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IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL SAMUEL SOLID,

NO. 85189

Appellant,

vs.

STATE OF NEVADA,

Respondent.

FILED

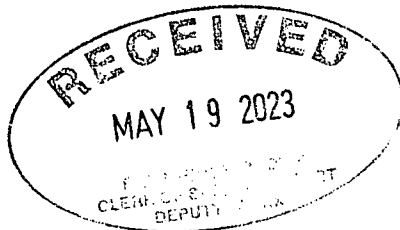
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APPELLANT'S APPENDIX

VOL 3

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## INDEX

Amended Ex Parte Application for Order Requiring Material Witness	
to Post Bail	AA Vol. I, 000083-000086
Amended Indictment	AA Vol. I, 000006-000009
Case Appeal Statement	AA Vol. VII, 001700-001702
Ex Parte Application for Order Requiring Material Witness	
to Post Bail	AA Vol. I, 000079-000082
Indictment	AA Vol. I, 000001-000005
Instructions to the Jury (Guilt Phase)	AA Vol. VI, 001477-001500
Instructions to the Jury (Guilt Phase)	AA Vol. VII, 001501-001661
Instructions to the Jury (Penalty Phase)	AA Vol. VII, 001649-001661
Notice of Appeal	AA Vol. VII, 001698-001699
Order Requiring Material Witness to Post Bail or Be	
Committed to Custody	AA Vol. I, 000087-000089
Recorder's Transcript-Sentencing	AA Vol. VII, 001674-001693
Second Amended Indictment	AA Vol. I, 000010-000014
Second Amended Judgment of Conviction	AA Vol. VII, 001694-001697
Sentencing Letters	AA Vol. VII, 001663-001673
State's Fifth Supplemental Notice of Expert Witnesses	AA Vol. I, 000044-000074
State's Fourth Supplemental Notice of Expert Witnesses	AA Vol. I, 000015-000043
State's Notice of Motion and Motion to Admit the Prior Testimony of Any Witness Who Has	
Previously Testified Subject to Cross-Examination	AA Vol. I, 000075-000078
Transcript of Proceedings-Jury Trial	AA Vol. I, 000090-000250
Transcript of Proceedings-Jury Trial	AA Vol. II, 000251-000500
Transcript of Proceedings-Jury Trial	AA Vol. III, 000501-000750
Transcript of Proceedings-Jury Trial	AA Vol. IV, 000751-001000

1	Transcript of Proceedings-Jury Trial	AA Vol. V, 001001-001250
2	Transcript of Proceedings-Jury Trial	AA Vol. VI, 001251-001476
3	Transcript of Proceedings-Jury Trial-Penalty Phase	AA Vol. VII, 001522-001648
4	Verdict (Guilt)	AA Vol. VII, 001520-001521
5	Verdict (Penalty)	AA Vol. VII, 001662

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1 facing the direction of Charleston Boulevard, and here is an  
2 April 2018 street view from Google Maps, and it would be the  
3 gas pump towards the left top where that gold vehicle is.  
4 That's where Mr. Solid was with the white Ford Explorer.

5 So from this particular view, the evidence will show,  
6 that whoever was in that vehicle, Mr. Solid would have had a  
7 view of any individuals crossing Torrey Pines to get to  
8 Charleston.

9 And as I mentioned earlier, this particular spot also  
10 allows for easy access to Charleston Boulevard.

11 At some point, Solid is seen walking away from the  
12 SUV 4:09:24 p.m., right there, and the evidence will show at  
13 some point the defendants -- the defendant and Jacob Dismont's  
14 cell phones were taken, and they were analyzed. Not only were  
15 both of their phones pinging in that area at the gas station  
16 where the video surveillance captures them, but the phone  
17 records also show that Mr. Dismont calls Mr. Solid at  
18 4:09 p.m., and that is while Mr. Solid is in the vehicle, and  
19 Mr. Dismont is on foot.

20 The call is 13 seconds, but at 4:09 p.m.

21 You see Solid returning to the SUV at 4:09:55, and  
22 Dismont again calls Solid at 4:11 p.m., and this is a little  
23 longer call. It's like 30 seconds long, but again, the cell  
24 towers are registering or pinging both phones belonging to  
25 Mr. Solid and Mr. Dismont at that gas station.

1           And at 4:12:21 p.m., the SUV pulls on to West  
2 Charleston.

3           And so the SUV crosses Torrey Pines traveling west on  
4 Charleston and at 4:12:27 p.m., you can see it right there.  
5 The SUV travels west on Charleston. You can see it right there  
6 4:12:29 p.m., and the boys reappear walking west on Charleston  
7 at 4:12:59.

8           And so this is an aerial map that shows the path the  
9 boys were walking on the sidewalk leading up to the Premier Car  
10 Wash where Marcos would be attacked and confronted by Jacob  
11 Dismont.

12           And so the last thing that the surveillance from the  
13 Terrible's captures is traffic backing up at about 4:15 p.m. on  
14 Charleston.

15           The paramedics and the ambulance arrive to Marcos's  
16 location at 4:50 p.m. There were several 9-1-1 calls that were  
17 placed. Rebecca Shanahan, you'll hear from her. She called  
18 9-1-1 at 4:12 p.m. Christine Bullard also called at 4:13 p.m.  
19 And the site or the area where Marcos and the confrontation  
20 with the SUV and with Mr. Dismont occurs is right here on West  
21 Charleston Boulevard at the intersection of Scholl, Scholl  
22 Drive. And so from right to left, that's going west on  
23 Charleston and across Scholl, and there's that left turn lane  
24 where you can, you know, make a U-turn.

25           So what evidence are we going to show you to support

1 the fact that Mr. Solid had knowledge that Dismont was  
2 committing a robbery? You look at the video, you're going to  
3 see that Mr. Solid was at this gas station purchasing a  
4 dollar's worth of gas for 10 to 11 minutes.

5 The evidence will show that Mr. Solid knew that a  
6 robbery was occurring because he stayed parked in that second  
7 location, that second pump overlooking Charleston and with a  
8 view of Torrey Pines in Charleston for three and a half minutes  
9 not pumping gas, not doing anything except coming out of the  
10 car, going towards that area, getting a phone call, getting  
11 back in the car, getting another phone call, and then taking  
12 off towards Charleston.

13 We're also going to present to you eyewitness  
14 testimony. You going to hear from Alejandro Romo, who is --  
15 who was working at that car wash this particular day. He was  
16 out holding signs, trying to get business, trying to drum up  
17 business for this car wash, and he's going to tell you what he  
18 saw. He saw Jacob Dismont come up, try to snatch this iPad  
19 from Marcos. Marcos fought back. Marcos was drug onto the  
20 street. He saw that Jacob Dismont entered the front passenger  
21 side of an awaiting SUV, white SUV in that turn lane being  
22 driven by a black male adult.

23 Rebecca Shanahan, will also testify. She would be in  
24 a vehicle. She's in an SUV directly behind Mr. Solid in that  
25 white SUV, and she'll tell you that as she was sitting at the

1 intersection something caught her eye towards the car wash  
2 area, and when she finally looked over, she saw a young  
3 Hispanic boy being attacked by a white male adult.

4 And she also will tell you that the Hispanic male  
5 adult, who we later learn is Marcos Arenas is being drug across  
6 eastbound Charleston towards that white SUV that's parked  
7 directly in front of her, and at some point, Marcos makes  
8 contact with Rebecca, and while her windows are up, she can see  
9 him mouth, help, help, and so she starts honking the horn to  
10 try to stop this white male adult from continuing to punch and  
11 drag and try -- have this attack and this interaction with  
12 Marcos.

13 When that doesn't work, she sees the white male adult  
14 enter the front passenger seat of the vehicle, and she sees  
15 Marcos trying to reach in, as if he's trying to retrieve  
16 something from the inside of the car, or he's being held onto  
17 the car. The car immediately upon the white male adult  
18 entering -- upon Jacob Dismont entering the front passenger  
19 seat, Rebecca will tell you that the SUV immediately guns it;  
20 it just shot off. And it appeared to her from her vantage  
21 point that Marcos was hanging on and trying to run with the car  
22 until he couldn't anymore or he was bumped off, and he fell to  
23 the ground, and the car ran him over.

24 Ms. Bullard is going to give you very similar  
25 testimony. She was in a different location. She was passing

1 through on the middle lane of Charleston Boulevard, or actually  
2 it would be the first travel lane of Charleston Boulevard  
3 westbound.

4           There's another individual, Ronald Lakeman, who was  
5 also in a vehicle who sees the whole thing, and Rebecca, as I  
6 indicated to you and multiple eyewitnesses will tell you that  
7 when the white SUV being driven by Michael Solid shot off, of  
8 course it had to kind of cut off the person in the first travel  
9 lane because you can see from the turn lane, if you go  
10 straight, I mean, you're going to hit a median because there's  
11 another turning lane right there.

12           And, of course, you're going to hear from Marcos's  
13 best friend, Gacory, because he was with him when Jacob Dismont  
14 attacked him with the iPad.

15           Rebecca will tell you that Gacory stayed on the  
16 sidewalk screaming for help, in shock, and at some point he,  
17 after Marcos falls to the ground, Gacory will tell you that he  
18 runs up and sees Marcos, thinks that he's dead, and he runs  
19 home and tells his mom, and then they tell Ivan Arenas, who  
20 then responds to the scene.

21           By the time Ivan makes it to the scene, Marcos had  
22 already been transported because Marcos was very lucky that  
23 day. There was a paramedic, an AMR paramedic ambulance on  
24 their way to another call on Charleston and Shadow Lane going  
25 eastbound on Charleston, and as they approach this area they

1 wondered why is traffic stopped. Cars are just stopped, you  
2 know. They were like they had their lights and sirens on, but  
3 why is everybody stopped?

4 And at some point, when they pull into this median  
5 now over here to make a U-turn, you know, going left, going  
6 eastbound on Charleston, she looks down, Stephanie Teague, the  
7 paramedic looks down and sees Marcos laying there. So she  
8 stops. They render aid. She'll tell you about the injuries  
9 she saw on Marcos, including the tire marks across his face and  
10 his abdomen.

11 So we are going to show you, and the evidence is  
12 going to show Mr. Solid's knowledge that Mr. Dismont, that he  
13 knew Dismont was committing a robbery because you have to take  
14 into account, and you'll see this evidence, where he parks the  
15 SUV to wait for Dismont. This is a turning lane, a left  
16 turning lane, except he doesn't turn. He just sits there and  
17 waits, and look at where it is in relation to where the  
18 actual -- the evidence will show the struggle happened or the  
19 struggle ensued, the robbery ensued between Jacob Dismont and  
20 Marcos Arenas.

21 You're also going to hear testimony. It'll be read  
22 into the record from Detective Freeman, who was with the fatal  
23 detail unit of the Las Vegas Metropolitan Police Department.  
24 He did an accident work up, and he testified that Marcos was  
25 drug 88.51 feet before he fell to the ground.

1           You will also see photos from inside of the white SUV  
2 belonging to Jacob Dismont, the vehicle that Mr. Solid was  
3 driving when he shot off and ran Marcos over, and you'll see  
4 it's not an overly large interior. To the right or to the  
5 front of this particular photo, that's the front passenger seat  
6 where Mr. Dismont would have entered with the iPad where  
7 Marcos, trailing behind, reaching in right there, that front  
8 passenger seat, that's what the evidence is going to show.

9           The evidence is going to show Mr. Solid sitting on  
10 the driver side, as you can see from the top of this photo.  
11 This is a photo from a different angle. It's not a huge space.  
12 Anyone who was sitting in the driver seat of that vehicle would  
13 have been able to see and observe what it was that was going on  
14 with the front passenger seat and 15-year-old Marcos Arenas  
15 trying to get into the vehicle or trying to grab something from  
16 the vehicle.

17           The evidence is going to show that Michael Solid was  
18 the getaway driver. That's what his conduct shows before and  
19 during this crime.

20           The evidence is going to show on May 17th, 2016,  
21 Mr. Solid and Mr. Dismont meet. Mr. Dismont, however, is  
22 trying his best not to use the SUV, and so he's using this, you  
23 know, bike thing that he has.

24           And then we're going to show you evidence. We're  
25 going to admit evidence showing the cover-up, okay.

1           And so Mr. Dismont's phone was also taken. It was  
2 forensically downloaded, meaning they basically dumped the  
3 phone. That's what it's called. They dumped the phone, and it  
4 shows, these dumps, you'll hear from Brad Berghuis, these phone  
5 dumps or these forensic downloads are so good that you can  
6 often get deleted messages. You can sometimes retrieve those,  
7 and he did this time.

8           But you're going to see, you're going to hear about  
9 multiple conversations Jacob Dismont had with his brother or I  
10 believe it's his stepbrother or cousin, Brian Goodwin, and they  
11 talked extensively about how he needs to get rid of the  
12 vehicle, how that vehicle is hot, how he needs to stop making  
13 contact with Mr. Solid, basically rid yourself of any  
14 association with what just happened at that Chevron, at that  
15 car wash on Charleston on May 16th, 2013. That's the advice  
16 that he gets.

17           You'll have these text messages. In particular,  
18 you're going to hear about this text message from May 18th,  
19 2013, at about 10:44 a.m., where Goodwin, his relative is  
20 telling Dismont, odds are that you can never drive that  
21 Explorer again unless you get it painted. It's too hot, even  
22 with tires and whatnot.

23           MR. MARCHESE: Judge, may we approach?

24           THE COURT: Yes.

25                   (The bench conference began.)

1 MR. MARCHESE: This is a distance?

2 THE COURT: Mr. Marchese (indiscernible).

3 MR. MARCHESE: I'm sorry.

4 THE COURT: You're okay.

5 MR. MARCHESE: I'm having -- so it was my  
6 understanding this is a conversation between codefendant,  
7 Mr. Dismont and Mr. Dismont's brother.

8 MS. BOTELHO: Uh-huh. Yeah. Like stepbrother,  
9 cousin, something like that or relative.

10 MR. MARCHESE: After the fact?

11 MS. BOTELHO: Oh, no. This is still in furtherance  
12 of the conspiracy, May 18th.

13 MR. MARCHESE: These are -- I would argue that these  
14 are hearsay comments.

15 MS. BOTELHO: They were statements made in  
16 furtherance of the conspiracy by the coconspirator.

17 MR. MARCHESE: Who is unavailable to cross-examine.

18 THE COURT: And there's the conspiracy to commit  
19 murder obviously charged, but the issue you're saying is a  
20 confrontation issue?

21 MR. MARCHESE: And hearsay.

22 THE COURT: May I ask you to move on for opening  
23 purposes, and we can address it a little further once we --  
24 when you intend to introduce these statements.

25 MS. BOTELHO: Okay.

1 THE COURT: Thank you.

2 (The bench conference was concluded.)

3 MS. BOTELHO: So the evidence is going to show that  
4 Mr. Dismont didn't want to drive this SUV. He wanted to  
5 (indiscernible) and he wanted to distance himself from this  
6 vehicle, and he actually goes to some lengths to cover up parts  
7 of the SUV. He adds stickers to it, as shown in this photo,  
8 stickers to the back.

9 There's also going to be testimony from  
10 Detective Tate Sanborn, who was a homicide detective at the  
11 time. He looked at the phone records from Mr. Solid's phone,  
12 and he will testify that there were 38 deleted calls between  
13 Mr. Solid and Mr. Dismont on May 16th, 2013, the day that  
14 they ran over -- robbed and ran over Marcos Arenas. The calls  
15 from the following days were deleted also, and the text  
16 messages between Mr. Solid and Mr. Dismont were also deleted.

17 The evidence will also show that in an attempt to  
18 distance themselves from that white Ford Explorer, they placed  
19 false license plates on the vehicle, and the vehicle, the  
20 license plates actually register back to Karyn Licari, who is  
21 Mr. Solid's girlfriend's mom.

22 The 9-1-1 call, the first 9-1-1 call is logged at  
23 4:12 p.m. The first call, Mr. Solid made to unload the stolen  
24 iPad that Jacob Dismont had just forcefully taken from Marcos  
25 Arenas occurred at 6:34 p.m. that same day. So on May 16th,

1 2013, Solid gets \$80 for the iPad, for Marcos's iPad.

2 And we're going to show you evidence of  
3 correspondence between Mr. Solid and Mr. Nicholas. On May  
4 16th, 2013, between 6:34 p.m. and 6:52 p.m., and it was  
5 during these conversations where -- well, after this  
6 conversation Mr. Solid shows up at Mr. Nicholas's apartment,  
7 and therein he tells Mr. Nicholas that he had committed a  
8 robbery to get that iPad.

9 You're going to hear -- you're going to hear from  
10 Mr. Nicholas about the statements Mr. Solid made to him when he  
11 showed up with that iPad.

12 Shortly after Marcos was run over.

13 And Mr. Nicholas will tell you that Mr. Solid came to  
14 his apartment on a Thursday, and he didn't recall the time, but  
15 the sun was still out.

16 Now, this is May 16th. So we're entering into the  
17 summer. It's staying light out a little longer.

18 And when the detectives asked Mr. Nicholas why would  
19 he give you the iPad, why would you come to mind? And  
20 Mr. Nicholas will tell you that he called me and asked me if he  
21 could borrow \$80 and told me that if I let him borrow 80 he'd  
22 give me an iPad. I told him to sell it to me. He said he  
23 didn't want to sell it. He said if I let him borrow 80, then  
24 he would leave the iPad, and he would come back the next day  
25 and give me a hundred dollars and get it back.

1 And when the Detective said and that's what he did?

2 And that's what he did.

3 So you gave him \$80 in cash, the detective asks.

4 Yes.

5 And so you keep the iPad?

6 And Mr. Nicholas says, yes. Right after he got here  
7 he told me, he's, like, I think I'm going to be on the news  
8 later. I'm, like, why? He's, like, man because I just robbed  
9 this and da, da, da, da, da. But he didn't tell me, like, what  
10 happened like that.

11 Did he say who he was with?

12 He said he tried to -- he tried to hang onto the car.  
13 Yeah, and he said --

14 And the detective asked, he say that he hit the kid?  
15 Mr. Nicholas will tell you, yeah, but he didn't explain it to  
16 me like that. He said after he got in the car, he's like the  
17 dude just jumped and tried to grab the car. He never said that  
18 he -- they was hanging on the iPad and he dragged him. He said  
19 after he got back in the car, the dude tried to grab the car,  
20 and then he's, like, so I just speeded up, and then he fell,  
21 but he didn't tell me that ran over and shit like that.

22 And the detective says, yeah.

23 And Mr. Nicholas continues, like, he's, like, oh, and  
24 then when I was leaving, I seen a hell of ambulances and police  
25 coming. I don't know how they came that fast. I don't know

1 what happened. I was, like, what are you talking about, bro,  
2 like, wasn't paying attention.

3 And so three hours, two to three hours from the time  
4 Marcos is run over, his iPad is taken. The evidence is going  
5 to show that Mr. Solid was at Mr. Nicholas's apartment getting  
6 \$80 for it, talking about being on the news, talking about  
7 robbing someone, a kid. A kid who hung on.

8 The evidence is also going to show that Mr. Nicholas  
9 gave the iPad to another individual named David Doyle. He  
10 realized after he saw on the news what happened to this kid  
11 that this iPad was hot. So he gives it to this person David  
12 Doyle, who the police make contact with, and they obtain the  
13 iPad. They detectives look at the serial number, compare it  
14 with that receipt from the pawnshop, and lo and behold, that  
15 was Marcos's iPad.

16 So as I stated earlier, this case is going to boil  
17 down to evidence that we present to you of the defendant's  
18 conduct with his coconspirator, partner in crime, friend,  
19 before, during and after. That's what this case boils down to.

20 There isn't a recording of what they were thinking or  
21 what Mr. Solid knew. But as fact finders, as the jury, as the  
22 jury in this case, we are going to ask you to look at the  
23 evidence and pay special attention to these -- to the before,  
24 during and after conduct of Mr. Solid and Mr. Dismont.

25 We are going to ask you at the end of this to find

1 Mr. Solid guilty of conspiracy robbery, robbery and murder with  
2 use of a deadly weapon.

3 When I say look at the evidence before, during and  
4 after, what I really mean is simply if it looks like a duck,  
5 quacks like a duck, acts like a deck, it probably is a duck.  
6 You can make whatever claims you want, and you can't change  
7 certain things. You can't change the video. You can't change  
8 that conduct.

9 MR. MARCHESE: Object as to argumentative, Your  
10 Honor.

11 THE COURT: Ms. Botelho.

12 MS. BOTELHO: I'll move on, Your Honor.

13 THE COURT: All right. Thank you.

14 MS. BOTELHO: We are going to ask you to find  
15 Mr. Solid guilty of all counts at the end of this trial. Thank  
16 you.

17 THE COURT: Thank you, State.

18 Defense, are you prepared to give an opening  
19 statement at this time, or are you --

20 MR. MARCHESE: Yes, we are, Your Honor.

21 THE COURT: Okay. Thank you, Mr. Marchese. Go  
22 ahead.

23 **OPENING STATEMENT FOR THE DEFENSE**

24 MR. MARCHESE: Ladies and gentlemen of the jury,  
25 again, my name is Jess Marchese, along with Mr. Leventhal on

1     behalf of Mr. Solid.

2             As serious as this case is, it's actually a pretty  
3     straightforward case. We are not going to waste your time  
4     during the course and scope of this trial arguing things that  
5     aren't really at issue.

6             As I stand here today in front of you making my  
7     opening statement, although the State has laid out the case and  
8     the facts for you, we don't necessarily disagree with a lot of  
9     it. We disagree with the conclusion, but we're not going to  
10    waste your time arguing about pictures and videos and what not.

11            We don't dispute that on the date of the occurrence  
12    Mr. Solid was present. We don't dispute that he was at the gas  
13    station, that he was in the vehicle. A lot of those things  
14    we're not going to argue to you.

15            But what we are going to argue to you are the things  
16    that, unfortunately, are not on video.

17            Okay. There's this fallacy a lot of people think  
18    that everything in the world, with traffic cameras, that  
19    there's video. Unfortunately in this case, there was no video  
20    of the actual occurrence. We've seen some of the lead up. We  
21    see some of the things afterwards, but we don't see what  
22    actually occurred during the events that are mainly in  
23    question.

24            Now, you will hear from some eyewitnesses, and as  
25    many of you are from Las Vegas and probably very familiar with

1 the road of Charleston, it's a very busy road, especially at  
2 about 4:00 p.m. in the afternoon when these events occurred.

3 What you'll hear, what we'll show you through the  
4 course and scope of this case is that yes, Mr. Dismont was  
5 there. I don't believe you're going to hear from Mr. Dismont  
6 from -- during this trial.

7 Mr. Dismont was there. Mr. Solid was there, and  
8 Mr. Leventhal had spoken about earlier, Mr. Solid's girlfriend  
9 was also present in that vehicle, in that Ford Explorer that  
10 they just showed you pictures of during the opening statement,  
11 and I can almost guarantee you throughout this case you're  
12 going to see more pictures and some more testimony and evidence  
13 about that Ford Explorer.

14 And when Mr. Solid was there and he was driving -- we  
15 concede that fact. As a matter fact, I think you'll hear from  
16 some forensic experts who will somehow link some forensic facts  
17 to Mr. Solid, and that was, in fact, the driver of that motor  
18 vehicle.

19 And again, in the back of the vehicle was Mr. Solid's  
20 girlfriend, their young child, and Mr. Dismont was, in fact,  
21 out of the vehicle.

22 Where the question and where the argument, I guess,  
23 if you will, arises is we are going to argue and show you  
24 throughout our case and throughout the State's case that  
25 Mr. Solid did not in fact know that there was a robbery. This

1 was Mr. Dismont on his own. He was the one out of the vehicle,  
2 the evidence will show you. He was the one going up to  
3 Mr. Exum and Mr. Arenas grabbing the iPad. There's some facts  
4 in dispute, whether he was being dragged or whether Mr. Arenas  
5 was going to the vehicle. Common sense and logic dictate that  
6 when you're in a stressful situation that many times the  
7 witnesses might get little facts like that wrong.

8 But the bottom line is yes, Mr. Arenas and  
9 Mr. Dismount were at the Ford Explorer at some point. Whether  
10 he was being pulled in or whether he was getting dragged,  
11 that's up for you to decide.

12 You'll hear some eyewitnesses, just some regular  
13 folks such as yourself. They'll come in here and testify what  
14 they remember, what they saw, what they heard, almost 10 years  
15 ago now. It's been a very long time.

16 So what I want you to focus on is I want you to focus  
17 on actual -- it's all important. We have nothing to hide. But  
18 I want you to focus on what actually transpired and try to  
19 piece together the actual moments in time as to when this  
20 tragedy occurred.

21 Mr. Dismont is the driver. We are going to show that  
22 it was very chaotic, honking, one of the individuals who was  
23 behind the vehicle saw this fight off to her side and started  
24 honking her horn. There's this fight. There's the dragging.  
25 There's the chasing, whatever you want to call it, and the

1 bottom line is Mr. Solid just panicked, and he hit the gas, and  
2 Mr. Arenas unfortunately -- there might be some different  
3 testimony to whether he was run over or whether he fell down,  
4 but regardless, the young man is no longer with us. Awful,  
5 awful set of facts.

6 We don't dispute that he's no longer with us. I'm  
7 not going to insult your intelligence with that. I would  
8 imagine that the State is going to call a doctor to corroborate  
9 those facts as to what the cause of death was and that he did,  
10 in fact, die from that accident.

11 So that's what we want you to focus on. It is all  
12 important, ladies and gentlemen. We have nothing to hide.  
13 We'll have another opportunity to argue these facts. This is  
14 not evidence where we're at right now. You're about to hear  
15 the evidence shortly, but take your notes, listen, keep an open  
16 mind.

17 As Mr. Solid sits here, which was brought up to you  
18 the last two days when we went through jury selection, and it  
19 was brought up to you time and time again, and I cannot stress  
20 to you enough how important it is that as he sits here today he  
21 is still not guilty. If this case was submitted to you, you  
22 would have to, because you have not heard any evidence, vote  
23 not guilty for Mr. Solid, and we are confident that once this  
24 case is over and once you hear the evidence, once you hear the  
25 facts that you will come to that same conclusion, and that same

1 conclusion for Mr. Solid, that he is not guilty of these  
2 charges.

3 Thank you.

4 THE COURT: Thank you, Mr. Marchese.

5 State, you may call your first witness.

6 MS. BOTELHO: Your Honor, may I have a moment to  
7 gather some exhibits, but the State's first witness will be  
8 Ivan Arenas.

9 THE COURT: Okay.

10 **IVAN ARENAS**

11 [having been called as a witness and being first duly sworn,  
12 testified as follows:]

13 THE CLERK: Thank you. Please have a seat, sir.

14 State and spell both your first and last name for the  
15 record.

16 THE WITNESS: My name is Ivan, I-v-a-n. Arenas,  
17 A-r-e-n-a-s.

18 THE CLERK: Thank you.

19 THE COURT: Thank you so much, Mr. Arenas.

20 State, whenever you're ready, your witness.

21 (Pause in the proceedings.)

22 MS. BOTELHO: I'm sorry, Your Honor. We have a lot  
23 of stuff out of order right now.

24 THE COURT: Okay. Did you need a break to get it  
25 together?

1 MS. BOTELHO: That would be wonderful.

2 THE COURT: Okay. No problem.

3 Let's set -- we're going to take a 15-minute break.

4 We've got to just get some documents in order. So I'm going to  
5 read the admonishment at this time, and then we'll hear from  
6 Mr. Arenas when we return.

7 During the recess, you're admonished not to talk or  
8 converse amongst yourselves or with anyone else on any subject  
9 connected with the trial; or read, watch or listen to any  
10 report of or commentary on the trial of any person connected  
11 with the trial by any medium of information, including, without  
12 limitation, newspaper, television, the Internet and radio; or  
13 form or express any opinion on any subject connected with the  
14 trial until the case is finally submitted to you.

15 So we'll be in recess until 10:35. We'll see you  
16 back at this time.

17 (Jury recessed at 10:21 a.m.)

18 THE COURT: All right. You may be at ease. You may  
19 be seated.

20 Sir, I guess we got a little bit ahead of ourselves.  
21 If you want to take a 15-minute break, if you want to sit back  
22 with your family, go get a drink, whatever, a drink of water,  
23 anything you want at this time, go ahead. You don't have to  
24 sit there.

25 (Proceedings recessed at 10:22 a.m., until 10:42 a.m.)

1 (Outside the presence of the jury.)

2 MS. BOTELHO: I am going to be using, Your Honor,  
3 State's Exhibits 107, 114, 90, 116 and 2. And I approached  
4 Mr. Leventhal; they will be stipulating to these exhibits.

5 THE COURT: Okay.

6 MR. LEVENTHAL: That's correct.

7 THE COURT: So admitted.

8 (State's Exhibit Number(s) 2, 90, 107, 114, 116 admitted.)

9 THE COURT: And you have permission to publish as  
10 well.

11 MS. BOTELHO: Thank you.

12 THE COURT: All right. Let's get the jury in.

13 (Jury reconvened at 10:43 a.m.)

14 THE COURT: Do the parties stipulate to the presence  
15 of the jury?

16 MS. BOTELHO: The State does.

17 MR. MARCHESE: Yes, Your Honor.

18 THE COURT: All right. I counted. I think we're  
19 correct this time. You may be seated.

20 Mr. Arenas, if you want to just head on up.

21 Sir, you're still under oath. Have a seat.

22 THE WITNESS: Thank you.

23 THE COURT: No problem.

24 Ms. Botelho, your witness.

25 MS. BOTELHO: Thank you.

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DIRECT EXAMINATION

BY MS. BOTELHO:

Q Good morning, sir.

A How are you today?

Q I'm okay. How are you?

A I'm here.

Q Mr. Arenas, I'd like to turn your attention to March of 2013. Was there a birthday for one of your sons that month?

A Yes. It was -- well, two of my sons' birthdays is on that month, Marcos Arenas, which is March 24 -- I'm sorry. March 21st, 1998. And Omar's birthday is March 31st, 1998.

Q Okay.

A '99.

Q Okay. And so they're very close in age?

A Yeah. They call them my German twins or something like that.

Q Okay. In 2013, when Marcos had that birthday in March, how old did he turn?

A He had just turned 15 years old.

Q Did you get him a birthday gift that year?

A Yes. I had originally -- I got him -- I got it for him a little -- I gave it to him a little bit before his birthday, which was a laptop.

Q Okay. And did there come a time where that laptop stopped working?

1           A     Yes, on his birthday it stopped working, and it was  
2 still under -- I still had warranty from the pawnshop. So  
3 right after we celebrated his birthday party, I ran back to the  
4 pawnshop and to get an exchange.

5           Q     Okay. When you returned to the pawnshop, did you  
6 have Marcos meet you there?

7           A     Yes. Yes. I was having issues picking a different  
8 device because of how picky he is. So I decided to have him  
9 meet me at the pawnshop so he could pick another toy.

10          Q     And did he meet you?

11          A     Yeah. On the way there I noticed an iPad right on  
12 the background. So I asked the guy to -- if I could see that  
13 iPad. And shortly after, that's when he showed up at the  
14 store, and I just handed the iPad. I put it on his hand, and  
15 so he could take a look at it, and I asked him if he liked it,  
16 and he said, yes.

17          Q     So did you end up purchasing that iPad for Marcos?

18          A     Yeah. Yeah. I ended up having to get a payday loan  
19 to be able to come up with the rest of the money so I could  
20 purchase -- there was a price difference.

21          Q     Okay.

22          A     So I did what I had to do to make sure that he had  
23 his device.

24          Q     Okay. I'm going to show you what's been marked and  
25 admitted as State's Exhibit Number 107.

1 Do you recognize this person?

2 A Yeah. That's my baby.

3 Q And was this Marcos who turned 15?

4 A Yeah.

5 Q And was Marcos the one that you got the iPad for?

6 A Yes, that's him.

7 Q Showing you what's been marked and admitted as  
8 State's Exhibit Number 114 by way of stipulation. I'm going to  
9 zoom in. Can you see that, Mr. Arenas?

10 A Yes.

11 Q Okay. What is this exhibit?

12 A It's the receipt for the iPad.

13 Q Okay. And it shows the date of April 8th of 2013.  
14 Does that sound about right?

15 A Yeah. Like I said at the beginning, I got him the --  
16 I got it for him a little early, but it was for his birthday.

17 Q Okay. Along with the iPad, did you get him a cover  
18 for his iPad?

19 A Yeah.

20 Q Okay. And do you recall what type of cover you ended  
21 up getting for him?

22 A He ended up picking a cover that it was like a  
23 composition book. It looks like a composition book if you look  
24 at it from afar. I took him to the store, and I was trying to  
25 get him something, the ones that have the keyboards via

1 Bluetooth. I was thinking something like that would be more  
2 appropriate, but he just wanted something simple.

3 Q Okay. So he picked that. Is that the black and  
4 white print?

5 A Yeah, the one that -- yeah, it kind of looks like a,  
6 you know, leopard type thing, spotted.

7 Q Okay. Did you also purchase some headphones for him?

8 A Yeah.

9 Q And what color were the headphones? Do you recall?

10 A They were black if I don't (as said) recall.

11 Q Okay. And so by the time you got him the iPad, would  
12 he take the iPad -- did he put the cover on, first of all?

13 A Yeah.

14 Q And would he take the iPad with him most places?

15 A Pretty much everywhere he went. Yeah, he used it as  
16 a -- for music because he had -- you know, he's -- first of all  
17 the other stuff that they have on there with the music  
18 included.

19 Q Okay.

20 A So he would listen to music while he was running  
21 around.

22 Q Okay. Sir, I'd like to turn your attention  
23 specifically to May 16th of 2013. Were you with Marcos  
24 earlier that day? The morning?

25 A Yeah. We spent the whole morning together. We were

1 tired from -- 'cause we were lifting weights the night,  
2 previous night. So we got up in the morning. I made him  
3 breakfast. It's something I hadn't done in a while, and I  
4 don't know what possessed me to make him a meal that day, but  
5 yet I did. You know, I got up, and I cooked some breakfast for  
6 both of us, and we sat there and we had a meal together. And  
7 as we were finishing the meal, he looks at me and he says, dad,  
8 I'm going to be late for school. And I told him just have a  
9 meal with your father. You know, you can be a couple minutes  
10 late. And throughout by the time he finished his meal, he  
11 said, you know what, I'm tired. Can I just stay home today?

12 Q Did you agree?

13 A Yeah. I told him, yeah. Go ahead. You know, let's  
14 just go ahead and stay home, and we went back to bed that day,  
15 and we went back to lay down and took a nap.

16 Q When you woke up from your nap, was Marcos still with  
17 you?

18 A Yeah.

19 Q At some point did you guys make a plan or did you ask  
20 Marcos or did you send Marcos somewhere to get food?

21 A Yeah. We woke up hungry. So we started planning on  
22 what to have to eat. I like pizza a lot. So I suggested  
23 pizza, and he decided, you know, he suggested Chipotle. So I  
24 said let's, you know, let's go ahead and have Chipotle.

25 Q Marcos, was he driving back then?

1 A No. No. He's --

2 Q Okay. So?

3 A -- 15. So he walked pretty much, you know. Like he  
4 just walked anywhere he needed to go. He would always walk.

5 Q Was there a Chipotle near your house?

6 A Yes. Yes, there was walking distance, you know,  
7 15 minutes, 10, 15, depending on the...

8 Q Did you live near Bonanza High School at that time?

9 A Yes, we did. We stayed walking distance from Bonanza  
10 actually.

11 Q Okay. And he attended Bonanza High School; is that  
12 right?

13 A Yes.

14 Q Okay.

15 A I always try to stay around that area because growing  
16 up I wasn't very stable. So I wanted to --

17 MR. LEVENTHAL: Judge, I'm going to object to this.

18 THE WITNESS: -- I wanted to give them some type of  
19 stability.

20 THE COURT: And one second.

21 MR. LEVENTHAL: It's nonresponsive.

22 MS. BOTELHO: And I'll move on, Your Honor.

23 THE COURT: Okay. Thank you.

24 BY MS. BOTELHO:

25 Q I'm sorry, Mr. Arenas. I'm going to turn your

1 attention to the Chipotle, okay, and Marcos going to Chipotle.

2 Did you tell him what you wanted him to get for you?

3 A Yeah. I gave him a list of what I wanted on my  
4 burrito bowl.

5 Q And did you actually write that down?

6 A Yes, I did.

7 Q And showing you what's been marked and admitted as  
8 State's Exhibit Number 90 by way of stipulation, do you  
9 recognize what's shown in this, sir?

10 A Yeah, the ingredients for my burrito bowl.

11 Q Okay. And so you gave that to him, and did he leave  
12 the house?

13 A Yeah. Yeah, because I was -- so he'd know what to  
14 get so he wouldn't forget.

15 Q Do you recall whether Marcos had his iPad with him  
16 when he left the house that day?

17 A Yeah.

18 Q And do you recall whether he had his headphones on  
19 when he left the house that day?

20 A Yeah. He used to like to put it on the side so he  
21 can listen to music while he was walking.

22 MS. BOTELHO: And for the record, Your Honor, when he  
23 said to the side, it was as if it was hanging from his neck.

24 THE WITNESS: Yeah. Like he still put it on all the  
25 way loud. He can still hear it without having them on your

1 headphones.

2 THE COURT: So reflected.

3 MS. BOTELHO: Thank you.

4 Your Honor, I am going to -- we've already queued up  
5 State's Exhibit Number 116. It is a video, and I would ask for  
6 permission to publish.

7 THE COURT: So granted.

8 MS. BOTELHO: Thank you.

9 And we have queued it up to 15:47:34 or as close  
10 therefrom.

11 And, Mr. Arenas, if you could just take a look at  
12 this surveillance footage.

13 For the record, it's Video Number 5.

14 (Video played.)

15 BY MS. BOTELHO:

16 Q Do you see Marcos in this on the TV?

17 A Yeah. He's the kid with the purple shirt.

18 Q Okay. And do you recognize the other kid that's with  
19 him?

20 A Gacory. He's a good friend.

21 Q Okay. And from this footage, could you tell whether  
22 he had his iPad with him?

23 A Yeah. He's carrying it on the side when he walked  
24 in.

25 Q Okay. And what about the headphones?

1 A He's got them wrapped around his neck.

2 Q Okay. And do you recall him being dressed this way  
3 when he left?

4 A Yeah.

5 Q Okay. After Marcos left for Chipotle, did he ever  
6 come back home?

7 A That morning -- that afternoon he walked out of the  
8 house, I never seen him. The next time I saw him was in the  
9 hospital hooked up to wires and with a tire mark across his  
10 chest.

11 Q Do you recall what time he left your house?

12 A It was sometime after 3:00, 3:30, give or take a  
13 little.

14 Q And at some point did Gacory come to your house?

15 A Yeah. I had noticed there was a helicopter around  
16 the neighborhood, and so I stepped out in the front of my  
17 apartment, and the next thing I know, I noticed Gacory and his  
18 mom coming towards me and walking like I knew there was  
19 something wrong. Whatever it is that they were coming to tell,  
20 I could tell it wasn't something pleasant.

21 Q Did Gacory tell you where Marcos was?

22 A Yeah. He said that he was laying on the street dead,  
23 and his mama kept telling him don't say that. You don't know  
24 that.

25 Q Did you Gacory take you where Marcos was?

1           A     Yeah. He told me kind of the Charleston and Redwood  
2 I believe is the street that crosses when you -- that's west of  
3 where the accident occurred.

4           Q     And when you got there, was Marcos still on the road?

5           A     No, he wasn't.

6           Q     Oh, did you see items on the road that belonged to  
7 your son?

8           A     Debris.

9           Q     At some point did you make your way to the hospital?

10          A     Yeah. I immediately texted my family because I was  
11 on foot, and it was a long walk to the hospital. So I texted  
12 my family, and I told if anybody can come pick me up and take  
13 me to the hospital because my baby was in trauma center.

14          Q     And did you -- were you able to actually see him in  
15 the hospital?

16          A     When we first got there, my brother was the one that  
17 picked me up and took me over there. We waited, like, two  
18 hours before he was stabilized because he died on the way to  
19 the hospital again. And by the time I was there, he wasn't  
20 stable. So they were still trying to bring him back to life  
21 when I was there.

22          Q     Were you at the hospital when he passed away?

23          A     I was at the hospital till, like, 10:30 when he was  
24 clinically pronounced dead.

25          Q     I'm going to show you what's been marked and admitted

1 as State's Exhibit Number 2, admitted by way of stipulation.

2 Is this the scene that you responded to?

3 A Yes.

4 Q To look for Marcos?

5 A Yeah, that's around there, our neighborhood, you  
6 know, we're familiar where we always used cross that pathway  
7 when we were going to the store or to school.

8 MS. BOTELHO: Your Honor, I have no more questions.  
9 Thank you.

10 THE COURT: Thank you, Ms. Botelho.  
11 Defense.

12 MR. LEVENTHAL: No questions, Your Honor. Thank you.

13 THE COURT: Ladies and gentlemen of the jury, you do  
14 have the option of asking witnesses questions if there's  
15 something that wasn't answered by this presentation.

16 Does anyone have any questions for this witness?

17 Seeing no hands.

18 Thank you so much for being here. You are excused.

19 THE WITNESS: Thank you, Your Honor.

20 MR. PALAL: Your Honor, the State's next witness will  
21 be Gacory Exum.

22 THE COURT: Okay.

23 **GACORY EXUM**

24 [having been called as a witness and being first duly sworn,  
25 testified as follows:]

1 THE CLERK: Thank you. Please have a seat.

2 State and spell your first and last name for the  
3 record.

4 THE WITNESS: Gacory Exum. G-a-c-o-r-y. Last name  
5 E-x-u-m.

6 THE CLERK: Thank you, sir.

7 MR. PALAL: May I proceed?

8 THE COURT: Yes.

9 DIRECT EXAMINATION

10 BY MR. PALAL:

11 Q Gacory, do you normally go by Cory?

12 A Yeah.

13 Q Do you mind if I call you Cory?

14 A Yes.

15 Q I mean, I can. All right. How old are you today?

16 A 24.

17 Q 24?

18 A Yeah.

19 Q So in --

20 THE COURT RECORDER: Could I get him just to scoot  
21 closer to the microphone. I'm not picking him up. Thank you.

22 BY MR. PALAL:

23 Q All right. You're 24?

24 A Yeah.

25 Q So in 2013, how old were you?

1 A I think I'm, like, 14.

2 Q Yes. Okay.

3 A I think like 14.

4 Q That math seems to work for me.

5 All right. Back in May of 2013, did you hang out  
6 with somebody by the name of Marcos Arenas?

7 A Yeah.

8 Q How did you know Marcos?

9 A Met him through my friend (indiscernible) and then we  
10 used to play football a lot, basketball and everything.

11 Q Would you hang out with him a lot?

12 A Yeah.

13 Q Would you consider him a very close friend?

14 A Uh-huh.

15 Q Is that a yes?

16 A Yes.

17 Q I'm going to forward your attention to May 16th,  
18 2013. Do you remember that day?

19 A Yes.

20 Q Did you see Marcos that afternoon?

21 A Yes.

22 Q And for the record, I want to show you what's been  
23 previously admitted as State's Exhibit 107. Do you recognize  
24 the person depicted in State's Exhibit 107?

25 A Yeah.

1 Q Who is that?

2 A That's Marcos.

3 Q On May 16th of 2013, you said you saw Marcos. What  
4 were the circumstances that led you to see Marcos?

5 A Well, I was coming from school, and I was with a  
6 couple of other friends from middle school, and he was walking  
7 down with his headphones on and everything, and he threw his  
8 hands up, I put my hands up, and I seen him, and we met and  
9 crossed the street, and he asked me if I wanted to go to  
10 Chipotle with him because I was about to go to his house  
11 regardless, and I went with him.

12 Q Okay. So you said you were planning on going to his  
13 house regardless?

14 A Yeah.

15 Q Is that something you would frequently do after  
16 school?

17 A Yeah. After school I go home, get ready, switch my  
18 clothes, and I go see (indiscernible).

19 Q You go see him?

20 A Yeah.

21 Q Did you guys live close together?

22 A Yeah, lived on the same block. I lived up, like, in  
23 the middle. He lived at the end.

24 Q Okay. All right. And you said that he asked if you  
25 wanted to go to Chipotle?

1 A Uh-huh.

2 Q Is that a yes?

3 A I mean, yes. Yes. Yes.

4 Q I'm sorry. I'm going to have to do that every time I  
5 get a uh-huh.

6 Now, the area that you saw him, was that in the  
7 Torrey Pines and Charleston area, near the Jack-in-the-Box?

8 A Yeah.

9 Q Okay. And I'm going to show you -- I believe we  
10 stipulated -- the parties have stipulated to the admission of  
11 State's Exhibit 113, Your Honor?

12 THE COURT: So admitted.

13 (State's Exhibit Number(s) 113 admitted.)

14 THE COURT: You may publish.

15 MR. PALAL: Thank you, Your Honor.

16 I'm going to show you State's Exhibit 113.

17 Do you recognize what I'm showing you?

18 A Yeah.

19 Q Is this the area of Charleston and Torrey Pines?

20 A Yep.

21 Q And then it looks like -- would it be fair to say  
22 that the area on the northeast corner is the area where the  
23 Terrible Herbst gas station is?

24 A Yeah.

25 Q And then you have -- where would the Jack-in-the-Box

1 be relative to this?

2 A Jack-in-the-Box is right there across the street from  
3 the Chevron.

4 THE COURT: So we have a mouse there, and if you want  
5 to point with that. We can't draw on it anymore, but you can  
6 at least point with the pointer if that helps.

7 THE WITNESS: Okay.

8 THE COURT: Okay. Thank you.

9 BY MR. PALAL:

10 Q And so the Jack-in-the-Box is just right across the  
11 street?

12 A Yeah.

13 Q And then you said you saw Marcos right around past  
14 the Walgreens; is that right?

15 A Yeah, Yep, like in the middle right there.

16 Q Okay. Can you show us where you saw Marcos for the  
17 first time.

18 A Like somewhere right here.

19 Q Okay. And then he was walking to the Chipotle. Is  
20 the Chipotle on the map right now?

21 A Nope.

22 Q Okay. How would you get to the Walgreens area to  
23 Chipotle?

24 A You either cross this street, or you can cross this  
25 way and go past this. And the Chipotle is behind the

1 McDonald's, but really by the Tropical Smoothie.

2 Q Behind Tropical Smoothie.

3 All right. And so did you walk with Marcos to the  
4 Chipotle?

5 A Yeah.

6 Q Okay. And what happened at the Chipotle?

7 A He bought some food. He asked if I wanted some. I  
8 was, like, nah, and he said let's go to the store and get some  
9 snacks at Chevron, and he handed that to me and we crossed the  
10 street.

11 Q Okay. And so you went to the Chipotle, which is off  
12 the map, and then you went back. You went to the Chevron. Is  
13 that the Chevron, the Terrible Herbst the same place basically?

14 A Yeah.

15 Q Okay. And you said you were looking for some snacks?

16 A Yep.

17 Q Was there a particular kind of snack you were looking  
18 for? Do you remember?

19 A Yep.

20 Q What kind of snack were you looking for?

21 A Little Debbie's Honey Buns, Zebra Cakes,  
22 (indiscernible).

23 Q So little Debbie Honey Buns?

24 A Yeah.

25 Q And did the convenience store, the Terrible Herbst

1 have that at --

2 A Nope, they didn't have it.

3 Q They didn't have it?

4 A Huh-uh.

5 Q So is that a no?

6 A No.

7 Q And so what did you and Marcos do?

8 A Went across the street to Lee's Liquor.

9 Q Okay. And where was that on the map?

10 A Right here.

11 Q Okay. So there's like a liquor store there?

12 A Uh-huh. I mean, yeah.

13 Q Was there a -- were you able to find Little Debbie's  
14 over there?

15 A Yep. Still sell them to this day.

16 Q Okay. Did you buy snacks, or did you and Marcos buy  
17 snacks?

18 A Well, I think he was the one -- I had them, and so he  
19 bought them for both of us.

20 Q Okay. And so you both were planning on snacking that  
21 afternoon?

22 A Yep. I mean, yeah. Yeah. Yeah, yeah.

23 Q Okay. And so then from there, where did you guys go?

24 A We started heading to the crib.

25 Q Okay. And how would you walk to -- by crib you mean

1 your place where he lives?

2 A At the apartments. Yes, to the house. The house.

3 Q Okay. And how would you walk from the liquor store  
4 where you got the snacks to back to where you guys lived?

5 A We head across the street, right here. Man, this  
6 thing is trippin'.

7 THE COURT: Yeah, when the batteries go out, its --

8 THE WITNESS: So basically you got to walk across  
9 here --

10 THE COURT: -- not great.

11 THE WITNESS: -- and then you've got to walk all the  
12 way up here.

13 BY MR. PALAL:

14 Q Okay. And is that what you guys did?

15 A Yes.

16 Q What happened -- did anything happen as you guys were  
17 walking westward on Charleston towards your apartment?

18 A As we was walking across the street, no, but once, I  
19 mean, we're at the crosswalk. Once we got to the crosswalk,  
20 I'd say two minutes later, yes, something happened.

21 Q Okay. So you were able to successfully cross the  
22 street, no problems; is that right?

23 A Yeah.

24 Q And then you're walking west, and you said something  
25 happened; is that right?

1 A Yeah.

2 Q You were walking for about two minutes?

3 A Yeah, a good two minutes. Two or three minutes.

4 Q Okay. And what happened as you were walking?

5 A A tall white dude ran past me and started tussling my  
6 friend for the iPad.

7 Q And so I guess that's something we hadn't talked  
8 about. You said the iPad. Did Marcos have an iPad on him?

9 A Yeah.

10 Q Would he usually have an iPad on him?

11 A Well, usually when we walk around, I never really see  
12 him take it with him. He keep it at the house. So that was  
13 the first time I ever seen him with his (indiscernible) to be  
14 honest.

15 Q Okay. And then did he have any headphones as well?

16 A Yeah.

17 Q When you said a white boy started tussling with  
18 Marcos; is that right?

19 A Yeah.

20 Q Was he a little white guy, or was he a tall white  
21 guy?

22 A He looked taller than us.

23 Q Taller than you guys. Had you seen him before?

24 A Nah.

25 Q So it was a stranger?

1 A Yeah.

2 Q And when you say tussling, what do you mean? Can you  
3 describe that a little more.

4 A Meaning like they was going back and forth for the  
5 iPad, trying to get it from each other. Marcos was basically  
6 trying to stop him from taking it.

7 Q Okay. Was Marcos successful stopping the white guy  
8 from taking the iPad?

9 A Almost, but no.

10 Q Was there a struggle over it?

11 A Yeah.

12 Q Okay. What happened after that?

13 A After that, the dude basically succeeded on taking  
14 it, ran to the car, and Marcos followed him and chased him.

15 Q Okay. So the dude takes the -- in the tussle are  
16 there any blows being thrown? Is it physical?

17 A Nah. No.

18 Q Just a struggle going on?

19 A Yeah.

20 Q Okay. And then you said he runs to the -- the white  
21 guy runs to the street. What is he running two?

22 A He ran to the car, the SUV.

23 Q Okay. So there was an SUV waiting?

24 A Yeah.

25 Q I'm going to show you what's been -- the parties are

1 stipulating to the admission of State's Exhibit 110.

2 MR. LEVENTHAL: No objection.

3 THE COURT: So admitted.

4 (State's Exhibit Number(s) 110 admitted.)

5 THE COURT: You may publish.

6 BY MR. PALAL:

7 Q Okay. Is this the same area, but just a closer up of  
8 the Charleston and where you see Scholl Drive?

9 A Yeah.

10 Q And do you see in this map, State's Exhibit 110,  
11 where the SUV was waiting for the white guy?

12 A Yeah.

13 Q Can you use the mouse to show us where he was  
14 waiting?

15 A (Witness complies.)

16 Q I know that's a little funky. But, okay. So right  
17 on the U-turn lane of Charleston as depicted in the middle of  
18 this map?

19 A Yeah.

20 Q Okay. And you said the white guy ran to the vehicle.  
21 So I assume that the vehicle was not moving at the time?

22 A Nope.

23 Q What did Marcos do as the white guy ran towards the  
24 waiting SUV?

25 A Chased them, basically trying to get in the car.

1 Q Did the white guy get into the vehicle?

2 A Yeah.

3 Q What did Marcos do when the white guy got into the  
4 vehicle?

5 A He was holding onto the side of the window.

6 Q Okay. Was Marcos quiet, or was he saying anything?

7 A Well, I can say he said something, but I couldn't  
8 really hear because it was like me, I was still in shock still  
9 standing and looking retarded.

10 Q Okay. So you were shocked. So what you were doing  
11 at that point is you were just shocked?

12 A Low-key, yeah.

13 Q Watching what's happening?

14 A Yeah. By the time -- well, I was not back in by the  
15 time he was chasing the dude, and I was trying to tell him,  
16 like, let it be, but, you know, he's trying to get his stuff  
17 back. So he's not listening to me.

18 Q Do you remember if any of the windows of the vehicle  
19 were opened?

20 A Yeah. The passenger side.

21 Q The passenger side. Did you see who -- did you see  
22 who was driving the vehicle?

23 A Well, all I know is he was black. He was just  
24 sitting there.

25 Q Okay.

1           A     But I seen him though. He just sitting there. He  
2 wouldn't turn his head, just kept looking straight.

3           Q     Okay. So African-American. Was it a male or female?

4           A     Male for sure, for sure.

5           Q     And you didn't get a good look at him, but you could  
6 at least tell his race?

7           A     Yeah.

8           Q     Okay. And do you recall what color shirt he was  
9 wearing?

10          A     I can't really remember. I ain't gonna lie to you.

11          Q     Okay. Do you remember back when this first happened  
12 telling the police that it was a -- that the driver was wearing  
13 a black shirt?

14          A     Not really. I'm a keep it real, no, I don't.

15          Q     You don't remember telling police that -- if I told  
16 you that's what you told the police, would you have any reason  
17 to disagree with me?

18          A     No, I won't disagree. You know, I (indiscernible)  
19 that's probably what I said.

20          Q     Okay. All right. So once the white guy got into the  
21 vehicle that was waiting, did the car stay still, or did it go  
22 off?

23          A     No, it started driving.

24          Q     Did he drive slow or fast?

25          A     It started picking up. It started off a little like

1 slow, and then it started picking up.

2 Q What was Marcos doing during that time?

3 A He was trying to hop into the car. You could tell he  
4 was trying to get in. He was running on the side holding on,  
5 trying to get in.

6 Q He's running on the side of the vehicle trying to get  
7 in?

8 A Basically like he was holding on, like running,  
9 trying to get into the car.

10 Q Okay. Did you see what happened to Marcos as the car  
11 took off?

12 A Yeah.

13 Q What happened?

14 A Basically he let go, and turned around, and he hit  
15 the side of him. The back of the tire, and, in fact, flew off,  
16 and I ran to the street, and he was just sitting there, nose --  
17 there's blood coming out of his nose and everything.

18 Q So he let go, and then what happened to Marcos?

19 A He basically when he let go, it's kind of like he  
20 twisted, his body twisted into the car, and he smacked off the  
21 car. That's when I ran to the street to go see what the deal  
22 was. Blood was coming out of his nose, and he wasn't moving or  
23 nothing, his eyes was open just sitting there.

24 Q Okay. So you ran into the street to see how your  
25 friend was doing?

1           A     Yeah. I yelled at some dude that was sitting their  
2 call the cops, and then I ran home.

3           Q     Why did you run home?

4           A     Because I was scared, and I want to go let his dad  
5 know and let my mama know.

6           Q     You were about 14 at this time?

7           A     Yeah.

8           Q     So you run home to your mom. What does your mom do?

9           A     Well, first they were trying to calm me down because  
10 I'm tripping. I went in there, and I just keep saying that  
11 he's dead, he's gone, like they killed him this, that, that.  
12 She was confused. My brothers and everybody was there, and  
13 then once I calm down a little bit and I told her, she hurried  
14 up and ran and went to go tell Ivan.

15          Q     Okay. Do you remember if your mom called 9-1-1?

16          A     That I can't remember. I ain't gonna lie to you. I  
17 can't remember that. No.

18          Q     Did you and your mom go speak to Ivan?

19          A     Yeah.

20          Q     Did you tell Ivan what happened?

21          A     Well, we let him know, and that's when he went to go,  
22 took off and went to the scene.

23          Q     And did you go with him to the scene?

24          A     I had to -- I went back a little bit later because I  
25 had to get my backpack and talk to the detectives and stuff.

1 Q Okay. So when you get back, you did go back to the  
2 scene and talk to the detectives?

3 A Yeah.

4 MR. PALAL: I'm going to show you what's been  
5 stipulated, Your Honor, as State's Exhibit 115.

6 THE COURT: Okay. So admitted.

7 (State's Exhibit Number(s) 115 admitted.)

8 BY MR. PALAL:

9 Q Do you recognize the two kids that are at the  
10 Chipotle here?

11 A Yeah.

12 Q Who are they?

13 A That's me and Marcos.

14 MR. PALAL: Court's indulgence.

15 (Pause in the proceedings.)

16 MR. PALAL: Your Honor, for the record, we're playing  
17 what's been previously -- publishing what's been previously  
18 admitted as State's Exhibit 116.

19 THE COURT: Okay.

20 MR. PALAL: And right now I'm playing file  
21 Number 5 at -- the time stamp on the video is 15:47:34.

22 BY MR. PALAL:

23 Q Gacory, do you recognize the two young men that  
24 walked into the store?

25 A Yeah.

1 Q Who are they?

2 A Me and Marcos.

3 Q And do you recognize this as the day that Marcos was  
4 killed?

5 A Yeah.

6 Q And then I want to show you another video from that.  
7 Was that you guys in the Terrible Herbst convenience store  
8 looking for the Little Debbie snacks you were talking about  
9 earlier?

10 A Yeah.

11 Q Now, you had mentioned that there was an SUV waiting  
12 at the U-turn lane.

13 MR. PALAL: And for the record, Your Honor, this is  
14 the same exhibit, but video or File Number 1.

15 THE COURT: So 115, File 1?

16 MR. PALAL: I think it's 116 File 1, Your Honor.

17 THE COURT: 116 File 1. Thank you.

18 MR. PALAL: And I'm stopping at what the video time  
19 stamp is 15:45:42.

20 BY MR. PALAL:

21 Q Do you recognize the vehicle depicted in the video?

22 A Yeah.

23 Q Is it the video [sic] that was waiting in the U-turn  
24 lane at Charleston?

25 A Yeah.

1 Q From the same exhibit, for the record it's  
2 Exhibit 116, File Number 3.

3 Now, I'm stopping at 15:47:08. You said that there  
4 was a white boy that was tussling with Marcos and ultimately  
5 took his iPad.

6 Do you recognize the person depicted in 15:47:08 on  
7 the video?

8 A Yeah.

9 Q Who is that?

10 A That's the one who was tussling with Marcos.

11 Q Okay. And I'm also going to show you what's been  
12 admitted by stipulation, State's Exhibit 25.

13 THE COURT: So admitted.

14 (State's Exhibit Number(s) 25 admitted.)

15 THE WITNESS: I didn't think you were going to show  
16 this picture.

17 BY MR. PALAL:

18 Q Do you recognize what's depicted in Exhibit  
19 Number 25?

20 A Yeah, that's me.

21 Q And is that a -- is that you on May 16, 2013?

22 A Yeah.

23 MR. PALAL: Court's indulgence.

24 The State will pass the witness.

25 THE COURT: Defense.

1 MR. LEVENTHAL: I just have a couple real quick.

2 THE COURT: Of course.

3 CROSS-EXAMINATION

4 BY MR. LEVENTHAL:

5 Q Good morning, sir. How are you today?

6 A I'm good.

7 Q Okay. My name is Todd Leventhal. I represent  
8 Mr. Solid.

9 So I'm going to just ask you a couple of questions  
10 about your testimony earlier.

11 You indicated that you were on the south side of  
12 Charleston by Scholl; correct? If I showed you a map, that  
13 might help. I'm going to show you what's been marked as --  
14 You got these in already; right?

15 MR. LEVENTHAL: 111. Do you recognize that?

16 MR. PALAL: Actually, Your Honor, 111 is not  
17 admitted, but we'll stipulate to it.

18 MR. LEVENTHAL: Okay. It's the same thing.

19 THE COURT: So admitted.

20 (State's Exhibit Number(s) 111 admitted.)

21 THE COURT: Permission to publish. Go ahead.

22 MR. LEVENTHAL: Thank you. Sorry about that. It was  
23 down here.

24 THE COURT: That's okay.

25 MR. LEVENTHAL: I can actually get a better one.

1 How's that?

2 THE COURT: And which one is that? Is that 111.

3 MR. LEVENTHAL: This is going to be 110.

4 THE COURT: 110. And it looks like 110 was already  
5 admitted.

6 MR. LEVENTHAL: That's correct.

7 THE COURT: So go ahead.

8 MR. LEVENTHAL: Okay. Thank you.

9 BY MR. LEVENTHAL:

10 Q So in relation to this, where did the tussle begin  
11 with Marcos and the white gentlemen? Can you point to that  
12 with -- do you see where you're at here?

13 A Yeah.

14 Q Yeah, it's Charleston?

15 A I'm over here. Thank you. I know what you're  
16 talking about. Basically could kind of say it was somewhere  
17 like between here if I really remember. It's got to be between  
18 here.

19 Q So that was on the sidewalk on the south side, and  
20 the vehicle that the white gentlemen ran to, could you point to  
21 where that was.

22 Was that right up around here in the left-hand turn  
23 lane?

24 A Right by your finger; right there.

25 Q Right here?

1 A Uh-huh.

2 Q Where my pen is?

3 A Yeah.

4 Q Okay. So that's in the left-hand turn lane right  
5 where Scholl Drive is; right?

6 A Yeah.

7 Q The intersection there? Correct?

8 A Yeah.

9 Q Okay. And so you were actually -- the tussle  
10 happened behind that; correct?

11 A Yeah.

12 Q And you watched, you indicated on direct you watched  
13 Marcos run towards the vehicle; right?

14 A Yeah.

15 Q And chase after the white guy; right?

16 A Yep.

17 Q And when you watched Marcos -- and you didn't run  
18 towards Marcos or the white guy, did you?

19 A No.

20 Q You stayed on the sidewalk; correct?

21 A Yep.

22 Q And so if I were to draw a line, Marcos sort of went  
23 around and then went -- was there another vehicle behind the  
24 white SUV that the white gentlemen got into?

25 A I mean, there probably was.

1 Q Okay. You don't remember.

2 A I just saw on the side of it because when it happened  
3 I told the dude to go call the cops. There was a dude on the  
4 side. So you can say around the area here.

5 Q Okay. But you don't remember whether or not there  
6 was another vehicle behind the white SUV where my pen is, right  
7 about there?

8 A I ain't gonna lie, nope.

9 Q Okay. And so when you saw Marcos run, he actually  
10 ran behind the SUV; is that correct?

11 A Yeah.

12 Q Okay. So when he ran behind the SUV, then he would  
13 have been running behind the back of the SUV and then sort of  
14 making a left towards the passenger side; correct?

15 A Yeah.

16 Q Okay. Am I right? So if I were to draw that, the  
17 tussle happened where my pen is right here just before the  
18 parking. Marcos then runs after the white person, hits the  
19 median; correct?

20 A Uh-huh.

21 Q Right where my pen is?

22 A Uh-huh.

23 Q Where the Boulevard sort of at the BLV on Exhibit 110  
24 is.

25 Then runs behind the white SUV and then makes a left

1 up; correct?

2 A Yeah.

3 MR. LEVENTHAL: That's all I have. Thank you very  
4 much.

5 THE COURT: Any redirect based on that, Mr. Palal.

6 MR. PALAL: Yes, Your Honor.

7 THE COURT: Okay.

8 MR. PALAL: Court's indulgence.

9 REDIRECT EXAMINATION

10 BY MR. PALAL:

11 Q Okay. We got kind of --

12 MR. PALAL: I'm going to publish State's Exhibit 113,  
13 which I think was previously admitted. Correct?

14 THE COURT: Correct.

15 BY MR. PALAL:

16 Q And so we get a better view of what you're talking  
17 about with the actual business names on here. So we have --  
18 you had mentioned earlier there is the Walgreens on West  
19 Charleston; is that correct?

20 A Yeah.

21 Q And then we have the car wash that was there in 2013?

22 A Yeah.

23 Q And then we have El Jefe's?

24 A Yeah.

25 Q And that's what was there in 2013, not necessarily

1 what's there in 2022; right?

2 A That car wash still there though.

3 Q The car wash is still there. Is El Jefe's still  
4 there?

5 A No.

6 Q Okay. Is this a food court area?

7 A Yeah. It's like different type of food, but it's  
8 inside there.

9 Q Different types of food places inside of there?

10 A Yeah.

11 Q So to the best of your recollection, what business do  
12 you remember being near when the tussle happened?

13 A Wait. Say that one more time.

14 Q Like what business were you near when the tussle  
15 happened? Were you in front --

16 A Oh, like where I was at?

17 Q Yeah.

18 A You can basically say, like, down there by the car  
19 wash right here.

20 Q Okay. So you were by the car wash.

21 A Yeah. Yeah. We have been there because I was  
22 tripping.

23 Q Where the car wash was?

24 A A little bit more down.

25 Q A little more down?

1 A No, like, down the other way.

2 Q This way?

3 A Go a little bit more. A little more.

4 Q If you want to use the mouse, it's probably better.

5 A It's tripping. The mouse is tripping. It's like  
6 right here.

7 Q Okay. So you're right there. And were you walking  
8 in front or behind Marcos?

9 A I was a little bit behind him.

10 Q So what was happening was kind of -- so when the  
11 white boy that was, you know, taking Marcos's iPad, did he run  
12 from behind you or in front of you?

13 A He ran from behind me. I mean, if it was in front of  
14 me, I think it would have been a whole different situation.

15 Q So he ran from behind you. Did he stop and say  
16 anything to you?

17 A I'm trying to be smart on that one, but, no. No. He  
18 didn't.

19 Q Did he go straight for Marcos?

20 A Yeah.

21 Q And you didn't have an iPad on you, did you?

22 A No.

23 Q You weren't holding anything except for maybe some  
24 Little Debbie's and a backpack; right?

25 A Yeah.

1 Q Now, Mr. Leventhal said -- I believe he said that  
2 Marcos ran behind the vehicle; right? Do you remember him  
3 asking you about that?

4 A Yeah.

5 Q Okay. Now, this is about nine years after the  
6 incident; right?

7 A Yeah.

8 Q Do you remember previously saying under oath that  
9 Marcos did go in front of the car?

10 A That I don't remember saying. If I did -- I must  
11 have been not thinking straight because why would he be going  
12 in front of the car and the dude basically ran to the driver  
13 side, and he followed him to that side.

14 Q Okay. So he followed the guy?

15 A Yeah. And he was holding onto the side, like driver  
16 side window.

17 Q He was holding onto the driver side or the passenger  
18 side?

19 A I mean passenger side. Yeah. My bad. Mixed up.  
20 Passenger side area.

21 Q All right. All right. So if I told you that you  
22 testified previously that Marcos went in front of the car, you  
23 wouldn't have reason to disagree with me that that's what you  
24 testified to previously?

25 A Wait. You said that's what I testified.

1 Q Yeah.

2 A If I said that, yeah. I can't disagree on that.  
3 That was years ago.

4 Q Yeah. And just for the record, I am referring to  
5 page 83.

6 (Pause in the proceedings.)

7 MR. PALAL: The State will pass the witness.

8 THE COURT: Okay. Any recross based on that,  
9 Mr. Leventhal?

10 MR. LEVENTHAL: No, Your Honor. Thank you.

11 THE COURT: Ladies and gentlemen of the jury, do you  
12 have any questions for this witness?

13 Seeing no hands.

14 Thank you so much, Mr. Exum, for being here. You are  
15 excused.

16 The State can call their next witness.

17 MS. BOTELHO: The State calls Alejandro Romo. And  
18 this is the witness that will require the Spanish interpreter.

19 THE COURT: We do have a Spanish interpreter present.  
20 Okay.

21 (Pause in the proceedings.)

22 **ALEJANDRO ROMO**

23 [having been called as a witness and being first duly sworn,  
24 testified as follows:]

25 THE CLERK: Thank you. Please have a seat.

1 State and spell both your first and last name for the  
2 record.

3 THE WITNESS: Alejandro, A-l-e-j-a-n-d-r-o. R-o-m-o.

4 THE CLERK: Thank you.

5 THE COURT: Thank you, Mr. Romo, for being here.

6 Ms. Botelho, your witness. Thank you.

7 DIRECT EXAMINATION

8 BY MS. BOTEELHO:

9 Q Mr. Romo, good afternoon. Mr. Romo, I'd like to turn  
10 your attention to May of 2013. Were you working at the Premier  
11 Car Wash located on Charleston Boulevard?

12 A Yes.

13 Q Specifically turning your attention to May 16th of  
14 2013, were you working at the Premier Car Wash?

15 A Yes.

16 Q Turning your attention specifically to about  
17 4:00 p.m., were you working inside the car wash or outside of  
18 the car wash?

19 A Outside.

20 Q Do you remember what you were doing outside?

21 A Yes.

22 Q What were you doing?

23 THE INTERPRETER: And I'm sorry. The interpreter is  
24 going to request a quick clarification.

25 THE WITNESS: I was promoting the car wash with an

1 arrow sign.

2 BY MS. BOTELHO:

3 Q Okay. And where were you standing or where were you  
4 holding the sign?

5 A The sign was in my hands.

6 Q Okay. Were you on the sidewalk, or were you actually  
7 at the car wash property?

8 A I was on the sidewalk.

9 Q Turning your attention and publishing State's Exhibit  
10 Number 112.

11 MS. BOTELHO: I believe it's been admitted by way of  
12 stipulation.

13 MR. LEVENTHAL: If not, so stippled.

14 THE COURT: It's admitted.

15 (State's Exhibit Number(s) 112 admitted.)

16 THE COURT: You may publish.

17 BY MS. BOTELHO:

18 Q And, sir, I'm just going to direct your attention to  
19 State's Exhibit Number 112.

20 Do you see -- well, first of all, do you recognize  
21 the scene that's depicted on this map?

22 A Yes.

23 Q Okay. Do you see the Premier Car Wash, sir?

24 A Yes.

25 Q Okay. And is that right here labeled Premier Car

1 Wash?

2 A Yes.

3 Q Do you also see the sidewalk where you were standing  
4 holding the arrow sign?

5 A Well, yes. I am a little bit confused, but I see  
6 here the area of Charleston. So, yes, here.

7 Q Okay. And, sir, there's actually a mouse on the  
8 screen, and it will activate an arrow.

9 MS. BOTELHO: May I approach, Your Honor?

10 THE COURT: Yes.

11 BY MS. BOTELHO:

12 Q It will activate a cursor if you move it. You see  
13 it? And you can use this to point and tell the jury where it  
14 was that you were standing on the sidewalk?

15 A Okay. This is Charleston; correct?

16 Q Yes. It's labeled, yes, Charleston.

17 A I imagine that this is the sidewalk.

18 Q Okay. And so you're pointing to kind of the  
19 mid-sidewalk area right in between the sidewalk there for the  
20 Premier Car Wash?

21 A Yes.

22 Q Okay. While you were standing out there at about  
23 4:00 p.m., did something happen?

24 A Yes.

25 Q Can you tell the jury what happened.

1 A What do I tell them exactly?

2 Q Did you see -- maybe I'll just ask the question.

3 Did you see two teenage boys come up the sidewalk and  
4 pass you?

5 A Yes.

6 Q As they passed you, were you able to look at them?

7 A Yes.

8 Q So did you recognize that they were younger boys?

9 A From school.

10 Q Okay. And could you tell the race or ethnicity of  
11 the boys?

12 A Yes.

13 Q Okay. And so there were two. Was one a little bit  
14 chubbier than the other?

15 A Yes.

16 Q Let's talk about the one that was a little bit  
17 bigger. Do you remember his race?

18 A Yes.

19 Q And what race was he?

20 A Do I say it?

21 Q Yes.

22 A He was black.

23 Q Okay. And the other one, the smaller boy or teen, do  
24 you remember what race he was?

25 A Yes.

1 Q Okay. And what race, sir?

2 A Hispanic.

3 Q Okay. And so they pass you, and using State's  
4 Exhibit Number 112 again, are they coming from Torrey Pines  
5 going west onto Charleston? Do you see where my pen is going?  
6 So were they on the sidewalk going up towards the car wash?

7 A Yes.

8 Q Okay. And so once the boys pass you, what happens?

9 A Another person comes up behind them.

10 Q Okay. Could you tell the race of that person that  
11 came up behind them?

12 A Yes.

13 Q What was the race of that person, sir?

14 A White.

15 Q Was it a male or female?

16 A Male.

17 Q Could you tell the height of this person?

18 A I mean, his exact measurement, no, but he was tall.

19 Q Okay. And how about build? Was he skinny? Bigger?  
20 Medium?

21 A Well, normal. He wasn't skinny or fat, but he was a  
22 little more thin.

23 Q Okay. And do you remember what he was wearing?

24 A Yes.

25 Q And what was he wearing, sir?

1 THE INTERPRETER: I'm sorry. Interpreter is going to  
2 request a quick clarification.

3 Okay. Sorry. Thank you.

4 THE WITNESS: He was wearing blue jeans and a white  
5 tank top.

6 BY MS. BOTELHO:

7 Q Okay. When this white male came past you at the  
8 sidewalk, did you get a look at him as well? His face?

9 A Yes.

10 Q Okay. Do you remember how far away the white male  
11 was from the two boys who had passed you earlier? Like how far  
12 apart were they?

13 A Not too far.

14 Q Okay. Would you say a couple feet?

15 A I would say from the wall to where we are at  
16 approximately.

17 Q Okay. I don't have those measurements, and I'm not  
18 good at that, but from the wall to where they're at. And I'll  
19 measure it myself.

20 THE COURT: We'll note that for the record. I'll get  
21 you those measurements at a later time.

22 MS. BOTELHO: Thank you.

23 BY MS. BOTELHO:

24 Q At some point, sir, did you see the white guy go  
25 towards the two boys?

1 A Before he passed me up or after?

2 Q After.

3 A Yes.

4 Q What happened?

5 A When they passed me?

6 Q After the white guy passed you and went to the boys.

7 A He approach them, and he snatched his tablet or an  
8 iPad, something like that.

9 Q Okay. And when you say he approached them, are you  
10 talking about the white guy approaching the boys?

11 A Yes.

12 Q And when you said he, the white guy took something  
13 from one of the boys, which boy was it, the skinnier boy or the  
14 chubbier boy?

15 A The Hispanic skinny one.

16 Q Okay. So the white guy took a tablet or an iPad from  
17 the Hispanic boy?

18 A Yes.

19 Q Okay. Did you see the white guy actually take it and  
20 get it from the Hispanic boy?

21 A Yes.

22 Q And what did you see the Hispanic do -- the Hispanic  
23 boy do after the white guy took his tablet or iPad?

24 A He was struggling with him.

25 Q Okay. When you say struggle, where was that struggle

1 happening? Was it still on the sidewalk or had they made their  
2 way to a different part of what's shown in State's Exhibit 112?

3 A Okay. They started to struggle here. On the  
4 sidewalk it started. The white guy crossed the street over  
5 here. The Hispanic kid was following him.

6 Q Okay. And did you see where the white guy was trying  
7 to go to?

8 A He crossed the street, and on the other side of the  
9 street, there was a car there, and that was where he got into.

10 Q Okay. And so back to State's Exhibit 112, I know you  
11 pointed at something. Could you use the mouse to tell and show  
12 the ladies and gentlemen of the jury where this vehicle was  
13 that the white guy went to.

14 THE INTERPRETER: The interpreter is going to request  
15 clarification, Counsel.

16 THE WITNESS: Over here, on the other side of the  
17 lane.

18 BY MS. BOTELHO:

19 Q Okay. Could you tell what color that car was that  
20 the white guy was trying to get to?

21 A White.

22 Q Could you tell what type of car it was? Was it a  
23 truck, a sedan, an SUV, van?

24 A SUV.

25 Q And could you see whether the white guy actually made

1 it into that car?

2 A Yes.

3 Q And what part of the car, the SUV, did the white guy  
4 go into?

5 A Passenger side.

6 Q Was this a four-door or a two-door car?

7 A I think four.

8 Q And could you tell whether the white guy got into the  
9 front passenger seat or the back passenger seat?

10 A The front.

11 Q Okay. Did you see the Hispanic boy near that car  
12 after the white guy got in the front passenger seat?

13 A Yes.

14 Q And where was the Hispanic boy, or what was he doing  
15 near the car?

16 A He was trying to get the tablet back, and he put his  
17 hand inside the window of the car.

18 Q Okay. And did he put it -- did he put his hands in  
19 the window where the white guy was located?

20 A Yes.

21 Q Do you remember where the chubbier boy was when this  
22 was happening?

23 A Crying hysterically.

24 Q And was he -- where was -- was he on the sidewalk, on  
25 the street, by the SUV? Where was the bigger boy?

1 A No, he was on the sidewalk.

2 Q What else -- I'll just draw your attention back to  
3 where the white guy and the Hispanic boy were. What else did  
4 you see? So the boy has his hands in the car. What happened?

5 A The car started to go. He was trying to take back  
6 what was his, but then there came a point where he just  
7 couldn't keep running at the same speed as the car.

8 Q And what happened?

9 A The boy slipped.

10 Q And where did he land?

11 A On the road.

12 Q When you say that the white SUV, that the white guy  
13 got into, when you say that it took off or it started moving,  
14 can you describe that. Do they go slow, or did it take off  
15 fast?

16 A No. It was trying to take off fast.

17 Q Okay. The white guy that, you know, took the iPad or  
18 the tablet from the Hispanic boy, how did he compare in size to  
19 the Hispanic boy?

20 A From the Hispanic to the white boy?

21 Q Yeah. Who was bigger?

22 A The white boy.

23 Q Okay. How soon after the white guy got in the  
24 passenger seat, the front passenger seat, did you see the SUV,  
25 the white SUV take off rapidly?

1 A Right away.

2 Q Did you at any point in time see who was in the  
3 driver's seat of the white SUV?

4 A To see his face, no.

5 Q Did you see another part of his body?

6 A Yes. I think he was black.

7 Q Okay. Did you see his arms?

8 A I don't remember.

9 Q Okay. But you recall seeing someone with a darker  
10 color skin?

11 A Yes.

12 Q And when the car took off, I'm going to use State's  
13 Exhibit Number 111. I believe this is admitted by  
14 stipulation -- this is kind of that same map, except it shows  
15 more of westbound Charleston in this area.

16 So when the car took off from the area that you told  
17 us, which way did it go? It's traveling this way, westbound?

18 A I'm trying to point towards the bottom. How do I do  
19 it?

20 Q Yeah. It's malfunctioning a little bit.

21 A Is this the car wash?

22 Q Yes.

23 A Okay. They were in this direction over here.

24 MS. BOTELHO: Okay. And for the record, the cursor  
25 tried to move westbound on Charleston.

1 BY MS. BOTELHO:

2 Q Did you, while you were there -- well, let me ask you  
3 this. While you were observing this whole thing, where were  
4 you? Were you on the sidewalk? Had you moved up closer to the  
5 car? Where were you? When you saw the car take off?

6 A In the same sidewalk where I had been.

7 Q Okay. Did you call the police?

8 A No.

9 Q Do you know whether other people called the police?

10 A There were other people with telephones. I don't  
11 know if one of them was calling.

12 Q Okay. And you stayed at the scene and gave an  
13 interview to police?

14 A Not voluntarily. The supervisor where I worked made  
15 me do so.

16 MS. BOTELHO: Your Honor, I am putting into the disc  
17 player State's Exhibit Number 117.

18 THE COURT: Okay. Any objection?

19 MS. BOTELHO: It is being admitted by way of  
20 stipulation.

21 MR. LEVENTHAL: No objection.

22 THE COURT: So admitted.

23 (State's Exhibit Number(s) 117 admitted.)

24 MS. BOTELHO: We're just queuing it up. I apologize,  
25 Your Honor. The computer is having a hard time reading the

1 disc.

2 THE COURT: Okay.

3 BY MS. BOTELHO:

4 Q Okay, sir, I'd like to just turn your attention to  
5 the TV. Again, this is State's Exhibit 117 with a time stamp  
6 of 15:56:59 on the actual time stamp video, and we're going to  
7 play it for a little bit, and I'm going to ask you a question  
8 based on that.

9 (Video played.)

10 MS. BOTELHO: And I apologize, Your Honor, and ladies  
11 and gentlemen.

12 BY MS. BOTELHO:

13 Q We're going to try this again. 15:57. Okay. So now  
14 starting at 15:57:33.

15 (Video played.)

16 BY MS. BOTELHO:

17 Q 15:45:37, I'm going to pause it right there.

18 Do you see the vehicle in this scene?

19 A Yes.

20 Q Do you recognize that vehicle to be the vehicle that  
21 the white male got into?

22 A Yes.

23 Q Okay.

24 (Video played.)

25 / / /

1 BY MS. BOTELHO:

2 Q Okay, sir, do you see two boys inside the  
3 convenience -- inside a convenience store?

4 A Yes.

5 Q And we're going to just pause it right here. Do you  
6 recognize these boys to be the two boys that passed you on the  
7 sidewalk?

8 A Yes.

9 Q And do you recognize the boy in the purple as the boy  
10 who had his iPad taken?

11 A Yes.

12 Q And showing you what's been marked and admitted by  
13 way of stipulation as State's Exhibit Number 32, do you  
14 recognize the individual in this photo as the white male adult  
15 who took the iPad from the Hispanic boy?

16 A Yes, he is the one that passed me.

17 Q And that was State's Exhibit 32.

18 THE COURT: All right. Is that admitted via  
19 stipulation?

20 MS. BOTELHO: Yes.

21 THE COURT: Okay. So admitted.

22 (State's Exhibit Number(s) 32 admitted.)

23 MS. BOTELHO: I have no more questions for this  
24 witness. Thank you.

25 THE COURT: Thank you. It's defense.

1 CROSS-EXAMINATION

2 BY MR. LEVENTHAL:

3 Q Good afternoon, Mr. Romo. My name is Todd Leventhal.  
4 I represent Mr. Solid.

5 You testified earlier that you were at the Premiere  
6 Car Wash; is that correct?

7 A Yes.

8 Q You were working at the time doing some kind of a  
9 sign thing?

10 A Yes.

11 Q And that sign thing is one of those things that one  
12 of the people that we see on the street that sort of flip the  
13 signs around; right?

14 A Yes.

15 Q Okay. And in front of the Premiere Car Wash, and we  
16 had some technical difficulties with your cursor, but I don't  
17 want to go over too much, but you were where my pen is, right  
18 around there when you met up with the two boys; is that  
19 correct?

20 A They weren't standing there. They were walking from  
21 here to here.

22 Q Okay. You're going to need to show us on the cursor  
23 with the little arrow from where to where.

24 A It's just that I don't really know what is north,  
25 east, south or anything like that, but they were coming from

1 here to there.

2 Q Understood. So let's not do north-south. We've got  
3 a little, north, south, west and east.

4 Do you see that on the upper right hand?

5 A Yes.

6 Q Okay. So given that, we can now sort of backtrack  
7 and say where my pen is, just in front of Premiere Car Wash,  
8 going towards the left of where my pen is, that would be west.

9 A Yes.

10 Q Okay. And the vehicle, the white vehicle that you  
11 saw that you identified earlier, that was sort of right up  
12 where the left turn signal was onto Scholl Avenue; is that  
13 correct?

14 A Yes.

15 Q Okay. And you were, you would agree with me, behind  
16 the vehicle when you saw the iPad being taken away from the  
17 little Hispanic male; correct?

18 A Yes.

19 Q Okay. So you were behind him. And how many feet --  
20 I think you indicated you were about where you are to the back  
21 wall. Is that where the car was and where you were at?

22 A No. That was the distance between the boys, but the  
23 car, it was a little further out behind the other lanes.

24 Q Okay. And it was -- when you saw it, you could see  
25 from behind the vehicle when the white gentleman was running

1 away from the Hispanic male; right? You were behind the  
2 vehicle?

3 A Yes.

4 Q Okay. And you could only see, if I'm correct, behind  
5 the vehicle and the driver's side; correct?

6 A Once the white gentleman was able to get on the car,  
7 I was able to see some of the back part because at that point  
8 it was toward the front because it had passed me from here to  
9 here.

10 Q I'm thoroughly confused. So let's back up a little  
11 bit.

12 The white vehicle, sir, was just before turning left  
13 from West Charleston where Scholl Avenue intersects; right?

14 A It's just that I don't know if that's the name of the  
15 street. I'm only giving the distance of where the car was  
16 located on the other side of these lanes.

17 Q Understood. Do you see my pen on the screen?

18 A Yes.

19 Q Do you see it says Scholl Drive there?

20 A Yes.

21 Q Do you see that street intersects or comes into  
22 contact with West Charleston?

23 A Yeah.

24 Q Okay. So the vehicle, the white vehicle, if I'm  
25 correct, was in between my -- right there in between my

1 fingers, just -- is that correct?

2 A Yes.

3 Q Okay. And you were back here where Premiere Car Wash  
4 is, back here; correct?

5 A Yes.

6 Q Okay. So safe to say that when you looked towards  
7 the vehicle you were looking towards the back of the vehicle;  
8 correct?

9 A Yes.

10 Q Okay. And you were looking towards the back of the  
11 vehicle and towards the -- and also you might have been able to  
12 see some of the driver's side of that white vehicle that you  
13 were shown on direct exam; right?

14 A Yes.

15 Q Okay. So you could never, from your vantage point  
16 see the passenger side of the vehicle; correct?

17 A The passenger side?

18 Q The passenger side. That's correct.

19 A See it?

20 Q See it from where you were and where the white  
21 vehicle was. You would have not been able to see the passenger  
22 side of the vehicle; correct?

23 A No.

24 Q Okay. So when you were asked on direct examination  
25 whether you saw a window open on the passenger side or closed,

1 you, in fact, could not have seen that; correct?

2 A Correct, but I was able to see that the white guy  
3 opened that door.

4 Q Understood. He opened the door, but you couldn't see  
5 whether the window was open or closed; right?

6 A No.

7 Q Okay. All you could see is that the white gentleman  
8 actually opened the door to the vehicle; right?

9 A Yes.

10 Q Okay. And you couldn't see -- you indicated you  
11 couldn't make out the driver of the car other than maybe his  
12 skin color. He was a black male. Is that what you indicated?

13 A Yes.

14 Q Okay. Did you see the black male encouraging the  
15 white person? Was he saying anything? Was he yelling to him  
16 to hurry up, anything like that?

17 A No.

18 Q No. He was just in the driver's side driving the  
19 vehicle; correct?

20 A Yes.

21 Q Did you see a female in the backseat of that vehicle?

22 A No.

23 Q Did you see a baby in the backseat of that vehicle?

24 A No.

25 Q Do you remember whether or not whether the vehicle

1 had tinted windows in the backseat?

2 A I don't remember.

3 Q Okay. And when you saw the white gentleman as he  
4 stole the iPad from the Hispanic male, when he was running  
5 across Charleston Boulevard, which is again here, you were  
6 here, he ran behind the white vehicle; is that correct?

7 A He ran behind?

8 Q Yeah. So he ran behind the white vehicle and then  
9 went to the passenger side to get in; correct?

10 A Yes.

11 Q And do you remember if there was another vehicle  
12 behind the white vehicle at the time?

13 A No.

14 Q No, you don't remember, or no there -- it was a bad  
15 question.

16 You don't remember, or there was not one there?

17 A Okay. So they crossed the street, and they were  
18 crossing onto the opposite side. At that time, there was no  
19 other car coming obviously because they didn't get hit by any  
20 vehicle, but from there I wouldn't remember if there was any  
21 other car behind them or not, behind the white car or not.

22 Q Okay. So I appreciate that, and I understand your  
23 answer, and I think there might be some confusion as to my  
24 question. So let me rephrase it. I apologize.

25 I understand there was no vehicles coming eastbound

1 on Charleston. But my question is, is going westbound on  
2 Charleston where you indicated the white vehicle was which is  
3 in between my two fingers there, correct?

4 A (No answer interpreted.)

5 Q Was there a vehicle -- any vehicles behind the white  
6 vehicle in the left turn lane that you can remember?

7 A I don't remember.

8 Q Okay. Fair enough.

9 MR. LEVENTHAL: Thank you very much for your  
10 testimony. I have nothing further.

11 THE COURT: Thank you, Mr. Leventhal.

12 Ms. Botelho.

13 MS. BOTEELHO: Yes. Your Honor. I'm going to be  
14 using Exhibits 1 and 28, which are being admitted by way of  
15 stipulation.

16 THE COURT: Okay.

17 REDIRECT EXAMINATION

18 BY MS. BOTEELHO:

19 Q Mr. Romo, during my direct examination, do you  
20 remember me asking you if you remembered seeing the arm of the  
21 driver of the white SUV?

22 A Yes.

23 Q Do you remember seeing the arms of the driver of that  
24 white SUV?

25 A Yes.

1 Q Okay. And so showing you State's Exhibit Number 28,  
2 that's that white SUV; right? And I asked you about seeing the  
3 arm of the driver of the vehicle. And you said, yes?

4 A Yes.

5 Q Would you agree with me that to be able to see that  
6 the windows could have been rolled down?

7 A Yes.

8 Q Okay. Now, if the windows were rolled down such that  
9 you could see the color of the arm of the driver, would it be  
10 fair to say that that also gave you a vantage point looking  
11 past the window to what was going on on the passenger side of  
12 the vehicle?

13 A How so?

14 Q Looking at the front or the driver's side window  
15 here, okay, the window was down. You can see the driver's arm,  
16 looking that same way, you could see through and see what was  
17 going on on the passenger side?

18 A When the accident happened with the boy?

19 Q Yes.

20 A Yes. In fact, the windows were down because the boy  
21 was running, and he was hanging from the window.

22 Q Okay. And so that's how you were -- is that how you  
23 were able to see, as you testified on direct examination, that  
24 the Hispanic boy had his hands inside?

25 A Yes.

1 Q Through the window of the front passenger seat,  
2 inside trying to grab his iPad back?

3 A Yes.

4 MS. BOTELHO: Okay. Nothing further, Your Honor.

5 THE COURT: Any recross based on that, Mr. Leventhal?

6 MR. LEVENTHAL: No, Your Honor. Thank you.

7 THE COURT: Ladies and gentlemen of the jury, do you  
8 have any questions for this witness?

9 We do see one. So what we'll need you to do is take  
10 a full sheet of paper, write your name and juror number on the  
11 top and then write your question and hand the pen back to the  
12 marshal.

13 Okay. Parties approach.

14 (The bench conference began.)

15 (Off record colloquy at the bench.)

16 THE COURT: Okay. Juror 10 Stephanie Fuentes, did  
17 Mr. (indiscernible) hear Marcos asking for help.

18 MS. BOTELHO: Okay.

19 THE COURT: Any objection to the question, defense?

20 MR. LEVENTHAL: I guess it's (indiscernible). I have  
21 no objection.

22 THE COURT: Number Juror 1, (indiscernible) Aviana  
23 Lawrence, the witness stated the driver wasn't rushing the  
24 white male when he entered the car, but was the driver panicked  
25 or scared when the white man entered?

1 MR. LEVENTHAL: It calls for speculation.

2 THE COURT: Did he look like he could have been?

3 MS. BOTELHO: He said he didn't really see the face.

4 I would say no based on his testimony.

5 (The bench conference was concluded.)

6 THE COURT: Okay, sir, I have a juror question for  
7 you: Did you hear Marcos asking for help?

8 And just to clarify, Marcos would be the young  
9 Hispanic man or boy with the iPad.

10 THE WITNESS: Yes, I do know who is Marcos.

11 THE COURT: Okay. Did you hear him asking for help?

12 THE WITNESS: Yes. He was screaming.

13 THE COURT: Okay. Any follow-up based on that,  
14 Ms. Botelho?

15 MS. BOTELHO: No.

16 THE COURT: Mr. Leventhal?

17 MR. LEVENTHAL: Yes, just briefly.

18 FOLLOW-UP EXAMINATION

19 BY MR. LEVENTHAL:

20 Q Sir, when you -- let's get some distance down because  
21 I'm having trouble.

22 When you were first next to Marcos and his friend,  
23 how far away --

24 MR. LEVENTHAL: May I approach the witness just to  
25 get a sort of a distance?

1 THE COURT: Yes.

2 BY MR. LEVENTHAL:

3 Q How far? Would it have been about here when the  
4 white man came and took the iPad, and I'm about 4 feet?

5 THE COURT: I'd say 6.

6 BY MR. LEVENTHAL:

7 Q 6 feet?

8 A From myself to where they took his tablet?

9 Q That's correct.

10 A Further back.

11 Q Okay. Tell me when to stop.

12 A Kind of where the bailiff is, give or take.

13 Q So you were -- so you were that far.

14 MR. LEVENTHAL: What is that, 20 feet? 30 feet?

15 THE MARSHAL: Twenty.

16 BY MR. LEVENTHAL:

17 Q Okay. 20 feet away. So you weren't on the sidewalk  
18 then?

19 A I was on the sidewalk. I'm going to explain and  
20 relate to you how it was.

21 Q I can't have you explain. I have to ask you  
22 questions. I'm sorry. I won't (indiscernible).

23 So you were on the sidewalk, and you indicated that  
24 when you first saw the iPad being stolen you were about 20 feet  
25 away from where that happened; is that correct?

1 A Yes.

2 Q Okay. And then when the chase occurred, was it the  
3 chase --

4 MS. BOTELHO: Your Honor, I apologize. I'm  
5 objecting. This goes beyond the scope of actually the juror's  
6 question.

7 MR. LEVENTHAL: It does, but I think we need to  
8 understand if the question is, is did you hear him asking for  
9 help, and then I'm trying to establish where that help was when  
10 you heard it. So it does go directly to the question.

11 THE COURT: Understood. Given that proffer, I will  
12 allow you some leeway. Continue.

13 BY MR. LEVENTHAL:

14 Q So when you first heard Marcos yell for help, was  
15 that where he was, where you indicated the 20 feet away, that  
16 when the white man took Marcos's iPad?

17 A Yes.

18 Q Okay. And did he run -- did they run away from you  
19 or towards you?

20 A They were running crossing the street.

21 Q Okay. So even further away from you?

22 A Yes.

23 MR. LEVENTHAL: All right. Based on that, nothing  
24 further. Thank you very much.

25 THE COURT: Any questions on that? I know that was a

1 little bit -- there was a little bit more. I will allow the  
2 State some follow up if they have a question.

3 MS. BOTELHO: I'm sorry, Your Honor?

4 THE COURT: Do you have any follow-up? I understand  
5 it's out of order, but if you had follow-up, I know it went to  
6 a little bit beyond what you expected.

7 MS. BOTELHO: That's okay, Your Honor. Thank you.  
8 No.

9 THE COURT: Okay. Thank you, sir. You are excused.

10 THE WITNESS: What is that?

11 THE COURT: Oh, you can leave.

12 THE WITNESS: To my house?

13 THE COURT: Yes.

14 All right. Ladies and gentlemen, at this time we're  
15 going to take our lunch break.

16 During the recess, you're admonished not to talk or  
17 converse amongst yourselves or with anyone else on any subject  
18 connected with the trial; or read, watch or listen to any  
19 report of or commentary on the trial of any person connected  
20 with the trial by any medium of information, including, without  
21 limitation, newspaper, television, the Internet and radio; or  
22 form or express any opinion on any subject connected with the  
23 trial until the case is finally submitted to you.

24 We'll have you guys back here at 1:30.

25 (Jury recessed at 12:27 p.m.)

1 (Proceedings recessed at 12:27 p.m., until 1:35 p.m.)

2 (In the presence of the jury.)

3 THE CLERK: Do the parties stipulate to the presence  
4 of the jury?

5 MS. BOTELHO: The State does.

6 MR. MARCHESE: Yes, Your Honor.

7 THE COURT: All right. You may be seated.  
8 State, you may call your next witness.

9 MS. BOTELHO: The State calls Rebecca Shanahan.

10 THE CLERK: Raise your right hand.

11 **REBECCA SHANAHAN**

12 [having been called as a witness and being first duly sworn,  
13 testified as follows:]

14 THE CLERK: Thank you. Please have a seat. State  
15 and spell your first and last name for the record.

16 THE WITNESS: Rebecca, R-e-b-e-c-c-a. Shanahan,  
17 S-h-a-n-a-h-a-n.

18 THE COURT: Thank you for being here, Ms. Shanahan.  
19 Your witness, State.

20 MS. BOTELHO: Thank you.

21 **DIRECT EXAMINATION**

22 BY MS. BOTELHO:

23 Q Good afternoon, Ms. Shanahan.

24 A Hi.

25 Q Ma'am, I'd like to turn your attention to May 16th

1 of 2013. Do you recall something occurring or witnessing  
2 something occurring that's causing you to have to testify  
3 today?

4 A Yes.

5 Q Specifically, I'd like to direct your attention to  
6 about 3:30 or 4:00 o'clock p.m. in the afternoon. Were you in  
7 the area or were you traveling on West Charleston Boulevard?

8 A Yes.

9 Q Were you in a vehicle?

10 A Yes.

11 Q Do you recall what type of vehicle you were in?

12 A A Buick Enclave.

13 Q What color?

14 A White.

15 Q What were you on West Charleston for?

16 A I used to work over there, and I was heading to pick  
17 up my daughters from daycare.

18 Q And where was their day care located?

19 A Torrey Pines and Flamingo or that area over there.

20 Q Okay. Showing you what's been marked and admitted by  
21 stipulation as State's Exhibit 113, all right. So give me a  
22 moment. Let's just kind of get acquainted with this map.

23 So here's Charleston. And we have this directional  
24 key. Here's Torrey Pines, West Charleston. Are you familiar  
25 with this area?

1 A Yes.

2 Q Okay. And so as you're traveling, were you traveling  
3 west on Charleston?

4 A Yes.

5 Q Okay. And where were you supposed to turn off?

6 A Left on Torrey Pines.

7 Q Okay. Did something happen?

8 A I just missed my turn.

9 Q Okay. And so what do you do?

10 A I missed my turn. So I proceeded to drive to the  
11 next left-hand turn lane so that I could do a U-turn.

12 Q Okay. And do you see that left-hand turn lane in  
13 this exhibit, Number 113?

14 A Yes.

15 Q Okay. And you can actually use the mouse. It's not  
16 very responsive, but it will at least show an error arrow or a  
17 cursor, and you can show the ladies and gentlemen of the jury  
18 where you would have pulled off.

19 A Well, I don't know what this space is here.

20 Q Okay.

21 A But I -- so I think the turn -- the left turn lane is  
22 right here.

23 Q Okay. All right. And so do you recall it being with  
24 this intersection of Scholl Drive?

25 A Yes.

1 Q I think that's actually a glare. Okay. And so do  
2 you pull off to the left a little bit?

3 A Yeah. I just enter into this left turn lane to do a  
4 U-turn right here.

5 Q Okay. And as you entered that lane, do you recall  
6 whether or not there was a vehicle in front of you?

7 A Sure. There was a vehicle in front of me.

8 Q What type of vehicle was it?

9 A Another white SUV.

10 Q Okay. Did you observe something occurring near that  
11 SUV that -- do you recall something occurring near the SUV that  
12 would've caused you to call 9-1-1?

13 A Yes. So when I pulled up, waiting my turn to turn, I  
14 noticed out of the corner of my eye a young boy getting beaten  
15 up.

16 Q Okay. And so you called 9-1-1?

17 A Not yet. It all happened very fast. I remember him  
18 getting beaten up, kind of beaten down on, and they -- there  
19 was a struggle, and they pulled him or he wasn't letting go of  
20 something, out into the street. I started beating on my horn,  
21 and at that time was calling 9-1-1 at the same time.

22 MS. BOTELHO: Okay. Your Honor, at this time the  
23 State would move to publish what I believe is being admitted by  
24 way of stipulation. It State's Exhibit 102.

25 MR. LEVENTHAL: No objection.

1 THE COURT: All right. So admitted.

2 (State's Exhibit Number(s) 102 admitted.)

3 THE COURT: And permission to publish granted. Thank  
4 you.

5 (9-1-1 call played.)

6 BY MS. BOTELHO:

7 Q Ms. Shanahan, was that the 9-1-1 call you placed on  
8 May 16th of 2013?

9 A Yes.

10 Q Fair to say that you were advising dispatch or the  
11 9-1-1 call taker as things were occurring?

12 A Yes.

13 Q Okay. And so before I played the 9-1-1 call, you  
14 said you saw an individual kind of beating down on someone  
15 else. Let's just clarify. You talked about a white male adult  
16 in your 9-1-1 call and then a boy. So who was beating who when  
17 you first noticed out of the corner of your eye?

18 A The guy that got back into the passenger side of the  
19 car was beating the boy.

20 Q Okay. And was that the individual -- was that  
21 individual, that white male that got into the vehicle, was he  
22 taller --

23 A Yes.

24 Q -- than the -- than the boy?

25 A Yes.

1 Q Okay. And you said at some point it went from kind  
2 of a beating to, like, a struggle.

3 A Uh-huh.

4 Q Can you explain that to the jury.

5 A Sure. It looked like they were fighting over  
6 something or like the victim was being pulled or drug or, he  
7 wasn't letting go of something. And kind of drug him out onto  
8 the street across Charleston over the median and then around  
9 the front of the car in front of me. And then the guy that was  
10 beating up the boy got in the car.

11 Q And could you see what was occurring -- actually,  
12 before -- as the individuals, the white male and the boy were  
13 rounding or making their way towards that vehicle, did you at  
14 any point in time make contact or eye contact with the boy?

15 A As he was being drug across the street, he looked at  
16 me and asked for help.

17 Q Were your windows up or down in your vehicle?

18 A Up. Up.

19 Q And could you hear him ask for help or --

20 A No.

21 Q How did you know he was asking for help?

22 A I could just see his mouth the words come out of his  
23 mouth, kind of lipreading, and he looked straight at me.

24 Q And what did you do in response?

25 A And that's when I kind of just started beating on my

1 horn and grabbing my phone and calling 9-1-1.

2 Q Okay. And so at some point they make their way, they  
3 meaning the white male, the taller guy, and the boy make their  
4 way around the front of the vehicle that's in front of your  
5 vehicle?

6 A Yes.

7 Q What type of vehicle was that car again, the one that  
8 was in front of you?

9 A I believed it to be a Ford.

10 Q Okay. An SUV?

11 A An SUV.

12 Q White?

13 A White.

14 Q Okay. Could you see what occurred or where they went  
15 after they rounded the front of the SUV?

16 A So they went to the passenger side of the car, and  
17 the older guy that was beating up the younger boy got in the  
18 car.

19 Q And could you see how the boy reacted to the older  
20 male getting into that vehicle?

21 A I'm going to -- I don't know if I can -- I don't know  
22 that I necessarily understood how he reacted, but he certainly  
23 wasn't going to let go. There was a struggle. At some point  
24 they had to have released whatever they were arguing over or he  
25 had to release the young boy because he got in the car.

1 Q Okay. And so he meaning the older --

2 A The older boy. So he had to have opened the door,  
3 closed the door, but it's all -- it just happened so fast.

4 Q Okay. And at any point in time after that white  
5 male, the older one got into the vehicle, could you see what,  
6 if anything -- or could you still see the younger boy near the  
7 passenger side of that car?

8 A Yes. He was hanging out of the passenger side  
9 window.

10 Q Okay. But he's on the outside; right?

11 A Uh-huh.

12 Q Okay. So is that a yes?

13 A Yes.

14 Q And what part of his body would've been inside the  
15 vehicle?

16 A Like his head and, like, kind of just reaching over,  
17 leaning in.

18 MS. BOTELHO: Okay. And for the record, Your Honor,  
19 she gestured using both her arms kind of in as if they were  
20 over the window.

21 THE WITNESS: Yeah. Like his chest over.

22 MS. BOTELHO: Okay.

23 THE COURT: Okay. So reflected.

24 BY MS. BOTELHO:

25 Q Okay. And what happened next?

1           A     The car in front of me sped off, and the young boy,  
2 as we just described, it seemed he was just dangling out of the  
3 window, and he ran along beside the car as they sped off, and  
4 he was still either being held on to or he was holding on to  
5 something. And as the car gained speed, his legs started to  
6 drag, and just they were going so fast they either let him go  
7 or he separated because of the speed of the car and his feet  
8 dragging, and he spun around and then hit his head on the  
9 corner of the car, and the car just kept going.

10           Q     Now, when you say that the car, you know, took off  
11 or -- I apologize if I can't recall your exact words.

12                     Can you describe the manner in which it took off?  
13 Was it, you know, slow? Was it, you know, what type of speed  
14 are we talking about?

15           A     I mean, they floored it.

16           Q     Okay. Could you tell the race or nationality of the  
17 boy?

18           A     Hispanic.

19           Q     Do you recall seeing anyone with the boy?

20           A     Yes. He had what I assumed to be a friend now.

21           Q     Okay. And where was he, this friend?

22           A     I remember seeing him on the sidewalk. Then as the  
23 struggle was happening and they were crossing the street, I  
24 don't know. As the car took off and the young boy was laying  
25 in the street, I saw his friend come over and peek over him,

1 and then he ran off.

2 Q Okay. Could you see what it was that they were  
3 struggling over?

4 A So what I remember, and it could be just foggy. I  
5 remember the young boy having on layers, and he had a button up  
6 shirt on that was undone, and I feel like I remember seeing  
7 them pulling on his shirt. That's what I remember. Of course,  
8 if, you know -- I've learned he had a backpack. So maybe it  
9 was the backpack.

10 Q Okay. I'm going to leave State's Exhibit --  
11 actually, let's do State's Exhibit Number 112.

12 When you first witnessed the struggle between the  
13 Hispanic boy and the older white male, can you tell us using  
14 this Exhibit, 112, where it is that you saw them?

15 A In here.

16 MS. BOTELHO: Okay. And for the record, Your Honor,  
17 it's like the top left, kind of in front of the El Jefe's at  
18 this point.

19 THE COURT: So reflected.

20 BY MS. BOTELHO:

21 Q And when you say that somehow the struggle caused  
22 them to go onto the street and over the median, are you talking  
23 about from that sidewalk on El Jefe's around this street,  
24 Charleston, over the median and then around that white SUV?

25 A Yeah. They went like this.

1 Q Okay. Did you ever see that white SUV come back?

2 A No.

3 Q When you were honking and, you know, what else were  
4 you doing in the car?

5 A Blaring my horn, calling 9-1-1.

6 Q Okay. Did --

7 A I mean, I was banging on my horn in hopes that it  
8 would attract attention.

9 Q Okay. Did you see the driver, you know, the other  
10 individual in the white SUV react to your honking the horn?

11 A No.

12 Q And, you know, carrying on like that?

13 A No.

14 Q Once that white male, the older white male got  
15 into -- was it the front passenger or the back passenger side?

16 A I believe it was the front passenger side.

17 Q Once that white male got into the front passenger  
18 side of the white SUV, how long of time elapsed between that  
19 individual getting in the front passenger seat and then the car  
20 being floored and taking off?

21 A Oh, not even seconds. I mean, it was very  
22 instantaneous.

23 Q When you saw that SUV, do you recall seeing any kind  
24 of stickers on it? Any decals or anything like that?

25 A No.

1 Q Were you able to get a license plate, Ms. Shanahan?

2 A No.

3 Q And, of course, you stayed and made contact with the  
4 police?

5 A Yes.

6 Q And gave them an interview?

7 A Yes.

8 Q When you told the jury that, you know, when you saw  
9 the bigger older man beating up the young Hispanic boy, were  
10 you talking punching, hitting?

11 A Punching, punching down on him.

12 Q Was that white male taller than a Hispanic boy?

13 A Yes.

14 Q Okay. Where was that white male striking the  
15 Hispanic male? Where were the shots landing?

16 A Seemed on his shoulders.

17 Q Do you recall whether there were other cars to the  
18 right of you or behind you when this occurred?

19 A I remember that there were other cars. When the  
20 ambulance got there, we were all sitting, waiting, but I don't  
21 remember if there were other cars there or not when it was  
22 taking place.

23 Q Okay. I'm going to show you State's Exhibit  
24 Number 26, which is being admitted by way of stipulation.

25 MR. MARCHESE: No objection.

1 THE COURT: So admitted.

2 (State's Exhibit Number(s) 26 admitted.)

3 BY MS. BOTELHO:

4 Q Do you recall -- or do you see the white SUV that you  
5 saw the white male get into and the Hispanic male was hanging  
6 out of the window --

7 A Yes.

8 Q -- in this Exhibit Number 26?

9 A Yes.

10 Q Okay. Is it that white SUV towards the top left?

11 A Yes.

12 Q Showing you State's Exhibit Number 2, which I believe  
13 is being admitted by way of stipulation as well --

14 THE COURT: I think it was previously admitted.

15 MS. BOTELHO: Okay.

16 THE COURT: So you may publish.

17 BY MS. BOTELHO:

18 Q I'm just going to show you this photo. So here's the  
19 car wash, Ms. Shanahan, and do you recall -- I'm going to turn  
20 your attention to where this police car is. Is that the area  
21 where you were parked, about that make that U-turn, that left  
22 U-turn lane?

23 A Yes, I think so. I feel turned around.

24 Q Okay. Yes. Because now we're going a different  
25 direction from that photo.

1           So Torrey Pines is this way.

2           A    Oh, okay.

3           Q    There's a Walgreens, the car wash, that brick wall,  
4 and --

5           A    I would have been sitting here then.

6           Q    Okay. Yes. So by that police car.

7           A    Yes.

8           Q    And when the vehicle shot off, the white SUV that you  
9 just identified in the previous exhibit, when it shot off,  
10 obviously it could go straight, is that right, because there's  
11 another turning lane to make a different left going the  
12 opposite direction?

13          A    Yes. Yes. So it went like this.

14          Q    Okay. So it entered the first travel lane, the left  
15 travel lane going westbound on Charleston?

16          A    Going westbound, yes.

17               MS. BOTELHO: Okay. I have no more questions. Thank  
18 you so much.

19               THE COURT: Thank you, Ms. Botelho.  
20 Defense.

21                               CROSS-EXAMINATION

22 BY MR. MARCHESE:

23          Q    Good afternoon, ma'am.

24          A    Hi.

25          Q    I think we should be able to make this quick so we'll

1 get you out of here and on your way.

2 So obviously, turning your attention back to  
3 May 16th of 2013, you indicated that I believe you were on  
4 your way to pick up your children from daycare?

5 A Yes.

6 Q Okay. And it being Charleston Boulevard, you said  
7 that it was heavy -- I believe you said you missed your turn;  
8 correct?

9 A Yes.

10 Q And I would imagine that's probably because there was  
11 heavy traffic, and people in Las Vegas are rude, and probably  
12 would let you get over?

13 A I have no idea, but...

14 Q Somehow you missed it?

15 A I missed the turn.

16 Q And you took your first opportunity to get over into  
17 the left lane so that you could make a U-turn and get back to  
18 where you needed to be --

19 A Yes.

20 Q -- is that accurate?

21 And showing you State's Exhibit 2, which was  
22 previously entered, and you were just asked some questions on  
23 direct examination. So that should be fresh in your mind. I  
24 believe your testimony was you had been somewhere right about  
25 where that police car is; correct?

1 A Yes.

2 Q So when you first got to the intersection, you  
3 testified that there was a white SUV in front of you; is that  
4 accurate?

5 A Yes.

6 Q How long were you there before you noticed the  
7 struggle that you've been testifying about, if you know?

8 A I don't know, but it wasn't long.

9 Q Okay.

10 A A minute. Like, I mean, 30 seconds.

11 Q And if you don't know, that's fine. I get it. It's  
12 almost 10 years at this point.

13 A Yeah. It was almost immediate.

14 Q Sure. So it was rather quick. Just going about your  
15 day, thinking about where you need to go, get your -- I believe  
16 you have girls?

17 A Yes.

18 Q Get -- and get your girls; right?

19 A Uh-huh.

20 Q Okay. And that's yes?

21 A Yes.

22 Q All right. And again, just to kind of recap, State's  
23 Exhibit 26, this white vehicle that's, at least in your memory,  
24 if that's not the one, is very similar in appearance to the one  
25 that is in question we're talking about here today; right?

1 A Yes.

2 Q All right. So I imagine you're by yourself, right,  
3 in your vehicle?

4 A Yes.

5 Q This white vehicle that's in front of you, had you  
6 noticed anything out of the ordinary at this point before you  
7 saw the struggle?

8 A No.

9 Q Okay. And this vehicle, you don't remember any  
10 license plate on it; correct?

11 A Correct.

12 Q You can't tell me anything about any passengers in  
13 the vehicle; correct?

14 A At that time, no.

15 Q Okay. And anything about the driver of the vehicle?

16 A No.

17 Q So at some point in time you noticed a struggle;  
18 correct?

19 A Yes.

20 Q And would that be to your right or your left?

21 A It was on my left.

22 Q Okay. So it would be across the street. And we went  
23 over that. It was on the sidewalk at first. Is that accurate?

24 A Yes.

25 Q And that would be with this white male with the white

1 shirt, and I believe maybe tan pants?

2 A They were blue.

3 Q Blue pants. White male and white shirt though;  
4 correct?

5 A Yes.

6 Q And it appeared that the white male was beating up  
7 this Hispanic male; correct?

8 A Yes.

9 Q And there was also this other individual, a young  
10 African-American male that was also there as well?

11 A Yes.

12 Q At the time you didn't know any of these individuals;  
13 correct?

14 A No.

15 Q Obviously this case has been going on for a minute.  
16 So you've learned things since then that you didn't know at the  
17 time; correct?

18 A Yes.

19 Q All right. At that time you had no idea what this  
20 young --

21 A Correct.

22 Q -- young African-American boy, if he was even  
23 involved or anything like that; correct?

24 A Correct.

25 Q Just in the vicinity; right?

1 A Correct.

2 Q You see this struggle, the white male is beating him  
3 up, and then they go across the road. Is that accurate?

4 A Yes.

5 Q And would that be towards you?

6 A Yes.

7 Q All right. At that point, is that when you saw this  
8 individual mouth what you believed to be the word help to you;  
9 correct?

10 A Yes.

11 Q You kind of testified that you locked eyes with this  
12 individual, and then he's looking at you, and he says something  
13 to the effect of help; correct?

14 A Yes, or help me.

15 Q Help me. Okay. You can't hear them though; correct?

16 A Correct.

17 Q I believe there's been some statements that you made  
18 that your car was I guess the sound was muffled for lack of a  
19 better term; right?

20 A Yes.

21 Q But you could -- from reading lips, that was your  
22 perception of what he was saying; correct?

23 A Yes.

24 Q Anything else that you had heard at that time,  
25 whether it be, you know, seeing anything or anyone -- any other

1 sounds?

2 A No.

3 Q Okay. You also had stated that -- was that the point  
4 when you were honking your horn?

5 A When he mouthed help me, I just -- I believe that's  
6 when I started pounding the horn.

7 Q Sure.

8 A And just trying to get attention.

9 Q You were just trying to do something; right?

10 A Yes.

11 Q You're -- I don't know. Maybe you're a very tough  
12 lady. I don't know, but you were just trying to do something  
13 to stop this; right?

14 A Yes.

15 Q So you're honking the horn, and then you stated that  
16 they went towards the vehicle; correct?

17 A The vehicle in front of me, yes.

18 Q So which way did they go around the vehicle? What  
19 I'm meaning is did they go around the front by where the engine  
20 let's say, or would they go around the back between your car  
21 and the white SUV?

22 A They went around the front.

23 Q Okay. So at some point in time would it be fair to  
24 say that your view was somewhat obscured because the vehicle  
25 was in between the two of them; correct?

1 A I would suppose that would be fair.

2 Q Yeah. And then, of course, there is this struggle.  
3 As you sit here today, would you define it as he was dragging  
4 them, or they were going together, or are you just still not  
5 sure?

6 A He was being drug. He was being drug.

7 Q Okay. And you're saying that --

8 A Dragged. Drug.

9 Q I don't know the right word, but pulled. How about  
10 that?

11 A He was being pulled.

12 Q All right. Fair enough. And I believe you said that  
13 you had even seen maybe a hoodie kind of being pulled, and you  
14 could see the material being brought away from his body? Is  
15 that accurate?

16 A Yes.

17 Q Okay.

18 So individual comes around, and the white male gets  
19 into the vehicle. Is that accurate?

20 A Yes.

21 Q And then the Hispanic boy is inside the vehicle, at  
22 least partly I believe you described on direct examination,  
23 maybe chest height, head, shoulders, arms into the vehicle;  
24 correct?

25 A Yes.

1 Q At this point, you still have not called the police?

2 A Somewhere in there I called the police. I don't  
3 remember when, but I'm honking. I'm grabbing my phone. I'm in  
4 there calling the police at some point, yes.

5 Q Very hectic situation I would imagine.

6 A Yeah. And very fast.

7 Q Very fast. I would imagine you probably never  
8 witnessed anything like this prior to that?

9 A No.

10 Q Or maybe even since then. Hopefully not.

11 A No.

12 Q Car, I believe it was your testimony just guns it,  
13 boy falls, standing very still, and then you call the police.

14 So at this point, you're still in the turn lane  
15 stopped?

16 A Yes.

17 Q Okay. You're calling the police. You're doing your  
18 best to try to give whatever information that you can. Unable  
19 to give a license plate; correct?

20 A Correct.

21 Q Unable to give any description of the driver. Is  
22 that accurate?

23 A Correct.

24 Q Same thing if there's any passengers other than this  
25 white male?

1 A Correct.

2 Q Is that accurate? Okay.

3 MR. MARCHESE: No further questions. Thank you.

4 THE COURT: Go ahead, Ms. Botelho.

5 MS. BOTELHO: No -- we don't have any redirect.

6 THE COURT: Got it.

7 MS. BOTELHO: Thank you.

8 THE COURT: Ladies and gentlemen of the jury, that  
9 you have any questions for this witness.

10 Seeing no hands.

11 Ms. Shanahan, you are free to go. Thank you so much  
12 for your testimony.

13 MR. PALAL: State next calls Cristine Bullard.

14 **CRISTINE BULLARD**

15 [having been called as a witness and being first duly sworn,  
16 testified as follows:]

17 THE CLERK: Thank you. Please have a seat. And if  
18 you could please state and spell your first and last names for  
19 the record.

20 THE WITNESS: Cristine Bullard. C-r-i-s-t-i-n-e,  
21 Bullard, B-u-l-l-a-r-d.

22 THE CLERK: Thank you.

23 THE COURT: Thanks for being here, Ms. Bullard.  
24 State, your witness.

25 MR. PALAL: Thank you, Your Honor. If we can have

1 the Court's indulgence I want to grab a couple of exhibits.

2 THE COURT: Okay.

3 DIRECT EXAMINATION

4 BY MR. PALAL:

5 Q All right. While my cocounsel looks for a couple of  
6 maps, I'm going to ask you --

7 While she embarrasses me. You can feel confident you  
8 can't look worse than I just said. All right?

9 Although we are here for something serious, I want to  
10 ask you about that. On May 16th, 2013, were you driving down  
11 Charleston near Torrey Pines?

12 A Yes.

13 Q And were you driving west?

14 A Yes.

15 Q What were you doing that day?

16 A I was coming home from my office. It used to be  
17 behind the Fashion Show Mall. So typically I would take  
18 Industrial or Highland to get on Sahara along the 15. When I  
19 got to Sahara, it was packed. So I just headed west up Sahara,  
20 and I live in Summerlin. So I just was meandering to get home.

21 Q Okay. And so part of your meandering had you at  
22 Charleston and Torrey Pines?

23 A Correct.

24 Q And I'm going to show you what's been previously  
25 admitted as State's Exhibit 113. It's been a lot of years, but

1 here we show Torrey Pines and Charleston. Is that correct?

2 A Correct.

3 Q Is that the same intersection we're talking about?

4 A Correct.

5 Q On that day, around 4:00 o'clock, a little after  
6 4:00, did you observe something that caused you to call 9-1-1?

7 A Yes.

8 Q Okay.

9 MR. PALAL: So, Your Honor, it appears by stipulation  
10 that State's Exhibit 103 will be admitted into evidence.

11 THE COURT: All right. So admitted.

12 (State's Exhibit No. 103 admitted.)

13 MR. PALAL: And for the record, I'm now going to  
14 publish State's Exhibit 103.

15 (Emergency services call played.)

16 BY MR. PALAL:

17 Q Ma'am, was that the 9-1-1 call you made back in  
18 May 16, 2013?

19 A Yes.

20 Q Now, when you were at the corner of Torrey Pines and  
21 Charleston, did you -- were you -- you had to stop at a red  
22 light?

23 A Yes. I was at the light.

24 Q You were at the light. And were you one of the first  
25 cars at the light?

1 A Yes.

2 Q So you were right at the intersection?

3 A Correct.

4 Q At that point had anything got your attention?

5 A Yes. There was a car over here, and the door was  
6 open. They were -- I didn't know why they were there. I was  
7 trying to prevent something from happening.

8 Q And so you're at a stoplight at Torrey -- sorry.

9 You were at the stop light of Torrey Pines and  
10 Charleston --

11 A Uh-huh. Uh-huh.

12 Q -- on Charleston facing westbound; is that correct?

13 A Correct.

14 Q Do you recall if you were in the first, second or  
15 third lane?

16 A The middle lane.

17 Q The middle lane. Okay. So you're in the middle  
18 lane, and you see something that grabs your attention up ahead?

19 A Uh-huh.

20 Q Is that a yes?

21 A That's a yes.

22 Q Okay. And you saw the -- where, if you can, there's  
23 a mouse in front of you. Where do you recall seeing the thing  
24 that's happening in front of you?

25 A Right around in here.

1           Q     Okay. And then when you are driving, what are you  
2 seeing as you're driving?

3           A     So when I -- I saw whatever was going on, a car  
4 sitting there in a weird kind of position. So I was afraid the  
5 guy in front of me was going to swerve, you know, next to me.  
6 He tried to get in front of me, that kind of thing, and as we  
7 both were moving along, then I saw the door -- running around  
8 the car. I don't know if I'm getting into too much detail.

9           Q     No, probably not enough. So you said that you saw  
10 running around. What exactly are you talking about when you  
11 saw running around?

12          A     The car was sitting there, and there was a person  
13 that ran in front of the car and around the passenger door and  
14 hopped in. Right behind him was someone else. I thought it  
15 was a girl chasing him trying to get into the car as well.

16          Q     Okay. And so you thought it was a girl. Was that  
17 because the person chasing had long hair?

18          A     And was small in stature. It wasn't necessary -- I  
19 didn't think it was long. Just a small person.

20          Q     Okay. So you thought you saw a larger person get  
21 into the front passenger door of the waiting vehicle, and then  
22 you saw a smaller person seemingly chasing after that person?

23          A     Yeah.

24          Q     When the larger person got into the vehicle, what  
25 happened?

1           A     The smaller person, their arm was stuck in the door  
2 or something because they were stuck in the car door. The door  
3 was shut.

4           Q     And so the door is shut, and you are gesticulating,  
5 moving your hands around. Is that fair to say?

6           A     Yes.

7           Q     Okay. And so something, and you don't know exactly  
8 what, is causing the smaller person to be attached to the  
9 vehicle?

10          A     To the car, yeah.

11          Q     What does the vehicle do at that point?

12          A     Right about then is when I'm starting to pass them,  
13 and so I can see in my rearview mirror they start -- they're  
14 putting on the gas, and the person is stuck in the door.

15          Q     Now, I'm going to show you what's been previously  
16 admitted as State's Exhibit 112. So we're looking at  
17 Charleston Boulevard. Is that fair?

18          A     Yeah.

19          Q     Is that a little closer view of that same area we  
20 were talking about?

21          A     Yeah. The west is over on this side?

22          Q     I'm sorry. The --

23          A     On the right, is that what this W --

24          Q     The west is -- so we have north, west, south, east on  
25 the diagram.

1 A Okay.

2 Q So west is the side, the east is going that way.

3 Does that make sense to you?

4 A Yeah.

5 Q Do you feel oriented now?

6 A Yeah.

7 Q Okay. All right. So when you're at Torrey Pines, do  
8 you see something that gets your concern -- do you see the  
9 events that you describe, but you're continuing to drive to  
10 your home; right? Is that where you were going?

11 A Correct.

12 Q And as you're driving, you at some point pass the  
13 vehicle because the other vehicle is stationary at this point?

14 A Correct.

15 Q And then as you keep on going, you are looking in  
16 your rearview mirror to see the events?

17 A Correct.

18 Q And why are you looking in your rearview mirror?

19 A To see what's going to happen to this person that is  
20 stuck in the door.

21 Q Okay. And then you said the white car -- or you said  
22 the car took off. Now, do you recall if the car was a compact  
23 car, or SUV, what kind of car?

24 A It was an SUV, kind of like an older model Explorer.  
25 So not a tiny SUV, not an Expedition.

1 Q Okay. And I believe in your 9-1-1 call you said --  
2 did you hear yourself say Escalade?

3 A I don't know.

4 Q Or Expedition, but a bigger SUV, but not a giant?

5 A Yeah, not a three seater kind of big.

6 Q Okay. And you're continuing to watch, and now  
7 you've -- is it fair to say you've passed the vehicle?

8 A Yes.

9 Q So now you're watching through the rear view?

10 A Yes, this mirror.

11 Q Oh, okay. So not the top rearview. It's --

12 A No, this one.

13 Q The side rearview mirror?

14 A Uh-huh.

15 Q Okay. Is that a yes?

16 A Yes.

17 Q And then you said you were looking to see what would  
18 happen to the person who was just kind of attached in some way?

19 A Yes.

20 Q To the vehicle?

21 A Yes.

22 Q What did you see at that point?

23 A I saw the person running, and they're going faster,  
24 and I was watching his feet go, and then he fell under the car  
25 and the car rolled over him.

1 Q And I believe in the 9-1-1 call you stated that it  
2 appeared to you that the vehicle had run over the little  
3 person's head?

4 A Yes.

5 Q I want to clarify something you previously said. You  
6 said that the vehicle had -- the SUV had taken off. Is that  
7 correct?

8 A Uh-huh. Yeah.

9 Q So were they going slow or fast?

10 A They were going fast. There was no slowing down once  
11 they started accelerating.

12 Q So they're going from completely stationary to --

13 A Zero concern for the person who's attached to the  
14 car.

15 MR. LEVENTHAL: Judge, I'm going to object. Calls  
16 for speculation and it's nonresponsive.

17 MR. PALAL: I think not -- I'll rephrase.

18 THE COURT: Sustained.

19 You're going to rephrase. Go ahead.

20 MR. PALAL: Okay.

21 BY MR. PALAL:

22 Q So you had observed the vehicle essentially run over  
23 somebody?

24 A Yeah.

25 Q And the vehicle had went from stationary to

1 accelerating?

2 A Yes.

3 Q After the vehicle ran over a person, did the vehicle  
4 stop?

5 A No.

6 Q Did the vehicle -- maybe it didn't immediately stop,  
7 but did it stop some time further on Charleston?

8 A And I don't really know.

9 Q Now, let me ask you this. Did you ever see, did you  
10 ever see the vehicle stop?

11 A No.

12 Q And so when you say there was no concern that you  
13 could see, what you mean is that you didn't see the vehicle  
14 stop after running over a human being?

15 A Correct.

16 MR. PALAL: Court's indulgence.

17 The State will pass the witness.

18 THE COURT: Defense.

19 CROSS-EXAMINATION

20 BY MR. LEVENTHAL:

21 Q Good afternoon, Ms. Bullard. Ms. Bullard?

22 A Yes.

23 Q Good afternoon.

24 A Good afternoon.

25 Q How are you?

1           So you were, just to be clear, driving, if we can go  
2 back to State's Exhibit 112, you were driving west on  
3 Charleston.

4           A     Uh-huh.

5           Q     I think this is actually better if we go to 113. You  
6 were stopped at Torrey Pines at that red light; correct?

7           A     So west is up here?

8           Q     Yes.

9           A     Yes.

10          Q     And there's a -- I'm sorry. If you see up --

11          A     Yes.

12          Q     -- there's a -- so you were going west on Torrey  
13 Pines. So do you see these two cars here, one in the right  
14 lane, one in the lane. One of the sort of the left lane, but  
15 then there's another left lane; correct?

16          A     Yes.

17          Q     That's where you were indicating you stopped at the  
18 red light; right?

19          A     Yes.

20          Q     And you then observed a vehicle that was up here  
21 stopped on the corner of Scholl Drive and West Charleston;  
22 correct?

23          A     I saw it ahead of me, and, yes.

24          Q     Okay.

25          A     I don't know if it was on Scholl Drive. It was right

1 in here in the turn lane. I don't -- I don't know.

2 Q You don't know.

3 A No.

4 Q Okay. But at some point you pass that vehicle.

5 A Yes.

6 Q And when you gave an interview, and you remember  
7 giving an interview to the police. I believe it was about a  
8 few days after the 16th, after this occurred. The detectives  
9 came out and talked to you on the 22nd; is that correct?

10 A I went to their office.

11 Q You went to their office, but at some point you gave  
12 an interview with the Metropolitan Police Department?

13 A Yes.

14 Q And you gave a full interview.

15 A Yes.

16 Q -- or a -- is that correct?

17 A Yes.

18 Q Okay. And at first you indicated that you thought  
19 that what you saw was that vehicle was, in fact, blue. That  
20 was your testimony; right?

21 A It wasn't my testimony. I said I thought it was  
22 blue.

23 Q Right. Okay. So you thought it was a blue vehicle  
24 that was here, and you indicated that you did pass that  
25 vehicle; correct?

1 A Uh-huh.

2 Q You then pulled over to the right, and you were  
3 watching everything sort of behind in your rearview mirror. I  
4 think that's what you testified; correct?

5 A Correct.

6 Q And you indicated that you saw a person run around  
7 that vehicle, and the white male with a smaller Hispanic male,  
8 he's sort of in tow; right?

9 A I don't -- it was a smaller person. I don't know if  
10 they were Hispanic. I just knew they had dark hair.

11 Q Okay. And you saw that that person, the white male  
12 then opened the door to the passenger side; right?

13 A I think it was open because that's what I was  
14 planning on steering around.

15 Q Okay.

16 A There wasn't a lot of struggle. They came around the  
17 front of the car. The door was like this. It's not like they  
18 opened the door and swung it open. He ran in. So --

19 Q And --

20 A It wasn't hanging open, but it was open the way I  
21 remember it.

22 Q So you would agree that your interview just a few  
23 days after that happened would have been obviously closer in  
24 time; correct?

25 A Yes.

1 Q And your memory would have been a lot clearer than  
2 now nine years later; correct?

3 A Yes. Yeah.

4 Q Okay. When you were asked the question --  
5 (Pause in the proceedings.)

6 BY MR. LEVENTHAL:

7 Q And when you were asked the question on page 2, I  
8 didn't know it was a male (indiscernible) running behind.

9 Okay. So you indicated that he slammed the door shut  
10 at this point. I was passing the car.

11 So it indicated that you were -- you said on direct  
12 that you were in the left-hand lane; right? You remember being  
13 in the left-hand lane or the right-hand lane?

14 A I remember being in the middle lane.

15 Q In the middle lane. I thought you said you were in  
16 the left-hand lane on direct, but you were in the middle lane?

17 A Middle lane.

18 Q Okay. So when you gave that testimony, you said you  
19 were on the right-hand lane. So you said I was in the  
20 right-hand lane?

21 A Okay.

22 Q Would you have any reason to doubt that that's, in  
23 fact, what you told --

24 A No.

25 Q -- what you told the detectives at the time of the

1 interview back in 2013?

2 A Okay.

3 Q Okay. You also indicated that the bigger guy was  
4 running from the front car, opened up, meaning the door. So  
5 back then you said that he opened up the door --

6 A Okay.

7 Q -- on his own; correct?

8 A Yes.

9 Q Okay. As you sit here today, and again we all  
10 understand. Memories fade a little bit, and but that's what  
11 you said back then?

12 A Okay.

13 Q Okay. He opened up the door. Then he closed the  
14 door. That's what you said back then?

15 A Okay.

16 Q Okay. And you have no reason to sort of doubt what  
17 you said back then versus what you remember today; right?

18 A Correct.

19 Q Okay. Now, when you were driving past the vehicle,  
20 you didn't get a good look at the driver of the vehicle, did  
21 you?

22 A I was only looking at the person that was stuck in  
23 the door.

24 Q Right. Okay.

25 A I couldn't, yeah. That's what I was concerned about.

1 Q Understood. I'm not debating that. You didn't get a  
2 good look at the person, the white person that was pulling the  
3 iPad; right?

4 A I didn't know he even had anything in his hand.

5 Q Right. Okay. So when you saw the vehicle, you  
6 indicated that it took off, and then it went right by you  
7 because you had pulled over past Scholl Drive, didn't you? To  
8 the right; right?

9 A Yes.

10 Q Okay. And so that vehicle then went past you;  
11 correct, and so you were then not focused on the vehicle  
12 leaving. You were focused on what was happening behind you;  
13 right?

14 A Yes.

15 Q Did you ever get out of your vehicle?

16 A No.

17 Q No. You stayed in the vehicle, and that's when you  
18 dialed 9-1-1?

19 A Yes.

20 Q Okay. And you don't know whether that vehicle went  
21 up because you weren't paying attention, turned right, stopped  
22 or did anything else for that matter; correct?

23 A No.

24 Q Okay.

25 MR. LEVENTHAL: Okay. Thank you very much for your

1 testimony. I have nothing further.

2 THE COURT: Okay. Mr. Palal.

3 MR. PALAL: Yes, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. PALAL:

6 Q So, Ms. Bullard, my understanding is, is that as you  
7 were at Torrey Pines and Charleston, you observe something that  
8 got your attention; is that fair?

9 A Correct.

10 Q So much so that it garnered a lot of your attention  
11 to keep paying attention to it; correct?

12 A Correct.

13 Q And from that distance, you had said in direct that  
14 the door appeared to be -- the door on the passenger side  
15 appeared to be open?

16 A Yes.

17 Q Now, you also said during, I believe  
18 cross-examination is you weren't sure if it was all the way  
19 open or a little bit open, but the door appeared to be open to  
20 you?

21 A Yes.

22 Q So much so that it got your attention from Charleston  
23 and Torrey Pines?

24 A Yes.

25 Q And it's fair to say that just because the door is

1 ajar doesn't mean that somebody is still not going to have to  
2 open it some more to get in?

3 A Correct.

4 Q So in your mind, does you saying somebody had to open  
5 the door conflict with you saying that the door was also open?

6 A Right.

7 Q So it doesn't conflict --

8 A I don't think it conflicts.

9 Q Okay. And your recollection that -- your  
10 recollection is -- well, actually let me ask you: What is your  
11 recollection?

12 A My recollection is that it wasn't like he had to  
13 stand there and get the door open. He opened the door and got  
14 in.

15 Q Okay.

16 A And I don't remember why I was thinking -- it was  
17 bothering me what was going on. I was going to have to steer  
18 around it.

19 MR. PALAL: Okay. All right. Thank you. Nothing  
20 further.

21 THE COURT: Defense, anything further?

22 MR. LEVENTHAL: No, Your Honor.

23 THE COURT: Ladies and gentlemen of the jury, do you  
24 have any questions for this witness?

25 Seeing none.

1           You are excused. Thank you so much for being here,  
2 Ms. Bullard.

3           THE WITNESS: Thank you.

4           THE COURT: Next witness.

5           MS. BOTELHO: The State calls Stephanie Teague.

6                   (Pause in the proceedings.)

7           MS. BOTELHO: Well, we are calling a different  
8 witness right now, Your Honor.

9           THE COURT: Okay.

10          MS. BOTELHO: Stephanie Teague, we can't find her  
11 right now. So the State would call Keith Hanoff.

12          THE COURT: Keith Hanoff. Okay. Got it.

13          Come on up, Mr. Hanoff.

14          THE CLERK: Sir, please stand and raise your right  
15 hand.

16                   **KEITH HANOFF**

17          [having been called as a witness and being first duly sworn,  
18 testified as follows:]

19          THE CLERK: Thank you. Please have a seat. State  
20 and spell both your first and last name for the record.

21          THE WITNESS: I'm Keith Hanoff. K-e-i-t-h,  
22 H-a-n-o-f-f.

23          THE COURT: Thank you, Mr. Hanoff.

24          Your witness, Ms. Botelho.

25          MS. BOTELHO: Thank you.

1 DIRECT EXAMINATION

2 BY MS. BOTELHO:

3 Q Sir, how are you employed?

4 A I'm a detective with the Las Vegas Metropolitan  
5 Police Department.

6 Q Were you a detective back in May of 2013?

7 A No. I was a patrol officer then.

8 Q Okay. You said patrol. What type of -- I mean, when  
9 you're in patrol, what are your duties and responsibilities?

10 A When somebody calls 9-1-1, I'm the one in uniform  
11 that will respond. Also I do proactive police work with, like,  
12 car stops, pedestrian stops.

13 Q Okay. So back particularly on May 16th of 2013, were  
14 you a uniformed patrol officer with Metro?

15 A I was.

16 Q And would you have been in a marked patrol vehicle?

17 A Yes, ma'am.

18 Q Were you in a one-person unit or two?

19 A One officer unit.

20 Q Okay. Around 4:00 o'clock that afternoon, do you  
21 recall being dispatched to a location on West Charleston  
22 Boulevard at Charleston and Jones?

23 A Yes, ma'am.

24 Q And did you assign yourself that call?

25 A No. It was assigned through dispatch.

JD Reporting, Inc.

1 Q Okay. And what was the nature of that particular  
2 call?

3 A I was attempting to locate a stolen vehicle.

4 Q As you -- what direction on Charleston are you  
5 traveling?

6 A I was traveling westbound.

7 Q I'd like to publish State's Exhibit Number 113.  
8 Sir, do you recognize what this map is depicting?

9 A Yes, ma'am.

10 Q Okay. And does this map show where you were  
11 traveling prior to observing something that's causing you to  
12 have to testify here?

13 A Yes, ma'am. I was about to cross Torrey Pines.

14 Q Okay. And you can actually, Detective, use that  
15 mouse to move a cursor around the screen. It's not very  
16 responsive.

17 A Oh, there we go.

18 Q But could you use that to point to where you were.

19 A Yeah.

20 Q Okay.

21 A There we go. I was right about that.

22 Q Okay. And so right at the -- were you at the light?

23 A Yes, ma'am.

24 Q Okay. As you're sitting at that light, what, if  
25 anything, do you observe that causes you concern?

1           A     Down the street I see an ambulance, a fire engine and  
2 people flagging me down.

3           Q     Okay. And so what do you do in response?

4           A     I update my location, and I go out to see what's  
5 going on thinking it might related to my stolen vehicle.

6           Q     And what, if anything, do you see -- well, first of  
7 all, what area are you directed to? Do you see it on the map?

8           A     Over here near Scholl in the intersection right about  
9 here.

10          Q     Okay.

11          A     I see the ambulance, paramedics, firefighters, a  
12 couple stopped vehicles, and they were working on -- at the  
13 time I thought it was a young female on the road.

14          Q     Okay. And when you say working on, were they  
15 rendering aid?

16          A     They were wrapping the person's head and putting them  
17 on a gurney I believe it's called.

18          Q     Okay. And so now that this individual who was hurt  
19 and being tended to is being given care, what do you do?

20          A     I update the location. I update some details that I  
21 discovered from talking to some people. I start closing off  
22 the area for traffic and pedestrian traffic because I don't  
23 think it's related to my stolen vehicle now, and I think I'm  
24 working a robbery case.

25          Q     Okay. And that's after you obtain information from

1 the witnesses that stayed behind?

2 A Yes, ma'am.

3 Q Okay. At some point do you take over the scene,  
4 meaning do you take control of this particular scene?

5 A Yes, ma'am, but in criminal investigation, I take  
6 over from the paramedics and the firefighters.

7 Q Okay. Did taking over the investigation involve you  
8 setting up a perimeter?

9 A Yes, ma'am.

10 Q And can you just explain to the jury what a perimeter  
11 is and what setting up a perimeter means.

12 A So setting up a perimeter, I call additional officers  
13 to the scene to block traffic, direct pedestrian traffic, put  
14 up crime scene tape. That's the yellow tape you see in the  
15 news and on TV shows. And that's to keep other people from  
16 walking into the crime scene and to protect any evidence I can  
17 try to gather.

18 Q After speaking with the witnesses and after you kind  
19 of conduct this preliminary interview, do you at some point  
20 call for help from additional units or different departments  
21 within Metro?

22 A Well, at the time, I start getting overwhelmed  
23 because this scene is quite large, and I'm running out of  
24 patrol officers. And now that I know it's possibly a robbery,  
25 I call the robbery detail.

1 Q Okay. And did they show up?

2 A Yes, ma'am.

3 Q Did you also call the fatal detail unit?

4 A Yes, ma'am.

5 Q Okay. And that's a different unit?

6 A Yes, ma'am.

7 Q And what are they charged with investigating?

8 A The fatal detail is there to investigate any type of  
9 pedestrians or traffic collisions that lead into fatalities.

10 Q And they also responded?

11 A Yes, ma'am.

12 Q Okay. You said this was a very large scene such that  
13 you were running out of patrol officers?

14 A Yes, ma'am.

15 Q Do you recall witnesses staying at the scene?

16 A Yes, there were quite a few.

17 Q Do you recall how many witnesses stayed?

18 A Initially we had 13, and then I think 8 voluntary  
19 statements and stayed to talk to the detectives.

20 Q Okay. And now these 13 witnesses, and particularly  
21 the 8 that gave statements or wrote statements, are they  
22 separated somehow?

23 A Yes, ma'am.

24 Q Okay. Is that protocol?

25 A Yes, ma'am.

1 Q Okay. And why are they separated?

2 A We don't want them talking about cases, maybe  
3 influencing one another. We want to get their story, what they  
4 saw, not what other people saw.

5 Q Okay. Do you recall speaking with a younger  
6 African-American boy at the scene?

7 A Yes.

8 Q Okay. And did he give you information which you  
9 ultimately pass to the robbery detectives who took over?

10 A Yes, ma'am.

11 Q At some point after you're ready to leave the scene,  
12 you turned it over to robbery and to fatal detail, do you  
13 realize whether or not this particular scene, as shown in  
14 State's Exhibit Number 113, whether that was related to the  
15 initial stolen vehicle call that you were dispatched to?

16 A I don't think it's related at all at this time.

17 Q Okay. And, sir, this intersection or this area is  
18 depicted in State's Exhibit Number 113. This is in Las Vegas,  
19 Clark County, Nevada?

20 A Yes, ma'am.

21 MS. BOTEHO: I have nothing further. Thank you,  
22 Your Honor.

23 THE COURT: All right. Defense, any questions of  
24 this witness?

25 MR. LEVENTHAL: No, Your Honor.

1 THE COURT: Ladies and gentlemen of the jury, do you  
2 have any questions for this witness?

3 Seeing none.

4 Detective, you are excused. Thank you so much. Have  
5 a great day.

6 THE WITNESS: Thank you, ma'am.

7 MR. PALAL: Your Honor, can we approach real quick?

8 THE COURT: Of course.

9 (The bench conference began.)

10 MR. PALAL: My next witness is going to be the  
11 medical examiner -- sorry. My next witness is going to be the  
12 medical examiner. (Indiscernible) five minute recess. We want  
13 to let the family know, and two just to get the  
14 (indiscernible).

15 THE COURT: Are there kids?

16 MR. PALAL: Yes.

17 MS. BOTELHO: And the witness after the medical  
18 examiner is going to be the AMR, the paramedic, and she's going  
19 to see some (indiscernible) pictures too.

20 THE COURT: Let's see 15. Give the jury a break, and  
21 then if there's any issues, we can discuss it then.

22 MS. BOTELHO: Okay. Thank you.

23 (The bench conference was concluded.)

24 THE COURT: At this time we're going to take a  
25 15-minute break.

1           During the recess, you're admonished not to talk or  
2 converse amongst yourselves or with anyone else on any subject  
3 connected with the trial; or read, watch or listen to any  
4 report of or commentary on the trial of any person connected  
5 with the case by any medium of information, including, without  
6 limitation, newspaper, television, the Internet and radio; or  
7 form or express any opinion on any subject connected with the  
8 trial until the case is finally submitted to you.

9           We'll see you back here at 2:55.

10           (Jury recessed at 2:40 p.m.)

11           THE COURT: For the record, the jury has exited the  
12 room.

13           Is there anything that we need to discuss regarding  
14 any of the next witnesses, or do you guys just need a chance to  
15 talk to the gallery?

16           MR. PALAL: Just talk to them.

17           THE COURT: Okay. Anything you need to address from  
18 defense, Counsel?

19           MR. LEVENTHAL: No. I don't believe so. Thank you.

20           THE COURT: Okay. We'll be in recess.

21           (Proceedings recessed at 2:41 p.m., until 2:56 p.m.)

22           (In the presence of the jury.)

23           THE COURT: Do the parties stipulate to the presence  
24 of the jury?

25           MS. BOTELHO: The State does.

1 MR. LEVENTHAL: Yes, Your Honor. Thank you.

2 THE COURT: All right. You may be seated.

3 State, you may call your next witness.

4 MR. PALAL: Thank you, Your Honor. The State calls  
5 Dr. Timothy Dutra.

6 **TIMOTHY DUTRA**

7 [having been called as a witness and being first duly sworn;  
8 testified as follows:]

9 THE CLERK: Please have a seat. State and spell your  
10 first and last names for the record.

11 THE WITNESS: Timothy, T-i-m-o-t-h-y, Dutra,  
12 D-u-t-r-a.

13 THE COURT: Thank you, Dr. Dutra for being here.  
14 State, your witness.

15 MR. PALAL: Thank you, Your Honor.

16 **DIRECT EXAMINATION**

17 BY MR. PALAL:

18 Q Dr. Dutra, how are you employed?

19 A I'm a medical examiner at the Clark County Office of  
20 the Coroner.

21 Q And what kind of educational background do you have  
22 to be a medical examiner?

23 A I have an MD from USC and a Ph.D. in anatomy and cell  
24 biology from UCLA. I did -- I trained in anatomic and  
25 forensic -- pardon me, anatomic and clinical pathology at

1 Harvard UCLA Medical Center. I practice as a surgical  
2 pathologist.

3 I did a blood banking fellowship in Wisconsin,  
4 University of Wisconsin, and then 13, 14 years ago, I did a  
5 fellowship in forensic pathology at the St. Louis City Medical  
6 Examiner's Office, and I'm board certified in anatomic and  
7 clinical pathology, blood banking and forensic pathology.

8 Q All right. And can you explain to the ladies and  
9 gentlemen of the jury what a medical examiner actually does.

10 A Well, we, if a case falls under our jurisdiction,  
11 meaning that it appears to be a death that's not natural and  
12 there's a doctor who -- there's no doctor to sign the death  
13 certificate, if it's a natural death, then it becomes a case of  
14 the Clark County Office of the Coroner. And in -- so we get  
15 homicides, suicides, accidental deaths, natural deaths too.

16 And we make a decision based on the circumstances as  
17 to whether we're going to do a full autopsy. If we do a full  
18 autopsy, we will collect toxicological specimens. After the  
19 case has been reviewed and all of the laboratory data is  
20 collected, a report is created, and a death certificate is  
21 signed.

22 Q So as part of your normal course of conducting a  
23 medical examination or an autopsy is you write contemporaneous  
24 notes; is that correct?

25 A Yes.

1 Q And then from those notes and recordings or your  
2 observations, you draft a report; is that correct?

3 A Correct.

4 Q And it's fair to say you do more than one or two of  
5 these a year?

6 A More than one or two of these a day I would say,  
7 yeah.

8 Q So in the intervening nine years, you've done  
9 hundreds, if not thousands of medical examinations?

10 A I've done thousands.

11 Q Okay. All right. And do you have your report in  
12 front of you for reference purposes?

13 A Yes, I do.

14 MR. PALAL: And, Your Honor, if there is no objection  
15 I'll have the doctor refer to his report?

16 MR. LEVENTHAL: No. No objection.

17 THE COURT: So allowed.

18 MR. PALAL: Okay.

19 BY MR. PALAL:

20 Q All right. And obviously, sir, you're here regarding  
21 the medical examination of Marcos Arenas; is that correct?

22 A Correct.

23 Q Now, when you get anybody for a medical examination,  
24 is there a tag or a label to identify the person on whom you're  
25 doing the examination on?

1 A Yes.

2 Q Okay. And I want to publish --

3 MR. PALAL: Oh, Your Honor, for the record, State's  
4 82, 83, 84, 85 and 86 have been agreed to for admission by  
5 stipulation.

6 MR. LEVENTHAL: That's correct.

7 THE COURT: So admitted. And you may publish as you  
8 see fit.

9 (State's Exhibit Number(s) 82-86 admitted.)

10 MR. PALAL: Yes. Thank you.

11 BY MR. PALAL:

12 Q So I'm going to publish State's Exhibit 82. What are  
13 we looking at there, sir?

14 A We're looking at the tag that would be on the body  
15 when it was received in the seal that's on the body bag as  
16 well.

17 Q And is there a -- what we're looking at here is we  
18 have the name of the decedent; is that correct?

19 A Correct.

20 Q And then we also have a specific case number; is that  
21 correct?

22 A Correct.

23 Q And what is the -- what's the significance of the  
24 case number?

25 A Well, it identifies the case, and it's a unique

1 identifier. There are no other cases that have that number.

2 Q Okay. And so that's how you -- and so everything  
3 associated with that number is associated specifically with  
4 Marcos Arenas?

5 A Correct.

6 Q Now, when you do an examination, how do you begin the  
7 examination?

8 A We start the day with a meeting where we review the  
9 coroner's investigator's report on the circumstances, and the  
10 cases are assigned.

11 And I was assigned this case. I read the coroner's  
12 investigator's report. I looked at the x-rays. I did an  
13 external examination of the body. I did an internal  
14 examination of the body, and I collected specimens for  
15 toxicological examination.

16 Q All right. And I'm going to refer specifically  
17 initially to your external examination of Mr. Arenas. Is that  
18 okay?

19 A That's okay.

20 Q I'm showing you what's been previously admitted by  
21 stipulation as State's Exhibit 84. What are we looking at  
22 here?

23 A We're looking at a photograph of the left side of the  
24 decedent's head and upper chest.

25 Q And it appears that there are some injuries that are

1 visible to Mr. Arenas's head; is that correct?

2 A Correct.

3 Q And can you tell us about them.

4 A Well, he has contusions of the left side of the  
5 forehead and left side of the face. He has what looks like  
6 bruising of the left eyelids, but I think that's more related  
7 to the skull fractures.

8 Q And so -- and the skull fractures relate to the  
9 internal exam --

10 A Correct.

11 Q -- or will relate more to the internal examination?

12 A Correct.

13 Q All right. I'm just going to -- sticking with the  
14 external examination, I'm going to show you what's been  
15 previously stipulated to for admission as State's Exhibit 85.  
16 Can you tell us what that is.

17 A That's a abrasion and -- those are abrasions and  
18 contusions of the decedent's right knee.

19 Q So that's the inside of the right knee. Is that fair  
20 to say?

21 A Correct. The left side of the right knee.

22 Q Okay. And then I'm going to show you what's been  
23 admitted as State's Exhibit 86.

24 What are we looking at here?

25 A There we're looking at the left side, the lateral

1 side of the left knee. There's a large contusion there.

2 Q And then I'm going to show you what's been admitted  
3 as State's Exhibit 83. What are we looking at there?

4 A We're looking at abrasions and contusions on the  
5 medial or right side of the left foot.

6 Q And so these are some of the things you can observe  
7 just from looking at the external part of Mr. Arenas; is that  
8 correct?

9 A Correct.

10 Q Now, as you had mentioned, as part of your  
11 examination, there also had to be an internal examination; is  
12 that correct?

13 A Correct.

14 Q What are you looking for when you're doing the  
15 internal examination?

16 A I'm looking for injuries that can be used as a reason  
17 for the cause of death.

18 Q Okay. And so if we go back to State's Exhibit 84,  
19 you had mentioned that these were external injuries, but that  
20 there were other internal injuries to the skull of Mr. Arenas;  
21 is that correct?

22 A Correct. Right.

23 Q And can you explain your findings regarding the  
24 injuries to Mr. Arenas's skull.

25 A He had a basilar skull fracture, which is the base of

1 the skull. It's the upper part of the skull is just a  
2 protective sort of covering for the brain, but the base of the  
3 skull buttresses the skull, and it's very dense bone, and a  
4 fracture across the -- across the base of the skull is a  
5 basilar skull fracture.

6 Q Okay. So and just anatomically, when you're talking  
7 about the basilar skull, is there a particular area we're  
8 talking about on somebody's, I guess for lack of a better term,  
9 head?

10 A It's the floor of the cranial cavity where the brain  
11 is.

12 Q Okay. So on top of my head, but there's this --  
13 inside my head there's a brain?

14 A Correct.

15 Q That's not what my wife says. And then below that,  
16 there's a -- the base of where the skull -- or the brain is  
17 held?

18 A Correct.

19 Q And that's the vascular skull --

20 A Basilar.

21 Q I'm sorry. Basilar. I'm sorry. Basilar skull.  
22 And you said that that area is of greater density  
23 than the area, the outside of the skull?

24 A Right.

25 Q Sort of the outer skull I guess?

1 A Right.

2 Q What kind of force in your medical opinion would it  
3 take to cause skull fractures of the basilar skull? Is it a  
4 light amount of force or a significant amount of force?

5 A It's a significant amount of force.

6 Q And do you associate that -- is one of the things you  
7 associate that with is getting run over by a vehicle?

8 A Yes.

9 Q With regards to the basilar skull fractures, was  
10 there anything else of note regarding any conclusions that you  
11 drew. And I believe this is relating to 1A of your --

12 A Yes. He had -- they put in chest tubes because he  
13 had some blood in his chest or air in his chest, and they had  
14 also done an emergency surgery on his abdomen because he had  
15 blood in his abdomen, and they found a laceration of the liver.

16 Q Okay. Now, with regards to the chest, you said there  
17 was medical intervention in order obviously to try and preserve  
18 Mr. Arenas's life?

19 A Correct.

20 Q And obviously because we're here we know that that  
21 was unsuccessful.

22 A Correct.

23 Q Now, can you tell us a little bit more about the  
24 blunt force trauma to the chest. Any --

25 A I'm going to refresh my notes from my notes.

1           According to the medical records, there were  
2 pulmonary contusions, and in preparation for surgery they put  
3 in the chest tubes.

4           Q     And what are pulmonary contusions?

5           A     Bruises of the lungs.

6           Q     Okay. So that, and it appears to be from your report  
7 that that's a result of more blunt force trauma? Okay. So that,  
8 it appears to be from your report that that's a result of more  
9 blunt force trauma?

10          A     Correct.

11          Q     And just so we're clear, what exactly do you mean by  
12 blunt force trauma? What does that phrase mean?

13          A     I think it's self-explanatory. It's when -- it's an  
14 injury by a blunt object, either a person striking -- the body  
15 striking a blunt object or a blunt object striking the body.

16          Q     All right. And so you have for a nonblunt object,  
17 like a knife, but that's one type of injury somebody could  
18 have; correct?

19          A     Yes.

20          Q     And that wouldn't be a blunt force object?

21          A     No, that wouldn't.

22          Q     And then you have getting shot. That also is a --  
23 cause a very specific wound, an acute wound; correct?

24          A     Correct.

25          Q     And that also would not be blunt force trauma?

1 A Correct.

2 Q So when you're talking about blunt force trauma,  
3 you're talking about getting hit with a, I guess, nonsharp  
4 object. Is that fair to say?

5 A Correct.

6 Q Or non -- and more likely a nonpenetrating object?

7 A Yes.

8 Q And so would blunt force trauma -- you'd mentioned  
9 that the blunt force trauma to the basilar skull was consistent  
10 with getting run over by a vehicle; correct?

11 A Correct.

12 Q And particularly given how dense the basilar skull  
13 is, how it would take a great deal of force to cause the  
14 fracture that you observed to Mr. Arenas; is that correct?

15 A Correct.

16 Q But with regards to the blunt force trauma to the  
17 chest, do you have any opinions regarding what could be the  
18 cause of the blunt force trauma to the chest? Could it be  
19 falling? Could it be getting run over by a vehicle? Could it  
20 be getting hit? Do you have any idea with regards to that?

21 A No. I can't be specific on whether it was the head  
22 striking the pavement or the wheels striking the head or the  
23 car striking the head. I can't say.

24 Q Okay. And then the last finding that you have listed  
25 in your report was blunt force abdominal trauma; is that

1 correct?

2 A Correct.

3 Q Okay. And so we've got blunt force to the skull.

4 We've got blunt force to the chest. And then the abdomen is  
5 fair to say the stomach area, or where is the abdomen?

6 A Yes. That's in general is where the stomach and  
7 other viscera are.

8 Q And then you said that, is it fair to say that your  
9 finding with regard to the blunt force trauma to the abdominal  
10 area was regarding fractures of the liver and pancreas; is that  
11 correct?

12 A Yeah. There was a fracture of the pancreas where it  
13 passes, well, in front of the vertebral column.

14 Q Okay. And can you tell us, was this -- so this was  
15 also caused by blunt force trauma?

16 A Correct.

17 Q And would it also take a significant amount of force  
18 to cause that type of injury or no?

19 A Yes. It would take a significant amount of force to  
20 cause that injury.

21 Q Now, after having done the external examination and  
22 the internal examination of Mr. Arenas, you mentioned you  
23 reviewed radiographs and that type of thing?

24 A Yes.

25 Q And what was the purpose of that?

1           A     Well, it's, first of all, it's part of the protocol,  
2 but on a trauma case like this I do -- we do postmortem  
3 radiography. He had had CT examinations in the hospital, but  
4 we repeat with some -- a series of plain x-rays.

5           Q     And did that assist you in helping you come to your  
6 conclusions regarding the blunt force trauma that we discussed  
7 earlier?

8           A     Well, yes. It assists me in reaching a determination  
9 of the cause of death.

10          Q     Okay. Now, you mentioned the cause of death. I'll  
11 get to that in a second, but you prior to that you also  
12 mentioned that a toxicology is run on -- when you do an  
13 examination?

14          A     Correct.

15          Q     Is that correct?

16                     And was that toxicology run on Mr. Arenas?

17          A     Yes, it was.

18          Q     And was there anything to report from the toxicology  
19 report?

20          A     I don't think there was anything outside of hospital  
21 meds. I'll have to refresh my memory.

22                     They didn't find anything. Oh, this was hospital  
23 admission blood. So this was prior to receiving any  
24 medications associated with the surgical intervention and the  
25 toxicology was negative for drugs and for alcohol.

1 Q Okay. The last thing I want to address is did you  
2 come to a conclusion as to the actual cause of death?

3 A Yes.

4 Q And what was that?

5 A I determined that the cause of death was multiple  
6 blunt force injuries due to pedestrian versus motor vehicle  
7 collision.

8 Q And then did you come up -- well, part of your job is  
9 also to come up with a manner of death. Is that correct?

10 A Correct.

11 Q Can you explain to us before your conclusion  
12 regarding the manner of death in this case what a manner of  
13 death is.

14 A Well, the manner of death is -- there are five  
15 manners of death, and any doctor can sign a death certificate  
16 if it's a natural death, but the other four manners of death  
17 are homicide, suicide, accident and undetermined. And only us  
18 forensic pathologists are allowed to sign death certificates  
19 when the manner of death is one of those.

20 Q And in this case did you draw a conclusion as to the  
21 manner of death?

22 A Based on the autopsy examination and the  
23 circumstances of the injuries as I understood them at the time  
24 that I created the death certificate, I made the manner of  
25 death homicide.

1 Q And what does homicide mean?

2 A Well, it's basically where you have been a purposeful  
3 or a intentional interaction between two people, and one of  
4 them dies.

5 Q So hands at the death of another person?

6 A Yes.

7 Q Okay. As opposed to suicide, which might be death  
8 due to one's own actions?

9 A Yes.

10 MR. PALAL: The State will pass the witness.

11 THE COURT: Defense.

12 MR. MARCHESE: No questions, Your Honor.

13 THE COURT: Ladies and gentlemen of the jury, do you  
14 have any questions for this witness?

15 Seeing none.

16 Dr. Dutra, you are excused. Thank you have a great  
17 day.

18 THE WITNESS: Okay. You too.

19 THE COURT: The State may call their next witness.

20 MS. BOTELHO: The State calls Stephanie Teague.

21 **STEPHANIE TEAGUE**

22 [having been called as a witness and being first duly sworn,  
23 testified as follows:]

24 THE CLERK: Thank you. Please have a seat. State  
25 and spell both your first and last name for the record.

1 THE WITNESS: Stephanie Teague. S-t-e-p-h-a-n-i-e,  
2 T-e-a-g-u-e.

3 THE COURT: Thank you for being here, Ms. Teague.  
4 State, your witness.

5 MS. BOTELHO: Thank you.

6 DIRECT EXAMINATION

7 BY MS. BOTELHO:

8 Q Hi, Ms. Teague.

9 A Hello.

10 Q Ma'am, are you employed with AMR?

11 A I am.

12 Q Currently?

13 A Yes.

14 Q You are in uniform. Still with AMR?

15 A Yes.

16 Q Okay. I'd like to turn your attention to May  
17 of 2013, specifically May 16th of 2013. Were you employed  
18 with AMR at that time?

19 A I was.

20 Q And what does AMR stand for?

21 A American Medical Response.

22 Q Okay. And so what was your position there in 2013?

23 A At the time I was a field paramedic.

24 Q Okay. And just can you briefly give us a synopsis of  
25 your duties and what it is that you do as a paramedic.

1           A     We respond to 9-1-1 calls for medical patients,  
2     trauma patients, interfacility transports, any time anybody  
3     needs any medical type transportation somewhere.

4           Q     Okay. And do you typically work alone or with a  
5     partner?

6           A     A partner.

7           Q     Back in May of 2013, did you have a partner by the  
8     name of Amy Potts (phonetic)?

9           A     I did.

10          Q     Were you and Ms. Potts assigned to a vehicle?

11          A     Yes.

12          Q     Okay. And is it an AMR assigned vehicle?

13          A     Yes.

14          Q     Okay. So like the ambulances that we see around  
15     town?

16          A     Yes. They all have specific numbers to them.

17          Q     Okay. And are those vehicles equipped with lights  
18     and sirens?

19          A     Yes.

20          Q     So turning your attention to about 4:00 p.m. on  
21     May 16th of 2013, were you working with Amy, Ms. Potts, as a  
22     paramedic?

23          A     Yes.

24          Q     At that point in time, about 4:00 p.m., were you  
25     dispatched to a call or were you responding to a call?

1           A     We were responding to a call from Charleston and  
2 Hualapai all apply where we were posted, to Charleston and  
3 Shadow Lane is where our initial patient was.

4           Q     Okay. At some point -- so what direction are you  
5 traveling?

6           A     We would be heading --

7           Q     And were you on Charleston?

8           A     -- east on Charleston from Hualapai.

9           Q     Okay. Publishing State's Exhibit Number 113, if you  
10 could just take a moment to look at this map. And so you're  
11 traveling eastbound. So Hualapai would be towards the left of  
12 this exhibit; is that right?

13          A     That is correct.

14          Q     Okay. And you were traveling east. So you're on the  
15 road or the street that would be, if you're facing this, to the  
16 right; is that right?

17          A     Yes.

18          Q     Okay. And so headed towards Torrey Pines?

19          A     Yes.

20          Q     Okay. Are your lights and sirens on?

21          A     Yes.

22          Q     Okay. Who's driving? Do you recall?

23          A     I was.

24          Q     Okay. Did something catch you eye or capture your  
25 attention as you were approaching this area as shown in State's

1 Exhibit 113?

2 A Yes. After we had crossed over Rainbow heading east,  
3 we had noticed that the traffic heading westbound on  
4 Charleston, right past -- right west of Torrey Pines had  
5 stopped. Very strange for us.

6 Q Because this is -- this was a weekday; is that right?

7 A Yes.

8 Q It was a Thursday?

9 A Yes.

10 Q 4:00 o'clock?

11 A Uh-huh.

12 Q Would you expect traffic to be at a complete  
13 standstill despite, you know, rush-hour on Charleston?

14 A No.

15 Q Okay. At some point do you approach or get closer to  
16 the area shown in State's Exhibit 113?

17 A Yes.

18 Q And what, if anything, did you see?

19 A Amy and I had begun to have a conversation because it  
20 was so strange that everybody had stopped and we don't normally  
21 have people pull to the right for us. Sometimes we get them to  
22 stop. Sometimes they do, but most often they don't, and she  
23 had noticed that -- and said there's something in the road.  
24 Maybe it's debris, somebody blew a tire. As we kept  
25 progressing forward, I said that's not a tire. She said maybe

1 it's a dog, and as we were pulling up, I looked to my left out  
2 the window and realized it was a body.

3 Q How did you respond to that?

4 A I was very shocked. I told Amy to get on the radio  
5 with dispatch and to tell them to take us off the initial call  
6 we were responding to and put us on this one. I said tell them  
7 that we have an auto-ped and that we need help.

8 Q Okay. And so what did you do next?

9 A I exited the vehicle, put my gloves on, crossed over  
10 the median and went to the patient's side.

11 Q Using State's Exhibit Number 113 which is on the  
12 screen right now, can you tell or show the jury. You can use  
13 that mouse --

14 A Okay.

15 Q -- to move the cursor around. Does this exhibit show  
16 where you stopped?

17 A It was right about in here because I did have to  
18 cross over the median to the westbound side.

19 Q Okay. And so it was past Scholl if -- Scholl if you  
20 are going westbound on Charleston?

21 A Yes.

22 Q Okay. And so you put your gloves on. You exited  
23 your vehicle, your ambulance, and what happens?

24 A I went over, and our initial -- our training is  
25 always you look for airway, breathing, circulation in that

1 order. So I immediately checked his airway. I found that it  
2 was full of blood. I held his neck for stability in case there  
3 was a spinal injury, rolled him to my right and had to manually  
4 clear his airway with my gloved hand to get the blood out to  
5 hope to -- that he would start to breathe.

6 Q Was he conscious?

7 A No.

8 Q Was he making any sounds?

9 A Initially there was a type of gurgling sound trying  
10 to come from his airway, but after I had rolled him back over  
11 to reassess him, that noise had stopped.

12 Q And so after you dealt with that issue, was there  
13 another issue that you had to deal with?

14 A While holding -- again while holding what we call the  
15 C-spine, which is cervical spine, you can normally feel a pulse  
16 in the neck. As I rolled him back over, I identified that he  
17 no longer had a pulse.

18 Q And so how did you respond to that?

19 A I immediately started chest compressions and  
20 continued to yell for specific equipment from Amy that I  
21 needed.

22 Q And what happens next?

23 A A bystander came over, told me he knew CPR and asked  
24 if he could help. I was grateful and said, yes. He began  
25 doing the chest compressions for me as Amy was bringing more

1 equipment to me, and I just kept yelling at her that I needed  
2 help, and she just kept saying listen, you can hear them.  
3 They're coming.

4 Q And could you hear help?

5 A I could hear the other -- the sirens from the other  
6 emergency vehicles that were responding.

7 Q Okay. And at some point did other paramedics  
8 respond?

9 A Yes.

10 Q And --

11 A An additional unit from AMR responded. They were  
12 only a few blocks away as well as the Las Vegas Fire  
13 Department.

14 Q Okay. At some point in time you indicated you could  
15 no longer feel a pulse. Were you ever successful, you or the  
16 other emergency responders successful in getting a pulse?

17 A After we put the -- placed a collar on his neck and  
18 placed him on a backboard then onto the gurney, got him into  
19 the back of the ambulance to start transport, we reassessed,  
20 and we did have a pulse back at that time.

21 Q At some point was this person intubated?

22 A Yes.

23 Q And what is that?

24 A Intubation is advanced life support procedure where  
25 we place a tube down the patient's trachea to assist in them

1 breathing.

2 Q And that was necessary in this case?

3 A Yes. Yes.

4 Q Was that administered by Nathan Sorensen?

5 A Yes.

6 Q After that was done, was there ever an occasion for  
7 you or other emergency responders to cut off -- you ultimately  
8 learned that the victim's name is Marcos; right?

9 A Yes. Thank you.

10 Q Was there an occasion for your other first responders  
11 to cut the clothes off of Marcos?

12 A Yes.

13 Q When that was done, were you able to observe  
14 injuries?

15 A Yes.

16 Q What if any injuries did you observe?

17 A I observed tire tracks across the lower part of his  
18 abdomen, the lower two quadrants, and we began to really look.  
19 We found abrasions on both of his ankles and a tire track  
20 across his lower face.

21 Q Was there blood on his face?

22 A There was blood on his face, but I couldn't be -- to  
23 be honest I couldn't tell you if it was from me clearing his  
24 airway or injuries.

25 Q Okay. I'm going to show you what's been marked and

1 admitted as State's Exhibits 83, 84 and 85. I'm going to start  
2 out with 83. Obviously was not -- this photograph was not  
3 taken while on the road. Is that correct?

4 A That's correct.

5 Q Okay. But does this photograph show any of the  
6 injuries that you just spoke about?

7 A Yes.

8 Q And what are those injuries?

9 A For me at the time, I would -- I noticed the -- all  
10 of this type of abrasion injury.

11 Q And showing you State's Exhibit Number 85, does this  
12 show another injury that you observed back at the scene?

13 A I could -- I noticed the abrasion that you can see  
14 here on the knee, but the bruising didn't occur until later.

15 Q Okay. So these photographs were obviously taken  
16 later?

17 A Yes.

18 Q Okay. And State's Exhibit Number 84, do you see any  
19 injuries here? I mean, obviously his face has been cleaned up  
20 a little bit.

21 A Yes.

22 Q Okay. And so do you notice any injuries on this  
23 photograph that you would have seen at the scene?

24 A Yeah, I saw the injuries to his face.

25 Q Okay. And when you testified about the tire marks to

1 the left side of his face, is that visible here?

2 A Injuries are, but again, he's -- you can't see the  
3 actual dirt that I saw.

4 Q Do you recall, Ms. Teague, the time that you would  
5 have assigned yourself to the call to help Marcos? Do you  
6 recall being it 4:15 p.m.?

7 A Yes. Yes.

8 Q And do you recall being basically on your way  
9 en route to the hospital by 4:20 p.m.?

10 A Yes.

11 MS. BOTELHO: I have no more questions. Thank you,  
12 ma'am.

13 MR. MARCHESE: No questions, Your Honor.

14 THE COURT: Ladies and gentlemen of the jury, any  
15 questions for Ms. Teague?

16 Seeing none.

17 Ma'am, thank you so much for being here. You are  
18 excused.

19 State, do you guys have a next witness ready, or do  
20 you need a few minutes?

21 MR. PALAL: No, Your Honor. We're ready.

22 THE COURT: Okay.

23 MS. BOTELHO: The State calls Desirie Jones.

24 THE CLERK: You can set your things down. Would  
25 you --

1 THE WITNESS: Huh?

2 THE CLERK: Would you like to set your purse down?

3 THE WITNESS: Yes.

4 THE CLERK: Raise your right hand.

5 **DESIRIE JONES**

6 [having been called as a witness and being first duly sworn,  
7 testified as follows:]

8 THE CLERK: Thank you. Please have a seat. Please  
9 state and spell both your first and last name for the record.

10 THE WITNESS: Desirie, D-e-s-i-r-i-e. Jones,  
11 J-o-n-e-s.

12 THE COURT: Thanks for being here, Ms. Jones.  
13 Ms. Botelho, your witness.

14 MS. BOTELHO: Thank you, Your Honor.

15 **DIRECT EXAMINATION**

16 BY MS. BOTELHO:

17 Q Ms. Jones, do you know an individual by the name of  
18 Robert Taylor?

19 A Yes.

20 Q Who is he to you?

21 A My ex.

22 Q Okay. Were you and Mr. Taylor together romantically  
23 back in May of 2013?

24 A Yes.

25 Q Were you two living together?

1 A Yes.

2 Q Were you living with him at a home located on a  
3 street called Hawk Shadow?

4 A Yes.

5 Q Did you have children at that time?

6 A Yes.

7 Q And did they reside in that home as well?

8 A Yes.

9 Q During the time that you lived on Hawk Shadow -- I'm  
10 sorry. Did you live on Hawk Shadow in May of 2013?

11 A Yes.

12 Q Okay. Did you have a neighbor on Hawk Shadow, that  
13 street, that you referred to as Mike P?

14 A Yes.

15 Q Okay. Do you see Mike P or the individual that you  
16 know as Mike P here in court today?

17 A Yes.

18 Q Could you please point to him and describe something  
19 he's wearing.

20 A A black suit.

21 MS. BOTEHO: Your Honor, please let the record  
22 reflect the identification of the defendant.

23 THE COURT: So reflected.

24 MS. BOTEHO: Thank you.

25 / / /

1 BY MS. BOTELHO:

2 Q Did you know Mike P's like full legal name at the  
3 time?

4 A Yes.

5 Q Okay. And did you know it to be Michael Solid?

6 A Yes.

7 Q Ma'am, specifically I'd like to turn your attention  
8 to May 17th of 2013. Were you up early that morning?

9 A Yes.

10 Q Specifically around 5:00 a.m.?

11 A Yes.

12 Q Did you have an occasion -- and I apologize, ma'am.  
13 Did you have an occasion to watch the news at that  
14 time?

15 A Yes.

16 Q And what -- upon seeing the news -- well, first of  
17 all, what was the news broadcast about?

18 A About a little boy getting run over.

19 Q And was there, like, a video attached to this  
20 particular new story?

21 A Yes.

22 Q And did you have an opportunity to review that  
23 surveillance footage?

24 A Yes.

25 Q And at some point when you watched it did you

1 recognize --

2 A Yes.

3 Q -- an individual that you knew?

4 A Yes.

5 Q And who did you recognize?

6 A Michael Solid.

7 Q And so upon seeing that and knowing the nature of the  
8 news story, what did you do?

9 A I dialed Crime Stoppers. And then I dialed Metro.

10 Q Okay.

11 A But no one was -- they wasn't -- they wasn't there.  
12 So I just stayed on the phone for an hour.

13 Q Okay. Did you also watch, I'm sorry, the 6:00 a.m.  
14 broadcast?

15 A I watched -- it was at 5:00 a.m.

16 Q Okay.

17 A And then the 6:00.

18 Q Okay. And so did you get a hold of someone at Crime  
19 Stoppers?

20 A Yes.

21 Q Okay. And then you called Metro?

22 A Yes.

23 Q And is that the hold that you had to experience,  
24 getting someone to answer your call?

25 A Yes.

1 Q And at some point did a homicide detective,  
2 Detective Travis Ivie get on the phone?

3 A Yes.

4 Q Showing you what's been marked and admitted by way of  
5 stipulation State's Exhibit Number 31. Do you recognize first  
6 of all this photo, this still photo?

7 A Yes, I do.

8 Q Okay. Does it appear to be a photograph from a  
9 surveillance footage that you saw on the 17th?

10 A Yes.

11 Q And was it from this footage that you recognized  
12 Mr. Solid?

13 A Yes.

14 Q Now, in terms of how you knew Mr. Solid, was he  
15 friends with your ex-husband?

16 A Yes.

17 Q And were they the type of friends where Mr. Solid  
18 would come over to your home?

19 A Yes.

20 Q And when he would be in your home, you'd have an  
21 occasion to, of course, observe him and see how --

22 MR. LEVENTHAL: Judge, I'm going to -- I'm sorry.  
23 I'm just going to object to the leading questions. I  
24 understand a few. It's just getting a little bit to leading.

25 THE COURT: Ms. Botelho, if you could just rephrase.

1 MS. BOTELHO: Sure.

2 MR. LEVENTHAL: Thank you.

3 THE COURT: Thank you.

4 MS. BOTELHO: Sure.

5 BY MS. BOTELHO:

6 Q How many times would you say that he would visit your  
7 home or your husband in a week?

8 A Four -- three to four times a week.

9 Q Okay. So pretty consistent?

10 A Yes.

11 Q You were interviewed in May of -- May 22nd of 2013;  
12 is that right?

13 A Yes.

14 Q Okay. So you spoke with Detective Ivie on the 17th  
15 and then gave a formal interview on the 22nd?

16 A Yes.

17 Q When you heard the news article or when you saw the  
18 news footage early morning hours of the 17th, had the news  
19 reported whether or not the victim who had been run over,  
20 whether he had survived?

21 A No. They said he didn't survive.

22 Q Shortly after, you know, you called the police and  
23 give this information, did you come to find out that Mr. Solid  
24 had been arrested with another individual, a white male adult?

25 A Yes.

1 Q And had you seen the surveillance footage of that  
2 white male adult?

3 A Yes.

4 Q Did you recognize that white male adult?

5 A Yes.

6 Q Okay. Now, did you know him by name?

7 A Yes.

8 Q Okay. And what's his name?

9 A Jacob Dismont.

10 Q Okay. Did you know his name back then?

11 A Yes.

12 Q Okay. How is it that you became familiar with Jacob  
13 Dismont?

14 A Because Robert -- I seen Robert socializing with  
15 them.

16 Q Okay. And when you say them --

17 A I didn't know him personally.

18 Q -- do you mean Robert socializing --

19 A Robert Taylor socializing with Michael Solid and  
20 Jacob Dismont.

21 Q Okay. When you would see them together with your ex,  
22 were they -- was Mr. Dismont usually with Mr. Solid?

23 A Sometimes.

24 Q Did you have Mike P's or Mr. Solid's phone number at  
25 the time that you either called the police or gave that

1 interview?

2 A I got it from Robert Taylor.

3 Q Okay. And after you got it from Robert, did you  
4 provide it to the police?

5 A Yes, I did.

6 Q Now, when you saw State's Exhibit Number 31 or this  
7 footage, were you -- how certain were you that this was  
8 Mr. Solid?

9 A 100 percent.

10 Q I want to draw your attention to the State's Exhibit  
11 Number 31. Do you see this kind of shiny object right here?

12 A Yes.

13 Q Okay. Do you recognize what that is?

14 A Yes.

15 Q Okay. What is it?

16 A His chain.

17 Q Okay. And it's, you know, it's kind of a -- what  
18 shape would that be to you?

19 A I can't recall the shape, but I know that chain. He  
20 always wear it.

21 Q Okay. And -- oh, okay. So when he would -- when you  
22 would see him and when you would see him visiting your husband,  
23 would he be wearing that chain?

24 A Yes.

25 MS. BOTELHO: Okay. I have nothing further. Thank

1 you, Your Honor.

2 THE COURT: Defense, any questions for this witness?

3 MR. LEVENTHAL: I just have one, just one or two.

4 Thank you.

5 THE COURT: Sure.

6 CROSS-EXAMINATION

7 BY MR. LEVENTHAL:

8 Q Good afternoon.

9 A Good afternoon.

10 Q Just a couple of questions. When you saw the news,  
11 you just identified Mr. Solid, that you knew him; right?

12 A Yes.

13 Q You didn't know what had happened or if he had any  
14 involvement at all at that point; right? You just saw him on  
15 the news; right?

16 A Yeah.

17 Q Okay. You saw his picture?

18 A Yes.

19 Q And called Crime Stoppers; right?

20 A Yeah.

21 Q Okay. When you watched the news, did the news  
22 indicate that his girlfriend was in the backseat of the  
23 vehicle?

24 A No.

25 Q Did the news indicate that his seven-month-old child

1 was in the backseat of the car?

2 A No.

3 MR. LEVENTHAL: Okay. Thank you. No further  
4 questions.

5 THE COURT: Any follow-up based on that, Ms. Botelho?

6 MS. BOTELHO: No, Your Honor.

7 THE COURT: Ladies and gentlemen of the jury, any  
8 questions for this witness?

9 Seeing none.

10 Ms. Jones, you are excused. Thank you so much for  
11 being here.

12 THE WITNESS: Thank you.

13 THE COURT: The State may call their next witness.

14 MS. BOTELHO: The State calls Will Hubbard.

15 **WILL HUBBARD**

16 [having been called as a witness and being first duly sworn,  
17 testified as follows:]

18 THE CLERK: Thank you. Please have a seat. State  
19 and spell your first and last name for the record, please.

20 THE WITNESS: Will, W-i-l-l. Hubbard, H-u-b-b-a-r-d.

21 THE CLERK: Thank you.

22 THE COURT: Thank you, sir.

23 Your witness.

24 MS. BOTELHO: Thank you.

25 / / /

DIRECT EXAMINATION

BY MS. BOTELHO:

Q Sir, how are you employed?

A With the Las Vegas Metropolitan Police Department.

Q Are you currently assigned to a particular unit?

A I am.

Q Which unit?

A The robbery section.

Q Turning your attention back to May 16th of 2013,  
were you a robbery detective then?

A I was.

Q And what agency are you a robbery detective with?

A Las Vegas Metro PD.

Q And how long have you been employed with the Las  
Vegas Metropolitan Police Department?

A Twenty-five years.

Q Back in 2013, would that have been 19 years or in  
2006 -- okay. How many years total now?

A Total now is 25 and one month.

Q Okay. And in 2013, we're going to have to do some  
math --

A Probably around 16.

Q Okay. And so were you assigned to the robbery  
section at that time?

A Yes.

1 Q And specifically May 16th of 2013?

2 A Yes.

3 Q Were you working or when you're a part of the robbery  
4 unit, do you typically work in squads?

5 A We do.

6 Q Or teams?

7 A Yes.

8 Q And were you working with a particular squad on  
9 May 16th, 2013?

10 A Yes.

11 Q How many people are there typically to a squad?

12 A Anywhere from six to eight.

13 Q And when you're a detective with Metro, are you in  
14 plainclothes, or are you in a uniform?

15 A Plainclothes.

16 Q What is it that robbery detectives do?

17 A We respond to all, at that time, to all commercial  
18 robberies, any robbery with -- that had a significant injury or  
19 that takeover style robberies, those sort of things.

20 Q Okay?

21 A At that time we also did kidnappings for ransom.

22 Q Okay.

23 A Which we still do.

24 Q And so would your job back then have been different  
25 from say a patrol officer?

1 A Yes.

2 Q Okay. So patrol would respond to the 9-1-1 calls?

3 A Correct.

4 Q And at some point or the bureaus, robbery bureau,  
5 other specialty bureaus called out if their assistance is  
6 needed?

7 A Yes.

8 Q So again, May 16th of 2013, were you asked to go to  
9 the area of Charleston and Torrey Pines?

10 A Yes.

11 Q Was your squad working an incident there in that  
12 location?

13 A The swing shift squad was.

14 Q Okay.

15 A We were day shift.

16 Q Okay. Charleston and Torrey Pines, that's in Clark  
17 County, Nevada; is that right?

18 A Correct.

19 Q Okay. What is it that you did once you arrived at  
20 that scene?

21 A When I arrived at that scene, I was given a brief  
22 description or told what happened, and my task was to go around  
23 and canvass local businesses to find video.

24 Q Okay. And did you, in fact, do that?

25 A I did.

1 Q Okay. Was an investigation already underway when you  
2 arrived?

3 A Yes.

4 Q And so where did you canvass for surveillance  
5 footage?

6 A I was instructed to start at Chipotle.

7 Q What's the purpose of going out and trying to get  
8 surveillance anyway? This might be just like the most obvious  
9 answer, but --

10 A The main purpose of it is through the investigation  
11 that had already been going on, we knew that they ordered food  
12 at Chipotle.

13 Q They meaning the victim?

14 A Yes, the victim.

15 Q Okay. And so --

16 A So my goal was, is to find him -- or find them at the  
17 restaurant and follow the path to where the crime happened.

18 Q Okay. And so did you respond to the Chipotle?

19 A I did.

20 Q And at that time when you got to the Chipotle, did  
21 you have a description of the suspect vehicle that was involved  
22 in that incident?

23 A Yes.

24 Q Okay. And so armed with that knowledge, the victim  
25 was at Chipotle, the suspect vehicle description, did you make

1 contact with a manager at Chipotle?

2 A I did.

3 Q And this Chipotle, is it -- where is it located?

4 A Charleston and Torrey Pines. It will be on the north  
5 side of the street just east of that intersection.

6 Q Okay. Is there, like, a McDonald's in that same  
7 shopping center?

8 A There is.

9 Q Okay. And if you move further west, is there a gas  
10 station?

11 A There is.

12 Q Okay. And so you start the timeline at Chipotle?

13 A Yes.

14 Q Were you -- when you made contact with the manager,  
15 were you able -- was this person able to pull up video for you?

16 A They were.

17 Q And what, if anything, did you see?

18 A Our victim and a friend, I don't remember their names  
19 at the moment. I'm sorry.

20 Q That's okay.

21 A They were in line. They ordered food, and if you  
22 haven't been in Chipotle, it's sort of like a modified buffet.  
23 You tell them what you want. They make it. They paid for  
24 their food and a short time later they exited.

25 Q Okay. Was the manager at Chipotle able to download

1 the surveillance at that time?

2 A No.

3 Q So you viewed it?

4 A We were able to view it.

5 Q Okay.

6 A And take screen shots of the actual screen.

7 Q Okay. I'm showing you what's been marked and will be  
8 admitted by way of stipulation as State's Exhibit Number 115.

9 Do you recognize this, sir?

10 A Yes. That is the Chipotle.

11 Q Okay. So was not able to download it. Were you  
12 given information to try to track down the surveillance through  
13 someone who could download it?

14 A Yes. At this time I'm going to use the word history  
15 because a lot of businesses were going digital, and at this  
16 time they were going to what they call IP or Internet protocol  
17 where their video was transmitted over Internet and stored  
18 somewhere else. So like at their corporate office, and that's  
19 in this case of what it was, management had no access to  
20 download it. They could only view it.

21 Q Okay.

22 A So we were instructed to send an administrative  
23 subpoena to their corporate office.

24 Q Okay. And did you ever receive video from Chipotle  
25 pursuant to that subpoena?

1 A No.

2 Q But you have the still photo that you took with your  
3 phone?

4 A Yes.

5 Q And were you able to transmit that information to,  
6 you know, other investigators who were helping with this event?

7 A Ultimately I transmitted it to the homicide section.

8 Q Okay. And this still, I'm just going to show you, it  
9 actually captures a time and date stamp. Is that correct?

10 A Yes.

11 Q Okay. And what is the time and date stamp from this  
12 Chipotle still photo?

13 A It's the 16th of May of '13, and the time is 13 -- or  
14 sorry, 3:56:13 p.m.

15 Q Okay. And the individuals that are standing right  
16 here kind of dark figures, is that Marcos Arenas and also  
17 Gacory Exum?

18 A Yes.

19 Q What did you do next?

20 A From there I -- when they left, they walked westbound  
21 on the north side of the street. So I continued westbound  
22 looking for video.

23 Q And where did you ultimately stop off?

24 A After I checked McDonald's, their only cameras they  
25 had showing outside only shows their drive-through. So cars in

1 the drive through. Previous knowledge, I know Terrible Herbst,  
2 which is the gas station, is the Terrible Chevron, they have  
3 video that covers out to the street.

4 Q Okay.

5 A So I went there.

6 Q And were you successful in obtaining footage from  
7 there?

8 A I was.

9 Q Okay. So did you have an opportunity to download  
10 that footage from the Terrible's?

11 A It was downloaded and provided to me.

12 Q Okay. And did you provide that to homicide  
13 ultimately?

14 A I did. Yes, ma'am.

15 Q Okay. And did you have an occasion to view that  
16 surveillance footage?

17 A Yes.

18 MS. BOTELHO: Okay. Brief indulgence, please.

19 BY MS. BOTELHO:

20 Q Okay. I'm going to show you what's been marked and  
21 admitted by stipulation as State's Exhibit Number 95.

22 Okay. Does this show kind of a more zoomed out photo  
23 or aerial shot of the intersection of West Charleston and  
24 Torrey Pines?

25 A It does.

1 Q And does it show the Terrible Herbst casino -- excuse  
2 me, gas station?

3 A Yes.

4 Q Chevron. And where would that be, Detective? Can  
5 you use the mouse to kind of show the jury where that business  
6 is located.

7 A It's -- oh, it doesn't draw?

8 Q No.

9 A Okay. So right here is the actual convenience store  
10 for Terrible Herbst. This is the gas station, the actual gas  
11 pumps, and then this stretch of white here that's sort of  
12 rectangular, this is their car wash, the self-serve car wash  
13 that's next to it.

14 Q Okay. Let's see here. Did you deal specifically  
15 with someone at the Chevron Terrible Herbst?

16 A Yes.

17 Q -- casino -- okay.

18 And you indicated that they downloaded that and  
19 provided that to you immediately; is that right?

20 A Yes, in my presence.

21 Q Okay. Did you have, as I indicated, have an occasion  
22 to look at the surveillance footage?

23 A Yes.

24 Q And showing you, for instance, State's Exhibit  
25 Number 31, which has already been admitted by way of

1 stipulation, calling your attention to the bottom right-hand  
2 portion of this photo, do you recall -- do you see a time and  
3 date stamp there?

4 A I do.

5 Q Okay. And did you have an opportunity to look at the  
6 various different angles of surveillance footage from  
7 Terrible's?

8 A Yes.

9 Q Okay. And calling your attention -- first of all,  
10 what's the date and time stamp from State's Exhibit 31?

11 A It's '13 of May 16th and then the time is 15:47:22.

12 Q Okay. Now, you indicated earlier that you were  
13 essentially trying to put together a timeline when you started  
14 at Chipotle?

15 A Yes.

16 Q Okay. The time stamp at the Chipotle video was 3:56;  
17 correct? This shows a time stamp of 3:47?

18 A Correct.

19 Q Okay. Did that jibe with you?

20 A No.

21 Q Okay. So what did you do?

22 A We found that the time stamp on their DVR system, if  
23 I remember correctly, it was 16 minutes off from what real time  
24 was.

25 Q And often the sense of was it 16 minutes slow or 16

1 minutes fast?

2 A Slower.

3 Q And did -- you indicated you watched a lot of the  
4 video --

5 A I did.

6 Q -- from that gas station.

7 A Yes.

8 Q Were there certain angles and certain time frames  
9 that really called your attention?

10 A There was.

11 Q Okay. And was that -- was your attention called to  
12 those specific views and time frames pursuant to or based on  
13 what you already knew about the investigation when you made  
14 contact with the manager?

15 A Yes.

16 Q For Terrible's?

17 A Yes.

18 Q Were you at that time when you were looking at  
19 surveillance footage, the voluminous surveillance footage from  
20 Terrible's, were you attempting to locate a suspect vehicle?

21 A I was.

22 Q And were you also looking to see if you could capture  
23 the individuals who were in the suspect vehicle?

24 A Yes.

25 MS. BOTELHO: Your Honor, we are going to publish

1 what I believe will be admitted by way of stipulation. It's  
2 Exhibit Number 117.

3 THE CLERK: It's already admitted.

4 THE COURT: It was already admitted through Mr. Romo.

5 MS. BOTELHO: Okay.

6 BY MS. BOTELHO:

7 Q Okay. So, Detective, we're starting this exhibit  
8 with two minutes and four seconds into the video, but the time  
9 stamp being 1547. ;

10 A Okay.

11 (Video played.)

12 BY MS. BOTELHO:

13 Q Do you see, you know, an individual enter this  
14 particular footage?

15 A Yes.

16 Q Okay. And did that person catch your attention?

17 A He did.

18 Q Okay. And pursuant to the video he just entered; is  
19 that right?

20 A Yes.

21 Q And did he just -- is he walking out of the  
22 establishment now?

23 A Yes.

24 Q And so do you see that black male adult that we were  
25 just talking about from inside exit the convenience store

1 portion?

2 A Yes.

3 Q Did the footage that you located from the Terrible's  
4 at some point show the black male adult walking towards a  
5 particular --

6 A Can you pause it right there. Those are our victims  
7 walking in the Terrible's.

8 Q Okay. In looking at --

9 A So it was -- in watching this, they walk in as he  
10 walks out.

11 Q Okay. And so at some point in the video, do you see  
12 that black male adult that caught your attention walking  
13 towards a particular vehicle?

14 A Yes.

15 Q And what type of vehicle was that?

16 A A white SUV.

17 Q Okay. And so are those the victims or the  
18 individuals you identified as the victim and his friend?

19 A Yes.

20 Q The same individuals we had seen at the Chipotle?

21 A Yes.

22 Q And so there are different angles that we're kind of  
23 bouncing from?

24 A That is correct.

25 Q And it's been -- our computer has been kind of

1 glitchy, particularly with CDs today. So we're going to let  
2 that play.

3 A Okay.

4 Q And if you could just please let us know, the jury  
5 know when it is that you see the suspect vehicle?

6 A Right now the suspect vehicle is in the top left-hand  
7 corner.

8 Q Okay.

9 A So it's the SUV where you see the back of it at the  
10 gas pumps.

11 Q Thank you. And so at 15:47:31 time stamp, being 16  
12 minutes slow, do you see that black male adult that we  
13 discussed earlier walking towards that white SUV?

14 A Yes. He'll be approaching the back of it right now.

15 Q Okay. And then is there another individual with kind  
16 of a white sleeveless tank top also making contact with that  
17 vehicle and that pump?

18 A Yeah. He walks from the grass area directly to the  
19 vehicle to the passenger side door.

20 Q Okay. Did that catch your attention, that white male  
21 adult?

22 A Yes.

23 Q Why?

24 A Because I knew there were two people involved, two  
25 suspects.

1 Q And did you have the suspect description for the  
2 white male adult at that time being, of course, white male  
3 adult with a white tank top and bluejeans?

4 A Yes.

5 Q So we're going to try to get this to cooperate to  
6 time stamp 15:52 plus 16.

7 Okay. So at 15:51:58, do you see the white suspect  
8 vehicle?

9 A If it did it drove westbound is what I'm looking at.  
10 I think that's a different one. I can't remember honestly if  
11 they turned around or not with it fast forwarding.

12 Q Okay. I apologize.

13 A Okay. That is the same vehicle that pulls forward.

14 Q Okay. So kind of repositions at the same pump 6.  
15 And then what is it -- is it just driving through the parking  
16 lot now? Just we have a record of what's being seen?

17 A Yes. Yes.

18 Q Okay. And do you see it now moving to a different  
19 part of the convenience store?

20 A Yes. It drives under the canopy, and it's  
21 approaching the exit onto westbound Charleston Boulevard.

22 Q Okay. But does it actually exit?

23 A No. It's backing up again.

24 Q Okay.

25 A It's hard to tell with the video. It's grainy. It

1 almost looks like that's another gas pump by the way they're  
2 structured.

3 Q Okay. I just want you to keep an eye on that vehicle  
4 and let us know if and when you see it drive out onto West  
5 Charleston Boulevard.

6 A Okay. And then someone entered or opened the  
7 passenger side door.

8 Q Now, can --

9 A It's beginning to move now.

10 Q Okay. And I'd just like you to note the direction of  
11 travel.

12 A It turns westbound.

13 Q Okay. And so armed with that information, knowing  
14 that a suspect vehicle traveled westbound on Charleston, did  
15 you continue your search for additional surveillance footage?

16 A I did.

17 Q And drawing your attention back to State's Exhibit  
18 Number 95, you indicated here was the Terrible's; right?

19 A Yes.

20 Q Okay. Which would have been on the northeast corner  
21 of Charleston and Torrey Pines.

22 Did you have an occasion to look at -- for  
23 surveillance footage at this location, the Jack-in-the-Box?

24 A Yes, I did.

25 Q And would that have been the northwest corner?

1 A Yes.

2 Q Were you successful in obtaining surveillance footage  
3 from the Jack-in-the-Box?

4 A No. Just like McDonald's, their only camera that was  
5 outside looks at the drive-through so they know when someone  
6 shows up.

7 Q Okay. Pursuant to what you learned during the  
8 investigation, do you know what direction the victim and his  
9 friend traveled from the Jack-in-the-Box?

10 A Westbound.

11 Q Okay. Do you recall receiving information that they  
12 actually crossed the street on Torrey Pines and got to the now  
13 the southwest corner of Torrey Pines and Charleston?

14 A Yes.

15 Q And did you have an occasion to respond to the  
16 Walgreens located on that corner?

17 A I did.

18 Q And did you canvass the Walgreens for relevant  
19 surveillance footage?

20 A I did.

21 Q And did you find anything of evidentiary value?

22 A No. Their cameras are from each corners of their  
23 building, and it only shows their parking lot, and all footage  
24 cuts off before the sidewalks.

25 Q Okay. Pursuant to the investigation, the victim and

1 his friend continue westbound on the sidewalk. Is that your  
2 recollection?

3 A Yes. Excuse me.

4 Q That's okay.

5 Did you have an occasion to check for surveillance  
6 footage at the businesses next to the Walgreens?

7 A I did.

8 Q Okay. And were you successful in locating footage  
9 which would have captured either the victim, the suspect,  
10 suspect vehicle or the actual crime?

11 A I was not.

12 Q Armed with the surveillance footage from the  
13 Terrible's, did you share photographs of the suspect vehicle,  
14 the white SUV?

15 A I did.

16 Q With homicide detectives?

17 A Yes.

18 Q And did you also share State's Exhibit Number 31, a  
19 photograph of the suspect?

20 A I did.

21 Q Captured on that surveillance?

22 A Yes.

23 Q Do you recall whether or not the still photos that  
24 you gave over to homicide, whether that was ever released to  
25 the media?

1           A     I remember seeing it, and it was probably done by  
2 them.

3           Q     Okay. By them meaning homicide?

4           A     Homicide, yes, ma'am.

5           Q     So you gave it to homicide, and then you don't really  
6 know what they did or who released it, but you remember seeing  
7 it out in the media?

8           A     I did.

9           MS. BOTELHO: Okay. I have no more questions. Thank  
10 you.

11           THE COURT: Thank you, Ms. Botelho.

12           Defense, questions for this witness?

13           MR. LEVENTHAL: Court's indulgence.

14           I'm going to need 117.

15           THE COURT: Okay.

16                     (Pause in the proceedings.)

17                             CROSS-EXAMINATION

18 BY MR. LEVENTHAL:

19           Q     Good afternoon, Detective.

20           A     Good afternoon, sir.

21           Q     My name is Todd Leventhal. I represent Mr. Solid.  
22 How are you today?

23           A     Very, well. Yourself?

24           Q     Good. Thank you very much.

25                     I want to go back to State's Exhibit 117, the video

1 that you captured. If we could pull that up, and I appreciate  
2 the State doing that.

3 (Pause in the proceedings.)

4 (Video played.)

5 BY MR. LEVENTHAL:

6 Q All right. So this is a video that you got from --  
7 Terrible's; correct?

8 A It was all single cameras, not continuous play like  
9 this.

10 Q Right.

11 A But it is the video.

12 Q I understand.

13 MR. LEVENTHAL: Can you stop it.

14 BY MR. LEVENTHAL:

15 Q So that vehicle right there, that's the white vehicle  
16 that you indicated you saw as the suspect vehicle; right?

17 A Correct.

18 Q And it's pulling into the gas station there, and it's  
19 going in with the driver side sort of facing the gas where you  
20 pump the gas; right?

21 A Correct.

22 Q Okay. And you designated this -- did you come to  
23 understand whose car that was or --

24 A I have no idea whose car it is.

25 Q You had no idea who it was registered?

1 A No.

2 Q Or -- who it was? Okay.

3 (Video played.)

4 BY MR. LEVENTHAL:

5 Q And so it stops here right in front of the pump;  
6 correct?

7 A Correct.

8 Q As if it were to pump gas; right?

9 A Correct.

10 Q Okay. Now, did you ever look -- did you ever look at  
11 this vehicle up close? Were you ever able to see this vehicle  
12 after?

13 A I've never -- I've never seen it.

14 Q Never. All you did was pull the videos; correct?

15 A That is correct.

16 Q Excellent. Thank you.

17 So at some point this vehicle --

18 MR. LEVENTHAL: If you can just fast-forward it to  
19 where Mr. Solid, I think, is coming up 15:47 I believe. I have  
20 it down at 15:47.

21 (Pause in the proceedings.)

22 MR. PALAL: What time?

23 MR. LEVENTHAL: I think it was 15:47 was when you saw  
24 Michael. Right?

25 (Pause in the proceedings.)

1 BY MR. LEVENTHAL:

2 Q So this is -- you indicated that that's Mr.-- well,  
3 you indicated that's one of the suspects that you were watching  
4 on the video?

5 A That's who came from the vehicle.

6 Q That's who came from the vehicle. Were you able to  
7 discern whether or not that person was the driver of the  
8 vehicle or was the passenger of the vehicle?

9 A I did not.

10 Q No. Okay.

11 Go ahead.

12 (Video played.).

13 BY MR. LEVENTHAL:

14 Q And again, he's alone.

15 MR. LEVENTHAL: You can keep it running; right?

16 BY MR. LEVENTHAL:

17 Q He's by himself walking into --

18 A By himself walking, yes.

19 Q Right. Okay. And that's --

20 MR. LEVENTHAL: You can stop.

21 BY MR. LEVENTHAL:

22 Q That other individual right there, that was -- is the  
23 white male that you indicated was another suspect that you  
24 followed?

25 A I don't know. The one walking out?

1 Q Yeah, him right there.

2 A If it was, I didn't notice it at this point as of  
3 now. I just saw a white male. He comes from the grass area,  
4 which would be Torrey Pines, to the white vehicle, stands there  
5 and then disappears. I don't see his feet shadow any more on  
6 the video.

7 Q And you don't know where he goes?

8 A I assumed in the vehicle because that was the only  
9 place he could go.

10 Q Okay. Go ahead.

11 (Video played.)

12 BY MR. LEVENTHAL:

13 Q Sort of a different angle, if you will; right?

14 A Correct.

15 Q Okay. So these were -- did you put this together for  
16 the State?

17 A I did not.

18 Q This montage sort of thing?

19 A No.

20 Q No. Okay. So part of your job is to gather the  
21 videos and then just put -- give them over to the State, and  
22 they put sort of this together. You didn't do any of this;  
23 right?

24 A I gathered this, and I turned this over to homicide  
25 because ultimately they assume the investigation.

1 Q Okay.

2 MR. LEVENTHAL: If we can go ahead.

3 (Pause in the proceedings.)

4 (Video played.)

5 BY MR. LEVENTHAL:

6 Q Okay. So now we're inside the gas station; is that  
7 correct?

8 A Yes.

9 Q Okay. And then that subject Michael Solid is walking  
10 in; correct?

11 A Correct.

12 Q And he's alone at this point; correct?

13 A Yes.

14 Q Another view of him walking, and now we're behind the  
15 cash register.

16 MR. LEVENTHAL: If you could stop it. Thank you.

17 BY MR. LEVENTHAL:

18 Q Okay. So you see now Mr. Solid is putting down what  
19 appears to be money?

20 A Okay.

21 Q Theoretically, I guess if we keep going, and the  
22 cashier takes that. And again we assume it's money; right?

23 A Correct.

24 Q Okay. Assuming it's for gas because now he leaves;  
25 right?

1 A Correct.

2 Q He didn't pay for any -- he didn't buy anything. He  
3 didn't buy chips or anything like that; right?

4 A No.

5 MR. LEVENTHAL: Okay. Stop.

6 BY MR. LEVENTHAL:

7 Q So he put some money for gas in his vehicle; right?

8 A Okay.

9 Q Okay.

10 MR. LEVENTHAL: Go ahead.

11 (Video played.)

12 BY MR. LEVENTHAL:

13 Q And now we see the two young males stop, and  
14 Mr. Solid, that's him walking by those two individuals that  
15 you -- and one of them, that being Marcos; correct?

16 A Correct.

17 Q Okay. And as you notice, he's never looking at them;  
18 right?

19 A Correct.

20 Q He never stops and says something to them. Doesn't  
21 engage in conversation; correct?

22 A Correct.

23 Q Never even looks over his shoulder to them, does he?

24 A We'll find out as you play it. I can't tell you if  
25 he did or not.

1 MR. LEVENTHAL: Go ahead.

2 (Video played.)

3 THE WITNESS: And from that, he does not.

4 BY MR. LEVENTHAL:

5 Q Okay. And he's walking directly back towards the  
6 vehicle that he came in; right?

7 A Correct.

8 Q Now, the two individuals, again, this is a different  
9 view of him walking out. He doesn't hold the door open for  
10 them; correct?

11 A Correct.

12 Q And as you see, he continues on walking to his  
13 vehicle; right?

14 A Correct.

15 (Video played.)

16 BY MR. LEVENTHAL:

17 Q And we never see Mr. Solid actually reenter through  
18 the video, do we?

19 A No. It's -- enter the store?

20 Q Yeah.

21 A No.

22 Q He never reentered; right?

23 A Not that I saw.

24 Q Okay. And Marcos and his friend exit the store, exit  
25 to the right; correct?

1 A Correct.

2 Q And there you see that one white individual there;  
3 correct?

4 A Correct.

5 Q Who is also who you consider to be a suspect in this;  
6 right?

7 A Well, he fit the description of what I was given.

8 Q Right.

9 MR. LEVENTHAL: And if you could stop it.

10 BY MR. LEVENTHAL:

11 Q He sort of goes to the left, and Marcos -- did you  
12 notice where they went to the right?

13 A Yeah. He goes -- the boys, when they walked out,  
14 they go to the right.

15 Q Right. And then that individual goes to the left;  
16 correct?

17 A Well, he goes to the right until he gets to the  
18 street and then he goes to the left.

19 Q Okay. But he goes towards the vehicle; right?

20 A Ultimately, yes.

21 Q Okay.

22 MR. LEVENTHAL: Go ahead.

23 (Video played.)

24 THE WITNESS: So as you see now, if we're talking  
25 about the one in the gray, he's out on the sidewalk.

1 BY MR. LEVENTHAL:

2 Q Correct.

3 A And as he passes, he's going to walk back up over the  
4 grass to the vehicle.

5 Q Okay. And that was Mr. Solid who's walking --

6 A And right now he's at the vehicle.

7 Q Right. I'm sorry. I'll ask you a question.

8 And then Mr. Solid then walked to the vehicle;  
9 correct?

10 A Yeah. And I'm looking at is under from the left or  
11 the passenger back tire, you can see his shoes. All of a  
12 sudden they disappear, and he never comes to this side or to  
13 the other side of the pump. He doesn't pass that way at all.

14 Q Right. If we could stop it.  
15 The vehicle just moved; correct?

16 A Correct.

17 Q Okay. And so it actually goes out and turns around;  
18 correct?

19 A Correct.

20 Q Okay.

21 MR. LEVENTHAL: If we can play that.

22 (Video played.)

23 BY MR. LEVENTHAL:

24 Q And he goes back to that same pump; correct?

25 A Yes.

1 Q And you don't know whether or not on that vehicle the  
2 gas cap was on the passenger side or the driver side, do you?

3 A I don't.

4 Q Now, at some point the white male leaves the vehicle;  
5 correct?

6 A I don't recall.

7 Q Is that him there? In the -- just in between the two  
8 pumps?

9 A And I'm looking. I'm trying to see. It's so bleary  
10 there I couldn't tell.

11 So this is him walking there.

12 Q Okay. So at some point he leaves the vehicle;  
13 correct?

14 A Yes.

15 Q Okay. And then the vehicle left as well, but then,  
16 as you indicated, the vehicle comes back?

17 A Yeah. Whatever it's doing off at the other angle, it  
18 comes back and parks here or pulls the opposite direction. And  
19 then you'll see it circle back around and park at the other  
20 pump.

21 Q No, we're not there yet. I appreciate that.

22 We're here where you indicated that that is that  
23 vehicle; correct?

24 A Yes.

25 Q And it's now turned around; right?

1           A     It is.

2           Q     Okay. And again, you don't know where the gas cap  
3 is; it could be on the passenger side or the driver side, but  
4 you don't know as you're sitting here today; right?

5           A     I don't.

6           Q     Okay. So you don't know why that vehicle would have  
7 turned around like that as you sit here; right?

8           A     I do not.

9           Q     Okay. And again, the white gentleman has left.  
10 Mr. Dismont has left. He has not gone back to the vehicle;  
11 right?

12          A     Correct.

13          Q     Okay. And you don't know where he went. He could  
14 have gone and gotten a hamburger across the street, but you  
15 have no video of that; right?

16          A     Correct.

17          Q     He could've gone -- he could have gone to get  
18 something to eat, but we don't know. As far as we know, that  
19 there's just Mr. Solid who's in the vehicle and maybe other  
20 people in the vehicle. You don't know; right?

21          A     Correct.

22          Q     And I think you indicated you could not get any other  
23 videos from the other because what they weren't working at the  
24 time or they weren't showing across the street where Marcos  
25 went with his friend. You couldn't get videos from across the

1 street; right?

2 A No. They had no outside cameras.

3 Q No outside cameras. So you couldn't get any footage  
4 from Mr. Dismont as he walked across the street either?

5 A No.

6 Q Okay. And again you don't know where he went; right?

7 A (No audible response.)

8 Q Okay. At some point that vehicle then comes around  
9 and then parks --

10 MR. LEVENTHAL: We can stop it. We've seen it.

11 Thank you.

12 BY MR. LEVENTHAL:

13 Q -- and then parks at another gas -- at another pump;  
14 right?

15 A It does.

16 Q And you don't see there whether or not Mr. Solid  
17 actually put gas in his car; right?

18 A I don't know if he did or not.

19 Q Okay. But we saw him pay for it; right?

20 A Yeah.

21 Q And so -- and we don't see it just because the pumps  
22 are sort of blocking the view of the camera; right?

23 A Correct.

24 Q Okay.

25 MR. LEVENTHAL: Thank you very much, Detective. I

1 have nothing further.

2 THE WITNESS: Thank you.

3 THE COURT: Additional questions?

4 MS. BOTELHO: No, Your Honor. Thank you.

5 THE COURT: Ladies and gentlemen of the jury, do you  
6 have any questions for the detective?

7 Seeing no hands.

8 Sir, you are free to go.

9 THE WITNESS: Thank you. Have a good day.

10 THE COURT: Thanks. You too.

11 I think we got through all of our witnesses that were  
12 slated for today. It went a little quicker than we thought.  
13 So at this time we are going to recess for the evening. I'll  
14 read you the admonishment.

15 During the recess, you're admonished not to talk or  
16 converse amongst yourselves or with anyone else on any subject  
17 connected with this trial; or read, watch or listen to any  
18 report of or commentary on the trial of any person connected  
19 with this trial by any medium of information, including,  
20 without limitation, newspaper, television, the Internet and  
21 radio; or form or express any opinion on any subject connected  
22 with the trial until you are all back together in this room at  
23 9:00 a.m. tomorrow morning.

24 I will see you back here tomorrow.

25 (Jury recessed for the evening at 4:26 p.m.)

1 THE COURT: Okay. The jury has exited the room.  
2 Is there anything we needed to discuss before we  
3 recess for the evening?

4 MR. PALAL: Nothing from the State.

5 THE COURT: Okay.

6 MR. LEVENTHAL: What was the question? I'm sorry.

7 THE COURT: Anything we need to talk about?

8 MR. LEVENTHAL: No. Thank you.

9 THE COURT: You're okay. All right.

10 We'll see you back here. We'll resume at 9:00 a.m.  
11 tomorrow.

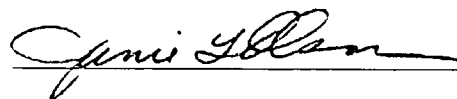
12 (Proceedings recessed for the evening at 4:27 p.m.)

13 -oOo-

14 ATTEST: I do hereby certify that I have truly and correctly  
15 transcribed the audio/video proceedings in the above-entitled  
16 case to the best of my ability.

17

18



19

Janie L. Olsen  
Transcriber

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<p><b>BY MR. LEVENTHAL:</b> [30] 75/4 76/9 98/2 107/19 108/2 108/6 108/16 109/13 142/20 146/6 193/7 213/18 214/5 214/14 215/4 216/1 216/13 216/16 216/21 217/12 218/5 218/17 219/6 219/12 220/4 220/16 221/10 222/1 222/23 225/12</p> <p><b>BY MR. MARCHESE:</b> [1] 124/22</p> <p><b>BY MR. PALAL: [18]</b> 57/10 57/22 61/9 64/13 67/6 72/8 72/22 73/20 74/17 79/10 79/15 134/4 135/16 141/21 149/5 160/17 162/19 163/11</p> <p><b>BY MS. BOTELHO:</b> [31] 46/2 51/24 53/15 84/8 85/2 85/17 86/11 89/6 89/23 91/18 95/1 96/3 96/12 96/16 97/1 104/18 111/22 115/6 118/24 120/20 123/3 123/17 152/2 175/7 185/16 187/1 190/5 195/2 202/19 206/6 206/12</p> <p><b>JUROR NO. 02: [10]</b> 6/1 6/3 6/7 6/14 6/17 6/19 6/22 7/1 7/9 7/20</p> <p><b>MR. LEVENTHAL: [63]</b> 7/16 8/10 8/14 8/17 11/22 11/24 45/6 51/17 51/21 56/12 67/2 75/1 75/15 75/18 75/22 75/25 76/3 76/6 76/8 79/3 83/10 85/13 95/21 104/9 106/6 106/20 107/1 107/17 107/24 108/14 109/7 109/23 114/25 141/15 148/25 150/22 157/25 159/19 160/1 162/16 163/6 189/22 190/2 193/3 194/3 213/13 214/13 215/18 215/23 216/15 216/20 218/2 218/16 219/5 219/10 220/1 221/9 221/22 222/21 225/10 225/25 227/6 227/8</p> <p><b>MR. MARCHESE: [24]</b> 5/16 12/3 12/9 12/12 12/16 12/20 14/4 32/23 33/1 33/3 33/5 33/10 33/13 33/17 33/21 38/9 38/20 38/24 45/17 111/6 122/25 133/3 174/12 184/13</p> <p><b>MR. PALAL: [49]</b> 7/13 8/1 10/3 10/9 10/12 10/23 11/3 11/9 11/11 11/15 56/20 57/7 60/15</p>	<p>72/4 74/14 72/16 72/20 73/13 73/16 73/18 74/23 75/16 79/6 79/8 79/12 83/7 133/13 133/25 135/9 135/13 141/17 141/20 142/16 149/3 150/19 158/7 158/10 158/16 159/16 160/4 160/15 162/14 162/18 163/3 163/10 174/10 184/21 215/22 227/4</p> <p><b>MS. BOTELHO: [81]</b> 7/14 13/10 14/3 14/10 14/12 18/25 33/8 33/11 33/15 33/25 34/3 38/12 38/14 43/6 43/22 44/1 45/2 45/11 45/16 45/25 51/22 52/22 53/3 53/8 56/8 83/17 85/11 86/9 89/22 94/24 95/16 95/19 95/24 96/10 97/20 97/23 104/13 106/4 106/18 107/3 107/15 109/4 110/3 110/7 111/5 111/9 111/20 114/22 118/18 118/22 120/16 123/15 124/17 133/5 133/7 151/5 151/7 151/10 151/25 157/21 158/17 158/22 159/25 174/20 175/5 184/11 184/23 185/14 186/21 186/24 190/1 190/4 192/25 194/6 194/14 194/24 202/18 205/25 206/5 213/9 226/4</p> <p><b>THE CLERK: [23]</b> 9/17 43/13 43/18 57/1 57/6 83/25 84/4 111/3 111/10 111/14 133/17 133/22 151/14 151/19 160/9 174/24 184/24 185/2 185/4 185/8 194/18 194/21 206/3</p> <p><b>THE COURT RECORDER: [2]</b> 10/7 57/20</p> <p><b>THE COURT: [204]</b> 5/4 5/11 5/15 5/17 5/19 6/2 6/6 6/12 6/15 6/18 6/21 6/23 7/4 7/10 7/15 7/17 7/22 8/8 8/13 8/16 9/3 9/18 9/25 10/2 10/5 10/10 10/21 11/2 11/7 11/10 11/12 11/16 11/20 11/23 12/2 12/7 12/11 12/14 12/18 12/21 12/25 13/4 13/6 13/8 13/14 13/16 13/20 13/23 14/1 14/5 32/24 33/2 33/4 33/18 33/22 34/1 38/11 38/13 38/17 38/21 43/4 43/9 43/19 43/24 44/2 44/18 45/5 45/7 45/9 45/12 45/14 45/18 45/23 51/20 51/23 53/2 53/7 56/10</p>	<p>56/13 56/22 57/8 60/12 60/14 61/4 61/8 64/7 64/10 67/3 67/5 72/6 72/19 73/15 73/17 74/13 74/25 75/2 75/19 75/21 75/24 76/2 76/4 76/7 79/5 79/7 79/14 83/8 83/11 83/19 84/5 85/14 85/16 86/10 89/20 95/18 95/22 96/2 97/18 97/21 97/25 104/11 104/16 106/5 106/7 106/16 106/19 106/22 107/2 107/6 107/11 107/13 107/16 108/1 108/5 109/11 109/25 110/4 110/9 110/11 110/13 111/7 111/18 115/1 115/3 118/23 120/19 123/1 123/14 123/16 124/19 133/4 133/6 133/8 133/23 134/2 135/11 141/18 142/18 149/2 150/21 150/23 151/4 151/9 151/12 151/23 157/23 158/1 158/8 158/15 158/20 158/24 159/11 159/17 159/20 159/23 160/2 160/13 162/17 163/7 174/11 174/13 174/19 175/3 184/14 184/22 185/12 186/23 189/25 190/3 193/2 193/5 194/5 194/7 194/13 194/22 206/4 213/11 213/15 226/3 226/5 226/10 227/1 227/5 227/7 227/9</p> <p><b>THE INTERPRETER:</b> [3] 84/23 89/1 91/14</p> <p><b>THE MARSHAL: [8]</b> 9/23 10/1 11/19 12/24 13/12 13/15 13/21 108/15</p> <p><b>THE WITNESS: [36]</b> 43/16 45/22 51/18 52/24 56/19 57/4 61/7 64/8 64/11 74/15 84/3 84/25 89/4 91/16 107/10 107/12 110/10 110/12 111/16 118/21 133/20 151/3 151/21 158/6 160/11 174/18 175/1 185/1 185/3 185/10 194/12 194/20 220/3 221/24 226/2 226/9</p> <p><b>UNIDENTIFIED SPEAKER: [3]</b> 5/8 5/9 13/19</p> <p><b>\$</b> \$80 [6] 14/12 14/14 35/1 35/21 36/3 37/6</p> <p><b>'13 [2]</b> 201/13 204/11</p>	<p><b>'13 [1]</b> 204/11 <b>'99 [1]</b> 46/13 <b>'cause [1]</b> 50/1</p> <p><b>-oOo [1]</b> 227/13</p> <p><b>1</b> <b>1, Your [1]</b> 73/16 <b>10 [6]</b> 10/18 27/4 41/14 51/7 106/16 126/12 <b>100 percent [1]</b> 192/9 <b>102 [2]</b> 114/24 115/2 <b>103 [3]</b> 135/10 135/12 135/14 <b>107 [5]</b> 45/3 45/8 47/25 58/23 58/24 <b>10:21 a.m [1]</b> 44/17 <b>10:22 a.m [1]</b> 44/25 <b>10:30 when [1]</b> 55/23 <b>10:35 [1]</b> 44/15 <b>10:42 a.m [1]</b> 44/25 <b>10:43 [1]</b> 45/13 <b>10:44 a.m [1]</b> 32/19 <b>11 [1]</b> 27/4 <b>110 [7]</b> 67/1 67/4 67/10 76/3 76/4 76/4 78/23 <b>111 [5]</b> 75/15 75/16 75/20 76/2 94/13 <b>112 [10]</b> 85/10 85/15 85/19 88/4 91/2 91/10 120/11 120/14 138/16 143/2 <b>113 [15]</b> 60/11 60/13 60/16 79/12 112/21 113/13 134/25 143/5 153/7 157/14 157/18 177/9 178/1 178/16 179/11 <b>114 [3]</b> 45/3 45/8 48/8 <b>115 [4]</b> 72/5 72/7 73/15 200/8 <b>116 [7]</b> 45/3 45/8 53/5 72/18 73/16 73/17 74/2 <b>117 [6]</b> 95/17 95/23 96/5 206/2 213/14 213/25 <b>11:00 [1]</b> 6/19 <b>12:27 p.m [2]</b> 110/25 111/1 <b>13 [5]</b> 25/20 156/18 156/20 161/4 201/13 <b>14 [4]</b> 58/1 58/3 71/6 161/4 <b>15 [7]</b> 14/15 46/19 48/3 51/3 51/7 134/18 158/20 <b>15 minutes [1]</b> 51/7 <b>15-minute [3]</b> 44/3 44/21 158/25 <b>15-year-old [4]</b> 14/14 14/25 16/20 31/14 <b>1546 [1]</b> 19/5 <b>1547 [1]</b> 206/9 <b>15:45:37 [1]</b> 96/17 <b>15:45:42 [1]</b> 73/19 <b>15:47 [1]</b> 215/20 <b>15:47 I [1]</b> 215/19 <b>15:47 was [1]</b> 215/23</p>	<p><b>15:47:08 [2]</b> 74/3 74/6 <b>15:47:22 [1]</b> 204/11 <b>15:47:31 time [1]</b> 208/11 <b>15:47:34 [1]</b> 72/21 <b>15:47:34 or [1]</b> 53/9 <b>15:51:58 [1]</b> 209/7 <b>15:52 [1]</b> 209/6 <b>15:56:59 on [1]</b> 96/6 <b>15:57 [1]</b> 96/13 <b>15:57:33 [1]</b> 96/14 <b>16 [10]</b> 19/4 19/6 74/21 135/18 195/22 204/23 204/25 204/25 208/11 209/6 <b>16th [25]</b> 17/3 17/16 32/15 34/13 34/25 35/4 35/16 49/23 58/17 59/3 84/13 111/25 115/8 125/3 134/10 144/8 152/13 175/17 176/21 195/9 196/1 196/9 197/8 201/13 204/11 <b>17th [5]</b> 31/20 187/8 189/9 190/14 190/18 <b>18 [2]</b> 1/12 5/1 <b>18th [2]</b> 32/18 33/12 <b>19 [2]</b> 11/8 195/17 <b>1998 [2]</b> 46/11 46/11 <b>1:30 [1]</b> 110/24 <b>1:35 p.m [1]</b> 111/1 <b>1A [1]</b> 168/11</p> <p><b>2</b> <b>20 feet [4]</b> 108/14 108/17 108/24 109/15 <b>2006 [1]</b> 195/18 <b>2013 [44]</b> 16/22 17/3 17/16 32/15 32/19 34/13 35/1 35/4 46/8 46/17 48/13 49/23 57/25 58/5 58/18 59/3 74/21 79/21 79/25 84/10 84/14 112/1 115/8 125/3 134/10 135/18 147/1 152/6 152/13 175/17 175/17 175/22 176/7 176/21 185/23 186/10 187/8 190/11 195/9 195/17 195/20 196/1 196/9 197/8 <b>2016 [1]</b> 31/20 <b>2018 [2]</b> 21/25 23/25 <b>2022 [3]</b> 1/12 5/1 80/1 <b>21st [1]</b> 46/11 <b>22nd [3]</b> 144/9 190/11 190/15 <b>23 [1]</b> 12/5 <b>24 [4]</b> 46/10 57/16 57/17 57/23 <b>25 [4]</b> 74/12 74/14 74/19 195/19 <b>26 [4]</b> 122/24 123/2 123/8 126/23 <b>28 [2]</b> 104/14 105/1 <b>2:40 p.m [1]</b> 159/10 <b>2:41 p.m [1]</b> 159/21 <b>2:55 [1]</b> 159/9</p>
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<p><b>2</b> 2:56 p.m [1] 159/21</p> <p><b>3</b> 30 [2] 25/23 126/10 30 feet [1] 108/14 31 [6] 189/5 192/6 192/11 203/25 204/10 212/18 31st [1] 46/11 32 [3] 97/13 97/17 97/22 38 [1] 34/12 3:00 [1] 54/12 3:26 p.m [1] 21/5 3:30 [1] 54/12 3:30 or [1] 112/6 3:47 [1] 204/17 3:56 [1] 204/16 3:56 p.m [1] 17/16 3:56:13 p.m [1] 201/14</p> <p><b>4</b> 4 feet [1] 108/4 424 [1] 5/22 4:00 [1] 135/6 4:00 o'clock [5] 8/22 112/6 135/5 152/20 178/10 4:00 p.m [5] 40/2 84/17 86/23 176/20 176/24 4:01:41 p.m [1] 21/6 4:01:46 p.m [1] 21/10 4:02 p.m [1] 21/11 4:02:44 p.m [1] 22/10 4:02:56 [1] 22/15 4:03 p.m [1] 23/10 4:03:05 [1] 22/16 4:03:07 p.m [1] 22/20 4:03:10 p.m [1] 23/3 4:03:16 p.m [1] 23/5 4:03:25 p.m [1] 23/8 4:03:47 p.m [1] 23/12 4:04:05 p.m [1] 23/25 4:04:09 [1] 24/3 4:04:50 [1] 24/5 4:04:55 p.m [1] 24/6 4:05:14 [1] 24/8 4:07:09 p.m [1] 24/20 4:08:27 p.m [1] 24/22 4:09 p.m [2] 25/18 25/20 4:09:24 p.m [1] 25/12 4:09:55 [1] 25/21 4:11 p.m [1] 25/22 4:12 p.m [2] 26/18 34/23 4:12:21 p.m [1] 26/1 4:12:27 p.m [1] 26/4 4:12:29 p.m [1] 26/6 4:12:59 [1] 26/7 4:13 p.m [1] 26/18 4:15 p.m [2] 26/13 184/6 4:20 p.m [1] 184/9 4:26 p.m [1] 226/25 4:27 p.m [1] 227/12 4:50 p.m [1] 26/16</p>	<p><b>5</b> 5:00 a.m [3] 6/25 187/10 188/15 5:00 in [1] 6/20</p> <p><b>6</b> 6 area [1] 20/20 6 at [1] 21/11 6 feet [1] 108/7 646 [1] 9/18 656 [1] 9/19 6:00 [1] 188/17 6:00 a.m [1] 188/13 6:30 p.m [1] 6/23 6:30 to [3] 6/19 6/19 6/25 6:34 p.m [2] 34/25 35/4 6:52 p.m [1] 35/4</p> <p><b>8</b> 80 [2] 35/21 35/23 82 [2] 163/4 163/12 82-86 [1] 163/9 83 [5] 83/5 163/4 166/3 183/1 183/2 84 [5] 163/4 164/21 166/18 183/1 183/18 85 [4] 163/4 165/15 183/1 183/11 86 [3] 163/4 163/9 165/23 88.51 feet [1] 30/25 8th [2] 16/22 48/13</p> <p><b>9</b> 9-1-1 [23] 26/16 26/18 34/22 34/22 71/15 114/12 114/16 114/21 115/5 115/7 115/11 115/13 115/16 117/1 121/5 135/6 135/17 140/1 141/1 148/18 152/10 176/1 197/2 90 [3] 45/3 45/8 52/8 95 [2] 202/21 210/18 9:00 a.m [2] 226/23 227/10 9:10 [1] 5/1 9:20 a.m [1] 13/7 9:30 [1] 8/23</p> <p><b>A</b> a.m [13] 5/1 6/25 13/7 32/19 44/17 44/25 44/25 45/13 187/10 188/13 188/15 226/23 227/10 abdomen [6] 30/10 168/14 168/15 171/4 171/5 182/18 abdominal [2] 170/25 171/9 ability [1] 227/16 able [36] 6/15 7/6 7/8 7/9 8/3 10/16 11/20 20/15 21/19 21/20 21/25 23/6 31/13 47/19 55/14 63/13 64/21 87/6 100/6 100/7 101/11</p>	<p>101/21 102/2 105/5 105/23 122/1 124/25 182/13 199/15 199/15 199/25 200/4 200/11 201/5 215/11 216/6 about [88] 7/2 14/24 15/16 17/12 18/5 19/5 24/3 24/10 26/13 30/8 32/8 32/11 32/18 32/19 35/10 37/1 37/6 37/6 39/10 40/2 40/8 40/13 42/14 48/14 53/25 59/10 65/2 65/8 71/6 73/8 75/10 75/22 76/16 78/7 79/17 82/3 82/5 84/16 86/22 87/16 88/19 90/10 99/20 105/2 108/3 108/4 108/24 112/6 115/15 119/14 120/23 123/21 125/24 126/7 126/14 126/15 126/25 127/12 127/15 131/9 134/10 135/3 137/10 138/12 138/20 144/7 147/25 153/13 153/21 154/8 157/2 165/3 167/7 167/8 168/23 170/2 170/3 176/20 176/24 179/17 183/6 183/25 187/17 187/18 205/13 206/25 221/25 227/7 above [1] 227/15 above-entitled [1] 227/15 abrasion [3] 165/17 183/10 183/13 abrasions [3] 165/17 166/4 182/19 Absolutely [1] 10/5 accelerating [2] 141/11 142/1 acceptable [1] 8/4 access [2] 25/10 200/19 accident [5] 30/24 42/10 55/3 105/18 173/17 accidental [1] 161/15 According [1] 169/1 account [1] 30/14 accurate [9] 13/18 125/20 126/4 127/23 129/3 131/15 131/19 132/22 133/2 acknowledge [2] 22/23 22/24 acquainted [1] 112/22 across [25] 19/23 24/19 26/23 28/5 30/9 54/9 61/2 61/10 63/8 64/5 64/8 64/18 103/5 116/8 116/15 127/22 129/3 167/4 167/4 182/17 182/20 224/14 224/24 224/25 225/4 actions [1] 174/8 activate [2] 86/8 86/12 activated [1] 19/2</p>	<p>act 38/5 actual [12] 30/18 39/20 41/17 41/19 79/17 96/6 173/2 184/3 200/6 203/9 203/10 212/10 actually [40] 11/24 16/25 20/25 21/18 23/4 23/16 23/19 29/1 34/6 34/20 39/2 39/22 41/18 51/10 52/5 55/14 75/16 75/25 77/9 78/9 85/6 86/7 90/19 91/25 102/8 109/5 113/15 114/1 116/11 120/11 143/5 150/10 153/14 161/9 201/9 209/22 211/12 220/17 222/17 225/17 acute [1] 169/23 add [1] 19/6 addition [1] 17/24 additional [5] 155/12 155/20 181/11 210/15 226/3 address [5] 11/16 12/22 33/23 159/17 173/1 adds [1] 34/7 adjust [1] 19/4 administered [1] 182/4 administrative [1] 200/22 admission [5] 60/10 67/1 163/4 165/15 172/23 admit [1] 31/25 admitted [64] 3/15 20/14 45/7 45/8 47/25 48/7 52/7 55/25 56/1 58/23 60/12 60/13 67/3 67/4 72/6 72/7 72/18 74/12 74/13 74/14 75/17 75/19 75/20 76/5 79/13 85/11 85/14 85/15 94/13 95/19 95/22 95/23 97/12 97/18 97/21 97/22 104/14 112/20 114/23 115/1 115/2 122/24 123/1 123/2 123/13 123/14 134/25 135/10 135/11 135/12 138/16 163/7 163/9 164/20 165/23 166/2 183/1 189/4 200/8 202/21 203/25 206/1 206/3 206/4 admonished [4] 44/7 110/16 159/1 226/15 admonishment [2] 44/5 226/14 adult [18] 27/22 28/3 28/5 28/10 28/13 28/17 97/14 115/15 190/24 191/2 191/4 206/24 207/4 207/12 208/12 208/21 209/2 209/3 advanced [1] 181/24 advice [1] 32/15 advising [1] 115/10</p>	<p>aerial [2] 26/8 202/23 afar [1] 48/24 affect [2] 6/4 6/8 afraid [1] 137/4 African [6] 8/11 8/11 69/3 128/10 128/22 157/6 African-American [6] 8/11 8/11 69/3 128/10 128/22 157/6 after [63] 12/8 12/8 14/16 14/18 14/18 14/19 14/19 14/20 14/20 16/15 29/17 33/10 35/5 35/12 36/6 36/16 36/19 37/10 37/19 37/24 38/4 47/3 47/13 54/5 54/12 59/15 59/17 66/12 66/13 77/15 78/18 82/5 90/1 90/2 90/6 90/23 92/12 93/23 117/15 118/4 135/5 137/22 142/3 142/14 144/8 144/8 145/23 154/25 155/18 155/18 157/11 158/17 161/18 171/21 178/2 180/10 180/12 181/17 182/6 190/22 192/3 201/24 215/12 afternoon [18] 18/10 40/2 54/7 58/20 63/21 84/9 98/3 111/23 112/6 124/23 142/21 142/23 142/24 152/20 193/8 193/9 213/19 213/20 afterwards [1] 39/21 again [27] 20/5 20/9 24/6 25/22 25/23 32/21 38/25 40/19 42/19 55/19 88/4 96/5 96/13 103/5 117/7 126/22 147/9 180/14 184/2 197/8 209/23 216/14 218/22 220/8 224/2 224/9 225/6 age [1] 46/14 agency [1] 195/12 AGNES [1] 1/17 ago [3] 41/15 83/3 161/4 agree [4] 50/12 99/15 105/5 145/22 agreed [1] 163/4 ahead [22] 5/19 6/2 13/6 23/4 38/22 44/20 44/23 50/13 50/14 50/24 75/21 76/7 133/4 136/18 141/19 143/23 216/11 217/10 218/2 219/10 220/1 221/22 aid [2] 30/8 154/15 aiming [1] 12/11 ain't [3] 69/10 71/16 78/8 air [1] 168/13 airway [5] 179/25 180/1 180/4 180/10 182/24 AA 000705</p>
--	---	--	---	--

<b>A</b>	<b>alw</b> [5] 51/4 51/15 56/6 179/25 192/20 <b>am</b> [8] 45/2 53/4 78/16 83/4 86/5 95/16 175/11 195/6 <b>ambulance</b> [7] 26/15 29/23 122/20 154/1 154/11 179/23 181/19 <b>ambulances</b> [2] 36/24 176/14 <b>American</b> [7] 8/11 8/11 69/3 128/10 128/22 157/6 175/21 <b>amongst</b> [4] 44/8 110/17 159/2 226/16 <b>amount</b> [5] 168/4 168/4 168/5 171/17 171/19 <b>AMR</b> [8] 29/23 158/18 175/10 175/14 175/18 175/20 176/12 181/11 <b>Amy</b> [6] 176/8 176/21 178/19 179/4 180/20 180/25 <b>analyzed</b> [1] 25/14 <b>anatomic</b> [3] 160/24 160/25 161/6 <b>anatomically</b> [1] 167/6 <b>anatomy</b> [1] 160/23 <b>angle</b> [3] 31/11 217/13 223/17 <b>angles</b> [4] 19/10 204/6 205/8 207/22 <b>ankles</b> [1] 182/19 <b>another</b> [27] 27/11 29/4 29/11 29/24 37/9 42/13 47/9 73/6 77/23 78/6 88/9 94/5 103/11 114/9 124/11 143/15 157/3 174/5 180/13 183/12 190/24 208/15 210/1 216/23 218/14 225/13 225/13 <b>answer</b> [4] 103/23 104/4 188/24 198/9 <b>answered</b> [1] 56/15 <b>Anthony</b> [1] 5/21 <b>anticipated</b> [2] 10/13 10/16 <b>any</b> [98] 7/7 7/12 7/15 9/4 9/5 15/12 25/7 32/13 42/22 44/8 44/9 44/10 44/11 44/13 44/13 56/16 65/15 66/16 68/18 69/16 79/5 83/8 83/12 94/2 95/18 103/19 103/20 104/5 106/5 106/8 106/19 107/13 109/25 110/4 110/17 110/18 110/19 110/20 110/22 110/22 116/14 118/4 121/23 121/24 127/9 127/12 128/12 129/25 132/21 132/24 133/5 133/9 146/22 150/24 155/16 156/8 157/23 158/2 158/21 159/2 159/3 159/4 159/5 159/7	159/7 159/14 168/10 168/24 170/17 170/20 172/23 173/15 174/14 176/2 176/3 180/8 182/16 183/5 183/18 183/22 184/14 193/2 193/13 194/5 194/7 196/18 217/5 217/22 219/2 224/22 225/3 226/6 226/16 226/17 226/18 226/19 226/21 226/21 <b>anybody</b> [3] 55/12 162/23 176/2 <b>anyone</b> [2] 28/22 61/5 <b>anyone</b> [8] 31/12 44/8 56/16 110/17 119/19 129/25 159/2 226/16 <b>anything</b> [40] 11/5 11/16 12/22 27/9 44/23 64/16 68/6 81/16 81/23 98/25 102/15 102/16 118/6 121/24 127/6 127/12 127/15 128/23 129/24 129/25 132/8 136/4 148/4 148/22 150/21 153/25 154/6 159/13 159/17 168/10 172/18 172/20 172/22 178/18 199/17 211/21 219/2 219/3 227/2 227/7 <b>anyway</b> [1] 198/8 <b>anywhere</b> [2] 51/4 196/12 <b>apart</b> [1] 89/12 <b>apartment</b> [5] 35/6 35/14 37/5 54/17 64/17 <b>apartments</b> [1] 64/2 <b>apologize</b> [7] 95/24 96/10 103/24 109/4 119/11 187/12 209/12 <b>appear</b> [1] 189/8 <b>appearance</b> [1] 126/24 <b>APPEARANCES</b> [1] 1/16 <b>appeared</b> [7] 18/17 28/20 128/6 141/2 149/14 149/15 149/19 <b>appearing</b> [2] 18/18 19/9 <b>appears</b> [7] 21/24 135/9 161/11 164/25 169/6 169/8 218/19 <b>apply</b> [1] 177/2 <b>appreciate</b> [3] 103/22 214/1 223/21 <b>approach</b> [8] 29/25 32/23 86/9 90/7 106/13 107/24 158/7 178/15 <b>approached</b> [3] 14/19 45/3 90/9 <b>approaching</b> [4] 90/10 177/25 208/14 209/21 <b>appropriate</b> [1] 49/2 <b>approximately</b> [1] 89/16 <b>April</b> [4] 16/22 21/25	25/13 <b>April 2018 street</b> [1] 25/2 <b>are</b> [138] 5/21 7/5 8/4 9/10 10/19 10/21 11/12 11/18 12/11 13/4 13/16 14/6 14/7 16/2 17/14 18/3 18/3 19/10 21/3 21/5 22/18 22/19 22/24 23/3 23/5 23/10 25/24 26/25 28/8 30/1 30/11 32/5 32/20 33/13 33/14 37/1 37/22 37/25 38/14 38/18 38/19 38/20 39/3 39/15 39/15 39/16 39/22 39/25 40/23 41/21 42/23 46/4 46/5 56/18 57/15 66/15 66/25 72/9 72/12 73/1 75/5 83/14 88/4 89/15 90/9 99/20 104/14 110/9 112/24 119/14 120/22 125/11 131/4 133/11 134/9 137/1 137/1 137/10 138/4 139/15 139/18 142/25 151/1 151/7 152/3 152/9 153/4 154/7 156/7 156/21 157/1 158/4 158/15 160/18 163/12 164/1 164/10 164/21 164/25 164/25 165/17 165/24 166/3 166/6 166/14 169/4 171/7 173/14 173/17 173/18 174/16 175/10 175/14 176/17 177/4 177/20 179/20 183/8 184/2 184/17 194/10 195/3 195/5 195/12 196/11 196/13 196/14 201/15 205/25 207/6 207/17 207/22 211/22 213/22 225/22 226/8 226/13 226/22 <b>area</b> [41] 20/7 20/20 23/13 25/15 26/19 27/10 28/2 29/25 51/15 60/6 60/7 60/19 60/22 60/22 61/22 67/7 78/4 80/6 82/20 86/6 86/19 94/15 94/16 112/7 112/19 112/25 123/20 138/19 154/7 154/22 157/17 167/7 167/22 167/23 171/5 171/10 177/25 178/16 197/9 208/18 217/3 <b>aren't</b> [1] 39/5 <b>Arenas</b> [34] 14/15 16/19 16/24 28/5 29/19 30/20 31/14 34/14 34/25 41/3 41/4 41/8 42/2 43/8 43/10 43/16 43/19 44/6 45/20 46/7 46/10 48/9 51/25 53/11 58/6 162/21 164/4 164/17 166/7 166/20 170/14 171/22 172/16	201/16 <b>Arenas's</b> [4] 14/14 165/1 166/24 168/18 <b>argue</b> [5] 33/13 39/14 39/15 40/23 42/13 <b>arguing</b> [3] 39/4 39/10 117/24 <b>argument</b> [1] 40/22 <b>argumentative</b> [1] 38/9 <b>arises</b> [1] 40/23 <b>arm</b> [5] 104/20 105/3 105/9 105/15 138/1 <b>armed</b> [3] 198/24 210/13 212/12 <b>arms</b> [4] 94/7 104/23 118/19 131/23 <b>around</b> [51] 9/14 18/4 24/5 49/21 51/15 54/1 54/15 56/5 61/13 65/11 70/14 76/22 77/23 78/4 98/13 98/18 116/8 117/4 119/8 120/23 120/24 123/23 130/18 130/19 130/20 130/22 131/18 135/5 136/25 137/7 137/10 137/11 137/13 138/5 145/6 145/14 145/16 150/18 152/20 153/15 176/14 179/15 187/10 195/22 197/22 209/11 222/17 223/19 223/25 224/7 225/8 <b>arrested</b> [1] 190/24 <b>arrive</b> [1] 26/15 <b>arrived</b> [3] 197/19 197/21 198/2 <b>arrow</b> [6] 21/8 85/1 86/4 86/8 98/23 113/16 <b>article</b> [1] 190/17 <b>as</b> [177] 6/4 6/4 7/24 7/24 12/4 15/2 15/9 15/21 16/20 17/5 17/8 18/7 18/18 19/2 19/7 19/19 19/22 20/4 20/10 20/14 20/16 21/24 22/3 23/2 23/11 23/24 25/9 27/25 28/15 29/5 29/25 31/10 34/7 37/16 37/21 37/21 37/21 38/9 39/2 39/2 39/6 39/24 40/15 41/13 41/19 42/9 42/17 42/20 43/11 43/12 45/9 47/25 48/7 49/10 49/15 50/7 52/7 52/23 53/9 56/1 56/24 56/25 58/23 64/16 64/18 65/4 65/15 67/17 67/23 70/10 72/5 72/18 73/3 75/13 83/23 83/24 87/6 89/8 93/7 97/9 97/13 97/14 103/3 103/23 105/23 111/12 111/13 112/21 113/2 114/5 115/11 116/12 116/15 118/19 119/2 119/3 119/5 119/22 119/24 123/13 128/10 131/3 131/3 133/15 133/16 134/25 137/2
----------	--	---	--	--

<b>A</b>	<b>attended [1]</b> 51/11 <b>attention [42]</b> 5/25 8/4 37/2 37/23 46/7 49/22 52/1 58/17 84/10 84/13 84/16 85/9 85/18 93/2 96/4 111/25 112/5 121/8 123/20 125/2 130/8 136/4 136/18 148/21 149/8 149/10 149/11 149/22 175/16 176/20 177/25 187/7 192/10 195/9 204/1 204/9 205/9 205/11 206/16 207/12 208/20 210/17 <b>ATTEST [1]</b> 227/14 <b>Attorneys [1]</b> 1/18 <b>attract [1]</b> 121/8 <b>audible [2]</b> 13/5 225/7 <b>audio [1]</b> 227/15 <b>audio/video [1]</b> 227/15 <b>auto [1]</b> 179/7 <b>auto-ped [1]</b> 179/7 <b>autopsy [4]</b> 161/17 161/18 161/23 173/22 <b>available [1]</b> 8/11 <b>Avenue [2]</b> 99/12 100/13 <b>Aviana [1]</b> 106/22 <b>awaiting [3]</b> 14/21 15/6 27/21 <b>away [16]</b> 16/23 24/22 25/11 55/22 89/10 94/1 99/16 100/1 107/23 108/17 108/25 109/15 109/18 109/21 131/14 181/12 <b>awful [2]</b> 42/4 42/5	191/10 195/9 195/17 196/24 208/9 208/14 210/17 213/25 220/5 222/3 222/11 222/24 223/16 223/18 223/19 224/10 226/22 226/24 227/10 <b>backboard [1]</b> 181/18 <b>background [3]</b> 16/17 47/12 160/21 <b>backing [2]</b> 26/13 209/23 <b>backpack [4]</b> 71/25 81/24 120/8 120/9 <b>backseat [5]</b> 102/21 102/23 103/1 193/22 194/1 <b>backtrack [1]</b> 99/6 <b>bad [2]</b> 82/19 103/14 <b>bag [1]</b> 163/15 <b>bailliff [1]</b> 108/12 <b>ball [1]</b> 15/12 <b>banging [1]</b> 121/7 <b>banking [2]</b> 161/3 161/7 <b>base [4]</b> 166/25 167/2 167/4 167/16 <b>based [12]</b> 7/23 79/5 83/8 96/8 106/5 107/4 107/13 109/23 161/16 173/22 194/5 205/12 <b>basically [15]</b> 32/2 32/13 62/13 64/8 66/5 66/13 67/25 70/8 70/14 70/19 76/16 80/18 82/12 174/2 184/8 <b>basilar [10]</b> 166/25 167/5 167/7 167/20 167/21 167/21 168/3 168/9 170/9 170/12 <b>basis [1]</b> 6/5 <b>basketball [1]</b> 58/10 <b>batteries [1]</b> 64/7 <b>be [136]</b> 6/13 6/15 7/6 7/6 7/7 7/9 7/23 7/25 8/17 8/20 9/7 9/10 9/11 9/12 9/16 9/18 9/19 10/20 11/4 12/6 13/1 13/17 13/23 14/5 15/2 15/14 15/16 15/23 16/12 19/25 20/14 20/15 21/25 23/6 24/14 24/16 25/2 26/10 27/23 29/2 30/21 34/9 36/7 42/2 43/7 44/1 44/15 44/18 44/19 45/2 45/4 45/19 47/19 49/1 50/8 50/9 56/21 60/21 61/1 65/13 68/16 76/3 76/17 81/17 82/11 96/20 97/6 99/8 103/23 104/13 105/5 105/9 107/8 111/7 117/9 119/20 120/4 124/25 125/18 125/23 127/20 127/22 127/25 129/5 129/8 129/25 130/23 131/1 134/16 135/10 138/8 143/1 149/14 149/15	143/1 158/10 158/11 158/18 159/20 160/2 160/22 161/11 163/14 166/11 166/16 169/6 169/8 169/20 169/25 170/17 170/18 170/19 170/20 170/21 174/7 177/6 177/11 177/15 178/12 182/22 182/23 187/5 189/8 189/20 192/18 192/23 198/8 199/4 200/7 203/4 206/1 208/14 217/4 218/19 221/5 224/3 <b>beaten [3]</b> 114/14 114/18 114/18 <b>beating [11]</b> 114/20 115/14 115/16 115/19 116/2 116/10 116/25 117/17 122/9 128/6 129/2 <b>became [1]</b> 191/12 <b>because [69]</b> 6/15 9/1 9/6 10/24 11/4 15/24 17/9 18/22 20/16 22/13 24/15 24/24 27/6 29/9 29/10 29/13 29/22 30/13 36/8 42/22 47/8 49/16 51/15 52/13 55/10 55/13 55/18 59/10 68/8 71/4 71/9 71/24 78/2 80/21 82/11 100/7 100/8 103/19 105/20 107/20 117/25 119/7 123/24 124/10 125/10 130/24 137/17 138/2 139/13 145/13 148/7 148/21 149/25 154/22 155/23 168/12 168/14 168/20 178/6 178/19 179/17 191/14 200/15 208/24 217/8 217/25 218/24 224/23 225/21 <b>become [1]</b> 18/22 <b>becomes [1]</b> 161/13 <b>bed [1]</b> 50/14 <b>been [79]</b> 6/24 11/13 12/25 21/19 21/20 24/10 29/22 31/13 41/15 43/11 47/24 48/7 52/7 55/25 56/24 58/22 66/25 72/4 72/17 72/17 74/11 75/13 78/13 80/21 81/14 82/11 83/23 85/11 95/6 97/12 101/11 101/21 105/6 107/2 108/3 111/12 112/20 118/14 124/5 125/24 126/7 128/15 129/17 133/15 134/24 134/25 138/15 145/23 146/1 151/17 152/16 160/7 161/19 163/4 164/20 165/14 165/22 166/2 174/2 174/22 182/25 183/19 185/6 189/4 190/19 190/24 194/16 195/14 195/17	196/24 198/11 199/22 200/7 202/20 203/25 207/25 207/25 210/20 210/25 <b>before [26]</b> 1/11 11/17 12/22 16/9 16/15 16/21 16/23 18/21 30/25 31/18 37/19 37/23 38/3 46/22 55/18 65/23 78/17 90/1 100/12 115/13 116/12 126/6 127/6 173/11 211/24 227/2 <b>began [5]</b> 32/25 106/14 158/9 180/24 182/18 <b>begin [3]</b> 14/9 76/10 164/6 <b>beginning [2]</b> 48/15 210/9 <b>begun [1]</b> 178/19 <b>behalf [1]</b> 39/1 <b>behind [43]</b> 14/25 19/17 27/24 31/7 41/23 61/25 62/2 77/10 77/23 78/6 78/10 78/12 78/13 78/25 81/8 81/9 81/12 81/13 81/15 82/2 88/9 88/11 99/15 99/19 99/23 99/25 100/1 100/4 103/6 103/7 103/8 103/12 103/21 103/21 104/5 122/18 134/17 137/14 145/3 146/8 148/12 155/1 218/14 <b>behold [1]</b> 37/14 <b>being [68]</b> 8/3 8/3 8/7 8/10 10/16 27/21 28/3 28/5 28/16 29/7 37/6 41/4 41/10 43/11 54/2 56/18 56/24 66/16 80/12 83/14 83/23 84/5 95/19 99/16 104/14 108/24 111/12 111/18 113/23 114/23 116/6 116/15 119/4 121/20 122/24 123/13 125/6 131/6 131/6 131/11 131/13 131/14 133/15 133/23 142/14 146/12 146/14 151/1 151/17 152/21 154/19 154/19 160/7 160/13 174/22 175/3 184/6 184/8 184/17 185/6 185/12 194/11 194/16 206/9 208/11 209/2 209/16 219/15 <b>believe [31]</b> 19/11 19/25 32/10 40/5 55/2 60/9 82/1 85/11 94/13 114/23 121/16 123/12 125/3 125/7 125/24 126/15 128/1 129/17 130/5 131/12 131/22 132/12 140/1 141/1 144/7 149/17 154/17 159/19 168/11 206/1 215/19
----------	--	---	--	---

<p><b>B</b></p> <p><b>believed [2]</b> 117/9 129/8</p> <p><b>belonged [1]</b> 55/6</p> <p><b>belonging [3]</b> 21/6 25/24 31/2</p> <p><b>below [1]</b> 167/15</p> <p><b>bench [7]</b> 32/25 34/2 106/14 106/15 107/5 158/9 158/23</p> <p><b>Berghuis [1]</b> 32/4</p> <p><b>beside [1]</b> 119/3</p> <p><b>best [5]</b> 29/13 31/22 80/11 132/18 227/16</p> <p><b>better [6]</b> 75/25 79/16 81/4 129/19 143/5 167/8</p> <p><b>between [19]</b> 30/19 33/6 34/12 34/16 35/3 35/4 76/17 76/17 86/19 99/22 100/25 100/25 104/3 120/12 121/18 130/20 130/25 174/3 223/7</p> <p><b>beyond [2]</b> 109/5 110/6</p> <p><b>big [1]</b> 140/5</p> <p><b>bigger [8]</b> 14/25 87/17 88/19 92/25 93/21 122/9 140/4 147/3</p> <p><b>bike [1]</b> 31/23</p> <p><b>BINU [1]</b> 1/18</p> <p><b>biology [1]</b> 160/24</p> <p><b>birthday [9]</b> 16/20 46/8 46/11 46/17 46/20 46/23 47/1 47/3 48/16</p> <p><b>birthdays [1]</b> 46/9</p> <p><b>bit [27]</b> 8/24 10/14 17/4 21/3 22/8 44/20 46/22 71/13 71/24 80/24 81/3 81/9 86/5 87/13 87/16 94/20 96/7 100/11 110/1 110/1 110/6 114/2 147/10 149/19 168/23 183/20 189/24</p> <p><b>black [15]</b> 23/14 27/22 49/3 49/10 68/23 69/13 87/22 94/6 102/12 102/14 186/20 206/24 207/4 207/12 208/12</p> <p><b>Blaring [1]</b> 121/5</p> <p><b>bleary [1]</b> 223/9</p> <p><b>blew [1]</b> 178/24</p> <p><b>block [2]</b> 59/22 155/13</p> <p><b>blocking [1]</b> 225/22</p> <p><b>blocks [1]</b> 181/12</p> <p><b>blood [11]</b> 70/17 70/22 161/3 161/7 168/13 168/15 172/23 180/2 180/4 182/21 182/22</p> <p><b>blows [1]</b> 66/16</p> <p><b>blue [6]</b> 89/4 128/2 128/3 144/19 144/22 144/23</p> <p><b>bluejeans [1]</b> 209/3</p> <p><b>Bluetooth [1]</b> 49/1</p> <p><b>blunt [21]</b> 168/24 169/7 169/9 169/12 169/14 169/15 169/15 169/20</p>	<p>169/170/2 170/8 170/9 170/16 170/18 170/25 171/3 171/4 171/9 171/15 172/6 173/6</p> <p><b>BLV [1]</b> 78/23</p> <p><b>board [1]</b> 161/6</p> <p><b>body [11]</b> 70/20 94/5 118/14 131/14 163/14 163/15 164/13 164/14 169/14 169/15 179/2</p> <p><b>boil [1]</b> 37/16</p> <p><b>boils [1]</b> 37/19</p> <p><b>Bonanza [4]</b> 17/10 51/8 51/9 51/11</p> <p><b>bone [1]</b> 167/3</p> <p><b>book [5]</b> 16/25 17/17 18/4 48/23 48/23</p> <p><b>borrow [3]</b> 35/21 35/21 35/23</p> <p><b>BOTELHO [23]</b> 1/17 2/2 2/8 2/14 2/16 2/19 3/2 3/6 3/8 3/11 38/11 45/24 56/10 84/6 104/12 107/14 124/19 133/4 151/24 185/13 189/25 194/5 213/11</p> <p><b>both [13]</b> 25/15 25/24 43/14 50/6 63/19 63/20 84/1 118/19 137/7 151/20 174/25 182/19 185/9</p> <p><b>bothering [1]</b> 150/17</p> <p><b>bottom [4]</b> 41/8 42/1 94/18 204/1</p> <p><b>bought [5]</b> 16/19 17/18 17/25 62/7 63/19</p> <p><b>Boulevard [16]</b> 16/10 20/12 25/1 25/10 26/21 29/1 29/2 78/23 84/11 103/5 112/7 125/6 138/17 152/22 209/21 210/5</p> <p><b>bouncing [1]</b> 207/23</p> <p><b>bowl [2]</b> 52/4 52/10</p> <p><b>box [10]</b> 5/20 19/24 22/6 60/7 60/25 61/2 61/10 210/23 211/3 211/9</p> <p><b>boy [56]</b> 14/25 28/3 65/17 74/4 81/11 87/23 90/13 90/13 90/14 90/17 90/20 90/23 92/11 92/14 92/21 92/25 93/3 93/4 93/9 93/18 93/19 93/20 93/22 97/9 97/9 97/15 105/18 105/20 105/24 107/9 114/14 115/16 115/19 115/24 116/10 116/12 116/14 117/3 117/17 117/19 117/25 118/2 118/6 119/1 119/17 119/19 119/24 120/5 120/13 122/9 122/12 128/22 131/21 132/13 157/6 187/18</p> <p><b>boys [34]</b> 17/19 18/5 18/9 19/21 20/1 20/4</p>	<p>22/17 22/19 23/3 23/5 23/10 23/16 23/17 23/24 24/1 24/12 24/19 26/6 26/9 87/3 87/8 87/11 88/8 89/11 89/25 90/6 90/10 90/13 97/2 97/6 97/6 98/18 99/22 221/13</p> <p><b>Brad [1]</b> 32/4</p> <p><b>brain [4]</b> 167/2 167/10 167/13 167/16</p> <p><b>break [9]</b> 12/3 12/12 12/15 43/24 44/3 44/21 110/15 158/20 158/25</p> <p><b>breakfast [2]</b> 50/3 50/5</p> <p><b>breathe [1]</b> 180/5</p> <p><b>breathing [2]</b> 179/25 182/1</p> <p><b>Brian [1]</b> 32/10</p> <p><b>brick [1]</b> 124/3</p> <p><b>brief [3]</b> 15/13 197/21 202/18</p> <p><b>briefly [3]</b> 10/4 107/17 175/24</p> <p><b>bring [6]</b> 5/9 5/15 5/24 12/22 13/4 55/20</p> <p><b>bringing [2]</b> 17/3 180/25</p> <p><b>bro [1]</b> 37/1</p> <p><b>broadcast [2]</b> 187/17 188/14</p> <p><b>brother [3]</b> 32/9 33/7 55/16</p> <p><b>brothers [1]</b> 71/12</p> <p><b>brought [4]</b> 8/5 42/17 42/19 131/14</p> <p><b>Brown [6]</b> 5/15 5/19 5/22 7/18 9/15 9/20</p> <p><b>Brown's [1]</b> 7/23</p> <p><b>Bruises [1]</b> 169/5</p> <p><b>bruising [2]</b> 165/6 183/14</p> <p><b>bubbles [1]</b> 16/1</p> <p><b>buffet [1]</b> 199/22</p> <p><b>Buick [1]</b> 112/12</p> <p><b>build [1]</b> 88/19</p> <p><b>building [1]</b> 211/23</p> <p><b>Bullard [11]</b> 26/18 28/24 133/13 133/14 133/20 133/21 133/23 142/21 142/21 149/6 151/2</p> <p><b>bumped [1]</b> 28/22</p> <p><b>Buns [2]</b> 62/21 62/23</p> <p><b>bureau [1]</b> 197/4</p> <p><b>bureaus [2]</b> 197/4 197/5</p> <p><b>burrito [2]</b> 52/4 52/10</p> <p><b>business [6]</b> 27/16 27/17 79/17 80/11 80/14 203/5</p> <p><b>businesses [3]</b> 197/23 200/15 212/6</p> <p><b>busy [2]</b> 19/2 40/1</p> <p><b>but [128]</b> 8/6 8/25 8/25 10/16 12/5 17/5 17/7 19/5 19/21 20/18 20/23 21/22 21/25 22/22 22/24 22/25 24/16</p>	<p>24/15/16 25/20 25/23 30/2 32/8 33/19 35/14 36/9 36/15 36/21 37/21 39/9 39/15 39/21 41/8 41/17 42/4 42/15 43/7 48/16 49/2 50/4 61/5 62/1 64/18 66/9 67/7 67/16 68/7 68/16 69/1 69/5 73/14 75/17 78/5 80/7 81/17 86/5 88/18 88/21 89/18 93/6 94/9 98/16 98/17 98/25 99/22 102/2 102/4 103/20 104/1 106/24 109/7 110/5 113/16 113/21 117/22 118/3 118/10 122/20 125/13 126/8 129/21 130/12 131/9 132/3 134/25 139/9 140/4 140/4 142/7 143/14 144/4 144/11 145/20 146/16 147/10 149/19 153/18 155/5 165/6 166/19 167/2 167/12 169/17 170/16 172/2 172/3 172/11 173/16 178/22 180/10 182/22 183/5 183/14 184/2 188/11 192/19 198/9 201/2 206/8 209/22 213/6 214/11 221/19 223/15 224/3 224/14 224/18 225/19</p> <p><b>button [1]</b> 120/5</p> <p><b>buttresses [1]</b> 167/3</p> <p><b>buy [4]</b> 63/16 63/16 219/2 219/3</p> <p><b>bystander [1]</b> 180/23</p>	<p>160/7 174/22 185/6 186/3 188/21 190/22 191/25 193/19 194/16 197/5 205/9 205/11</p> <p><b>calling [9]</b> 95/11 114/21 117/1 121/5 132/4 132/17 151/7 204/1 204/9</p> <p><b>calls [18]</b> 25/17 25/22 26/16 34/12 34/14 83/17 107/1 111/9 133/13 141/15 151/5 152/10 160/4 174/20 176/1 184/23 194/14 197/2</p> <p><b>calm [2]</b> 71/9 71/13</p> <p><b>came [13]</b> 14/25 35/13 36/25 88/11 89/7 93/6 108/4 144/9 145/16 180/23 216/5 216/6 220/6</p> <p><b>camera [8]</b> 19/2 19/11 19/11 19/15 19/21 23/18 211/4 225/22</p> <p><b>cameras [6]</b> 39/18 201/24 211/22 214/8 225/2 225/3</p> <p><b>can [101]</b> 5/5 5/6 8/22 8/23 9/20 10/6 12/12 12/18 12/19 12/21 13/23 15/23 20/24 22/4 22/13 22/22 23/12 24/7 24/19 26/4 26/5 26/24 28/8 29/9 31/10 32/5 32/6 32/20 33/23 38/6 40/11 48/9 50/9 50/11 52/21 52/25 55/12 57/15 61/5 61/16 61/24 66/2 67/13 68/7 75/25 76/11 78/4 80/18 83/16 86/13 86/25 93/14 99/6 104/6 105/15 110/11 113/15 113/17 116/4 117/21 119/12 120/13 132/18 133/25 134/7 136/22 138/13 143/1 153/14 155/10 155/16 158/7 158/21 161/8 165/3 165/16 166/6 166/16 166/23 168/23 171/14 173/11 173/15 175/24 179/12 179/12 180/15 181/2 183/13 184/24 203/4 207/6 210/8 214/13 215/18 216/15 216/20 218/2 222/11 222/21 225/10</p> <p><b>can't [20]</b> 38/6 38/7 38/7 61/5 69/10 71/16 71/17 83/2 108/21 119/11 127/12 129/15 134/8 151/10 170/21 170/23 184/2 192/19 209/10 219/24</p> <p><b>cannot [1]</b> 42/19</p> <p><b>canopy [1]</b> 209/20</p> <p><b>canvass [3]</b> 197/23 198/4 211/18</p> <p><b>cap [2]</b> 223/2 224/2</p>
--	---	--	--	---

<b>C</b>	<p>capture [2] 177/24 205/22</p> <p>captured [3] 212/9 212/21 214/1</p> <p>captures [5] 16/7 23/4 25/16 26/13 201/9</p> <p>car [133] 14/21 22/3 22/11 22/12 23/2 26/9 27/10 27/11 27/15 27/17 28/1 28/16 28/17 28/17 28/21 28/23 32/15 36/12 36/16 36/17 36/19 36/19 66/14 66/22 67/25 69/21 70/3 70/9 70/10 70/20 70/21 79/21 80/2 80/3 80/18 80/20 80/23 82/9 82/12 82/22 84/11 84/14 84/17 84/18 84/25 85/7 85/23 85/25 86/20 88/6 91/9 91/19 91/22 92/1 92/3 92/6 92/11 92/15 92/17 93/4 93/5 93/7 94/12 94/16 94/21 95/5 95/5 98/6 98/15 99/7 99/21 99/23 100/6 100/15 101/3 102/11 103/19 103/21 103/21 106/24 115/19 116/9 116/10 117/7 117/16 117/18 117/25 118/7 119/1 119/3 119/5 119/7 119/9 119/9 119/10 119/24 121/4 121/19 123/19 123/20 124/3 124/6 125/25 129/18 130/20 132/12 136/5 137/3 137/8 137/12 137/13 137/15 138/2 138/10 139/21 139/22 139/22 139/23 139/23 140/24 140/25 141/14 145/17 146/10 147/4 152/12 170/23 194/1 203/12 203/12 214/23 214/24 225/17</p> <p>care [2] 112/18 154/19</p> <p>CARLI [1] 1/11</p> <p>carrying [3] 19/25 53/23 121/12</p> <p>cars [7] 30/1 122/17 122/19 122/21 135/25 143/13 201/25</p> <p>case [39] 1/6 10/24 11/21 15/14 16/18 21/4 37/16 37/19 37/22 39/2 39/3 39/7 39/19 40/4 40/11 40/24 40/24 42/21 42/24 44/14 110/23 128/15 154/24 159/5 159/8 161/10 161/13 161/19 163/20 163/24 163/25 164/11 172/2 173/12 173/20 180/2 182/2 200/19 227/16</p>	<p>cash [3] 17/15 36/3 218/15</p> <p>cashier [2] 19/18 218/22</p> <p>casino [2] 203/1 203/17</p> <p>catch [4] 20/5 177/24 206/16 208/20</p> <p>caught [2] 28/1 207/12</p> <p>cause [12] 42/9 166/17 168/3 169/23 170/13 170/18 171/18 171/20 172/9 172/10 173/2 173/5</p> <p>caused [5] 15/2 114/12 120/21 135/6 171/15</p> <p>causes [1] 153/25</p> <p>causing [4] 15/8 112/2 138/8 153/11</p> <p>cavity [1] 167/10</p> <p>CDs [1] 208/1</p> <p>celebrated [1] 47/3</p> <p>cell [3] 25/14 25/23 160/23</p> <p>center [3] 55/13 161/1 199/7</p> <p>certain [4] 38/7 192/7 205/8 205/8</p> <p>certainly [1] 117/22</p> <p>certificate [4] 161/13 161/20 173/15 173/24</p> <p>certificates [1] 173/18</p> <p>certified [1] 161/6</p> <p>certify [1] 227/14</p> <p>cervical [1] 180/15</p> <p>chain [3] 192/16 192/19 192/23</p> <p>chance [1] 159/14</p> <p>change [3] 38/6 38/7 38/7</p> <p>chaotic [1] 41/22</p> <p>charged [2] 33/19 156/7</p> <p>charges [1] 43/2</p> <p>Charleston [91] 16/10 17/10 17/20 20/11 21/1 21/13 21/23 24/21 25/1 25/8 25/10 26/2 26/4 26/5 26/6 26/14 26/21 26/23 27/7 27/8 27/12 28/6 29/1 29/2 29/24 29/25 30/6 32/15 40/1 55/1 60/7 60/19 64/17 67/8 67/17 73/24 75/12 76/14 79/19 84/11 86/6 86/15 86/16 88/5 94/15 94/25 100/13 100/22 103/5 104/1 104/2 112/7 112/15 112/23 112/24 113/3 116/8 120/24 124/15 125/6 134/11 134/22 135/1 135/21 136/10 136/12 138/17 142/7 143/3 143/21 149/7 149/22 152/21 152/22 153/4 177/1 177/2 177/7</p>	<p>177/8 178/4 178/13 179/20 197/9 197/16 199/4 202/23 209/21 210/5 210/14 210/21 211/13</p> <p>chase [3] 77/15 109/2 109/3</p> <p>chased [2] 66/14 67/25</p> <p>chasing [5] 41/25 68/15 137/15 137/17 137/22</p> <p>check [1] 212/5</p> <p>checked [2] 180/1 201/24</p> <p>chest [15] 54/10 118/21 131/23 164/24 168/12 168/13 168/13 168/16 168/24 169/3 170/17 170/18 171/4 180/19 180/25</p> <p>Chevron [9] 21/23 32/14 61/3 62/9 62/12 62/13 202/2 203/4 203/15</p> <p>Chief [1] 1/18</p> <p>child [2] 40/20 193/25</p> <p>children [2] 125/4 186/5</p> <p>Chipotle [43] 17/8 17/9 17/11 17/13 17/15 17/17 18/6 21/6 21/7 21/9 23/3 50/23 50/24 51/5 52/1 52/1 54/5 59/10 59/25 61/19 61/20 61/23 61/25 62/4 62/6 62/11 72/10 198/6 198/12 198/18 198/20 198/25 199/1 199/3 199/12 199/22 199/25 200/10 200/24 201/12 204/14 204/16 207/20</p> <p>chips [1] 219/3</p> <p>choice [3] 8/2 8/2 9/9</p> <p>Christine [1] 26/18</p> <p>chubbier [3] 87/14 90/14 92/21</p> <p>circle [2] 22/4 223/19</p> <p>circulation [1] 179/25</p> <p>circumstances [4] 59/4 161/16 164/9 173/23</p> <p>City [1] 161/5</p> <p>claims [1] 38/6</p> <p>clarification [3] 84/24 89/2 91/15</p> <p>clarify [3] 107/8 115/15 141/5</p> <p>clarifying [1] 7/11</p> <p>CLARK [6] 1/2 5/1 157/19 160/19 161/14 197/16</p> <p>cleaned [1] 183/19</p> <p>clear [7] 6/3 9/14 10/20 13/17 143/1 169/11 180/4</p> <p>clearer [1] 146/1</p> <p>clearing [1] 182/23</p> <p>client [1] 8/10</p> <p>clinical [2] 160/25</p>	<p>16</p> <p>clinically [1] 55/24</p> <p>close [6] 17/6 46/14 53/9 58/13 59/21 215/11</p> <p>closed [4] 101/25 102/5 118/3 147/13</p> <p>closer [6] 57/21 67/7 95/4 138/19 145/23 178/15</p> <p>closing [1] 154/21</p> <p>clothes [2] 59/18 182/11</p> <p>coconspirator [4] 14/17 15/9 33/16 37/18</p> <p>cocounsel [1] 134/5</p> <p>codefendant [1] 33/6</p> <p>collar [1] 181/17</p> <p>collect [1] 161/18</p> <p>collected [2] 161/20 164/14</p> <p>collision [1] 173/7</p> <p>collisions [1] 156/9</p> <p>colloquy [2] 5/14 106/15</p> <p>color [7] 49/9 69/8 91/19 94/10 102/12 105/9 112/13</p> <p>column [1] 171/13</p> <p>come [26] 5/5 8/6 16/3 27/18 35/19 35/24 41/13 42/25 46/24 47/19 54/6 54/14 55/12 87/3 116/22 119/25 121/1 151/13 172/5 173/2 173/8 173/9 180/10 189/18 190/23 214/22</p> <p>comes [9] 15/21 88/9 100/21 131/18 217/3 222/12 223/16 223/18 225/8</p> <p>coming [16] 10/19 21/8 27/9 36/25 54/18 54/19 59/5 70/17 70/22 88/4 98/25 103/19 103/25 134/16 181/3 215/19</p> <p>commentary [4] 44/10 110/19 159/4 226/18</p> <p>comments [1] 33/14</p> <p>commercial [1] 196/17</p> <p>commit [1] 33/18</p> <p>committed [1] 35/7</p> <p>committing [2] 27/2 30/13</p> <p>Common [1] 41/5</p> <p>compact [1] 139/22</p> <p>companionship [1] 16/14</p> <p>compare [2] 37/13 93/18</p> <p>complete [1] 178/12</p> <p>completely [1] 141/12</p> <p>complies [1] 67/15</p> <p>composition [6] 16/25 17/17 17/22 18/4 48/23 48/23</p> <p>compressions [2] 180/19 180/25</p>	<p>computer [2] 95/25 207/25</p> <p>concede [1] 40/15</p> <p>concern [5] 9/3 139/8 141/13 142/12 153/25</p> <p>concerned [1] 147/25</p> <p>concluded [3] 34/2 107/5 158/23</p> <p>conclusion [6] 39/9 42/25 43/1 173/2 173/11 173/20</p> <p>conclusions [2] 168/10 172/6</p> <p>conduct [5] 31/18 37/18 37/24 38/8 155/19</p> <p>conducting [1] 161/22</p> <p>conference [6] 32/25 34/2 106/14 107/5 158/9 158/23</p> <p>confident [2] 42/23 134/7</p> <p>conflict [3] 7/5 150/5 150/7</p> <p>conflicts [1] 150/8</p> <p>confrontation [2] 26/19 33/20</p> <p>confronted [1] 26/10</p> <p>confused [3] 71/12 86/5 100/10</p> <p>confusion [1] 103/23</p> <p>connected [12] 44/9 44/10 44/13 110/18 110/19 110/22 159/3 159/4 159/7 226/17 226/18 226/21</p> <p>conscious [1] 180/6</p> <p>consider [2] 58/13 221/5</p> <p>consistent [2] 170/9 190/9</p> <p>conspiracy [4] 33/12 33/16 33/18 38/1</p> <p>contact [12] 16/14 28/8 32/13 37/12 100/22 116/14 116/14 122/3 199/1 199/14 205/14 208/16</p> <p>contemporaneous [1] 161/23</p> <p>continue [4] 20/17 109/12 210/15 212/1</p> <p>continued [3] 20/10 180/20 201/21</p> <p>continues [3] 15/6 36/23 220/12</p> <p>continuing [4] 5/24 28/10 139/9 140/6</p> <p>continuous [1] 214/8</p> <p>control [1] 155/4</p> <p>contusion [1] 166/1</p> <p>contusions [5] 165/4 165/18 166/4 169/2 169/4</p> <p>convenience [15] 18/14 19/8 19/12 19/16 22/17 23/19 23/23 24/2 62/25 73/7 97/3 97/3 203/9 206/25 209/19</p>
----------	---	--	---	--	---

<b>C</b>	172/13 173/9 173/10 177/13 183/3 183/4 197/3 197/18 201/9 204/17 204/18 207/24 214/7 214/17 214/21 215/6 215/7 215/9 215/14 215/15 217/14 218/7 218/10 218/11 218/12 218/23 219/1 219/15 219/16 219/19 219/21 219/22 220/7 220/10 220/11 220/14 220/25 221/1 221/3 221/4 221/16 222/2 222/9 222/15 222/16 222/18 222/19 222/24 223/5 223/13 223/23 224/12 224/16 224/21 225/23 <b>correctly</b> [2] 204/23 227/14 <b>correspondence</b> [1] 35/3 <b>corroborate</b> [1] 42/8 <b>Cory</b> [2] 57/11 57/13 <b>could</b> [79] 6/9 7/18 8/20 8/21 10/4 35/21 47/9 47/12 47/15 47/19 53/11 53/21 54/20 57/20 69/5 70/3 76/16 76/20 87/10 88/10 88/17 91/11 91/19 91/22 91/25 92/8 99/24 100/4 101/15 102/1 102/7 105/6 105/9 105/16 107/2 113/11 116/11 116/19 116/22 117/14 117/19 118/5 118/6 119/16 120/2 120/4 124/10 125/17 129/21 131/14 133/18 142/13 153/18 169/17 170/17 170/18 170/19 170/19 177/10 180/24 181/4 181/5 181/14 183/13 186/18 189/25 200/13 200/20 205/22 208/4 214/1 217/9 218/16 221/9 222/14 224/3 224/13 224/17 224/22 <b>could've</b> [1] 224/17 <b>couldn't</b> [12] 28/22 68/7 93/7 102/4 102/10 102/11 147/25 182/22 182/23 223/10 224/25 225/3 <b>counsel</b> [4] 5/4 10/25 91/15 159/18 <b>counted</b> [1] 45/18 <b>counter</b> [1] 17/2 <b>counts</b> [1] 38/15 <b>COUNTY</b> [6] 1/2 5/1 157/19 160/19 161/14 197/17 <b>couple</b> [9] 50/9 59/6 75/1 75/9 89/14 134/1 134/5 154/12 193/10 <b>course</b> [13] 8/16 29/8	29/12 39/4 40/4 75/2 120/7 122/3 131/2 158/8 161/22 189/21 209/2 <b>court</b> [9] 1/2 1/11 1/24 10/17 11/3 12/5 12/10 80/6 186/16 <b>Court's</b> [7] 10/18 72/14 74/23 79/8 134/1 142/16 213/13 <b>courtroom</b> [2] 5/18 7/21 <b>cousin</b> [2] 32/10 33/9 <b>cover</b> [10] 16/24 17/1 17/18 17/25 31/25 34/6 48/17 48/20 48/22 49/12 <b>cover-up</b> [1] 31/25 <b>covered</b> [3] 17/22 18/4 22/7 <b>covering</b> [1] 167/2 <b>covers</b> [1] 202/3 <b>CPR</b> [1] 180/23 <b>cranial</b> [1] 167/10 <b>created</b> [2] 161/20 173/24 <b>crib</b> [2] 63/24 63/25 <b>crime</b> [15] 14/17 15/10 16/15 16/15 16/16 21/22 31/19 37/18 155/14 155/16 188/9 188/18 193/19 198/17 212/10 <b>criminal</b> [1] 155/5 <b>Cristine</b> [3] 133/13 133/14 133/20 <b>cross</b> [23] 2/11 2/15 2/20 2/23 3/9 3/12 11/1 22/21 23/18 33/17 56/6 61/24 61/24 64/21 75/3 98/1 124/21 142/19 149/18 153/13 179/18 193/6 213/17 <b>cross-examination</b> [14] 2/11 2/15 2/20 2/23 3/9 3/12 11/1 75/3 98/1 124/21 142/19 149/18 193/6 213/17 <b>cross-examine</b> [1] 33/17 <b>crossed</b> [9] 19/23 59/9 62/9 91/4 91/8 103/17 178/2 179/9 211/12 <b>crosses</b> [3] 23/8 26/3 55/2 <b>crossing</b> [5] 24/20 25/7 103/18 109/20 119/23 <b>crosswalk</b> [2] 64/19 64/19 <b>Crying</b> [1] 92/23 <b>CT</b> [1] 172/3 <b>currently</b> [2] 175/12 195/5 <b>cursor</b> [7] 86/12 94/24 98/16 98/22 113/17 153/15 179/15 <b>cut</b> [3] 29/8 182/7 182/11	cut 211/24 <b>D</b> <b>D-e-s-i-r-i-e</b> [1] 185/10 <b>D-u-t-r-a</b> [1] 160/12 <b>da</b> [5] 36/9 36/9 36/9 36/9 36/9 <b>dad</b> [2] 50/7 71/4 <b>dangling</b> [1] 119/2 <b>dark</b> [2] 145/10 201/16 <b>darker</b> [1] 94/9 <b>data</b> [1] 161/19 <b>date</b> [6] 39/11 48/13 201/9 201/11 204/3 204/10 <b>daughters</b> [1] 112/17 <b>David</b> [2] 37/9 37/11 <b>day</b> [30] 1/14 14/16 17/7 17/12 18/6 18/17 20/2 27/15 29/23 34/13 34/25 35/24 49/24 50/4 50/14 52/16 52/19 58/18 63/15 73/3 112/18 126/15 134/15 135/5 158/5 162/6 164/8 174/17 197/15 226/9 <b>daycare</b> [2] 112/17 125/4 <b>days</b> [8] 6/7 6/16 9/11 11/8 34/15 42/18 144/8 145/23 <b>dead</b> [4] 29/18 54/22 55/24 71/11 <b>deadly</b> [1] 38/2 <b>deal</b> [5] 10/6 70/21 170/13 180/13 203/14 <b>dealt</b> [1] 180/12 <b>death</b> [25] 42/9 161/11 161/12 161/13 161/20 166/17 172/9 172/10 173/2 173/5 173/9 173/12 173/13 173/14 173/15 173/15 173/16 173/16 173/18 173/19 173/21 173/24 173/25 174/5 174/7 <b>deaths</b> [2] 161/15 161/15 <b>debating</b> [1] 148/1 <b>Debbie</b> [3] 20/1 62/23 73/8 <b>Debbie's</b> [3] 62/21 63/13 81/24 <b>debris</b> [2] 55/8 178/24 <b>decals</b> [1] 121/24 <b>decendent</b> [1] 163/18 <b>decendent's</b> [2] 164/24 165/18 <b>decide</b> [2] 7/19 41/11 <b>decided</b> [2] 47/8 50/23 <b>decision</b> [3] 5/6 7/19 161/16 <b>deck</b> [1] 38/5 <b>defendant</b> [8] 1/9 1/20 5/10 14/12 14/16 15/9 25/13 186/22 <b>defendant's</b> [1] 37/17 <b>defendants</b> [1] 25/13	<b>defense</b> [20] 2/3 7/15 8/9 10/25 14/4 15/14 38/18 38/23 56/11 74/25 97/25 106/19 124/20 142/18 150/21 157/23 159/18 174/11 193/2 213/12 <b>define</b> [1] 131/3 <b>definitely</b> [1] 6/8 <b>deleted</b> [4] 32/6 34/12 34/15 34/16 <b>deliberations</b> [1] 20/14 <b>dense</b> [2] 167/3 170/12 <b>density</b> [1] 167/22 <b>Department</b> [6] 30/23 144/12 152/5 181/13 195/4 195/15 <b>departments</b> [1] 155/20 <b>depending</b> [1] 51/7 <b>depicted</b> [7] 58/24 67/17 73/21 74/6 74/18 85/21 157/18 <b>depicting</b> [1] 153/8 <b>DEPT</b> [1] 1/6 <b>Deputy</b> [1] 1/18 <b>describe</b> [5] 66/3 93/14 119/12 139/9 186/18 <b>described</b> [2] 119/2 131/22 <b>description</b> [6] 132/21 197/22 198/21 198/25 209/1 221/7 <b>designated</b> [1] 214/22 <b>Desirie</b> [3] 184/23 185/5 185/10 <b>despite</b> [1] 178/13 <b>detail</b> [6] 30/23 137/8 155/25 156/3 156/8 157/12 <b>details</b> [1] 154/20 <b>detective</b> [22] 30/22 34/10 34/10 36/1 36/3 36/14 36/22 152/4 152/6 153/14 158/4 189/1 189/2 190/14 195/10 195/12 196/13 203/4 206/7 213/19 225/25 226/6 <b>Detective Tate</b> [1] 34/10 <b>Detective Travis</b> [1] 189/2 <b>detectives</b> [10] 35/18 37/13 71/25 72/2 144/8 146/25 156/19 157/9 196/16 212/16 <b>determination</b> [1] 172/8 <b>determine</b> [1] 15/22 <b>determined</b> [1] 173/5 <b>device</b> [2] 47/8 47/23 <b>diagram</b> [1] 138/25 <b>dialed</b> [3] 148/18 188/9 188/9 <b>dictate</b> [1] 41/5 <b>did</b> [243] <b>didn't</b> [43] 6/10 6/10 9/13 12/17 15/1 18/5 AA 000710
----------	--	--	---	--

<b>D</b>	19/5 12 19/15 20/3 20/8 20/18 21/6 22/10 22/20 23/1 23/4 23/12 23/13 23/18 24/4 24/6 24/7 24/8 24/13 25/17 25/19 25/22 25/25 26/11 26/20 27/1 27/18 27/20 28/18 29/13 30/12 30/13 30/15 30/19 31/2 31/6 31/21 31/21 32/9 32/20 33/7 34/4 34/13 34/16 34/24 37/24 40/4 40/5 40/7 40/20 41/1 41/21 191/9 191/13 191/20 191/22 224/10 225/4 <b>Dismont's [4]</b> 23/2 25/13 32/1 33/7 <b>Dismount [1]</b> 41/9 <b>dispatch [3]</b> 115/10 152/25 179/5 <b>dispatched [3]</b> 152/21 157/15 176/25 <b>dispute [4]</b> 39/11 39/12 41/4 42/6 <b>distance [10]</b> 33/1 34/5 34/18 51/6 51/9 99/22 100/15 107/20 107/25 149/13 <b>DISTRICT [4]</b> 1/2 1/11 1/18 12/5 <b>do [208]</b> 5/7 5/9 5/11 6/16 7/14 12/7 12/24 13/10 14/1 45/14 47/22 48/1 48/20 49/9 52/8 52/15 52/18 53/16 53/18 54/2 54/11 56/13 57/11 57/13 58/18 58/23 59/15 60/4 60/17 62/18 63/7 66/2 67/10 67/23 68/3 68/18 69/8 69/11 71/8 71/15 72/9 72/23 73/3 73/21 74/6 74/18 75/15 76/12 80/11 82/2 82/8 83/11 83/19 84/20 85/20 85/20 85/23 86/3 87/1 87/17 87/20 87/23 88/5 88/23 89/10 90/22 90/23 92/21 93/14 94/18 94/18 95/9 95/15 96/18 96/20 97/2 97/5 97/9 97/13 99/2 99/4 100/17 100/19 100/21 102/25 103/11 104/19 104/23 106/7 106/9 106/9 107/10 110/4 111/3 112/1 112/11 113/9 113/9 113/11 113/12 113/23 114/1 114/3 114/5 114/11 116/24 119/19 120/11 121/23 122/17 123/4 123/4 123/19 130/9 130/12 136/14 136/23 138/11 139/5 139/7 139/8 139/22 143/13 150/23 152/11 152/20 153/8 153/25 154/3	154/3 154/6 154/7 154/19 154/19 155/3 155/4 155/19 156/15 156/17 157/5 157/12 158/1 159/14 159/23 160/21 161/17 161/17 162/4 162/11 162/13 164/6 164/6 168/6 169/11 170/17 170/20 172/2 172/2 172/12 174/13 175/25 176/4 177/22 178/15 178/22 179/8 183/18 183/22 184/4 184/5 184/8 184/19 184/19 185/17 186/15 188/8 189/5 189/7 191/18 192/11 192/13 195/20 196/4 196/5 196/16 196/23 197/24 200/9 201/19 204/2 204/2 204/4 204/21 206/13 206/24 207/11 208/12 209/7 209/18 211/8 211/11 212/23 217/22 220/18 223/2 224/8 226/5 227/14 <b>doctor [5]</b> 42/8 161/12 161/12 162/15 173/15 <b>documents [1]</b> 44/4 <b>does [33]</b> 8/15 8/17 13/10 14/3 14/4 18/18 45/16 48/14 56/16 71/8 109/7 109/10 111/5 138/11 139/3 150/4 153/10 159/25 161/9 169/12 174/1 175/20 179/15 183/5 183/11 189/8 202/22 202/25 203/1 209/22 219/23 220/3 225/15 <b>doesn't [9]</b> 23/21 28/13 30/16 150/1 150/7 203/7 219/20 220/9 222/13 <b>dog [1]</b> 179/1 <b>doing [17]</b> 15/25 27/9 68/10 70/2 70/25 84/20 84/22 92/14 98/8 121/4 132/17 134/15 162/25 166/14 180/25 214/2 223/17 <b>dollar [1]</b> 19/19 <b>dollar's [3]</b> 21/21 23/6 27/4 <b>dollars [1]</b> 35/25 <b>don't [95]</b> 8/4 9/4 9/5 10/17 12/5 12/7 12/9 16/1 18/21 20/5 20/22 21/19 22/21 22/22 22/24 36/25 36/25 39/8 39/11 39/12 39/21 40/5 42/6 44/23 49/10 50/4 54/23 54/23 69/14 69/15 78/1 78/5 82/10 89/17 94/8 95/10 98/16 98/24 100/14 103/2 103/14 103/16 104/7 113/19 117/21 117/21	115/1 122/20 126/8 126/11 127/9 130/11 130/12 131/9 132/2 133/5 137/8 138/7 140/3 142/8 143/25 144/1 144/1 144/2 145/9 145/9 148/20 150/8 150/16 154/22 157/2 157/16 159/19 172/20 178/20 178/22 199/18 213/5 216/25 217/5 217/7 223/1 223/3 223/6 224/2 224/4 224/5 224/6 224/13 224/18 224/20 225/6 225/16 225/18 225/21 <b>done [8]</b> 50/3 162/8 162/10 168/14 171/21 182/6 182/13 213/1 <b>door [41]</b> 19/11 19/14 19/16 24/19 92/6 92/6 102/3 102/4 102/8 118/2 118/3 136/5 137/7 137/13 137/21 138/1 138/2 138/2 138/4 138/14 139/20 145/12 145/17 145/18 146/9 147/4 147/5 147/13 147/14 147/23 149/14 149/14 149/19 149/25 150/5 150/5 150/13 150/13 208/19 210/7 220/9 <b>doors [1]</b> 19/24 <b>doubt [2]</b> 146/22 147/16 <b>down [35]</b> 19/24 30/6 30/7 37/17 37/19 42/3 50/15 52/5 59/7 71/9 71/13 75/23 80/18 80/24 80/25 81/1 105/6 105/8 105/15 105/20 107/20 114/18 115/14 116/17 122/11 134/10 141/10 154/1 154/2 181/25 184/24 185/2 200/12 215/20 218/18 <b>download [5]</b> 199/25 200/11 200/13 200/20 202/9 <b>downloaded [3]</b> 32/2 202/11 203/18 <b>downloads [1]</b> 32/5 <b>Doyle [2]</b> 37/9 37/12 <b>Dr. [4]</b> 160/5 160/13 160/18 174/16 <b>Dr. Dutra [3]</b> 160/13 160/18 174/16 <b>Dr. Timothy [1]</b> 160/5 <b>draft [1]</b> 162/2 <b>drag [2]</b> 28/11 119/6 <b>dragged [6]</b> 14/20 15/2 36/18 41/4 41/10 131/8 <b>dragging [3]</b> 41/24 119/8 131/3 <b>draw [7]</b> 61/5 77/22 78/16 93/2 173/20 192/10 203/7	<b>drawing [1]</b> 210/17 <b>dressed [1]</b> 54/2 <b>drew [1]</b> 168/11 <b>drink [2]</b> 44/22 44/22 <b>drive [17]</b> 26/22 32/20 34/4 67/8 69/24 77/5 100/19 113/10 113/24 139/9 143/21 143/25 148/7 201/25 202/1 210/4 211/5 <b>drive-through [2]</b> 201/25 211/5 <b>driven [4]</b> 14/21 20/6 27/22 29/7 <b>driver [25]</b> 24/18 31/10 31/12 31/18 40/17 41/21 69/12 82/12 82/15 82/17 102/11 104/21 104/23 105/3 105/9 106/23 106/24 121/9 127/15 132/21 147/20 214/19 216/7 223/2 224/3 <b>driver's [8]</b> 20/24 22/10 94/3 100/5 101/12 102/18 105/14 105/15 <b>drives [2]</b> 24/22 209/20 <b>driving [20]</b> 15/15 22/11 22/12 23/1 31/3 40/14 50/25 68/22 69/23 102/18 134/10 134/13 137/1 137/2 139/12 143/1 143/2 147/19 177/22 209/15 <b>drove [2]</b> 15/18 209/9 <b>drug [9]</b> 27/19 28/5 30/25 116/6 116/7 116/15 131/6 131/6 131/8 <b>drugs [1]</b> 172/25 <b>drum [1]</b> 27/16 <b>duck [3]</b> 38/4 38/5 38/5 <b>dude [10]</b> 36/17 36/19 65/5 66/13 66/15 68/15 71/1 78/3 78/3 82/12 <b>due [2]</b> 173/6 174/8 <b>duly [10]</b> 43/11 56/24 83/23 111/12 133/15 151/17 160/7 174/22 185/6 194/16 <b>dumped [2]</b> 32/2 32/3 <b>dumps [2]</b> 32/4 32/5 <b>duplicates [1]</b> 20/17 <b>during [24]</b> 7/25 8/6 15/12 16/15 17/7 20/14 31/19 35/5 37/19 37/24 38/3 39/4 39/22 40/6 40/10 44/7 70/2 104/19 110/16 149/17 159/1 186/9 211/7 226/15 <b>duties [2]</b> 152/9 175/25 <b>Dutra [6]</b> 160/5 160/6 160/11 160/13 160/18 174/16 <b>DVR [1]</b> 204/22 <b>dying [1]</b> 14/16
			<b>E</b> <b>e-mail [1]</b> 12/18 AA 000711	

<p><b>E</b></p> <p><b>E-x-u-m</b> [1] 57/5</p> <p><b>each</b> [7] 16/16 19/15 22/23 22/23 22/24 66/5 211/22</p> <p><b>earlier</b> [14] 18/10 25/9 37/16 40/8 49/24 73/9 75/10 79/18 89/11 98/5 99/11 172/7 204/12 208/13</p> <p><b>early</b> [4] 11/4 48/16 187/8 190/18</p> <p><b>ease</b> [1] 44/18</p> <p><b>easier</b> [1] 10/1</p> <p><b>easily</b> [1] 15/1</p> <p><b>east</b> [9] 21/13 98/25 99/3 138/24 139/2 177/8 177/14 178/2 199/5</p> <p><b>east-west</b> [1] 21/13</p> <p><b>eastbound</b> [5] 28/6 29/25 30/6 103/25 177/11</p> <p><b>easy</b> [1] 25/10</p> <p><b>eat</b> [2] 50/22 224/18</p> <p><b>educational</b> [1] 160/21</p> <p><b>effect</b> [1] 129/13</p> <p><b>eight</b> [1] 196/12</p> <p><b>either</b> [13] 8/2 8/2 8/4 8/5 9/9 10/12 61/24 119/4 119/6 169/14 191/25 212/9 225/4</p> <p><b>EI</b> [4] 79/23 80/3 120/17 120/23</p> <p><b>elapsed</b> [1] 121/18</p> <p><b>else</b> [16] 9/24 11/16 12/22 44/8 93/2 93/3 110/17 115/15 121/3 129/24 137/14 148/22 159/2 168/10 200/18 226/16</p> <p><b>embarrasses</b> [1] 134/7</p> <p><b>emergency</b> [5] 135/15 168/14 181/6 181/16 182/7</p> <p><b>employed</b> [6] 152/3 160/18 175/10 175/17 195/3 195/14</p> <p><b>en</b> [1] 184/9</p> <p><b>en route</b> [1] 184/9</p> <p><b>ENCINAS</b> [1] 1/22</p> <p><b>Enclave</b> [1] 112/12</p> <p><b>encounter</b> [1] 18/8</p> <p><b>encouraging</b> [1] 102/14</p> <p><b>end</b> [5] 11/4 37/25 38/15 47/17 59/23</p> <p><b>ended</b> [3] 47/18 48/20 48/22</p> <p><b>engage</b> [1] 219/21</p> <p><b>engine</b> [2] 130/19 154/1</p> <p><b>enough</b> [4] 42/20 104/8 131/12 137/9</p> <p><b>ensued</b> [2] 30/19 30/19</p> <p><b>enter</b> [7] 15/19 15/20 19/20 28/14 114/3 206/13 220/19</p>	<p><b>ent</b> [10] 5/18 27/20 31/6 106/24 106/25 114/5 124/14 125/22 206/18 210/6</p> <p><b>entering</b> [3] 28/18 28/18 35/16</p> <p><b>enters</b> [1] 21/7</p> <p><b>entitled</b> [1] 227/15</p> <p><b>entrance</b> [1] 22/17</p> <p><b>entry</b> [1] 19/16</p> <p><b>equipment</b> [2] 180/20 181/1</p> <p><b>equipped</b> [1] 176/17</p> <p><b>error</b> [1] 113/16</p> <p><b>Escalade</b> [1] 140/2</p> <p><b>especially</b> [1] 40/1</p> <p><b>ESQ</b> [4] 1/17 1/18 1/20 1/20</p> <p><b>essentially</b> [3] 19/21 141/22 204/13</p> <p><b>establish</b> [1] 109/9</p> <p><b>establishment</b> [1] 206/22</p> <p><b>Esteban</b> [1] 13/24</p> <p><b>ethnicity</b> [1] 87/10</p> <p><b>evaluating</b> [1] 21/4</p> <p><b>even</b> [10] 7/3 12/9 32/21 109/21 121/21 128/22 131/13 132/10 148/4 219/23</p> <p><b>evening</b> [4] 226/13 226/25 227/3 227/12</p> <p><b>evenings</b> [1] 6/21</p> <p><b>event</b> [1] 201/6</p> <p><b>events</b> [4] 39/22 40/2 139/9 139/16</p> <p><b>ever</b> [13] 54/5 65/13 121/1 142/9 142/10 148/15 181/15 182/6 200/24 212/24 215/10 215/10 215/11</p> <p><b>every</b> [1] 60/4</p> <p><b>everybody</b> [5] 9/21 9/24 30/3 71/12 178/20</p> <p><b>everything</b> [7] 11/25 39/18 58/10 59/7 70/17 145/3 164/2</p> <p><b>everywhere</b> [1] 49/15</p> <p><b>evicted</b> [1] 6/13</p> <p><b>evidence</b> [42] 16/5 16/11 16/13 16/15 16/16 18/21 19/17 20/14 21/4 21/10 21/16 21/20 22/21 25/5 25/12 26/25 27/5 30/11 30/14 30/18 31/8 31/9 31/17 31/20 31/24 31/25 34/3 34/17 35/2 37/4 37/8 37/17 37/23 38/3 40/12 41/2 42/14 42/15 42/22 42/24 135/10 155/16</p> <p><b>evidentiary</b> [1] 211/21</p> <p><b>ex</b> [3] 185/21 189/15 191/21</p> <p><b>ex-husband</b> [1] 189/15</p> <p><b>exact</b> [2] 88/18 119/11</p> <p><b>exactly</b> [4] 87/1 137/10 138/7 169/11</p> <p><b>exam</b> [2] 101/13 165/9</p>	<p><b>examination</b> [66] 2/8 2/10 2/11 2/12 2/14 2/15 2/16 2/17 2/19 2/20 2/22 2/23 2/24 3/2 3/4 3/6 3/8 3/9 3/11 3/12 11/1 46/1 57/9 75/3 79/9 84/7 98/1 101/24 104/17 104/19 105/23 107/18 111/21 124/21 125/23 131/22 134/3 142/19 149/4 149/18 152/1 160/16 161/23 162/21 162/23 162/25 164/6 164/7 164/13 164/14 164/15 164/17 165/11 165/14 166/11 166/11 166/15 171/21 171/22 172/13 173/22 175/6 185/15 193/6 195/1 213/17</p> <p><b>examinations</b> [2] 162/9 172/3</p> <p><b>examine</b> [1] 33/17</p> <p><b>examiner</b> [6] 158/11 158/12 158/18 160/19 160/22 161/9</p> <p><b>Examiner's</b> [1] 161/6</p> <p><b>Excellent</b> [1] 215/16</p> <p><b>except</b> [4] 27/9 30/16 81/23 94/14</p> <p><b>exchange</b> [2] 14/13 47/4</p> <p><b>excuse</b> [5] 9/15 20/18 23/17 203/1 212/3</p> <p><b>excused</b> [10] 8/7 8/17 56/18 83/15 110/9 151/1 158/4 174/16 184/18 194/10</p> <p><b>executive</b> [1] 5/22</p> <p><b>exhibit</b> [91] 45/8 47/25 48/8 48/11 52/8 53/5 56/1 58/23 58/24 60/11 60/13 60/16 67/1 67/4 67/10 72/5 72/7 72/18 73/14 74/1 74/2 74/12 74/14 74/18 75/20 78/23 79/12 85/9 85/15 85/19 88/4 91/2 91/10 94/13 95/17 95/23 96/5 97/13 97/17 97/22 105/1 112/21 113/13 114/24 115/2 120/10 120/11 120/14 122/23 123/2 123/8 123/12 124/9 125/21 126/23 134/25 135/10 135/12 135/14 138/16 143/2 153/7 157/14 157/18 163/9 163/12 164/21 165/15 165/23 166/3 166/18 177/9 177/12 178/1 178/16 179/11 179/15 183/11 183/18 189/5 192/6 192/10 200/8 202/21 203/24 204/10 206/2 206/7 210/17 212/18 213/25</p> <p><b>Exhibit 102</b> [1] 114/24</p> <p><b>Exhibit 103</b> [2] 135/10</p>	<p>135/10</p> <p><b>Exhibit 107</b> [2] 58/23 58/24</p> <p><b>Exhibit 110</b> [3] 67/1 67/10 78/23</p> <p><b>Exhibit 112</b> [4] 91/2 91/10 138/16 143/2</p> <p><b>Exhibit 113</b> [7] 60/11 60/16 79/12 112/21 134/25 178/1 178/16</p> <p><b>Exhibit 115</b> [1] 72/5</p> <p><b>Exhibit 116</b> [2] 72/18 74/2</p> <p><b>Exhibit 117</b> [2] 96/5 213/25</p> <p><b>Exhibit 2</b> [1] 125/21</p> <p><b>Exhibit 25</b> [1] 74/12</p> <p><b>Exhibit 26</b> [1] 126/23</p> <p><b>Exhibit 31</b> [1] 204/10</p> <p><b>Exhibit 32</b> [1] 97/17</p> <p><b>Exhibit 82</b> [1] 163/12</p> <p><b>Exhibit 83</b> [1] 166/3</p> <p><b>Exhibit 84</b> [2] 164/21 166/18</p> <p><b>Exhibit 85</b> [1] 165/15</p> <p><b>Exhibit 86</b> [1] 165/23</p> <p><b>exhibits</b> [7] 3/15 43/7 45/3 45/4 104/14 134/1 183/1</p> <p><b>Exhibits 1 and</b> [1] 104/14</p> <p><b>Exhibits 107</b> [1] 45/3</p> <p><b>Exhibits 83</b> [1] 183/1</p> <p><b>exit</b> [7] 19/17 23/24 206/25 209/21 209/22 220/24 220/24</p> <p><b>exited</b> [6] 7/21 159/11 179/9 179/22 199/24 227/1</p> <p><b>exiting</b> [2] 19/19 19/22</p> <p><b>exits</b> [1] 22/9</p> <p><b>expect</b> [1] 178/12</p> <p><b>expected</b> [1] 110/6</p> <p><b>Expedition</b> [2] 139/25 140/4</p> <p><b>experience</b> [1] 188/23</p> <p><b>experts</b> [1] 40/16</p> <p><b>explain</b> [8] 36/15 108/19 108/21 116/4 155/10 161/8 166/23 173/11</p> <p><b>explanatory</b> [1] 169/13</p> <p><b>Explorer</b> [11] 15/18 18/12 18/13 19/13 25/4 32/21 34/18 40/9 40/13 41/9 139/24</p> <p><b>express</b> [4] 44/13 110/22 159/7 226/21</p> <p><b>extensively</b> [1] 32/11</p> <p><b>extent</b> [1] 15/14</p> <p><b>external</b> [6] 164/13 164/17 165/14 166/7 166/19 171/21</p> <p><b>Exum</b> [6] 41/3 56/21 56/23 57/4 83/14 201/17</p> <p><b>eye</b> [6] 28/1 114/14 115/17 116/14 177/24 210/3</p>	<p><b>eyelids</b> [1] 165/6</p> <p><b>eyes</b> [2] 70/23 129/11</p> <p><b>eyewitness</b> [1] 27/13</p> <p><b>eyewitnesses</b> [3] 29/6 39/24 41/12</p> <p><b>F</b></p> <p><b>face</b> [11] 30/9 89/8 94/4 107/3 165/5 182/20 182/21 182/22 183/19 183/24 184/1</p> <p><b>facing</b> [7] 24/11 24/16 24/25 25/1 136/12 177/15 214/19</p> <p><b>fact</b> [17] 7/6 15/21 27/1 33/10 37/21 40/15 40/15 40/17 40/20 40/25 42/10 70/15 102/1 105/20 144/19 146/23 197/24</p> <p><b>facts</b> [8] 39/8 40/16 41/3 41/7 42/5 42/9 42/13 42/25</p> <p><b>fade</b> [1] 147/10</p> <p><b>fair</b> [18] 8/5 60/21 104/8 105/10 115/10 130/23 131/1 131/12 138/5 138/17 140/7 149/8 149/25 162/4 165/19 170/4 171/5 171/8</p> <p><b>fallacy</b> [1] 39/17</p> <p><b>falling</b> [1] 170/19</p> <p><b>falls</b> [3] 29/17 132/13 161/10</p> <p><b>false</b> [1] 34/19</p> <p><b>familiar</b> [4] 39/25 56/6 112/24 191/12</p> <p><b>family</b> [5] 13/1 44/22 55/10 55/12 158/13</p> <p><b>far</b> [8] 6/4 89/10 89/11 89/13 107/23 108/3 108/13 224/18</p> <p><b>Fashion</b> [1] 134/17</p> <p><b>fast</b> [14] 36/25 69/24 93/15 93/16 114/17 118/3 119/6 132/6 132/7 141/9 141/10 205/1 209/11 215/18</p> <p><b>fast-forward</b> [1] 215/18</p> <p><b>faster</b> [1] 140/23</p> <p><b>fat</b> [1] 88/21</p> <p><b>fatal</b> [4] 30/22 156/3 156/8 157/12</p> <p><b>fatalities</b> [1] 156/9</p> <p><b>father</b> [2] 18/12 50/9</p> <p><b>feel</b> [6] 120/6 123/23 134/7 139/5 180/15 181/15</p> <p><b>feet</b> [13] 30/25 89/14 99/19 108/4 108/7 108/14 108/14 108/17 108/24 109/15 119/7 140/24 217/5</p> <p><b>fell</b> [5] 28/22 30/25 36/20 42/3 140/24</p> <p><b>fellowship</b> [2] 161/3 161/5</p>
--	---	--	---	--

<b>F</b>	<b>fog</b> [1] 120/4	<b>fractures</b> [5] 165/7	<b>gas</b> [1] 17/20 18/6	198/7 209/5 224/17
<b>female</b> [4] 69/3 88/15	<b>folks</b> [1] 41/13	165/8 168/3 168/9	18/13 18/14 19/19	224/22 224/25 225/3
102/21 154/13	<b>follow</b> [8] 2/17 107/13	171/10	20/20 21/7 21/17 21/17	<b>getaway</b> [1] 31/18
<b>few</b> [7] 19/24 144/8	107/18 110/2 110/4	<b>frames</b> [2] 205/8	21/17 21/21 21/21	<b>gets</b> [5] 32/16 35/1
145/22 156/16 181/12	110/5 194/5 198/17	205/12	21/23 23/2 23/6 24/23	131/18 139/8 221/17
184/20 189/24	<b>follow-up</b> [6] 2/17	<b>free</b> [2] 133/11 226/8	24/23 24/24 25/3 25/15	<b>getting</b> [22] 27/10
<b>field</b> [1] 175/23	107/13 107/18 110/4	<b>Freeman</b> [1] 30/22	25/25 27/3 27/4 27/9	27/10 27/11 37/5 41/10
<b>fight</b> [3] 15/7 41/23	110/5 194/5	<b>frequently</b> [1] 59/15	39/12 42/1 60/23	48/21 114/14 114/18
41/24	<b>followed</b> [5] 14/19	<b>fresh</b> [1] 125/23	138/14 199/9 202/2	117/20 121/19 137/8
<b>fighting</b> [2] 15/3 116/5	66/14 82/13 82/14	<b>Friday</b> [4] 8/22 9/10	203/2 203/10 203/10	155/22 168/7 169/22
<b>figured</b> [1] 12/16	216/24	10/16 10/20	205/6 208/10 210/1	170/3 170/10 170/19
<b>figures</b> [1] 201/16	<b>following</b> [3] 15/3	<b>friend</b> [23] 14/17 15/10	214/18 214/19 214/20	170/20 181/16 187/18
<b>file</b> [7] 20/17 72/20	34/15 91/5	16/3 16/8 17/4 24/13	215/8 218/6 218/24	188/24 189/24
73/14 73/15 73/16	<b>follows</b> [10] 43/12	29/13 37/18 53/20 58/9	219/7 223/2 224/2	<b>giant</b> [1] 140/4
73/17 74/2	56/25 83/24 111/13	58/13 65/6 70/25	225/13 225/17	<b>gift</b> [3] 16/20 18/12
<b>finally</b> [4] 28/2 44/14	133/16 151/18 160/8	107/22 119/20 119/21	<b>gather</b> [3] 43/7 155/17	46/20
110/23 159/8	174/23 185/7 194/17	119/25 199/18 207/18	217/20	<b>girl</b> [2] 137/15 137/16
<b>financial</b> [2] 6/4 7/24	<b>food</b> [8] 50/20 62/7	211/9 212/1 220/24	<b>gathered</b> [1] 217/24	<b>girlfriend</b> [3] 40/8
<b>find</b> [12] 13/21 37/25	80/6 80/7 80/9 198/11	224/25	<b>gave</b> [19] 15/13 19/18	40/20 193/22
38/14 63/13 151/10	199/21 199/24	<b>friends</b> [7] 17/5 17/6	36/3 37/9 46/22 52/3	<b>girlfriend's</b> [1] 34/21
172/22 190/23 197/23	<b>foot</b> [6] 22/10 22/11	18/7 22/25 59/6 189/15	52/11 95/12 105/10	<b>girls</b> [2] 126/16 126/18
198/16 198/16 211/21	23/1 25/19 55/11 166/5	189/17	122/6 144/6 144/11	<b>give</b> [21] 6/9 15/1 16/4
219/24	<b>footage</b> [27] 53/12	<b>front</b> [60] 20/6 23/18	144/14 146/18 156/21	16/17 28/24 35/19
<b>finders</b> [2] 15/21 37/21	53/21 187/23 189/9	23/23 24/5 27/20 28/7	190/15 191/25 212/24	35/22 35/25 38/18
<b>finding</b> [2] 170/24	189/11 190/18 191/1	28/14 28/18 31/5 31/5	213/5	51/18 54/12 108/12
171/9	192/7 198/5 202/6	31/7 31/14 39/6 54/16	<b>general</b> [1] 171/6	112/21 132/18 132/19
<b>findings</b> [1] 166/23	202/10 202/16 203/22	80/15 81/8 81/12 81/13	<b>generally</b> [2] 6/16	132/21 157/8 158/20
<b>fine</b> [5] 10/10 10/12	204/6 205/19 205/19	82/9 82/12 82/22 92/9	12/14	175/24 190/23 217/21
10/21 10/22 126/11	206/14 207/3 210/15	92/10 92/12 93/24	<b>generate</b> [1] 11/1	<b>given</b> [7] 99/6 109/11
<b>finger</b> [1] 76/24	210/23 211/2 211/19	98/15 99/7 100/8	<b>gentleman</b> [6] 19/18	154/19 170/12 197/21
<b>fingers</b> [2] 101/1 104/3	211/23 212/6 212/8	105/14 106/1 114/6	99/25 100/6 102/7	200/12 221/7
<b>finished</b> [1] 50/10	212/12 225/3	114/7 116/9 116/9	103/3 224/9	<b>gives</b> [1] 37/11
<b>finishing</b> [1] 50/7	<b>football</b> [1] 58/10	117/4 117/4 117/8	<b>gentlemen</b> [21] 16/13	<b>giving</b> [2] 100/15 144/7
<b>fire</b> [2] 154/1 181/12	<b>force</b> [25] 168/2 168/4	117/15 119/1 120/17	38/24 42/12 56/13	<b>glare</b> [1] 114/1
<b>firefighters</b> [2] 154/11	168/4 168/5 168/24	121/15 121/16 121/17	76/11 76/20 77/24	<b>glitchy</b> [1] 208/1
155/6	169/7 169/9 169/12	121/19 126/3 127/5	83/11 91/12 96/11	<b>gloved</b> [1] 180/4
<b>first</b> [53] 7/4 29/2 29/8	169/20 169/25 170/2	130/17 130/19 130/22	106/7 110/14 113/17	<b>gloves</b> [2] 179/9
34/22 34/23 43/5 43/7	170/8 170/9 170/13	136/23 136/24 137/5	133/8 150/23 158/1	179/22
43/11 43/14 49/12	170/16 170/18 170/25	137/6 137/13 137/21	161/9 174/13 184/14	<b>go</b> [103] 5/12 5/19 6/2
49/16 55/16 56/24 57/2	171/3 171/4 171/9	145/17 147/4 162/12	194/7 226/5	7/18 7/23 9/12 9/13
61/17 65/13 69/11 71/9	171/15 171/17 171/19	171/13 215/5	<b>German</b> [1] 46/15	9/20 10/5 10/6 10/24
83/23 84/1 85/20	172/6 173/6	<b>Fuentes</b> [1] 106/16	<b>gesticulating</b> [1] 138/4	11/20 11/21 12/4 13/6
107/22 108/24 109/14	<b>forcefully</b> [1] 34/24	<b>full</b> [7] 9/10 106/10	<b>gestured</b> [1] 118/19	17/11 17/12 17/23
111/12 111/15 115/17	<b>Ford</b> [10] 15/18 18/12	144/14 161/17 161/17	<b>get</b> [95] 7/2 8/22 11/20	18/23 19/21 20/5 20/10
120/12 124/14 125/16	18/13 19/13 25/4 34/18	180/2 187/2	12/4 12/12 12/21 24/9	20/23 21/2 23/24 24/25
126/2 127/23 133/15	40/9 40/13 41/9 117/9	<b>funky</b> [1] 67/16	25/7 27/16 31/15 32/6	29/9 38/21 44/22 44/23
133/18 135/24 136/14	<b>forehead</b> [1] 165/5	<b>further</b> [17] 33/23	32/11 32/21 35/8 35/25	50/13 50/14 50/24 51/4
144/18 151/17 151/20	<b>forensic</b> [7] 32/5 40/16	99/23 104/10 106/4	41/7 43/24 44/4 44/22	57/11 59/9 59/10 59/17
154/6 160/7 160/10	40/16 160/25 161/5	108/10 109/21 109/24	45/12 46/20 47/4 47/18	59/18 59/19 59/25
172/1 174/22 174/25	161/7 173/18	133/3 142/7 149/1	48/17 48/25 50/20 52/2	61/25 62/8 63/23 64/7
182/10 185/6 185/9	<b>forensically</b> [1] 32/2	150/20 150/21 157/21	52/14 57/20 59/17 60/5	69/21 70/14 70/18
187/16 189/5 194/16	<b>forget</b> [1] 52/14	192/25 194/3 199/9	61/22 62/8 66/5 67/25	70/19 70/21 71/4 71/14
194/19 204/9	<b>form</b> [4] 44/13 110/22	226/1	68/1 68/16 69/5 70/4	71/18 71/21 71/23 72/1
<b>fit</b> [2] 163/8 221/7	159/7 226/21	<b>furtherance</b> [2] 33/11	70/5 70/6 70/9 71/25	75/21 76/7 78/3 81/3
<b>five</b> [4] 10/20 158/12	<b>formal</b> [1] 190/15	33/16	72/1 75/25 79/16 89/8	81/19 82/9 89/24 91/7
173/14 195/16	<b>forth</b> [1] 66/4	<b>G</b>	89/20 90/20 91/20	92/4 93/5 93/14 94/17
<b>flagging</b> [1] 154/2	<b>forward</b> [5] 24/4 58/17	<b>G-a-c-o-r-y</b> [1] 57/4	92/16 100/6 103/9	98/17 109/10 114/19
<b>Flamingo</b> [1] 112/19	178/25 209/13 215/18	<b>Gacory</b> [25] 16/8 17/4	103/19 107/20 107/25	116/7 117/23 119/6
<b>flew</b> [1] 70/15	<b>forwarding</b> [1] 209/11	17/4 17/10 17/14 17/23	112/22 122/1 123/5	120/22 124/10 126/15
<b>flights</b> [1] 10/15	<b>fought</b> [1] 27/19	18/2 18/15 19/20 21/5	125/1 125/12 125/16	129/3 130/18 130/19
<b>flip</b> [1] 98/12	<b>found</b> [4] 168/15 180/1	23/9 29/13 29/15 29/17	125/17 126/11 126/15	130/20 133/4 133/11
<b>floor</b> [1] 167/10	182/19 204/22	53/20 54/14 54/17	126/18 126/18 130/8	140/24 141/19 143/1
<b>floored</b> [2] 119/15	<b>four</b> [7] 7/2 92/6 92/7	54/21 54/25 56/21	134/18 134/20 137/6	143/5 153/17 153/21
121/20	173/16 190/8 190/8	56/23 57/4 57/11 72/23	137/15 137/20 147/20	154/4 166/18 197/8
<b>focus</b> [4] 41/16 41/16	206/8	201/17	148/1 148/15 150/2	197/22 213/25 216/11
41/18 42/11	<b>four-door</b> [1] 92/6	<b>gained</b> [1] 119/5	150/13 157/3 158/13	217/9 217/10 218/2
<b>focused</b> [2] 148/11	<b>fracture</b> [5] 166/25	<b>gallery</b> [1] 159/15	161/14 162/23 172/11	219/10 220/1 221/14
148/12	167/4 167/5 170/14	<b>garnered</b> [1] 149/10	178/15 178/21 179/4	221/22 226/8
	171/12		180/4 188/18 189/2	<b>goal</b> [1] 198/16

<b>G</b>	<b>good [1]</b> 11/19 12/14 32/5 46/3 53/20 65/3 69/5 75/5 75/6 84/9 89/18 98/3 111/23 124/23 142/21 142/23 142/24 147/20 148/2 193/8 193/9 213/19 213/20 213/24 226/9 <b>Goodwin [2]</b> 32/10 32/19 <b>Google [2]</b> 24/1 25/2 <b>got [63]</b> 11/25 16/24 20/24 36/6 36/16 36/19 44/4 44/20 46/21 46/21 48/5 48/15 48/16 49/11 50/2 50/5 54/1 55/4 55/16 64/4 64/8 64/11 64/19 68/3 69/20 75/14 76/17 77/24 79/11 91/9 92/8 92/12 93/13 93/23 96/21 99/2 115/18 115/21 116/10 117/17 117/25 118/5 121/14 121/17 122/20 126/2 133/6 134/19 136/4 137/24 149/8 149/22 150/13 151/12 171/3 171/4 181/18 192/2 192/3 198/20 211/12 214/6 226/11 <b>gotten [2]</b> 18/11 224/14 <b>grab [5]</b> 31/15 36/17 36/19 106/2 134/1 <b>grabbing [3]</b> 41/3 117/1 132/3 <b>grabs [1]</b> 136/18 <b>grainy [3]</b> 20/13 20/16 209/25 <b>granted [2]</b> 53/7 115/3 <b>grass [3]</b> 208/18 217/3 222/4 <b>grateful [1]</b> 180/24 <b>gray [1]</b> 221/25 <b>great [7]</b> 5/8 10/21 12/2 64/10 158/5 170/13 174/16 <b>greater [1]</b> 167/22 <b>ground [5]</b> 15/8 15/9 28/23 29/17 30/25 <b>growing [1]</b> 51/15 <b>guarantee [1]</b> 40/11 <b>guess [9]</b> 40/22 44/20 65/7 106/20 129/18 167/8 167/25 170/3 218/21 <b>guilty [5]</b> 38/1 38/15 42/21 42/23 43/1 <b>guns [3]</b> 15/7 28/19 132/12 <b>gurgling [1]</b> 180/9 <b>gurney [2]</b> 154/17 181/18 <b>guy [41]</b> 47/12 65/20 65/21 66/7 66/21 67/11 67/20 67/23 68/1 68/3 69/20 77/15 77/18 82/14 89/24 90/6 90/10 90/12 90/16 90/19	90/23 91/4 91/6 91/13 91/20 91/25 92/3 92/8 92/12 92/19 93/3 93/12 93/17 93/23 102/2 115/18 116/9 117/3 117/17 137/5 147/3 <b>guys [14]</b> 5/6 11/12 13/23 50/19 59/21 63/23 64/4 64/14 64/16 65/23 73/7 110/24 159/14 184/19	<b>H</b> <b>H-a-n-o-f-f [1]</b> 151/22 <b>H-u-b-b-a-r-d [1]</b> 194/20 <b>had [109]</b> 5/23 10/13 10/14 18/9 18/11 20/5 20/10 24/17 25/6 27/1 29/8 29/21 30/2 32/9 34/24 35/7 40/8 46/17 46/19 46/21 47/2 47/22 47/22 49/16 50/6 52/15 52/18 53/22 54/15 63/18 65/23 71/24 71/25 73/11 79/18 89/11 91/1 95/4 95/6 97/10 98/16 100/8 103/1 105/24 110/5 117/24 117/25 118/2 119/20 120/5 120/8 125/24 127/5 128/19 129/24 130/3 131/13 134/21 135/21 136/4 137/17 141/2 141/6 141/6 141/22 141/25 145/10 148/4 148/7 149/13 150/4 150/12 156/18 166/10 166/11 166/19 166/25 168/12 168/13 168/13 168/14 172/3 172/3 178/2 178/3 178/4 178/19 178/20 178/23 180/3 180/10 180/11 180/13 180/17 188/23 190/18 190/19 190/20 190/24 191/1 193/13 193/13 196/18 198/11 200/19 201/25 207/20 214/25 225/2 <b>hadn't [2]</b> 50/3 65/7 <b>hair [2]</b> 137/17 145/10 <b>half [2]</b> 12/13 27/8 <b>hall [2]</b> 5/12 7/18 <b>hamburger [1]</b> 224/14 <b>hand [22]</b> 19/1 47/14 76/22 77/4 92/17 99/4 106/11 111/10 113/11 113/12 146/12 146/13 146/13 146/16 146/19 146/20 148/4 151/15 180/4 185/4 204/1 208/6 <b>handed [2]</b> 47/14 62/9 <b>hands [12]</b> 56/17 59/8 59/8 83/13 85/5 92/18 93/4 105/24 133/10 138/5 174/5 226/7	<b>hard [22]</b> 22/25 36/12 58/5 58/11 <b>hanging [7]</b> 28/21 36/18 52/23 105/21 118/8 123/5 145/20 <b>Hanoff [6]</b> 151/11 151/12 151/13 151/16 151/21 151/23 <b>happen [6]</b> 15/23 64/16 86/23 113/7 139/19 140/18 <b>happened [35]</b> 30/18 32/14 36/10 37/1 37/10 62/6 64/16 64/20 64/25 65/4 66/12 69/11 70/10 70/13 70/18 71/20 77/10 78/2 78/17 80/12 80/15 86/25 90/4 93/4 93/8 105/18 108/25 114/17 118/3 118/25 137/25 145/23 193/13 197/22 198/17 <b>happening [8]</b> 68/13 81/10 91/1 92/22 119/23 136/7 136/24 148/12 <b>happens [3]</b> 88/8 179/23 180/22 <b>hard [2]</b> 95/25 209/25 <b>hardship [1]</b> 7/24 <b>Harvard [1]</b> 161/1 <b>has [19]</b> 8/7 8/24 9/14 18/25 31/23 39/7 93/4 128/15 159/11 161/19 165/4 165/5 183/19 203/25 207/25 224/9 224/10 224/10 227/1 <b>hat [1]</b> 18/17 <b>have [191]</b> 5/5 5/19 7/12 8/25 9/21 10/18 11/7 11/10 16/1 18/18 19/6 20/13 21/12 21/20 22/14 24/1 24/17 25/6 28/11 30/13 31/6 31/13 32/17 41/17 42/12 42/13 42/22 42/22 43/6 43/13 43/22 44/23 45/9 45/21 47/6 47/8 48/25 49/17 50/8 50/22 50/24 53/9 56/8 56/14 56/16 57/1 60/4 60/10 60/25 61/4 63/1 63/2 63/3 65/8 65/10 65/15 69/16 75/1 78/13 79/3 79/17 79/21 79/23 80/21 81/14 81/21 82/11 82/23 83/12 83/19 83/25 89/17 97/23 101/11 101/21 102/1 104/10 105/6 106/8 106/20 107/2 107/6 108/3 108/21 108/21 110/2 110/4 110/24 111/14 112/2 112/23 113/18 117/24 118/2 124/5 124/17 125/13 126/16 132/1 133/5 133/9 133/17 133/25 138/24 145/23 146/1	146/22 147/16 149/1 150/1 150/17 150/24 151/19 152/16 153/12 157/21 158/2 158/4 160/9 160/21 160/23 162/11 162/15 163/4 163/18 163/20 164/1 169/16 169/18 169/22 170/17 170/20 170/24 172/21 174/2 174/14 174/16 174/24 176/7 176/16 178/19 178/21 179/7 179/17 181/20 183/23 184/5 184/11 184/19 185/8 186/5 186/12 187/12 187/13 187/22 189/20 191/24 192/25 193/3 194/18 195/14 195/17 195/20 196/24 198/21 201/2 202/2 202/9 202/15 203/21 203/21 204/5 209/1 209/16 210/20 210/22 210/25 211/15 212/5 212/9 213/9 214/24 215/19 224/6 224/14 224/15 224/17 226/1 226/6 226/9 227/14 <b>haven't [1]</b> 199/22 <b>having [20]</b> 6/4 8/11 33/5 43/11 47/7 47/18 52/25 56/24 83/23 95/25 107/21 111/12 120/5 133/15 151/17 160/7 171/21 174/22 185/6 194/16 <b>Hawk [4]</b> 186/3 186/9 186/10 186/12 <b>he [406]</b> <b>he'd [2]</b> 35/21 52/13 <b>He'll [1]</b> 208/14 <b>he's [43]</b> 8/2 9/9 9/9 9/13 9/14 17/9 21/19 22/11 27/17 28/15 28/16 29/18 31/22 36/7 36/8 36/16 36/20 36/23 42/6 49/16 51/1 53/17 53/20 53/23 54/1 68/16 68/17 70/6 71/11 71/11 118/10 129/12 145/8 184/2 186/19 216/14 216/17 218/12 219/17 220/5 221/25 222/3 222/6 <b>head [17]</b> 23/16 45/20 64/5 69/2 118/16 119/8 131/23 141/3 154/16 164/24 165/1 167/9 167/12 167/13 170/21 170/22 170/23 <b>headed [4]</b> 24/1 24/2 134/19 177/18 <b>heading [7]</b> 20/8 20/25 63/24 112/16 177/6 178/2 178/3 <b>headphones [9]</b> 17/25 18/3 49/7 49/9 52/18 53/1 53/25 59/7 65/15
----------	--	--	--	--	---

<b>H</b>	153/154/8 154/9 159/9 160/13 162/20 163/17 164/22 165/24 168/20 175/3 179/17 183/14 183/19 184/1 184/17 185/12 186/16 192/11 194/11 201/16 203/9 203/11 203/14 210/18 215/5 223/18 223/22 224/4 224/7 226/24 227/10 <b>here's [3]</b> 112/23 112/24 123/18 <b>hereby [1]</b> 227/14 <b>Hi [4]</b> 5/19 111/24 124/24 175/8 <b>hide [2]</b> 41/17 42/12 <b>hiding [1]</b> 15/12 <b>High [3]</b> 17/10 51/8 51/11 <b>Highland [1]</b> 134/18 <b>him [128]</b> 5/5 8/12 9/5 9/20 10/6 14/18 14/18 14/19 14/19 14/20 15/8 16/25 23/18 23/22 28/9 28/23 29/13 29/14 35/10 35/21 35/22 35/23 36/3 36/18 46/20 46/21 46/22 46/22 47/8 47/15 48/6 48/15 48/16 48/17 48/21 48/24 48/25 49/7 49/11 49/14 50/2 50/4 50/8 50/13 52/2 52/2 52/3 52/11 52/15 53/19 53/22 54/2 54/8 54/8 54/23 55/14 55/20 57/20 57/21 58/9 58/11 58/13 59/8 59/10 59/11 59/19 60/6 65/8 65/10 65/12 65/12 65/13 65/23 66/6 66/14 66/14 68/15 69/1 69/5 70/15 71/11 71/21 71/23 81/9 82/2 82/13 89/8 90/24 91/5 99/19 102/15 107/11 109/8 114/17 114/19 116/7 116/19 119/6 119/22 119/25 122/11 129/2 137/14 137/15 140/25 180/3 180/10 180/11 180/16 181/18 181/18 186/2 186/18 189/21 191/6 191/17 192/22 192/22 193/11 193/14 198/16 217/1 218/14 219/14 220/9 223/7 223/11 225/19 <b>himself [4]</b> 17/8 34/5 216/17 216/18 <b>his [138]</b> 7/23 8/15 8/23 9/6 9/6 14/17 14/17 14/17 14/20 15/1 15/4 15/9 15/9 15/10 15/19 16/8 16/20 17/4 18/1 18/4 18/12 19/12 22/11 22/12 23/13 24/12 29/19 30/9 30/10 31/18 31/22 32/9 32/10	32/19 35/14 37/4 37/18 41/1 46/22 47/1 47/3 47/14 47/23 48/16 48/18 50/10 52/15 52/18 52/23 53/22 54/1 54/9 54/17 54/23 59/7 59/7 59/10 59/12 65/13 68/16 69/2 69/6 70/17 70/20 70/22 70/23 71/4 74/5 87/17 88/18 89/8 90/7 90/23 92/16 92/18 93/4 93/6 94/4 94/5 94/7 97/10 102/11 105/24 106/2 107/4 107/22 108/8 116/22 116/22 118/14 118/16 118/21 119/5 119/7 119/8 119/25 120/7 122/16 131/14 140/24 147/7 148/4 162/15 168/13 168/13 168/14 168/15 180/1 180/2 180/4 180/10 181/17 182/17 182/19 182/20 182/21 182/22 182/23 183/19 183/24 184/1 191/8 191/10 192/16 193/17 193/22 193/25 207/18 211/8 212/1 217/5 219/7 219/23 220/12 220/24 222/11 224/25 225/17 <b>Hispanic [31]</b> 28/3 28/4 88/2 90/15 90/17 90/20 90/22 90/22 91/5 92/11 92/14 93/3 93/18 93/19 93/20 97/15 99/17 100/1 103/4 105/24 107/9 119/18 120/13 122/9 122/12 122/15 123/5 128/7 131/21 145/7 145/10 <b>history [1]</b> 200/14 <b>hit [8]</b> 29/10 36/14 42/1 70/14 103/19 119/8 170/3 170/20 <b>hits [1]</b> 78/18 <b>hitting [1]</b> 122/10 <b>hold [3]</b> 188/18 188/23 220/9 <b>holding [13]</b> 17/22 27/16 68/5 70/4 70/8 81/23 82/15 82/17 85/4 86/4 119/4 180/14 180/14 <b>hole [1]</b> 9/22 <b>home [18]</b> 6/13 17/7 29/19 50/11 50/14 54/6 59/17 71/2 71/3 71/8 134/16 134/20 139/10 186/2 186/7 189/18 189/20 190/7 <b>homeless [1]</b> 8/3 <b>homicide [13]</b> 34/10 173/17 173/25 174/1 189/1 201/7 202/12 212/16 212/24 213/3 213/4 213/5 217/24 <b>homicides [1]</b> 161/15	<b>hon [2]</b> 65/14 182/23 <b>honestly [1]</b> 209/10 <b>Honey [2]</b> 62/21 62/23 <b>honking [8]</b> 28/9 41/22 41/24 121/3 121/10 130/4 130/15 132/3 <b>Honor [65]</b> 7/16 8/1 10/3 10/13 11/11 14/10 38/10 38/12 38/20 43/6 43/22 45/2 45/17 51/22 52/22 53/4 56/8 56/12 56/19 56/20 60/11 60/15 72/5 72/16-73/13 73/16 75/16 79/6 83/10 86/9 95/16 95/25 96/10 104/13 106/4 106/6 109/4 110/3 110/7 111/6 114/22 118/18 120/16 133/25 135/9 149/3 150/22 151/8 157/22 157/25 158/7 160/1 160/4 160/15 162/14 163/3 174/12 184/13 184/21 185/14 186/21 193/1 194/6 205/25 226/4 <b>HONORABLE [1]</b> 1/11 <b>hoodie [1]</b> 131/13 <b>hooked [1]</b> 54/9 <b>hop [1]</b> 70/3 <b>hope [1]</b> 180/5 <b>Hopefully [1]</b> 132/10 <b>hopes [1]</b> 121/7 <b>hopped [1]</b> 137/14 <b>horn [10]</b> 28/9 41/24 114/20 117/1 121/5 121/7 121/10 130/4 130/6 130/15 <b>hospital [12]</b> 54/9 55/9 55/11 55/13 55/15 55/19 55/22 55/23 172/3 172/20 172/22 184/9 <b>hot [3]</b> 32/12 32/21 37/11 <b>hour [6]</b> 8/21 8/21 12/13 12/13 178/13 188/12 <b>hours [7]</b> 6/18 7/2 7/5 37/3 37/3 55/18 190/18 <b>house [13]</b> 51/5 52/12 52/16 52/19 54/8 54/11 54/14 59/10 59/13 64/2 64/2 65/12 110/12 <b>how [58]</b> 18/16 22/1 32/11 32/12 32/12 36/25 42/20 46/4 46/5 46/18 47/8 57/15 57/25 58/8 61/22 63/25 64/3 70/24 75/5 88/19 89/10 89/11 93/18 93/23 94/18 99/19 105/13 105/22 105/22 107/23 108/3 108/20 116/21 117/19 117/22 121/18 126/6 131/9 142/25 152/3 156/17 160/18 164/2 164/6 170/12	170/13 179/3 180/18 189/14 189/21 190/6 191/12 192/7 195/3 195/14 195/18 196/11 213/22 <b>How's [1]</b> 76/1 <b>however [3]</b> 11/12 16/4 31/21 <b>Hualapai [3]</b> 177/2 177/8 177/11 <b>Hubbard [3]</b> 194/14 194/15 194/20 <b>hug [1]</b> 31/11 <b>huh [21]</b> 33/8 58/14 60/1 60/5 63/4 63/12 77/1 78/20 78/22 116/3 118/11 126/19 136/11 136/11 136/19 140/14 141/8 143/4 145/1 178/11 185/1 <b>Huh-uh [1]</b> 63/4 <b>human [1]</b> 142/14 <b>hundred [1]</b> 35/25 <b>hundreds [1]</b> 162/9 <b>hung [1]</b> 37/7 <b>hungry [1]</b> 50/21 <b>hurried [1]</b> 71/13 <b>hurry [1]</b> 102/16 <b>hurt [1]</b> 154/18 <b>husband [3]</b> 189/15 190/7 192/22 <b>hysterically [1]</b> 92/23 <b>I</b> <b>I'd [13]</b> 17/24 46/7 49/22 64/20 84/9 96/4 108/5 111/25 112/5 153/7 175/16 187/7 210/10 <b>I'll [15]</b> 19/3 19/4 22/7 38/12 51/22 87/2 89/18 89/20 93/2 141/17 162/15 172/10 172/21 222/7 226/13 <b>I'm [124]</b> 6/20 8/25 9/15 16/2 16/4 16/5 18/20 22/7 33/3 33/5 36/7 36/8 42/6 43/22 44/4 46/5 46/6 46/10 47/24 48/8 50/8 50/11 51/17 51/25 51/25 55/25 57/21 58/1 58/17 60/4 60/4 60/9 60/16 60/17 66/25 69/14 71/10 72/4 72/20 73/18 74/3 74/11 75/6 75/9 75/13 76/15 79/12 81/17 84/23 85/18 89/1 89/17 94/12 94/18 96/7 96/17 100/4 100/10 100/15 100/24 104/13 107/21 108/4 108/19 108/22 109/4 109/9 110/3 117/21 120/10 122/23 123/18 123/19 130/19 132/3 132/3 132/3 134/6 134/24 135/13 137/8 138/12 138/15 138/22 141/15
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<p><b>I</b></p> <p><b>I'm... [39]</b> 143/10 148/1 151/21 152/4 152/10 154/23 155/23 160/19 161/6 163/12 164/16 164/20 165/13 165/14 165/22 166/2 166/16 167/21 167/21 168/25 182/25 183/1 186/9 188/13 189/22 189/22 189/23 199/19 200/7 200/14 201/8 202/20 209/9 213/14 222/7 222/10 223/9 223/9 227/6</p> <p><b>I've [4]</b> 120/8 162/10 215/13 215/13</p> <p><b>idea [5]</b> 125/13 128/19 170/20 214/24 214/25</p> <p><b>identification [1]</b> 186/22</p> <p><b>identified [7]</b> 14/18 19/7 99/11 124/9 180/16 193/11 207/18</p> <p><b>identifier [1]</b> 164/1</p> <p><b>identifies [1]</b> 163/25</p> <p><b>identify [1]</b> 162/24</p> <p><b>idle [1]</b> 15/18</p> <p><b>if [138]</b> 6/12 7/3 7/7 7/18 7/24 8/23 9/11 9/12 10/3 10/5 11/4 12/12 12/18 12/19 13/23 20/4 20/10 20/23 21/19 22/21 24/25 28/15 29/9 35/20 35/21 35/23 38/4 40/23 42/21 44/21 44/21 45/20 47/12 47/15 48/23 49/10 52/23 53/11 55/12 56/14 57/13 59/9 59/24 61/4 61/6 62/7 68/18 69/15 71/15 75/12 76/17 77/22 78/16 81/4 81/13 82/10 82/21 83/2 85/13 86/12 95/11 100/4 100/14 100/24 103/11 103/20 104/20 105/8 109/8 110/2 110/5 117/21 118/6 118/19 119/11 120/8 122/21 126/7 126/11 126/24 128/22 132/24 133/17 133/25 136/14 136/22 137/8 139/22 143/1 143/5 143/10 143/25 145/9 149/18 153/24 154/6 158/21 161/10 161/13 161/17 162/9 162/14 166/18 173/16 177/9 177/15 178/18 179/19 179/19 180/24 182/16 182/23 189/25 193/13 197/5 199/9 199/17 199/21 204/22 205/22 208/4 209/9 209/10 210/4 214/1 215/8 215/18 217/2 217/13</p>	<p>218/18 16 218/21 219/24 221/9 221/24 222/14 222/21 225/18</p> <p><b>II [1]</b> 1/6</p> <p><b>imagine [6]</b> 42/8 86/17 125/10 127/2 132/5 132/7</p> <p><b>immediate [1]</b> 126/13</p> <p><b>immediately [8]</b> 23/22 28/17 28/19 55/10 142/6 180/1 180/19 203/19</p> <p><b>important [4]</b> 8/12 41/17 42/12 42/20</p> <p><b>in [400]</b></p> <p><b>inappropriate [1]</b> 9/7</p> <p><b>INC [1]</b> 1/25</p> <p><b>inches [1]</b> 24/4</p> <p><b>incident [3]</b> 82/6 197/11 198/22</p> <p><b>include [1]</b> 7/3</p> <p><b>included [1]</b> 49/18</p> <p><b>including [5]</b> 30/9 44/11 110/20 159/5 226/19</p> <p><b>indicate [2]</b> 193/22 193/25</p> <p><b>indicated [32]</b> 15/15 23/25 29/6 75/11 77/12 99/20 102/10 102/12 104/2 108/23 109/15 125/3 144/18 144/24 145/6 146/9 146/11 147/3 148/6 181/14 203/18 203/21 204/12 205/3 210/18 214/16 216/2 216/3 216/23 223/16 223/22 224/22</p> <p><b>indicating [1]</b> 143/17</p> <p><b>indiscernible [17]</b> 12/24 21/24 33/2 34/5 58/9 59/18 62/22 65/13 69/18 106/17 106/20 106/22 108/22 146/8 158/12 158/14 158/19</p> <p><b>individual [23]</b> 19/7 29/4 37/9 97/14 115/14 115/20 115/21 121/10 121/19 128/9 129/8 129/12 131/18 154/18 185/17 186/15 188/3 190/24 206/13 208/15 216/22 221/2 221/15</p> <p><b>individuals [12]</b> 18/8 22/25 25/7 41/22 116/12 128/12 201/15 205/23 207/18 207/20 219/14 220/8</p> <p><b>indulgence [7]</b> 72/14 74/23 79/8 134/1 142/16 202/18 213/13</p> <p><b>Industrial [1]</b> 134/18</p> <p><b>influencing [1]</b> 157/3</p> <p><b>information [13]</b> 16/17 44/11 110/20 132/18 154/25 157/8 159/5 190/23 200/12 201/5 210/13 211/11 226/19</p> <p><b>ingredients [1]</b> 52/10</p>	<p><b>initial [4]</b> 157/15 177/3 179/5 179/24</p> <p><b>initially [5]</b> 17/6 22/1 156/18 164/17 180/9</p> <p><b>injuries [17]</b> 30/8 164/25 166/16 166/19 166/20 166/24 173/6 173/23 182/14 182/16 182/24 183/6 183/8 183/19 183/22 183/24 184/2</p> <p><b>injury [8]</b> 169/14 169/17 171/18 171/20 180/3 183/10 183/12 196/18</p> <p><b>inside [17]</b> 19/16 28/16 31/1 80/8 80/9 84/17 92/17 97/2 97/3 105/24 106/2 118/14 131/21 165/19 167/13 206/25 218/6</p> <p><b>instance [1]</b> 203/24</p> <p><b>instantaneous [1]</b> 121/22</p> <p><b>instructed [2]</b> 198/6 200/22</p> <p><b>insult [1]</b> 42/7</p> <p><b>intelligence [1]</b> 42/7</p> <p><b>intend [1]</b> 33/24</p> <p><b>intentional [1]</b> 174/3</p> <p><b>interaction [2]</b> 28/11 174/3</p> <p><b>interactions [1]</b> 16/8</p> <p><b>interfacility [1]</b> 176/2</p> <p><b>interior [1]</b> 31/4</p> <p><b>internal [7]</b> 164/13 165/9 165/11 166/11 166/15 166/20 171/22</p> <p><b>Internet [6]</b> 44/12 110/21 159/6 200/16 200/17 226/20</p> <p><b>interpreted [1]</b> 104/4</p> <p><b>interpreter [6]</b> 1/22 83/18 83/19 84/23 89/1 91/14</p> <p><b>intersection [13]</b> 17/9 19/2 26/21 28/1 77/7 113/24 126/2 135/3 136/2 154/8 157/17 199/5 202/23</p> <p><b>intersects [2]</b> 100/13 100/21</p> <p><b>intervening [1]</b> 162/8</p> <p><b>intervention [2]</b> 168/17 172/24</p> <p><b>interview [11]</b> 95/13 122/6 144/6 144/7 144/12 144/14 145/22 147/1 155/19 190/15 192/1</p> <p><b>interviewed [1]</b> 190/11</p> <p><b>into [53]</b> 14/21 14/21 15/2 15/5 17/23 19/8 20/11 20/23 30/4 30/14 30/22 31/15 35/16 68/1 68/3 69/20 70/3 70/9 70/20 70/24 72/24 77/24 91/9 92/1 92/4 92/8 93/13 95/16 96/21</p>	<p>10/11 114/3 114/20 115/18 115/21 117/20 118/5 121/15 121/17 123/5 125/16 131/19 131/23 135/10 137/8 137/15 137/21 137/24 155/16 156/9 181/18 206/8 214/18 216/17</p> <p><b>introduce [1]</b> 33/24</p> <p><b>intubated [1]</b> 181/21</p> <p><b>Intubation [1]</b> 181/24</p> <p><b>investigate [1]</b> 156/8</p> <p><b>investigating [1]</b> 156/7</p> <p><b>investigation [8]</b> 155/5 155/7 198/1 198/10 205/13 211/8 211/25 217/25</p> <p><b>investigator's [2]</b> 164/9 164/12</p> <p><b>investigators [1]</b> 201/6</p> <p><b>involve [1]</b> 155/7</p> <p><b>involved [3]</b> 128/23 198/21 208/24</p> <p><b>involvement [1]</b> 193/14</p> <p><b>IP [1]</b> 200/16</p> <p><b>iPad [72]</b> 14/13 14/20 14/23 15/1 15/3 15/4 15/7 16/3 16/19 16/20 16/24 17/1 17/22 17/25 18/1 18/3 18/4 27/18 29/14 31/6 34/24 35/1 35/1 35/8 35/11 35/19 35/22 35/24 36/5 36/18 37/4 37/9 37/11 37/13 37/15 41/3 47/11 47/13 47/14 47/17 48/5 48/12 48/17 48/18 49/11 49/12 49/14 52/15 53/22 65/6 65/8 65/8 65/10 66/5 66/8 74/5 81/11 81/21 90/8 90/16 90/23 93/17 97/10 97/15 99/16 103/4 106/2 107/9 108/4 108/24 109/16 148/3</p> <p><b>is [434]</b></p> <p><b>isn't [1]</b> 37/20</p> <p><b>issue [9]</b> 5/23 8/20 10/6 12/17 33/19 33/20 39/5 180/12 180/43</p> <p><b>issues [2]</b> 47/7 158/21</p> <p><b>it [382]</b></p> <p><b>it'll [1]</b> 30/21</p> <p><b>it's [102]</b> 6/12 7/4 7/5 8/6 8/12 10/1 11/4 12/5 12/5 17/2 20/15 24/25 25/23 31/4 31/11 32/3 32/10 32/21 35/17 39/2 40/1 41/15 41/17 48/12 50/3 51/21 53/13 70/19 73/16 74/1 75/18 76/14 76/17 80/7 80/7 81/4 81/5 81/5 85/11 85/14 86/16 94/17 94/20 97/25 98/24 100/14 106/20 110/5 113/15 118/3 120/17 126/11 134/25 140/11 141/16 145/17 149/25 153/15</p>	<p>154/17 154/23 155/24 157/16 161/13 162/4 163/25 167/1 167/3 167/10 168/5 169/13 169/13 169/13 172/1 172/1 173/16 174/2 178/24 179/1 189/24 192/17 192/17 199/22 201/13 203/7 204/11 206/1 206/3 207/25 208/9 209/20 209/23 209/25 209/25 210/9 214/18 214/18 218/22 218/24 220/19 223/9 223/17 223/25</p> <p><b>items [1]</b> 55/6</p> <p><b>its [2]</b> 21/10 64/7</p> <p><b>itself [1]</b> 20/6</p> <p><b>Ivan [14]</b> 16/19 16/24 17/7 17/8 17/18 17/25 29/19 29/21 43/8 43/10 43/16 71/14 71/18 71/20</p> <p><b>Ivie [2]</b> 189/2 190/14</p> <p><b>J</b></p> <p><b>J-o-n-e-s [1]</b> 185/11</p> <p><b>Jack [9]</b> 19/24 22/6 60/7 60/25 61/2 61/10 210/23 211/3 211/9</p> <p><b>Jacob [29]</b> 14/17 14/19 14/20 14/24 15/3 15/5 15/19 18/8 18/11 18/16 18/17 19/8 20/3 20/8 21/6 22/14 25/13 26/10 27/18 27/20 28/18 29/13 30/19 31/2 32/9 34/24 191/9 191/12 191/20</p> <p><b>Janie [1]</b> 227/19</p> <p><b>JD [1]</b> 1/25</p> <p><b>JEANETTE [1]</b> 1/22</p> <p><b>jeans [1]</b> 89/4</p> <p><b>Jefe's [4]</b> 79/23 80/3 120/17 120/23</p> <p><b>JESS [1]</b> 1/20 38/25</p> <p><b>JESSICA [1]</b> 1/24</p> <p><b>jibe [1]</b> 204/19</p> <p><b>job [3]</b> 173/8 196/24 217/20</p> <p><b>Jones [7]</b> 152/22 184/23 185/5 185/10 185/12 185/17 194/10</p> <p><b>JUDGE [6]</b> 1/11 11/24 32/23 51/17 141/15 189/22</p> <p><b>judicial [1]</b> 5/22</p> <p><b>jumped [1]</b> 36/17</p> <p><b>jurisdiction [1]</b> 161/10</p> <p><b>juror [13]</b> 5/18 5/22 7/12 7/21 8/7 9/1 9/4 9/5 13/14 106/10 106/16 106/22 107/6</p> <p><b>juror's [1]</b> 109/5</p> <p><b>jurors [1]</b> 11/18</p> <p><b>jury [58]</b> 1/14 5/3 5/20 5/24 6/13 7/23 8/12 9/18 10/13 12/4 12/23 13/4 13/7 13/9 13/18</p>
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<p><b>J</b></p> <p><b>jury... [43]</b> 14/2 15/13 16/13 37/21 37/22 38/24 42/18 44/17 45/1 45/12 45/13 45/15 56/13 83/11 86/13 86/25 91/12 106/7 110/25 111/2 111/4 113/17 116/4 122/8 133/8 150/23 155/10 158/1 158/20 159/10 159/11 159/22 159/24 161/9 174/13 179/12 184/14 194/7 203/5 208/4 226/5 226/25 227/1</p> <p><b>jury's [1]</b> 10/17</p> <p><b>just [148]</b> 8/14 9/13 9/21 9/23 10/6 10/7 10/16 10/19 10/23 11/3 12/3 12/4 12/12 13/17 18/11 19/18 21/25 22/8 23/21 28/20 30/1 30/16 32/14 34/24 36/8 36/17 36/20 40/10 41/12 42/1 44/4 45/20 46/19 47/14 49/2 50/8 50/11 50/14 51/4 53/11 57/20 61/10 66/18 67/7 68/11 68/23 69/1 69/2 70/16 70/23 71/10 75/1 75/9 78/2 78/17 83/4 85/18 87/2 93/2 93/6 95/24 96/4 97/5 98/24 99/7 100/12 100/14 101/1 102/18 107/8 107/17 107/24 112/22 113/8 114/3 115/15 116/22 116/25 118/3 118/16 119/2 119/2 119/6 119/9 120/4 123/18 124/9 125/22 126/14 126/22 128/25 130/5 130/8 130/9 130/12 131/4 132/12 134/8 134/19 134/20 137/19 140/18 143/1 145/10 145/22 149/25 155/10 158/13 159/14 159/16 165/13 166/7 167/1 167/6 169/11 175/24 177/10 181/1 181/2 183/6 188/12 189/23 189/24 189/25 193/3 193/3 193/10 193/11 193/14 198/8 199/5 201/8 206/18 206/21 206/25 208/4 209/15 209/16 210/3 210/10 211/4 215/18 217/3 217/21 222/15 223/7 224/19 225/21</p> <p><b>K</b></p> <p><b>K-e-i-t-h [1]</b> 151/21</p> <p><b>Karyn [1]</b> 34/20</p> <p><b>keep [12]</b> 36/5 42/15 65/12 69/14 71/10 93/7</p>	<p>139/11 49/11 155/15 210/3 216/15 218/21</p> <p><b>Keith [4]</b> 151/11 151/12 151/16 151/21</p> <p><b>Kenneally [1]</b> 9/19</p> <p><b>kept [6]</b> 54/23 69/2 119/9 178/24 181/1 181/2</p> <p><b>key [2]</b> 68/12 112/24</p> <p><b>keyboards [1]</b> 48/25</p> <p><b>kid [8]</b> 16/4 36/14 37/7 37/7 37/10 53/17 53/18 91/5</p> <p><b>kidnappings [1]</b> 196/21</p> <p><b>kids [2]</b> 72/9 158/15</p> <p><b>KIERNY [1]</b> 1/11</p> <p><b>killed [3]</b> 14/16 71/11 73/4</p> <p><b>kind [52]</b> 18/3 18/25 20/17 20/19 22/23 23/13 23/19 29/8 49/5 55/1 62/17 62/20 70/19 76/16 79/11 81/10 86/18 94/14 98/8 108/12 112/22 114/18 115/14 116/1 116/7 116/23 116/25 118/16 118/19 120/17 121/23 126/22 129/11 131/13 137/4 137/6 139/23 139/24 140/5 140/18 155/18 160/21 168/2 192/11 192/17 201/16 202/22 203/5 207/22 207/25 208/15 209/14</p> <p><b>KIRKPATRICK [1]</b> 1/24</p> <p><b>knee [5]</b> 165/18 165/19 165/21 166/1 183/14</p> <p><b>knew [14]</b> 15/17 15/22 27/5 30/13 37/21 54/18 145/10 180/23 188/3 189/14 193/11 198/11 205/13 208/24</p> <p><b>knife [1]</b> 169/17</p> <p><b>know [136]</b> 5/4 5/22 6/9 6/10 7/2 7/19 8/6 9/20 11/3 11/5 12/7 15/15 15/23 16/1 17/12 18/5 20/23 21/3 21/16 21/19 22/21 23/21 23/22 23/25 26/24 30/2 30/5 31/23 36/25 36/25 40/25 49/6 49/16 50/4 50/5 50/9 50/11 50/13 50/23 50/24 51/3 51/6 52/13 54/17 54/23 56/6 58/8 67/16 68/16 68/23 69/18 71/5 71/5 71/21 76/15 81/11 91/10 93/17 95/9 95/11 98/24 100/14 107/10 109/25 110/5 113/19 116/21 117/21 117/21 119/10 119/13 119/13 119/24 120/8 121/3 121/9 121/12 122/8 126/7 126/8 126/11 128/12 128/16 129/25 130/11</p>	<p>130/12 131/9 136/6 137/5 137/8 138/7 140/3 142/8 143/25 144/1 144/2 145/9 146/8 148/4 148/20 155/24 158/13 168/20 178/13 185/17 186/16 187/2 187/5 190/22 191/6 191/10 191/17 192/17 192/19 193/13 201/6 202/1 206/13 208/4 208/5 210/4 211/5 211/8 213/6 216/25 217/7 223/1 224/2 224/4 224/6 224/13 224/18 224/18 224/20 225/6 225/18</p> <p><b>knowing [2]</b> 188/7 210/13</p> <p><b>knowledge [6]</b> 15/22 16/12 27/1 30/12 198/24 202/1</p> <p><b>knows [1]</b> 10/17</p> <p><b>L</b></p> <p><b>label [2]</b> 21/8 162/24</p> <p><b>labeled [2]</b> 85/25 86/16</p> <p><b>laboratory [1]</b> 161/19</p> <p><b>laceration [1]</b> 168/15</p> <p><b>lack [2]</b> 129/18 167/8</p> <p><b>ladies [18]</b> 16/13 38/24 42/12 56/13 83/11 91/12 96/10 106/7 110/14 113/17 133/8 150/23 158/1 161/8 174/13 184/14 194/7 226/5</p> <p><b>lady [1]</b> 130/12</p> <p><b>laid [1]</b> 39/7</p> <p><b>Lakeman [1]</b> 29/4</p> <p><b>land [1]</b> 93/10</p> <p><b>landing [1]</b> 122/15</p> <p><b>lane [49]</b> 15/19 26/23 27/21 29/1 29/2 29/9 29/9 29/11 29/24 30/15 30/16 67/17 73/12 73/24 76/23 77/4 91/17 104/6 113/11 113/12 113/21 114/3 114/5 123/22 124/11 124/14 124/15 125/17 132/14 136/15 136/16 136/17 136/18 143/14 143/14 143/14 143/15 144/1 146/12 146/13 146/13 146/14 146/15 146/16 146/16 146/17 146/19 146/20 177/3</p> <p><b>lanes [2]</b> 99/23 100/16</p> <p><b>laptop [2]</b> 46/23 46/24</p> <p><b>large [4]</b> 31/4 155/23 156/12 166/1</p> <p><b>larger [2]</b> 137/20 137/24</p> <p><b>LAS [10]</b> 4/8 30/23 39/25 125/11 152/4 157/18 181/12 195/4 195/13 195/14</p> <p><b>Las Vegas [4]</b> 39/25</p>	<p>123/11 95/4 195/13</p> <p><b>last [16]</b> 6/23 26/12 42/18 43/14 57/2 57/4 84/1 111/15 133/18 151/20 160/10 170/24 173/1 174/25 185/9 194/19</p> <p><b>late [3]</b> 12/6 50/8 50/10</p> <p><b>later [9]</b> 28/5 36/8 64/20 71/24 89/21 146/2 183/14 183/16 199/24</p> <p><b>lateral [1]</b> 165/25</p> <p><b>Lawrence [1]</b> 106/23</p> <p><b>lay [4]</b> 14/16 15/8 15/11 50/15</p> <p><b>layers [1]</b> 120/5</p> <p><b>laying [3]</b> 30/7 54/22 119/24</p> <p><b>lead [3]</b> 20/11 39/20 156/9</p> <p><b>leading [3]</b> 26/9 189/23 189/24</p> <p><b>leaning [1]</b> 118/17</p> <p><b>learn [2]</b> 21/16 28/5</p> <p><b>learned [4]</b> 120/8 128/16 182/8 211/7</p> <p><b>least [5]</b> 61/6 69/6 113/16 126/23 131/22</p> <p><b>leave [8]</b> 8/22 9/21 9/24 35/24 52/11 110/11 120/10 157/11</p> <p><b>leaves [7]</b> 20/19 22/10 22/14 24/5 218/24 223/4 223/12</p> <p><b>leaving [4]</b> 22/14 24/6 36/24 148/12</p> <p><b>Leavitt [1]</b> 11/24</p> <p><b>led [1]</b> 59/4</p> <p><b>Lee's [1]</b> 63/8</p> <p><b>leeway [1]</b> 109/12</p> <p><b>left [63]</b> 8/1 8/2 16/9 17/7 19/1 22/18 25/3 26/22 26/23 30/5 30/15 52/16 52/19 54/3 54/5 54/11 76/22 77/4 78/14 78/25 99/8 99/12 100/12 104/6 113/6 113/11 113/12 113/21 114/2 114/3 120/17 123/10 123/21 124/11 124/14 125/17 127/20 127/21 143/14 143/15 146/12 146/13 146/16 164/23 165/4 165/5 165/6 165/21 165/25 166/1 166/5 177/11 179/1 184/1 201/20 208/6 221/11 221/15 221/18 222/10 223/15 224/9 224/10</p> <p><b>left-hand [9]</b> 19/1 76/22 77/4 113/11 113/12 146/12 146/13 146/16 208/6</p> <p><b>legal [1]</b> 187/2</p> <p><b>legs [1]</b> 119/5</p> <p><b>lengths [1]</b> 34/6</p> <p><b>leopard [1]</b> 49/6</p>	<p><b>let [33]</b> 5/4 5/22 6/9 7/19 7/23 9/20 9/20 13/1 13/21 16/17 16/25 18/20 35/21 35/23 68/16 70/14 70/18 70/19 71/4 71/5 71/21 95/2 103/24 117/23 119/6 125/12 142/9 150/10 158/13 186/21 208/1 208/4 210/4</p> <p><b>let's [16]</b> 44/3 45/12 50/13 50/24 50/24 62/8 87/16 99/2 100/10 107/20 112/22 115/15 120/11 130/20 158/20 203/14</p> <p><b>lettering [1]</b> 22/6</p> <p><b>letting [2]</b> 114/19 116/7</p> <p><b>LEVENTHAL [19]</b> 1/20 2/11 2/15 2/17 2/23 3/9 3/12 11/20 38/25 40/8 45/4 75/7 82/1 83/9 98/3 104/11 106/5 107/16 213/21</p> <p><b>Licari [1]</b> 34/20</p> <p><b>license [5]</b> 34/19 34/20 122/1 127/10 132/19</p> <p><b>lie [3]</b> 69/10 71/16 78/8</p> <p><b>life [5]</b> 14/14 23/25 55/20 168/18 181/24</p> <p><b>lifting [1]</b> 50/1</p> <p><b>light [11]</b> 35/17 135/22 135/23 135/24 135/25 136/9 143/6 143/18 153/22 153/24 168/4</p> <p><b>lights [3]</b> 30/2 176/17 177/20</p> <p><b>like [115]</b> 8/14 11/5 17/24 18/11 23/21 25/23 30/2 33/8 33/9 36/7 36/8 36/8 36/9 36/10 36/16 36/16 36/20 36/21 36/23 36/23 37/1 37/2 38/4 38/5 38/5 41/7 46/7 46/16 48/15 48/22 48/23 49/1 49/5 49/22 50/22 51/3 52/20 52/24 54/18 55/17 55/23 58/1 58/3 59/22 60/21 61/15 61/18 62/8 63/11 66/4 68/8 68/16 69/25 70/8 70/8 70/19 71/11 76/4 76/17 80/7 80/14 80/16 80/18 81/1 81/5 82/15 84/9 89/11 90/8 96/4 98/25 102/16 107/2 111/25 112/5 116/2 116/5 116/6 118/16 118/16 118/21 120/6 120/17 120/25 121/12 121/24 124/13 126/10 128/23 132/8 139/24 145/17 145/17 150/12 152/11 153/7 165/5 169/17 172/2 175/16 176/14 185/2 187/2 187/7 187/19 198/8 199/6 199/22 200/18</p>
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<p><b>L</b></p> <p><b>like...</b> [6] 210/1 210/10 211/4 214/8 219/3 224/7</p> <p><b>liked</b> [1] 47/15</p> <p><b>likely</b> [1] 170/6</p> <p><b>limitation</b> [4] 44/12 110/21 159/6 226/20</p> <p><b>line</b> [5] 11/5 41/8 42/1 77/22 199/21</p> <p><b>link</b> [1] 40/16</p> <p><b>lipreading</b> [1] 116/23</p> <p><b>lips</b> [1] 129/21</p> <p><b>liquor</b> [3] 63/8 63/11 64/3</p> <p><b>list</b> [1] 52/3</p> <p><b>listed</b> [1] 170/24</p> <p><b>listen</b> [9] 18/1 42/15 44/9 49/20 52/21 110/18 159/3 181/2 226/17</p> <p><b>listening</b> [1] 68/17</p> <p><b>little</b> [60] 8/24 10/14 16/22 17/4 19/23 19/25 20/1 21/3 22/8 22/18 25/22 33/23 35/17 41/7 44/20 46/22 46/22 48/16 54/13 62/21 62/23 63/13 65/20 66/3 67/16 69/25 71/13 71/24 73/8 80/24 80/25 81/3 81/3 81/9 81/24 86/5 87/13 87/16 88/22 94/20 96/7 98/23 99/3 99/17 99/23 100/10 110/1 110/1 110/6 114/2 135/5 138/19 141/2 147/10 149/19 168/23 183/20 187/18 189/24 226/12</p> <p><b>live</b> [4] 51/8 59/21 134/20 186/10</p> <p><b>lived</b> [5] 59/22 59/22 59/23 64/4 186/9</p> <p><b>liver</b> [2] 168/15 171/10</p> <p><b>lives</b> [1] 64/1</p> <p><b>living</b> [2] 185/25 186/2</p> <p><b>lo</b> [1] 37/14</p> <p><b>loan</b> [1] 47/18</p> <p><b>local</b> [1] 197/23</p> <p><b>locate</b> [2] 153/3 205/20</p> <p><b>located</b> [9] 84/11 92/19 100/16 112/18 186/2 199/3 203/6 207/3 211/16</p> <p><b>locating</b> [1] 212/8</p> <p><b>location</b> [8] 26/16 27/7 28/25 152/21 154/4 154/20 197/12 210/23</p> <p><b>locked</b> [1] 129/11</p> <p><b>logged</b> [1] 34/22</p> <p><b>logic</b> [1] 41/5</p> <p><b>long</b> [10] 11/12 25/23 41/15 55/11 121/18 126/6 126/8 137/17 137/19 195/14</p> <p><b>longer</b> [7] 10/14 25/23 35/17 42/4 42/6 180/17</p>	<p>181/1</p> <p><b>look</b> [27] 17/23 20/15 20/15 27/2 30/17 37/13 37/22 38/3 47/15 48/23 53/11 56/4 69/5 87/6 89/8 107/2 134/8 147/20 148/2 177/10 179/25 182/18 203/22 204/5 210/22 215/10 215/10</p> <p><b>looked</b> [11] 22/1 22/23 28/2 34/11 65/22 101/6 116/5 116/15 116/23 164/12 179/1</p> <p><b>looking</b> [45] 16/12 19/16 20/2 20/7 21/3 22/2 22/19 23/10 62/15 62/17 62/20 68/9 69/2 73/8 101/7 101/10 105/10 105/14 105/16 129/12 138/16 139/15 139/18 140/17 147/22 163/13 163/14 163/17 164/21 164/23 165/24 165/25 166/3 166/4 166/7 166/14 166/16 201/22 205/18 205/22 207/8 209/9 219/17 222/10 223/9</p> <p><b>looks</b> [13] 30/6 30/7 38/4 48/23 49/5 50/7 60/21 76/4 134/5 165/5 210/1 211/5 219/23</p> <p><b>lose</b> [1] 20/17</p> <p><b>lot</b> [20] 10/25 14/24 15/16 21/7 21/9 39/8 39/13 39/17 43/22 50/22 58/10 58/11 134/25 145/16 146/1 149/10 200/15 205/3 209/16 211/23</p> <p><b>loud</b> [1] 52/25</p> <p><b>Louis</b> [1] 161/5</p> <p><b>Low</b> [1] 68/12</p> <p><b>Low-key</b> [1] 68/12</p> <p><b>lower</b> [3] 182/17 182/18 182/20</p> <p><b>lucky</b> [1] 29/22</p> <p><b>lunch</b> [1] 110/15</p> <p><b>lungs</b> [1] 169/5</p> <p><b>M</b></p> <p><b>ma'am</b> [28] 111/25 124/23 135/17 152/17 152/23 153/9 153/13 153/23 155/2 155/5 155/9 156/2 156/4 156/6 156/11 156/14 156/23 156/25 157/10 157/20 158/6 175/10 184/12 184/17 187/7 187/12 202/14 213/4</p> <p><b>made</b> [15] 6/3 9/14 33/15 34/23 35/10 50/2 91/1 91/25 95/14 122/3 129/17 135/17 173/24 199/14 205/13</p> <p><b>mail</b> [1] 12/18</p> <p><b>main</b> [1] 198/10</p>	<p><b>mainly</b> [1] 39/22</p> <p><b>make</b> [29] 5/5 5/6 7/8 7/19 9/8 10/23 17/19 20/17 23/2 26/24 30/5 37/12 38/6 47/22 50/4 50/19 55/9 102/11 116/14 117/2 117/3 123/21 124/11 124/25 125/17 139/3 161/16 198/25 199/23</p> <p><b>makes</b> [4] 16/18 28/7 29/21 78/25</p> <p><b>makeup</b> [1] 9/1</p> <p><b>making</b> [8] 19/12 21/10 32/12 39/6 78/14 116/13 180/8 208/16</p> <p><b>male</b> [60] 27/22 28/3 28/4 28/10 28/13 28/17 69/3 69/4 88/15 88/16 89/7 89/10 96/21 97/14 99/17 100/1 102/12 102/14 103/4 106/24 115/15 115/21 116/12 117/3 117/20 118/5 120/13 121/14 121/14 121/17 122/12 122/14 122/15 123/5 123/5 127/25 128/3 128/6 128/7 128/10 129/2 131/18 132/25 145/7 145/7 145/11 146/8 190/24 191/2 191/4 206/24 207/4 207/12 208/12 208/20 209/2 209/2 216/23 217/3 223/4</p> <p><b>males</b> [1] 219/13</p> <p><b>malfunctioning</b> [1] 94/20</p> <p><b>Mall</b> [1] 134/17</p> <p><b>mama</b> [2] 54/23 71/5</p> <p><b>man</b> [9] 14/21 36/8 42/4 64/5 106/25 107/9 108/4 109/16 122/9</p> <p><b>management</b> [1] 200/19</p> <p><b>manager</b> [5] 6/8 199/1 199/14 199/25 205/14</p> <p><b>manner</b> [8] 119/12 173/9 173/12 173/12 173/14 173/19 173/21 173/24</p> <p><b>manners</b> [2] 173/15 173/16</p> <p><b>manually</b> [1] 180/3</p> <p><b>many</b> [8] 11/14 39/25 41/6 99/19 156/17 190/6 195/18 196/11</p> <p><b>map</b> [15] 24/1 26/8 61/20 62/12 63/9 67/10 67/18 75/12 85/21 94/14 112/22 153/8 153/10 154/7 177/10</p> <p><b>maps</b> [2] 25/2 134/6</p> <p><b>March</b> [5] 46/7 46/10 46/11 46/11 46/18</p> <p><b>March 24</b> [1] 46/10</p> <p><b>MARCHESE</b> [7] 1/20 2/3 2/20 33/2 38/21</p>	<p>38/1 38/4</p> <p><b>Marcos</b> [125] 14/14 14/15 14/25 15/2 15/6 15/8 15/11 16/8 16/9 16/21 17/3 17/5 17/7 17/11 17/14 17/18 17/22 17/23 17/25 18/2 18/11 18/14 19/20 20/8 21/5 23/8 26/10 26/19 27/19 27/19 27/19 28/5 28/7 28/12 28/15 28/21 29/17 29/18 29/21 29/22 30/7 30/9 30/20 30/24 31/3 31/7 31/14 34/14 34/24 35/12 37/4 46/10 46/17 47/6 47/17 48/3 48/5 49/23 50/16 50/20 50/20 50/25 52/1 52/15 53/16 54/5 54/21 54/25 55/4 56/4 58/6 58/8 58/20 59/2 59/3 59/4 61/13 61/16 62/3 63/7 63/16 65/8 65/18 66/5 66/7 66/14 67/23 68/3 68/6 70/2 70/10 70/18 72/13 73/2 73/3 74/4 74/10 76/11 77/13 77/17 77/18 77/22 78/9 78/18 81/8 81/19 82/2 82/9 82/22 106/17 107/7 107/8 107/10 107/22 109/14 162/21 164/4 182/8 182/11 184/5 201/16 219/15 220/24 221/11 224/24</p> <p><b>Marcos's</b> [7] 16/24 26/15 29/12 35/1 37/15 81/11 109/16</p> <p><b>mark</b> [1] 54/9</p> <p><b>marked</b> [12] 47/24 48/7 52/7 55/25 75/13 97/12 112/20 152/16 182/25 189/4 200/7 202/20</p> <p><b>market</b> [9] 19/23 19/25 22/5 22/6 24/3 24/7 24/9 24/9 24/12</p> <p><b>marks</b> [2] 30/9 183/25</p> <p><b>marshal</b> [1] 106/12</p> <p><b>material</b> [1] 131/14</p> <p><b>math</b> [2] 58/4 195/21</p> <p><b>matter</b> [2] 40/15 148/22</p> <p><b>may</b> [67] 1/12 5/1 8/20 10/24 10/25 14/5 14/9 17/3 17/16 31/20 32/15 32/18 32/23 33/12 33/22 34/13 34/25 35/3 35/16 43/5 43/6 44/18 44/18 45/19 49/23 57/7 58/5 58/17 59/3 60/14 67/5 74/21 84/10 84/13 85/16 86/9 107/24 111/7 111/8 111/25 115/8 123/16 125/3 134/10 135/18 152/6 152/13 160/2 160/3 163/7 174/19 175/16 175/17 176/7 176/21 185/23 186/10 187/8</p>	<p>190/11 190/11 194/13 195/9 196/1 196/9 197/8 201/13 204/11</p> <p><b>May 16</b> [2] 74/21 135/18</p> <p><b>May 16th</b> [7] 125/3 152/13 176/21 195/9 196/1 196/9 197/8</p> <p><b>May 22nd</b> [1] 190/11</p> <p><b>maybe</b> [22] 8/20 8/21 8/22 8/23 12/8 12/8 12/12 22/23 81/23 87/2 102/11 120/8 128/1 130/11 131/13 131/23 132/10 142/6 157/2 178/24 178/25 224/19</p> <p><b>McDonald's</b> [4] 62/1 199/6 201/24 211/4</p> <p><b>MD</b> [1] 160/23</p> <p><b>me</b> [83] 5/22 6/3 6/9 6/9 7/11 13/21 16/17 20/18 23/17 35/20 35/20 35/21 35/22 35/22 35/25 36/7 36/9 36/16 36/21 47/9 50/4 50/7 54/18 55/1 55/12 55/13 55/17 55/17 58/4 59/9 62/9 65/5 68/8 68/17 69/17 71/9 72/13 73/2 74/20 81/13 81/14 82/23 90/1 90/5 95/2 95/15 97/16 99/15 100/8 103/24 104/20 105/5 108/11 112/21 114/7 116/9 116/16 116/23 119/1 127/12 129/14 129/15 130/5 130/17 134/7 137/5 137/5 137/6 142/9 143/23 150/10 150/17 154/2 160/25 172/8 180/23 180/25 181/1 182/23 183/9 202/11 203/2 212/3</p> <p><b>meal</b> [5] 50/4 50/6 50/7 50/9 50/10</p> <p><b>mean</b> [29] 8/21 8/23 12/8 12/9 29/10 38/4 57/15 60/3 63/12 63/22 63/25 64/19 66/2 77/25 81/13 82/19 88/18 119/15 121/7 121/21 126/10 142/13 150/1 152/8 169/11 169/12 174/1 183/19 191/18</p> <p><b>meandering</b> [2] 134/20 134/21</p> <p><b>meaning</b> [10] 32/2 66/4 117/3 118/1 130/19 147/4 155/4 161/11 198/13 213/3</p> <p><b>means</b> [2] 7/1 155/11</p> <p><b>measure</b> [1] 89/19</p> <p><b>measurement</b> [1] 88/18</p> <p><b>measurements</b> [2] 89/17 89/21</p> <p><b>media</b> [5] 12/24 12/25 13/17 212/25 213/7</p>
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<p><b>M</b></p> <p><b>medial [1]</b> 166/5</p> <p><b>median [8]</b> 29/10 30/4 78/19 116/8 120/22 120/24 179/10 179/18</p> <p><b>medical [18]</b> 158/11 158/12 158/17 160/19 160/22 161/1 161/5 161/9 161/23 162/9 162/21 162/23 168/2 168/17 169/1 175/21 176/1 176/3</p> <p><b>medications [1]</b> 172/24</p> <p><b>medium [5]</b> 44/11 88/20 110/20 159/5 226/19</p> <p><b>meds [1]</b> 172/21</p> <p><b>meet [5]</b> 23/21 31/21 47/6 47/9 47/10</p> <p><b>meeting [1]</b> 164/8</p> <p><b>members [2]</b> 13/1 13/17</p> <p><b>Memories [1]</b> 147/10</p> <p><b>memorizing [1]</b> 18/22</p> <p><b>memory [3]</b> 126/23 146/1 172/21</p> <p><b>men [1]</b> 72/23</p> <p><b>mentioned [10]</b> 19/3 25/9 73/11 79/18 166/10 166/19 170/8 171/22 172/10 172/12</p> <p><b>message [1]</b> 32/18</p> <p><b>messages [3]</b> 32/6 32/17 34/16</p> <p><b>met [3]</b> 58/9 59/8 98/18</p> <p><b>Metro [6]</b> 152/14 155/21 188/9 188/21 195/13 196/13</p> <p><b>Metropolitan [5]</b> 30/23 144/12 152/4 195/4 195/15</p> <p><b>MICHAEL [16]</b> 1/8 1/8 14/7 14/12 14/22 18/9 18/16 18/18 19/7 29/7 31/17 187/5 188/6 191/19 215/24 218/9</p> <p><b>microphone [1]</b> 57/21</p> <p><b>mid [1]</b> 86/19</p> <p><b>mid-sidewalk [1]</b> 86/19</p> <p><b>middle [12]</b> 29/1 59/6 59/23 61/15 67/17 136/16 136/17 136/17 146/14 146/15 146/16 146/17</p> <p><b>might [9]</b> 21/20 41/7 42/2 75/13 101/11 103/23 154/5 174/7 198/8</p> <p><b>Mike [5]</b> 186/13 186/15 186/16 187/2 191/24</p> <p><b>mind [5]</b> 35/19 42/16 57/13 125/23 150/4</p> <p><b>minds [1]</b> 15/24</p> <p><b>minute [6]</b> 44/3 44/21 126/10 128/15 158/12 158/25</p> <p><b>minutes [16]</b> 19/4 19/6</p>	<p>27/1 3 50/9 51/7 64/20 65/2 65/3 65/3 184/20 204/23 204/25 205/1 206/8 208/12</p> <p><b>mirror [6]</b> 138/13 139/16 139/18 140/10 140/13 145/3</p> <p><b>missed [5]</b> 113/8 113/10 125/7 125/14 125/15</p> <p><b>missing [6]</b> 6/7 11/18 13/11 13/12 13/14 13/16</p> <p><b>Mixed [1]</b> 82/19</p> <p><b>model [1]</b> 139/24</p> <p><b>modified [1]</b> 199/22</p> <p><b>mom [7]</b> 29/19 34/21 54/18 71/8 71/8 71/15 71/18</p> <p><b>moment [4]</b> 43/6 112/22 177/10 199/19</p> <p><b>moments [1]</b> 41/19</p> <p><b>money [4]</b> 47/19 218/19 218/22 219/7</p> <p><b>montage [1]</b> 217/18</p> <p><b>month [5]</b> 16/22 46/8 46/10 193/25 195/19</p> <p><b>more [30]</b> 8/24 40/12 40/12 49/1 56/8 66/3 80/13 80/24 80/25 81/3 81/3 88/22 94/15 97/23 110/1 124/17 150/2 162/4 162/6 165/6 165/11 168/23 169/7 169/8 170/6 180/25 184/11 202/22 213/9 217/5</p> <p><b>morning [11]</b> 6/20 11/25 46/3 49/24 49/25 50/2 54/7 75/5 187/8 190/18 226/23</p> <p><b>most [4]</b> 9/11 49/14 178/22 198/8</p> <p><b>motion [1]</b> 19/2</p> <p><b>motor [2]</b> 40/17 173/6</p> <p><b>mouse [11]</b> 61/4 67/13 81/4 81/5 86/7 91/11 113/15 136/23 153/15 179/13 203/5</p> <p><b>mouth [4]</b> 28/9 116/22 116/23 129/8</p> <p><b>mouthed [1]</b> 130/5</p> <p><b>move [13]</b> 9/16 9/21 9/23 33/22 38/12 51/22 86/12 94/25 114/23 153/15 179/15 199/9 210/9</p> <p><b>moved [2]</b> 95/4 222/15</p> <p><b>moving [7]</b> 20/9 67/21 70/22 93/13 137/7 138/5 209/18</p> <p><b>Mr [16]</b> 2/3 2/10 2/11 2/12 2/15 2/17 2/20 2/22 2/23 2/24 3/4 3/9 3/12 7/18 106/17 216/2</p> <p><b>Mr. [193]</b> 5/11 5/15 5/19 7/23 8/10 8/25 9/3 9/15 9/20 11/20 13/24 13/24 15/7 15/13 15/15</p>	<p>15/17 16/1 16/7 16/8 16/12 16/24 19/9 19/12 19/14 19/15 19/18 19/19 20/18 20/19 20/23 21/14 22/2 22/9 22/11 22/14 22/16 22/20 22/20 23/1 23/1 23/2 23/4 23/5 23/8 23/11 23/12 23/13 23/14 23/17 23/18 23/21 24/13 24/17 25/4 25/6 25/17 25/17 25/18 25/19 25/25 25/25 26/20 27/1 27/3 27/5 27/24 30/12 30/12 31/2 31/6 31/9 31/21 31/21 31/21 32/1 32/13 33/2 33/7 33/7 34/4 34/11 34/13 34/13 34/16 34/16 34/21 34/23 35/3 35/3 35/6 35/6 35/7 35/10 35/10 35/13 35/13 35/18 35/20 36/6 36/15 36/23 37/5 37/5 37/5 37/5 37/8 37/21 37/24 37/24 38/1 38/15 38/21 38/25 39/1 39/12 40/4 40/5 40/7 40/7 40/8 40/8 40/14 40/17 40/19 40/20 40/25 41/1 41/3 41/3 41/4 41/8 41/9 41/21 42/1 42/2 42/17 42/23 43/1 43/4 43/19 44/6 45/4 45/20 46/7 48/9 51/25 53/11 75/8 79/5 82/1 83/9 83/14 84/5 84/9 84/9 98/3 98/4 104/11 104/19 106/5 107/16 149/2 151/13 151/23 164/17 165/1 166/7 166/20 166/24 168/18 170/14 171/22 172/16 185/22 189/12 189/14 189/17 190/23 191/22 191/22 191/24 192/8 193/11 206/4 213/21 215/19 218/18 219/14 220/17 222/5 222/8 224/10 224/19 225/4 225/16</p> <p><b>Mr. Arenas [18]</b> 16/24 41/3 41/4 41/8 42/2 43/19 44/6 45/20 46/7 48/9 51/25 53/11 164/17 166/7 166/20 170/14 171/22 172/16</p> <p><b>Mr. Arenas's [3]</b> 165/1 166/24 168/18</p> <p><b>Mr. Brown [4]</b> 5/15 5/19 9/15 9/20</p> <p><b>Mr. Brown's [1]</b> 7/23</p> <p><b>Mr. Dismont [34]</b> 16/7 19/9 19/12 19/15 20/18 22/20 23/1 23/4 23/12 23/13 23/18 24/13 25/17 25/19 25/25 26/20 30/12 31/6 31/21 31/21 33/7 34/4 34/13 34/16 37/24 40/4 40/5</p>	<p>40/1 20 41/1 41/21 191/22 224/10 225/4</p> <p><b>Mr. Dismont's [3]</b> 23/2 32/1 33/7</p> <p><b>Mr. Dismount [1]</b> 41/9</p> <p><b>Mr. Esteban [1]</b> 13/24</p> <p><b>Mr. Exum [2]</b> 41/3 83/14</p> <p><b>Mr. Hanoff [2]</b> 151/13 151/23</p> <p><b>Mr. Leventhal [9]</b> 11/20 38/25 40/8 45/4 82/1 83/9 104/11 106/5 107/16</p> <p><b>Mr. Marchese [3]</b> 33/2 38/21 43/4</p> <p><b>Mr. Nicholas [10]</b> 35/3 35/7 35/10 35/13 35/18 35/20 36/6 36/15 36/23 37/8</p> <p><b>Mr. Nicholas's [2]</b> 35/6 37/5</p> <p><b>Mr. Palal [3]</b> 15/13 79/5 149/2</p> <p><b>Mr. Romo [6]</b> 84/5 84/9 84/9 98/3 104/19 206/4</p> <p><b>Mr. Solid [80]</b> 5/11 8/10 8/25 15/7 15/15 15/17 16/1 19/14 19/18 19/19 20/19 20/23 21/14 22/2 22/9 22/11 22/14 22/16 22/20 23/1 23/5 23/8 23/11 23/14 23/17 23/21 24/17 25/4 25/6 25/17 25/18 25/25 27/1 27/3 27/5 27/24 31/2 31/9 31/21 32/13 34/13 34/16 34/23 35/3 35/6 35/10 35/13 37/5 37/21 37/24 38/1 38/15 39/1 39/12 40/7 40/14 40/17 40/25 42/1 42/17 42/23 43/1 75/8 98/4 189/12 189/14 189/17 190/23 191/22 192/8 193/11 213/21 215/19 218/18 219/14 220/17 222/5 222/8 224/19 225/16</p> <p><b>Mr. Solid's [9]</b> 9/3 16/8 16/12 30/12 34/11 34/21 40/8 40/19 191/24</p> <p><b>Mr. Taylor [1]</b> 185/22</p> <p><b>Mr. Torres [1]</b> 13/24</p> <p><b>Ms [14]</b> 2/2 2/8 2/14 2/16 2/19 3/2 3/6 3/8 3/11 9/16 9/16 115/7 175/3 175/8</p> <p><b>Ms. [31]</b> 28/24 38/11 45/24 56/10 84/6 104/12 107/14 111/18 111/23 122/1 123/19 124/19 133/4 133/11 133/23 142/21 142/21 149/6 151/2 151/24 176/10 176/21 184/4 184/15 185/12 185/13 185/17 189/25 194/5</p>	<p>194/10 213/11</p> <p><b>Ms. Botelho [13]</b> 38/11 45/24 56/10 84/6 104/12 107/14 124/19 133/4 151/24 185/13 189/25 194/5 213/11</p> <p><b>Ms. Bullard [6]</b> 28/24 133/23 142/21 142/21 149/6 151/2</p> <p><b>Ms. Jones [3]</b> 185/12 185/17 194/10</p> <p><b>Ms. Potts [2]</b> 176/10 176/21</p> <p><b>Ms. Shanahan [5]</b> 111/18 111/23 122/1 123/19 133/11</p> <p><b>Ms. Teague [2]</b> 184/4 184/15</p> <p><b>much [23]</b> 6/14 14/25 43/19 49/15 51/3 56/18 79/4 83/14 98/17 104/9 109/24 124/18 133/11 137/8 148/25 149/10 149/22 151/1 158/4 184/17 194/10 213/24 225/25</p> <p><b>muffled [1]</b> 129/18</p> <p><b>multiple [3]</b> 29/6 32/9 173/5</p> <p><b>murder [2]</b> 33/19 38/1</p> <p><b>music [5]</b> 18/1 49/16 49/17 49/20 52/21</p> <p><b>must [1]</b> 82/10</p> <p><b>my [89]</b> 5/22 5/24 6/3 6/4 6/4 6/8 8/10 16/3 20/16 33/5 38/25 39/6 43/16 46/9 46/15 48/2 52/3 52/10 54/16 55/10 55/12 55/13 55/16 58/9 59/8 59/17 65/5 71/5 71/12 71/25 75/7 77/2 78/6 78/17 78/21 82/19 85/5 88/5 98/3 98/17 99/7 99/8 100/17 100/25 100/25 103/23 104/1 104/3 104/19 110/12 112/17 113/8 113/10 114/13 114/14 114/20 116/25 117/1 121/5 121/7 127/21 132/3 134/5 134/16 138/13 144/21 149/6 150/12 154/4 154/5 154/23 158/10 158/11 167/12 167/13 167/15 168/25 168/25 172/21 179/1 179/9 180/3 180/4 185/21 197/22 198/16 203/20 213/21 227/16</p> <p><b>myself [2]</b> 89/19 108/8</p> <p><b>N</b></p> <p><b>nah [3]</b> 62/8 65/24 66/17</p> <p><b>name [25]</b> 38/25 43/14 43/16 57/2 57/4 58/6 75/7 84/1 98/3 100/14 106/10 111/15 151/20</p>
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<p><b>N</b></p> <p><b>name...</b> [12] 163/18 174/25 176/8 182/8 185/9 185/17 187/2 191/6 191/8 191/10 194/19 213/21</p> <p><b>named</b> [1] 37/9</p> <p><b>names</b> [4] 79/17 133/18 160/10 199/18</p> <p><b>nap</b> [2] 50/15 50/16</p> <p><b>Nathan</b> [1] 182/4</p> <p><b>nationality</b> [1] 119/16</p> <p><b>natural</b> [4] 161/11 161/13 161/15 173/16</p> <p><b>nature</b> [2] 153/1 188/7</p> <p><b>near</b> [14] 17/10 23/14 51/5 51/8 60/7 80/12 80/14 92/11 92/15 114/10 114/11 118/6 134/11 154/8</p> <p><b>necessarily</b> [3] 39/8 79/25 117/22</p> <p><b>necessary</b> [2] 137/18 182/2</p> <p><b>neck</b> [6] 18/4 52/23 54/1 180/2 180/16 181/17</p> <p><b>need</b> [18] 11/16 11/21 12/3 12/4 12/19 12/22 43/24 98/22 106/9 109/7 126/15 159/13 159/14 159/17 179/7 184/20 213/14 227/7</p> <p><b>needed</b> [6] 51/4 125/18 180/21 181/1 197/6 227/2</p> <p><b>needs</b> [3] 32/11 32/12 176/3</p> <p><b>negative</b> [1] 172/25</p> <p><b>neighbor</b> [1] 186/12</p> <p><b>neighborhood</b> [2] 54/16 56/5</p> <p><b>NEVADA</b> [6] 1/2 1/5 5/1 14/7 157/19 197/17</p> <p><b>never</b> [15] 32/20 36/17 54/8 65/11 101/15 132/7 215/13 215/13 215/14 219/17 219/20 219/23 220/17 220/22 222/12</p> <p><b>new</b> [1] 187/20</p> <p><b>news</b> [16] 36/7 37/6 37/10 155/15 187/13 187/16 187/17 188/8 190/17 190/18 190/18 193/10 193/15 193/21 193/21 193/25</p> <p><b>newspaper</b> [4] 44/12 110/21 159/6 226/20</p> <p><b>next</b> [25] 19/10 35/24 54/8 54/17 56/20 83/16 107/22 111/8 113/11 118/25 133/13 137/5 151/4 158/10 158/11 159/14 160/3 174/19 179/8 180/22 184/19 194/13 201/19 203/13 212/6</p>	<p><b>Nicholas</b> [10] 35/3 35/7 35/10 35/13 35/18 35/20 36/6 36/15 36/23 37/8</p> <p><b>Nicholas's</b> [2] 35/6 37/5</p> <p><b>night</b> [5] 6/23 7/25 8/3 50/1 50/2</p> <p><b>nine</b> [5] 10/19 10/20 82/5 146/2 162/8</p> <p><b>no</b> [155] 1/6 1/6 7/16 8/7 8/25 9/14 11/10 11/22 13/5 24/23 33/11 39/19 42/4 42/6 44/2 45/23 51/1 51/1 55/5 56/8 56/12 56/17 63/5 63/6 64/18 64/22 66/9 66/17 67/2 69/14 69/18 69/23 71/17 77/19 80/5 81/1 81/17 81/17 81/22 83/10 83/13 88/18 93/1 93/16 94/4 95/8 95/21 97/23 99/22 101/23 102/6 102/17 102/18 102/22 102/24 103/13 103/14 103/14 103/18 103/25 104/4 106/6 106/21 107/4 107/15 110/8 114/25 116/20 121/2 121/11 121/13 121/25 122/2 122/25 124/17 125/13 127/8 127/14 127/16 128/14 128/19 130/2 132/9 132/11 133/3 133/5 133/10 135/12 137/9 140/12 141/10 142/5 142/11 142/12 144/3 146/24 147/16 148/16 148/17 148/23 150/22 152/7 152/25 157/25 159/19 161/12 162/14 162/16 162/16 164/1 169/21 170/21 171/18 174/12 178/14 180/7 180/17 181/15 184/11 184/13 184/21 188/11 190/21 193/24 194/2 194/3 194/6 200/2 200/19 201/1 203/8 204/20 209/23 211/4 211/22 213/9 214/24 214/25 215/1 216/10 217/19 217/20 219/4 220/19 220/21 223/21 224/15 225/2 225/2 225/3 225/5 225/7 226/4 226/7 227/8</p> <p><b>noise</b> [1] 180/11</p> <p><b>non</b> [1] 170/6</p> <p><b>nonblunt</b> [1] 169/16</p> <p><b>none</b> [6] 7/13 150/25 158/3 174/15 184/16 194/9</p> <p><b>nonpenetrating</b> [1] 170/6</p> <p><b>nonresponsive</b> [2] 51/21 141/16</p> <p><b>nonsharp</b> [1] 170/3</p>	<p><b>nope</b> [5] 11/19 61/21 63/2 67/22 78/8</p> <p><b>normal</b> [2] 88/21 161/22</p> <p><b>normally</b> [3] 57/11 178/20 180/15</p> <p><b>north</b> [6] 98/24 99/2 99/3 138/24 199/4 201/21</p> <p><b>north-south</b> [1] 99/2</p> <p><b>northeast</b> [2] 60/22 210/20</p> <p><b>northwest</b> [1] 210/25</p> <p><b>nose</b> [3] 70/16 70/17 70/22</p> <p><b>not</b> [111] 7/3 7/4 7/7 7/14 8/3 8/15 8/17 10/25 11/4 11/5 13/17 15/12 15/17 15/24 17/6 19/5 21/20 21/22 23/22 25/14 27/9 27/9 31/4 31/11 31/22 39/3 39/9 39/10 39/14 39/16 40/25 42/7 42/14 42/21 42/22 42/23 43/1 44/7 57/21 64/10 67/21 68/14 68/17 69/14 75/16 78/5 79/25 82/11 85/13 89/13 89/17 95/14 99/2 101/21 102/1 102/25 103/16 103/21 103/21 110/16 113/15 114/6 114/17 121/21 122/21 126/24 131/4 132/1 132/10 137/9 139/25 139/25 140/4 140/5 140/11 141/17 145/17 148/1 148/11 150/1 153/15 157/4 157/13 159/1 161/11 162/9 167/15 169/25 178/25 183/2 183/2 190/19 200/11 209/11 212/11 212/23 214/8 216/7 216/9 217/17 219/25 220/3 220/23 223/1 223/21 224/8 224/10 224/22 225/16 225/18 226/15 <b>note</b> [4] 19/3 89/20 168/10 210/10</p> <p><b>notes</b> [5] 42/15 161/24 162/1 168/25 168/25</p> <p><b>nothing</b> [12] 41/17 42/12 70/23 104/10 106/4 109/23 149/1 150/19 157/21 192/25 226/1 227/4</p> <p><b>notice</b> [4] 183/22 217/2 219/17 221/12</p> <p><b>noticed</b> [12] 47/11 54/15 54/17 114/14 115/17 126/6 127/6 127/17 178/3 178/23 183/9 183/13</p> <p><b>now</b> [80] 5/15 8/6 14/1 20/6 20/7 20/10 20/22 21/19 23/16 24/16 30/5 35/16 39/24 41/15</p>	<p>42/13 61/23 60/6 61/20 72/20 73/11 74/3 82/1 82/5 96/13 99/6 105/8 119/10 119/20 123/24 135/13 135/20 138/15 139/5 139/22 140/6 140/9 142/9 146/2 147/19 149/17 151/8 151/11 154/18 154/23 155/24 156/20 162/23 164/6 166/10 168/16 168/23 171/21 172/10 179/12 189/14 191/6 192/6 195/18 195/19 204/12 206/22 208/6 208/14 209/16 209/18 210/8 210/9 211/12 215/10 217/3 218/6 218/14 218/18 218/24 219/13 220/8 221/24 222/6 223/4 223/25</p> <p><b>number</b> [72] 5/18 7/21 20/20 21/10 21/11 21/15 22/1 22/3 23/6 23/15 24/11 24/18 24/22 24/24 37/13 45/8 47/25 48/8 52/8 53/5 53/13 56/1 60/13 67/4 72/7 72/21 73/14 74/2 74/14 74/19 75/20 85/10 85/15 85/19 88/4 94/13 95/17 95/23 97/13 97/22 105/1 106/10 106/22 113/13 115/2 120/11 122/24 123/2 123/8 123/12 153/7 157/14 157/18 163/9 163/20 163/24 164/1 164/3 177/9 179/11 183/11 183/18 189/5 191/24 192/6 192/11 200/8 202/21 203/25 206/2 210/18 212/18</p> <p><b>Number 1</b> [1] 73/14</p> <p><b>Number 107</b> [1] 47/25</p> <p><b>Number 111</b> [1] 94/13</p> <p><b>Number 112</b> [4] 85/10 85/19 88/4 120/11</p> <p><b>Number 113</b> [5] 153/7 157/14 157/18 177/9 179/11</p> <p><b>Number 114</b> [1] 48/8</p> <p><b>Number 116</b> [1] 53/5</p> <p><b>Number 117</b> [2] 95/17 206/2</p> <p><b>Number 2</b> [3] 7/21 56/1 123/12</p> <p><b>Number 25</b> [1] 74/19</p> <p><b>Number 26</b> [2] 122/24 123/8</p> <p><b>Number 28</b> [1] 105/1</p> <p><b>Number 3</b> [1] 74/2</p> <p><b>Number 31</b> [5] 189/5 192/6 192/11 203/25 212/18</p> <p><b>Number 32</b> [1] 97/13</p> <p><b>Number 5</b> [1] 53/13</p> <p><b>Number 5 at</b> [1] 72/21</p>	<p><b>Number 6</b> [2] 21/10 24/11</p> <p><b>Number 84</b> [1] 183/18</p> <p><b>Number 85</b> [1] 183/11</p> <p><b>Number 90</b> [1] 52/8</p> <p><b>Number 95</b> [1] 202/21</p> <p><b>numbers</b> [2] 10/21 176/16</p> <p><b>O</b></p> <p><b>o'clock</b> [5] 8/22 112/6 135/5 152/20 178/10</p> <p><b>oath</b> [2] 45/21 82/8</p> <p><b>object</b> [12] 38/9 51/17 141/15 169/14 169/15 169/15 169/16 169/20 170/4 170/6 189/23 192/11</p> <p><b>objecting</b> [1] 109/5</p> <p><b>objection</b> [10] 8/7 67/2 95/18 95/21 106/19 106/21 114/25 122/25 162/14 162/16</p> <p><b>obscured</b> [1] 130/24</p> <p><b>observations</b> [1] 162/2</p> <p><b>observe</b> [9] 31/13 114/10 135/6 149/7 153/25 166/6 182/13 182/16 189/21</p> <p><b>observed</b> [5] 141/22 143/20 170/14 182/17 183/12</p> <p><b>observing</b> [2] 95/3 153/11</p> <p><b>obtain</b> [2] 37/12 154/25</p> <p><b>obtaining</b> [2] 202/6 211/2</p> <p><b>obvious</b> [1] 198/8</p> <p><b>obviously</b> [13] 8/5 33/19 103/19 124/10 125/2 128/15 145/23 162/20 168/17 168/20 183/2 183/15 183/19</p> <p><b>occasion</b> [10] 182/6 182/10 187/12 187/13 189/21 202/15 203/21 210/22 211/15 212/5</p> <p><b>occur</b> [1] 183/14</p> <p><b>occurred</b> [9] 34/25 39/22 40/2 41/20 55/3 109/2 117/14 122/18 144/8</p> <p><b>occurrence</b> [2] 39/11 39/20</p> <p><b>occurring</b> [8] 15/17 27/6 112/1 112/2 114/10 114/11 115/11 116/11</p> <p><b>occurs</b> [1] 26/20</p> <p><b>odds</b> [1] 32/20</p> <p><b>off</b> [54] 5/14 10/5 10/7 15/10 20/6 20/22 20/24 21/23 23/20 27/12 28/20 28/22 29/7 29/8 31/3 41/23 62/11 69/22 69/25 70/11 70/15 70/20 71/22 93/13 93/14 93/16 93/25 94/12 94/16 95/5</p>
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<p><b>O</b></p> <p><b>off...</b> [24] 106/15 113/5 113/18 114/2 119/1 119/3 119/10 119/12 119/24 120/1 121/20 124/8 124/9 139/22 141/6 148/6 154/21 179/5 182/7 182/11 201/23 204/23 211/24 223/17</p> <p><b>office</b> [8] 134/16 144/10 144/11 160/19 161/6 161/14 200/18 200/23</p> <p><b>officer</b> [4] 152/7 152/14 152/19 196/25</p> <p><b>officers</b> [3] 155/12 155/24 156/13</p> <p><b>often</b> [3] 32/6 178/22 204/25</p> <p><b>oh</b> [15] 13/10 16/2 33/11 36/23 55/6 80/16 110/11 121/21 124/2 140/11 153/17 163/3 172/22 192/21 203/7</p> <p><b>okay</b> [548]</p> <p><b>old</b> [10] 14/14 14/15 14/25 16/20 31/14 46/18 46/19 57/15 57/25 193/25</p> <p><b>older</b> [9] 117/17 117/19 118/1 118/2 118/5 120/13 121/14 122/9 139/24</p> <p><b>Olsen</b> [1] 227/19</p> <p><b>Omar's</b> [1] 46/11</p> <p><b>on</b> [336]</p> <p><b>once</b> [16] 23/22 24/17 33/23 42/23 42/24 42/24 64/18 64/19 69/20 71/13 88/8 100/6 121/14 121/17 141/10 197/19</p> <p><b>one</b> [63] 8/4 8/11 9/21 9/23 13/12 13/14 13/16 18/21 41/1 41/2 41/22 46/8 48/5 49/5 51/20 55/16 63/18 74/10 75/25 76/2 80/13 81/17 87/13 87/16 87/23 90/13 90/15 95/11 97/16 98/11 98/11 103/16 106/9 117/7 118/5 126/24 126/24 135/24 140/12 143/13 143/14 143/14 152/10 152/18 152/19 157/3 162/4 162/6 168/6 169/17 173/19 174/3 179/6 188/11 193/3 193/3 195/19 209/10 216/3 216/25 219/15 221/2 221/25</p> <p><b>one's</b> [1] 174/8</p> <p><b>one-person</b> [1] 152/18</p> <p><b>ones</b> [1] 48/25</p> <p><b>only</b> [13] 7/2 25/14 100/4 100/15 147/22</p>	<p>173/18 181/12 200/20 201/24 201/25 211/4 211/23 217/8</p> <p><b>onto</b> [14] 27/19 28/16 36/12 68/5 82/15 82/17 88/5 99/12 103/18 116/7 120/22 181/18 209/21 210/4</p> <p><b>oOo</b> [1] 227/13</p> <p><b>open</b> [18] 42/15 70/23 101/25 102/5 136/6 145/13 145/18 145/20 145/20 149/15 149/19 149/19 149/19 150/2 150/4 150/5 150/13 220/9</p> <p><b>opened</b> [12] 68/19 102/3 102/4 102/8 118/2 145/12 145/18 147/4 147/5 147/13 150/13 210/6</p> <p><b>opening</b> [10] 2/2 2/3 14/8 14/11 16/4 33/22 38/18 38/23 39/7 40/10</p> <p><b>openings</b> [1] 12/8</p> <p><b>opens</b> [1] 24/19</p> <p><b>opinion</b> [6] 8/25 44/13 110/22 159/7 168/2 226/21</p> <p><b>opinions</b> [1] 170/17</p> <p><b>opportunity</b> [5] 42/13 125/16 187/22 202/9 204/5</p> <p><b>opposed</b> [1] 174/7</p> <p><b>opposite</b> [3] 103/18 124/12 223/18</p> <p><b>option</b> [1] 56/14</p> <p><b>or</b> [238]</p> <p><b>order</b> [6] 17/11 43/23 44/4 110/5 168/17 180/1</p> <p><b>ordered</b> [2] 198/11 199/21</p> <p><b>ordinary</b> [1] 127/6</p> <p><b>orientate</b> [1] 22/7</p> <p><b>oriented</b> [1] 139/5</p> <p><b>originally</b> [1] 46/21</p> <p><b>other</b> [56] 5/4 9/14 18/7 18/8 19/14 19/15 20/20 22/23 22/24 22/24 24/16 49/17 53/18 59/6 66/5 81/1 87/14 87/23 91/8 91/16 95/9 95/10 99/23 100/16 102/11 103/19 103/21 121/9 122/17 122/19 122/21 128/9 129/25 132/24 139/13 155/15 157/4 164/1 166/20 171/7 173/16 181/5 181/5 181/7 181/16 182/7 182/10 197/5 201/6 216/22 222/13 223/17 223/19 224/19 224/22 224/23</p> <p><b>our</b> [13] 9/18 15/13 40/24 56/5 110/15 161/10 177/3 179/24 179/24 199/18 207/6</p>	<p>207/25 226/11</p> <p><b>ourselves</b> [1] 44/20</p> <p><b>out</b> [63] 5/5 5/12 10/14 11/25 14/20 15/2 16/25 17/24 22/2 22/25 23/16 27/9 27/16 35/15 35/17 39/7 40/21 41/1 43/23 54/7 54/16 58/5 58/11 64/7 70/17 70/22 86/22 99/23 102/11 110/5 114/14 114/20 115/17 116/7 116/22 118/8 119/2 123/6 125/1 127/6 144/9 148/15 154/4 155/23 156/13 179/1 180/4 183/2 190/23 197/5 198/7 202/3 202/22 206/21 207/10 210/4 213/7 216/25 219/24 220/9 221/13 221/25 222/17</p> <p><b>outer</b> [1] 167/25</p> <p><b>outside</b> [17] 5/3 10/4 10/7 10/9 18/14 23/9 45/1 84/17 84/19 84/20 118/10 167/23 172/20 201/25 211/5 225/2 225/3</p> <p><b>over</b> [73] 9/23 16/22 20/5 21/23 28/2 28/23 30/5 31/3 34/14 34/14 35/12 36/21 37/4 42/3 42/24 55/17 63/14 66/10 76/15 91/4 91/16 94/23 98/17 112/16 112/19 116/5 116/8 117/24 118/16 118/20 118/21 119/25 119/25 120/3 120/22 120/24 125/12 125/16 127/23 136/5 138/21 140/25 141/2 141/22 142/3 142/14 145/2 148/7 154/8 155/3 155/6 155/7 157/9 157/12 168/7 170/10 170/19 178/2 179/9 179/18 179/24 180/10 180/16 180/23 187/18 189/18 190/19 200/17 212/24 217/21 217/24 219/23 222/3</p> <p><b>overlooking</b> [2] 20/21 27/7</p> <p><b>overly</b> [1] 31/4</p> <p><b>overwhelmed</b> [1] 155/22</p> <p><b>own</b> [3] 41/1 147/7 174/8</p>	<p>26/16 18 34/23 34/25 35/4 35/4 40/2 84/17 86/23 110/25 111/1 111/1 112/6 159/10 159/21 159/21 176/20 176/24 184/6 184/9 201/14 226/25 227/12</p> <p><b>packed</b> [1] 134/19</p> <p><b>page</b> [2] 83/5 146/7</p> <p><b>page 2</b> [1] 146/7</p> <p><b>page 83</b> [1] 83/5</p> <p><b>paid</b> [3] 17/16 24/24 199/23</p> <p><b>painted</b> [1] 32/21</p> <p><b>PALAL</b> [9] 1/18 2/10 2/12 2/22 2/24 3/4 15/13 79/5 149/2</p> <p><b>pancreas</b> [2] 171/10 171/12</p> <p><b>panicked</b> [2] 42/1 106/24</p> <p><b>pants</b> [2] 128/1 128/3</p> <p><b>paper</b> [1] 106/10</p> <p><b>paramedic</b> [7] 29/23 29/23 30/7 158/18 175/23 175/25 176/22</p> <p><b>paramedics</b> [4] 26/15 154/11 155/6 181/7</p> <p><b>pardon</b> [1] 160/25</p> <p><b>park</b> [2] 5/11 223/19</p> <p><b>parked</b> [9] 19/1 21/14 21/19 21/22 22/2 24/15 27/6 28/6 123/21</p> <p><b>parking</b> [5] 21/7 21/9 78/18 209/15 211/23</p> <p><b>parks</b> [5] 21/11 30/14 223/18 225/9 225/13</p> <p><b>part</b> [17] 20/6 91/2 92/3 94/5 100/7 118/14 134/21 161/22 166/7 166/10 167/1 172/1 173/8 182/17 196/3 209/19 217/20</p> <p><b>particular</b> [16] 25/5 25/9 27/15 31/5 32/17 62/17 153/1 155/4 157/13 167/7 187/20 195/5 196/8 206/14 207/5 207/13</p> <p><b>particularly</b> [5] 20/16 152/13 156/20 170/12 208/1</p> <p><b>parties</b> [8] 13/8 14/1 45/14 60/10 66/25 106/13 111/3 159/23</p> <p><b>partly</b> [1] 131/22</p> <p><b>partner</b> [6] 14/17 15/10 37/18 176/5 176/6 176/7</p> <p><b>parts</b> [1] 34/6</p> <p><b>party</b> [2] 8/5 47/3</p> <p><b>pass</b> [14] 20/25 74/24 83/7 87/4 88/3 88/8 138/12 139/12 142/17 144/4 144/24 157/9 174/10 222/13</p> <p><b>passed</b> [11] 16/23 55/22 87/6 89/11 90/1</p>	<p>90/5 90/6 97/6 97/16 100/8 140/7</p> <p><b>passenger</b> [48] 15/5 21/18 27/20 28/14 28/18 31/5 31/8 31/14 68/20 68/21 78/14 82/17 82/19 82/20 92/5 92/9 92/9 92/12 93/24 93/24 101/16 101/17 101/18 101/21 101/25 103/9 105/11 105/17 106/1 115/18 117/16 118/7 118/8 121/15 121/15 121/16 121/17 121/19 137/13 137/21 145/12 149/14 208/19 210/7 216/8 222/11 223/2 224/3</p> <p><b>passengers</b> [2] 127/12 132/24</p> <p><b>passes</b> [2] 171/13 222/3</p> <p><b>passing</b> [3] 19/15 28/25 146/10</p> <p><b>past</b> [10] 61/13 61/25 65/5 89/7 105/11 147/19 148/7 148/10 178/4 179/19</p> <p><b>path</b> [4] 23/19 24/8 26/8 198/17</p> <p><b>pathologist</b> [1] 161/2</p> <p><b>pathologists</b> [1] 173/18</p> <p><b>pathology</b> [4] 160/25 161/5 161/7 161/7</p> <p><b>paths</b> [2] 22/21 23/8</p> <p><b>pathway</b> [1] 56/6</p> <p><b>patient</b> [1] 177/3</p> <p><b>patient's</b> [2] 179/10 181/25</p> <p><b>patients</b> [2] 176/1 176/2</p> <p><b>patrol</b> [9] 152/7 152/8 152/9 152/14 152/16 155/24 156/13 196/25 197/2</p> <p><b>pause</b> [17] 13/3 13/22 13/25 43/21 72/15 83/6 83/21 96/17 97/5 146/5 151/6 207/6 213/16 214/3 215/21 215/25 218/3</p> <p><b>pavement</b> [1] 170/22</p> <p><b>pawn</b> [1] 16/21</p> <p><b>pawnshop</b> [5] 37/14 47/2 47/4 47/5 47/9</p> <p><b>pay</b> [8] 6/5 6/10 6/15 7/9 8/3 37/23 219/2 225/19</p> <p><b>payday</b> [1] 47/18</p> <p><b>paying</b> [3] 37/2 148/21 149/11</p> <p><b>pays</b> [1] 23/5</p> <p><b>PD</b> [1] 195/13</p> <p><b>ped</b> [1] 179/7</p> <p><b>pedestrian</b> [4] 152/12 154/22 155/13 173/6</p> <p><b>pedestrians</b> [1] 156/9</p> <p><b>peek</b> [1] 119/25</p>
--	---	--	--	---

<p><b>P</b></p> <p><b>pen</b> [10] 77/2 78/6 78/17 78/21 88/5 98/17 99/7 99/8 100/17 106/11</p> <p><b>people</b> [16] 11/5 16/2 39/17 95/9 95/10 98/12 125/11 154/2 154/21 155/15 157/4 174/3 178/21 196/11 208/24 224/20</p> <p><b>people's</b> [1] 15/24</p> <p><b>percent</b> [1] 192/9</p> <p><b>perception</b> [1] 129/22</p> <p><b>Perfect</b> [2] 12/18 13/20</p> <p><b>perimeter</b> [4] 155/8 155/10 155/11 155/12</p> <p><b>permission</b> [4] 45/9 53/6 75/21 115/3</p> <p><b>person</b> [44] 29/8 37/11 44/10 48/1 58/24 74/6 78/18 88/9 88/10 88/13 88/17 102/15 110/19 137/12 137/17 137/19 137/20 137/22 137/22 137/24 138/1 138/8 138/14 139/19 140/18 140/23 141/13 142/3 145/6 145/9 145/11 147/22 148/2 148/2 152/18 159/4 162/24 169/14 174/5 181/21 199/15 206/16 216/7 226/18</p> <p><b>person's</b> [2] 141/3 154/16</p> <p><b>personally</b> [1] 191/17</p> <p><b>Ph.D</b> [1] 160/23</p> <p><b>phone</b> [15] 25/16 27/10 27/11 32/1 32/3 32/3 32/4 34/11 34/11 117/1 132/3 188/12 189/2 191/24 201/3</p> <p><b>phones</b> [3] 25/14 25/15 25/24</p> <p><b>phonetic</b> [1] 176/8</p> <p><b>photo</b> [17] 17/15 17/21 21/22 22/16 31/5 31/10 31/11 34/7 97/14 123/18 123/25 189/6 189/6 201/2 201/12 202/22 204/2</p> <p><b>photograph</b> [6] 164/23 183/2 183/5 183/23 189/8 212/19</p> <p><b>photographs</b> [2] 183/15 212/13</p> <p><b>photos</b> [2] 31/1 212/23</p> <p><b>phrase</b> [1] 169/12</p> <p><b>physical</b> [1] 66/16</p> <p><b>pick</b> [7] 16/25 17/7 19/11 47/9 55/12 112/16 125/4</p> <p><b>picked</b> [3] 16/25 49/3 55/17</p> <p><b>picking</b> [5] 47/7 48/22 57/21 69/25 70/1</p> <p><b>picky</b> [1] 47/8</p>	<p><b>picture</b> [2] 74/16 193/17</p> <p><b>pictures</b> [5] 13/18 39/10 40/10 40/12 158/19</p> <p><b>piece</b> [1] 41/19</p> <p><b>Pines</b> [40] 17/10 17/21 19/23 20/21 20/25 21/12 21/13 21/24 24/21 25/7 26/3 27/8 60/7 60/19 88/4 112/19 112/24 113/6 124/1 134/11 134/22 135/1 135/20 136/9 139/7 143/6 143/13 149/7 149/23 153/13 177/18 178/4 197/9 197/16 199/4 202/24 210/21 211/12 211/13 217/4</p> <p><b>pinging</b> [2] 25/15 25/24</p> <p><b>pizza</b> [2] 50/22 50/23</p> <p><b>place</b> [7] 6/4 21/17 62/13 64/1 122/22 181/25 217/9</p> <p><b>placed</b> [5] 26/17 34/18 115/7 181/17 181/18</p> <p><b>places</b> [2] 49/14 80/9</p> <p><b>plain</b> [1] 172/4</p> <p><b>plainclothes</b> [2] 196/14 196/15</p> <p><b>Plaintiff</b> [1] 1/6</p> <p><b>plan</b> [1] 50/19</p> <p><b>planning</b> [4] 50/21 59/12 63/20 145/14</p> <p><b>plate</b> [3] 122/1 127/10 132/19</p> <p><b>plates</b> [2] 34/19 34/20</p> <p><b>play</b> [7] 18/20 58/10 96/7 208/2 214/8 219/24 222/21</p> <p><b>played</b> [19] 18/24 53/14 96/9 96/15 96/24 115/5 115/13 135/15 206/11 214/4 215/3 216/12 217/11 218/4 219/11 220/2 220/15 221/23 222/22</p> <p><b>player</b> [1] 95/17</p> <p><b>playing</b> [2] 72/16 72/20</p> <p><b>pleasant</b> [1] 54/20</p> <p><b>please</b> [18] 43/13 57/1 83/25 111/14 133/17 133/18 151/14 151/19 160/9 174/24 185/8 185/8 186/18 186/21 194/18 194/19 202/18 208/4</p> <p><b>plus</b> [1] 209/6</p> <p><b>point</b> [74] 8/18 12/3 17/24 20/18 22/9 25/11 25/13 28/7 28/21 29/16 30/4 41/9 50/19 54/14 55/9 61/5 61/6 68/11 76/11 76/20 86/13 89/24 93/6 94/2 94/18 100/7 101/15 105/10 116/1 116/14 117/2 117/23 118/4 120/18</p>	<p>126/12 127/6 127/17 129/7 130/3 130/23 132/1 132/4 132/14 136/4 138/11 139/12 139/13 140/22 144/4 144/11 146/10 153/18 155/3 155/19 157/11 176/24 177/4 178/15 181/7 181/14 181/21 186/18 187/25 189/1 193/14 197/4 207/4 207/11 215/17 217/2 218/12 223/4 223/12 225/8</p> <p><b>pointed</b> [1] 91/11</p> <p><b>pointer</b> [1] 61/6</p> <p><b>pointing</b> [1] 86/18</p> <p><b>police</b> [27] 30/23 36/24 37/12 69/12 69/15 69/16 95/7 95/9 95/13 122/4 123/20 124/6 125/25 132/1 132/2 132/4 132/13 132/17 144/7 144/12 152/5 152/11 190/22 191/25 192/4 195/4 195/15</p> <p><b>portion</b> [2] 204/2 207/1</p> <p><b>position</b> [5] 7/22 8/9 9/13 137/4 175/22</p> <p><b>possessed</b> [1] 50/4</p> <p><b>possible</b> [1] 12/5</p> <p><b>possibly</b> [1] 155/24</p> <p><b>posted</b> [1] 177/2</p> <p><b>postmortem</b> [1] 172/2</p> <p><b>Potts</b> [3] 176/8 176/10 176/21</p> <p><b>pounding</b> [1] 130/6</p> <p><b>PowerPoint</b> [1] 20/16</p> <p><b>practice</b> [1] 161/1</p> <p><b>preliminary</b> [1] 155/19</p> <p><b>Premier</b> [6] 26/9 84/10 84/14 85/23 85/25 86/20</p> <p><b>Premiere</b> [4] 98/5 98/15 99/7 101/3</p> <p><b>preoccupied</b> [1] 18/22</p> <p><b>preparation</b> [1] 169/2</p> <p><b>prepared</b> [1] 38/18</p> <p><b>presence</b> [13] 5/3 10/4 10/8 10/9 13/9 14/2 45/1 45/14 111/2 111/3 159/22 159/23 203/20</p> <p><b>present</b> [8] 16/16 18/21 21/4 27/13 37/17 39/12 40/9 83/19</p> <p><b>presentation</b> [1] 56/15</p> <p><b>preserve</b> [1] 168/17</p> <p><b>pretends</b> [1] 23/22</p> <p><b>pretty</b> [5] 6/14 39/2 49/15 51/3 190/9</p> <p><b>prevent</b> [1] 136/7</p> <p><b>preview</b> [1] 16/5</p> <p><b>previous</b> [4] 18/15 50/2 124/9 202/1</p> <p><b>previously</b> [16] 17/18 19/3 58/23 72/17 72/17 79/13 82/8 82/22 82/24 123/14 125/22 134/24 138/15 141/5 164/20</p>	<p>16</p> <p><b>price</b> [1] 47/20</p> <p><b>print</b> [1] 49/4</p> <p><b>prior</b> [4] 132/8 153/11 172/11 172/23</p> <p><b>proactive</b> [1] 152/11</p> <p><b>probably</b> [14] 7/1 7/2 10/1 38/5 39/25 69/19 77/25 81/4 125/10 125/11 132/7 137/9 195/22 213/1</p> <p><b>problem</b> [3] 11/10 44/2 45/23</p> <p><b>problems</b> [1] 64/22</p> <p><b>procedure</b> [1] 181/24</p> <p><b>proceed</b> [1] 57/7</p> <p><b>proceeded</b> [1] 113/10</p> <p><b>proceeding</b> [2] 1/13 14/7</p> <p><b>proceedings</b> [20] 1/9 13/3 13/22 13/25 43/21 44/25 72/15 83/6 83/21 111/1 146/5 151/6 159/21 213/16 214/3 215/21 215/25 218/3 227/12 227/15</p> <p><b>proffer</b> [1] 109/11</p> <p><b>progressing</b> [1] 178/25</p> <p><b>promise</b> [1] 21/2</p> <p><b>promoting</b> [1] 84/25</p> <p><b>pronounced</b> [1] 55/24</p> <p><b>property</b> [1] 85/7</p> <p><b>protect</b> [1] 155/16</p> <p><b>protective</b> [1] 167/2</p> <p><b>protocol</b> [3] 156/24 172/1 200/16</p> <p><b>prove</b> [1] 16/11</p> <p><b>provide</b> [2] 192/4 202/12</p> <p><b>provided</b> [2] 202/11 203/19</p> <p><b>publish</b> [16] 45/9 53/6 60/14 67/5 75/21 79/12 85/16 114/23 115/3 123/16 135/14 153/7 163/2 163/7 163/12 205/25</p> <p><b>publishing</b> [3] 72/17 85/9 177/9</p> <p><b>pull</b> [6] 30/4 114/2 178/21 199/15 214/1 215/14</p> <p><b>pulled</b> [11] 20/24 41/10 113/18 114/13 114/19 116/6 131/9 131/11 131/13 145/2 148/7</p> <p><b>pulling</b> [4] 120/7 148/2 179/1 214/18</p> <p><b>pulls</b> [3] 26/1 209/13 223/18</p> <p><b>pulmonary</b> [2] 169/2 169/4</p> <p><b>pulse</b> [5] 180/15 180/17 181/15 181/16 181/20</p> <p><b>pump</b> [31] 19/1 19/1 19/10 19/13 20/9 20/20 21/10 21/11 21/15 21/17 22/1 22/3 23/6</p>	<p>23/15 24/11 24/18 24/22 24/23 24/24 25/3 27/7 208/17 209/14 210/1 214/20 215/5 215/8 222/13 222/24 223/20 225/13</p> <p><b>Pump Number 6</b> [7] 21/15 22/3 23/6 23/15 24/18 24/22 24/24</p> <p><b>Pump Number 6</b> <b>looked</b> [1] 22/1</p> <p><b>pumped</b> [1] 24/23</p> <p><b>pumping</b> [1] 27/9</p> <p><b>pumps</b> [4] 203/11 208/10 223/8 225/21</p> <p><b>punch</b> [1] 28/10</p> <p><b>punching</b> [3] 122/10 122/11 122/11</p> <p><b>purchase</b> [3] 23/7 47/20 49/7</p> <p><b>purchased</b> [1] 16/20</p> <p><b>purchasing</b> [2] 27/3 47/17</p> <p><b>purple</b> [2] 53/17 97/9</p> <p><b>purpose</b> [3] 171/25 198/7 198/10</p> <p><b>purposeful</b> [1] 174/2</p> <p><b>purposes</b> [2] 33/23 162/12</p> <p><b>purse</b> [1] 185/2</p> <p><b>pursuant</b> [5] 200/25 205/12 206/18 211/7 211/25</p> <p><b>put</b> [26] 8/15 11/8 19/19 21/17 21/20 47/14 49/12 52/20 52/24 59/8 92/16 92/18 92/18 155/13 168/12 169/2 179/6 179/9 179/22 181/17 204/13 217/15 217/21 217/22 219/7 225/17</p> <p><b>putting</b> [4] 95/16 138/14 154/16 218/18</p>
			<p><b>Q</b></p> <p><b>quacks</b> [1] 38/5</p> <p><b>quadrants</b> [1] 182/18</p> <p><b>quality</b> [1] 20/18</p> <p><b>question</b> [20] 15/16 39/23 40/22 87/2 96/7 103/15 103/24 104/1 106/11 106/19 107/6 109/6 109/8 109/10 110/2 126/25 146/4 146/7 222/7 227/6</p> <p><b>questions</b> [33] 7/12 7/15 56/8 56/12 56/14 56/16 75/9 83/12 97/23 106/8 108/22 109/25 124/17 125/22 133/3 133/9 150/24 157/23 158/2 174/12 174/14 184/11 184/13 184/15 189/23 193/2 193/10 194/4 194/8 213/9 213/12 226/3 226/6</p> <p><b>queued</b> [2] 53/4 53/9</p> <p><b>queuing</b> [1] 95/24</p>	<p>AA 000722</p>

<p><b>Q</b></p> <p><b>quick</b> [7] 5/12 75/1 84/24 89/2 124/25 126/14 158/7</p> <p><b>quicker</b> [1] 226/12</p> <p><b>quickly</b> [2] 10/24 12/19</p> <p><b>quiet</b> [1] 68/6</p> <p><b>quite</b> [2] 155/23 156/16</p> <p><b>R</b></p> <p><b>R-e-b-e-c-c-a</b> [1] 111/16</p> <p><b>R-o-m-o</b> [1] 84/3</p> <p><b>race</b> [10] 9/6 69/6 87/10 87/17 87/19 87/24 88/1 88/10 88/13 119/16</p> <p><b>racial</b> [1] 9/1</p> <p><b>radio</b> [5] 44/12 110/21 159/6 179/4 226/21</p> <p><b>radiographs</b> [1] 171/23</p> <p><b>radiography</b> [1] 172/3</p> <p><b>Rainbow</b> [1] 178/2</p> <p><b>raise</b> [3] 111/10 151/14 185/4</p> <p><b>ran</b> [31] 28/23 31/3 34/14 34/14 36/21 47/3 65/5 66/14 66/22 67/20 67/23 70/16 70/21 70/24 71/2 71/14 76/20 78/10 78/12 81/13 81/15 82/2 82/12 103/6 103/7 103/8 119/3 120/1 137/13 142/3 145/18</p> <p><b>Randy</b> [2] 11/18 13/6</p> <p><b>ransom</b> [1] 196/21</p> <p><b>rapidly</b> [1] 93/25</p> <p><b>rather</b> [1] 126/14</p> <p><b>rays</b> [2] 164/12 172/4</p> <p><b>RE</b> [1] 1/13</p> <p><b>reach</b> [1] 28/15</p> <p><b>reaching</b> [3] 31/7 118/16 172/8</p> <p><b>react</b> [1] 121/10</p> <p><b>reacted</b> [2] 117/19 117/22</p> <p><b>read</b> [8] 30/21 44/5 44/9 110/18 159/3 164/11 226/14 226/17</p> <p><b>reading</b> [2] 95/25 129/21</p> <p><b>ready</b> [7] 5/15 13/4 43/20 59/17 157/11 184/19 184/21</p> <p><b>real</b> [7] 5/12 10/4 23/25 69/14 75/1 158/7 204/23</p> <p><b>realize</b> [1] 157/13</p> <p><b>realized</b> [2] 37/10 179/2</p> <p><b>really</b> [17] 9/1 17/13 20/1 38/4 39/5 62/1 65/11 68/8 69/10 69/14 76/17 98/24 107/3 142/8 182/18 205/9 213/5</p> <p><b>reappear</b> [1] 26/6</p>	<p><b>rear</b> [1] 140/9</p> <p><b>rearview</b> [6] 138/13 139/16 139/18 140/11 140/13 145/3</p> <p><b>reason</b> [6] 23/1 69/16 82/23 146/22 147/16 166/16</p> <p><b>reassess</b> [1] 180/11</p> <p><b>reassessed</b> [1] 181/19</p> <p><b>Rebecca</b> [9] 26/17 27/23 28/8 28/19 29/5 29/15 111/9 111/11 111/16</p> <p><b>recall</b> [37] 35/14 48/20 49/9 49/10 52/15 52/18 54/2 54/11 69/8 94/9 112/1 112/11 113/23 114/5 114/11 119/11 119/19 121/23 122/17 123/4 123/19 136/14 136/23 139/22 152/21 156/15 156/17 157/5 177/22 184/4 184/6 184/8 192/19 204/2 211/11 212/23 223/6</p> <p><b>recap</b> [1] 126/22</p> <p><b>receipt</b> [3] 23/7 37/14 48/12</p> <p><b>receive</b> [1] 200/24</p> <p><b>received</b> [2] 14/13 163/15</p> <p><b>receiving</b> [2] 172/23 211/11</p> <p><b>recent</b> [1] 18/11</p> <p><b>recess</b> [9] 44/7 44/15 110/16 158/12 159/1 159/20 226/13 226/15 227/3</p> <p><b>recessed</b> [8] 44/17 44/25 110/25 111/1 159/10 159/21 226/25 227/12</p> <p><b>recognize</b> [25] 48/1 52/9 53/18 58/23 60/17 72/9 72/23 73/3 73/21 74/6 74/18 75/15 85/20 87/8 96/20 97/6 97/9 97/14 153/8 188/1 188/5 189/5 191/4 192/13 200/9</p> <p><b>recognized</b> [1] 189/11</p> <p><b>recollection</b> [6] 80/11 150/9 150/10 150/11 150/12 212/2</p> <p><b>reconvened</b> [2] 13/7 45/13</p> <p><b>record</b> [36] 5/6 5/14 5/21 8/15 10/5 10/7 10/11 14/6 30/22 43/15 52/22 53/13 57/3 58/22 72/16 73/13 74/1 83/4 84/2 89/20 94/24 106/15 111/15 118/18 120/16 133/19 135/13 151/20 159/11 160/10 163/3 174/25 185/9 186/21 194/19 209/16</p> <p><b>RECORDED</b> [1] 1/24</p> <p><b>RECORDER</b> [1] 1/24</p>	<p><b>recording</b> [2] 15/24 37/20</p> <p><b>recordings</b> [1] 162/1</p> <p><b>records</b> [3] 25/17 34/11 169/1</p> <p><b>recess</b> [2] 83/8 106/5</p> <p><b>rectangular</b> [1] 203/12</p> <p><b>red</b> [7] 22/3 22/4 22/5 24/15 135/21 143/6 143/18</p> <p><b>redirect</b> [8] 2/12 2/16 2/24 79/5 79/9 104/17 133/5 149/4</p> <p><b>Redwood</b> [1] 55/1</p> <p><b>reenter</b> [1] 220/17</p> <p><b>reentered</b> [1] 220/22</p> <p><b>refer</b> [2] 162/15 164/16</p> <p><b>reference</b> [1] 162/12</p> <p><b>referred</b> [1] 186/13</p> <p><b>referring</b> [1] 83/4</p> <p><b>reflect</b> [1] 186/22</p> <p><b>reflected</b> [4] 53/2 118/23 120/19 186/23</p> <p><b>refresh</b> [2] 168/25 172/21</p> <p><b>regard</b> [1] 171/9</p> <p><b>regarding</b> [8] 159/13 162/20 166/23 168/10 170/17 171/10 172/6 173/12</p> <p><b>regardless</b> [3] 42/4 59/11 59/13</p> <p><b>regards</b> [4] 168/9 168/16 170/16 170/20</p> <p><b>register</b> [4] 17/16 19/17 34/20 218/15</p> <p><b>registered</b> [1] 214/25</p> <p><b>registering</b> [1] 25/24</p> <p><b>regular</b> [1] 41/12</p> <p><b>relate</b> [3] 108/20 165/8 165/11</p> <p><b>related</b> [5] 154/5 154/23 157/14 157/16 165/6</p> <p><b>relating</b> [1] 168/11</p> <p><b>relation</b> [2] 30/17 76/10</p> <p><b>relative</b> [3] 32/19 33/9 61/1</p> <p><b>release</b> [1] 117/25</p> <p><b>released</b> [3] 117/24 212/24 213/6</p> <p><b>relevant</b> [1] 211/18</p> <p><b>remaining</b> [1] 9/19</p> <p><b>remember</b> [55] 41/14 58/18 62/18 68/18 69/10 69/11 69/15 71/15 71/16 71/17 76/17 78/1 78/5 80/12 82/2 82/8 82/10 84/20 87/17 87/24 88/23 89/10 92/21 94/8 102/25 103/2 103/11 103/14 103/16 103/20 104/6 104/7 104/20 104/23 114/17 119/22 120/4 120/5 120/6 120/7 122/19 122/21 127/9 132/3 144/6</p>	<p>146/12 146/14 147/17 150/16 199/18 204/23 209/10 213/1 213/6</p> <p><b>remembered</b> [1] 104/20</p> <p><b>render</b> [1] 30/8</p> <p><b>rendering</b> [1] 154/15</p> <p><b>rent</b> [2] 7/8 7/9</p> <p><b>reparks</b> [2] 24/11 24/23</p> <p><b>repeat</b> [1] 172/4</p> <p><b>rephrase</b> [4] 103/24 141/17 141/19 189/25</p> <p><b>report</b> [15] 44/10 110/19 159/4 161/20 162/2 162/11 162/15 164/9 164/12 169/6 169/8 170/25 172/18 172/19 226/18</p> <p><b>reported</b> [1] 190/19</p> <p><b>REPORTING</b> [1] 1/25</p> <p><b>reposition</b> [1] 24/6</p> <p><b>repositioned</b> [3] 20/6 24/14 24/18</p> <p><b>repositions</b> [1] 209/14</p> <p><b>represent</b> [3] 75/7 98/4 213/21</p> <p><b>request</b> [5] 7/23 12/25 84/24 89/2 91/14</p> <p><b>require</b> [1] 83/18</p> <p><b>reside</b> [1] 186/7</p> <p><b>respond</b> [9] 152/11 176/1 179/3 180/18 181/8 196/17 197/2 198/18 211/15</p> <p><b>responded</b> [3] 56/2 156/10 181/11</p> <p><b>responders</b> [3] 181/16 182/7 182/10</p> <p><b>responding</b> [4] 176/25 177/1 179/6 181/6</p> <p><b>responds</b> [1] 29/20</p> <p><b>response</b> [5] 13/5 116/24 154/3 175/21 225/7</p> <p><b>responsibilities</b> [1] 152/9</p> <p><b>responsive</b> [2] 113/16 153/16</p> <p><b>rest</b> [4] 10/16 16/18 17/12 47/19</p> <p><b>restaurant</b> [1] 198/17</p> <p><b>result</b> [2] 169/7 169/8</p> <p><b>resume</b> [1] 227/10</p> <p><b>retarded</b> [1] 68/9</p> <p><b>retrieve</b> [2] 28/15 32/6</p> <p><b>return</b> [1] 44/6</p> <p><b>returned</b> [1] 47/5</p> <p><b>returning</b> [1] 25/21</p> <p><b>reunite</b> [1] 23/12</p> <p><b>review</b> [2] 164/8 187/22</p> <p><b>reviewed</b> [2] 161/19 171/23</p> <p><b>rid</b> [2] 32/11 32/13</p> <p><b>right</b> [249]</p> <p><b>right-hand</b> [4] 146/13 146/19 146/20 204/1</p>	<p><b>road</b> [11] 20/11 40/1 40/1 55/4 55/6 93/11 129/3 154/13 177/15 178/23 183/3</p> <p><b>robbed</b> [3] 16/9 34/14 36/8</p> <p><b>robberies</b> [2] 196/18 196/19</p> <p><b>robbery</b> [22] 15/17 27/2 27/6 30/13 30/19 35/8 38/1 38/1 40/25 154/24 155/24 155/25 157/9 157/12 195/8 195/10 195/12 195/23 196/3 196/16 196/18 197/4</p> <p><b>robbing</b> [1] 37/7</p> <p><b>Robert</b> [7] 185/18 191/14 191/14 191/18 191/19 192/2 192/3</p> <p><b>rolled</b> [6] 105/6 105/8 140/25 180/3 180/10 180/16</p> <p><b>romantically</b> [1] 185/22</p> <p><b>Romo</b> [9] 27/14 83/17 83/22 84/5 84/9 84/9 98/3 104/19 206/4</p> <p><b>Ronald</b> [1] 29/4</p> <p><b>room</b> [3] 159/12 226/22 227/1</p> <p><b>rounded</b> [1] 117/15</p> <p><b>rounding</b> [1] 116/13</p> <p><b>route</b> [1] 184/9</p> <p><b>rude</b> [1] 125/11</p> <p><b>run</b> [22] 28/21 35/12 37/4 42/3 71/3 71/8 77/13 77/17 78/9 81/11 109/18 109/18 141/2 141/22 145/6 168/7 170/10 170/19 172/12 172/16 187/18 190/19</p> <p><b>running</b> [21] 49/20 66/21 70/4 70/6 70/8 78/13 93/7 99/25 103/4 105/21 109/20 137/7 137/10 137/11 140/23 142/14 146/8 147/4 155/23 156/13 216/15</p> <p><b>runs</b> [6] 29/18 29/18 66/20 66/21 78/18 78/25</p> <p><b>rush</b> [1] 178/13</p> <p><b>rush-hour</b> [1] 178/13</p> <p><b>rushing</b> [1] 106/23</p> <p><b>S</b></p> <p><b>S-t-e-p-h-a-n-i-e</b> [1] 175/1</p> <p><b>safe</b> [1] 101/6</p> <p><b>Sahara</b> [3] 134/18 134/19 134/19</p> <p><b>said</b> [72] 11/7 35/22 35/23 36/1 36/12 36/13 36/16 36/17 36/18 47/16 48/15 49/10 50/11 50/24 52/23 54/22 59/3 59/12 59/24 61/13 62/8 62/15 64/24</p>
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<b>S</b>	<b>say</b> 19/5 22/6 36/6 36/22 50/7 100/19 129/12 167/15 219/20 <b>scared</b> [2] 71/4 106/25 <b>scene</b> [25] 21/22 29/20 29/21 56/2 71/22 71/23 72/2 85/21 95/12 96/18 155/3 155/4 155/13 155/14 155/16 155/23 156/12 156/15 157/6 157/11 157/13 183/12 183/23 197/20 197/21 <b>schedule</b> [1] 8/24 <b>scheduled</b> [3] 10/15 10/15 10/18 <b>scheduling</b> [2] 10/3 11/13 <b>Scholl</b> [16] 26/21 26/21 26/23 67/8 75/12 77/5 99/12 100/13 100/19 113/24 143/21 143/25 148/7 154/8 179/19 179/19 <b>school</b> [10] 17/10 50/8 51/8 51/11 56/7 59/5 59/6 59/16 59/17 87/9 <b>scoot</b> [1] 57/20 <b>scope</b> [3] 39/4 40/4 109/5 <b>screaming</b> [2] 29/16 107/12 <b>screen</b> [7] 19/9 86/8 100/17 153/15 179/12 200/6 200/6 <b>seal</b> [1] 163/15 <b>search</b> [1] 210/15 <b>seat</b> [30] 5/19 9/21 15/5 20/24 22/10 28/14 28/19 31/5 31/8 31/12 31/14 43/13 45/21 57/1 83/25 92/9 92/9 92/12 93/24 93/24 94/3 106/1 111/14 121/19 133/17 151/19 160/9 174/24 185/8 194/18 <b>seated</b> [6] 13/23 14/5 44/19 45/19 111/7 160/2 <b>seater</b> [1] 140/5 <b>second</b> [5] 27/6 27/7 51/20 136/14 172/11 <b>seconds</b> [5] 25/20 25/23 121/21 126/10 206/8 <b>section</b> [3] 195/8 195/24 201/7 <b>sedan</b> [1] 91/23 <b>see</b> [177] 12/19 17/1 17/17 17/21 18/21 19/9 19/12 19/21 20/3 20/25 22/4 22/13 22/18 22/22 23/12 24/7 24/19 25/21 26/4 26/5 27/3 28/8 29/9 30/14 31/1 31/3 31/10 31/13 32/8 39/21 39/21 40/12 44/15 47/12 48/9 53/16 55/6 55/14 58/20 59/4 59/18 59/19 65/11 67/8 67/10 68/21 68/21 70/10 70/21 70/24 76/12 85/20 85/23 86/3 86/5 86/12 87/2 87/3 88/5 89/24 90/19 90/22 91/6 91/25 92/11 93/4 93/24 94/2 94/4 94/5 94/7 96/18 97/2 98/12 99/4 99/24 100/4 100/7 100/17 100/19 100/21 101/12 101/16 101/19 101/20 101/21 102/2 102/4 102/7 102/10 102/14 102/21 102/23 105/5 105/9 105/15 105/16 105/16 105/23 106/9 107/3 113/12 116/11 116/22 117/14 117/19 118/5 118/6 120/2 121/1 121/9 123/4 129/2 131/14 136/18 138/13 139/8 139/8 139/16 139/19 140/17 140/22 142/9 142/10 142/13 142/13 143/10 143/13 154/1 154/4 154/6 154/7 154/11 155/14 158/19 158/20 159/9 163/8 176/14 178/18 183/13 183/18 184/2 186/15 189/21 191/21 192/11 192/22 192/22 199/17 203/14 204/2 205/22 206/13 206/24 207/11 208/5 208/9 208/12 209/7 209/18 210/4 215/11 217/5 218/18 219/13 220/12 220/17 221/2 221/24 222/11 223/9 223/19 225/16 225/21 226/24 227/10 <b>seeing</b> [24] 56/17 83/13 94/9 104/20 104/23 105/2 119/19 119/22 120/6 121/23 129/25 133/10 136/23 137/2 150/25 158/3 174/15 184/16 187/16 188/7 194/9 213/1 213/6 226/7 <b>seemed</b> [2] 119/2 122/16 <b>seemingly</b> [1] 137/22 <b>seems</b> [1] 58/4 <b>seen</b> [21] 17/14 18/13 24/12 24/13 25/11 36/24 39/20 54/8 59/8 65/13 65/23 69/1 102/1 131/13 183/23 191/1 191/14 207/20 209/16 215/13 225/10 <b>sees</b> [6] 17/11 28/13 28/14 29/5 29/18 30/7 <b>selection</b> [3] 10/13 15/13 42/18 <b>self</b> [2] 169/13 203/12 <b>self-explanatory</b> [1] 169/13	<b>sell</b> [1] 203/12 <b>sell</b> [3] 35/22 35/23 63/15 <b>send</b> [3] 12/18 50/20 200/22 <b>sense</b> [4] 16/18 41/5 139/3 204/25 <b>sentenced</b> [2] 11/24 12/4 <b>separated</b> [3] 119/7 156/22 157/1 <b>serial</b> [1] 37/13 <b>series</b> [1] 172/4 <b>serious</b> [2] 39/2 134/9 <b>serve</b> [3] 5/24 6/13 203/12 <b>services</b> [1] 135/15 <b>set</b> [4] 42/5 44/3 184/24 185/2 <b>setting</b> [3] 155/8 155/11 155/12 <b>seven</b> [1] 193/25 <b>seven-month-old</b> [1] 193/25 <b>several</b> [1] 26/16 <b>sex</b> [1] 9/6 <b>shadow</b> [7] 29/24 177/3 186/3 186/9 186/10 186/12 217/5 <b>Shanahan</b> [11] 26/17 27/23 111/9 111/11 111/16 111/18 111/23 115/7 122/1 123/19 133/11 <b>shape</b> [2] 192/18 192/19 <b>share</b> [2] 212/13 212/18 <b>shave</b> [2] 8/20 8/21 <b>she</b> [23] 13/13 26/17 27/23 27/25 28/2 28/2 28/4 28/8 28/9 28/13 28/14 28/25 28/25 30/6 30/7 30/9 71/12 71/13 118/19 134/7 178/22 178/25 181/2 <b>she'll</b> [2] 27/25 30/8 <b>she's</b> [2] 27/24 158/18 <b>sheet</b> [1] 106/10 <b>shift</b> [2] 197/13 197/15 <b>shiny</b> [1] 192/11 <b>shirt</b> [8] 23/14 53/17 69/8 69/13 120/6 120/7 128/1 128/3 <b>shit</b> [1] 36/21 <b>shock</b> [2] 29/16 68/8 <b>shocked</b> [3] 68/10 68/11 179/4 <b>shoes</b> [1] 222/11 <b>shopping</b> [1] 199/7 <b>short</b> [1] 199/24 <b>shortly</b> [6] 16/9 16/21 35/12 42/15 47/13 190/22 <b>shot</b> [7] 28/20 29/7 31/3 124/8 124/9 169/22 202/23 <b>shots</b> [2] 122/15 200/6 <b>should</b> [2] 124/25	125/23 <b>shoulder</b> [1] 219/23 <b>shoulders</b> [2] 122/16 131/23 <b>show</b> [70] 16/11 19/18 19/22 21/11 21/17 21/20 21/25 22/21 23/7 25/5 25/12 25/17 26/25 27/5 30/11 30/12 30/18 31/8 31/9 31/17 31/20 31/24 34/3 34/17 35/2 37/5 37/8 40/3 40/23 41/2 41/21 47/24 55/25 58/22 60/9 60/16 61/16 66/25 67/13 72/4 73/6 74/11 74/15 75/13 91/11 98/22 113/16 113/17 122/23 123/18 134/17 134/24 135/1 138/15 153/10 156/1 165/14 165/22 166/2 179/12 179/15 182/25 183/5 183/12 201/8 202/20 202/22 203/1 203/5 207/4 <b>showed</b> [4] 35/11 40/10 47/13 75/12 <b>showing</b> [18] 21/23 23/7 31/25 48/7 52/7 60/17 97/12 105/1 112/20 123/12 125/21 164/20 183/11 189/4 200/7 201/25 203/24 224/24 <b>shown</b> [7] 34/7 52/9 91/2 101/13 157/13 177/25 178/16 <b>shows</b> [12] 19/19 26/8 31/18 32/4 35/6 48/13 94/14 155/15 201/25 204/17 211/6 211/23 <b>shut</b> [3] 138/3 138/4 146/9 <b>sic</b> [1] 73/23 <b>side</b> [78] 20/20 21/18 24/19 27/21 31/10 41/23 52/20 52/23 53/23 68/5 68/20 68/21 70/4 70/6 70/15 75/11 76/19 78/2 78/4 78/14 82/13 82/13 82/15 82/16 82/17 82/18 82/19 82/20 91/8 91/16 92/5 100/5 100/16 101/12 101/16 101/17 101/18 101/22 101/25 102/18 103/9 103/18 105/11 105/14 105/17 115/18 117/16 118/7 118/8 121/15 121/16 121/18 138/21 139/2 140/13 145/12 149/14 164/23 165/4 165/5 165/21 165/25 166/1 166/5 179/10 179/18 184/1 199/5 201/21 208/19 210/7 214/19 222/12 222/13 223/2 223/2 224/3 224/3
----------	---	--	---

<b>S</b>	170 170/12 171/3	10/24 12/3 15/14 16/17	10 110/3 136/8	96/5 96/6 201/9 201/11
<b>sidewalk [31]</b> 23/13	<b>slack [1]</b> 6/9	17/8 17/24 17/25 20/18	138/22 143/10 158/11	204/3 204/10 204/16
23/20 26/9 29/16 76/19	<b>slammed [1]</b> 146/9	20/18 22/9 22/25 25/11	167/21 167/21 186/10	204/17 204/22 206/9
77/20 85/6 85/8 86/3	<b>slated [1]</b> 226/12	25/13 28/7 29/16 30/4	188/13 189/22 199/19	208/11 209/6
86/14 86/17 86/19	<b>sleep [3]</b> 7/2 7/6 7/7	34/6 39/20 39/21 39/24	201/14 222/7 227/6	<b>stand [5]</b> 13/12 39/6
86/19 87/3 88/6 89/8	<b>sleeping [4]</b> 8/20 9/10	40/12 40/16 40/16 41/3	<b>sort [22]</b> 77/22 78/13	150/13 151/14 175/20
91/1 91/4 92/24 93/1	9/11 9/12	41/9 41/12 41/12 42/2	78/23 98/12 99/6 99/11	<b>standing [8]</b> 68/9 85/3
95/4 95/6 97/7 108/17	<b>sleeveless [3]</b> 18/17	43/7 44/4 49/7 50/5	107/25 143/14 145/3	86/3 86/14 86/22 98/20
108/19 108/23 119/22	23/14 208/16	50/19 51/18 54/14 55/9	145/8 147/16 167/2	132/13 201/15
120/23 127/23 212/1	<b>slide [2]</b> 18/15 18/19	62/7 62/7 62/8 62/15	167/25 196/19 199/22	<b>stands [1]</b> 217/4
221/25	<b>slipped [1]</b> 93/9	71/1 81/23 89/24 98/8	203/11 214/19 217/13	<b>standstill [1]</b> 178/13
<b>sidewalks [1]</b> 211/24	<b>slow [8]</b> 19/4 69/24	98/16 100/7 101/12	217/18 217/22 221/11	<b>start [10]</b> 8/23 138/13
<b>sign [10]</b> 22/5 85/1	70/1 93/14 119/13	103/23 107/20 109/12	225/22	154/21 155/22 164/8
85/4 85/5 86/4 98/9	141/9 204/25 208/12	110/2 116/1 117/2	<b>sound [3]</b> 48/14 129/18	180/5 181/19 183/1
98/11 161/12 173/15	<b>Slower [1]</b> 205/2	117/23 125/22 127/17	180/9	198/6 199/12
173/18	<b>slowing [1]</b> 141/10	129/17 130/23 132/4	<b>sounds [3]</b> 12/14 130/1	<b>started [21]</b> 12/10
<b>signal [1]</b> 99/12	<b>smacked [1]</b> 70/20	139/12 140/18 142/7	180/8	41/23 50/21 63/24 65/5
<b>signed [1]</b> 161/21	<b>small [2]</b> 137/18	144/4 144/11 150/2	<b>south [6]</b> 75/11 76/19	65/17 69/23 69/25
<b>significance [1]</b> 163/23	137/19	154/20 154/21 155/3	98/25 99/2 99/3 138/24	69/25 70/1 91/3 91/4
<b>significant [6]</b> 11/1	<b>smaller [6]</b> 87/23	155/19 157/11 158/19	<b>southwest [1]</b> 211/13	93/5 93/13 114/20
168/4 168/5 171/17	137/22 138/1 138/8	164/25 166/6 168/13	<b>space [2]</b> 31/11 113/19	116/25 119/5 130/6
171/19 196/18	145/7 145/9	172/4 177/4 178/15	<b>SPANISH [3]</b> 1/22	141/11 180/19 204/13
<b>signs [2]</b> 27/16 98/13	<b>smart [1]</b> 81/17	181/7 181/14 181/21	83/18 83/19	<b>starting [3]</b> 96/14
<b>similar [2]</b> 28/24	<b>Smoothie [2]</b> 62/1 62/2	187/25 189/1 195/20	<b>speak [1]</b> 71/18	138/12 206/7
126/24	<b>snack [2]</b> 62/17 62/20	197/4 207/4 207/11	<b>speaking [2]</b> 155/18	<b>starts [2]</b> 17/13 28/9
<b>simple [1]</b> 49/2	<b>snacking [1]</b> 63/20	215/17 219/7 223/4	157/5	<b>state [61]</b> 1/5 1/17 2/2
<b>simply [1]</b> 38/4	<b>snacks [9]</b> 17/24 20/1	223/12 225/8	<b>special [1]</b> 37/23	2/6 7/12 7/13 7/22 8/7
<b>since [2]</b> 128/16	23/11 62/9 62/15 63/16	<b>somebody [7]</b> 58/6	<b>specialty [1]</b> 197/5	10/14 13/10 14/3 14/6
132/10	63/17 64/4 73/8	141/23 150/1 150/4	<b>specific [6]</b> 163/20	14/9 14/11 38/17 39/7
<b>single [1]</b> 214/8	<b>snatch [1]</b> 27/18	152/10 169/17 178/24	169/23 170/21 176/16	42/8 43/5 43/14 43/20
<b>sir [32]</b> 43/13 44/20	<b>snatched [2]</b> 14/20	<b>somebody's [1]</b> 167/8	180/20 205/12	45/16 57/2 74/24 83/7
45/21 46/3 49/22 52/9	90/7	<b>somehow [4]</b> 40/16	<b>specifically [11]</b> 49/23	83/16 83/17 84/1 110/2
57/6 75/5 85/18 85/23	<b>so [433]</b>	120/21 125/14 156/22	84/13 84/16 112/5	111/5 111/8 111/9
86/7 88/1 88/13 88/25	<b>socializing [3]</b> 191/14	<b>someone [12]</b> 12/4	164/3 164/16 175/17	111/14 111/19 114/23
89/24 96/4 97/2 100/12	191/18 191/19	15/22 37/7 94/9 115/14	187/7 187/10 196/1	133/13 133/18 133/24
107/6 107/20 110/9	<b>SOLID [102]</b> 1/8 1/8	137/14 188/18 188/24	203/14	142/17 151/5 151/11
151/14 152/3 153/8	5/11 8/10 8/25 14/7	200/13 203/15 210/6	<b>specimens [2]</b> 161/18	151/19 159/25 160/3
157/17 162/20 163/13	14/13 14/22 15/7 15/15	211/5	164/14	160/4 160/9 160/14
194/22 195/3 200/9	15/17 16/1 18/9 18/16	<b>something [50]</b> 9/8	<b>speculation [2]</b> 107/1	174/10 174/19 174/20
213/20 226/8	18/18 19/7 19/14 19/18	15/22 28/1 28/16 31/15	141/16	174/24 175/4 184/19
<b>sirens [4]</b> 30/2 176/18	19/19 20/19 20/23	33/9 46/15 48/25 49/1	<b>sped [3]</b> 15/10 119/1	184/23 185/9 194/13
177/20 181/5	21/14 22/2 22/9 22/9	49/2 50/3 54/19 54/20	119/3	194/14 194/18 214/2
<b>sit [5]</b> 44/21 44/24	22/11 22/11 22/14	56/15 59/15 64/20	<b>speed [4]</b> 93/7 119/5	217/16 217/21 227/4
131/3 147/9 224/7	22/16 22/20 23/1 23/5	64/24 65/7 68/7 86/23	119/7 119/13	<b>STATE'S [84]</b> 3/15
<b>site [1]</b> 26/19	23/5 23/8 23/11 23/14	90/8 90/12 91/11 112/1	<b>speeded [1]</b> 36/20	40/24 43/7 45/3 45/8
<b>sits [3]</b> 30/16 42/17	23/17 23/21 24/17 25/4	112/2 113/7 114/10	<b>spell [10]</b> 43/14 57/2	47/25 48/8 52/8 53/5
42/20	25/6 25/11 25/17 25/18	114/11 114/20 116/6	84/1 111/15 133/18	56/1 56/20 58/23 58/24
<b>sitting [15]</b> 16/1 27/25	25/21 25/22 25/25 27/1	116/7 119/5 129/12	151/20 160/9 174/25	60/11 60/13 60/16 67/1
31/9 31/12 68/24 69/1	27/3 27/5 27/24 29/7	130/9 130/12 134/9	185/9 194/19	67/4 67/10 72/5 72/7
70/16 70/23 71/1	31/2 31/9 31/17 31/21	135/6 136/7 136/18	<b>spent [1]</b> 49/25	72/18 74/12 74/14
122/20 124/5 137/4	32/13 34/13 34/16	138/2 138/7 139/8	<b>spinal [1]</b> 180/3	75/20 79/12 85/9 85/15
137/12 153/24 224/4	34/23 35/1 35/3 35/6	141/5 149/7 153/11	<b>spine [2]</b> 180/15	85/19 88/3 91/2 91/10
<b>situation [4]</b> 6/4 41/6	35/10 35/13 37/5 37/21	177/24 178/23 186/18	180/15	94/12 95/17 95/23 96/5
81/14 132/5	37/24 38/1 38/15 39/1	219/20 224/18	<b>spoke [3]</b> 10/24 183/6	97/13 97/17 97/22
<b>six [1]</b> 196/12	39/12 40/7 40/14 40/17	<b>sometime [1]</b> 54/12	190/14	105/1 112/21 114/24
<b>size [1]</b> 93/18	40/25 42/1 42/17 42/23	<b>sometimes [4]</b> 32/6	<b>spoken [1]</b> 40/8	115/2 120/10 120/11
<b>skin [2]</b> 94/10 102/12	43/1 75/8 98/4 187/5	178/21 178/22 191/23	<b>spot [1]</b> 25/9	122/23 123/2 123/12
<b>skinnier [1]</b> 90/13	188/6 189/12 189/14	<b>somewhat [1]</b> 130/24	<b>spotted [2]</b> 18/9 49/6	125/21 126/22 134/25
<b>skinny [3]</b> 88/19 88/21	189/17 190/23 191/19	<b>somewhere [7]</b> 50/20	<b>spun [1]</b> 119/8	135/10 135/12 135/14
90/15	191/22 192/8 193/11	61/18 76/16 125/24	<b>squad [4]</b> 196/8 196/11	138/16 143/2 153/7
<b>skipped [1]</b> 7/7	213/21 215/19 218/9	132/2 176/3 200/18	197/11 197/13	157/14 157/18 163/3
<b>skull [23]</b> 165/7 165/8	218/18 219/14 220/17	<b>son [2]</b> 16/20 55/7	<b>squads [1]</b> 196/4	163/9 163/12 164/21
166/20 166/24 166/25	222/5 222/8 224/19	<b>sons [1]</b> 46/8	<b>St. [1]</b> 161/5	165/15 165/23 166/3
167/1 167/1 167/3	225/16	<b>sons' [1]</b> 46/9	<b>St. Louis [1]</b> 161/5	166/18 177/9 177/25
167/3 167/4 167/5	<b>Solid's [9]</b> 9/3 16/8	<b>soon [1]</b> 93/23	<b>stability [2]</b> 51/19	178/16 179/11 183/1
167/7 167/16 167/19	16/12 30/12 34/11	<b>Sorensen [1]</b> 182/4	180/2	183/11 183/18 189/5
167/21 167/23 167/25	34/21 40/8 40/19	<b>sorry [25]</b> 6/20 33/3	<b>stabilized [1]</b> 55/18	192/6 192/10 200/8
168/3 168/3 168/9	191/24	43/22 46/10 51/25 60/4	<b>stable [2]</b> 51/16 55/20	202/21 203/24 204/10
	<b>some [93]</b> 6/9 9/15	75/22 84/23 89/1 89/3	<b>stamp [14]</b> 72/21 73/19	210/17 212/18 213/25

<b>S</b>	<b>stole [3]</b> 34/23 108/24 153/3 154/5 154/23 157/15 <b>stomach [2]</b> 171/5 171/6 <b>stood [1]</b> 15/18 <b>stop [23]</b> 28/10 32/12 66/6 81/15 108/11 130/13 135/21 136/9 142/4 142/6 142/7 142/10 142/14 178/22 201/23 214/13 216/20 218/16 219/5 219/13 221/9 222/14 225/10 <b>stoplight [1]</b> 136/8 <b>stopped [15]</b> 30/1 30/1 30/3 46/25 47/1 132/15 143/6 143/17 143/21 148/21 154/12 178/5 178/20 179/16 180/11 <b>Stoppers [3]</b> 188/9 188/19 193/19 <b>stopping [3]</b> 66/7 73/18 74/3 <b>stops [5]</b> 30/8 152/12 152/12 215/5 219/20 <b>store [30]</b> 16/21 17/23 18/14 19/8 19/12 19/16 22/15 22/17 23/10 23/19 23/23 23/24 24/2 24/8 24/9 47/14 48/24 56/7 62/8 62/25 63/11 64/3 72/24 73/7 97/3 203/9 206/25 209/19 220/19 220/24 <b>stored [1]</b> 200/17 <b>story [3]</b> 157/3 187/20 188/8 <b>straight [8]</b> 20/10 24/25 29/10 69/2 81/19 82/11 116/23 124/10 <b>straightforward [1]</b> 39/3 <b>strange [2]</b> 178/5 178/20 <b>stranger [1]</b> 65/25 <b>street [53]</b> 14/21 15/2 19/23 21/12 21/12 24/20 25/2 27/20 54/22 55/2 59/9 61/2 61/11 61/24 62/10 63/8 64/5 64/18 64/22 66/21 70/16 70/21 70/24 91/4 91/8 91/9 92/25 98/12 100/15 100/21 103/17 109/20 114/20 116/8 116/15 119/23 119/25 120/22 120/23 127/22 154/1 177/15 186/3 186/13 199/5 201/21 202/3 211/12 221/18 224/14 224/24 225/1 225/4 <b>streets [1]</b> 9/12 <b>stress [1]</b> 42/19 <b>stressful [1]</b> 41/6 <b>stretch [1]</b> 203/11 <b>striking [8]</b> 15/8 122/14 169/14 169/15	169/15 170/22 170/22 170/23 <b>structured [1]</b> 210/2 <b>struggle [21]</b> 14/23 15/1 30/18 30/19 66/10 66/18 90/25 90/25 91/3 114/19 116/2 117/23 119/23 120/12 120/21 126/7 127/7 127/17 129/2 131/2 145/16 <b>struggling [2]</b> 90/24 120/3 <b>stuck [6]</b> 9/9 138/1 138/2 138/14 139/20 147/22 <b>stuff [4]</b> 43/23 49/17 68/16 71/25 <b>style [4]</b> 17/1 17/17 17/22 196/19 <b>subject [9]</b> 44/8 44/13 110/17 110/22 159/2 159/7 218/9 226/16 226/21 <b>submit [1]</b> 9/2 <b>submitted [4]</b> 42/21 44/14 110/23 159/8 <b>subpoena [2]</b> 200/23 200/25 <b>succeeded [1]</b> 66/13 <b>successful [6]</b> 66/7 181/15 181/16 202/6 211/2 212/8 <b>successfully [1]</b> 64/21 <b>such [3]</b> 41/13 105/8 156/12 <b>sudden [1]</b> 222/12 <b>suggest [1]</b> 8/24 <b>suggested [2]</b> 50/22 50/23 <b>suicide [2]</b> 173/17 174/7 <b>suicides [1]</b> 161/15 <b>suit [1]</b> 186/20 <b>summer [1]</b> 35/17 <b>Summerlin [1]</b> 134/20 <b>sun [1]</b> 35/15 <b>supervisor [1]</b> 95/14 <b>support [2]</b> 26/25 181/24 <b>suppose [1]</b> 131/1 <b>supposed [2]</b> 6/24 113/5 <b>sure [14]</b> 10/23 11/2 47/22 69/4 69/4 114/7 116/5 126/14 130/7 131/5 149/18 190/1 190/4 193/5 <b>surgery [2]</b> 168/14 169/2 <b>surgical [2]</b> 161/1 172/24 <b>surveillance [24]</b> 17/14 17/15 25/16 26/12 53/12 187/23 189/9 191/1 198/4 198/8 200/1 200/12 202/16 203/22 204/6 205/19 205/19 210/15 210/23 211/2 211/19 212/5	211/2 212/21 <b>survive [1]</b> 190/21 <b>survived [1]</b> 190/20 <b>suspect [16]</b> 198/21 198/25 205/20 205/23 208/5 208/6 209/1 209/7 210/14 212/9 212/10 212/13 212/19 214/16 216/23 221/5 <b>suspects [2]</b> 208/25 216/3 <b>Sustained [1]</b> 141/18 <b>SUV [90]</b> 18/25 20/4 20/7 20/8 20/10 20/11 20/25 21/6 21/9 21/11 21/14 23/12 23/21 23/22 24/4 24/5 24/5 24/11 24/14 24/15 24/17 24/18 24/18 24/22 24/24 25/12 25/21 26/1 26/3 26/5 26/20 27/21 27/21 27/24 27/25 28/6 28/19 29/7 30/15 31/1 31/22 34/4 34/7 66/22 66/23 67/11 67/24 73/11 77/24 78/6 78/10 78/12 78/13 78/25 91/23 91/24 92/3 92/25 93/12 93/24 93/25 94/3 104/21 104/24 105/2 114/9 114/11 114/11 117/10 117/11 117/15 120/24 121/1 121/10 121/18 121/23 123/4 123/10 124/8 126/3 130/21 139/23 139/24 139/25 140/4 141/6 207/16 208/9 208/13 212/14 <b>swerve [1]</b> 137/5 <b>swing [1]</b> 197/13 <b>switch [1]</b> 59/17 <b>sworn [10]</b> 43/11 56/24 83/23 111/12 133/15 151/17 160/7 174/22 185/6 194/16 <b>swung [1]</b> 145/18 <b>synopsis [2]</b> 15/13 175/24 <b>system [1]</b> 204/22	171/17 171/19 177/10 179/5 200/6 <b>taken [9]</b> 25/14 32/1 34/24 37/4 97/10 99/16 141/6 183/3 183/15 <b>takeover [1]</b> 196/19 <b>taker [1]</b> 115/11 <b>takes [4]</b> 11/12 20/22 66/15 218/22 <b>taking [10]</b> 10/13 13/18 27/11 66/6 66/8 66/13 81/11 121/20 122/22 155/7 <b>talk [12]</b> 10/4 44/7 71/25 72/2 87/16 110/16 156/19 159/1 159/15 159/16 226/15 227/7 <b>talked [5]</b> 24/3 32/11 65/7 115/15 144/9 <b>talking [25]</b> 5/21 19/5 24/10 37/1 37/6 37/6 73/8 76/16 79/16 90/10 119/14 120/22 122/10 126/25 135/3 137/10 138/20 154/21 157/2 167/6 167/8 170/2 170/3 206/25 221/24 <b>tall [3]</b> 65/5 65/20 88/18 <b>taller [5]</b> 65/22 65/23 115/22 117/3 122/12 <b>tan [1]</b> 128/1 <b>tank [4]</b> 23/14 89/5 208/16 209/3 <b>tape [2]</b> 155/14 155/14 <b>task [1]</b> 197/22 <b>Tate [1]</b> 34/10 <b>Taylor [4]</b> 185/18 185/22 191/19 192/2 <b>Teague [10]</b> 30/6 151/5 151/10 174/20 174/21 175/1 175/3 175/8 184/4 184/15 <b>teams [1]</b> 196/6 <b>technical [1]</b> 98/16 <b>teen [1]</b> 87/23 <b>teenage [1]</b> 87/3 <b>telephones [1]</b> 95/10 <b>television [4]</b> 44/12 110/21 159/6 226/20 <b>tell [51]</b> 16/5 27/17 27/25 28/4 28/19 29/6 29/15 29/17 29/19 30/8 35/13 35/20 36/9 36/15 36/21 52/2 53/21 54/19 54/20 54/21 68/15 69/6 70/3 71/14 71/20 86/13 86/25 87/1 87/10 88/10 88/17 91/11 91/19 91/22 92/8 108/11 119/16 120/13 127/12 165/3 165/16 168/23 171/14 179/5 179/6 179/12 182/23 199/23 209/25 219/24 223/10 <b>telling [4]</b> 32/20 54/23 69/12 69/15 <b>tells [2]</b> 29/19 35/7
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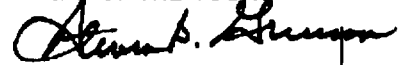
<p><b>T</b></p> <p><b>tended [1]</b> 154/19</p> <p><b>term [2]</b> 129/19 167/8</p> <p><b>terms [3]</b> 18/2 19/3 189/14</p> <p><b>terrible [12]</b> 9/9 9/13 17/19 60/23 62/13 62/25 73/7 202/1 202/2 203/1 203/10 203/15</p> <p><b>Terrible's [10]</b> 26/13 202/10 204/7 205/16 205/20 207/3 207/7 210/18 212/13 214/7</p> <p><b>testified [20]</b> 30/24 43/12 56/25 82/22 82/24 82/25 83/24 98/5 105/23 111/13 126/3 129/11 133/16 145/4 151/18 160/8 174/23 183/25 185/7 194/17</p> <p><b>testify [5]</b> 27/23 34/12 41/13 112/2 153/12</p> <p><b>testifying [1]</b> 126/7</p> <p><b>testimony [18]</b> 14/24 19/22 27/14 28/25 30/21 34/9 40/12 42/3 75/10 104/10 107/4 125/24 132/12 133/12 144/20 144/21 146/18 149/1</p> <p><b>text [3]</b> 32/17 32/18 34/15</p> <p><b>texted [2]</b> 55/10 55/11</p> <p><b>than [16]</b> 9/5 17/5 65/22 65/23 87/14 102/11 115/24 115/24 122/12 132/24 134/8 146/1 162/4 162/6 167/23 226/12</p> <p><b>thank [115]</b> 5/8 7/10 7/20 11/11 11/25 12/20 34/1 38/13 38/15 38/17 38/21 43/3 43/4 43/13 43/18 43/19 45/11 45/22 45/25 51/23 53/3 53/8 56/9 56/10 56/12 56/18 56/19 57/1 57/6 57/21 60/15 61/8 73/17 75/22 76/8 76/15 79/3 83/10 83/14 83/25 84/4 84/5 84/6 89/3 89/22 97/24 97/25 104/9 104/11 106/6 109/24 110/7 110/9 111/14 111/18 111/20 115/3 124/17 124/19 133/3 133/7 133/11 133/17 133/22 133/25 148/25 150/19 151/1 151/3 151/19 151/23 151/25 157/21 158/4 158/6 158/22 159/19 160/1 160/4 160/13 160/15 163/10 174/16 174/24 175/3 175/5 182/9 184/11 184/17 185/8 185/14 186/24 190/2 190/3 192/25 193/4</p>	<p>194/10 194/12 194/18 194/21 194/22 194/24 208/11 213/9 213/11 213/24 215/16 218/16 225/11 225/25 226/2 226/4 226/9 227/8</p> <p><b>Thanks [3]</b> 133/23 185/12 226/10</p> <p><b>that [902]</b></p> <p><b>that's [114]</b> 10/10 11/13 12/14 12/16 15/6 18/13 19/5 22/3 22/5 24/8 24/15 24/20 25/4 26/22 28/6 31/5 31/8 31/18 32/3 32/15 36/1 36/2 37/19 41/11 42/11 45/6 47/13 48/2 48/6 53/18 55/2 56/5 59/2 65/7 67/16 69/16 69/19 70/21 71/21 72/13 74/10 74/20 75/24 76/6 77/4 79/3 79/25 82/23 82/25 85/21 100/14 101/18 105/2 105/22 108/9 110/7 112/2 114/1 116/25 117/4 120/7 125/10 126/11 126/20 126/23 126/24 127/5 130/5 136/21 136/24 143/17 145/4 145/13 146/22 147/10 147/14 147/25 148/17 153/11 154/25 155/14 155/15 156/5 161/11 163/6 163/15 164/2 164/19 165/6 165/17 165/19 167/15 167/19 169/7 169/8 169/17 171/6 178/25 183/4 197/16 199/20 200/18 203/11 203/13 209/10 210/1 212/4 214/15 216/2 216/3 216/5 216/6 216/19 219/14</p> <p><b>their [40]</b> 10/15 16/13 16/14 17/7 17/12 17/12 17/19 18/6 23/2 25/15 29/24 30/2 40/20 71/1 83/16 91/1 112/18 116/13 117/2 117/3 138/1 144/10 144/11 157/3 174/19 194/13 197/5 199/18 199/24 200/17 200/18 200/23 201/24 201/25 203/12 204/22 211/4 211/22 211/22 211/23</p> <p><b>them [57]</b> 6/10 10/24 10/25 13/1 18/8 23/4 24/20 25/16 46/15 51/18 52/25 54/1 63/15 63/18 63/19 67/25 87/1 87/6 88/9 88/11 90/7 90/9 95/11 103/21 120/7 120/14 120/22 122/6 129/15 130/25 131/4 138/12 154/16 157/2 159/16 165/3</p>	<p>173/23 174/4 176/16 178/21 179/5 179/6 181/2 181/25 191/15 191/16 191/21 198/16 199/23 213/2 213/3 217/21 219/15 219/17 219/20 219/23 220/10</p> <p><b>themselves [1]</b> 34/18</p> <p><b>then [132]</b> 5/6 9/20 9/25 10/3 10/11 10/19 10/20 13/1 18/18 19/24 21/13 23/20 27/11 29/19 29/20 31/24 35/23 36/20 36/20 36/24 44/5 50/25 58/9 60/21 60/25 61/13 61/19 62/12 63/23 64/11 64/24 65/15 66/20 70/1 70/18 71/2 71/13 73/6 77/23 78/12 78/13 78/18 78/25 78/25 79/21 79/23 93/6 103/8 106/11 108/18 109/2 109/9 115/16 116/8 116/9 119/8 119/22 120/1 120/24 121/19 124/5 128/16 129/3 129/12 130/15 131/2 131/21 132/10 132/13 137/1 137/7 137/21 138/12 139/15 139/21 140/17 140/24 143/15 143/20 145/2 145/12 147/5 147/11 147/13 147/14 147/17 148/6 148/10 148/11 152/7 156/18 158/21 158/21 161/4 161/13 162/1 163/20 165/22 166/2 167/15 169/22 170/24 171/4 171/8 173/8 181/18 188/9 188/17 188/21 190/15 191/10 195/10 196/24 203/11 204/11 208/15 209/15 210/6 213/5 217/5 217/21 218/9 221/15 221/18 222/8 222/8 223/15 223/15 223/19 225/8 225/9 225/13</p> <p><b>Theoretically [1]</b> 218/21</p> <p><b>there [213]</b> 5/23 8/22 11/25 12/6 13/1 14/23 15/1 16/1 17/2 17/17 17/21 18/6 18/8 19/10 19/12 20/3 23/4 23/9 23/15 24/4 24/15 25/12 26/4 26/5 26/16 29/11 29/23 30/7 30/16 31/7 34/12 37/20 39/19 40/5 40/7 40/7 40/14 40/25 42/2 44/24 46/8 46/24 47/6 47/11 47/20 49/17 50/6 51/5 51/6 54/15 54/18 55/4 55/16 55/17 55/19 55/21 56/5 61/2 61/4 61/15 62/17 63/11</p>	<p>63/13 63/14 63/23 66/10 66/16 66/23 68/24 69/1 70/16 70/23 71/10 71/12 73/11 74/3 76/24 77/7 77/23 77/25 78/3 78/5 78/7 79/18 79/21 79/25 80/1 80/2 80/3 80/4 80/8 80/9 80/18 80/21 81/7 86/19 86/22 87/13 91/9 91/9 93/6 95/2 95/10 96/17 98/18 98/20 99/1 100/19 100/25 103/11 103/14 103/16 103/16 103/18 103/20 103/20 103/23 103/25 104/3 104/5 110/1 112/16 112/19 114/6 114/7 114/18 117/23 122/17 122/19 122/20 122/21 122/21 125/10 126/3 126/6 128/9 128/10 131/2 132/2 132/4 136/5 136/6 137/4 137/12 137/12 141/10 142/12 145/16 150/13 153/17 153/21 156/8 156/16 158/15 159/13 162/14 162/24 163/13 163/17 164/1 164/25 165/25 166/1 166/3 166/11 166/20 167/7 168/10 168/16 169/1 171/12 172/18 172/20 173/14 175/22 180/2 180/9 180/12 182/6 182/10 182/21 182/22 187/19 188/11 196/11 197/11 199/6 199/8 199/9 199/11 201/20 202/5 202/7 204/3 205/8 205/10 207/6 207/22 208/15 208/24 214/15 214/18 216/22 217/1 217/4 221/2 221/2 223/7 223/10 223/11 223/21 225/16 227/2</p> <p><b>there's [49]</b> 12/25 15/16 15/24 16/6 16/7 19/7 19/8 19/24 19/24 21/14 22/5 22/5 22/13 22/18 23/9 24/6 24/24 26/23 29/4 29/10 33/18 34/9 39/17 39/19 41/3 41/24 41/24 41/25 56/14 63/11 70/17 86/7 124/3 124/10 129/17 132/24 136/22 143/10 143/12 143/15 158/21 161/12 161/12 166/1 167/12 167/13 167/16 178/23 224/19</p> <p><b>Thereafter [1]</b> 15/7</p> <p><b>therefrom [1]</b> 53/10</p> <p><b>therein [1]</b> 35/7</p> <p><b>these [28]</b> 18/3 18/9 22/24 32/4 32/4 32/5 32/17 33/13 33/13</p>	<p>33/24 35/5 37/23 40/2 42/13 43/1 45/4 75/14 97/6 100/16 128/12 143/13 156/20 162/5 162/6 166/6 166/19 183/15 217/15</p> <p><b>they [168]</b> 6/8 6/10 6/10 12/19 14/18 14/18 14/19 17/6 17/11 18/5 18/7 19/22 19/25 22/21 22/22 22/23 22/24 23/2 23/24 24/2 25/14 29/19 29/25 29/25 30/2 30/2 30/4 30/8 32/2 32/3 32/10 33/15 34/14 34/18 36/18 36/25 37/12 37/13 37/20 40/10 41/14 41/14 41/14 45/4 46/15 49/10 49/17 54/19 55/20 63/2 63/3 66/4 71/9 71/11 72/12 73/1 87/6 87/8 88/3 88/4 88/6 89/12 90/5 91/1 91/3 93/14 94/23 98/20 98/20 98/25 103/17 103/17 103/19 108/8 109/18 109/20 110/2 114/18 114/19 116/5 117/2 117/2 117/14 117/15 117/16 117/24 117/24 118/19 119/3 119/6 119/6 119/15 119/23 120/2 120/25 128/2 129/3 130/16 130/18 130/19 130/20 130/22 131/4 136/6 136/6 138/2 138/13 141/9 141/10 141/11 145/10 145/10 145/16 145/17 154/12 154/14 154/16 156/1 156/7 156/10 156/21 157/1 157/3 168/12 168/13 168/15 169/2 172/22 176/16 178/22 178/22 181/11 186/7 188/11 188/11 189/17 190/21 191/22 198/11 198/13 199/16 199/21 199/21 199/23 199/23 199/24 200/16 200/16 200/20 201/20 201/20 201/24 202/2 203/18 207/9 209/11 211/5 211/11 213/6 217/22 217/25 221/12 221/13 221/14 222/12 224/23 224/24 225/2</p> <p><b>They'll [1]</b> 41/13</p> <p><b>they're [11]</b> 15/25 15/25 19/22 21/8 46/14 89/18 138/13 140/23 141/12 181/3 210/1</p> <p><b>they've [1]</b> 12/9</p> <p><b>thick [2]</b> 17/5 18/7</p> <p><b>thieves [2]</b> 17/5 18/7</p> <p><b>thin [1]</b> 88/22</p> <p><b>thing [17]</b> 15/23 26/12 29/5 31/23 49/6 54/17</p>
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<b>T</b>	<b>time</b> [3] 7/3 8/24 10/18 10/18 12/11 14/7 15/21 18/21 19/3 19/6 20/4 20/9 24/11 29/21 32/7 34/11 35/14 37/3 38/19 39/3 39/10 41/15 41/19 42/19 42/19 44/5 44/16 44/23 45/19 46/24 49/11 50/10 51/8 54/8 54/11 55/19 60/4 61/17 65/13 67/21 68/14 68/15 70/2 71/6 72/21 73/18 80/13 89/21 94/2 95/25 96/5 96/6 98/8 103/12 103/18 110/14 114/21 114/21 114/22 116/14 118/4 121/18 127/14 127/17 128/12 128/17 128/19 129/24 130/23 142/7 145/24 146/25 154/13 155/22 157/16 158/24 173/23 175/18 175/23 176/2 176/24 181/14 181/20 183/9 184/4 186/5 186/9 187/3 187/14 191/25 195/24 196/17 196/21 198/20 199/24 200/1 200/14 200/16 201/9 201/11 201/13 204/2 204/10 204/11 204/16 204/17 204/22 204/23 205/8 205/12 205/18 206/8 208/11 209/2 209/6 215/22 224/24 226/13 <b>timeline</b> [3] 21/2 199/12 204/13 <b>times</b> [4] 19/4 41/6 190/6 190/8 <b>Timothy</b> [3] 160/5 160/6 160/11 <b>tinted</b> [1] 103/1 <b>tiny</b> [1] 139/25 <b>tire</b> [9] 30/9 54/9 70/15 178/24 178/25 182/17 182/19 183/25 222/11 <b>tired</b> [2] 50/1 50/11 <b>tires</b> [1] 32/22 <b>today</b> [18] 10/15 10/19 39/6 42/20 46/4 50/11 57/15 75/5 112/3 126/25 131/3 147/9 147/17 186/16 208/1 213/22 224/4 226/12 <b>TODD</b> [4] 1/20 75/7 98/3 213/21 <b>together</b> [17] 17/6 17/11 17/12 22/25 41/19 43/25 49/25 50/6 59/21 131/4 185/22 185/25 191/21 204/13 217/15 217/22 226/22 <b>told</b> [19] 35/21 35/22 36/7 50/8 50/13 55/1 55/12 69/15 69/16 71/13 78/3 82/21 94/16 122/8 146/23 146/25	179/4 180/23 197/22 <b>Tom</b> [2] 9/16 9/17 <b>tomorrow</b> [3] 226/23 226/24 227/11 <b>tonight</b> [1] 6/24 <b>too</b> [10] 18/22 19/4 32/21 89/13 98/17 137/8 158/19 161/15 174/18 226/10 <b>took</b> [26] 14/13 48/24 50/15 55/17 70/11 71/22 74/5 90/12 90/16 90/23 93/13 93/17 94/12 94/16 97/15 108/4 108/8 109/16 119/10 119/12 119/24 125/16 139/22 148/6 157/9 201/2 <b>top</b> [16] 18/18 19/1 21/14 22/18 23/14 25/3 31/10 89/5 106/11 120/17 123/10 140/11 167/12 208/6 208/16 209/3 <b>Torres</b> [2] 13/24 13/24 <b>Torrey</b> [41] 17/10 17/20 19/23 20/21 20/25 21/12 21/13 21/24 24/21 25/7 26/3 27/8 60/7 60/19 88/4 112/19 112/24 113/6 124/1 134/11 134/22 135/1 135/20 136/8 136/9 139/7 143/6 143/12 149/7 149/23 153/13 177/18 178/4 197/9 197/16 199/4 202/24 210/21 211/12 211/13 217/4 <b>total</b> [2] 195/18 195/19 <b>tough</b> [1] 130/11 <b>tow</b> [1] 145/8 <b>toward</b> [1] 100/8 <b>towards</b> [40] 19/1 19/10 20/7 20/19 22/14 24/3 24/7 24/12 24/13 25/3 27/10 27/12 28/1 28/6 54/18 64/17 67/23 77/13 77/18 78/14 88/6 89/25 94/18 99/8 101/6 101/7 101/10 101/11 109/19 116/13 123/10 129/5 130/16 177/11 177/18 207/4 207/13 208/13 220/5 221/19 <b>towers</b> [1] 25/24 <b>town</b> [1] 176/15 <b>toxicological</b> [2] 161/18 164/15 <b>toxicology</b> [4] 172/12 172/16 172/18 172/25 <b>toy</b> [1] 47/9 <b>trachea</b> [1] 181/25 <b>track</b> [2] 182/19 200/12 <b>tracks</b> [1] 182/17 <b>traffic</b> [11] 26/13 30/1 39/18 125/11 154/22 154/22 155/13 155/13 156/9 178/3 178/12	<b>tra</b> [1] 41/20 <b>trailing</b> [1] 31/7 <b>trained</b> [1] 160/24 <b>training</b> [1] 179/24 <b>TRAN</b> [1] 1/1 <b>transcribed</b> [2] 1/25 227/15 <b>Transcriber</b> [1] 227/19 <b>TRANSCRIPT</b> [2] 1/8 1/13 <b>transmit</b> [1] 201/5 <b>transmitted</b> [2] 200/17 201/7 <b>transpired</b> [1] 41/18 <b>transport</b> [1] 181/19 <b>transportation</b> [1] 176/3 <b>transported</b> [1] 29/22 <b>transports</b> [1] 176/2 <b>trauma</b> [17] 55/13 168/24 169/7 169/9 169/12 169/25 170/2 170/8 170/9 170/16 170/18 170/25 171/9 171/15 172/2 172/6 176/2 <b>travel</b> [6] 7/3 29/2 29/8 124/14 124/15 210/11 <b>traveled</b> [2] 210/14 211/9 <b>traveling</b> [11] 26/3 94/17 112/7 113/2 113/2 153/5 153/6 153/11 177/5 177/11 177/14 <b>travels</b> [1] 26/5 <b>Travis</b> [1] 189/2 <b>treat</b> [3] 9/4 9/5 9/5 <b>trees</b> [1] 22/7 <b>trial</b> [21] 1/14 7/25 9/11 38/15 39/4 40/6 44/9 44/10 44/11 44/14 110/18 110/19 110/20 110/23 159/3 159/4 159/8 226/17 226/18 226/19 226/22 <b>tried</b> [7] 6/8 36/12 36/12 36/17 36/19 94/25 137/6 <b>trippin'</b> [1] 64/6 <b>tripping</b> [4] 71/10 80/22 81/5 81/5 <b>Tropical</b> [2] 62/1 62/2 <b>trouble</b> [1] 107/21 <b>truck</b> [2] 24/15 91/23 <b>true</b> [1] 19/5 <b>truly</b> [1] 227/14 <b>try</b> [13] 9/8 15/7 27/18 28/10 28/11 41/18 51/15 96/13 132/18 155/17 168/17 200/12 209/5 <b>trying</b> [41] 11/4 11/5 27/16 27/16 28/15 28/15 28/21 31/15 31/15 31/22 48/24 55/20 66/5 66/6 67/25 68/15 68/16 70/3 70/4 70/5 70/6 70/9 71/9	81/17 91/6 91/20 92/16 93/5 93/16 94/18 106/2 109/9 130/8 130/9 130/12 136/7 137/15 180/9 198/7 204/13 223/9 <b>tube</b> [1] 181/25 <b>tubes</b> [2] 168/12 169/3 <b>Tuesday</b> [1] 6/24 <b>turn</b> [44] 15/19 26/23 26/24 27/21 29/9 30/5 30/16 46/7 46/18 49/22 51/25 67/17 69/2 73/12 73/23 76/22 77/4 84/9 96/4 99/12 104/6 111/25 113/5 113/8 113/10 113/11 113/11 113/12 113/21 113/21 114/3 114/4 114/13 114/13 123/19 123/21 123/22 125/7 125/15 125/17 132/14 144/1 175/16 187/7 <b>turned</b> [11] 24/2 46/19 48/3 70/14 123/23 148/21 157/12 209/11 217/24 223/25 224/7 <b>turning</b> [11] 29/11 30/15 30/16 84/13 84/16 85/9 100/12 124/11 125/2 176/20 195/9 <b>turns</b> [2] 210/12 222/17 <b>tussle</b> [6] 66/15 76/10 77/9 78/17 80/12 80/14 <b>tussling</b> [5] 65/5 65/17 66/2 74/4 74/10 <b>TV</b> [3] 53/16 96/5 155/15 <b>Twenty</b> [2] 108/15 195/16 <b>Twenty-five</b> [1] 195/16 <b>twins</b> [1] 46/15 <b>twisted</b> [2] 70/20 70/20 <b>two</b> [41] 11/8 17/5 18/8 22/18 37/3 42/18 46/9 55/17 64/20 65/2 65/3 65/3 66/21 72/9 72/23 87/3 87/13 89/11 89/25 92/6 97/2 97/6 98/18 104/3 130/25 143/13 152/18 158/13 162/4 162/6 174/3 182/18 185/25 193/3 206/8 208/24 208/24 219/13 219/14 220/8 223/7 <b>two minutes</b> [2] 65/2 65/3 <b>two-door</b> [1] 92/6 <b>type</b> [20] 16/14 48/20 49/6 50/18 80/7 91/22 112/11 114/8 117/7 119/13 152/8 156/8 169/17 171/18 171/23 176/3 180/9 183/10 189/17 207/15 <b>types</b> [1] 80/9 <b>typically</b> [4] 134/17 AA 000728
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<b>T</b>	11/15 59/8 159/21 183/14 221/17 226/22 <b>up [113]</b> 2/17 8/6 8/6 9/21 11/5 14/25 15/1 17/7 19/11 26/9 26/13 27/16 27/18 28/8 29/18 30/24 31/25 34/6 35/6 35/11 36/20 39/20 41/2 41/11 42/17 42/19 45/20 47/13 47/17 47/18 47/19 48/21 48/22 50/2 50/5 50/16 50/21 51/16 53/4 53/9 54/9 55/12 55/17 57/21 59/8 59/8 59/22 64/12 67/7 69/25 70/1 71/14 76/22 79/1 82/19 87/3 88/6 88/9 88/11 90/1 95/4 95/24 98/18 99/11 100/10 102/16 107/13 107/18 110/2 110/4 110/5 112/17 114/13 114/15 114/18 116/10 116/17 116/18 116/18 117/17 120/5 122/9 125/4 128/6 129/3 134/19 136/18 143/7 143/10 143/20 147/4 147/5 147/13 148/21 151/13 155/8 155/11 155/12 155/14 156/1 173/8 173/9 179/1 183/19 187/8 194/5 199/15 209/23 211/6 214/1 215/11 215/19 222/3 <b>update [3]</b> 154/4 154/20 154/20 <b>upon [4]</b> 28/17 28/18 187/16 188/7 <b>upper [3]</b> 99/4 164/24 167/1 <b>us [24]</b> 10/16 42/4 42/6 50/6 61/16 63/19 65/22 67/13 94/17 98/22 120/13 165/3 165/16 168/23 171/14 173/11 173/17 175/24 178/5 178/21 179/5 179/6 208/4 210/4 <b>USC [1]</b> 160/23 <b>use [14]</b> 18/1 31/22 38/2 67/13 81/4 86/13 91/11 94/12 113/15 153/14 153/18 179/12 200/14 203/5 <b>used [7]</b> 49/15 52/20 56/6 58/10 112/16 134/16 166/16 <b>using [7]</b> 31/22 45/2 88/3 104/14 118/19 120/13 179/11 <b>usually [3]</b> 65/10 65/11 191/22	101/15 105/10 <b>various [1]</b> 204/6 <b>vascular [1]</b> 167/19 <b>VEGAS [10]</b> 5/1 30/23 39/25 125/11 152/4 157/18 181/12 195/4 195/13 195/15 <b>vehicle [202]</b> 15/6 15/15 15/20 20/19 20/22 20/23 21/18 22/2 22/13 23/15 25/3 25/6 25/18 27/24 28/14 29/5 31/2 31/12 31/15 31/16 32/12 32/12 34/6 34/19 34/19 39/13 40/9 40/18 40/19 40/21 41/1 41/5 41/23 67/20 67/21 68/1 68/4 68/18 68/22 69/21 70/6 73/21 76/20 77/13 77/23 78/6 82/2 91/12 96/18 96/20 96/20 99/10 99/10 99/16 99/25 100/2 100/5 100/12 100/24 100/24 101/7 101/7 101/11 101/12 101/16 101/21 101/22 102/8 102/19 102/21 102/23 102/25 103/6 103/8 103/11 103/12 103/20 104/2 104/5 104/6 105/3 105/12 112/9 112/11 114/6 114/7 114/8 115/21 116/13 116/17 117/4 117/5 117/7 117/20 118/5 118/15 124/8 126/23 127/3 127/5 127/9 127/13 127/15 130/16 130/17 130/18 130/24 131/19 131/21 131/23 137/21 137/24 138/9 138/11 139/13 139/13 140/7 140/20 141/2 141/6 141/22 141/25 142/3 142/3 142/6 142/10 142/13 143/20 144/4 144/19 144/23 144/25 145/7 147/19 147/20 148/5 148/10 148/11 148/15 148/17 148/20 152/16 153/3 154/5 154/23 157/15 168/7 170/10 170/19 173/6 176/10 176/12 179/9 179/23 193/23 198/21 198/25 205/20 205/23 207/13 207/15 208/5 208/6 208/17 208/19 209/8 209/13 210/3 210/14 212/10 212/13 214/15 214/15 214/16 215/11 215/11 215/17 216/5 216/6 216/8 216/8 217/4 217/8 219/7 220/6 220/13 221/19 222/4 222/6 222/8 222/15 223/1 223/4 223/12 223/15	223/223/23 224/6 224/10 224/19 224/20 225/8 <b>vehicles [5]</b> 103/25 104/5 154/12 176/17 181/6 <b>versus [3]</b> 14/7 147/17 173/6 <b>vertebral [1]</b> 171/13 <b>very [38]</b> 8/12 9/14 11/13 15/1 15/23 17/5 17/6 28/24 29/22 39/25 40/1 41/15 41/22 46/14 51/16 58/13 79/3 104/9 109/24 113/16 114/17 121/21 126/24 130/11 132/5 132/6 132/7 132/13 148/25 153/15 156/12 167/3 169/23 178/5 179/4 213/23 213/24 225/25 <b>via [2]</b> 48/25 97/18 <b>vicinity [1]</b> 128/25 <b>victim [10]</b> 116/6 190/19 198/13 198/14 198/24 199/18 207/18 211/8 211/25 212/9 <b>victim's [1]</b> 182/8 <b>victims [2]</b> 207/6 207/17 <b>video [62]</b> 16/6 16/7 16/11 16/18 17/1 18/20 18/24 20/14 22/22 23/11 25/16 27/2 38/7 39/16 39/19 39/19 53/5 53/13 53/14 72/21 73/6 73/14 73/18 73/21 73/23 74/7 96/6 96/9 96/15 96/24 187/19 197/23 199/15 200/17 200/24 201/22 202/3 204/16 205/4 206/8 206/11 206/18 207/11 209/25 213/25 214/4 214/6 214/11 215/3 216/4 216/12 217/6 217/11 218/4 219/11 220/2 220/15 220/18 221/23 222/22 224/15 227/15 <b>videos [5]</b> 39/10 215/14 217/21 224/23 224/25 <b>view [19]</b> 19/14 23/9 24/1 24/14 24/16 25/2 25/5 25/7 27/8 79/16 130/24 138/19 140/9 200/4 200/20 202/15 218/14 220/9 225/22 <b>viewed [1]</b> 200/3 <b>views [1]</b> 205/12 <b>viscera [1]</b> 171/7 <b>visible [4]</b> 18/2 22/18 165/1 184/1 <b>visit [1]</b> 190/6 <b>visiting [1]</b> 192/22 <b>voir [1]</b> 8/6 <b>voluminous [1]</b> 205/19 <b>voluntarily [1]</b> 95/14	<b>voluntary [1]</b> 156/18 <b>vote [1]</b> 42/22 <b>W</b> <b>W-i-i-I [1]</b> 194/20 <b>wait [8]</b> 5/12 5/12 5/12 13/10 13/24 30/15 80/13 82/25 <b>waited [2]</b> 15/19 55/17 <b>waiting [11]</b> 16/2 66/23 67/11 67/14 67/24 69/21 73/11 73/23 114/13 122/20 137/21 <b>waits [1]</b> 30/17 <b>Walgreens [7]</b> 61/14 61/22 79/18 124/3 211/16 211/18 212/6 <b>walk [11]</b> 24/19 51/4 55/11 62/3 63/25 64/3 64/8 64/11 65/11 207/9 222/3 <b>walked [10]</b> 24/9 51/3 51/4 53/23 54/7 72/24 201/20 221/13 222/8 225/4 <b>walking [43]</b> 17/9 19/8 19/9 20/3 22/14 22/17 23/3 24/7 24/13 24/20 25/11 26/6 26/9 51/6 51/9 52/21 54/18 59/6 61/19 64/17 64/18 64/24 65/2 65/4 81/7 98/20 155/16 206/21 207/4 207/7 207/12 208/13 216/17 216/18 216/25 218/9 218/14 219/14 220/5 220/9 220/12 222/5 223/11 <b>walks [5]</b> 23/19 23/20 23/20 207/10 208/18 <b>wall [4]</b> 89/15 89/18 99/21 124/3 <b>want [45]</b> 5/9 5/11 5/20 6/10 7/17 9/4 9/5 10/6 10/17 10/20 10/23 11/3 12/24 13/23 18/21 34/4 35/23 38/6 41/16 41/16 41/18 41/25 42/11 44/21 44/21 44/23 45/20 58/22 61/4 71/4 73/6 81/4 98/17 134/1 134/9 141/5 157/2 157/3 158/12 163/2 173/1 192/10 199/23 210/3 213/25 <b>wanted [13]</b> 5/24 15/4 21/25 34/4 34/5 49/2 51/16 51/18 52/2 52/3 59/9 59/25 62/7 <b>wanting [1]</b> 20/1 <b>wants [1]</b> 9/1 <b>warranty [1]</b> 47/2 <b>was [568]</b> <b>wash [30]</b> 26/10 27/15 27/17 28/1 32/15 79/21 80/2 80/3 80/19 80/20 80/23 84/11 84/14 84/17 84/18 84/25 85/7 85/23 86/1 86/20 88/6
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<p><b>W</b></p> <p><b>wash... [9]</b> 94/21 98/6 98/15 99/7 101/3 123/19 124/3 203/12 203/12</p> <p><b>wasn't [20]</b> 37/2 51/16 54/20 55/5 55/19 56/15 70/22 88/21 106/23 114/19 116/7 117/23 126/8 137/18 144/21 145/16 145/20 150/12 188/11 188/11</p> <p><b>waste [2]</b> 39/3 39/10</p> <p><b>wasting [1]</b> 10/17</p> <p><b>watch [7]</b> 44/9 110/18 140/6 159/3 187/13 188/13 226/17</p> <p><b>watched [8]</b> 14/18 77/12 77/12 77/17 187/25 188/15 193/21 205/3</p> <p><b>watching [6]</b> 68/13 140/9 140/24 145/3 207/9 216/3</p> <p><b>water [1]</b> 44/22</p> <p><b>way [53]</b> 9/14 10/12 17/8 17/19 18/2 19/13 21/10 21/18 21/21 23/2 24/16 29/24 47/11 48/8 52/8 52/25 54/2 55/9 55/18 56/1 61/25 64/12 81/1 81/2 85/11 91/2 94/17 94/17 95/19 97/13 104/14 105/16 114/24 116/13 117/2 117/4 122/24 123/13 124/1 125/1 125/4 130/18 139/2 140/18 145/20 149/18 184/8 189/4 200/8 203/25 206/1 210/1 222/13</p> <p><b>we [207]</b> 5/11 5/21 7/14 7/19 8/5 8/20 8/21 8/23 9/16 9/20 9/21 10/4 10/18 11/4 11/16 11/17 11/18 12/12 12/15 12/22 12/22 12/25 13/4 13/10 13/16 13/24 14/6 14/7 15/25 18/21 21/4 26/25 28/5 30/11 32/23 33/23 33/23 37/17 37/22 37/25 38/14 38/20 39/3 39/8 39/9 39/11 39/12 39/15 39/20 39/21 40/14 40/23 41/17 41/21 42/6 42/11 42/12 42/18 42/23 43/22 44/6 44/20 47/3 49/25 49/25 50/1 50/2 50/6 50/6 50/7 50/14 50/15 50/21 50/21 51/9 51/9 53/9 55/16 55/17 56/6 56/7 58/9 59/8 60/9 61/4 61/5 62/9 63/24 64/5 64/18 64/19 65/7 65/11 71/21 79/11 79/16 79/17 79/21 79/23</p>	<p>80/1 80/19 89/15 98/12 98/15 99/6 106/9 109/7 112/23 119/2 119/14 122/20 124/25 127/22 133/5 133/25 134/9 135/1 137/6 138/19 138/24 143/1 143/5 147/9 151/7 151/10 153/17 153/21 156/18 157/2 157/3 158/7 158/12 158/21 159/13 161/10 161/14 161/16 161/17 161/18 163/13 163/17 163/20 164/8 164/8 164/21 165/24 166/3 166/18 168/20 172/2 172/4 172/6 176/1 176/14 177/1 177/2 177/6 178/2 178/3 178/20 178/21 178/24 179/1 179/6 179/7 179/7 180/14 181/17 181/19 181/20 181/25 182/18 182/19 196/5 196/17 196/21 196/23 197/15 198/11 200/4 200/22 204/22 205/25 206/24 207/20 208/12 209/16 214/1 218/2 218/21 218/22 219/13 220/17 220/18 222/14 222/21 224/18 224/18 225/10 225/19 225/21 226/11 226/12 226/13 227/2 227/2 227/7</p> <p><b>we'll [21]</b> 9/21 10/5 10/10 12/7 20/5 23/6 40/3 42/13 44/5 44/15 44/15 75/17 89/20 106/9 110/24 124/25 159/9 159/20 219/24 227/10 227/10</p> <p><b>we're [59]</b> 5/5 5/15 7/18 8/1 10/17 11/4 11/5 11/19 13/11 13/12 13/14 15/12 16/16 18/22 19/4 21/2 27/13 31/24 31/24 35/2 35/16 39/9 39/14 42/14 44/3 45/18 56/6 64/19 72/16 95/24 96/6 96/13 97/5 110/14 123/24 126/25 135/3 138/16 158/24 161/17 163/14 163/17 164/23 165/25 166/4 167/7 168/20 169/11 184/21 195/20 206/7 207/22 208/1 209/5 218/6 218/14 221/24 223/21 223/22</p> <p><b>we've [8]</b> 24/9 39/20 44/4 53/4 99/2 171/3 171/4 225/10</p> <p><b>weapon [1]</b> 38/2</p> <p><b>wear [1]</b> 192/20</p> <p><b>wearing [7]</b> 69/9 69/12 88/23 88/25 89/4 186/19 192/23</p>	<p><b>WEDNESDAY [4]</b> 1/12 6/17 8/19 8/21</p> <p><b>week [2]</b> 190/7 190/8</p> <p><b>weekday [1]</b> 178/6</p> <p><b>weekly [1]</b> 6/5</p> <p><b>weights [1]</b> 50/1</p> <p><b>weird [1]</b> 137/4</p> <p><b>Welcome [1]</b> 14/6</p> <p><b>well [45]</b> 7/24 12/11 35/5 45/10 46/9 59/5 63/18 65/11 65/15 68/7 68/14 68/23 71/9 71/21 85/20 86/5 88/21 89/8 95/2 113/19 123/13 128/10 137/15 150/10 151/7 154/6 155/22 161/10 163/16 163/25 165/4 171/13 172/1 172/8 173/8 173/14 174/2 181/12 186/7 187/16 213/23 216/2 221/7 221/17 223/15</p> <p><b>went [44]</b> 23/17 42/18 49/15 50/14 50/15 59/11 62/11 62/12 62/12 63/8 71/10 71/14 71/21 71/22 71/24 77/22 77/23 82/22 90/6 91/13 103/9 110/5 116/1 117/14 117/16 120/25 124/13 127/22 130/16 130/22 141/25 144/10 144/11 148/6 148/10 148/20 179/10 179/24 202/5 221/12 224/13 224/25 225/6 226/12</p> <p><b>were [267]</b></p> <p><b>weren't [7]</b> 81/23 98/20 108/17 148/21 149/18 224/23 224/24</p> <p><b>west [34]</b> 21/13 26/1 26/3 26/5 26/6 26/20 26/22 55/2 64/24 79/18 88/5 99/3 99/8 100/13 100/22 112/7 112/15 112/24 113/3 134/13 134/19 138/21 138/24 138/24 139/2 143/2 143/7 143/12 143/21 152/21 178/4 199/9 202/23 210/4</p> <p><b>westbound [21]</b> 21/1 29/3 94/15 94/17 94/25 104/1 124/15 124/16 136/12 153/6 178/3 179/18 179/20 201/20 201/21 209/9 209/21 210/12 210/14 211/10 212/1</p> <p><b>westward [1]</b> 64/17</p> <p><b>what [247]</b></p> <p><b>what's [38]</b> 7/22 13/15 18/2 47/24 48/7 52/7 52/9 55/25 58/22 66/25 68/13 72/4 72/17 72/17 74/11 74/18 75/13 80/1 91/2 97/12 112/20 134/24 138/15 139/19</p>	<p>15/1 53/23 164/20 165/14 165/22 166/2 182/25 189/4 191/8 198/7 200/7 202/20 204/10 209/16</p> <p><b>whatever [8]</b> 38/6 41/25 44/22 54/19 117/24 132/18 137/3 223/17</p> <p><b>whatnot [1]</b> 32/22</p> <p><b>wheels [1]</b> 170/22</p> <p><b>when [172]</b> 12/15 14/24 15/17 15/21 15/25 18/5 19/4 19/5 21/3 23/18 24/2 24/14 28/2 28/13 29/7 29/13 30/4 31/3 33/24 35/10 35/18 36/1 36/24 38/3 40/2 40/14 41/6 41/19 42/18 44/6 46/17 47/5 47/13 50/16 52/16 52/19 52/22 53/23 54/3 55/2 55/4 55/16 55/21 55/22 55/23 56/7 64/7 65/11 65/17 66/2 68/3 69/11 70/19 70/21 71/21 72/1 77/17 78/2 78/9 78/12 80/12 80/14 81/10 89/7 90/5 90/9 90/12 90/25 92/21 93/12 93/13 94/12 94/16 95/5 98/18 99/16 99/24 99/25 101/6 101/24 103/3 103/4 105/18 106/24 106/25 107/20 107/22 108/3 108/11 108/24 109/2 109/9 109/14 109/16 114/13 115/16 116/25 119/10 120/12 120/21 121/3 121/23 122/8 122/8 122/18 122/19 122/21 124/8 124/9 126/2 129/7 130/4 130/5 130/6 132/3 134/18 135/20 137/1 137/3 137/10 137/24 138/12 139/7 142/12 144/6 146/4 146/7 146/18 147/19 148/5 148/17 152/8 152/10 154/14 162/23 163/15 164/6 166/14 167/6 169/13 170/2 172/12 173/19 182/13 183/25 187/25 189/20 190/17 190/17 191/16 191/21 192/6 192/21 192/21 192/22 193/10 193/21 196/3 196/13 197/21 198/1 198/20 199/14 201/20 204/13 205/13 205/18 208/5 210/4 211/5 215/23 221/13</p> <p><b>whenever [1]</b> 43/20</p> <p><b>where [149]</b> 13/12 15/10 16/1 17/14 18/14 19/25 20/8 21/7 21/12 21/17 21/25 24/12</p>	<p>24/12 25/3 25/4 25/16 26/10 26/19 26/24 30/14 30/17 30/17 31/6 31/6 32/19 35/5 40/22 40/22 42/14 46/24 54/21 54/25 55/3 56/6 60/22 60/25 61/16 63/9 63/23 64/1 64/4 64/4 67/8 67/11 67/13 76/10 76/12 76/21 77/2 77/5 78/6 78/17 78/21 78/23 80/16 80/23 85/3 85/3 86/3 86/13 88/5 89/15 89/18 90/25 91/6 91/9 91/12 92/14 92/19 92/21 92/24 92/25 93/3 93/6 93/10 95/3 95/5 95/6 95/14 98/17 98/23 98/23 99/7 99/8 99/12 99/20 99/21 99/21 100/13 100/15 101/3 101/20 101/20 104/2 108/8 108/12 108/25 109/9 109/15 109/15 112/18 113/5 113/18 117/14 119/21 120/14 122/14 122/15 123/20 123/21 125/18 125/25 126/15 130/19 136/22 136/23 139/10 143/17 153/10 153/18 164/8 167/10 167/16 171/5 171/6 171/12 174/2 177/2 177/3 179/16 181/24 189/17 198/4 198/17 199/3 200/17 201/23 203/4 203/5 208/9 214/19 215/19 217/7 221/12 223/22 224/2 224/13 224/24 225/6</p> <p><b>wherever [1]</b> 5/20</p> <p><b>whether [35]</b> 6/8 15/17 15/22 41/4 41/4 41/9 41/10 42/3 42/3 52/15 52/18 53/21 78/5 91/25 92/8 95/9 101/25 102/5 102/25 102/25 114/6 122/17 129/25 148/20 157/13 157/14 161/17 170/21 190/19 190/20 212/23 212/24 216/7 223/1 225/16</p> <p><b>which [34]</b> 7/1 9/10 15/2 17/19 18/12 20/20 42/17 46/10 46/23 62/11 76/2 79/13 90/13 94/17 103/5 104/2 104/14 119/12 122/24 123/12 125/21 130/18 157/8 166/25 174/7 179/11 180/15 195/7 196/23 202/2 203/25 210/20 212/9 217/4</p> <p><b>while [17]</b> 8/19 13/23 15/18 23/10 25/18 28/8 49/20 50/3 52/21 86/22 95/2 95/3 134/5 134/7 180/14 180/14 183/3</p>
--	--	---	---	--

<p><b>W</b></p> <p><b>white</b> [158] 15/18  18/12 18/25 19/13 22/5  23/13 24/4 24/17 25/4  27/21 27/25 28/3 28/6  28/10 28/13 28/17 29/7  31/1 34/18 49/4 65/5  65/17 65/20 65/20 66/7  66/20 67/11 67/20  67/23 68/1 68/3 69/20  74/4 76/11 76/20 77/15  77/18 77/24 77/24 78/6  78/18 78/25 81/11  88/14 89/4 89/7 89/10  89/24 90/6 90/10 90/12  90/16 90/19 90/23 91/4  91/6 91/13 91/20 91/21  91/25 92/3 92/8 92/12  92/19 93/3 93/12 93/12  93/17 93/20 93/22  93/23 93/25 94/3 96/21  97/14 99/10 99/25  100/6 100/12 100/24  101/12 101/20 102/2  102/7 102/15 103/3  103/6 103/8 103/12  103/21 104/2 104/5  104/21 104/24 105/2  106/24 106/25 108/4  109/16 112/14 114/9  115/15 115/21 116/12  117/3 117/12 117/13  118/4 120/13 120/24  121/1 121/10 121/14  121/14 121/17 121/18  122/12 122/14 123/4  123/5 123/10 124/8  126/3 126/23 127/5  127/25 127/25 128/3  128/3 128/6 129/2  130/21 131/18 132/25  139/21 145/7 145/11  148/2 190/24 191/2  191/4 203/11 207/16  208/13 208/16 208/20  209/2 209/2 209/3  209/7 212/14 214/15  216/23 217/3 217/4  221/2 223/4 224/9</p> <p><b>who</b> [53] 14/24 18/7  18/9 22/25 27/14 27/15  28/5 29/4 29/5 29/19  30/22 31/12 33/17  34/10 34/20 36/11 37/7  37/12 40/16 41/22 48/3  59/1 68/21 68/22 72/12  73/1 74/9 74/10 89/11  93/21 94/2 97/10 97/15  107/10 115/16 115/16  140/18 154/18 157/9  161/12 185/20 188/5  190/19 200/13 201/6  205/23 213/6 214/25  215/2 216/5 216/6  221/5 221/5</p> <p><b>who's</b> [4] 141/13  177/22 222/5 224/19</p> <p><b>whoever</b> [2] 24/17 25/6</p>	<p><b>who</b> [4] 29/5 49/25  81/14 95/3</p> <p><b>whom</b> [1] 162/24</p> <p><b>whose</b> [2] 214/23  214/24</p> <p><b>why</b> [13] 30/1 30/3  35/18 35/19 36/8 71/3  82/11 136/6 139/18  150/16 157/1 208/23  224/6</p> <p><b>wife</b> [2] 6/3 167/15</p> <p><b>will</b> [63] 6/7 6/13 9/2  9/16 9/18 9/19 12/3  12/25 13/1 13/8 19/22  20/13 20/14 21/11  21/16 21/20 22/21 25/5  25/12 27/5 27/23 28/4  28/19 29/6 29/15 29/17  30/18 31/1 34/12 34/17  35/13 35/20 36/15  39/24 40/16 40/23 41/2  42/25 43/7 45/4 56/20  74/24 83/7 83/18 86/8  86/12 109/11 110/1  113/16 135/10 142/17  152/11 161/18 165/11  174/10 194/14 194/15  194/20 199/4 200/7  206/1 217/13 226/24</p> <p><b>window</b> [16] 68/5  82/16 92/17 92/19  101/25 102/5 105/11  105/14 105/15 105/21  106/1 118/9 118/20  119/3 123/6 179/2</p> <p><b>windows</b> [7] 28/8  68/18 103/1 105/6  105/8 105/20 116/17</p> <p><b>windshield</b> [1] 20/7</p> <p><b>wires</b> [1] 54/9</p> <p><b>Wisconsin</b> [2] 161/3  161/4</p> <p><b>wish</b> [1] 8/5</p> <p><b>wishes</b> [1] 8/15</p> <p><b>within</b> [1] 155/21</p> <p><b>without</b> [6] 7/7 44/11  52/25 110/20 159/5  226/20</p> <p><b>witness</b> [54] 43/5 43/7  43/11 43/20 45/24  56/16 56/20 56/24  67/15 74/24 83/7 83/12  83/16 83/18 83/23 84/6  97/24 106/8 106/23  107/24 111/8 111/12  111/19 133/9 133/15  133/24 142/17 150/24  151/4 151/8 151/17  151/24 157/24 158/2  158/10 158/11 158/17  160/3 160/7 160/14  174/10 174/14 174/19  174/22 175/4 184/19  185/6 185/13 193/2  194/8 194/13 194/16  194/23 213/12</p> <p><b>witnessed</b> [2] 120/12  132/8</p> <p><b>witnesses</b> [13] 2/6</p>	<p>10/14 10/18 11/8 41/7  56/14 155/1 155/18  156/15 156/17 156/20  159/14 226/11</p> <p><b>witnessing</b> [1] 112/1</p> <p><b>woke</b> [2] 50/16 50/21</p> <p><b>won't</b> [5] 6/15 7/6 9/21  69/18 108/22</p> <p><b>wondered</b> [1] 30/1</p> <p><b>wonderful</b> [1] 44/1</p> <p><b>word</b> [3] 129/8 131/9  200/14</p> <p><b>words</b> [2] 116/22  119/11</p> <p><b>work</b> [20] 6/7 6/16 6/19  6/21 6/23 6/24 7/5 7/7  7/24 8/23 9/8 9/12 9/13  28/13 30/24 58/4  112/16 152/11 176/4  196/4</p> <p><b>worked</b> [1] 95/14</p> <p><b>working</b> [16] 8/3 27/15  46/25 47/1 84/10 84/14  84/17 98/8 154/12  154/14 154/24 176/21  196/3 196/8 197/11  224/23</p> <p><b>works</b> [1] 9/25</p> <p><b>world</b> [1] 39/18</p> <p><b>worry</b> [1] 20/5</p> <p><b>worse</b> [1] 134/8</p> <p><b>worth</b> [3] 21/21 23/6  27/4</p> <p><b>would</b> [126] 6/4 7/1 7/7  7/24 7/25 8/14 8/24  8/25 9/5 9/7 9/10 9/11  9/12 9/16 19/25 20/11  24/1 24/14 24/15 24/17  25/2 25/6 26/10 27/23  29/2 31/6 31/12 33/13  35/18 35/19 35/24  35/24 42/7 42/22 44/1  49/1 49/11 49/14 49/20  51/4 53/5 58/11 58/13  59/15 60/21 60/25  61/22 63/25 64/3 65/10  69/16 78/12 81/14  82/11 89/14 89/15 99/8  99/15 101/21 105/5  105/9 107/4 107/8  108/3 113/18 114/23  121/8 124/5 125/10  125/12 127/20 127/22  127/25 129/5 130/20  130/23 131/1 131/1  131/3 132/5 132/7  134/17 140/17 145/22  145/23 146/1 146/22  151/11 152/16 162/6  163/14 168/2 169/25  170/8 170/13 171/17  171/19 177/6 177/11  177/15 178/12 180/5  183/9 183/23 184/4  184/24 185/2 189/18  189/20 190/6 190/6  191/21 192/18 192/21  192/22 192/22 192/23  195/17 196/24 197/2</p>	<p>20/10/20 210/25  212/9 217/4 224/6</p> <p><b>would've</b> [4] 6/24  21/19 114/12 118/14</p> <p><b>wouldn't</b> [7] 7/9 52/14  69/2 82/23 103/20  169/20 169/21</p> <p><b>wound</b> [2] 169/23  169/23</p> <p><b>wrapped</b> [2] 18/3 54/1</p> <p><b>wrapping</b> [1] 154/16</p> <p><b>write</b> [4] 52/5 106/10  106/11 161/23</p> <p><b>wrong</b> [2] 41/7 54/19</p> <p><b>wrote</b> [1] 156/21</p> <p><b>X</b></p> <p><b>x-rays</b> [2] 164/12 172/4</p> <p><b>Y</b></p> <p><b>yeah</b> [156] 5/16 12/16  33/8 36/13 36/15 36/22  46/15 47/11 47/18  47/18 48/2 48/4 48/15  48/19 49/5 49/5 49/8  49/13 49/15 49/25  50/13 50/13 50/18  50/21 52/3 52/10 52/13  52/13 52/17 52/20  52/24 53/17 53/23 54/4  54/15 54/22 55/1 55/10  56/5 57/12 57/18 57/24  58/7 58/12 58/25 59/14  59/17 59/20 59/22 60/8  60/18 60/24 61/12  61/15 62/5 62/14 62/24  63/12 63/22 63/22  63/22 63/22 64/7 64/23  65/1 65/3 65/9 65/16  65/19 66/1 66/11 66/19  66/24 67/9 67/12 67/19  68/2 68/12 68/14 68/20  69/7 70/12 71/1 71/7  71/19 72/3 72/11 72/25  73/5 73/10 73/22 73/25  74/8 74/20 74/22 76/13  76/14 77/3 77/6 77/8  77/11 77/14 78/11  78/15 79/2 79/20 79/22  79/24 80/7 80/10 80/17  80/21 80/21 81/20  81/25 82/4 82/7 82/15  82/19 83/1 83/2 83/4  93/21 94/20 100/23  103/8 114/3 118/21  120/25 126/13 131/2  132/6 137/23 138/10  138/18 138/21 139/4  139/6 140/5 141/8  141/24 146/3 147/25  153/19 162/7 171/12  183/24 193/16 193/20  208/18 217/1 220/20  221/13 222/10 223/17  225/20</p> <p><b>year</b> [6] 14/14 14/25  16/20 31/14 46/20  162/5</p> <p><b>years</b> [13] 14/15 41/14</p>	<p>46/19 82/5 83/3 126/12  134/25 146/2 161/4  162/8 195/16 195/17  195/18</p> <p><b>yell</b> [2] 109/14 180/20</p> <p><b>yelled</b> [1] 71/1</p> <p><b>yelling</b> [2] 102/15  181/1</p> <p><b>yellow</b> [1] 155/14</p> <p><b>Yep</b> [8] 60/20 61/15  62/16 62/19 63/15  63/22 77/16 77/21</p> <p><b>yes</b> [385]</p> <p><b>yet</b> [4] 12/10 50/5  114/17 223/21</p> <p><b>you</b> [1466]</p> <p><b>you'd</b> [3] 7/6 170/8  189/20</p> <p><b>you'll</b> [13] 17/17 17/21  20/15 21/16 26/17  30/14 31/3 32/4 32/17  40/3 40/15 41/12  223/19</p> <p><b>you're</b> [70] 6/24 10/22  11/8 13/17 14/23 16/12  21/3 27/2 29/10 29/12  30/21 32/8 32/8 32/18  33/4 33/19 35/9 35/9  40/5 40/11 41/6 42/14  43/20 44/7 45/21 57/23  64/24 76/12 76/15  79/16 81/7 86/18 98/22  110/16 113/2 127/2  130/11 130/11 130/15  131/7 132/14 132/17  132/17 136/8 136/17  137/2 139/7 139/9  139/12 140/6 140/9  141/19 152/9 153/24  157/11 159/1 162/20  162/24 166/14 167/6  170/2 170/3 177/10  177/14 177/15 196/3  196/13 224/4 226/15  227/9</p> <p><b>you've</b> [7] 11/13 64/11  126/7 128/16 140/7  140/7 162/8</p> <p><b>young</b> [16] 28/2 40/20  42/4 72/23 107/8  114/14 117/25 119/1  119/24 120/5 122/9  128/9 128/20 128/22  154/13 219/13</p> <p><b>younger</b> [5] 17/4 87/8  117/17 118/6 157/5</p> <p><b>your</b> [248]</p> <p><b>yourself</b> [7] 32/13  41/13 127/2 140/2  152/24 184/5 213/23</p> <p><b>yourselves</b> [4] 44/8  110/17 159/2 226/16</p>
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TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA  
\* \* \* \* \*

THE STATE OF NEVADA,	)	
	)	CASE NO. C-13-290260-1
Plaintiff,	)	
	)	DEPT. NO. II
vs.	)	
	)	
MICHAEL SOLID	)	
aka Michael Samuel Solid,	)	
	)	
Defendant.	)	<b>Transcript of</b>
	)	<b>Proceedings</b>

BEFORE THE HONORABLE CARLI KIERNY, DISTRICT COURT JUDGE

THURSDAY, MAY 19, 2022

**JURY TRIAL - DAY 4**

APPEARANCES:

FOR THE STATE:

AGNES M. BOTELHO, ESQ.  
BINU G. PALAL, ESQ.  
Chief Deputy District Attorneys

FOR THE DEFENDANT:

TODD M. LEVENTHAL, ESQ.  
JESS R. MARCHESE, ESQ.

RECORDED BY: JESSICA KIRKPATRICK, COURT RECORDER  
TRANSCRIBED BY: LIZ GARCIA, LGM TRANSCRIPTION SERVICE

AA 000732

INDEX OF WITNESSES

	<u>Page</u>
<u>STATE'S WITNESSES:</u>	
DAVID FREEMAN ( <i>Via Deposition</i> )	
Direct Examination by Mr. Palal	7
JEFFERY ABELL	
Direct Examination by Mr. Palal	33
TRAVIS IVIE	
Direct Examination by Ms. Botelho	47
AMY NEMCIK	
Direct Examination by Mr. Palal	59
ROBERT TAYLOR	
Direct Examination by Ms. Botelho	78
GAYLE JOHNSON	
Direct Examination by Ms. Botelho	86
MARJORIE DAVIDOVIC	
Direct Examination by Mr. Palal	104
RYAN BURKE	
Direct Examination by Mr. Palal	124
Cross Examination by Mr. Leventhal	151
Redirect Examination by Mr. Palal	154/159

\* \* \* \*

**EXHIBITS ADMITTED**

<u>STATE'S EXHIBITS:</u>		<u>Page</u>
1-24	Photos	25
34	Photo of Ford Explorer	46
34-48	Photos taken by Crime Scene Analyst	61
51,52	Photos of bike	45
53	Photo of Jacob Dismont	44
96-101	Cell phone records	124
104	DMV record	38
108,109	Maps	35
118,119	Diagrams	13
120,121	Cell phone records	124
124-126	Photos taken by Crime Scene Analyst	62
127	Chart of latent fingerprints	96
128	FBI PowerPoint	124

\* \* \* \*

1           **LAS VEGAS, NEVADA, THURSDAY, MAY 19, 2022, 9:17 A.M.**

2                           \* \* \* \*

3                           (Jury is not present)

4           THE COURT: Okay. We're talking about the  
5 transcript of -- it looks like Officer Freeman or Detective  
6 Freeman. Sorry. You had a question about the objections?

7           MR. LEVENTHAL: Some of the objections I guess are  
8 blacked out here. I guess that's what that is. For example,  
9 I'm looking at page 197. It's blacked out. So, you know,  
10 usually when we read transcripts in, you know, Your Honor  
11 does play the role of the judge.

12           THE COURT: Yes.

13           MR. LEVENTHAL: And the objections are read. You  
14 know, whether they're sustained or whether they're -- Do  
15 you have a preference either way? I just wanted to make a  
16 record.

17           MR. BINU: So, what I did, Your Honor, so like  
18 specifically 197, there was a statement on the top of page  
19 197. You have an answer. There was an objection to part of  
20 the answer. It was witness notching? And that statement --  
21 that objection was sustained and we -- a portion of that  
22 testimony was stricken as a result of that objection being  
23 sustained. So I thought it would be inappropriate to read  
24 for a jury the part of the testimony that was stricken.  
25 I thought it just read better without you guys having to say

1 the impermissible testimony, object, sustain it and then tell  
2 the jury not to -- to unhear it; just to have them not hear it  
3 in the first place. So that's in regard to that.

4 Then the rest, there are one or two other objections  
5 that were overruled that I just struck that as well. I  
6 thought -- I actually thought it makes you guys look better  
7 to not have -- make an objection, have it overruled and then  
8 proceed. So I thought -- that's what I typically do. In  
9 the past I've had defense attorneys ask me to remove the  
10 objections that were sustained because they didn't like the  
11 optics of them making an objection, having the Court -- that  
12 were overruled. The optics of making an objection, the Court  
13 overruled and then that testimony continued.

14 MR. LEVENTHAL: Okay. That's fair and I think in  
15 fairness all of them then should be marked out. There is no  
16 ending or no question to the defense if we have any questions.  
17 I don't know if we should just leave it that way or if the  
18 Court wants to say, Any questions from the defense, and we  
19 could just say no, just so they know that we've been given  
20 that opportunity and we don't leave it out there that we have  
21 no questions. That's all.

22 THE COURT: Okay. That sounds reasonable. We can  
23 do that. Anything else? All right, let's bring this jury  
24 back in.

25 (Pause in the proceedings)

1 (Jury enters the courtroom)  
2 THE COURT: Do the parties stipulate to the presence  
3 of the jury?  
4 MS. BOTELHO: The State does.  
5 MR. LEVENTHAL: Defense so does.  
6 THE COURT: Okay. You may be seated.  
7 State, you may call your next witness.  
8 MR. PALAL: Thank you, Your Honor. The State is  
9 calling David Freeman, which is going to be read by Marc  
10 DiGiacomo.  
11 THE COURT: All right.  
12 THE CLERK: You do solemnly swear that you will well  
13 and truly read the answers of the deponent as set forth in  
14 the deposition in response to the questions therein asked by  
15 counsel, so help you God?  
16 THE READER: I do.  
17 THE CLERK: Thank you. Please have a seat. State  
18 and spell your name for the record, please.  
19 THE READER: It's Marc, M-a-r-c. Last name is  
20 DiGiacomo, D-i-G-i-a-c-o-m-o.  
21 MR. PALAL: Okay. And for the record you're reading  
22 for David Freeman; correct?  
23 THE READER: That is correct.  
24 ////  
25 ////

1                   **PRIOR TESTIMONY OF DAVID FREEMAN READ AS FOLLOWS:**

2                                   DIRECT EXAMINATION

3 BY MR. PALAL:

4           "Q     Good afternoon, sir. How are you employed?

5           "A     I'm employed with the Las Vegas Metropolitan Police  
6 Department.

7           "Q     What is your position within the department?

8           "A     I'm a detective with the Fatal Detail.

9           "Q     Can you explain to the ladies and gentlemen of the  
10 jury what the Fatal Detail is and does?

11          "A     Sure. The Fatal Detail is assigned to the Traffic  
12 Section. We investigate fatal collisions or near fatal  
13 collisions. When we respond to those scenes we use advanced  
14 equipment and we use proven scientific methods to reconstruct  
15 the collision scene.

16          "Q     Can you explain your background, training and  
17 experience, your education that you received in order to hold  
18 that position within the department, please?

19          "A     Sure. I've been on the Las Vegas Metropolitan  
20 Police Department for a little over 23 years. I have been  
21 assigned to Traffic for 18 years. I've been investigating  
22 fatal collisions for about four and a half years. I've  
23 received lots of training to get me to this point, accident  
24 collision investigation, technical accident collision  
25 investigation, vehicle dynamics. Traffic crash reconstruction

1 through Northwestern University, Units 1, 2 and 3. CAD Zone  
2 mapping. Bosch CDR crash analysis and technician course.  
3 Motorcycle reconstruction, pedestrian reconstruction, and many  
4 other courses as well that probably aren't worth mentioning.

5 "Q Okay. Have you testified previously in the Eighth  
6 Judicial District Court?

7 "A I believe in a civil hearing.

8 "Q Okay. And have you testified here in this  
9 courthouse?

10 "A Not in this -- well, in this courthouse, yes, on  
11 several cases.

12 "Q And how many times?

13 "A During my career?

14 "Q Yeah.

15 "A I would estimate maybe fifty times.

16 "Q Okay. And how many times since you've been with  
17 the Fatal Detail?

18 "A Probably about fifteen.

19 "Q Thank you. Detective Freeman, I'd like to turn  
20 your attention to May 16th of 2013. Were you working on that  
21 day?

22 "A I was.

23 "Q And were you called to a scene located near the  
24 intersection of Charleston and Torrey Pines?

25 "A I was.

1           "Q    And can you explain what information you were given  
2 that caused you to be called to that scene?

3           "A    The Fatal Detail received information that there  
4 was a collision that occurred in that area involving a vehicle  
5 and a pedestrian and that the pedestrian may not survive the  
6 event. So they asked for us to respond to the scene and do  
7 the investigation that we normally perform.

8           "Q    And did you do so?

9           "A    We did.

10          "Q    And when you say the term "we," how many of you  
11 within the Fatal Detail go to the scene that day?

12          "A    That day we had four detectives. Our sergeant was  
13 off, so we had a detective that was acting in the sergeant  
14 capacity. So we had four detectives total, one of them acting  
15 in a sergeant capacity for the Fatal Detail.

16          "Q    And what was your role in the investigation on that  
17 day?

18          "A    I took primary for the unit.

19          "Q    What does that mean?

20          "A    That means that I'm responsible for collecting all  
21 of the information, assigning jobs to the other detectives and  
22 doing the -- basically I'm the hub for all the information.  
23 And then I'll gather that information and then I'll analyze  
24 at a later time. And then I'm responsible for submitting the  
25 main report for our unit.

1        "Q    So when you go out there, I mean, obviously we've  
2 heard from other investigative units, so patrol goes out  
3 there, Robbery eventually will go out there. How are your  
4 goals or your job duties different from those other  
5 investigative units?

6        "A    Well, I -- I reconstruct the scene. I'll analyze  
7 the evidence, I'll locate the evidence. A lot of times  
8 because we specialize in traffic collisions, the evidence  
9 that we see is not usually readily apparent to most people.  
10 I mean, after investigating thousands of accidents, some of  
11 the stuff that I might notice is relevant, others -- other  
12 people wouldn't. So we go out there and we identify those  
13 parts of the scene that we believe are relevant to the scene  
14 and then we will document those, and then we will take  
15 measurements and then we'll make sure that we're able to  
16 analyze those things.

17        "Q    In a few seconds I'm going to go through some  
18 diagrams that you created, as well as some photos. But before  
19 I do, can you walk us through the steps of your investigation  
20 when you hit the scene?

21        "A    Sure. We were dispatched. We were sent to the  
22 scene about 5:37 p.m. We arrived -- I arrived on the scene  
23 about 5:48 p.m. I made contact with several units that were  
24 already on the scene. Shortly after arriving, we had a  
25 briefing where all of the units gather in one place and then

1 we all receive the same briefing so that all the information  
2 that we get is consistent. At one point during the  
3 investigation when we were still waiting for other people to  
4 arrive, I made contact with a witness, a Rebecca Shanahan,  
5 and I talked with her about what she had seen and what her --  
6 where she was when the accident happened and what she could  
7 tell me. She gave me several details.

8 "Q Continue. Go ahead.

9 "A While talking with Ms. Shanahan, she said she was  
10 a witness to the collision, so I obtained some information  
11 from her. And then shortly afterwards, then we received the  
12 briefing and then at that point then we started to identify  
13 the evidence, mark it with paint and cones, and then we  
14 started to document the evidence with our devices, our GPS  
15 survey tools and stuff like that.

16 "Q Okay.

17 MR. PALAL: "May I approach the witness, Your  
18 Honor?"

19 THE COURT: "You may."

20 BY MR. PALAL:

21 "Q I'm showing you what's been marked for purposes  
22 of identification as State's Proposed 118 and 119. Do you  
23 recognize these diagrams?

24 "A I do.

25 "Q And how do you recognize them?

1           "A    I created these two diagrams using the CAD Zone  
2 mapping software and the information gathered at the scene.  
3 My name is at the bottom left corner and there's a scale at  
4 the bottom right.

5           "Q    Okay. And on each of these documents does it also  
6 have an Event Number?

7           "A    It does.

8           "Q    Can you explain to the ladies and gentlemen of the  
9 jury what an Event Number is?

10          "A    An Event Number is the number that's assigned to  
11 the event through the department so that all of the reports  
12 are gathered under the one -- the one Event Number. So any  
13 documents relating to the event could be easily obtained from  
14 researching that number.

15          "Q    And this Event Number is 130516, which actually  
16 stands for the year 2013, the month is May and the date is  
17 the 16th. Is that correct?

18          "A    That's correct.

19          "Q    And then the next four numbers are 2758, which  
20 means it's the two thousand, seven hundred and fifty-eighth  
21 call Metro received that day. Is that correct?

22          "A    That is correct.

23          "Q    And that Event Number is on each of these papers?

24          "A    It is.

25          "Q    And are these diagrams that you created in regards

1 to your investigation on May 16th of 2013?

2 "A They are.

3 "Q And are they fair and accurate copies of those  
4 diagrams that you provided to the Metro Records Department?

5 "A They are.

6 MR. PALAL: "Your Honor, at this time I'd like to  
7 move into evidence State's Proposed 118 and 119."

8 THE COURT: "Any objection?"

9 MR. LEVENTHAL: "No. Let me just double check to  
10 make sure they're ones that I have checked."

11 THE COURT: "All right. No objection?"

12 MR. LEVENTHAL: "No objection."

13 THE COURT: "All right. 118 and 119 are admitted."

14 MR. PALAL: "Thank you, Your Honor."

15 (State's Exhibits 118 and 119 admitted)

16 BY MR. PALAL:

17 "Q Now, Detective Freeman, you discussed that you  
18 go to the scene and document it. It's documented with  
19 photography and you use several tools and aids. Is it more  
20 helpful in your examination to go through the diagrams first  
21 or the photographs?

22 "A I'd rather go through the diagrams, actually,  
23 because it's a scale model, if you don't mind.

24 "Q Yes, of course. Showing you -- there's two. There  
25 are two diagrams. There is State's 118. I'm going to try

1 and zoom in a little bit for you. There's also State's 119.  
2 For starters, I'd like to turn your attention to what's now  
3 in evidence State's 118. And if you could, I can zoom in a  
4 little bit closer if that would be helpful to you so you can  
5 explain to the ladies and gentlemen of the jury what it is  
6 we're looking at. And I'm sure you've used a monitor in front  
7 of you before, but you can actually mark on it and it will  
8 show what you're marking.

9 "A Okay. So this is Charleston and Scholl Drive right  
10 here. This is Charleston Boulevard and this is Scholl Drive  
11 right here. This is the turn lane, the westbound turn lane  
12 that I just marked here, and that's the assumed original  
13 position of the 2002 Ford Explorer. The bus stop is marked  
14 here where it says Bus Stop. It's a black box where I just  
15 marked. Off the sidewalk there on the south edge of the curb  
16 several things of interest were found in the collision scene  
17 and they were marked and labeled. Got a headphone pad,  
18 a right shoe, a left shoe. They're both matching shoes.  
19 A piece of trash that looked like a candy bar wrapper. And  
20 then there was a collection of blood in the asphalt that was  
21 believed to be the final resting position for the pedestrian.

22 These lines were friction mark evidence that we saw  
23 on the roadway. We measured them and marked them with cones  
24 and paint. That starts right here and it ends in the final  
25 rest position of the pedestrian.

1           There are two big vehicles you see. Those vehicles  
2 were found near the collision scene upon arrival. Those  
3 vehicles were still sitting there in those positions when we  
4 arrived. They were marked with -- the tires were marked with  
5 paint so that we knew exactly where they were sitting, and  
6 then we asked them to leave the area so that we could get a  
7 better idea of the evidence that we had in the collection  
8 scene" -- oh, sorry -- "the collision scene so that they  
9 weren't blocking our view of the evidence. Those two vehicles  
10 were determined to be people who had driven upon the scene  
11 after it had occurred and then they were providing like  
12 blocking mechanisms for anybody that was coming into the  
13 scene so they could protect the victim that was laying in the  
14 roadway.

15       "Q   And then is there anything else in regards to this  
16 diagram before I move on to the other diagram?

17       "A   Well, if it's visible, I'd like to point out that  
18 this line here is actually broken into two sections. The  
19 first section there's a long, narrow line and it goes from  
20 here to here. And that is one single long narrow line and  
21 then it changes to a wider, more significant series of  
22 friction marks, a collection of friction marks that are a  
23 little bit darker, a little bit wider, which means that  
24 something happened here. And that pretty much is consistent  
25 up to the pedestrian of final rest.

1           There's also right here, I don't know if you can  
2 see it, that's where that new arrow just appeared. That was  
3 a very short tire mark we had located. It seemed relevant  
4 because it was so close in relation to the other marks that  
5 we had seen. I'd like to point out that this long mark that  
6 we have seen is something that we would typically see in a  
7 pedestrian -- automobile/pedestrian type collision. A long,  
8 narrow mark like that, someone who was being dragged or just  
9 assumed velocity for some reason, only a piece of contact was  
10 being made with the roadway. So just the fact that they were  
11 all consistent and lined up with each other quite well, they  
12 seemed to be consistent with the incident.

13           "Q     Okay. So now I'd like to show you State's 119,  
14 which are some measurements. Before we get into the  
15 measurements, I'd like to address some of the lines that you  
16 just spoke about, now that we don't have cars as part of the  
17 diagram, if that's okay.

18           "A     Of course.

19           "Q     So in regards to this lighter line that's  
20 traveling, you have referred to it in your diagram as a scuff,  
21 s-c-u-f-f. Correct?

22           "A     Yes.

23           "Q     So that's like -- on the diagram it's a finer line  
24 and it measures 55 feet and (sic) 72 inches. Is that correct?

25           "A     Yes.

1           "Q     Now that you said that this is -- I don't know if  
2 -- I'm using the term a lighter line in comparison to the  
3 next line we're going to talk about. How should I -- what  
4 should I --

5           "A     It was fainter. It was harder to see. The way I  
6 would describe it is if you take a pencil eraser and you just  
7 rub it across, like just one pass over a piece of paper, and  
8 the roadway surface, the asphalt is bumpy, it has grooves, it  
9 has -- so depending on which way something is rubbing against  
10 the asphalt, that's where those deposited pieces of material  
11 will be on that face. So if it's -- if the -- if the material  
12 is rubbing against the asphalt going westbound, which is what  
13 I believe here, a lot of that -- a lot of that material would  
14 be collected on the raised areas of the asphalt on the east  
15 side.

16                 So if you're standing -- if you're looking -- if  
17 you're standing west of the incident and you're looking east,  
18 it's not likely that you'll see it because it's being obscured  
19 by the other side of the little, you know, divots in the  
20 roadway. But if you stand on the other side, you can kind of  
21 see it. It's difficult to see. You have to -- sometimes we  
22 put on like Polarized lenses and we'll turn our heads to the  
23 side or we'll get down at ground level. We also sometimes  
24 wait until the sun gets to a certain azimuth, you know, in  
25 the sky, so that it will shine a better light on what we're

1 looking at. So again, it was not easy to see, but we could  
2 identify it.

3 "Q So when you use the term scuff, what does that  
4 mean?

5 "A It means something other than a tire. It's a  
6 material. So something is scuffing the roadway, a material.  
7 Like, I identify this as a tire mark because I believe a tire  
8 made that. But scuff, it's commonly used when describing  
9 pedestrian collisions because pedestrians, it could be their  
10 skin, it could be their clothing, it could be a helmet. It  
11 could be all kinds of -- you know, a belt buckle, sometimes  
12 you see a scrape.

13 "Q A shoe?

14 "A A shoe. Right.

15 "Q So that is what your -- that's what we're seeing  
16 here when you have delineated a scuff for 55 feet and (sic)  
17 72 inches. Correct?

18 "A Correct.

19 "Q Right after that we have a mark, and you say it's  
20 a tire mark. What about this mark makes it a tire mark versus  
21 a scuff?

22 "A The width of the mark. The fact that there was two  
23 distinct lines on either side of it and they were parallel,  
24 it seemed consistent with a tire mark. It was very short.  
25 It only appeared for a small -- it just -- it was a very

1 short mark.

2 "Q And you said -- I think you said when we had the  
3 other diagram up earlier that that can be due to a change of  
4 pressure in the car or a change of the weight of the vehicle?

5 "A Right. That could be due to weight shift. It's  
6 because we're only seeing it -- we're only seeing the one tire  
7 mark and that's because it could be from weight shift on the  
8 vehicle. Sometimes depending on the braking efficiency of a  
9 vehicle if the brakes -- if braking applied this mark, if all  
10 tires were acting in concert with each other you could have  
11 four tire marks. But if -- sometimes depending on weight  
12 shift or depending on the braking efficiency of the vehicles,  
13 sometimes we only see one tire mark. But I found that it was  
14 -- that this was significantly relevant here because it's so  
15 closely parallel to the other mark that we had found, you  
16 know, the pedestrian, the scuff that we found, and it seemed  
17 parallel with that and on the inside of it.

18 "Q And then right after the tire mark for the 32 feet,  
19 79 inches, you have delineated a pedestrian scuff mark much  
20 darker than the original scuff?

21 "A Yes. But 32.79 feet.

22 "Q Oh, I'm sorry. What did I say?

23 "A You said inches.

24 "Q I apologize. So, 32 feet and 79 inches?

25 "A 32.79 feet.