why this
14 particular house was picked?

15 A. No.

16 Q. Was there something about a side job,
17 Tammy?

18 A. I think in November.

19 Q. Pardon me?

20 A. In November he did a side job.

21 Q. I know, but did he mention something to
22 you about a side job and the fact that this
23 particular place where they got this stuff had come
24 from a place where they had done a side job?

25 A. No.

Castille, William
Rev'd 10/20/04 BJDC-407
8th JDC recs.

161

1 Q. You gave a statement to the detective,
2 didn't you, Tammy?

3 A. Yes.

4 Q. I'm going to show you, or I might play
5 you the tape to refresh your memory. I'm just going
6 to be very specific in some of my questions.

7 All right. Did he say anything
8 to you about how he gained entry to the residence?

9 A. With a key.

10 Q. And did he tell you where he got that
11 key?

12 A. Found it.

13 Q. And where did he find it?

14 A. At the house.

15 Q. How did he know that there would be a
16 key someplace?

17 A. He found it when he was working on the
18 house.

19 Q. Pardon me?

20 A. He found it when he was working on the
21 house.

22 Q. That would be at the side job?

23 A. Yes.

24 Q. Did he tell you anything about somebody
25 being inside the house --

Castillo, William
Rev'd 10/20/04 SJDC-408
8th JDC recs.

162

MCastillo - 027-8JDC0408

1 A. No.

2 Q. -- on this occasion?

3 A. No.

4 Q. Did he say anything to you about a tire
5 iron?

6 A. No.

7 Q. Yesterday, Tammy, you called me at my
8 office, did you not?

9 A. Yes.

10 Q. And there was a click on the phone and
11 I asked you what that was and what was your
12 response?

13 A. It was three way.

14 Q. And who was on the other end?

15 A. William.

16 Q. William Castillo?

17 A. Yes.

18 Q. So in other words, you called me,
19 identified yourself as the caller and William
20 Castillo was actually on the other end with you,
21 wasn't he?

22 A. Yes. I wasn't going to call you unless
23 he told me to.

24 Q. Pardon?

25 A. I wasn't going to call you.

163

Castillo, William
Rcv'd 10/20/04 SJDC-408
8th JDC recs.

- 1 Q. Why did you call me?
- 2 A. It says on this paper to call you.
- 3 Q. Why did he want to listen me?
- 4 A. He was supporting me. He was giving me
- 5 support to call you.
- 6 Q. Why didn't he identify himself to me?
- 7 A. Because he's not supposed to talk to
- 8 you.
- 9 Q. Why didn't you tell me William Castillo
- 10 was on the other end?
- 11 A. I didn't think it was any of your
- 12 concern. He didn't say anything.
- 13 Q. How close are you to Mr. Castillo?
- 14 A. Very close.
- 15 Q. You remain very close to him?
- 16 A. Yes.
- 17 Q. Do you speak to him often?
- 18 A. Yes.
- 19 Q. Daily?
- 20 A. Yes.
- 21 Q. Do you visit him daily?
- 22 A. Two times a week.
- 23 Q. Do you talk on the telephone?
- 24 A. Yes.
- 25 Q. Has he given you any direction as to

Castillo, William
Rec'd 10/20/04 SJDC-410
8th JDC recs.

164

1 what to say?

2 A. No. I found my own counsel.

3 Q. When you spoke to the detectives about
4 this matter, did you tell the detectives something
5 about a tire iron?

6 A. I don't recall.

7 Q. You don't recall?

8 A. I don't remember, no.

9 They asked me about it, and I
10 said I don't know where it's at, and I've never seen
11 it.

12 Q. My question to you is did you say
13 anything to the detectives, or did you tell the
14 detectives that Mr. Castillo had told you that he
15 used a tire iron?

16 A. I don't remember.

17 Q. Did he tell you anything about the fact
18 that there was a lady inside the house when he took
19 the property?

20 A. No.

21 Q. Did you tell the detectives that he had
22 told you that he hit a lady in the head?

23 A. No. He told me he didn't know who it
24 was or what it was.

25 Q. So he did tell you that there was

Castillo, William
Rev'd 10/20/04 8JDC-411
8th JDC recs.

1 someone inside the house --

2 A. Yes. But he didn't know.

3 Q. -- at the time?

4 A. Yes.

5 Q. And did he tell you what he did with
6 that person that was inside the house?

7 A. Yes.

8 Q. What did he tell you he did?

9 A. He hit them in the head.

10 Q. Why did he hit the person in the head?

11 A. Because he thought that they were
12 waking up, and he didn't want them to see his face.

13 Q. What was he going -- why was it that he
14 burglarized this house, did he tell you?

15 A. Not really. Just to have extra money
16 is what he said.

17 Q. Huh?

18 A. To get extra money.

19 Q. What was he going to do with this
20 property?

21 A. Try to sell it.

22 Q. And did he, in fact, try to sell some
23 of this property to somebody?

24 A. Not -- no.

25 Q. Pardon me?

Castillo, William
Rev'd 10/20/04 8JDC-412
8th JDC recs.

1 A. No.

2 Q. Do you know Mr. Charles MacDonald?

3 A. No.

4 Q. The gentleman sitting out here with the
5 cowboy boots, do you know him?

6 A. No.

7 Q. I want to show you some photographs,
8 see if you recognize them.

9 Exhibit Number 61.

10 Do you recognize that
11 photograph?

12 A. My apartment.

13 Q. That's the front door to your
14 apartment?

15 A. Uh-huh.

16 Q. Just because I'm sitting next to you, I
17 want you to project your voice to the back of the
18 room so everybody can hear you, please.

19 Exhibit Number 62.

20 Do you recognize that?

21 A. Yes.

22 Q. And what does that show?

23 A. That's my TV stand.

24 Q. And underneath that TV stand what am I
25 looking at?

Castillo, William
Rec'd 10/20/04 SJDC-413
6th JDC recs.

1 A. A VCR.

2 Q. That's the Hitachi VCR?

3 A. Yes.

4 Q. Is that the same Hitachi VCR that was
5 carried into your apartment by Mr. Castillo on the
6 17th?

7 A. Yes.

8 Q. And Exhibit Number 63, is that just
9 another view of the same --

10 A. Yes.

11 Q. -- TV stand with the TV and the
12 Hitachi?

13 A. Yes.

14 Q. Exhibit Number 64, is that a picture of
15 your --

16 A. -- counter.

17 Q. -- counter?

18 A. Uh-huh.

19 Q. And what am I pointing to there?

20 A. Notebook.

21 Q. That's the same notebook that I earlier
22 showed you which is Exhibit Number 52B?

23 A. Yep.

24 Q. And then you mentioned something about
25 cigarettes and a lighter. Is that shown in 65?

Castillo, William
Rev'd 10/20/04 SJDC-414
8th JDC recs.

1 A. Yes.

2 Q. What room is that?

3 A. The bedroom.

4 Q. Number 67.

5 What is that a view of?

6 A. A cabinet that sits in the bedroom.

7 Q. Okay. It's kind of like a dresser that
8 sits in your bedroom?

9 A. Yes.

10 Q. What is that on top that I'm pointing
11 to?

12 A. That box.

13 Q. That's Exhibit Number 53A; is that
14 right?

15 A. Yes.

16 Q. Is that another one of the items that
17 was carried in by Mr. Castillo?

18 A. Yes.

19 Q. Exhibit Number 68.

20 Is that another view of the same
21 cabinet?

22 A. Yes.

23 Q. And I notice in the center of that
24 there's a yellow bottle. What is that?

25 A. Lighter fluid.

Castillo, William
Rev'd 10/20/04 8JDC-415
8th JDC recs.

MCastillo - 027-8JDC0415

1 Q. How many bottles of lighter fluid did
2 he have?
3 A. He just bought that one. It was full.
4 Q. Did he have another one?
5 A. No.
6 Q. I notice there's a picture on the wall.
7 Who's that a picture of?
8 A. Billy, William.
9 Q. Exhibit Number 66.
10 What is that a picture of?
11 A. Inside that case.
12 Q. Inside Exhibit Number 53A?
13 A. Yeah.
14 Q. Did you ever see a bushel of watches --
15 a baggie of watches?
16 A. No.
17 Q. Let me show you Exhibit Number 49A.
18 Did you ever see that?
19 A. No.
20 Q. Pardon me?
21 A. No.
22 Q. Never seen any of these?
23 A. Huh-uh.
24 Q. Did you tell the detectives that
25 William Castillo thought at one point that there

170

Castillo, William
Rcv'd 10/20/04 8JDC-415
8th JDC recs.

1 would be -- there were two people inside the house?

2 A. Michelle made that comment.

3 Q. What did Michelle say about that?

4 A. She said she saw two pairs of shoes and
5 thought there was two people in the house.

6 Q. At what point did she see the two pairs
7 of shoes?

8 A. When they were in the hallway.

9 Q. Did she say anything else to you about
10 what she observed inside the house, what she saw?

11 A. No.

12 Q. Didn't she tell you about what she saw
13 William Castillo do?

14 A. She didn't say she really saw him do
15 it. She just heard it.

16 Q. What did she hear? What did she say?

17 A. She said -- I don't really remember
18 what she said to him. She just wanted to know what
19 was going on.

20 Q. What did she say about what she heard?

21 A. What she heard?

22 Q. Yes.

23 A. She heard gurgling.

24 Q. Uh-huh.

25 A. And a sound like somebody was getting

Castillo, William
Rcv'd 10/20/04 SJDC-417
8th JDC reos.

171

1 up.

2 Q. Like somebody was getting up?

3 A. Yeah.

4 They were making the gurgling --
5 like a gurgling noise. That's what she heard.
6 That's what he heard that scared him.

7 Q. Is that what William said scared him,
8 that the person was getting up?

9 A. Yeah. He thought that the person was
10 waking up.

11 Q. And that's why he struck the person?

12 A. Yes.

13 Q. Or did the person wake up after?

14 A. No.

15 He said that the person was
16 waking up -- thought the person was waking up.
17 Actually he said he thought he saw -- he saw two
18 people at first and then he thought he heard
19 somebody waking up, and that's when he went over and
20 didn't want that person to see him and hit him.

21 Q. And hit him with what?

22 A. The tire iron.

23 Q. And where did that tire iron come from?

24 A. I have no idea.

25 Q. Didn't they say something about

172

Castillo, William
Rev'd 10/20/04 BJOC-418
8th JDC recs.

1 Michelle's car?

2 A. I have no idea.

3 Q. Pardon me?

4 A. I have no idea where it came from.

5 Q. Did they say where it came from?

6 A. No.

7 Q. Did they tell you what they did with
8 that tire iron?

9 A. Billy said they threw it in the garbage
10 can.

11 Q. Did he normally carry a tire iron
12 around with him?

13 A. No.

14 Q. Michelle's car had a tire iron, didn't
15 it?

16 A. I believe so, yeah.

17 Q. You had seen the tire iron in there
18 before, hadn't you?

19 A. Yes. They changed the tire one time.

20 MR. KOOT: Officer, nothing further.

21 Oh, yes, I do. I'm sorry.

22 BY MR. KOOT:

23 Q. You see some booties there in front of
24 you?

25 A. Yes.

Castillo, William
Rev'd 10/20/04 SJDC-419
8th JDC recs.

1 Q. Where did you -- did you see those in
2 your apartment?

3 A. Not until the night they came and got
4 them.

5 Yeah. Actually I had mentioned
6 them to him and then they found them in Michelle's
7 stuff.

8 Q. Okay. 51B, where did these come from?

9 A. The house.

10 Q. Who brought those in?

11 A. Michelle.

12 Q. Pardon me?

13 A. Michelle.

14 Q. And what was she going to do with --

15 A. I have no idea.

16 Q. -- these booties?

17 A. I have no idea.

18 Q. Were there some money orders inside
19 there?

20 A. I didn't see any. They said there was,
21 but --

22 Q. Pardon me?

23 A. The cops said there was, but I didn't
24 see any.

25 Q. You didn't see any money orders?

174

Castillo, William
Rev'd 10/20/04 SJDC-420
8th JDC recs.

1 A. No.
2 Q. You just saw the booties?
3 A. Yes.
4 Q. Then the police came back and you
5 turned those over to the police officers?
6 A. Yes, I did.
7 Q. That was the second time they came
8 back, right?
9 A. Right.

10 MR. KOOT: I have nothing further.

11 BY A JUROR:

12 Q. I have a question.
13 You said that the handwriting in
14 that booklet was yours?

15 A. No. It was Williams.

16 Q. It wasn't --

17 A. Williams.

18 Q. Why did he make a list of the contents
19 of that box?

20 A. Why?

21 Q. Uh-huh.

22 A. To try to sell it.

23 Q. He was going to sell the individual
24 pieces, is that what he was trying to do?

25 A. In the -- you mean the long list?

175

Castillo, William
Rev'd 10/20/04 SJPC-421
6" JDC recs.

WCastillo - 027-8JDC0421

1 Q. Uh-huh.

2 A. No. He was just writing down what was
3 in there.

4 Q. For any particular reason?

5 A. Just to know what's in there is what he
6 wrote down.

7 BY A JUROR:

8 Q. You said William bought lighter fluid
9 that morning. Which morning are you referring to?

10 A. That morning, Tuesday morning, the
11 19th.

12 Q. Tuesday morning he bought some?

13 A. Yes.

14 BY A JUROR:

15 Q. You say that you and William are close.
16 Why did you find it necessary to find your own
17 counsel?

18 A. Because I'm scared.

19 Q. Of?

20 A. Of -- just I'm scared. Never been in a
21 situation like this and it's -- I'm not really
22 having a good time dealing with it so I just want
23 somebody here to support me. That's all.

24 BY A JUROR:

25 Q. Where are your parents?

176

Castillo, William
Rec'd 10/20/04 SJDC-422
8th JDC recs.

WCastillo - 027-8JDC0422

1 A. What?

2 Q. Where are your parents?

3 A. In Wisconsin.

4 Q. How old are you?

5 A. 26. 25. I'll be 26 in May.

6 BY THE DEPUTY FOREMAN:

7 Q. When William told you -- did you say
8 that he told you that he had struck someone with a
9 tire iron?

10 A. Yes.

11 Q. Did you inquire -- did you ask him how
12 serious the woman was hurt or did he tell you?

13 A. He didn't know.

14 Q. He didn't know what condition she was
15 in?

16 A. No. He didn't know what it was or who
17 it was. He thought it was a man because of the way
18 it sounded.

19
20 (Interruption by the court
21 reporter to change paper.)
22

23 BY THE DEPUTY FOREMAN:

24 Q. When they told you that they were going
25 back to the house to burn the house to cover up the

Castillo, William
Rev'd 10/20/04 8JDC-422
8th JDC recs.

177

1 evidence, cover up the fingerprints or whatever,
2 what was going through your mind?

3 Did you try -- did you tell them
4 not to do this, or did you tell them this was wrong
5 or anything like that?

6 A. I didn't get to say anything. They
7 were just like I got to go. I got to go. They were
8 hurrying out of the house. They didn't know what
9 happened. They wanted to get rid of Michelle's
10 prints. She would get in trouble. That's what
11 their intention was, to cover up Michelle's prints.

12 BY A JUROR:

13 Q. Miss Bryant, I understand that you are
14 going through a difficult situation.

15 At that time when they came back
16 with the stolen property did you not know for
17 yourself that that was a wrong act?

18 A. Yes, I did.

19 Q. Then when you heard them discuss that
20 they are going to, I guess, eradicate the evidence
21 by burning the house down, did you not also
22 understand --

23 A. Yes.

24 Q. -- that they were about to do an
25 illegal act?

Castillo, William
Rev'd 10/20/04 SJDC-424
8th JDC recs.

1 A. Yes, I did.

2 Q. Okay.

3 A. But in the heat of the moment they were
4 all freaked out.

5 Q. I understand it's a difficult situation
6 and people don't do the right things at that time.

7 But did it even cross your mind
8 at that point to call the authorities and report
9 this illegal act that is about to happen?

10 A. No.

11 Q. Subsequently, two days later before the
12 police approach your home, didn't you have any
13 feelings or any kind of inkling of reporting it to
14 the authorities what you have known?

15 A. No.

16 Q. Okay. May I ask you, is this because
17 of your loyalty towards William?

18 A. Yes.

19 Q. Have you ever observed William to be
20 violent in other situations?

21 A. No.

22 Q. You have never seen him fight before?

23 A. No.

24 MR. KOOT: Well, let's not get into Mr.
25 Castillo's character. I'd ask you not to go into

Castillo, William
Rev'd 10/20/04 8JDC-425
8th JDC recs.

1 that at this time.

2 A JUROR: Okay.

3 BY THE DEPUTY FOREMAN:

4 Q. Miss Bryant, when did you find out that
5 someone had died inside the house that they set on
6 fire?

7 A. The next afternoon.

8 Q. At this time when you found out that
9 someone had died, did you think about consulting the
10 authorities then?

11 A. No.

12 Q. This was because of your feelings
13 towards William?

14 A. And Michelle.

15 Q. And Michelle?

16 A. Yes.

17 BY A JUROR:

18 Q. Was there a reason why the apartment
19 was in your name rather than Michelle or William?

20 A. William is on my lease. William and I
21 are.

22 Q. He's on the lease too?

23 A. We were both on, yeah.

24 Q. At any time before this incident had
25 William brought things home that you're aware of

Castillo, William
Rev'd 10/20/04 SJDC-425
8th JDC recs.

180

1 that he did not buy?

2 A. No.

3 MR. KOOT: Again, maybe we should stay
4 away from this area of inquiry. I can understand
5 the reason for the inquiry to determine the
6 knowledge so to that extent it might be relevant. I
7 just don't want you to use it to in any way to
8 demonstrate any bad character on the part of Mr.
9 Castillo.

10 BY A JUROR:

11 Q. How long have you known William?

12 A. Six months.

13 Q. And you had shared the apartment for
14 that time?

15 A. Four months.

16 BY THE DEPUTY FOREMAN:

17 Q. How long have you known Michelle?

18 A. A year.

19 THE DEPUTY FOREMAN: Anyone else have
20 any other questions?

21 (No response.)

22 THE DEPUTY FOREMAN: By law, these
23 proceedings are secret, and you are prohibited from
24 disclosing to anyone anything that transpired before
25 us including evidence presented to the Grand Jury,

Castillo, William
Rev'd 10/2004 8JDC-427
8th JDC recs.

181

1 any event occurring or a statement made in the
2 presence of the Grand Jury, or information obtained
3 by the Grand Jury.

4 Failure to comply with this
5 admonition is a gross misdemeanor, punishable by a
6 year in the Clark County Detention Center and a
7 \$2,000 fine. In addition, you may be held in
8 contempt of court punishable by an additional \$500
9 fine and 25 days in the Clark County Detention
10 Center.

11 Do you understand?

12 THE WITNESS: Yes.

13 THE DEPUTY FOREMAN: Thank you.

14 (Witness excused.)

15 MR. KOOT: That's all that I have to
16 present today. I'm sorry I went over 20 minutes.

17 A JUROR: I have a question.

18 MR. KOOT: We'll finish this case up
19 next Thursday afternoon.

20
21 (Proceedings were adjourned and
22 will reconvene at a later date.)
23

24 ---o0o---

WCastillo - 027-8JDC0428

REPORTER'S CERTIFICATE

STATE OF NEVADA)
 : ss
COUNTY OF CLARK)

I, Brenda A. Lee, C.C.R. 198, do hereby
certify that I took down in Shorthand (Stenotype)
all of the proceedings had in the before-entitled
matter at the time and place indicated and
thereafter said shorthand notes were transcribed at
and under my direction and supervision and that the
foregoing transcript constitutes a full, true and
accurate record of the proceedings had.

Dated at Las Vegas, Nevada, January 15, 1996.


BRENDA A. LEE, C.C.R. No. 198

183

Castillo, William
Rev'd 10/20/04 8JDC-428
8th JDC recs.

027-8JDC0428

AA002998

EXHIBIT 148

EXHIBIT 148

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

No. 56176

Electronically Filed
Feb 01 2011 08:47 a.m.
Tracie K. Lindeman

VS.

Respondents.

Eighth Judicial District Court, Clark County

FRANNY A. FORSMAN
Federal Public Defender
GARY A. TAYLOR
Assistant Federal Public Defender
Nevada Bar No. 11031C
411 East Bonneville Ave, Ste. 250
Las Vegas, Nevada 89101
(702) 388-6577
Counsel for Appellant

The following practice advisory was approved by the ASA House of Delegates on October 28, 2005. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

development of the Advisory. This literature often permits the identification of recurring patterns of clinical practice.

As with a practice guideline, formal survey information is collected from consultants and members of the ASA. The following terms describe survey responses for any specified issue. Responses are solicited on a 5-point scale; ranging from 1 (strongly disagree) to 5 (strongly agree) with a score of 3 being equivocal. Survey responses are summarized based on median values as follows:

Strongly Agree:	Median score of 5 (At least 50% of the responses are 5)
Agree:	Median score of 4 (At least 50% of the responses are 4 or 4 and 5)
Equivocal:	Median score of 3 (At least 50% of the responses are 3, or no other response category or combination of similar categories contain at least 50% of the responses)
Disagree:	Median score of 2 (At least 50% of responses are 2 or 1 and 2)
Strongly Disagree:	Median score of 1 (At least 50% of responses are 1)

Additional information is obtained from open forum presentations and other invited and public sources. The advisory statements contained in this document represent a distillation of the current spectrum of clinical opinion and literature-based findings.¹

Advisories

1. Preoperative Evaluation

A preoperative evaluation includes (1) obtaining a focused history (i.e., medical records, laboratory reports, patient or patient and family interview), (2) conducting a physical examination, (3) identifying patients at risk for intraoperative awareness (e.g., planned anesthetics, type of surgery), and (4) informing selected patients of the possibility of intraoperative awareness.

Descriptive studies and case reports suggest that certain patient characteristics may be associated with intraoperative awareness, including age, gender, ASA status, and drug resistance or tolerance.^{4,5}

¹ Refer to appendix 1 for a summary of the advisories.

The following practice advisory was approved by the ASA House of Delegates on October 28, 2008. It should be considered final. This practice advisory will be published in a future issue of the *Journal of Anesthesiology*.

¹¹ Descriptive studies and case reports suggest that certain procedures (e.g., cesarean section, cardiac surgery, trauma surgery)^{4,12-20} as well as anesthetic techniques (e.g., rapid-sequence induction, reduced anesthetic doses with or without the presence of paralysis)^{2,3,9,12,14,21, 22,26-33} may be associated with an increased risk of intraoperative awareness. No studies were found that examined the clinical impact of informing the patient prior to surgery of the possibility of intraoperative awareness.

The consultants and ASA members agree that a preoperative evaluation may be helpful in identifying patients at risk for intraoperative awareness.²² In addition, they agree that a focused preoperative evaluation to identify patients at risk of intraoperative awareness should include review of a patient's medical record, a thorough physical examination, and a patient or patient and family interview. They agree that patient characteristics that may place a patient at risk for intraoperative awareness include: substance use or abuse, limited hemodynamic reserve, and ASA status of 4 or 5. The consultants strongly agree and the ASA members agree that a history of intraoperative awareness may place a patient at risk. The consultants disagree and the ASA members are equivocal regarding whether all patients should be informed of the possibility of intraoperative awareness. The consultants strongly agree and the ASA members agree that only patients considered to be at elevated risk of intraoperative awareness should be informed of the possibility of intraoperative awareness. Finally the consultants and the ASA members disagree that informing the patient preoperatively of the risk of intraoperative awareness increases the *actual* risk of intraoperative awareness.

Advisory. The Task Force believes that some components of the preoperative evaluation may be useful in identifying a patient at increased risk for awareness. An evaluation should include, if possible, a review of a patient's medical records for previous occurrences of awareness or other potential risk factors, a patient interview to assess level of anxiety or previous experiences with anesthesia, and a physical examination. Potential risk factors to consider for patients undergoing

²² Refer to appendix 2 for complete results of the consultant and ASA membership surveys.

The following practice advisory was approved by the ASA House of Delegates on October 25, 2005. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

general anesthesia include substance use or abuse (e.g., opioids, benzodiazepines, cocaine), a history of awareness, a history of difficult intubation or anticipated difficult intubation, chronic pain patients on high doses of opioids, cardiac surgery, Cesarean section, trauma and emergency surgery, reduced anesthetic doses in the presence of paralysis, planned use of muscle relaxants during the maintenance phase of general anesthesia, total intravenous anesthesia, the planned use of nitrous oxide-opioid anesthesia, ASA status of 4 or 5, and limited hemodynamic reserve. The consensus of the Task Force is that patients whom the individual clinician considers to be at substantially increased risk of intraoperative awareness should be informed of the possibility of intraoperative awareness when circumstances permit.

II. Preinduction Phase of Anesthesia

Issues concerned with the preinduction phase of anesthesia related to the prevention of intraoperative awareness include checking the functioning of anesthesia delivery systems, and the prophylactic administration of benzodiazepines.

Although checking the functioning of anesthesia delivery systems is standard practice, some cases of intraoperative awareness have resulted from too low concentrations of inspired volatile anesthetics or drug errors, including drug delivery errors.^{8,34-39} One double-blind randomized clinical trial evaluated the efficacy of the prophylactic administration of midazolam as an anesthetic adjuvant during ambulatory procedures under total intravenous anesthesia and reported a lower frequency of intraoperative awareness in the midazolam groups compared to the placebo group.⁴⁰ Two randomized clinical trials examined anterograde amnesia by providing pictures as stimuli after administration of midazolam but before induction of general anesthesia. Although these studies reported reduced recall in patients administered midazolam, the presence of consciousness during general anesthesia and subsequent intraoperative awareness was not examined.^{41,42}

The following practice advisory was approved by the ASA House of Delegates on October 28, 2008. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

The consultants and ASA members strongly agree that the functioning of anesthesia delivery systems (e.g., vaporizers, infusion pumps, fresh gas flow, IV lines) should be checked to reduce the risk of intraoperative awareness. The consultants disagree, and the ASA members are equivocal that a benzodiazepine or scopolamine should be used as a component of the anesthetic to reduce the risk of intraoperative awareness for *all* patients. The consultants agree that a benzodiazepine or scopolamine should be used for patients requiring smaller dosages of anesthetics, patients undergoing cardiac surgery, and patients undergoing trauma surgery. They are equivocal regarding patients undergoing Cesarean section, emergency surgery, and with total intravenous anesthesia. The ASA members agree that a benzodiazepine or scopolamine should be used for patients requiring smaller dosages of anesthetics, patients undergoing cardiac surgery, emergency surgery, trauma surgery, and total intravenous anesthesia. They are equivocal regarding patients undergoing Cesarean section.

Advisory. Since intraoperative awareness may be caused by equipment malfunction or misuse, the Task Force believes that there should be adherence to a checklist protocol for anesthesia machines and equipment to assure that the desired anesthetic drugs and doses will be delivered. These procedures should be extended to include verification of the proper functioning of intravenous access, infusion pumps and their connections. The Task Force consensus is that the decision to administer a benzodiazepine prophylactically should be made on a case-by-case basis for selected patients (e.g., patients requiring smaller dosages of anesthetics). The Task Force cautions that delayed emergence may accompany the use of benzodiazepines.

III. Intraoperative Monitoring

Intraoperative awareness cannot be measured during the intraoperative phase of general anesthesia, since the recall component of awareness can only be determined postoperatively by obtaining information directly from the patient. Therefore, the primary issue regarding intraoperative

The following practice advisory was approved by the ASA House of Delegates on October 25, 2006. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

monitoring addressed by this Advisory is whether the use of clinical techniques, conventional monitoring systems, or brain function monitors reduce the occurrence of intraoperative awareness.

The majority of literature obtained during the search and review process did not directly address whether these techniques, systems, or monitors reduce the frequency of intraoperative awareness. However, many studies were found that report intraoperative measures or index values from monitoring activities. This literature, while not directly assessing the impact of an intervention on awareness, often reported patterns or values that occurred at identifiable times during the perioperative period with the intention of describing or predicting variations in the depth of anesthesia. Therefore, commonly reported findings from this literature are summarized below.

The literature for each intervention is presented in the following order: (1) randomized clinical trials, (2) nonrandomized comparative studies (e.g., quasi-experimental, prospective cohort studies), (3) correlational studies (e.g., correlations of index values with end-tidal concentrations of hypnotic drugs or with movement in response to noxious stimuli), (4) descriptive reports of monitor index values at particular times during a procedure; and (5) case reports of unusual or unintended benefits or harms occurring during a monitoring activity. Correlational studies often report a measure of association between two continuous variables (e.g., the correlation between index values and anesthetic drug concentrations). Other correlational measures include a prediction probability (Pk) value that provides a measure of how well a monitor or technique can differentiate between two different clinical states (e.g., response versus no response to verbal command).⁴⁸ A Pk value of 1.0 indicates perfect association between an index value and a clinical state, while a Pk value of 0.50 indicates a prediction probability equal to chance.

A. Clinical Techniques and Conventional Monitoring:

Among the clinical techniques utilized to assess intraoperative consciousness are checking for movement, response to commands, opened eyes, eyelash reflex, pupillary responses or diameters,

The following practice advisory was approved by the ASA House of Delegates on October 28, 2008. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

perspiration and tearing. Conventional monitoring systems include ASA standard monitoring¹⁷ as well as the end-tidal anesthetic analyzer.

No clinical trials or other comparative studies were found that examine the effect of clinical techniques or conventional monitoring on the incidence of intraoperative awareness. Correlational studies reported Pk values ranging from 0.74 to 0.76 for the association between reflex or purposeful movement and indicators for depth of anesthesia.⁴⁴ One study reported a significant association between response to command and memory when continuous infusions of propofol were used as the induction anesthetic.⁴⁵ Pk values for mean arterial pressure (MAP) ranged from 0.68 to 0.94 for distinguishing a responsive state from an unresponsive state, and from 0.81 to 0.89 for distinguishing an anesthetized state from emergence following anesthesia (i.e., first response). Pk values for heart rate (HR) ranged from 0.50 to 0.82 for distinguishing a responsive state from an unresponsive state, and from 0.54 to 0.67 for emergence.⁴⁶⁻⁴⁸ Wide ranges of mean MAP and HR values were reported during various intraoperative times. Studies reported ranges of mean MAP values as follows: before induction or baseline, 90 to 103 mmHg; at induction, 58.4 to 88 mmHg; during surgery, 78 to 102 mmHg; at emergence or end of surgery, 58.7 to 97 mmHg; and during postoperative recovery, 86 to 104 mmHg. Mean HR ranges were reported as follows: before induction or baseline, 61 to 82 bpm; at induction, 55 to 67 bpm; during surgery, 74 to 82 bpm; at emergence or end of surgery, 59 to 92 bpm; and during postoperative recovery, 82 to 89 bpm.⁴⁹⁻⁵⁰ Awareness has been reported to occur in the absence of tachycardia or hypertension.^{51,52,54}

The consultants and ASA members agree that clinical techniques (e.g., checking for purposeful or reflex movement) are valuable and should be used to assess intraoperative consciousness. In addition, the consultants and ASA members agree that conventional monitoring systems (e.g., ECG,

¹⁷ American Society of Anesthesiologists: Standards for basic anesthetic monitoring. In *ASA Standards, Guidelines and Statements*; American Society of Anesthesiologists Publication: October, 2004.

The following practice advisory was approved by the ASA House of Delegates on October 25, 2005. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

BP, HR, end-tidal anesthetic analyzer, capnography) are valuable and should be used to help assess intraoperative consciousness.

B. Brain Electrical Activity Monitoring:

Most of the devices designed to monitor brain electrical activity for the purpose of assessing anesthetic effect record electroencephalographic (EEG) activity from electrodes placed on the forehead. Systems can be subdivided into those that process spontaneous EEG and electromyographic (EMG) activity and those that acquire evoked responses to auditory stimuli (auditory evoked potential, AEP). After amplification and conversion of the analog EEG signal to the digital domain, various signal processing algorithms are applied to the frequency, amplitude, latency and/or phase relationship data derived from the raw EEG or AEP to generate a single number, often referred to as an "index" typically scaled between 100 and zero. This index represents the progression of clinical states of consciousness ('awake', 'sedated', 'light anesthesia', 'deep anesthesia'), with a value of 100 being associated with the awake state, and values of zero occurring with an isoelectric EEG (or absent middle latency AEP). These processing algorithms may either be published and in the public domain or proprietary. Detailed descriptions of the various approaches to EEG signal processing, including bispectral analysis may be found elsewhere.³⁷ Artifact recognition algorithms intended to avoid contaminated, and therefore spurious, "index" values are an important component of the software in most monitors.

Although EMG activity from scalp muscles can be considered an artifact from the viewpoint of pure EEG analysis, it may be an important source of clinically relevant information. Sudden appearance of frontal (forehead) EMG activity suggests somatic response to noxious stimulation resulting from inadequate analgesia and may give warning of impending arousal. For this reason, some monitors separately provide information on the level of EMG activity.

1. Spontaneous EEG Activity Monitors.

The following practice advisory was approved by the ASA House of Delegates on October 25, 2006. It should be considered final. This practice advisory will be published in a future issue of the *Journal of Anesthesiology*.

Bispectral Index. Bispectral index (BIS) is a proprietary algorithm (Aspect Medical Systems) that converts a single channel of frontal EEG into an index of hypnotic level (bispectral index; BIS). BIS is available either as a separate device (BIS monitor; Aspect Medical Systems) or incorporated - under license from Aspect Medical Systems - in 'BIS modules' made by various anesthesia equipment manufacturers. To compute the BIS, several variables derived from the EEG time domain (burst-suppression analysis), frequency domain (power spectrum, bispectrum; interfrequency phase relationships) are combined into a single index of hypnotic level. BIS values are scaled from 0 to 100, with specific ranges (e.g., 40-60) reported to reflect a low probability of consciousness under general anesthesia. The weight factors for the various components in the multivariate model that generates the BIS were empirically derived from a prospectively collected database of over 1500 anesthetics. The BIS model accounts for the nonlinear stages of EEG activity by allowing different parameters to dominate the resulting BIS as the EEG changes its character with increasing plasma concentrations of various anesthetics, resulting in a linear decrease in BIS. As more data have become available and as methods and algorithms to suppress artifacts have been improved, revised iterations of the algorithm and optimized hardware have been released.

Several RCTs have compared outcomes with BIS-guided anesthetic administration versus standard clinical practice without BIS. In one RCT that enrolled 2500 patients at high risk of intraoperative awareness, explicit recall occurred in 0.17% of patients when BIS monitors were used and in 0.91% of patients managed by routine clinical practice ($p < 0.02$).³⁸ A small ($N = 30$) single-blinded RCT (i.e., the anesthesiologists were blinded to the recorded BIS values) compared BIS monitoring with clinical signs during cardiac surgery, and reported one episode of recall in the clinical signs group compared to no episodes in the BIS-monitored group ($p > 0.50$).³⁹ In other RCTs, times to awakening, first response, or eye opening and consumption of anesthetic

—8.TDA-00002705

The following practice advisory was approved by the ASA House of Delegates on October 25, 2005. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

drugs were reduced with the use of BIS.^{4,60-62}

One nonrandomized comparison of the use of BIS monitoring versus a cohort of historical controls (N = 12,771) found explicit recall occurring in 0.04% of the BIS monitored patients versus 0.18% of the historical controls ($p < 0.038$).⁶³ Another prospective nonrandomized cohort study (N = 19,575) designed to establish the incidence of awareness with recall during routine general anesthesia and to determine BIS values associated with intraoperative awareness events reported no statistically significant difference when BIS was used (0.18% of patients) compared to when BIS was not used (0.10% of patients). Other nonrandomized comparative studies reported higher index values upon arrival in the PACU, shorter recovery times, and lower anesthetic usage among patients monitored with BIS compared to patients not monitored with BIS.^{70,71} Numerous correlational studies reported Pk values for BIS ranging from 0.72 to 1.00 for awake versus loss of response following induction with propofol (with or without opioids); and from 0.79 to 0.97 for anesthetized versus first response.^{48-50,72-75} One study reported a Pk value of 0.86 for movement from electrical stimulation.⁴⁴ Wide ranges of mean BIS values have been reported during various intraoperative times. Ranges of mean BIS values were as follows: before induction or baseline, 80 to 98; at or after induction, 37 to 70; during surgery, 20 to 58; at emergence or end of surgery, 42 to 96; and during postoperative recovery, 64 to 96.^{39,51,54-56,76-110} Several case reports indicate that intraoperative events unrelated to titration of anesthetic agents can produce rapid changes in BIS values, e.g., cerebral ischemia or hypoperfusion, gas embolism, unrecognized hemorrhage, inadvertent blockage of anesthesia drug delivery.¹¹¹⁻¹¹⁹ Other case reports suggest that routine intraoperative events (e.g., administration of depolarizing muscle relaxants, activation of electromagnetic equipment or devices, patient warming or planned hypothermia) may interfere with BIS functioning.¹²⁰⁻¹²⁸ Two case reports were found that reported patients experiencing intraoperative awareness in spite of monitored values indicating an

The following practice advisory was approved by the ASA House of Delegates on October 25, 2008. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

adequate depth of anesthesia.^{129,130} Finally, still other case reports suggested that certain patient conditions may affect BIS values.¹³¹⁻¹³³

Entropy. Entropy (GE Healthcare Technologies) describes the irregularity, complexity, or unpredictability characteristics of a signal. A single sine wave represents a completely predictable signal (entropy = 0), whereas noise from a random number generator represents entropy = 1. The algorithm for calculation of entropy in the EEG signal (as incorporated in the Datex-Ohmeda S/5 entropy Module) is in the public domain and detailed descriptions have recently been published.¹³⁴

Entropy is independent of absolute scales such as the amplitude or the frequency of the signal. The commercially available Datex-Ohmeda module calculates entropy over time windows of variable duration and reports two separate entropy values. State entropy (SE) is an index ranging from zero to 91 (awake), computed over the frequency range from 0.8 Hz to 32 Hz, reflecting the cortical state of the patient. Response Entropy (RE) is an index ranging from zero to 100 (awake) computed over a frequency range from 0.8 Hz to 47 Hz, containing the higher EMG-dominated frequencies, and will thus also respond to the increased EMG activity resulting from inadequate analgesia. No clinical trials or other comparative studies were found that examine the impact of entropy monitoring on the incidence of intraoperative awareness. One clinical trial reported reduced times to eye opening, response to command, and consumption of anesthetic drugs with the use of entropy monitoring.¹³⁵

Correlational studies report the following Pk values for loss of consciousness: for RE, 0.83 to 0.97; for SE, 0.81 to 0.90.^{45,136-137} For anesthetized versus first response, the following Pk values are reported: for RE, 0.85; and for SE, 0.82.⁴⁶ Ranges of mean RE and SE values were as follows: before induction or baseline, 98 (RE) and 89 to 91 (SE); during surgery, 34 to 52 (RE) and 50 to 63 (SE); and at emergence or end of surgery, 96 (RE) and 85 (SE).^{82,138,139,139}

The following practice advisory was approved by the ASA House of Delegates on October 25, 2005. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

Narcotrend. The Narcotrend (MonitorTechnik) is derived from a system developed for the visual classification of the EEG patterns associated with various stages of sleep. After artifact exclusion and Fourier transformation, the original electronic algorithm classified the raw (frontal) EEG according to the following system: A (awake), B (sedated), C (light anesthesia), D (general anesthesia), E (general anesthesia with deep hypnosis), F (general anesthesia with increasing burst suppression). The system included a series of sub-classifications resulting in a total of 14 possible sub-stages: A, B0-2, C0-2, D0-2, E0-1, and F0-1.¹⁴⁰ In the most recent iteration of the Narcotrend software (version 4.0), the alphabet-based scale has been "translated" into a dimensionless index, the Narcotrend Index, scaled from zero (deeply anesthetized) to 100 (awake), with the stated intention of producing a scale quantitatively similar to the BIS index.

No clinical trials or other comparative studies were found that examine the impact of Narcotrend monitoring on the incidence of intraoperative awareness. One RCT has compared the use of Narcotrend-controlled versus clinically controlled anesthetic administration and found a shorter recovery time in the Narcotrend group (i.e., opened eyes) after termination of anesthesia.⁶³ P_k values for Narcotrend ranged from 0.93 to 0.99 for awake versus loss of response following induction with propofol combined with an opioid, and from 0.94 to 0.99 for anesthetized versus first response.^{67,68} Reported mean Narcotrend values are as follows: after induction (loss of response), 72 to 80; and at emergence or end of surgery (spontaneously opened eyes), 80.⁷¹

Patient State Analyzer. The Patient State Index, or PSI (Physiometrix) is derived from a 4-channel EEG. The derivation of the PSI is based on the observation that there are reversible spatial changes in power distribution of quantitative EEG at loss and return of consciousness. The Patient State Index (PSI) has a range of 0 to 100, with decreasing values indicating decreasing levels of consciousness or increasing levels of sedation, similar to BIS, Entropy and Narcotrend. The PSI algorithm was constructed using stepwise, discriminant analysis based on

The following practice advisory was approved by the ASA House of Delegates on October 28, 2006. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

multivariate combinations of quantitative EEG variables, derived after Fourier transformation of the raw EEG, and found to be sensitive to changes in the level of anesthesia.

No clinical trials or other comparative studies were found that examine the impact of PSI monitoring on the incidence of intraoperative awareness. One correlational study reported a Pk value of 0.70 for predicting response to command, with a sensitivity of 85.6% and specificity of 38.8%,⁷⁷ and another study reported a significant correlation of the PSI with unconsciousness.¹⁴¹ Reported mean PSI values are as follows: before induction or baseline, 92; during surgery, 32; at emergence or end of surgery, 53; and during postoperative recovery, 81.¹⁴¹

SNAP index. The SNAPII (Everest Biomedical Instruments) calculates a "SNAP index" from a single channel of EEG. The index calculation is based on a spectral analysis of EEG activity in the 0-18 Hz and 30-420 Hz frequency ranges, and a burst suppression algorithm. There are no published data on the actual algorithm used to calculate the SNAP index, which is based on a composite of both low (0-40 Hz) and high (30-420 Hz) frequency components.

No clinical trials or other comparative studies were found that examine the impact of SNAP monitoring on the incidence of intraoperative awareness. One correlational study was found that reported a mean SNAP index of 71 to be predictive of a loss of consciousness in 95% of elective surgery patients.¹⁴²

Danmeter Cerebral State Monitor/Cerebral State Index. The Danmeter CSM is a handheld device that analyzes a single channel EEG and presents a cerebral state 'index' scaled from 0-100. In addition, it also provides EEG suppression percentage and a measure of EMG activity (75-85 Hz).

No published literature was found that examined the impact of Danmeter CSM monitoring on the incidence of intraoperative awareness.

2. *Evoked Brain Electrical Activity Monitors.*

The following practice advisory was approved by the ASA House of Delegates on October 25, 2005. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

AEP Monitor/2 (Daanmeter). Auditory evoked potentials (AEP) are the electrical responses of the brainstem, the auditory radiation and the auditory cortex to auditory sound stimuli (clicks) delivered via headphones. The effects of anesthetics on AEP have been studied since the early 1980s.¹⁴³⁻¹⁴⁵ The brainstem response is relatively insensitive to anesthetics while early cortical responses, known as the middle-latency AEP (MLAEP) change predictably with increasing concentrations of both volatile and intravenous anesthetics. The typical AEP response to increasing anesthetic concentrations is increased latency and decreased amplitude of the various waveform components. These signals are extremely small (less than one microvolt) necessitating extraction from the spontaneous EEG using signal averaging techniques. Prior to recent innovations, signal averaging was relatively time consuming (several minutes per averaged waveform). More recent signal filtering advances have resulted in an instrument (A-Line) that can record and rapidly update a single channel of AEP from forehead electrodes. From a mathematical analysis of the AEP waveform, the device generates an 'AEP-index' that provides a correlate of anesthetic concentration. The AEP index, or AAI, is scaled from 0 to 100. In contrast to many EEG indices, the AAI corresponding with low probability of consciousness is less than 25, rather than the higher numeric thresholds associated with the other monitors. The device is FDA approved but is not currently marketed in North America.

RCTs that compared MLAEP monitoring (e.g., to titrate anesthetics) to standard clinical practice without MLAEP reported reduced times to eye opening or orientation.^{43,44,146} A Pk value of 0.79 was reported for loss of eyelash reflex following induction with propofol and an opioid,⁷⁴ and Pk values of 0.63 and 0.66 were reported for responsiveness following discontinuation of remifentanyl or sevoflurane, respectively.¹⁴⁷ One study reported a Pk value of 0.87 for movement,¹⁴⁸ and another study reported a Pk value of 0.99 for awareness after LMA insertion.¹⁴⁹ Descriptive studies reported ranges of mean values as follows: before induction or baseline, 73.5

The following practice advisory was approved by the ASA House of Delegates on October 25, 2005. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

to 85; at or after induction, 33.4 to 61; during surgery, 21.1 to 37.8; at emergence or end of surgery, 24.6 to 40; and during postoperative recovery, 59.7.^{74,88,144,150-151}

C. Consultant and ASA Member Survey Findings.

Consultants who participated in this Advisory typically either had a particular knowledge or an expressed interest in intraoperative awareness and brain function monitors. The majority of these consultants disclosed receipt of funds from or a financial interest in a company developing or manufacturing brain function monitors. Consultants were not asked to disclose similar relationships with other companies that may be indirectly affected by the use of brain function monitors. ASA members were randomly selected from a list of active members of the society.

The consultants and ASA members disagree that a brain electrical activity monitor is valuable and should be used to reduce the risk of *intraoperative awareness* for *all* patients. The consultants and ASA members disagree that a brain electrical activity monitor is valuable and should be used to reduce the risk of intraoperative awareness for *no* patient. The consultants agree that a brain electrical activity monitor should be used for patients with conditions that may place them at risk, patients requiring smaller doses of general anesthetics, trauma surgery, Cesarean section, and total intravenous anesthesia. They are equivocal regarding the use of brain electrical activity monitoring for cardiac surgery and emergency surgery. The ASA members agree with the use of such monitors for patients with conditions that may place them at risk, patients requiring smaller doses of general anesthetics, and patients undergoing cardiac surgery. They are equivocal regarding the use of these monitors for patients undergoing Cesarean section, emergency surgery, trauma surgery, and total intravenous anesthesia.

The consultants and ASA members disagree that a brain electrical activity monitor is valuable and should be used to assess intraoperative *depth of anesthesia* for *all* patients. The consultants and ASA members disagree with the statement that "a brain electrical activity monitor is valuable and

• •

EXHIBIT 146

Part 2

The following practice advisory was approved by the ASA House of Delegates on October 25, 2008. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

should be used to assess intraoperative depth of anesthesia for no patient." The consultants agree that a brain electrical activity monitor should be used to assess intraoperative depth of anesthesia for selected patients. The ASA members agree with the use of brain electrical activity monitors for patients with conditions that may place them at risk and patients requiring smaller doses of general anesthetics. They are equivocal regarding the use of such monitors for patients undergoing cardiac surgery, Cesarean section, emergency surgery, trauma surgery, and total intravenous anesthesia.

Advisory. Intraoperative monitoring of depth of anesthesia, for the purpose of minimizing the occurrence of awareness, should rely on multiple modalities, including clinical techniques (e.g., checking for clinical signs such as purposeful or reflex movement) and conventional monitoring systems (e.g., ECG, BP, HR, end-tidal anesthetic analyzer, capnography). The use of neuromuscular blocking drugs may mask purposeful or reflex movements, and adds additional importance to the use of monitoring methods that assure the adequate delivery of anesthesia.

Brain function monitors are dedicated to the assessment of the effects of anesthetics on the brain, and provide information that correlates with some depth of anesthesia indicators, such as plasma concentrations of certain anesthetics (e.g., propofol). In general, the indices generated by these monitors vary in parallel with other established correlates of depth of anesthesia, although the values generated by individual devices in any given anesthetic state differ among the various monitoring technologies. In addition, the values generated by individual devices in the face of a given depth of anesthesia achieved by different combinations of anesthetic drugs (e.g., with or without opioids) will also differ. In other words, a specific numerical value may not correlate with a specific depth of anesthesia. Furthermore, the measured values do not have uniform sensitivity across different anesthetic drugs or types of patients. As with other monitors, common occurrences in the OR may introduce artifacts into the values derived by these monitors (e.g., electrocautery, lasers, warming devices).

The following practice advisory was approved by the ASA House of Delegates on October 25, 2005. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

The general clinical applicability of these monitors in the prevention of intraoperative awareness has not been established. While a single randomized clinical trial reported a decrease in the frequency of awareness in high-risk patients, there is insufficient evidence to justify a standard, guideline, or absolute requirement that these devices be used to reduce the occurrence of intraoperative awareness in high-risk patients undergoing general anesthesia. In addition, there is insufficient evidence to justify a standard, guideline, or absolute requirement that these devices be used to reduce the occurrence of intraoperative awareness for any other group of patients undergoing general anesthesia.

It is the consensus of the Task Force that brain function monitoring is not routinely indicated for patients undergoing general anesthesia, either to reduce the frequency of intraoperative awareness or to monitor depth of anesthesia. This consensus is based, in part, on the state of the literature and survey responses from the consultants and ASA membership, who generally disagree with the following statements: "Brain function monitors are valuable and should be used to reduce the risk of intraoperative awareness for all patients under general anesthesia," and "Brain function monitors are valuable and should be used when possible to assess intraoperative depth of anesthesia for all patients under general anesthesia" (see above and tables 1 and 2).

It is the consensus of the Task Force that the decision to use a brain function monitor should be made on a case-by-case basis by the individual practitioner for selected patients (e.g., light anesthesia). This consensus is based, in part, on the state of the literature and survey responses patterns from consultants and ASA members regarding specific risk factors (see above and tables 1 and 2). The Task Force cautions that maintaining low brain function monitor values is an attempt to prevent intraoperative awareness may conflict with other important anesthesia goals (e.g., preservation of vital organ functions, minimizing the risks of aggravating existing co-morbidities¹⁵²). It is the opinion of the Task Force that brain function monitors currently have the status of the many

The following practice advisory was approved by the ASA House of Delegates on October 28, 2008. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

other monitoring modalities that are currently used in selected situations at the discretion of individual clinicians.

IV. Intraoperative and Postoperative Interventions

Intraoperative and postoperative interventions include: (1) the intraoperative administration of benzodiazepines to patients who may have become conscious, (2) providing a postoperative structured interview to patients to define the nature of the episode after an episode of intraoperative awareness has been reported, (3) providing a postoperative questionnaire to patients to define the nature of the episode, and (4) offering postoperative counseling or psychological support.

No studies were found that evaluated the efficacy of the intraoperative administration of benzodiazepines to patients who have unexpectedly become conscious in reducing the occurrence of awareness. Two randomized clinical trials examined retrograde amnesia by providing pictures as stimuli to awake patients before administration of midazolam and induction of general anesthesia. The studies reported no evidence of retrograde amnesia.^{41,42} However, these studies did not examine the effect of administering a benzodiazepine to patients after the apparent occurrence of consciousness during general anesthesia.

Although several studies have applied structured interviews and questionnaires to obtain additional information about reported incidences of intraoperative awareness,^{41,46,48,151-157} no studies were found that demonstrated improvements in patient well-being or psychological state following such interactions. No studies were found that followed up on the efficacy of counseling or psychological support provided to patients who experienced a documented incidence of intraoperative awareness.

The consultants are equivocal and ASA members agree that benzodiazepines or scopolamine should be administered intraoperatively to prevent awareness after a patient has unexpectedly become conscious. The consultants strongly agree, and the ASA members agree that, once an episode of

The following practice advisory was approved by the ASA House of Delegates on October 25, 2005. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

intraoperative awareness has been reported, a structured interview should be conducted to define the nature of the episode. Both the consultants and ASA members are equivocal regarding whether a questionnaire should be given to define the nature of the episode. The consultants strongly agree, and the ASA members agree that, in documented cases of intraoperative awareness, patients should be offered counseling or psychological support. Finally, the consultants strongly agree, and the ASA members agree that, in documented cases of intraoperative awareness, an occurrence report concerning the event should be completed for the purpose of quality management.

Advisory. The Task Force consensus is that the decision to administer a benzodiazepine intraoperatively after a patient unexpectedly becomes conscious should be made on a case-by-case basis. . This consensus is based, in part, on the state of the literature and on responses from the Consultants and ASA members who generally agree with the following statement: "Benzodiazepines or scopolamine should be administered intraoperatively to prevent awareness after a patient has unexpectedly become conscious." However, the Task Force believes that evidence from the literature is not sufficient to provide guidance regarding this issue. Finally, the Task Force cautions that the use of scopolamine may result in unintended side-effects (e.g., emergence delirium).

Practitioners should speak with patients who report recall of intraoperative events to obtain details of the event and to discuss possible reasons for its occurrence.¹² A questionnaire or structured interview may be used to obtain a detailed account of the patient's experience. Once an episode of intraoperative awareness has been reported, an occurrence report concerning the event should be completed for the purpose of quality management. Finally, the patient should be offered counseling or psychological support.

¹² Refer to the ASA Director of Communications at 847-425-3386 for further information and guidance.

The following practice advisory was approved by the ASA House of Delegates on October 26, 2005. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

Appendix 1: Summary of Practice Advisory

Preoperative Evaluation

- Review patient medical records for potential risk factors
 - Substance use or abuse
 - Previous episode of intraoperative awareness
 - History of difficult intubation or anticipated difficult intubation
 - Chronic pain patients on high doses of opioids
 - ASA status 4-5
 - Limited hemodynamic reserve
- Interview patient
 - Assess level of anxiety
 - Obtain information regarding previous experiences with anesthesia
- Determine other potential risk factors
 - Cardiac surgery
 - Cesarean section
 - Trauma surgery
 - Emergency surgery
 - Reduced anesthetic doses in the presence of paralysis
 - Planned use of muscle relaxants during the maintenance phase of general anesthesia
 - Planned use of nitrous oxide-opioid anesthesia
- Patients whom the individual clinician considers to be at substantially increased risk of intraoperative awareness should be informed of the possibility of intraoperative awareness when circumstances permit

Preinduction Phase of Anesthesia

- Adhere to a checklist protocol for anesthesia machines and equipment to assure that the desired anesthetic drugs and doses will be delivered
- Verify the proper functioning of intravenous access, infusion pumps and their connections, including the presence of appropriate back-flow check valves
- The decision to administer a benzodiazepine prophylactically should be made on a case-by-case basis for selected patients (e.g., patients requiring smaller doses of anesthetics)

Intraoperative Monitoring

- Use multiple modalities to monitor depth of anesthesia
 - Clinical techniques (i.e., checking for purposeful or reflex movement)
 - Neuromuscular blocking drugs may mask purposeful or reflex movement
 - Conventional monitoring systems (e.g., ECG, BP, HR, end-tidal anesthetic analyzer, capnography)
 - Brain function monitoring
 - Not routinely indicated for general anesthesia patients
 - The decision to use a brain function monitor should be made on a case-by-case basis by the individual practitioner for selected patients (e.g., light anesthesia)

Intraoperative and Postoperative Management

The following practice advisory was approved by the ASA House of Delegates on October 25, 2005. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

- The decision to administer a benzodiazepine intraoperatively after a patient unexpectedly becomes conscious should be made on a case-by-case basis
- Speak with patients who report recall of intraoperative events to obtain details of the event and to discuss possible reasons for its occurrence
- A questionnaire or structured interview may be used to obtain a detailed account of the patient's experience
- Once an episode of intraoperative awareness has been reported, an occurrence report concerning the event should be completed for the purpose of quality management
- Offer counseling or psychological support to those patients who report an episode of intraoperative awareness

The following practice advisory was approved by the ASA House of Delegates on October 23, 2005. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

Appendix 2: Literature Review and Consensus-Based Evidence

For this Advisory, a literature review was used in combination with opinions obtained from experts and other sources (e.g., professional society members, open forums, web-based postings) to provide guidance to practitioners regarding intraoperative awareness. Both the literature review and opinion data were based on *evidence linkages*, consisting of directional statements about relationships between specific perioperative interventions and intraoperative awareness. The interventions for the evidence linkages are listed below:

Preoperative Evaluation

- Focused history (i.e., medical records, patient interview, physical exam)
- Patient characteristics associated with risk of awareness
- Procedures associated with higher risk of intraoperative awareness
- Anesthetic techniques may be associated with higher risk of intraoperative awareness
- Informing patients of the possibility of intraoperative awareness

Preinduction Phase of Anesthesia

- Check anesthesia delivery systems to reduce errors
- Prophylactic administration of benzodiazepines as co-anesthetics

Intraoperative Monitoring

- Commonly used clinical techniques
- Conventional monitoring systems
- Brain function monitors
 - Spontaneous electrical activity (EEG/EMG)
 - Bispectral index (BIS)
 - Denmeter Cerebral State Monitor/Cerebral State Index
 - Entropy
 - Narcotrend
 - Patient state analyzer (PSA)
 - SNAP index
 - Evoked electrical activity (auditory evoked potential monitoring)
 - AEP Monitor/2

Intraoperative and Postoperative Interventions

- Intraoperative use of benzodiazepines for unexpected consciousness
- Structured interview of patients who report recall of intraoperative events
- Questionnaire administered to patients who report recall of intraoperative events
- Patient counseling for patients who report recall of intraoperative events

877A-00002800

The following practice advisory was approved by the ASA House of Delegates on October 25, 2005. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

A. State of the Literature.

A study or report that appears in the published literature is included in the development of an advisory if the study: (1) is related to one of the specified linkage statements, (2) reports a finding or set of findings that can be tallied or measured (e.g., articles that contain only opinion are not included), and (3) is the product of an original investigation or report (i.e., review articles or follow-up studies that summarize previous findings are not included).

For the literature review, potentially relevant studies were identified via electronic and manual searches of the literature. The electronic search covered a 40-year period from 1966 through 2005. The manual search covered a 36-year period of time from 1970 through 2005. Over 1500 citations were initially identified, yielding a total of 711 non-overlapping articles that addressed topics related to the evidence linkages and met our criteria for inclusion. Following review of the articles, 389 studies did not provide direct evidence, and were subsequently eliminated. A total of 322 articles contained direct linkage-related evidence. No evidence linkage contained enough studies with well-defined experimental designs and statistical information to conduct a quantitative analysis (i.e., meta-analysis).

Interobserver agreement among Task Force members and two methodologists was established by interrater reliability testing. Agreement levels using a kappa (κ) statistic for two-rater agreement pairs were as follows: (1) type of study design, $\kappa = 0.60$ to 0.85 ; (2) type of analysis, $\kappa = 0.60$ to 0.93 ; (3) evidence linkage assignment, $\kappa = 0.77$ to 0.88 ; and (4) literature inclusion for database, $\kappa = 0.76$ to 1.00 . Three-rater chance-corrected agreement values were: (1) study design, $Sav = 0.82$, $Var(Sav) = 0.007$; (2) type of analysis, $Sav = 0.73$, $Var(Sav) = 0.008$; (3) linkage assignment, $Sav = 0.69$, $Var(Sav) = 0.012$; (4) literature database inclusion, $Sav = 0.84$, $Var(Sav) = 0.014$. These values represent moderate-to-high levels of agreement.

The following practice advisory was approved by the ASA House of Delegates on October 25, 2008. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

The primary focus of this Advisory was to examine studies with hypothesis-driven research designs, such as RCTs, that examined the effect of an intervention (such as a brain function monitor) on reducing the occurrence or frequency of intraoperative awareness. To date, only two randomized controlled trials were found that reported intraoperative awareness as the primary study endpoint.^{55,56} Additional controlled trials will be necessary before data from published literature can be aggregated to provide a basis for quantitative evidence (i.e., meta-analysis).

Several other RCTs were reviewed that reported primary outcomes other than intraoperative awareness, including emergence time, consumption of anesthetic drugs and recovery characteristics. In addition, many other published studies applied non-hypothesis driven research designs to obtain non-causal or indirect data. For example, descriptive literature (i.e., reports of frequency or incidence) may provide an indication of the scope of the problem. Correlational or predictive data provides information regarding the direction and strength of association of values obtained from patient monitoring devices with other intraoperative measures such as blood concentrations of anesthetic drugs, time to loss of eyelash reflex, and time to awakening. Case reports are typically employed as a forum for reporting and recognizing unusual or unintended benefits or harms. Often, case reports, as well as descriptive or correlational data provide useful hypothesis-generating information that may stimulate additional causal examination of the topic of intraoperative awareness.

Future studies should focus on prospective methodologies, when possible, that utilize traditional hypothesis testing techniques. Use of the following methodological procedures for assessing the impact of interventions for intraoperative awareness is recommended: (1) comparison studies assessing the efficacy of one technique versus other techniques; (2) random assignment to treatment groups with blinding if appropriate; and (3) full reporting of sample size, effect size estimates, test scores, measures of variability, and p-values. The Task Force recognizes that conducting such

Q T H A - 0 0 0 0 0 1 0

The following practice advisory was approved by the ASA House of Delegates on October 26, 2006. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

studies may be difficult and expensive, because intraoperative awareness is a very low incidence event. The required sample size for a RCT to test the impact of an intervention (e.g., brain function monitor) on the incidence of intraoperative awareness is invariably large. The Task Force also recognizes that, with low incidence data, a difference in the recording of one or two cases of intraoperative awareness can affect the statistical significance of study findings.

Limiting the study to patient subgroups thought to have a higher risk for intraoperative awareness (e.g., cardiac surgery, cesarean section, emergency trauma surgery) may allow for a smaller sample size and provide useful information regarding these subgroups. However, the Task Force recognizes that the generalizability of these findings to the larger population of general anesthesia patients may be limited.

B. Consensus-Based Evidence.

Consensus was obtained from multiple sources, including: (1) survey opinion from Consultants who were selected based on their knowledge or expertise in intraoperative awareness, (2) survey opinions from a randomly selected sample of active members of the American Society of Anesthesiologists, (3) testimony from attendees of three open forums held at national anesthesia meetings,¹¹ (4) internet commentary, and (5) Task Force opinion and interpretation. The survey rate of return was 60% (N = 57/95) for Consultants, and 30% (N=151/500) for the ASA membership. Survey results are presented in the text of the document and in tables 1 and 2.

Ninety-one percent of the consultants and 72% of the ASA members indicated that they had personally used a brain function device in the past. Fifty-seven percent of the consultants indicated that they make use in their current practice of a brain function device either always (11.1%), frequently (20.4%), or sometimes (25.9%). Thirty-six percent of the ASA members

¹¹ American Society of Anesthesiologists, Annual Meeting, October 25, 2004 in Las Vegas, NV; International Anesthesia Research Society, 79th Clinical and Scientific Congress, March 12, 2005 in Honolulu, HI; and Association of University Anesthesiologists 57th Annual Meeting, May 6, 2005 in Baltimore, MD.

RTA-00002811

The following practice advisory was approved by the ASA House of Delegates on October 25, 2005. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

indicated that they make use in their current practice of a brain function device either always (6.0%), frequently (13.4%), or sometimes (16.8%).

The Consultants were also asked to indicate which, if any, of the evidence linkages would change their clinical practices if the Advisory was instituted (table 3). The rate of return was 18% (N = 17/95). The percent of responding Consultants expecting *no change* associated with each linkage were as follows: preoperative evaluation - 82%; informing patients of the possibility of intraoperative awareness - 65%; check anesthesia delivery systems - 94%; prophylactic use of benzodiazepines as co-anesthetics - 100%; use of clinical techniques to monitor for intraoperative awareness - 94%; use of conventional monitoring systems to monitor for intraoperative awareness - 100%; use of brain function monitors to monitor for intraoperative awareness - 59%; intraoperative use of benzodiazepines for unexpected consciousness - 100%; use of a structured interview for patients who report recall of intraoperative events - 41%; use of a questionnaire for patients who report recall of intraoperative events - 53% and counseling for patients who report recall of intraoperative events - 76%. Seventy-one percent of the respondents indicated that the Advisory would have *no effect* on the amount of time spent on a typical case. Four respondents (24%) indicated that there would be an increase in the amount of time they would spend on a typical case with the implementation of this Advisory. The amount of increased time anticipated by these respondents ranged from 1 to 20 minutes.

The following practice advisory was approved by the ASA House of Delegates on October 25, 2005. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

Table 1. Consultant Survey Responses ***

	N	Percent Responding to Each Item				
		Strongly Agree	Agree	Uncertain	Disagree	Strongly Disagree
Preoperative evaluation:						
1. Helpful to identify pts at risk of intraoperative awareness	57	31.6	43.9*	7.0	10.5	7.0
2. A preop eval should include:						
Review of medical records	48	41.7	43.8*	4.2	6.3	2.1
A physical examination	47	21.3	34.0*	17.0	25.5	2.1
A patient/family interview	48	39.6	33.4*	14.6	8.3	2.1
3. Potential patient risk factors:						
Substance use or abuse	54	38.9	42.6*	5.6	13.0	0.0
Pt history of intraop awareness	55	52.7*	29.1	10.9	7.3	0.0
Limited hemodynamic reserve	54	38.9	40.7*	13.0	7.4	0.0
ASA status of 4 or 5	54	24.1	48.1*	20.4	7.1	0.0
4. Procedures/ anesthetic techniques that may place a patient at risk for intraop awareness:						
Cesarean section under GA, cardiac surgery, trauma, emergency surgery	57	75.4*	24.6	0.0	0.0	0.0
Planned use of reduced doses of anesthetics in the presence of paralysis	56	66.1*	33.0	5.4	1.8	1.8
Planned use of muscle relaxants for maintenance	57	26.4	45.6*	8.8	17.5	1.8
Planned use of total intravenous anesthesia	57	10.5	33.3	24.6*	21.1	10.5
Planned use of volatile anesthetics	57	3.5	5.3	12.3	57.9*	21.1
Planned use of nitrous oxide-narcotic anesthesia	57	29.8	35.1*	14.0	19.3	1.8
Preoperative or intraoperative use of beta-blockers under general anesthesia	57	5.3	35.1	26.3*	29.8	3.5
Rapid-sequence induction	57	5.3	29.8	19.3*	42.1	3.5
5. All pts should be informed of the possibility of intraop awareness	57	10.5	31.6	5.3	42.1*	10.5
6. Only patients considered to be at elevated risk of intraop awareness should be informed of the possibility of intraop awareness	40	17.5	60.0*	5.0	7.5	10.0

*** N = the number of consultants who responded to each item. An asterisk beside a percentage score indicates the median.

The following practice advisory was approved by the ASA House of Delegates on October 28, 2005. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

	N	Strongly Agree	Agree	Uncertain	Disagree	Strongly Disagree
7. Informing the pt preoperatively of the risk of intraop awareness increases the actual risk of intraoperative awareness	53	3.8	5.7	30.2	35.8*	24.5
Preinduction activities:						
8. The functioning of anesthesia delivery systems should be checked preoperatively to reduce the risk of intraop awareness	57	77.2*	17.5	1.8	3.5	0.0
9. A benzodiazepine or scopolamine should be used as a component of the anesthetic to reduce the risk of intraop awareness:						
For all patients under GA	54	7.4	24.1	1.9	33.3*	33.3
For no patients under GA	54	3.7	3.7	3.7	46.3*	42.6
For pts with conditions that may place them at risk for intraop awareness	53	20.8	58.5*	7.5	7.5	5.7
For patients requiring smaller dosages of general anesthetics ("light anesthesia")	53	17.0	43.4*	11.3	20.8	7.5
For patients undergoing cardiac surgery	54	22.2	44.4*	11.1	16.7	5.6
For patients undergoing Cesarean section under GA	54	7.4	29.6	20.4*	31.5	11.1
For patients undergoing emergency surgery under GA	53	15.1	30.2	20.8*	28.3	5.7
For patients undergoing trauma surgery under GA	54	16.7	35.2*	20.4	22.2	5.6
For patients undergoing total intravenous anesthesia	54	16.7	31.5	18.5*	24.1	9.3
Intraoperative Monitoring:						
10. Commonly used clinical techniques (e.g., checking for purposeful or reflex movement) are valuable and should be used to detect intraop consciousness	53	18.9	47.2*	5.7	18.9	9.4
11. Conventional monitoring systems are valuable and should be used to detect intraoperative consciousness	53	22.6	41.5*	5.7	24.5	5.7

The following practice advisory was approved by the ASA House of Delegates on October 28, 2008. It should be considered final. This practice advisory will be published in a future issue of the Journal Anesthesiology.

	N	Strongly Agree	Agree	Uncertain	Disagree	Strongly Disagree
12. Brain function monitors are valuable and should be used to reduce the risk of intraoperative awareness:						
<i>For all patients under GA</i>	57	7.0	21.1	19.3	13.8*	36.8
<i>For no patients under GA</i>	56	3.6	7.1	14.3	35.7*	39.3
<i>For pts with conditions that may place them at risk for intraop awareness</i>	57	36.8	26.3*	14.0	14.0	8.8
<i>For patients requiring smaller dosages of general anesthetics ("light anesthesia")</i>	56	26.8	32.1*	14.3	19.6	7.1
<i>For patients undergoing cardiac surgery</i>	57	28.1	21.1	26.3*	14.0	10.5
<i>For patients undergoing Cesarean section under GA</i>	57	31.6	21.1*	21.1	17.5	8.8
<i>For patients undergoing emergency surgery under GA</i>	57	21.1	28.1	24.6*	17.5	8.8
<i>For patients undergoing trauma surgery under GA</i>	57	26.3	24.6*	24.6	15.8	8.8
<i>For patients undergoing total intravenous anesthesia</i>	56	16.1	39.3*	23.2	14.3	7.1
13. Brain function monitors are valuable and should be used when possible to assess intraoperative depth of anesthesia:						
<i>For all patients under GA</i>	56	12.5	21.4	10.7	14.3*	41.1
<i>For no patients under GA</i>	54	9.3	5.6	9.3	37.0*	38.9
<i>For pts with conditions that may place them at risk for intraop awareness</i>	56	33.9	30.4*	8.9	14.3	12.5
<i>For patients requiring smaller dosages of general anesthetics ("light anesthesia")</i>	56	28.6	35.7*	10.7	10.7	14.3
<i>For patients undergoing cardiac surgery</i>	56	26.8	28.6*	16.1	14.3	14.3
<i>For patients undergoing Cesarean section under GA</i>	56	28.6	32.1*	12.5	12.5	14.3

The following practice advisory was approved by the ASA House of Delegates on October 25, 2003. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

	N	Strongly Agree	Agree	Uncertain	Disagree	Strongly Disagree
For patients undergoing emergency surgery under GA	57	21.1	36.8*	10.3	17.5	14.0
For patients undergoing trauma surgery under GA	57	22.8	38.6*	10.5	14.0	14.0
For patients undergoing total intravenous anesthesia	57	26.3	35.1*	17.5	8.8	12.3
Intraoperative & Postoperative Interventions:						
14. Benzodiazepines or scopolamine should be administered intraoperatively to prevent awareness after a pt has unexpectedly become conscious	57	21.1	26.3	15.8*	21.1	15.8
15. Once an episode of intraoperative awareness has been reported, a structured interview should be conducted to define the nature of the episode	57	63.2*	31.5	1.8	0.0	0.0
16. Once an episode of intraop awareness has been reported, a questionnaire should be given to define the nature of the episode	57	10.5	19.3	34.8*	28.1	5.3
17. Once an episode of intraop awareness has been reported and documented, the pt should be offered counseling or psychological support	56	69.6*	25.0	5.4	0.0	0.0
18. Once an episode of intraop awareness has been reported, an occurrence report concerning the event should be completed for the purpose of quality management	57	54.4*	40.4	0.0	5.3	0.0

The following practice advisory was approved by the ASA House of Delegates on October 26, 2006. It should be considered final. This practice advisory will be published in a future issue of the Journal Anesthesiology.

Table 2. ASA Member Survey Responses^{††}

		Percent Responding to Each Item				
	N	Strongly Agree	Agree	Uncertain	Disagree	Strongly Disagree
Preoperative evaluation:						
1. Helpful to identify pts at risk of intraoperative awareness	146	27.4	46.6*	14.4	10.3	1.4
2. A preop eval should include:						
Review of medical records	121	38.8	47.9*	7.4	5.0	0.8
A physical examination	118	23.7	37.3*	18.6	17.8	2.5
A patient/family interview	121	46.3	43.0*	6.6	3.3	0.8
3. Potential patient risk factors:						
Substance use or abuse	147	31.3	44.2*	16.3	6.8	1.4
Pt history of intraop awareness	146	45.2	31.5*	11.0	11.6	0.7
Limited hemodynamic reserve	145	46.3	38.6*	6.9	6.9	1.4
ASA status of 4 or 5	145	33.1	40.7*	11.0	13.1	2.1
4. Procedures/ anesthetic techniques that may place a patient at risk for intraop awareness:						
Cesarean section under GA, cardiac surgery, trauma, emergency surgery	151	70.2*	27.2	0.7	1.3	0.7
Planned use of reduced doses of anesthetics in the presence of paralysis	148	48.6	44.6*	4.1	2.7	0.0
Planned use of muscle relaxants for maintenance	147	21.1	34.7*	16.3	26.5	1.4
Planned use of total intravenous anesthesia	146	13.0	26.7	24.0*	32.2	4.1
Planned use of volatile anesthesia	148	0.7	10.1	10.1	63.5*	15.5
Planned use of nitrous oxide-narcotic anesthesia	147	11.6	46.9*	18.4	19.7	3.4
Preoperative or intraoperative use of beta-blockers under general anesthesia	148	4.7	31.1	23.0*	36.5	4.7
Rapid-sequence induction	148	3.4	31.1	18.9*	41.9	4.7
5. All pts should be informed of the possibility of intraop awareness	147	15.0	28.6	10.9*	40.1	5.4
6. Only patients considered to be at elevated risk of intraop awareness should be informed of the possibility of intraop awareness	112	17.0	49.1*	7.1	21.4	5.4

^{††} N = the number of members who responded to each item. An asterisk beside a percentage score indicates the median.

The following practice advisory was approved by the ASA House of Delegates on October 26, 2006. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

	N	Strongly Agree	Agree	Uncertain	Disagree	Strongly Disagree
7. Informing the pt preoperatively of the risk of intraop awareness increases the actual risk of intraoperative awareness	147	2.7	10.9	33.3	38.8*	14.3
Preinduction activities:						
8. The functioning of anesthesia delivery systems should be checked preoperatively to reduce the risk of intraop awareness	148	60.8*	37.8	0.7	0.7	0.0
9. A benzodiazepine or scopolamine should be used as a component of the anesthetic to reduce the risk of intraop awareness:						
For all patients under GA	150	15.3	34.0	6.0*	30.7	14.0
For no patients under GA	144	0.7	2.8	3.5	50.7*	42.4
For pts with conditions that may place them at risk for intraop awareness	148	37.8	56.1*	3.4	2.7	0.0
For patients requiring smaller dosages of general anesthetics ("light anesthesia")	150	31.3	60.7*	4.7	3.3	0.0
For patients undergoing cardiac surgery	147	39.5	48.3*	9.5	2.7	0.0
For patients undergoing Cesarean section under GA	151	13.2	23.2	27.8*	28.5	7.3
For patients undergoing emergency surgery under GA	151	21.1	42.4*	21.9	13.9	0.7
For patients undergoing trauma surgery under GA	150	24.0	44.7*	22.7	8.7	0.0
For patients undergoing total intravenous anesthesia	150	23.3	48.0*	14.0	12.7	2.0
Intraoperative Monitoring:						
10. Commonly used clinical techniques (e.g., checking for purposeful or reflex movement) are valuable and should be used to detect intraop consciousness	151	10.6	50.3*	21.2	13.9	4.0
11. Conventional monitoring systems are valuable and should be used to detect intraoperative consciousness	150	20.7	56.7*	9.3	10.7	2.7

The following practice advisory was approved by the ASA House of Delegates on October 25, 2008. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

	N	Strongly Ases	Ases	Uncertain	Disagree	Strongly Disagree
12. Brain function monitors are valuable and should be used to reduce the risk of intraoperative awareness:						
For all patients under GA	149	10.7	10.7	16.1	37.6*	24.8
For no patients under GA	146	2.7	3.4	24.7	44.5*	24.7
For pts with conditions that may place them at risk for intraop awareness	147	21.1	48.3*	19.0	10.2	1.4
For patients requiring smaller dosages of general anesthetics ("light anesthesia")	147	19.7	38.8*	24.5	13.6	3.4
For patients undergoing cardiac surgery	148	20.3	33.8*	30.4	12.2	3.4
For patients undergoing Cesarean section under GA	148	12.8	34.5	25.0*	23.0	4.7
For patients undergoing emergency surgery under GA	146	17.8	26.0	28.8*	24.0	3.4
For patients undergoing trauma surgery under GA	148	18.9	29.7	28.4*	19.6	3.4
For patients undergoing total intravenous anesthesia	148	13.5	35.1	25.7*	20.3	5.4
13. Brain function monitors are valuable and should be used when possible to assess intraoperative depth of anesthesia:						
For all patients under GA	150	12.0	9.3	16.0	30.7*	32.0
For no patients under GA	147	2.7	4.8	24.5	41.5*	26.5
For pts with conditions that may place them at risk for intraop awareness	148	20.3	43.2*	20.9	10.8	4.7
For patients requiring smaller dosages of general anesthetics ("light anesthesia")	149	20.1	37.6*	20.8	15.4	6.0
For patients undergoing cardiac surgery	149	20.1	27.5	28.2*	19.5	4.7
For patients undergoing Cesarean section under GA	149	13.4	30.2	22.8*	26.2	7.4
For patients undergoing emergency surgery under GA	149	14.8	26.8	24.8*	26.8	5.4
For patients undergoing trauma surgery under GA	149	16.1	28.9	25.5*	24.2	5.4
For patients undergoing total intravenous anesthesia	149	15.4	32.9	24.8*	20.1	6.7

The following practice advisory was approved by the ASA House of Delegates on October 26, 2006. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

	N	Strongly Agree	Agree	Uncertain	Disagree	Strongly Disagree
Intraoperative & Postoperative Interventions:						
14. Benzodiazepines or scopolamine should be administered intraoperatively to prevent awareness after a pt has unexpectedly become conscious	151	33.1	49.7*	9.9	7.3	0.0
15. Once an episode of intraoperative awareness has been reported, a structured interview should be conducted to define the nature of the episode	151	49.0	43.0*	7.3	0.7	0.0
16. Once an episode of intraop awareness has been reported, a questionnaire should be given to define the nature of the episode	151	19.9	21.9	38.4*	18.5	1.3
17. Once an episode of intraop awareness has been reported and documented, the pt should be offered counseling or psychological support	151	44.4	39.1*	14.6	1.3	0.7
18. Once an episode of intraop awareness has been reported, an occurrence report concerning the event should be completed for the purpose of quality management	151	47.7	41.1*	9.3	1.3	0.7

The following practice advisory was approved by the ASA House of Delegates on October 25, 2006. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

References¹²³

1. Myles PS, Williams D, Hendrata M, Anderson H, Weeks A: Patient satisfaction after anaesthesia and surgery: results of a prospective survey of 10,811 patients. *Br J Anaesth* 2000; 84:6-10
2. Nordstrom O, Engstrom AM, Persson S, Sandin R: Incidence of awareness in total i.v. anaesthesia based on propofol, alfentanil and neuromuscular blockade. *Acta Anaesthesiol Scand* 1997; 41:978-984
3. Sandin RH, Eklund G, Samuelsson P, Lennmarken C: Awareness during anaesthesia: a prospective case study. *Lancet* 2000; 355:707-311
4. Sebel PS, Bowdle TA, Ghoneim MM, Rampil JJ, Padilla RE, Gan TJ, Domino KB: The incidence of awareness during anaesthesia: a multicenter United States study. *Anesth Analg* 2004; 99:833-839
5. Lennmarken C, Bildfors K, Eklund G, Samuelsson P, Sandin R: Victims of awareness. *Acta Anaesthesiol Scand* 2002; 46:229-231
6. Schacter DL: Implicit expressions of memory in organic amnesia: learning of new facts and associations. *Hum Neurobiol* 1987; 6:107-118
7. Bruandidge PK, Leavell MB, Tempelhoff R: EEG-controlled "overdose" of anaesthetics in a patient with a history of intra-anaesthetic awareness. *J Clin Anesth* 1994; 6:496-499
8. Domino KB, Posner KL, Caplan RA, Cheney FW: Awareness during anaesthesia: a closed claims analysis. *Anesthesiology* 1999; 90:1053-1061
9. Gan TJ, Glass PS, Sigl J, Sebel P, Payne F, Rosow C, Embree P: Women emerge from general anaesthesia with propofol/alfentanil/nitrous oxide faster than men. *Anesthesiology* 1999; 90:1283-1287
10. Lopez U, Iaelin-Chaves I, Habre W, Van der Linden M: Incidence of awareness during general anaesthesia in children. *Br J Anaesth* 2004; 93:490P-491P
11. Lopez-Candel E, Canovas E, Lopez-Candel J, Garcia R, Soler J, Fernandez S, Hernandez JP, Vargas J: Awareness: Report of a case in pediatric surgery. *Cirugia Pediatr* 2000; 13:81-83
12. Adams DC, Hilton HJ, Madigan JD, Searlip NJ, Cooper LA, Emerson RG, Smith CR, Rose EA, Oz MC: Evidence for unconscious memory processing during elective cardiac surgery. *Circulation* 1998; 98:1289-292
13. Baraka A, Siddik S, Assaf B: Supplementation of general anaesthesia with tramadol or fentanyl in parturients undergoing elective caesarean section. *Can J Anaesth* 1998; 45:631-634
14. Bogatz MS, Katz JA: Recall of surgery for major trauma. *Anesthesiology* 1984; 61:6-9
15. Bogod DG, Orton JK, Yan HM, Oh TE: Detecting awareness during general anaesthetic caesarean section. An evaluation of two methods. *Anaesthesia* 1990; 45:279-284
16. Brahams D: Caesarean section: pain and awareness without negligence. *Anaesthesia* 1990; 45:161-162
17. Gilron I, Solomon P, Plourde G: Unintentional intraoperative awareness during sufentanil anaesthesia for cardiac surgery. *Can J Anaesth* 1996; 43:295-298
18. Goldmann L, Shah MV, Hobden MW: Memory of cardiac anaesthesia. Psychological sequelae in cardiac patients of intra-operative suggestion and operating room conversation. *Anaesthesia* 1987; 42:596-603

¹²³ The references listed here do not represent a complete bibliography of the literature reviewed. A complete bibliography is available by writing to the American Society of Anesthesiologists or by accessing the *Anesthesiology* Web site: <http://www.anesthesiology.org>

The following practice advisory was approved by the ASA House of Delegates on October 28, 2005. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

19. Jeon SY, Lim HJ, Cho H, Lee BW: Awareness detection during a cesarean section under general anesthesia using bispectral index monitoring. *Korean J Anesth* 2000; 39:632-637
20. Lubke GH, Kerssens C, Gershon RY, Sebel PS: Memory formation during general anesthesia for emergency cesarean sections. *Anesthesiology* 2000; 92:1029-1034
21. Lyons G, Macdonald R: Awareness during caesarean section. *Anaesthesia* 1991; 46:62-64
22. Mark JB, Greenberg LM: Intraoperative awareness and hypertensive crisis during high-dose fentanyl-diazepam-oxygen anesthesia. *Anesth Analg* 1983; 62:698-700
23. Moerman A, Herregods L, Foubert L, Poelaert J, Jordans L, D'Hont L, Rolly G: Awareness during anaesthesia for implantable cardioverter defibrillator implantation. Recall of defibrillation shocks. *Anaesthesia* 1995; 50:733-735
24. Moerman N, Bonke B, Oosting J: Awareness and recall during general anesthesia. Facts and feelings. *Anesthesiology* 1993; 79:454-464
25. Phillips AA, McLean RF, Devist JH, Harrington EM: Recall of intraoperative events after general anaesthesia and cardiopulmonary bypass. *Can J Anesth* 1993; 40:922-926
26. Ranta SO, Herranen P, Hynynen M: Patients' conscious recollections from cardiac anaesthesia. *J Cardiothorac Vasc Anesth* 2002; 16:426-430
27. Ranta SO, Jussila J, Hyayen M: Recall of awareness during cardiac anaesthesia: Influence of feedback information to the anaesthesiologist. *Acta Anaesth Scand* 1996; 40:554-560
28. Russell IF, Wang M: Absence of memory for intraoperative information during surgery under adequate general anaesthesia. *Br J Anaesth* 1997; 78:3-9
29. Schmitz RR, Hill CR, Dharamraj CM, Banner TH, Berman LS: Wakefulness during cesarean section after anesthetic induction with ketamine, thiopental, or ketamine and thiopental combined. *Anesth Analg* 1986; 65:723-728
30. Dowd NP, Chang DC, Kanski JM, Wong DT, Munro JA, Sandler AN: Intraoperative awareness in fast-track cardiac anesthesia. *Anesthesiology* 1998; 89:1068-1073
31. Ranta SO, Laurila R, Saario J, Ali-Mekki T, Hynynen M: Awareness with recall during general anaesthesia: incidence and risk factors. *Anesth Analg* 1998; 86:1084-1089
32. Rowan KJ: Awareness under TIVA: a doctor's personal experience. *Anesth Intens Care* 2002; 30:505-506
33. Sandia RH, Norstrom O: Awareness during total i.v. anaesthesia. *Br J Anaesth* 1993; 71:782-787
34. Bergman U, Kluger MT, Short TG: Awareness during general anaesthesia: a review of 81 cases from the Anaesthetic Incident Monitoring Study. *Anaesthesia* 2002; 57:549-556
35. Caplan RA, Vistica MF, Posner KL, Cheney FW: Adverse anesthetic outcomes arising from gas delivery equipment. *Anesthesiology* 1997; 87:741-748
36. Lambert JM, Lerman J: Intraoperative failure of a Fluotec Mark II vaporizer. *Can Anesth Soc J* 1984; 31:687-689
37. Masuda A, Arai Y, Hirota K, Shibuya N, Ito Y: Misuse of infusion pump during propofol anaesthesia. *Can J Anaesth* 1998; 145:187-188
38. Slinger PD, Scott WA, Kilger AP: Intraoperative awareness due to malfunction of a Siemens 900B ventilator. *Can J Anaesth* 1990; 37:258-261
39. Tong D, Chung F: Recall after total intravenous anaesthesia due to an equipment misuse. *Can J Anaesth* 1997; 44:73-77
40. Miller DR, Blew PG, Martineau RJ, Hull KA: Midazolam and awareness with recall during total intravenous anaesthesia. *Can J Anaesth* 1996; 43:946-953
41. Bulach R, Myles PS, Russnak M: Double-blind randomized controlled trial to determine extent of amnesia with midazolam given immediately before general anaesthesia. *Br J Anaesth* 2005; 94:300-305

The following practice advisory was approved by the ASA House of Delegates on October 25, 2005. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

42. Twersky RS, Hartung J, Berger BJ, McClain J, Beaton C: Midazolam enhances anterograde but not retrograde amnesia in pediatric patients. *Anesthesiology* 1993; 78:51-55
43. Smith WD, Dutton RC, Smith NT: Measuring the performance of anesthetic depth indicators. *Anesthesiology* 1996; 84:38-51
44. Leslie K, Sessler DI, Smith WD, Larson MD, Ozaki M, Blanchard D, Crankshaw DP: Prediction of movement during propofol/nitrous oxide anesthesia. Performance of concentration, electroencephalographic, pupillary, and hemodynamic indicators. *Anesthesiology* 1996; 84:52-63
45. Dutton RC, Smith WD, Smith NT: Wakeful response to command indicates memory potential during emergence from general anesthesia. *J Clin Monit* 1995; 11:35-40
46. Schmidt G, Bischoff P, Standl T, Hallsten A, Teuber O, am Schulte Esch J: Comparative evaluation of the Datex-Ohmeda S/5 entropy module and the bispectral index monitor during propofol-remifentanyl anesthesia. *Anesthesiology* 2004; 101:1283-1290
47. Schmidt GN, Bischoff P, Standl T, Jensen K, Voigt M, Schulte Am Esch J: Narcotrend and Bispectral index monitor are superior to classic electroencephalographic parameters for the assessment of anesthetic states during propofol-remifentanyl anesthesia. *Anesthesiology* 2003; 99:1072-1077
48. Schmidt GN, Bischoff P, Standl T, Lankensau G, Hilbert M, Schulte am Esch J: Comparative evaluation of narcotrend, bispectral index, and classical electroencephalographic variables during induction, maintenance, and emergence of a propofol/remifentanyl anesthesia. *Anesth Analg* 2004; 98:1346-1353
49. Atallah MM, el-Mohayman HA, el-Metwally RE: Ketamine-midazolam total intravenous anaesthesia for prolonged abdominal surgery. *Eur J Anaesthesiol* 2001; 18:29-35
50. Costa C, Guignard B, Menigaux C, Chauvin M: Nitrous oxide prevents movement during orotracheal intubation without affecting BIS values. *Anesth Analg* 2000; 91:130-135
51. Hackner C, Detsch O, Schneider G, Jelen-Esselborn S, Koche E: Early recovery after remifentanyl-pronounced compared with propofol-pronounced total intravenous anaesthesia for short painful procedures. *Br J Anaesth* 2003; 91:580-582
52. Iannuzzi M, Iannuzzi E, Rossi F, Barrino L, Chieffri M: Relationship between bispectral index, electroencephalographic state entropy and effect-site EC50 for propofol at different clinical endpoints. *Br J Anaesth* 2005; 94:613-16
53. Lehmann A, Zeitler C, Thaler E, Isgrò F, Beldt J: Comparison of two different anesthesia regimens in patients undergoing aortocoronary bypass grafting surgery: sufentanil-midazolam versus remifentanyl-propofol. *J Cardiothorac Vasc Anesth* 2000; 14:416-420
54. McCann ME, Brustowicz RM, Bacsik J, Sullivan L, Auble SO, Laussen PC: The bispectral index and explicit recall during the intraoperative wake-up test for scoliosis surgery. *Anesth Analg* 2002; 94:1474-1478
55. McDonald T, Hoffman WE, Berkowitz R, Cunningham F, Cooke B: Heart rate variability and plasma catecholamines in patients during opioid detoxification. *J Neurosurg Anesthesiol* 1999; 11:195-199
56. Ting CK, Hu JS, Teng YH, Chang YY, Tsou MY, Tsi SK: Desflurane accelerates patient response during the wake-up test for scoliosis surgery. *Can J Anesth* 2004; 51:393-397
57. Rampil JJ: A primer for EEG signal processing in anesthesia. *Anesthesiology* 1998; 89:980-1002
58. Myles PS, Leslie K, McNeil J, Forbes A, Chan MTV: Bispectral index monitoring to prevent awareness during anaesthesia: the B-aware randomised controlled trial. *Lancet* 2004; 363:1757-1763

The following practice advisory was approved by the ASA House of Delegates on October 25, 2008. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

59. Puri GD, Murthy SS: Bispectral index monitoring in patients undergoing cardiac surgery under cardiopulmonary bypass. *Eur J Anaesth* 2003; 20:451-456
60. Bannister CF, Bronius KK, Sigl JC, Meyer BJ, Sebel PS: The effect of bispectral index monitoring on anesthetic use and recovery in children anesthetized with sevoflurane in nitrous oxide. *Anesth Analg* 2001; 92:877-881
61. Basar H, Ozcan S, Buyukkocak U, Akpınar S, Apan A: Effect of bispectral index monitoring on sevoflurane consumption. *Eur J Anaesth* 2003; 20:396-400
62. Gan TJ, Glass PS, Windsor A, Pryne F, Rosow C, Sebel P, Manberg P: Bispectral index monitoring allows faster emergence and improved recovery from propofol, alfentanil, and nitrous oxide anesthesia. *Anesthesiology* 1997; 87:808-815
63. Kreuer S, Biedler A, Larsen R, Altmann S, Wilhelm W: Narcotrend monitoring allows faster emergence and a reduction of drug consumption in propofol-remifentanyl anesthesia. *Anesthesiology* 2003; 99:34-41
64. Rocart A, Gassanova I, White PF, Thomas T, Ogunnaike B, Hamza M, Wang A: The effect of cerebral monitoring on recovery after general anesthesia: a comparison of the auditory evoked potential and bispectral index devices with standard clinical practice. *Anesth Analg* 2003; 97:1667-1674
65. Song D, Joshi GP, White PF: Titration of volatile anesthetics using bispectral index facilitates recovery after ambulatory anesthesia. *Anesthesiology* 1997; 87:842-848
66. White PF, Ma H, Tang J, Wender RH, Stoninsky A, Kariger R: Does the use of electroencephalographic bispectral index or auditory evoked potential index monitoring facilitate recovery after desflurane anesthesia in the ambulatory setting? *Anesthesiology* 2004; 100:811-817
67. Wong J, Song D, Blanchard H, Grady D, Chung F: Titration of isoflurane using BIS index improves early recovery of elderly patients undergoing orthopedic surgeries. *Can J Anaesth* 2002; 49:13-18
68. Yli-Hankala A, Vakkuri A, Annala P, Korttilä K: EEG bispectral index monitoring in sevoflurane or propofol anesthesia: analysis of direct costs and immediate recovery. *Acta Anaesthesiol Scand* 1999; 43:545-549
69. Ekman A, Lindholm ML, Lemmariksen C, Sundin R: Reduction in the incidence of awareness using BIS monitoring. *Acta Anaesth Scand* 2004; 48:20-26
70. Burrow B, McKenzie B, Case C: Do anesthetized patients recover better after bispectral index monitoring? *Anaesth Intensive Care* 2001; 29:239-245
71. Guignard B, Coste C, Menigaux C, Chauvin M: Reduced isoflurane consumption with bispectral index monitoring. *Acta Anaesthesiol Scand* 2001; 45:308-314
72. Glass PS, Bloom M, Karsze L, Rosow C, Sebel P, Manberg P: Bispectral analysis measures sedation and memory effects of propofol, midazolam, isoflurane, and alfentanil in healthy individuals. *Anesthesiology* 1997; 86:836-837
73. Kreuer S, Bruhn J, Larsen R, Bialas P, Wilhelm W: Comparability of Narcotrend index and bispectral index during propofol anesthesia. *Br J Anaesth* 2004; 93:235-240
74. Kreuer S, Bruhn J, Larsen R, Hoepflein M, Wilhelm W: Comparison of Alaris AEP index and bispectral index during propofol-remifentanyl anesthesia. *Br J Anaesth* 2003; 91:336-340
75. Lysakowski C, Dumont L, Pellegrini M, Clergue F, Tassonyi E: Effects of fentanyl, alfentanil, remifentanyl and sufentanil on loss of consciousness and bispectral index during propofol induction of anesthesia. *Br J Anaesth* 2001; 86:523-527
76. Schmidt GN, Bischoff P, Standl T, Laisleib M, Voigt M, Schulte Am Esch J: ARX-derived auditory evoked potential index and bispectral index during the induction of anesthesia with propofol and remifentanyl. *Anesth Analg* 2003; 97:139-144

The following practice advisory was approved by the ASA House of Delegates on October 25, 2008. It should be considered first. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

77. Schneider G, Geib AW, Schmoller B, Techakert R, Kochs E: Detection of awareness in surgical patients with EEG-based indices—bispectral index and patient state index. *Br J Anaesth* 2003; 91:329-935
78. Schraag S, Bothner U, Gajraj R, Kenny GN, Georgieff M: The performance of electroencephalogram bispectral index and auditory evoked potential index to predict loss of consciousness during propofol infusion. *Anesth Analg* 1999; 89:1311-1315
79. Absalom AR, Sutcliffe N, Kenny GN: Closed-loop control of anesthesia using bispectral index: performance assessment in patients undergoing major orthopedic surgery under combined general and regional anesthesia. *Anesthesiology* 2002; 96:67-73
80. Anderson RE, Barr G, Asareh H, Jakobsson J: The AAI index, the BIS index and end-tidal concentration during wash in and wash out of sevoflurane. *Anaesthesia* 2003; 58:531-535
81. Barvais L, Engelman E, Eba JM, Coussaert E, Cantraine F, Kenny GN: Effect site concentrations of remifentanyl and pupil response to noxious stimulation. *Br J Anaesth* 2003; 91:347-352
82. Billard V, Gambus PL, Chamoun N, Stanek DR, Shafer SL: A comparison of spectral edge, delta power, and bispectral index as EEG measures of alfentanil, propofol, and midazolam drug effect. *Clin Pharmacol Ther* 1997; 61:45-58
83. Brosius KK, Bannister CF: Oral midazolam premedication in preadolescents and adolescents. *Anesth Analg* 2002; 94:31-36
84. Chawathe MS, Francis V, Hall JE, Mocklenburgh JS, Aguilera IM: Interpretation of BIS values in children using aspect 2000 monitor during i.v. induction. *Br J Anaesth* 2004; 92:301P-302P
85. Choudhry DK, Brenn BR: Bispectral index monitoring: a comparison between normal children and children with quadriplegic cerebral palsy. *Anesth Analg* 2002; 95:1582-1583
86. Detman WT, Swanson HL, Rosow D, Ezicki R, Connors PD, Rosow CE: Pediatric evaluation of the bispectral index (BIS) monitor and correlation of BIS with end-tidal sevoflurane concentration in infants and children. *Anesth Analg* 2000; 90:872-877
87. El-Kerdawy HM, Zalinger EB, Bovill JG: The influence of the alpha2-adrenoceptor agonist, clonidine, on the EEG and on the MAC of isoflurane. *Eur J Anaesth* 2000; 17:105-110
88. Flaishon R, Windsor A, Sigl J, Sebel PS: Recovery of consciousness after thiopental or propofol: bispectral index and isolated forearm technique. *Anesthesiology* 1997; 86:613-619
89. Friedberg BL: The effect of a dissociative dose of ketamine on the bispectral index (BIS) during propofol hypnosis. *J Clin Anesth* 1999; 11:4-7
90. Gajraj RJ, Doi M, Manzaridis H, Kenny GN: Comparison of bispectral EEG analysis and auditory evoked potentials for monitoring depth of anaesthesia during propofol anaesthesia. *Br J Anaesth* 1999; 82:672-678
91. Gale T, Leslie K, Kinger M: Propofol anaesthesia via target controlled infusion or manually controlled infusion: effects on the bispectral index as a measure of anaesthetic depth. *Anaesth Intens Care* 2001; 29:579-584
92. Goto T, Nakata Y, Saito H, Ishiguro Y, Niimi Y, Suwa K, Morita S: Bispectral analysis of the electroencephalogram does not predict responsiveness to verbal command in patients emerging from xenon anaesthesia. *Br J Anaesth* 2000; 85:359-363
93. Greif R, Greenwald S, Schweitzer E, Laciay S, Rajek A, Caldwell JE, Seesler DI: Muscle relaxation does not alter hypnotic level during propofol anaesthesia. *Anesth Analg* 2002; 94:604-608
94. Gunewardane PO, Murphy PA, Sleigh JW: Bispectral index monitoring during electroconvulsive therapy under propofol anaesthesia. *Br J Anaesth* 2002; 88:184-187

The following practice advisory was approved by the ASA House of Delegates on October 28, 2005. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

95. Jellish WS, Leionetti JP, Avramov A, Fluder E, Murdoch J: Remifentanyl-based anesthesia versus a propofol technique for otologic surgical procedures. *Otolaryngol Head Neck Surg* 2000; 122:222-227
96. Kim DW, Kil HY, White PF: Relationship between clinical endpoints for induction of anesthesia and bispectral index and effect-site concentration values. *J Clin Anesth* 2002; 14:241-245
97. Kuizenga K, Wierda JM, Kalkman CJ: Biphasic EEG changes in relation to loss of consciousness during induction with thiopental, propofol, etomidate, midazolam or sevoflurane. *Br J Anaesth* 2001; 86:354-360
98. McDonald TB, Berkowitz RA, Hoffman WE: Median EEG frequency is more sensitive to increases in sympathetic activity than bispectral index. *J Neurosurg Anesth* 1999; 11:255-259
99. Menigaux C, Guignard B, Adam F, Sessler DI, Joly V, Chauvin M: Esmolol prevents movement and attenuates the BIS response to orotracheal intubation. *Br J Anaesth* 2002; 89:857-862
100. Mi W, Sakai T, Kudo T, Kudo M, Matsuki A: The interaction between fentanyl and propofol during emergence from anesthesia: monitoring with the EEG-Bispectral index. *J Clin Anesth* 2003; 15:103-107
101. Mi WD, Sakai T, Singh H, Kudo T, Kudo M, Matsuki A: Hypnotic endpoints vs. the bispectral index, 95% spectral edge frequency and median frequency during propofol infusion with or without fentanyl. *Eur J Anaesth* 1999; 16:47-52
102. Mi WD, Sakai T, Takahashi S, Matsuki A: Haemodynamic and electroencephalograph responses to intubation during induction with propofol or propofol/fentanyl. *Can J Anaesth* 1998; 45:19-22
103. Sakai T, Singh H, Mi WD, Kudo T, Matsuki A: The effect of ketamine on clinical endpoints of hypnosis and EEG variables during propofol infusion. *Acta Anaesthesiol Scand* 1999; 43:212-216
104. Shao X, Li H, White PF, Klein KW, Knistad C, Owens A: Bisulfite-containing propofol: is it a cost-effective alternative to Diprivan for induction of anesthesia? *Anesth Analg* 2000; 91:871-875
105. Singh H, Sakai T, Matsuki A: Movement response to skin incision: analgesia vs. bispectral index and 95% spectral edge frequency. *Eur J Anaesthesiol* 1999; 16:610-614
106. Sleight JW, Donovan J: Comparison of bispectral index, 95% spectral edge frequency and approximate entropy of the EEG, with changes in heart rate variability during induction of general anesthesia. *Br J Anaesth* 1999; 82:666-671
107. Sun R, Watcha MF, White PF, Skrivaneck GD, Griffin JD, Stool L, Murphy MT: A cost comparison of methohexital and propofol for ambulatory anesthesia. *Anesth Analg* 1999; 89:311-316
108. Vernon JM, Lang E, Sebel PS, Manberg P: Prediction of movement using bispectral electroencephalographic analysis during propofol/alfentanil or isoflurane/alfentanil anesthesia. *Anesth Analg* 1995; 80:780-785
109. White PF, Wang B, Tang J, Wender RH, Naruse R, Sionitsky A: The effect of intraoperative use of esmolol and nicardipine on recovery after ambulatory surgery. *Anesth Analg* 2003; 97:1633-1638
110. Wuesten R, Van Aken H, Glass PS, Burkle H: Assessment of depth of anesthesia and postoperative respiratory recovery after remifentanyl- versus alfentanil-based total intravenous anesthesia in patients undergoing ear-nose-throat surgery. *Anesthesiology* 2001; 94:211-217
111. Chazot T, Liu N, Tremelot L, Joukovsky P, Flechler M: Detection of gas embolism by bispectral index and entropy monitoring in two cases. *Anesthesiology* 2004; 101:1053-1054

The following practice advisory was approved by the ASA House of Delegates on October 25, 2005. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

112. Hayashida M, Chinsei M, Komatsu K, Yamamoto H, Tamai H, Orie R, Hanaoka K, Murakami A: Detection of cerebral hypoperfusion with bispectral index during paediatric cardiac surgery. *Br J Anaesth* 2003; 90:694-698
113. Honan DM, Breck PJ, Boylan JF, McDonald NJ, Egan TD: Decrease in bispectral index preceding intraoperative hemodynamic crisis: evidence of acute alteration of propofol pharmacokinetics. *Anesthesiology* 2002; 97:1303-1305
114. Kakimoto M, Miyata Y, Kawabata T, Kawashima S, Tokumine J, Sugahara K: Bispectral index decreased to "0" in propofol anesthesia after a cross-clamping of descending thoracic aorta. *Anesthesiology* 2003; 99:1223-1225
115. Kin N, Konstadt S, Sato K, Hanaoka K: Reduction of bispectral index value associated with clinically significant cerebral air embolism. *J Cardiothorac Vasc Anesth* 2004; 18:82-84
116. Luginbuhl M, Schneider TW: Detection of awareness with the bispectral index: two case reports. *Anesthesiology* 2002; 96:241-243
117. Merat S, Leveque J, Le Gulluche Y, Diraion Y, Brinquin L, Hoffmann J: BIS monitoring may allow the detection of severe cerebral ischemia. *Can J Anesth* 2001; 48:1066-1069
118. Mourisse J, Boott L: Bispectral index detects period of cerebral hypoperfusion during cardiopulmonary bypass. *J Cardiothorac Vasc Anesth* 2003; 17:76-78
119. Waleby JJ, Ryan JM, Booth JV, Flanagan B, Messier RH, Borel CO: The bispectral index in the diagnosis of perioperative stroke: a case report and discussion. *Anesth Analg* 2003; 96:435-427
120. Bruhn J, Bouillon TW, Shafer SL: Electromyographic activity falsely elevates the bispectral index. *Anesthesiology* 2000; 92:1485-1487
121. Gallagher JD: Pacer-induced artifact in the bispectral index during cardiac surgery. *Anesthesiology* 1999; 90:636
122. Hemmerling TM, Dourosiere M: Interference of electromagnetic operating systems in otorhinolaryngology surgery with bispectral index monitoring. *Anesth Analg* 2003; 96:1698-1699
123. Hemmerling TM, Fortier JD: Falsely increased bispectral index values in a series of patients undergoing cardiac surgery using forced-air-warming therapy of the head. *Anesth Analg* 2002; 95:322-323
124. Hemmerling TM, Mignault B: Falsely increased bispectral index during endoscopic shoulder surgery attributed to interferences with the endoscopic shaver device. *Anesth Analg* 2002; 95:1678-1679
125. Morimoto Y, Matsumoto A, Koizumi Y, Gohara T, Sakabe T, Hagihira S: Changes in the bispectral index during intrabdominal irrigation in patients anesthetized with nitrous oxide and sevoflurane. *Anesth Analg* 2005; 100:1370-1374
126. Mychaskiw G, Heath BJ, Eichhorn JH: Falsely elevated bispectral index during deep hypothermic circulatory arrest. *Br J Anaesth* 2000; 85:798-800
127. Myles PS, Cairo S: Artifact in the bispectral index in a patient with severe ischemic brain injury. *Anesth Analg* 2004; 98:706-707
128. Puri GD, Bagchi A, Anandamurthy B, Dhaliwal RS: The Bispectral index and induced hypothermia—electrocerebral silence at an unusually high temperature. *Anaesth Intensive Care* 2003; 31:578-580
129. Mychaskiw G 2nd, Horowitz M, Sachdev V, Heath BJ: Explicit intraoperative recall at a bispectral index of 47. *Anesth Analg* 2001; 92:808-809
130. Rampersad SE, Mulroy MF: A case of awareness despite an "adequate depth of anesthesia" as indicated by a bispectral index monitor. *Anesth Analg* 2005; 100:1363-1364

The following practice advisory was approved by the ASA House of Delegates on October 25, 2006. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

131. Chinzei M, Sawamura S, Hayashida M, Kitamura T, Tamai H, Hanaoka K: Change in bispectral index during epileptiform electrical activity under sevoflurane anesthesia in a patient with epilepsy. *Anesth Analg* 2004; 98:1734-1736
132. Hagiwara S, Okitsu K, Kawaguchi M: Unusually low bispectral index values during emergence from anesthesia. *Anesth Analg* 2004; 98:1036-1038
133. Schneider TW, Luginbuhl M, Petersen-Felix S, Mathis J: Unreasonably low bispectral index values in a volunteer with genetically determined low-voltage electroencephalographic signal. *Anesthesiology* 1998; 89:1607-1608
134. Vierto-Oja H, Maja V, Sarkela M, Talja P, Tenkanen N, Toivanen-Lankko H, Palohelmo M, Vakkuri A, Yli-Hankala A, Merilainen P: Description of the entropy algorithm as applied in the Datex-Ohmeda S/S Entropy Module. *Acta Anaesth Scand* 2004; 48:154-161
135. Vakkuri A, Yli-Hankala A, Sandin R, Mustola S, Haymork S, Nyblom S, Talja P, Sampson T, van Gils M, Vierto-Oja H: Spectral entropy monitoring is associated with reduced propofol use and faster emergence in propofol-nitrous oxide-alfentanil anesthesia. *Anesthesiology* 2005; 103:274-279
136. Bruhn J, Bouillon TW, Radulescu L, Hoeft A, Bertaccini E, Shafer SL: Correlation of approximate entropy, bispectral index, and spectral edge frequency 95 (SEF95) with clinical signs of "anesthetic depth" during coadministration of propofol and remifentanyl. *Anesthesiology* 2003; 98:621-627
137. Vanhuchene ALG, Struys MMRF, Heyse BEK, Mortier EP: Spectral entropy measurement during propofol and remifentanyl. A comparison with the bispectral index. *Br J Anaesth* 2004; 93:645-654
138. Anderson RE, Barr G, Howell A, Jakobsson J: Entropy during propofol hypnosis including an episode of wakefulness. *Anaesthesia* 2004; 59:52-56
139. Wheeler PJ, Baughman VL, Koenig HM, Hoffman WE: The role of facial EMG and entropy EEG in evaluating adequacy of anesthesia. *J Neurosurg Anesthesiol* 2004; 16:373-4
140. Schultz B, Schultz A, Grouven U: Sleeping stage based systems (Narcotrend). In: Bruhn HP, Kockarting F, Bouchard R, et al. (eds): *New aspects of high technology in medicine 2000*. Bologna: Monduzzi Editore, 285-91
141. Chen X, Tang J, White PF, Wender RH, Ma H, Slonimsky A, Kariger R: A comparison of patient state index and bispectral index values during the perioperative period. *Anesth Analg* 2002; 95:1669-1674
142. Wong CA, Fragen RJ, Fitzgerald PC, McCarthy RJ: The association between propofol-induced loss of consciousness and the SNAP™ index. *Anesth Analg* 2005; 100:141-148
143. Thornton C, Konieczko KM, Jones JG, Jordan C, Dore CJ, Heneghan CPH: Effect of surgical stimulation on the auditory evoked response. *Br J Anaesth* 1988; 60:372-378
144. Kenny GN, Mantzaridis H: Closed-loop control of propofol anesthesia. *Br J Anaesth* 1999; 83:223-228
145. Schwender D, Conzen P, Klesing S, Finsterer U, Poppel E, Peter K: The effects of anesthesia with increasing end-expiratory concentrations of sevoflurane on midlatency auditory evoked potentials. *Anesth Analg* 1995; 81:817-822
146. Maattanen H, Anderson R, Uusijarvi J, Jakobsson J: Auditory evoked potential monitoring with the AAITM-index during spinal surgery: decreased desflurane consumption. *Acta Anaesthesiol Scand* 2002; 46:882-886
147. Muncaster AR, Steigh JW, Williams M: Changes in consciousness, conceptual memory, and quantitative electroencephalographical measures during recovery from sevoflurane- and remifentanyl-based anesthesia. *Anesth Analg* 2003; 96:720-725

The following practice advisory was approved by the ASA House of Delegates on October 25, 2005. It should be considered final. This practice advisory will be published in a future issue of the journal *Anesthesiology*.

148. Doi M, Gajraj RJ, Mantzaridis H, Kenny GN: Prediction of movement at laryngeal mask airway insertion: comparison of auditory evoked potential index, bispectral index, spectral edge frequency and median frequency. *Br J Anaesth* 1999; 82:203-207
149. Weber F, Bein T, Hoggahn J, Taeger K: Evaluation of the Alaris auditory evoked potential index as an indicator of anesthetic depth in preschool children during induction of anesthesia with sevoflurane and remifentanyl. *Anesthesiology* 2004; 101:294-298
150. Gajraj RJ, Doi M, Mantzaridis H, Kenny GN: Analysis of the EEG bispectrum, auditory evoked potentials and the EEG power spectrum during repeated transitions from consciousness to unconsciousness. *Br J Anaesth* 1998; 80:46-52
151. Ge SJ, Zhuang XL, Wang YT, Wang ZD, Chen SL, Li HT: Performance of the rapidly extracted auditory evoked potentials index to detect the recovery and loss of wakefulness in anesthetized and paralyzed patients. *Acta Anaesth Scand* 2003; 47:466-471
152. Mock TG, Saini V, Weldon BC, Sigl JC: Anesthetic management and one-year mortality after noncardiac surgery. *Anesth Analg* 2005; 100:4-10
153. Enlund M, Hassan HG: Intraoperative awareness: detected by the structured Brice interview? *Acta Anaesthesiol Scand* 2002; 46:345-349
154. Famewo CE: Awareness and dreams during general anesthesia for Caesarian section: a study of incidence. *Can Anaesth Soc J* 1976; 23:636-639
155. Ho AM: 'Awareness' and 'recall' during emergence from general anesthesia. *Eur J Anaesth* 2001; 18:623-625
156. Munte S, Schmidt M, Meyer M, Nager W, Lullwitz E, Munte TF, Piepenbrock S: Implicit memory for words played during isoflurane- or propofol-based anesthesia: the lexical decision task. *Anesthesiology* 2002; 96:588-594
157. Wennervirta J, Ranta SO, Hynynen M: Awareness and recall in outpatient anesthesia. *Anesth Analg* 2002; 95:72-77

Attachment D

QTD-NNNN1899

Q.T.D.A-000002820

STANDARDS FOR BASIC ANESTHETIC MONITORING

(Approved by the ASA House of Delegates on October 21, 1986, and
last amended on October 25, 2005)

These standards apply to all anesthesia care although, in emergency circumstances, appropriate life support measures take precedence. These standards may be exceeded at any time based on the judgment of the responsible anesthesiologist. They are intended to encourage quality patient care, but observing them cannot guarantee any specific patient outcome. They are subject to revision from time to time, as warranted by the evolution of technology and practice. They apply to all general anesthesia, regional anesthetics and monitored anesthesia care. This set of standards addresses only the issue of basic anesthetic monitoring, which is one component of anesthesia care. In certain rare or unusual circumstances, 1) some of these methods of monitoring may be clinically impractical, and 2) appropriate use of the described monitoring methods may fail to detect untoward clinical developments. Brief interruptions of continual[†] monitoring may be unavoidable. *Under extenuating circumstances, the responsible anesthesiologist may waive the requirements marked with an asterisk (*); it is recommended that when this is done, it should be so stated (including the reasons) in a note in the patient's medical record.* These standards are not intended for application to the care of the obstetrical patient in labor or in the conduct of pain management.

† Note that "continual" is defined as "repeated regularly and frequently in steady rapid succession" whereas "continuous" means "prolonged without any interruption at any time."

STANDARD I

Qualified anesthesia personnel shall be present in the room throughout the conduct of all general anesthetics, regional anesthetics and monitored anesthesia care.

OBJECTIVE

Because of the rapid changes in patient status during anesthesia, qualified anesthesia personnel shall be continuously present to monitor the patient and provide anesthesia care. In the event there is a direct known hazard, e.g., radiation, to the anesthesia personnel which might require intermittent remote observation of the patient, some provision for monitoring the patient must be made. In the event that an emergency requires the temporary absence of the person primarily responsible for the anesthetic, the best judgment of the anesthesiologist will be exercised in comparing the emergency with the anesthetized patient's condition and in the selection of the person left responsible for the anesthetic during the temporary absence.

STANDARD II

During all anesthetics, the patient's oxygenation, ventilation, circulation and temperature shall be continually evaluated.

OXYGENATION

OBJECTIVE

To ensure adequate oxygen concentration in the inspired gas and the blood during all anesthetics.

METHODS

- 1) Inspired gas: During every administration of general anesthesia using an anesthesia machine, the concentration of oxygen in the patient breathing system shall be measured by an oxygen analyzer with a low oxygen concentration limit alarm in use.*
- 2) Blood oxygenation: During all anesthetics, a quantitative method of assessing oxygenation such as pulse oximetry shall be employed.* When the pulse oximeter is utilized, the

8.TDA-000002821

variable pitch pulse tone and the low threshold alarm shall be audible to the anesthesiologist or the anesthesia care team personnel.* Adequate illumination and exposure of the patient are necessary to assess color.*

VENTILATION

OBJECTIVE

To ensure adequate ventilation of the patient during all anesthetics.

METHODS

- 1) Every patient receiving general anesthesia shall have the adequacy of ventilation continually evaluated. Qualitative clinical signs such as chest excursion, observation of the reservoir breathing bag and auscultation of breath sounds are useful. Continual monitoring for the presence of expired carbon dioxide shall be performed unless invalidated by the nature of the patient, procedure or equipment. Quantitative monitoring of the volume of expired gas is strongly encouraged.*
- 2) When an endotracheal tube or laryngeal mask is inserted, its correct positioning must be verified by clinical assessment and by identification of carbon dioxide in the expired gas. Continual end-tidal carbon dioxide analysis, in use from the time of endotracheal tube/laryngeal mask placement, until extubation/removal or initiating transfer to a postoperative care location, shall be performed using a quantitative method such as capnography, capnometry or mass spectroscopy.* When capnography or capnometry is utilized, the end tidal CO₂ alarm shall be audible to the anesthesiologist or the anesthesia care team personnel.*
- 3) When ventilation is controlled by a mechanical ventilator, there shall be in continuous use a device that is capable of detecting disconnection of components of the breathing system. The device must give an audible signal when its alarm threshold is exceeded.
- 4) During regional anesthesia and monitored anesthesia care, the adequacy of ventilation shall be evaluated by continual observation of qualitative clinical signs and/or monitoring for the presence of exhaled carbon dioxide.

CIRCULATION

OBJECTIVE

To ensure the adequacy of the patient's circulatory function during all anesthetics.

METHODS

- 1) Every patient receiving anesthesia shall have the electrocardiogram continuously displayed from the beginning of anesthesia until preparing to leave the anesthetizing location.*
- 2) Every patient receiving anesthesia shall have arterial blood pressure and heart rate determined and evaluated at least every five minutes.*
- 3) Every patient receiving general anesthesia shall have, in addition to the above, circulatory function continually evaluated by at least one of the following: palpation of a pulse, auscultation of heart sounds, monitoring of a tracing of intra-arterial pressure, ultrasound peripheral pulse monitoring, or pulse plethysmography or oximetry.

BODY TEMPERATURE

OBJECTIVE

To aid in the maintenance of appropriate body temperature during all anesthetics.

METHODS

Every patient receiving anesthesia shall have temperature monitored when clinically significant changes in body temperature are intended, anticipated or suspected.

¹To become effective July 1, 1999

Attachment E

8.TDA-00000A.022

The Columbus Dispatch

Ohio's Greatest Online Newspaper

IV fiasco led killer to ask for plan B

Friday, May 12, 2006

Andrew Walsh • Huggins
ASSOCIATED PRESS

A condemned inmate asked prison staffers to find another way to kill him after difficulty finding a vein delayed his execution by almost 90 minutes, state prison records show.

"Can you just give me something by mouth to end this?" convicted killer Joseph Clark asked members of the execution



Joseph Clark, 57, was sentenced on May 2 for killing a clerk while robbing a gas station in Toledo in 1984.

team as they struggled to find a way to insert an intravenous line after the first try failed.

Clark's execution was plagued with problems from the beginning, when team members struggled for several minutes to find a vein to take the IV. After proceeding with a shunt in Clark's left arm, the vein collapsed and the execution team had to start over.

After finally attaching a shunt to Clark's right arm, the execution team apparently tried to administer the lethal drugs through the original IV line by mistake, according to written accounts of the execution obtained by the Associated Press.

A member of the execution team said he realized a problem "upon noticing the wrong reaction by inmate Clark again," the member's statement said.

"I noticed I had picked up the wrong line. Once I switched to proper IV line, execution was completed successfully."

The team member noticed Clark moved his left foot, said prison spokeswoman Andrea Dean.

During the first attempt to administer the drugs, Clark continued to move and then finally pushed himself up and said, "It don't work."

Clark, 57, sentenced to die in November 1984 for killing David Manning, had been facing execution longer than all but 11 of the 193 men on Ohio's Death Row.

The problems with the execution fueled a growing debate about lethal injection, with many Death Row inmates saying that their executions could be painful, either because of the drug combination or because the procedure is not handled by specially trained medical personnel.

A lawyer representing Clark's family said the records underscore the need for a thorough investigation.

"There's something drastically wrong with the procedures that are in place, and we hope that this leads to an honest evaluation and discussion of these problems," Alan Konop said. "This should never happen and hopefully will never happen again."

The Department of Rehabilitation and Correction is re-viewing the execution because of the problems but doesn't think its procedures are flawed.

"The vein simply collapsed; that wasn't a flaw in the process," Dean said.

The handwritten reports by members of the execution team, who volunteer for the job, provide an intimate though emotionless view of the execution process. No report indicated a team member was upset by what happened, and the reports do not include the prison employees' names.

"I assisted by holding the inmate's feet, patting them in an attempt to calm him down," one team member wrote.

The team appeared to anticipate problems early on. "As an observer for the insertion of the IV catheters, I noted that Mr. Clark's veins were not going to be easy to find," one member wrote.

Several team members said they didn't think Clark suffered during the ordeal, which began at 9:58 a.m. when members of the team entered a holding cell to insert the shunts.

"Clark showed no signs of suffering during this process," one report said.

But another report said the "inmate seemed to have some discomfort" where the left shunt was placed.

The same team member who picked up the wrong line wrote, "Inmate Clark was afraid, but not in any distress."

As the troubles finding Clark's vein continued, a team member standing with reporters, Clark's attorney and members of Manning's family decided to draw the curtain that blocked public view of the death chamber.

That decision elicited a protest from the American Civil Liberties Union, which previously sued to force the prison system to show more of the state's execution process.

The team member defended the decision, saying people were getting upset.

"I could feel the tension rising inside the viewing chamber, and upon that time closed the curtain," the team member wrote. "I personally felt this was a very wise decision to alleviate extra stress upon all witnesses until the team could determine what happened."

Dean, a witness of this and several other executions, gave a slightly different account.

"There was an air of apprehension because we didn't know what was going on because this had never happened before," she said.

The team, numbering between 15 and 18, consists mostly of guards with some medical technicians and other prison employees.

Every capital-punishment state but one uses lethal injection; Nebraska still uses the electric chair.

A North Carolina inmate was executed last month only after the state changed its procedures to

satisfy a federal judge.

In California, executions are on hold while a federal judge considers the constitutionality of that state's protocol. A hearing is scheduled in September.

Copyright © 2006, The Columbus Dispatch

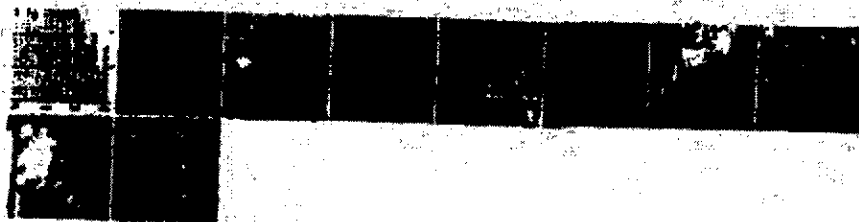
8.THA-00001827

Attachment F

SFGate.com Return to regular view

THE EXECUTION OF STANLEY TOOKIE WILLIAMS

Eyewitness: Prisoner did not die quickly, quietly
 - KATH EMMES, Chronicle Staff Writer
 Wednesday, December 14, 2006



It took 36 agonizing minutes to get to the defining moment of Stanley Tookie Williams' execution by lethal injection early Tuesday, and when it came it shot through the stuffy, crowded witness room like lightning.

Williams lay dead, strapped to his gurney. It was 12:35 a.m. The prison guards had just ordered the 39 witnesses to leave, and the first to go were three friends Williams had asked to watch his final moments. It was so quiet that when one man jangled his pocket change, it echoed off the walls.

Then, just as they crossed the doorway to the chilly outdoors, the three whipped their heads back and screamed in unison: "The state of California just killed an innocent man!" Across the room sat Lora Owens, stepmother of one of the murder victims -- and the stone face she'd worn for the entire execution dissolved. Her eyes filled with horror, and she burst into tears, pressing a tissue to her face.

And there it was: The twin emotions enveloping the execution of the 12th man put to death by California since capital punishment was revived in 1992 after a quarter-century hiatus.

On one side were the furious supporters of Williams, 51, who co-founded the Crips gang in the early 1970s but later renounced violence while in prison and wrote influential books advocating peace. On the other was the trail of survivors left grieving for the four people he was convicted of shotgunning to death in 1979 in Southern California.

The two sides never came to a meeting of the minds. Not even in the end.

The dramatics seemed far from anybody's mind when the execution began precisely at 11:59 p.m. Monday.

The oval door of the death chamber popped open -- it looks like a submarine hatch -- and Williams shuffled in with a green-uniformed guard on each side, loosely holding his arms, and three following behind. His wrists were handcuffed to a waist chain. His eyes were calm behind steel-framed glasses, lips set firmly above a gray beard.

<http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2006/12/14/MN005G7QMA1.DTL&type=pr...> 1/10/2006

THE EXECUTION OF STANLEY TOOKIE WILLIAMS / Eyewitness: Prisoner did not ... Page 2 of 5

It looked like it would be just like the nine lethal injections before it: controlled, noiseless, practically antiseptic.

With a chest like a barrel and bulging arms the size of toned thighs, Williams had to squeeze with his guards along the 7 1/2-foot-wide chamber's glass window just to get to the side of the gurney. There, he lay down slowly, and after the guards unlocked his wrists, he helpfully spread his arms along the gurney and became still. In two minutes, the team had him lashed down tight: black straps with buckles at his shoulders, chest, waist, knees and feet, and brown-leather Velcro straps at his wrists.

Williams stared straight up and his lips moved rapidly, praying quietly. At one point, a tiny tear slid down his cheek.

The three guards left, and five others walked in.

It was time to insert the needles.

Watching tensely the whole while were the 39 witnesses. They'd been marched into the witness room by a phalanx of guards a few minutes before midnight and placed in a half-circle around the death chamber — 11 in chairs at the window, the rest on risers against three walls. It's impossible to tell who many witnesses are, because by prison rules nobody can move from their spot or talk, but they always consist of four groups: Supporters of the condemned man, supporters of his victims, 17 media representatives, and more than dozen law enforcement and legal officials.

In this execution, at least five were related to the four people Williams was convicted of killing — convenience store clerk Albert Owens, 26, and motel owners Yen-I Yang, 76, Tami-Shai Chen Yang, 63, and their daughter Yee-Chen Lin, 43. Prison sources said the victim witnesses were all from the Owens family.

The three who shouted on their way out were led by bushy-haired Barbara Bonnet, co-author of his anti-gang books. Also witnessing on Williams' behalf were his attorney, Peter Fleming, and another lawyer.

Nobody said a word at first. Everybody stood rigidly.

The first catheter slid in messily at the crook of Williams' right elbow, taking just two minutes to seat but spurting so much blood at the needle point that a cotton swab was soaked, shining deep red before it was taped off.

Then came the real trouble. A medical technician, a woman with short black hair, had to poke for 11 minutes before her needle hit bone.

At the first stick, at 12:04, Williams clenched his toes. At 12:05, he struggled mightily against the straps holding him down to look up at the press gallery behind him, dishing out a hard stare for six long seconds. By 12:10 a.m., the medical tech's lips were tight and white and sweat was pooling on her forehead as she probed Williams' arm.

"You guys doing that right?" Williams asked angrily, frustration clear on his face. The female guard whispered something back; it was hard to hear anything through the thick

THE EXECUTION OF STANLEY TOOKIE WILLIAMS / Eyewitness: Prisoner did not ... Page 3 of 5

glass walls of the death chamber. One guard, jaw clenched tightly, patted Williams' shoulder as if to comfort him.

Outside the chamber, Becnel stood with her two companions -- a woman and a man -- at the only window with a clear line of sight into Williams' eyes, and it was as if they were trying to will themselves right through the glass to stand alongside their friend. They thrust their fists up in what seemed to be a black power salute, and the man called out softly, "Tookie." They whispered "I love you" and "God bless you" as they looked adoringly into Williams' eyes.

Meanwhile, 10 feet away, Lora Owens sat stiffly, looking through the glass at the top of Williams' head. Her thick red hair never moved, and her mouth was a tight line. A blond woman sitting next to her put her arm around her, and then removed it and clasped her hands in her lap.

At 12:16 a.m., the second needle was inserted. His hands were taped, mummy-like, to the gurney arms. The guards hurried out the door and sealed it, leaving Williams alone with two clear intravenous lines snaking off his arms and into holes in the back wall of the death chamber.

At 12:18 a.m., a female prison guard loudly read off the warrant proclaiming that prisoner number C29300 had been sentenced to die and "the execution shall now proceed." Williams forced his head up one last time to stare into the eyes of his five friends -- and he kept it raised until he passed out 1 1/2 minutes later from the first salvo of chemicals, sodium pentothal to put him to sleep. Sorrow washed over the faces of Becnel and her female companion as his head sank, and they clasped their hands in prayer.

From there on it was a nail-biting vigil for everyone outside staring in. There was no way to know which chemicals were being administered because the plungers sending them into the intravenous tubes are pressed by unseen hands behind the chamber walls. Williams' chest heaved several times as he lay with his eyes closed, but somewhere in the 15 minutes from 12:20 to 12:35 a.m., the executioners filled his veins with pancuronium bromide to stop his breathing, then potassium chloride to stop his heart.

Finally, someone behind the walls called out, "He's flatlined," and it was over. A hand shoved a paper through a peephole in the witness room, a guard read off a quick statement affirming Williams' death, and 30 seconds later the room was cleared.

That's when the outburst happened. It was the first time since California restarted executions in 1992 that anybody had yelled or even spoken loudly during the grim procedure -- and as much as anything, that is what set this execution apart.

All of the other men killed by lethal injection lay so quietly on the gurney that, except for a few small movements, it was hard to tell if they were even awake. Even in the two gasings at San Quentin that preceded the injections, Robert Alton Harris and David Edwin Mason faced their ends stoically. The witnesses, too, have never done more than mouth a few silent words and cry quietly -- and the victim and prisoner advocates certainly never reacted to each other.

Williams and his friends were different.

8.TDA-000001.001

THE EXECUTION OF STANLEY TOOKIE WILLIAMS / Eyewitness: Prisoner did not ... Page 4 of 5

It was like they were determined to get through his final minutes on Earth on their own terms -- even up to the tradition of the condemned man issuing a final statement. Williams, ever-defiant against the system he considered unfair, gave no final words to Warden Steve Ornoski, who said later that Williams chose instead to leave his final message with Bonnel. Sources said she may reveal it at a funeral in Los Angeles on Tuesday.

The main complication in the death chamber this time was the excruciatingly long wait for the poisons to work. During the last execution, when triple-killer Donald Beardslee was killed in January, the actual injection process took four fewer minutes; injections for "Freeway Killer" William Bonin required only four minutes in 1996. But prison officials had an explanation.

He was a big man," Warden Steve Ornoski said in a post-execution briefing. The techs didn't have to administer extra shots of chemicals, he said; the poisons just needed time to work.

It made sense. Williams was the most muscular man put to death in the modern era of executions in California, and it appeared as if his bulky body was fighting off the inevitable, even after consciousness and the ability to move had fled.

This was not a man who went meekly.

This was the sixth execution witnessed by Kevin Fagan. E-mail him at kfagan@sfchronicle.com.

A look at California's 647 Death Row inmates

Here is a statistical summary of inmates sentenced to death in California.

By ethnicity

White	39.51%
Black	35.34%
Hispanic	18.96%
Other	6.17%

By age range

10-19	0%
20-29	4.8%
30-39	31.4%
40-49	36.5%
50-59	21.3%
60-69	5.3%
70-79	0.8%
80-89	0%
90 and above	0%

Figures as of December 2005. Numbers may not total 100% because of rounding

Executions Name, year executed and time spent on Death Row:

Robert Alton Harris (1992; 13 years, 1 month)

<http://sfgate.com/cgi-bin/article.cgi?file=/c/a/2005/12/14/MNG05G7QMA1.DTL&type=pr...> 1/10/2006

8.TDA-00004842

THE EXECUTION OF STANLEY TOOKIE WILLIAMS / Eyewitness: Prisoner did not ... Page 1 of 5

Keith Daniel Williams (1996; 17 years)
Robert Lee Massie (2001; 21 years, 10 months)
Darrell Keith Rich (2000; 19 years, 1 month)
Kelvin Malone* (1999; 15 years, 6 months)
Stephen Wayne Anderson (2002; 20 years, 6 months)
Donald Beardslee (2005; 20 years, 10 months)
Stanley Tookie Williams (2005; 24 years, 8 months)
William George Bonin (1996; 13 years, 1 month)
Manuel Rabbitt (1999; 16 years, 10 months)
Jaeurus Siriponga (1999; 15 years, 9 months)
David Edwin Mason (1993; 9 years, 7 months)
Thomas M. Thompson (1998; 14 years, 1 month)
* Extradited to Missouri and executed in that state.

By sentencing county

Bay Area totals		
County	Total	Percentage
Alameda	66	13.36
Santa Clara	52	8.0
Contra Costa	34	5.3
San Mateo	28	4.3
Sonoma	8	1.2
Napa	4	0.6
Solano	4	0.6
Marin	2	0.3
San Francisco	2	0.3

Sources: California Department of Corrections, Associated Press

Page A - 12

URL: <http://sfgate.com/cgi-bin/article.cgi?file=/a/2005/12/14/MNG05G7QMA1.DTL>

©2004 San Francisco Chronicle

<http://sfgate.com/cgi-bin/article.cgi?file=/c/2005/12/14/MNG05G7QMA1.DTL&type=pr...> 1/10/2006

1 EXH
FRANNY A. FORSMAN
2 Federal Public Defender
State Bar No. 0014
3 GARY A. TAYLOR
Assistant Federal Public Defender
4 Nevada Bar No. 11031C
NISHA N. BROOKS
5 Assistant Federal Public Defender
Nevada Bar No. 11032C
6 411 East Bonneville Avenue, Suite 250
Las Vegas, NV 89101
7 Phone: (702) 388-6577
Fax: (702) 388-5819
8
9 Attorneys for Petitioner

10 DISTRICT COURT
11 CLARK COUNTY, NEVADA

12 WILLIAM P. CASTILLO,

13 Petitioner,

14 vs.

15 E. K. McDANIEL, Warden, and
16 CATHERINE CORTEZ MASTO,
17 Attorney General of the State of Nevada,

18 Respondents.

Case No. C133336
Dept. No. XVIII

**EXHIBITS TO
PETITION FOR WRIT
OF HABEAS CORPUS**

(Death Penalty Habeas Corpus Case)

19 **VOLUME 9 OF 15**
20
21
22
23
24
25
26
27
28

FILED

SEP 18 2003

John L. ...
CLERK OF COURT

1 EXH
FRANNY A. FORSMAN
2 Federal Public Defender
State Bar No. 0014
3 GARY A. TAYLOR
Assistant Federal Public Defender
4 Nevada Bar No. 11031C
NISHA N. BROOKS
5 Assistant Federal Public Defender
Nevada Bar No. 11032C
6 411 East Bonneville Avenue, Suite 250
Las Vegas, NV 89101
7 Phone: (702) 388-6577
Fax: (702) 388-5819
8

9 Attorneys for Petitioner

DISTRICT COURT
CLARK COUNTY, NEVADA

12 WILLIAM P. CASTILLO,

13 Petitioner,

14 vs.

15 E. K. McDANIEL, Warden, and
16 CATHERINE CORTEZ MASTO,
17 Attorney General of the State of Nevada,

18 Respondents.

Case No. C133336
Dept. No. XVIII

**EXHIBITS TO
PETITION FOR WRIT
OF HABEAS CORPUS**

(Death Penalty Habeas Corpus Case)

VOLUME 1 OF 15

20 Exhibit No. Description

- 21 1. Judgment of Conviction, State v. Castillo, Clark County, Case No. C133336,
22 November 12, 1996
- 23 2. Indictment, State v. Castillo, Clark County, Case No. C133336, January 19,
24 1996
- 25 3. Order of Appointment of Counsel, State v. Castillo, Clark County, Case No.
C133336, March 14, 1996
- 26 4. Amended Indictment, State v. Castillo, Clark County, Case No. C133336, May
27 29, 1996
- 28 5. Special Verdict, State v. Castillo, Clark County, Case No. C133336,
September 25, 1996

- 1 6. Special Verdict, State v. Castillo, Clark County, Case No. C133336,
2 September 25, 1996
 - 3 7. Verdict, State v. Castillo, Clark County, Case No. C133336, September 25,
4 1996
 - 5 8. Guilty Plea Agreement, State v. Michele C. Platou, Clark County, Case No.
6 C133336, September 26, 1996
 - 7 9. Notice of Appeal, State v. Castillo, Clark County, Case No. C133336,
8 November 4, 1996
 - 9 10. Appellant's Opening Brief, Castillo v. State, Nevada Supreme Court, Case No.
10 29512, March 12, 1997
 - 11 11. Appellant's Reply Brief, Castillo v. State, Nevada Supreme Court, Case No.
12 29512, May 2, 1997
 - 13 12. Petition for Rehearing, Castillo v. State, Nevada Supreme Court, Case No.
14 29512, August 21, 1998
 - 15 13. Order Denying Rehearing, Castillo v. State, Nevada Supreme Court, Case No.
16 29512, November 25, 1998
 - 17 14. Petition for Writ of Habeas Corpus, Castillo v. State, Clark County, Case No.
18 C133336, April 2, 1999
 - 19 15. Opinion, Castillo v. State, Nevada Supreme Court, Case No. 29512, April 2,
20 1998
 - 21 16. Supplemental Brief In Support of Defendant's Petition for Writ of Habeas
22 Corpus (Post-Conviction), Castillo v. State, Clark County, Case No. C133336,
23 October 12, 2001
 - 24 17. Notice of Appeal, Castillo v. State, Clark County, Case No. C133336,
25 February 19, 2003
 - 26 18. Findings of Fact, Conclusions of Law and Order, Castillo v. State, Clark
27 County, Case No. C133336, June 11, 2003
 - 28 19. Appellant's Opening Brief, Castillo v. State, Nevada Supreme Court, Case No.
40982, October 2, 2003
 20. Order of Affirmance, Castillo v. State, Nevada Supreme Court, Case No.
40982, February 5, 2004
- VOLUME 2 OF 15**
21. Notice of Intent to Seek Indictment, LVMPD Event No. 951217-0254,
December 26, 1996
 22. Notice of Intent to Seek Death Penalty, State v. Castillo, Clark County, Case
No. C133336, January 23, 1996

- 1 23. Instructions to the Jury, State v. Castillo, Clark County, Case No. C133336,
September 4, 1996
- 2 24. Verdict, State v. Castillo, Clark County, Case No. C133336, September 4,
3 1996
- 4 25. Instructions to the Jury, State v. Castillo, Clark County, Case No. C133336,
5 September 25, 1996
- 6 26. Lewis M. Etcoff, Psychological Evaluation, July 14, 1996
- 7 27. Declaration of Herbert Duzant
- 8 28. Declaration of Joe Castillo
- 9 29. Declaration of Barbara Wickham
- 10 30. Declaration of Regina Albert
- 11 31. Declaration of Cecilia Boyles
- 12 32. Declaration of Ramona Gavan-Kennedy
- 13 33. Declaration of Michael Thorpe
- 14 34. Declaration of Yolanda Norris
- 15 35. Declaration of Lora Brawley
- 16 36. Evaluation Report by Rebekah G. Bradley, Ph.D.
- 17 37. Curriculum Vitae of Rebekah G. Bradley, Ph.D.
- 18 38. Confidential Forensic Report by Jonathan H. Mack, Psy.D.
- 19 39. Curriculum Vitae of Jonathan H. Mack, Psy.D.
- 20 **VOLUME 3 OF 15**
- 21 40. Declaration of Kelly Lynn Lea
- 22 41. Declaration of Dale Eric Murrell
- 23 42. Declaration of Lewis M. Etcoff, Ph.D.
- 24 43. Declaration of Mary Kate Knowles
- 25 44. Declaration of Herbert Duzant
- 26 45. David M. Schieck, Esq. Client Billing Worksheet (2/29/96-11/4/96)
- 27 46. Affidavit of Vital Statistics, Barbara Margaret Thorpe v. William Patrick
28 Thorpe, Sr., State of Missouri, County of St. Louis, September 14, 1973

- 1 47. William P. Thorpe, Sr. Missouri Department of Corrections with Fulton State
Hospital records
- 2 48. Catholic Services for Children and Youth, Catholic Charities, Archdiocese of
3 St. Louis, records of Max Allen Becker, Yolanda Becker, and Barbara Becker,
4 children of Allegria Dehry-Becker and Robert Becker
- 5 49. Divorce proceedings, Barbara Castillo v. Joe Castillo, Clark County, Nevada,
Case No. D121396
- 6 50. Charles Sarkison, Attorney at Law, records of representation of Barbara M.
Wickham, formerly, Barbara Becker-Thorpe-Castillo-Sullivan:
- 7
- 8 • Custodial proceedings regarding William Patrick Thorpe, Jr. (now
William Patrick Castillo), pages 2-25
- 9 • Divorce proceedings regarding William Patrick Thorpe, Sr., pages 26-
48
- 10 • Personal injury lawsuit for accident on 4/10/74, pages 49-69

11 **VOLUME 4 OF 15**

- 12 51. Missouri Certification of Death, William P. Thorpe, Sr. (Date of Death: July
17, 1984)
- 13 52. Missouri Criminal Court records Re: William Patrick Thorpe, Sr.
- 14 53. Arturo R. Longoro, M.D. - Medical records of Yolanda Norris, formerly
15 Yolanda Becker
- 16 54. Lewis M. Etcoff, Ph.D. records Re: William Patrick Castillo

17 **VOLUME 5 OF 15**

- 18 55. Order for Adoption, In the Matter of the Adoptive Petition of Joe L. Castillo
and Barbara Castillo, Clark County, Nevada, Case No. D40017, January 15,
19 1982
- 20 56. St. Louis Post-Dispatch, news article "Police Keeping Their Eyes Peeled At
New Downtown Massage Parlor," September 19, 1976
- 21 57. St. Louis Globe-Democrat news article, "His home is a prison cell and his life
22 is a waste," November 7, 1973
- 23 58. Children's Hospital of St. Louis medical records on William P. Thorpe, Jr.
- 24 59. Oasis Treatment records, 6/9/81-9/11/81
- 25 60. Coordinator's Contact Record, 9/14/81-12/15/81
- 26 61. Confidential Psychological Evaluation, performed May 24, 1982
- 27 62. Las Vegas Mental Health Center, Psychiatric Evaluation, dated July 7, 1982
- 28

- 1 63. Abandonment proceedings, In the Interest of William P. Thorpe, Jr., Family
2 Court of St. Louis, Case No. 56644
- 3 64. State of Nevada, Department of Human Resources, Division of Child and
4 Family Services, Child Abuse reports
- 5 65. Nevada Youth Training Center Records
- 6 66. Catholic Services for Children and Youth, Catholic Charities, Archdiocese of
7 St. Louis, records of William P. Thorpe, Jr.
- 8 67. Independence High School records of William Patrick Castillo
- 9 68. Missouri Baptist Hospital, medical records of Barbara M. Thorpe, 8/11/76
- 10 69. State of Nevada Children's Behavioral Health Services records of William
11 Patrick Castillo (formerly William Patrick Thorpe, Jr.)
- 12 70. Castillo Family Video Recordings: 12/25/1983, 12/28/83 (William P.
13 Castillo's birthday), 12/24/84, 12/25/84, 12/28/84 (William P. Castillo's
14 birthday) - MANUALLY FILED
- 15 71. Acadia Neuro-Behavioral Center, P.A., Richard Douyon, M.D. records of
16 Yolanda Norris (formerly Yolanda Becker)
- 17 72. News article, "Police hunt Florissant gang members"
- 18 73. William P. Castillo's family tree
- 19 **VOLUME 6 OF 15**
- 20 74. Historical View, Life of William Castillo
- 21 75. State of Nevada Department of Health and Human Services Health Division
22 letter dated May 11, 2008
- 23 76. Las Vegas Metropolitan Police Department Detention Bureau Record of
24 Visitors
25 12/21/95-8/16/96
- 26 77. Ely State Prison Visiting Record 1997-2008
- 27 78. Jeffrey Fagan, Deterrence and the Death Penalty: A Critical Review of New
28 Evidence, January 21, 2005, at <http://www.deathpenaltyinfo.org>
79. Juvenile Division, In the Matter of William P. Castillo aka William P. Thorpe,
Clark County, Nevada, Case No. J26174
- Order, July 30, 1982, pg. 1
 - Parents Treatment Agreement, July 30, 1982, pgs. 2-3
 - Reporter's Transcript of Hearing in Re: Report and Disposition, July
29, 1982, pgs. 4-9
 - Transcript of Proceedings, Report and Disposition, December 7, 1982,

- 1 pgs. 10-18
2 • Dispositional Report, January 25, 1983, pgs. 19-21
3 • Transcript of Proceedings, Report and Disposition, January 25, 1983,
4 pgs. 22-26
- 5 80. Family Court of St. Louis County, Missouri, juvenile records, 6/4/85-9/13/85
- 6 81. Motion to Exclude Other Bad Acts and Irrelevant Prior Criminal Activity,
7 State v. Castillo, Clark County, Case No. C133336, July 30, 1996
- 8 82-100 Omitted
- 9 101. Bennett v. State, No. 38934 Respondent's Answering Brief (November 26,
10 2002)
- 11 102. State v. Colwell, No. C123476, Findings, Determinations and Imposition of
12 Sentence (August 10, 1995)
- 13 103. Doleman v. State, No. 33424 Order Dismissing Appeal (March 17, 2000)
- 14 104. Farmer v. Director, Nevada Dept. of Prisons, No. 18052 Order Dismissing
15 Appeal (March 31, 1988)
- 16 105. Farmer v. State, No. 22562, Order Dismissing Appeal (February 20, 1992)
- 17 106. Farmer v. State, No. 29120, Order Dismissing Appeal (November 20, 1997)
- 18 107. Feazell v. State, No. 37789, Order Affirming in Part and Vacating in Part
19 (November 14,
20 2002)
- 21 108. Hankins v. State, No. 20780, Order of Remand (April 24, 1990)
- 22 109. Hardison v. State, No. 24195, Order of Remand (May 24, 1994)
- 23 110. Hill v. State, No. 18253, Order Dismissing Appeal (June 29, 1987)
- 24 111. Jones v. State, No. 24497 Order Dismissing Appeal (August 28, 1996)
- 25 112. Jones v. McDaniel, et al., No. 39091, Order of Affirmance (December 19,
26 2002)
- 27 113. Milligan v. State, No. 21504 Order Dismissing Appeal (June 17, 1991)
- 28 114. Milligan v. Warden, No. 37845, Order of Affirmance (July 24, 2002)
115. Moran v. State, No. 28188, Order Dismissing Appeal (March 21, 1996)
116. Neuschafer v. Warden, No. 18371, Order Dismissing Appeal (August 19,
1987)
117. Nevius v. Sumner (Nevius I), Nos. 17059, 17060, Order Dismissing Appeal
and Denying Petition (February 19, 1986)

- 1 118. Nevius v. Warden (Nevius II), Nos. 29027, 29028, Order Dismissing Appeal
and Denying Petition for Writ of Habeas Corpus (October 9, 1996)
- 2 119. Nevius v. Warden (Nevius III), Nos. 29027, 29028, Order Denying Rehearing
3 (July 17, 1998)
- 4 120. Nevius v. McDaniel, D. Nev. No. CV-N-96-785-HDM-(RAM), Response to
Nevius' Supplemental Memo at 3 (October 18, 1999)
- 5 121. O'Neill v. State, No. 39143, Order of Reversal and Remand (December 18,
6 2002)
- 7 122. Rider v. State, No. 20925, Order (April 30, 1990)
- 8 123. Riley v. State, No. 33750, Order Dismissing Appeal (November 19, 1999)
- 9 **VOLUME 7 OF 15**
- 10 124. Rogers v. Warden, No. 22858, Order Dismissing Appeal (May 28, 1993),
Amended Order
11 Dismissing Appeal (June 4, 1993)
- 12 125. Rogers v. Warden, No. 36137, Order of Affirmance (May 13, 2002)
- 13 126. Sechrest v. State, No 29170, Order Dismissing Appeal (November 20, 1997)
- 14 127. Smith v. State, No. 20959, Order of Remand (September 14, 1990)
- 15 128. Stevens v. State, No. 24138, Order of Remand (July 8, 1994)
- 16 129. Wade v. State, No. 37467, Order of Affirmance (October 11, 2001)
- 17 130. Williams v. State, No. 20732, Order Dismissing Appeal (July 18, 1990)
- 18 131. Williams v. Warden, No. 29084, Order Dismissing Appeal (August 29, 1997)
- 19 132. Ybarra v. Director, Nevada State Prison, No. 19705, Order Dismissing Appeal
20 (June 29, 1989)
- 21 133. Ybarra v. Warden, No. 43981, Order Affirming in Part, Reversing in Part, and
Remanding (November 28, 2005)
- 22 134. Ybarra v. Warden, No. 43981, Order Denying Rehearing (February 2, 2006)
- 23 135. Rippo v. State; Bejarano v. State, No. 44094, No. 44297, Order Directing Oral
24 Argument (March 16, 2006)
- 25 136. State v. Rippo, Case No. C106784, Supplemental Brief in Support of
26 Defendant's Petition for Writ of Habeas Corpus (Post-Conviction), February
10, 2004
- 27 137. State v. Rippo, Case No. C106784, Findings of Fact, Conclusions of Law and
Order, December 1, 2004
- 28

- 1 138. Rippo v. State, S. C. Case No. 44094, Appellant's Opening Brief, May 19,
2005
- 2 139. Rippo v. State, S. C. Case No. 44094, Respondent's Answering Brief, June 17,
3 2005
- 4 140. Rippo v. State, S. C. Case No. 44094, Appellant's Reply Brief, September 28,
5 2005
- 6 141. Rippo v. State, S. C. Case No. 44094, Appellant's Supplemental Brief As
Ordered By This Court, December 12, 2005

7 VOLUME 8 OF 15

- 8 142. Nevada Department of Corrections Confidential Execution Manual,
9 Procedures for Executing the Death Penalty, Nevada State Prison, Revised
February 2004
- 10 142-A. Nevada Department of Corrections Confidential Execution Manual, Revised
October 2007 with transmittal letter dated June 13, 2008
- 11 143. Brief of Amici Curiae in Support of Petitioner, United States Supreme Court
12 Case No. 03-6821, David Larry Nelson v. Donal Campbell and Grantt
13 Culliver, October Term, 2003
- 14 144. Killer makes final requests, LAS VEGAS SUN, March 18, 2004
- 15 145. Leonidas G. Koniaris, Teresa A. Zimmers, David A. Lubarsky, and Jonathan
16 P. Sheldon, Inadequate Anaesthesia in Lethal Injection for Execution, Vol.
365, April 16, 2005, at <http://www.thelancet.com>
- 17 146. Declaration of Mark J. S. Heath, M.D., May 16, 2006, including attachments
A-F

18 VOLUME 9 OF 15

- 19 147. Reporter's Transcript of Proceedings, Volume I, Castillo v. State, Clark
20 County, Grand Jury, Case No. C133336, January 11, 1996
- 21 148. Reporter's Transcript of Proceedings, Volume II, Castillo v. State, Clark
County, Grand Jury, Case No. C133336, January 18, 1996
- 22 149. Transcript (Arraignment), Castillo v. State, Clark County, Case No. C133336,
23 January 24, 1996
- 24 150. Transcript, Castillo v. State, Clark County, Case No. C133336, March 13,
1996
- 25 151. Transcript, Castillo v. State, Clark County, Case No. C133336, April 3, 1996
- 26 152. Recorder's Transcript Re: Defendant Castillo's Petition for Writ of Habeas
27 Corpus, Defendant Platou's Petition for Writ of Habeas Corpus, State's
28 Motion to Amend Indictment, Castillo v. State, Clark County, Case No.

C133336, May 1, 1996

153. Reporter's Transcript of Proceedings in Re: Defendant Castillo's Petition for Writ of Habeas Corpus and Defendant Platou's Petition for Writ of Habeas Corpus, Castillo v. State, Clark County, Case No. C133336, May 29, 1996
154. Transcript, Castillo v. State, Clark County, Case No. C133336, July 22, 1996
155. Reporter's Transcript of Proceedings In Re: Motions, Castillo v. State, Clark County, Case No. C133336, August 12, 1996
156. Transcript, Castillo v. State, Clark County, Case No. C133336, August 21, 1996

VOLUME 10 OF 15

157. Trial Transcript, Volume I, Castillo v. State, Clark County, Case No. C133336, August 26, 1996
158. Trial Transcript, Volume II, Castillo v. State, Clark County, Case No. C133336, August 27, 1996 2:10 PM
159. Trial Transcript, Volume II, Castillo v. State, Clark County, Case No. C133336, August 27, 1996 4:40 PM
160. Trial Transcript, Volume III, Morning Session, Castillo v. State, Clark County, Case No. C133336, August 28, 1996

VOLUME 11 OF 15

161. Reporter's Transcript of Trial, Volume III, Afternoon Session, Castillo v. State, Clark County, Case No. C133336, August 28, 1996
162. Trial Transcript, Volume IV - Morning Session, Castillo v. State, Clark County, Case No. C133336, August 29, 1996 9:30 A.M.
163. Reporter's Transcript of Jury Trial, Volume IV - Afternoon Session, Castillo v. State, Clark County, Case No. C133336, August 29, 1996 1:15 P.M.

VOLUME 12 OF 15

164. Trial Transcript, Volume V - Morning Session, Castillo v. State, Clark County, Case No. C133336, September 3, 1996 9:35 A.M.
165. Reporter's Transcript of Trial, Volume V, Afternoon Session, Castillo v. State, Clark County, Case No. C133336, September 3, 1996
166. Trial Transcript, Volume VI, Castillo v. State, Clark County, Case No. C133336, September 4, 1996 11:35 A.M.

VOLUME 13 OF 15

- 1
2 167. Penalty Hearing Transcript, Castillo v. State, Clark County, Case No. C133336, September 19, 1996
3
4 168. Reporter's Transcript, Penalty Hearing, Volume I-Afternoon Session, Castillo v. State, Clark County, Case No. C133336, September 19, 1996
5 169. Reporter's Transcript, Penalty Hearing, Volume II - Morning Session, Castillo v. State, Clark County, Case No. C133336, September 20, 1996
6

VOLUME 14 OF 15

- 7
8 170. Reporter's Transcript, Penalty Hearing, Volume II - Afternoon Session, Castillo v. State, Clark County, Case No. C133336, September 20, 1996
9 171. Reporter's Transcript, Penalty Hearing - Volume III - Morning Session, Castillo v. State, Clark County, Case No. C133336, September 24, 1996
10 172. Reporter's Transcript, Penalty Hearing - Volume III - Afternoon Session, Castillo v. State, Clark County, Case No. C133336, September 24, 1996
11

VOLUME 15 OF 15

- 12
13 173. Reporter's Transcript, Penalty Hearing - Volume IV, Castillo v. State, Clark County, Case No. C133336, September 25, 1996
14 174. Reporter's Transcript, Castillo v. State, Clark County, Case No. C133336, November 4, 1996
15 175. Reporter's Transcript of Motion to Withdraw, Castillo v. State, Clark County, Case No. C133336, December 16, 1996
16 176. Transcript, Motion for Appointment of Psychiatrist and Co-Counsel, Castillo v. State, Clark County, Case No. C133336, December 6, 1999
17 177. Reporter's Transcript, State's Motion to Place on Calendar, Castillo v. State, Clark County, Case No. C133336, October 23, 2000
18 178. Reporter's Transcript, Confirmation of Counsel, Castillo v. State, Clark County, Case No. C133336, October 26, 2000
19 179. Recorder's Transcript, Defendant's Motion for Extension of Time to File Defendant's Supplemental Brief in Support of Defendant's Petition for Writ of Habeas Corpus, Castillo v. State, Clark County, Case No. C133336, March 12, 2001
20 180. Recorder's Transcript Re: Argument, Castillo v. State, Clark County, Case No. C133336, March 4, 2002
21 181. Recorder's Transcript Re: Request of the Court: Argument, Castillo v. State, Clark County, Case No. C133336, April 10, 2002
22
23
24
25
26
27
28

- 1 182. Recorder's Transcript Re: request of the Court: Argument, Castillo v. State,
Clark County, Case No. C133336, May 8, 2002
- 2
- 3 183. Recorder's Transcript Re: Evidentiary Hearing, Castillo v. State, Clark
County, Case No. C133336, August 2, 2002
- 4 184. Recorder's Transcript Re: Evidentiary Hearing, Castillo v. State, Clark
County, Case No. C133336, January 22, 2003
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

OFFICE OF THE DISTRICT ATTORNEY

STEVEN OWENS, Deputy District Attorney
200 Lewis Avenue
Las Vegas, Nevada 89155

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Catherine Cortez Masto, Nevada Attorney General
Heather D. Procter, Deputy Attorney General
Attorney General's Office
100 North Carson Street
Carson City, Nevada 89701-4717

An employee of the Federal Public Defender

● ●

EXHIBIT 147

EXHIBIT 147

ORIGINAL

FILED

DISTRICT COURT

CLARK COUNTY, NEVADA

FEB 14 8 45 AM '96

Loretta Dorman

BEFORE THE GRAND JURY IMPANELED BY CLERK FORESAID

DISTRICT COURT

C133336
VII P

THE STATE OF NEVADA,

Case No. 95GJ209AB

Plaintiff,

vs.

Conspiracy to
Commit Burglary
And/Or Robbery;
Burglary;
Robbery, Victim 65
Years of Age, or
Older; Murder With
Use of a Deadly
Weapon, etc.

WILLIAM PATRICK CASTILLO
#1153209
MICHELLE C. PLATOU
#1220743

Defendants.

Taken at Las Vegas, Nevada

Thursday, January 11, 1996

8:45 A.M.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

VOLUME I

CEU Reported by: Brenda Anne Lee, C.C.R. No. 198

Castillo, William
Rev'd 10/20/04 8JDC-252
8" JDC recs.

027-8JDC0251

AA002821

WCastillo - 027-8JDC0251

GRAND JURORS PRESENT ON JANUARY 11, 1996:

LAWRENCE D. STARKS, Deputy Foreman

PAMELA T. CHERRY, Secretary

KATHRYN D. VERGARA, Assistant Secretary

RALPH T. BALLARD

BRETT V. BUNTON

STELLA M. DOERR

DEBORAH K. HOSTETTER

KENNETH J. HUTCHENS

CHOPIN S. KIANG

SHAWN H. KRUITBOSCH

POJAMAN SHOULDIS

KATHLEEN SKOPAL

KIM M. STUFF-LEE

DON K. THOMPSON

JANICE M. WEBB

Also present at the request of the Grand Jury:

WILLIAM T. KOOT,
Chief Deputy District Attorney

Castillo, William
Rev'd 10/20/04 8JDC-253
8th JDC recs.

INDEX OF WITNESSES

Examined

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEN HOGE	9
KIRK RASMUSSEN	34
THOMAS LAU	64
DONALD J. TREMEL	76
DWAYNE MORGAN	111
JOHN F. RUSSO	125
JEAN MARIE HOSKING	131
TAMMY JO BRYANT	142

INDEX OF EXHIBITS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Grand Jury Exhibits

Identified

1 - proposed Indictment	6
2 - photograph of William P. Castillo	37
3 - photograph of Tammy Jo Bryant	37
4 - photograph of Michelle Platou	37
4A - photograph of Michelle Platou	37
5 - photograph	15
6, 7 and 8 - photographs	19
9, 10 and 11 - photographs	20
12 through 22 - photographs	23
23 and 24 - photographs	27
25 - photograph	28
26 - consent to search	82
27 - consent to search	82
28 - consent to search	96
29 - Platou's voluntary statement	101
31 - Miranda rights card	122
32 - vehicle registration	75
33 - vehicle impound	74
34 - photograph	39
37 - transcript	115
38 - transcript	116
39 - photograph	87
40 - search warrant	80
41 - vehicle registration	30
42 - photograph	127
43 - business card	135
44 - photograph	132
45, 46, 47 and 48 - photographs	133
49 - evidence bag	92
49A - plastic evidence bag	92
50 - evidence bag	99
50A - stickers	99
51 - evidence bag	94
51A - booty	97
51B - bag of booties	97
52 - evidence envelope	87
52A - piece of paper	88
53 - evidence bag	85
53A - evidence box	85
54 - evidence bag	100
54A - cassette tape	101

INDEX OF EXHIBITS (Continued)

55 - photograph	83
56 - photograph	86
57 - evidence envelope	114
57A - cassette tape	114
58 - evidence envelope	115
58A - cassette tape	116
59 - photograph	129
60 - consent to search	146
61 and 62 - photographs	162
63 and 64 - photographs	163
65 - photograph	163
66 - photograph	165
67 - photograph	164
68 - photograph	164

---o0o---

10

Castillo, William
Rev'd 10/20/04 8JDC-255
8th JDC recs.

LAS VEGAS, NEVADA, JANUARY 11, 1996, 8:45 A.M.

BRENDA ANNE LEE,

having been first duly sworn to
faithfully and accurately transcribe
the following proceedings to the best
of her ability.

MR. KOOT: Each of you have a copy of
the proposed Indictment. Plus the proposed
Indictment has been marked as Exhibit Number 1. It
lists seven counts. The elements are set forth in
each of the counts. You have had each one of these
charges before you before.

The elements have been explained
to you before. I'll go through them very briefly,
but at the risk of being repetitive. You will note
that there are two burglaries charged. The reason
for that -- so it makes some sense -- is that the
allegation here is -- I'll give you a quick
synopsis.

The allegation is that the
defendants went into the house. They burglarized
it, committed the robbery, and killed the lady, and
then they left after taking the property. And then

1 they returned sometime later, maybe 10, 15, 20
2 minutes later they returned and for the purpose of
3 setting fire to the place. And so that accounts for
4 the two different burglaries.

5 One is an entry with intent to
6 commit robbery or burglary and/or burglary, and the
7 other is entering with the intent to commit arson.
8 And that's set forth in the -- and I stand
9 corrected. The first burglary is simply entry with
10 intent to commit a larceny. That is a theft inside
11 the building.

12 The conspiracy, of course, you
13 have to find that there was an agreement between the
14 two to commit the crimes of burglary and/or robbery.
15 And we've set forth the counts, the allegations in
16 furtherance of that.

17 But the agreement is the
18 gravamen of that particular charge. The burglary is
19 the intent -- the felonious intent when they enter.
20 We have to prove, of course, that the victim is over
21 the age of 65, and I plan to have the daughter of
22 the victim establish that, plus I think we have a
23 driver's license as well.

24 The robbery, force or violence.
25 In this particular case, of course, we're alleging

1 that the course of violence was the actual murder
2 itself. The murder -- we have three different
3 theories set out in the murder, and the theory is
4 that Mr. William Castillo who I think the
5 evidence -- I expect the evidence to show is the one
6 that did the actual beating premeditated the
7 killing, that he also would be liable under felony
8 murder.

9 And that he would also -- both
10 of them would be liable under felony murder and both
11 of them would be liable vicariously as conspirators.
12 That is all set forth in there.

13 The last charge that we have not
14 touched on is the arson and that is the intentional
15 setting fire to the dwelling which we would, of
16 course, have to prove.

17 I'm going to call as the first
18 witness an arson investigator, Mr. Ben Hoge. And
19 for the investigator I will be using a stack of
20 photographs.

21 Raise your right hand and be
22 sworn.

23 THE DEPUTY FOREMAN: You do solemnly
24 swear that the testimony that you are about to give
25 upon the investigation now pending before this Grand

Castillo, William
Rev'd 10/20/04 SJDC-289
8th JDC recs.

13

1 Jury shall be the truth, the whole truth and nothing
2 but the truth, so help you God?

3 MR. HOGE: I do.

4 THE DEPUTY FOREMAN: You may be seated.

5 You are here today to give
6 testimony in the investigation pertaining to the
7 offenses of conspiracy to commit burglary and/or
8 robbery, burglary, robbery, victim 65 years of age
9 or older, murder with use of a deadly weapon,
10 conspiracy to commit burglary and arson, first
11 degree arson involving William Patrick Castillo and
12 Michelle C. Platou; correct?

13 MR. HOGE: Yes, sir.

14

15 BEN HOGE,

16 having been first duly sworn by the
17 Deputy Foreman of the Grand Jury to
18 testify to the truth, the whole truth
19 and nothing but the truth, testified as
20 follows:

21

22 EXAMINATION

23

24 BY MR. KOOT:

25 Q. Your name, please, and spell your last

Castillo, William
Rev'd 10/20/04 8JDC-260
8th JDC recs.

14

1 name.

2 A. My name is Ben Hoge, H-o-g-e.

3 Q. What is your present occupation?

4 A. I'm a fire arson investigator and bomb
5 technician with the Las Vegas Fire Department Bomb
6 Squad.

7 Q. Try not to let your voice trail, okay?

8 A. Okay.

9 Q. How many years have you been engaged in
10 those specialties?

11 A. Two years.

12 Q. And prior to that were you employed by
13 the Las Vegas Fire Department?

14 A. Yes, I was.

15 Q. And for how many years total?

16 A. My total years with the Las Vegas Fire
17 Department is nine at this time.

18 Q. And what were your duties prior to
19 assuming the specialties of arson investigator and
20 bomb squad technician?

21 A. My first three years were that as a
22 fire fighter. The second four years were that as a
23 fire fighter paramedic.

24 Q. Fire fighter and paramedic?

25 A. Paramedic, yes.

15

Castillo, William
Rev'd 10/20/04 SJDC-261
8th JDC recs.

1 Q. And what is your educational
2 background, Mr. Hoge?

3 A. I graduated from Western High School in
4 Las Vegas in 1980. To this date I have completed
5 approximately two-thirds of an associate of applied
6 science degree in fire science technology.

7 Q. And how about specialized training for
8 arson investigator and the interrelated field of
9 bomb squad?

10 A. Well, in 1986 I graduated from the Las
11 Vegas Fire Department Fire Academy. That was 400
12 hours. There I learned the basic fireman ship
13 skills of being a fireman as well as the basic
14 course in origin and cause of fire investigation.

15 1993 I graduated from a category
16 one police academy. This gave me the same
17 qualifications as a Metropolitan police officer.
18 This allows me to enforce state arson laws within
19 the city of Las Vegas.

20 In 1994 I graduated from the
21 FBI's hazardous device bomb school. This was a
22 hundred sixty hours long and certifies me as a bomb
23 technician.

24 In 1995 I graduated from the
25 National Fire Academy. This is a division of the

Castillo, William
Rcv'd 10/20/04 8JDC-262
8th JDC recs.

1 United States Fire Administration. It's a federal
2 course that teaches fire and arson investigation.
3 It was 80 hours.

4 Since then I've taken arson and
5 bomb conferences that I've gone to and in addition
6 to that I have 750 documented hours above and beyond
7 my required training in law enforcement, arson, and
8 bomb squad operations.

9 Q. All right. Now, there is a
10 probationary period, is there not, for arson
11 investigator?

12 A. Yes, there is.

13 Q. How long a period is that?

14 A. One year.

15 Q. Did you successfully complete that?

16 A. Yes.

17 Q. During that probation period are you
18 supervised by a senior arson investigator?

19 A. Yes, you are.

20 Q. And were you so supervised?

21 A. I was supervised by investigator Linda
22 Curtin for six months and then investigator Dan
23 Thomas for the second six months.

24 Q. During your tenure with the Fire
25 Department, how many fires total have you responded

Castillo, William
Rev'd 10/20/04 8JDC-263
8th JDC recs.

1 to, approximately?

2 A. If you would allow me to look at my
3 records I can tell you exactly.

4 Q. Okay. Doesn't have to be exact. It
5 can be an approximate.

6 A. With the Fire Department?

7 Q. Yeah. Total with the Fire Department.

8 And then the next question -- so
9 I might get that answer out too -- how many
10 suspected arsons did you respond to where you
11 engaged -- where you were involved in the
12 investigation?

13 A. Over the nine years with the Las Vegas
14 Fire Department as a fire fighter and fire fighter
15 paramedic I've probably looked at and seen well over
16 500 fire scenes.

17 With the Bureau of Fire
18 Investigation during the last two years as of
19 yesterday I've investigated personally 258 fires.

20 Q. Of those 258 fires as an arson
21 investigator how many, approximately, were
22 determined to be of an arson nature? I don't know
23 what your terminology would be.

24 A. Arson.

25 Q. Arson?

Castillo, William
Rev'd 10/20/04 8JDC-264
8th JDC recs.

1 A. Yes. 123.

2 Q. About half of them?

3 A. Just about, yes.

4 Q. Now, have you ever qualified as an
5 expert in the courts of Clark County in the field of
6 arson investigation?

7 A. Yes, I have. Twice.

8 Q. How many times?

9 A. Twice.

10 Q. And were those both in the Justice
11 Courts here in Clark County?

12 A. Yes, they were.

13 Q. And on both of those occasions were you
14 permitted to state your opinion reference the origin
15 and cause of a fire?

16 A. Both times.

17 Q. And have you ever been denied expertise
18 in courts in Clark County?

19 A. No.

20 MR. KOOT: At this time, Mr. Foreman,
21 I would ask that Mr. Hoge be declared an expert for
22 the purpose of giving his opinion with regard to the
23 cause and origin of the fire.

24 THE DEPUTY FOREMAN: Yes.

25 MR. KOOT: Thank you, sir.

Castillo, William
Rev'd 10/20/04 8JDC-265
3rd JDC rec.

1 BY MR. KOOT:

2 Q. I'd like to direct your attention to
3 Sunday morning, December 17, 1995.

4 On that particular date did you
5 have occasion to respond to a fire at 13 North Yale
6 Street here in Clark County?

7 A. Yes, I did.

8 Q. And about what time did you arrive at
9 that location?

10 A. I believe my arrival time was 0326
11 hours.

12 Q. About 3:26 in the morning then?

13 A. Yes.

14 Q. On that Sunday morning?

15 A. Yes.

16 Q. And this Yale -- I couldn't help but
17 notice, you've gone to Western High School. Where
18 is Yale located in relation to Western High School?

19 A. One block west of Decatur just across
20 the street.

21 Q. I have a photograph here. It's an
22 aerial, Grand Jury Exhibit Number 5.

23 I'd like you to do with this
24 blue pen -- do you recognize the scene depicted in
25 that area?

20

Castillo, William
Rev'd 10/20/04 SJDC-286
8th JDC recs.

1 A. Yes, I do.

2 Q. And do you, in fact, recognize part of
3 Western High School grounds in that aerial?

4 A. Yes. I see the running track.

5 Q. Is that at the top of the photograph?

6 A. Yes, it is.

7 Q. And do you likewise see the residence
8 of 13 North Yale about which I'm going to ask you to
9 testify?

10 A. Yes, I do.

11 Q. Could you please circle that residence
12 using that blue pen?

13 Well, I know you've scratched
14 enough -- mark around it so you can see it.

15 Okay. And then Western High
16 School would be at the top and to the right as we're
17 looking at it, what is that?

18 A. That would be U.S. 95.

19 Q. To the top just in front of Western
20 High School?

21 A. That would be Decatur Boulevard.

22 Q. North would be in which direction as
23 you're looking at the photograph?

24 A. That would be to the left of the
25 photograph.

21

Castillo, William
Rev'd 10/20/04 SJDC-267
8th JDC recs.

1 Q. All right. Now, why did you go to that
2 particular location, sir?

3 And keep your voice up. Project
4 it to the back.

5 A. I was notified by my communication
6 center by telephone that fire crews on the scene
7 were requesting investigators.

8 Q. Can you tell us what you observed upon
9 your arrival, what the house involved at that point
10 in time?

11 A. The fire was extinguished. Upon
12 arrival I met with Captain Allard from truck and
13 Captain Aragon from truck six. They were the fire
14 captains who initially put out the fire. They
15 briefed me about the fire scene.

16 After talking to them I did a
17 preliminary investigation of the interior. I noted
18 two different fire origins quickly within the
19 interior and then I retreated and waited for the
20 Homicide personnel to arrive.

21 Q. Did you at some time that morning
22 re-enter the premises for the purpose of determining
23 the cause and origin of this particular fire?

24 A. Yes, I did.

25 Q. And at some later time did you, in

1 fact, determine that there were -- that there was
2 more than one origin?

3 A. Yes, I did.

4 Q. And how many total did you find?

5 A. Two.

6 Q. And where were they located?

7 A. Origin number one was located in the
8 victim's bedroom which would be the northeast
9 bedroom of the dwelling. It occurred against the
10 north bedroom window and the curtains and the drapes
11 in front of this window were ignited by an open
12 flame.

13 Q. I know we have some photographs here.
14 In fact, they are marked Grand Jury Exhibits Number
15 6 through 39. Not 39. I'm sorry. 6 through 25.

16 I'm going to just ask you to
17 look at those very quickly and tell me if you, in
18 fact, recognize those photographs and know who took
19 those photographs.

20 A. All of these photographs were taken by
21 myself and the numbering on the back were written by
22 myself.

23 Q. Now, I notice that one of them -- they
24 all have the number 95-106560.

25 What is that number?

1 A. That is the Las Vegas Fire Department
2 incident number.

3 Q. I notice on the left-hand side there's
4 a number. There's a number slash and another
5 number, and the second number is all consistent --
6 is all 78.

7 What does that indicate?

8 A. The number 78 indicates that there is
9 78 pictures. The number to the left of 78 indicates
10 the order that I've put them in.

11 Q. Now, you and I went over these
12 yesterday, did we not, and we selected these
13 particular photographs, 6 through 25, to present to
14 the Grand Jury; is that correct?

15 A. That is correct.

16 Q. And do these -- first of all, with
17 regard to Exhibit Numbers 6, 7 and 8, do they depict
18 the exterior of the residence?

19 A. Yes, they do.

20 Q. And with regard to all of these
21 photographs, do they truly and accurately depict
22 various scenes that you, yourself, observed on the
23 morning in question?

24 A. Yes, they do.

25 Q. Now, Number 6 would be the front of the

24

Castillo, William
Rcv'd 10/20/04 8JDC-270
8th JDC recs.

1 residence; is that correct?

2 A. Yes, it is.

3 Q. And then Number 7, what does that show?

4 A. Number 7 is -- shows the northeast part
5 of the dwelling. This would be to the right of the
6 picture. To the right of the dwelling would be the
7 north side of this structure.

8 Q. Does that depict the bedroom that you
9 spoke of?

10 A. Yes.

11 This depicts the victim's
12 bedroom window that was ignited on fire from the
13 interior.

14 Q. And I'll show you three following
15 photographs; 11 -- I'm sorry, 9, 10 and 11.

16 Were those -- what area of the
17 residence did those three photographs depict?

18 A. These three photographs depict the
19 victim's bedroom which again is the northeast
20 bedroom and the dwelling, and they also depict the
21 area of what I determined to be area of origin
22 number one.

23 Q. And also we see, Exhibit Number 9, we
24 see the victim in that photograph; is that correct?

25 A. That is correct.

Castillo, William
Rev'd 10/20/04 8JDC-271
8th JDC recs.

25

1 Q. When you arrived was the victim
2 deceased?

3 A. Yes, she was.

4 Q. Now, let's talk about the origin of and
5 cause of fire number one. We'll say that's the one
6 in the master bedroom where the victim is located
7 in.

8 A. Okay.

9 Q. Were you able to rule out any
10 accidental causes or electrical causes, anything
11 such as that?

12 A. Yes, we did.

13 There were no electrical
14 equipment or heat producing equipment in the area of
15 origin number one in the victim's bedroom.

16 If you look at the --

17 Q. Keep your voice up.

18 A. If you look at photograph -- Grand Jury
19 Exhibit Number 11, you'll be able to see. I
20 determined the area of origin to be the eastern most
21 part or to the right side of the curtain.

22 Basically where the drape comes
23 together at the wall, it is held by sort of a rope.
24 It's in this area that the fire originated and in
25 this area there is no electrical equipment or heat

1 producing equipment that would cause the fire.

2 Q. That would be about halfway up the
3 wall?

4 A. That's correct.

5 Q. That's where you determined that that
6 particular fire in the master bedroom was started?

7 A. Yes.

8 Q. Okay. I'll try to keep these in some
9 kind of order.

10 I did want to ask you one more
11 question with regard to Number 8.

12 That shows the back of the
13 residence, right?

14 A. Yes, it does.

15 Q. Was there a door and entryway at the
16 back of the residence?

17 A. There was a back door.

18 Q. And where is that depicted in that
19 photograph?

20 A. Basically right in the middle of the
21 photograph you can see a wooden door that is open
22 just below the awning.

23 Q. So about -- all right. How about to
24 the left? I know there's a screened area. Is that
25 a porch that also enters into the residence or not?

Castillo, William
Rcv'd 10/20/04 SJDC-273
8th JDC recs.

27

1 A. It's a screened room that was added to
2 the back of the dwelling, but there is no door that
3 would allow access to the dwelling.

4 Q. So actually two doors, one at the front
5 of the house and then one at the back?

6 A. That is correct.

7 Q. And that's it?

8 A. Yes.

9 Q. Now, photographs Number 12 through 22,
10 do these photographs all represent or depict a
11 specific area of the residence?

12 A. All of these photographs depict the
13 living room to the dwelling at 13 North Yale Street.

14 Q. All right. And was that the location
15 where you determined the second origin?

16 A. Yes, it is.

17 Q. And where specifically would that be if
18 you were to describe it to the ladies and gentlemen
19 of the Grand Jury in relation to say the front or
20 the back door?

21 A. It's in relation to the front door.
22 More specifically, underneath the living room window
23 to the right of the photograph.

24 Q. And what were you able to determine
25 with regard to the origin of that fire?

1 A. Well, after eliminating all accidental
2 causes in the living room or in this area of origin,
3 we did find an outlet. We did find two electrical
4 lamps that were plugged into this outlet. These
5 electrical appliances were looked at for short
6 circuiting, overheating from resistance, and none of
7 these indications could be found.

8 We pulled the outlet out and
9 looked at the outlet for arcing, overheating. We
10 looked at the hot wire, the neutral wire, and
11 basically the outlet, and they were unremarkable.

12 We looked at the outlet and the
13 lamp against what would be the south dwelling wall
14 in the living room. That was inspected, as well as
15 a lamp and a timer that was plugged in. Neither of
16 these appliances exhibited any damages from the
17 short circuiting or heating as well.

18 Therefore, the only possible way
19 that this fire could have originated in the living
20 room was by an open flame.

21 Q. Were you able to determine, sir, if
22 there was any type of accelerant used in either fire
23 of origin number one or two?

24 A. It's possible that in fire origin
25 number one in the victim's bedroom that an

29

Castillo, William
Rev'd 10/20/04 8JDC-275
8th JDC recs.

1 accelerant was applied to the draperies. It's -- I
2 can't determine by looking at the draperies myself
3 whether the accelerant was applied. I'd have to
4 rely on laboratory analysis for that.

5 Q. That hasn't been completed?

6 A. That hasn't been completed yet.

7 In area origin number two, in
8 the living room, there are definite indicators that
9 an accelerant was distributed in the living room.

10 Q. What points to that opinion?

11 A. Two things.

12 If I may use Exhibit Number 13.

13 Number 1, barring the
14 elimination of accidental causes, if you look at the
15 chair in Exhibit 13 which is towards the front door,
16 I determined the origin in the living room to occur
17 just below -- the actual point of origin to occur
18 just below the living room window where this white
19 pattern is.

20 Q. That would be to the right of the
21 photograph as you're looking at 13?

22 A. That would be to the right of the
23 photograph.

24 When fire burns -- when fires
25 normally burn they burn low. They burn up, and they

Castillo, William
Rev'd 10/20/04 8JDC-275
8" JDC recs.

30

1 burn wide. And what we normally see is a V pattern.
2 And normal characteristics for a fire to burn this
3 way, it will burn up and out and through this
4 window.

5 But when you look at the chair
6 in this living room, the front portion of this chair
7 has been burned, and there's a portion of the foam
8 rubber that was in the chair that is sort of dished
9 out. And it's like somebody took a big spoon and
10 dished the foam rubber out.

11 And one of the reasons we'll see
12 that is with an accelerant with a flammable liquid
13 where the vapors from the accelerant are heavier
14 than air, when they're applied to the chair, it will
15 dish that out.

16 The other reason I see is the
17 carpet in the living room -- because vapors were
18 applied to the actual whole area in the living
19 room -- the vapors being heavier than air are going
20 to fall to the ground.

21 In lieu of that, you're going to
22 see the carpet burned from this east living room
23 wall back towards the west towards the kitchen. And
24 one of the reasons that that occurred is because
25 there were flammable vapors heavier than air down on

Castillo, William
Rcv'd 10/20/04 8JDC-277
8th JDC recs.

31

1 the carpet.

2 Q. And that's you in Exhibit Number 21; is
3 that right?

4 A. Yes, it is.

5 Q. Now, last, I have a couple more
6 photographs, Exhibit Numbers 23 and 24.

7 What could you tell us about
8 that?

9 First of all, what are you
10 looking at on Exhibit Number 23?

11 A. On Exhibit Number 23, what I'm looking
12 at is a TV tray that was found on the kitchen floor
13 and on top of the TV tray is a yellow plastic
14 container labeled Ronsonol lighter fluid. It has a
15 distinctive flame and heat pattern on the TV tray
16 itself.

17 Q. And how about Exhibit Number 24?

18 A. Exhibit Number 24 is an upholstered
19 seat that was found in the kitchen.

20 In the kitchen, instead of
21 having a table and four chairs, there was a table
22 that was surrounded pretty much like a restaurant
23 booth. That's what this was. It was an upholstered
24 booth. On the backside of this booth is a flame and
25 heat pattern that -- it almost corresponds and is

Castillo, William
Rev'd 10/20/04 SJDC-278
8th JDC recs.

32

1 consistent with the pattern found on the TV tray
2 here.

3 Q. Then were you able to theorize as to
4 what occurred with regard to Exhibit Numbers 23 and
5 24?

6 A. I concluded that because these patterns
7 are alike that the TV tray originally was leaning up
8 against the back of this kitchen seat and that the
9 Ronsonol lighter fluid was probably laid on the top
10 portion of this seat and was either ignited by an
11 open flame or was ignited from the heat coming from
12 the living room which caused the TV tray to fall
13 down on the kitchen floor.

14 Q. Finally we have Exhibit Number 25.
15 What does that photograph
16 depict?

17 A. These depict matches that were found in
18 the living room against the north wall underneath
19 the TV.

20 Q. And were there any matches missing from
21 that book?

22 A. Several.

23 Q. All right. Were you able to form any
24 opinions with regard to the order in which these
25 fires may have been set, Mr. Hoge?

Castillo, William
Rev'd 10/20/04 8JDC-278
8th JDC recs.

33

1 A. My opinion is that probably area of
2 origin number one, the victim's bedroom, was more
3 than likely set first simply because of the amount
4 of flammable liquids and vapors that were
5 distributed in the living room.

6 It appears that an accelerant
7 was sprayed on the walls, on the curtains, on the
8 articles of furniture in the living room, the couch,
9 the sofa, the ottoman, and had this room been set
10 first there would have been a great fire load and a
11 lot of fire and smoke.

12 And I don't think somebody would
13 do that first and then retreat to the bedroom and
14 set that fire and jeopardize their life coming back
15 down the hallway to this fire.

16 I, therefore, think the victim's
17 bedroom was set first and then the living room.

18 Q. The final question, sir, when you
19 arrived at the residence was there an automobile in
20 the driveway?

21 A. Yes, there was.

22 Q. And what was the -- could you describe
23 that automobile and the license plate number of that
24 automobile?

25 A. It was a white Ford LTD, I believe.

Castillo, William
Rev'd 10/20/04 8JDC-280
8th JDC recs.

34

1 And I'd have to refer to my notes for the exact
2 license number.

3 Q. Please refer to your report.

4 A. Ford LTD Crown Victoria bearing Nevada
5 license C as in Charlie 21931.

6 MR. KOOT: Okay. Thank you.

7 And we have Exhibit Number 41
8 which is a certified copy of vehicle registration
9 bearing that particular license number registered to
10 an Isabelle Berndt, B-e-r-n-d-t, of 13 Yale Street.

11 I have no further questions.

12 THE DEPUTY FOREMAN: Any members of the
13 Grand Jury have any questions?

14 (No response.)

15 BY THE DEPUTY FOREMAN:

16 Q. How do you conduct tests on appliances
17 that have been burned up on that?

18 A. We don't actually conduct the tests
19 themselves. We don't have a laboratory that
20 conducts the tests. What we look for in the
21 appliances and the cords and the conductor of wires
22 is evidence of arcing, evidence of shorting,
23 evidence of overheating.

24 When you're looking at an
25 appliance cord or when you're looking at a

31

Castillo, William
Rev'd 10/20/04 8JDC-281
8th JDC recs.

1 conductor, if it's overheating because of a load, or
2 let's say the breaker or load has not tripped that
3 circuit, that entire length of the conductor whether
4 it be copper or aluminum will heat. When it heats
5 up the material that surrounds it, the plastic and
6 rubber material, is going to melt from one end to
7 the other.

8 In this case none of that
9 happened. Generally when you have a short circuit
10 on a cord or a conductor it will snap in half. As
11 you'll see with me holding up that lamp cord what
12 I'm demonstrating is that the cord was in one piece.
13 BY MR. KOOT:

14 Q. I think I did not ask the ultimate
15 question: Were you able to determine whether this
16 fire was arson in nature?

17 A. This fire was arson. It has two
18 separate origins.

19 Q. What does arson mean to you? How could
20 you define arson?

21 A. Arson means it's an incendiary fire.
22 It was set with human hands and with willful and
23 malicious intentions.

24 MR. KOOT: I have no further questions.

25 THE DEPUTY FOREMAN: Any other.

36

Castillo, William
Rec'd 10/20/04 8JDC-282
8* JDC recs.

1 questions?

2 (No response.)

3 THE DEPUTY FOREMAN: By law, these
4 proceedings are secret, and you are prohibited from
5 disclosing to anyone anything that transpired before
6 us including evidence presented to the Grand Jury,
7 any event occurring or a statement made in the
8 presence of the Grand Jury, or information obtained
9 by the Grand Jury.

10 Failure to comply with this
11 admonition is a gross misdemeanor, punishable by a
12 year in the Clark County Detention Center and a
13 \$2,000 fine. In addition, you may be held in
14 contempt of court punishable by an additional \$500
15 fine and 25 days in the Clark County Detention
16 Center.

17 Thank you.

18 THE WITNESS: Thank you.

19 BY A JUROR:

20 Q. Just to make sure there's no confusion,
21 who took the picture of you holding the lamp cord?

22 A. Fellow investigator that was there on
23 the scene with me.

24 (Witness excused.)

25 MR. KOOT: The next witness is Mr. Kirk

Castillo, William
Rev'd 10/20/04 8JDC-283
8th JDC recs.

37

1 Rasmussen.

2 Face the Grand Jury Foreman.

3 THE DEPUTY FOREMAN: Raise your right
4 hand, please.

5 You do solemnly swear that the
6 testimony that you are about to give before the
7 Grand Jury shall be the truth, the whole truth and
8 nothing but the truth, so help you God?

9 MR. RASMUSSEN: Yes.

10 THE DEPUTY FOREMAN: You may be seated.

11 You are here today to give
12 testimony in the investigation pertaining to the
13 offenses of conspiracy to commit burglary and/or
14 robbery, burglary, robbery, victim 65 years of age
15 or older, murder with use of a deadly weapon,
16 conspiracy to commit burglary and arson, and first
17 degree arson involving William Patrick Castillo and
18 Michelle C. Platou; correct?

19 MR. RASMUSSEN: Yes.

20 MR. KOOT: Before we start, I want to
21 caution the Grand Jurors, since I don't know what
22 the anticipated testimony is going to be, but I
23 would ask you to consider the testimony of Mr.
24 Rasmussen only as it might incriminate Mr. William
25 Castillo, if at all, and you are not to use his

38

Castillo, William
Rev'd 10/20/04 SJDC-284
5th JDC recs.

1 testimony in any way as it pertains to Miss Platou.
2 I'll explain that a little later after the
3 testimony.

4
5 KIRK RASMUSSEN,

6 having been first duly sworn by the
7 Deputy Foreman of the Grand Jury to
8 testify to the truth, the whole truth
9 and nothing but the truth, testified as
10 follows:

11
12 EXAMINATION

13
14 BY MR. KOOT:

15 Q. Mr. Rasmussen, please state your name
16 and spell your last name for the record.

17 A. Kirk Rasmussen. K-i-r-k
18 R-a-s-m-u-s-s-e-n.

19 Q. And your date of birth, sir?

20 A. January 26th, 1969.

21 Q. Are you acquainted with a Mr. William
22 Castillo?

23 A. Yes.

24 Q. And how long have you known Mr.
25 Castillo?

39

Castillo, William
Rev'd 10/20/04 SJDC-288
8th JDC recs.

1 A. Approximately five months.

2 Q. And from where do you know Mr.

3 Castillo?

4 A. From where we work, Dean Roofing.

5 Q. That's D-e-a-n --

6 A. D-e-a-n.

7 Q. -- Roofing?

8 And what is the nature of your

9 employment with Dean Roofing?

10 A. I'm a tear-off foreman.

11 Q. And how about Mr. Castillo?

12 A. He was one of my workers.

13 Q. How long have you been with Dean

14 Roofing?

15 A. Three years.

16 Q. This time?

17 A. (Witness moves head up and down.)

18 Q. How long total?

19 A. Three years and two weeks.

20 Q. Okay. Are you also acquainted with a

21 person known as Michelle Platou?

22 A. Yes.

23 MR. KOOT: And for the record, that's

24 P-l-a-t-o-u.

25

Castillo, William
Rev'd 10/20/04 8JDC-285
8th JDC recs.

40

1 BY MR. KOOT:

2 Q. Does that sound about right?

3 A. Yes.

4 Q. And how long have you known Miss
5 Platou?

6 A. Maybe a month, two months.

7 Q. From where do you know her?

8 A. She's was William's roommate.

9 Q. Had you been at William Castillo's
10 residence before?

11 A. Yes.

12 Q. And on how many occasions, sir?

13 A. Actually inside maybe four times.

14 Q. And is that where you met Michelle
15 Platou?

16 A. Yes.

17 Q. Are you also acquainted with Tammy Jo
18 Bryant?

19 A. Yes.

20 Q. And where do you know Tammy Jo Bryant
21 from?

22 A. She's William's girlfriend.

23 Q. And where was Tammy Jo Bryant living at
24 the time you knew her?

25 A. With Billy -- with William.

41

Castillo, William
Rev'd 10/20/04 SJDC-257
8th JDC recs.

1 Q. And how about Michelle?

2 A. With William also.

3 Q. So they all three of them were residing
4 at the same location?

5 A. Yes.

6 Q. Was that likewise true to the best of
7 your knowledge on December the 17th, 1995?

8 A. Yes.

9 Q. I'm going to show you a couple of
10 photographs.

11 First of all, Exhibit Number 2,
12 and ask you if you recognize this person?

13 A. Yes.

14 Q. And who is that?

15 A. That's William.

16 Q. Mr. Castillo?

17 A. Yes.

18 Q. Exhibit Number 3, do you recognize that
19 person?

20 A. Tammy.

21 Q. That's Tammy Jo Bryant?

22 A. Yes.

23 Q. And Exhibit Number 4 and 4A, do you
24 recognize who's depicted in those two photographs?

25 A. Michelle Platou.

Castillo, William
Rev'd 10/20/04 8JDC-288
5th JDC recs.

1 Q. Now, I notice Michelle Platou in
2 Exhibit Number 4 has dark hair and in Exhibit Number
3 4A has light hair.

4 Did you see her with both colors
5 of hair?

6 A. Yes.

7 Q. Can you tell us in relation to December
8 the 17th whether that hair -- assuming that -- I'm
9 sorry -- assuming that Exhibit 4A was taken on
10 December the 20th, can you tell us when in relation
11 to December 20 that that hair changed, if you know?

12 A. She had her hair colored before the
13 17th.

14 Q. And you actually saw her with the
15 blonde hair?

16 A. Yeah.

17 Q. Now, do either one of these three
18 people have an automobile?

19 A. Yes.

20 Q. And who was that?

21 A. Michelle Platou.

22 Q. And can you describe that automobile
23 for us, please?

24 A. It was a white RX7 Mazda.

25 Q. And had you seen that before?

43

CastNo, William
Rev'd 10/20/04 8JDC-289
8th JDC recs.

1 A. Yeah.

2 Q. Had you seen that Mazda at the
3 residence shared by these three people?

4 A. Yes.

5 Q. Had you seen it at any other location?

6 A. No.

7 Q. Had you ever seen any of the three
8 inside that vehicle?

9 A. No.

10 Q. Had you ever been inside that vehicle?

11 A. No.

12 Q. How do you know that it was their
13 vehicle?

14 A. I was just told this is Michelle's car
15 when I dropped Billy off -- William off at home.
16 One afternoon he said this is her new car. He just
17 showed it to me.

18 Q. I'm going to show you a photograph,
19 Exhibit Number 34.

20 Does that --

21 A. That looks like her car, yes.

22 Q. I notice on this photograph 34 it
23 doesn't have any license plates.

24 A. That's the way I would have seen it.

25 Q. It did not have license plates on it.

Castillo, William
Rev'd 10/20/04 SJDC-289
2nd JDC recs.

44

1 when you saw it; correct?

2 A. Yes.

3 Q. Thank you.

4 Do you know the address of the
5 residence shared by Mr. Castillo, Miss Platou, and
6 Miss Bryant?

7 A. No, I don't.

8 Q. Do you know what street it was located
9 on?

10 A. The cross corner of Jones and Lake
11 Mead.

12 Q. Did you have occasion to direct
13 detectives of the Las Vegas Metropolitan Police
14 Department to the specific location of that
15 apartment?

16 A. Yes.

17 Q. And do you know the name of the
18 detective or detectives who you directed to that
19 apartment?

20 A. The only one I can remember is Officer
21 Lau.

22 Q. And did you actually accompany Officer
23 Lau to that location?

24 A. Yes.

25 Q. Are you familiar with a residence

45

Castillo, William
Rev'd 10/20/04 SJDC-291
8th JDC recs.

1 located at 13 North Yale?

2 A. Yes.

3 Q. And how did you become familiar with
4 that particular residence, sir?

5 A. I was asked to participate in a side
6 job outside of the company on a Saturday to remove
7 the existing roof.

8 Q. And by side job, this is not something
9 that Dean Roofing then was actually contracting?

10 A. No.

11 Q. It was just something that some of the
12 employees would do on the side?

13 A. Right.

14 Q. And was that -- is that a common
15 practice?

16 A. Oh, yeah.

17 Q. And is that an acceptable practice in
18 the trade?

19 A. Yes.

20 Q. And Dean Roofing has no problem with
21 that particular practice, does it?

22 A. They know that we do side jobs, but
23 sometimes they don't like it. Other times they just
24 let you go by with it.

25 Q. Probably depends on the size of the

1 job, I imagine?

2 A. Right.

3 Q. If you were doing a job the size of
4 Caesars Palace they may scream, right?

5 A. Yeah.

6 Q. All right. In this particular case did
7 you, in fact, go to that residence?

8 A. Yes.

9 Q. Were you the one that contracted for
10 that particular side job?

11 A. No.

12 Q. Do you know who did?

13 A. The actual contractor, I only know his
14 first name as Charlie.

15 Q. But you did go to that location?

16 A. Yes.

17 Q. And how long did the removal of the old
18 roof take?

19 A. Little over four hours.

20 Q. And who all participated in the removal
21 of the old roof?

22 A. There would be William and I, a guy
23 from Dean's, Jeff, and another guy from Dean's,
24 Harry.

25 Q. Another guy what?

47

Castillo, William
Rcv'd 10/20/04 8JDC-293
8th JDC recs.

1 A. Harry.

2 Q. Harry.

3 And by William, you're talking
4 about William Castillo?

5 A. Yes.

6 Q. Were you present when the roof was
7 actually removed?

8 A. Yes.

9 Q. And were you present with the other
10 three people the entire time?

11 A. Yes.

12 Q. Did three or four of you then depart
13 the area at about the same time?

14 A. Yeah.

15 Q. What kind of roof was it that you
16 removed?

17 A. Hot tar.

18 Q. That's tar and rock?

19 A. Tar and rock.

20 Q. The old 1950's type roof?

21 A. Uh-huh.

22 Q. Was it replaced by another roof?

23 A. Shingles.

24 Q. That's composition asphalt type?

25 A. Yes.

Castillo, William
Rev'd 10/20/04 8JDC-294
8th JDC recs.

1 Q. Did you participate in that as well?

2 A. No.

3 Q. Did any of the four people that you
4 mentioned as well participate in that?

5 A. Yes.

6 Q. Who was that?

7 A. Harry was the actual man who laid the
8 shingles.

9 Q. So the four of you removed it -- or
10 three of you removed it and then Harry actually put
11 the shingles on. Is that the way it worked?

12 A. Uh-huh.

13 Q. But he would do that on his own?

14 A. Yes.

15 Q. While you were at that location
16 removing the old roof, was there a conversation with
17 anyone pertaining to a key?

18 A. Yes.

19 Q. And who engaged in that particular
20 conversation?

21 A. William had and also me. Jeff said he
22 knew something about it.

23 Q. Tell me about that. That's what we'd
24 like to hear about.

25 A. Usually when you tear off a roof stuff

1 tends to fall. Make a clean job, get anything that
2 had fallen into the dumpster, the dump truck. And
3 Billy had said he found a key in the back yard, one
4 of those hideaway key type with a magnet. And
5 that's all the farther it went with me.

6 Q. Now, Billy, again we're referring to
7 Billy as Billy Castillo?

8 A. Yes.

9 Q. All the same person you previously
10 identified on photograph Number 2?

11 A. Yes.

12 Q. You refer to him as Billy, William, or
13 Mr. Castillo?

14 A. Yes.

15 Q. All right. Do you know what happened
16 to that particular key?

17 A. He told me that he put it back where he
18 found it.

19 Q. Okay. And did you know exactly where
20 that was?

21 A. Yes.

22 Q. And where was that?

23 A. Above the outside grill, the exhaust
24 fan above the barbecue.

25 Q. That's in the back yard area?

Castillo, William
Rev'd 10/20/04 8JDC-296
5* JDC recs.

1 A. Yes.

2 Q. Did you, yourself, ever handle that

3 key?

4 A. No.

5 Q. Did you, yourself, ever see that key?

6 A. Not the actual key. I seen the box.

7 Q. And about when was that in relation to

8 December the 17th, 1995?

9 A. As far as the key?

10 Q. Yeah. The roof job --

11 A. That was Thanksgiving weekend. On the

12 Saturday of Thanksgiving weekend.

13 Q. Okay. So at least what, about a month

14 or so before, I take it?

15 A. Yeah.

16 MR. KOOT: I don't know when

17 Thanksgiving was.

18 A JUROR: The 28th.

19 BY MR. KOOT:

20 Q. Is that in October or November?

21 A. November.

22 Q. Where around Thanksgiving -- of 1995,

23 correct, sir?

24 A. Yes.

25 Q. And this conversation with regard to

Castillo, William
Rev'd 10/20/04 8JDC-297
8th JDC recs.

51

1 the key, that all took place on that same date
2 during that four hour period of time?

3 A. Yes.

4 Q. Now, sometime after you completed that
5 job, I'm now directing you to December 18th, 1995.

6 Did you have a conversation with
7 Mr. Castillo that you subsequently -- that is later
8 repeated to the police?

9 A. Yes.

10 Q. And can you tell us what that was
11 about, how that came about? Just in your own words
12 tell us where you saw Mr. Castillo, tell us a little
13 about that conversation.

14 A. How it came about, I was his ride to
15 work -- to and from work. I lived so close to him
16 it was no problem for me to pick him up and drop him
17 off.

18 When he got into my car he had a
19 weird look on his face. He waited for a few minutes
20 before he started talking. He says, "I have
21 something to tell you, but I don't know how you're
22 going to take it," you know. And I says -- I says,
23 "Well, what it is?" He said, "I don't know if I
24 should tell you or not." I said, "Is it going to
25 affect me in any way? Will it come back on me in

Castillo, William
Rev'd 10/20/04 SJDC-298
8th JDC recs.

52

1 any way?" He said, "No." And I said, "Go ahead and
2 tell me."

3 He says, "This weekend I
4 murdered an 86-year-old lady in her sleep." And I
5 was -- I said, "You did?" He said, "Yeah. Remember
6 the house we did the side job on and just off
7 Decatur?" I said, "Yeah." He said, "That's where I
8 did it."

9 Q. Did he tell you how he did that and
10 why?

11 A. How he did it, he says he used the tire
12 iron. And why he did it, he said he had to pay for
13 a lawyer -- to retain a lawyer to get himself out of
14 previous trouble.

15 Q. Did he tell you how -- did you know
16 where this had occurred? Did he say something about
17 a side job?

18 I'm sorry. I might have missed
19 it.

20 A. Yeah, he did. He said the house where
21 he found the key is what he said.

22 Q. Okay. You put that together and you
23 thought that maybe that that was the Yale address?

24 A. Yes.

25 Q. How many side jobs had you done with

1 Mr. Castillo?

2 A. With Bill?

3 Q. Yeah.

4 A. Maybe two or three.

5 Q. Did he say anything about whether he
6 did this alone or in the company of anybody?

7 A. He told me that Michelle had went with
8 him.

9 Q. Pardon?

10 A. He told me Michelle went with him.

11 MR. KOOT: I'm just eliciting this
12 testimony to get the complete statement. You are
13 not to consider that in any way as incriminating
14 Michelle Platou. It would be hearsay as to her.

15 BY MR. KOOT:

16 Q. Did he tell you -- why did he tell you
17 this?

18 A. I have no idea why.

19 Q. Did he say anything to you about how he
20 gained entry into the residence?

21 A. He said that he had used the key he
22 found above the exhaust fan above the barbecue.

23 Q. Did he tell you what he had done with
24 the key after he used it?

25 A. He said he put it back in place and

Castillo, William
Rcv'd 10/20/04 8JDC-300
6" JDC recs.

54

1 left the back door unlocked.

2 Q. Did he tell you if he did anything else
3 while he was there at the house?

4 A. He told me he had set the place on
5 fire.

6 Q. Did he tell you why he did that?

7 A. Huh-uh.

8 Q. Pardon me?

9 A. No.

10 Q. Where did this conversation take place,
11 specifically?

12 A. Specifically?

13 Q. Yeah, uh-huh.

14 A. On Lake Mead Boulevard in my car
15 approaching Decatur.

16 Q. You were actually -- the car was
17 actually rolling, it was driving the whole time?

18 A. Yes, uh-huh.

19 Q. Why did he tell you? Why did he
20 confide this in you, do you know?

21 A. No.

22 Q. Was there any more discussion about
23 this later that day?

24 A. Later on that day, no.

25 Q. How about the following day?

55

Castillo, William
Rev'd 10/20/04 S.JDC-301
8th JDC recs.

1 A. The following day I was -- I was still
2 in I guess you would maybe call it shock or
3 disbelief and he tells me that.

4 Q. You again pick him up the following
5 day?

6 A. Yes.

7 Then he tells me that he seen
8 the news and how there was a reward for the capture
9 of the person that might have done it, and he told
10 me how the arson investigators I guess said that the
11 fires in the house are strategically set.

12 And then from that, that's when
13 I actually drove by the house and visually, you
14 know, seen that the house had been set on fire.

15 Q. Why didn't you drive by the house after
16 he told you the first time?

17 A. I don't know.

18 Q. Okay. Now, the second day, that would
19 have been a Tuesday, right?

20 A. Yes.

21 Q. I guess that's the 19th of December; is
22 that correct, sir?

23 A. Yeah.

24 Q. After you -- what did you observe when
25 you drove by the house?

56

Castillo, William
Rev'd 10/20/04 SJDC-302
8* JDC recs.

1 A. The outside windows had been boarded
2 with plywood, and you could just see the char, you
3 know, from fire around, you know, all the windows.

4 Q. What did you do after you made that
5 observation?

6 A. That's when I knew that things were
7 serious and, you know, I had to let the police know.

8 Q. And what did you do? Where did you go?

9 A. I went to the Jones substation, Jones
10 and the Expressway.

11 Q. And did you come in contact with any
12 officials at that location?

13 A. Yes.

14 Q. Do you know who they were?

15 A. Only one by name.

16 Q. Were these police officers?

17 A. Yes, they were.

18 Q. And what was the one person that you
19 recall by name?

20 A. The only one is T.J. Lau. That's the
21 only one I remember.

22 Q. And did you repeat this scenario that
23 you have told the Grand Jury to these officers?

24 A. Yes.

25 Q. Did you likewise conduct an interview,

Castillo, William
Rev'd 10/20/04 8JDC-303
8" JDC recs.

57

1 or were you interviewed by Homicide detectives?

2 A. Yes.

3 Q. And would that have been either
4 Detective Tremel or Morgan, or do you know?

5 A. Both.

6 Q. Both of them?

7 A. Yes.

8 Q. I want to go back, sir, to the
9 conversation that you had with Mr. Castillo on that
10 Monday when you picked him up.

11 You would have picked him up at
12 his house; is that correct?

13 A. The apartment.

14 Q. The same apartment that you previously
15 stated was occupied by the two ladies and Mr.
16 Castillo?

17 A. Yes.

18 Q. Could you be a little more specific
19 with regard to him repeating to you or stating to
20 you how he caused the death of this lady?

21 A. In detail?

22 Q. Yes, uh-huh.

23 A. He told me specifically he went into
24 the house with a tire iron. He went -- he heard
25 someone snoring. He told Michelle that he was going

58

Castillo, William
Rev'd 10/20/04 8JDC-304
5th JDC recs.