

1 Q One of the kits that was sent to Bode, was
2 that assigned Bode Case Number NVK1602-0474?

3 A Yes.

4 Q Okay. And that involved a victim
5 identified to you as Nadia Iverson?

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Elizabeth A. Brown
Clerk of Supreme Court

6 A Yes.

7 Q We just heard from one of your colleagues
8 who actually sampled the evidence, and the evidence was
9 vaginal swabs, rectal swabs and oral swabs. Is that
10 your recollection of the evidence that was analyzed by
11 Bode?

12 A Yes.

13 Q In this particular case what were the
14 findings with regard to the oral swabs? Was there any
15 kind of male DNA or foreign DNA found?

16 A So for the oral swabs we did not -- there
17 was no indication of any male DNA present.

18 Q And in terms of the vaginal swabs and the
19 rectal swabs what were the findings?

20 A For those two that we did find that there's
21 evidence of male DNA so then we took them forward to
22 generate a DNA profile off of those.

23 Q In terms of the vaginal swabs, were you
24 able to get a profile from those swabs?

25 A Yes.

1 Q And was it a male profile?

2 A From the sperm fraction it was a major male
3 profile that we obtained.

4 Q And at the time that Bode did the testing,
5 did you have a suspect profile or was that later done by
6 Metro or do you even know?

7 A So what happens whenever we receive these
8 cases, we'll get the result and we'll send it back to
9 our client. What they do with it at that point we
10 actually hardly ever know. So we did not have a suspect
11 profile or anything to compare it to at that point.

12 Q But Bode was able to generate a male
13 profile from the vaginal swabs; is that correct?

14 A Correct.

15 Q And it was also able to do that with the
16 rectal swabs as well?

17 A Correct.

18 Q Were the profiles of the male profile
19 between those two areas, the vaginal swabs and the
20 rectal swabs, consistent? Was it the same profile?

21 A The major male profile was the same in
22 both, correct.

23 Q Okay. And then once you have that profile,
24 you send it back to the Las Vegas Metropolitan Police
25 Department for further analysis if they want to do

1 anything with it?

2 A Right. Normally they get uploaded into a
3 database and searched is what usually happens.

4 Q But they would be the ones that have done
5 that?

6 A Yes.

7 Q Okay.

8 I have no other questions of this witness.

9 Thank you.

10 THE WITNESS: Yes.

11 BY A JUROR:

12 Q I might have just missed it but what is a
13 major male profile?

14 A So in this case we got what we call a
15 mixture of people so we can see that there's, Vegas is
16 pretty flat but you guys are around mountains as well,
17 so you're going to think of the major as mountains, but
18 you also see little bitty peaks kind of like hills, so
19 in this case I'm referring to the majority of the
20 profile was a male profile. Does that make sense?

21 Q Got it. Yes.

22 THE FOREPERSON: By law these proceedings
23 are secret and you are prohibited from disclosing to
24 anyone anything that transpired before us including any
25 evidence presented to the Grand Jury, any event

1 occurring or a statement made in the presence of the
2 Grand Jury or any information obtained by the Grand
3 Jury.

4 Failure to comply with this admonition is a
5 gross misdemeanor punishable up to 364 days in the Clark
6 County Detention Center and a \$2,000 fine. In addition
7 you may be held in contempt of court punishable by an
8 additional \$500 fine and 25 days in the Clark County
9 Detention Center.

10 Do you understand this admonition?

11 THE WITNESS: Yes.

12 THE FOREPERSON: Thank you. You're
13 excused.

14 MR. PESCI: State calls Ken Hefner.

15 THE FOREPERSON: Please raise your right
16 hand.

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

21 THE WITNESS: I do.

22 THE FOREPERSON: Please be seated.

23 You're advised that you're here today to
24 give testimony in the investigation pertaining to the
25 offenses of murder with use of a deadly weapon and

1 sexual assault with use of a deadly weapon involving
2 Arthur Sewall.

3 Do you understand this advisement?

4 THE WITNESS: Yes.

5 THE FOREPERSON: Please state your first
6 and last name and spell both slowly for the record.

7 THE WITNESS: My name is Kenneth Hefner,
8 K-E-N-N-E-T-H, Hefner is H-E-F-N-E-R.

9
10 **KENNETH HEFNER,**

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

14
15 **EXAMINATION**

16 BY MR. PESCI:

17 Q Sir, what do you do for a living?

18 A I'm a cold case investigator for the Las
19 Vegas Metropolitan Police Department.

20 Q And how long have you been in that
21 capacity?

22 A Three years.

23 Q Prior to those three years had you retired
24 from the Metropolitan Police Department?

25 A Yes.

1 Q When you retired from Metro what was your
2 detail?

3 A At the time of my retirement I was working
4 in the counterterrorism section, but the bulk of my
5 investigative career was spent in the homicide section.

6 Q Now, the cold case section that you're in
7 now, tell us a little bit about that. How does that
8 work?

9 A We investigate cases that are cold. Cold
10 means that the originally assigned investigators are no
11 longer available either through transfer, promotion,
12 retirement or whatnot. When leads develop in these old
13 cases we pick them up and run with them.

14 Q Okay. And in your capacity in that
15 position, did you come across a case that was actually
16 from May of 1997 involving Nadia Iverson?

17 A Yes.

18 Q And did you work this case with another
19 detective from the same detail, a Dean O'Kelley?

20 A Yes.

21 Q When you came across this case, did you
22 have someone that you were looking at to be a possible
23 suspect?

24 A Yes.

25 Q And then in the course of your

1 investigation did you in fact have surveillance run on
2 an Arthur Sewall?

3 A Yes.

4 Q Did you want to kind of figure out his
5 comings and goings and where he was working and things
6 of that nature?

7 A Right.

8 Q And also were you attempting to obtain a
9 DNA sample?

10 A Yes.

11 Q Was that because you had DNA samples or you
12 had DNA evidence in this case?

13 A Well, we had both. We had a DNA sample
14 that was provided by another agency and we cannot lay
15 our hands on all the background with that, and then we
16 had DNA evidence we wanted to compare to in our own
17 system. And so having another sample provided by Metro
18 personnel for the Metro lab to work with is a more
19 direct process.

20 Q Okay. And so to enable you to get that,
21 did you have the surveillance team follow Mr. Sewall to
22 be able to try to obtain a DNA sample?

23 A Correct.

24 Q And was a sample obtained by way of some
25 chewing tobacco that was spit out?

1 A Yes.

2 Q Specifically was there a surveillance team
3 that followed him back in April of 2017 that alerted you
4 that they had recovered from him having spit on the
5 ground some chewing tobacco?

6 A Yes.

7 Q Did you personally on April the 12th of
8 2017 obtain that chewing tobacco that had been obtained
9 from the defendant after he spit it out by the
10 surveillance team?

11 A Yes, I did.

12 Q And then that sample did you impound into
13 evidence?

14 A Yes.

15 Q And once it gets impounded into evidence,
16 later on the scientist can call up the evidence and test
17 it; is that correct?

18 A Correct.

19 Q Okay. I want to fast forward from April of
20 2017 and go to January of 2018, specifically the 11th.
21 Did you have contact with Arthur Sewall?

22 A Yes.

23 Q Where was that at?

24 A At the Reno Police Department interview
25 room.

1 Q Okay. And originally, however, was there
2 contact made with him outside of the police department?

3 A Yes, we made contact with him as he was
4 returning home from work and asked if he would agree to
5 voluntary accompany us to back to the Reno Police
6 Department where we could talk with him.

7 Q Did he agree to voluntarily go with you?

8 A Yes.

9 Q And at that point had you discovered that
10 he was working up in Reno?

11 A Well, we knew that beforehand through some
12 research and stuff and we were waiting for the time that
13 we thought he'd be coming home from work which was true
14 to form for him.

15 Q Okay. And then were you a part of the
16 interview of Mr. Sewall?

17 A Yes.

18 Q Was this done in a room where there was
19 video surveillance?

20 A Yes.

21 Q And was that interview recorded?

22 A Yes.

23 Q Did you provide a copy or did you obtain a
24 copy from the Reno Police Department?

25 A Yes.

1 Q And that's made a part of this case?

2 A Correct.

3 Q In the course of that interview, was a
4 buccal swab sample obtained from the defendant?

5 A It was.

6 Q What's a buccal swab?

7 A Basically it's an oversized Q-Tip with a
8 wooden stick and it's rubbed on the inside of the cheek
9 and that's where we obtain the DNA sample. It's the
10 best technique we've come up with so far.

11 Q Did you personally obtain that?

12 A Yes.

13 Q You went through the process that you just
14 spoke of as far as swabbing the inside of Mr. Sewall's
15 cheek?

16 A Well, he swabbed the cheek himself but
17 right there we handed him the swab, he did it, we took
18 it back from him and impounded it.

19 Q Let me ask you this, did you have a search
20 warrant that authorized you to obtain that as you went
21 into this interview?

22 A Yes.

23 Q Setting aside the search warrant or in
24 addition to the search warrant, did Mr. Sewall
25 voluntarily provide you his buccal swab?

1 A He did.

2 Q I think you just described it, he
3 personally actually did the swab?

4 A Correct.

5 Q Okay.

6 No further questions for this witness. Any
7 questions from the ladies and gentlemen?

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

15 Failure to comply with this admonition is a
16 gross misdemeanor punishable up to 364 days in the Clark
17 County Detention Center and a \$2,000 fine. In addition
18 you may be held in contempt of court punishable by an
19 additional \$500 fine and 25 days in the Clark County
20 Detention Center.

21 Do you understand this admonition?

22 THE WITNESS: Yes.

23 THE FOREPERSON: Thank you. You're
24 excused.

25 MR. PESCI: State calls Detective Dean

1 O'Kelley.

2 THE FOREPERSON: Please raise your right
3 hand.

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

8 THE WITNESS: I do.

9 THE FOREPERSON: Please be seated.

10 You're advised that you're here today to
11 give testimony in the investigation pertaining to the
12 offenses of murder with use of a deadly weapon and
13 sexual assault with use of a deadly weapon involving
14 Arthur Sewall.

15 Do you understand this advisement?

16 THE WITNESS: Yes, I do.

17 THE FOREPERSON: Please state your first
18 and last name and spell both slowly for the record.

19 THE WITNESS: It's Dean O'Kelley, D-E-A-N
20 O apostrophe K-E-L-L-E-Y.

21

22 **DEAN O'KELLEY,**

23 having been first duly sworn by the Foreperson of the
24 Grand Jury to testify to the truth, the whole truth
25 and nothing but the truth, testified as follows:

EXAMINATION

BY MR. PESCI:

Q Sir, are you a detective with the cold case detail of the homicide unit with the Las Vegas Metropolitan Police Department?

A Yes, I am.

Q How long have you been there?

A Just over two years.

Q And when you retired from Metro what detail were you in?

A Homicide.

Q How long had you been in homicide?

A Nine years to the day.

Q Did you and your partner Ken Hefner, the gentleman that just left, work on a case that involved a Nadia Iverson that occurred back in May of 1997?

A Yes, we did.

Q We just had him explain the lead-up to the interview so we'll just go to that point. Were you involved in the interview of Mr. Sewall?

A Yes, I was, on January 11th.

Q Was Mr. Hefner there as well?

A Yes, he was.

Q I have a copy of that video. Did you provide that to us?

1 A Yes, I did.

2 Q Did you obtain that from the Reno Police
3 Department?

4 A Yes, they made a copy of it immediately.

5 Q We're going to stop in little spots so you
6 can indicate who is who, but you've seen this video in
7 advance of your testimony, correct?

8 A Yes, I have.

9 Q You know it's a fair and accurate copy?

10 A That's correct.

11 Q While this is attempting to get booted up,
12 could you describe the interview room that you were in
13 when this occurred?

14 A They placed us in a room that is apparently
15 used for victims and there were some toys that were in
16 the room, a couch that was in the room. It was a room
17 that was kind of designed to make people feel
18 comfortable apparently. It didn't seem like a standard
19 interview room that you might see, just a rectangular
20 room with, you know, plain walls. This was more
21 comfortable.

22 Q Can you describe the surroundings as far as
23 where people sat and who was present?

24 A During the interview just Investigator
25 Hefner and Art Sewall and myself. Arthur Sewall sat in

1 the chair closest to the door. It was made clear to him
2 when he came into the room that he was free to leave at
3 any point and he was offered some things to drink and an
4 opportunity to go to the rest room and it was rather
5 comfortable.

6 Q Was he positioned in such a fashion where
7 you and your partner blocked him into the room?

8 A No, we were sitting on the opposite
9 side of -- well, it was a round table but we were
10 sitting on the opposite side of the table from the door.
11 He was sitting closest to the door.

12 Q Okay. So you weren't blocking -- you said
13 that you were nine years in homicide, correct?

14 A Correct.

15 Q Did you have occasion to do interviews in
16 homicide during those nine years?

17 A Yes.

18 Q The interview rooms that you utilized while
19 you were on homicide, were they different from the room
20 that you're having this interview with Mr. Sewall?

21 A Yes. Most often, as I was describing
22 before, you would have like a rectangular shaped room, a
23 handcuff bar, you know, where it would be mounted on the
24 wall or on the table where that person could be
25 handcuffed. The door would be a solid door.

1 Occasionally we've been in interview rooms where there
2 was a slit, long rectangular slit in the door so you
3 could actually look into the room, but for the most part
4 it's more confining in a standard interview room.

5 Q So there wasn't any handcuffs involved with
6 Mr. Sewall during this interview?

7 A No.

8 Q And as you said it was told to him that he
9 was free to leave; is that correct?

10 A That's correct. He came to the station
11 voluntarily from his apartment complex.

12 MR. PESCI: Ladies and gentlemen of the
13 Grand Jury, we're going to ask to take a five-minute
14 recess. I think you've been going since 8:30; is that
15 correct?

16 A JUROR: We did have a break.

17 A JUROR: We had a ten-minute break.

18 MR. PESCI: We have a little snafu we've
19 got to work on so if we can take a five-minute recess
20 I'd really appreciate that.

21 (Recess.)

22 MR. PESCI: Sorry about that, ladies and
23 gentlemen. So we're back on the record.

24 BY MR. PESCI:

25 Q Detective, now I believe we can actually

1 see the video; is that correct?

2 A Yes.

3 Q Before I push play, who's who?

4 A Investigator Hefner is standing, Arthur
5 Sewall is seated there with the vest on and the plaid,
6 red plaid shirt, and then I'm sitting across that
7 circular table messing with my phone.

8 Q And speaking of phones, does Mr. Sewall
9 have his phone?

10 A Yes, he does.

11 Q During the interview did he have it with
12 him?

13 A Yes, he did.

14 Q I'm going to push play. And this goes for
15 a while; is that correct, Detective?

16 A Probably about an hour and a half I'd say.

17 Q All right. So get comfortable.

18 A An hour and 40.

19 (At this time, the video played.)

20 BY MS. WECKERLY:

21 Q Detective, I just have a few questions for
22 you. There was some discussion at the end of the
23 interview about \$40 that he stated that he paid to Miss
24 Iverson. In your review of the case was there \$40 ever
25 found at the scene?

1 A No, there was not.

2 Q And early on in the discussion I think it's
3 Detective Hefner mentions that there was a divot in the
4 concrete of the crime scene. Do you recall whether or
5 not you noticed that in the photographs or --

6 A I have not seen the photograph of that
7 divot.

8 Q Okay. So, I mean, you don't have a
9 recollection of seeing a divot?

10 A No.

11 Q And this is probably obvious, the
12 photograph that you show or Detective Hefner shows him
13 at the beginning of the interview, that is of Nadia
14 Iverson?

15 A Yes, it is, both.

16 Q Yeah, you showed two, that's right.

17 That concludes the questions I have for
18 this detective.

19 BY A JUROR:

20 Q Did he say that he held a gun on Nadia
21 while he was having sex or was going to?

22 A No, he doesn't give an explanation for the
23 gun coming out.

24 Q Okay.

25 ///

1 BY A JUROR:

2 Q Did he know you were videotaping the whole
3 thing?

4 A No, he did not. I mean, he never gave an
5 indication that he was aware that that's the case. I
6 mean, most people that serve in law enforcement would
7 know that an interview such as that or even -- and there
8 were obvious signs that there are cameras in the room,
9 you know, you have the little bubble, you know, black
10 deal that pretty much everybody's familiar with. I
11 mean, those are in there so they're -- but it doesn't
12 have a red light or anything like that to indicate it's
13 being recorded.

14 Q Was he -- he mentioned a self-inflicted
15 gunshot wound that caused him to retire. Was that
16 something that he's been -- he has a problem, a mental
17 problem or some kind of --

18 MS. WECKERLY: So I'm going to instruct,
19 that actually isn't -- he doesn't talk about a
20 self-inflicted gunshot wound. He mentions a
21 self-inflicted wound, but the Grand Jury isn't to draw
22 any conclusions or make any inferences about that as
23 well as I think there was mention of drama that
24 occurred, the word actually drama that occurred in the
25 past or contact with individuals in San Diego. So those

1 three things, any kind of drama, wounds or events in San
2 Diego, other than the context of where the guns might
3 have been because that's sort of how he discusses them,
4 you're not to draw any inferences about his character or
5 his behavior or anything from those utterances.

6 Is there any member of the Grand Jury that
7 feels like they can't do that? Seeing no hands, thank
8 you.

9 BY A JUROR:

10 Q Could you refresh my memory-- oh, I'm
11 sorry, are you done?

12 A JUROR: I just have one more question.

13 BY A JUROR:

14 Q He said it was one shot, the gun goes off
15 and he panics. Did he -- he said he left the scene, saw
16 a cop but nobody followed him. So the one shot, that
17 was all that Nadia had?

18 A That's correct, only one shot.

19 Q Okay. That's it.

20 BY A JUROR:

21 Q Could you refresh my memory on the sequence
22 of the DNA testing? You got it as a cold case and was
23 that the first time the DNA was tested and matched it
24 with Arthur Sewall?

25 A Yes, ma'am. In early April is when, just

1 as a random kit out of all those that you've heard about
2 on the news, that kit, Nadia's kit was tested and we got
3 that in April and then we got a surreptitious collection
4 of Mr. Sewall's DNA that confirmed it as well. But it's
5 kind of a double confirmation because his DNA was
6 collected earlier.

7 BY MS. WECKERLY:

8 Q So in your work as a cold case detective,
9 you're aware that there are, or at least back at that
10 time, there were many, many sexual assault kits that had
11 been collected over the years from various
12 investigations that had not been tested or entered into
13 CODIS?

14 A That's correct.

15 BY A JUROR:

16 Q So that was the issue of the time lapse
17 between 1997 and 2017 or '18?

18 A Yes, ma'am.

19 Q Thank you.

20 BY A JUROR:

21 Q To clarify for the Grand Jury, a question
22 that was previously asked, you or Detective Hefner did
23 inform him that he was being recorded, correct?

24 A There came a point in time where he said go
25 ahead and turn on your recorder. I had told him that

1 the recorder was on and then had to turn it off to start
2 the new recording, but, no, he was not initially told
3 that the room was being recorded.

4 Q Okay.

5 A JUROR: I think we had testimony earlier
6 about where the bullet was found.

7 MS. WECKERLY: Right. And so --

8 A JUROR: So the divot and where it was
9 found are really -- one was just the detective getting
10 him to talk in the interview, the other one's the actual
11 evidence; is that correct? Do I have that right?

12 MS. WECKERLY: So I would just instruct you
13 respectfully that in the prior presentment I think you
14 heard from the crime scene analyst as to what the
15 evidence actually was at the scene.

16 A JUROR: Right.

17 MS. WECKERLY: And what is said in the
18 interview is what's said in the interview --

19 A JUROR: Right.

20 MS. WECKERLY: -- but you should rely on
21 what the crime scene analyst said at the scene. What's
22 said in the interview, you know, may or may not be an
23 accurate reflection of what the actual evidence was at
24 the scene.

25 A JUROR: Understood. Thank you.

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

8 Failure to comply with this admonition is a
9 gross misdemeanor punishable up to 364 days in the Clark
10 County Detention Center and a \$2,000 fine. In addition
11 you may be held in contempt of court punishable by an
12 additional \$500 fine and 25 days in the Clark County
13 Detention Center.

14 Do you understand this admonition?

15 THE WITNESS: Yes, I do.

16 THE FOREPERSON: Thank you. You're
17 excused.

18 THE WITNESS: Thank you.

19 MS. WECKERLY: And I'll just get the
20 interview out and then I'll leave you to deliberate. I
21 just want to make a record that the interview disc is
22 Grand Jury Exhibit 17. Thank you.

23 A JUROR: Can I get a clarification from
24 you? In the Indictment it talks about sexual assault,
25 and so the idea is that, and a murder, at what point do

1 we consider it sexual assault and at what point is it
2 just consensual sex?

3 MS. WECKERLY: So that is something that
4 you can discuss in your deliberations. You have from
5 the first presentment I read you the legal elements of
6 sexual assault and that's something for you and your
7 fellow Grand Jurors to decide if there's probable cause
8 for that count or not and that's up for your
9 determination.

10 A JUROR: All right. So we have that in
11 the --

12 MS. WECKERLY: That's correct.

13 THE FOREPERSON: Somewhere in here.

14 MS. WECKERLY: It's actually on the -- the
15 first day we presented I believe we read the elements in
16 on that day. And if not in your Indictment it will tell
17 you the elements of the crime, the proposed Indictment.

18 A JUROR: Okay. Thanks.

19 MS. WECKERLY: Okay. Thank you.

20 (At this time, all persons, except the
21 members of the Grand Jury, exited the room at 11:41 and
22 returned at 12:03.)

23 THE FOREPERSON: Madam District Attorney,
24 by a vote of 12 or more Grand Jurors, a true bill has
25 been returned against defendant Arthur Sewall charging

1 the crime of murder with use of a deadly weapon in Grand
2 Jury case number 17CGJ023X.

3 By a vote of less than 12 Grand Jurors, a
4 no true bill has been returned in Grand Jury case number
5 17CGJ023X on the charge of sexual assault with use of a
6 deadly weapon.

7 You're instructed to prepare an Indictment
8 in conformance with the proposed Indictment previously
9 submitted to us.

10 MS. WECKERLY: So the Indictment will just
11 reflect the murder count because that's your vote and
12 we'll remove the two sexual assault counts and that
13 reflects your decision?

14 THE FOREPERSON: Yes.

15 A JUROR: Yes.

16 MS. WECKERLY: Okay. Thank you very much.

17 (Proceedings concluded.)

18 --oo0oo--
19
20
21
22
23
24
25

REPORTER'S CERTIFICATE

STATE OF NEVADA)
 : ss
COUNTY OF CLARK)

I, Donna J. McCord, C.C.R. 337, do hereby
certify that I took down in Shorthand (Stenotype) all of
the proceedings had in the before-entitled matter at the
time and place indicated and thereafter said shorthand
notes were transcribed at and under my direction and
supervision and that the foregoing transcript
constitutes a full, true, and accurate record of the
proceedings had.

Dated at Las Vegas, Nevada,
March 29, 2018.

/S/DONNA J. MCCORD
Donna J. McCord, CCR 337

AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding
TRANSCRIPT filed in GRAND JURY CASE NUMBER 17CGJ023X:

X Does not contain the social security number of any
person,

-OR-

____ Contains the social security number of a person as
required by:

A. A specific state or federal law, to-wit:
NRS 656.250.

-OR-

B. For the administration of a public program
or for an application for a federal or
state grant.

/S/DONNA J. MCCORD
Signature

March 29, 2018
Date

Donna J. McCord
Print Name

Official Court Reporter
Title

<p>A JUROR: [12] 28/15 28/16 32/11 34/4 34/7 34/15 34/18 34/24 35/22 36/9 36/17 37/14</p> <p>BY A JUROR: [8] 15/10 30/18 30/25 32/8 32/12 32/19 33/14 33/19</p> <p>BY MR. PESCI: [3] 17/15 25/1 28/23</p> <p>BY MS. WECKERLY: [4] 6/21 11/14 29/19 33/6</p> <p>MR. PESCI: [7] 5/14 5/17 16/13 23/24 28/11 28/17 28/21</p> <p>MS. WECKERLY: [14] 5/7 5/16 31/17 34/6 34/11 34/16 34/19 35/18 36/2 36/11 36/13 36/18 37/9 37/15</p> <p>THE FOREPERSON: [24] 5/18 5/21 6/2 6/10 9/20 10/10 10/13 10/20 11/3 15/21 16/11 16/14 16/21 17/4 23/7 23/22 24/1 24/8 24/16 34/25 35/15 36/12 36/22 37/13</p> <p>THE WITNESS: [20] 5/20 6/1 6/9 6/12 10/9 10/12 10/19 11/2 11/5 15/9 16/10 16/20 17/3 17/6 23/21 24/7 24/15 24/18 35/14 35/17</p>	<p>17CGJ023X [5] 1/9 5/12 37/2 37/5 39/5</p> <p>1997 [3] 18/16 25/16 33/17</p> <p>2</p> <p>2016 [1] 7/15</p> <p>2017 [4] 20/3 20/8 20/20 33/17</p> <p>2018 [6] 1/15 2/1 5/1 20/20 38/15 39/18</p> <p>239B.030 [1] 39/2</p> <p>25 [5] 3/6 10/7 16/8 23/19 35/12</p> <p>29 [2] 38/15 39/18</p> <p>3</p> <p>337 [3] 1/25 38/6 38/18</p> <p>35 [1] 4/5</p> <p>364 [4] 10/4 16/5 23/16 35/9</p> <p>4</p> <p>40 [1] 29/18</p> <p>6</p> <p>656.250 [1] 39/13</p> <p>8</p> <p>8:30 [1] 28/14</p> <p>9</p> <p>9:26 [1] 1/16</p> <p>A</p> <p>a.m [1] 1/16</p> <p>ability [1] 5/7</p> <p>able [4] 13/24 14/12 14/15 19/22</p> <p>about [16] 5/23 8/21 10/17 11/21 16/18 18/7 24/5 28/22 29/16 29/23 31/19 31/22 32/4 33/1 34/6 35/24</p> <p>accompany [1] 21/5</p> <p>accurate [3] 26/9 34/23 38/12</p> <p>accurately [1] 5/6</p> <p>across [3] 18/15 18/21 29/6</p> <p>actual [3] 9/12 34/10 34/23</p> <p>actually [11] 8/18 13/8 14/10 18/15 23/3 28/3 28/25 31/19 31/24 34/15 36/14</p> <p>addition [5] 10/5 16/6 22/24 23/17 35/10</p> <p>additional [4] 10/7 16/8 23/19 35/12</p> <p>administration [1] 39/15</p> <p>admonition [8] 10/3 10/9 16/4 16/10 23/15 23/21 35/8 35/14</p> <p>advance [1] 26/7</p> <p>advised [4] 6/4 10/22 16/23 24/10</p> <p>advisement [4] 6/9</p>	<p>11/2 17/3 24/15</p> <p>affirm [1] 39/4</p> <p>AFFIRMATION [1] 39/1</p> <p>AFORESAID [1] 1/4</p> <p>after [4] 7/10 9/7 9/9 20/9</p> <p>against [1] 36/25</p> <p>agency [1] 19/14</p> <p>agree [2] 21/4 21/7</p> <p>ahead [1] 33/25</p> <p>aka [1] 1/10</p> <p>Alabama [1] 12/17</p> <p>ALCALAY [1] 2/6</p> <p>alerted [1] 20/3</p> <p>all [12] 8/24 12/4 12/5 12/19 12/20 19/15 29/17 32/17 33/1 36/10 36/20 38/7</p> <p>allows [1] 12/13</p> <p>also [5] 2/22 7/13 14/15 15/18 19/8</p> <p>am [3] 7/3 11/19 25/6</p> <p>analysis [4] 12/9 12/20 12/24 14/25</p> <p>analyst [5] 7/3 7/5 11/19 34/14 34/21</p> <p>analyze [1] 12/5</p> <p>analyzed [1] 13/10</p> <p>another [3] 18/18 19/14 19/17</p> <p>any [26] 9/23 9/24 10/1 11/22 12/7 12/7 13/14 13/17 15/24 15/25 16/2 23/6 23/10 23/11 23/13 27/3 28/5 31/22 31/22 32/1 32/4 32/6 35/3 35/4 35/6 39/8</p> <p>anyone [4] 9/23 15/24 23/10 35/3</p> <p>anything [10] 8/21 8/23 9/23 14/11 15/1 15/24 23/10 31/12 32/5 35/3</p> <p>apartment [1] 28/11</p> <p>apostrophe [1] 24/20</p> <p>apparently [2] 26/14 26/18</p> <p>application [1] 39/15</p> <p>appreciate [1] 28/20</p> <p>April [5] 20/3 20/7 20/19 32/25 33/3</p> <p>are [22] 6/23 8/11 8/18 9/7 9/22 9/22 11/16 15/16 15/23 15/23 18/9 18/10 23/9 23/9 25/3 31/8 31/11 32/11 33/9 34/9 35/2 35/2</p> <p>areas [1] 14/19</p> <p>aren't [1] 9/11</p> <p>around [1] 15/16</p> <p>Art [1] 26/25</p> <p>ARTHUR [14] 1/10 1/10 2/10 5/11 6/7 11/1 17/2 19/2 20/21 24/14 26/25 29/4 32/24 36/25</p> <p>as [27] 6/19 7/4 11/12 13/5 14/16 15/16 15/17 17/13 21/3 22/14 22/14</p>	<p>22/20 24/25 25/22 26/22 26/22 27/21 28/8 31/7 31/22 31/23 32/22 33/1 33/4 33/8 34/14 39/11</p> <p>aside [1] 22/23</p> <p>ask [2] 22/19 28/13</p> <p>asked [2] 21/4 33/22</p> <p>assault [16] 6/7 7/24 7/25 8/3 8/10 10/25 12/3 12/24 17/1 24/13 33/10 35/24 36/1 36/6 37/5 37/12</p> <p>assigned [2] 13/2 18/10</p> <p>Assistant [1] 2/6</p> <p>assume [1] 9/1</p> <p>attempting [2] 19/8 26/11</p> <p>Attorney [1] 36/23</p> <p>Attorneys [1] 2/23</p> <p>authorized [1] 22/20</p> <p>available [1] 18/11</p> <p>aware [2] 31/5 33/9</p> <p>B</p> <p>bachelor's [2] 7/7 12/14</p> <p>back [9] 7/15 14/8 14/24 20/3 21/5 22/18 25/16 28/23 33/9</p> <p>background [2] 12/12 19/15</p> <p>Baltimore [1] 7/8</p> <p>bar [1] 27/23</p> <p>basically [2] 12/2 22/7</p> <p>be [22] 5/11 5/25 6/3 9/2 10/6 10/18 10/21 15/4 16/7 16/19 16/22 18/22 19/22 21/13 23/18 24/6 24/9 27/23 27/24 27/25 34/22 35/11</p> <p>because [5] 9/2 19/11 32/3 33/5 37/11</p> <p>been [17] 5/5 6/17 11/10 17/11 17/20 20/8 24/23 25/7 25/12 28/1 28/14 31/16 32/3 33/11 33/12 36/25 37/4</p> <p>before [12] 1/4 5/24 9/23 10/18 15/24 16/19 23/10 24/6 27/22 29/3 35/3 38/8</p> <p>before-entitled [1] 38/8</p> <p>beforehand [1] 21/11</p> <p>beginning [1] 30/13</p> <p>behavior [1] 32/5</p> <p>being [4] 8/22 31/13 33/23 34/3</p> <p>believe [2] 28/25 36/15</p> <p>best [2] 5/7 22/10</p> <p>between [2] 14/19 33/17</p> <p>bill [2] 36/24 37/4</p> <p>biology [3] 7/3 7/4 12/15</p>	<p>Birmingham [1] 12/17</p> <p>bit [1] 18/7</p> <p>bitty [1] 15/18</p> <p>black [1] 31/9</p> <p>blocked [1] 27/7</p> <p>blocking [1] 27/12</p> <p>Bode [18] 6/24 6/25 7/2 7/9 7/17 8/12 9/2 11/17 11/18 11/23 11/25 12/18 12/22 13/1 13/2 13/11 14/4 14/12</p> <p>booted [1] 26/11</p> <p>both [7] 6/12 11/5 14/22 17/6 19/13 24/18 30/15</p> <p>BOYDEN [1] 2/7</p> <p>break [2] 28/16 28/17</p> <p>briefly [1] 12/11</p> <p>bring [1] 8/15</p> <p>BROWN [1] 2/8</p> <p>bubble [1] 31/9</p> <p>buccal [3] 22/4 22/6 22/25</p> <p>bulk [1] 18/4</p> <p>bullet [1] 34/6</p> <p>C</p> <p>C.C.R [2] 1/25 38/6</p> <p>C330650 [1] 1/9</p> <p>call [2] 15/14 20/16</p> <p>calls [2] 16/14 23/25</p> <p>came [4] 18/21 27/2 28/10 33/24</p> <p>cameras [1] 31/8</p> <p>can [12] 5/15 8/16 9/10 12/11 15/15 20/16 26/6 26/22 28/19 28/25 35/23 36/4</p> <p>can't [1] 32/7</p> <p>cannot [1] 19/14</p> <p>capacity [3] 12/13 17/21 18/14</p> <p>career [1] 18/5</p> <p>CARLTON [1] 2/11</p> <p>case [25] 1/9 1/9 5/12 8/3 9/5 13/2 13/13 15/14 15/19 17/18 18/6 18/15 18/18 18/21 19/12 22/1 25/3 25/15 29/24 31/5 32/22 33/8 37/2 37/4 39/5</p> <p>cases [3] 14/8 18/9 18/13</p> <p>cause [1] 36/7</p> <p>caused [1] 31/15</p> <p>CCR [1] 38/18</p> <p>Cellmark [3] 6/24 6/25 11/17</p> <p>Center [8] 10/5 10/8 16/6 16/9 23/17 23/20 35/10 35/13</p> <p>CERTIFICATE [1] 38/1</p> <p>certify [1] 38/7</p> <p>chair [1] 27/1</p> <p>character [1] 32/4</p> <p>charge [1] 37/5</p> <p>charging [1] 36/25</p> <p>check [1] 8/14</p>
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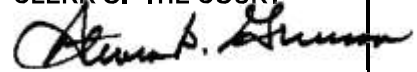
<p>C</p> <p>cheek [3] 22/8 22/15 22/16</p> <p>chewing [3] 19/25 20/5 20/8</p> <p>Chief [1] 2/23</p> <p>circular [1] 29/7</p> <p>clarification [1] 35/23</p> <p>clarify [1] 33/21</p> <p>CLARK [11] 1/2 2/9 10/4 10/7 16/5 16/8 23/16 23/19 35/9 35/12 38/4</p> <p>clear [1] 27/1</p> <p>client [1] 14/9</p> <p>closest [2] 27/1 27/11</p> <p>CODIS [1] 33/13</p> <p>cold [7] 17/18 18/6 18/9 18/9 25/3 32/22 33/8</p> <p>colleagues [1] 13/7</p> <p>collected [2] 33/6 33/11</p> <p>collection [1] 33/3</p> <p>come [2] 18/15 22/10</p> <p>comes [1] 12/5</p> <p>comfortable [4] 26/18 26/21 27/5 29/17</p> <p>coming [2] 21/13 30/23</p> <p>comings [1] 19/5</p> <p>compare [2] 14/11 19/16</p> <p>comparison [1] 12/9</p> <p>comparisons [1] 12/7</p> <p>complex [1] 28/11</p> <p>comply [4] 10/3 16/4 23/15 35/8</p> <p>computer [1] 5/13</p> <p>concluded [1] 37/17</p> <p>concludes [1] 30/17</p> <p>conclusions [1] 31/22</p> <p>concrete [1] 30/4</p> <p>conduct [1] 12/24</p> <p>confining [1] 28/4</p> <p>confirmation [1] 33/5</p> <p>confirmed [1] 33/4</p> <p>conformance [1] 37/8</p> <p>consensual [1] 36/2</p> <p>consider [1] 36/1</p> <p>consistent [1] 14/20</p> <p>constitutes [1] 38/12</p> <p>contact [4] 20/21 21/2 21/3 31/25</p> <p>contain [1] 39/8</p> <p>contained [1] 7/25</p> <p>Contains [1] 39/11</p> <p>contempt [4] 10/6 16/7 23/18 35/11</p> <p>context [1] 32/2</p> <p>continuation [1] 5/11</p> <p>contract [1] 12/22</p> <p>cop [1] 32/16</p> <p>copy [5] 21/23 21/24 25/24 26/4 26/9</p> <p>correct [27] 8/20 9/4 9/13 12/25 14/13 14/14 14/17 14/22 19/23</p>	<p>20/17 20/18 22/2 23/4 26/7 26/10 27/13 27/14 28/9 28/10 28/15 29/1 29/15 32/18 33/14 33/23 34/11 36/12</p> <p>couch [1] 26/16</p> <p>could [7] 7/20 21/6 26/12 27/24 28/3 32/10 32/21</p> <p>count [2] 36/8 37/11</p> <p>counterterrorism [1] 18/4</p> <p>counts [1] 37/12</p> <p>COUNTY [12] 1/2 7/13 7/14 10/5 10/7 16/6 16/8 23/17 23/19 35/10 35/12 38/4</p> <p>course [2] 18/25 22/3</p> <p>court [7] 1/1 1/5 10/6 16/7 23/18 35/11 39/22</p> <p>crime [5] 30/4 34/14 34/21 36/17 37/1</p> <p>D</p> <p>D-E-A-N [1] 24/19</p> <p>damaged [1] 8/23</p> <p>data [1] 12/5</p> <p>database [1] 15/3</p> <p>Date [1] 39/18</p> <p>Dated [1] 38/14</p> <p>day [7] 12/1 12/1 12/2 12/2 25/13 36/15 36/16</p> <p>days [8] 10/4 10/7 16/5 16/8 23/16 23/19 35/9 35/12</p> <p>DC [1] 1/9</p> <p>deadly [10] 6/6 6/7 10/24 10/25 16/25 17/1 24/12 24/13 37/1 37/6</p> <p>deal [1] 31/10</p> <p>dealing [1] 7/21</p> <p>DEAN [5] 3/6 18/19 23/25 24/19 24/22</p> <p>decide [1] 36/7</p> <p>decision [1] 37/13</p> <p>defendant [4] 1/11 20/9 22/4 36/25</p> <p>degree [1] 7/7</p> <p>deliberate [1] 35/20</p> <p>deliberations [1] 36/4</p> <p>department [11] 7/18 12/23 14/25 17/19 17/24 20/24 21/2 21/6 21/24 25/5 26/3</p> <p>Deputy [2] 2/4 2/23</p> <p>describe [4] 7/20 12/11 26/12 26/22</p> <p>described [1] 23/2</p> <p>describing [1] 27/21</p> <p>designed [1] 26/17</p> <p>detail [4] 18/2 18/19 25/4 25/9</p> <p>detective [12] 18/19 23/25 25/3 28/25 29/15 29/21 30/3 30/12 30/18 33/8 33/22 34/9</p> <p>Detention [8] 10/5 10/8 16/6 16/9 23/17 23/20</p>	<p>35/10 35/13</p> <p>determination [1] 36/9</p> <p>develop [1] 18/12</p> <p>did [41]</p> <p>didn't [1] 26/18</p> <p>Diego [2] 31/25 32/2</p> <p>different [2] 8/1 27/19</p> <p>direct [1] 19/19</p> <p>directing [1] 12/4</p> <p>direction [1] 38/10</p> <p>directly [1] 12/18</p> <p>disc [1] 35/21</p> <p>disclosing [4] 9/22 15/23 23/9 35/2</p> <p>discovered [1] 21/9</p> <p>discuss [1] 36/4</p> <p>discusses [1] 32/3</p> <p>discussion [2] 29/22 30/2</p> <p>DISTRICT [4] 1/1 1/5 2/23 36/23</p> <p>divot [4] 30/3 30/7 30/9 34/8</p> <p>DNA [20] 7/14 9/17 11/19 12/8 13/15 13/15 13/17 13/21 13/22 19/9 19/11 19/12 19/13 19/16 19/22 22/9 32/22 32/23 33/4 33/5</p> <p>do [36] 5/16 5/22 6/2 6/9 7/5 9/5 9/14 10/9 10/16 10/20 11/2 11/25 12/1 14/6 14/9 14/15 14/25 16/10 16/17 16/21 17/3 17/17 17/17 23/21 24/4 24/8 24/15 24/16 27/15 30/4 32/7 34/11 35/14 35/15 35/25 38/6</p> <p>does [8] 9/11 9/15 15/20 18/7 29/8 29/10 39/4 39/8</p> <p>doesn't [3] 30/22 31/11 31/19</p> <p>doing [1] 9/2</p> <p>don't [1] 30/8</p> <p>done [4] 14/5 15/4 21/18 32/11</p> <p>Donna [7] 1/25 5/4 38/6 38/17 38/18 39/18 39/20</p> <p>door [6] 27/1 27/10 27/11 27/25 27/25 28/2</p> <p>double [1] 33/5</p> <p>down [1] 38/7</p> <p>drama [3] 31/23 31/24 32/1</p> <p>draw [2] 31/21 32/4</p> <p>drink [1] 27/3</p> <p>duly [5] 5/5 6/17 11/10 17/11 24/23</p> <p>during [4] 26/24 27/16 28/6 29/11</p> <p>E</p> <p>earlier [2] 33/6 34/5</p> <p>early [2] 30/2 32/25</p> <p>education [1] 7/5</p>	<p>educational [1] 12/12</p> <p>EIGHTH [1] 1/1</p> <p>either [1] 18/11</p> <p>elements [3] 36/5 36/15 36/17</p> <p>ELLIOTT [1] 2/10</p> <p>else [2] 7/12 9/15</p> <p>employed [4] 6/23 11/16 11/17 12/17</p> <p>enable [1] 19/20</p> <p>encompassed [1] 12/19</p> <p>end [2] 12/6 29/22</p> <p>enforcement [1] 31/6</p> <p>entered [1] 33/12</p> <p>entitled [1] 38/8</p> <p>envelope's [1] 8/2</p> <p>envelopes [3] 8/1 8/22 8/25</p> <p>even [2] 14/6 31/7</p> <p>event [4] 9/24 15/25 23/11 35/4</p> <p>events [1] 32/1</p> <p>ever [2] 14/10 29/24</p> <p>everybody's [1] 31/10</p> <p>evidence [25] 7/16 7/17 7/21 8/13 8/14 8/14 8/15 8/19 8/22 9/24 13/8 13/8 13/10 13/21 15/25 19/12 19/16 20/13 20/15 20/16 23/11 34/11 34/15 34/23 35/4</p> <p>EXAMINATION [4] 6/21 11/14 17/15 25/1</p> <p>examine [2] 8/16 9/9</p> <p>EXAMINED [1] 3/2</p> <p>except [1] 36/20</p> <p>excused [4] 10/12 16/13 23/24 35/17</p> <p>EXHIBIT [3] 4/4 4/5 35/22</p> <p>EXHIBITS [2] 4/1 4/3</p> <p>exited [1] 36/21</p> <p>explain [1] 25/18</p> <p>explanation [1] 30/22</p> <p>F</p> <p>fact [1] 19/1</p> <p>Failure [4] 10/3 16/4 23/15 35/8</p> <p>fair [1] 26/9</p> <p>faithfully [1] 5/5</p> <p>familiar [1] 31/10</p> <p>far [3] 22/10 22/14 26/22</p> <p>fashion [1] 27/6</p> <p>fast [1] 20/19</p> <p>federal [2] 39/13 39/15</p> <p>feel [1] 26/17</p> <p>feels [1] 32/7</p> <p>fellow [1] 36/7</p> <p>few [1] 29/21</p> <p>figure [1] 19/4</p> <p>filed [1] 39/5</p> <p>find [1] 13/20</p> <p>findings [2] 13/14 13/19</p>	<p>fine [8] 10/5 10/7 16/6 16/8 23/17 23/19 35/10 35/12</p> <p>first [13] 5/5 6/11 6/17 7/9 11/4 11/10 17/5 17/11 24/17 24/23 32/23 36/5 36/15</p> <p>five [2] 28/13 28/19</p> <p>five-minute [2] 28/13 28/19</p> <p>flat [1] 15/16</p> <p>FOGG [1] 2/11</p> <p>follow [1] 19/21</p> <p>followed [2] 20/3 32/16</p> <p>following [1] 5/6</p> <p>follows [4] 6/19 11/12 17/13 24/25</p> <p>foregoing [1] 38/11</p> <p>foreign [1] 13/15</p> <p>forensic [4] 7/3 7/4 7/8 12/16</p> <p>Forensics [3] 6/24 7/17 11/17</p> <p>Foreperson [6] 2/3 2/4 6/17 11/10 17/11 24/23</p> <p>form [1] 21/14</p> <p>forward [2] 13/21 20/19</p> <p>found [4] 13/15 29/25 34/6 34/9</p> <p>fraction [1] 14/2</p> <p>free [2] 27/2 28/9</p> <p>full [1] 38/12</p> <p>further [2] 14/25 23/6</p> <p>G</p> <p>G-A-U-L-T [1] 11/7</p> <p>GAIL [1] 2/6</p> <p>GAULT [3] 3/4 11/6 11/9</p> <p>gave [1] 31/4</p> <p>generate [3] 12/6 13/22 14/12</p> <p>gentleman [1] 25/15</p> <p>gentlemen [3] 23/7 28/12 28/23</p> <p>George [1] 7/14</p> <p>George's [1] 7/13</p> <p>get [10] 5/15 9/1 13/24 14/8 15/2 19/20 26/11 29/17 35/19 35/23</p> <p>gets [2] 8/11 20/15</p> <p>getting [1] 34/9</p> <p>Giancarlo [2] 2/23 5/10</p> <p>give [9] 5/23 6/5 10/17 10/23 16/18 16/24 24/5 24/11 30/22</p> <p>GJ [1] 1/9</p> <p>go [5] 20/20 21/7 25/19 27/4 33/24</p> <p>God [4] 6/1 10/19 16/20 24/7</p> <p>goes [3] 9/17 29/14 32/14</p> <p>going [9] 5/13 9/2 15/17 26/5 28/13 28/14 29/14 30/21 31/18</p> <p>goings [1] 19/5</p>
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G Good [1] 5/9 got [6] 15/14 15/21 28/19 32/22 33/2 33/3 grab [1] 5/13 graduate [1] 12/18 graduating [1] 7/10 GRAND [37] 1/4 2/1 2/22 4/3 5/12 5/24 6/18 9/24 10/1 10/1 10/18 11/11 15/25 16/2 16/2 16/19 17/12 23/11 23/13 23/13 24/6 24/24 28/13 31/21 32/6 33/21 35/4 35/6 35/6 35/22 36/7 36/21 36/24 37/1 37/3 37/4 39/5 grant [1] 39/16 GRISWOLD [1] 2/12 gross [4] 10/4 16/5 23/16 35/9 ground [1] 20/5 guess [1] 7/15 gun [3] 30/20 30/23 32/14 guns [1] 32/2 gunshot [2] 31/15 31/20 guys [1] 15/16	help [4] 6/1 10/19 16/20 24/7 her [1] 5/7 here [5] 6/4 10/22 16/23 24/10 36/13 hereby [2] 38/6 39/4 hills [1] 15/18 him [20] 5/15 20/3 20/4 21/2 21/3 21/6 21/14 22/17 22/18 25/18 27/1 27/7 28/8 29/12 30/12 31/15 32/16 33/23 33/25 34/10 himself [1] 22/16 his [7] 19/4 22/25 28/11 29/9 32/4 32/5 33/5 home [2] 21/4 21/13 homicide [7] 18/5 25/4 25/11 25/12 27/13 27/16 27/19 hour [2] 29/16 29/18 how [7] 11/16 11/20 17/20 18/7 25/7 25/12 32/3 however [1] 21/1	21/16 21/21 22/3 22/21 25/19 25/20 26/12 26/19 26/24 27/18 27/20 28/1 28/4 28/6 29/11 29/23 30/13 31/7 34/10 34/18 34/18 34/22 35/20 35/21 interviews [1] 27/15 investigate [1] 18/9 investigation [9] 5/24 6/5 10/17 10/23 16/18 16/24 19/1 24/5 24/11 investigations [1] 33/12 investigative [1] 18/5 investigator [3] 17/18 26/24 29/4 investigators [1] 18/10 involved [5] 7/16 13/4 25/15 25/20 28/5 involves [1] 12/4 involving [5] 6/7 10/25 17/1 18/16 24/13 is [42] isn't [2] 31/19 31/21 issue [1] 33/16 it [45] it's [13] 7/11 9/14 11/6 22/7 22/8 22/9 24/19 26/9 28/4 30/2 31/12 33/4 36/14 items [3] 8/8 8/16 8/19 Iverson [5] 13/5 18/16 25/16 29/24 30/14	KENNETH [3] 3/5 17/7 17/10 kind [7] 13/15 15/18 19/4 26/17 31/17 32/1 33/5 kit [10] 7/24 7/25 8/3 8/9 8/11 8/11 12/3 33/1 33/2 33/2 kits [3] 12/24 13/1 33/10 knew [1] 21/11 KNICKERBOCKER [1] 2/14 know [10] 14/6 14/10 26/9 26/20 27/23 31/2 31/7 31/9 31/9 34/22	made [9] 9/25 16/1 21/2 21/3 22/1 23/12 26/4 27/1 35/5 main [1] 12/2 major [4] 14/2 14/21 15/13 15/17 majority [1] 15/19 make [5] 12/6 15/20 26/17 31/22 35/21 male [10] 13/15 13/17 13/21 14/1 14/2 14/12 14/18 14/21 15/13 15/20 many [2] 33/10 33/10 March [5] 1/15 2/1 5/1 38/15 39/18 MARCIA [1] 2/15 MARCUS [1] 2/14 Maryland [1] 7/14 master's [1] 12/16 matched [1] 32/23 matter [1] 38/8 may [9] 7/22 10/6 16/7 18/16 23/18 25/16 34/22 34/22 35/11 McCord [6] 1/25 5/4 38/6 38/18 39/18 39/20 me [3] 5/10 8/16 22/19 mean [4] 30/8 31/4 31/6 31/11 means [1] 18/10 member [1] 32/6 members [1] 36/21 memory [2] 32/10 32/21 mental [1] 31/16 mention [1] 31/23 mentioned [1] 31/14 mentions [2] 30/3 31/20 messing [1] 29/7 Metro [6] 7/21 14/6 18/1 19/17 19/18 25/9 Metropolitan [6] 7/18 12/23 14/24 17/19 17/24 25/5 might [3] 15/12 26/19 32/2 minute [3] 28/13 28/17 28/19 misdemeanor [4] 10/4 16/5 23/16 35/9 Miss [1] 29/23 missed [1] 15/12 MIULLI [3] 3/3 6/13 6/16 mixture [1] 15/15 more [5] 19/18 26/20 28/4 32/12 36/24 morning [1] 5/9 most [3] 27/21 28/3 31/6 mountains [2] 15/16 15/17 mounted [1] 27/23 moved [1] 9/14 Mr. [10] 19/21 21/16 22/14 22/24 25/20
H H-E-F-N-E-R [1] 17/8 had [22] 12/8 12/12 17/23 19/11 19/12 19/13 19/13 19/16 20/4 20/8 21/9 25/12 25/18 28/17 32/17 33/10 33/12 33/25 34/1 34/5 38/8 38/13 half [1] 29/16 HALL [1] 2/13 hand [4] 5/20 10/15 16/16 24/3 handcuff [1] 27/23 handcuffed [1] 27/25 handcuffs [1] 28/5 handed [1] 22/17 hands [2] 19/15 32/7 happens [2] 14/7 15/3 hardly [1] 14/10 has [4] 12/22 31/16 36/24 37/4 have [41] having [9] 5/5 6/17 11/10 17/11 19/17 20/4 24/23 27/20 30/21 HAYDEN [1] 2/3 he [45] he'd [1] 21/13 he's [1] 31/16 heard [3] 13/7 33/1 34/14 HEFNER [12] 3/5 16/14 17/7 17/8 17/10 25/14 25/22 26/25 29/4 30/3 30/12 33/22 held [5] 10/6 16/7 23/18 30/20 35/11	I I'd [2] 28/20 29/16 I'll [2] 35/19 35/20 I'm [9] 5/13 7/25 11/17 15/19 17/18 29/6 29/14 31/18 32/10 I've [1] 7/13 idea [1] 35/25 identified [2] 4/3 13/5 immediately [1] 26/4 IMPANELED [1] 1/4 impound [1] 20/12 impounded [2] 20/15 22/18 include [1] 8/5 including [4] 9/23 15/24 23/10 35/3 INDEX [2] 3/1 4/1 indicate [2] 26/6 31/12 indicated [1] 38/9 indication [2] 13/17 31/5 INDICTMENT [7] 4/4 35/24 36/16 36/17 37/7 37/8 37/10 individuals [1] 31/25 inferences [2] 31/22 32/4 inflicted [3] 31/14 31/20 31/21 inform [1] 33/23 information [4] 10/1 16/2 23/13 35/6 initially [1] 34/2 inside [2] 22/8 22/14 instruct [2] 31/18 34/12 instructed [1] 37/7 interpretation [1] 12/20 interview [25] 20/24	J J.MCCORD [1] 38/17 January [2] 20/20 25/21 January 11th [1] 25/21 job [1] 11/18 JODI [1] 2/5 Jr [1] 1/10 JUDICIAL [1] 1/1 JURORS [4] 2/1 36/7 36/24 37/3 JURY [33] 1/4 2/22 4/3 5/12 5/24 6/18 9/24 10/1 10/2 10/18 11/11 15/25 16/2 16/3 16/19 17/12 23/11 23/13 23/14 24/6 24/24 28/13 31/21 32/6 33/21 35/4 35/6 35/7 35/22 36/21 37/2 37/4 39/5 just [22] 5/13 12/4 12/11 13/7 15/12 22/13 23/2 25/8 25/15 25/18 25/19 26/19 26/24 29/21 32/12 32/25 34/9 34/12 35/19 35/21 36/2 37/10	L lab [4] 7/9 7/14 8/15 19/18 laboratory [3] 9/18 12/5 12/20 labs [1] 11/22 ladies [3] 23/7 28/12 28/22 lapse [1] 33/16 Las [8] 1/14 5/1 7/17 12/23 14/24 17/18 25/4 38/14 last [4] 6/12 11/5 17/6 24/18 later [2] 14/5 20/16 law [6] 9/21 15/22 23/8 31/6 35/1 39/13 lay [1] 19/14 lead [1] 25/18 lead-up [1] 25/18 leads [1] 18/12 least [1] 33/9 leave [3] 27/2 28/9 35/20 LEE [4] 1/10 1/10 2/7 5/12 left [2] 25/15 32/15 legal [1] 36/5 less [1] 37/3 Let [1] 22/19 light [1] 31/12 like [8] 8/22 8/23 12/22 15/18 26/18 27/22 31/12 32/7 little [5] 15/18 18/7 26/5 28/18 31/9 living [1] 17/17 located [1] 7/1 long [5] 11/20 17/20 25/7 25/12 28/2 longer [1] 18/11 look [1] 28/3 looking [1] 18/22 Lorton [1] 7/1 LUKES [1] 2/15 LYLES [1] 2/16	M M-I-U-L-L-I [1] 6/14 ma'am [2] 32/25 33/18 Madam [1] 36/23

M Mr.... [5] 25/22 27/20 28/6 29/8 33/4 Mr. Hefner [1] 25/22 Mr. Sewall [7] 19/21 21/16 22/24 25/20 27/20 28/6 29/8 Mr. Sewall's [2] 22/14 33/4 much [3] 9/19 31/10 37/16 murder [7] 6/6 10/24 16/25 24/12 35/25 37/1 37/11 my [9] 5/9 7/22 17/7 18/3 18/4 29/7 32/10 32/21 38/10 MYRL [1] 2/7 MYRL-LEE [1] 2/7 myself [1] 26/25 MYSZ [1] 2/17	number [7] 5/12 13/2 37/2 37/4 39/5 39/8 39/11 NVK1602 [1] 13/2 NVK1602-0474 [1] 13/2 O O'KELLEY [5] 3/6 18/19 24/1 24/19 24/22 obtain [8] 19/8 19/22 20/8 21/23 22/9 22/11 22/20 26/2 obtained [8] 10/1 14/3 16/2 19/24 20/8 22/4 23/13 35/6 obvious [2] 30/11 31/8 obviously [1] 12/8 occasion [1] 27/15 Occasionally [1] 28/1 occurred [4] 25/16 26/13 31/24 31/24 occurring [4] 9/25 16/1 23/12 35/5 October [1] 7/15 off [3] 13/22 32/14 34/1 offenses [4] 6/6 10/24 16/25 24/12 offered [1] 27/3 Official [1] 39/22 often [1] 27/21 oh [1] 32/10 Okay [20] 5/18 9/1 11/22 13/4 14/23 15/7 18/14 19/20 20/19 21/1 21/15 23/5 27/12 30/8 30/24 32/19 34/4 36/18 36/19 37/16 old [1] 18/12 OLGA [1] 2/16 once [6] 8/10 9/1 9/14 9/16 14/23 20/15 one [11] 5/15 8/18 9/8 12/3 13/1 13/7 32/12 32/14 32/16 32/18 34/9 one's [1] 34/10 ones [1] 15/4 only [1] 32/18 oo0oo [1] 37/18 open [3] 8/16 9/2 9/9 opened [1] 9/7 opens [2] 8/11 8/18 opportunity [1] 27/4 opposite [2] 27/8 27/10 oral [4] 8/6 13/9 13/14 13/16 order [1] 7/4 originally [2] 18/10 21/1 other [5] 9/18 9/20 15/8 32/2 34/10 our [5] 8/13 8/15 14/9 19/15 19/16 out [8] 8/14 12/18 19/4 19/25 20/9 30/23 33/1 35/20 outside [1] 21/2 over [2] 25/8 33/11	oversee [1] 12/2 oversized [1] 22/7 own [1] 19/16 P packages [1] 9/7 paid [1] 29/23 Pam [2] 5/10 5/15 Pamela [1] 2/22 panics [1] 32/15 part [3] 21/15 22/1 28/3 particular [2] 7/5 13/13 partner [2] 25/14 27/7 past [1] 31/25 PATTI [1] 2/3 peaks [1] 15/18 pending [4] 5/24 10/18 16/19 24/6 people [4] 15/15 26/17 26/23 31/6 person [5] 8/11 9/11 27/24 39/9 39/11 personally [3] 20/7 22/11 23/3 personnel [2] 9/18 19/18 persons [1] 36/20 pertaining [4] 6/5 10/23 16/24 24/11 Pesci [2] 2/23 5/10 phone [2] 29/7 29/9 phones [1] 29/8 photograph [2] 30/6 30/12 photographs [1] 30/5 pick [1] 18/13 place [1] 38/9 placed [1] 26/14 plaid [2] 29/5 29/6 plain [1] 26/20 Plaintiff [1] 1/8 play [2] 29/3 29/14 played [1] 29/19 Please [12] 5/19 6/3 6/11 10/14 10/21 11/4 16/15 16/22 17/5 24/2 24/9 24/17 point [9] 12/19 14/9 14/11 21/9 25/19 27/3 33/24 35/25 36/1 police [11] 7/18 12/23 14/24 17/19 17/24 20/24 21/2 21/5 21/24 25/5 26/2 portions [1] 12/21 position [3] 7/2 11/25 18/15 position you [1] 11/25 positioned [1] 27/6 possible [1] 18/22 preceding [1] 39/4 prepare [1] 37/7 presence [4] 9/25 16/1 23/12 35/5 present [4] 2/1 2/22 13/17 26/23 presented [5] 9/24 15/25 23/11 35/4 36/15	presentment [2] 34/13 36/5 pretty [2] 15/16 31/10 previously [2] 33/22 37/8 Prince [2] 7/13 7/14 Print [1] 39/20 prior [3] 11/22 17/23 34/13 probable [1] 36/7 probably [2] 29/16 30/11 problem [2] 31/16 31/17 proceed [1] 8/14 proceedings [9] 1/18 5/7 9/21 15/22 23/8 35/1 37/17 38/8 38/13 process [2] 19/19 22/13 processing [1] 9/17 profile [14] 13/22 13/24 14/1 14/3 14/5 14/11 14/13 14/18 14/20 14/21 14/23 15/13 15/20 15/20 profiles [1] 14/18 program [1] 39/15 prohibited [4] 9/22 15/23 23/9 35/2 Project [1] 12/4 projects [1] 12/3 promotion [1] 18/11 proposed [3] 4/4 36/17 37/8 provide [3] 21/23 22/25 25/25 provided [2] 19/14 19/17 public [1] 39/15 punishable [8] 10/4 10/6 16/5 16/7 23/16 23/18 35/9 35/11 Pursuant [1] 39/2 push [2] 29/3 29/14 put [1] 9/16 Q Q-Tip [1] 22/7 question [2] 32/12 33/21 questions [6] 9/20 15/8 23/6 23/7 29/21 30/17 R raise [4] 5/19 10/14 16/15 24/2 random [1] 33/1 rather [1] 27/4 read [2] 36/5 36/15 ready [1] 8/12 really [2] 28/20 34/9 recall [1] 30/4 receive [2] 8/10 14/7 received [6] 7/24 8/8 8/17 8/24 9/10 12/19 receives [1] 8/13	recess [3] 28/14 28/19 28/21 recollection [2] 13/10 30/9 record [7] 6/12 11/5 17/6 24/18 28/23 35/21 38/12 recorded [4] 21/21 31/13 33/23 34/3 recorder [2] 33/25 34/1 recording [1] 34/2 recovered [1] 20/4 rectal [5] 8/6 13/9 13/19 14/16 14/20 rectangular [3] 26/19 27/22 28/2 red [2] 29/6 31/12 refer [1] 7/22 referring [1] 15/19 reflect [1] 37/11 reflection [1] 34/23 reflects [1] 37/13 refresh [2] 32/10 32/21 refresh my [1] 32/10 regard [1] 13/14 rely [1] 34/20 remove [1] 37/12 Reno [5] 20/24 21/5 21/10 21/24 26/2 Reported [1] 1/25 Reporter [1] 39/22 REPORTER'S [2] 1/18 38/1 reports [1] 12/6 request [1] 2/22 required [1] 39/12 research [1] 21/12 respectfully [1] 34/13 rest [1] 27/4 result [1] 14/8 retire [1] 31/15 retired [3] 17/23 18/1 25/9 retirement [2] 18/3 18/12 returned [3] 36/22 36/25 37/4 returning [1] 21/4 review [1] 29/24 right [15] 5/19 9/12 10/14 15/2 16/15 19/7 22/17 24/2 29/17 30/16 34/7 34/11 34/16 34/19 36/10 RITZ [1] 2/19 room [19] 20/25 21/18 26/12 26/14 26/16 26/16 26/16 26/19 26/20 27/2 27/4 27/7 27/19 27/22 28/3 28/4 31/8 34/3 36/21 rooms [2] 27/18 28/1 round [1] 27/9 rubbed [1] 22/8 run [2] 18/13 19/1 S S-A-N-D-R-A [1] 11/7
---	--	---	---	---

<p>S</p> <p>said [10] 27/12 28/8 32/14 32/15 33/24 34/17 34/18 34/21 34/22 38/9</p> <p>same [3] 14/20 14/21 18/19</p> <p>sample [10] 9/10 9/16 19/9 19/13 19/17 19/22 19/24 20/12 22/4 22/9</p> <p>sampled [1] 13/8</p> <p>samples [2] 9/8 19/11</p> <p>sampling [1] 7/16</p> <p>San [2] 31/25 32/1</p> <p>SANDRA [3] 3/4 11/6 11/9</p> <p>sat [2] 26/23 26/25</p> <p>saw [1] 32/15</p> <p>say [2] 29/16 30/20</p> <p>scene [8] 29/25 30/4 32/15 34/14 34/15 34/21 34/21 34/24</p> <p>school [1] 12/18</p> <p>science [5] 7/7 7/8 12/14 12/16 12/16</p> <p>scientist [1] 20/16</p> <p>SCOTT [1] 2/18</p> <p>sealed [2] 8/22 8/25</p> <p>search [3] 22/19 22/23 22/24</p> <p>searched [1] 15/3</p> <p>seated [5] 6/3 10/21 16/22 24/9 29/5</p> <p>secret [4] 9/22 15/23 23/9 35/2</p> <p>Secretary [2] 2/5 2/6</p> <p>section [4] 8/13 18/4 18/5 18/6</p> <p>security [2] 39/8 39/11</p> <p>see [4] 15/15 15/18 26/19 29/1</p> <p>seeing [2] 30/9 32/7</p> <p>seem [1] 26/18</p> <p>seen [2] 26/6 30/6</p> <p>self [3] 31/14 31/20 31/21</p> <p>self-inflicted [3] 31/14 31/20 31/21</p> <p>send [2] 14/8 14/24</p> <p>senior [1] 11/19</p> <p>sense [1] 15/20</p> <p>sent [2] 7/17 13/1</p> <p>sequence [1] 32/21</p> <p>serve [1] 31/6</p> <p>setting [2] 5/13 22/23</p> <p>seven [1] 7/25</p> <p>several [1] 12/24</p> <p>SEWALL [21] 1/10 1/10 5/12 6/8 11/1 17/2 19/2 19/21 20/21 21/16 22/24 24/14 25/20 26/25 26/25 27/20 28/6 29/5 29/8 32/24 36/25</p> <p>Sewall's [2] 22/14 33/4</p> <p>sex [2] 30/21 36/2</p> <p>SEXTON [1] 2/18</p> <p>sexual [16] 6/6 7/24</p>	<p>7/25 8/3 8/10 10/25 12/3 12/24 17/1 24/13 33/10 35/24 36/1 36/6 37/5 37/12</p> <p>shall [4] 5/24 10/18 16/19 24/6</p> <p>shaped [1] 27/22</p> <p>SHELLEY [1] 2/17</p> <p>SHERROD [1] 2/5</p> <p>SHIRLEY [1] 2/19</p> <p>shirt [1] 29/6</p> <p>shorthand [2] 38/7 38/9</p> <p>shot [3] 32/14 32/16 32/18</p> <p>should [1] 34/20</p> <p>show [1] 30/12</p> <p>showed [1] 30/16</p> <p>shows [1] 30/12</p> <p>side [2] 27/9 27/10</p> <p>side of [1] 27/9</p> <p>Signature [1] 39/18</p> <p>signs [1] 31/8</p> <p>since [1] 28/14</p> <p>Sir [2] 17/17 25/3</p> <p>sitting [4] 27/8 27/10 27/11 29/6</p> <p>slit [2] 28/2 28/2</p> <p>slowly [4] 6/12 11/5 17/6 24/18</p> <p>smears [4] 8/6 8/6 8/7 9/8</p> <p>snafu [1] 28/18</p> <p>so [43]</p> <p>social [2] 39/8 39/11</p> <p>solemnly [4] 5/22 10/16 16/17 24/4</p> <p>solid [1] 27/25</p> <p>some [8] 7/16 19/24 20/5 21/11 26/15 27/3 29/22 31/17</p> <p>someone [2] 9/15 18/22</p> <p>something [3] 31/16 36/3 36/6</p> <p>Somewhere [1] 36/13</p> <p>sorry [4] 5/21 7/25 28/22 32/11</p> <p>sort [1] 32/3</p> <p>sounds [1] 12/22</p> <p>speaking [1] 29/8</p> <p>specific [1] 39/13</p> <p>specifically [2] 20/2 20/20</p> <p>spell [4] 6/12 11/5 17/6 24/18</p> <p>spent [1] 18/5</p> <p>sperm [1] 14/2</p> <p>spit [3] 19/25 20/4 20/9</p> <p>spoke [1] 22/14</p> <p>spots [1] 26/5</p> <p>ss [1] 38/3</p> <p>standard [2] 26/18 28/4</p> <p>standing [1] 29/4</p> <p>start [1] 34/1</p> <p>state [12] 1/7 5/11 6/11 11/4 12/15 16/14 17/5</p>	<p>23/25 24/17 38/3 39/13 39/16</p> <p>stated [1] 29/23</p> <p>statement [4] 9/25 16/1 23/12 35/5</p> <p>station [1] 28/10</p> <p>Stenotype [1] 38/7</p> <p>STEVEN [1] 2/8</p> <p>stick [1] 22/8</p> <p>stop [1] 26/5</p> <p>stuff [1] 21/12</p> <p>submitted [1] 37/9</p> <p>such [2] 27/6 31/7</p> <p>supervision [1] 38/11</p> <p>Sure [1] 7/23</p> <p>surreptitious [1] 33/3</p> <p>surroundings [1] 26/22</p> <p>surveillance [5] 19/1 19/21 20/2 20/10 21/19</p> <p>suspect [3] 14/5 14/10 18/23</p> <p>swab [5] 22/4 22/6 22/17 22/25 23/3</p> <p>swabbed [1] 22/16</p> <p>swabbing [1] 22/14</p> <p>swabs [21] 8/2 8/5 8/5 8/6 8/6 9/8 9/10 9/16 13/9 13/9 13/9 13/14 13/16 13/18 13/19 13/23 13/24 14/13 14/16 14/19 14/20</p> <p>swear [4] 5/22 10/16 16/17 24/4</p> <p>sworn [5] 5/5 6/17 11/10 17/11 24/23</p> <p>system [1] 19/17</p> <p>T</p> <p>table [4] 27/9 27/10 27/24 29/7</p> <p>take [2] 28/13 28/19</p> <p>taken [2] 1/14 8/2</p> <p>takes [1] 9/8</p> <p>talk [3] 21/6 31/19 34/10</p> <p>talks [1] 35/24</p> <p>TAMA [1] 2/9</p> <p>team [3] 19/21 20/2 20/10</p> <p>technique [1] 22/10</p> <p>Technology [1] 12/18</p> <p>tell [2] 18/7 36/16</p> <p>ten [1] 28/17</p> <p>ten-minute [1] 28/17</p> <p>terms [3] 8/22 13/18 13/23</p> <p>test [1] 20/16</p> <p>tested [3] 32/23 33/2 33/12</p> <p>testified [4] 6/19 11/12 17/13 24/25</p> <p>testify [4] 6/18 11/11 17/12 24/24</p> <p>testimony [10] 5/23 6/5 10/16 10/23 16/17 16/24 24/4 24/11 26/7 34/5</p>	<p>testing [7] 7/16 8/12 9/2 9/12 9/14 14/4 32/22</p> <p>than [2] 32/2 37/3</p> <p>thank [14] 9/19 10/11 10/13 15/9 16/12 23/23 32/7 33/19 34/25 35/16 35/18 35/22 36/19 37/16</p> <p>Thanks [1] 36/18</p> <p>that [169]</p> <p>that's [15] 8/16 22/1 22/9 26/10 28/10 30/16 31/5 32/3 32/18 32/19 33/14 36/6 36/8 36/12 37/11</p> <p>them [9] 9/1 9/2 9/3 9/9 9/16 13/21 18/13 18/13 32/3</p> <p>then [16] 8/14 8/15 9/1 9/10 9/17 12/6 13/21 14/23 18/25 19/15 20/12 21/15 29/6 33/3 34/1 35/20</p> <p>there [26] 8/21 11/20 13/14 13/16 20/2 21/1 21/18 22/17 25/7 25/22 26/15 28/1 28/5 29/5 29/22 29/24 30/1 30/3 31/7 31/8 31/11 31/23 32/6 33/9 33/10 33/24</p> <p>there's [3] 13/20 15/15 36/7</p> <p>thereafter [1] 38/9</p> <p>these [6] 9/21 14/7 15/22 18/12 23/8 35/1</p> <p>they [10] 8/24 14/9 14/25 15/2 15/4 20/4 26/4 26/14 27/19 32/7</p> <p>they're [2] 5/13 31/11</p> <p>thing [1] 31/3</p> <p>things [3] 19/5 27/3 32/1</p> <p>think [7] 15/17 23/2 28/14 30/2 31/23 34/5 34/13</p> <p>this [43]</p> <p>those [12] 8/5 8/8 13/20 13/22 13/24 14/19 17/23 27/16 31/11 31/25 32/5 33/1</p> <p>thought [1] 21/13</p> <p>three [4] 8/8 17/22 17/23 32/1</p> <p>through [3] 18/11 21/11 22/13</p> <p>Thursday [1] 1/15</p> <p>TIM [1] 2/12</p> <p>time [10] 14/4 18/3 21/12 29/19 32/23 33/10 33/16 33/24 36/20 38/9</p> <p>Tip [1] 22/7</p> <p>Title [1] 39/22</p> <p>to-wit [1] 39/13</p> <p>tobacco [3] 19/25 20/5 20/8</p> <p>today [4] 6/4 10/22</p>	<p>16/23 24/10</p> <p>told [3] 28/8 33/25 34/2</p> <p>took [3] 13/21 22/17 38/7</p> <p>toys [1] 26/15</p> <p>training [4] 7/6 12/8 12/12 12/19</p> <p>transcribe [1] 5/6</p> <p>transcribed [1] 38/10</p> <p>transcript [3] 1/18 38/11 39/5</p> <p>transfer [1] 18/11</p> <p>transpired [4] 9/23 15/24 23/10 35/3</p> <p>true [4] 21/13 36/24 37/4 38/12</p> <p>Truman [1] 12/15</p> <p>truth [24] 5/25 5/25 6/1 6/18 6/18 6/19 10/18 10/19 10/19 11/11 11/11 11/12 16/19 16/20 16/20 17/12 17/12 17/13 24/6 24/7 24/7 24/24 24/24 24/25</p> <p>try [1] 19/22</p> <p>tube [1] 9/17</p> <p>turn [2] 33/25 34/1</p> <p>two [6] 12/2 13/20 14/19 25/8 30/16 37/12</p> <p>U</p> <p>under [1] 38/10</p> <p>undersigned [1] 39/4</p> <p>understand [8] 6/9 10/9 11/2 16/10 17/3 23/21 24/15 35/14</p> <p>Understood [1] 34/25</p> <p>unit [2] 8/15 25/4</p> <p>University [3] 7/8 12/15 12/17</p> <p>up [15] 5/13 8/11 8/16 10/4 12/5 16/5 18/13 20/16 21/10 22/10 23/16 25/18 26/11 35/9 36/8</p> <p>uploaded [1] 15/2</p> <p>upon [4] 5/23 10/17 16/18 24/5</p> <p>us [9] 9/23 15/24 18/7 21/5 23/10 25/25 26/14 35/3 37/9</p> <p>use [10] 6/6 6/7 10/24 10/25 16/25 17/1 24/12 24/13 37/1 37/5</p> <p>used [1] 26/15</p> <p>usually [1] 15/3</p> <p>utilized [1] 27/18</p> <p>utterances [1] 32/5</p> <p>V</p> <p>vaginal [6] 8/5 13/9 13/18 13/23 14/13 14/19</p> <p>various [1] 33/11</p> <p>Vegas [10] 1/14 5/1 7/18 12/3 12/23 14/24 15/15 17/19 25/4 38/14</p> <p>VERNA [1] 2/13</p>
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V versus [1] 5/11 very [2] 9/19 37/16 vest [1] 29/5 victim [2] 8/3 13/4 victims [1] 26/15 video [6] 4/5 21/19 25/24 26/6 29/1 29/19 videotaping [1] 31/2 Virginia [1] 7/1 Volume [1] 1/20 voluntarily [3] 21/7 22/25 28/11 voluntary [1] 21/5 vote [3] 36/24 37/3 37/11	21/6 21/18 22/9 26/23 27/6 27/23 27/24 28/1 32/2 33/24 34/6 34/8 whether [1] 30/4 which [3] 5/15 12/3 21/13 while [5] 5/12 26/11 27/18 29/15 30/21 who [7] 8/18 9/11 13/8 26/6 26/6 26/23 29/3 who's [1] 29/3 whole [9] 5/25 6/18 10/19 11/11 16/20 17/12 24/7 24/24 31/2 will [3] 5/10 36/16 37/10 wit [1] 39/13 witness [4] 5/14 9/20 15/8 23/6 WITNESSES [1] 3/1 wooden [1] 22/8 word [1] 31/24 work [13] 7/4 11/22 12/5 12/13 12/20 18/8 18/18 19/18 21/4 21/13 25/15 28/19 33/8 worked [4] 7/10 7/12 7/13 11/20 working [3] 18/3 19/5 21/10 would [7] 15/4 21/4 27/22 27/23 27/25 31/6 34/12 wound [3] 31/15 31/20 31/21 wounds [1] 32/1			
W waiting [1] 21/12 wall [1] 27/24 walls [1] 26/20 want [5] 5/16 14/25 19/4 20/19 35/21 wanted [1] 19/16 warrant [3] 22/20 22/23 22/24 was [84] wasn't [1] 28/5 way [1] 19/24 we [44] we'll [4] 14/8 14/8 25/19 37/12 we're [4] 7/1 26/5 28/13 28/23 we've [3] 22/10 28/1 28/18 weapon [10] 6/6 6/7 10/24 10/25 16/25 17/1 24/12 24/13 37/1 37/6 Weckerly [2] 2/22 5/10 well [9] 14/16 15/16 19/13 21/11 22/16 25/22 27/9 31/23 33/4 went [2] 22/13 22/20 were [28] 7/15 7/21 8/2 8/8 8/24 8/25 13/13 13/19 13/23 14/18 18/22 19/8 21/12 21/15 25/10 25/19 26/12 26/15 26/15 27/8 27/9 27/13 27/19 27/19 31/2 31/8 33/10 38/10 weren't [1] 27/12 what [20] 9/9 11/18 11/25 11/25 13/13 13/19 14/7 14/9 15/3 15/12 15/14 17/17 18/1 25/9 34/14 34/17 34/21 34/23 35/25 36/1 what's [4] 7/2 22/6 34/18 34/21 whatnot [1] 18/12 when [7] 18/1 18/12 18/21 25/9 26/13 27/2 32/25 whenever [1] 14/7 where [18] 6/23 6/25 7/12 8/16 19/5 20/23	Y Yeah [3] 9/9 9/16 30/16 years [8] 11/21 17/22 17/23 25/8 25/13 27/13 27/16 33/11 Yes [57] you [158] you're [22] 5/23 6/4 6/4 10/11 10/17 10/22 10/22 15/17 16/12 16/18 16/23 16/23 18/6 23/23 24/5 24/10 24/10 27/20 32/4 33/9 35/16 37/7 you've [6] 7/9 12/8 12/12 26/6 28/14 33/1 your [28] 5/19 6/11 7/2 10/14 11/4 11/18 12/11 13/7 13/10 16/15 17/5 18/1 18/14 18/25 24/2 24/17 25/14 26/7 27/7 29/24 33/8 33/25 36/4 36/6 36/8 36/16 37/11 37/13			



MOT

CHRISTOPHER R. ORAM, ESQ.
Nevada State Bar #004349
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
(702) 384-5563

JOEL M. MANN, ESQ.
Nevada State Bar No. 008174
601 South 7th Street
Las Vegas, Nevada 89101
(702) 474-6266

Attorney for Defendant:
ARTHUR SEWALL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

*** * ***

THE STATE OF NEVADA,
Plaintiff,

vs.

ARTHUR SEWALL,

Defendant

)
) Case No.: C-18-330650-1
) Dept. No.: XXI
)
)
)
)
)

MOTION TO SUPPRESS ILLEGALLY OBTAINED STATEMENTS

COMES NOW, Defendant ARTHUR SEWALL, by and through his attorneys of record, CHRISTOPHER R. ORAM, ESQ., and JOEL M. MANN, ESQ., who hereby files the instant Motion to Suppress Illegally Obtained Statements. This motion is based upon the attached Points and Authorities, the papers and pleadings on file, and the arguments and evidence taken at the hearing on this matter.

///

///

1 DATED this 19th day of October, 2018.

2 Respectfully submitted by:

3
4 By: /s/ Christopher Oram, Esq.
5 CHRISTOPHER R. ORAM, ESQ.
6 Nevada State Bar No. 004349
7 520 S. Fourth Street, 2nd Floor
8 Las Vegas, Nevada 89101
9 (702) 384-5563

10 By: /s/ Joel Mann, Esq.
11 JOEL M. MANN, ESQ.
12 Nevada State Bar No. 008174
13 601 South 7th Street
14 Las Vegas, Nevada 89101
15 (702) 474-6266

16 Attorneys for Defendant
17 ARTHUR SEWALL

18 **NOTICE OF MOTION**

19 TO: THE STATE OF NEVADA, Plaintiff; and

20 TO: STEVEN B. WOLFSON, Clark County District Attorney

21 YOU AND EACH OF YOU will please take notice that a **MOTION TO SUPPRESS**
22 **ILLEGALLY OBTAINED STATEMENTS** will come on for hearing before the above-
23 entitled Court on the 30 day of Oct., 2018, at the hour of 9:30 a.m. in
24 Department XXI.

25 DATED this 19th day of October, 2018.

26
27 By: /s/ Christopher Oram, Esq.
28 CHRISTOPHER R. ORAM, ESQ.
Nevada State Bar No. 004349
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada 89101

By: /s/ Joel Mann, Esq.
JOEL M. MANN, ESQ.
Nevada State Bar No. 008174
601 South 7th Street
Las Vegas, Nevada 89101

1 **FACTS**

2 In the later afternoon, early evening on January 11, 2018, Arthur Sewall was
3 coming home from a long day's work. He pulls into the parking lot of his apartment
4 complex, in Reno, Nevada, and parks into his designated parking spot. Mr. Sewall
5 gets out of his car and starts to walk to his building. As he is about to get to the
6 sidewalk of his building, two men get out of a car that is waiting in front of his
7 building. As the two men get out, they shout Mr. Sewall's name, and ask him to
8 come over to them. As Mr. Sewall is walking over to the two men, it is apparent that
9 one of the men has a police badge on his hip. These two men later were identified as
10 Reno Detectives.
11

12 As Mr. Sewall comes up to the two men Mr. Sewall now believes are detectives,
13 two additional men walk up behind Mr. Sewall. The original two men introduce the
14 two men approaching from behind as Las Vegas Metro Detectives. Their badges
15 became visible upon the introduction. The LVMPD Detectives introduced themselves
16 to Mr. Sewall as , Detective O'Kelley and Detective Hefner, and told them they are
17 working a case and pointed to a very large binder under one of the arms of the
18 LVMPD Detectives. The LVMPD Detectives asked Mr. Sewall if he would be willing
19 to clear somethings up for them, stating something about an "accidental discharge or
20 something else".
21

22 Mr. Sewall, taken off guard and not sure what is going on, asks the Detectives
23 what this is about. The Detectives respond that, "If you [Mr. Sewall] volunteer to go
24 to the station we will explain all of it and that we will bring you back to your
25
26
27
28

1 apartment when we are finished.” They continued to explain that it would be better
2 to speak in the station instead of out on the parking lot. Mr. Sewall says okay and
3 the Reno Detectives then ask Mr. Sewall if he had any weapons, Mr. Sewall offers a
4 knife that he is carrying. The Detectives then did a pat down of Mr. Sewall. The
5 Reno Detectives then opened the front passenger door for Mr. Sewall and tell him to
6 get into the vehicle. As he gets into the vehicle, the other Reno Detective sits directly
7 behind Mr. Sewall. The two cars then proceeded to the station.

11 When the two cars arrived at the Reno Police Station, the Detectives direct Mr.
12 Sewall into a small room where the two LVMPD Detectives enter with their binder.
13 The room consists of one door, a couch against the opposite wall, a round table and
14 three chairs. Mr. Sewall is directed to sit at the table and Detective O’Kelley and
15 Detective Hefner sit at the table as well. Detective Hefner sits against the wall
16 where the one door is, requiring Mr. Sewall to have to pass Detective Hefner to exit
17 the room.

21 When they get into the room, they have everyone shut off their cellphones, so
22 they can talk without being interrupted. Then at 5:04 p.m., Detectives immediately
23 go into questioning Mr. Sewall regarding a .357 gun that they say he owned and was
24 taken by San Diego Police and ultimately destroyed by SDPD. Mr. Sewall denied
25 having a .357 that was taken by SDPD and states that it was a .22. The Detectives
26 then move onto that they have a DNA report that states his DNA was found on a
27 prostitute that was murdered in 1997.

1 Within 15 minutes of being placed into that room with two LVMPD Detectives
2
3 and seeing that he is about to be charged with a crime, Mr. Sewall asks for a lawyer.

4 A: But being straightforward with you - information that you
5 had placed out here and, like, what you have sitting over
6 there and what you have said, I mean, I'm not a rocket
7 scientist but it's leading down the path of me being
8 charged with something.

9 Q1: Yeah you're right. You're correct.

10 A: So I think at this point and time...

11 Q: Well I mean...

12 A: ...whether I'm here voluntary or not - I need a lawyer.
13 (Surreptitious Recording, pg. 13)

14 Immediately upon asking for a lawyer, Detective Hefner goes into the fact that
15
16 they have a search warrant for Mr. Sewall's DNA, palm print and picture. Hefner
17 states that **"we'll get that done quickly and you'll be on your way."**¹ (Surreptitious
18 Recording, pg. 14, emphasis added). Within seconds of Hefner telling Mr. Sewall that
19
20 he cannot leave until those items are taken care of, Detective O'Kelley goes into his
21
22 very next question about the case, "Have you – did you ever spend any time over at
23
24 Marble Manor?" (Surreptitious Recording, pg. 14).

25 When Detective Hefner stated that they needed to collect DNA before Mr.
26
27 Sewall could leave, and before Detective O'Kelley went straight back into questioning
28
29 Mr. Sewall, Mr. Sewall informed the Detectives that he had tobacco chew in his
30
31 mouth and asked whether he should wash his mouth out first. The Detectives stated

¹ Detective Hefner stated that they had a warrant for collection of evidence and needed to collect that evidence before Mr. Sewall could be on his way, at 5:22:11 p.m. Evidence technicians did not enter into the room to collect Mr. Sewall's fingerprints and picture until after 7:30 p.m. Over two plus hours after Mr. Sewall asked for an attorney and was told he could leave after the technicians completed their collection.