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THE SUPERIOR COURT OF THE STATE OF SUNSHINE  
FOR THE COUNTY OF SUNSHINE  
Honorable Joe Smith Presiding

THE PEOPLE OF THE STATE OF CALIFORNIA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
ROBERT BURNETT )  
 )  
WILLIAM BURNETT )  
 )  
Defendant. )

No. 23556

REPORTER'S TRANSCRIPT

Preliminary Felony Hearing

APPEARANCES:

For the People: Sterling Monahan  
District Attorney of Sunshine  
County  
100 Main Street  
Sunshine, SU 95222

For the  
Defense: Karen Potterby  
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Bill Stint  
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Sunshine, SU 95222

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2 MARCH 1, 2016

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1 THE COURT: Calling the case of People v. Burnett, case number 23556. May I  
2 have appearances please.

3 BY MS. MONAHAN: Sterling Monahan for the People.

4 BY MR. STINT: Bill Stint on behalf of William Burnett who is present

5 BY MS. POTTERBY: Tricia Potterby on behalf of Robert Burnett.

6 THE COURT: Call your first witness.

7 BY MS. MONAHAN: LINDA MASONRY, called by the People.

8 THE COURT CLERK: Do you solemnly swear that the testimony you are about to  
9 give is the truth, the whole truth, and nothing but the truth, so help you  
10 God?

11 THE WITNESS: I do.

12 THE COURT CLERK: For the record, state your name, please, and spell your  
13 last name.

14 THE WITNESS: Linda Masonry, L-I-N-D-A M-A-S-O-N-R-Y.

15 DIRECT EXAMINATION

16 BY MS. MONAHAN: Good afternoon. How are you employed?

17 A. I am employed by the County of Sunshine as a code enforcement inspector.

18 Q. How long have you had that job?

19 A. Five years.

20 Q. So you were employed as a Sunshine County code inspector in January of  
21 2016?

22 A. Correct.

23 Q. Prior to that time have you ever had a residence of 2456 Garrison Road on  
24 your list of properties that you were responsible for?

25 A. Prior to that time?

26 Q. Well, up until that time, January of 2016.

27 A. Yes.

28 Q. Was that residence on your caseload at that time?

PEOPLE V. ROBERT & WILLIAM BURNETT

PRELIMINARY HEARING TESTIMONY - 2

1 A. Yes, it was.

2 Q. How long had you been monitoring that property?

3 A. Without any records in front of me, I don 't know. For some time.

4 Q. So in other words, had it been more like a week or more like several

5 months?

6 A. More like a year, more than a year.

7 Q. Who are the residents of that property?

8 A. At that -- in the beginning, the mother, which would have been Iris.

9 Q. What was her last name?

10 A. Burnett

11 Q. In January of 2016 who were the residents?

12 MS. POTTERBY: Objection. Foundation.

13 MR STINT: I join.

14 THE COURT: What is that?

15 MR. STINT: Foundation.

16 MS. MONAHAN: It's on for -- this residence is on her caseload. She's

17 familiar with the property.

18 MR. STINT: Still foundation.

19 THE COURT: I would sustain the objection. Please lay the foundation.

20 MS. MONAHAN: What kind of contact did you have with the residents over the

21 course of the several years that you were responsible for it?

22 A. I had been dealing with the property owner as well as her adult children.

23 Q. And how many times have you had personal contact with Iris and her

24 children?

25 A. Numerous.

26 MR. STINT: I object to that. Compound. Move to strike.

27 THE COURT: I'll sustain that.

28

1 MS. MONAHAN: How many times have you had contact with Iris over the course of  
2 your duties as they pertain to this property?

3 A. Six, seven times. Maybe more.

4 Q. Did you ever personally meet her children?

5 A. Yes, I did.

6 Q. Which children did you meet?

7 A. I can't remember the daughters' names right now. Two of her daughters,  
8 her grandchildren, her brother.

9 Q. Her brother?

10 A. Yes.

11 Q. Do you see any of those individuals in the courtroom today?

12 A. Yes, I do.

13 Q. Could you say which ones?

14 A. The sons.

15 Q. Can you describe where is seated and what he's wearing?

16 A. Bobby is wearing the white sweater and Billy is wearing the suit.

17 Q. Where are they seated?

18 A. They're seated right here.

19 Q. You're indicating right in front of you?

20 A. Yes.

21 MS. MONAHAN: I'd ask the report to reflect the witness has identified Robert  
22 Burnett, as well as William Burnett.

23 THE COURT: The record will so reflect.

24 MS. POTTERY: Actually, Your Honor, I don't believe the record reflects that.

25 THE COURT: Would you like to voir dire the witness?

26 MS. POTTERBY: Ma'am, the person you described as Bobby is wearing a white  
27 shirt?

28 THE WITNESS: A white sweater.

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PRELIMINARY HEARING TESTIMONY - 4

1 MS. POTTERY: And has white hair?

2 THE WITNESS: Yes. Am I wrong? I could be wrong in the names. It's been a  
3 while.

4 Q. MS. MONAHAN: Do you recognize the two individuals that are seated in the  
5 chairs behind defense counsel table?

6 A. Yes, I do.

7 Q. How do you recognize them?

8 A. From several meetings that we had or the property. I'm sorry.

9 Q. And do you know the relationship of both of these individuals to Iris  
10 Burnett

11 A. Yes.

12 Q. What is that relationship?

13 A. They are her sons.

14 Q. Do you recall being there on January 2016 specifically?

15 A. Yes.

16 Q. How do you recall that date?

17 A. It's in my file.

18 Q. And about what time of day did you go to the property?

19 A. In the early afternoon. Somewhere between 1:30 and 3:00.

20 Q. Do you recall what the weather was like that day?

21 A. Cold. I believe there were some clouds out.

22 Q. Why did you go to the property that day?

23 A. I noticed that they were accumulating more cars and vehicles, that they  
24 had been cleaning it up and that it seemed they were accumulating more stuff  
25 again, and I wanted to have a discussion with the family.

26 Q. Was Iris present at that time?

27 A. No. She had deceased. She had passed away.

28 Q. Who, if anyone on the property, did you meet with that day?

1 A. I met with all of them.

2 Q. Who would that be?

3 A. That would be the two sons, two daughters. I can't remember if I got a  
4 brother in there. I don't believe he came in.

5 Q. So two daughters and two sons?

6 A. I believe. And one of the brother's partners. I don't know if it would be  
7 his wife or girlfriend.

8 Q. Do you see both of those sons in the courtroom?

9 A. Yes, I do.

10 Q. And I think you previously identified them. The record has reflected  
11 that.

12 A. Yes. It's been a while, so I'm sorry if I got their names wrong.

13 Q. When you spoke with them about the condition of the property, what did you  
14 tell them?

15 A. I explained to them we needed to get it cleaned up or they were going to  
16 end up going to a hearing.

17 Q. What did that mean?

18 A. It meant they would go before a hearing officer and that would cost a  
19 great deal of money.

20 Q. And that happened before on their property?

21 A. No, it had not.

22 Q. Did you discuss with them how they might get the vehicles off the  
23 property?

24 A. Yes, I did.

25 Q. What did you tell them about that?

26 A. I explained to them that we had an abandoned vehicle program.

27 Q. What is that program?

28

1 A. It's an AVA program, abandoned vehicle, and the County has money, and we  
2 will come out, and we will tow your vehicles away at this point for \$35. At  
3 that time we did not have a contractor on board as Al's Towing was no longer  
4 our contractor, so we were in search for a new contractor to take care of  
5 that.

6 Q. So was this an option for the Burnett's the at that time?

7 A. It was an option, but like I said, we did not have a contractor on board  
8 at that moment, but we did discuss it.

9 Q. And do you recall whether either of the sons said anything to you about  
10 their -- and I'm just going to ask you right now for a yes or no answer. Did  
11 either of the sons tell you a proposed plan that they had for getting rid of  
12 the vehicles?

13 MR. STINT: Objection. Compound.

14 MS. POTTERBY: Direct question.

15 THE COURT: I overrule the objection. You can answer that question.

16 THE WITNESS: Yes

17 MS. MONAHAN: Do you see that person in the courtroom?

18 A. Yes.

19 Q. Which one of the two individuals made the comment?

20 A. The white-haired gentleman.

21 Q. The white-haired gentleman with the white sweater?

22 A. Yes.

23 MS. MONAHAN: I would ask the record to reflect Billie Burnett.

24 THE COURT: The record will so reflect.

25 MS. MONAHAN: And what did he tell you about his intent with regard to getting  
26 the vehicle off the property?

27 A. He said he had thought about maybe taking the cars up to the top of the  
28 road, or taking them up and putting them on the road and getting a CHP to tow



1 them away, because it was an expensive prospect for them, and they didn't  
2 have any money.

3 Q. Did you have any response to that?

4 A. I told him I didn't think that would be a good idea.

5 Q. Did the other individual seated next to him, the gentleman with the  
6 mustache and the navy blue sweater -- did he make any statements to you?

7 A. I don't recall.

8 Q. At the time of this incident -- strike that. If I could back up a little  
9 bit. Today you expressed some confusion about whether you identified each of  
10 the gentlemen sitting here properly. Is that correct?

11 A. Pardon me?

12 Q. You've expressed some confusion about which of these individuals is Billie  
13 and which is Bobbie that correct?

14 A. Yes.

15 Q. As you sit here today, are you certain of who is Billie, and who is  
16 Bobbie?

17 A. Yes.

18 Q. You are now?

19 A. Yes.

20 Q. And can you please clarify that for the record.

21 A. Billie Burnett would be the gentleman in the white sweater.

22 Q. And in the blue sweater?

23 A. Bobbie. I don't know why, but I've always had their names in my head the  
24 opposite way.

25 Q. You've always mixed them up?

26 A. To some degree.

27

28

1 Q. You've also testified that it was you who identified him by his looks as  
2 the one who told you he may have the vehicles towed or taken up to the road  
3 to be towed?

4 A. It was kind of in -- I don't want to say in a joking fashion, but it was,  
5 you know, what if he, you know, towed the cars up, you know, maybe he'd take  
6 them up to the road. He didn't--

7 Q. My question is, are you certain about which individual made that statement  
8 as you see them here today?

9 A. Yes.

10 Q. And which one is that?

11 A. That would be Billie.

12 Q. You also stated you have always mixed up their names?

13 A. To some degree. I just always say, okay, you're the brothers.

14 Q. Do you recall speaking to investigator from the District Attorney's  
15 office?

16 A. Yes, I do.

17 Q. Do you recall telling her that Bobbie said they could take the cars off  
18 the property and leave them on the side of the road?

19 A. Yes.

20 Q. Is that accurate?

21 A. I thought Bobbie was Billie.

22 Q. So at the time you made that statement to Investigator Lizer, did you have  
23 their names mixed up?

24 A. Yes, I did.

25 Q. Just so we're clear, at that time was there any doubt in your mind as to  
26 which one of the brothers made that statement to you?

27 A. No.

28 Q. And that in fact was Billie?

1 A. Yes.

2 Q. Thank you. What about the comment about complaining that the vehicles  
3 were expensive to tow? Who made that statement?

4 A. I don't recall. They just stated they didn't have a lot of money.

5 Q. Did you take any photographs to document the vehicles that were at issue  
6 on that day?

7 A. Yes, I did.

8 Q. Do you have that camera with you? Did you have that camera with you at  
9 that time?

10 A. Yes, I did.

11 THE COURT: Mark them.

12 MR. STINT: Did the witness bring her file?

13 THE WITNESS: I didn't bring it. I'm sorry. I didn't know it would be needed  
14 today. I can bring it.

15 (Marked People's Exhibit 1 and 2, photos, for identification.)

16 MS. MONAHAN: May I approach the witness?

17 THE COURT: You may.

18 MR. STINT: What is that going to be?

19 MS. MOHANAN: It's marked.

20 MS. MONAHAN: If I may approach the witness, Your Honor?

21 THE COURT: Yes.

22 MS. MONAHAN: Ma'am, I'm going to hand you two documents. One has been marked  
23 Exhibit 1, and one is Exhibit 2 for identification; is that correct?

24 A. Correct.

25 Q. First, I'd like you to take a look at both of those exhibits, and then  
26 I'll ask you about them. Are those, all the photographs that are contained in  
27 those exhibits -- are those the photographs that you took that you already  
28 testified about?

1 A. Correct.

2 Q. And those were taken on the January 4, 2016?

3 A. Yes.

4 Q. Exhibit No. 1. What does that depict?

5 A. Non-operative vehicles, junkyard conditions.

6 Q. Where was that located on the property?

7 A. Towards the back, past the converted barn and occupied travel trailers, at

8 the rear.

9 Q. And No. 2?

10 A. That would be more non-operative vehicles, more junkyard conditions, and

11 those are over by the house.

12 Q. And if you wouldn't mind, Ms. Masonry just to make your explanation a

13 little clearer for the Judge, with the Court's permission, I ask you to just

14 diagram the property roughly. You indicated that these vehicles are the back

15 of the property?

16 A. Uh-huh.

17 Q. And you talked about a converted barn, and there's a home on the property;

18 is that correct?

19 A. Uh-huh.

20 Q. So for purposes only of illustrating your testimony, I'd ask the Court

21 permission to have Ms. Masonry diagram the property on the paper so we can

22 mark it.

23 THE COURT: That's fine.

24 MS. MONAHAN: Would that be all right, Ms. Masonry

25 A. On the paper?

26 Q. Yes. On the paper here. And if you would please write your initials and

27 today's date in the bottom right-hand corner?

28 A. This might be interesting.

1 MS. MONAHAN: And I'll ask this be marked for identification purposes as  
2 People's 3.

3 (Marked People's Exhibit 3, drawing for identification.)

4 THE WITNESS: You want me to put where the cars were?

5 Q. I'm sorry?

6 A. You want to know where the vehicles are?

7 Q. First of all, I'd like you to mark the structures that you've apparently  
8 marked there.

9 A. This is the main house, this is the legal single-family dwelling.

10 Q. And these here?

11 A. These would be the occupied trailers, the business that they lease out.

12 Q. Is it on the same parcel of property?

13 A. Yes, it is. But it's separate from them. This would be the barn  
14 conversion. And there's a little storage shed that they've had occupied  
15 before that I've had to have them -- so I'll put shed.

16 Q. Thank you. Now, for the moment, please return to the  
17 photographs that we were discussing that are identified as Exhibits 1 and 2.

18 Q. First of all with regards to No.1, is that a true and accurate  
19 representation of the way that the property looked on the day in question?

20 A. Yes.

21 MS. MONAHAN: Move for the admission of Exhibit 1.

22 THE COURT: Objection?

23 MR. STINT: No, not for purposes of this hearing.

24 THE COURT: 1 will be admitted, and all exhibits are admitted only for the  
25 purpose of this hearing.

26 (Received People's Exhibit 1 in evidence.)

27 MS. MONAHAN: With regard to Exhibit 2, is that a true and accurate depiction  
28 of the property on the day in question?

1 A. Yes.

2 Q. Does it represent some of the code violations that you witnessed on that  
3 day?

4 A. Yes, it does.

5 MS. MOHAHAN: Move for the admission of 2.

6 THE COURT: Objection?

7 MR. STINT: Not for purposes of this hearing.

8 MS. POTTERBY: No objection.

9 THE COURT: Be so admitted without objection.

10 (Received People's Exhibit 2 in evidence.)

11 Q. Okay, Ms. Masonry, I'm sorry to have you stand and sit a lot. I'm trying  
12 to avoid that. But would you please now document on Exhibit 3, which is the  
13 diagram that you started, using a different color pen, the non-operational  
14 vehicles that you identified that needed to be removed.

15 A. Yes. It's a little off on my dimensions. My dimensions are not great on  
16 this, because it would actually be closer.

17 Q. MS. MONAHAN: We understand this is not to scale, but if you could just  
18 diagram them just for purposes of illustrating the testimony. Thank you  
19 very much. And then the rest. Let me stop you here. Was there a  
20 black Silverado on the property that day that was the subject of  
21 your discussions with the brothers?

22 A. Yes.

23 THE COURT: Which day are you referring to?

24 MS. MONAHAN: The 4<sup>th</sup>.

25 Q. Is that depicted in either Exhibit 1 or Exhibit 2?

26 A. No, it was on the other side of the house. I failed to take pictures of  
27 that side. The yard was full of cars in different locations.

28

1 Q. Ok. Can you mark that on your diagram which is Exhibit 3? Can you  
2 indicate where the Silverado was on that? You're now writing --

3 A. Silverado.

4 Q. Silverado on Exhibit 3, for the record. Thank you. About the the  
5 Silverado - now, did you specifically discuss with the brothers?

6 A. We spoke about a lot of the cars. Yes.

7 MR. STINT: Objection. Non-responsive.

8 THE COURT: I'll sustain that.

9 MS. POTTERBY: Move to strike.

10 THE COURT: I will strike the answer other than the word yes.

11 Q. MS. POTTERBY: Was the Silverado one of the vehicles which you discussed  
12 with the Burnetts on January 4, 2016.

13 A. Yes.

14 Q. Can you describe the Silverado as you saw it that day?

15 A. It was non-operative.

16 MS. POTTERBY: No foundation.

17 MR. STINT: She personally observed the Silverado. She either can describe it  
18 or she can't.

19 THE COURT: I will sustain the objection.

20 MS. POTTERBY: Move to strike.

21 THE COURT: I'll strike it.

22 MS. MONAHAN: Was there an answer to be stricken?

23 THE COURT: She said it was non-operative.

24 MS. MONAHAN: Do you have any recollection of the details of the condition of  
25 the Silverado?

26 A. I'm sorry. Other than the fact it didn't operate, I don't recall  
27 anything.

28

1 MR. STINT: Lack of foundation. There's no evidence of how she made that  
2 determination. I mean, just looking at a vehicle there's no way to determine  
3 whether it's operative or not.

4 THE COURT: I understand the objection. I'm not going to strike the answer at  
5 this point. I will consider that motion after you attempt to lay a  
6 foundation.

7 MS. MONAHAN: Ms. Masonry, you testified that the vehicle was non-  
8 operational. What do you base that opinion on?

9 A. Generally it's the condition that it's in, I question the property owners,  
10 it may have flat tires, it may not have a battery, it may be broken.

11 MR. STINT: Objection. Now we're talking speculation.

12 THE COURT: I will strike those answers. I think, ma'am, just tell us what you  
13 remember about the car that led you to believe it was non-operational.

14 MR. STINT: What she knew about the car, really.

15 THE WITNESS: I don 't recall at this time.

16 MS. MONAHAN: Did Your Honor ask a question of the witness?

17 THE COURT: I did. I asked her to tell me what she remembered about the car  
18 that led her to believe it was non-operational, and she said she can't  
19 remember it at this time.

20 MS. MONAHAN: Thank you, Your Honor. That's all I was trying to ascertain.  
21 Thank you.

22 Q. How long did you spend at the property? How much time did you spend at the  
23 property?

24 A. Probably about 40 minutes, 45 minutes maybe. We spent some time talking in  
25 the house about how we were going to resolve these issues.

26 Q. During the time you were there, did any other individuals arrive on the  
27 property, to your knowledge, besides the people you have already said were  
28 there?



1 A. No.

2 Q. To your knowledge, no one else arrived other than the people you already  
3 described?

4 A. Somebody came in, and I can't --

5 Q. Do you recall who that was? Did you talk to that individual?

6 A. Briefly, I believe. I'm sorry. It's been a while. It's hard to remember.

7 Q. Do you recall seeing a Suburban on the property that afternoon?

8 A. Yes.

9 Q. Do you recall where that was parked?

10 A. I recalled at the Grand Jury. For some reason today I'm having a hard time  
11 remembering.

12 Q. Have you previously reviewed the Grand Jury transcript?

13 A. Briefly yesterday.

14 Q. Would it assist your testimony today to refresh your memory by reviewing  
15 that?

16 A. Yes, it would.

17 MS. MONAHAN: May I approach the witness, Your Honor?

18 THE COURT: You may.

19 MS. MONAHAN: I'll ask you to go ahead and look over -- first of all, what  
20 I've handed you -- is that a copy of the transcript that you have previously  
21 reviewed? You're nodding your head up and down, and for a moment or  
22 two you've been reviewing the document I handed you. First of all let me ask  
23 you, do you recognize the document I handed you?

24 A. Yes, I do.

25 Q. Is it a true and correct transcription of your testimony before the Grand  
26 Jury in this case?

27 A. Yes, it is.

28 Q. Have you read it?

1 A. Yes.

2 Q. Is your memory refreshed as to the property you reviewed?

3 A. Yes, it is.

4 Q. Do you recall the location of the Suburban?

5 A. Yes.

6 Q. Where was it?

7 A. On the side of the house near the Silverado.

8 Q. Would you please mark that also on the diagram that's been marked as

9 Exhibit 3, please. Thank you.

10 A. They have cars over here too.

11 Q. You're indicating on the right side of the main residence. Thank you. Were

12 there other vehicles parked there as well, if you recall?

13 A. I believe there were two or three other vehicles in addition to the

14 Silverado and Suburban.

15 Q. Do you recall whether the Suburban was discussed in your conversation with

16 the Burnetts.

17 A. Yes, it was.

18 Q. Why?

19 A. Because it didn't run.

20 Q. I'm sorry?

21 A. It didn't run.

22 Q. The Suburban didn't run? What do you base that statement on?

23 A. I wish I had more solid evidence for you. Unfortunately, it's been so long

24 and I have so many cases.

25 Q. Again, then, because you've indicated your memory is not good of that

26 particular question, would you please -- would it assist you in recalling

27 that detail to again review your transcript?

28 A. Yes.

1 Q. Please do so and let us know when you're done. Thank you.

2 A. Flat tires. It says flat tires.

3 Q. Having reviewed that transcript again, is your memory now refreshed as to  
4 what the condition of the Suburban was?

5 A. Yes.

6 Q. Now can you tell us what is wrong, if anything, with the Suburban on that  
7 date?

8 A. It had flat tires.

9 Q. Did you discuss that with the Burnett brothers as well?

10 A. Yes, I did.

11 Q. What needed to be done to correct that situation?

12 A. I believe it was more than just flat tires on the vehicle that needed to  
13 be repaired. I can't recall the conversation.

14 Q. After discussing the problems with the Burnetts, did you come to a  
15 solution or an agreement prior to leaving?

16 A. We came to an agreement that they would start cleaning up the property  
17 again. We have a longstanding relationship. So I will come out and visit,  
18 they would start working on things for a while, and then sometimes they would  
19 backslide and I would come back out there and remind them. So what I  
20 informed them is that, if they were to not get this all cleaned up including  
21 the trailers and barn conversion and removing all the vehicles, that they  
22 would end up going to hearing, that it wasn't going to wait any longer.

23 Q. Did you tell them how long they had to clean it up before taking them to a  
24 hearing?

25 A. I told them it was a short time line. I don't remember coming up with a  
26 date, but I may have given them 30 days.

27 Q. I'm sorry?

28 A. I may have given them 30 days.

1 Q. But you don't recall for sure?

2 A. I don't recall. I told them I'd come by once a week and take it from  
3 there.

4 MS. MONAHAN: Your Honor, for purposes of preserving the record, I would move  
5 for the admission of Exhibit 3 only for illustrative purposes.

6 THE COURT: Any objection?

7 MR. STINT: To the diagram?

8 THE COURT: That's the diagram.

9 MR. STINT: No.

10 MS. POTTERBY: No.

11 THE COURT: 3 will be admitted without objection.

12 (Received People's Exhibit 3 in evidence.)

13 MS. MONAHAN: I have no further questions.

14 THE COURT: One thing. When did you take the photographs that were identified  
15 as 1 and 2?

16 THE WITNESS: Back in January

17 THE COURT: Which day?

18 THE WITNESS: That would be in January.

19 THE COURT: Do you know the date you took them?

20 THE WITNESS: Not exactly. Without my file, I don't have that information. I'm  
21 sorry.

22 MS. MONAHAN: May I ask a follow-up?

23 MS. MONAHAN: Sometime after this meeting with the Burnetts did you become  
24 aware of a fatal collision that occurred in the vicinity of their home?

25 A. Yes.

26 Q. And when did that collision occur relative to the day that you visited the  
27 property?

28 A. It was the same day.

1 Q. The same day?

2 A. Yes.

3 Q. Earlier in the day or later in the day?

4 A. Later in the day.

5 Q. And was that the same day that you took the photographs in Exhibit 1 and  
6 2?

7 A. Yes.

8 Q. Thank you.

9 THE COURT: So your testimony is you took the photographs earlier in the day  
10 that the accident occurred?

11 THE WITNESS: Yes.

12 MS. MONAHAN: Thank you, Your Honor.

13 THE COURT: Mr. Stint?

14 CROSS-EXAMINATION

15 BY MR. STINT: Is it my understanding that this property was not in your  
16 jurisdiction in case?

17 A. No, it was not.

18 Q. You had already moved to another jurisdiction?

19 A. Yes, but we're allowed to keep some cases.

20 Q. And you decided you wanted to keep this particular one?

21 A. Not necessarily, but --

22 Q. It was your choice to keep it?

23 A. I had a relationship with their mother, and I was already--

24 Q. First if you can answer the question yes or no, and then if you want to  
25 explain.

26 A. Yes.

27 Q. And you kept it because you had a relationship with these people, a  
28 working relationship?

1 A. Correct.

2 Q. And over the years you had worked with them to remove cars from the  
3 property; correct?

4 A. Yes.

5 Q. And they had, over the years that you had worked with them, removed cars  
6 from the property?

7 A. Yes, they had.

8 Q. And you've had other cases where people like the Burnetts tend to collect  
9 cars?

10 A. Yes.

11 Q. So it's not unusual for someone to -- for you to deal with someone who  
12 would, quote, collect cars, they'd get rid of some, then they'll pick up  
13 others, and then they'd get rid of some others and pick up more, so this is  
14 not --

15 MS. MONAHAN: Objection. Compound question. There's a litany of things Mr.  
16 Stint is asking for.

17 THE COURT: Overruled. You may answer the question.

18 Q. This is not an uncommon situation in Sunshine County, to have someone  
19 collect cars in this manner.

20 A. No, it is not.

21 Q. And one of the reasons for these, perhaps, was to help people -- and would  
22 it be fair to say generally people in that situation didn't have a lot of  
23 money as well?

24 A. Correct.

25 Q. And so the reason for some of these programs that had been in place, but  
26 weren't at the time of this incident, was to help those people to get rid of  
27 these vehicles and come in compliance with the law?

28 A. Correct.

1 Q. And the law is you can't have more than a certain number of vehicles on  
2 your property?

3 A. Zero non-operative.

4 Q. For more than a period of time?

5 A. Period.

6 Q. So if my car pulls in my drive and my engine blows up I'm now in violation  
7 of law?

8 A. We'll work with that. If you're repairing your vehicle and nobody calls  
9 me up.

10 Q. Were you getting calls from anybody for that property?

11 A. Yes, I had.

12 Q. And by the way, given your diagram, that Garrison Road is not necessarily  
13 where the bottom line is, is it?

14 A. Yes, it is.

15 Q. Isn't there another property or another business in front of their  
16 property?

17 A. It's to the right. That would be Fransby Chickens.

18 Q. So there's a distance between the road and actually where their residences  
19 begin, and so on.

20 A. Correct. It's not that far from the road.

21 Q. And much of what you put on that diagram isn't even visible from the road,  
22 is it?

23 A. Yes.

24 Q. Some of the vehicles in the back, for instance?

25 A. No. You wouldn't be able to see the vehicles in the back, but you can --  
26 you can

27 Q. You can see the property?

28

1 A. You can see the property, and you can see a lot of the junk and the  
2 occupied travel trailers. If you were to go slow, you could see the junk  
3 cars.

4 Q. And you would describe this as a rural area?

5 A. Yes.

6 Q. During your dealings with the mother when was alive, you dealt with her?

7 A. Yes.

8 Q. And did you also deal with her sons at that time?

9 A. Yes, I did.

10 Q. And you never had any problems with them in terms of them becoming  
11 belligerent or nasty or anything like that? They were always cooperative,  
12 were they not?

13 A. Yes.

14 Q. And they were always polite?

15 A. Yes.

16 Q. And they were always trying to be helpful.

17 MS. MONAHAN: Objection. Relevance.

18 THE COURT: I'll overrule that objection. You can answer

19 THE WITNESS: Yes. Unfortunately, we didn't always get results, but they are  
20 polite.

21 Q. They never said the heck with you, we don't care what you have to say,  
22 we'll do what we want to do?

23 A. No.

24 Q. They were trying their best, given their limited resources, to comply?

25 MS. MONAHAN: Objection. Move to strike.

26 THE COURT: It will be stricken.

27 Q. You were aware they didn't have much money?

28 A. Yes, I was.



1 Q. And you knew that for years, this was not a new condition for the  
2 Burnetts, that they didn't have a lot of money?

3 A. No.

4 Q. That was a consistent problem that you were aware of from the time you  
5 started working on this with them, that there wasn't a lot of funds  
6 available?

7 A. Yes.

8 Q. Had they availed themselves of the programs, when they were in existence,  
9 to move the cars?

10 A. No.

11 Q. And is it expensive to move a car if you're doing it privately, to have a  
12 tow company come and pick it up and tow it away?

13 A. It can be expensive when there are many cars to be towed. It cost \$35.00  
14 per vehicle.

15 Q. And in your experience it's not unusual in rural areas to find vehicles  
16 abandoned off the road?

17 A. No.

18 Q. You've seen abandoned vehicles off the road, have you not?

19 A. Yes.

20 Q. And when the vehicles are abandoned off the road, they are usually  
21 eventually towed away by whom?

22 A. CHP.

23 Q. So if someone wanted to get rid of a vehicle without and couldn't afford  
24 to have it towed themselves, if they put it off the road somewhere, albeit  
25 safely, but off the road, it would be towed away by CHP?

26 A. Yes, it would.

27

28

1 Q. And when you spoke with the Burnetts, in fact, that's what they were  
2 referring to as far as one way to get rid of the tow is to tow it somewhere  
3 off the road and it would be picked up by the highway patrol; correct?

4 A. Yes.

5 MS. MONAHAN: Objection. Foundation.

6 THE COURT: Do you wish to argue that? Well, could I have that read back.

7 (The pending question was read.)

8 MS. MONAHAN: I misheard that. Withdraw the objection.

9 THE COURT: Next question.

10 Q. Wasn't specifically they were going to tow it to the top of the road?  
11 I believe you testified to what they said was they would tow it to a place  
12 where the CHP would take it away?

13 A. They just said they'd tow it to the road.

14 Q. They didn't say to the top of the road?

15 A. No.

16 Q. So that was -- if you had said that earlier, that wasn't what you meant to  
17 say?

18 A. Correct.

19 Q. In fact, at the Grand Jury what you said was, you said they'd said they'd  
20 tow it to a place where the CHP would take it away, because it was too  
21 expensive for them to have it towed?

22 A. Yes.

23 Q. And from that you understood some place off the road where they could just  
24 leave it and CHP would pick it up, which was the practice of the highway  
25 patrol; correct?

26 A. Correct.

27

28

1 Q. Now, you told them -- and I believe you said they didn't say,  
2 quote, Garrison Road, that they would tow it up to Garrison Road and leave  
3 it; correct?

4 A. No, they did not.

5 Q. By the way, did you review your file before testifying here today?

6 A. No, I did not.

7 Q. Did you review anything other than the Grand Jury transcript before you  
8 testified?

9 A. No, I did not.

10 Q. Did you have any conversations with the District Attorney about your  
11 testimony?

12 A. No, I did not.

13 Q. Now, when you say a vehicle is non-operative, that means it won't -- the  
14 engine won't run and the wheels won't turn type thing?

15 A. It has to be able to be started and move.

16 Q. Did you ask them to start and try to move any of the vehicles while you  
17 were there?

18 A. We had a pretty honest relationship when we were walking around, that one  
19 doesn't work, that one doesn't work. I can usually tell by the condition of  
20 the vehicle.

21 Q. But they didn't try to conceal or mislead you into believing these are all  
22 operable vehicles, and stuff like that?

23 A. No, they did not.

24 Q. And you told them that if they -- let me put it -- let me rephrase that.  
25 So as I understand it, they had made some progress after your previous  
26 meeting?

27 A. Yes.

28 Q. The cars had been removed, and so on?

1 A. Yes.

2 Q. But is what happens in some of these cases they, quote, started to  
3 accumulate new cars?

4 A. Yes.

5 Q. Now, you also told them -- was there some discussion that was had about  
6 wanting to see more progress in the future?

7 A. Yes.

8 Q. And did you not tell them that you wanted to see progress as soon as  
9 possible?

10 A. Yes, I did.

11 Q. And that if you didn't see progress as soon as possible, they could end up  
12 in a very expensive hearing?

13 A. Correct.

14 Q. Which you were aware they didn't have a lot of money to do?

15 A. That's why I was there, to inform them that it was in their best interest.

16 Q. I take it that was part of what you were trying to use as a motivator to  
17 get them to, as quickly as possible, if not that day, start moving vehicles  
18 out of there?

19 A. (Nodding head up and down.)

20 Q. Correct?

21 A. Correct.

22 Q. And at the time when you discussed with them options other than the rather  
23 expensive process of hiring a private or tow company to move the cars  
24 properly, or promptly for money, the other options were not available, were  
25 they? In other words, the abandoned car program, where you could just call  
26 and Al's Towing would come out and pick the car up and tow it away, was  
27 not available?

28 A. No, it was not.

1 Q. Nor was the program where they could take it to a junkyard and the County  
2 would reimburse for the cost of that?

3 A. The county doesn't reimburse them for that.

4 Q. Didn't you say there was a program? Where they could take it and drop it  
5 off?

6 A. We didn't reimburse them for the cost.

7 Q. Where would they get a benefit from that, then?

8 A. That it wouldn't cost them anything.

9 Q. That 's what I'm saying, so that would save them the cost for the removal  
10 of the vehicle?

11 A. Right. But again, at the time of January 2016 none of those programs were  
12 available for one reason or another, either there was no funding or a  
13 contract dispute.

14 Q. So they were left with no alternative than to do it, quote, themselves at  
15 their own cost?

16 A. Yes.

17 THE COURT: I'm hearing two different things. Was there a program for taking  
18 the car to the dump and leaving it without paying a dump fee?

19 THE WITNESS: It would be a tow yard, not the dump, but we had amnesty  
20 programs at that time which generally ran twice a year, and you could drop  
21 your car off at the tow yard or have it towed there free, other than your own  
22 costs at that time. Now we do it --it's completely different now.

23 THE COURT: But at that time? On January 4, 2016?

24 THE WITNESS: Al's Towing was no longer our contractor.

25 THE COURT: You wouldn't have it towed for free?

26 THE WITNESS: Correct.

27 THE COURT: Could they take it to a tow yard and leave it there for free?  
28

1 THE WITNESS: No. Not at that time. We didn't have the amnesty. We had two a  
2 year, and at that point they had missed one.

3 Q. So it would be fair to say at that time the only way they could have  
4 complied, short of towing the car to the side of the road some place and have  
5 the CHP pick it up, would have been the expensive way of having a tow company  
6 come and tow it away?

7 A. Correct.

8 Q. Now, the reason you stopped on this occasion was not because of a  
9 complaint; correct? But just happening to drive by?

10 A. Yes. And I noticed the situation becoming worse.

11 Q. And you indicated that they're not the only family you have had to deal  
12 with that didn't have much money?

13 A. Correct.

14 Q. So you try to work with these people to get them in compliance in the best  
15 way or any way possible?

16 A. That's why I worked with them for so long.

17 Q. I don't believe I have any other questions at this time.

18 CROSS-EXAMINATION

19 BY MS. POTTERBY: Q. Thank you. Good afternoon.

20 A. Hello.

21 Q. Hi. My first question is what, if anything, did you do in order to prepare  
22 for your testimony today?

23 A. Nothing.

24 Q. Other than review your previous testimony?

25 A. Correct.

26 Q. When you testified at the Grand Jury, that was it?

27 A. Yes.

28 Q. In preparation for that testimony, did you review anything?

1 A. I reviewed my file. I had my file.

2 Q. When you talk about your file, how big was it?

3 A. About this thick.

4 Q. You're indicating about an inch.

5 A. About an inch.

6 Q. And that 's your file on the Garrison address?

7 A. Yes. And it may be thicker than that, actually.

8 Q. And you reviewed the entire file?

9 A. Yes.

10 Q. Prior to your testimony for the Grand Jury?

11 A. Yes.

12 Q. Did you also review any sort of written statement that had been prepared

13 by the District Attorney's office?

14 A. Not to my knowledge. No.

15 Q. You have a copy of the Grand Jury transcript in front of you?

16 A. Yes.

17 Q. And could I ask you, I think if you could look at page -- page 43.

18 A. Uh-huh.

19 Q. Looking around line 23.

20 A. Yes.

21 Q. Does that refresh your recollection that you also reviewed a statement

22 that you provided to Officer Mojo?

23 A. Yes.

24 Q. And that was prior to your testimony at the Grand Jury:

25 A. Yes. And I reviewed that today.

26 Q. When you met with the Investigator Mojo was that back in January 2016

27 A. Yes.

28 Q. And that was at your office?

1 A. Yes, it was.

2 Q. And you had access to your file that day as well?

3 A. Yes, I did.

4 Q. And also in preparation for your testimony before the Grand Jury, did you  
5 have an occasion to talk to anybody?

6 A. No, I did not.

7 Q. Not the District Attorney?

8 A. Not for -- other than the -- other than to tell me where I was going --  
9 but no, no conversations other than that.

10 Q. How about any investigator for the District Attorney's office, if you can  
11 recall?

12 A. I talked to Investigator Lizer?

13 Q. Prior to your testimony today did you speak with anyone from law  
14 enforcement or the District Attorney's office?

15 A. Today, no.

16 Q. How about yesterday?

17 A. No.

18 Q. And did anyone ask you to review the Grand Jury testimony?

19 A. I reviewed it the day before yesterday.

20 Q. Did someone ask you to review it?

21 A. No.

22 Q. You had a copy of it?

23 A. No, I don't have a copy of it there, and they said, would you like to  
24 review it?

25 Q. So it was offered to you?

26 A. Yes.

27 Q. Who offered it to you?

28 A. Investigator Lizer sorry.



1 Have you had any conversations about the matters regarding the property from  
2 January 2016 with anyone else?

3 A. I have not.

4 Q. You testified earlier that you had been the code enforcement officer now  
5 for five years?

6 A. Yes. In this county.

7 Q. So five years in this county as of today's date of March 1, 2016?

8 A. Yes.

9 Q. So back then you had been a code enforcement officer approximately five  
10 years?

11 A. It's five years now.

12 Q. So it was just less than five back then?

13 A. Yes. And I had been in code enforcement in Atlas County prior to that.

14 Q. Any where else?

15 A. In Cris County six months.

16 Q. Any other experience?

17 A. Building inspector for 14 months in Atlas County.

18 Q. Your duties in Atlas County -- what were they?

19 A. I did building inspections as well as code enforcement.

20 Q. So your familiarity with the property on Garrison Road -- that goes to  
21 the very beginning of your career as a code enforcement officer in Sunshine  
22 County.

23 A. Without the dates in front of me -- I don't believe it was the very  
24 beginning.

25 Q. Do you know when you started?

26 A. No.

27 Q. There's a fence in front of the Burnett house, correct?

28 A. It doesn't cover the driveway

1 Q. About how high is that?

2 A. Pretty high.

3 Q. Taller than you?

4 A. Yeah.

5 Q. That doesn't take a lot. How tall are you?

6 A. Five one and a half.

7 Q. And so at least a foot taller than you?

8 A. Easily.

9 Q. And I am not suggesting that it covers the driveway, but does it come  
10 close to the driveway?

11 A. It comes over this way, but there's still this whole area. You can still  
12 see where the cars park. It's pretty open. This covers the dwelling. It  
13 covers the house more than anything.

14 Q. And that includes -- there is a tree in front as well?

15 A. Yes, there is. Back in here.

16 Q. So when you drove by that day, you were actually not officially you  
17 weren't on the job at that point. You just happened to be driving by?

18 A. No. I was on the job.

19 Q. So you went specifically to the house that day?

20 A. No. I was driving by, noticed that it was getting worse, I was trying to  
21 work with the Burnetts, trying to work with them and get them to bring the  
22 property into compliance. It was a hard spot for their mother, and so that  
23 was part of the reason it hadn't gone to hearing prior to that is that she  
24 was dying.

25 Q. So she was dying --

26 A. While we were dealing with this issue prior to that.

27 Q. How long had you been working with Iris?

28 A. I don't have my file with me. I'm sorry.

1 Q. A rough estimate?

2 A. A few years, perhaps.

3 Q. And you indicated you had met with her six or seven, maybe more times. How  
4 many times had you previously met with either of the brothers, or either of  
5 the sons? Excuse me.

6 A. Almost all of them.

7 Q. So they were always there?

8 A. Not always. No. No. Her youngest daughter was generally there for every  
9 meeting. Her brother was there for quite a few. And we discussed the issues,  
10 talked about what we were going to do to bring the property in compliance.

11 Q. How many times had you met with the sons Billie and Bobbie after Iris had  
12 passed on?

13 A. Once.

14 Q. And that's one time other than this date in January of 4, 2016?

15 A. No.

16 Q. No?

17 A. No.

18 Q. This was the first time?

19 A. First time after she had deceased. Yes.

20 Q. And when you talk about your file, is it the file that you personally  
21 maintain, or is it a file that 's kept as to this property that is accessible  
22 to whoever is the code enforcement person?

23 A. Yes. It's public knowledge.

24 Q. So it 's actually now under the jurisdiction of the person who now  
25 supervises this area?

26 A. Excuse me. Yes.

27 Q. Now, on January 4, when you visited this property on Garrison Road, you  
28 didn't attempt to try to start any of these vehicles?

1 A. No.

2 Q. And this program for assisting folks to remove their cars, is it known  
3 also by the acronym of AVA?

4 A. Yes.

5 Q. And that stands for abandoned vehicle assistance?

6 A. Yes.

7 Q. And let me ask you, from your experience in assisting people remove  
8 vehicles from their property, is there any paperwork that 's required?

9 A. No.

10 Q. They don't need to give registration or anything to the people with the  
11 tow trucks?

12 A. No, they do not.

13 Q. And as the code enforcement officer, do you coordinate with the AVA?

14 A. I leave that to our AVA inspector. That would be Dana Hammer.

15 Q. So you don't know what a person may be doing with AVA because you leave it  
16 to this AVA specialist, Ms. Hammer.

17 A. Yes. And I told her about -

18 Q. But as you had previously said, back in January of 2016, the program was  
19 temporarily suspended; correct?

20 A. At that point in time.

21 Q. When you met with the Investigator Lizer in January of 2016 and related to  
22 her your conversations with the brothers and did she show you any  
23 photographs of either of the brothers?

24 A. No.

25 Q. You had said, when you met with Billie and Bobbie in January of 2016 you  
26 told them there was a short time frame for them to get moving on this  
27 property; correct?

28 A. Yes.

1 Q. And you may have given them 30 days?

2 A. I don't recall.

3 Q. Let me ask you. Do you recall giving them some kind of time line?

4 A. I recall telling them it needed to be done as soon as possible

5 Q. Was this done in writing or was this done verbally?

6 A. This was done verbally.

7 Q. Would this be something that you would have noted in your file?

8 A. No. Not necessarily. I may have.

9 THE COURT: You've concluded your examination?

10 MS. POTTERBY: I hope so.

11 RECROSS-EXAMINATION

12 BY MR. STINT:

13 Q. You indicated that they had previously removed other cars?

14 A. Yes.

15 Q. And do you know how those other cars were removed?

16 A. No, I don't.

17 Q. Did they have a tow truck of their own?

18 A. No.

19 Q. Do you know if they had hired tow trucks to do it?

20 A. I don't know. They had a trailer once. A tow truck. They had a trailer

21 with a vehicle on it once, hooked up to a truck that was leaving.

22 Q. But other than that, the other cars that had been moved as far as you

23 know, tying a tow rope to it or pulling it away with another car could have

24 removed them?

25 MS. MONAHAN: Objection. Speculation.

26 THE COURT: Sustained.

27 MR. STINT: Nothing further.

28 THE COURT: Redirect?

1 MS. MONAHAN: A few questions.

2 REDIRECT EXAMINATION

3 BY MS. MONAHAN:

4 Q. You do not recall giving them an actual deadline to get the property  
5 cleaned up; is that correct? You shook your head no?

6 A. I wish I had my file. I'm sorry.

7 THE COURT: You just don't remember.

8 THE WITNESS: I'm sure I did. I'm sure I did.

9 MS. MONAHAN: Was it your testimony that you also told them you'd come back  
10 weekly to check on the progress?

11 A. That we needed to get the property into compliance or they were going to  
12 hearing.

13 MS. MONAHAN: No other questions, your Honor.

14 THE COURT: Ms. Potterby, Mr. Stint?

15 MS. POTTERBY: No other questions, your Honor.

16 THE COURT: People's next witness?

17 MS. MONAHAN: The People call Taylor Anderson.

18 THE COURT CLERK: Do you solemnly swear that the testimony you are about to gi  
19 ve is the truth, the whole truth, and nothing but the truth, so help you  
20 God?

21 THE WITNESS: I do.

22 THE COURT CLERK: For the record, state your name, and please spell your last  
23 name.

24 THE WITNESS: Taylor Anderson, TAYLOR A-N-D-E-R-S-O-N

25 DIRECT EXAMINATION

26 BY MS. MONAHAN:

27 Q. Good afternoon, Mr./Ms. Anderson. How old are you?

28 A. 21.

1 Q. Are you currently employed?  
2 A. No.  
3 Q. Were you employed in January 2016?  
4 A. Yes. As a security guard.  
5 Q. Are you being deployed soon?  
6 A. Yes, I'm joining the Marine Corps.  
7 Q. Are you trained as an EMT?  
8 A. Yes, I am.  
9 Q. In January of 2016, did you have occasion to come across the scene where  
10 there was a vehicle at Garrison Road? Do you recall that incident?  
11 A. Yes, ma'am.  
12 Q. Would that be around January 4th, 2016?  
13 A. I believe so.  
14 Q. What were you doing earlier in that evening, prior to coming across that  
15 vehicle on Garrison Road?  
16 A. I got off of work, went to my girlfriend's house, and was coming from my  
17 girlfriend's house to my father's in Smalltown?  
18 Q. Do you remember about what time you left your girlfriend's house?  
19 A. I believe about 10:30.  
20 Q. In the evening or morning?  
21 A. Night. Evening.  
22 Q. Where does your girlfriend live, approximately?  
23 A. She used to live over by the fairgrounds area.  
24 Q. In Sunshine City?  
25 A. Yes, ma'am.  
26 Q. And you said you were going to Smalltown is that correct?  
27 A. Yes, ma'am. Were you living in the area at that time?  
28

1 A. Smalltown. Yes, I was.

2 Q. So you were living with your father?

3 A. Yes, ma'am.

4 Q. How long had you been living there at the time?

5 A. I'd say about 16 years.

6 Q. Is it fair to say you're familiar with Garrison Road?

7 A. Yes, but by landmark, not roads.

8 Q. Was there anybody in the car with you when you were on your way home that

9 night?

10 A. No, ma'am.

11 Q. What kind of car were you driving?

12 A. A '92 Jeep Cherokee Laredo.

13 Q. What color?

14 A. White.

15 Q. At what point along Garrison Road, did you come across the vehicle that

16 later became the subject of this investigation?

17 A. I was about two miles, three miles down, traveling westbound.

18 Q. On Garrison Road?

19 A. Yes, Ma'am.

20 Q. Are you familiar with the landmark called Fransby Chickens?

21 A. Yes, I am now.

22 Q. Do you recall seeing that that night?

23 A. Yes, Ma'am.

24 Q. And where did you first see the vehicle in relation to Fransby Chickens?

25 A. It was about a quarter of the rear end of the vehicle was in the bicycle

26 lane, and the rest of the rear of the vehicle was in the westbound traffic

27 lane.

28 Q. Where was it in relation to Fransby Chickens?



1 A. Right outside of its driveway.

2 Q. Can you describe about how close you were to the vehicle before you first  
3 saw it?

4 A. I'd saw maybe 75 to a 100 feet

5 Q. How fast were you traveling?

6 A. About 45 miles per hour.

7 MS. MONAHAN: May I approach the witness?

8 THE COURT: You may.

9 MS. MONAHAN: I'm going to hand you two exhibits which have been introduced  
10 into evidence as People's exhibits 4 and 5. Do you recognize either of those  
11 two?

12 A. Yes, ma'am, I do.

13 Q. Which ones, if you'd refer to them on the back?

14 A. Which ones I recognize?

15 Q. Yes. Do you recognize both of those?

16 A. Yes, ma'am. I do.

17 Q. How do you recognize them?

18 A. That's the vehicle that I tried to move off the road.

19 Q. What number?

20 A. 4 and 5.

21 Q. First of all looking at Exhibit No. 4, is that the outside of the vehicle  
22 or the inside of the vehicle?

23 A. This is the inside of the vehicle.

24 Q. So let me just go back for a minute, if I may. When you first came down  
25 Garrison Road and saw the vehicle, you said you were about 75 feet away?

26 A. 75 to a hundred.

27 Q. There was a vehicle behind it?

28 A. Yes, ma'am.

1 Q. Were there any other vehicles between you and the vehicle that we see in  
2 those exhibits?

3 A. Negative. There was a vehicle behind it.

4 Q. Behind it?

5 A. On the opposite side.

6 Q. What direction was that vehicle facing?

7 A. That vehicle was facing eastbound in the westbound lane.

8 Q. Did it have its headlights shining on the Silverado?

9 A. Yes, ma'am.

10 Q. Did you see any people standing outside of either vehicle?

11 A. No, ma'am. I believe the occupant of the other vehicle was inside the  
12 vehicle at that time.

13 Q. What did you do when you saw these two vehicles in the road?

14 A. I pulled over as much as I could to protect the vehicle, and I turned on  
15 my four way emergency flashers.

16 Q. I'm sorry. You what?

17 A. Turned on my emergency flashers.

18 Q. Your hazard lights?

19 A. Yes, ma'am.

20 Q. Was the Jeep you were in -- that was your personal vehicle, then? It was  
21 not a vehicle related to your job as an EMT?

22 A. Yes, ma'am. It was a personal vehicle.

23 Q. Did you have any emergency light on that vehicle?

24 A. No.

25 Q. Such as emergency equipment that law enforcement or other emergency person  
26 would have?

27 A. No, ma'am.

28 Q. So just your standard hazard lights?

1 A. Yes, ma'am.

2 Q. What did do you after you parked and turned on your hazard lights?

3 A. I exited the vehicle and proceeded over to the older gentleman that was  
4 inside his vehicle with his lights on. He told me he was on the phone with  
5 the police and they were trying to get somebody out there.

6 Q. At that time did you see any other people standing around the area where -  
7 - you were speaking to the man who was in the vehicle, but did you see any  
8 other people around that scene?

9 A. No, ma'am. Not at the time.

10 Q. What did you do next, after speaking with the gentleman in the vehicle?

11 A. I went back to my vehicle and retrieved reflective gear and flashlights.

12 Q. What were you going to do with those?

13 A. I was going to direct traffic and make myself visible to any vehicles that  
14 were coming by so I didn't get hit.

15 Q. Did you have any flares with you?

16 A. Yes, ma'am, I did, but I could not locate them.

17 Q. So just your flashlights and your reflective gear?

18 A. Yes, ma'am.

19 Q. And at any time while you were standing outside of your vehicle did any  
20 other vehicles arrive?

21 A. Yes, ma'am. Numerous vehicles arrived.

22 Q. About how long were you out there before the first of those vehicles arriv  
23 ed?

24 A. The first vehicle started arriving almost immediately, so maybe within  
25 five minutes.

26 Q. What did that vehicle do?

27 A. I signaled him to move past and they did. They slowed down, turned on  
28 their emergency flashers, and went past me.

1 Q. How did you signal them to go around?

2 A. I waved my flashlight on the ground in the direction they should travel.

3 Q. Were there any other vehicles that came across the scene that

4 actually stopped instead of going around you?

5 A. Yes. All vehicles stopped.

6 Q. And so were there any other vehicles that you waved around at that time?

7 A. Yes, ma'am. There were a number of vehicles. I couldn't tell you how many.

8 Q. And on each occasion they would stop, and then you would wave them around?

9 A. Yes, ma'am.

10 Q. Were there any lights illuminated on the Silverado itself?

11 A. My headlights, and the gentleman that were there. That was it.

12 Q. Were the lights of the Silverado activated?

13 A. No, ma'am.

14 Q. Did you try moving the Silverado yourself?

15 A. Yes, ma'am, I did. I couldn't figure out how to put the vehicle in

16 neutral. And also it appeared that one of the tires was flat.

17 Q. Did you go inside the Silverado at any time?

18 A. Yes, ma'am, I did.

19 Q. Before you entered the Silverado, did you notice whether the windows were

20 up or down?

21 A. The windows were up.

22 Q. Do you recall whether there were any keys in the ignition?

23 A. No, ma'am, I do not.

24 Q. You don't recall one way or the other?

25 A. No.

26 Q. Do you recall whether there was anything in the driver's seat that you had

27 to move before you sat in it?

28 A. No, ma'am, there wasn't. Not that I can recall.

1 Q. After you determined that you were not able to put the neutral - first of  
2 all, do you remember what gear the vehicle was in?

3 A. No.

4 Q. But it was in gear?

5 A. I believe it was, because I tried to push it and it wouldn't move.

6 Q. What did you do after your attempt to move the gear into neutral?

7 A. There were more vehicles coming, so I exited the vehicle and proceeded to  
8 conduct traffic control.

9 Q. At some point were there more than one car backed up behind you?

10 A. Yes, ma'am, there was.

11 Q. Do you remember how many cars ultimately were backed up behind you?

12 A. Approximately three to five. Three or four.

13 Q. There was a collision in this case; correct?

14 A. Yes, ma'am.

15 Q. So how long were those cars lined up waiting before the collision?

16 A. About two minutes, three minutes. Not very long.

17 Q. At some point, did you start to wave one of those vehicles around?

18 A. Yes, ma'am. I believe it was a white Dodge Ram.

19 Q. Pickup truck?

20 A. Yes, ma'am.

21 Q. How did you go about doing that?

22 A. I waved the vehicle forward with my hand and waved my flashlight on the  
23 ground to signal which way he should go. Before that I had a Hummer come  
24 eastbound, though.

25 Q. And did the -- you said it was a Hummer? Humvee?

26 A. Yeah, A Hummer H2.

27 Q. Did you let it pass the scene entirely before you began to wave the Dodge  
28 Ram around?

1 A. Yes, ma'am. It cleared my scene.

2 Q. About how far was the Hummer from your location when you decided to wave  
3 the Dodge Ram around?

4 A. It was past the end of the line, so it was over - I'd estimate about a  
5 good hundred feet.

6 Q. It was still going eastbound?

7 A. Yes, ma'am.

8 Q. Where was the Dodge Ram in relation to your vehicle?

9 A. The Dodge Ram was to the rear of my vehicle, right behind it. Couldn't be  
10 more than 15 feet.

11 Q. So it was the first one behind you?

12 A. Yes, ma'am.

13 Q. And then you said there were other vehicles. Would they have  
14 been behind the Dodge Ram?

15 A. Yes, ma'am.

16 Q. Did you talk to the driver of the Dodge Ram at any time?

17 A. After the collision.

18 Q. Prior to waving him around, did you have any personal contact with him?

19 A. No, ma'am.

20 Q. What happened when you waved the Dodge Ram around?

21 A. When I waved the Dodge Ram around, a Jeep Cherokee came at my position at  
22 a high rate of speed, about a hundred feet of my line, at the end of the  
23 line. Jeep Cherokee came at my position at a high rate of speed, about I  
24 previously saw that vehicle about a half mile away.

25 Q. So let's back up just a little bit. Before you waved the Dodge Ram around  
26 your position, you allowed the Hummer to clear the scene; correct?

27 A. Yes, ma'am.

28

1 Q. When you watched, did you watch the Hummer continue eastbound to make sure  
2 it was clear of the scene?

3 A. Yes, ma'am.

4 Q. And at that time do you recall seeing the headlights of what you  
5 eventually learned was the Jeep?

6 A. Yes, ma'am.

7 Q. About how far away were they, the headlights?

8 A. About a hundred feet.

9 Q. So you saw those lights, and then at what point did you decide to wave the  
10 Dodge Ram around?

11 A. The Dodge Ram was already in motion before I saw the headlights of the  
12 Jeep.

13 Q. So you saw the Humvee clear your location, and then you began to wave the  
14 Dodge around?

15 A. Yes, ma'am. And then I saw the Jeep.

16 Q. What did you do, if anything, when you saw the headlights coming?

17 A. I stopped the vehicle. I waved the Dodge Ram to stop, and then I proceeded  
18 to wave my flashlights at the ground to let drivers know to slow down, due  
19 to the driving extremely fast.

20 Q. When you stopped, you indicated for the driver of the Doge Ram to stop,  
21 where was the Dodge?

22 A. Front quarter panel was in the eastbound lane, so -

23 Q. So it wasn't entirely in the eastbound lane?

24 A. No, ma'am.

25 Q. Did it actually stop there, or did it continue to -

26 A. The driver stopped immediately.

27 Q. And about how much of the Dodge Ram would you say was in the eastbound  
28 land -- excuse me -- the westbound lane?

1 A. The whole rear of the vehicle approximately from the driver's side door  
2 back was in the westbound lane.

3 Q. To confirm the westbound lane goes into Smalltown; is that correct?

4 A. Yes.

5 Q. And that was the direction the Ram was facing?

6 A. Yes. And that was the direction that Ram was facing?

7 A. Yes.

8 Q. And that's the direction you were traveling?

9 A. Yes. I was clarifying.

10 Q. So the rear of the Ram was still in the westbound lane?

11 A. Yes, ma'am.

12 MS. POTTERSBY: I'm sorry to interrupt. Maybe I misheard. I first though the  
13 witness testified it was in the rear that was in the westbound, and then I  
14 heard of clarification of westbound.

15 MS. MONAHAN: So you said that the Dodge Ram was partially in the eastbound  
16 lane, and the rear was still in the westbound lane; correct?

17 A. Yes, ma'am.

18 Q. Now, at that time about how far away were the headlights of the Jeep that  
19 was approaching?

20 A. When the Dodge entered the eastbound lanes or when I waved the Dodge by?

21 Q. When you waved for it to stop.

22 A. When I waved for it to stop, it was about 90 feet, it had already passed  
23 one of the first vehicles in my line.

24 Q. And it had already passed one of the vehicles that was in line?

25 A. Yes, ma 'am.

26 Q. When you first saw the Jeep's headlights approaching, were they  
27 approaching in the westbound or in the eastbound lane?

28



1 A. Obviously, the Jeep it was coming westbound, but which lane was it in when  
2 you first saw it?

3 A. When I first got a visual of it on my line, it was in the eastbound lane,  
4 turning into the eastbound lane.

5 Q. It was going into the eastbound lane?

6 A. Yeah. I started seeing the headlights, and it just shot around the rear  
7 vehicle.

8 Q. So just to be clear, you say it shot around an eastbound vehicle?

9 A. Westbound vehicle.

10 Q. Okay. I am going to ask the witness to draw a diagram, Your Honor. I  
11 think it's going to be difficult to make a clear record.

12 THE COURT: I agree with you.

13 THE COURT: If you could just give us a diagram. Let's have that marked as  
14 People's next in order.

15 THE COURT CLERK: People's 6.

16 (Marked People's Exhibit 6, diagram, for identification.)

17 THE WITNESS: I'm not great at drawing.

18 MS. MONAHAN: Let me interrupt you for a second. I'm going to ask you to put  
19 this exhibit sticker, People's No .6 You're putting it at the top, and if you  
20 would, please, put your initials and today's date next to that label.

21 MS. MONAHAN: Now you've drawn what appears to be  
22 a road. Is that Garrison Road?

23 A. Yes, ma'am.

24 Q. And on it you've drawn several squares. Could you use another color pen  
25 of those squares? You're using red there to label each vehicle.

26 A. Yes, ma'am. This vehicle is a Silverado, or whatever vehicle that was.

27 Q. When you say whatever vehicle, that was 4 and 5 you were reviewing?

28 A. Yes, ma'am. That's correct. This is the Dodge, and this is first-on-scene.

1 Q. That's the vehicle with the older gentleman in it that was facing the  
2 wrong direction?

3 A. Yes, ma'am.

4 Q. The other three vehicles, what appear to be vehicles that you've drawn  
5 behind the Dodge Ram - did you have any contact with those drivers?

6 A. Only when the Jeep Cherokee had passed and already made the collision, I  
7 went back and told them to turn on the flashers and blocked the road.

8 Q. If you recall the types of vehicles those were, go ahead and label them.  
9 Otherwise, if you would just put car.

10 A. I couldn't accurately tell you that.

11 Q. Then if you would just go ahead and label each of those vehicles as car.

12 Q. All right. Now, you were beginning to describe seeing the Jeep headlights  
13 approaching you, and that's where we got a little confused as to what  
14 direction, and so forth, so I'm going to go back and ask you to tell us, when  
15 you first signaled the Ram to stop, that was because you saw the headlights  
16 approaching; correct?

17 A. Yes, ma'am.

18 Q. And when the Ram stopped, you said that the Jeep's headlights were about  
19 90 feet away from you?

20 A. Yeah, Correct. This is -- I forgot this vehicle. This is the Hummer.

21 Q. All right. And was the Humvee stopped?

22 A. At that distance I couldn't tell if it was in motion or if it was not.

23 Q. If you would, please, draw an arrow in the direction the Humvee was  
24 traveling, to indicate that it was in fact driving as opposed to parked on  
25 the side of the road or something. Before you began this illustration, you  
26 described the Jeep, as it approached; it shot around the last vehicle in the  
27 line?

28

1 A. Yes, ma'am. It was traveling -- this is a red. I'll just mark it. I saw  
2 the Jeep when it started entering here. Its direction of travel was here,  
3 and it continued up around and made its impact in front of the driver's side  
4 door here, glanced over, over corrected, the rear tire caught into the ditch  
5 here, and that's when the vehicle proceeded to roll.

6 Q. Did you actually see it impact with the Dodge Ram?

7 A. Yes, ma'am, I did.

8 Q. And where did it impact?

9 A. It impacted right in the front quarter panel, right  
10 in front of the driver's side door.

11 Q. Did that cause the Dodge Ram to move at all?

12 A. Yes, it did. It pushed it back onto my position a little bit.

13 Q. What happened after the Jeep began to roll?

14 A. Well, it began to roll side over side, continued down this way, then it  
15 wound up facing the wrong way, but it continued side over side, and end over  
16 end, and then I lost visual of it because I wanted to check on the patient  
17 inside of the Dodge Ram. He seemed to be okay. There seemed to be no real  
18 bad damage to the driver's panel. So I told everyone to stay put,  
19 and I proceeded to go over to the vehicle.

20 Q. You went down to the Jeep?

21 A. Yes, ma'am.

22 Q. And did you go on foot, or did you drive down there?

23 A. I drove my personal vehicle.

24 Q. Other than moving your vehicle, and the Dodge that had been pushed when  
25 the other Jeep hit it, did any of the other vehicles that you drew move?

26 A. I couldn't accurately tell you that, because I was on the other side. I  
27 was over with the vehicles. I don't know if any vehicles moved between that  
28 time.

1 Q. So you got in your personal vehicle and drove down to where the Jeep came  
2 to rest?

3 A. Yes, ma'am.

4 MS. MONAHAN: I'll ask again to approach, Your Honor.

5 THE COURT: Yes.

6 MS. MONAHAN: I'm going to hand you what has been marked People's Exhibit 7.  
7 And you can have a seat, if you'd like. Do you recognize Exhibit 7?

8 A. Yes, ma'am, I do.

9 Q. How do you recognize it?

10 A. It is the victim's vehicle, the Jeep Cherokee.

11 Q. The Jeep that you've just described as being the one that rolled over?

12 A. Yes, ma'am.

13 Q. About how far away was it from your location? I should clarify for the  
14 location you had first stopped on the scene?

15 A. To impact?

16 Q. Right.

17 A. I would estimate between 200 and 300 feet.

18 THE COURT: I'm confused. You said to impact. Show me on the diagram where  
19 you think the impact was.

20 THE WITNESS: The impact was here. This is impact.

21 THE COURT: So you're saying that was two or three hundred feet from where  
22 your car was stopped?

23 THE WITNESS: From the impact. It was about two or three hundred feet from the  
24 impact with the Dodge.

25 THE COURT: To where?

26 THE WITNESS: To where it rests.

27 THE COURT: Oh. To where it came to rest. Thank you.

28

1 MS. MONAHAN: If you could, please, while you're up, write two to three  
2 hundred feet in that stretch in between where you diagrammed the Jeep as  
3 coming to rest.

4 Q. As you look at the Jeep as it's pictured in People's Exhibit 7, is that  
5 how the Jeep appeared to you when you first saw it?

6 A. Yes, ma'am.

7 Q. Were there any other vehicles around it when you saw it?

8 A. No, ma'am.

9 Q. Were there any other people walking around it when you saw it?

10 A. No. Not when it came to rest. No.

11 Q. And when you first saw the Jeep, did you get out of your vehicle?

12 A. Yes, ma 'am. I did.

13 Q. What did you do?

14 A. I proceeded to try and triage the patients inside the vehicle.

15 Q. How did you go about doing that?

16 A. Well, I checked the status of each patient that I could see, see if I  
17 could help them or not, and if I couldn't, I would move onto the next person.

18 Q. Did you move any of the bodies?

19 A. I tried not to.

20 Q. How did you check on their status?

21 A. I tried to check the carotid pulse on the driver first. I couldn't feel a  
22 pulse, and I couldn't feel a trachea or anything, and I determined that even  
23 with -- I'm only trained in BLS, basic life support. Even with the equipment  
24 that I had, I couldn't have helped him with that kind of injury. So I moved  
25 on to the next patient, which was a female in the passenger side. I tried to  
26 take a carotid on her, but her parietal bone was missing, and there was --  
27 the contents of her brain was gone, so I immediately labeled her as deceased.  
28 I couldn't help her. And then officer -

1 Q. You're pointing to Officer Mojo sitting next to me?  
2 A. Mojo came up, and he found the third patient with the lap restraint in the  
3 rear seat.  
4 Q. Were you there when Officer Mojo arrived?  
5 A. Yes, I was.  
6 Q. Other than checking or attempting to check the pulses on some of the  
7 passengers in that vehicle, did you move the bodies in any way?  
8 A. Not that I can remember. No.  
9 Q. Did you move the Jeep in any way?  
10 A. No. I went back and checked on the driver to see if his status changed or  
11 if I was wrong, and I determined I couldn't help him.  
12 Q. Based on your training and experience as an EMT, did he appear to be  
13 already deceased?  
14 A. Yes, ma'am. He did.  
15 Q. Did you see any other occupants from the Jeep anywhere else around the  
16 scene?  
17 A. Negative, ma'am. I did not.  
18 MS. MONAHAN: Could I have just a moment, Your Honor?  
19 THE COURT: Yes.  
20 MS. MONAHAN: Your Honor, we 'd ask that People 's Exhibit 7 be moved into  
21 evidence.  
22 THE COURT: Is there an objection to 7, Mr. Stint?  
23 MR. STINT: No, Your Honor.  
24 THE COURT: Ms. Potterby?  
25 MS. POTTERBY: Subject to cross-examination.  
26 THE COURT: 7 will come in at this time without objection subject to cross-  
27 examination.  
28 CROSS-EXAMINATION

1 BY MR. STINT: I understand you're going into the Marine Corps, is that true?

2 A. Yes, sir.

3 Q. And expecting to be shipped overseas?

4 A. Yes, sir.

5 THE COURT: Are you presently in the Marine Corps?

6 THE WITNESS: No, sir.

7 THE COURT: So you're just enlisting at this time.

8 THE WITNESS: Yes, sir. I'm in the deposition or the DEP program. I'm  
9 enlisted, but haven 't gone in yet. D-E-P. I don 't recall what it stands  
10 for.

11 MR. STINT: Now, would this be -- you you're your girlfriend lives near the  
12 fairgrounds and you lived in Smalltown?

13 A. Yes, sir.

14 Q. Would this be the route you would take most often to get home from your  
15 girlfriend's?

16 A. Yes, it would.

17 Q. How frequently would you take that road?

18 A. At that time, two times a week. It depended on traffic.

19 Q. And you said you were an EMT?

20 A. Yes, I was.

21 Q. Were you working as an EMT at that time?

22 A. No, sir.

23 Q. But you were certified?

24 A. Yes, sir.

25 Q. And you were working as a security guard?

26 A. Yes, sir.

27 Q. Where were you working as security?

28 A. Biohazard facility in Olen Hills.

1 Q. As part of your training for EMT and security guard was managing a scene,  
2 for instance, an accident scene, part of your training?

3 A. Yes, sir.

4 Q. And so when you saw this car and this other car stopped, you stopped to  
5 help manage the scene?

6 A. Yes, sir. I determined that the scene needed assistance, because I could  
7 not see the vehicle, and I was traveling below the speed limit. I had a hard  
8 time seeing it, so I figured it would be safer if I turned on my flashers  
9 and stopped to make it more visible.

10 Q. But you were able to see it before you came right upon it; correct?

11 A. Yes, sir.

12 Q. And eventually you pulled in right behind it, or I guess in front of  
13 it? Well, right behind it?

14 A. Yes, sir.

15 Q. And you turned on your flashers?

16 A. Yes, sir.

17 Q. And that involved white lights, red lights, and headlights?

18 A. Red lights and headlights were activated.

19 Q. And not only on, but they flash?

20 A. Yes, sir.

21 Q. So they were visible from some distance?

22 A. Yes, sir.

23 MS. MONAHAN: Objection. Speculation. The witness can't say how far his lights  
24 were visible.

25 THE COURT: I'll overrule the objection. Next question.

26 MR. STINT: And as well there were headlights—Strike that. As well the lights  
27 and flashing lights were on in what you described as the first-on-scene  
28 vehicle?



1 A. Yes, sir.

2 Q. Do you remember what kind of vehicle that was?

3 A. I remember it was a car. That's it, sir.

4 Q. And it was positioned, was it not, so that the headlights were facing  
5 eastbound?

6 A. Yes, sir. I'll mark that.

7 MS. MONAHAN: If Mr./Ms. Anderson could also mark the direction of travel the  
8 Silverado was facing. Because she/he 's marked the others.

9 THE WITNESS: I believe it was that direction. I don't recall accurately.

10 MR.STINT : So you put an arrow in each vehicle to show the direction it was  
11 facing?

12 A. Yes, sir.

13 Q. And the first-on-scene vehicle that you have facing eastbound --  
14 correct? In the westbound lane?

15 A. Yes, sir.

16 Q. And it was positioned, was it not, so that it was -- so that you could see  
17 its headlights as you were coming westbound? Thank you. So that as you were  
18 coming westbound, you could see the headlights of the first-on-scene vehicle  
19 behind the Silverado; correct?

20 A. Yes, sir. It was a painted silhouette. I could see the outline of the  
21 vehicle because of the first-on-scene's headlights.

22 Q. And so it made that Silverado pretty visible to you as you came upon the  
23 scene?

24 A. Yes, sir. When I approached it pretty closely. I was about 50 feet away  
25 from it when I noticed it.

26 Q. But enough time for you to slow down and stop without and you were able to  
27 do that without jamming on your brakes, or coming to a sudden stop; is that  
28 correct?

1 A. Yes sir. That's correct.

2 Q. In fact all of the cars that came upon that scene -- none of them had to  
3 jam on their brakes or come to a sudden stop when they approached the scene;  
4 is that correct?

5 MS. MONAHAN: Objection. Speculation.

6 THE COURT: Overruled. You may answer that.

7 THE WITNESS: The vehicles that I saw on scene did not have to suddenly stomp  
8 on the brakes, so they could stop adequately.

9 MR. STINT: And they all seemed to be able to stopping a prudent manner?

10 MS. MONAHAN: Objection. Not only speculation, but also calls for an opinion.

11 THE COURT: I'll sustain that objection.

12 MR. STINT : Were you trained in dealing with accident scenes and controlling  
13 accident scenes?

14 A. Yes, sir, I was.

15 Q. And what kind of problems you might have in an accident scene?

16 A. Yes, sir.

17 Q. So would it be fair to say that the vehicles, given the lighting at the  
18 scene, and the illumination from your lights and the other cars' lights, were  
19 able to come to a safe stop without having to make any sudden moves or  
20 something like that?

21 A. For myself, the lighting on the scene was adequate. I couldn't determine  
22 for the other drivers.

23 Q. For instance, you didn't see any of the other cars - you said numerous  
24 cars came through it, correct?

25 A. That's correct.

26 Q. And none of those had to jam on their brakes or had to make radical turns  
27 or swerves to avoid it?

28 A. Correct, sir.

1 Q. And based on your training and experience, would you say under the  
2 circumstances the scene was secured?

3 MS. MONAHAN: I object. Argumentative.

4 THE COURT: I'll sustain that objection.

5 MR. STINT: Now, you said when you came upon the scene you immediately stopped  
6 your vehicle, turned on your flasher lights?

7 A. Yes, sir. That's correct.

8 Q. And then you went to check with the gentleman, the first-on-scene vehicle;  
9 correct?

10 A. Yes, sir.

11 Q. And he indicated he was in the process of calling for police?

12 A. Yes, sir. He was on the phone 911.

13 Q. And did he indicate to you how long he had been there?

14 A. He told me that he had been there approximately five to ten minutes.

15 Q. Did they indicate that any other -- to you that any other vehicles had had  
16 a problem getting past that vehicle?

17 MS. MONAHAN: Object to hearsay.

18 THE COURT: I sustain that.

19 MR. STINT: How many -- okay. Do you know prior to your getting out-, getting  
20 back to your vehicle and getting out your gear, and so on, whether or not any  
21 other vehicles came through that scene?

22 A. No, sir. While I got my gear on, the road was clear. No one was  
23 coming. I waited for a time where I was able to do that.

24 Q. So from the time you stopped until the time you got out your gear and  
25 flashlights, and so on, there were no other vehicles that passed through the  
26 scene?

27 A. Yes, sir. I believe that's correct.

28 THE COURT: When you got out your gear and flashlights, where were you?

1 THE WITNESS: I was at the rear of my vehicle.  
2 (Marked Defendant Exhibit 1 and 2 photos, for identification.)  
3 MS. MONAHAN: Your Honor, I'd ask to see what he's marking.  
4 MR. STINT: I just put numbers on individual pictures so that it could relate  
5 to the exhibit. .  
6 MS MONAHAN: Exhibit 1 has three photographs on it that have now been marked  
7 1, 2, and 3. Exhibit 2 has three photographs on it that are marked 1, 2, and  
8 3.  
9 MR. STINT: Looking at what 's been marked as Exhibit 2 first, could you  
10 describe -- and if you don't mind using. What is depicted in those photos?  
11 A. They are all pictures of me at different angles with my jacket and pants  
12 on.  
13 Q. Looking at Exhibit 2 could you describe those.  
14 A. Picture 2-1 has my helmet.  
15 Q. Yes. Thank you. 2 and 3?  
16 A. 2 is the big flashlight, and 3 is the LED flashlight I had that night.  
17 Q. Is this gear specially designed to be used in a situation like this to  
18 illuminate the person and make them visible to other people?  
19 A. Yes, sir. That's correct.  
20 Q. So this is not something you would wear out on a date, for instance?  
21 A. No, sir.  
22 Q. Or just to go out to the mall or something like that?  
23 A. No, sir. Never.  
24 Q. You would put this on in an accident scene?  
25 A. Only.  
26 Q. And there was flashlights and reflective jackets, and --  
27 A. Yes, sir.  
28

1 Q. And that 's what you were wearing that night. As soon as you checked with  
2 the first-on-scene vehicle, you put this equipment on?

3 A. Yes, sir.

4 Q. And then the first vehicle came along, and obviously, you said slow down,  
5 and then you directed it through the scene?

6 A. Yes.

7 Q. And that same process happened numerous times, you said?

8 A. Yes, sir.

9 Q. And eventually at some point cars started to back up?

10 A. Yes, sir.

11 Q. But even after they backed up, they were still able to first slow down  
12 and come to a stop?

13 A. Yes, sir.

14 Q. And then proceed through the intersection or through the scene without,  
15 apparently, any problem?

16 A. Yes, sir. That 's correct.

17 Q. Now, so there was actually light going in both directions, your  
18 headlights pointing westbound, first on scene pointing eastbound, both had  
19 your flashers on, so your rear lights were on in both cases as well;  
20 correct?

21 A. That's correct.

22 Q. So it would be fair to say the scene was fairly well lit?

23 A. It was.

24 MS. MONAHAN: Object. Argumentative.

25 THE COURT: I'll overrule the objection. The answer stands.

26 THE WITNESS: It was. I would have liked to have flares out, but that's the  
27 best we could do.

28 MR. STINT: Now, you had what? A flashlight on your helmet?

1 A. Yes, sir. That's correct.

2 Q. And two other flashlights in your hands, one in each hand?

3 A. Yes, sir.

4 Q. And you were using those to direct traffic and warn 2 people of the scene

5 A. Yes, sir.

6 Q. And were there any other vehicles -- were any other vehicles stopped going

7 eastbound, to your knowledge?

8 A. No, sir. Not that I could remember.

9 Q. So all these vehicles that were going through the scene apparently were

10 all coming westbound on Garrison Road?

11 A. Yes, sir.

12 Q. And at any time prior to the impact did you see anybody else at the scene

13 other than the people in the first-on-scene car

14 A. Yes, sir, I did.

15 Q. Where did you see them?

16 A. They were inside of a building next to the road.

17 Q. And would it be fair to say that, by the time you got there and turned on

18 your lights and flashlights, someone looking at the scene -- it would appear

19 that it was obvious somebody was taking care of the scene?

20 MS.MONAHAN: I object as speculation as to what somebody else may have thought

21 if they saw it.

22 THE COURT: I'll sustain that.

23 Q. BY MR. STINT: Did you talk to any of those people?

24 A. I did talk to a female subject.

25 Q. Did you tell her that basically 911 was -- had already been called?

26 MS. MONAHAN: Objection. Hearsay.

27 THE WITNESS: I don't remember what I said.

28 MR. STINT: You remember having some conversation with her?

1 MS. MONAHAN: I have an objection to hearsay.

2 THE COURT: Objection is overruled.

3 MR. STINT: I'm asking what he said.

4 MS. MONAHAN: Still an out-of-court statement.

5 MR. STINT: It goes to what action he took next.

6 THE COURT: I'll sustain that as to the truth of the matter stated but admit  
7 it to explain his actions.

8 MR. STINT: Did you have a conversation with someone?

9 A. Yes, sir, I did.

10 Q. Do you recall at all what the nature of that conversation was?

11 A. Vaguely. I remember asking the subject if they saw what happened with the  
12 vehicle or why the vehicle was left there. They told me that they did not  
13 know.

14 Q. Did you -- do you recall any other conversations about what was going on  
15 or whether the police had been called?

16 A. She asked me what was going on. I said a vehicle had been abandoned. I  
17 honestly do not recall if I told the emergency crews had been notified or  
18 not.

19 Q. Okay. Now, after having signaled several or numerous cars, as you've  
20 indicated, through the scene, it came to a point where the white Dodge Ram --  
21 was that at the head of the line at that point?

22 A. Yes, sir. That's correct.

23 Q. And prior to signaling the Dodge Ram, you looked down the road eastbound,  
24 did you not?

25 A. Yes, sir, I did.

26 Q. To see if there were any vehicles coming?

27 A. I saw headlights approximately over a half mile away.

28

1 Q. And at that time you felt -- I assume you felt that car, assuming he was  
2 traveling at a normal rate of speed, was far enough away so --  
3 A. It was not a danger. Correct.  
4 Q. That the white Ram could get through the intersection?  
5 A. That it could?  
6 Q. That the white Ram could go through the scene safely?  
7 A. Yes, sir. The white Dodge Ram.  
8 Q. So you turned back, did you not, to the white Ram and started to signal it  
9 to proceed through the scene? Correct?  
10 A. I'm a little confused. Let me spell it out. What I did is I looked by the  
11 Hummer, I looked in front of the Hummer to make sure it was clear, and at  
12 that time I saw the lights approximately half mile away or over, upwards of a  
13 half mile away.  
14 Q. And that would have been coming westbound?  
15 A. Yes, sir. That's correct.  
16 Q. Did the Hummer have its lights on?  
17 A. Yes, sir. It had all its emergency lights on.  
18 Q. So the Hummer also had its emergency lights on?  
19 A. Yes, sir.  
20 Q. And that kind of lit it up pretty much like a Christmas tree?  
21 A. Yeah. It was pretty well lit.  
22 Q. Was it still within the area where the cars were slowed down and stopped?  
23 A. It pulled over to the side a little bit. Like I have it depicted. At that  
24 time I couldn't tell if the lights were still on, but I did notice that the  
25 vehicle had slowed down immensely.  
26 Q. So at this point you have first-on-scene with his flashers and  
27 his headlights on; correct?  
28 A. Yes, sir.



1 Q. It's still there?

2 A. Yes.

3 Q. And your vehicle with its flashers and its headlights?

4 A. Yes, sir.

5 Q. You have cars stopped with at least their lights on?

6 A. I know for sure that two of those vehicles did. I could not tell you about

7 the two vehicles in the rear, if they had flashers on.

8 Q. All of those vehicles -- excuse me. The first two in the line you recall

9 having had flashers on?

10 A. Yes, sir. I'm positive.

11 Q. The two behind it, you don't know one way or the other?

12 A. Yes, sir. That's correct.

13 Q. But they had their headlights on and they would have had their brake

14 lights on?

15 A. That's correct.

16 Q. And then the Hummer had its lights on in addition to its emergency lights?

17 A. As far as I know.

18 Q. So far as you can recall?

19 A. Except for the emergency lights. I don't know if it still had it on. It

20 was way down the line, and at that point my attention was drawn towards

21 traffic.

22 Q. At some point as it was coming through the scene, it had all its emergency

23 lights on and was kind of lit up like a Christmas tree?

24 A. That 's correct.

25 Q. So at some point when this other vehicle was coming from about a half mile

26 away, you had, at least that you recall, four cars with their lights and

27 flashers on and emergency flashers on?

28 A. Two of them for sure.

1 MS. MONAHAN: This is asked and answered several times.

2 THE COURT: Overruled. You may answer.

3 MR. STINT: I'm saying your car, first-on-scene, and then two cars in line  
4 that you can remember. That's four; correct?

5 A. Yeah. Let me just write it. Those cars I know for sure had their hazard  
6 lights on, and the others I couldn't tell you one way or the other.

7 Q. The other cars -- you don 't know if they had their flashers on?

8 A. That's correct.

9 Q. They all had their headlights and their taillights on?

10 A. Yes, but those are the only vehicles I could tell you for sure

11 Q. Plus your vehicle and the first-on-scene had its flashers on?

12 A. Yes, sir.

13 Q. So there were at least four cars with headlights and flashers on?

14 A. Yes, Sir.

15 Q. When you look down and saw half a mile away, possibly a little further,  
16 you felt it was safe to send the Dodge Ram through, correct?

17 A. Yes, sir. I didn't feel that vehicle was a threat.

18 Q. And then you turned to the Dodge Ram and essentially  
19 signaled it to proceed?

20 A. Yes, sir.

21 Q. And then it's true, is it not, that you turned around, and when you turned  
22 around, that car that you had seen a half mile away, thinking  
23 it was at a safe distance, was right there?

24 Isn't that the way you described it previously?

25 A. Yes. The time elapsed a minute or so because it took him a little while to  
26 get back in gear and go.

27 Q. But it seemed like it just kind of appeared more quickly than  
28 you had expected?

1 A. That's correct.

2 Q. And when you first saw it, it was only what? About four car lengths away  
3 from the Dodge Ram?

4 A. Yes, sir. That's when it was on scene.

5 Q. Right.

6 A. Remember, I saw this vehicle --

7 Q. I'm sorry. Yes.

8 A. Yes.

9 Q. On scene was about four car lengths from the Dodge Ram?

10 A. Approximately. That's correct.

11 Q. And traveling at a high rate of speed?

12 A. Yes, sir.

13 Q. And pulling out from behind the stopped vehicles with their lights on into  
14 the eastbound lane?

15 A. That's correct.

16 Q. And would it be fair to say it actually seemed to be accelerating as it  
17 came closer to where you were?

18 A. That 's correct. I could hear the engine.

19 Q. You could hear the engine revving?

20 A. Yes, sir.

21 Q. As if it were accelerating?

22 A. Yes.

23 MS. MONAHAN: I object. Speculation. No foundation for him to say he believes  
24 it was accelerating.

25 THE COURT: Overruled. You can go over that on redirect.

26 MR. STINT: So it appeared to you that -- and not only by sound,  
27 but also visually, the car seemed to be speeding up as it passed the stopped  
28 vehicles?

1 A. Only by sound. By visual there's no way for me to tell if the vehicle was

2 --

3 Q. Because it was right there?

4 A. Yes.

5 Q. I believe you estimated the speed of the vehicle was somewhere between 80  
6 and a hundred miles an hour, you thought?

7 A. Probably somewhere about 75 or 80.

8 Q. Where were you standing when you first saw it at the scene?

9 A. I was standing approximately where I put my dot that I drew to be my  
10 position, which is right here.

11 Q. So that 's where you were from when you saw it a half a mile away as well  
12 as on the scene?

13 A. Uh-huh.

14 Q. So you essentially were right next to the Dodge?

15 A. Yes, sir. I was close enough to the Dodge where I could see over the hood  
16 and see the back of the line.

17 Q. And that's when you observed it hit the Dodge?

18 A. Yes, sir. It came over and clipped the front quarter panel of the Dodge.

19 Q. Were you able to see the driver of the Jeep?

20 A. Not at that time. No.

21 Q. You never got a look at the person driving the vehicle?

22 A. All I saw was headlights.

23 Q. And even as it passed the scene, you weren't able to see anybody in the  
24 vehicle?

25 A. No, because I was trying to take refuge behind my vehicle, because I knew  
26 the Dodge was going to move.

27 Q. In other words, you felt it was going to hit the Dodge

28 A. Yes. So I--

1 Q. Got out of the way?

2 A. Yeah. As soon as it made contact, I tried to get out of the swing of the  
3 vehicle.

4 Q. And then you could see it catch the ditch and then start to roll?

5 A. That's correct.

6 Q. So it actually started rolling pretty much at the scene?

7 A. At the scene the driver of the vehicle over-corrected, and that's when the  
8 rear -- the Jeep lost control, broke traction, and headed sideways.

9 Q. And based on your diagram, that would have happened still within the area  
10 of where the cars were stopped, or is that not accurate?

11 A. It's not to scale. If it was to scale, I'd need a longer piece of paper.

12 Q. Right. But somewhere near where the vehicles were stopped is where it lost  
13 control?

14 A. It was well behind the first car. If I drew to scale, it would probably be  
15 somewhere out here is when it caught the ditch.

16 MS. MONAHAN: For the record, he's indicating to the very top of the page  
17 that's been marked and --

18 THE COURT: I think he's saying past that.

19 THE WITNESS: Right about here.

20 MR. STINT: Could you show us where on that diagram it started to roll, if you  
21 can.

22 A. Vehicle caught here, actually caught approximately here, actually, and  
23 that's when it started to roll, when the rear driver's side tire caught the  
24 ditch.

25 MS. MONAHAN: And again just to make the record clear, the witness is pointing  
26 to the very top, just beyond the very top of -- which Exhibit is it?

27 THE WITNESS: 6.

28

1 MS. MONAHAN: 6. Thank you. At the point at which the Jeep began to  
2 roll.  
3 THE WITNESS: That 's correct. Approximately.  
4 MS.MONAHAN: Thank you.  
5 MR. STINT: Would it be fair to say, as you waved the Ram around, your words  
6 were that the Jeep kind of suddenly appeared at the scene?  
7 A. Yes. Quickly.  
8 Q. And would it be fair to say that somewhat took you by surprise because  
9 you thought it was well away from the scene, that you had time for the Ram to  
10 pass through?  
11 MS. MONAHAN: Objection. Relevance as the whether the witness was surprised.  
12 THE COURT: Overruled. You can answer that. Were you surprised?  
13 THE WITNESS: Yeah. I wasn't expecting it to come that quickly.  
14 MR. STINT: You recall talking to the first men on the scene when they told  
15 you they were there about two minutes before you got there?  
16 A. They said they were there approximately five to ten, if I remember  
17 correctly.  
18 MR. STINT: I just want to go back to the position of the vehicles for a  
19 moment. It's my understanding from your testimony that, when you parked, you  
20 parked behind the Silverado; correct?  
21 A. Yes. That's correct.  
22 Q. And out in the lane, in the traffic lane?  
23 A. I was -- I was -- I was straddling -- I was pretty much almost exactly  
24 where I was at. If I recall, I was straddling this line for the bicycle  
25 lane, because I wanted to provide enough room so that, if I needed to go to  
26 the vehicle, I could protect myself.

27  
28

1 Q. Would your headlights then have been visible from the west of the  
2 Silverado? In other words, if I was coming eastbound, could I have seen the  
3 headlights?

4 MS. MONAHAN: I object to speculation, Your Honor.

5 THE COURT: I'll sustain that.

6 MR. STINT: Did you observe your vehicle from when you -- for instance, when  
7 you went up to the first-on-scene vehicle?

8 A. Did I observe mine?

9 Q. Did you look back at your car?

10 A. Yes, I did.

11 Q. Could you see your headlights? In other words --

12 A. Yeah.

13 Q. In other words, your headlight was outside the rear end of the Silverado,  
14 was it not? Do you understand what I'm saying?

15 A. Yes. Yes.

16 Q. So you were straddling the line, and your headlight would  
17 have been visible directly behind the Silverado; correct?

18 A. Yes. When I went to check on the first-on-scene, I was standing here, and  
19 my headlights were visible. I could see my lights.

20 Q. Directly?

21 A. Yes.

22 Q. Now--

23 A. I also did position my vehicle so that my headlights were visible but it  
24 would not blind oncoming traffic.

25 Q. Was it true that the first-on-scene was essentially positioned in the same  
26 way, that you could see his headlights coming westbound.

27 A. You could see it, but it was not blinding. That's correct. If you ever get  
28 in a situation where you can see headlights, a lot of times the oncoming

1 traffic can't see the accident because of the position of the headlights so I  
2 positioned my vehicle so there was still visibility with the road, so it was  
3 not ruining the night vision of the drivers.

4 Q. So both vehicles were positioned in a way the light was seen but not to  
5 blind drivers?

6 A. Yes.

7 Q. Do you recall how long you were there before the police arrived?

8 A. My best estimation would be seven to ten minutes.

9 Q. Could it have been longer than that?

10 A. Possible.

11 Q. And during that time, I believe you said, numerous cars went through the  
12 scene?

13 A. Correct.

14 Q. You could see the Hummer coming from the westbound direction; correct?

15 A. That's correct.

16 Q. And it seemed to have no problem slowing down and coming to a stop?

17 A. That's correct.

18 Q. And you were able to wave it through without a problem?

19 A. That's correct.

20 Q. As it- came through, did he turn on his emergency lights?

21 A. His emergency lights were already on before he was on scene, so his  
22 emergency lights were activated somewhere out in this area.

23 Q. Would you say that would be about a hundred yards away? 300 yards?

24 A. No. Probably -- this is when the vehicle started to flip, but no, he was  
25 probably about a hundred feet maybe, just enough for a vehicle to weave  
26 through and get around the accident scene.

27 Q. So apparently from that point some distance away from the actual scene,  
28 he apparently saw the scene and turned on his lights?



1 A. Yes. When he was stationary, he was parked. He stopped here, and that 's  
2 when he activated his emergency lights.

3 Q. Approximately how far away was he stopped there?

4 A. Like I said, I don't know. Maybe 50 to 75.

5 Q. Feet?

6 A. Feet. Yeah.

7 Q. Again, you didn't hear him come to a sudden stop or skid to a stop?

8 A. I did not hear that.

9 Q. When you saw the vehicle, the Jeep, the Jeep, you said you first saw  
10 it some distance away, at least a half mile or more; correct?

11 A. Yeah.

12 Q. When you first saw it, could you tell whether it was in the eastbound or  
13 westbound lane?

14 A. A half mile away I couldn't tell. I could just tell it was on the road.

15 Q. When it came closer to the scene, the next time you saw it appeared to be  
16 pulling around the last vehicle?

17 A. That 's correct. When it approached my scene, it was in the westbound  
18 lane.

19 Q. And that's a double yellow line there; correct?

20 A. That 's correct.

21 Q. So the Jeep went across the double yellow line into the eastbound lane;  
22 correct?

23 A. That's correct.

24 Q. And it stayed in the eastbound lane until it came through the scene?

25 A. Yes. That's correct.

26 MR. STINT: Thank you, sir. I don 't believe I have any further questions.

27 THE COURT: Ms. Potterby?

28 MS. POTTERBY: Thank you.

1 CROSS-EXAMINATION

2 BY MS. POTTERBY: My first question for you is what, if anything, did you do  
3 in order to prepare for your testimony today?

4 A. I read my first testimony in court. I got a copy of those when I came  
5 here, and that's it.

6 Q. Was that this morning?

7 A. Yes, ma'am. That's correct.

8 Q. When you talk about your first testimony in court, was that your testimony  
9 in January of 2016?

10 A. Yes.

11 Q. And it was at the courthouse?

12 A. Yes. The new courthouse over by Ale Street.

13 Q. Was Ms. Monahan present?

14 A. I couldn't remember for the life of me.

15 Q. Was there a jury present?

16 A. Yes, ma'am.

17 Q. And was this morning the first time you ever looked at that transcript?

18 A. Yes, ma'am.

19 Q. And who gave it to you? Do you recall?

20 A. I think it was Ms. Mohason.

21 MS. MONAHAN: For the record, the witness is pointing to me.

22 THE WITNESS: What's your name?

23 MS. MONAHAN: Annie Monahan.

24 THE WITNESS: Monahan. Thank you.

25 MS. POTTERBY: When you testified a few months ago in front of the Grand Jury,  
26 were you given anything to review at that time?

27 A. I was given a statement that I had made that night and a statement that I  
28 had also made at the police department.

1 Q. So you were given a police statement?

2 A. That's correct.

3 Q. And was that on the same day you testified in front of the Grand Jury or  
4 was it some other date that you were given those statements?

5 A. Same day.

6 Q. Did you get to keep those statements, or were they taken back from you?

7 A. They were taken back.

8 Q. Have you seen that statement since that date?

9 A. I believe I saw the same statement today.

10 Q. So you were shown that statements as well today?

11 A. Yes.

12 Q. And you've reviewed these prior to your testimony in front of the Grand  
13 Jury and prior to your testimony today?

14 A. Yes. That's correct.

15 Q. Thank you. Mr./Ms. Anderson, you 've testified that what you 're  
16 testifying about today were events that happened a couple of months ago.  
17 Other than the Grand Jury transcript you reviewed as well as the report  
18 prepared by police, have you read anything else about this case either in  
19 the newspaper or --

20 A. Not really. I don 't read the newspaper, honestly.

21 Q. Have you talked to anyone else about this case?

22 A. Family members. That's it. No specifics.

23 Q. And those conversations with family members -- was that back closer in  
24 time to when these events happened?

25 A. Yes, ma'am.

26 Q. Did you talk to family members again around the time you came and  
27 testified before the Grand Jury?

28 A. No.

1 Q. How about in response to your subpoena to come to court today?

2 A. No.

3 Q. Have you talked to anyone else from the District Attorney's office or from  
4 Mr. Stint's office, from my office?

5 A. Only person I've talked to is -- I don 't remember the person 's name, but  
6 the person that took these photos of me and the gear I was wearing that  
7 night.

8 MS. POTTERBY: Actually, I would ask to move Defense 1 and 2 into evidence.

9 THE COURT: Is there an objection?

10 MS. MONAHAN: Yes, Your Honor. I am objecting to the introduction of these  
11 two exhibits as evidence on the basis that they do not accurately represent  
12 the way that the witness's uniform looked the night of the incident. The  
13 photographs were not taken at the scene, and I don't think that it's relevant  
14 to consider the way they looked during how she/he appeared that night.

15 THE COURT: You're saying the location would be different? Is that the issue?

16 MS. MONAHAN: I don't think that it accurately reflects the way the witness  
17 would have appeared that night.

18 THE COURT: Why are they being offered?

19 MS. POTTERBY: As far as admissibility, they're just to show what she/he  
20 looked like, not how she/he looked necessarily in terms of on the road that  
21 night, but simply what he was wearing and what she/he was carrying. And I  
22 think that's relevant.

23 THE COURT: I'll admit it for that purpose only.

24 MS. MONAHAN: Thank you, Your Honor.

25 MS. POTTERBY: These are all photos that I obtained from your office. And ask  
26 those three photos be marked defense next in order.

27 (Marked Defendant Exhibit 3, 4, and 5, photos, for identification.)

28 MS. POTTERBY: 3 is the roadway?

1 THE COURT CLERK: Yes.

2 MS. POTTERBY: Thank you.

3 MS. POTTERBY: May I approach the witness?

4 THE COURT: Please.

5 MS. POTTERBY: I'm going to hand you what has been marked 3, 4, and 5, and I'm  
6 going to ask you to actually begin with 4 and 5, and ask if those photos  
7 appear to be the Hummer that you have previously testified to.

8 A. Yes, they are.

9 MS. POTTERBY: Thank you. I move for the admission of 4 and 5.

10 MS. MONAHAN: I'm going to object. Lack of foundation.  
11 They were, obviously, not taken the night of the incident, so it could be a  
12 Hummer that looks like the one, but there's not enough foundation to  
13 establish that that is the same.

14 MS.POTTERBY: I'd be happy to call Officer Mojo to lay the foundation. We  
15 obtained these photos from the prosecution.

16 THE COURT: I'm going to allow them into evidence over objection. That's 4 and  
17 5. And your testimony is this appears to be the same vehicle as the Hummer  
18 you saw that night?

19 THE WITNESS: It's the same model. I don't remember these two items, but it's  
20 the same model.

21 MS. POTTERBY: When you say these two items, what are you saying?

22 A. In terms of the lights, and so forth -- Yes. That's right -- it's accurate  
23 to that.

24 Q. Thank you. Look at Exhibit 3 and see if that appears -- and I know it's  
25 a dark photo. Does that appear to be a photograph of the Garrison Road area  
26 where all of this took place on January 4th?

27 MS. MONAHAN: I object to leading questions. For most purposes for cross-  
28 examination, of course, I would not object to leading but if this witness is

1 going to be identifying photos for the first time, I would object to any  
2 leading or suggestive questioning.

3 THE COURT: I think I'll sustain that objection. Just rephrase the question, p  
4 lease.

5 MS. POTTERBY: Certainly.

6 Q. Looking at Exhibit No. 3, what does that appear to be?

7 A. A road. It looks like Garrison Road where the accident occurred.

8 Q. I want to ask you this. When we're talking about your drawing that drawing  
9 is not to scale, is it?

10 A. That's correct.

11 Q. And so for example, you 've drawn a series of rectangles to represent  
12 vehicles in your drawing, correct?

13 A. That 's correct.

14 Q. And none of those rectangles that are supposed to be vehicle are drawn to  
15 scale in relation to the -- what would you call it? The relational size of  
16 one vehicle to another, correct?

17 A. That's correct.

18 Q. Earlier you testified you're your familiar with Garrison Road because you  
19 traveled it twice weekly during that time frame right?

20 A. That's correct.

21 Q. So in fact the lane that was traveling from Sunshine  
22 City to Smalltown, that is, from east to west - it was not actually as wide  
23 as two cars?

24 A. Yes.

25 Q. The lane was not as wide as two cars, as depicted in your drawing?

26 A. Yes. Correct.

27 Q. So the cars are actually -- would fill more of the lane than is reflected  
28 in this drawing?

1 A. That 's correct.

2 Q. Thank you. And let me ask you. Actually one -- just in terms of  
3 background questions, have you traveled through the scene since January 4,  
4 2016?

5 A. Yes, I have.

6 Q. Have you stopped at the scene at all?

7 A. No. Not that I can remember.

8 Q. So you never went back to take a look at anything? Never felt the  
9 need?

10 A. No. I've just driven by.

11 Q. When was the last time you drove by?

12 A. Yesterday, on the way to and from my girlfriend's house.

13 Q. Okay. And what had previously been marked as Defense asking you to take a  
14 look at Defendant's No. 1 and 2. Photo 1 shows that you're dressed in a  
15 particular outfit?

16 A. Yes, ma'am.

17 Q. And the jacket is what you put on that night on January 4, 2016?

18 A. Correct.

19 Q. And it's the same helmet?

20 A. Yes. That's correct.

21 Q. And that helmet has a light attached to it?

22 A. Correct.

23 Q. And that light is on the helmet as depicted in Defendant's 2?

24 A. Yes. Correct.

25 Q. And that's on the front of the helmet.

26 A. Yeah.

27 Q. Let me ask you something. I notice on the jacket there's a white stripe  
28 across the chest and arms?

1 A. Yes. That's correct.

2 Q. Is that white stripe made of any particular material that you're aware of?

3 A. It's Scotch Light M3 reflective material.

4 Q. What does it -- what is that?

5 A. It's the same material that are on fire outfits. Just reflective material

6 so that you can be spotted.

7 Q. Does it require a light source to shine on it in order for it to be seen?

8 A. Yes, it does.

9 Q. And are the same type of stripes on the pants?

10 A. Yes, they are.

11 Q. So if it was completely dark, it wouldn't show any light. It doesn't

12 project light. It reflects light; is that correct?

13 A. That's correct.

14 Q. Thank you. I'm sorry. You said that you were an EMT?

15 A. That's correct.

16 Q. And you were that -- you had that training as of January 4, 2016?

17 A. I couldn't tell you without getting my license back. My license is at my

18 place of residency right now. It's not on me.

19 Q. Were you still training, then, at that time?

20 A. No. I believe I was done. Yeah. I was done with my EMT and had also

21 had fire training.

22 Q. And how long was your EMT training?

23 A. My EMT training was a semester.

24 Q. And a semester at the junior college or somewhere else?

25 A. The junior college.

26 Q. When you say it's a semester, was it a full course

27 A. Full course load.

28 Q. Are you talking 12 units?



1 A. I think it was. I believe it was. I'm not sure.

2 Q. Part of that training, did that include assisting on a traffic scene?

3 A. That was part of my fire fighting training.

4 Q. So you had had fire-fighting training prior to January 4, 2016?

5 A. Yes. We had minimal training in traffic control. We knew how to and we

6 were trained in it, but we have no formal certification in traffic control.

7 Q. How long was this traffic control training that you had as part of your

8 fire fighting training?

9 A. It's -- I couldn't tell you. It's been a while.

10 Q. Was this the first time that you were involved in an actual on-scene

11 traffic

12 A. No.

13 Q. So you had prior experience working --

14 A. I have had many experiences. Yes.

15 Q. And as of January 24, 2005, could you give an estimate of how many times

16 you have been involved in traffic control?

17 A. More than I could count. Honestly, 15, 20 times, maybe more.

18 Q. And 15, 20 times over one year, two year, three years? Do you have an

19 estimate of what period of time?

20 A. Maybe a year, year and a half. I stop on traffic when needed. I've been

21 on lots.

22 Q. Is that one of the reasons that you keep your jacket, your helmet, and

23 things like flares in your personal vehicle?

24 A. The flares in my personal vehicle, yes. The reflective equipment was

25 because of the job site I was at currently.

26 Q. At that time?

27 A. Yes. That's correct. Those items are no longer in my car.

28

1 Q. I understand from your testimony you left your girlfriend's residence in  
2 the area of the fairgrounds approximately 10:30 that evening?

3 A. Somewhere around there. I couldn't give you a definite.

4 Q. Do you know approximately how much time elapsed from when you departed  
5 your girlfriend's residence until you arrived at the scene?

6 A. I couldn't tell you. I made numerous stops between there and the accident  
7 scene.

8 Q. When you say numerous stops, is that numerous stops because of, for  
9 example, traffic control or because you got out and did some errands and  
10 stuff?

11 A. Got gas and --

12 Q. Did you have an estimate as to about what time you arrived on  
13 scene?

14 A. Approximately 11:25. 11:30.

15 Q. Did you have cell phone on your person?

16 A. Yes, I did.

17 Q. Did you make any cell phone calls during that period of time?

18 A. Yes. I did.

19 Q. Was that -

20 MS. MONAHAN: I object to the use of this hearing for discovery purposes.

21 THE COURT: If his testimony is going to be used at trial

22 MS. MONAHAN: This is discovery. This is not something that would be  
23 introduced in front of a jury. This is discovery.

24 THE COURT: If he 's not going to be available, though, I will allow the  
25 question.

26 MS. POTTERBY: You expect to be unavailable come a few weeks from now?

27 A. For approximately three months. After that, from what I believe, you may  
28 be able to reach me.

1 Q. Whether or not you're deployed overseas?

2 A. That's correct.

3 MS. POTTERBY: Was there a question pending prior?

4 THE COURT: Yes. Did you make any cell phone calls and do you remember whom  
5 you made them to?

6 THE WITNESS: I made one cell phone call, and that was to emergency dispatch  
7 for Sunshine County.

8 MS. POTTERBY: And was that prior to the collision?

9 A. That was immediately after the collision.

10 Q. And so from -- was that the first thing you did after the Jeep Cherokee  
11 struck the Dodge Ram was make the phone call?

12 A. No. I went down the line, told the people to block off the intersection so  
13 no one could come by. While I was talking to the other drivers, I was getting  
14 my cell phone out to make that call. So I was doing multiple tasks at the  
15 same time.

16 Q. The first thing you did prior to asking the other drivers to block the  
17 roadway was to check on the driver of the Dodge Ram?

18 A. No. I did. I asked if he was okay, and he looked at me and nodded his  
19 head, and I went on my way.

20 Q. You did that first before you went to the other drivers?

21 A. Yes. And then I went to other drivers and told them to turn on their  
22 emergency flashers.

23 Q. When you arrived at the scene initially and encountered the Chevy  
24 Silverado and the other vehicle with the older gentleman on scene, until you  
25 made your cell phone call to emergency dispatch, do you have an estimate of  
26 how much time had elapsed?

27 A. Seven to ten minutes. Somewhere around there.

28 Q. Now, did you first hear the Jeep Cherokee or did you first see it?

1 A. I first saw it.

2 Q. And when you say you first saw it, is that -- what is it that you saw  
3 first?

4 A. The headlights.

5 Q. Now, you were standing -- and I was a little bit confused. For the  
6 majority of the time when you were wearing your jacket and directing traffic,  
7 were you standing in front of your vehicle, that is, towards the rear of your  
8 vehicle, facing the eastbound, or were you standing towards the front of your  
9 vehicle more westbound?

10 A. I was standing at both depending on what my activity was at that time.

11 Q. Was there more than one vehicle that came from the west, that is, from  
12 Smalltown area heading towards Sunshine City, or was it just the Hummer?

13 A. No. There were a few other vehicles.

14 Q. Do you have a recollection as to how many?

15 A. Probably about three or four before the accident.

16 Q. So you were watching the traffic in both directions?

17 A. Yes.

18 Q. When you were facing towards the eastbound direction towards Sunshine  
19 City, could you see any of the lights from the shopping center areas, and so  
20 forth?

21 A. Yes, ma'am, I could.

22 Q. Going back to your jacket that you were wearing that night, that white  
23 reflection band, is it very visible when light strikes it in a dark area?

24 A. Yeah. I've seen it, and it is visible.

25 Q. You've seen it on other people?

26 A. Uh-Huh.

27 Q. That's a yes?

28 A. Yes. That's correct. Sorry.

1 Q. Do you know at what distance that white stripe is visible with lights on  
2 it in a dark area? Do you have an estimate?

3 A. I couldn't even give you an estimate. I know it's depending on the  
4 condition, I can see it from a block away or more.

5 MS. MONAHAN: Objection. Move to strike because it depends on the  
6 circumstances.

7 MS. POTTERBY: I believe the redirect could address --

8 THE COURT: I'll overrule that objection.

9 MS. POTTERBY: Let me ask you this. The area of Garrison Road that you were on  
10 -- is it a fairly straight road?

11 A. It is straight, but there's a lot of dips, and it's there's a lot of dips,  
12 so you can 't see the whole Garrison Road constantly.

13 Q. When you talk about a dip, is the dip more than 2 or 3 feet?

14 A. It's enough of a mild hilly terrain where I can see a vehicle coming up on  
15 my position.

16 Q. You can see a headlight, and then a headlight would disappear?

17 A. That's correct.

18 Q. But you could first spot a headlight from some distance, and then the  
19 headlight would disappear, and then you'd see it again?

20 A. That's correct.

21 Q. When you talk about these dips, based on your experience traveling on this  
22 road approximately twice a week, I mean how long is the dip?

23 A. It's not that long, but due to the terrain, just because I can see them  
24 does not mean they can see me.

25 Q. And you had the helmet on that night; correct?

26 A. Correct.

27 Q. With the light attached to the helmet?

28 A. Correct.

1 Q. Let me ask you, was there any ground fog in the position near where you  
2 were at the Silverado?

3 A. No.

4 Q. Did you encounter any ground fog when you traveled from the area of Fulton  
5 and Garrison Road to the area where you ended up stopping?

6 A. Not that I can recall.

7 Q. I understand from your testimony that you attempted to push or move the  
8 Silverado vehicle at some point?

9 A. Correct.

10 Q. And you said you were unable to push it. Was that pushing it as, you know  
11 -- just with your body, or was it trying to push it with another vehicle?

12 A. With my body.

13 Q. Did you at -- when you were inside the vehicle, I understand that you were  
14 seated sideways inside the vehicle?

15 A. Correct.

16 Q. When I say sideways, your legs were out the driver's side door?

17 A. Correct.

18 Q. So you never swung your legs into the area under the console?

19 A. That's correct.

20 Q. Did you release any brake on that vehicle?

21 A. No.

22 Q. Did you attempt to?

23 A. I attempted to find all operating controls, but at that time other  
24 vehicles were coming up, and I figured I just couldn't bother with it at that  
25 time.

26 Q. Approximately how long were you inside the Silverado attempting to --

27 A. About two minutes.

28

1 Q. Do you recall -- you testified that, from what I recall earlier today,  
2 that one of the tires on the Silverado was flat?

3 A. That's correct.

4 Q. Do you recall which tire it was?

5 A. No, ma'am.

6 Q. Now, when we look at what 's been marked as prosecution's exhibit or  
7 People's Exhibit No. 6 -- well, could I ask you to take a pen of a different  
8 color and just put a 1 to the front of your vehicle and a 2 towards the back  
9 of your vehicle. I get so confused with the -- the east and west.

10 A. Okay.

11 Q. Now, your position from point 2 -- is that where you were standing at some  
12 point directing traffic?

13 A. Yes, ma'am.

14 Q. And from that position to the back of what is the third car that is drawn  
15 below position 2, the third car, one, two, three, going down, so from  
16 position 2 and going downwards one, two, three, there's three cars; correct?

17 A. That's correct.

18 Q. What was the distance from your position on No. 2 to the back of the last  
19 car, if you can recall or give us an estimate?

20 A. 50, 75 feet, maybe. Somewhere around there.

21 Q. Do you recall ever telling anybody that it was approximately a hundred  
22 feet?

23 A. Yeah, I do.

24 Q. And so there was three cars stopped in front of you when you were in  
25 position 2; correct?

26 A. When I stopped, there was only the Silverado and the first-on-the-scene.  
27  
28

1 Q. I'm sorry if my question wasn't clear. At the time right before the Jeep  
2 Cherokee came on scene, there were three cars that were facing the westbound  
3 lane, the westerly direction that were stopped in front of you; correct?  
4 A. Technically it would be behind me, but yes, these three cars were stopped,  
5 and then this car was also stopped, and it was attempting to come around when  
6 the Jeep entered the scene.  
7 Q. And that one car that you pointed to in the middle that's the Dodge Ram?  
8 A. This right here is.  
9 Q. And before it moved into that position where it's crossing the double  
10 yellow line, it had been stopped in front of the position of where you were  
11 in spot No. 2?  
12 A. That's correct.  
13 Q. So it came to a complete stop?  
14 A. Correct.  
15 Q. And it didn't swerve when it stopped?  
16 A. Correct  
17 Q. And you didn't hear any squeal of brakes or tires against - -  
18 A. Correct. There's no indication it had a problem stopping.  
19 Q. In fact all of the cars that had come up prior to the Jeep Cherokee --  
20 as they approached the scene, did you observe that they were slowing down?  
21 MS. MONAHAN: Your Honor, this was all asked and answered by Mr. Stint.  
22 THE COURT: That particular question has been asked. Sustained.  
23 MS. POTTERBY: At some point during your testimony you talked about the left  
24 lane of traffic? Is that fair to call the northbound lane? The lane that's  
25 to the north on the drawing?  
26 THE COURT: Don't answer that question. Start over again. There's no  
27 northbound lane.  
28



1 MS. POTTERBY: I'm sorry. Let me ask you this. Could I ask you to draw on the  
2 diagram, actually, of the drawing, like a compass, east, west, north, south.  
3 Q. When you were referring to the left lane of traffic, was that the lane  
4 that's towards the east or towards the west?  
5 MS. MONAHAN: Your Honor, I think to make the record clear, we've been saying  
6 eastbound lane and westbound lane. If we could continue to use that  
7 phraseology --  
8 THE COURT: I think what Ms. Potterby wants to know is when you used the term  
9 left lane, which lane was he talking about, the --eastbound lane or the  
10 westbound lane?  
11 MS. POTTERBY: Right.  
12 THE WITNESS: You would have to restate the sentence.  
13 MS. POTTERBY: Let me ask you this. Did you see the lights of the Jeep  
14 Cherokee in the eastbound lane?  
15 A. The only time that the Jeep Cherokee entered the eastbound lane was when  
16 it was on scene. The rest of the time it was in the westbound lane.  
17 THE COURT: Mr. Stint did go over this whole subject.  
18 MS. POTTERBY: I was confused. I'm sorry.  
19 Q. You just helped clarify which are the eastbound and westbound lanes.  
20 A. No problem.  
21 Q. When you -- you can have a seat. I'm sorry. To clarify, from your position  
22 1, that you've marked as 1, to where you found the Jeep Cherokee at its final  
23 place of rest -- was that approximately 400 feet?  
24 A. Honestly, I am not real good at measuring how far they were. I guess it  
25 would be -- I said up there, I guess, about 300 feet.  
26 Q. Do you recall telling an officer earlier when you gave a statement that  
27 it was about 400 feet?  
28

1 A. Yeah. I drive through there now and am able to look at the actual distance  
2 during the day, so like I said, I'm not really a good judge of distance.

3 Q. And you drove -- you got back into your vehicle and you drove to where the  
4 Jeep Cherokee came to its final point of rest.

5 A. Yes, I did.

6 Q. And you stopped along the way at one point?

7 A. No.

8 Q. You didn't?

9 A. The only time I stopped was when I actually reached the Jeep Cherokee.

10 Q. And in reviewing, when you reached the Jeep Cherokee, you, I understand,  
11 went to the driver's side first; correct?

12 A. Yes. That's correct.

13 Q. And you said you tried not to move the person that you found in the  
14 driver's seat; correct?

15 A. Once I labeled him as unable to help. But you did touch this person's arm?

16 Q. The only thing I touched was his shoulder and his neck

17 A. Did you need to move him at all in order to have access to- -

18 A. No. I just reached underneath his head.

19 Q. And I wanted to clarify because I could not hear clearly. When you were  
20 describing the position of the person that was in the rear seat were they -  
21 were they belted into the back seat?

22 A. With a lap restraint.

23 Q. And was did you actually observe the lap restraint hooked up?

24 A. I saw it across her body and assumed that it was hooked. It appeared that  
25 she was still restrained in it.

26 Q. This was a female child?

27 A. I believe so.

28 Q. And was this female child -- was she laying across the rear seat?

1 A. Yes, she was.

2 Q. So she was not seated upright?

3 A. That's correct.

4 Q. And so could you see if it was a shoulder strap or a lap strap

5 A. Lap restraint. Lap strap.

6 Q. When you describe her as lying across the rear seat, were her legs also up  
7 on the seat?

8 THE WITNESS: I did not move the body. It appeared that the legs -- one leg  
9 was on the seat and the other leg was kind of facing off of it.

10 MS. POTTERBY: How long did you actually spend looking at the person that was  
11 in the back seat?

12 A. Not very long. Police was already on scene. That's who originally  
13 pointed it out. I checked the back seat, but I wasn't able to see the actual  
14 seat. That's how I missed her.

15 Q. So you had first checked the back seat prior to police arriving?

16 A. Yes. Because she was laying down, I was unable to see her.

17 Q. So in fact when you first checked it, you didn't realize there was anyone  
18 back there?

19 A. Yes. Until I did a second assessment.

20 Q. Was that second assessment done with police present or prior to police?

21 A. I believe this officer here. I don't recall his name. He just pulled up on  
22 scene, and he showed me, so we were just there together. He just got there.

23 Q. So you were shown the person that was in the back seat by an officer?

24 A. Yeah. He said, did you see this person? And that's when I took my focus  
25 -- because my focus was still on the driver, because I wanted to know if I  
26 could -- he didn't look mangled, so I wanted to make sure that I couldn't  
27 help him at all, and if I could, then I would. So when he came by, I went

28

1 around the vehicle again, and he said that there was another person in  
2 the back seat. So I initially missed the child in the back seat.

3 Q. And you're pointing to Officer Mojo right now?

4 A. Mojo. That's correct.

5 Q. Was that the first officer that you had contact with?

6 A. Yes.

7 Q. Was that the same officer that moved the Silverado?

8 A. I couldn't tell you.

9 Q. And you weren't actually by the Silverado when it was moved; correct?

10 A. That's correct.

11 Q. So when you came back to that area, you found the Silverado moved?

12 A. Correct.

13 Q. And did anyone talk to you about that that evening?

14 A. No.

15 Q. Have you actually met with either Mr. Spangler or the Spangler family?

16 A. No, I haven 't.

17 Q. Going back to January 4th of 2016, approximately what time did you leave  
18 the scene?

19 A. I'd say approximately 1:00 o'clock. Somewhere around there. 1:00 to 2:00.

20 Q. Do you have an estimate of how long you were actually at the scene from  
21 the time you initially stopped until you left?

22 A. About two hours.

23 Q. The time that the Jeep Cherokee came back into -- came back to your  
24 attention when it was -- was that when it was in the proximity of where the  
25 Hummer was?

26 A. It was about the proximity so it was about a hundred feet, now that I look  
27 at it, about a hundred feet off my position.

28

1 Q. And from when you saw the Jeep Cherokee at that instance when it was about  
2 100 feet from your position to when you saw it impact the Dodge pickup truck,  
3 at any time did it appear it was attempting to brake at all?

4 A. No.

5 MS. MONAHAN: Object to foundation.

6 THE COURT: I'll overrule the objection.

7 THE WITNESS: I couldn't tell. There was no way for me to tell from the front.

8 MS. POTTERBY: Well, would it be fair to say that it appeared to you that the  
9 Jeep was revving its engine as it passed your position?

10 A. I could hear it.

11 Q. You did hear it?

12 A. Yes. I could hear the engine.

13 Q. You never heard the tires screeching, for example?

14 A. I did at the end of the line, when it corrected to go on the eastbound  
15 lane.

16 Q. After it impacted with the Dodge truck?

17 A. No. Before. When it came around the position. At this position I could  
18 hear it screech, and it corrected out.

19 Q. So you heard it make a sudden swerve to the left?

20 A. Yes, ma'am.

21 Q. And -- but it did not appear to slow down?

22 A. That's correct.

23 Q. Did it appear to maintain its speed or to go faster?

24 A. I can't tell from the headlights, but it was maintaining a speed one way  
25 or the other. I don't know if it was going faster and it went around. Like  
26 I said, I just saw it here, and then I could hear the engine like it was  
27 trying to accelerate.

28

1 Q. And what was the distance before, when it let off the rev to the impact?

2 Was that five feet? Eight feet?

3 A. It was pretty close.

4 Q. About five feet would be a fair estimate?

5 A. Five to eight.

6 Q. And when you drove by yesterday, about what time was?

7 A. It was -- I don 't know. It still daylight out, so it had to be about

8 6:30. Somewhere around there.

9 Q. How long did you spend at the scene?

10 A. Not very long. I could see it by driving by. Just to get the distances.

11 It's about a telephone pole length so that's how I judged it.

12 Q. So you didn't actually stop your car?

13 A. No.

14 Q. So it was just as you were driving back and paid attention?

15 A. Yeah. I slowed down and I figured it out. It's not hard for me to do that

16 once I'm on scene.

17 Q. And I know you had mentioned -- and I'm sorry. You can sit down if you'd

18 like. When the Jeep Cherokee impacted with the Dodge Ram, you had indicated

19 that the Dodge Ram was moved from its stopped position; is that correct?

20 A. That's correct.

21 Q. And approximately how far did the Dodge Ram move?

22 A. It was pushed about two feet.

23 Q. Two feet? And was it one end was pushed, or the whole vehicle was?

24 A. Just the front end was jarred to the side towards my vehicle, so when it

25 swung out, the front of the vehicle swung out like this, in that direction.

26 Q. I understand that after the Jeep Cherokee struck the Dodge, it broke

27 traction for approximately 50 feet?

28 A. That's correct.

1 Q. And what do you mean by breaking traction?

2 A. It -- the rear end kicked out from the side and it -- have you ever seen a  
3 vehicle take a turn too quick, and it turned sideways and it tries to  
4 correct? Would that be called fish-tailing?

5 Q. Yeah.

6 MS. POTTERBY: Thank you very much and good luck.

7 THE COURT: Thank you. Now, redirect?

8 MS. MONAHAN: Thank you, Your Honor. Yes.

9 REDIRECT EXAMINATION

10 BY MS. MONAHAN: Now, you said that the night of the incident you spoke to a  
11 Police officer at the scene; correct?

12 A. Correct.

13 Q. And then did you speak to another officer or officers at the police  
14 station a couple of days after it?

15 A. Correct.

16 Q. And since that time, since that subsequent interview, did you have any  
17 opportunity to meet with either a police investigator or an investigator from  
18 any other agency about this case?

19 A. No, I haven 't.

20 Q. Now I'd like to direct your attention to the testimony that you gave about  
21 the equipment that you were wearing. And there had been photographs submitted  
22 that show you wearing some equipment. You testified about that; is that  
23 correct?

24 A. (Nodding head up and down.)

25 MS. MONAHAN: Could I have the exhibits, please.

26 Q. I wanted to clarify whether that was actually the same equipment that you  
27 were wearing the night of the incident or not. I was a little confused about  
28 your testimony. And may I approach the witness, Your Honor?

1 THE COURT: You may.

2 MS. MONAHAN: I'll hand you what have been admitted as Defendant's 1 and 2.

3 Is that actually the same equipment that you were wearing the night of the

4 incident?

5 A. Yes.

6 Q. Was it your testimony that you lost the equipment and had to retrieve it?

7 A. Yeah.

8 Q. But it is the same equipment?

9 A. Yes.

10 THE COURT: Let's clarify that. In other words, you were wearing those pieces

11 of clothing, or are they just exactly the same as what you were wearing?

12 THE WITNESS: The upper half is exactly what I was wearing. The pants are

13 identical to the ones I had that night.

14 MS. MONAHAN: Thank you, Your Honor.

15 Q. And was the light on your helmet illuminated?

16 A. Yes, ma'am, it was.

17 Q. When did you turn that on?

18 A. As soon as I put the helmet on, which was immediately when I exited my

19 vehicle at the crash, after talking to the first-on-scene.

20 Q. And then you went back to your car to get your equipment?

21 A. Yes.

22 Q. And then you put the helmet on?

23 A. Yes.

24 Q. And then you put the jacket on?

25 A. Yes.

26 Q. When you put the helmet on, is it your testimony you then turned on the

27 light on the helmet?

28 A. Yes.



1 Q. When did you turn on the flashlight?

2 A. I turned on the flashlights right after, when I needed them. I turned them  
3 on when we were doing traffic control or anything, and if I had to inspect  
4 the scene. Those are the reasons why I used them.

5 Q. So was it your testimony that you were flashing the lights  
6 onto the pavement, onto the roadway, to signal cars to go around?

7 A. Yes, ma'am.

8 Q. And was that the same way that you were signaling the  
9 Jeep when you saw it approach?

10 A. I was signaling back and forth, sideways, any way I could to get the  
11 attention that there was a hazard. signaling for it to go through.

12 Q. But were you still pointing the flashlight to the ground?

13 A. Yes, I was.

14 Q. And at the time you began signaling the Jeep, where were you? Is that  
15 position 2 on the exhibit that you 've marked?

16 A. Yes, ma'am. That's correct.

17 Q. Earlier you also testified about the Dodge pickup having begun to pull out  
18 when you began to signal the Jeep to stop or slow down?

19 A. Yes, ma'am.

20 Q. I believe your testimony was that you could see over the hood of the  
21 Dodge, and that's how you saw the Jeep coming?

22 A. That's correct.

23 Q. So about what portion of your body was blocked?

24 A. From the waist down was blocked.

25 Q. And you were shining the flashlights at the roadway.

26 A. At the roadway, at the vehicle, at whatever I could to get the attention.  
27 I was shining it everywhere.

28 Q. You were shining the flashlight at the vehicle?

1 A. Yeah, towards the vehicle, because they were traveling so quickly, I  
2 didn't 't think they could see the vehicle in front of them. So it was just -  
3 - sometimes when drivers see the light, they'll figure out where it's coming  
4 from.

5 Q. So the Dodge -- where was the Dodge in relation to you and the Jeep when  
6 you saw the Jeep approach?

7 A. The Dodge was between us. Is that what you 're asking?

8 Q. Yes. And is that accurate, the way you've diagrammed on this exhibit?

9 A. Well --

10 Q. I know it's not to scale.

11 A. It's pretty accurate, but I was standing more, like I said, over at the  
12 hood, so it's probably around here where I was standing over -- yeah. Right  
13 about here. Like I said, I could still see over the hood, and the Jeep was  
14 more over here when I saw it. Like I said, I just drew that was coming in,  
15 but it was over here, so I had an angle on it so I could see it.

16 Q. I'd ask you to go ahead and mark 3 on that location.

17 A. Where I was standing?

18 Q. Yes. Thank you. Where was the Humvee when the Jeep first swerved around  
19 the last vehicle in the line?

20 A. It passed my line, so it was somewhere at the rear. Pretty much where  
21 it's drawn now.

22 Q. So could you see the Humvee when you first saw the Jeep swerve around?

23 A. I could see its brake lights. Yes.

24 Q. You testified that immediately after the collision you got on your cell  
25 phone and called dispatch; is that correct?

26 A. Immediately after the collision I told the vehicles to turn on their  
27 hazard lights and not to move. When I went back to my vehicle, that's at the  
28 point where I called dispatch.

1 Q. Which vehicles did not have their flashers on?  
2 A. I couldn't tell you for sure, but I'm unsure about the two rear cars.  
3 Q. Did you speak with those drivers to tell them to turn their flashers on?  
4 A. Yeah. I just ran down the line. I -- my adrenaline was going. I just  
5 told everyone don't let anyone by and turn their hazards on. Just even if  
6 they did I said -- even if they had them on already.  
7 Q. I just wanted to clarify. Do you know one way or the other whether those  
8 vehicles had their flashers on?  
9 A. Two rear vehicles? No.  
10 Q. You just told them in case they didn't?  
11 A. Yes.  
12 THE COURT: When did you do that?  
13 THE WITNESS: Right after the collision.  
14 THE COURT: After the Cherokee rolled.  
15 THE WITNESS: Yes. That's correct. I checked on the Dodge driver, and then  
16 after the vehicle came to rest, I ran to the back side, to be precise.  
17 MS. MONAHAN: Now, with regard to the revving the engine that you heard, you  
18 said that you heard the engine begin to rev, after it swerved around the last  
19 vehicle?  
20 A. That's correct.  
21 Q. And then it stopped, you said, five to eight feet before hitting the Dodge  
22 Ram?  
23 A. Just before impact.  
24 Q. And then when it actually impacted the Dodge Ram, could you tell what  
25 portion of the Jeep hit the Dodge Ram?  
26 A. The front passenger side quarter panel.  
27 Q. And the Dodge Ram only moved about two feet?  
28 A. Yeah. Somewhere around there.

1 Q. Did anyone else try to move the Silverado while you were present?  
2 MS. POTTERBY: Objection. Foundation.  
3 MS. MONAHAN: I asked him while he was on the scene.  
4 THE COURT: What 's the nature of the objection? His ability to observe?  
5 MS. POTTERBY: Yes.  
6 THE COURT: Overruled. You may answer the question.  
7 THE WITNESS: No. Not while I was there.  
8 MS. MONAHAN: Did anyone ask you whether he or she should move it?  
9 A. Yes. The gentleman in the vehicle.  
10 THE COURT: That's the vehicle to the west of the Silverado?  
11 THE WITNESS: The first on scene. Yeah. That 's correct.  
12 THE COURT: Thank you.  
13 MS. MONAHAN: When Mr. Stint was asking you questions, he asked you whether  
14 any other vehicles besides the Jeep had to make any -- and I believe the term  
15 he used was radical maneuvers, in order to stop?  
16 A. Yes, ma'am.  
17 Q. Do you recall that?  
18 A. Yes, I do.  
19 Q. And you testified that no other vehicles had to make a radical maneuver?  
20 A. Correct.  
21 Q. However, did every vehicle which came across the scene have to react in  
22 some fashion to the obstruction in the road?  
23 A. Yes, they did.  
24 MS. MONAHAN: No further questions, Your Honor.  
25 THE COURT: Thank you. Mr. Stint?  
26 MR. STINT: Yes.  
27 RE-CROSS-EXAMINATION  
28

1 BY MR. STINT: Could you give us a little more detail about what your  
2 certification is?  
3 MS. MONAHAN: Beyond the scope of direct, Your Honor. I guess beyond the scope  
4 of redirect.  
5 THE COURT: I'll allow the question.  
6 MR. STINT: Thank you.  
7 THE WITNESS: At the time I was EMT 1 certified and firefighter level 1  
8 certified.  
9 MR. STINT: Now, when you saw the Jeep go past you come towards you at a high  
10 rate of speed, did it appear to you that it had hit the Hummer as well?  
11 A. No. I couldn't tell, though.  
12 Q. And when you saw the Hummer initially stop, was it about 300 yards away --  
13 300 feet away?  
14 A. When the Hummer stopped?  
15 Q. Yes.  
16 A. It was about a car length from the end of the line, so maybe 150 feet to  
17 175.  
18 Q. That 's after it came through the scene.  
19 A. The Hummer?  
20 Q. Yeah.  
21 A. Yes. Correct.  
22 Q. Prior to that it stopped about 300 feet?  
23 A. No. It stopped maybe 75 feet, because it stopped enough for traffic to go  
24 by it.  
25 Q. You said the Silverado, by the way, was at an angle, was it not, on the  
26 road?  
27 A. The rear of the Silverado was on the road..  
28

1 Q. But it was at an angle. In other words, it wasn't perpendicular to the fog  
2 line?

3 MS. MONAHAN: Your Honor, this is beyond the scope of redirect.

4 THE COURT: It is, but I will allow him to reopen for this question.

5 THE WITNESS: It was blocking half of the --correct?

6 MR. STINT: My point is, it was facing westbound;

7 A. As far as I remember.

8 Q. With about a quarter of the car over the fog line?

9 A. As far as I remember, approximately half of the westbound lane was blocked  
10 by that vehicle.

11 Q. Did you previously testify at the Grand Jury that about a quarter of the  
12 vehicle was over the fog line?

13 A. Yes.

14 Q. And my question is -- and that would have been at an angle; correct?

15 A. Yes.

16 Q. And then you had about half of your vehicle in the lane and the other half  
17 was on the fog line?

18 A. I had my vehicle, that's correct. I had it closer to the bicycle lane than  
19 the Silverado, because I didn't want to block the lanes of traffic any more  
20 than it had to be.

21 Q. Right. But given the position of your vehicle, it still allowed vehicles  
22 coming eastbound to see your headlights around the Silverado; correct?

23 A. That's correct.

24 Q. So would it be fair to say the front end of your vehicle, the driver's  
25 side light, the left side light as you sit in it would have been extended out  
26 past the rear end of the Silverado?

27

28

1 A. No. It was pretty much in line. But if you come from westbound traffic  
2 in that situation, you will be able to see it because of the angle that  
3 you're looking at the crash scene from.

4 Q. Right. But it was either at or to the left of the rear of the Silverado?

5 A. It was most likely at.

6 Q. And that's with your vehicle parked about halfway into the bicycle lane  
7 and halfway into the traffic lane; correct?

8 A. That's correct.

9 MR. STINT: Thank you. Nothing further.

10 THE COURT: Thank you.

11 Ms. Potterby?

12 MS. POTTERBY: Thank you.

13 RE-CROSS-EXAMINATION

14 BY MS. POTTERBY: I heard you at different times during your testimony refer  
15 to "my line." What do you mean by that?

16 A. The line of the vehicles, the line of four vehicles.

17 Q. The four vehicles that were --including the Dodge-- on the westbound  
18 lane?

19 A. Yes.

20 Q. And when Ms. Monahan asked you that all the vehicles had to react in some  
21 fashion, do you mean that all the vehicles that came upon the scene stopped  
22 for the scene?

23 A. Yes. They had to.

24 Q. And that's what you meant by your answer?

25 A. Yes.

26 Q. Nothing more?

27 A. Yes.

28

1 Q. And while you were in what's been marked as position 3, is that where you  
2 were prior to signaling to the Dodge Ram for it to come out into the  
3 eastbound lane to pass?

4 A. I was about at position 2, but then when I saw the Jeep, I side-stepped  
5 out so that they would be able to see the flashlight, and then when I knew  
6 the vehicle wouldn't stop, I jumped back.

7 Q. Approximately how much time was it from when you went in position 2 to  
8 position 3 to jumping out of the way?

9 A. Like instantaneously. Because I just -- less than a second. I just  
10 did a side step, and then I saw that the vehicle wasn't going to stop, and I  
11 decided to take cover and take refuge away from the vehicle .

12 Q. When the Dodge Ram was pulling out into the eastbound lane, it had its  
13 hazard lights on, didn't it?

14 A. That's correct.

15 MS. POTTERBY: No further questions.

16 THE COURT: Mrs. Monahan, further redirect?

17 MS. MONAHAN: No, Your Honor.

18 THE COURT: Thank you.

19 MR. STINT: Nothing.

20 THE COURT: Is the witness excused?

21 MS. MONAHAN: Yes.

22 THE COURT: For all purposes?

23 MS. MONAHAN: For all purposes for this hearing, assuming she/he 's not going  
24 to be available later on.

25 MR. STINT: Yes.

26 THE COURT: Excused for all purposes from this hearing?

27 MR. STINT: Yes.

28 THE COURT: Ms. Monahan, your next witness?



1 MS. MONAHAN: The People rest, Your Honor.

2 THE COURT: Mr. Stint?

3 MR. STINT: Ms. Potterby will be calling witnesses for both defendants, Your  
4 Honor.

5 MS. POTTERBY: Yes, Your Honor.

6 THE COURT: Please proceed.

7 BY MS. POTTERBY: Jesse Potter, called by Defendant, Robert Burnett.

8 THE COURT CLERK: Do you solemnly swear that the testimony you are about to  
9 give is the truth, the whole truth; and nothing but the truth, so help you  
10 God?

11 THE COURT CLERK: For the record, state your name, please, and spell your last  
12 name.

13 THE WITNESS: JESSE POTTER, P-O-T-T-E-R

14 DIRECT TESTIMONY

15 BY MS. POTTERBY: You are friends with the Spangler-Hernandez family, correct?  
16 A. Yes.

17 Q. And they were at your residence the day of the accident?  
18 A. Yes.

19 Q. Did Mark Spangler tend to drive fast?  
20 A. Yes.

21 MS. MONAHAN: Objection. Relevance, move to strike.

22 THE COURT: I'll overrule that. The answer stands.

23 Q. And on that evening, there was drinking that involved two-and-a-half  
24 bottles of wine?  
25 A. Yes.

26 MS. MONAHAN: Objection.

27 THE COURT: Overruled. You can answer that.

28 MS. POTTERBY: And that you had two glasses of wine?

1 A. Yes.

2 Q. And you observed Laurie have three-and-a-half to four glasses?

3 A. Yes.

4 Q. And that Mark Spangler had consumed the rest of the two-and-a-half bottles  
5 of wine?

6 A. Yes.

7 Q. And in fact, that Mark Spangler and your husband/wife had gone to the  
8 store to get more wine because they had run out after finishing approximately  
9 one bottle?

10 MS. MONAHAN: Same objection.

11 THE COURT: I will sustain the objection to that.

12 Q. In speaking with Officer Mojo, did you indicate that you observed Laurie  
13 Martinez become angry when she learned that Mark Spangler had driven to the  
14 store during the course of the evening?

15 MS. MONAHAN: I object to leading questions.

16 THE COURT: I'm sustaining it on relevance grounds, not on leading questions.

17 MS. POTTERBY: Mark had also been drinking beer earlier in the day?

18 A. Yes.

19 Q. And Mark Spangler had had his first beer at approximately noon?

20 A. Yes.

21 Q. And he had a few more until about 1:30?

22 A. Yes.

23 Q. And that he started drinking wine at about 8:30?

24 A. Yes.

25 Q. And Mark and Laurie were pretty much drinking up until the time they left?

26 A. Yes.

27 Q. And that was around 11:00 p.m.?

28 A. Yes.

1 Q. Had you driven with Mark inebriated countless times?  
2 MS. MONAHAN: Objection. Relevance.  
3 THE COURT: Sustained.  
4 MS. POTTERBY: And Laurie had told you that the Spangler-Hernandez family was  
5 going straight home?  
6 A. Yes.  
7 MS. POTTERBY: Were the two Spangler-Hernandez children were still in booster  
8 seats?  
9 A. Yes. That's correct. The daughter was only 45 pounds.  
10 MS. POTTERBY: Mark Spangler had told you that he could get high strung?  
11 MS. MONAHAN: Objection. Relevance.  
12 THE COURT: Overruled. You can answer that.  
13 THE WITNESS: Yes.  
14 MS. POTTERBY: And that Mark Spangler had also you he was getting rather  
15 aggressive and not liking how he was acting?  
16 MS. MONAHAN: Objection. Relevance.  
17 THE COURT: Overruled.  
18 THE WITNESS: That's correct.  
19 MS. POTTERBY: And you observed that Mark Spangler also consumed a liquor  
20 called Jagermeister?  
21 A. Yes.  
22 MS. POTTERBY: No further questions.  
23 THE COURT: Thank you. Mr. Stint?  
24 MR. STINT: I have no questions.  
25 CROSS-EXAMINATION  
26 BY MS. MONAHAN: Good morning. You don't know how many beers Mark had earlier  
27 in the day. Isn't that true?  
28 A. That's correct.

1 Q. You just think he had a few?  
2 A. Yes.  
3 Q. And that was roughly between 12:00 and 2:00 or 2:30 the afternoon of their  
4 deaths?  
5 A. That's correct.  
6 Q. Mark left the your home about 2:00 or 2:30 that afternoon; is that true?  
7 A. Yes.  
8 Q. And then they came back later for dinner?  
9 A. Yes.  
10 Q. Do you recall what time they came back for dinner?  
11 A. Around 6:30 in the evening.  
12 Q. And that's when they began drinking wine?  
13 A. Yes.  
14 Q. Now Mark had four glasses at the most; is that correct?  
15 A. Yes.  
16 Q. But that he also had beer earlier, and that refers back to the period of  
17 time when he was there between noon and 2:00?  
18 A. Yes.  
19 Q. And then he had Jagermeister, which you already testified to?  
20 A. Yes.  
21 Q. You testified on direct examination Mark complained that he was getting  
22 high strung when he drank, right?  
23 A. Yes.  
24 Q. How would you describe Mark's behavior prior to leaving your home that  
25 night, his demeanor?  
26 A. He was getting lovey dovey and frisky, and he was getting obnoxious.  
27 Q. They were in good spirits when they left; is that correct?  
28 A. Yes.

1 Q. And they were not slurring or stumbling when they left; is that correct?

2 A. Yes.

3 MS. MONAHAN: No further questions, Your Honor.

4 THE COURT: Thank you. Anything further?

5 MS. POTTERBY: Briefly.

6 REDIRECT EXAMINATION

7 BY MS. POTTERBY: When the prosecution asked you if Mark was in good spirits  
8 you said he was getting lovey dovey, frisky, and he was getting obnoxious,  
9 period, unquote?

10 A. That's correct.

11 Q. That didn't mean that Laurie was leaving in good spirits?

12 A. Correct.

13 MS. POTTERBY: Thank you. No further questions.

14 THE COURT: Mr. Stint?

15 MR. STINT: No questions.

16 THE COURT: Ms. Monahan?

17 MS. MONAHAN: Thank you. Nothing further, Your Honor. Thank you.

18 THE COURT: Thank you for coming in. You may step down.

19 MS. POTTERBY: Kirsten Skor, called by the Robert Burnett.

20 THE COURT CLERK: Do you solemnly swear that the testimony you are about to  
21 give is the truth, the whole truth; and nothing but the truth, so help you  
22 God?

23 THE WITNESS: I do.

24 THE COURT CLERK: For the record, state your name, please, and spell your last  
25 name.

26 THE WITNESS: Kirsten Skor, S-K-O-R

27 DIRECT EXAMINATION:

28

1 BY MS. POTTERBY: Good afternoon. Have you reviewed anything for your  
2 testimony today?  
3 A. No.  
4 Q. You've previously testified before a grand jury?  
5 A. Yes.  
6 Q. That was back in January 2016?  
7 A. Yeah, I guess.  
8 Q. And did you review anything prior to your testimony in front of the grand  
9 jury?  
10 A. No.  
11 Q. Do you remember having a conversation with an investigator by the name of  
12 Jones, early on in this case?  
13 A. Yes, I do.  
14 Q. And do you remember preparing something like a chronological timeline?  
15 A. Yes, I do.  
16 MS. POTTERBY: May I approach the witness?  
17 THE COURT: You may.  
18 MS. POTTERBY: Thank you.  
19 Q. I'm handing you what's been marked as Defendant's Exhibit 6, It's a two-  
20 page document. I'm going to ask you to take a look at that. Do you recognize  
21 that document?  
22 A. Yes, I do.  
23 Q. Is it something that you prepared?  
24 A. Yes, it is.  
25 Q. And it says "chronological timeline" at the top?  
26 A. Yes.  
27 Q. Is it a chronological timeline regarding events that took place on or  
28 about January 4th, 2016?

1 A. Yes, it is.

2 Q. And do you know, approximately when you prepared this document?

3 A. I think it was like a few days after it happened. That way, if I was ever  
4 questioned about what happened, what happened when on the night of the  
5 incident, then I would have a record of it.

6 Q. And you prepared this by yourself?

7 A. Yes.

8 MS. POTTERBY: Move for the admission of Defendant's 6.

9 THE COURT: Is there an objection to 6 coming in?

10 MS. MONAHAN: Not for purposes of the prelim, Your Honor.

11 THE COURT: Only for the purposes of this hearing, Mr. Stint?

12 MR. STINT: No, Your Honor.

13 THE COURT: Thank you. 6 will come in without objection.

14 MS. POTTERBY: Thank you.

15 MS. POTTERBY: And was this something that you gave to Mr. Jones after you  
16 prepared it?

17 A. Yes.

18 Q. And is this something that you prepared after you first talked to  
19 Investigator Jones is that --

20 A. I think it was prepared just prior to talking to him.

21 Q. Was it, wouldn't it be fair to say that it might have been something that  
22 you prepared while talking to him?

23 A. No.

24 Q. And have you reviewed that document since you prepared it?

25 A. No.

26 Q. Did you keep a copy of the document?

27 A. No.

28

1 Q. And it begins on Page 1 with what looks like a notation of 4:50. Is that  
2 4:50 in the morning, or is that 4:50 in the afternoon?

3 A. No, it was 4:50 in the afternoon.

4 Q. So you don't recall approximately -- well, do you recall what time you  
5 woke up that year (sic)?

6 A. What's that?

7 Q. I mean that day? On January 4th?

8 A. I can't, I can't read the first number.

9 Q. Okay. Well --

10 A. You got a bad copy here.

11 Q. I'm sorry about that. Well, let me ask you, did you smoke some herb on  
12 January 4th, 2016?

13 A. Yes, I did.

14 Q. And when you smoked some herb, what does that mean?

15 A. Smoked some marijuana.

16 Q. And do you recall what time you smoked some

17 A. 7:30.

18 Q. And do you recall how much marijuana you smoked?

19 A. I don't know. Ten tokes. I don't smoke very much.

20 Q. Were you smoking by yourself, or were you - -

21 A. Smoking with my friend.

22 Q. So was it a cigarette, or a pipe?

23 A. Cigarette.

24 Q. And approximately when was that?

25 A. 7:00 o'clock, 7:30 pm.

26 Q. Can I ask you to kindly look at, on Page 1, around 8:30 to 9:20, and just  
27 read that line to yourself?

28 A. Yeah.



1 Q. In reviewing that line, would that refresh your recollection that you may  
2 have smoked marijuana between 8:30 p.m. and 9:20 p.m.?

3 MS. MONAHAN: Object. Foundation. He hasn't testified that he needed to  
4 refresh his memory.

5 THE COURT: It's impeaching. Overruled.

6 THE WITNESS: Now, what's the question?

7 MS. POTTERBY: In reviewing Page 1 of the document you prepared, does that  
8 refresh your recollection that you may have smoked marijuana between 8:30  
9 p.m. and 9:20 p.m. on January 4th, 2016?

10 A. Yeah. What I put here is exact, the times are all exactly right. But I was  
11 eating, too. I wasn't just smoking.

12 Q. You would eat it?

13 A. I was eating. Eating candy, ice cream, whatever. Just kicking it.

14 THE COURT: So what you're saying is, you were actually smoking it around  
15 8:30, rather than 7:30?

16 THE WITNESS: Yes.

17 MS. POTTERBY: And this timeline is a document that you prepared to assist you  
18 in talking to law enforcement about your involvement with the Chevy Silverado  
19 that was on Garrison Road on January 4th, 2016?

20 A. Correct.

21 Q. And you put in everything that you thought would help you remember what  
22 your involvement was on that day?

23 A. Right.

24 Q. And the significant activities of that day?

25 A. Right.

26 Q. And so for example, you didn't include things that happened before 4:50  
27 p.m., because you didn't believe they related to --

28

1 MS. MONAHAN: Your Honor, I'm going to object to leading questions. For  
2 foundational purposes up to now, it's fine. Now we're getting into very  
3 leading and argumentative questions. This is direct.

4 THE COURT: I'll sustain the objection to the last question.

5 MS. POTTERBY: Did you only put in the relevant things in your timeline?

6 A. I put in everything. You can look at what I did, you know, where I went,  
7 when I went there. Pretty much covers everything.

8 Q. When you testified in front of the grand jury back on March 4, 2016, it  
9 was your understanding that you would -- Was it your understanding that, at  
10 most, you would be charged as an accessory?

11 MS. MONAHAN: I'm going to object to leading. This is direct.

12 THE COURT: I'll overrule that. You can answer that question.

13 MS. POTTERBY: -- to any crime if it was charged?

14 A. Yes.

15 Q. And how did you come to that understanding?

16 A. With discussions with the D.A.'s office.

17 Q. When did you have that discussion in relation to your testimony in front  
18 of the grand jury?

19 A. Couple weeks before.

20 MS. POTTERBY: At this time, I'd like a motion for discovery of that  
21 conversation, Your Honor. We don't have any discovery as to any conversation  
22 between the D.A.'s office and this witness a couple weeks before the grand  
23 jury.

24 MS. MONAHAN: I object, Your Honor. This is not the appropriate proceeding for  
25 such a motion. Not prepared to address it.

26 THE COURT: I'll deny the motion.

27

28

1 MS. POTTERBY: Turning your attention to the evening of January 4th, 2016, and  
2 the towing of a certain Chevy Silverado on Garrison Road, do you recall that  
3 event?

4 A. Yes.

5 MS. MONAHAN: Your Honor, I'm going to object to questions in this area. It's  
6 cumulative.

7 THE COURT: It may or may not be, depending on the question. I'll have to wait  
8 and hear the question.

9 MS. POTTERBY: I didn't hear the objection.

10 THE COURT: It's cumulative. I haven't sustained the objection. You may  
11 continue with this line of questioning.

12 MS. POTTERBY: Thank you. I'm hoping to make this foundational.

13 Q. You were talking about moving the Chevy Silverado to Shadow Road?

14 A. Yeah, no, that was kind of the idea. It wasn't never specifically  
15 discussed where it was going to, but that's what I anti, I had anticipated.

16 Q. Is it fair to say that the idea -

17 MS. MONAHAN: Object, leading.

18 THE COURT: Well, you have to let her finish the question. It sounds like it's  
19 going to be leading. Rephrase it if you want.

20 MS. POTTERBY: Your Honor, respectfully, this is a witness that has entered  
21 into an agreement with the prosecutor's office.

22 MS. MONAHAN: Your Honor, this is still direct examination.

23 THE COURT: Thank you. I don't need argument. The objection to leading  
24 questions is sustained. Please continue.

25 MS. MONAHAN: Thank you.

26 MS. POTTERBY: I'm sorry, your Honor. Was the Court seeking for me to finish  
27 my question?

28

1 THE COURT: I just am suggesting, if - it sounded like it was going to be  
2 leading. Please rephrase it so it won't be leading; then we can get an  
3 answer.

4 MS. POTTERBY: Was it your idea to tow the Chevy Silverado to the area of  
5 Shadow Creek?

6 A. It was never discussed. It was never--

7 Q. Is it possible that it was your idea.

8 A. Well, they told me that they needed the car, they had a car that needed to  
9 be towed; and I said I might be able to help them.

10 Q. Do you recall testifying at the grand jury that, to this answer:

11 "Question: Whose idea was it to tow it there?" "Answer: It could have been  
12 mine."

13 A. Tow it there? What's there?

14 Q. To the area of Shadow Creek?

15 A. It was never towed there.

16 Q. As to the idea of towing it there? Do you recall testifying at the grand  
17 jury that that idea could have been yours?

18 A. I could have said that, yeah. My point being, like to tow the car to a  
19 place where it won't be on the road where somebody will run into it. That was  
20 the idea. Plus, I got license and insurance.

21 Q. Do you have a recollection that you testified that it could have been,  
22 that it could have been your idea?

23 A. Yes. Entirely possible. If I said that in the print, that's what I said.

24 Q. Would it assist you if I showed you a copy of your transcript?

25 A. No.

26 THE COURT: I think he's answered the question.

27 MS. POTTERBY: You were the driver of a Suburban?

28 THE WITNESS: Yes.

1 Q. On January 4th, 2016?

2 A. Yes.

3 Q. And that that Suburban was towing a Chevy Silverado?

4 A. Correct.

5 Q. Was it difficult to pull the Chevy Silverado with the Chevy Suburban while  
6 you were driving it?

7 A. The SUV could handle it; but it was difficult to tow, 'cause it had three  
8 flat tires.

9 Q. After the towrope broke, did you make any effort to get the Chevy  
10 Silverado off the roadway?

11 A. I couldn't push it by myself. It's impossible.

12 Q. So personally, you made no effort?

13 A. I knew I couldn't push the car. I mean, it was like dragging a sled. No.  
14 Personally, I made no effort.

15 Q. Did you drive the Chevy Silverado -- not the Chevy Silverado. I'm sorry.  
16 Did you drive the Chevy Suburban and park it back where it was originally?

17 A. Yes, I did.

18 Q. You did not go back out to the Chevy Silverado after you parked the Chevy  
19 Suburban?

20 MS. MONAHAN: Objection, Your Honor. This is all cumulative.

21 THE COURT: Overruled. You can answer that.

22 THE WITNESS: No. Said, "Stay in the house." I did. I didn't go back out  
23 there.

24 THE COURT: Who said "Stay in the house"?

25 THE WITNESS: One of those two. Bob or Bill. I can't remember. I wanted to go  
26 back out there and get those guys and push the car off the road, that's  
27 it. They just wanted to go inside and have some beers.

28 MR. STINT: Objection. Move to strike. There's no question pending.

PEOPLE V. ROBERT & WILLIAM BURNETT

PRELIMINARY HEARING TESTIMONY - 116

1 THE COURT: I will strike that. Voluntary statement.  
2 MS. POTTERBY: You have prior felony convictions?  
3 A. Yes.  
4 Q. That includes for stealing an automobile?  
5 A. Yes, I do  
6 Q. And for possessing a knife?  
7 A. Yes.  
8 Q. And also for transporting or selling cocaine?  
9 A. Yes.  
10 MS. MONAHAN: Your Honor, I will object to the last question, subject to  
11 cross-examination.  
12 THE COURT: You can have an objection. I'll rule on it.  
13 MS. MONAHAN: Just want to preserve my right to move it to be stricken.  
14 THE COURT: You are preserving that.  
15 MS. POTTERBY: Do you have any trouble with your memory?  
16 A. Right now? No. I've had problems in the past, when I was younger.  
17 Q. On or about January 4th, 2016, did you use any other drugs other than  
18 marijuana?  
19 A. No.  
20 Q. Did you, on or about January 4th, 2016, were you taking any prescription  
21 medications?  
22 A. No.  
23 Q. Are you prone to exaggerate?  
24 MS. MONAHAN: I'm sorry, your Honor. Could I have the question repeated?  
25 THE COURT: Is he prone to exaggerate?  
26 MS. MONAHAN: I'll object.  
27 THE COURT: On? Overruled. Please --  
28 MS. MONAHAN: Your Honor, it's character

1 THE COURT: I'm sorry. What?  
2 MS. MONAHAN: Character evidence?  
3 THE COURT: No.  
4 MS. MONAHAN: Prone to exaggeration?  
5 THE COURT: Overruled.  
6 THE WITNESS: I've exaggerated in my life, probably like everybody has.  
7 MS. POTTERBY: In fact, at or about the time of your arrest for your auto  
8 theft, did you not write a statement that you were being tortured to death at  
9 your family's house?  
10 MS. MONAHAN: Your Honor, objection.  
11 THE COURT: Sustained.  
12 Q. You've lied to the police, haven't you?  
13 A. Likely. Likely to have, yeah.  
14 Q. And so you've lied to the police, so you lie to the police when it's  
15 convenient for you?  
16 MS. MONAHAN: Objection, Your Honor.  
17 THE COURT: I'll sustain that.  
18 MS. POTTERBY: So did you lie to the police when you said you were being  
19 tortured to death at your family's house?  
20 MS. MONAHAN: Objection, Your Honor.  
21 THE COURT: Sustained.  
22 MS. POTTERBY: When you have legal problems, you offer to act as an  
23 informant?  
24 MS. MONAHAN: Objection, Your Honor.  
25 THE COURT: Overruled. You can answer.  
26 THE WITNESS: I have this time. It's not normal, no. Easy way out, if that's  
27 what you're getting.  
28 MS. POTTERBY: I couldn't hear that answer.

1 THE COURT: What did you just say?

2 THE WITNESS: I'm not looking for the easy way out, if that's what you're  
3 getting at. I done plenty of time.

4 MS. POTTERBY: So you haven't offered your services as a contract killer for  
5 the County when you received a parking citation?

6 MS. MONAHAN: Objection, Your Honor.

7 THE COURT: Sustained.

8 MS. POTTERBY: You've claimed to be an informant for the Sunshine City Police  
9 Department, haven't you?

10 MS. MONAHAN: Objection. Relevance.

11 THE COURT: Sustained. Let me point out, he just admitted that he was offering  
12 to be an informant in this case, so I don't think we need to impeach him with  
13 other times when he may have done the same thing.

14 MS. POTTERBY: Do you recall being interviewed by Officer Mojo?

15 A. Yes, I do.

16 Q. So did you lie to Officer Mojo when you said you hadn't used any drugs on  
17 January 4th?

18 A. No. Well, drugs, I thought he meant narcotics.

19 Q. You thought, did you also think he meant alcohol?

20 A. Alcohol is a drug.

21 Q. Do you understand that it is a narcotic?

22 A. What's your point? What are you asking?

23 Q. Did you lie to Officer Mojo?

24 A. About not using drugs that day?

25 Q. Yes.

26 A. I guess I did. I mean, I clarified it later.

27 Q. With Officer Mojo?

28 A. No. With the investigator.



1 Q. With whom?

2 A. That sheet that you just read, about what I did that day.

3 THE COURT: The chronology?

4 THE WITNESS: Yeah.

5 THE COURT: Defendant's 6.

6 MS. POTTERBY: Did you write the chronology before you spoke to Officer Mojo?

7 A. No. I don't think so.

8 Q. Do you know when you spoke to Officer Mojo?

9 A. I spoke to him more than once.

10 Q. Do you know the approximate dates that you spoke to Officer Mojo?

11 A. No. I talked to him very many times.

12 Q. I'm sorry?

13 A. I, he interviewed me several times.

14 Q. How many times did you speak to Officer Mojo?

15 A. Several.

16 Q. Can you give us a number?

17 A. No.

18 Q. You say several. Do you mean 10 times?

19 A. Probably four or five.

20 Q. And you've spoken to officers, investigators, and prosecutors

21 approximately 20 times, prior to your testimony at the grand jury?

22 MS. MONAHAN: Object. Compound, leading.

23 THE COURT: I'll overrule that. You can answer it.

24 THE WITNESS: Yeah, maybe, something like that.

25 MS. POTTERBY:

26 Q. Do you recall testifying to that fact at the grand jury?

27 A. How many number of times I talked to them?

28 Q. Yes.

1 A. I don't recall that, no.

2 Q. Would it refresh your recollection?

3 THE COURT: Wait a second. He's just admitted that he did talk to them that  
4 many times. Don't impeach him with something that he's just admitted to.

5 MS. POTTERBY: Were you under the care of any sort of mental health  
6 professional on or about late 2014, early 2015?

7 A. Not as far as I remember.

8 Q. But you might have been?

9 A. Possible. I've had depression from time to time.

10 Q. Any other mental illness other than depression?

11 A. Recently? In my whole life? My whole life, I've had some problems. But it  
12 was a long time ago.

13 Q. Besides depression recently, have you had any other mental --

14 A. No.

15 Q. Have you had occasion to lie about your drug use?

16 A. To whom? Ever lie? Yeah, I've lied before in my life.

17 MS. MONAHAN: Your Honor, I am going to object, move to strike. It's a vague  
18 question.

19 THE COURT: I'll allow the question and the answer to stay.

20 MS. POTTERBY: You've lied about your use of methamphetamine?

21 MS. MONAHAN: Objection.

22 THE COURT: I'll sustain that. That's cumulative.

23 MS. POTTERBY: When you interviewed with Officer Mojo, you told him that you  
24 had been an informant for Detective Christian Johnson?

25 A. Yes.

26 Q. What kind of work have you done for Detective Christian Johnson?

27 MS. MONAHAN: Objection. Relevance.

28 THE COURT: Sustained.

1 MS. POTTERBY: You were originally indicted by the grand jury in this case?

2 A. Yes.

3 Q. And did you have an understanding that you were facing some 40-plus years?

4 A. Understanding, what do you mean?

5 Q. Did you know that, based on the charges that the grand jury returned  
6 against you, that you, and if you were convicted, you could spend over 40  
7 years in prison?

8 A. Yes.

9 Q. How old are you?

10 A. Fifty.

11 Q. And you've pled guilty to a charge in this case?

12 A. Yes.

13 Q. And do you have an understanding of how much time, what your maximum  
14 exposure is based on that.

15 A. In this case right now?

16 Q. Yes.

17 A. Still up in the air. It's never been hammered

18 Q. Do you have an understanding of what the maximum time you could -- has  
19 anyone told you that you could spend no more than three years in prison?

20 A. Yes.

21 MS. POTTERBY: Your Honor, there's a transcript I can't find; but I'm going to  
22 go ahead and yield to MR. Stint.

23 THE COURT: Thank you. Mr. Stint?

24 DIRECT EXAMINATION

25 BY MR. STINT: On numerous occasions during your interviews with Officer  
26 Jones, and then again with Officer Mojo, you referred to the fact that you  
27 would tell the truth if you got some consideration for your cooperation?

28 A. Well, yeah.

1 Q. So you were concerned about getting some, something in exchange for your  
2 telling them what you were going to tell them?

3 A. Correct.

4 Q. And your hope was that you could somehow relieve yourself of any potential  
5 liability, if you had any, for your involvement in this case?

6 A. Correct.

7 Q. So when you were giving your statements to the police, you were trying to  
8 frame your involvement as minimally as you could, were you not? Do you  
9 understand my question?

10 A. I understand your question. I just told the truth.

11 Q. I see. But you kept saying you would tell the truth if you got some  
12 consideration; correct?

13 A. Well, I told the whole story, if I got some consideration; correct.

14 Q. But they told you they weren't going to make you any promises at that  
15 time; correct?

16 A. It would, yeah, was kind of a gray area. I was testifying without having  
17 any deal ironed out.

18 Q. You recall telling Officer Mojo, and Rosa Lizer of the D.A.'s office, at  
19 Page 10 of your interview -- I believe this is the 7th of January "If you can  
20 assure me I'm not going to be charged with any crime, I'll tell you exactly  
21 what happened." You recall telling him that?

22 A. That sounds -- yeah.

23 Q. And was it therefore, if they weren't going to assure you that you  
24 wouldn't be charged, you weren't going to tell them exactly what happened?

25 A. Right.

26 Q. So, and they told you --

27 A. I wasn't going to tell them anything if they weren't going to give me a  
28 deal.

1 Q. Didn't they tell you that they couldn't make you any deal?  
2 A. Yeah.  
3 Q. Can we assume, then, that you didn't tell them exactly what happened?  
4 A. No. I just rolled the dice and hoped for the best.  
5 Q. Even though you said --  
6 A. Even though; correct.  
7 Q. And then at Page 13, you said, "Well, I would be glad to tell exactly the  
8 truth if I know I'm not getting in trouble."  
9 THE COURT: I think this is cumulative.  
10 MR. STINT: Well, I think --  
11 THE COURT: Point's been made.  
12 MR. STINT: Well, if I can, Your Honor, there's one other question - And you  
13 were told right after that that they were not making you any promises?  
14 A. Right.  
15 Q. So again, can we assume that you weren't telling the truth, 'cause you  
16 hadn't been promised anything?  
17 A. What they said is that, "We can't guarantee at this time, we can't  
18 guarantee, like immunity, or anything like that. But if you were," you know,  
19 "tell us the story, it will all be taken into consideration."  
20 Q. Well, no. What they said was - -  
21 MS. MONAHAN: Objection, Your Honor. Counsel is testifying.  
22 MR. STINT: Does this refresh your recollection --  
23 THE COURT: You just read it to him. It's in the record at this point.  
24 MR. STINT: I don't think I read the response.  
25 THE COURT: What's the response?  
26 MR. STINT: "I can't. I can't make you that promise as I sit here right this  
27 moment."  
28

1 MR. STINT: They didn't even tell you that consideration would be given any,  
2 your cooperation would be given any consideration; correct?

3 A. Right.

4 Q. And that was the quid pro quo, that's what you were wanting in exchange  
5 for telling the truth?

6 A. Right.

7 Q. And you didn't get it?

8 A. Not telling the truth, telling the whole story.

9 Q. Well, you said, "exactly the truth, if I know I'm not getting into  
10 trouble."

11 A. Well, yeah. I'm not going to sit here and incriminate myself and have them  
12 build a strong case just to lay on me.

13 Q. So we don't know whether you were telling them what you thought would help  
14 you or what you thought would gain favor with them or the truth?

15 MS. MONAHAN: Objection to the form of the question.

16 THE COURT: Sustained as argumentative.

17 THE WITNESS: At that point, they weren't promising anything.

18 THE COURT: You don't have to say anything.

19 MR. STINT: Did you ever go back and tell them the truth after they told you  
20 could plead to the count with three years --

21 MS. MONAHAN: Objection, Your Honor. Mischaracterizes the testimony.

22 THE COURT: Sustained.

23 MS. MONAHAN: Already testified he told the truth.

24 MR. STINT: Now, the plan was to leave the car safely off the road; correct?

25 A. Right.

26 Q. And that was the plan everybody had, not just you?

27 A. Right. For everybody.

28

1 Q. And you talked about towing it down to Shadow Road, where you knew the  
2 road, or there was a wide shoulder where you could --

3 A. Right.

4 MR. STINT: Now earlier in that day, had you been drinking?

5 A. No.

6 Q. Had you been smoking?

7 A. Cigarettes? Yeah.

8 Q. What about marijuana?

9 MS. MONAHAN: Asked and answered, Your Honor.

10 THE COURT: I don't know about earlier in the day. Were you smoking marijuana  
11 earlier in the day, or just in the evening?

12 THE WITNESS: As far as I remember, just in the evening

13 MR. STINT: Well, you say in your chronology that, 8:30 to 9:20, you smoked  
14 herbs and ate candy bar and ice cream.

15 A. Right.

16 Q. Did you smoke herb before that that day?

17 A. No.

18 Q. Do you recall what you did earlier, from the time you got up and 4:50 that  
19 day?

20 A. No. That's why I wrote it down: So I'd remember it.

21 Q. So you don't have any recollection of what you did earlier that day?

22 A. Vague recollection.

23 Q. What do you recall?

24 A. I was over at Bill Burnett's, and we were thinking about, like, had a tree  
25 that fell down, cut it up and take it out of there, or something like that.

26 Q. That was at 4:50, according to your chronology. I'm talking about before  
27 that.

28 A. I been there earlier. That's when they asked about the car.

1 Q. So you were there earlier in the day. What time did you get there earlier  
2 that day?

3 A. Maybe 2:00. Maybe 2:00 o'clock.

4 Q. How long did you stay on that occasion?

5 A. Forty-five minutes.

6 Q. Then you left?

7 A. Uh-huh.

8 Q. And did you use any drugs in between the time you left and the time you  
9 came back?

10 A. I smoked pot, like it says on the sheet.

11 Q. So you smoked pot before you came back at 4:50?

12 A. Oh no. I thought, I thought talking about the evening. The time that I  
13 left last, I went, I had dinner, you know, a little bit later, came back.

14 Q. Well, you ate dinner at 6:30 that evening.

15 A. Right.

16 Q. So you didn't eat dinner before you came back at 4:50, did you?

17 A. 4:50? No.

18 Q. So what did you do before you came back at

19 A. I can't remember.

20 Q. You remember where you were?

21 A. I think I was at home.

22 Q. Was anybody with you?

23 A. No.

24 Q. Now, you have, on the second page of your chronology, you have "side  
25 notes, continued"? Remember that? Do you still have your copy of that?

26 A. Huh-uh. No.

27 MR. STINT: May I approach, Your Honor?

28 THE COURT: Yes, you may.



1 MR. STINT: Looking at the second page, you said "side notes," that's to help  
2 you refresh your memory about that day?

3 A. Uh-huh. Right.

4 Q. See that? Number two is, "Gather up 1500 rounds of," what, ".22 ammo, oil  
5 gun and check it out"? What was that supposed to refresh?

6 A. No, this is, this is something entirely separate. This is just the time me  
7 and Bill are going to go shooting. Nothing to do with this whatsoever.

8 Q. Was there any particular reason you put it on this chronology of Monday,  
9 January 4th?

10 A. It has no connection now. If I look at it, I just-

11 Q. You were just writing things down?

12 A. Yeah. It was peculiar, and I just wrote it down because it was peculiar.

13 Q. And number three would be the same: "Depart Garrison Road en route to  
14 Harmony," had nothing to do with this?

15 A. Right.

16 Q. Again, you were making up this chronology of January 4th, and you added  
17 all these other things on

18 A. This is side notes. This isn't chronology.

19 Q. But it was all part of the same note you made the same time; correct?

20 A. Made the same time. As you see, it's a side note, not chronology.

21 Q. And it starts with "refresh memory"?

22 A. Yeah.

23 Q. Was that about that day, you were trying to make these notes to refresh  
24 your memory?

25 A. Right. Just things like this. Like what exactly took place that day. If I  
26 wrote down a couple notes, I'd be able to refer to them later.

27

28

1 Q. Now, you were aware that the rope that broke was not the, the rope didn't  
2 fall off the Silverado; correct? It was still connected to the Silverado when  
3 it broke?

4 A. Yes.

5 Q. And it broke between the Silverado and the Suburban?

6 A. Right.

7 Q. So however it was tied to the Silverado, that was a solid connection?

8 A. I'm not sure which part of the rope broke. I just know it broke.

9 MS. MONAHAN: Your Honor, if this line of questioning does not go to an  
10 affirmative defense or impeach the witness, an element of defense, I'll  
11 object to the line of questioning as cumulative and irrelevant at preliminary  
12 hearing.

13 THE COURT: You wish to be heard, Mr. Stint?

14 MR. STINT: I think it does go, Your Honor, to the intent, and -

15 THE COURT: Overruled.

16 Q. Were you surprised when you thought the Cherokee had hit the Silverado?

17 A. Yes.

18 Q. Was the Silverado well lit and marked at the time that you believe the  
19 accident occurred?

20 THE WITNESS: Yes.

21 Q. Were you able to look out the window from the house that you were in?

22 A. Yes.

23 Q. Were you in any better or worse position than the Burnetts being able to  
24 look out those windows?

25 A. No.

26 Q. I take it, was there some conversation between you about, "Hey, there's a  
27 bunch of people stopped out there around the car"?

28 A. Yes.

1 Q. So everybody in the house knew that cars had stopped and lit up the  
2 Silverado?

3 MS. MONAHAN: Objection. Speculation.

4 THE COURT: Sustained.

5 MR. STINT: Well, everybody in the house was talking about the fact that cars  
6 had stopped and were lighting up the Silverado?

7 A. Yes, but the Burnett brothers were drinking and not paying much attention.

8 Q. And you believed that the car, the Silverado was safe at that point;  
9 correct?

10 A. Yes.

11 Q. And did everybody else express the same opinion; that they felt at that  
12 time that the Silverado was safe?

13 MS. MONAHAN: Objection. Relevance.

14 THE COURT: Sustained. Hearsay.

15 MR. STINT: Goes to state of mind, Your Honor; not for the truth of the matter  
16 asserted. And that's an issue in this case.

17 THE COURT: It's a self-serving statement by your clients. I'll sustain the  
18 objection.

19 MR. STINT: Did you believe that the police had arrived prior to the  
20 accident, and were at the scene, lighting up the car?

21 A. No.

22 Q. Did you, did his sister come in the house before the accident and talk to  
23 you?

24 A. Possibly.

25 Q. And do you recall her saying anything about -

26 MS. MONAHAN: Objection. Hearsay.

27 MR. STINT: Not what she said, but do you recall her saying anything about  
28 what was going on outside?

1 A. She could have said something about it, yeah.

2 Q. Did she tell you that there was a police officer out there?

3 MS. MONAHAN: Objection. Hearsay.

4 THE COURT: I'll sustain the objection.

5 MR. STINT: Do you recall testifying at the grand jury, at Page 181, Line 5,

6 that, shortly after you got back to the house, cars started to light up the

7 scene?

8 A. Correct.

9 Q. And prior to that, there had not been a lot of traffic out there; correct?

10 A. No.

11 MS. MONAHAN: Your Honor, I'm sorry. May I be heard? This is all cumulative,

12 and my objection is that this is all testimony that Officer Mojo has

13 introduced. There is a limited purpose.

14 THE COURT: I'll sustain that objection.

15 MR. STINT: I don't believe this particular area was, Your Honor.

16 THE COURT: The traffic was light? That was previously testified to.

17 MR. STINT: And when you got back to the house and you looked back out, there

18 were cars already stopping and lighting up the scene?

19 A. Yes.

20 Q. And they had their flashers on? You could tell that as well?

21 A. Yes.

22 MR. STINT: From what you saw, it was clear that there was an obstacle in the

23 road?

24 A. Yes.

25 Q. And that's why you figured that the car was safe?

26 A. Yes.

27 Q. Did you feel that the police had been called?

28 A. No.

1 Q. Do you recall testifying, at Page 181, Line 5 through 7: "What did you do  
2 when you saw that?? "Answer: I just figured that the car was safe. It was in  
3 a safe place, there were cars around there and, uh, there was, the police had  
4 been called."

5 A. I could have said that.

6 Q. Well, does that refresh your recollection that, at the time, you believed  
7 that the cars were around it, it was lit up, and the police had been called?

8 A. I'm not positive if I said that about, but if - -

9 Q. Well, it's in the transcript. You recall saying that in the transcript,  
10 under oath, at the grand jury?

11 A. Yes.

12 Q. So it's true, is it not, that you believed the police had been called,  
13 once the car was lit up and there were flashers and people directing traffic?

14 A. Well, yes.

15 Q. And that was the same, at least from your observation, the same  
16 observations that were available to Mr., both the Burnetts; correct?

17 MS. MONAHAN: Object. Speculation.

18 THE COURT: Sustained.

19 MR. STINT: Was there anything that prevented them from seeing the same thing  
20 that you saw?

21 A. No.

22 Q. And again, was there conversation about the fact that, between the three  
23 of you, that the scene was lit up, and there were people stopped, and so on?

24 A. I think so, yeah. I recall that.

25 Q. Did you believe at that time that there was anything more that, once it  
26 was lit up, and flashers, people had their flashers on, and you thought the  
27 police were there, there was anything else that you could have done to help  
28 the scene, help with the scene?

1 A. At that time, no

2 Q. Yes. Do you believe there was anything either of the Burnetts could have  
3 done at that time to help at the scene?

4 A. Not at that time.

5 Q. And your recollection was that the car was not fully into the road;  
6 correct?

7 A. No.

8 Q. It was just a little partly way --

9 A. About that far.

10 Q. Hold your hands up again? About foot and a half, two feet?

11 A. Yeah.

12 Q. And that's where it was when you left it?

13 A. Yes.

14 Q. By the way, you've been placed on supervised own recognizance since some  
15 time ago, when this case started?

16 A. Yes.

17 Q. And was it your understanding that you, the agreement was, they would keep  
18 you out of custody while this matter was pending?

19 A. Yes.

20 Q. And you've been violated on your supervised release at least three times,  
21 have you not?

22 A. Yeah.

23 Q. And each time, you were allowed to remain out on your release ?

24 A. Yeah.

25 Q. And at least two of those were for dirty tests; or in fact, were they all  
26 for essentially dirty drug tests?

27 A. One was for alcohol.

28 Q. Excuse me?

1 A. One was for alcohol.

2 Q. But alcohol or drugs?

3 A. Yeah.

4 Q. Which you were prohibited from using during your supervised release?

5 A. Right.

6 Q. And each time you used them and got busted for it, you were allowed to

7 stay on your supervised release? they?

8 A. Correct.

9 Q. And the D.A. 's didn't object to that, did

10 A. No.

11 Q. And recently, when was the last time that you were violated on your

12 supervised release?

13 A. Six weeks ago.

14 Q. And again, you were, was that for drugs or alcohol?

15 A. For alcohol.

16 Q. And again, you were allowed to remain free on your own recognizance?

17 A. Correct.

18 Q. And again, the District Attorney's Office did not oppose it?

19 A. Correct.

20 Q. And even though you were advised by the Court in March of 2016 that, if

21 you violated your supervised O.R., you weren't going to be let out again;

22 correct?

23 A. Correct.

24 Q. But yet twice after that, the District Attorney did not oppose re-

25 releasing you after you had violated your supervised release?

26 MS. MONAHAN: Asked and answered, Your Honor.

27 THE COURT: I'll sustain that.

28

1 MR. STINT: By the way, you told -- I believe in a January interview, that you  
2 were driving because you hadn't used any drugs or alcohol that day?

3 A. Correct.

4 Q. But that's not true; correct? You had used drugs and alcohol that day?

5 A. No. I didn't do alcohol.

6 Q. But you did use drugs?

7 A. Yeah.

8 Q. So that wasn't true?

9 THE COURT: Asked and answered.

10 MR. STINT: You also told them that you were, hadn't really been bothered by  
11 what had happened, because you didn't really feel responsible, because you  
12 didn't know how somebody could have hit that car, because it was so well lit  
13 up, and that you'd have to run through someone to hit the car. Correct?

14 A. If I recall, there was a car, another car in front of it, blocking it.

15 Q. So you didn't feel like you had done anything wrong, because the way the -

16 MS. MONAHAN: Your Honor, objection.

17 THE COURT: It's irrelevant. Sustained.

18 MR. STINT: And you also indicated that, when you were towing it, none of you  
19 anticipated that you were going to leave it out in the road and anybody could  
20 get hurt?

21 A. No.

22 MR. STINT: And certainly you didn't think anybody was going to get hurt --  
23 never mind. Withdraw that. No further questions.

24 THE COURT: Thank you.

25 MS. MONAHAN, any cross-examination.

26 CROSS-EXAMINATION:

27 BY MS. MONAHAN: Good afternoon.

28 A. Hi.



1 Q. In regard to your prior convictions, you were a teenager when you  
2 committed the transporting cocaine crime?  
3 A. Yes.  
4 MS. POTTERBY: Objection. Foundation.  
5 MS. MONAHAN: Proper cross-examination.  
6 THE COURT: I'm going to sustain the objection. I think it's collaborative.  
7 MS. MONAHAN: Your Honor, this was the area that I asked to preserve my right  
8 to strike that particular conviction, because it's remote in time.  
9 THE COURT: I understand. I'll consider that as to the weight of it. Is it in  
10 the record, when it occurred?  
11 MS. MONAHAN: I can produce the record. Ms. Potterby asked him about it.  
12 THE WITNESS: Early seventies.  
13 THE COURT: Thank you.  
14 MS. MONAHAN: Thank you.  
15 THE COURT: I'm not going to strike it, but I'll consider that as to the  
16 weight.  
17 MS. MONAHAN: Thank you.  
18 MS. MONAHAN: Now, with regard to the interview with Officer Mojo, when you  
19 told him that you were hoping to get some benefit out of telling the truth is  
20 that right?  
21 A. Right.  
22 Q. And that interview was the first full interview you conducted with Officer  
23 Mojo?  
24 A. Correct.  
25 Q. In fact, that was in early January 2016; correct?  
26 A. Yes.  
27  
28

1 Q. All right. And during the course of that interview, when you began your  
2 interview with Officer Mojo, you initially denied that you had been involved  
3 in towing the vehicle in any respect; is that true?

4 A. I think so, yes.

5 Q. And then after initially denying it, you then told Officer Mojo that, if  
6 you could get some guarantee that you wouldn't get in trouble, that you would  
7 then tell them the truth; is that true?

8 A. Yes.

9 Q. And then at that point, Officer Mojo said, "I can't give you any  
10 guarantees."

11 A. Yes.

12 Q. Is that right? Okay. And yet after being told you couldn't get any  
13 guarantees, you then went on to describe for him how you were in fact  
14 involved in towing this vehicle?

15 A. Yes.

16 Q. And how the Burnett brothers were also involved in towing the vehicle?

17 A. Yes.

18 Q. Thereafter, the only time you received a promise -- strike that. The first  
19 time you received any promise with regard to this case was prior to the grand  
20 jury proceeding; is that correct?

21 A. Correct.

22 Q. And prior to getting that agreement from the District Attorney's Office --

23 MS. POTTERBY: Actually, I'm going to object, Your Honor. We haven't had  
24 discovery on this area. And I'm going to object that she is allowed to cross-  
25 examine in areas that she hasn't provided us discovery yet.

26 THE COURT: Overruled.

27 MS. MONAHAN: Thank you.

28

1 Q. Prior to entering into any agreement with the District Attorney's Office,  
2 you gave numerous statements to law enforcement; isn't that true?

3 A. Yes, I did.

4 MS. MONAHAN: Thank you. No further questions, Your Honor.

5 THE COURT: Thank you. Ms. Potterby, redirect?

6 REDIRECT EXAMINATION

7 BY MS. POTTERBY: What year were you born?

8 A. 1956.

9 Q. When you testified in front of the grand jury, you understood that there  
10 was, there's been an implied promise from your discussions with Sergeant  
11 Mojo; correct?

12 A. Right. Oh, not with Mojo. There's no implied promise with him at all. He  
13 says that you're, you face significant time, is what he said.

14 Q. With whom did you have a conversation where you believed there was an  
15 implied promise?

16 A. I think it was with Rosa, the investigator.

17 Q. Would that be Rosa Lizer?

18 A. Yes.

19 Q. That's the investigator with the District Attorney's Office?

20 A. Right.

21 MS. POTTERBY: No further questions.

22 THE COURT: Thank you. Mr. Stint?

23 MR. STINT: No questions.

24 THE COURT: Thank you. Ms. Monahan?

25 MS. MONAHAN: Nothing, Your Honor. Thank you.

26 THE COURT: Thank you for coming in to testify. You may step down.

27 THE WITNESS: I'm done, huh?

28 THE COURT: Yes, apparently.

1 THE COURT: Thank you for coming up. That wraps up today's session.

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