

IN THE SUPREME COURT OF THE STATE OF NEVADA

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ERNESTO MANUEL GONZALEZ,

CASE NO. 64249

Appellant.

v.

THE STATE OF NEVADA,

Respondent.

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**APPELLANT'S APPENDIX, VOLUME IX**

**APPEAL FROM JUDGMENT AFTER  
JURY TRIAL AND SENTENCING**

**Second Judicial District**  
**State of Nevada**

**THE HONORABLE CONNIE J. STEINHEIMER, PRESIDING**

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1 told him about your traffic stop and he told you about  
2 what?

3 A Just the stabbings that he's been dealing with  
4 down where he's from.

5 Q Do you remember where that was?

6 A No, I don't.

7 Q Do you remember if it involved the Hell's Angels?

8 A No, I don't.

9 Q Do you remember if it involved the Vagos?

10 A No, I don't.

11 Q So this apparently wasn't much of an intelligence  
12 exchange, was it?

13 A Correct.

14 Q Did you make any notes?

15 A No.

16 Q Did he?

17 A No.

18 Q Did he describe the incident that you -- the  
19 stabbing incident to you?

20 A No.

21 Q Okay. Let's move on to the next person that you  
22 talked to about what you were here to testify about.

23 What did he tell you about his experience?

24 A I only talked to one person.

1 Q Well, you told us --

2 A There was others that were present. I don't know  
3 if they were listening. They weren't engaged in the  
4 conversation.

5 Q Okay. What were you talking about with those  
6 people?

7 A I was only talking to one individual.

8 Q And the other people were listening?

9 A If they were, I don't know.

10 Q Tell me what color hair the guy had that you were  
11 talking to.

12 A Blonde. Blondish. Dirty blonde.

13 Q Age?

14 A Mid 30s.

15 Q Is he still out here?

16 A Yes.

17 Q You saw him when you were just out in the  
18 hallway?

19 A Yes.

20 Q What's he wearing?

21 A A suit.

22 Q So you're engaged in, to some agree at least, in  
23 intelligence-sharing. That's what you told us earlier  
24 this morning. That was the purpose of talking.

1 A That was not the purpose. It was just like --

2 Q Okay. Well, Officer, you only testified, what?  
3 You said four times?

4 A Three times.

5 Q Okay. So do you understand that you're under  
6 oath, right?

7 A Yes.

8 Q And you understand when you testify, you're  
9 supposed to tell everything you remember, right?

10 A Yes.

11 Q As clearly as you can.

12 A Yes.

13 Q Okay. And it doesn't matter if it's the first  
14 time it's asked of you or the fifth time it's asked of  
15 you, you're supposed to tell it the way it was, right?

16 A During our conversation, I wasn't under oath.

17 Q Okay. No, I'm not talking about here. I'm  
18 talking about in the courtroom.

19 THE WITNESS: Yes.

20 MR. HALL: Your Honor. I'm going to object. I  
21 think he's already covered this ground about what he's  
22 testified --

23 THE COURT: Overruled.

24 MR. DOGAN: I don't believe this is --

1 THE COURT: I ruled on it.

2 BY MR. CHESNOFF:

3 Q You told us this morning that you spoke to two  
4 officers from Kern County -- from Arizona and one from  
5 Kern County.

6 A No.

7 Q That's what you told us earlier this morning.

8 A No.

9 Q You didn't tell us that?

10 A I said I spoke to one officer, and then you asked  
11 where the officers were from.

12 Q Well, if you didn't talk to them, how did you  
13 know where they were from? Were they wearing a sign that  
14 said: I'm in Arizona?

15 A No. I mean, I asked a general, where they were  
16 from.

17 Q Okay. So when you told us that you really didn't  
18 talk to them and they didn't talk to you, that wasn't  
19 completely true, was it, Officer?

20 A That was before yesterday.

21 Q Okay. Officer, you understand that your role  
22 here is to provide Her Honor with as much information,  
23 truthful information as you can?

24 A Yes.

1 Q Okay. So we know that you talked to at least  
2 three to four officers, correct?

3 A Yes.

4 Q And we know that you found out where at least  
5 three of them were from, correct?

6 A Yes.

7 Q And you had to find that out by them telling you  
8 where they were from, correct?

9 A Yes.

10 Q Okay. So you had a conversation that went just  
11 beyond two of them listening to you talk to one other,  
12 correct?

13 A Yes, but it wasn't -- we weren't having a  
14 conversation. It was general questions, such as: Where  
15 are you from?

16 Q Where are you from? How were you involved in  
17 investigating motorcycle clubs? That came up, right?

18 A No. Just generally where they were from.

19 Q Okay. Well, you told them that you were here  
20 because you had stopped a member of the Vagos, correct?

21 A Yes.

22 Q And you told them that you stopped a member of  
23 the Vagos because of what you perceived as a traffic  
24 violation, right?

1 A Yes.

2 Q And then you told them that you did a search,  
3 correct?

4 A Yes.

5 Q And you were happy to find, as a law enforcement  
6 officer, that you could arrest somebody for a felony  
7 because they had a serious weapon with them, correct?

8 A Yes.

9 Q Okay. And then -- at first you told us that you  
10 had engaged -- that you told them that you had interviewed  
11 the witness. Do you remember that?

12 A I don't recall saying that I interviewed the  
13 witness to anybody else.

14 Q Okay. In the course of your conversation with  
15 the one person that you actually represent you had a real  
16 conference with, he told you he was involved in an  
17 investigation that involved a stabbing; is that right?

18 A Yes.

19 Q Did he tell you it involved, as you were  
20 questioned, about the rivalry between the Hell's Angels  
21 and the Vagos?

22 A No.

23 Q Okay. Did you share with them that the  
24 investigation you were involved in dealt with the issue of

1 someone having committed a crime because they were fearful  
2 of that rivalry?

3 A No.

4 Q Okay. In conclusion, is it your testimony that  
5 the officer with the blonde hair and the suit that's  
6 outside will testify that he shared nothing more with you  
7 than the fact that he was here to testify about a  
8 stabbing?

9 MR. STEGE: Judge, he can't speculate as to what  
10 the other witness is going to say.

11 THE COURT: Overruled. You can answer.

12 THE WITNESS: I don't know what he's going to  
13 say. We didn't engage anything further than what I've  
14 already explained.

15 BY MR. CHESNOFF:

16 Q It's limited to what you said.

17 A Yes.

18 MR. CHESNOFF: I have nothing further, Your  
19 Honor.

20 THE COURT: Counsel?

21  
22 **VOIR DIRE EXAMINATION**

23 BY MR. DOGAN:

24 Q When we called a recess, did you speak to the



1 district attorney about this?

2 A No.

3 Q Did you speak to their investigator?

4 A No.

5 Q Did you speak to any other law enforcement  
6 officers?

7 A No.

8 Q Did you remain in the court building?

9 A Yes.

10 Q When you were in the court building, did you  
11 observe any law enforcement officers talking about their  
12 cases?

13 A Can you clarify? Like cases that are like in the  
14 past?

15 Q Past, present, future.

16 A Yes.

17 Q Do you recall whether they were talking about  
18 this case?

19 A No.

20 Q Could you be sure?

21 A I wasn't listening to their conversation.

22 Q During the recess, you sit outside with all the  
23 other law enforcement officers, correct?

24 A Yes.

1 Q How many other law enforcement officers sit out  
2 there?

3 A There's probably about five right now.

4 Q And yesterday, how many other law enforcement  
5 officers sat outside at the bench?

6 A About five.

7 MR. DOGAN: Nothing further, Your Honor.

8 MR. CHESNOFF: I forgot one question. May I ask  
9 it?

10 THE COURT: Sure, yes.  
11

12 **FURTHER VOIR DIRE EXAMINATION**

13 BY MR. CHESNOFF:

14 Q Sir, do you remember being advised by an  
15 investigator for the district attorney's office that you  
16 were not allowed to talk to the other witnesses while you  
17 were preparing to testify or after your testimony?

18 A I was not given a rule book, no. I don't recall  
19 that.

20 Q Did any member of the district attorney's office  
21 advise you that the exclusionary rule for witnesses had  
22 been invoked?

23 A No.

24 MR. CHESNOFF: Thank you, Your Honor.

1 THE COURT: Okay. Mr. Stege? Is it you or  
2 Mr. Hall?

3 MR. STEGE: It's me, Judge.

4 THE COURT: Okay.

5  
6 VOIR DIRE EXAMINATION

7 BY MR. STEGE:

8 Q Did you learn any details of the case of the  
9 gentleman that you were talking with about -- out on the  
10 bench, the blonde-haired man?

11 A No.

12 Q Could you give us any details as to what occurred  
13 in his case?

14 A Other than a stabbing, I don't know.

15 Q In terms of -- what level of detail did you tell  
16 him about your case?

17 A About my case?

18 Q Yeah.

19 A Just the items that I had seized.

20 Q Okay. You mentioned the --

21 A For example, the gun and the brass knuckles, and  
22 that was about it.

23 Q You had mentioned the recording you got?

24 A No.

1 Q Did you mention even the reason for the stop?

2 A I might have. I don't remember.

3 Q And it's your testimony that this was all after  
4 you had testified in court yesterday when I examined you.

5 A This was before.

6 Q Okay. That conversation, did it affect in any  
7 way your testimony on the stand?

8 A No.

9 Q Was there anyone from your agency out there when  
10 you were having this discussion?

11 A No.

12 Q Did you discuss the strategy of the  
13 cross-examination by the lawyers in the case during this  
14 conversation?

15 A No.

16 Q Did anyone mention how they're cross-examining  
17 people?

18 A No.

19 Q But you did say: Yeah, I learned that there's a  
20 detective here from Arizona, right?

21 A Yes.

22 Q But that was just sort of: Hey, how are you  
23 doing? Where are you from?

24 A Passing conversation, yes.

1 Q Did you learn anything about any investigations  
2 that he has conducted?

3 A No.

4 Q What about anyone else that has either been  
5 outside yesterday or today?

6 A No.

7 Q When did you arrive here in Reno to give  
8 testimony?

9 A Monday afternoon.

10 Q And when did you arrive at the courthouse  
11 yesterday?

12 A At about 3:00 o'clock, I believe.

13 Q When did you arrive at the courthouse today?

14 A About 9:00 o'clock this morning.

15 Q Did you discuss anyone's testimony with them?

16 A No.

17 Q What they had testified to in court?

18 A No.

19 Q Or what they were going to testify to in court?

20 A No.

21 MR. STEGE: Nothing further.

22 THE COURT: Okay. Did you have something else?

23 MR. CHESNOFF: Yeah. Thank you, Your Honor.

24 ///

1                                   **FURTHER VOIR DIRE EXAMINATION**

2       BY MR. CHESNOFF:

3           Q     Sir, when it first came up that you had talked to  
4       the other officers, you said you did it for purposes of  
5       exchanging intelligence.

6                   Do you remember saying that to us earlier?

7           A     That's one of the reasons why I talk to other law  
8       enforcement agencies or other law enforcement personnel.

9           Q     Right. So you remember that you told Her Honor  
10      that you were talking to the other officers in order for  
11      there to be intelligence exchanges? Do you remember that?

12          A     Yes.

13          Q     Okay. So we know you exchanged the intelligence  
14      about your traffic stop, correct?

15          A     Yes.

16          Q     But your testimony under oath is, even though you  
17      said you were talking to them for intelligence purposes,  
18      you learned nothing from them other than one of them was  
19      involved in a case that involved a stabbing. That was the  
20      extent of it?

21          A     Yes.

22          Q     So that's the extent of how you exchanged  
23      intelligence?

24          A     Yes.

1 Q So there really -- so there's really no  
2 intelligence-gathering going on, right?

3 MR. STEGE: Argumentative.

4 THE COURT: Sustained.

5 MR. CHESNOFF: Okay. I'll just -- I know -- no  
6 more, Your Honor.

7 MR. DOGAN: Briefly, Your Honor.

8 THE COURT: Okay.

9  
10 **FURTHER VOIR DIRE EXAMINATION**

11 BY MR. DOGAN:

12 Q After you left court yesterday, did you go have  
13 dinner with any of the other law enforcement officers?

14 MR. STEGE: Judge, this is beyond the scope. You  
15 know what I examined.

16 THE COURT: Well, I thought that had been asked  
17 by Mr. Chesnoff originally. Yes. If he had any contact  
18 with any last night.

19 BY MR. DOGAN:

20 Q Did you have breakfast with any of the law  
21 enforcement officers this morning?

22 A No.

23 Q And you were staying in the hotel room, right?

24 A Yes.

1 Q Are all the five other law enforcement officers  
2 staying at the same hotel room?

3 A Yes.

4 Q Did you --

5 A At the same hotel room?

6 Q Excuse me. Same hotel.

7 A Yes.

8 Q Okay. Did you --

9 THE COURT: I thought the State was getting  
10 pretty cheap there.

11 (Discussion off the record.)

12 BY MR. DOGAN:

13 Q Did you discuss this case at the hotel?

14 A No.

15 Q And when you were talking about this case which  
16 you previously testified to, you were outside the  
17 courtroom, correct?

18 A Yes.

19 Q In earshot of the five other law enforcement  
20 officers, correct?

21 A Yes.

22 Q And all of you were talking, correct?

23 A To each other or --

24 Q Yes.



1 A No.

2 Q It was just one-on-one communication the entire  
3 time?

4 A Yes.

5 MR. DOGAN: Nothing further.

6 THE COURT: Anything else?

7  
8 **FURTHER VOIR DIRE EXAMINATION**

9 BY MR. STEGE:

10 Q Did you coordinate your testimony with anyone  
11 today or yesterday?

12 A No.

13 MR. STEGE: Nothing else, Your Honor.

14 THE COURT: All right, sir, thank you. You can  
15 step down. You're not excused.

16  
17 **PETER GRIMM,**

18 called as a witness by the State,  
19 having been first duly sworn, was examined  
20 and testified as follows:

21  
22 **VOIR DIRE EXAMINATION**

23 BY MR. HALL:

24 Q Sir, state your name and spell your last.

1 A Peter. Last name, Grimm, G-R-I-M-M.

2 Q What is your occupation, sir?

3 A Criminal investigator, the Washoe County District  
4 Attorney's office.

5 Q And how long have you been so employed?

6 A Since 2006.

7 Q And you were assisting in shuttling witnesses to  
8 and from the court here on this case involving  
9 Mr. Villagrana and Mr. Gonzalez; is that correct?

10 A Yes.

11 Q All right. Were you here yesterday?

12 A Yes.

13 Q All right. And were you inside the courtroom  
14 when the rule of exclusion was invoked by the defense?

15 A The first time, when Jorge was here the first  
16 time, and then it continued over into this one, yes.

17 Q So that would have been yesterday. Were you in  
18 the courtroom --

19 A No, not yesterday.

20 Q Okay.

21 THE COURT: Mr. Hall, I think the clerk pulled up  
22 a transcript for me --

23 MR. HALL: Good.

24 THE COURT: -- after you asked me the question.

1 And the rule of exclusion was initially invoked on  
2 October 29th, at that hearing. So that may be what the  
3 witness is talking about.

4 MR. HALL: Okay.

5 BY MR. HALL:

6 Q Were you here yesterday?

7 A Yes.

8 Q Okay. When you were, did you have any  
9 conversation with the witnesses regarding the rule of  
10 exclusion?

11 A All of them, every time we brought them here, and  
12 told them they had to stay outside because the rule of  
13 exclusion was in place.

14 Q Okay. And those were the witnesses that were  
15 here yesterday?

16 A Yes. All the ones that I had contact with, yes.

17 Q Okay. And do you recall who was here yesterday  
18 when you told them that the rule of exclusion had been  
19 invoked and they had to sit outside?

20 A There was Les Skelton, Eric Bennett, Las Vegas  
21 Metro PD, Fieselman and Long. They're from Las Vegas  
22 Metro PD.

23 Kern County, Jeff Colbert. Jorge Gil-Blanco, but  
24 he went first so he was already up here.

1 Q All right. Did he leave after his testimony?

2 A Yes.

3 Q Did you hear him discuss his testimony with  
4 anybody?

5 A No.

6 Q Okay. Did you hear anybody who has testified  
7 discuss their testimony with any other witness?

8 A No.

9 Q Did you hear any witnesses discussing their  
10 testimony or their case with other witnesses after the --  
11 at any time?

12 A No.

13 Q Did you explain the rule of exclusion?

14 A I did not explain it, no. I assumed that they  
15 knew what the rule of exclusion was, and they've all sat  
16 outside and not come in.

17 Q So what does the rule of exclusion mean you?

18 A Rule of exclusion means that you're not supposed  
19 to be in the courtroom during any period of the court  
20 that's pertaining to the case you're going to be  
21 testifying to, and that you cannot talk about your  
22 testimony as to what you're testifying to in court.

23 MR. HALL: Okay. All right, thank you. I have  
24 no further questions.

1 THE COURT: Cross?

2  
3 VOIR DIRE EXAMINATION

4 BY MR. CHESNOFF:

5 Q Sir, did you hear Officer Kirby talking about his  
6 traffic stop of our codefendant in the hallway with the  
7 other officers?

8 A No. Not in the hallway.

9 Q Okay. Did you hear it anywhere?

10 A Well, when we did a pretrial with him, it was  
11 ourselves, myself and Deputy DA Amos.

12 Q And were there other officers present at the  
13 pretrial besides him?

14 A There was two other that were in the pretrial  
15 with us.

16 Q So you had a group pretrial?

17 A They were in the same room, but we separate them  
18 when we do our pretrials to talk to these individuals.

19 Q Okay. But it's in the same room?

20 A No, I'm sorry. No, because -- I'm sorry.

21 We put them in a group together at first, and  
22 then we individually bring them out to talk to them,  
23 usually in Karl's office or downstairs in our VWAC area.

24 Q Officer Kirby has told us that he talked to the

1 other officers about the traffic stop that he did on our  
2 codefendant.

3 A I never heard that.

4 Q Where is this pretrial conference room?

5 A We have several pretrial conference rooms. Like  
6 I said, we put everybody in a room just so -- to  
7 facilitate them. And then when we go for pretrial, we  
8 pull them out one at a time to do our --

9 Q Prep?

10 A Yes. Well, our pretrial.

11 Q And when you do this explanation of the rule of  
12 exclusion, you do that at the prep room when they're all  
13 together?

14 A No. Usually it's at the end of our pretrials.  
15 We'll say: You will not be able to sit inside the  
16 courtroom. Rule of exclusion will be in effect.

17 And then as well, when we bring them here: You  
18 guys have to sit outside because the rule of exclusion is  
19 in effect.

20 Q Pretty clear to you that Mr. Kirby was advised of  
21 the rule of exclusion, correct?

22 A I believe so because he was here prior to  
23 testifying. And he'd been sitting outside with all the  
24 individuals, and he did not come in here because he knew

1 he could not come in.

2 Q So based on the fact that he was in a location  
3 separate and he didn't come into the courtroom, you  
4 concluded that he understood the rule of exclusion.

5 A When he was waiting for his trial? No, he's not  
6 a place that's separate. I mean, they're all sitting  
7 outside the courtroom.

8 Q Right.

9 A But, yeah, because of the fact that he could not  
10 come into the courtroom because he knew he could not come  
11 in and listen to other people's testimony.

12 Q Did Mr. Gil-Blanca (sic), in an effort to learn  
13 more intelligence for the role he plays as kind of a law  
14 enforcement expert on motorcycle gang --

15 MR. HALL: Objection, Your Honor. He doesn't  
16 know what Gil-Blanco --

17 MR. CHESNOFF: I haven't finished the question.

18 MR. HALL: Well, finish.

19 THE COURT: I'll let him finish the question.

20 BY MR. CHESNOFF:

21 Q Did Mr. Gil-Blanca, who you said you know,  
22 correct?

23 A Yes, sir.

24 Q Okay. Did he spend time talking to the other

1 officers in order to gather intelligence from them?

2 MR. HALL: When? Vague.

3 BY MR. CHESNOFF:

4 Q At any time that you observed.

5 A No. No, sir.

6 MR. CHESNOFF: Thank you.

7 THE WITNESS: You're welcome.

8 THE COURT: Anything else?

9 MR. CHESNOFF: Nope. Thank you.

10 THE COURT: Okay, Counsel?

11 MR. DOGAN: Thank you, Your Honor.

12  
13 **FURTHER VOIR DIRE EXAMINATION**

14 BY MR. DOGAN:

15 Q When did you get here this morning?

16 A This morning I was here right at the beginning of  
17 the hearings -- of the hearing.

18 Q Do you know what time you got here?

19 A We got here at 9:15.

20 Q And had all the witnesses showed up at about  
21 9:15?

22 A When I got here, there was the San Jose officer  
23 that testified first, Les Skelton and Fieselman, Long, and  
24 Colbert.



1 Fieselman, Long, and Colbert, they were actually  
2 sitting up here. They were all up here in the courthouse.  
3 And then I believe Investigator Stone escorted Les Skelton  
4 and the officer, the San Jose officer from this morning,  
5 over.

6 Q And the meeting point was the courthouse,  
7 correct?

8 A I guess it's pretty much depending on where they  
9 wanted to go, 'cuz two of them came over to our office and  
10 three of them came over here. So it was --

11 Q Which two came over to your office?

12 A That was Skelton and the officer that was here  
13 this morning.

14 Q Did you hear Skelton or the -- when you say the  
15 officer that was here this morning, who do you speak of?

16 A I can't remember his name. The young kid that  
17 was just -- just got off the stand.

18 Q The one from San Jose?

19 A Yes.

20 Q Officer Kirby?

21 A Kirby, yeah.

22 Q He was with Les Skelton over at your office this  
23 morning?

24 A Not together, no, because he actually got there

1 after Les Skelton. So I know it was -- Investigator  
2 Hodges went and picked up Les Skelton, brought him back to  
3 our office; and then after that, went and got Kirby and  
4 brought him back. So by the time Kirby got there, it was  
5 time to walk across the street.

6 Q Okay. Did you walk across the street with them?

7 A No. I walked over with the prosecutors.

8 Q Okay. Before providing testimony right now, did  
9 you speak to the prosecutors regarding the rule of  
10 exclusion?

11 A Yes, yeah.

12 Q And what was the nature of that conversation?

13 A That we -- that they knew the rule of exclusion  
14 was in effect, but that we did not explain to them, as  
15 Your Honor had asked if we did, we did not explain to them  
16 what the rule of exclusion is in Nevada due to the fact  
17 they're all law enforcement on my side.

18 And, well, on my side, it was an assumption that  
19 because we're law enforcement, they know what the law of  
20 exclusion is. The rule of exclusion, I'm sorry.

21 Q Did you speak of any particular officer?

22 A I'm talking about all the officers. It's  
23 presumed that they all understand what the rule of  
24 exclusion is.

1 Q Were you advised by the prosecutors of the  
2 meaning of the rule of exclusion before coming into court  
3 today?

4 A Yeah. I've known about the rule of exclusion for  
5 a long time. But again, I've never explained it to  
6 anybody except for lay witnesses, meaning civilian  
7 witnesses. Then it's explained.

8 Yeah, with lay, lay witnesses, we actually  
9 explain to them and how they should probably dress in  
10 court and everything. I mean, it's explained.

11 But with all law enforcement officers -- and  
12 maybe it's my fault or other investigators' fault, but  
13 it's presumed that they understand what the rule of  
14 exclusion is. And they all seem to understand that  
15 because of the fact they were all standing outside and  
16 they knew they could not come into the courthouse.

17 Q Mr. Grimm, today were you advised of the rule of  
18 exclusion and the meaning of the rule of exclusion?

19 A Oh, no.

20 Q Okay.

21 A Well, I take that back. Yeah. When I was  
22 sitting in here and Your Honor explained it. So when I  
23 was sitting in the courtroom, it was explained, I guess  
24 you can say today.

1 Q Mr. Hall didn't explain it to you, correct?

2 A He didn't have to.

3 Q And Mr. Stege did not explain the rule of  
4 exclusion to you today, correct?

5 A He didn't have to as well.

6 THE COURT: You were in the courtroom when  
7 Mr. Kirby was first testifying? We first had that first  
8 hearing --

9 THE WITNESS: Yes, Your Honor.

10 THE COURT: That's what you're referring to?

11 THE WITNESS: Yes, Your Honor.

12 BY MR. DOGAN:

13 Q Is it your testimony today that you did not  
14 correctly advise the witnesses of the rule of exclusion?

15 A No. I correctly advised them that the rule of  
16 exclusion is in effect.

17 Q But that's all you advised them of, that it was  
18 in effect?

19 A And that they could not come in the courtroom  
20 while others are testifying.

21 Q Okay. So yesterday when you came to court, you  
22 escorted Mr. Gil-Blanco into court, correct?

23 A I did, yes.

24 Q No other law enforcement officers were with

1 Mr. Gil-Blanco?

2 A I don't -- from what I recall, nobody was over  
3 here. And I don't even remember if anybody was even over  
4 in our office at that time because he was going to be our  
5 first witness.

6 Q So it's possible that Mr. Gil-Blanco could have  
7 had contact with other witnesses before coming into court  
8 today?

9 A In person, no, because we were with him from the  
10 time -- I picked him up about 7:30 in the morning, and I  
11 was with him the entire time. And if he wasn't with me,  
12 he was with Mr. Hall and Mr. Stege in Mr. Hall's office by  
13 himself.

14 Q At the end of Mr. Gil-Blanco's testimony, you  
15 left the courthouse with Mr. Gil-Blanco, correct?

16 A Yes, I did.

17 Q You didn't stick around in the courtroom.

18 A No, we did not.

19 MR. DOGAN: Nothing further, Your Honor.

20 THE COURT: Anything else?

21 MR. CHESNOFF: No, thank you, Your Honor.

22 THE COURT: Thank you.

23 ///

24 ///

FURTHER VOIR DIRE EXAMINATION

BY MR. HALL:

Q Mr. Gil-Blanco left right after his testimony, correct?

A Yes, he did. Well, we went down and smoked cigars, he and myself, on the veranda. That was it.

Q Didn't meet with any of the witnesses, discuss his --

A No.

Q -- testimony with --

A No.

Q -- anybody or anything like that? And you were with him?

A I was with him the entire time.

Q And in other words, when you were in the courtroom earlier and there was a question as to whether or not the rule of exclusion had been explained to the witnesses, do you remember when you were in the courtroom earlier and Mr. Kirby was on the stand?

A Yes.

Q All right. And I recall that you shook your head in a negative fashion.

A I did, yeah.

Q All right. And so why did you do that?

1           A     From my -- what my understanding was, was the  
2 rule of exclusion actually explained, I mean, in detail as  
3 Your Honor did, to the witness. And no, we did not  
4 explain it to them in detail.

5           We said the rule of exclusion is in effect but  
6 again, unfortunately, that was our assumption, due to the  
7 fact they're all law enforcement officers, that they  
8 understood it.

9           Q     So when you shook your head no, that was whether  
10 or not you explained it as opposed to whether or not you  
11 informed them that it was in effect.

12          A     Exactly.

13          Q     Rule of exclusion was in effect but you didn't  
14 explain it.

15          A     Exactly.

16          Q     Okay.

17               THE COURT: Does that create any questions from  
18 anyone else? Okay.

19               Then the witness can step down.

20               MR. CHESNOFF: Your Honor may I make a suggestion  
21 that we --

22               THE COURT: Yes.

23               MR. CHESNOFF: -- that we hear from the --

24               THE COURT: You can keep going. It wasn't about

1 you.

2 MR. CHESNOFF: The blonde.

3 THE COURT: He'll be next.

4 MR. CHESNOFF: Thank you.

5 THE COURT: Could we hear from the officer who  
6 was described as the blonde, sandy hair, mid 30s?

7 MR. HALL: I believe the reference was to Jeff  
8 Colbert. I'll get him right now.

9 THE COURT: Thank you.

10  
11 **JEFFREY COLBERT,**

12 called as a witness by the State,  
13 having been first duly sworn, was examined  
14 and testified as follows:

15  
16 **VOIR DIRE EXAMINATION**

17 BY MR. HALL:

18 Q Sir, just state your name and spell your last.

19 A Jeffrey Colbert. Last name is C-O-L-B, as in  
20 boy, E-R-T.

21 Q Sir, and where are you employed?

22 A I'm a detective with the Kern County Sheriff's  
23 office in Bakersfield, California.

24 Q And how long have you been employed with the Kern



1 County Sheriff's office?

2 A It will be 11 and a half years now.

3 Q What are your current duties?

4 A I'm currently assigned to the detective section,  
5 robbery/homicide unit.

6 THE COURT: I missed that.

7 THE WITNESS: Robbery/homicide. I apologize,  
8 Your Honor.

9 THE COURT: Okay. Thank you.

10 BY MR. HALL:

11 Q So you're currently a robbery/homicide detective  
12 with the Kern County Sheriff's office?

13 A Yes.

14 Q Have you testified in court before?

15 MR. CHESNOFF: Your Honor, with the last witness,  
16 the defense went first. I don't know what the Court's  
17 preference is.

18 THE COURT: Oh, yes. I mean, because of the  
19 nature of the first part of the hearing, I think that  
20 would be appropriate.

21 So you go ahead and inquire, and then the State  
22 can inquire, but not as to the substance of the witness's  
23 testimony.

24 MR. CHESNOFF: I'm sorry?

1 THE COURT: Not as to the substance.

2 MR. CHESNOFF: No, no. Just on the issue --

3 THE COURT: Okay. The issue we're dealing with.

4  
5 VOIR DIRE EXAMINATION

6 BY MR. CHESNOFF:

7 Q Sir, did you have an opportunity over the last  
8 several days to meet some of your fellow officers?

9 A Yes.

10 Q Do you remember, which ones did you meet?

11 A I spoke to in the past and I know specifically  
12 Eric Bennett from San Bernardino. Other than that, I  
13 don't recall any names. Just it's been kind of casual  
14 conversations.

15 Q Did you meet a young officer by the name of  
16 Kirby?

17 A I believe so.

18 Q Okay. And do you recall Officer Kirby telling  
19 you about a traffic stop that he performed in California?

20 A I was present at a meeting with several other  
21 officers when I first got here on Monday. I believe  
22 Officer Kirby was explaining partially his investigation,  
23 and I believe a recording was played.

24 However, I wasn't listening all that intently.

1 I'm sorry.

2 Q Okay. So a meeting held through the district  
3 attorney's office?

4 A Yes.

5 Q Was it like a -- is that right?

6 A Yes. It was like a pre -- where I met the  
7 district attorney's office staff and basically going over  
8 what -- the schedule and what was going to transpire in  
9 court.

10 Q And so each of you were in proximity to each  
11 other, near each other?

12 A There was only, I think, a few of us at that  
13 time. I believe we came in waves, just whenever we got  
14 here. I drove, so I got here later.

15 Q Now, as law enforcement officers, oftentimes when  
16 you meet colleagues, you share information and stories,  
17 correct?

18 A It depends. A couple of guys here, I've  
19 recognized them from conferences, and it's more like a:  
20 Where do I know you from? You look very familiar. I just  
21 can't recall. That kind of thing.

22 Q And in the course of this meeting that you had,  
23 Mr. Kirby described an event that he was involved in,  
24 correct? You at least remember hearing something from

1 Mr. Kirby to that effect, right?

2 A It was more of the fact that I think he was being  
3 asked questions and he was confirming or denying  
4 information, and I don't recall the gist of it, honestly.  
5 I wasn't paying too close attention.

6 Q There was a tape played?

7 A Partially.

8 Q What was the setting? Were you in a conference  
9 room? In an office?

10 A I believe it was in an office.

11 Q Who was present?

12 A The DA to the left, to my left, officer and a  
13 detective. I'm not sure of his title. Kirby, myself, and  
14 I don't recall if one of the investigators was there or  
15 not. I don't remember.

16 Q Do you remember if some officers from Arizona may  
17 have been present?

18 A No.

19 Q Was it question and answers going on in order to  
20 prep?

21 A As far as with me or with --

22 Q With Mr. Kirby.

23 A I believe there was some questions and some  
24 back-and-forth conversation. I just don't recall, sir.

1 Q Without going into the substance of it, the  
2 incident that you are prepared to testify about involves a  
3 stabbing; is that right?

4 A Yes, sir.

5 Q And where was that? Where did that occur?

6 A It occurred in Bakersfield, California. More  
7 specifically, a little area called Oildale.

8 Q Okay. And did you go through a similar  
9 give-and-take about the events that occurred in your  
10 incident with the DA?

11 A Yes, very brief.

12 Q Okay. And Mr. Kirby was present at that time in  
13 the room?

14 A I don't recall if he was or not, sir.

15 Q Do you recall if any other officers were present?

16 A It was a representative from the DA's office, the  
17 DA sitting here, and then I just don't recall if the  
18 investigator was there or not.

19 Q And did you describe the facts that occurred in  
20 that incident in the course of that questioning?

21 A Partially. They were pretty up on the case  
22 because the officer reports themselves. I believe I was  
23 asked events that led up to the stabbing, the conflict  
24 between the two gangs.

1 Q So one of the issues that came up was the  
2 purported rivalry between the Vagos and the Hell's Angels?

3 A That was one of the issues that we spoke about in  
4 my particular area, yes.

5 Q And your area is as someone who has information  
6 about motorcycle clubs, correct?

7 A I'm sorry, sir. What was that?

8 Q Has information about motorcycle clubs, correct?

9 A Yes. I was the investigator in the gang unit  
10 that was responsible for the motorcycle gangs.

11 Q In your jurisdiction.

12 A Yes, sir.

13 Q Okay. You're familiar with the rule of  
14 exclusion, are you not?

15 A Partially. I mean, I'm not an attorney, but I  
16 am --

17 Q But you've been a witness in courts, correct?

18 A Yes.

19 Q And you understand that as a witness in a  
20 courtroom, you can't be present during other people's  
21 testimony, for example.

22 A Yes..

23 Q And you're also aware that while a case is  
24 proceeding, you're not supposed to discuss your testimony

1 with other witnesses, correct?

2 A Yes.

3 MR. CHESNOFF: Court's indulgence.

4 THE COURT: Yes.

5 BY MR. CHESNOFF:

6 Q Do you recall having a conversation with Officer  
7 Kirby about the traffic stop that he was involved in?

8 A No.

9 Q So if Officer Kirby -- well, let me ask it to you  
10 this way:

11 Do you recall being present when Officer Kirby  
12 was describing the traffic stop that he was involved in?

13 A Prior to the hearing starting?

14 Q Yes.

15 A The meeting?

16 Q Yes.

17 A Yes, I was there.

18 Q So if Officer Kirby believed it happened in the  
19 hallway outside, you would disagree with that?

20 A I didn't hear him speak about it in the hallway.  
21 We have spoken a couple times, but it's mostly like:  
22 Where are you from? What have you seen? That kind of  
23 stuff.

24 We haven't been discussing, for lack of better

1 terms, cop stuff.

2 Q You haven't discussed motorcycle intelligence or  
3 anything like that?

4 A Not with Mr. Kirby, no.

5 Q With other people?

6 A I've spoke to Mr. Bennett about past cases, and  
7 he assisted partially in my investigation, the one I'm  
8 here for today.

9 The DA investigator, I don't recall his name. He  
10 just left. I'm horrible with names. I apologize.

11 Q So Mr. Bennett was a witness or a -- a witness  
12 with respect to the investigation that you've been  
13 involved in, correct?

14 A No, he wasn't a witness. We, biker  
15 investigators, we regularly exchange intel. We keep in  
16 contact with each other. We network just about things  
17 that are going on.

18 Q So you did discuss with Mr. Bennett, at least to  
19 some degree, shared police intelligence while you have  
20 been here preparing to be a witness, correct?

21 A No, sir. It's more like, again: You look  
22 familiar. Recognize the name.

23 Until, I think, this case, I have never met  
24 Mr. Bennett personally. I've spoken to him on the phone.



1 It hasn't been like an exchange of information. It's just  
2 been: Where do I know you from? Where do you work? That  
3 kind of stuff.

4 Q Mr. Bennett did tell you why he was here, though,  
5 did he not?

6 A I'm assuming. I can assume, but we haven't  
7 really talked all that much.

8 Q Okay. Did any of the other officers tell you why  
9 they were here?

10 A To testify in this case. I mean, not  
11 specifically, as I can recall, but it's been mostly casual  
12 conversation, sir.

13 MR. CHESNOFF: Thank you, sir.

14 THE COURT: Do you pass?

15 MR. CHESNOFF: Yes.

16 THE COURT: Okay. Counsel?

17 MR. DOGAN: Thank you, Your Honor.

18  
19 VOIR DIRE EXAMINATION

20 BY MR. DOGAN:

21 Q Before you came into court today, did you know  
22 why you were coming into court right now?

23 A I was told that I'm being -- for testifying as  
24 far as the incident that occurred in 2010 between the

1 Vagos and the Hell's Angels that I investigated.

2 Q Did you speak to the DA today?

3 A No.

4 Q Did you speak to the investigator today?

5 A No. I received a phone call saying be here 9:30,  
6 just confirming that court started at 9:30, to be here on  
7 time.

8 Q Do you know the investigator's name?

9 A I don't.

10 Q But there was an investigator present at the  
11 conference that you had at the district attorney's office,  
12 correct?

13 A I don't remember. It's possible. There was a  
14 lot of people being shuffled around. They were mostly  
15 shuffling people as far as driving them to and from the  
16 hotel. And if they were there, it was probably briefly.  
17 I just don't remember.

18 Q There was more than one person in the room?

19 A I just don't remember, sir. Me, Officer Kirby,  
20 and then the DA. Other than that . . .

21 Q Can you say that again? I'm sorry, I missed  
22 that.

23 A Besides me and the DA and Officer Kirby, I just  
24 don't remember. There was several people the first day I

1 got here. I don't remember everybody.

2 Q Did you speak to Officer Kirby yesterday?

3 A Again, casual conversation. Nothing about the  
4 current case.

5 Q And when you spoke to Officer Kirby, that was  
6 outside the courtroom?

7 A Yes.

8 Q In the presence of five other officers, correct?

9 A However many were here at the time, yeah.

10 Q Do you remember how many were here at the time?

11 A No.

12 Q And all of you are sharing the same hotel,  
13 correct?

14 A I believe so. I've seen a couple guys, yeah.

15 Q Did you speak about your case after you left  
16 court yesterday?

17 A No. I haven't gone out with anybody. I mean,  
18 just seeing people in passing, saying hello.

19 Q You kept to yourself the entire time, correct?

20 A Yeah. I've been in my room and haven't done  
21 anything.

22 Q This morning when you came to court, did you go  
23 straight to the DA's office?

24 A No, I came straight here.

1 Q When you came straight here, was Officer Kirby  
2 present?

3 A I was the first here. Officer Kirby showed up.

4 Q Who else was here?

5 A I got here the same time the defendant all the  
6 way to the right. There was the guards outside. I think  
7 we were the first ones here as far as everybody in this  
8 room.

9 Q Were there other law enforcement officers  
10 present?

11 A No.

12 Q There were no other witnesses present for this  
13 case?

14 A Not when I got here, no.

15 Q Did you talk to Officer Kirby about your  
16 testimony here today before --

17 A No, I --

18 Q -- coming into court?

19 A I apologize. I didn't mean to interrupt you.  
20 I had not talked to Officer Kirby today.

21 Q Okay. Did you speak to any other law enforcement  
22 officers today about your testimony?

23 A About my testimony, no.

24 Q Did any other law enforcement officer speak to

1 you about their cases?

2 A No. It's been casual conversation this morning.

3 Q Today, were you advised of the exclusionary rule?

4 A No.

5 Q You spoke to Officer Bennett, correct?

6 A When?

7 Q You tell me.

8 A It was -- I have spoken to him, again, casual  
9 conversation. You look familiar, that kind of stuff.  
10 Where do you work?

11 But other than that, it's been -- that's about  
12 it.

13 Q When did you speak to him?

14 A Today's Wednesday, correct? It would have been  
15 yesterday.

16 Q And did you talk about motorcycle gangs?

17 A No. It was basically after, you know, the casual  
18 conversation: You look familiar. Where do you work? I  
19 said, "I think I've spoken to you over the phone regarding  
20 my case in Oildale."

21 And he said, "Oh, yeah, I did talk to you on the  
22 phone."

23 I think he even mentioned that we met at some  
24 point in time. We just -- neither one of us could

1 remember when.

2 Q So you're saying that you did speak to Officer  
3 Bennett about your Oildale case?

4 A It was to the point that he had assisted me. And  
5 that's where we knew each other, and that's where we had  
6 spoken before. I couldn't put a name to the face. I'm  
7 bad with names.

8 Q All right. Are you working with one of the DA's  
9 investigators in this case?

10 A No.

11 Q No investigator has spoken to you in this case?

12 A I've spoken on the phone briefly. It's been  
13 basically travel arrangements and things like that, but I  
14 haven't really talked about my case, other than providing  
15 reports.

16 Q Have you met with an investigator in this case?

17 A Just, again, to -- hotel arrangements, travel  
18 arrangements and things like that. I mostly met with the  
19 district attorney present here in court today.

20 Q But would you know the name of the investigator?

21 A No.

22 Q Did you shake hands with the investigator?

23 A I have shaken hands with a couple of  
24 investigators, introduced myself to everybody outside and

1 the DAs.

2 Q Did you recognize the investigator who left the  
3 court before you entered the court?

4 A Yes.

5 Q And was that investigator present at the  
6 conference?

7 A I don't believe so, no. I don't think I saw him  
8 until at least Tuesday.

9 Q So there was a different investigator in the  
10 room, right?

11 A I don't remember, sir. I don't remember if there  
12 was an investigator in the room. It was possible.

13 MR. DOGAN: Court's indulgence, Your Honor.

14 BY MR. DOGAN:

15 Q When Officer Kirby left the courtroom today, did  
16 he speak to you?

17 A No.

18 Q Did he speak to any of the other law enforcement  
19 officers out there?

20 A No.

21 Q Did you see where he went?

22 A He was sitting -- I'm sorry, seated, pardon me,  
23 just right here in the horseshoe-shaped area. He came  
24 out, sat down, drank his water and . . .

1 Q He was mute?

2 A Basically. I didn't hear him say anything.

3 MR. DOGAN: I'll pass the witness.

4 THE COURT: Mr. Hall? Mr. Stege? I don't know  
5 who's doing it. I'm sorry.

6  
7 VOIR DIRE EXAMINATION

8 BY MR. HALL:

9 Q Detect Colbert, you indicated that you have  
10 testified on prior occasions; is that correct?

11 A Yes, sir, I have.

12 Q And you're somewhat familiar with the rule of  
13 exclusion; is that right?

14 A Yes, sir.

15 Q And what does the rule of exclusion mean to you?

16 A Excluding other witnesses outside of court, other  
17 than your designated investigating officer, in my  
18 experience anyways, so that testimony is not influenced by  
19 anybody sitting in court, to not influence their  
20 particular testimony.

21 Q Did you try and influence anybody's testimony,  
22 any of the witnesses that you were aware of in this  
23 particular case?

24 A No.



1 MR. DOGAN: Objection. Leading.

2 MR. HALL: They did direct. I thought I was  
3 cross-examining.

4 THE COURT: I don't know if you are  
5 cross-examining or not, but you certainly are in privity  
6 with this witness. But I'm going to let you do some  
7 direct because I think we need some leading.

8 That question is not objectionable, so I'll  
9 overrule the objection.

10 MR. HALL: Thank you, Your Honor.

11 BY MR. HALL:

12 Q Did you try and coordinate your testimony with  
13 any other witness?

14 A No.

15 Q Did any witness try to influence you?

16 A No.

17 Q Have you been influenced as your proposed  
18 testimony regarding your involvement with the Hell's  
19 Angels and the Vagos and Kern County and your involvement  
20 with -- well, let me stop there.

21 Your involvement with the Hell's Angels, has your  
22 testimony been influenced while you've been here by any  
23 other witness?

24 A No.

1 Q Have you discussed your testimony, proposed  
2 testimony with any other witness?

3 A No.

4 Q Has any witness tried to discuss his testimony  
5 with you?

6 A No.

7 Q Have you been influenced by any other witness --  
8 let me rephrase the question.

9 Would you expect your testimony, proposed  
10 testimony, regarding what you discussed with the attorneys  
11 to be influenced by any other witness that has been  
12 sitting outside or been across the street during the  
13 course of your time here in Reno?

14 A No, sir.

15 Q Do you feel that you have an independent  
16 recollection of the facts and circumstances that you have  
17 been prepared to testify about regarding the stabbing of  
18 Roger Violano by Mr. Pena?

19 A Yes.

20 Q All right. And do you have an independent  
21 recollection of -- or you have knowledge, independent  
22 knowledge of the Vagos and the Hell's Angels in Kern  
23 County; is that right?

24 A Yes.

1 Q And do you share or have you shared information  
2 with other law enforcement officers during the course of  
3 your career regarding outlaw motorcycle gangs?

4 A Yes, absolutely.

5 Q Have you been to training and seminars where a  
6 lot of the conflict between the Hell's Angels and the  
7 Vagos have been discussed?

8 MR. DOGAN: Objection. Beyond the scope.

9 THE COURT: Sustained.

10 BY MR. HALL:

11 Q All right. Well, do you, of your own personal  
12 knowledge, have -- you have knowledge about the rivalries  
13 between the Hell's Angels and the Vagos, correct?

14 MR. DOGAN: Same objection.

15 THE COURT: Sustained.

16 BY MR. HALL:

17 Q Well, did you learn that --

18 MR. HALL: That's a foundational question. Can I  
19 ask a foundation?

20 THE COURT: As it relates to what, Mr. Hall?

21 MR. HALL: As it relates to whether or not he has  
22 gotten any information from any witnesses in violation of  
23 the rule of exclusion.

24 THE COURT: Well, he said he didn't. He wasn't

1 influenced.

2 MR. HALL: Okay. All right. I'll leave it at  
3 that then.

4 THE COURT: Anything further?

5 MR. CHESNOFF: No, thank you, Your Honor.

6 MR. DOGAN: Yes, Your Honor. Thank you.

7 THE COURT: Okay.

8  
9 **FURTHER VOIR DIRE EXAMINATION**

10 BY MR. DOGAN:

11 Q When you're outside the courtroom with how many  
12 other law enforcement officers that are present, there's  
13 more than one, correct?

14 A Right now, yes.

15 Q And you all are sitting on the bench, right?

16 A Yes.

17 Q In that horseshoe area, correct?

18 A Yes.

19 Q All of you are talking, right?

20 A Yes.

21 Q And it's hard not to overhear what you're talking  
22 about, right?

23 A That's fair to say. You can overhear other  
24 conversations, yeah.

1 MR. DOGAN: Okay. Nothing further.

2 THE COURT: Okay. Sir, we're going to ask you to  
3 step outside. You're not done, but you can step outside  
4 and you're still going to be around.

5 THE WITNESS: Yes, ma'am.

6 THE COURT: So please await further information.

7 THE WITNESS: Okay. Thank you, Judge.

8 THE COURT: Thank you.

9 (Witness exits the courtroom.)

10 THE COURT: Mr. Hall, will you let me know who  
11 else was out there, who the other witnesses are that we've  
12 been talking about?

13 MR. HALL: I can tell you who the witnesses are  
14 that are out there now. Les Skelton is out there now.  
15 Detective Long is out there now. And Fieselman is out  
16 there now. Detective Fieselman. F-I-E-S-L-E-M-A-N (sic).

17 MR. CHESNOFF: And, Your Honor, we need to  
18 identify the Arizona -- the people that left yesterday,  
19 especially the ones that may have been from Arizona.

20 THE COURT: Were there other different people  
21 there yesterday?

22 MR. HALL: I don't know. Dimel was here  
23 yesterday. As far as I know, he left when he was done.

24 THE COURT: What about Mr. Bennett? Was he here?

1 MR. HALL: Bennett was here yesterday.

2 THE COURT: And this morning before you let him  
3 go?

4 MR. HALL: Yes.

5 THE COURT: Anyone else?

6 MR. HALL: You know, there was a guy by the name  
7 of Matt Bailey I think was here.

8 THE COURT: Okay. What is the defense's pleasure  
9 at this point? How many more witnesses do you want to  
10 hear from? Do you want to hear from all of them? I'm not  
11 suggesting you can't. I just want to kind of get a  
12 parameter here of what you would like this hearing to look  
13 like.

14 MR. CHESNOFF: I definitely want to hear from the  
15 Arizona policeman that Mr. Webb acknowledged -- I'm  
16 sorry -- Mr. Kirby acknowledged having at least been in  
17 the vicinity of the -- for the record, Your Honor, I have  
18 a lot of trouble with Mr. Kirby and the veracity of his  
19 complete story.

20 I've not finished drawing conclusions about  
21 others, but certainly the last two witnesses have been  
22 direct in their answers, have not been inconsistent from  
23 30 seconds before to the next question. So anything that  
24 has to do with Kirby, I want to complete.

1 And so I think it's incumbent, based on case law,  
2 since it's the State's burden to show no prejudice, to  
3 identify for us the officers that Mr. Kirby would have  
4 been in the presence of.

5 And for example, Your Honor, Mr. Kirby first told  
6 us that he did discuss the interview and the tape. And  
7 then he retracted it. And then we just found out that one  
8 of the other officers actually heard the tape playing.

9 I think there needs to be a little investigating  
10 being done by the investigators to give the Court the full  
11 picture of who might have been exposed to the violations.

12 I don't think this is just Your Honor's job or  
13 our job. I think there's some responsibility here, a lot  
14 of responsibility here on the part of the prosecution,  
15 especially in light of the way that the witnesses have  
16 kind of been handled. It's a little different than I  
17 would have expected, Your Honor.

18 THE COURT: I think Mr. Hall has indicated that  
19 the Arizona witnesses were Mr. Dimel?

20 MR. HALL: No. Dimel was from Southern  
21 California, Costa Mesa.

22 THE COURT: Oh, okay. Who were the Arizona  
23 witnesses?

24 MR. HALL: Les Skelton is from Arizona.

1 THE COURT: And he's here still?  
2 MR. HALL: Right.  
3 THE COURT: And was there someone else?  
4 MR. HALL: I can't think of any --  
5 THE COURT: What about Yavapai County?  
6 MR. HALL: That's Les Skelton.  
7 THE COURT: Okay. And then the other incident?  
8 There was a second one in Arizona?  
9 MR. HALL: Les Skelton is going to testify.  
10 THE COURT: To both of them?  
11 MR. HALL: Yes.  
12 THE COURT: Okay. And so you think that he's the  
13 only one from Arizona?  
14 MR. HALL: I think so.  
15 THE COURT: Okay. So what I'm trying to kind of  
16 get a feeling is, do we continue with Les Skelton? Do you  
17 want to do that and get that done and then go back and  
18 hear some evidence while you're waiting to make your  
19 determination of what kind of a motion you want to make  
20 and reviewing the transcripts?  
21 MR. CHESNOFF: I want to use our time as wisely  
22 as possible, Your Honor. So I definitely would like to  
23 inquire of Mr. Skelton. We can do it after lunch if the  
24 Court wants, start with him and move into other evidence.



1 But I think we need to continue to develop this.

2 And I think, to be honest with Your Honor, if we  
3 have some of these other witnesses, and in the course of  
4 their cross, we can ask them questions about this, too,  
5 and then --

6 THE COURT: That's what was thinking. We don't  
7 necessarily need to have two separate hearings.

8 MR. CHESNOFF: That's fine.

9 THE COURT: I just thought, I know we had to have  
10 some of it before we went on.

11 MR. CHESNOFF: Yup.

12 THE COURT: But other than Les Skelton, I really  
13 don't see why we can't cover it in cross-examination.

14 MR. CHESNOFF: I'm fine with that, Your Honor.  
15 Can't speak for my colleagues.

16 MR. DOGAN: Your Honor, I think it's important at  
17 this point to have all the officers who were out there and  
18 who were in earshot of Officer Kirby to come in here and  
19 advise the Court what they heard from Officer Kirby and  
20 whether they even spoke about their case.

21 All the officers are just -- they are sitting out  
22 in the horseshoe area, and they have been talking to one  
23 another ever since we started this gang enhancement  
24 hearing.

1           Our focus would be primarily on Ferguson and also  
2 Dimel, but not only are we going to be focusing on them,  
3 but I believe it's important to have all of them come in  
4 here and to provide testimony as to whether they violated  
5 the exclusionary rule.

6           THE COURT: The question is, do we need to have a  
7 separate -- do we have to do that first before we can do  
8 anything else, or can we do it as we go through the  
9 evidence?

10          MR. HALL: We can do it as we go.

11          MR. DOGAN: Whatever is easiest.

12          THE COURT: Okay. So as I understand, the  
13 request of the defense is that Les Skelton be -- we  
14 inquire of Les Skelton first, and then we can go back to  
15 Officer Colbert's testimony, or whatever the order will  
16 be.

17          And we'll cross-examine as to this issue along  
18 with the other issues. But that cross-examination can go  
19 beyond the direct, obviously, by the State, and you can  
20 inquire into the issue of the exclusionary rule.

21          Is that everyone's understanding?

22          Okay. Now, the other thing that probably makes  
23 sense is we have some witnesses now that it does not make  
24 sense to start telling them new things about the

1 exclusionary rule before they testify. I think we kind of  
2 have to keep them pretty pristine in their knowledge or  
3 lack thereof of whatever they've been told.

4 So any new officers that arrive, we should be  
5 careful and be sure that any different witnesses are -- as  
6 we go. So we'll deal with that.

7 MR. HALL: So the Court doesn't want to admonish  
8 the witnesses at this point?

9 THE COURT: Well, I do, but the problem is if I  
10 admonish them before I have the hearing on their knowledge  
11 of what they were told, it's very difficult to find out  
12 what they were thinking.

13 So we can have the whole hearing and then we can  
14 admonish them and then we can hear the evidence. Or we  
15 can say: Okay, we're going to keep everything the way it  
16 is and kind of try to get some evidence done.

17 I don't really care. I'm here. So whichever way  
18 we do it, I don't care.

19 Why don't you all talk about it while we take a  
20 lunch recess and see if you can hammer out an agreement of  
21 how you think it would be appropriate to do, and then  
22 maybe we'll be back after lunch.

23 MR. HALL: I just want to make one quick record.

24 With respect to Matt Kirby, his involvement with

1 Ernesto Gonzalez was very limited. All's he did was pull  
2 him over for a traffic offense. He found a loaded weapon  
3 and knife on him as a result of his traffic stop. He was  
4 arrested. The defendant made some statements indicating  
5 that he was a Vago member and that he had a rivalry with  
6 the Hell's Angels.

7 I'm at a loss to figure out how that's going to  
8 influence any other witness in the case and how his  
9 conversation would somehow taint these proceedings.

10 And I think we ought to have a hearing on how  
11 it's going to taint some proceedings with that limited  
12 involvement. I'm just -- I'm at a loss.

13 THE COURT: So you want another hearing on that?

14 MR. HALL: I'd like to have a -- I guess we gotta  
15 have a hearing.

16 THE COURT: Okay. Gentlemen, that is -- there is  
17 no question a hearing has to be heard on the allegations  
18 that have been raised by the defense. There's enough  
19 evidence before the Court that I have to hold that  
20 hearing.

21 Now, I tried to suggest a way that maybe we  
22 wouldn't spend the next two days or three days on that  
23 hearing alone before we could even hear the evidence. But  
24 now you have asked for a hearing on whether or not they're

1 entitled to the hearing and what the benefit is.

2 MR. HALL: No, I just want to make a record. I  
3 agree with the Court. Let's do it all at once. They can  
4 cross-examine them with respect to whatever taint they  
5 think is out there. And then during the course of --

6 THE COURT: And then everybody can argue about  
7 what the benefit or not is.

8 MR. HALL: Sounds good.

9 THE COURT: I guess.

10 MR. CHESNOFF: Your Honor, this whole thing just  
11 happened. It's not our -- we didn't --

12 THE COURT: No, I know.

13 MR. CHESNOFF: We didn't make it happen. We're  
14 just trying to develop the facts.

15 We have two clients charged with murder, and we  
16 need to do what we need to do. And we're not doing it to  
17 prolong anything.

18 THE COURT: No, I agree. And I do not perceive  
19 it that way at all.

20 Anybody else have anything else? Okay. 1:15:

21 Court's in recess.

22 (The noon recess was taken at 12:17 p.m.)  
23  
24

1 RENO, NEVADA, WEDNESDAY, JANUARY 9, 2013, 1:23 P.M.

2 -oOo-

3  
4 THE COURT: Thank you. Please be seated.

5 Counsel, did you discuss the possibility of how  
6 to go forward from here at lunch?

7 MR. STEGE: No.

8 MR. HALL: We're going to go forward, yes.

9 THE COURT: So we're going to go forward with Les  
10 Skelton next?

11 MR. HALL: No. We're going to go with Jeff  
12 Colbert, the fellow we just had.

13 THE COURT: Okay. Everyone is okay with that?  
14 We'll just keep on going that way?

15 MR. CHESNOFF: Thank you, Your Honor.

16 MR. DOGAN: Yes, Your Honor.

17 THE COURT: Okay. All right.

18 Okay, sir, you're still under oath. Please  
19 retake the stand.

20 THE WITNESS: Yes, ma'am.

21 THE COURT: Are you bringing the flu to us?

22 THE WITNESS: I hope not.

23 THE COURT: Just a cold?

24 THE WITNESS: I think it's just a cold. On the

1 tail end of it, I think. I hope.

2 THE COURT: There's some water there if you need  
3 it.

4 THE WITNESS: Thank you.

5 THE COURT: Counsel, you may proceed.

6  
7 JEFFREY COLBERT,

8 recalled as a witness by the State,  
9 having been previously duly sworn, was examined,  
10 and testified further as follows:

11  
12 DIRECT EXAMINATION

13 BY MR. STEGE:

14 Q Deputy, I think when we left off before, you had  
15 started to talk a little bit about your training,  
16 experience, and qualifications. You stated you're  
17 currently in the robbery/homicide unit.

18 A Yes.

19 Q Prior to that, what part of the department were  
20 you assigned to?

21 A Prior to promoting to senior deputy, I worked in  
22 several areas, mostly basically split between the gang  
23 suppression unit and patrol.

24 Q Do you have training in gang investigations?

1           A     Yes.

2           Q     Tell us about that, as well as related to outlaw  
3 motorcycle gang experience.

4           A     Okay. My training as far as specifically  
5 criminal street gangs and outlaw motorcycle gangs began in  
6 the basic academy in 2001.

7                 I received eight hours of formalized training in  
8 the basic academy which was a California Peace Officer  
9 Standards and Training certified academy.

10                After the academy, within the first three years  
11 of my career, I was assigned or appointed to the sheriff's  
12 department gang enforcement team. Basically what this is,  
13 is a part-time gang unit that works in conjunction with a  
14 full-time gang unit, relating information and assisting in  
15 gang investigations. It was in approximately 2006 or 2007  
16 that I was appointed to the full-time gang unit.

17                During my 11-and-a-half-year career, I received  
18 countless hours of formalized training from not only my  
19 department, other departments and organizations regarding  
20 the specific area of criminal street gangs and outlaw  
21 motorcycle gangs.

22                Approximately over a 150 hours of specific  
23 formalized training with specific area to gangs.

24                I've been a member of the California Narcotics



1 Officers Association where outlaw motorcycle gangs was a  
2 topic.

3 Also a member of the California Gang  
4 Investigators Association where, again, outlaw motorcycle  
5 gangs were a specific area.

6 I've also networked with outlaw motorcycle gang  
7 investigators throughout the state of California and other  
8 states.

9 During investigations, I've assisted in  
10 out-of-county investigations, surveillances, funeral  
11 details of outlaw motorcycle gang members, search  
12 warrants, along with the FBI and ATF.

13 I've also taught several hours of basic gang  
14 recognition and for criminal street gangs and outlaw  
15 motorcycle gangs throughout our academy, to our command  
16 staff.

17 I've given presentations to communities members,  
18 parent/teacher associations, board of supervisors  
19 meetings, things of that nature.

20 Q Have you ever testified in court as an expert in  
21 the area of gangs in general?

22 A Yes.

23 Q Have you ever testified in court in the area of  
24 outlaw motorcycle gangs?

1 A Yes.

2 Q And tell us about that experience.

3 A In gangs in general, criminal street gangs, my  
4 primary duties as a gang investigator were -- are Blood  
5 and Cripps gangs in Kern County and also outlaw motorcycle  
6 gangs.

7 I have, however, testified in all areas of gangs  
8 in Kern County, from outlaw motorcycle gangs to Hispanic  
9 gangs, Cripps and Bloods, white supremists-type gangs,  
10 taggers. Basically all of them.

11 My outlaw motorcycle gang expertise -- or excuse  
12 me, testifying as an expert in Kern County Superior Court  
13 has been approximately -- I think I've done it three times  
14 now, if memory serves me correctly, on three separate  
15 dates.

16 Q Three separate occasions, with respect to which  
17 outlaw motorcycle gangs?

18 A My very first testimony was on a Vago case. And  
19 then the other two were two separate instances regarding  
20 Hell's Angels and Vagos.

21 Q And in your career, you said that you have  
22 investigated the Vagos and the Hell's Angels within the  
23 jurisdiction of your agency; is that correct?

24 A Yes.

1 Q And throughout the time that you were in the  
2 dedicated gang unit; is that correct?

3 A Yes.

4 Q You mentioned this unit you're on that was sort  
5 of assisting the main unit. Did you investigate outlaw  
6 motorcycle gangs, including Hell's Angels and Vagos,  
7 during that time frame?

8 A I believe it was during that time frame I  
9 assisted in one investigation. It was an out-of-county  
10 investigation. We went and assisted in a search warrant.

11 My involvement was minimal in that. I don't even  
12 recall what we were doing, honestly. It's been so long.

13 Q Now let's talk about leading up to May of 2010,  
14 you did have Vago or outlaw motorcycle gang experience,  
15 right, investigative experience?

16 A Yes.

17 Q To include both groups, Hell's Angels and Vagos.

18 A Yes. More Hell's Angels than Vagos. We didn't  
19 have a strong showing of Vagos until approximately 2010.

20 Q And tell us about a little bit of the history of  
21 Hell's Angels and Vagos within Kern County leading up to  
22 2010.

23 A In Bakersfield or Kern County, mainly the  
24 Bakersfield area, since I've known and since I've been in

1 law enforcement, it's been what we would call a red and  
2 white town, a Hell's Angels town.

3 The Hell's Angels didn't have an official chapter  
4 in Bakersfield or in Kern County. However, several  
5 members, supporters were from Kern County, and you would  
6 see them somewhat, sometimes a regular basis, sometimes  
7 sporadic basis.

8 In my career, I hadn't even contacted a Vago in  
9 Kern County until probably around 2008 or 2009, and that  
10 was passing through. The town was mainly held and visited  
11 or known to be a Hell's Angels support town or support  
12 area. More specifically, the area where my case took  
13 place, which was Oildale.

14 Q And Oildale is a subsection of Bakersfield?

15 A It's basically like a little -- wouldn't even  
16 call it a township. It's considered Bakersfield. It's  
17 just like a little area, not very large.

18 Q At some point you started to see Vagos move  
19 into -- a Vago presence within the area.

20 A Yeah.

21 Q Tell us about that.

22 A It almost seemed like it was overnight. We would  
23 see Vagos come through at our bike runs or our toy runs,  
24 things like that. They would be few and far between.

1 And then it seemed like overnight, we just had a  
2 larger showing of Vagos from the County Line chapter.

3 Q And tell us about the -- what is the County Line  
4 chapter?

5 MR. DOGAN: Your Honor, at this point I'm going  
6 to object. This witness not been noticed in the motion  
7 for order admitting gang enhancement evidence and  
8 testimony. He is not noticed anywhere.

9 THE COURT: As a witness or as an expert?

10 MR. DOGAN: As both, Your Honor. We don't have  
11 him noticed as a witness, as an expert. We have no  
12 reports. We have no summary of what he's going to say  
13 today, and it's a direct violation of this Court's order.

14 MR. STEGE: They have reports. They've had  
15 reports for a long time, Judge. The Oildale case, which  
16 we identified in our moving papers, are on file.

17 MR. DOGAN: The police report --

18 MR. STEGE: It's not a surprise that this Oildale  
19 case is coming up.

20 MR. CHESNOFF: Your Honor, we join in what we  
21 started out with yesterday, where someone is a witness --  
22 it's this merger, and my colleague -- I just wanted to  
23 hear enough to know that we had the same problem we  
24 started out with yesterday, Your Honor.

1 MR. DOGAN: Your Honor, I can go over the Court's  
2 order like I did this morning again. It's a direct  
3 violation of that order. And we would request that  
4 either -- the remedy would be a continuance or the remedy  
5 would be exclusion.

6 At this point in time, because of the State's  
7 persistent violations of this Court's order, I'm going to  
8 request that this witness be excluded.

9 MR. STEGE: They've had the reports for ages. We  
10 mentioned the Oildale case in our pleadings. I don't know  
11 what else he wants.

12 THE COURT: Are you familiar with the order he's  
13 talking about?

14 MR. STEGE: I heard him read it in court. It's  
15 the one that ordered us to file the gang motions and other  
16 bad act motions in November.

17 THE COURT: Do you understand that it ordered you  
18 to identify the evidence and the witnesses that you  
19 planned to call?

20 MR. STEGE: And we did that, Judge, and that's  
21 why we provided the police reports of the detective who  
22 identified the Oildale killing as -- well, Gil-Blanco  
23 talked about it, and we identified it in our moving  
24 papers. It was talked about --

1 THE COURT: Why don't you show me.

2 MR. STEGE: -- way back to the Grand Jury.

3 THE COURT: Mr. Stege, I'm sure that you don't  
4 mean to be casual about these things, but it does appear  
5 to the Court that you're a little bit casual in your  
6 response. So would you show me --

7 MR. HALL: Your Honor, may I address this?

8 THE COURT: I don't really care which one of you  
9 addresses it.

10 MR. HALL: Okay. Good.

11 THE COURT: But what I'd like you to do is,  
12 number one, not interrupt me.

13 But number two, show me in your pleadings where  
14 you consistent -- you fulfilled the requirements of the  
15 order and how it is noted in your pleadings. Just don't  
16 tell me you did it. Show me where you did it.

17 MR. HALL: We did it at page 28.

18 THE COURT: Of?

19 MR. HALL: Starting at line 18.

20 THE COURT: Of what pleading?

21 MR. HALL: Of the motion to -- motion for order  
22 admitting gang enhancement evidence.

23 THE COURT: And that was filed November 26th?

24 MR. HALL: I believe so.

1 THE COURT: Okay.

2 MR. HALL: And we noticed Jorge Gil-Blanco and  
3 Jeffrey Simpson.

4 And I believe that we found out about Mr. Colbert  
5 during the course of our investigation into this case  
6 after we received the police reports. Or received the  
7 police reports, tried to get ahold of the witnesses listed  
8 in the -- and I believe I also filed a pleading previous  
9 to this one identifying this case and the original  
10 investigating officer.

11 But when we found out that this detective had  
12 actually been more involved in the investigation, we asked  
13 him to come up. And I found out yesterday that he didn't  
14 have a curriculum vitae. We asked him yesterday whether  
15 or not we had supplied and found out that he didn't have  
16 one. We were going ask him to supplement that so that we  
17 could include that into our notice of expert witnesses.

18 But I'm certain that his name is mentioned in the  
19 investigating report, so they should be able to  
20 cross-examine him, Your Honor.

21 THE COURT: Okay. So you did not tell the Court  
22 that you intended to call this witness to testify to these  
23 things. You have never told me that in any pleading.

24 MR. HALL: I didn't even know that myself until I



1 got back from vacation on Monday.

2 THE COURT: Okay. So wouldn't you normally ask  
3 leave of the Court, ask leave of my order to supplement,  
4 to add him as a witness for these hearings today? Isn't  
5 that normally what we would do?

6 MR. HALL: Yes.

7 THE COURT: Okay. So if we had done that, I  
8 wouldn't be hearing these motions over and over and over  
9 again.

10 I understand your argument is that you just found  
11 out, that you have got good cause for the delay or the  
12 violation of the order. I understand that. But you  
13 haven't asked for that. And it's very frustrating to the  
14 Court.

15 So we've heard about it yesterday, and I thought  
16 maybe you'd clean it up.

17 So is there anybody else you haven't noticed?  
18 Because this is the -- at least the second, maybe the  
19 third time I've heard it.

20 So are there other witnesses that we really  
21 didn't know about until today or that you found out about  
22 recently and you haven't asked leave of the Court?

23 MR. STEGE: With respect to the other bad act  
24 motion, Judge, with respect to Mr. Villagrana, we call it

1 the pink poodle incident. The report we had in -- the  
2 report we still have only identifies the officers by their  
3 P numbers, and we found out within the last week or so who  
4 those actual people were. And they are --

5 THE COURT: Okay. So the pink poodle is --

6 MR. STEGE: Mr. Villagrana's bad act motion,  
7 those witnesses. Ceballos is the last name of the  
8 officer.

9 MR. CHESNOFF: I don't think the pink poodle  
10 applies to Mr. Villagrana, Your Honor, as a bad act.

11 THE COURT: I have listed pink poodle under  
12 Villagrana as bad act evidence or an offer based on their  
13 pleadings.

14 So, Mr. Stege, while Mr. Hall is kind of looking  
15 at some other things, you have filed a pleading with  
16 regard to the pink poodle on what date?

17 MR. STEGE: This is November 26, 2012.

18 THE COURT: And that's the motion for order  
19 admitting enhancement evidence?

20 MR. STEGE: Right.

21 THE COURT: And on what page did you identify the  
22 pink poodle allegations?

23 MR. STEGE: Well, it's Exhibit 2. I see it now.  
24 It's attached as Exhibit 2 of the --

1 THE COURT: The police report.  
2 MR. STEGE: The police report is.  
3 THE COURT: Okay. Has a lot of detectives names  
4 on there.  
5 MR. STEGE: Page four, line six. And I misspoke,  
6 it's Exhibit 1.  
7 THE COURT: Okay. So I'm looking at Exhibit 1,  
8 and you want me to go to page four?  
9 MR. STEGE: Page four.  
10 THE COURT: Okay.  
11 MR. STEGE: No, not Exhibit 1. Page four of the  
12 motion, line six, gives the -- calls this bad act pink  
13 poodle and talks about it on that page.  
14 THE COURT: Page four of your motion.  
15 MR. STEGE: Yes.  
16 THE COURT: Line six.  
17 MR. STEGE: Starts to talk about the pink poodle.  
18 Exhibit 1 corresponds to that incident.  
19 THE COURT: Okay. Wait a minute. I'm on a  
20 motion that was filed November 26, 2012. Is that the  
21 motion you are pointing me to?  
22 MR. STEGE: Yes. 2:47.  
23 THE COURT: It was filed at 2:47?  
24 MR. STEGE: That's the stamp I have.

1 MR. CHESNOFF: Your Honor, the reason I told  
2 you -- I don't want to interrupt you.

3 THE COURT: That's okay. I'm just looking for --  
4 at 2:47 or 2:14?

5 MR. STEGE: 2:47:20 p.m. is what -- the stamp I  
6 have of the 26th.

7 THE COURT: Okay. So now we're on Villagrana.

8 MR. CHESNOFF: Right, but I'm kind of putting the  
9 cart before the horse, Your Honor, because I have an  
10 argument as to why it doesn't -- one, it's not bad act  
11 and, two, why it doesn't apply to him because --

12 THE COURT: Right. He's just trying to  
13 supplement right now what he filed.

14 MR. CHESNOFF: Right, but we don't know who it is  
15 that he -- I don't know who it is that he plans on calling  
16 as a witness.

17 THE COURT: Right. And so I think he's now going  
18 to tell me that the pink poodle allegations on page four,  
19 beginning on line six through line 23, are talked about in  
20 the pleading and then Exhibit 1 to the pleading.

21 Is that correct?

22 MR. STEGE: You are correct, yes.

23 THE COURT: And who was your witness?

24 MR. STEGE: Croucher or Ceballos. I don't have

1 their first names written down. Matt Croucher.

2 THE COURT: I'm sorry, would you spell those  
3 names, please.

4 MR. STEGE: C-R-O-U-C-H-E-R, last name. First  
5 name Matt. Other, Ceballos, C-A-B -- C-E-B-A-L-L-O-S.  
6 Unknown first name.

7 THE COURT: And are they referenced in Exhibit 1  
8 somewhere?

9 MR. STEGE: No. That was the whole issue, Judge.  
10 If we knew the names, we would have told them at the time,  
11 but we had to do a little digging into some of the  
12 discovery. Their personnel numbers or badge numbers are  
13 listed in a portion of that, so that led us to the  
14 information.

15 THE COURT: Okay. So what is the personnel or  
16 badge number for Matt Croucher?

17 MR. STEGE: I don't know.

18 THE COURT: Would it be different --

19 MR. STEGE: 4077.

20 THE COURT: So in Exhibit 1, when it refers to  
21 badge number or identifying number 4077, it's referring to  
22 Matt Croucher; is that correct?

23 MR. STEGE: That's. Well --

24 THE COURT: Okay. And then --

1 MR. STEGE: -- I didn't write the report, so I  
2 can't say, but that's my belief.

3 THE COURT: That's your best information?

4 MR. STEGE: Yeah.

5 THE COURT: Okay. And then this Mr. Ceballos or  
6 Officer Ceballos, is that a mister or an officer?

7 MR. STEGE: Officer.

8 THE COURT: And he was referred in the Exhibit 1  
9 under what?

10 MR. STEGE: I think he's 3938, but I don't know.

11 THE COURT: Okay. So you would like to  
12 supplement with this information?

13 MR. STEGE: Yes.

14 THE COURT: And when did you get this  
15 information?

16 MR. STEGE: I met him yesterday. So I would say  
17 Friday. I knew their names Friday.

18 THE COURT: Counsel?

19 MR. CHESNOFF: Your Honor, we have an order.  
20 It's pretty clear. And we just keep having to do things  
21 from the seat of our pants, which is okay sometimes, but  
22 not in a murder case.

23 THE COURT: It does seem very odd for the level  
24 and caliber of this case and the expense of this case to

1 have these hearings take an extended period of time with  
2 the security levels we have. So I am concerned that we  
3 get it tightened up a little bit.

4 Any other corrections or additions to make to  
5 your pleadings pursuant to my order?

6 MR. STEGE: Nothing from the bad act standpoint,  
7 Judge.

8 MR. CHESNOFF: While we're on the topic, Your  
9 Honor, I don't know what -- even from reading this, what  
10 other bad act we're talking about from this report. They  
11 have people hanging out at a bar.

12 THE COURT: Oh, well, you're going to have to  
13 argue and figure out what they're trying to present.

14 MR. CHESNOFF: But if there's something more than  
15 that that they just learned, because otherwise I have no  
16 idea why they're doing this. In other words, what's the  
17 bad act?

18 THE COURT: Do you have any supplemental  
19 information?

20 MR. STEGE: No. Read the motion. The motion is  
21 about --

22 THE COURT: Are you asking me to read the motion?

23 MR. STEGE: No, I'm telling him to read the  
24 motion. I mean, he responded to it. It's not like -- we

1 stated a basis for it, and that's why we're here, so we  
2 can examine the witness and learn about the case and be  
3 cross-examined and prove it by clear and convincing  
4 evidence.

5 MR. CHESNOFF: That's not really tightening it  
6 up, Your Honor. You know, I'm trying real hard to listen  
7 to what you told us yesterday afternoon.

8 THE COURT: Okay. I know. Okay.

9 Do you have any additional information that you  
10 have not disclosed in this motion or in the police report  
11 that you should disclose today so they can prepare for  
12 cross-examination of the witness?

13 Anything you haven't given them on this topic  
14 that you just learned about? And so when it comes out and  
15 they object, you're going to say: Oh, Judge, I just heard  
16 about it.

17 MR. STEGE: That the reason -- their initial  
18 call, it says a disturbance. It was a fight, or a  
19 reported fight.

20 THE COURT: Okay. Okay. Now, with regard to  
21 the --

22 MR. STEGE: But we're not going to try to tie  
23 that to the bad act, any fighting to --

24 THE COURT: Okay. That was just more information



1 that you had?

2 MR. STEGE: More information that I had, yes.

3 THE COURT: Okay. Great. Now, with regard to  
4 the gang enhancement, is there anything else?

5 MR. HALL: No, Your Honor. No, that's it.

6 THE COURT: So the only -- this is the only  
7 additional witness?

8 MR. HALL: Yes. And I'd note that his name is  
9 referenced in there. And I don't have my initial  
10 pleadings, but I believe his name was probably referenced  
11 in that initial pleading. I tried to set forth a lot of  
12 names of investigating officers, but certainly --

13 (Discussion off the record

14 between Mr. Hall and Mr. Stege.)

15 MR. HALL: So they certainly had the police  
16 reports of that investigation.

17 (Discussion off the record between

18 the clerk and the Court.)

19 THE COURT: Mr. Hall, the clerk thinks she  
20 remembers some discussion in the opposition filed  
21 October 19th. I haven't found it yet.

22 MR. HALL: I didn't bring that with me, Your  
23 Honor, so I can't look at it right now.

24 THE COURT: Okay. In that pleading, you do

1 discuss the Oildale event in Kern County. And you  
2 identified Jonah Wood, Jason Valasas (phonetic), Gavin  
3 Brewer, Swearingen, Dameron, Chadez (phonetic) and Holt  
4 and Kraft. Is that the one you're talking about?

5 MR. HALL: Yes. And what happened is when we  
6 were trying to contact officers to bring to court to  
7 testify regarding that incident, of course we obtained  
8 further information about who was actually in charge of  
9 the investigation, who would be a witness, a credible  
10 witness to actually provide the most probative evidence.

11 So unfortunately, that evidence was derived right  
12 before I left -- or, you know, I don't even remember when  
13 exactly that information was. But certainly we attempted  
14 to supplement during the course, but unfortunately, I went  
15 on vacation, which has really kind of thrown a wrench into  
16 my ability or my supplement. My supplementing.

17 So anyway, and then yesterday I did inquire as to  
18 whether or not we had a CV, and he doesn't have a CV, but  
19 we'll certainly get one.

20 But the long and short of it is we did provide  
21 the evidence that we had in a timely fashion, and I  
22 believe that this detective's name is referenced in the  
23 reports.

24 MR. DOGAN: Your Honor, yesterday, you did meet

1 with us, all counsel, and you advised us you did not want  
2 this to turn into nightmare or chaos.

3 I wouldn't be standing here in front of Your  
4 Honor making this argument if it was not for the State.  
5 It is not my fault. It is not our codefendants' fault.  
6 Specifically, this fault should lie on the State.

7 I hold your order in my hand, and your order is  
8 very specific. Your order states that it must be pleaded  
9 with specificity, the facts that are going to be presented  
10 and also the witnesses that are going to be noticed.

11 In this case, the witness is going to be proposed  
12 to be admitted as an expert witness; therefore, he will be  
13 permitted to provide hearsay testimony to the Court.

14 This is prejudice. If this isn't prejudice, I  
15 don't know what is.

16 We've prepared for this hearing. We followed  
17 your orders, Judge Steinheimer. We've done everything  
18 perfectly in accordance with the Court's rules and in  
19 accordance with the Court's order.

20 A line must be drawn and it must be drawn now.  
21 This witness should be excluded by the Court from  
22 providing any testimony. There should be no other remedy  
23 that is given to the State in this case.

24 MR. CHESNOFF: Your Honor, they give us a

1 pleading, they lay out who is involved in the incident,  
2 and then they, by their own admission, acknowledge that  
3 what they gave us isn't really what we should have had.  
4 It's better witnesses, but we're supposed to extrapolate  
5 that somehow? We're supposed to rely on that?

6 I mean, that's why you did the order, so we  
7 wouldn't be doing this. And I just don't think that it's  
8 consistent with the practice, and the order is clear and  
9 we've been through this. It's not like this is the first  
10 time. I mean, we had to come back because certain things  
11 weren't followed.

12 I'd ask you, Your Honor, at least to exclude this  
13 witness and -- so that we can have some kind of a remedy.

14 THE COURT: It is prejudice for you to be  
15 required to address this evidence today. Because the  
16 trial is three months from now, I don't think I can find  
17 that it's prejudicial for you to have to do it in a week  
18 or two.

19 But I do believe the State should be sanctioned  
20 for their failure to abide by the rule of the order of the  
21 Court. And I don't know exactly -- I've never -- I'm not  
22 sure what I'm going to do in that regard.

23 But yes, I think this is -- clearly, the  
24 continuance is required by the Court's -- by the State's

1 violation the record.

2 And because we have a little bit of time, I'm  
3 going to not exclude the witness, but we're not going hear  
4 it today. We're not going to hear this witness today.

5 And I don't know what else there is with regard  
6 to this witness. I understand it's just the name, but the  
7 police report hasn't changed; is that correct?

8 MR. HALL: Police report has not changed.

9 THE COURT: There's no additional pleadings --  
10 this gentleman's name apparently didn't appear in the  
11 police report that you had.

12 MR. HALL: I was looking at it, and I see that  
13 there was a Colbert, but it was actually Jason Colbert.  
14 So perhaps we can inquire as to the detective --

15 THE COURT: I think that might be a good idea to  
16 find out. There may be more police reports that we don't  
17 even have yet.

18 MR. HALL: I know we continued to do  
19 investigation on a number of fronts throughout the western  
20 United States, so it wasn't something that we could do  
21 easily. It wasn't like coming over to the Washoe County  
22 courthouse and calling up some records or calling RPD  
23 records. There were a number of people that had to be  
24 contacted in a short period of time.

1 Oh, here it is. Yeah, here Jeff Colbert's name  
2 is right there.

3 MR. STEGE: They're all over. They're all over  
4 the reports, Judge.

5 THE COURT: Okay. So these are in the police  
6 report?

7 MR. HALL: It is in the police report.

8 MR. STEGE: They've all been stamped. They've  
9 been through discovery to the defense.

10 THE COURT: Okay. That's great, but how come  
11 they're not in the motion then? If it's all over the  
12 discovery, it's clear in the police report, why isn't his  
13 name in the motion?

14 MR. HALL: Should have been in the motion.  
15 Oversight on my part. Inadvertent.

16 THE COURT: Do you acknowledge that you have the  
17 police report? Are you familiar with the police report?  
18 Do you know what he's talking about?

19 MR. DOGAN: Your Honor, I acknowledge that I do  
20 have a police report, and that police report is from Jason  
21 Colbert.

22 But I would advise the Court that because of the  
23 sheer amount of discovery that has been provided to us,  
24 you have all -- the Court has all the exhibits -- that

1 I --

2 THE COURT: I understand, you focused on that --

3 MR. DOGAN: -- specifically focused on what  
4 witness was going to be presented by the State.

5 THE COURT: I understand that, so what we're  
6 going to do is we're going to have this gentleman step  
7 down.

8 You'll be subject to being recalled, and we'll  
9 pick a time to do that in the near future.

10 MR. CHESNOFF: Your Honor, now that we know he's  
11 here, and I believe he's being offered as an expert, I  
12 would hope that before we get here the next time, whatever  
13 information we should be receiving in his capacity as an  
14 expert is provided to us prior to the time that we get to  
15 cross-examine him.

16 THE COURT: Well, prior to the time of them  
17 bringing him.

18 MR. CHESNOFF: Yes.

19 THE COURT: Is there any reason you can't abide  
20 by that?

21 MR. HALL: No, Your Honor. We'll provide a  
22 curriculum vitae and try and provide an adequate  
23 explanation to allow the defense to prepare for  
24 cross-examination.

1 THE COURT: Okay. Which I think requires a  
2 synopsis of his testimony and what he's basing his  
3 testimony on.

4 MR. HALL: Yes, we'll work on that. Do you have  
5 that?

6 THE WITNESS: Yeah, just the Jason Colbert thing,  
7 I can briefly explain that if it'll help Counsel out  
8 reviewing the reports. It's very simple.

9 MR. HALL: I'd like to give them as much  
10 assistance as we can to prepare for cross-examination. So  
11 could we allow him to just to make a couple comments in a  
12 narrative fashion to assist the defense in analyzing  
13 the --

14 THE COURT: The police report?

15 MR. HALL: Yes.

16 THE COURT: Okay.

17 THE WITNESS: The initial incident, the homicide  
18 that occurred that I investigated, throughout its  
19 entirety, I was involved in every step of the  
20 investigation.

21 Jason Colbert is my younger brother. He was in  
22 fact working patrol that day. He responded to the scene.  
23 He basically had the crime scene log. So he did what we  
24 call the face page. He did the initial report. Several



1     supplementals were done.

2             I was actually, when the offense occurred, at the  
3     movies. I got called into work because my of expertise in  
4     OMGs and the fact that there were two Hell's Angels' bikes  
5     at the scene. I got called in.

6             From the minute the investigation started, my  
7     being called in, I was, within its entirety. I wrote the  
8     majority of the reports, the search warrants, everything.  
9     I was the lead gang investigator, and I ultimately took  
10    over the investigation from homicide due to the fact that  
11    they were otherwise engaged.

12            THE COURT: Did you sign a report?

13            THE WITNESS: Several, ma'am. They're all in  
14    there. Jason Colbert is the initial. On the very first  
15    report, his name is on there, but it's a brief report  
16    basically saying: I got there, I taped off the scene, I  
17    secured an area, probably grabbed a couple witnesses.

18            THE COURT: Have you reviewed the report that the  
19    State has, the police report that the State has?

20            THE WITNESS: Yes, ma'am. I have a copy of it.  
21    It's our entire report throughout the investigation.  
22    There are several supplementals which --

23            THE COURT: Does the State have the all the  
24    supplementals? Does the State have everything that you

1 prepared?

2 THE WITNESS: Yes, ma'am.

3 THE COURT: And you have looked at their file and  
4 they've got everything?

5 THE WITNESS: I've been provided a copy of my --  
6 my reports are from Kern County, our incident reports, and  
7 they appear to be all here as far as the actual written  
8 reports, yes, ma'am.

9 THE COURT: Okay.

10 MR. CHESNOFF: Your Honor, could you inquire of  
11 the witness so I'm clear, is this the case in Kern County  
12 in which the defendants were acquitted?

13 THE COURT: The --

14 MR. CHESNOFF: What ultimately they plan on  
15 having him testify about.

16 THE COURT: Was there a trial in this case?

17 THE WITNESS: Yes, ma'am, there was.

18 THE COURT: And was there an acquittal?

19 THE WITNESS: Yes.

20 THE COURT: Yes, it looks like you know which  
21 case it is. Okay.

22 So now, Mr. Stege, you have reviewed your file  
23 and your file that you have given a copy apparently of the  
24 records you have to the witness so we have them with him.

1 You have compared that and you have the complete record  
2 and you have a discovery star on every page that the  
3 defense has received it.

4 MR. STEGE: Every page, yes, and I was the one  
5 who made the copy for the detective.

6 THE COURT: Okay. So we're sure we've got  
7 everything, right? I think we do.

8 THE REPORTER: Your Honor, I can't see Mr. Stege,  
9 and I can't hear him.

10 THE COURT: Oh.

11 MR. STEGE: I didn't say anything.

12 THE COURT: He didn't say anything. Kind of  
13 nodded his head, went to the side, slight smile. I took  
14 it to mean yes.

15 Then, sir, you can step down, but stay in touch.  
16 Don't leave until we get a new date and time. You'll have  
17 to be outside and wait around, and then the investigators  
18 will tell you, I'm sure, the new date and time you have to  
19 come back.

20 THE WITNESS: Yes, ma'am.

21 THE COURT: Thank you.

22 MR. STEGE: Judge, because of the distance  
23 involved, I wonder if he could be excused to leave town  
24 and we'll communicate with him regarding --

1 THE COURT: We're going to pick the date and time  
2 in just a minute. He's only going to stick around for a  
3 little bit.

4 (Witness exits the courtroom.)

5 MR. DOGAN: Your Honor, briefly, Officer Kirby is  
6 no longer in the court. I don't know what's going to  
7 happen with him, but I just wanted to advise the Court, I  
8 did not finish my cross-examination of Officer Kirby.

9 THE COURT: Okay. I'll try to keep track of  
10 where we're at.

11 MR. DOGAN: I will, too, Your Honor.

12 THE COURT: Okay. So I didn't remember that,  
13 frankly.

14 MR. STEGE: I don't know if that's -- if that  
15 happened or not.

16 MR. DOGAN: What? Sorry. Me crossing?

17 (Discussion off the record between counsel.)

18 THE COURT: So we need to pick a date and time.  
19 I don't know -- we kind of looked at Monday as another  
20 time that we could get together.

21 MS. PUSICH: Your Honor, I may need your help if  
22 you choose that. I'm under orders to appear with the jury  
23 commissioner to be chosen on Monday. I think they would  
24 probably move it if the Court asked.

1 THE COURT: Yes, I think I can ask someone to  
2 defer your service.

3 MS. PUSICH: Probably not March 4th.

4 THE COURT: Maybe not.

5 MR. CHESNOFF: I'm just powering up my calendar,  
6 Your Honor.

7 THE COURT: Okay. So, Mr. Dogan, would that give  
8 you sufficient time to be prepared to handle the testimony  
9 of Mr. Colbert?

10 MR. DOGAN: Yes, Your Honor.

11 THE COURT: Are you available? How is everyone  
12 at 10:30 on Monday, January 14th? I'm handling the  
13 criminal stacked calendar for Department 9 first, but I  
14 think we can start by 10:30 a.m.

15 MR. CHESNOFF: Your Honor, we have a matter in  
16 court on Monday morning in Las Vegas that one of us has to  
17 be at, at least. So can I have a minute to talk to my  
18 client about his opinion of only one of us being here on  
19 Monday?

20 THE COURT: Sure. Do you need a recess?

21 MR. CHESNOFF: I don't think it should take too  
22 long.

23 THE COURT: Okay.

24 MR. STEGE: Your Honor, could Mr. Colbert be in

1 here while we discuss this?

2 THE COURT: I don't have a problem with that. Do  
3 you want to ask him if that date's okay for him?

4 MR. STEGE: Yeah. With give and take, it's  
5 easier if he's here.

6 THE COURT: No problem.

7 MR. CHESNOFF: Is Monday the only time we can do  
8 this, Your Honor?

9 THE COURT: No.

10 MR. CHESNOFF: Okay. Could we look at some  
11 alternatives, please?

12 THE COURT: Tuesday, January 15th, in the  
13 afternoon.

14 MR. CHESNOFF: Isn't Martin Luther -- when is  
15 that?

16 THE COURT: 21st of January.

17 MR. CHESNOFF: Because his birthday is the 15th.

18 THE COURT: Right.

19 MR. CHESNOFF: Your Honor, could we do it when we  
20 can have a full day?

21 THE COURT: Finding a full day is very, very,  
22 very difficult. No such thing as a full day. The 14th,  
23 you come very close. We're going to be done with our  
24 stacked criminal calendar by 10:30.

1 MR. CHESNOFF: I'm not trying to be difficult,  
2 Your Honor. Besides the 14th, what other day would we  
3 come close? Obviously we're trying to do as much in one  
4 day as we can.

5 THE COURT: Right.

6 (Discussion off the record between  
7 the clerk and the Court.)

8 MR. CHESNOFF: Tomorrow I can't do, Your Honor.

9 (Discussion off the record  
10 between the Court and the clerk.)

11 THE COURT: We might be able to start at 10:30 on  
12 the 15th, but I don't know for sure. We're checking.

13 MR. CHESNOFF: Your Honor, one second.

14 (Discussion off the record between  
15 Mr. Chesnoff and Defendant Villagrana.)

16 THE COURT: So the 15th we could start at  
17 10:30 a.m.

18 MR. DOGAN: That's okay with me.

19 MR. CHESNOFF: We'll do it on Monday, Your Honor.  
20 My client agrees that Mr. Schonfeld is perfectly capable  
21 of handling it without me being here. Probably more  
22 capable.

23 THE COURT: Okay. So we'll have this witness --  
24 is this witness available on Monday?

1 THE WITNESS: This coming Monday?

2 THE COURT: This coming Monday.

3 THE WITNESS: I think so.

4 THE COURT: Okay. Monday at 10:30, then. We'll  
5 see you back then, sir.

6 THE WITNESS: Okay. Thank you.

7 (The witness exited the courtroom.)

8 THE COURT: So let's get Mr. Kirby out here so we  
9 can finish his cross-examination.

10 MR. STEGE: Kirby has gone home, Judge.

11 THE COURT: He went home?

12 MR. HALL: He had a 1:30 flight. I thought he  
13 was done.

14 (Discussion off the record between  
15 the clerk and the Court.)

16 THE COURT: Okay. I told him to step down. He  
17 was subject, that's what her notes say, which normally  
18 means subject to recall. And I thought I told him to hang  
19 out. That's my memory of what I said. I can't find it in  
20 the realtime right now. We will find it.

21 Apart from that, you're going to have to bring  
22 him back because they are entitled to finish their  
23 cross-examination. It was in the middle of their  
24 examination where it kind of blew up with regard to



1 whether or not he had been talking to other people.

2 So I guess we need to find a time to bring him  
3 back.

4 MR. STEGE: I wonder if we can do that portion,  
5 Judge, close to the end of the day, and we can plow  
6 through the people we do have present here today.

7 THE COURT: Mr. Kirby?

8 MR. STEGE: Yeah. Well, if we could select a  
9 date toward the end of the day today, we can plow through  
10 right now the rest of the people that we have here right  
11 now.

12 THE COURT: Let me stay focused on one thing.  
13 I'm sorry. We already lost him once. I'm going to find  
14 the date and time and do it.

15 MR. CHESNOFF: Your Honor, can't we do him on  
16 Monday, too?

17 THE COURT: I don't know. I'm fine with doing it  
18 Monday.

19 MR. CHESNOFF: Yeah. I mean, I don't see to see  
20 even one of us come up here for an hour when we can spend  
21 more time. We need to do this, although -- just a little  
22 editorial, if they --

23 THE COURT: I don't need an editorial. Monday we  
24 get through it, at least we'll know. But there could be

1 other witnesses that won't get done. But Monday at  
2 10:30 a.m. Okay, Mr. Kirby. Monday. All right.

3 Now, maybe you could tell me who you still have  
4 that you want to call today.

5 MR. STEGE: Les Skelton, Jeff Simpson, possibly  
6 the two officers identified related to the pink poodle,  
7 Croucher and Ceballos, one or the other of those.

8 THE COURT: You are really swallowing your words.  
9 Sorry.

10 MR. STEGE: One or the other of Ceballos and  
11 Croucher, Jeff Simpson, and Les Skelton.

12 THE COURT: Okay. All right. Then call your  
13 next witness.

14 MR. STEGE: Jeff Simpson.

15 (Discussion off the record between  
16 Mr. Stege and Mr. Hall.)

17 MR. STEGE: Let's do Les Skelton.

18 THE COURT: Change it to Les Skelton? Right?  
19 Okay?

20 MR. STEGE: Yes.

21 ///

22 ///

23 ///

24 ///

1 LES SKELTON,

2 called as a witness by the State,  
3 having been first duly sworn, was examined  
4 and testified as follows:

5  
6 THE COURT: You may proceed.

7  
8 DIRECT EXAMINATION

9 BY MR. HALL:

10 Q Sir, would you state your name and spell your  
11 last name.

12 A Les Skelton. Last name is S-K-E-L-T-O-N.

13 Q What is your occupation, sir?

14 A I'm a detective with the Arizona Department of  
15 Public Safety, assigned to the GIITEM, state gang task  
16 force. GIITEM stands for Gang, Immigration Intelligence  
17 Team Enforcement Mission.

18 Q How long have you been involved in law  
19 enforcement? Or how long have you been a law enforcement  
20 officer?

21 A I went to the academy in 1992 through current,  
22 with no breaks.

23 Q All right. And can you tell us about your  
24 training and experience that you have had over your tenure

1 as a police officer?

2 A I started with the academy in '92. Upon  
3 completion with the academy, I went to work for Avondale  
4 Police Department, which is a small city to the west of  
5 Phoenix.

6 In September of 1994, I lateraled over to the  
7 State Department of Public Safety, which is our highway  
8 patrol in Arizona. When I lateraled over, we go through  
9 what's called an advanced academy, and we learn mostly  
10 stuff related to highway patrol-type work.

11 From there, I worked the freeways in metro  
12 Phoenix for a few years. Ultimately I was assigned to the  
13 vehicle crimes unit. While in the vehicle crimes unit is  
14 when I started receiving training on homicide  
15 investigations, training through people like Vernon  
16 Gerberth who did a practical homicide investigation  
17 course.

18 I spent five years in vehicle crimes. After  
19 that, I had seen enough dead bodies and decided it was  
20 time to go back to the road and went back to the road in  
21 the west valley, which is west of Phoenix, Sun City,  
22 Peoria area.

23 And in 2004, January of 2004, I lateraled over to  
24 what we refer to as our criminal investigations division,

1 which was the gang unit specifically working with GIITEM.

2 When I lateraled over there, got more training on  
3 gang-related search warrants, blood draws, spent quite a  
4 bit of time going to different conferences.

5 I've been to -- in 2007 I went to the  
6 International Outlaw Motorcycle Gang Investigator's  
7 Association in Florida, where basically it's networking  
8 across basically international -- with international  
9 groups around the world on outlaw motorcycle gangs.

10 We were able to view people that had been with  
11 certain motorcycle clubs that would come in and talk to us  
12 about their process of going through, getting into a  
13 motorcycle club, the hang-around or the guest,  
14 hang-around, prospect, and then to a full patch member, up  
15 into being a officer within a club.

16 I didn't go in 2008, but then I went in 2009,  
17 2010, 2011. And then in 2012, we hosted it in Arizona.

18 Q And that was the conference involving networking  
19 between different --

20 A Motorcycle gang investigators, yes.

21 Q Motorcycle gang investigators throughout the  
22 nation?

23 A Yes.

24 Q Or throughout the world?

1           A     Yes.

2           Q     All right. Was there any focus on any individual  
3 or specific motorcycle gangs?

4           A     There was. There was. They would focus on the  
5 Hell's Angels, the Vagos, the Banditos, the Outlaws, the  
6 Warlocks, the Pagans, groups like that.

7                     And then they would also cover some of the  
8 smaller groups that would be the puppet clubs, support  
9 clubs, or just clubs within a certain area that really  
10 didn't have -- kinda call them fence-sitters. They really  
11 don't show an allegiance to either side, but they're  
12 there.

13          Q     In addition to your training and the conferences  
14 that you've attended that provide information regarding  
15 outlaw motorcycle gangs -- and when I'm talking about  
16 those conferences, did they talk about trends with respect  
17 to outlaw motorcycle gangs, and also identify colors and  
18 some of the customs, practices that they typically engage  
19 in?

20          A     Yeah. We talked about trends, things that we  
21 would see between the different clubs. A lot of it, too,  
22 was case-driven.

23                     With the infiltrations that many of the larger  
24 groups have gone through, they learn from what law

1 enforcement does, so they change their tactics. And with  
2 that, it's kind of a -- almost want to say a cat-and-mouse  
3 game.

4 We do something to infiltrate or create a case on  
5 a certain outlaw motorcycle gang. They learn from it by  
6 buying the transcripts or buying the court records. Then  
7 they train each other on how they were tied up in that  
8 particular case. Next time somebody does a case that is  
9 directed that way, for example, as a T-3, they educate the  
10 new people coming in as the hang-arounds and prospects  
11 that, for example, in a T-3, you don't talk about business  
12 over a phone. If there's a T 3 going on, they can be  
13 picked up. So that's kind of where it goes.

14 It's ever evolving in technology, the way it  
15 changes, you know, communications through e-mails, text  
16 messages, things like that.

17 Q So during the course of these conferences, did  
18 you learn that a lot of the members of outlaw motorcycle  
19 gangs would have, for example, ATF reports or transcripts  
20 of court proceedings --

21 MR. DOGAN: Objection. Leading.

22 BY MR. HALL:

23 Q -- in their possession?

24 THE COURT: It's predatory -- preliminary, so I'm

1 going allow it. Overruled.

2 Just, did you see it? That was the question.  
3 Did you get that kind of stuff?

4 THE WITNESS: Yes. Could I expand upon that?

5 THE COURT: If he asks a nonleading question.

6 BY MR. HALL:

7 Q Can you expand upon that?

8 A Yeah. I've also been involved in search warrants  
9 where I've seen the paperwork at a clubhouse or at --

10 Q I'm going to get to that.

11 A -- at a member's house, yes.

12 Q So I was going to lead into that by asking you  
13 what experience you've had, hands-on experience as a  
14 police officer with respect to investigating outlaw  
15 motorcycle gangs in your jurisdiction.

16 A When I first starting with GIITEM back in 2004,  
17 my sergeant was Sergeant Shawn Wood. And Sergeant Shawn  
18 Wood had a pretty good involvement in the operation Black  
19 Biscuit, which is the case that involved Jay Dobbys  
20 infiltrating the Hell's Angels in Arizona.

21 Shawn was one of the people who started the case  
22 by getting ATF members together and talking about  
23 intelligence that was being gathered on the Hell's Angels.

24 The so from the get-go Shawn was kind of my



1 mentor, obviously, because he was my sergeant.

2 With that, prior to Shawn was a retired sergeant,  
3 Steve Trethewy. And Steve Trethewy still is around the  
4 department today in a training role, and he worked the  
5 outlaw motorcycle gangs in Arizona, going back to when it  
6 was the Dirty Dozen prior to Hell's Angels being there.

7 So I've had the opportunity to sit down and  
8 attend his courses back in 2004, and we still teach and  
9 co-teach and sit down and discuss outlaw motorcycle  
10 trends, cases, things like that as of today.

11 In addition to that, I'm also working with Chuck  
12 Schoville who is the president of the International Outlaw  
13 Motorcycle Gang Investigators Association, who is also  
14 involved in some of the Hell's Angels cases that involve a  
15 homicide in the Mesa area.

16 So yeah, I've had very good instructors.

17 I've also had the opportunity to sit down with  
18 people like Jay Dobbys and Billy Long who were the people  
19 that infiltrated the Hell's Angels and gleaned some of  
20 their information on what happened and how they operate.

21 And from that, back in 2004, I started teaching  
22 to new officers at the academy in 2005, anything from a  
23 college class setting to a large conference of 500 people  
24 in Arizona and in Nevada.

1 Q And when you go to conferences, are other crimes  
2 that -- or crimes that have been committed by, for  
3 example, the Hell's Angels or Vagos throughout the nation,  
4 are they discussed?

5 A Yes.

6 Q And is that information regarding people involved  
7 in the clubs, people who have committed crimes, is that  
8 information shared among officers who are in attendance to  
9 these conferences?

10 A Yes.

11 Q And so you regularly share information, for  
12 example, regarding the Hell's Angels and Vagos; is that  
13 right?

14 A Yes. And it's not always in a conference  
15 setting. Sometimes -- the way our network is and really  
16 the philosophy behind GIITEM back when it was created back  
17 in the early '90s, was police officers have jurisdictional  
18 boundaries. Gangs do not.

19 And there became a reason to put together a gang  
20 task force that was able to network with officers from  
21 different cities, different counties, into different  
22 states so that when they were moving across boundaries, we  
23 still had the ability to share and network and gather the  
24 information and share valuable information as far as

1 trends and topics.

2 Q Now, with respect to your hands-on experience in  
3 Arizona, can you tell me about your knowledge of the  
4 Hell's Angels and their buildup in Arizona?

5 A In Arizona, prior to 1998, the Hell's Angels  
6 weren't there. In fact, I'll kind of go back over a  
7 little bit of a history lesson, if I can.

8 The Hell's Angels started in 1948 in Fontana,  
9 California, and their first chapter was Berdoo. As they  
10 expanded, Sonny Barger moved up to Oakland and founded the  
11 Oakland chapter in 1956.

12 As time went on, Sonny was involved in some  
13 criminal proceedings that put him federal prison, which  
14 also landed him in Arizona up in the federal prison up off  
15 of I-17 and Pioneer Road.

16 With that at the time, the predominant motorcycle  
17 club in Arizona was the Dirty Dozen. And the Dirty Dozen  
18 had been courted by the Hell's Angels prior to '96, but  
19 the Dirty Dozen weren't willing to give up their territory  
20 to the Hell's Angels.

21 However, in '96, that changed. And what happened  
22 is the Dirty Dozen were one of the first -- were the only  
23 club, I believe until today, that have been able to  
24 prospect for the Hell's Angels as a prospect chapter with

1 wearing a tab as a Hell's Angels' support on their cuts,  
2 meaning they didn't have to put on a Hell's Angels'  
3 prospect cut to start working their way in to become  
4 Hell's Angels members.

5 As they prospected, there were approximately  
6 140-some-odd Dirty Dozen members that prospected to become  
7 Hell's Angels members.

8 On October 18th of 1998, I believe it was, the  
9 Dirty Dozen no longer existed, and the Arizona Hell's  
10 Angels were stood up as a club.

11 On that day, there were approximately 40 to 45  
12 Hell's Angel members that were patched in. Some of those  
13 people that had transferred over from the Dirty Dozen to  
14 the Hell's Angels already had prior criminal backgrounds,  
15 including homicide.

16 So we knew right off the bat that what really  
17 happened with the Dirty Dozen is instead of just being an  
18 Arizona gang, they were now part of an international gang.  
19 They had kind of stepped up.

20 So with that, we had the Phoenix chapter, the  
21 Mesa chapter, the Tucson chapter, the K-3 chapter, and  
22 then as time went on, we had the Nomads, and then the  
23 Skull Valley chapter came into existence.

24 Q Do you have a similar history with respect to the

1 Vagos in Arizona?

2 A Yes. They have been over to Arizona going back  
3 into the '70s, which is really where -- I know that that  
4 they've been there because of Steve Trethewy, but I don't  
5 know the history. I was still a kid back then.

6 But in 2005, the Vagos stood up a chapter over  
7 the Colorado River. And with Arizona being considered a  
8 Hell's Angels state or a red and white state, the Vagos  
9 didn't come over and put on an Arizona bottom rocker right  
10 off the bat. They came over and put on a Colorado side  
11 rocker, so they weren't claiming that Arizona. They were  
12 there, but it wasn't a high-tension time. You know, the  
13 Hell's Angels were aware of them.

14 As time went on, they put on the Arizona bottom  
15 rocker, they expanded the Tri-State chapter, is what  
16 another -- chapter that came into Arizona, which was  
17 Nevada, had some people from California and some people in  
18 the Phoenix and Mesa area. And the Tri-State chapter is  
19 really what I focus on.

20 Q Okay. Now, are you familiar with the buildup of  
21 the Vagos in the Arizona area and with respect to any  
22 perceived rivalry between the Vagos and the Hell's Angels?

23 A Yes.

24 Q Can you expand on that?

1           A     Well, when the Vagos arrived in town, the Hell's  
2 Angels obviously didn't want them there. There were  
3 several incidents that took place around the state that --

4           MR. CHESNOFF: Your Honor, at this time, I'm  
5 going to object to the hearsay, giving his opinion,  
6 speculating as to what the Hell's Angels didn't want.

7           I mean, which Hell's Angel? Is it a person? Is  
8 it more than one? I mean, there's people in Denmark that  
9 are members of the Hell's Angels. I wonder if they didn't  
10 want them there.

11           It's just too broad, too general, too vague,  
12 Your Honor. No foundation.

13           THE COURT: Okay. Which one do you want to pick?

14           MR. CHESNOFF: They're all good, but I'll go with  
15 foundation to start with, Your Honor.

16           THE COURT: Okay. Foundation sustained.  
17 BY MR. HALL:

18           Q     What Hell's Angels did you speak with in Arizona  
19 during the course of your tenure that would indicate that  
20 there was some tension between the Hell's Angels and the  
21 Vagos?

22           A     Chris Clouser, Sonny Barger, Julian Cano and a  
23 few other sources that I won't name.

24           Q     And what did you learn from those individuals?

1           A     That the Vagos were not appreciated being in the  
2 Arizona area, especially wearing the Arizona bottom  
3 rocker.

4           Q     And did you have an opportunity to speak with any  
5 Vagos during the course of your tenure in GIITEM?

6           A     Yes, I have.

7           Q     Can you tell us what -- who you have spoken with  
8 from the Vagos, if anybody?

9           A     Many. Danny Urquilla, Aurelio Figueroa, Mike  
10 Yeske. James saybon. Mike Dieks. Jess Flores.  
11 (Phonetic). One guy that goes by the name of Stein; I  
12 don't remember his name right now. And a few others.

13          Q     All right. And have you executed any search  
14 warrants during the course of your tenure as a GIITEM  
15 officer?

16          A     I've assisted with them, yes.

17          Q     All right. And I should be more specific.

18                Search warrants executed either on a Hell's Angel  
19 home or residence or charter or -- and/or Vagos' homes or  
20 that a Vagos would frequent?

21          A     Yes.

22          Q     Can you tell us a little bit about execution of  
23 those search warrants and the evidence that you may have  
24 collected during the course of those search warrants?

1           A     Yes. Approximately two years ago, there was an  
2 assault with a Mesa Hell's Angel member that Mesa PD  
3 executed a search warrant on the clubhouse, and I was  
4 there to assist with that.

5           When there was the Chino Valley shooting between  
6 the Hell's Angels and the Vagos, I assisted Dave Zavos who  
7 was the lead detective on that with the search warrants at  
8 the house owned by Mike Dieks from the Vagos and the  
9 ex-Skull Valley chapter house owned by Teddy Toth, which  
10 is in Chino Valley, not Skull Valley.

11           And also a search warrant that was done over in I  
12 believe the Parker area on a Vagos member's house.

13           Q     All right. Now, during the course of the  
14 execution of those search warrants, did you find any  
15 evidence that would indicate that the two groups were  
16 outlaw motorcycle gangs, specifically the Hell's Angels  
17 and the Vagos?

18           A     Yes.

19           Q     And so what types of evidence would you look for  
20 with respect to the Hell's Angels when you executed the  
21 search warrant during that 2010 shootout?

22           A     We looked for any type of indicia that showed  
23 that they were a gang. For example, at that time, in  
24 Arizona, there was a prior case, Nathan Sample, which I



1 sat through that trial.

2 Nate Sample was found guilty on an aggravated  
3 assault and ultimately sentenced on it. And with that, we  
4 were able to look for more gang indicia or look at what  
5 Maricopa County recognized as indicia for a gang.

6 So when we went to Teddy Toth's house in Skull  
7 Valley we were looking and we found treasury notes from  
8 Turtle, which is Warren Kuntz, K-U-N-T-Z.

9 We found west coast officer meeting notes. We  
10 found prospect member notepads that had notes contained  
11 within them. We found the T-shirts, cuts. There were  
12 handguns in there, pictures of associations with other  
13 gang members. Things like that.

14 Q All right. So you're familiar with the insignia  
15 that the Hell's Angels typically fly known as their  
16 colors?

17 A Yes.

18 Q All right. So did you find colors over at  
19 Tothson's (sic) house?

20 A I'm sorry?

21 Q Who owned the house that belonged to the Hell's  
22 Angels?

23 A Teddy Toth, T-O-T-H.

24 Q Toth, T-O-T-H? Is his name Tothe or Toth?

1 T-O-T-H?

2 A (Nods head).

3 Q All right. Now, who is over at Mr. Toth's or  
4 Tothe's house?

5 A When I arrived on scene, there was actually  
6 nobody in the house because it was already secured. There  
7 were members of the Hell's Angels that were on their knees  
8 in the roadway.

9 Q Well, let me rephrase the question.

10 Do you remember who was arrested?

11 A Yes.

12 Q Who was that?

13 A There was Mike Koepke. Teddy Toth was actually  
14 taken into custody at that time. There was Kevin  
15 Christiansen. Bruce Schweigert. Gosh. Some of the names  
16 escape me now.

17 Q But they were the names that were listed in the  
18 reports?

19 A Yes.

20 Q All right. And were any of those individuals,  
21 were they wearing their gang insignia or cuts?

22 A Yes.

23 Q And what was your function upon assisting in the  
24 investigation?

1           A     It was to help with the identification of gang  
2 members and gang indicia.

3           Q     And you already talked about the gang indicia  
4 that you found at that house that would include notes,  
5 t-shirts, some of the memorabilia, things with the death  
6 head on it, that type of thing?

7           A     Yes.

8           Q     All right. And you reviewed some of that  
9 information?

10          A     Yes.

11          Q     All right. And did that disclose communication  
12 between different clubhouses throughout the western United  
13 States?

14          A     Yes.

15          Q     All right. And did that indicate that they were  
16 having regular meetings and discussing things that were  
17 going on with not only the Hell's Angels, but with other  
18 outlaw motorcycle gangs?

19          A     Yes.

20               MR. DOGAN: Objection. Leading.

21               THE COURT: Sustained.

22               MR. HALL: I can rephrase the question.

23 BY MR. HALL:

24          Q     What type of information did you glean from the

1 evidence that you gathered from Mr. Toth's house?

2 A What we found in some of the notes is the Hell's  
3 Angels in Arizona, like many of the other states, would  
4 have monthly officer meetings somewhere within the state  
5 where officers from each chapter would go to meet.

6 From there, they would also go to what was  
7 referred to as west coast officer meetings which were  
8 usually held in Berdoo or Oakland.

9 And on occasion -- and I do mean rare  
10 occasions -- there has been one held in Phoenix that they  
11 would send two members from each chapter to, to report on  
12 club business and basically what was going on within their  
13 state.

14 So we were able to recover west coast officer  
15 meeting notes and the notes of the actual club which were  
16 showing the dues that were paid by hang-arounds,  
17 prospects, and members; any assessments that might have  
18 been paid, fines, moneys that were paid out to members for  
19 plane tickets to go to the officer meetings, travel,  
20 things like that.

21 Q Now, you also executed a search warrant at  
22 Michael Dieks's house; is that correct?

23 A Yes.

24 Q And who is Michael Dieks?

1 A Michael Dieks was a member of the Vagos.

2 Q All right. And where was Mike Deeks's house in  
3 relationship to Mr. Toth's house?

4 A Approximately a quarter mile, maybe a little bit  
5 more, north from Toth's house on the same side of the  
6 road.

7 Q So were the houses adjacent to each other? Any  
8 houses in between their two homes?

9 A There were. There were. And up in that area,  
10 they are acre properties, so there's some distance between  
11 them. And Teddy's -- or Mike's house at the time was kind  
12 of up on a hill from where it was at.

13 Q But both -- so we had a Hell's Angel house and  
14 then a Vago house just essentially quarter mile from each  
15 other?

16 A Yes.

17 Q On the same road?

18 A Yes.

19 Q Same side of the street?

20 MR. DOGAN: Objection. Leading.

21 THE WITNESS: Yes.

22 THE COURT: Sustained.

23 MR. DOGAN: Your Honor, could we instruct the  
24 witness not to answer when there's an objection?

1 THE COURT: We can.

2 If there's an objection, wait until I rule on it.

3 THE WITNESS: Okay.

4 THE COURT: Thank you.

5 MR. HALL: Your Honor, I would like to request a  
6 little leeway in foundational stuff to lead the witness in  
7 the interest of time.

8 THE COURT: And I have given you some, but that  
9 was a long string of a lot of leading.

10 MR. HALL: All right, thank you.

11 BY MR. HALL:

12 Q What evidence, if any, indicia of gang membership  
13 did you find during the execution of your search warrant  
14 at Michael Deeks's house?

15 MR. CHESNOFF: Your Honor I'm going to object to  
16 the use of the word "gang" membership.

17 THE COURT: Okay. I don't know of a legal  
18 evidentiary objection known as object to the word "gang."  
19 For purposes of today's hearing, I don't think it's  
20 necessary to worry about it. And I understand you're  
21 going to make lots of motions in limine with regard to  
22 that.

23 MR. CHESNOFF: Thank you, Your Honor.

24 THE COURT: So it's overruled for today.

1           You can answer the question if you remember it.

2   BY MR. HALL:

3           Q    The question was: What indicia of gang  
4   membership, if any, did you locate during the execution of  
5   your search warrant at Michael Dieks's house?

6           A    Patches. Vago patches.

7           Q    And what's a Vago patch?

8           A    A Vago patch is a green -- it's actually a  
9   two-piece patch that has a red devil on the back of it,  
10   which is Loki, the Norse god of mischief. And then at the  
11   bottom of that, has the Vago's name on the bottom of the  
12   scroll that comes out that the devil holds. So we found  
13   some of those.

14           We found various weapons up there. And then we  
15   also conducted interviews that helped us, too.

16           Q    And during the course of the interviews, did you  
17   ask the people that you interviewed, the men that you  
18   interviewed, whether or not they were members of the  
19   Vagos?

20           A    Yeah. And actually, many of them I'd already had  
21   dealings with, so it wasn't kind of like I didn't know the  
22   guy. I just started talking to 'em. There was a rapport  
23   that was built up there.

24           One of the people I talked to was Aurelio

1 Figureoa who goes by the street name of 45. And  
2 interviewed him and was asking him about what took place  
3 up there.

4 And one of the things that really stands out to  
5 me is, having talked to him in the past, I asked him:  
6 Hey, what does this mean to you guys now?

7 I don't know if that's the exact words. It's  
8 recorded, but it was something to that. It was: Hey,  
9 what does this mean now?

10 And Aurelio's comment to me was, "We're in a  
11 war."

12 And at that point, it kind of -- it was like,  
13 okay, you know what? I need to share this with other  
14 investigators because we're going to start seeing some  
15 problems.

16 Q So the comment made to you was that the Vagos  
17 were in a war with the Hell's Angels?

18 A Yes.

19 Q And as a result of -- well, can you give us an  
20 overview of the investigation as to what the investigation  
21 revealed as far as what happened?

22 A Basically there was -- you got a pack of Vagos  
23 that were riding northbound on the road that went in front  
24 of Teddy's house. And there were a handful of Hell's



1 Angels that started shooting at them. And there were a  
2 few guys that were hit, and some of them dropped their  
3 bikes in front of the house, while others went back to  
4 retrieve the injured, the people that were down. And  
5 seemed pretty much unprovoked at the time.

6 Q How many people were shot?

7 A There were three, I believe three injuries from  
8 weapons. One was a left knee strike to a Vago, which was  
9 Robert Blankenship. One was a gut shot to Kevin  
10 Christiansen, which is a Hell's Angel. And one was a  
11 grazing wound to -- goes by the name of, I believe,  
12 Kickstand.

13 Q Another Vago?

14 A Yeah. He was the president of the Tri-State  
15 chapter. I'd have to look at my chart to remember his  
16 name.

17 Q And during the course of your investigation, did  
18 you interview or know of an individual by the name of  
19 Pizel?

20 A Yes.

21 Q And who is he?

22 A William Pizel is an International Nomad Vago who  
23 lives in the Dewy, area. And I've known of him basically  
24 since I've came into the unit in 2004. I was made aware.

1 that he was up there from my prior sergeant, Shawn Wood.  
2 And then during his interview, he had told us of some  
3 prior conflict with the Hell's Angels.

4 Q All right. Now, do the Hell's Angels -- is that  
5 a combination of people that constitute an organization?

6 A Yes.

7 Q All right. And does that organization continue  
8 when people or members leave the organization?

9 A Yes.

10 Q And they have a common identifying symbol; is  
11 that right?

12 MR. DOGAN: Objection. Leading.

13 MR. HALL: I'll rephrase.

14 BY MR. HALL:

15 Q Do they have a common identifying symbol?

16 A They do. They have the death head which was  
17 patented in 1972.

18 Q And do they have particular conduct status or  
19 customs that are indicative of the Hell's Angels?

20 A Yes.

21 Q Can you explain what those might be?

22 A Well, some of the things is that wherever they  
23 go, they will wear their cuts.

24 You have a hang-around/prospect period that you

1 will go through to get in. It's not just instant  
2 membership. So you're going to prove yourself before you  
3 get to it.

4 Do you want me to go through the whole structure  
5 of membership?

6 Q If you would briefly, if you can cover that  
7 briefly.

8 A Okay. From what I've been told by Hell's Angel  
9 members at conferences and sources that I've debriefed,  
10 you start off as a guest. Basically you're hanging around  
11 Hell's Angels members to see if you're liked, to see if  
12 you're trustworthy, to see if you kind of get along with  
13 the guys.

14 Once that happens and you're asked to go to a  
15 hang-around, you come in and start hanging around with the  
16 Hell's Angels. You'll have typically, depending on where  
17 you're at, maybe what they refer to as a license plate on  
18 the back of the cuts with the chapter's name, and you'll  
19 hang around with them for a while.

20 They're basically kinda, as one Hell's Angel  
21 member told me, they're checking your mud. They're making  
22 sure that you're worthy to be a Hell's Angel member.

23 I was also told that when you're a hang-around,  
24 you're expected to act like a prospect because that's what

1 you're aspiring to be. That's your next step.

2 So once you move from hang-around to prospect,  
3 you get a bottom rocker with an MC patch. So you'll hear  
4 gang investigators refer to a Hell's Angels patch or a  
5 full patch or a three-piece patch. It's actually a  
6 four-piece patch.

7 At the prospect stage, you have two patches. You  
8 have an Arizona bottom rocker, California bottom rocker.  
9 Whatever state you're in, it's a bottom rocker, and MC  
10 signifies motorcycle club.

11 You'll prospect for up to a year. During that  
12 time, again, you're doing any of the jobs that they ask  
13 you to do. Can be as simple as run over and grab me a  
14 sandwich. You're expected to have a prospect kit which  
15 might include anything from Asprin to thread to condoms  
16 to -- you know, anything they need, you're expected to  
17 have as a prospect or be able to get it.

18 Once you do your time, you have to be voted in  
19 unanimously into the club. Once you get your vote in, now  
20 you get what's called a full patch, which is, like I said,  
21 actually four patches. Top rocker which says Hell's  
22 Angels, the death head, the bottom rocker with the state,  
23 and the MC patch.

24 Q Now, do the Vagos have a similar custom with

1 respect to initiation?

2 A They do. It runs along the same lines, almost  
3 identical.

4 Q So they would have a bottom rocker. If they pass  
5 muster with respect to prospecting, then they could be  
6 given a full patch?

7 A Yes.

8 Q And the Vagos, what's their logo?

9 A Their logo on the back is Loki --

10 MR. DOGAN: Objection. Asked and answered.

11 MR. HALL: Okay.

12 THE COURT: Sustained, I guess. I don't remember  
13 hearing that.

14 BY MR. HALL:

15 Q Did I ask that question?

16 A Yes, you did. I described it.

17 Q Okay.

18 MR. CHESNOFF: It's the Norse god.

19 MR. HALL: Excuse me?

20 MR. CHESNOFF: It's a Norse god.

21 MR. HALL: The Norse god, thank you.

22 MR. CHESNOFF: You're welcome.

23 MR. HALL: All right.

24 ///

1 BY MR. HALL:

2 Q Now, we were talking about the investigation.  
3 And you indicated the investigation with respect to the  
4 shooting of Vagos by Hell's Angels; is that right?

5 A Yes.

6 Q Okay. And you were interviewing Hell's Angels  
7 before I kind of -- excuse me, Vagos before I got side  
8 tracked, and you were talking about William Pizel. And  
9 you indicated that there was a war. One of the witnesses  
10 indicated or one of the people you interviewed said that  
11 there was a war. Was that between the Hell's Angels and  
12 the Vagos or that the shooting would cause a war between  
13 the Vagos and Hell's Angels?

14 A Yes. And that was Aurelio Figureoa from the  
15 Vagos.

16 Q All right. And then do you know what the reason  
17 was for the shooting of Vagos by Hell's Angels?

18 A From the sources that I have talked to and the  
19 people that I've debriefed, it was all over the Arizona  
20 bottom rocker. Basically the territory and knowing that  
21 the Hell's Angels, especially in Arizona, it's considered  
22 a red and white state, and it's their area, their  
23 territory.

24 Q Prior to the shooting, were you aware of any

1 rivalry between the Hell's Angels and the Vagos?

2 A Yes.

3 Q And what made you aware of that or what evidence  
4 did you have indicating that there was a problem, other  
5 than I think you mentioned Sonny Barger and some other  
6 Hell's Angels had indicated that that was red and white  
7 territory?

8 A Yeah. Again, it goes back to working the streets  
9 and talking to the guys that are in the gang. And I had  
10 talked to Dan Urquilla who owned a motorcycle shop in  
11 Mesa. And it was known that he was a Vago, had moved  
12 there, opened up his motorcycle shop.

13 And years prior, Hell's Angel members from Mesa  
14 had gone in and talked to him about running his business  
15 in Arizona and he was a Vago.

16 Ultimately, there was a beat-down of Danny  
17 Urquilla in his shop over him being a Vago and being in  
18 Mesa by members of the Mesa chapter.

19 MR. CHESNOFF: Your Honor, just so you know, Your  
20 Honor, this isn't listed as an event that we were going to  
21 be dealing with.

22 MR. DOGAN: Your Honor, I would join that.

23 THE COURT: Okay. I'll note your objection and  
24 I'll see what I'm going to do with it later.

1 MR. CHESNOFF: Thank you, Your Honor.

2 THE COURT: You may proceed.

3 BY MR. HALL:

4 Q You mentioned some of the information that you  
5 had gathered during the course of your tenure as a GIITEM  
6 officer.

7 A Yes.

8 Q And then that would be information that you  
9 would --

10 MR. CHESNOFF: Your Honor, I'm going to object.  
11 He's now on notice that it's one of the things that wasn't  
12 listed, and he wants to continue to pursue it.

13 It's one thing for you to take under  
14 consideration what you're going to do. It's another thing  
15 for him to continue to do it.

16 THE COURT: Okay. I can't read the realtime, so  
17 what's this instant -- what does it refer to?

18 MR. HALL: It refers to --

19 THE COURT: Is it in the pleadings somewhere that  
20 you want to point me to?

21 MR. HALL: No, I didn't even know about it.  
22 I'm -- I asked him what the basis of his opinion was  
23 regarding the -- where we started here was we had the  
24 shootout, which of course was noticed. They have all the



1 police reports.

2 And I said, well, what was the motive for that  
3 shooting?

4 Essentially it's a rivalry between the two gangs.

5 Do you have other information indicative of the  
6 rivalry?

7 Said, yeah, as a matter of fact, there was some  
8 other information, you know, that he had with respect to a  
9 fellow who owned a motorcycle shop.

10 THE COURT: And you didn't know about that until  
11 just now?

12 MR. HALL: It certainly wasn't something that I  
13 had pled. I mean, I --

14 MR. CHESNOFF: That's --

15 MR. HALL: I don't have the police reports. I  
16 don't even know if there was police reports --

17 THE WITNESS: No, there --

18 THE COURT: Okay. So you just learned of it in  
19 his response to your question.

20 MR. HALL: Right.

21 THE COURT: Oh, okay. So I'll allow you some  
22 voir dire on it. It sounds like this is new information  
23 to the State as well as you. So do you want to ask him  
24 about police reports or where it came from?

1 MR. CHESNOFF: It's not new information to the  
2 State because he is the State, too, Your Honor.

3 THE COURT: Right.

4 MR. CHESNOFF: And so they've been interviewing  
5 people, they've been preparing, and this isn't the first  
6 time they've talk to this officer.

7 And all I'm saying, Your Honor, is you've heard  
8 enough about it. Now, to continue to dig into it when  
9 we've had no opportunity to be prepared for it, I just  
10 don't understand this.

11 THE COURT: What's the necessity of --

12 MR. HALL: I was trying to move on, you know,  
13 until he keeps making objections.

14 THE COURT: Okay. Let's not ask any more  
15 questions, then, on this area.

16 MR. DOGAN: Your Honor, for the record, we join.

17 THE COURT: All right. Thank you.

18 MR. CHESNOFF: Your Honor, could I inquire, is  
19 the shootout we're talking about, did it occur in 2010,  
20 Your Honor? I'm trying to reference it to the motion.

21 THE COURT: Well, the information in the pleading  
22 on page six says May 30th, 2010; is that correct?

23 THE WITNESS: No.

24 THE COURT: Okay. When is it?

1 THE WITNESS: It was approximately August 20th of  
2 2010, was the actual shootout date.

3 THE COURT: August 20th, 2010. Okay.

4 MR. CHESNOFF: Thank you, Your Honor.

5 BY MR. HALL:

6 Q Now, during course of your investigation or  
7 tenure as a police officer, do you know whether or not  
8 there was a communication between outlaw motorcycle gangs  
9 regarding tensions or rivalries nationwide?

10 Let me rephrase.

11 Do you know, based upon your tenure as a police  
12 officer, including your interviews, search warrants,  
13 whether or not there was communication with, for example,  
14 the Hell's Angels in Arizona with the Hell's Angels in  
15 California?

16 A Yes.

17 MR. DOGAN: Objection. Compound.

18 THE COURT: Overruled.

19 THE WITNESS: Yes.

20 BY MR. HALL:

21 Q All right. And same thing with respect to the  
22 Vagos. Did the Vagos communicate -- the Arizona Vagos  
23 communicate with California Vagos?

24 A Yes.

1 Q All right. And so would it be -- do you know  
2 whether or not, for example, Vagos in Arizona were  
3 familiar with some of the fights that had occurred between  
4 Hell's Angels and Vagos in California, Nevada, or other  
5 places?

6 MR. DOGAN: Objection. Leading.

7 THE COURT: Yes, sustained.

8 MR. HALL: "Do you know"?

9 THE COURT: It calls for a yes or no answer.

10 MR. HALL: Well, I thought suggesting the answer  
11 was the test for leading, not necessarily yes or no.

12 THE COURT: Well, I thought it was suggestive.

13 MR. HALL: Okay.

14 BY MR. HALL:

15 Q Is there communication with Vagos in other  
16 states, do you know?

17 A Yes.

18 Q Okay. And what do they talk about? Do you know?

19 A Vagos that I've dealt with up in Chino or  
20 Prescott Valley area, they would talk about concerns when  
21 they would have to go over to southern California to have  
22 a club meeting with international, is what they referred  
23 it to, because their concern was the tensions over in  
24 California, if they're driving over there, whether or not

1 something may happen to them.

2 Q All right. And I'll pose the same question with  
3 respect to the Hell's Angels.

4 MR. DOGAN: Your Honor, objection. Foundation.

5 THE COURT: Overruled.

6 THE WITNESS: Yes, same thing.

7 BY MR. HALL:

8 Q So do you have an opinion as to whether or not  
9 there is a violent -- a history of violence between the  
10 two gangs?

11 A Yes.

12 Q And what is your opinion on that issue?

13 A Yes, it's there, and I believe it's ongoing.

14 Q And you've had an opportunity to observe the  
15 video with respect to the Nugget; is that correct?

16 A Yes.

17 Q All right. And do you have an opinion as to  
18 whether or not the crimes that we have alleged that were  
19 committed at the Nugget were committed with a specific  
20 intent to further assist the activities of the Hell's  
21 Angels and Vagos?

22 MR. DOGAN: Objection. It goes to the ultimate  
23 issue, Your Honor.

24 THE COURT: Sustained.

1 MR. HALL: Your Honor, I thought we were given  
2 the opportunity to at least ask the questions, and then  
3 you were going to decide later as to whether or not --

4 THE COURT: Well --

5 MR. HALL: All right. That's fine.

6 THE COURT: We have, but, you know, it's --

7 MR. HALL: I'll move on. I'll move on. I'll  
8 withdraw the question.

9 BY MR. HALL:

10 Q With respect to the crimes that were committed at  
11 the Nugget, did you have an opportunity to review the  
12 video?

13 A Yes.

14 Q All right. And based upon your knowledge of what  
15 happened in Arizona, was the conduct that you saw in the  
16 Nugget consistent with the conduct with respect to rivalry  
17 between the two gangs?

18 A Yes.

19 MR. HALL: I don't think I have any further  
20 questions.

21 THE COURT: Okay. Cross?

22 MR. CHESNOFF: Thank you.

23  
24 ///

CROSS-EXAMINATION

BY MR. CHESNOFF:

Q The shootout that occurred at the house, that case was dismissed, correct?

A Yes.

Q The reason it was dismissed is the law enforcement failed to disclose to the defendants that the informant in the case had been a paid informant working for the State of Arizona, correct?

A Yes.

Q And the judge decided that that was misconduct on the part of the Arizona law enforcement; is that right?

A Yes.

Q And were you involved in that case?

A Yes.

Q Did you --

A Wait. Was I involved in the case with the informant?

Q No. Were you --

A Or was I involved in the case investigating the shooting?

Q Involved in the shooting.

A Yes.

Q And were you aware that there had been a paid

1 informant that had provided information to law enforcement  
2 in that case?

3 A Yes.

4 Q And did you at any time disclose to the judge or  
5 to the defense lawyers that there was such an informant?

6 A I have not been interviewed by defense attorneys,  
7 and I've also not been in front of the judge. So no.

8 Q Okay. Please listen to my question carefully.

9 Did you at any time, as a sworn officer --

10 MR. HALL: Objection. Argumentative. Asked and  
11 answered.

12 THE COURT: Sustained. It's argumentative.

13 MR. CHESNOFF: I'm sorry?

14 THE COURT: It's argumentative. He answered the  
15 question.

16 MR. CHESNOFF: No.

17 THE COURT: He has not provided that.

18 MR. CHESNOFF: Okay. I'm asking in a different  
19 form.

20 BY MR. CHESNOFF:

21 Q You are a sworn police officer, correct?

22 A Yes.

23 Q And you have an obligation to follow the law,  
24 correct?



1 A Yes.

2 Q And you understand what a *Brady* obligation is,  
3 correct?

4 A Yes.

5 Q And a *Brady* obligation requires you to provide to  
6 the defense any and all information that's favorable  
7 either to punishment or guilt or innocence, correct?

8 A Yes.

9 Q Were you the case agent?

10 A On what?

11 Q On the shooting.

12 A No.

13 Q Okay. What was your role?

14 A I provided information on the gang side of it and  
15 the gang connection between the two clubs.

16 Q Did you have an opportunity to interact with the  
17 informant, the paid informant in the case?

18 A No.

19 Q Were you aware of the amounts of money that were  
20 paid there?

21 A No.

22 Q Who was that officer, if you know?

23 A Detective John Morris.

24 Q What was the name of the DA in that case?

1 A Dana Owens.

2 Q Is it fair to say, based on your knowledge of the  
3 case, that the paid informant was the one who the Court  
4 determined had actually instigated the whole event?

5 A I'm sorry? Repeat that.

6 Q Based on your knowledge of the facts of the case,  
7 are you aware of the fact that the paid informant working  
8 with the police was the one who actually invited Vagos to  
9 come to that location where the shooting occurred?

10 A No. This is the first time I've heard that  
11 perception of it.

12 Q So you don't know that the paid informant was the  
13 one who called fellow Vagos to come to that location?  
14 Never heard that before?

15 A Not exactly the way that you're putting it out  
16 there.

17 Q Well, why don't --

18 A And again, I wasn't the officer that was called.

19 Q Okay.

20 A I wasn't the one handling the informant. And I  
21 have not, until very recently, even seen the informant.  
22 So I have had no interactions with the informant.

23 Q When did you speak to Sonny Barger?

24 A I have spoken to him on several occasions. Some

1 on traffic stops and some at his house.

2 Q Okay. When?

3 A I don't know the exact days.

4 Q What years?

5 A 2010, 2011.

6 Q You were at his house?

7 A Yes.

8 Q In your capacity as a law enforcement officer?

9 A Yes.

10 Q Were you serving a warrant?

11 A No.

12 Q Did you just go to speak to him?

13 A Yes.

14 Q How many times?

15 A Twice.

16 Q Who was present?

17 A On one visit was Detective Dave Platt. Sonny's  
18 wife, Z, answered the door. And on a second visit was  
19 Detective John Dechant, D-E-C-H-A-N-T.

20 Q And did Mr. Barger have you into his home?

21 A Not inside, but he did open his garage for us to  
22 talk there.

23 Q And what was the subject that you discussed?

24 A Whether or not he actually had a daughter.

1 Q Okay. And you engaged in a conversation with him  
2 about that?

3 A Yes.

4 Q And he responded to you?

5 A Yes.

6 Q Was that the extent of your conversation?

7 A No. We talked about Hell's Angels stuff and  
8 talked a little bit about Vagos stuff. Just chitchatted.

9 Q Did you record it?

10 A No.

11 Q Did you make notes?

12 A No.

13 Q Did your partner make notes?

14 A No.

15 Q When you left, did you make a report?

16 A No.

17 Q Did your partner make a report?

18 A Not that I am aware of.

19 Q So you had an interview with Sonny Barger about  
20 Hell's Angel business and didn't make any record of it; is  
21 that right?

22 A No.

23 Q Did you tell Mr. Barger that you were not going  
24 to make a record of it?

1 A No.

2 Q Have you shared what you learned from Mr. Barger  
3 with other law enforcement officers?

4 A Yes.

5 Q Who?

6 A Various people at intel meetings.

7 Q Names.

8 A Jorge Gil-Blanco.

9 Q Who else?

10 A John Woosniem. Shawn Wood.

11 Actually the one that started this was a female  
12 sergeant from Phoenix PD, and I don't recall her name, but  
13 she worked up at the ACTIC, and there was just information  
14 came in that Sonny had a daughter, and nobody wanted to go  
15 talk to Sonny about it. So I did.

16 Q Did somebody want to date her?

17 A Huh?

18 Q Why were you interested in Sonny's Barger's  
19 daughter?

20 A Well, I received information. I decided to go  
21 talk to the man about it and asked him questions about it.  
22 He told me --

23 Q Was she the subject of an investigation?

24 A I have no idea. It's a Phoenix PD sergeant. She

1 asked if I knew whether or not Sonny Barger had a  
2 daughter. I went to Sonny's house and asked him.

3 Q Do you know why she was interested in whether  
4 Sonny Barger had a daughter?

5 MR. HALL: Objection. Relevance, Your Honor. I  
6 think we're getting a little far afield from --

7 THE COURT: What's the relevance?

8 MR. CHESNOFF: It goes to his credibility, Your  
9 Honor.

10 THE COURT: It may, but I think you've beat it to  
11 death.

12 MR. CHESNOFF: Okay.

13 THE COURT: Sustained.

14 BY MR. CHESNOFF:

15 Q When's the other time you spoke to Mr. Barger?

16 A When we heard the information that he may be  
17 moving from Cave Creek up to the Dewy area.

18 Q What was the purpose of speaking to him?

19 A To find out if he was moving.

20 Q Did he give you an answer?

21 A Yes.

22 Q What did he tell you?

23 A He told us he wasn't looking to move to that  
24 area, but he had stopped in at some point to talk to a

1 real estate agent just to look at property.

2 Ultimately, he ended up moving to Black Canyon  
3 City shortly after our conversation.

4 Q You mentioned three other Hell's Angels that you  
5 spoke to. Could you gave me their names, please?

6 A Andreas Ospina.

7 Q What chapter is he with?

8 A He's with the Nomads in Arizona.

9 Q And when did you talk to him?

10 A Several times, mostly over the last few years at  
11 toy runs. He actually -- he actually approaches me.

12 Q And toy runs, so Her Honor knows, are events that  
13 the Hell's Angel motorcycle club holds to -- for  
14 charitable purposes, correct?

15 A Yes.

16 Q And at those events, they gather toys and they  
17 distribute them to children, correct?

18 A Sometimes, yes.

19 Q And who was another member of the club that you  
20 claim you spoke to?

21 A Julian Cano.

22 Q What chapter?

23 A He was with the Mesa chapter.

24 Q When was it that you spoke to him?

1 A Shortly after the Nathan Sample trial was  
2 completed and we debriefed him.

3 Q He was an informant?

4 A Yeah.

5 Q Oh, okay. So was he a member of the club when  
6 you spoke to him, or was he an informant at the time that  
7 was no longer a member?

8 A It was after the fact.

9 Q So he was no longer a member of the club,  
10 correct?

11 A Correct.

12 Q So he was operating in the capacity of trying to  
13 provide help to you, correct?

14 A Correct.

15 Q And work off a case?

16 A Yes. And not directly to me. It was a group of  
17 investigators. He was actually controlled by somebody  
18 else.

19 Q What kind of case was he working off?

20 A An aggravated assault case.

21 Q So he was required to talk to you, right?

22 A At the time, no.

23 Q Subsequently?

24 A Subsequently what?



1 Q He was required to talk to you?

2 A He did it at his own free will.

3 Q But he was an informant?

4 A Not at the time. Not paid. We asked him if he  
5 would sit down and talk with us, and he agreed to.

6 Q This was after he had already --

7 A After everything was done.

8 Q I see. And what was the last fellow that you  
9 spoke to that was a member?

10 A I've talked to several others. Chris Clouser.

11 Q What chapter is he with?

12 A He's with mesa chapter.

13 Q What did you talk to Chris about?

14 A Several -- a lot of it is just talking to these  
15 guys on the side of the road. Sometimes while they're at  
16 their events, we'll talk to 'em. I'll just walk up and  
17 talk to 'em. I sat down next to the person sitting next  
18 to you and just said hi. That's what we do. We talk to  
19 people. We chitchat.

20 Every time I sit down and chitchat with somebody  
21 doesn't mean that it's going to go anywhere. Doesn't mean  
22 it's going to be about the gang. Sometimes I'll ask them,  
23 you know, hey, you how long you been in? Sometimes I  
24 might get somebody who will tell me something. Sometimes

1 I'll get: You know I don't talk about that.

2 So yeah, my job is to talk to these guys.

3 Q From the Hell's Angels that are members that are  
4 not informants, you get, "I won't talk about that," right?

5 A Not all the time. Not all the time.

6 Q So give us an example of a Hell's Angel who has  
7 told you something substantive about a criminal activity  
8 that's a member of the Hell's Angels while they were a  
9 member of the Hell's Angels.

10 A Oh, not criminal activity.

11 Q So really, everything that you allegedly know  
12 about the activities of the Hell's Angels that you believe  
13 make them an outlaw motorcycle gang is based on  
14 information you gathered from non-Hell's Angels sources,  
15 right, about the criminal stuff, right?

16 A Yeah. Because most of the time they've been  
17 charged with a criminal offense as a Hell's Angel, and  
18 they've decided to leave the gang because of the criminal  
19 offense.

20 Q Have you ever --

21 A Somewhat seeing the light.

22 Q Have you ever arrested anybody that's in the  
23 Army?

24 A In the Army?

1 Q Yeah. Or military or law enforcement?

2 A Probably.

3 Q And it wouldn't be uncommon if you were in the  
4 police department and you got arrested and a search was  
5 done at your house to find a picture of a policeman with  
6 another policeman, right?

7 A Okay.

8 Q So if you're a member of an organization --

9 MR. HALL: Excuse me, Your Honor. I'm going to  
10 object as to argumentative. Irrelevant with respect to  
11 this hearing. If he wants to put on that little show for  
12 the jury, I don't think we need it here today.

13 MR. CHESNOFF: Okay. Well, first of all, what  
14 you think we need isn't important to me. It's what Her  
15 Honor thinks we need that's important.

16 And the point is, he brought up the fact that  
17 somehow it was an indicia of gang activity to find a  
18 picture of somebody who is in an organization with you.

19 So all I'm asking him, is it not uncommon, when  
20 you search somebody's house, to find pictures of people  
21 who are similarly situated to you? That's all I asked,  
22 Your Honor.

23 THE COURT: I think the line of questioning is  
24 argumentative. I don't think we need him to testify to

1 that. You can argue it.

2 MR. CHESNOFF: Okay.

3 THE COURT: Sustained.

4 BY MR. CHESNOFF:

5 Q When you did a search where you found meeting  
6 notes, they reflected the fact that this is an  
7 organization or a club that has meetings, right?

8 A I would say it reflects gang membership that's  
9 documented by dues and positions held within the gang.

10 Q Okay. There's a clubhouse generally that's  
11 associated with a charter, correct?

12 A Not all the time, but generally.

13 Q Okay. And some of those clubhouses, the members  
14 of the motorcycle club will meet on a regular basis,  
15 correct?

16 A Correct.

17 Q And, for example, one of the things that occurs  
18 is dues are collected, correct?

19 A By the notes that I found, yes.

20 Q Okay. And the purpose of the dues is, in some  
21 instances, to maintain the clubhouse, correct?

22 A I would assume so.

23 Q Okay. To buy beer for the bar, correct?

24 A Okay.

1 Q You're not disagreeing with me --

2 A I'm not disagreeing with you. I just see where  
3 you're going.

4 Q Okay. And when you read these notes, they  
5 document what occurred at the meeting, correct?

6 A They document not only what occurred at the  
7 meeting, but at what time somebody became a hang-around,  
8 the date, what time somebody became a prospect, and what  
9 time somebody became a member.

10 It also documents if somebody's been punished or  
11 fined for something. Much like membership to Costco or  
12 Sam's Club, you only get in when you pay for it.

13 Q Have you testified before as an expert?

14 A No.

15 Q How many times have you testified as a law  
16 enforcement officer?

17 A Probably seven, eight times.

18 Q In your whole career?

19 A Yes.

20 Q How many years have you been an officer?

21 A 19.

22 Q So in 19 years, you've appeared in a courtroom to  
23 testify seven or eight times?

24 A Yes. Well, I'm not including traffic tickets.

1 I'm assuming you're after criminal --

2 Q Yeah, felonies.

3 A Yeah. Seven or eight times.

4 Q Were you a patrolman?

5 A Yes. I spent, like I said, five years doing  
6 vehicle homicides.

7 MR. CHESNOFF: Court's indulgence.

8 Thank you, sir.

9 No further questions, Your Honor.

10 MR. DOGAN: Court's indulgence.

11 THE COURT: Okay.

12  
13 **CROSS-EXAMINATION**

14 BY MR. DOGAN:

15 Q Before coming to court today, did you speak about  
16 what you were going to say in court with any other law  
17 enforcement officer?

18 A Yes.

19 Q Who were they?

20 A Shawn Wood.

21 Q Who else?

22 A I talked to Chuck Schoville.

23 Q Who else?

24 A My sergeant, Laurie Griffith.

1 Q How about a witness in this case?

2 A No.

3 Q And you sit outside, right, before coming into  
4 court?

5 A Yeah.

6 Q On the bench?

7 A Most of the time I've been standing, walking up  
8 and down the halls, but I wasn't called here until late  
9 yesterday.

10 Q There are other law enforcement officers who are  
11 present there, right?

12 A Yes.

13 Q Did you hear any other law enforcement officers  
14 speak to you about their case?

15 A In here?

16 Q About what their testimony is.

17 A No.

18 Q And did you speak to any law enforcement officer  
19 about your testimony?

20 A No.

21 Q Not today?

22 A No.

23 Q And not yesterday?

24 A No.

1 Q Did you speak to the prosecutors about this case?

2 A Yes.

3 Q And did you have a conference?

4 A Yes.

5 Q Who was present at that conference?

6 A Amos and Karl. It was all attorneys. There  
7 weren't any other officers in the room.

8 Q Was there a DA investigator?

9 A I don't recall. I think so. I think -- well, I  
10 don't know. I don't know all their names. It would be --  
11 he was in there. Larry, I believe his name. Pete Grimm  
12 may have been in there for a little bit. I thought there  
13 was one other person I'm not familiar with either.

14 I've only, face to face, seen these people the  
15 last few days.

16 Q For today, did anybody talk to you about the rule  
17 of exclusion?

18 A No.

19 Q Nobody mentioned it to you, right?

20 A No. I think it's just understood we don't talk  
21 about the case.

22 Q Are you familiar with Officer Kirby?

23 A I don't know which one Officer Kirby is. And  
24 actually, anybody who is out there or who has already been



1 here, I don't even know what their involvement is in this  
2 case. I don't know what they're here about.

3 Q Let's talk about the Vagos that you have  
4 communicated with. Is that okay with you?

5 A That's fine.

6 Q All right. Let's go down the list. So I only  
7 got the last names or the first names that you mentioned.  
8 And let me go back.

9 Well, why don't I just ask you: Who were the  
10 Vagos that you spoke to? And can you please name them one  
11 by one and we'll go through them one by one.

12 A When?

13 Q Anytime.

14 A Again, some of the names are going to slip my  
15 mind, and some of them you're just going to get just  
16 monikers.

17 Jess Flores.

18 Q Okay. Jess Flores, right?

19 A Yes.

20 Q What chapter does he belong to?

21 A Jess Flores was partially, I guess you could say,  
22 with the Tri-State chapter. The first time I met him was  
23 when Glendale PD asked me to go with them to a call of  
24 some -- of a report. I don't remember whether it was a

1 burglary report or what, but they just didn't think things  
2 were right with him.

3 And I went along and I talked to Jess. And what  
4 I found out is Jess was one of the founding presidents for  
5 the Oxnard chapter over in California. And we had talked  
6 a little bit, and he basically wanted to lead me to  
7 believe that he was no longer a member at the time.

8 And when we got to talking, actually had a few  
9 conversations with him on separate occasions with Glendale  
10 PD. And we got to talking and he had mentioned that his  
11 president, I believe, was Kickstand. And that was when I  
12 kinda looked at him and said, "Ah, so you're still in the  
13 club."

14 Q So did he belong to the -- did you say Tri-State  
15 chapter?

16 A Yes.

17 Q Okay. And you're with law enforcement officers  
18 involving a burglary and you rode with them?

19 A Yeah. I met him at his house over in Glendale.

20 Q Was there a search warrant involved?

21 A He was a victim.

22 Q And you had stated that he was no longer a  
23 member; is that correct?

24 A That's what he told me.

1 Q How do you know that -- strike that.

2 Was he facing criminal charges?

3 A No.

4 Q Were you aware of whether he had faced criminal  
5 charges?

6 A No.

7 Q Okay. So after Jess Flores, who else did you  
8 speak to?

9 A I've talked to Aurelio Figueroa.

10 Q Do you know how to spell that?

11 A No.

12 Q Okay. Tell me the last name again.

13 A Figueroa.

14 Q Figuero?

15 A Figueroa.

16 Q Figueroa. And what chapter did Figueroa belong  
17 to?

18 A He was the vice president of the Tri-State  
19 chapter.

20 Q And you spoke to him, correct?

21 A Yes.

22 Q And how many occasions?

23 A Probably more than ten.

24 Q In relation to a case?

1 A No. Just chitchatting a little.

2 Q Chitchatting about what?

3 A Vagos stuff. Sometimes we'd talk about the  
4 weather. I mean, again, it's just sometimes you make  
5 small talk.

6 Q Is he currently a member?

7 A No.

8 Q Was he a member when you spoke to him?

9 A Yes.

10 Q And while he was a member when you spoke to him,  
11 do you know, as a member, how many times did you speak to  
12 him, Figueroa?

13 A Since he's not been a member, I haven't talked to  
14 him.

15 Q Do you know why he's no longer a member?

16 A Probably because he talked to me during the Chino  
17 Valley shooting.

18 Q Was he a cooperating witness?

19 A I would call him a cooperating witness, yes.

20 Q Okay. So Jesse Flores. Figueroa. What's  
21 another Vago that you have spoke to?

22 And let me stop you right now.

23 All the individuals that you spoke to, do you  
24 have any police reports regarding your conversation with

1     them? Did you type up a report?

2           A     Figueroa, there's going to be a recording.

3           Q     Did you say recording?

4           A     Yes.

5           Q     Is it an audio recording?

6           A     Yes.

7           Q     Have you provided that to the State?

8           A     Yeah. I e-mailed it to them.

9           MR. DOGAN: Your Honor, can we inquire --

10          THE COURT: When did you e-mail it?

11          THE WITNESS: I would have to look. It's been a  
12     few months.

13          THE COURT: Did you want to talk to the State  
14     about that?

15          MR. DOGAN: Yes, Your Honor.

16          THE COURT: Go ahead.

17                 (Discussion off the record between counsel.)

18          THE COURT: Okay. Maybe this is a good time to  
19     take a short recess. We'll be in recess for 10 or  
20     15 minutes.

21                 (Recess taken 3:19 p.m. to 3:43 p.m.)

22          THE COURT: Thank you. Please be seated.

23          Did you get your question answered, Mr. Dogan?

24          MR. DOGAN: No, Your Honor.

1 THE COURT: Oh, I thought you were --

2 MR. DOGAN: Well, Your Honor, it's our  
3 understanding that the State does have it. They received  
4 it sometime I believe in November. They just couldn't  
5 open it or something to that effect. I believe that they  
6 will be able to better explain that to Your Honor than  
7 myself.

8 But what I do know is they have possession of  
9 something, and whether or not it works, they should have  
10 got a working copy, and we need possession of that. And  
11 if we don't have it, it's not good.

12 And it goes to the same objection that I raised  
13 previously that we need all the discovery pertaining to  
14 all these witnesses.

15 THE COURT: Are we talking about an audio --  
16 audiotape of an interview you had with a Vago?

17 THE WITNESS: It's a digital audio recording that  
18 was maintained by Detective Zavos. And I tried to get a  
19 copy of it and apparently the format it's in needs to be  
20 converted to a WAV file or whatever file because in a WAV  
21 file, it's too big to be sent digitally.

22 THE COURT: So you e-mailed it and it just didn't  
23 work?

24 THE WITNESS: I don't know if it's something that

1 could still be converted or not. I don't know.

2 THE COURT: Which Vagos member was this of?

3 THE WITNESS: Aurelio Figueroa.

4 THE COURT: Okay. So what is the State's claim?

5 MR. HALL: Well, first of all, I would indicate  
6 that the statement that Mr. Skelton's already -- Detective  
7 Skelton's already testified to that this is a war, that  
8 was Figueroa's statement. So that's contained in the  
9 police reports that have been delivered to the defense.

10 You know, we'll see if we can figure out how to  
11 get that in a -- into a fashion that we can discover it.

12 I've never heard it. I did get the e-mail on  
13 November 29th. I just ran over and checked it out. I  
14 couldn't open it. I think I forwarded it to somebody to  
15 see if anybody could open it. I don't think we ever got  
16 that accomplished.

17 I know I had a trial starting on December 3rd, a  
18 murder trial that was in Department 10. That went two  
19 weeks, and then I went on vacation and basically forgot  
20 about it. So it's something that we'll get and discover  
21 it.

22 THE COURT: Is that audio recording -- is that  
23 what the statement of Mr. Figueroa is on?

24 MR. HALL: You have to ask the detective. I

1 don't know. I never heard it.

2 THE WITNESS: Yes.

3 THE COURT: Okay. Then -- and have you heard  
4 this audio recording?

5 THE WITNESS: No.

6 THE COURT: Who told you that it existed?

7 THE WITNESS: I was there when Dave Zavos, the  
8 lead detective, was recording it.

9 THE COURT: What was he using to record it on?

10 THE WITNESS: Little digital recording.

11 THE COURT: And what did he give you? He sent it  
12 electronically?

13 THE WITNESS: Yeah. Same thing that I forwarded  
14 to him.

15 THE COURT: But you didn't open it to see if it  
16 worked?

17 THE WITNESS: Well, it depends on what type of  
18 player you have, whether or not you can decode it.

19 THE COURT: So were you able to decode it?

20 THE WITNESS: No. We're not able to add anything  
21 to our MDCs to play different files.

22 THE COURT: Okay. All right. So I think that if  
23 the State is unable to decode it, you still could pass it  
24 on and the defense could hire their own expert to decode



1 it.

2 MR. HALL: Yes, Your Honor, I'd be happy to  
3 forward the e-mail. No problem.

4 THE COURT: But you're going to try to open it?

5 MR. HALL: Yes, certainly. I'll exercise best  
6 efforts to open it and do whatever we need to do to get it  
7 so somebody could listen to it.

8 MR. CHESNOFF: And another way, since it was done  
9 on a little digital record, would be for the officer who  
10 was relying on this as part of his testimony to ask his  
11 partner who recorded it to just burn a couple copies.  
12 Then we'll all have it and we'll all get to do with it  
13 what we think we should.

14 THE COURT: Well, I'm not sure -- I agree. I  
15 don't know why it wasn't done. But why I'm hearing it  
16 wasn't done is because of Mr. Hall's schedule and that  
17 he's now going to do it. In the interim, I still would  
18 want it sent out.

19 So, Counsel, you want to reserve the opportunity  
20 to cross-examine him once you hear the audiotape, right?

21 MR. DOGAN: I believe, of course, the remedy at  
22 this point would be exclusion. But if Your Honor is not  
23 comfortable with excluding the witness, then the answer  
24 would be yes.

1 THE COURT: Well, if it's in the police report,  
2 this could be cumulative evidence or it could be different  
3 evidence. So until we see it, we don't know what it is.

4 So obviously, if it discredits the testimony or  
5 what's in the police report, then it will be used by you  
6 to argue that this evidence should be excluded. But if it  
7 corroborates what is there, then it's corroboratory evidence  
8 and you'll hear it and see it.

9 MR. DOGAN: Thank you, Your Honor. And I just  
10 want to preserve the *Brady* because I do believe the audio  
11 recording does go to the basis of this opinion.

12 THE COURT: The *Brady* issue?

13 MR. DOGAN: Well, if it's discovery, and  
14 certainly this is discovery because it's an audio  
15 recording of a --

16 MR. CHESNOFF: It's not *Brady*.

17 THE COURT: It's not *Brady*.

18 MR. DOGAN: Your Honor --

19 THE COURT: He's right. It's not *Brady*.

20 MR. DOGAN: It's not *Brady*.

21 THE COURT: It's not exculpatory, right?

22 MR. DOGAN: It could be.

23 THE COURT: It could be.

24 MR. DOGAN: Yeah. We don't know.

1 THE COURT: And if it is, you'll tell me.

2 MR. DOGAN: Yeah. Right. So it is *Brady*.

3 THE COURT: Oh, my goodness. I'm glad we're all  
4 having fun now before we get to the trial so that all this  
5 will be resolved before the trial starts.

6 So with that, do you still have any other  
7 questions? Do you want to do some cross-examination?

8 Are you through, Mr. Hall? Were you through with  
9 direct?

10 MR. HALL: Yes. As a matter of fact --

11 THE COURT: I thought you were.

12 MR. HALL: -- I did direct. And then  
13 Mr. Villagrana's attorney did cross, and then Mr. Biray  
14 was doing -- Biray Dogan was doing his cross. That's  
15 where we left off.

16 THE COURT: So do you have any more?

17 MR. DOGAN: Well, I do.

18 THE COURT: So you ought to just get whatever you  
19 need to get done, then we'll get this opened.

20 You may ultimately tell me after you get this  
21 that you don't want to cross-examine him anymore. But you  
22 may tell me you need to, and I will grant you leave to do  
23 that based on the newly discovered evidence. But we still  
24 have to get done what you can get done now.

1 MR. DOGAN: Thank you, Your Honor. Your Honor, I  
2 never asked this: Can I remain seated while I do my  
3 cross-examination?

4 THE COURT: Yes, you may.

5 MR. DOGAN: Thank you.

6 BY MR. DOGAN:

7 Q Who is the detective who had the audio device on  
8 him when interviewing Figueroa?

9 A It would be Detective Dave Zavos with the Yavapai  
10 County Sheriff's office.

11 Q And this was in relation to the Toth shooting  
12 correct?

13 A The Chino Valley shooting, yes.

14 Q Okay. And you spoke to Mr. Figueroa about that  
15 shooting, correct?

16 A Yes.

17 Q And that's the case that went to trial that was  
18 ultimately dismissed?

19 A Yes.

20 Q So Mr. Figueroa was a cooperating witness in that  
21 case, correct?

22 A He was a witness.

23 Q But he cooperated with you guys, right?

24 A Somewhat, yes.

1 Q He spoke to you guys, right?  
2 A Yes.  
3 Q And who is Pizel?  
4 A William Pizel?  
5 Q Yes.  
6 A He's known as Tophat.  
7 Q And who is he?  
8 A He's an international Nomad with the Vagos.  
9 Q And you spoke to him?  
10 A Yes.  
11 Q On how many occasions?  
12 A Probably with him, gosh, around ten, over the  
13 years.  
14 Q Is he still currently in the club?  
15 A To my understanding he is, yes.  
16 Q And did you guys just chitchat?  
17 A No. Officer Zavos had an audio recording with  
18 him.  
19 Q You personally had that audio recording, correct?  
20 A All of these audio recordings that I referred to  
21 are in the possession of Dave Zavos. He was the one who  
22 recorded them.  
23 Q So -- okay. Pizel, you have an audio recording,  
24 correct?

1 A Yes.

2 Q Deets? I might be seeing saying that wrong.

3 A You know, I don't have the list in front of me  
4 because that was what Dave Zavos, Detective Zavos did.

5 I believe there was an interview with Dieks, but  
6 I'm not positive, that was recorded.

7 Q Who would have that information?

8 A Again, all of these would be Detective Zavos.

9 Q Okay.

10 MR. DOGAN: Court's indulgence.

11 THE COURT: Yes.

12 MR. DOGAN: Your Honor, I'd also request that we  
13 receive Mr. Pizel's audio recording as well because it  
14 does form the basis of his opinion in this matter.

15 THE COURT: Does it?

16 THE WITNESS: Your Honor, how about I just get  
17 all of the audio recordings from that particular case if  
18 Dave Zavos will release them and provide them?

19 THE COURT: Okay. So these are all out of the  
20 same case.

21 THE WITNESS: They are all out of the same case.

22 THE COURT: And they're mostly Vagos member  
23 interviews?

24 THE WITNESS: Yes.

1 THE COURT: And are you basing your opinion as an  
2 expert based on some, at least in part --

3 THE WITNESS: On some of those interviews, yes.

4 THE COURT: Okay. And is William Pizel one of  
5 them?

6 THE WITNESS: Yes.

7 THE COURT: Okay. Then yes, you can get all  
8 those recordings and provide them to the State who will  
9 disseminate them.

10 THE WITNESS: Okay. What I will try to do on  
11 those -- because the problem that we have and the reason  
12 it's in the format that it is, is the size in the WAV  
13 format, which is common to almost all computers, it's too  
14 large.

15 I know Dave has had problems putting them on  
16 disks because of the size of some of them, so we may have  
17 to actually put them on a large thumb drive and distribute  
18 them that way, if that's acceptable.

19 THE COURT: I'm sure that will be fine.

20 THE WITNESS: Okay.

21 MR. DOGAN: Your Honor, I'm just going to -- I  
22 want to reserve my cross-examination of this witness  
23 regarding those individuals who have an audio recording,  
24 but I can continue with other questions that I would like

1 to ask him.

2 THE COURT: Okay. That's fine.

3 BY MR. DOGAN:

4 Q Sir, you testified that you have taught courses  
5 about motorcycle clubs at conferences?

6 A Yes.

7 Q And how many of these have you taught?

8 A Gosh. There were years where I was doing two a  
9 month. At one point I was actually tracking, and I want  
10 to say that I was over 20,000 people that I had taught the  
11 motorcycle courses to, which would include basic academy  
12 classes up to advanced.

13 Q Were you paid?

14 A By the State, yes.

15 Q And those attendants were law enforcement  
16 officers?

17 A Mostly, yes.

18 Q Were there any college students?

19 A Yes.

20 Q How many college students?

21 A Average class would probably be about 20.

22 Q Criminal justice?

23 A Yes.

24 Q Have you spoken to other experts in the field of



1 club culture?

2 A Yes.

3 Q Who have you spoken to?

4 A Chuck Schoville, Shawn Wood, Steve Trethewy. Jay  
5 Dobbys. Billy Long. Trying to think if there's any  
6 others, but I mean, I probably -- I don't know the names  
7 of them, but they would be people that I've talked to at  
8 the conferences.

9 Jorge Gil-Blanco; I know he's here.

10 Q Were these individuals the ones who taught the  
11 conference?

12 A Yeah. They've taught at the conference or at  
13 conferences.

14 Q And did you --

15 A Eric Bennett is another one. He's taught at a  
16 conference that I attended.

17 Q And you speaking to these experts forms the basis  
18 or helps with your opinion in court today, right?

19 A Yes.

20 Q And did you ever independently confirm any of  
21 that person's sources of information?

22 A As in start researching their background?

23 Q Or what they told you about the Vagos.

24 A They've shown me -- I mean, we start at basics.

1 This is what a patch is. This is why they wear it. This  
2 is what their notes are. This is what they're for.

3 Good example: They tell me that they have west  
4 coast officer meetings. Then I received west coast  
5 officer meeting notes, so that has corroborated their  
6 information that they shared with me.

7 They've told me that they hold west coast officer  
8 meetings monthly. I see a note that they have a monthly  
9 list of where their west coast officer meetings are. That  
10 has corroborated their stories and they are lessons to me  
11 so that I understand what they have told me is factual.

12 Q When you say west coast officer meetings, who are  
13 you talking about?

14 A The Hell's Angels.

15 Q How about meetings of the Vagos?

16 A Yes.

17 Q And you've reviewed notes of these meetings?

18 A Yes.

19 Q Do you have those in your possession?

20 A No.

21 Q And where did you review these notes?

22 A They were obtained during the search warrant,  
23 again, with the Chino Valley shooting.

24 Q That's Deets?

1 A Yes.

2 Q Okay.

3 A And let me back up on that, too, and say that I  
4 don't know exactly where those were found. I wasn't the  
5 one that said, hey, that's what we need.

6 When everybody sat down and looked over the  
7 evidence, I saw what it was, I looked through it, but I  
8 didn't pay attention as to where it was collected or who  
9 obtained it.

10 Q You're talking about the search warrant, right?

11 A Yeah, but there were multiple search warrants  
12 done. There were search warrants done on the house.  
13 There were search warrants done on vehicles. There were  
14 two houses involved. Multiple bikes. Multiple locations.

15 I wasn't at every location, but we all got  
16 together and looked over evidence.

17 Q Okay. So you independently confirmed west coast  
18 meetings of the Hell's Angels, correct?

19 A Yes.

20 Q By reading notes that you've obtained through  
21 search warrants?

22 A Yes.

23 Q And what else have you independently confirmed  
24 other than west coast meetings?

1           A     Several years back, they had a west coast officer  
2 meeting in Phoenix that I was there doing surveillance on.

3           Q     The experts who you mentioned, Jorge Gil-Blanco,  
4 Eric Bennett, all of these individuals, in one shape or  
5 form, have taught your you experience, right?

6           A     Yes.

7           Q     Okay. And everything that they taught you, we  
8 made it clear that you independently confirmed west coast  
9 officer meetings of the Hell's Angels by reading notes  
10 taken at the meetings, right?

11          A     Yes.

12          Q     Have you now independently confirmed anything  
13 else that these experts told you?

14          A     They explained what a patch is. We agree what a  
15 patch is. We agree what a gang member is. I don't know  
16 exactly -- that's kind of a broad spectrum of -- what do  
17 you want me to say that we have agreed on or has been  
18 independently corroborated? We could go on for days with  
19 that, I think. I don't know what you're after.

20          Q     Wikipedia, right?

21          A     Okay.

22          Q     You have seen something written in there?

23          A     Yes.

24          Q     Do you believe it?

1 A As far as the Vagos go?

2 Q No, no, no. Just in life generally.

3 A No.

4 Q Do you --

5 MR. HALL: Your Honor, I'm going to object. This  
6 is -- Wikipedia? I'm going to object to relevance.

7 MR. DOGAN: It's to allow him to --

8 MR. HALL: Overbroad.

9 MR. DOGAN: -- he doesn't understand really --

10 THE COURT: The question was broad. The State  
11 did not make the objection, but your question was broad  
12 when you asked anything ever, and that's what he told you.

13 So the answer was responsive to your question,  
14 and Wikipedia is not relevant.

15 MR. DOGAN: Thank you.

16 BY MR. DOGAN:

17 Q Do you believe everything you hear?

18 A No.

19 MR. HALL: Objection. Relevance.

20 THE COURT: Well, it's argumentative, if nothing  
21 else. So I'm going to sustain the objection on different  
22 grounds.

23 BY MR. DOGAN:

24 Q What else have you independently confirmed?

1 A Well --

2 MR. HALL: Objection. Vague.

3 THE COURT: Sustained.

4 BY MR. DOGAN:

5 Q As in regards to the Vagos.

6 A Based on the totality of the circumstances, the  
7 time that I have spent working the Vagos, the number of  
8 the Vagos that I've talked to, the paperwork, the  
9 documents, the photos, the criminal cases that have been  
10 done on them across the United States, the fact that we're  
11 here today based on something that I've seen video on, all  
12 of that has formed my opinion.

13 Q That's not the question, sir.

14 A Then you need to be clear on your question.

15 Q The question is: What have you independently --

16 MR. CHESNOFF: Excuse me, Your Honor. Could you  
17 instruct the witness not to be telling lawyers what they  
18 need to do?

19 MR. HALL: Your Honor, I'm going to --

20 THE COURT: Oh, please, stop, everyone. You have  
21 a specific objection, make it.

22 MR. CHESNOFF: Yeah, I do.

23 THE COURT: You think the witness is being  
24 unresponsive?

1 MR. CHESNOFF: Yes.

2 THE COURT: Thank you. And I think it's odd that  
3 you're making the objection, but I'll sustain it.

4 MR. CHESNOFF: Thank you, Your Honor. I'm just  
5 trying to --

6 THE COURT: I know.

7 MR. CHESNOFF: -- do what you said yesterday,  
8 Your Honor, which is to keep the tone of this at  
9 appropriate levels.

10 THE COURT: So, Counsel, your question, though,  
11 he shouldn't be questioning you back, but your question is  
12 vague. And you can't just ask a question about what has  
13 he corroborated ever, in his whole life, in the 16 years  
14 or whatever he's been a cop. So you have to be a little  
15 bit more specific about what you want.

16 MR. DOGAN: Court's indulgence.

17 (Discussion off the record between

18 Mr. Frey and Mr. Dogan.)

19 MR. DOGAN: Thank you, Your Honor.

20 BY MR. DOGAN:

21 Q You learn information at conferences, right?

22 A Yes.

23 Q And that forms the basis of your expert opinion,  
24 right?

1 A Yes.

2 Q What information received at those conferences  
3 have you independently confirmed?

4 MR. HALL: Objection, Your Honor. Vague. Asked  
5 and answered.

6 THE COURT: The witness has talked about many  
7 conferences. I think he said he had taught 20,000 people.  
8 You want him to look at the 20,000 people he's taught and  
9 the content of his curriculum in each of those and see if  
10 he independently corroborated it?

11 MR. DOGAN: Your Honor, this is pertaining to the  
12 motorcycle clubs, particularly the Vagos and what he's  
13 learned about the Vagos while --

14 THE COURT: Why don't you ask it the other way.  
15 Why don't you just ask him if there's anything he hasn't  
16 corroborated, if there's anything he has any questions  
17 about.

18 Your question is vague, so I'm going to sustain  
19 the objection.

20 BY MR. DOGAN:

21 Q Is there anyone else in your organization who is  
22 actually designated as an expert on this subject?

23 A Yes.

24 Q Who?



1 A I believe Chuck Scoville and Steve Trethewy.  
2 Q You have never testified as an expert before,  
3 correct?  
4 A Correct.  
5 Q You have never infiltrated the Vagos, correct?  
6 A Correct.  
7 Q You have never published any treatise, correct?  
8 A No.  
9 Q You have never published a book, have you?  
10 A No.  
11 Q You have no advance degrees from any universities  
12 or college anywhere, do you?  
13 A No.  
14 Q You don't have a degree in sociology?  
15 A No.  
16 Q No degree in psychology?  
17 A No.  
18 Q And no degree in anthropology?  
19 A No.  
20 Q How many Vagos members are there in the United  
21 States?  
22 A I would estimate, from what I've read, 3,000 --  
23 MR. DOGAN: Objection. Estimation. Speculation.  
24 He's speculating, Your Honor.

1 THE COURT: I don't think that's speculation.  
2 You're just asking his opinion. He's an expert. If it's  
3 wrong, he's wrong.

4 MR. DOGAN: Your Honor, withdraw the objection.

5 THE COURT: Okay.

6 MR. DOGAN: Thank you, Your Honor.

7 BY MR. DOGAN:

8 Q Go ahead.

9 A Approximately 3,000.

10 Q So that's in the United States?

11 A Worldwide.

12 Q Worldwide. How many in the United States?

13 A I would not know exact numbers.

14 Q How many in Arizona?

15 A In Arizona, currently? Probably less than ten.

16 Q In California?

17 A I'm not familiar completely with California,  
18 their numbers.

19 Q That makes up the Tri-State chapter, does it not?

20 A No. Tri-State is no longer in existence.

21 Q Okay. Who is currently the national president of  
22 the Vagos?

23 A Tata.

24 Q Who is the vice president?

1 A I don't know.

2 Q Who is the treasurer?

3 A I don't know.

4 Q Who is the sergeant-at-arms?

5 A Dragon, I believe.

6 Q Do you know his name?

7 A Not without looking at the chart, no.

8 Q Can you name a president of any chapter?

9 A Currently, Tata. At the time, we had Kickstand.

10 And we also had Nick Prano, who is the Havasu chapter.

11 And that encompassed all of our Arizona people.

12 Q The one in Arizona, what's his name?

13 A Nick Prano.

14 Q And you said Tata is the national president,

15 right?

16 A Yes.

17 Q And who else did you name?

18 A Kickstand.

19 Q And where is he?

20 A He was the Tri-State president.

21 Q And he's no longer a member?

22 A No.

23 Q Is he in bad standing with the club?

24 A It's my understanding that he is.

1 MR. CHESNOFF: Your Honor, could we get a  
2 spelling on the national president's name?

3 THE COURT: Can you give us a spelling?

4 THE WITNESS: You know, I'd have to look at my  
5 chart to fully remember his name.

6 THE COURT: Okay.

7 THE WITNESS: Tata. It's --

8 THE COURT: Like T-A or T-I?

9 THE WITNESS: T-A-T-A.

10 MR. DOGAN: Thank you, Your Honor. I'll pass the  
11 witness.

12 THE COURT: Okay. Mr. Hall?

13  
14 **REDIRECT EXAMINATION**

15 BY MR. HALL:

16 Q With respect to the confidential informant that  
17 was discussed at the beginning of cross-examination --

18 A Okay.

19 Q -- by one of the defense attorneys, did that  
20 confidential informant have any -- was he a percipient  
21 witness to the shooting, the Chino Valley shooting that  
22 we're talking about?

23 A No.

24 Q So in other words, he was not on scene to provide

1 any eyewitness testimony or information?

2 A From what I've been told from Detective Morris  
3 who was controlling him and receiving the calls, no, he  
4 did not witness anything that we were going to utilize him  
5 for in trial as to the witnessing of an actual crime.

6 Q And you were asked whether or not the Hell's  
7 Angels, when you've interviewed them, whether or not they  
8 talk about crimes that have been committed or they may  
9 have committed; is that correct?

10 A Yes.

11 Q Is that part of their custom and tradition, code  
12 of conduct with respect to not speaking with law  
13 enforcement officers regarding club business or crimes  
14 that may have been committed or cooperating with law  
15 enforcement?

16 A Yes.

17 Q Was Mr. Toth a source of information regarding  
18 the Hell's Angels?

19 A At the time we did the search warrant?

20 Q Yes.

21 A Yes.

22 Q Now, you viewed the video depicting the Vagos and  
23 Hell's Angels at John Ascuaga's Nugget here in Sparks,  
24 Nevada. Did you see Tophat or William Pizel depicted in

1 the video?

2 A Yes.

3 Q And was he with other individuals during the  
4 course of the interaction between the Vagos and the Hell's  
5 Angels?

6 A Yes.

7 Q You haven't interviewed him regarding anything  
8 that happened at the Nugget, or have you?

9 A No, I haven't.

10 Q I believe you also were involved in Lazy Harry;  
11 is that correct?

12 A I wasn't involved in it, but I did talk to the  
13 officers that were involved in it. And I also, after one  
14 of the subjects pled guilty, went down to Lewis Prison and  
15 interviewed him.

16 Q All right. And what did that interview indicate  
17 in terms of the rivalry, if anything, between the Hell's  
18 Angels and the Vagos?

19 A Talked to Joby Walters --

20 MR. CHESNOFF: Your Honor, excuse me. It's  
21 beyond the scope of anything that was discussed.

22 MR. DOGAN: I will join in that objection.

23 THE COURT: What's Lazy Harry's? Where did they  
24 cross on that?

1 MR. HALL: They didn't, but this is actually -- I  
2 guess I'd have to recall him. I forgot to ask him about  
3 Lazy Harry's. We were talking about Chino and his  
4 expertise, so I'm actually --

5 THE COURT: You're reopening?

6 MR. HALL: I'm reopening, if I may.

7 THE COURT: Okay. I'm going to grant the  
8 request. You can reopen.

9 MR. HALL: Thank you.

10  
11 **FURTHER DIRECT EXAMINATION**

12 BY MR. HALL:

13 Q So you do you recall the question I asked? Would  
14 you give us an overview of Lazy Harry's, please.

15 A Yeah. My understanding from what detectives have  
16 told me and in reports I've read is that there were two  
17 Vagos that were at Lazy Harry's bar in Bullhead City. One  
18 was Mike Yeske and I believe the other one was a subject  
19 with the last name of Delaney.

20 And they were there by themselves, and there were  
21 several Hell's Angels from the Nomad chapter who came to  
22 the bar along with Desert Road Riders and went into the  
23 bar, to the back patio where the two Vagos were, and told  
24 them that they weren't allowed to wear their Arizona

1 bottom rocker. They weren't allowed -- they couldn't wear  
2 their cuts.

3 And with that, I believe one of the Vagos, which  
4 I think is Mike Neske, threw a first punch. And then  
5 there was a fight between the Hell's Angels and the Vagos  
6 at the bar.

7 From there, after the fight was done, the Hell's  
8 Angels left and were ultimately contacted by, I believe,  
9 Bullhead PD and then some of the GIITEM people. And then  
10 they ended up leaving the scene.

11 Q So this is another example of the rivalry  
12 exist --

13 MR. CHESNOFF: Objection. Leading.

14 THE COURT: Sustained.

15 BY MR. HALL:

16 Q Do you know whether or not this would be another  
17 example --

18 MR. CHESNOFF: Objection.

19 BY MR. HALL:

20 Q -- of the rivalry between the Hell's Angels and  
21 the Vagos?

22 THE COURT: I'm going to grant the objection.

23 BY MR. HALL:

24 Q Do you have an opinion as to whether or not this



1 would be another bit of information that you utilized  
2 in --

3 MR. CHESNOFF: Objection.

4 BY MR. HALL:

5 Q -- reaching your opinion regarding the rivalry  
6 that exists between the Hells Angels and the Vagos?

7 THE COURT: Is your objection that he's assuming  
8 a fact that has not been proven?

9 MR. CHESNOFF: That, yes, and it's leading as  
10 well, Your Honor.

11 MR. HALL: Could I rephrase?

12 THE COURT: Please.

13 BY MR. HALL:

14 Q Do you have an opinion regarding whether or not  
15 that information was additional information that you used  
16 to form your opinion that we've discussed regarding the  
17 Vagos and the Hell's Angels rivalry?

18 MR. DOGAN: Objection. Leading. It's the same  
19 question.

20 THE COURT: Overruled.

21 MR. CHESNOFF: I couldn't hear it, so I --

22 THE COURT: From what I heard, I don't think it  
23 was leading. He just asked him if he had an opinion, if  
24 he used it. He asked the opinion twice, but I think he's

1 asked if he considered that information in reaching his  
2 opinion.

3 I think is what your question was.

4 MR. HALL: That was the question.

5 THE COURT: You can answer that.

6 THE WITNESS: From talking to Joby Walters at  
7 Lewis Prison, reading the reports, yes.

8 BY MR. HALL:

9 Q What is your opinion regarding the crimes that  
10 are commonly committed between the Hell's Angels and the  
11 Vagos, if any?

12 A Specifically assaults?

13 Q Well, that's what I'm asking.

14 A Related to assaults, typically the assaults that  
15 are occurring between the two clubs, based on the totality  
16 of the circumstances, is over the patch, the territory.

17 Q Would that include assaults with a deadly weapon  
18 and other crimes --

19 MR. CHESNOFF: Could you --

20 BY MR. HALL:

21 Q -- that are punishable --

22 MR. CHESNOFF: -- ask Mr. Hall to --

23 THE REPORTER: I'm sorry --

24 MR. HALL: Can I finish my question, Counsel?

1 MR. CHESNOFF: I can't hear you, Mr. Hall.

2 MR. HALL: I'll speak up.

3 BY MR. HALL:

4 Q Would that include crimes, assaults with a deadly  
5 weapon, crimes that are punishable as felonies?

6 MR. DOGAN: Objection. Leading.

7 THE COURT: I think he's asking for clarification  
8 from the prior answer, and I'm going to overrule the  
9 objection.

10 THE WITNESS: Yes.

11 MR. HALL: Thank you. I have no further  
12 questions.

13

14 **RE CROSS-EXAMINATION**

15 BY MR. CHESNOFF:

16 Q Sir, was anybody ever prosecuted for the incident  
17 you just described at the bar in Arizona?

18 A Yes.

19 Q Who?

20 A Joby Walters. Steve -- Silent Steve; trying to  
21 remember his name. Rudolpho, Rudy, Martinez. Dan -- he's  
22 with the Desert Road Riders.

23 Q I have your report. I can --

24 A Yeah. I'm just -- I'm trying to remember the

1 names on that one. Rudy Martinez. Steve -- I blank out  
2 on his name right now. Anyway. But yeah.

3 And ultimately, Joby Walters pled guilty to the  
4 gang enhancement charges along with the assault.

5 Q The recorded interview that you did, was that  
6 with Tata or with Tophat?

7 A Tophat, William Pizel.

8 Q When was the interview done with William Pizel?

9 A That would be the night of the shooting, so I  
10 believe it would be August 20th of 2010.

11 Q And did you participate in the interview?

12 A Yes.

13 Q And was he under arrest at the time of the  
14 interview?

15 A No.

16 Q Had he agreed to cooperate with you in your  
17 investigation?

18 A He was just answering the questions we were  
19 asking him. I don't know -- without going back and  
20 actually looking, I don't know how much he agreed. We  
21 would ask him some questions. I'm sure that he would  
22 answer. There were probably some about the clubs that he  
23 didn't answer, but without actually going back and  
24 listening to the audio, I don't want to give you an exact

1 specific. I don't know.

2 Q But he didn't exercise his constitutional right  
3 not to talk to you, correct?

4 A From my memory, no, I don't believe he did.

5 Q So he participated in the investigation at the  
6 request of law enforcement, correct?

7 A Yes.

8 Q And you sat him in a room, right?

9 A Yes.

10 Q With a tape recorder?

11 A Yes.

12 Q And proceeded to ask him questions?

13 A Yes.

14 Q In order to gain information for your law  
15 enforcement purposes, correct?

16 A Yes.

17 Q And those law enforcement purposes at the time  
18 were the investigation of the shootings that had occurred  
19 at the casino, correct?

20 A No.

21 Q I'm sorry. I mean at Chino Valley. I'm sorry.

22 A Yes.

23 Q And did he say he was a victim?

24 A No.

1 Q Okay. Did he describe himself as somebody who  
2 was an attacker?

3 A No.

4 Q What did he say his role was?

5 A He actually wasn't in the area, I believe, at the  
6 time of the shooting.

7 Q So he just provided you information about what  
8 had occurred based on what he knew, correct?

9 A Correct.

10 Q Sort of like providing you intelligence about  
11 what had occurred.

12 A Correct.

13 Q Earlier, Mr. Hall asked you whether or not the  
14 Hell's Angels didn't answer substantive questions about  
15 criminal activity, and you -- in the context of whether or  
16 not that was part of the club culture.

17 Do you remember that question?

18 A Yes.

19 Q It's also consistent with every American's rights  
20 under the Fifth Amendment not to answer your questions,  
21 right?

22 A Yes.

23 Q So you don't have to be a Hell's Angel to  
24 practice your constitutional rights, do you?

1 A Not at all.

2 MR. CHESNOFF: Nothing further, Your Honor.

3 MR. DOGAN: Court's indulgence.

4 THE COURT: Yes.

5  
6 **RE CROSS-EXAMINATION**

7 BY MR. DOGAN:

8 Q You stated that there was a prosecution in the  
9 Lazy Harry's bar case, right?

10 A Yes.

11 Q And that there were one, two, three, four people  
12 who were prosecuted?

13 A Yeah. One of them I just remembered that I  
14 probably didn't name earlier is Jerry Smith.

15 Q What's his name?

16 A Jerry Smith.

17 Q So that's five now? So Joby Walters, right?

18 A Okay.

19 Q Steve, you know don't his last name, right?

20 A I don't recall his last name right now.

21 Q Martinez?

22 A Rudolpho Martinez, Rudy.

23 Q And Dan, you don't recall his last name, right?

24 A Right, who is with the Desert Road Riders.

1 Q Okay. And Jerry Smith, right?

2 A Right.

3 Q And what was the disposition of Steve, his case?

4 A I believe everybody except Joby was dismissed.

5 Q And what club did he belong to?

6 A Who's "he"?

7 Q Joby Walters.

8 A He belonged to the Hell's Angels.

9 MR. DOGAN: Nothing further.

10 THE COURT: Anything further?

11 MR. HALL: Nothing further, Your Honor.

12 THE COURT: Okay. But we do have more cross once  
13 we get the video, so --

14 THE WITNESS: The audio.

15 THE COURT: I mean the audio, yes. Thank you. I  
16 don't know how long that will take, so we'll have to pick  
17 a date. Do you have any big vacations planned in the next  
18 month?

19 THE WITNESS: No.

20 THE COURT: Okay. So you might be available?

21 THE WITNESS: I might be available. What I'll do  
22 is when I get back, I'll be up in Prescott. That's part  
23 of the problem we've been dealing with is I'm in Phoenix.  
24 The case is up in Chino. It's two hours away from where



1 I'm at.

2 So in order for me to actually physically go get  
3 those recordings, I've got to go up there to get them and  
4 hope that he's able to record them for me. That's why  
5 we're trying to do it by e-mail.

6 THE COURT: Okay.

7 THE WITNESS: So what I'll do is I'll take a day,  
8 I'll go up there, make sure I've got either a hard drive  
9 or a thumb drive that we can put them all over and I can  
10 mail them up here.

11 THE COURT: And you're going to have to come  
12 back, so that will be in a week or two that we'll try to  
13 find time.

14 THE WITNESS: Okay.

15 THE COURT: So that's why I'm asking about any  
16 vacations. So get that done right away, and then we'll  
17 have you back here.

18 THE WITNESS: All right.

19 THE COURT: Thank you. You may step down.  
20 You're not excused.

21 THE WITNESS: Thank you.

22 THE COURT: But you can leave today.

23 THE WITNESS: I can?

24 THE COURT: You can leave for today.

1 MR. STEGE: Next witness, Jeff Simpson, who, Your  
2 Honor, pertains to -- I previously identified, but in my  
3 bad act motion, page five, top of the page, and Mr. Hall's  
4 motion, Exhibit 12, page 31.

5 THE COURT: Okay.

6  
7 JEFFREY SIMPSON,

8 called as a witness by the State,  
9 having been first duly sworn, was examined  
10 and testified as follows:

11  
12 DIRECT EXAMINATION

13 BY MR. STEGE:

14 Q Please state and spell your name.

15 A My name is Jeffrey Simpson, S-I-M-P-S-O-N.

16 Q And you work for the San Jose -- I'm sorry, Santa  
17 Cruz Police Department?

18 A No. Santa Cruz County Sheriff's office.

19 Q It's been a long day.

20 And in what capacity?

21 A I'm a deputy sheriff.

22 Q And how long have you been a deputy sheriff?

23 A Just over nine years.

24 Q Back on March 17th, 2011, were you assigned to

1 the -- a gang task force of any sort?

2 A I was assigned to the Santa Cruz County Gang Task  
3 Force.

4 Q And at that point, how long had you been on the  
5 gang task force?

6 A At that point, I started in June of 2010. So  
7 eight months. Seven, eight months.

8 Q Let's go directly to this date of March 17th,  
9 2011. Did you respond out to a automobile or automobile  
10 versus motorcycle accident?

11 A I did.

12 Q And what did you see when you got there?

13 A A motorcycle was laying -- this is in Soquel --  
14 on Soquel Drive in Aptos. A black Harley-Davidson was  
15 lying on its left side facing southeast. We had  
16 substantial front-end damage. The right -- I'm not  
17 familiar particularly with motorcycles, but the tool box  
18 or compartment had broken off. It appeared, had fallen  
19 into the street. And there's a kind of like a debris  
20 trail with several pouches of tools, clothes, a helmet.

21 And a person we later identified as  
22 Mr. Villagrana was being treated by AMR and fire people at  
23 the scene.

24 Q He was injured there at the scene?

1           A     Correct.

2           Q     And where -- did you begin the investigation at  
3 that point?

4           A     Yes. At the time I arrived, there had already  
5 been information coming over the radio that a firearm was  
6 found at the scene, and I began investigating the firearm.

7           Q     And tell us about the firearm. What kind of  
8 firearm was it?

9           A     It was a Taurus PT 101 AF semiautomatic black.

10          Q     And what information did you develop as to where  
11 that item was found?

12          A     A detective from our office, Jalon Harris,  
13 originally responded to the scene on his way home and  
14 obtained the firearm from a bystander who was standing on  
15 the street.

16                That bystander then showed him where the firearm  
17 had been when he picked it, up. And then a California  
18 Highway Patrol officer named Tanguay -- that's  
19 T-A-N-G-U-A-Y -- obtained the firearm from Detective  
20 Harris, and I got the firearm from him.

21          Q     And it was subsequently booked into evidence?

22          A     Correct.

23          Q     What else did you notice there at the scene? Did  
24 you have an opportunity to examine or look at the

1 motorcycle?

2 A I did. On the top, I guess the gas tank section,  
3 there were three Hell's Angels affiliated stickers.

4 There was a helmet with a Hell's Angels sticker  
5 on the back. There was a three-piece Hell's Angel cut  
6 lying on the street where Mr. Villagrana had been treated.  
7 Looked like it had been cut off by the paramedics at the  
8 scene.

9 There was a couple red bandanas, a red and white  
10 key chain.

11 Q What is going through your mind at that point  
12 based on your training and experience in the gang unit?

13 A That a Hell's Angel had crashed his motorcycle  
14 and had a handgun with him when it happened.

15 THE COURT: I'm sorry, had what with him?

16 THE WITNESS: A handgun. A firearm.

17 BY MR. STEGE:

18 Q What was the condition of the firearm in terms of  
19 ammunition?

20 A Officer Tanguay -- when I got it, the slide was  
21 racked back. There was no magazine in the chamber.

22 Officer Tanguay told me that when he obtained the  
23 firearm from Detective Harris, that the magazine was  
24 inserted but there was no round in the chamber.

1 THE CLERK: Exhibits N-1 through 14 marked.

2 (Exhibit No. N-1 through N-14 marked.)

3 BY MR. STEGE:

4 Q What became of the leather vest with the Hell's  
5 Angel patches on it?

6 A That was collected as evidence.

7 Q Did you subsequently author a search warrant for  
8 the home or the residence of Mr. Villagrana?

9 A I did.

10 Q By the way, do you see Villagrana here in court  
11 today?

12 A I do.

13 Q Would you identify him for the record.

14 MR. CHESNOFF: We'll stipulate, Your Honor.

15 MR. STEGE: Thank you.

16 THE COURT: Record will so reflect.

17 BY MR. STEGE:

18 Q You authored a search warrant for the residence  
19 of Mr. Villagrana?

20 A I did.

21 Q Between that day of the accident where you were  
22 on the scene to the time you applied for the search  
23 warrant, what investigation do you do?

24 A We started a track through ATF, trying to find

1 out who the owner of the firearm was 'cuz we ran it the  
2 day, excuse me, while we were on scene through the  
3 dispatcher. It came back not registered.

4 We then ran the firearm through our records  
5 department, records clerk. They could not find it. It  
6 was coming up not registered.

7 So my partner was going through DOJ, Jeffery  
8 Kerns, trying to figure out who was actually the owner of  
9 the firearm because that's a violation of 12.025(b)(6) in  
10 the state of California.

11 Q None of us here are familiar with that -- know  
12 what that is.

13 A It's being in possession of a concealed firearm  
14 that you're not registered to.

15 Q Okay. Did you come to learn more about the  
16 progeny of this firearm?

17 A That was given to us after the search warrant was  
18 finished on February 18 -- or excuse me, April 18th. My  
19 partner got an e-mail back from Jeffrey Kerns from DOJ,  
20 and I think it was last sold in -- I can't be exact, but I  
21 believe sometime in the '90s to a subject in Missoula,  
22 Missouri, or Montana, something like that.

23 Q Did you go out to the home believed to be the  
24 residence of Mr. Villagrana in Gilroy, California?

1 A Yes.

2 Q And what did you see there?

3 MR. CHESNOFF: Your Honor, for the record, we  
4 object to any testimony regarding the search. We briefed  
5 that for Your Honor, and that's the subject of another  
6 hearing. So I --

7 THE COURT: Is that the motion to suppress?

8 MR. CHESNOFF: Yes.

9 THE COURT: It hasn't been submitted yet to me.  
10 When was it submitted?

11 MR. SCHONFELD: Oh, no, no. Sorry, Your Honor.  
12 We just received the opposition today.

13 MR. CHESNOFF: Right, right, you're right. We  
14 filed our motion. We just received their opposition.

15 THE COURT: Right. I don't review it until it's  
16 submitted to me, so I haven't seen it yet. I do know it's  
17 there. So we'll just take this objection, and obviously,  
18 when we get to the motion to suppress, we'll deal with it.

19 MR. CHESNOFF: Okay. So all of this testimony is  
20 subject to --

21 THE COURT: Subject to your motion.

22 MR. CHESNOFF: Okay. Thank you.

23 MR. STEGE: But while he's here, we'll talk about  
24 it.



1 THE COURT: Yes, absolutely.

2 BY MR. STEGE:

3 Q What did you learn there at the house in Gilroy?

4 A We located his bedroom, which is the front  
5 left-hand bedroom. Numerous articles of Hell's Angels --

6 Q Well, actually, before we get to the actual  
7 getting the search warrant and executing it, did you go  
8 out and do some surveillance, just look at the house there  
9 in Gilroy?

10 A I did not personally. A sergeant from our  
11 sheriff's office did that.

12 Q Okay. To what end or to what purpose?

13 A In California, to get a search warrant, we need  
14 to have a legal description of the house. My sergeant,  
15 Sergeant Roy Morales, went out, observed the house,  
16 located a vehicle in the driveway that was registered to  
17 Mr. Villagrana.

18 In the meantime, I also called -- actually my  
19 partner called the Gilroy PD. Sergeant Darius, who  
20 actually was on the -- with us during the execution of the  
21 search warrant, he also told us, yes, that's where  
22 Mr. Villagrana lives from his knowledge.

23 Q From that point, you secured a -- or went --  
24 drafted a search warrant and got the signature of a -- of

1 what judge?

2 A Judge Almquist.

3 Q And the search was granted?

4 A Yes.

5 Q And so with that search, how soon after it's  
6 granted do you execute it at the home in Gilroy?

7 A We served it five days after it was signed.

8 Q And tell us about what is found during the  
9 execution of this search warrant as it relates to -- let's  
10 talk in a couple of different types of areas. Let's talk  
11 about Hell's Angels paraphernalia.

12 A Okay. Under Hell's Angels paraphernalia, the  
13 first thing you notice when you walk in the bedroom is he  
14 had a large framed Filthy Few banner, another large banner  
15 that was red with the death head in the middle, the Hell's  
16 Angels death head.

17 He had another kind of a framed -- I don't want  
18 to say a plaque, but about yay big (indicating) that had a  
19 bunch of cards that related to the Hell's Angels.

20 He had a framed 2010 Monterey Christmas toy run  
21 that was actually signed by people I believe are Hell's  
22 Angels members, because after -- they'd signed, like  
23 Chris, HAMC, next to their name, so I figured they were  
24 Hell's Angel members.

1 His closet was approximately 40 or so shirts,  
2 sweatshirts related to Hell's Angels. We ended up  
3 collecting 20 of them. Shirts that commonly feature death  
4 head or Hell's Angels. Certain runs, like the Hampshire  
5 road run, south run.

6 Shirts that said Santa Cruz, San Jose, San -- or  
7 Frisco.

8 We found next to the dresser, there's like a  
9 display case that had 15 rings that were related to Hell's  
10 Angels with death heads on them. We seized I think nine  
11 of those.

12 In one of the drawers, there was a bunch of like  
13 manila envelopes, kind of like your standard-size manila  
14 envelopes that had -- two of them were full of stickers,  
15 all Hell's Angels stickers with, you know, "Support your  
16 local Hell's Angels," death heads on them.

17 Another one had Hell's Angels patches. Some had  
18 some bandanas. We would found two -- I don't know what to  
19 call it -- a beanie or toboggan you put over your head  
20 that has a Hell's Angels on it. A hat with Hell's Angels  
21 on it.

22 A motorcycle in the garage that had the death  
23 head. Actually it was kind of a modified death head. It  
24 wasn't like your standard death head you'd see on the back

1 of their cuts. It had like a customized image of one.

2 Q And that was separate from the motorcycle at the  
3 scene?

4 A Correct. It was a different motorcycle. And  
5 that actually had -- I'm sorry. We found like -- I'm not,  
6 like I said, familiar -- I think they were either like  
7 crank case covers or like hard -- and there were Hell's  
8 Angels indicia on that.

9 I'm sure I left a few things out. A lot of  
10 stuff.

11 Rosters. Corporate agreements that stated things  
12 like, you know, the Hell's Angels owns the right to the  
13 name and the logo. You can't reproduce, you know, without  
14 permission and the club owns the name, stuff like that.

15 Rosters with all types of phone numbers and  
16 chapters.

17 That's all I can remember right now.

18 Q Yeah, that's pretty good. What about any  
19 correspondence in the room?

20 A Yeah. The correspondence, being like personal  
21 indicia?

22 Q Right.

23 A We found numerous items of personal indicia.  
24 Kaiser bills. His wallet with his driver's license was in

1 the bedroom. I remember there was a medication bottle. I  
2 don't remember the prescription, but it has his name in  
3 there. There is actually -- I have a photograph of it.  
4 I'm sure it's in there, but the whole box is just full of  
5 bills and whatnot in the room.

6 Q Indicating that the room is Villagrana's room?

7 A Correct. And while he was there, Mr. Villagrana  
8 did tell me that was his bedroom.

9 Q Okay. And he was there at the house when you got  
10 there?

11 A Yes. He actually answered the door.

12 Q Now let's talk about other evidence. One clause  
13 in the search warrant allowed for the searching for  
14 computer-related things. Did you end up recovering some  
15 CDs?

16 A We did. In the top drawer of the dresser, there  
17 was -- where the manila envelopes were located, there was  
18 a Crown Royal bag, the purple felt Crown Royal bag.  
19 Inside there were -- we counted 26 compact disks. We  
20 seized them at the time.

21 My partner, I believe the next day, on the 18th  
22 or maybe later that day -- I don't recall -- actually  
23 started playing them in his computer, trying to see what  
24 they were.

1 Q And the search warrant allowed for this?

2 A Absolutely.

3 Q What was discovered on those -- some of those  
4 CDs?

5 A I want to say only a handful, maybe five, six to  
6 ten actually would play in the computer, but we started  
7 finding grand jury testimony, transcripts from the  
8 Laughlin shooting. Video surveillance, like the camera  
9 footage from the Laughlin shooting with -- looked like  
10 suspects from the ATF investigation.

11 Looked like a Las Vegas After Action Reports.  
12 ATF reports documenting CI activities, what CIs were doing  
13 at this certain time, actually reporting what was  
14 occurring.

15 Either a undercover wire or a wiretap -- what  
16 appeared to me to be an undercover wire or a wiretap  
17 transcript. And photographs, looked like surveillance  
18 photographs.

19 Expert test -- or excuse me. Like experts, when  
20 they have their CV, what they'll testify to, things like  
21 that. The actual CVs for some of the experts and just a  
22 lot of notes from ATF.

23 Q Do you remember -- the subject of the CDs you  
24 were just talking about, do you remember the subject and

1 the expertise of those --

2 A Yeah. You know, I can't recall with them not  
3 being in front of me, the actual names of the actual  
4 people that were being called, but it was what they were  
5 supposedly going to testify to, that the Hell's Angels  
6 were a worldwide organization and how the members -- and  
7 how they're structured.

8 And each one of them listed like -- you know, the  
9 guy was an officer, had been an officer for 20 years. He  
10 had this kind of expertise in motorcycles, kind of like  
11 you see on a typical CV for an officer.

12 Q Now, you were also looking for evidence related  
13 to firearms. Did you find any firearms-related evidence?

14 A Oh, we found a holster.

15 Q Now, the firearm that was found on the scene, did  
16 you eventually secure a DNA from Villagrana in the course  
17 of the case and compare it or have it forensically  
18 compared to anything that might be on the gun?

19 A Yes.

20 Q What was the result of that?

21 A It was -- I would -- I'm not a scientist --  
22 overwhelmingly that Mr. Villagrana's DNA was on the gun.

23 Q And eventually, in fact, there was a plea entered  
24 in that case by Mr. Villagrana; is that right?

1 A The case is closed and he was convicted.

2 Q Right. And you in fact provided a copy of -- you  
3 printed off some of the documents from that case which are  
4 attached to the opposition that was mentioned by Mr. -- I  
5 don't know if Mr. Schonfeld or Chesnoff offered this now.

6 A Yes.

7 Q You provided those, right?

8 A I gave those to you, yes.

9 Q And where did you get the -- these are court  
10 minutes or print-offs from a court website.

11 A Those are from a program called Open Access,  
12 which just basically tracks court cases in Santa Cruz.  
13 Officers have a secure password. You can go in, you can  
14 pull up court cases, print minutes and stuff like that.  
15 So I personally printed those.

16 THE COURT: Where do those exist?

17 MR. STEGE: Where do they exist?

18 THE COURT: Right. Are they an exhibit?

19 MR. STEGE: No.

20 MR. HALL: Yes.

21 MR. STEGE: I'm sorry.

22 MR. HALL: They're an exhibit attached to his  
23 opposition to their motion to suppress.

24 MR. STEGE: Right, which was filed Monday --



1 THE COURT: Okay. Thank you.

2 MR. STEGE: Because of the --

3 THE COURT: Yes.

4 MR. STEGE: If those are an exhibit, I'm going to  
5 not have them -- not marked and admitted, if that's okay  
6 with the defense and the Court.

7 MR. HALL: Just go ahead and have them marked.

8 THE COURT: I think you better, because if you  
9 want me to look at it today, I don't have it.

10 MR. HALL: We're going to go ahead and have it  
11 marked, Your Honor. Thank you.

12 MR. STEGE: In the meantime, could I approach the  
13 witness with some other exhibits?

14 MR. CHESNOFF: Just for the record, Your Honor, I  
15 was able to see those pictures, but I'm not sure that we  
16 actually had those pictures, but we may. They weren't  
17 attached. They're different than the exhibits that --

18 MR. STEGE: I'm not sure all these were attached,  
19 but I know they were a part of discovery.

20 THE COURT: So they weren't attached to the  
21 motion as ordered, but they have been disclosed.

22 MR. STEGE: They've been disclosed, and it's --

23 THE COURT: Didn't we have a conversation about  
24 that right after lunch?

1 MR. STEGE: Yes, Judge.

2 THE COURT: Okay.

3 MR. CHESNOFF: I would move to --

4 THE COURT: Which ones did you not have?

5 MR. CHESNOFF: I can compare them.

6 (Discussions off the record.)

7 MR. CHESNOFF: Your Honor, we've identified the  
8 ones that we had attached, and we've identified the ones  
9 we don't have.

10 THE COURT: Okay.

11 MR. STEGE: Well, if I'm not incorrect, it's N-1,  
12 2, 3, 6, and 7.

13 THE COURT: N-1, 2, 3, 6, and 7?

14 MR. STEGE: Yeah, based on our --

15 THE COURT: The reporter can't hear you,  
16 Mr. Stege.

17 MR. STEGE: Based on the quick and dirty  
18 comparison that we just did.

19 MR. CHESNOFF: I don't know what that means, but  
20 I know that I identified the one -- I try never to do  
21 anything quickly and certainly not dirty, Your Honor.

22 I identified four photos that we did have, and  
23 the balance we've never had. And I move that they not be  
24 admitted based on the violation of the order.

1 THE COURT: May I see them, please.

2 MR. STEGE: I'll object to the characterization  
3 that they never had them, that they said they never had  
4 them.

5 THE COURT: And it's your representation,  
6 Mr. Stege, that these photographs were provided during  
7 discovery, but you failed to attach them to the motion.

8 MR. STEGE: Yes.

9 THE COURT: Right? You're agreeing to that?

10 MR. CHESNOFF: Yes.

11 THE COURT: I'm excluding them. I can't go any  
12 further.

13 This afternoon, right after lunch, I gave you  
14 every opportunity. Correct your record. Supplement it.  
15 Give them everything. I'm tired of it.

16 Now we are at a quarter to 5:00 and I'm getting  
17 six new photographs. Gentlemen, get your case organized.

18 Those are excluded. The ones you did not provide  
19 previously.

20 MR. STEGE: We'll introduce the other group that  
21 they just --

22 THE COURT: Right. Those are fine.

23 MR. STEGE: Are they admitted?

24 THE COURT: Any objection to the admission?

1 MR. CHESNOFF: Other than for the constitutional  
2 reasons, the result of the search, Your Honor.

3 THE COURT: Right.

4 (Exhibit Nos. N-1, N-2, N-3, N-6,  
5 and N-7 admitted.)

6 MR. HALL: May I publish these?

7 THE COURT: I'm sorry?

8 MR. STEGE: May I publish these exhibits, Your  
9 Honor?

10 THE COURT: Yes, you may.

11 BY MR. STEGE:

12 Q What's in N-1? Can you see that?

13 A Oh, yeah. Not good but --

14 THE COURT: You can get down if you would like,  
15 if it would be easier.

16 BY MR. STEGE:

17 Q Have you join me down here.

18 A Okay.

19 THE COURT: Yes. And set it up so I can see it.

20 BY MR. STEGE:

21 Q Describe what we're seeing here and --

22 A This is a picture of the motorcycle that was down  
23 on Soquel Avenue, or excuse me, Soquel Drive in Aptos.  
24 Kind of missed it, but the front is wrecked and these

1 are -- you can see --

2 THE REPORTER: I'm sorry, I can't hear you.

3 THE WITNESS: I'm sorry.

4 (Discussion off the record.)

5 THE WITNESS: The front is wrecked. It's lying  
6 down here on Soquel Drive. You can see three stickers  
7 right here. I don't know what part of the bike. Like I  
8 said, I'm not very familiar with motorcycles, but the top  
9 of the bike. You can clearly see a death head here.  
10 There's a death head here. I believe it says Hell's  
11 Angels San Jose on that sticker. There's red there.

12 The not picture is not clear, but it's -- at  
13 least in this one, but that is a Hell's Angels sticker.

14 BY MR. STEGE:

15 Q Do you want to look at the actual exhibit? It's  
16 a little out of focus for some reason --

17 MR. HALL: Excuse me, Your Honor. Before we  
18 proceed, here's a copy of all the photographs which you've  
19 already admitted as Exhibit D that contains all the  
20 photographs that he's talking about. So that was admitted  
21 at the last hearing.

22 MR. CHESNOFF: Those were admitted. At the time  
23 you were allowing them not -- you were allowing them to  
24 violate the order because -- this was -- those are with.

1 Gil-Blanco, Your Honor. I mean --

2 MR. HALL: Well, how many times do we have to  
3 give them the photographs -- I'm sorry, Your Honor, I  
4 apologize. I'm just trying to indicate that we have  
5 provided discovery. They've had an opportunity to review  
6 them. They've been in evidence. They have all the  
7 photos.

8 THE COURT: Okay. The clerk doesn't show  
9 Exhibit D admitted.

10 THE CLERK: It's marked.

11 THE COURT: It was marked at the last --

12 MR. HALL: It was marked. I move for its  
13 admission, Your Honor.

14 THE COURT: It was marked at Mr. Gil-Blanco, and  
15 it wasn't admitted.

16 MR. HALL: Well, I move for admission of all of  
17 the evidence that we have marked today.

18 THE COURT: Okay. Wait a minute. You can't stop  
19 the witness in the middle of his testimony, stand up,  
20 throw an exhibit at me, and say, Judge, you admitted this  
21 before, how many times do we have to give him this  
22 information? Why do we have to do that?

23 Mr. Hall, you can't do that. You have got a  
24 witness here testifying. It's ten minutes to 5:00. Let

1 the witness finish.

2 MS. CHESNOFF: And, Your Honor, it's not his  
3 witness.

4 THE COURT: Right, I agree.

5 MR. STEGE: May I see that exhibit that we were  
6 just talking about?

7 THE COURT: Okay. No, I'm sorry. You know --  
8 we're in recess.

9 (Proceedings concluded at 4:50 p.m.)  
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1 STATE OF NEVADA )  
2 )  
3 COUNTY OF WASHOE )  
4

5 I, STEPHANI L. LODER, Certified Shorthand  
6 Reporter of the Second Judicial District Court of the  
7 State of Nevada, in and for the County of Washoe, do  
8 hereby certify:

9 That I was present in Department No. 4 of the  
10 above-entitled Court and took stenotype notes of the  
11 proceedings entitled herein, and thereafter transcribed  
12 the same into typewriting as herein appears;

13 That the foregoing transcript is a full, true  
14 and correct transcription of my stenotype notes of said  
15 proceedings.

16 DATED: At Reno, Nevada, this 24th day of  
17 January, 2013.

18 /s/ Stephani L. Loder  
19 STEPHANI L. LODER, CCR No. 862  
20  
21  
22  
23  
24



4/2

1 Code No. 4185

2  
3 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
4 IN AND FOR THE COUNTY OF WASHOE  
5 THE HONORABLE CONNIE J. STEINHEIMER, DISTRICT JUDGE

6 -o0o-

7 STATE OF NEVADA,	)	
	)	Case No. CR11-1718A
8 Plaintiff,	)	CR11-1718B
	)	
9 vs.	)	Dept. No. 4
	)	
10 CESAR VILLAGRANA and	)	
11 ERNESTO GONZALEZ,	)	
	)	
12 Defendants.	)	
_____	)	

13  
14 TRANSCRIPT OF PROCEEDINGS

15 Evidentiary Hearing

16 Monday, January 14, 2013

17 Reno, Nevada

18  
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23  
24 Reported By: SUSAN CULP, CCR No. 343

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ERNESTO GONZALEZ

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1 RENO, NEVADA, MONDAY, JANUARY 14, 2013, 10:36 A.M.

2 -oOo-

3  
4 THE COURT: This is the time set for continued  
5 hearings.

6 Mr. Hall?

7 MR. HALL: Thank you, Your Honor. We are going to  
8 call -- re-call, Jeff Colbert.

9 THE COURT: Sir, you're still under oath. Go ahead  
10 and retake the stand.

11 THE WITNESS: Yes, ma'am.

12 MR. SCHONFELD: Your Honor, for the record the  
13 exclusionary rule is still invoked? The rule of exclusion is  
14 still invoked.

15 THE COURT: Yes, it is. Rule of exclusion is still  
16 invoked. Counsel for all parties be sure to notify your  
17 witnesses of the ramifications of the rule. The Court will  
18 post it, I believe.

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

1 JEFFREY COLBERT,  
2 having been previously duly sworn, was examined  
3 and testified as follows:  
4

5 DIRECT EXAMINATION

6 BY MR. HALL:

7 Q All right. Perhaps I should start there. Detective  
8 Colbert, are you familiar with the rule of exclusion?

9 A Yes.

10 Q So, do you understand that you cannot discuss your  
11 testimony with any other witness or any other person that may  
12 be a witness in this case?

13 A Yes.

14 Q Sir, to get started, I would like to discuss your  
15 curriculum vitae. You indicated earlier you're currently  
16 employed with the Kern County Sheriff's Office; is that  
17 correct?

18 A Yes, sir.

19 Q All right. Obviously this case deals with the Vagos  
20 outlaw motorcycle gang and the Hells Angels outlaw motorcycle  
21 gangs.

22 Before we get into your testimony into your  
23 investigation of Michael Pena and the stabbing of Roger  
24 Vialano, I would like to go through your formal training and  
25 courses that you had with respect to being an expert witness of

1 gangs and other expertise that you've gathered during the  
2 course of your tenure as a police officer.

3 So if we can just walk through that. I notice that on  
4 September 15th of 2005, there was a Kern County Fair update on  
5 gangs; is that correct?

6 A Yes.

7 Q And what types of gangs were discussed at that time?

8 A All the gangs we run across in Kern County and any  
9 gangs in particular, outlaw motorcycle gangs being one of them,  
10 turf gangs, tagger gangs, Bloods and Cripps.

11 Q Is your microphone on?

12 THE COURT: It doesn't look like it.

13 BY MR. HALL:

14 Q And you indicate that you attended a national gang  
15 conference, National Gang Violence Conference 2007; is that  
16 correct?

17 A Yes.

18 Q You had a Gang Criminal Intelligence and Terrorist  
19 Conference in August of 2007?

20 A Yes.

21 Q Now, a Death Investigation Conference in November of  
22 2007, did that have anything to do with the outlaw motorcycle  
23 gangs?

24 MR. DOGAN: Objection, leading.

25 THE COURT: Overruled.

1 THE WITNESS: I don't believe so. It was a general  
2 homicide-type investigation course.

3 BY MR. HALL:

4 Q All right. Going forward then to GET training,  
5 Gangs/GET Training in January of 2008. What type of training  
6 was that?

7 A Again, gang updates, gang endorsement team which I was  
8 a member of. I believe I taught that class as far as being in  
9 a gang suppression unit to our part-time gang guys.

10 Q All right. And then later that year, in July, the  
11 National Gang Violence Conference, can you tell us a little bit  
12 about that?

13 A What dates were they?

14 Q That was the National Gang Violence Conference was  
15 July 29th of 2008.

16 A Yes, sir. It had been the yearly California Gang  
17 Investigators Association Conference. It's a week-long  
18 conference, and all aspects of gangs are covered, different  
19 classes, different instructors.

20 Q All right. And are outlaw motorcycle gangs discussed  
21 during that conference?

22 A Yes.

23 Q Then moving forward to gang investigation, I think  
24 that's an advanced course in February of 2010?

25 A Yes.



1 Q Were outlaw motorcycle gangs addressed at that  
2 conference?

3 A Yes. That was Advanced Gang Investigators School put  
4 on by San Diego Regional Investigative Training Facility.  
5 Outlaw motorcycle gangs was probably, I'd say, 20 percent of  
6 it, the rest of it was search warrants and gang investigations,  
7 higher-end gang investigations.

8 Q And subsequent to that in March of 2010, there was a  
9 gang training seminar. Can you tell us us about that?

10 A I went to a couple offered by the California  
11 Department of Justice. I believe those were it. There were  
12 several that were, say, two-day-long, three-day-long  
13 conferences that were offered by different organizations, one  
14 being the California Department of Justice, and all gang  
15 aspects were covered, outlaw motorcycle gangs, usually in each  
16 one.

17 Q All right. And the next course was Recovering  
18 Skinhead and Extremist Tattoos. What groups or gangs did that  
19 conference discuss?

20 A It was mostly white supremacist gangs, Skinheads,  
21 Nazi-type gangs.

22 Q Then subsequent to that in August of 2010, the Outlaw  
23 Motorcycle Gang Update, who presided or who taught that course;  
24 do you know?

25 A I don't recall. Again, I think it was the California

1 Department of Justice.

2 Q There was one additional one, it was put on by ATF.

3 Q Now, during those types of courses, would you discuss  
4 the Hells Angels and/or Vagos as well as other motorcycle  
5 gangs?

6 A Yes.

7 Q And was one of the topics that would be discussed be a  
8 specific rivalry as to the gangs?

9 MR. SCHONFELD: Your Honor, I'm going to object at  
10 this point. It's leading.

11 THE COURT: Overruled.

12 THE WITNESS: Yes.

13 BY MR. HALL:

14 Q Then in 2011, you have psychological aspects of gangs  
15 and gang membership. Did that have anything to do with the  
16 Vagos or the Hells Angels or all the gangs in general?

17 A Most trainings will cover each gang or types of gangs,  
18 your Cripps or Blood gangs, your turf gangs, and our outlaw  
19 motorcycle gangs. So I believe so.

20 Q Now, with respect to your training and experience, you  
21 are are a former field training officer; is that correct?

22 A Yes.

23 Q Tactics instructor, and in 2004, you were recognized  
24 as a gang expert?

25 A I believe that was the first time that I testified as

1 an expert, yes.

2 Q And I think we discussed that briefly during your  
3 prior testimony. Did that have to do with the outlaw  
4 motorcycle gangs or was that with different gangs?

5 A My first time was a Hispanic turf gang in a small  
6 town. I then ventured out and testified on all different type  
7 of gangs, one of which being outlaw motorcycle gangs.

8 Q You indicated you were a member of the gang  
9 suppression section; is that correct?

10 A Yes.

11 Q Can you tell us us about your involvement in the gang  
12 suppression section as far as what they do?

13 A We are a full-time gang unit, and we gather  
14 intelligence, any type of gang suppression, conduct search  
15 warrants, surveillance, undercover operations, anything that's  
16 required as far as gang recognition, suppression, and one of  
17 which would be our yearly fair we have which is 14 days long.  
18 Every year we are at the fair every single day, identifying and  
19 basically keeping an eye on the gang members to reduce the gang  
20 violence between rivalries in a small area.

21 Q You've been with the sheriff's office in Kern County  
22 your entire career?

23 A Yes.

24 Q And what is the population of Kern County?

25 A I don't even know.

1 Q Do you know what the population of Bakersfield is?

2 A I don't know. It's a lot.

3 Q Is it bigger than Reno?

4 A Yes.

5 Q Probably -- okay.

6 Do you have outlaw motorcycle gangs, a presence in the  
7 Kern County area?

8 A Yes.

9 Q All right. Can you tell us about your personal  
10 experience with outlaw motorcycle gangs in your area during the  
11 course of your career as a police officer?

12 A My particular experience has been basically with the  
13 outlaw motorcycle gangs, the Hells Angels, the Vagos, and the  
14 Mongols. Most of which my contacts and my working in the gang  
15 unit was with the Hells Angels just because we had a bigger  
16 showing of Hells Angels. Our Mongols stay pretty quiet. They  
17 don't move a whole lot, and there's not very many of them.

18 The Hells Angels, when I started the gang unit, did  
19 not have an official chapter in Bakersfield, and to my  
20 knowledge still don't. Received information that just didn't  
21 have the numbers, but, however, a few of them started wearing  
22 the Bakersfield tab.

23 My dealings with Vagos were more towards late 2009  
24 early 2010, the Vagos basically would come into town  
25 sporadically and you would see them, every once in a while, but

1 they didn't have a real presence until that time, and they just  
2 started showing up places in numbers. This obviously was a  
3 conflict. We had several potential fights at bars between not  
4 only our Hells Angels support clubs, which would be the  
5 Bakersfield Bastards, the Red and White club between them and  
6 the Vagos, but other Hells -- or Red and White supporters with  
7 the particular Vagos who basically showed up overnight.

8 We regularly conduct surveillance on these subjects  
9 for -- at runs, at bike shows, at preplanned events, things  
10 like that.

11 Q So, you were familiar with some of the characteristics  
12 of the Vagos and the Hells Angels?

13 A Yes.

14 Q And what would some of those characteristics that  
15 you're familiar with be?

16 A As far as by characteristics --

17 Q Well, do they have common practices both the Vagos and  
18 Hells Angels would follow in terms of the way they dress, the  
19 way they act, the things they do?

20 A Yes. My experience with the Hells Angels would be  
21 they wear red and white. Obviously. When they would be in  
22 their cuts or their patches, they would usually be at minimum  
23 two or three guys. You would rarely see them alone flying  
24 their cuts.

25 Vagos, same thing. You would rarely see the Vagos

1 alone. They would have at least two, say a full-patch and a  
2 prospect or a full-patch and a hang-around, things like that.

3 The Vagos would wear the green color. You would also  
4 see more of the Vagos and once they would patch up, I notice  
5 they would almost immediately start getting their tattoos  
6 either shaded in green or getting green added to their tattoos.  
7 Actually spoke to a Vagos member who's no longer a member about  
8 that.

9 Have like a -- somewhat, at least in town, a pack  
10 mentality. There would also be several. If you saw one, you  
11 saw several if they were in their cuts. They would do things  
12 together, like on runs together, parties together, go to  
13 restaurants and bars together, bike nights together. The bike  
14 show they would go together, have a booth, support booth  
15 selling merchandise.

16 Q Is there an initiation process to get into the club  
17 that is similar to both clubs?

18 A Yeah.

19 Q Or characteristic of both clubs?

20 A Yes. Based on my training and experience and several  
21 hours of training I've attended regarding outlaw motorcycle  
22 gangs, it would be similar as far as, you know, you're a  
23 hang-around, you're recognized, you're later asked to be a  
24 prospect, you start prospecting for -- depending on what club,  
25 either predetermined state of time or until your prospect is

1 done by your charter and then you patch up.

2 Q Is the hierarchy of the club similar to the -- with  
3 respect to the Hells Angels and the Vagos?

4 A Yes. You have your officers, you have your  
5 hang-arounds, your prospects. Very organized as far as -- at  
6 least my training and experience, both clubs are very organized  
7 as far as their structure, their chain of command, their  
8 written set of rules.

9 Q Are you familiar with the types of crimes that either  
10 one of those clubs commit?

11 A Yes.

12 Q And what types of crimes would they commit?

13 A Anywhere between the simple assaults on rivals to all  
14 the way up to committing murder against a rival, anywhere in  
15 between. I spoke to one individual regarding a -- that certain  
16 clubs have their specialties, like one club may have --

17 MR. SCHONFELD: Your Honor, if I may reserve objection  
18 to the hearsay, we haven't had an opportunity to cross-examine  
19 him on his background, and the Court hasn't yet ascertained  
20 whether or not he will be admitted as an expert, so we can  
21 reserve objection in the event he is not admitted as an expert,  
22 this would be hearsay.

23 THE COURT: Okay.

24 MR. DOGAN: I join in that objection, Your Honor.

25 THE COURT: Okay. You may answer.

1 THE WITNESS: I forgot the question now. Sorry.

2 BY MR. HALL:

3 Q We were talking about the types of crimes that Hells  
4 Angels and Vagos would commit. You said it was anywhere from  
5 simple assault up to murder, and then you were going to expound  
6 on that theme.

7 A Yes. Different clubs have their, what I've been told,  
8 is the specialties. You have clubs that are -- members that  
9 are better at the -- you know, the  
10 business-protection-extortion-type crimes. The -- you have  
11 your dope runners, your narcotics ends of it, your weapons end  
12 of it. You have your chapters that are not necessarily better,  
13 but they deal in more stolen property, stolen motorcycles,  
14 things like that.

15 Q All right. How about weapons? Do you know anything  
16 about the propensities for either Vagos or Hells Angels to  
17 carry weapons?

18 A Yes.

19 Q Can you tell us about that?

20 A You really find outlaw motorcycle gang members, both  
21 the Vagos and Hells Angels, armed. It's not a fact of if  
22 there's a knife, it's where your knife is. At minimum, you  
23 have members armed with a knife between pocket knives clipped  
24 on the outside of the cut or up to large Bowie-style knives on  
25 the hip in plain sight. Also, the long D-cell flashlights,



1 I've seen those, see them carry them in the middle of the day.  
2 Ball-peen hammers, wrenches, the get-back whips that are on the  
3 bikes. The long whips with the lead in the -- classified as a  
4 sling shot, all the way up to firearms.

5 I've seen several cuts during my tenure with the gang  
6 unit, search warrants, and things like that where the cut will  
7 actually have a holster sewn into it to store or carry a  
8 firearm.

9 Q Based upon your training and experience, are  
10 nonmembers allowed to fly colors or cuts of either the Vagos or  
11 the Hells Angels?

12 A No. The cuts would be property of, say, the Vagos or  
13 the Hells Angels. You don't get to wear anything or, say, have  
14 a death head, for instance, unless you've earned it. That  
15 would result in severe punishment up to death. You -- property  
16 of the club. Has to be issued. You have to earn it.

17 Q Now, there are other patches that can be earned as a  
18 member of the Vagos or the Hells Angels?

19 A Yes.

20 Q Or other patches that signify certain work or efforts  
21 on behalf of the respective clubs?

22 A Yes.

23 Q Or gangs?

24 A Yes.

25 Q Are you familiar with some of those?

1       A     Yes. Hells Angels in particular, the Filthy Few patch  
2     which you will -- I'll commonly see on members. The Dequiallo,  
3     I apologize, D-E-Q-U-E-L-L-O, I believe, I'm probably  
4     butchering that. The main ones that you'll see as far as the  
5     Hells Angels go.

6             The Vagos, I -- I don't recall what their act of  
7     violence-type patch is. I usually refer on the Vagos somebody  
8     with more expertise to have more dealings with them.

9       Q     Now, you indicated that there was a buildup,  
10    initially, I believe in your testimony last week, you testified  
11    that there was originally the Bakersfield area Kern County area  
12    was red and white?

13    A     Yes.

14    Q     And if I understood you correctly, that you're  
15    indicating that that was territory that belonged to the Hells  
16    Angels; is that fair to say?

17    A     It's fair to say. I believe it was unofficial, but  
18    they were the main presence in Kern County and Bakersfield.

19    Q     So what, if anything, do you know about territory that  
20    may or may not be claimed by either the Vagos or the Hells  
21    Angels?

22    A     In my experience dealing firsthand with it, when you  
23    have another rival club start to invade what they would  
24    consider their territory, their areas, it results in violence.  
25    It results in standoffs. I've seen several -- or at least --

1 at least two, I've been told of several more in Kern County,  
2 between the Hells Angels and the Vagos, most of which led up to  
3 my current case or my case that I'm here to testify on.

4 Q All right. So you're aware of a rivalry that existed  
5 between the Hells Angels and the Vagos?

6 A Yes.

7 Q And can you tell us how that rivalry was part of the  
8 problem that you have in Kern County?

9 A We would have -- for instance, one particular instance  
10 we had a large showing of Hells Angels and a large showing of  
11 Vagos at a bike show, at a bike event at the Kern County  
12 fairgrounds. I was told that the powers to be, I believe it  
13 was one which was Michael Pena on the Hells Angels side and the  
14 other one being a subject by the name of Knuckles, I apologize,  
15 I don't recall his real name right now, had met prior and said  
16 that they set boundaries as far as the fairgrounds go and that  
17 they were going to stay away from each other's booths, each  
18 other's members.

19 Information was that a couple of Vagos had wandered  
20 into an exhibit building that they shouldn't have been in.  
21 Hells Angels took offense to that, and then it started as far  
22 as a standoff. On the Hells Angels' side and the support club  
23 side, the red and white supporters, there was approximately 75  
24 to 100 members. Vagos, I would say between 50 and 80,  
25 conservatively, were standing off and getting ready to go at

1 it.

2 We had undercovers watching and videoing it,  
3 photographing it, and also calling in for additional resources  
4 at the time. And luckily, we were able to get a large team  
5 there of members from the gang unit from the Bakersfield Police  
6 Department, my department, and also patrol guys to stop the  
7 problem.

8 Ultimately in that instance, after talking to each  
9 club, a representative from each club, the Vagos chose to leave  
10 and to avoid the problem.

11 Q When was that? What was the date of that?

12 A I'd have to look it up. The homicide was in 2010,  
13 that was approximately either late 2008 or early-to-mid 2009,  
14 approximately. One of the main or starting events that started  
15 the major turmoil between the two, at least in Kern County.

16 Q All right. So there's -- when you said there were two  
17 factions, the Vagos and Hells Angels, correct --

18 A Yes.

19 Q -- just to summarize.

20 And you indicated there was a standoff and they were  
21 getting ready to -- I think you paraphrased and said get it on,  
22 something to that effect?

23 A Yes.

24 MR. SCHONFELD: I object on leading. The reason I'm  
25 standing up is none of this was introduced in the motion to

1 admit gang evidence nor do we have the reports related to the  
2 Kern County Fair incident that this witness testified to, and  
3 we ask it be --

4 MR. HALL: As a matter of fact, it was referenced in  
5 his report that there was a problem at the Kern County Fair.  
6 And we are also talking about him being an expert. We would  
7 like him recognized as an expert. He's got a lot to rely on,  
8 background training and experience we talked about, and this is  
9 part of the background training and experience he talked about  
10 to establish the rivalry. So we are not trying to have a trial  
11 on the fair. We are talking about the rivalry. And this is  
12 the basis for his opinion with respect to the rivalry and other  
13 things he's rendered an opinion on thus far.

14 MR. DOGAN: Your Honor, I would join that objection.

15 THE COURT: I understand that to be the case, but I  
16 also understand that my order ordered you to notify the defense  
17 of the experts and what the experts were going to testify to  
18 with specificity. And so if this was disclosed as one of the  
19 bases for his opinion, that's fine. If it wasn't, then that's  
20 what the objection is going to, is it was not previously  
21 disclosed. So when you say it was in his report, was there a  
22 report with regard to him as an expert?

23 MR. HALL: No. What we provided them, the defense  
24 with, their report from the investigation into the stabbing, a  
25 stabbing allegedly -- well, the stabbing committed by Michael

1     Pena. And I believe in that report he mentions there was an  
2     incident at the fairgrounds involving Michael Pena, and that  
3     there was a problem with Michael Pena and the Vagos, and then  
4     it escalated. That's my recollection.

5             THE COURT: And when you say you provided it to them,  
6     is it --

7             MR. HALL: That is an exhibit to my motion that we  
8     provided to the defense.

9             THE COURT: Is it the motion or addendum, do you know?

10            MR. HALL: It's the -- it was the motion and then the  
11     reports that I'm referencing were attached to the motion.

12            THE COURT: Do you remember what Exhibit Number?

13            MR. HALL: Exhibit 9.

14            MR. SCHONFELD: I would also note this witness wasn't  
15     named as the witness related to Exhibit Number 9. It talks  
16     about Jeffrey Simpson being expected to testify, Jorge  
17     Gil-Blanco expected to testify. It doesn't reference this  
18     witness. We got his curriculum vitae this morning to suggest  
19     that we were notified with specificity what this witness would  
20     testify. There's absolutely nothing in the record to  
21     demonstrate that.

22            MR. HALL: I believe I filed an addendum on Friday  
23     indicating that Mr. Colbert was going to testify.

24            If you recall, we addressed this issue last week when  
25     Mr. Colbert initially testified, we were going to call Officer

1 Damrun, and Officer Damrun was simply an officer that had  
2 initially responded, and then once we have the reports and we  
3 are trying to determine who was available, in preparation for  
4 the hearing, it was determined that Detective Colbert would  
5 have been a better witness with more expertise and more  
6 information. And I indicated that we did not have his  
7 curriculum vitae last time, so we got that, provided that when  
8 we got it this morning, and so here we are.

9 MR. SCHONFELD: It's demonstrative of the fact that we  
10 weren't placed on notice as to this particular instance of  
11 conduct that this witness is testifying to. The State wasn't  
12 aware of this witness being the appropriate witness, nor was he  
13 noticed as being an expert until they filed their addendum on  
14 Friday. But nowhere in the record is there any type of  
15 suggestion that this witness would be testifying related to  
16 incidents that occurred in late 2008 allegedly at the Kern  
17 County Fair.

18 MR. HALL: That's not necessarily true since we  
19 provided them with all the police reports, and as indicated  
20 last time Detective Colbert was here, his name was within the  
21 reports we provided them with reports. So they've had those  
22 reports for months now. So they are actually on notice of the  
23 information that Detective Colbert is providing.

24 MR. SCHONFELD: That was the issue we had last week,  
25 Your Honor. Something in discovery isn't noticed that is

1 required by way of this Court's order.

2 THE COURT: I do see Exhibit 9 does discuss this  
3 incident and it does discuss Deputy Colbert.

4 MR. SCHONFELD: Which exhibit, Your Honor?

5 THE COURT: The -- Mr. Pena.

6 MR. SCHONFELD: That's not what he's testifying to  
7 yet. He wants to testify regarding two specific instances:  
8 One is the Mr. Pena and the Oildale stabbing that we already  
9 heard other witnesses testify to, but what he just testified to  
10 is not the -- that instance of conduct. He testified that  
11 there's a Kern County Fair in late 2008 where, according to his  
12 testimony we just heard, Vagos members entered an area they  
13 agreed would be Hells Angels' area, and there was a  
14 confrontation that they were able to eventually cool off. And  
15 that's not in there.

16 THE COURT: You do not the have that incident in the  
17 police reports?

18 MR. SCHONFELD: I haven't seen it, Your Honor.

19 THE COURT: You thought it was Exhibit 9?

20 MR. HALL: Exhibit 9 is the reports that were compiled  
21 regarding the investigation of the stabbing of Roger Vialano by  
22 Michael Pena, and I believe in those reports, and perhaps  
23 Detective Colbert can tell us whether or not he referenced the  
24 fair ground incident as a basis for the rivalry that he knew  
25 existed between the Vagos and the Hells Angels. That's all we



1 are doing is laying a foundation for his knowledge of the  
2 rivalry between the Vagos and the Hells Angels.

3 THE COURT: Did you put it in your report?

4 THE WITNESS: I believe that particular incident is  
5 referenced somewhere in here. As far as a separate report  
6 being done for that incident, I believe there was one. It was  
7 just a surveillance of the videos and the photographs from it.

8 MR. HALL: May I approach the witness, Your Honor?

9 THE COURT: Yes.

10 MR. HALL: Counsel, just for your information I'm  
11 referencing page 29 of 82 in the police report.

12 THE COURT: Okay.

13 BY MR. HALL:

14 Q Have you had an opportunity -- I'm sorry, Your Honor,  
15 are you --

16 THE COURT: Page 29 of the Kern County Police Report.  
17 Is that what you're referring to?

18 MR. HALL: Yes, Your Honor. I can approach and show  
19 it to you just for convenience.

20 MR. SCHONFELD: I see it also.

21 MR. HALL: May I approach, Your Honor?

22 THE COURT: You showed counsel?

23 MR. HALL: Yes.

24 It's right there.

25 THE COURT: Okay. I'm going to overrule the

1 objection. You may answer the question.

2 MR. HALL: Thank you, Your Honor.

3 BY MR. HALL:

4 Q Detective Colbert, you were -- I had asked you whether  
5 or not you were aware of the rivalry that exists between the  
6 Hells Angels and the Vagos, and your basis for that. One of  
7 the bases for that, as the Vagos were building up their  
8 presence in the Kern County area was an incident at the  
9 fairgrounds. So I was asking you some questions about that,  
10 and the question I was posing was when you said that there was  
11 essentially a standoff and you called in reinforcements, what  
12 was the reason for calling in a reinforcement? What was your  
13 concern?

14 A The fact they were going to fight. We had members  
15 from either side putting their riding gloves on, members with  
16 their hands inside their vests, things like that. It looked  
17 like they were getting ready to have a battle.

18 Q Now, you indicated that it's -- your training and  
19 experience, or your experience at least, and I'm assuming  
20 training, that a lot of the Vagos and Hells Angels carry both  
21 concealed weapons and exposed weapons?

22 A Yes.

23 MR. DOGAN: Objection. Leading. Asked and answered.

24 THE COURT: I'm going to overrule it. I think it was  
25 a predicate to the next question.

1 THE WITNESS: Yes.

2 BY MR. HALL:

3 Q And were you concerned that this incident at the  
4 fairground was going to be a similar incident?

5 A Yes.

6 Q In terms of using deadly weapons to engage in a brawl?

7 A Yes.

8 Q Now, let's talk about the incident with respect to  
9 Roger Vialano and Michael Pena. Can you give us an overview of  
10 that particular case, please?

11 A Yes, sir. We had several similar incidents leading  
12 up, one of which was the night before our particular homicide,  
13 we had Hells Angels including Michael Pena, a hang-around by  
14 the name of Joseph Soto, and I believe one other that were at a  
15 local bar, restaurant called The Tilted Kilt. We had Bret  
16 Vialano, Roger Vialano, and one other Vago that showed up to  
17 The Tilted Kilt to have dinner, on their motorcycles, in their  
18 cuts, and they were basically run off by Pena.

19 There was a couple of incidents similar to, at prior  
20 bars, but that was the major one leading up to this homicide.

21 The day of the homicide, May 30th, 2010, started --  
22 the Vagos were having were at a club birthday party for a  
23 member named Jack Sealy. I believe he was the sergeant-at-arms  
24 at the time or one of the sergeants-at-arms. The County Line  
25 chapter had two. They were at a birthday party of one the

2239  
~~2240~~

1 Vagos. A particular County Line chapter named Knuckles -- I  
2 apologize, again, I don't have his name in front of me --  
3 received a call that Michael Pena, also known as Delano Mike  
4 from the town of Delano, was at the tattoo shop on North  
5 Chester Avenue which was a couple of blocks away by himself.

6 The Vagos then got on their motorcycles, and I believe  
7 also with one chase vehicle, a green truck, to go and confront  
8 Pena about the several acts of disrespect and to, according to  
9 the witness statements, squash things, to squash the ongoing  
10 feud.

11 It was as soon as the Vagos arrived, they started to  
12 park the motorcycles in front of the tattoo shop, they  
13 immediately began getting wrenches, helmets, rocks, any --  
14 anything readily available thrown at them while they were on  
15 the motorcycles. We had several members torn off the  
16 motorcycles and taken to the ground and a fight ensued between  
17 the two clubs.

18 We had at least two Hells Angels full-patch members,  
19 there also was a Hells Angel hang-around, and then several of  
20 the Bakersfield Bastards support club members, along with the  
21 County Line chapter Vagos.

22 THE COURT: I missed that. In addition you said there  
23 were Hells Angels, hang-arounds and several --

24 MR. HALL: Bakersfield Bastards.

25 THE WITNESS: I'm sorry, Bakersfield Bastards, they

1 are the local support club.

2 THE COURT: So it's a support club?

3 THE WITNESS: Yes.

4 THE COURT: You're munching your words a little bit at  
5 the end, so keep it up.

6 THE WITNESS: I apologize. Yes, ma'am.

7 THE COURT: Thank you.

8 THE WITNESS: The tattoo shop in particular is part  
9 owned by Michael Pena, a full-patch Hells Angels member and  
10 also part owned by Bakersfield Bastards members. It's known as  
11 basically the Bakersfield Bastards clubhouse where they keep  
12 the records, bylaws, the cuts, their everything.

13 The Vagos show up, again, beginning to get bombarded  
14 with helmets and other items, and the fight ensues.

15 Witness statements were from -- most of the witnesses  
16 that were there were members of some -- one of the clubs and  
17 invoked the code, did not want to talk. However, some did.  
18 The gist of the story was that the fight ensued and Michael  
19 Pena was standing over an older male by the name of Jack Sealy,  
20 a Vagos member sergeant-at-arms who's significantly older than  
21 Pena, I believe he was late 50s or early 60s, if I remember  
22 correctly, holding a knife. The prospect, Roger Vialano, who  
23 had been a prospect either 16 or 19 days, was the Vagos County  
24 Line sergeant -- the other sergeant-at-arms' son, Brad Pena,  
25 and pulled him off of the other Vago member.

1           The next thing was that reportedly Michael Pena  
2 stabbed Roger Vialano and he went down. They got him out of  
3 there, three Vagos members got Roger out of there. And then  
4 another full-patch Vagos member who was 72 years old at the  
5 time began calling Pena a coward and saying several derogatory  
6 remarks towards Pena. Pena then, as the 72-year-old Vagos  
7 member turned around, stabbed him in the back twice, one of  
8 which -- same hole but two wounds, one going in one way,  
9 partially pulling the knife out, and then it going in the other  
10 way.

11           The Vagos got out of there, the two injured Vagos  
12 members went to the hospital, one of which subsequently died.

13           It was later discovered that the prospect was armed  
14 with a firearm; however, it didn't get pulled during the  
15 incident.

16 BY MR. HALL:

17 Q       So that was Roger Vialano had a firearm in his vest?

18 A       It was still tucked away hidden in his cut.

19 Q       And did the Vago have a knife on him?

20 A       Yes, I believe it was a pocketknife.

21 Q       All right. And those items were recovered at the  
22 hospital?

23 A       Yes.

24 Q       And they were turned over by hospital personnel?

25 A       Yes.

1 Q All right. And now is it your opinion that the --  
2 what's your opinion with respect to the reason for this fight  
3 and the murder of Mr. Vialano?

4 A There were several.

5 MR. SCHONFELD: Your Honor, I object to the  
6 characterization of murder of Mr. Vialano. This went to a jury  
7 trial and Mr. Pena was found not guilty.

8 MR. HALL: Well, if homicide would be a better term,  
9 homicide, murder, whatever counsel would occur.

10 MR. SCHONFELD: It's not a murder; jury said it  
11 wasn't.

12 THE COURT: Was it a murder trial?

13 MR. HALL: Yes.

14 THE COURT: So the death of Mr. Vialano for now should  
15 use the word death, because we don't know if it was a homicide.  
16 Was he found guilty of any homicide?

17 MR. HALL: No, no. They asserted self-defense.

18 THE COURT: Okay. Well.

19 MR. HALL: We'll get into that.

20 THE COURT: Okay.

21 BY MR. HALL:

22 Q What was the reason for the fight, the stabbing?

23 A Based on -- based on other instances that occurred,  
24 you had a Vagos prospect that put his hands on a Hells Angel,  
25 one of which was reported are in the past say you don't ever

1 touch a Hells Angel. The Vagos went there, and depending on  
2 which way you look at that time, looking to talk or looking for  
3 trouble, however you look at it. The Hells Angels were ready  
4 for them, they ultimately got the upper hand in the deal, and  
5 one Vago died.

6 Q Would it be fair to say the action of the Vagos was in  
7 affiliation with the Vagos criminal gang?

8 A Absolutely.

9 MR. DOGAN: Objection. Leading.

10 THE COURT: Sustained.

11 BY MR. HALL:

12 Q Were the -- can you tell us, you've already testified  
13 there was a number of Vagos there, correct?

14 A Yes.

15 Q And there were a number of Hells Angels, and it was a  
16 fight, essentially, between the Hells Angels and Vagos; is that  
17 fair to say?

18 A Yes.

19 Q All right. And you testified that what was the --  
20 Catch your knee?

21 A I found the corner.

22 I'm a little taller.

23 THE COURT: Is the chair too high?

24 THE WITNESS: I'm okay. I'm kind of a mutant. I just  
25 don't fit very well. I'm fine.



1 BY MR. HALL:

2 Q All right. And would it be fair to say that the fight  
3 between those was an activity of the two criminal gangs?

4 MR. DOGAN: Objection. Leading.

5 MR. SCHONFELD: Objection. Leading. You already  
6 sustained a very similar objection.

7 THE COURT: Sustained.

8 BY MR. HALL:

9 Q Are you familiar with NRS 193.168?

10 A I'm not sure what that is.

11 Q All right. Let me tell you a little bit about it.  
12 That statute, in order to make a finding that the gang  
13 enhancement applies, there must be a finding that the crimes in  
14 this particular case, we are talking about the stabbings and  
15 the battery, were committed knowingly for the benefit of, at  
16 the direction of, or in affiliation with a criminal gang with  
17 specific intent to promote, further assist the activities of a  
18 criminal gang.

19 So do you have an opinion as to whether or not those  
20 activities are consistent with NRS 193.168 subsection 1?

21 MR. SCHONFELD: Your Honor, we object to the form of  
22 the question.

23 THE COURT: Sustained.

24 MR. DOGAN: I join.

25 ///

1 BY MR. HALL:

2 Q Do you have an opinion as to what the intent of either  
3 the Vagos or the Hells Angels were with respect to engaging in  
4 this fight and ultimate stabbing of the two Vagos?

5 A My opinion is --

6 MR. DOGAN: Objection. Asked and answered.

7 THE COURT: I don't know if it's asked and answered.  
8 Overruled.

9 A I'm good?

10 Okay. My opinion is the Vagos went there, again,  
11 depending how you look at it, either to squash this by fighting  
12 Mike Pena or to squash this by talking, however -- whatever the  
13 intent was to go there, the Hells Angels were ready for them.  
14 I believe the Vagos went there on behalf of a motorcycle gang,  
15 the Vagos, because of the ongoing acts and disrespect by the  
16 Hells Angels, more specifically, Mike Pena. I believe they  
17 went there as a group knowingly and with full intent or at  
18 least should have known that it would have resulted in a fight  
19 based on past acts between these two clubs. Also believe that  
20 the Hells Angels, being ready in numbers and according to  
21 reports, witness statements, began flowing out of this building  
22 from all angles, all sides, to jump on these Vagos as they rode  
23 up, again, on behalf of Hells Angels. You have the ongoing  
24 feud between the two, the struggle for the area, the stabbing  
25 itself, the credibility, and the absolute -- in gangs I would

1 say street credit, but in outlaw motorcycle gangs, it would be  
2 more fair to say your club credit, your -- the work you put in,  
3 your status, you're points built up. Whatever -- however you  
4 want to look at it.

5 Q Let me ask you a couple of more questions. Now would  
6 territory be something that the Hells Angels would want to  
7 protect, that Kern County area?

8 A Yes.

9 Q And that would be important for them to assert their  
10 presence either violently or otherwise --

11 MR. SCHONFELD: Object. Leading.

12 BY MR. HALL:

13 Q -- to send a message to other outlaw motorcycle gangs?

14 THE COURT: Sustained. The objection was sustained.

15 BY MR. HALL:

16 Q All right. What is the significance, if any, of a  
17 territory with respect to Hells Angels and Vagos?

18 A Just like any criminal street gang, you have your  
19 territories. It would be disrespectful to come into somebody  
20 else's territory.

21 More specifically outlaw motorcycle gangs, you have  
22 not only coming into your territory, but they are coming in  
23 flying their colors, flying their cuts. In my training and  
24 experience and after talking to several outlaw motorcycle gang  
25 members during this investigation, it would be absolutely

1 considered as basically a slap in the face by your rivals or by  
2 the other club, that being extremely significant in the ongoing  
3 turf war or the struggle for that particular area.

4  
5 Q Now, with respect to codes of conduct, would that be  
6 showing a disrespect?

7 A Yes.

8 Q And based upon your training and experience, how would  
9 either the Vagos or the Hells Angels respond to a showing of  
10 disrespect or a violation of the territorial areas claimed by  
11 the respective club be?

12 MR. DOGAN: Objection. Cumulative.

13 MR. SCHONFELD: I'm also going to object on  
14 foundation.

15 THE COURT: I'll overrule on foundation. I don't  
16 think it's cumulative. Maybe you meant compound.

17 MR. DOGAN: Yes, Your Honor.

18 THE COURT: I'll sustain on the grounds of compound.

19 BY MR. HALL:

20 Q Can you break that down into, first of all, with  
21 respect to code of conduct, based upon your training and  
22 experience, how would Vagos or Hells Angels respond to a  
23 violation of the code of conduct with respect to territory?

24 A You're expected to not only represent your particular  
25 charter, your territory, your turf, whatever you want to call

1 it. And I apologize, I haven't read the bylaws in quite a  
2 while since I left the gang unit, but I think it's actually  
3 written that you will back up your colors, back up your cuts,  
4 and your area being the same, that being a red and white area.  
5 And the Vagos showing up and not just being a red and white  
6 area anymore, it would be extreme disrespect toward the Hells  
7 Angels and viewed as such.

8 Q And then the Vagos' code of conduct with respect to  
9 the Vagos being an outlaw motorcycle gang, would they have to  
10 -- would they be able to assert their presence by an act of  
11 violence?

12 A Sure. Absolutely. You have the same thing. You have  
13 your Vagos, according to information that I received that were  
14 expanding their numbers, expanding their turf, expanding their  
15 area. Same thing, to show whose area it is. Or oftenly, the  
16 battles or feuds between these rival clubs or gangs will go to  
17 violence.

18 Q And that would be -- one of their codes of conduct  
19 would be to engage in violence based upon rivalry, and fight  
20 over their turf?

21 MR. DOGAN: Objection. Leading.

22 MR. SCHONFELD: Join.

23 THE COURT: Sustained.

24 THE WITNESS: Yes.

25 MR. SCHONFELD: Move to strike.

1 THE COURT: The answer is stricken. I sustained the  
2 objection.

3 THE WITNESS: I apologize. I'm sorry, judge.

4 THE COURT: That's okay.

5 BY MR. HALL:

6 Q Is your training and experience consistent -- let me  
7 rephrase the question.

8 Did you have an opportunity to examine some of the  
9 evidence that we have in the case at the Nugget?

10 A Yes.

11 Q All right. And you've testified earlier that you saw  
12 the standoff at the fairgrounds and are familiar with the fight  
13 between the Vagos and the Hells Angels; is that right?

14 A Yes.

15 Q Now, do you have an opinion as to whether or not the  
16 stabbing of the two Vagos contributed to an ongoing rivalry  
17 between the Hells Angels and Vagos?

18 A Yes.

19 Q And what is that opinion?

20 A That it was one of the -- not the first, but one of  
21 the first that we were all -- all the outlaw motorcycle gang  
22 investigators that I speak to, it was one of the first between  
23 the green and the red and white as far as the waging of war or  
24 however you want to say it, but the ongoing rivalry that's, to  
25 my knowledge, still in effect today between the Hells Angels