

1 STATE OF WISCONSIN : CIRCUIT COURT : MANITOWOC COUNTY
2 BRANCH 1

3 STATE OF WISCONSIN,

4 PLAINTIFF,

JURY TRIAL

5 TRIAL DAY 8

6 vs.

Case No. 05 CF 381

7 STEVEN A. AVERY,

8 DEFENDANT.

9
10 **DATE:** FEBRUARY 21, 2007

11 **BEFORE:** HON. PATRICK L. WILLIS
12 Circuit Court Judge

13 **APPEARANCES:**

14 KENNETH R. KRATZ
Special Prosecutor
On behalf of the State of Wisconsin.

15 THOMAS J. FALLON
16 Assistant Attorney General
On behalf of the State of Wisconsin.

17 NORM GAHN
18 Special Prosecutor
On behalf of the State of Wisconsin.

19 DEAN A. STRANG
20 Attorney at Law
On behalf of the Defendant.

21 JEROME F. BUTING
22 Attorney at Law
On behalf of the Defendant.

23 STEVEN A. AVERY
24 Defendant
Appeared in person.
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TRANSCRIPT OF PROCEEDINGS

Reported by Jennifer K. Hau, RPR

Official Court Reporter

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(Reconvened at 9:03 a.m., Jurors present.)

THE COURT: At this time Court calls the case of State of Wisconsin vs. Steven Avery. Case No. 05 CF 381. Will the parties state their appearances for the record?

ATTORNEY KRATZ: Once again, Judge, the State appears by Calumet County District Attorney Ken Kratz. Assistant Attorney General Tom Fallon, Assistant District -- Excuse me -- Assistant District Attorney Norm Gahn appearing as special prosecutor.

ATTORNEY STRANG: And good morning. Steven Avery's in person. Jerome Buting represents him. Dean Strang as well.

THE COURT: All right. I believe when we left off yesterday the, uh, State was in the process of conducting direct examination of Mr. Lenk. Uh, Mr. Kratz, you may call your witness.

ATTORNEY KRATZ: We'll do that. Detective James Lenk.

THE CLERK: Please raise your right hand.

JAMES LENK,

called as a witness herein, having been first duly sworn, was examined and testified as follows:

THE CLERK: Please be seated. Please state

1 your name and spell your last name for the record.

2 THE WITNESS: James M. Lenk, L-e-n-k.

3 **DIRECT EXAMINATION**

4 BY ATTORNEY KRATZ:

5 Q Good morning, Lieutenant, and, uh -- and welcome
6 back. We left off yesterday having completed the
7 search efforts, um, that, uh, you and other law
8 enforcement officers did on the 6th of November,
9 which was Sunday. We're going to move to Monday,
10 now, the 7th of November, ask if you were asked
11 to return to the Avery salvage property?

12 A Yes, I was.

13 Q Upon your return on the 7th, uh, who were you
14 assigned to work with?

15 A On the 7th it was Sergeant Bill Tyson.

16 Q And can you describe for the jury, please, your
17 role on the 7th? That is, what, um,
18 responsibilities and duties were you given that
19 day?

20 A I believe Sergeant Tyson was given the information to
21 open all the trunks of the cars near the buildings or
22 in the buildings on the property that hadn't already
23 been opened, and to collect firearms from all the
24 buildings.

25 Q Did you assist Sergeant Tyson in that effort?

1 A Yes.

2 Q About how long did that take? At least your part
3 of the trunks of the vehicles that you were
4 searching through?

5 A My guess would probably be an hour-and-a-half to two
6 hours.

7 Q After that effort, uh, what did you do then?

8 A I believe Sergeant Tyson -- or we went back to the
9 command center to get another assignment.

10 Q Do you remember what your next assignment was?

11 A I think at some point we were told to go back to the
12 Avery trailer and get some, uh, numbers off a
13 computer, I believe.

14 Q All right. Did you do that with Sergeant Tyson?

15 A Yes.

16 Q Thereafter, were you asked to do something else?

17 A I'm sure. I don't recall right now.

18 Q All right. Nothing that sticks out in your mind?
19 At least nothing of a substantial evidentiary
20 nature; is that right?

21 A That's correct.

22 Q The next day, then, on Tuesday, the 8th, uh,
23 Lieutenant Lenk, did you once again return to the
24 Avery salvage property?

25 A Yes, sir, I did.

1 Q And on Tuesday, the 8th of November, who were you
2 assigned to assist?

3 A I was assigned to assist, uh, Deputy Kucharski.

4 Q And, again, for the jury's benefit, since they
5 haven't met Deputy Kucharski yet, who does he
6 work for?

7 A He works for the Calumet County Sheriff's Department.

8 Q Were there any other members of your search team
9 that day?

10 A Myself, Sergeant Colborn and Deputy Kucharski.

11 Q And where did you guys first go?

12 A We first went to a yellow vehicle that was parked in
13 front of the office area to retrieve a couple
14 firearms out of the trunk.

15 Q Now, once again, uh, Lieutenant, I asked you
16 this, uh, yesterday, but on the 8th of November,
17 and in every other day, did you know what your
18 responsibilities were going to be when you got to
19 the Avery salvage property?

20 A No, sir.

21 Q Did you know in which buildings you were going to
22 be assigned?

23 A No, sir.

24 Q Did you even know if you were going into any
25 buildings?

1 A No, sir.

2 Q What was the next assignment you received on the
3 8th?

4 A After we retrieved the firearms from that vehicle,
5 um, Deputy Kucharski received, uh, information to go
6 back to the Steven Avery trailer.

7 Q And what was the nature of this particular
8 assignment?

9 A That was to specifically collect, uh, magazines and
10 pictures, um -- Trying to think. The computer,
11 computer-related items. I'm not sure if there was
12 anything else, specifically, that --

13 Q Was there a -- a search to be performed of other
14 rooms within that home as well?

15 A That's correct.

16 Q Can you describe that kind of search and whether
17 or not that was different than one that was
18 performed earlier in the week?

19 A This would have been a much more specific search. We
20 were given items to look for. Uh, we were also told
21 to do a thorough search of the dwelling besides the
22 items that were given.

23 Q This thorough search, did it include the bedroom
24 of Steven Avery?

25 A Yes, sir, it did.

1 Q I'm going to show you what's been, um, received
2 as Exhibit No. 103. It's a computer animation.
3 I'm going to zoom into the bedroom area. Ask if
4 that's going to assist you in describing your
5 search of that bedroom that day?

6 A Yes, sir, it will.

7 Q Okay. Was this bedroom thoroughly searched by
8 yourself, uh, Sergeant Colborn, and Deputy
9 Kucharski from the Calumet County, uh, Sheriff's
10 Department?

11 A On 8th?

12 Q Yes.

13 A Yes, sir.

14 Q Sometime towards, uh -- Well, let me back up
15 just -- just a minute. Were you in close enough
16 proximity that you were able to see Sergeant
17 Colborn in that bedroom?

18 A Yes, sir.

19 Q Uh, referring to Exhibit 103, is this a large
20 bedroom?

21 A No, sir, it is not.

22 Q Were you able to see Deputy Kucharski?

23 A Yes, sir.

24 Q Do you recall, Lieutenant Lenk, a pair of bedroom
25 slippers being in this bedroom?

1 A Yes, sir, I do.

2 Q Could you just, using the laser pointer, and just
3 point to the, um -- for the jurors, about where
4 those were located?

5 A Approximately right in there.

6 Q Right next to what we now know as a bookcase?

7 A Yes, sir.

8 Q Did you have occasion to inspect or look at those
9 bedroom slippers?

10 A Yes, I did.

11 Q Describe that for the jury, please.

12 A When we first came into the bedroom, the slippers
13 were sitting there. I just picked them up, looked
14 inside, and put them back down.

15 Q Did you look underneath them?

16 A Yes, I did.

17 Q Did you notice anything underneath the slippers
18 when you looked under them?

19 A No, sir. There was nothing there.

20 Q Thereafter, or sometime during the search, uh,
21 were you aware of, and did you, uh, see, Sergeant
22 Colborn manipulating or moving a piece of
23 furniture now known as the bookcase?

24 A Yes, sir.

25 Q After replacing or pushing back the bookcase,

1 what did you do?

2 A After the magazines and a binder were pushed back
3 into the bookcase, I advised Deputy Kucharski that I
4 would go out into the living room and retrieve bags
5 or try to get boxes to put the items that we had
6 recovered.

7 Q Did you do that?

8 A Yes, I did.

9 Q On your return to the bedroom, tell the jury what
10 you saw?

11 A When I entered the bedroom, I caught my eye, I saw a
12 key laying in front of the slippers by the back
13 corner of that cabinet.

14 Q Now, before Sergeant Colborn's manipulation or,
15 um, banging around of that piece of furniture,
16 had that key been there?

17 A No, sir, it was not.

18 Q If you could use your laser pointer again, tell
19 the jury about where in that bedroom you were
20 standing when you saw the key and where was the
21 key?

22 A I was coming in that door, and the key was right at
23 the back corner of that cabinet on the floor.

24 Q There's been another exhibit which has been
25 admitted into evidence. It's Exhibit No. 210.

1 Actually a photograph. I'm going to show that to
2 you at this time and ask you to tell the jury
3 what we're looking at.

4 A You're looking at the cabinet with the slippers and
5 the key that was laying on the floor.

6 Q And that -- that image, that view, uh, is that
7 what you saw on the 8th of November?

8 A Yes, sir, it is.

9 Q After seeing that key, um, did you direct, um,
10 any activity or was any activity decided between
11 the three of you?

12 A I informed the other two officers that there's a key
13 laying on the floor and it was not there before.
14 They all looked at it. At that point Deputy
15 Kucharski photographed it and subsequently collected
16 it.

17 Q How did he collect it? Did you witness that?

18 A He had, uh, gloves on. He collected it. I believe
19 he put it into a evidence bag.

20 Q Now, Lieutenant Lenk, let me just ask you, were
21 you surprised to see that key?

22 A Yes, sir, I was.

23 Q Why?

24 A It wasn't there before.

25 Q At that time, and at that early time in observing

1 the key, did you believe that it had obvious
2 evidentiary value?

3 A When we looked at the key, it appeared to have a
4 Toyota emblem on the key itself. At that point we
5 thought it may have some significant value.

6 Q After Deputy Kucharski photographed and collected
7 the key, do you know what was done with it?

8 A Deputy Kucharski contacted the officers in charge of
9 the case, uh, Agent Fassbender and Investigator
10 Wiegert, told them what he had found, and they
11 subsequently came to the trailer.

12 Q Was the key provided to them if you know?

13 A I believe at that time it was shown to them and they
14 said they would send someone back to collect the key.

15 Q All right. Now, Lieutenant Lenk, at -- at that
16 moment, that is, after the collection of the key,
17 did you, Deputy Kucharski, and Sergeant Colborn
18 attempt to ascertain where the key had come from
19 or do some further investigation?

20 A Yes, we did.

21 Q Tell the jury what kind of investigation you did,
22 please.

23 A We looked at the cabinet, um, at the back corner of
24 the cabinet. We saw that there was an opening
25 between the back of the cabinet and the, um, side,

1 approximately a half to an inch, and we believed that
2 that's where the key had fallen from the cabinet.

3 Q Can you point on Exhibit No. 210 the back corner
4 where the cabinet had been pulled away?

5 A Right back in there.

6 Q Let me show you another exhibit. Exhibit 169.
7 It's already been admitted into evidence. Ask if
8 you recognize that exhibit?

9 A Yes, sir. That is the cabinet we're talking about.

10 Q Could you point to the area of, uh, the back
11 panel being pulled away that you've been
12 describing?

13 A Right there.

14 Q And, again, recognizing that this photo was taken
15 on a different day, uh, other than the, uh, 8th,
16 uh, does Exhibit No. 169 look the same as it did,
17 uh, that, uh -- that morning on the 8th of
18 November?

19 A Yes, sir, it does.

20 Q Lieutenant Lenk, after noting the, um -- the
21 defect or the abnor -- abnormality to the camera,
22 did you have any further discussion with your,
23 um, fellow searchers as to finding this key?

24 A Yes. We discussed the fact that it had to have come
25 from that cabinet and probably from all the jostling

1 and tipping of the cabinet.

2 Q After completing the search, uh, what you now
3 described a thorough search of the interior of
4 the Avery, um, trailer, what was your next
5 responsibility?

6 A I'm not exactly sure what we did after that.

7 Q Do you remember searching any other buildings
8 that day?

9 A Yeah. We had searched other buildings. I'm not
10 exactly sure which ones they were.

11 Q Um, let's talk about timing, or at least time
12 frames the, um, rest of your day. Um, do you
13 know what you did, at least generally, the rest
14 of your day. In other words, what general
15 responsibilities were you given?

16 A Whatever responsibilities were given to Deputy
17 Kucharski that day, we assisted him. Uh, our primary
18 responsibility were searching buildings.

19 Q I see. And just so that jury's not left to
20 wonder, was there anything, at least that you
21 believed, that was of substantial evidentiary
22 value found in the rest of your searches, uh,
23 that day or that afternoon?

24 A No, sir.

25 Q On the 9th, that is the day -- next day,

1 Wednesday, were you asked to return to the Avery
2 salvage property?

3 A Yes, sir, we were.

4 Q And what were your responsibilities that day?

5 A I was assigned with, also, Sergeant Colborn to Deputy
6 Wendling to assist him in searching.

7 Q Who's Deputy Wendling?

8 A He's an officer with the Calumet County Sheriff's
9 Department.

10 Q As part of Deputy Wendling's team on the 9th of
11 November, were you asked to perform any searches
12 that day?

13 A Yes, we were.

14 Q Do you remember where you searched that day?

15 A We went back to the Steven Avery trailer and we also
16 searched his garage.

17 Q Were you looking for something specific in the
18 trailer?

19 A We were looking for a garage door remote and a pair
20 of woman's gloves.

21 Q Did you find either of those items?

22 A There was a pair of woman's gloves found in a paper
23 bag underneath the desk.

24 Q The last area of inquiry, um, I have, uh,
25 Lieutenant Lenk, actually relates to other

1 connections or other, um, items that may be
2 located in Manitowoc County. Let me specifically
3 ask you, uh, whether you have ever seen, uh, any
4 vial of Mr. Steven Avery's blood in possession
5 anywhere in, Cal -- in, uh, Manitowoc County?

6 A No, sir, I have not.

7 Q Did you ever, before the 5th of November, have
8 knowledge of a vial of Mr. Avery's blood in the
9 Manitowoc County Clerk of Court's Office?

10 A No, sir, I did not.

11 Q Did you ever see a vial of blood in the clerk's
12 office?

13 A No, sir.

14 Q Between the 3rd and 5th of November, were you
15 ever in the Manitowoc County Clerk of Court's
16 Office?

17 A No, sir, I was not.

18 Q Lieutenant Lenk, did you ever, um, obtain any
19 blood from the clerk's office or did you obtain
20 any blood from any location and plant it anywhere
21 on the Avery salvage property?

22 A No, sir, absolutely not.

23 Q Did you ever plant it anywhere in Teresa
24 Halbach's vehicle or anywhere where it could be
25 found as part of this investigation?

1 A No, sir, definitely not.

2 Q Did you ever assist any other officer so that
3 another officer could either plant evidence, uh,
4 or try to in some way frame Mr. Avery for this
5 homicide?

6 A No, sir.

7 Q And, lastly, uh, had you ever heard from any
8 member of the, uh, Manitowoc County law
9 enforcement community, uh, that they had
10 participated in some frame-up or planting of
11 evidence?

12 A No, sir, there was not.

13 Q And just to make sure, since we've gone through
14 the, uh -- the key evidence, um, did you have any
15 occasion to plant the -- Teresa Halbach's key or
16 place her key in Mr. Avery's residence?

17 A Absolutely not.

18 ATTORNEY KRATZ: That's all the
19 questions I have of Lieutenant Lenk, Judge.
20 Thank you.

21 THE COURT: Mr. Strang?

22 ATTORNEY STRANG: Thank you, Your Honor.

23 **CROSS-EXAMINATION**

24 BY ATTORNEY STRANG:

25 Q Next year it will be quarter century that you've

1 been involved in policing in one department or
2 another, Lieutenant Lenk?

3 A Close to a quarter, yes.

4 Q You have, in the Manitowoc County Sheriff's
5 Department, obtained, what, the fourth highest
6 rank in that Department?

7 A Yes, sir.

8 Q Mr. Kratz, just a minute ago, asked you whether
9 you had ever heard from any member of the
10 Manitowoc County Sheriff's Department, any
11 member, that they had participated in a -- in a
12 frame-up or planting evidence, concocting a case
13 against Mr. Avery. Remember that question?

14 A Yes, sir.

15 Q And your answer was, no, you had not heard from
16 any member of the Manitowoc County Sheriff's
17 Department that they had done anything of the
18 sort?

19 A That's correct.

20 Q That includes about the 1985 case against
21 Mr. Avery, doesn't it?

22 A I'm not sure.

23 Q Not one of the officers of that Department has
24 ever told you that they had anything to do with
25 the wrongful conviction in 1985 either, have

1 they?

2 A No one's ever told me they had anything to do with
3 the wrongful conviction.

4 Q You worked with Sheriff Peterson for a number of
5 years?

6 A Yes, sir.

7 Q You knew him to be directly involved in that
8 earlier case?

9 A Yes, sir.

10 Q And no one ever admitted doing anything wrong in
11 connection with that earlier case to you, did
12 they?

13 A Not to me. No, sir.

14 Q Now, do you suppose, Lieutenant Lenk, that if an
15 officer -- let's use you -- do you suppose that
16 if you had taken a vial of blood from the Clerk
17 of Court's Office, planted it, or caused it to be
18 planted in Teresa Halbach's vehicle, and told no
19 one before today, do you suppose that if -- if a
20 defense lawyer stood up and asked you, did you
21 plant blood in Teresa Halbach's car, do you
22 suppose you'd tell me?

23 A Yes, sir.

24 Q You would?

25 A I did not.

1 Q And if you had done it, do you think you'd admit
2 it here under oath?

3 A I didn't do that. It's ridiculous.

4 Q Would you admit it under oath if --

5 A Under oath, I would admit it, yes.

6 Q I'm sorry?

7 A If I did it, I would admit it.

8 Q You would admit. Now, you know that planting
9 that blood would have at least been a crime under
10 Wisconsin law?

11 A Yes, sir.

12 Q It probably would have been a federal crime as
13 well; correct?

14 A I'm not positive to that. I don't know.

15 Q To the extent that you were seeking to deprive
16 someone, Mr. Avery, for example, of his civil
17 rights, it would have been a federal crime as
18 well?

19 A I wasn't trying to do anything to deprive him of his
20 civil rights.

21 Q I understand that's your testimony. If you or
22 someone else had planted evidence, you expect
23 that would have been a federal crime as well?

24 A If it had been planted, yes.

25 Q All right. And your testimony is that you'd come

1 in here, and because some defense lawyer asked
2 you, you'd confess this to 12 jurors had you done
3 it?

4 A I probably would if I had done it.

5 Q All right. Would you expect every member of the
6 Manitowoc County Sheriff's Department to do the
7 same thing?

8 ATTORNEY KRATZ: Objection. Speculation,
9 Judge.

10 THE COURT: Sustained.

11 Q (By Attorney Strang) You ran briefly through
12 your history with the Manitowoc County Sheriff's
13 Department. I think you started in the jail?

14 A Yes, that's correct.

15 Q Became a sworn officer?

16 A I was sworn when I started in the jail.

17 Q Oh, I'm sorry. Was that a sworn position, not an
18 unsworn position when you started in the jail?

19 A Yes, sir, at that time.

20 Q Okay. It changed later before Sergeant Colborn
21 started in the jail?

22 A Yes.

23 Q All right. Do you know a woman in the Clerk of
24 Court's Office by the name of Theresa Shebesta?

25 A No, I don't know that name.

1 Q Teresa in the Clerk of Court's Office. I'm
2 talking about the Manitowoc County Clerk of
3 Court's Office?

4 A No, sir.

5 Q All right. Did you at anytime during the course
6 of your, probably, early career, uh, serve, at
7 times, as a bailiff for the Manitowoc County
8 Circuit Court?

9 A No, sir, I don't think I've ever served as a bailiff.

10 Q All right. Uh, if -- if she says that you had,
11 she's simply mistaken?

12 A To my knowledge, I don't believe I served as a
13 bailiff.

14 Q Well, you would know, wouldn't --

15 A Right.

16 Q -- you? Okay. And you don't recall ever serving
17 as a bailiff --

18 A No. I don't recall.

19 Q -- at anytime? All right. Now, um, in 2002, uh,
20 you had moved into the Detective's Bureau about
21 four years before that?

22 A Yes, sir.

23 Q Okay. Uh, in 2002, while serving in the
24 Detective Bureau, you were, uh, something called
25 a designated evidence custodian for the entire

1 Department?

2 A I was an evidence custodian, yes.

3 Q And by evidence custodian, what that means, uh,
4 is that you had overall responsibility for
5 keeping custody or track of all evidence that the
6 Manitowoc County Sheriff's Department may have in
7 its possession?

8 A All evidence that was actually in the evidence room,
9 yes, sir.

10 Q Okay. And -- and we're going to explain that.
11 Your Department maintains an evidence room?

12 A Right.

13 Q Which is a locked area of the Sheriff's
14 Department?

15 A Yes, sir.

16 Q Only the custodian and probably the sheriff, or
17 somebody immediately under the sheriff, has a key
18 to that evidence room?

19 A Yes. There's actually, uh, myself, and another
20 officer, and the sheriff.

21 Q But it's -- it's a separate locked area within
22 the Department?

23 A That's correct.

24 Q You know, while any deputy may have a key to the
25 front door, so to speak, access to the evidence

1 room is closely limited?

2 A That's correct.

3 Q The custodian is one of a small number of people
4 with keys to that room?

5 A Correct.

6 Q There are also things called evidence lockers in
7 the Sheriff's Department?

8 A Yes, sir. They're called temporary evidence lockers.

9 Q And the way those are used is if somebody -- if
10 an evidence technician, or some other officer, is
11 out at a scene, collects one or more pieces of
12 evidence, for temporary safekeeping they will
13 bring those back and lock them in a temporary
14 evidence locker; correct?

15 A That's correct.

16 Q At the first reasonable opportunity to turn them
17 over to the evidence custodian, those items will
18 be turned over to the evidence custodian?

19 A Actually, those items are locked into the temporary
20 locker. That key is placed into a lock box which is
21 retrieved by the custodian who's able to do that.

22 Q And -- and the custodian actually, then, takes
23 the evidence out of the locker?

24 A That's correct.

25 Q All right. There's some paperwork completed to

1 document that chain of who's got their hands on
2 the evidence so to speak?

3 A That's correct.

4 Q Or who's responsible for it?

5 A Yes.

6 Q The evidence custodian prepares that paperwork to
7 document, you know, the evidence away from
8 tinkers, to reverers, to chance?

9 A That's correct.

10 Q All right. And then the evidence goes into the
11 evidence room?

12 A Correct.

13 Q Where it's cataloged in some fashion, or some
14 record is kept of what shelf it's on, or its
15 location, and the door is locked?

16 A Correct.

17 Q That was your responsibility in 2002?

18 A Yes.

19 Q That's the year that a judge, uh, Judge
20 Hazlewood, of the Manitowoc County Circuit Court,
21 uh, signed an order that some evidence from the
22 1985 case against Mr. Avery should be transferred
23 to the State Crime Lab in Madison. Do you recall
24 that?

25 A Yes.

1 Q As part of that process, uh, evidence had to be
2 obtained from the 1985 file at the Clerk of
3 Court's Office?

4 A Correct.

5 Q Your best recollection is that you did not do
6 that directly?

7 A No, sir, I did not.

8 Q You think, perhaps, a deputy named Mike Shallue
9 was the person who went over to the Clerk's
10 Office to pick up the evidence?

11 A Yes, sir, he was.

12 Q You were the person who checked the evidence room
13 in the Sheriff's Department for any remaining
14 items from the 1985 case file against Mr. Avery?

15 A On that particular date?

16 Q In 2002.

17 A I think on that particular time I was -- just filled
18 out a transmittal form for the evidence that was in
19 the Clerk of Courts.

20 ATTORNEY KRATZ: Judge, I am going to
21 request a sidebar if we're going into this issue.
22 Or, perhaps, maybe a hearing outside the presence
23 of the jury might be more appropriate.

24 THE COURT: All right. Let's, uh, excuse
25 the jury for a few minutes.

1 (Jury out at 9:31 a.m.)

2 THE COURT: Mr. Kratz.

3 ATTORNEY KRATZ: Thank you, Judge. I am
4 going to interpose an objection. Uh, based upon
5 pretrial hearings, uh, this particular piece of
6 evidence, or the transmittal of this evidence, did
7 not include the blood vial. Mr. Strang knows that.

8 I believe that this is an intentional
9 attempt by Mr. Strang to mislead the jury. That
10 is to suggest that the blood vial was part of
11 this transmittal. It's not the blood vial. The
12 blood vial's not involved in this particular
13 transmittal, or if this witness had nothing to do
14 with the blood vial, it is irrelevant.

15 I'm asking for an offer of proof. I'm
16 asking that this Court make a ruling at this time
17 as to whether or not this is relevant. If it --
18 uh, if it is, and if Mr., uh, Strang has a good
19 faith belief as an officer of the court that, in
20 fact, the blood vial was part of any transmittal
21 or part of this witness', uh, connection to it,
22 uh, then I will happily withdraw my objection.
23 But --

24 THE COURT: Just a second.

25 ATTORNEY KRATZ: -- before --

1 THE COURT: Mr. Lenk, I'm going to ask
2 you to be excused from the courtroom as well.

3 ATTORNEY STRANG: That's fine. But it's
4 probably -- That's fine. It's not worth the
5 candle --

6 THE COURT: All right. I think the
7 victim/witness coordinator will --

8 THE WITNESS: Okay.

9 THE COURT: -- escort you out. Mr. --

10 ATTORNEY KRATZ: And --

11 THE COURT: -- Strang -- Oop, sorry.

12 ATTORNEY KRATZ: I'm sorry. And just --
13 just to conclude it, then, Judge, I am just
14 asking for, uh, that, uh -- that pretrial ruling.
15 And, if necessary, and before any, uh, further
16 contamination or infection of this jury, uh,
17 occurs, uh, with, uh, irrelevant evidence, uh,
18 I'm asking for a, uh -- a ruling by the Court.
19 An evidentiary ruling. That's all I have, Judge.
20 Thank you.

21 THE COURT: Are you -- are you referring to
22 the exhibit that I -- you just received a copy of?

23 ATTORNEY KRATZ: I suspect this is the
24 first of several, uh, exhibits where -- or at least
25 the first of, uh, a line of questioning where

1 Mr. Strang is going to ask, uh, about this
2 particular evidence which Mr. Strang knows, or
3 should know, uh, included some hair and some
4 fingernail clippings, and that was it.

5 Uh, if he has other information or
6 something that, uh, we haven't, uh, litigated ad
7 nauseum yet to this point, then I'd be, uh, very
8 happy to hear about that.

9 THE COURT: Mr. Strang?

10 ATTORNEY STRANG: I'm going to specifically
11 establish that the blood did not go to the Crime Lab
12 in 2002. That it's hair and fingernail cuttings
13 that went, and I'm going to explore, uh, Mr. Lenk --
14 I believe it would be Mr. Lenk's writing, he'll
15 acknowledge, that the items that were sent were
16 exhibits held by the court since the end of the
17 trial.

18 Not only I'm not going to suggest that
19 that blood went, I'm going to establish that the
20 blood was not sent to the Crime Lab because it
21 wasn't.

22 THE COURT: Uh, addressing the issue of
23 relevance, what is going to be the relevance of the
24 evidence?

25 ATTORNEY STRANG: In 2002, either Detective

1 Lenk, or someone working under his direction, went
2 to the court file, looked through it, extracted hair
3 and fingernail cuttings which were exhibits held by
4 the court since the end of the trial and were
5 contained in one box. These -- those were to be
6 tested for DNA procedures.

7 ATTORNEY KRATZ: Mr. Strang knows
8 District Attorney FitzGerald went through the
9 file and Mr. Shallue was nowhere there.

10 I want to know if there's going to be a
11 witness that connects the Manitowoc County
12 Sheriff's Department with that vial of blood.
13 That's my objection, Judge, because I think that
14 our pretrial hearings on this, the pleadings that
15 we have filed, uh, and the responses either by
16 Mr., uh, Strang, uh, admit exactly that chain of
17 events.

18 ATTORNEY STRANG: Well, I -- I don't know
19 at all, uh, that Mr. FitzGerald, to the exclusion of
20 Deputy Shallue, was there, um, in 2002. And,
21 indeed, um, I've got a report of Mr. Fassbender of
22 his interview with Lieutenant Lenk on December 8,
23 2006, where he tells Mr. Fassbender that from
24 looking at the documents and from his memory, Deputy
25 Shallue obtained the items from the Clerk of Court's

1 Office and brought them over to the Sheriff's
2 Department where Lieutenant Lenk prepared the
3 transmittal of criminal evidence.

4 So, in terms of a good faith basis, I've
5 got this witness saying the documents and his
6 memory suggest that's exactly what happened and
7 that, indeed, did former District Attorney
8 FitzGerald was not the only person in the clerk's
9 office or in that loop. If that's wrong, I guess
10 the witness can retract it.

11 THE COURT: Mr. Kratz?

12 ATTORNEY KRATZ: To retract what? A guess
13 as to what happened across the -- the street? This
14 witness can't clear up anything. Mr. Strang knows
15 that. If Mr. Strang interviewed Mr. Shallue, uh,
16 then, perhaps he can make that offer of proof. If
17 he didn't, I guess this Court might want to know
18 why. But not from this witness, Judge.

19 This witness cannot, by his own -- at
20 least where the state of the record is -- cannot
21 clear that up at all. My point in stopping it at
22 this point is I believe Mr. Strang knows that.

23 ATTORNEY STRANG: I -- I -- I know nothing
24 of the sort. And, indeed, relying on
25 Mr. Fassbender's report of his interview with

1 Mr. Lenk, Mr. Lenk is describing a memory that
2 Detec -- that Deputy Shallue obtained the items from
3 the Clerk of Court's Office.

4 THE COURT: All right. It's -- it's
5 actually Mr. Shallue, is the way you pronounce his
6 name.

7 ATTORNEY STRANG: Oh, thank you.

8 THE COURT: Um, all right. So the
9 testimony you're looking to elicit is that, uh,
10 Mr. Lenk was under the impression that Mr. Shallue
11 went to the clerk's office, picked up the items that
12 were transmitted for which Lenk signed, but they
13 didn't include the blood vial.

14 ATTORNEY STRANG: Correct. They included
15 hair and fingernail cuttings.

16 THE COURT: The question the Court has
17 is, um, the blood vial, I take it, is what's of
18 importance here. How does the -- how does the
19 evidence you're looking to elicit tie in,
20 somehow, to the blood vial?

21 ATTORNEY STRANG: One who goes through that
22 court file looking for boxes of physical evidence
23 should, or well may have seen, the box of physical
24 evidence that was marked Steven Avery's blood. You
25 know, I don't know whether Lieutenant Lenk himself

1 did or didn't go over to the clerk's office in 2002.
2 I expect he'll say he did not. But he's got Deputy
3 Shallue evidently doing that, going over and
4 examining this court file just four years ago, or
5 three years, before the relevant time.

6 THE COURT: Right. Um, I have some
7 notes of my own the last time this came up back
8 there in my chambers. I'm going to take just a
9 couple of minutes to go get them and then I'll
10 come back.

11 (Wherein the Court exits the courtroom)

12 THE COURT: As the Court, uh,
13 understands the line of questioning that the, uh,
14 defense wishes to undertake, uh, the defense is
15 hoping to establish that, uh, Mr. Lenk may have
16 gained knowledge of the existence of the blood
17 vial in the clerk's office through information he
18 may have received from Officer, uh, Shallue.

19 At this point, it's true, there's a lot
20 of unknowns as to whether the defense, uh, can
21 link that chain, uh, but, uh, the Court believes
22 that on cross-examination it's something that the
23 defense is entitled to attempt, and the, uh,
24 State can address it on, uh, redirect, uh, if it
25 wishes. So I'm going to allow the questioning.

1 ATTORNEY KRATZ: Judge, if -- if I may,
2 is -- is the Court, um -- is the Court allowing this
3 for the purpose of the existence itself of the vial
4 of blood in the clerk's office? In other words,
5 that this witness was aware that there was a vial of
6 blood in the clerk's office?

7 THE COURT: Well, if he says he was
8 aware of the existence of such vial -- vial, yes.
9 If he does not, then, no.

10 ATTORNEY STRANG: Well, it's a -- it's a --
11 it's a peculiar question, because Mr. Kratz's entire
12 last series of questions clearly implied the
13 existence of a vial of blood in the clerk's office.
14 Clearly im -- implied that it was available there,
15 and elicited from Mr. Lenk his denial that he ever
16 went to the clerk's office or obtained any blood
17 there. But --

18 THE COURT: I don't know that I would agree
19 with that characterization. The questions mentioned
20 a vial of blood and whether or not the witness was
21 aware of the existence of it. Uh, but at this point
22 in the trial, I don't think we've received any
23 evidence that there was such a vial.

24 Um, at any rate, I'm going to, uh, allow
25 the, uh, defense to, uh, pursue its line of

1 questioning. So at this point we can have the
2 witness brought in and the jurors can be brought
3 back in.

4 ATTORNEY KRATZ: Thank you, Judge.

5 (Jury in at 9:43 a.m.)

6 THE COURT: You may be seated. Mr. Strang
7 you may, uh, resume your cross-examination.

8 ATTORNEY STRANG: Thank you, Your Honor.
9 I, uh -- I will do that by marking, I think, Exhibit
10 214.

11 (Exhibit No. 214 marked for identification.)

12 Q (By Attorney Strang) Lieutenant Lenk, what is
13 Exhibit 214?

14 A It's a evidence transmittal form that goes to the
15 State Crime Lab.

16 Q Whose writing is on it?

17 A That is mine.

18 Q When did you prepare that evidence transmittal
19 form?

20 A September 19, 2002.

21 Q This relates to the 1985 case against Steven
22 Avery?

23 A Yes.

24 Q This is the, uh, evidence we were discussing just
25 before, uh, the break that Mr. Kratz requested?

1 A Yes.

2 Q All right. Now, uh, this is a form that you
3 would have prepared, or you did prepare, to
4 document, again, when a -- an item of evidence is
5 moving from place A to place B; correct?

6 A Correct.

7 Q And then if it comes back from place B to place
8 A, you would document that as well?

9 A If it came back to the evidence room, yes.

10 Q Correct. And this is part of something that you,
11 as an evidence custodian, or former evidence
12 custodian, know as maintaining the chain of
13 custody?

14 A Yes.

15 Q So, by chain, the -- the metaphor is that, uh,
16 from the moment you see or gather evidence, every
17 person who touches that evidence along the way is
18 a link in the chain and you want to make sure
19 that all the links are there?

20 A That's correct.

21 Q So that when the evidence comes to court, there's
22 an unbroken chain, if you will. All the links
23 are present, back to the time the evidence was
24 seized?

25 A That's correct.

1 Q This document, Exhibit 214, is a document
2 intended to establish one of those links,
3 essentially?

4 A That's correct.

5 Q Now, the items that were sent, uh, on or about
6 September 19, 2002, to the State Crime Lab, uh,
7 included hair and fingernail cuttings?

8 A That's correct.

9 Q It was one box of items containing those things;
10 correct?

11 A Correct.

12 Q To be tested by use of DNA procedures according
13 to a circuit court order; correct?

14 A Correct.

15 Q You did not transmit a vial of blood to the State
16 Crime Lab on September 19, 2002?

17 A I didn't transmit anything.

18 Q You didn't cause to be transmitted or document
19 the transmittal of a vial of blood on Exhibit
20 214?

21 A No, I had no knowledge of a vial of blood.

22 Q That is, sir, as evidence custodian, did you go
23 over to the Clerk of Court's Office to examine
24 that 1985 court file and take from it the things
25 that were to be sent to the State Crime Lab?

1 A No, sir, I did not.

2 Q You did not personally do that?

3 A No, sir.

4 Q Although you were the evidence custodian of the
5 Department?

6 A Correct.

7 Q But these items were exhibits held by the court
8 since the end of the trial?

9 A Yes, sir.

10 Q Which is exactly what you wrote on Exhibit 214;
11 correct?

12 A Correct.

13 Q So you were aware on September 19, 2002 that the
14 court was holding exhibits in Mr. Avery's earlier
15 case since the end of the trial?

16 A I was aware of this exhibit, yes.

17 Q Actually, you used the plural as exhibits;
18 correct? Presumably, you mean hair and
19 fingernail cuttings?

20 A Yes.

21 Q All right. When a, uh -- when a court pulls
22 evidence after a trial, where is that held?

23 A I don't know.

24 Q Suppose that's what the Clerk of Court does?

25 A I would -- Yes, I would guess so.

1 Q All right. Uh, who did you send over to the
2 Clerk of Court's Office to obtain the hair and
3 fingernail cuttings described in Exhibit 214?
4 A Sergeant Mike Shallue went over.
5 Q All right. I'm sorry, I -- I was calling him
6 deputy and I didn't mean to take him down a rank.
7 Uh, so to your knowledge, Sergeant Mike Shallue
8 went over to the Clerk of Court's Office;
9 correct?
10 A Correct.
11 Q Under your direction?
12 A Yes.
13 Q And then brought these items back to you in the
14 sheriff's office?
15 A No, sir, he did not.
16 Q How did you come to compare the form?
17 A The form was prepared and given to him before he went
18 to the Clerk of Court's Office.
19 Q So you didn't -- you were signing this form as a
20 transmittal of criminal evidence and didn't --
21 didn't document what he actually obtained or
22 sent?
23 A That's true.
24 Q Trusted -- entrusted him with the task?
25 A Him and the Court, yes.

1 Q And, then, presumably, that went off to the State
2 Crime Lab?

3 A Yes, sir.

4 Q Were you still the evidence custodian when it
5 came back?

6 A Yes. But I had no knowledge of when it came back.

7 Q Okay. Do -- do you even know that it did come
8 back?

9 A I don't know if it did come back.

10 Q You have no reason to doubt it?

11 A I would assume it came back. I don't know that.

12 Q So would I. I mean, but you just don't know one
13 way or the other. Um, in relation -- Well,
14 the -- the Sheriff's Department in Manitowoc
15 County, and let's use 2002 as our time reference,
16 September of 2002, uh, was located in the same
17 building that houses the jail?

18 A Correct.

19 Q Just south of -- What is it? Eighth and
20 Washington?

21 A Actually, it's on Ninth Street.

22 Q Or between Ninth and Eighth?

23 A Ninth and Eighth.

24 Q Okay. But south of Washington Street, if I have
25 my directions right?

1 A Yes, sir.

2 Q All right. And what's that -- what's that large
3 building that stands just to the north of the
4 Sheriff's Department and the jail, I don't know,
5 50 yards to the north or something?

6 A It's the courthouse.

7 Q Right across, sort of, a courtyard or a --
8 there's a -- some walkways or a monument there?

9 A Yes, sir.

10 Q And where is the Clerk of Court's Office?

11 A Would be on the first floor.

12 Q Of the courthouse?

13 A Yes, sir.

14 Q Now, you were interviewed by the gentleman over
15 farthest to the right in the back, uh, Special
16 Agent Tom Fassbender, uh, on December 8, 2006.
17 Does that sound right?

18 A Sounds about right, yes.

19 Q Uh, you knew that a question had been raised
20 about this vial of blood that Mr. Kratz referred
21 to?

22 A I was informed that day by Agent Fassbender that the
23 blood vial existed.

24 Q And he wanted to ask some questions of you about
25 that blood vial?

1 A Yes.

2 Q Explained to you that an issue had been -- had
3 been raised about integrity of this
4 investigation?

5 A Yes.

6 Q Uh, and you wanted to answer his questions?

7 A Yes.

8 Q You wanted to answer them truthfully?

9 A Yes.

10 Q To clear up any questions about the blood vial or
11 the integrity of the investigation?

12 A Correct.

13 Q You would be truthful, in any event, when
14 answering the law enforcement officer's
15 questions?

16 A Is that a question, sir?

17 Q Yes.

18 A Yes, I would.

19 Q Uh, lying to a law enforcement officer who's
20 performing his duties is, itself, a crime --

21 A Yes.

22 Q -- in the state of Wisconsin? Sir, you are --
23 you told Special Agent Fassbender on -- on
24 December 8 that, um -- that you had filled out
25 this Evidence Transmittal Form? Exhibit 214?

1 A Correct.

2 Q Just as you told us today, uh, that you wrote on
3 the transmittal form that, uh, the exhibits had
4 been held by the court since the end of the
5 trial?

6 A That's what I was told. Yes.

7 Q That's what you told Special Agent Fassbender?

8 A Correct.

9 Q And, uh, you -- you told him -- you told Special
10 Agent Fassbender, as well, that, uh, it was your
11 memory that -- that, uh, Sergeant Shallue had
12 obtained the items from the clerk's -- Clerk of
13 Court's Office and transmitted them from there?

14 A That's correct.

15 Q Were you interviewed just about a month later,
16 um, by an Investigator Steier from the Calumet
17 County Sheriff's Department?

18 A Could be. I don't -- I believe so. I'm not sure.

19 Q Which -- which part are you not sure about?

20 A I'm not sure of the date. I know I did talk to
21 Investigator Steier.

22 Q Fair enough. Um, I'll show you -- I guess I'll
23 mark this, but I'm just going to use this to try
24 to refresh your recollection.

25 (Exhibit No. 215 marked for identification.)

1 Q (By Attorney Strang) I suggest the date of that
2 interview may have been January 11, 2007, but I
3 will show you Exhibit 215 just to see whether or
4 not it refreshes your recollection about
5 Investigator Steier interviewing you?

6 A Yes, sir, it does.

7 Q Was that interview in person?

8 A Yes, sir.

9 Q Investigator Steier also, obviously, is a law
10 enforcement officer?

11 A Yes, sir, he is.

12 Q And on January 11, 2007, did you tell
13 Investigator Steier that you had no idea the
14 Steven Avery file was kept in the Manitowoc
15 County Clerk of Court's Office?

16 A I didn't know there was a file over there, no. All I
17 knew about is what I had sent out. I didn't know
18 there was a file there.

19 Q You didn't know there was a file, but you knew
20 that there were exhibits from the file?

21 A I didn't know there were other exhibits over there
22 other than the one that I had dealt with.

23 Q So you thought that perhaps the hair and
24 fingernail cuttings were the -- the only exhibits
25 that the court had held since the end of the

1 trial?

2 A I didn't know.

3 Q I mentioned earlier that you're, in terms of
4 rank, probably the fourth ranking person today in
5 the Sheriff's Department?

6 A I'm one of four lieutenants that is fourth ranking,
7 yes.

8 Q Okay. And -- and that's where I was going.
9 You're fourth in terms of rank, but some of the
10 positions above you or parallel with you have
11 more than one person filling or with that rank;
12 correct?

13 A Yes.

14 Q So that -- In other words, there may be two
15 deputy inspectors?

16 A Correct.

17 Q Both of whom outrank you?

18 A Correct.

19 Q You're one of four lieutenants?

20 A Yes, sir.

21 Q But are you part of the scene or management team
22 of the Sheriff's Department?

23 A I'm not sure I understand your question.

24 Q Okay. And I -- it may -- that may not be a term
25 you -- you folks use. So let's start with, are

1 you -- are you part of management, so to speak?

2 A Yes.

3 Q Uh, are you included in meetings about the
4 overall operation of the Department?

5 A Not most of the time, no, sir.

6 Q Simply responsible, most of the time, for the
7 operation of the Detective Bureau?

8 A That's correct.

9 Q You are the only lieutenant of detectives?

10 A Yes, sir.

11 Q Do you know, as you sit here today, Lieutenant
12 Lenk, uh, how many keys the Manitowoc County
13 Sheriff's Department has to the Clerk of Court's
14 Office?

15 A No, sir, I have no idea.

16 Q Do you know that the Sheriff's Department is
17 responsible for security in the Manitowoc County
18 Courthouse?

19 A Yes, sir.

20 Q That courthouse, of course, includes the Clerk of
21 Court's Office; right?

22 A Correct.

23 Q And a number of other offices in the courthouse?

24 A Correct.

25 Q The Sheriff's Department has overall

1 responsibility for security in that entire
2 building?

3 A Yes, sir.

4 Q And its offices?

5 A Correct.

6 Q To maintain security, or to discharge that duty,
7 the Sheriff's Department needs access to the
8 courthouse?

9 A Correct.

10 Q Needs access to all the offices in the
11 courthouse?

12 A Yes.

13 Q Has one or more master keys to your knowledge?

14 A I would assume so. I have no idea.

15 Q And, in any event, you don't know how many such
16 master keys your Department may have?

17 A That's correct.

18 Q I want to move to Mr. Avery's civil lawsuit, all
19 right? Uh, and the backdrop on that is -- is
20 Mr. Avery being released from prison. You
21 remember that?

22 A Yes, sir.

23 Q That made big news?

24 A Yes, it did.

25 Q 2003?

1 A Yeah, I believe it was 2003.

2 Q Uh, and by "big news" I mean, this was something
3 that was on the televisions?

4 A Yes, it was.

5 Q You recall it being in the newspapers?

6 A Yes, sir.

7 Q You recall the newspapers, uh, shining a light,
8 so to speak, on your Department?

9 A Yes, sir.

10 Q Examining the way that earlier conviction had
11 been handled?

12 A Correct.

13 Q You understood that your Department had been the
14 investigating agency in the 1985 case?

15 A Yes, sir.

16 Q You understood that that investigative process
17 led to serious charges being brought against
18 Mr. Avery?

19 A That's correct.

20 Q Ultimately, led to his conviction?

21 A Correct.

22 Q And that it turned out he hadn't committed the
23 crimes?

24 A According to the release, yes, apparently he had not.

25 Q Do you have any question about that?

1 A No, sir, I don't.

2 Q Any doubt in your mind about whether Mr. Avery
3 was innocent of the crimes for which he was
4 convicted?

5 A No, sir, I have no knowledge of the case. I would
6 not hazard a guess one way or the other.

7 Q Simply a matter on which you have no opinion?

8 A Pretty much.

9 Q Is this another one of these things that you
10 didn't care about one way or another?

11 A I would say other than the fact that it involved my
12 Department, I really didn't care one way or the
13 other.

14 Q Okay. And that was a phrase you -- you recall
15 using just yesterday when Mr. Kratz asked you how
16 you felt about or what you cared about
17 Mr. Avery's lawsuit?

18 A Correct.

19 Q Now, you remember -- not the exact time, of
20 course -- but you remember the general event of
21 Mr. Avery filing a civil lawsuit?

22 A Yes, sir.

23 Q Filed it against Manitowoc County?

24 A Yes.

25 Q Relating to the actions of the Manitowoc County

1 Sheriff's Department?

2 A Yes, sir, I believe that's what it was.

3 Q That is a sheriff's office in the state of
4 Wisconsin as a county office; correct?

5 A Yes.

6 Q Uh, so you understood that the lawsuit put in
7 issue the actions of your Department?

8 A Yes.

9 Q Did you care when that lawsuit was filed?

10 A I'm not exactly sure what you mean by that, sir.

11 Q Did you care about the lawsuit being filed?

12 A No, sir, I did not.

13 Q Didn't care at all that the county was being sued
14 over the actions of your Department?

15 A I didn't have any involvement in the case and I
16 really didn't have an opinion one way or the other.

17 Q And you didn't care one way or the other who won
18 the lawsuit, if I understood your testimony?

19 A I didn't say anything about caring who won or not, I
20 just said I didn't really care about the lawsuit.

21 Q Didn't care about the lawsuit. If you didn't
22 care about the lawsuit, then I guess you didn't
23 care one way or the other who won or lost?

24 A No, sir.

25 Q You didn't or -- or are you agreeing or --

1 A No, sir, I didn't care one way or the other.

2 Q All right. And do I understand you to be saying
3 that you didn't care one way or the other, then,
4 whether someone who had been wrongfully convicted
5 got some compensation for that?

6 A I felt if he was wrongly convicted then, yes, he
7 should have some compensation.

8 Q Then how is it that you didn't care one way or
9 the other?

10 A I didn't really have a strong opinion one way or the
11 other.

12 Q All right. But if he happened to get some
13 compensation, that would be all right for you?

14 A That would be fine.

15 Q All right. Uh, do you think somebody who goes to
16 prison for a long time for a crime he didn't
17 commit ought to get some compensation?

18 A I believe so.

19 Q But you didn't have a strong opinion about that
20 one way or the other?

21 A No, sir.

22 Q Uh, did you have a strong opinion one way or the
23 other about the fact that the man your Department
24 missed back in 1985 was out free on the streets
25 because Mr. Avery was doing his time?

1 ATTORNEY KRATZ: Objection, relevance, Your
2 Honor.

3 THE COURT: Uh, Mr., uh, Strang?

4 ATTORNEY STRANG: I'm -- I'm exploring
5 his attitudes about the lawsuit and its
6 consequences.

7 ATTORNEY KRATZ: This isn't a consequence
8 of the lawsuit at all, Judge.

9 THE COURT: Yeah. I'm going to sustain the
10 objection.

11 Q (By Attorney Strang) Do you care one way or the
12 other, Lieutenant Lenk, about whether your
13 Department gets the right guy in a criminal
14 investigation?

15 A Definitely.

16 Q That you do care about?

17 A Yes, sir.

18 Q And what's your preference?

19 A I'm not sure what your question is, sir.

20 Q Well, since you cared about whether they do or
21 don't get the right guy, what's your preference?

22 A My preference is you always try to get the right
23 person.

24 Q Now, this was the lawsuit that eventually led to
25 your deposition?

1 A Yes, sir.

2 Q Your deposition on, I think, October 11, 2005?

3 A I believe that's the date. I'm not positive.

4 Q I won't even bother to mark this, but I don't
5 want to have you have any questions about it.
6 I'm showing you the transcript of your
7 deposition. What's the date of that deposition?

8 A October 11, 2005.

9 Q That's you with your picture on the front?

10 A Yes, sir.

11 Q Lieutenant Lenk, was October 11, 2005, the first
12 time you had ever had your deposition taken?

13 A Regarding this lawsuit?

14 Q Regarding anything.

15 A No, sir. I believe I've had done it at least once
16 before.

17 Q Had -- had a deposition before. All right. Uh,
18 this was, though, something unusual for you?

19 A Yes.

20 Q You were subpoenaed?

21 A Is that a question, sir, or --

22 Q Yes.

23 A Yes, I was.

24 Q And, uh, you asked, uh -- or you were asked a
25 number of questions?

1 A That's correct.

2 Q You under -- you un -- you understand that this
3 process here that we're doing, I'm the one asking
4 questions? So I'm speaking to you. I'm asking
5 you a question?

6 A Yes, sir.

7 Q Okay. And you're providing answers?

8 A Yes, sir, I am.

9 Q Uh, you provided answers at the deposition in
10 much the same format, didn't you?

11 A Yes, sir, I did.

12 Q And I think you told us that one -- sort of the
13 major topic of this deposition was the telephone
14 call that Sergeant Colborn, in fact, when he was
15 in the jail, had received some years earlier?

16 A That's correct.

17 Q Sergeant Colborn told you about that telephone
18 call, didn't he?

19 A Yes, in 2003.

20 Q That is, he told you about it on the very day of
21 Steven Avery's release or the very next day,
22 didn't he?

23 A I don't recall. It could have been, yes.

24 Q But you all were having a conversation about
25 Mr. Avery being released from prison; right?

1 A I don't know if we were having a conversation about
2 that specifically, no.

3 Q But, in any event, uh, whether there was a
4 conversation or not, uh, Officer Colborn had
5 given you this information, uh, and you thought
6 it may or may not be relevant?

7 A That's correct.

8 Q And, uh, you should -- you -- you told Officer
9 Colborn he ought to pass it along to the sheriff?

10 A Yes, sir.

11 Q And the two of you went to Sheriff Peterson
12 together about it?

13 A Yes, sir, I believe we did.

14 Q And, uh, Sheriff Peterson suggested that maybe
15 the two of you ought to prepare a short report or
16 statement about that?

17 A That's correct.

18 Q You prepared that statement on September 12,
19 2003?

20 A I believe it was that same day, yes.

21 Q Do you recall that, or do you not, as being the
22 day after Steven Avery was released from prison?

23 A I don't specifically recall if that was the same day.

24 Q Did you consider the possibility that you might
25 be added as a defendant to that civil lawsuit?

1 A No, sir, I did not.

2 Q Never crossed your mind?

3 A No, sir.

4 Q Now, Teresa Halbach. It's November 3, 2005 when
5 you first learned that she is missing?

6 A That's correct, sir.

7 Q She's reported missing by another county? Not
8 Manitowoc County?

9 A Yes, it was Calumet County.

10 Q The adjoining county, but a different county
11 altogether?

12 A That's correct.

13 Q Uh, this is, at that point, their missing person
14 investigation?

15 A Yes, sir.

16 Q You at -- at the time, November 3, 2005, uh, were
17 then, as you are now, the chief detective, if you
18 will, for Manitowoc County?

19 A Lieutenant of detectives, yes, sir.

20 Q That is in charge of all of the other detectives
21 in the Manitowoc County Sheriff's Department?

22 A Correct.

23 Q You also have some duties as a detective yourself
24 in the field, so to speak?

25 A Yes, sir.

1 Q Is it true, sir, that within two hours after that
2 missing person report to Calumet County, you, on
3 your own, were calling Investigator Mark Wiegert
4 asking about it?

5 A No, sir, that's not true.

6 Q Well, how did you learn about it?

7 A Investigator Wiegert called me and told me that he
8 needed assistance.

9 Q I'm saying Investigator Wiegert --

10 (Exhibit No. 216 marked for identification.)

11 ATTORNEY KRATZ: I'm sorry. Could we
12 approach, please?

13 (Discussion off the record.)

14 Q (By Attorney Strang) When you say Investigator
15 Wiegert, you're -- you're referring to the
16 gentleman behind me with the neatly trimmed
17 goatee?

18 A Yes, sir.

19 Q You know him to be one of the two lead case
20 investigators on this investigation?

21 A Yes, sir.

22 Q Had you known Investigator Wiegert before, uh,
23 Ms. Halbach was reported missing?

24 A I had met him on a couple of occasions, yes, sir.

25 Q Professionally?

1 A Professionally, yes, sir.

2 Q Some collaboration between your two departments
3 is not unusual?

4 A That's right.

5 Q Because you're adjoining counties?

6 A Correct.

7 Q And you're quite sure that it was Investigator
8 Wiegert who called you, not the other way around?

9 A All I know is that I did talk to Investigator
10 Wiegert. I don't know who called who --

11 Q Oh.

12 A -- at this point.

13 Q All right. So if Investigator Wiegert says that
14 you were the one who called him, you're now
15 prepared to accept that?

16 A I would have had to had some reason to call him. Uh,
17 I may have been paged by dispatch or some other
18 reason, but that would have been the reason --

19 Q May have --

20 A -- I would have called him.

21 Q -- may have heard about this missing person from
22 Detective Remiker? Someone else under you?

23 A That's possible.

24 Q All right. It is possible, then, that you were
25 the one who placed the call to Investigator

1 Wiegert?

2 A That's possible.

3 Q You wouldn't disagree with him if that's the way
4 he put it on paper?

5 A If that's how he put it on paper, he's probably
6 right.

7 Q While we're on that subject, could -- did I
8 understand you correctly that -- I'm jumping
9 ahead here a couple of days to November 5 -- that
10 it was your understanding that Calumet County
11 Sheriff's Department would write all the reports
12 in this case?

13 A Yes, sir, that was my understanding.

14 Q How many Manitowoc County sheriff's officers were
15 involved in this investigation?

16 A There were a number of officers involved.

17 Q A number. Meaning over a dozen probably?

18 A I don't know. I don't know the exact number.

19 Q Well, you were out at the Avery property
20 yourself, weren't you, from November 5 through at
21 least November 9?

22 A Yes, sir.

23 Q During, essentially, all of your working hours?

24 A Yes, sir.

25 Q Did you see more than a dozen of your fellow

1 officers from Manitowoc there?

2 A I know there was a lot of them out there. I don't
3 know if it's more than a dozen, you know.

4 Q You've described working directly with at least
5 two of them; right?

6 A Correct.

7 Q Sergeant Colborn and Detective Remiker?

8 A Correct.

9 Q You -- you people were actively searching
10 buildings, cars, garages, all sorts of places on
11 that property?

12 A Yes, sir.

13 Q You were identifying evidence?

14 A Yes, sir, we were attempting to identify evidence.

15 Q You interviewed people?

16 A I think the only interview was on the fourth with
17 Mr. Avery.

18 Q That -- in which you personally participated?

19 A Yes, sir.

20 Q And it was your understanding that you weren't
21 going to prepare any reports as a -- as a
22 Department about any of that?

23 A We were told when we were assigned to do searching to
24 let them do the report writing, to take the evidence,
25 and, basically, we're -- we were just there as

1 support to do the searching.

2 Q Have you ever been involved in an investigation
3 before in which it was decided beforehand that
4 you would not write reports about what you were
5 doing?

6 A No, sir.

7 Q Have you been involved in one since when it was
8 decided you would not write reports about what
9 you were doing?

10 A No, sir.

11 Q You understand that when you write a report,
12 you're committing yourself to paper on what the
13 facts are that are described in the report? You
14 understand that, don't you?

15 A That's correct.

16 Q And if you don't write a report, I guess you're
17 not committed to any version of the facts, are
18 you?

19 A We're committed to the facts. We just didn't write
20 the reports.

21 Q Ah. But how would one know what it is that you
22 say the facts are if you haven't put them down on
23 paper? How would we learn that?

24 A From the officer that wrote the reports.

25 Q From the officer who wrote the reports or by

1 hearing you testify in court?

2 A That's correct.

3 Q Well, as it happens, you eventually did prepare
4 something of a report here, didn't you?

5 A Yes, sir, I did.

6 Q A page or two?

7 A I believe it was a page, yes.

8 Q Now, you mentioned just a moment ago the
9 November 4 interview with Mr. Avery?

10 A Yes, sir.

11 Q This is the morning after Ms. Halbach has been
12 reported missing?

13 A Yes, sir.

14 Q And you, personally, as the lieutenant of
15 detectives, took it upon yourself to go out and
16 interview Mr. Avery?

17 A As I had said before, we were requested by
18 Investigator Wiegert to go out and reinterview
19 Mr. Avery.

20 Q Did Mr. Wiegert request that you, personally, go
21 out and interview Mr. Avery?

22 A I don't recall. I don't -- I don't recall if it was
23 specific or just asked someone to go out and
24 interview him.

25 Q All right. And you decided that one of those

1 people would be you?

2 A Yes, sir.

3 Q And, then, you took Detective Remiker with you?

4 A Yes, sir.

5 Q He's a detective working under you, obviously?

6 A Yes.

7 Q Experienced detective?

8 A Yes.

9 Q Uh, number of years of service as a detective in
10 the Manitowoc County Sheriff's Department?

11 A I don't know how many years he's got. Probably three
12 or four.

13 Q Was he capable of, uh, interviewing somebody at
14 10:30 on a Friday morning?

15 A More than capable, yes, sir.

16 Q At that point, uh, Steven Avery was just a person
17 of interest?

18 A Yes, sir.

19 Q So the two of you went out to Mr. Avery's?

20 A Yes, sir.

21 Q He was cooperative?

22 A Yes, he was.

23 Q Uh, when Detective Remiker asked if you folks
24 could take a walk through his house, he said,
25 sure, or words to that effect?

1 A Correct.

2 Q Gave you his consent, as they say?

3 A Yes, sir.

4 Q You walked through the entire house quickly?

5 A Detective Remiker walked through the house, yes, sir.

6 Q You stayed outside?

7 A I stayed in the living room with Mr. Avery.

8 Q Did you have any information on the morning of

9 November 4 about the, uh -- the sort of car that

10 Ms. Halbach was driving when last seen at least?

11 A I believe, uh, we had the information that it was a

12 Toyota Rav 4.

13 Q Did you have a license plate number?

14 A I didn't. No, sir. I don't recall having a license

15 plate number.

16 Q All right. You don't know if anyone else did or

17 did not?

18 A No, sir.

19 Q You worked, though, a number of years in the road

20 patrol division yourself?

21 A Yes, sir, I did.

22 Q It was common, uh, in road patrol to call in a

23 license plate?

24 A Yes, sir.

25 Q That might be a traffic stop; correct?

1 A Correct.

2 Q Where -- where you would then call into dispatch
3 with the license plate that you were seeing and
4 dispatch could tell you to whom the plate was
5 registered?

6 A Correct.

7 Q Dispatch could also tell you what car the plate
8 ought to be on?

9 A Yes, sir.

10 Q And this would be done, typically, over the
11 radio?

12 A Yes, sir.

13 Q Road patrol officers have a radio unit in their
14 car? Their squad car?

15 A Correct.

16 Q And then, also, have a collar mike?

17 A Some wear the collar mike, yes.

18 Q Some do. Others have a portable?

19 A That's correct, sir.

20 Q But -- but all of the road patrol officers have
21 both a radio in the squad car and some sort of
22 portable radio that goes with them?

23 A That's correct.

24 Q Typically, when you're calling in a license
25 plate, you would use the radio when you're on

1 duty?

2 A Yes, sir.

3 Q A radio, uh, though, is something that citizens,
4 if they have a police scanner, can overhear?

5 A Yes, sir, if it's a regular frequency, yes.

6 Q Right. I mean, it's -- it's -- it's a -- a
7 broadcast frequency?

8 A Correct.

9 Q I want you to -- to listen to Exhibit 212.

10 ATTORNEY KRATZ: I'm sorry, Judge. Is
11 this -- is this witness involved in this call? If
12 not, it will be hearsay.

13 ATTORNEY STRANG: I -- I'm not offering it
14 for the truth.

15 ATTORNEY KRATZ: Then what's the relevance,
16 Judge?

17 THE COURT: Um --

18 ATTORNEY STRANG: First of all, I can't get
19 it to make noise at all.

20 THE COURT: All right. It's, uh, 10:30.
21 Let's do this; uh, we'll take our morning break at
22 this time. Uh, the jury can be excused. Uh,
23 members of the jury, do not discuss this case, uh,
24 during the break. Uh, we'll resume in approximately
25 15 minutes.

1 (Jurors out at 10:25 a.m.)

2 THE COURT: The record should reflect at
3 this time the court jury is outside of the courtroom
4 and I've ex -- excused the witness as well. Uh,
5 Mr. Kratz? Uh, just -- I -- I assume that what,
6 Mr. Strang, you're about to play is the, um, radio
7 transmission involving Mr. Colborn, uh, confirming a
8 plate number?

9 ATTORNEY STRANG: Well, um, yes and no.
10 I'm -- What I'm trying to establish here is that
11 this is not a radio transmission, but this is a
12 telephone call.

13 THE COURT: All right. And the purpose for
14 which you're offering it?

15 ATTORNEY STRANG: Um, the -- the purpose is
16 to show that the ordinary thing, if one is on duty,
17 would have been to use the radio, not a telephone,
18 for such an inquiry.

19 THE COURT: Okay. Are you going to ask the
20 witness whether it was standard practices or
21 something to that effect?

22 ATTORNEY STRANG: I al -- that I think I
23 already -- I just did, I believe.

24 THE COURT: Okay. Mr. Kratz?

25 ATTORNEY KRATZ: And I think he has. If

1 that's the only purpose, he can ask him: Isn't
2 it typical to, uh -- to use the radio? He
3 already played this for Mr. Colborn. With this
4 witness, it is, in fact, hearsay, uh, and we're
5 objecting.

6 ATTORNEY STRANG: I just need to identify
7 it as a -- as a phone call not a -- not a radio
8 call. Uh, that probably could be done without
9 playing the whole thing that is --

10 THE COURT: You're going to ask this
11 witness to confirm it was a -- was a telephone call
12 and not a radio call?

13 ATTORNEY STRANG: Correct.

14 THE COURT: How's he going to know that?

15 ATTORNEY STRANG: Oh, I can raise some
16 foundation on the taping system there and I
17 suppose he should know it because of the ringing
18 sound at the beginning.

19 THE COURT: Oh.

20 ATTORNEY STRANG: Or the way the dispatcher
21 answers the phone.

22 THE COURT: All right. Mr. Kratz?

23 ATTORNEY KRATZ: There's probably some
24 reason he didn't do this with Mr. Colborn when it
25 was played to him. I don't know what. So he can

1 play it again? I -- I don't understand, Judge. If
2 he has some specialized knowledge in listening to
3 telephone calls versus radio --

4 THE COURT: Well, we won't know until we
5 hear the witness' answer whether he knows it or not.
6 Um, so I -- um, may be that I -- I believe that
7 they're entitled to ask the question.

8 Uh, I also wanted to put on the record
9 that, uh, we did hold a brief, uh, sidebar, uh,
10 during the -- Mr. Lenk's testimony requested by
11 Mr. Kratz. That involved, uh, an anticipated
12 hearsay exception that I believe did not develop
13 because of the nature of the questioning which
14 followed.

15 Uh, that's the type of discussion that,
16 really, the appeals courts tell us we're not
17 supposed to have in a sidebar. So I'm going to
18 ask the attorneys at this point, if you've got
19 some short procedural matters that you want to
20 ask the Court to deal with, that doesn't require
21 excusing the jury, I'll entertain that during the
22 sidebar and make a record of it later. Uh, but
23 if it's going to be a substantive, uh, objection
24 of some kind or something, uh, even though it may
25 slow us down a bit, I'm going to ask that you ask

1 if we can excuse the jury, and then I'll hear you
2 outside the presence of the jury.

3 ATTORNEY KRATZ: We'll do that, Judge.

4 ATTORNEY STRANG: Agreed. Thank you.

5 THE COURT: All right. We'll resume at,
6 uh, 10 to 11 on that clock.

7 (Recess had at 10:29 a.m.)

8 (Reconvened at 10:52 a.m.; jurors present.)

9 THE COURT: Do we have, uh, Mr. Lenk
10 available? Mr. Strang, you may resume your
11 questioning.

12 ATTORNEY STRANG: Thank you, Your Honor.

13 Q (By Attorney Strang) Lieutenant Lenk, when we
14 took our break, I think you had just explained to
15 the jurors that, uh, certainly the typical
16 procedure in calling in a license plate check
17 would be for the road patrol officer to use the
18 radio?

19 A That's correct, sir.

20 Q Now, are you familiar with the -- the taping
21 system on telephone lines at the Sheriff's
22 Department?

23 A Vaguely familiar, yes.

24 Q Okay. You know that dispatch radio traffic is
25 tape recorded? All of it? The radio traffic?

1 A Yes, sir.

2 Q All right. Some of the telephone lines that the
3 dispatchers answer also are tape recorded?

4 A Yes, sir.

5 Q That's not something known by every officer in
6 the Department?

7 A I wouldn't know if they all know about it. I mean,
8 the majority probably know about it.

9 Q Okay. Something you've learned in your
10 management position?

11 A Yes.

12 Q Now, I'm going to -- I'm going to play Exhibit
13 212 for you. Uh, your voice is not on here.
14 We've heard testimony about this. But I -- I
15 want you to listen to whether you can identify,
16 uh, whether this appears to be a radio call or a
17 call on a telephone line. Okay?

18 A Yes, sir.

19 (Where in recording is played.)

20 "Manitowoc County Sheriff's Department.

21 This is Lynn."

22 "Lynn."

23 "Hi, Andy.

24 (Unintelligible) "Henry 582. See if it
25 comes back (unintelligible).

1 (Unintelligible) "Henry 582. I -- I
2 (unintelligible) All righty. Do you speak any
3 Spanish there, Andy?"

4 "No."

5 "I just got a call (unintelligible) call
6 me back. (Unintelligible) If I get in trouble,
7 Andy, I get in trouble. You know, what am I
8 supposed to do?"

9 "Well --

10 "My -- my favorite one is in the city of
11 Manitowoc. It is. Um, okay. Shows that she's a
12 missing person. And it was to Teresa Halbach."

13 "Okay."

14 "Okay. That's what you're looking for,
15 Andy?"

16 "'99 Toyota?"

17 "Yep."

18 "Okay. Thank you."

19 "You're very welcome. Bye-bye."

20 Q Okay. First of all, did you -- did you recognize
21 the voices?

22 A Yes, sir, I did.

23 Q Lynn is a dispatcher at the Sheriff's Department?

24 A That's correct.

25 Q Andy is Andy Colborn?

1 A Yes, it sounded like Andy Colborn.

2 Q Sergeant Andy Colborn?

3 A Yes.

4 Q And were you able to tell, in listening to

5 Exhibit 212, this -- this sounds like a -- a

6 routine license plate check?

7 A It sounds like a license plate check. Uh, it sounded

8 like it was over the telephone.

9 Q Okay. Not over the radio?

10 A No, sir.

11 Q Okay. Now, if -- if it's over the telephone,

12 this is, in a sense, private from anybody with a

13 police scanner?

14 A Yes, sir.

15 Q When you're off duty, uh, in the road patrol

16 division, I take it you do not carry a police

17 radio?

18 A I don't. No, sir.

19 Q Others don't either?

20 A I wouldn't know if everybody doesn't.

21 Q Okay. Well, the -- the -- the, uh, portable

22 radios are Sheriff's Department equipment?

23 A Yes, sir, they are.

24 Q They're not to be taken home ordinarily?

25 A Uh, they can be taken home. There's chargers that

1 are kept at home also.

2 Q In case you get called in from home?

3 A That's correct.

4 Q All right. Squad cars are not taken home?

5 A No, sir.

6 Q So, obviously, the radio in the squad car
7 wouldn't -- wouldn't be available to somebody,
8 uh, when he's off duty?

9 A No, sir.

10 Q Now, um, let's go back to November 5. You, um --
11 you get a call while you're off duty, uh,
12 sometime that morning?

13 A Yes, sir.

14 Q And, uh, you, uh, tell your wife you're sorry but
15 you got to go in to work?

16 A That's correct.

17 Q There's -- there's this stop at Wendy's, um, on
18 the way?

19 A Yes, sir.

20 Q And, um, from Wendy's, essentially, you go home
21 and then off to work?

22 A That is correct, sir.

23 Q Now, what you testified, uh, yesterday, as I
24 understood you, is that you arrived at the Avery
25 salvage property just shortly after 2:00, 2:05 or

1 something like that?

2 A That's correct, sir.

3 Q That was your testimony? That's your best
4 recollection?

5 A That was my recollection after reviewing some tapes
6 from dispatch.

7 Q I see. Uh, tapes like the ones we just listened
8 to?

9 A Yes. These would have been radio logs.

10 Q As opposed to telephone line tapes like this?

11 A Correct.

12 Q You can tell the difference between a -- a radio
13 tape and a telephone tape?

14 A I can't, but I -- it would be on the way it's handled
15 as far as, uh, calling you, using your call numbers
16 as opposed to --

17 Q Right. I mean, so, in effect, you can tell the
18 difference if you're listening to a tape?

19 A Right.

20 Q First of all, any number of people could be
21 calling in and conversing with the dispatcher?

22 A Correct.

23 Q You folks use your squad numbers?

24 A We use our employee numbers.

25 Q Or a -- a three-digit number?

1 A Correct.

2 Q Um, and in that radio traffic, you -- you -- we
3 sometimes hear the, uh, term "I'm in code." Are
4 you familiar with that term?

5 A Yes, sir.

6 Q What does that mean?

7 A It's a separate radio frequency that is not normally
8 monitored by the general public.

9 Q But what -- we're hearing it while the person's
10 in code, or is that telling the dispatcher to go
11 to a separate radio frequency?

12 A That's telling the dispatcher to go to a separate
13 frequency.

14 Q And is that frequency also taped?

15 A Yes, sir, I believe it is.

16 Q Now, so you -- you had a chance to review some of
17 this radio traffic on the tapes?

18 A No, sir, I didn't review it. I just -- times.

19 Q I'm sorry?

20 A I just didn't review the tapes. All I did review is
21 the time that I arrived.

22 Q All right. That -- that helped you decide that
23 probably 2 or 2:05, somewhere in there, you
24 arrived at the Avery property?

25 A Correct. The tape actually -- or the report actually

1 said 2:06.

2 Q The, uh, subject of when you arrived, uh, at the
3 Avery property that day has, uh -- has come up
4 before in this case, hasn't it?

5 A Yes, sir.

6 Q In fact, you've given testimony about that very
7 topic before?

8 A Yes, sir.

9 Q You gave testimony under oath back on August 9,
10 2006?

11 A I believe that was the date, yes.

12 Q In any event, you remember one event, a hearing
13 in which you were under oath?

14 A Correct, sir.

15 Q Now, the oath, of course, was the same you took
16 today?

17 A Correct.

18 Q And were you asked on that occasion, uh, the
19 follow questions and did you give these answers?

20 ATTORNEY STRANG: Page 197, Counsel.

21 Q (By Attorney Strang)

22 "And did you, in fact, arrive at the
23 Avery property?"

24 Your answer: "Yes."

25 "Question: Do you know what time?"

1 "Answer: I'm not sure of the exact
2 time. Somewhere, 6:30 or 7 that evening. I'm
3 not positive."

4 Were you asked those questions and did you give
5 those answers?

6 A Yes, sir, I did.

7 Q I'm sorry?

8 A Yes, sir, I did.

9 Q Uh, and, then, a few moments later, uh, in the
10 same hearing, were you asked, again, this time I
11 think by one of the prosecutors, uh --

12 "Question: All right."

13 ATTORNEY STRANG: Page 216, Counsel.

14 I'm sorry.

15 Q "All right. And when did you arrive at
16 the property, the morning or the afternoon?"

17 Your answer: "Late afternoon."

18 "Question: Late afternoon?"

19 "Answer: Yes."

20 Did you give that testimony?

21 A Yes, sir, I did.

22 Q Now, uh, you don't recall signing in on a log
23 when you arrived at the Avery property on
24 November 5, do you?

25 A No, sir, I don't recall signing in.

1 Q You do recall signing out?

2 A I believe by then there was an officer at the end of
3 the road, yes.

4 Q So if we were to look through the log sheets, we
5 would look in vain for any spot where you're
6 signed in that day?

7 A As far as I know. I -- I don't have access to the
8 loggings.

9 Q Right. I -- I'm just -- I do, and I don't see
10 your name. That's your understanding?

11 A Yes, sir, I understand.

12 Q I do see you signing out at 10:41 p.m. That
13 sound right?

14 A Sounds about right, yes.

15 Q Okay. We are -- we have this. I can offer you
16 the exhibit if you'd like.

17 ATTORNEY STRANG: One forty-two. Ms.
18 Bonin?

19 Q (By Attorney Strang) I show you Exhibit 142.
20 Let's see. We can probably take these away so
21 that -- got good housekeeping. That look like
22 the log from the Avery property from November 5,
23 2005?

24 A Yes. It looks like that, yes.

25 Q And if you flip through to 10:41 p.m.? I don't

1 remember if it's military, or a.m./p.m. time,
2 but --

3 A Yes, sir.

4 Q You, and Detective Remiker, and Sergeant Colborn
5 are signing out at the same time?

6 A That's correct, sir.

7 Q Now, you understand that, um, if you had arrived
8 at 6:30 or 7 at the Avery property, it would be a
9 little hard to explain why -- why you're not on
10 the log signing in; wouldn't it?

11 A Yes, it would.

12 Q If you arrived, though, uh, even in the late
13 afternoon, that would be hard to explain why you
14 hadn't signed in?

15 A That's correct.

16 Q But if you arrived at about 2, or 2:05, 2:06,
17 then that may have been before anyone started
18 keeping a log?

19 A That's correct.

20 Q Under those circumstances, the fact that you
21 didn't sign in, would not look strange or odd?

22 A No, sir.

23 Q Sometime shortly after you arrived at the Avery
24 property, uh, you did go down to the southeast
25 corner of that property?

1 A Yeah, I went -- Yes, sir, I went down to that area.

2 Q We've all seen the picture until we -- we're blue
3 in the face, and you -- but do you need it to
4 help you?

5 A I went down to the area where the squad cars were
6 sitting.

7 Q Okay. And there was a pond there and -- lying in
8 front of you?

9 A Yeah. I'm not sure if it was a pond, but there was a
10 depression of some sort.

11 Q Sure. And a car crusher off to the left
12 somewhere?

13 A Correct, sir.

14 Q And did you go up onto the ridge behind the
15 depression, uh, to get closer to the Toyota?

16 A No, sir, I did not.

17 Q How far -- how close to the Toyota did you go?

18 A Where those vehicles were parked. The, uh, squad
19 cars.

20 Q And your testimony is that you approached no
21 closer than that parking area sort of to the --
22 to the right of the, uh -- of the car crusher?

23 A That's correct, sir.

24 Q It was, uh, getting dark by the time you went
25 down to that area?

1 A I don't know exactly what time. I don't think it was
2 getting quite dark. I could still fairly see, but it
3 was getting dark.

4 Q Well, you were, uh, asked, again, at that -- at
5 that August 9 hearing, uh, pages 197 to 198:

6 "Did you go down to the area where it,
7 meaning the Toyota, had been located?"

8 And your answer was: "I went down there
9 with another officer. He showed me the location
10 where it was, but I didn't get -- I didn't really
11 see it. I mean, from what I seen, it was getting
12 dark, and it was hidden, but I didn't get a good
13 look at it."

14 Is that your testimony on August 9?

15 A Yes, it is.

16 Q I can show you the transcript if you have any
17 questions.

18 A No, that's fine.

19 Q Okay. Uh, now, later that evening, or afternoon,
20 you, um -- you volunteered to be one of the
21 officers who searched Steven Avery's residence?

22 A We were asked to assist in searching the residence,
23 yes.

24 Q Well, all right. Page 203. Do you recall being
25 asked this question and did you give this answer?

1 "So you volunteered to be one of the
2 officers who searched Steven Avery's residence?"

3 Your answer: "Yes, sir."

4 Was that your testimony?

5 A Yes, sir.

6 Q And, then, uh, as far as you know, Lieutenant
7 Lenk, Sergeant Colborn also volunteered to be one
8 of the searchers of Steven Avery's residence?

9 A Yes, sir, I believe so.

10 Q And, uh, Detective Remiker?

11 A Yes, sir. Correct.

12 Q Now, that first search on November 5, uh, started
13 about 7:30 in the evening?

14 A Yes.

15 Q When I say the first search, the first in which
16 you were involved under a search warrant?

17 A Correct.

18 Q Lasted a little over two-and-a-half hours?

19 A That's -- that's about right. Yes, sir.

20 Q And, um, actually were four of you in that search
21 party; isn't that right?

22 A That's correct, sir.

23 Q Lenk, Colborn, Remiker, and Mr. Tyson?

24 A Correct, sir.

25 Q Tyson was from Calumet County of course?

1 A Yes, sir.

2 Q The rest of you from Manitowoc County?

3 A Correct.

4 Q Now, you -- I guess as you described it here
5 today, that was -- or -- and yesterday, was -- I
6 don't know if these were your words exactly, but
7 that was more of a general search? Not as
8 thorough as a later search?

9 A It was a general search, yes.

10 Q But with four of you? Not just three as there
11 were on November 8?

12 A That's correct, sir.

13 Q And a full two-and-a-half hours? Not just about
14 an hour on November 8?

15 A I thought November 8 was a little longer.

16 Q A little longer than an hour?

17 A Yes.

18 Q All right. But you know that, uh, November 5 was
19 two-and-a-half hours or maybe a shade over?

20 A Correct.

21 Q And, uh, the fact is, when you -- when you left
22 on November 5, you did believe that you had
23 seized everything of evidentiary value at that
24 time?

25 A At that time, yes, sir.

1 Q Sergeant Tyson, uh, was there for the, um,
2 purpose of collecting evidence on November 5?

3 A Yes, sir.

4 Q He also kept an eye on all of the searchers?

5 A Yes, sir.

6 Q You understood that, uh, a Calumet officer was to
7 be with all searchers at all times on that
8 property?

9 A Yes, sir.

10 Q He stuck close to you as you searched on
11 November 5?

12 A We were all in the same trailer. We were close to
13 each other, yes, sir.

14 Q Were you ever out of Sergeant Tyson's eyeshot?
15 Eyesight?

16 A I don't believe so, no.

17 Q No. He stuck pretty close to all three of you at
18 all times, didn't he?

19 A Yes, sir.

20 Q It would have been hard for you to do anything
21 unobserved by Sergeant Tyson on November 5?

22 A I would believe so, yes, sir.

23 Q One of the things that, uh, he saw you doing was
24 bagging up some evidence near the end, wasn't it?

25 A Yes, sir, it was at his direction.

1 Q So he didn't actually collect everything? He
2 directed you to bag some of the evidence?

3 A The evidence was already bagged. I was directed on
4 putting numbers on the bags from his identification
5 numbers.

6 Q All right. Uh, if he described you as being the
7 one who bagged the evidence, you would disagree
8 with that?

9 A I would disagree. I think my function at that point
10 was recording numbers on the bags and identification.

11 Q Then, turning things, ultimately, over to
12 Sergeant Tyson?

13 A That's correct, sir.

14 Q Now, I won't go through all of the searches in
15 any great detail, but you're back in the house on
16 November 6; correct?

17 A Yes, sir.

18 Q Uh, you're in the -- Steven Avery's garage on
19 November 6?

20 A Yes.

21 Q You described that here today, if I recall right,
22 as being about an hour, maybe an hour-and-a-half,
23 you were in Steven's garage?

24 A I believe so.

25 Q Hour and 47 minutes sound more like it?

1 A That could be right, yes.

2 Q Uh, on the morning of the 6th, when you searched

3 Mr. Avery's garage, you also seized everything

4 that you saw that you thought had evidentiary

5 value that day, didn't you?

6 A Yes, sir, at that time.

7 Q The, uh, 7th, you're back in his house?

8 A Correct.

9 Q And, of course, the 8th. And, uh, this is the

10 one you say was the thorough search?

11 A Yes, sir.

12 Q The thorough search with three people, not four?

13 A Correct.

14 Q And, uh -- let's see. If you'll bear with me

15 while I change disks here. Let's see if we can

16 make this work good. That's a little

17 catty-wampus, but I don't know that we've seen

18 this before, but this is a -- a computer-

19 generated image?

20 A Yes, sir.

21 Q Okay. So not a photograph. It's a little bit of

22 make-believe as the computer has it, but do you

23 recognize the, uh -- the model or the -- the

24 image here?

25 A Yes, it looks like the, uh, bedroom for Steven Avery.

1 Q You, uh -- you told us, uh, when, uh, Mr. Kratz
2 was asking you questions that this is a pretty
3 small bedroom?

4 A Yes, sir, it is.

5 Q Other people have said that, too, and I'm
6 wondering, can you give me a rough approximation
7 of the -- of what small means? How big that
8 bedroom is?

9 A Nine by twelve. I don't know. It would be a guess.

10 Q Okay. Um, and that -- that's a guess. I
11 understand that. So, roughly 9 by 12. If that's
12 a standard size or queen bed, one or the other,
13 it fills up -- the bed fills up a good bit of the
14 room?

15 A Quite a bit, yes.

16 Q Now, this November 8, uh, search, was at least
17 your third time into Mr. Avery's bedroom?
18 Searching it; right?

19 A The third time searching his bedroom?

20 Q Yeah. Or is it just the second? There's
21 certainly November 5 --

22 A November 5, yes, sir.

23 Q -- November 6 and November 7. Maybe the 6th
24 you're just taking the guns?

25 A Yes, sir. I believe --

1 Q One of those two days you --

2 A Right.

3 Q So you go in the bedroom to take the guns?

4 A I didn't take them. I believe I was with whoever

5 took the guns, yes.

6 Q Fair enough. Um, so you may not have been in the

7 bedroom the day the guns were taken?

8 A I'm not sure if I was in there or not.

9 Q All right. In any event, you are back in the

10 bedroom on the 8th?

11 A Correct.

12 Q Now, um, you guys are in there almost an hour?

13 Something like that?

14 A I would think -- not sure of the time. I think

15 possibly an hour.

16 Q Okay. What you do know is that you left that

17 bedroom, uh, to go to the living room at some

18 point?

19 A That's correct.

20 Q To get boxes or bags for evidence?

21 A That's correct.

22 Q You see the key immediately after your return

23 from the living room?

24 A When I walked into the room, yes, sir.

25 Q That's when you first see the key?

1 A Correct, sir.

2 Q Another computer animation or computer image?

3 A Yes, sir.

4 Q You see that little, uh -- little item up in the
5 corner next to the bookcase there?

6 A Yes, sir.

7 Q That's supposed to be the key?

8 A Yes, sir.

9 Q That's about where you saw it?

10 A In that general area. Yes, sir.

11 Q Yeah. But when you saw it, there were a number
12 of things sort of cluttering the room that aren't
13 in the computer image?

14 A There was a pair of slippers there. Yes.

15 Q Pair of slippers, and some sort of a -- looks
16 like a -- a Fu Dog or little Ty lion sort of
17 figure as a doorstep?

18 A Something like that.

19 Q Something like that? Um, a notebook, some other
20 miscellaneous junk in the -- the little bookcase
21 there?

22 A Correct, sir.

23 Q And a number of other things that just aren't in
24 the computer pictures?

25 A Correct.

1 Q But the basic location of the key? That's
2 correct?

3 A Generally speaking, yes.

4 Q Now, that key had a -- had a blue -- part of a
5 blue (unintelligible) on it, didn't it?

6 A Yes.

7 COURT REPORTER: Excuse me. A blue
8 what, sir?

9 Q Lanyard, l-a-n-y-a-r-d, uh, attached to the ring
10 on the key?

11 A Yes, sir, I believe so.

12 Q And then, uh, at the end of that little lanyard
13 strap was a, uh -- maybe the male end of a -- a
14 black plastic clasp?

15 A I don't know if it was the male end or the female
16 end.

17 Q Neither do I. Maybe a male end, it could have
18 been the female end, but it was one or the other;
19 right?

20 A Correct.

21 Q The point is, there was some -- some sort of a
22 black chunky half of a clasp at the end of the
23 little lanyard?

24 A Yes, sir.

25 Q And, um --

1 ATTORNEY STRANG: Do we have Exhibit No.
2 169 handy?

3 Q (By Attorney Strang) See if we can find a
4 picture that you were shown on your direct
5 examination. A photograph this time. On
6 November 8 -- while we're waiting for the
7 computer to open these -- these things, um, on
8 November 8, did you have any reason to go into
9 Mr. Avery's bathroom? You know, the bathroom,
10 laundry room combination?

11 A I think there was a -- some items that had to be
12 collected there. I think it was some suspected blood
13 spatter or something.

14 Q Blood drops? Something --

15 A Yeah.

16 Q -- something like that? So you were involved in
17 that as well?

18 A No, sir, I did not collect that.

19 Q Uh, were you in the bathroom?

20 A I don't recall. I may have been in the bathroom.

21 Q Certainly, you know you were in there on
22 November 5, the night you did the full, general
23 search of the house?

24 A Correct.

25 Q The bathroom, uh, you recall as having Mr.

1 Avery's toothbrush?

2 A Could be. Yes, sir.

3 Q Or a toothbrush?

4 A Could be. Yes.

5 Q Razor? Those kinds of --

6 A Yes.

7 Q -- ordinary toiletry items?

8 A I'm -- I'm assuming if they were there, yes. I don't
9 recall that, but --

10 Q All right. Now, we've got Exhibit 169 up on the,
11 uh, screen. Let's see. That's not Exhibit 169.
12 That's something else. Um, but this is -- this
13 is the -- the key as you first observed it?

14 A Correct, sir.

15 Q If I may take the laser pointer here.

16 ATTORNEY KRATZ: It's No. 210, Counsel.

17 ATTORNEY STRANG: Two-ten. Thank you,
18 Mr. Kratz.

19 Q (By Attorney Strang) So I've got Exhibit 210 up
20 on the screen, and what we've got here is --
21 is -- is this -- what we're calling bookcase --
22 is that in the -- in the position it was when you
23 walk in from the living room and see the key
24 lying there?

25 A Yes, sir, I believe so.

1 Q Not quite flush against the wall, but close?

2 A Yes.

3 Q And, um, I don't know that we can get any better
4 angle on that, but, um, if -- it looks like the
5 cord running off the, uh, power pack for the
6 phone or whatever that is?

7 A Yes, sir.

8 Q Looks like the -- the cord is pressed up against
9 the wall?

10 A I don't know, sir. I can't tell.

11 Q Okay. What you do -- what you do see is the --
12 the -- the key there, uh, looks like it's, I
13 don't know, a few, two, three-something inches
14 away from the wall?

15 A Yes, sir.

16 Q Something like that; right?

17 A Yes, sir. That's correct.

18 Q And then maybe something like a similar distance
19 off to the side of the bookcase?

20 A Yes.

21 Q Now -- now that we have that zoomed in, Exhibit
22 210, tell me, um, there's a key ring; is that --
23 is that right?

24 A That looks like the key ring. Yes.

25 Q I mean, there was a key ring in other words?

1 A Yes, it's that blue whatever it is.

2 Q All right. Um, and then that -- the -- the

3 blue -- that -- that's blue fabric? The lanyard

4 we were talking about?

5 A Correct.

6 Q And the -- I guess it's the -- the female end of

7 the clasp?

8 A Right.

9 Q All right. Now, uh, you see a house key on

10 there?

11 A No, sir, I do not.

12 Q Garage key?

13 A No, sir.

14 Q Um, how about even one work key?

15 A No, sir.

16 Q Swipe card for a gym?

17 A No, sir.

18 Q Or athletic club?

19 A No, sir.

20 Q Just the long Toyota key?

21 A Yes, sir.

22 Q That's all that was on it when you saw it?

23 A Yes, sir.

24 Q Mr. Buting's going to go back to work and see if

25 he can find this Exhibit 169, which was the

1 picture of the -- the back panel -- the veneer
2 panel on the bookcase?

3 A Yes, sir.

4 ATTORNEY STRANG: We don't have that.
5 Um, Counsel, is -- is there a -- a regular
6 photograph of Exhibit 169?

7 ATTORNEY KRATZ: Sure. That's where the
8 exhibits are.

9 ATTORNEY STRANG: As opposed to just on the
10 screen?

11 ATTORNEY KRATZ: Yes.

12 Q (By Attorney Strang) One sixty-nine?

13 A Yes, sir.

14 Q You were shown that on direct?

15 A Yes, sir.

16 Q Okay. See if we can do it this way. All right.

17 ATTORNEY STRANG: Mr. Buting, we need
18 the gizmo. And then there's a second gizmo.
19 There we go. Lights, camera, action. All right.

20 Q (By Attorney Strang) How's that? Pretty good?
21 Can you see that?

22 A Yes, sir.

23 Q All right. Now, this photograph, whenever it's
24 taken, is taken after someone has pulled the
25 bookcase away from the wall a little bit?

1 A That's correct, sir.

2 Q That is, in -- in Exhibit 169, the bookcase, is
3 farther away from the wall than it was when you
4 first saw the Toyota key?

5 A Correct, sir.

6 Q And we can see that back veneer panel, or part of
7 the board, whatever the panel is on the back?

8 A Yes, sir.

9 Q All right. Did you -- did you touch this
10 bookcase at some point?

11 A I had been searching the front of the bookcase. Yes,
12 sir.

13 Q Okay. And, I mean, was it collected as evidence?

14 A The bookcase?

15 Q Yes.

16 A At this time, no, sir.

17 Q It wasn't?

18 A No, sir.

19 Q Uh, did -- did you, uh -- did you have a chance
20 to sort of touch the back panel there after --
21 after you noticed it sticking out like that?

22 A I don't believe so. No, sir.

23 Q So you -- you don't know whether it, uh -- it's
24 being held out there now and wanted to spring
25 back toward the frame or whether that's its sort

1 of resting position at this point?

2 A My estimate would be that's its resting position.

3 Q So it -- it -- it -- it's tendency there is to

4 spring open, not to spring shut?

5 A I wouldn't know. I would think so, but I wouldn't --

6 Q Well, okay. That's -- that's at least the way

7 you saw and perceived the bookcase after you

8 noticed the back panel loose like that?

9 A Yes, sir.

10 Q Now, you had been the first one to empty out that

11 bookcase?

12 A No, sir, I was not. Are we still talking about

13 November 8?

14 Q Uh, no, I'm just talking the first, uh --

15 A No, sir, I was not.

16 Q -- in general. On the 5th, you were not?

17 A No, sir.

18 Q All right. Did someone empty out that bookcase

19 in your sight?

20 A I believe -- yes, it was searched. I don't recall

21 watching them search it. I was on the other side of

22 the room.

23 Q Okay. But -- but you know that somebody searched

24 it on November 5?

25 A Yes, sir.

1 Q Took all the stuff out?

2 A I don't know if they took it all out. No, sir.

3 Q Or not. All right. Uh, how about on -- on

4 November 8? Do you know whether, uh, Mr. Colborn

5 took all of the stuff out of the bookcase?

6 A All the magazines, and the photos, and that type of

7 thing were taken out of the bookcase.

8 Q So that he could look in the bookcase?

9 A I suppose.

10 Q The bookcase doesn't have cabinet doors on it?

11 A No, sir.

12 Q It's a relatively small piece of furniture?

13 A Yes.

14 Q Maybe yea high?

15 A Yes, sir.

16 Q I don't know, 18 inches square on the top?

17 Something like that? Give or take?

18 A Approximately.

19 Q All right. Um, and, uh, did you get a chance to

20 look into the bookcase when it was empty of its

21 contents?

22 A I may -- I glanced in there. I didn't really take a

23 hard look in there. No, sir.

24 Q You didn't see a, uh -- a blue lanyard, and a

25 black clasp, and the Toyota key in the back in

1 that bookcase, did you?

2 A No, sir, I did not.

3 Q That's something you would have seen if the
4 bookcase was empty and you'd looked in it?

5 A Had I looked closely, yes, sir.

6 Q And, um, you're not -- you're not suggesting that
7 the key, and the lanyard, and the ring, and the
8 clasp were, uh -- were somehow wedged up into the
9 space where the back veneer separates from the
10 frame, are you?

11 A That's a possibility, yes.

12 Q And nobody saw a blue lanyard hanging down?

13 A Apparently not, sir.

14 Q Uh, and if that -- if that board tends to want to
15 rest at that position, how would somebody have
16 wedged something up in there and kept it there?

17 A I have no idea, sir.

18 Q Uh, did you look under the bookcase?

19 A I'm sure it was looked under when it was tilted to
20 the side. Yes, sir.

21 Q All right. You -- you didn't notice any -- any
22 tape or any secret compartment down there to hold
23 something?

24 A No, sir.

25 Q What you did notice is that the, um -- back to

1 the 210. What you did notice is that the, uh --
2 the key is found not behind the bookcase, is it?

3 A No, sir, it was not.

4 Q Uh, not flush with the wall, was it?

5 A No, sir.

6 Q But to the sides of the bookcase?

7 A Back by the corner to the side. Yes, sir.

8 Q And with -- with all of this which you've
9 described, and I won't even go to later
10 November 8 or November 9, but with all of this,
11 we've got a page or page-and-a-half of police
12 reports from you, didn't we?

13 A From myself, sir?

14 Q Yes.

15 A Yes, sir.

16 Q Now, November 5, when you, uh -- you volunteered
17 with Mr. Colborn and Mr. Remiker to search Steven
18 Avery's trailer, uh, as of that time you
19 previously had talked with Sergeant Colborn about
20 the depositions the two of you gave?

21 A I believe we did at some point. Yes, sir.

22 Q Talked before the depositions, didn't you?

23 A He asked me if I got a -- a deposition subpoena, and
24 I said, yes.

25 Q And the two of you had a little conversation

1 about that?

2 A Yes. I had no idea what I was getting subpoenaed
3 for, and he said it was because of a statement he had
4 made.

5 Q A statement -- you know, a phone call he had
6 gotten?

7 A Correct, sir.

8 Q From a Brown County law enforcement agency?

9 A That's what he said, sir.

10 Q From a detective?

11 A Yes, sir.

12 Q They had someone in custody?

13 A Yes, sir. I believe so.

14 Q Someone who had committed a Manitowoc assault
15 some years prior?

16 A It was a Manitowoc assault. I don't know if there
17 was a time attached to it. I'm not sure.

18 Q At least what Sergeant Colborn told you was there
19 was a few years prior. The detective from the
20 other Brown County agency was telling him.

21 A Yes, if that's what's on there.

22 Q And, uh, the detective also told Colborn that he
23 believed someone already was arrested for the
24 crime?

25 A That's correct, sir.

1 Q So Sergeant Colborn fills you in on what he
2 thinks the depositions are about and, uh, the two
3 of you don't talk about the depositions after
4 them?

5 A After the depositions?

6 Q Right.

7 A We may have mentioned it to each other.

8 Q Okay. But it's less than four weeks later,
9 November 5, and one thing you do know is that you
10 didn't mention that deposition to Special Agent
11 Fassbender?

12 A That's correct, sir.

13 Q You didn't mention it to Investigator Mark
14 Wiegert?

15 A That's correct.

16 Q Didn't hear Sergeant Colborn mention the
17 depositions to either of those two gentlemen
18 either?

19 A Not to my recollection. No, sir.

20 Q Didn't tell Sheriff Pagel that you'd been deposed
21 three, four weeks earlier?

22 A No, sir.

23 Q Had Steven Avery actually been sitting there
24 during your deposition?

25 A He came in after I had started giving my deposition.

1 Yes, sir.

2 Q And, um, without you telling Mr. Fassbender, and
3 Mr. Wiegert, Sheriff Pagel about the deposition,
4 there's really no way they would have known about
5 it, would they have?

6 A No, sir.

7 Q So that's not information they could consider in
8 deciding whether to accept your offer to
9 volunteer to search Mr. Avery's trailer?

10 A They didn't have that information, sir.

11 Q Because you didn't give it to them?

12 A No, sir, I did not.

13 Q In effect, you took the decision upon yourself
14 that this was information they didn't need to
15 have?

16 A At that time I didn't even think about the
17 deposition.

18 Q Would it have been a little bit fairer to
19 Mr. Fassbender if you had given him this
20 information so that he, as the lead -- one of the
21 two lead investigators, could have considered it?

22 A It would have been more information for him. I don't
23 know if it would have changed his decision.

24 Q I don't know either, but would it have been fair
25 to give him that information?

1 A Had I thought of it, yes, sir.

2 Q Would it have been fair to give that to

3 Mr. Wiegert or Sheriff Pagel?

4 A Same answer. Yes, sir.

5 Q And before you went rummaging through Steven

6 Avery's bedroom once, twice, three times,

7 whatever it was, for hours, would it have been

8 fairer to Steven Avery if someone other than a

9 person who had been deposed in his lawsuit had

10 done that search?

11 A No, sir, I don't think it would have been.

12 ATTORNEY STRANG: That's all I've got.

13 Oh. I'm -- I'm sorry.

14 Q (By Attorney Strang) You came back to

15 Mr. Avery's four months later? Not quite four

16 months later?

17 A Yes.

18 Q March 1 and March 2 of 2006?

19 A That's correct, sir.

20 Q Much smaller search this time, wasn't it?

21 A Yes, sir. I believe it was just the garage.

22 Q The entire rest of the property was not closed

23 off to the public?

24 A No, sir, it was not.

25 Q The rest of the property was not closed off to

1 the Avery family?

2 A I believe it was not. Yes, sir.

3 Q A search was going on in the garage?

4 A That's correct.

5 Q You came back?

6 A Yes, sir.

7 Q Did you participate in that search?

8 A No, sir, I did not.

9 Q Why were you back?

10 A I came back to see if they needed any, uh, food, any
11 assistance with supplies, see if I could help out.

12 Q Both days?

13 A I'm not -- I believe I was there both days. I'm not
14 sure.

15 ATTORNEY STRANG: That's all.

16 THE COURT: All right. Mr. Kratz?

17 **REDIRECT EXAMINATION**

18 BY ATTORNEY KRATZ:

19 Q Lieutenant Lenk, I'll start at the -- at the end
20 Mr. Strang's last line of questions. On March 1
21 or 2 did you ever enter any building on the Avery
22 property?

23 A No, sir, I did not.

24 Q Did you ever enter the trailer or the --
25 especially garage?

1 A No, sir, I did not.

2 Q Mr. Strang asked a series of interesting
3 questions about people that are wrongfully
4 accused of crimes and getting compensation for
5 that. Do you remember that?

6 A Yes, sir, I do.

7 Q When's the first time, Lieutenant Lenk, that you
8 learned in this case that you were being accused
9 of a crime?

10 A After I first observed the key and that came out into
11 the media.

12 Q Do you recall your name being on the front page
13 of the newspaper?

14 A I believe at some point it was. Yes, sir.

15 Q Do you recall being not so subtly suggested that
16 you committed a crime planting evidence in this
17 case?

18 A Yes, sir, I do.

19 Q How did you feel about that?

20 A I was upset, sir. Actually, I was mad.

21 Q Did you feel that Mr. Strang or Mr. Buting
22 wrongfully accused you of a crime?

23 A I did not commit a crime. If they said I did, then
24 they wrongfully accused me.

25 Q Mr. Strang asked you whether evidence that goes

1 to the Crime Lab, uh, comes back or how that
2 process works. Do you generally know how that
3 process works?

4 A Generally, the evidence that leaves the Manitowoc
5 County Evidence Room is sent to the Crime Lab. It
6 will come back from the Crime Lab to our Department
7 which will subsequently be put back into the evidence
8 room.

9 Q Well, the evidence sent in 2002 left the Clerk of
10 Court's Office; is that right?

11 A That's correct, sir.

12 Q Was that ever, to your knowledge, in the
13 Manitowoc County Sheriff's Department?

14 A Not to my knowledge.

15 Q Was it ever in your possession or under your
16 control?

17 A No, sir, it was not.

18 Q Do you ever recall seeing that evidence coming
19 back to your possession or control?

20 A No, sir, I did not.

21 Q Did you ever see a receipt for that evidence
22 coming back as one of the evidence custodians?

23 A No, sir.

24 Q Mr. Strang played a -- sounded like a telephone
25 call from Mr. Colborn. Do you know when that

1 call was made?

2 A No, sir, I do not.

3 Q Is there anything on that phone call that can
4 reflect whether it was before or after
5 Mr. Colborn went to Mr. Avery's house?

6 A I didn't hear anything on that call. No, sir.

7 Q You had mentioned that in the course of your
8 professional duties you've used a -- a cell phone
9 or some means to contact the Sheriff's Department
10 other than a radio; is that correct?

11 A That's correct, sir.

12 Q Just talking about you, personally, Lieutenant
13 Lenk, what are some of the reasons that you would
14 use a cell phone rather than an open air radio?

15 A One of the reasons would be, um, privacy of an issue
16 that we're working on. Uh, we wouldn't want it over
17 the general radio. Another reason would be it's
18 probably more of a -- a personal nature, um, get
19 information from the dispatcher. Um, it's not
20 unusual to use cell phones. They're becoming more
21 and more prevalent.

22 Q Mr. Strang suggested on cross-examination that
23 some citizens actually listen to radio traffic
24 that was called scanners. Remember that
25 question?

1 A Yes, sir, I do.

2 Q Do you know if Mr. Avery had a scanner in early
3 November of 2005?

4 A I know there was a scanner in the business area and
5 shop area. I don't know if Mr. Avery had a scanner.
6 (Exhibit No. 217 marked for identification.)

7 Q I show you what's been marked for identification
8 as Exhibit No. 2-1-7. Do you recognize that
9 location?

10 ATTORNEY BUTING: Sorry. What's the
11 exhibit number?

12 ATTORNEY KRATZ: Two-one-seven. Two
13 seventeen.

14 THE WITNESS: It looks like the living room
15 area of Mr. Avery's trailer.

16 Q (By Attorney Kratz) Do you see an item located on
17 the bar in Mr. Avery's living room?

18 A Yes, sir, I do.

19 Q Do you know what that item is?

20 A It looks like a scanner.

21 Q I'm going to show the jury what you've now
22 identified as Exhibit 217. That black item right
23 there, is that what you're talking about?

24 A Yes, sir, that's it.

25 Q Now, let me ask you, Lieutenant Lenk, if you were

1 doing a missing persons investigation and you had
2 some information that you wanted to verify, might
3 that be the kind of information that you'd use a
4 cell phone rather than open air radio?

5 A Yes, it could be.

6 Q Mr. Strang asked about the number of searches
7 that occurred inside of Mr. Avery's trailer.
8 Have you been involved in your career as a
9 detective in searches that, um, have required you
10 to go back and search some more for some other
11 items?

12 A Yes, sir.

13 Q Tell the jury, generally, what -- why that
14 happens? Why would you have to go back and
15 search a second time or a third time in -- in a
16 location?

17 A That would happen because you would get -- as you're
18 investigating, you come with more information that
19 would lead you to look for other items of evidence.

20 Q In those circumstances, would you think that your
21 first search was sloppy or unprofessionally done?

22 A No, sir.

23 Q You talk about additional information causing a
24 more detailed or directed search. Is that what
25 happened here?

1 A Yes, sir.

2 Q You think that there was any search that you
3 performed, any search that you individually were
4 involved in, that was unnecessary or was
5 frivolous?

6 A No, sir.

7 ATTORNEY STRANG: Actually, what he --
8 what he thinks about that is irrelevant, but we
9 can let the answer stand. That's fine.

10 THE COURT: Very well.

11 Q (By Attorney Kratz) Mr. Strang showed you Exhibit
12 No. 210 and asked whether or not you saw any,
13 um -- I wrote this down -- any house key, any
14 business key, or an athletic club or gym card,
15 you don't see any of that in Exhibit 210, do you?

16 A No, sir, I did not.

17 Q Assuming the evidence later in this case is going
18 to establish that this, in fact, was Ms.
19 Halbach's key, and, in fact, was found in
20 Mr. Avery's bedroom, do you know why Mr. Avery
21 kept Ms. Halbach's car key?

22 ATTORNEY STRANG: Object, Your Honor.
23 That's way beyond and speculative.

24 THE COURT: I'll sustain the objection.

25 Q (By Attorney Kratz) Well, let me ask you this:

1 Do you think Mr. Avery, uh, at any time had any
2 use for Ms. Halbach's athletic fitness card?

3 ATTORNEY STRANG: Speculation. Well beyond
4 his personal knowledge. And argument.

5 THE COURT: Sustained. I think that's a
6 question for the jury.

7 Q (By Attorney Kratz) Finally, Lieutenant Lenk,
8 the, um, defense attorneys have -- or excuse --
9 excuse me -- Mr. Strang has asked, um, how many
10 pages of reports you individually prepared in
11 this case. Do you remember that question?

12 A Yes, sir, I do.

13 Q Do you know how many pages of reports,
14 Lieutenant -- excuse me -- Sergeant Bill Tyson
15 prepared in this case?

16 A I'm not sure. I -- couple pages. I don't know.
17 More than that. He was there at least twice.

18 Q Mr. Tyson? Do you know how many pages of reports
19 he's prepared in this case?

20 A No, I don't.

21 Q Do you know how many pages of reports Deputy
22 Kucharski or Deputy Wendling has prepared?

23 A No, sir, I don't.

24 Q There was a -- a report that you were asked to
25 prepare; is that right?

1 A That's correct, sir.

2 Q And what, specifically, did that entail or
3 involve? Do you remember?

4 A It was -- involved the, uh, finding or locating of
5 that key. How that came about.

6 Q Okay.

7 ATTORNEY KRATZ: If I could have just one
8 moment, Judge, I'd appreciate it. I think that's
9 all for Lieutenant Lenk. Thank you, Judge. Thank
10 you very much.

11 THE COURT: Mr. Strang, anything on
12 recross?

13 ATTORNEY STRANG: I do. Just briefly.

14 **RECCROSS-EXAMINATION**

15 BY ATTORNEY STRANG:

16 Q Um, scanners are -- are things that all kinds of
17 people have, actually now, including Mr. Avery,
18 apparently; right?

19 A That's correct, sir.

20 Q Uh, the Averys, you know, are in the salvage
21 business?

22 A Yes, sir.

23 Q They run a wrecker or wreckers?

24 A That's correct, sir.

25 Q One would -- one reason to have a police scanner

1 would be to find out when there is a wreck on the
2 roads in the area; right?

3 A I believe that could be used for that, sir.

4 Q Sure. As -- nothing -- nothing unlawful about
5 having a scanner, is there?

6 A No, sir.

7 Q Here, um, in terms of radio calls being picked
8 up, Teresa Halbach's disappearance wasn't a
9 secret, was it?

10 A No, sir.

11 Q And we had Chop -- Chopper 4 and all kinds of
12 media coverage of this by the night of November 3
13 and November 4, didn't we?

14 A I believe so, yes.

15 Q Yeah. Uh, in fact, there were efforts to enlist
16 the public's help in finding her, weren't there?

17 A Yes, sir.

18 Q Uh, in any missing persons investigation, it
19 might be helpful to have the general public
20 involved?

21 A Yes, sir.

22 Q Would there have been any reason that her license
23 plate was something of a personal nature as you
24 say?

25 A No, sir. I would think not.

1 Q Any reason to keep that private?

2 A I don't know. I wasn't there when the call was made.

3 Q Any reason you can think of to keep it a secret?

4 A Other than to keep it from being too public.

5 Q Uh, the -- the stuff from the Clerk's Office, I
6 think this is clear, but regardless where it was,
7 or who got it, or who sent it, you're the guy who
8 filled out the evidence transmittal form, aren't
9 you?

10 A That was my job. Yes, sir.

11 Q A Manitowoc County Sheriff's Department Evidence
12 Transmittal Form.

13 A Correct, sir.

14 Q And, um, reports, as you've said, you got no idea
15 how many pages of reports, uh, Mr. Tyson, or
16 Mr. Wendling, or Mr. Kuchar -- Kucharski
17 prepared, do you?

18 A No, sir, I do not.

19 Q But, if they're witnesses, then we can -- we can
20 learn from them what they reported, and we'll
21 have the benefit of those reports when they
22 testify, won't we?

23 A Correct.

24 Q You don't have any idea how many pages of reports
25 Investigator Wiegert prepared either, do you?

1 A No, sir, I do not.

2 Q But he was one of the two lead investigators?

3 That you knew?

4 A Yes, sir.

5 Q So when we hear from him, we'll get to find out
6 about all of his reports?

7 ATTORNEY KRATZ: Objection, Judge, assuming
8 a fact not in evidence.

9 ATTORNEY STRANG: Um, I said when we
10 hear from him.

11 THE COURT: I'll sustain the objection.

12 Q (By Attorney Strang) Uh, finally, in, uh -- in
13 our system, uh, of criminal justice here in this
14 country, um, which side is it that brings
15 accusations of crime?

16 A Normally, the law enforcement, prosecutor side.

17 Q The -- the prosecution would be the lawyers, uh,
18 who are involved, formally, in accusing people of
19 crime?

20 A Yes, sir.

21 Q And, uh, what -- what do we do over here at the
22 defense table? What's our role in this system?

23 A Providing representation for the defendant.

24 Q We defend people accused of crimes, don't we?

25 A Yes, sir.

1 ATTORNEY STRANG: That's all I have.

2 THE COURT: Anything else?

3 ATTORNEY KRATZ: Not for this witness.

4 Thank you.

5 THE COURT: Very well. Mr. Lenk, you are
6 excused. Members of the jury, at this time we're
7 going to take our lunch break. I'll remind you not
8 to, uh, discuss the case among -- among yourselves
9 during the lunch break, and, uh, we'll resume at one
10 o'clock.

11 (Recess had at 11:57 a.m.)

12 (Reconvened at 1:01 p.m.)

13 THE COURT: Mr. Kratz, you may call your
14 next witness.

15 ATTORNEY STRANG: Your Honor, I wonder
16 before we do that, if I might just, uh, move in,
17 uh, exhibits from the last witness. Uh, I think
18 it's 214.

19 THE COURT: Any objection?

20 ATTORNEY KRATZ: Which is the -- Oh, no,
21 that's fine.

22 THE COURT: Very well. Exhibit 214 is
23 admitted.

24 ATTORNEY STRANG: And Mr. Kratz had 217,
25 and I won't have any objection to that either if

1 he wishes that in.

2 ATTORNEY KRATZ: Perhaps at the end of the
3 day, Judge, we can do a -- an accounting of what
4 hasn't been received yet, and we'll make that
5 motion, but we are prepared with our next witness.

6 THE COURT: All right. You may call
7 your next witness.

8 THE COURT: Dave Remiker.

9 **DAVE REMIKER,**

10 called as a witness herein, having been first duly
11 sworn, was examined and testified as follows:

12 THE CLERK: Please be seated. Please state
13 your name and spell your last name for the record.

14 THE WITNESS: Dave Remiker,
15 R-e-m-i-k-e-r.

16 **DIRECT EXAMINATION**

17 BY ATTORNEY KRATZ:

18 Q Mr. Remiker, how are you employed, sir?

19 A I'm a detective with the Manitowoc County Sheriff's
20 Department.

21 Q How long have you been involved in that kind of
22 work?

23 A Uh, since May 8 of 2003.

24 Q Prior to 2003, did you have other law enforcement
25 duties?

1 A Yes.

2 Q What was that?

3 A Um, January of, uh, 1993, I was hired as a, uh,
4 deputy jailer until October of 1993. Um, that lasted
5 until about January of 1999, which I was promoted to
6 the Narcotics Division, the Manitowoc County Metro
7 Drug Unit, and I was then promoted to detective in
8 May of 2003.

9 Q Who is your immediate supervisor?

10 A Uh, Lieutenant James Lenk.

11 Q Detective Remiker, um, do you also have, or have
12 you had in the past, responsibilities with the
13 Department as something called an evidence
14 custodian?

15 A Yes.

16 Q Could you tell the jury what that is, please?

17 A Uh, since about May of 2003, uh, as my assignment --
18 as I was given the assignment as a detective, I then
19 took on the, um, responsibility of being the evidence
20 custodian at the Sheriff's Department, which is, um,
21 a lot of evidence handling. Basically, handling all
22 the evidence that comes into and leaves, uh, the
23 Sheriff's Department, uh, which includes a temporary
24 evidence locker area and main evidence room area.

25 Q All right. We're going to talk about, uh, your

1 role, um, as a detective. What kinds of
2 responsibilities do you have as a detective?

3 A Uh, right now I work on, uh, property crimes, white
4 color crimes, fraud, sex assaults. I'm kind of the
5 individual that works on just about anything and
6 everything. Um, I really don't have any primary
7 focus in a certain type of investigation, uh, and a
8 lot of my focus is working in the evidence room also.

9 Q Um, normally, um, your investigative
10 responsibilities involve criminal behavior?

11 A Definitely. Yes.

12 Q Let me ask you, uh, Detective Remiker, on the 3rd
13 of November, 2005, uh, whether you were informed
14 of a Calumet County investigation that was
15 ongoing?

16 A Yes, I was.

17 Q And how were you informed of that investigation?

18 A I was off that day. Um, I believe I got paged, um,
19 probably by my supervisor, Lieu -- Lieutenant Lenk.
20 I responded to the Sheriff's Department and, uh, met
21 with, uh, some of our investigators, and Investigator
22 Dedering was at our Department, and he provided us
23 with -- with that information about, uh, the missing
24 female.

25 Q From what agency was, uh, Detective Dederling?

1 A Uh, Calumet County Sheriff's Department.

2 Q Let me ask you, that first day, the 3rd of
3 November, was your Department asked to provide
4 any insist -- any assistance in that
5 investigation?

6 A Yes.

7 Q And who was the person who had gone missing?

8 A Uh, Teresa Halbach.

9 Q What kind of investigation were you asked to
10 assist with?

11 A Um, we had received information that, uh, Teresa was
12 missing, and that there were some individuals that
13 they believed, uh, Teresa may have had contact with,
14 uh, and both of those, uh, locations were in
15 Manitowoc County.

16 Q And who were those individuals?

17 A I believe one of the residents was on County Trunk
18 Highway B, as in boy, um, and that was, uh, George
19 Zipperer residence, and the other residence or
20 location was the Avery property.

21 Q Were you personally involved that evening, that
22 is the 3rd of November, in visiting either one of
23 those residences?

24 A Yes. I went to the, uh, George Zipperer residence.

25 Q Do you know if anybody had gone to the Avery

1 residence?

2 A I believe Sergeant Colborn had gone to that location.

3 I was -- I was advised of that.

4 Q So it was somebody other than you?

5 A Yes.

6 Q But you were involved in visiting the Zipperer
7 residence?

8 A Yes.

9 Q Detective Remiker, in, uh, visiting the Zipperer
10 residence on the 3rd of November, um, just in
11 very broad terms, broad brush strokes, did you
12 perform somewhat of an investigation to see if
13 Ms. Halbach had been there on the 31st?

14 A Yes.

15 Q All right. After those events, that is, after
16 Sergeant Colborn was at Avery's, and after you
17 had gone to Zipperer's, um, did you, um, have
18 a -- a get-together or a meeting?

19 A After we made contact at the Zipperer residence, uh,
20 I recall I was driving my squad car, uh, Investigator
21 Dederling was in the passenger seat, and if I recall
22 correctly, I think it was about 10:30 at night.

23 It was getting a little bit late, and I
24 had some concerns about going out to the Avery
25 property at that time of the night and -- and

1 questioning people or start asking more
2 questions, so we made a decision that it was
3 getting a little late, we'll -- we'll re -- uh,
4 return, maybe, um, do some further investigation
5 the following day.

6 Q The next day, then, did you, together with
7 Calumet County, decide to do some further
8 investigating?

9 A Yes. We received a call from Calumet County, uh,
10 Sheriff's Department, Investigator Wiegert, and he
11 indicated that he wanted us to, uh, go make contact
12 with, uh, Steve to see if we could obtain any more
13 information.

14 Q By Steve, you mean the defendant, Steven Avery?

15 A Yes.

16 Q Did you do that on the 4th?

17 A Friday, the 4th, I did. Correct.

18 Q And could you describe that contact for us,
19 please?

20 A Uh, Lieutenant Lenk advised me that, uh, Investigator
21 Wiegert had contacted us and wanted us to go make
22 contact with Steve, um, and -- and see if we could
23 get consent to search his residence. See if Teresa
24 was there.

25 Um, Lieutenant Lenk drove the vehicle.

1 Uh, I was in the passenger seat. We drove out to
2 the Avery property. We turned onto Avery Road.
3 We had no idea where we were going. Uh, we had
4 no idea where Steve's residence was. Uh, we kind
5 of got to a fork in the road and we decided to
6 turn right.

7 Uh, we went down that roadway and we
8 came to, um, a red trailer house, and the numbers
9 on the house were 12932, and that was -- that was
10 the address of Steven Avery, so we figured that
11 was the residence.

12 Q All right. Did you exit your vehicle at that
13 time?

14 A Yes.

15 Q Eventually, Detective Remiker, you made contact
16 with Mr. Avery and his mother? Is that what --

17 A Yes.

18 Q Describe that, uh, encounter briefly, please?

19 A Uh, tried at Steve's residence. No answer. Then I
20 went over to the next residence. Um, found out later
21 that's Barb Janda's residence. I tried contact
22 there. Nobody answered.

23 We got back into our car. We started
24 driving down the driveway, and there was a golf
25 cart that started driving down the road towards

1 us, and we stopped our vehicle. Um, I got out,
2 Lieutenant Lenk got out, and, um, Steven was
3 seated in the passenger side of the golf cart,
4 and I think Delores was driving the golf cart,
5 and we -- we stopped and identified ourselves to
6 them, and we then began a conversation.

7 Q Did you ask for, uh, something called consent or
8 permission to enter Mr. Avery's residence,
9 itself?

10 A Yes.

11 Q And did Mr. Avery give you that consent?

12 A Yes.

13 Q Um, why don't -- Excuse me. Why don't you tell
14 the jury what you did then?

15 A After we received consent?

16 Q Yes.

17 A Um, uh, Steve, uh, told us that we could go into his
18 residence to take a look. I said, I want you to come
19 with me. I don't want to just go in there alone.
20 So, um, he followed us. Uh, we drove our vehicle up
21 to the residence, and I think Steve and Delores drove
22 up in the golf cart, and we went to the door, and
23 Steve opened the door and allowed us in.

24 Um, Lieutenant Lenk stayed kind of in
25 the living room area with Steve. I -- I don't

1 recall if Delores was in the residence or not.
2 And I went to the back bedroom. I was --
3 obviously, at that point, I'm looking for Teresa.
4 I'm looking for a body. I'm looking for a human
5 being. And I walked around, uh, the residence to
6 see if I could find a person.

7 Q Did you find any persons in that residence?

8 A No.

9 Q About how long did this entire encounter take, if
10 you recall?

11 A We arrived on the property, uh, my notes indicate,
12 1020 hours, and we were completed with the consent
13 search, being out of the residence, done searching,
14 at 10:35. I was in his residence for five minutes.

15 Q All right. At that time, Detective Remiker, did
16 you have any reason to believe that, uh,
17 Mr. Avery had been involved in this missing
18 persons case? In other words, other than
19 information that you'd received from Calumet
20 County?

21 A No. He -- he said he had contact with her. He said
22 that, um, she had been in his residence where he paid
23 her for the services, and said, hi, how are you
24 doing? Some small talk. Other than that, I had no
25 reason to believe that Steve had anything to do with

1 anything.

2 Q Did you and Lieutenant Lenk talk about that very
3 thing?

4 A Yes.

5 Q What did -- what did you two talk about?

6 A I think my comments were, I think Calumet County is
7 barking up the wrong tree. I don't remember my exact
8 words. Um, I -- I just -- at that time I didn't have
9 any reason to believe that Steve had anything to do
10 with it.

11 Q Did Lieutenant Lenk make any comments to you
12 about, well, we've got to make sure that Steve's
13 involved, or that he did it, or anything like
14 that?

15 A I think we both were in agreement at the time that
16 Steve had nothing to do with it. That was just our
17 feeling.

18 Q All right. My question, though, is, did you note
19 from Lieutenant Lenk any animosity towards
20 Mr. Avery? Just -- The defendant, Steven Avery?

21 A No.

22 Q Okay.

23 A None at all.

24 Q Where did you go then?

25 A On the way back to the Department, I called

1 Investigator Wiegert. Um, I told him that we made
2 contact with Steve. Uh, that he gave us consent to
3 search his residence. I went inside. I didn't find
4 Teresa, and he -- he thanked me for, uh -- for giving
5 him a hand, and I told him he could just recontact us
6 if he needed anything else.

7 Q Now, I think that at least by inference you've
8 answered this question already, but let's just
9 make sure. Prior to that date, had you ever been
10 to the Avery Salvage Yard?

11 A I have never been on Avery Road in my entire life.

12 Q And in asking Lieutenant Lenk, or in observing
13 his driving habits, did you note that he'd ever
14 been there before?

15 A We had no idea where we were going. We drove down
16 Avery Road, we got to that fork in the road, and
17 there's buildings, there's shops, there's all kinds
18 of things there, and we, um -- luckily we took the
19 right turn and went down the -- to the right and
20 located the trailer.

21 Q What's the next part of this case that you were
22 personally involved in?

23 A Um, that would have been Saturday, the 5th. That was
24 my, uh, weekend to work, uh, which meant I came in at
25 eight o'clock in the morning, and, um, at one point I

1 called Investigator Wiegert. I think that was about
2 9:03 a.m., and I just, uh, made contact with him.

3 We had received some information that
4 somebody seen a car, a Toyota Rav 4, driving
5 northbound on -- near De Pere. Very generic,
6 generalized, description, or tip, and I told him
7 about that, and then we just discussed what the
8 game plan was for -- for that day.

9 Q Why did you share that -- that vague tip with
10 Investigator Wiegert?

11 A I'm sure he asked me if we had received any
12 information at that time. I -- I think this was in
13 the media. It was broadcasted. People were looking
14 for that vehicle or that license plate. Just made
15 contact to see how things were going, see if they had
16 obtained any more information, and I just mentioned
17 to him that, uh, there was -- we got maybe this call,
18 or maybe somebody said this, or somebody said that.

19 Q Sometime later that morning, uh, specifically at
20 about 10:30 that morning, Saturday, the 5th, did
21 you receive some additional information?

22 A Yes.

23 Q Can you tell the jury what that was, please?

24 A Well, I got a -- a call from, uh, Investigator
25 Wiegert, and he said that he just got a call from a

1 female, or two females that, um, they were out on the
2 Avery property, and they found a car that may be
3 Teresa's, and the comments were, you -- you need to
4 get out there. That was the first phone call.

5 Q Since this was in Manitowoc County, that is, the
6 Avery salvage property, um, were you still at
7 this point actively involved in at least that
8 part of the investigation?

9 A Yes.

10 Q Okay. What did you do?

11 A Um, after I received the phone call, I grabbed a
12 bunch of my evidence bags and kits, and I, uh, ran
13 outside, went to my squad car, and I got in. Um, I
14 started, uh -- I let dispatch know, I let the shift
15 commander know, and I started responding to Mishicot.
16 That's about 10:49, 10 to 11 in the morning.

17 Q Did you proceed to the Avery salvage business
18 then?

19 A Yes.

20 Q About what time was it that, uh, you got to the
21 Avery salvage business, if you recall?

22 A 10:59 a.m.

23 Q Were you the first to arrive or were there other
24 people there?

25 A There were other people there.

1 Q Do you know from which department those were?

2 A They were from our Department, the Sheriff's
3 Department.

4 Q Who was there?

5 A On my way there, as I was getting more information, I
6 told -- I asked if somebody was in the vicinity, if
7 anybody was close to Avery Road. Uh, Deputy O'Connor
8 was close. And I was getting more information that
9 sounded like this may be her vehicle. I instructed
10 Deputy O'Connor to park at the end of Avery Road and
11 147, and I told him not to let anybody in and don't
12 let anybody out until we have some more information.

13 So he was parked at the end of the road.
14 Um, Sergeant Orth arrived just before me, and
15 Lieutenant Hermann arrived, um, right around the
16 same time I did.

17 Q On your arrival, where did you go?

18 A I wasn't sure where I was going to go. Uh, at one
19 point I called one of the Sturm -- I think Nikole or
20 Pam -- and she told me where to go. Just keep going
21 straight as you come in on Avery Road. And that's
22 what I did. And come in on Avery Road, and then you
23 go down into a gravel pit area. And I seen Pam and
24 Nikole standing, um, down in that area, and I parked
25 my squad right down there.

1 Q If you want to look at the, uh, exhibit, Exhibit
2 No. 86, as you're coming in, and when you get to
3 this fork --

4 A Yes.

5 Q -- instead of going right to Steven's, you were
6 instructed to go straight; is that right?

7 A Straight. Yes.

8 Q Did you do that?

9 A Yes.

10 Q And where did you go next?

11 A Um, if you continue to go straight, uh -- yeah, just
12 proceed a little -- There you go. Right there.

13 Right -- Good. The bottom left-hand corner, uh, is
14 where we drove in. And then you can kind of see the
15 light-colored, uh, gravel, um, between the mass of
16 cars. My car parked right about where, uh, the end
17 of the light-colored gravel is, towards -- towards
18 the top -- right -- right before that pond area.

19 Q Detective Remiker, we're going to provide you
20 with a laser pointer so that you can --

21 A That will help.

22 Q -- better explain your testimony.

23 A Yes. Thank you. I parked right about there.

24 Q So that would be north of the, um -- the pond
25 area; is that right?

1 A Yes.

2 Q Now, do you know where the -- uh, something
3 called the car crusher is?

4 A Yes.

5 Q Where's that?

6 A That is right there.

7 Q So orange --

8 A Yes.

9 Q -- piece of equipment?

10 A Correct.

11 Q And what's next to the car crusher along the --
12 that edge if you -- if you know?

13 A I believe there were crushed cars along that -- right
14 alongside that car crusher.

15 Q My question is: Did you see that at that time?

16 A Yes.

17 Q I'm just -- So that I don't forget, I'm going to
18 show you one exhibit that has yet to be
19 identified. Have you take a look at Exhibit No.
20 70 and tell us what we're looking at there?

21 A Those are crushed vehicles that are in the vicinity
22 of the car crusher on one side or the other.

23 Q Is that how they looked on the 5th of -- of
24 November?

25 A Yes.

1 ATTORNEY KRATZ: I move the admission of
2 Exhibit 70 so I won't forget to do that, Judge.

3 THE COURT: Any objection?

4 ATTORNEY STRANG: No objection.

5 THE COURT: All right. The exhibit is
6 admitted.

7 Q (By Attorney Kratz) All right. Who else was at
8 that location when you got there?

9 A Pam and Nikole Sturm were standing down there. Um,
10 eventually more people arrived. I don't know at what
11 point you're talking.

12 Q Well, that -- that's the point that I'm -- I'm --
13 I'm discussing. You had some contact with Pam
14 and Nikole Sturm; is that right?

15 A Yes.

16 Q Uh, did they point out for you the Rav 4 or its
17 location?

18 A Yes.

19 Q What did you do after they pointed that out to
20 you?

21 A I looked in that area. I couldn't really see the Rav
22 4, and I then began walking. Uh, there's kind of a
23 path here, and then I took a right and I walked in,
24 and Sergeant Orth had just arrived, and I went
25 towards him, and there was a vehicle, and it was all

1 covered up. It was a Toyota Rav 4, no license
2 plates.

3 Q All right. What were your responsibilities then?

4 What -- what did you do when you saw that Rav 4?

5 A Well, I -- The best way to first identify whether it
6 was Teresa's was -- it didn't have license plates, so
7 you couldn't identify it that way, so the next best
8 thing would be to, uh, look at the VIN number, and I
9 had -- I carried along a manila envelope, and in that
10 envelope I had, uh, a printout of the missing or
11 endangered, um -- printout that had Teresa's name on
12 it and the vehicle, and I had that with me, and I
13 walked up to the vehicle and started looking at the,
14 uh -- the VIN number.

15 Q The VIN number -- the VIN number is a Vehicle
16 Identification Number; is that right?

17 A Yes.

18 Q And where is it located on this vehicle?

19 A This was located, um, right by, um, the front
20 driver's side window. The lower left-hand corner, I
21 guess, if you're seated inside the driver's seat of
22 the vehicle.

23 Q All right. You said you had a flashlight with
24 you?

25 A Not at first.

1 Q Oh, I'm sorry. Uh, uh, I jumped ahead. Did you
2 come in possession of a flashlight?

3 A Yes. I couldn't read all the VIN numbers and I asked
4 either Lieutenant Hermann or Sergeant Orth for a
5 flashlight because I -- I thought that would help
6 with glares and different -- the lighting conditions
7 weren't the greatest to see, plus the VIN plate was
8 moved or tampered with.

9 Q All right. Were you then able to identify this
10 vehicle?

11 A Yes.

12 Q And whose vehicle was it?

13 A Um, all 17 numbers matched the VIN number of the
14 vehicle that was registered to Teresa Halbach.

15 Q Now, while you were there, we've heard from other
16 deputies that were on scene, but let me ask you,
17 specifically, did you, uh, touch or otherwise
18 disturb that vehicle?

19 A That vehicle wasn't touched at all. I looked at the
20 VIN number, glanced in the back window. That vehicle
21 was not touched.

22 Q How can you be so sure?

23 A Because I -- The way it was concealed, the suspicious
24 nature of it, I knew we had something on our hands
25 here. And I very specifically instructed nobody to

1 even touch the vehicle. Don't check the doors.

2 Nothing.

3 Q All right. That was important to you that nobody
4 touched the vehicle?

5 A That was very important.

6 Q Did you make that fact known to the other
7 deputies that were on the scene?

8 A Yes. In fact, I told Sergeant Orth that he should
9 watch the vehicle, but don't even get close to it.
10 In fact, he probably stood 10, 15 yards from the
11 vehicle just to make sure.

12 Q Being a detective, did you do some initial
13 investigative work around that vehicle or just
14 some cursory investigation?

15 A I checked the VIN number. Uh, I remember peeking
16 into the backseat. There was a, uh, digital camera,
17 photo card, like a memory card, that you put in a
18 digital camera. That was in the back area.

19 Um, I remember seeing the letters,
20 T-E-R-T-H-E-R-E-S. Looked like Teresa --

21 Q Okay.

22 A -- or Terese written on it. Um, I looked under the
23 vehicle real quickly to see if maybe Teresa was under
24 there and, um, that was it.

25 Q You didn't see any body?

1 A No.

2 Q Was your purpose, uh, Detective Remiker, to
3 verify anything other than that that was Teresa's
4 vehicle on the scene?

5 A That's all I felt was necessary at the time, and
6 then -- and I had contacted, Lieu -- uh, Investigator
7 Wiegert and told him the VIN was confirmed.

8 Q Okay. Make sure you speak up nice and loudly --

9 A I'm sorry.

10 Q -- so that we can all -- we can all hear you.
11 Um, other than Manitowoc County authorities being
12 on scene, was there anybody else that was either
13 there or en route?

14 A I called Investigator Wiegert on our radio on the
15 Sheriff's frequency. Uh, and I think he was
16 monitoring at that time, in fact, I know he was, and
17 I told him -- I think the word I used was
18 "confirmed." The VIN was confirmed.

19 Um, he was on his way with Sheriff
20 Pagel. Um, eventually some other investigators
21 showed up. Um, Earl Avery showed up on a
22 four-wheeler.

23 Q Did you speak to Earl Avery? One of the, uh,
24 Avery brothers?

25 A Yes.

1 Q About how long was it before Calumet County
2 authorities arrived, if you recall?

3 A I got there roughly 11 a.m. and I think they arrived
4 at 11:06 is what my notes say.

5 Q All right.

6 A Six minutes. Five. Within ten minutes.

7 Q Five or six minutes is what Manitowoc was there;
8 is that right? How long?

9 A Oh, yes. Very shortly. Yes.

10 Q Thereafter, it was Calumet County, to your
11 knowledge, continuously at that scene from that
12 point, actually, through the 12th of November?

13 A Yes.

14 Q In that five or six minutes that Manitowoc
15 County, uh, was there alone, would you have been
16 in a position to see if anybody either entered
17 that vehicle or tampered with that vehicle?

18 A Nobody entered that vehicle or did anything to that
19 vehicle other than watch it.

20 Q All right. Let me ask you, Detective, uh,
21 Remiker, at some point shortly thereafter, were
22 you joined by your district attorney, Mr. Rohrer,
23 and Mr. Griesbach, an Assistant D.A., from, uh,
24 Manitowoc County?

25 A Eventually, those individuals came to that location.

1 Yes.

2 Q After their arrival, do you recall a discussion
3 regarding who should head up both this
4 investigation and, if necessary, uh, any, um,
5 lawyer involvement, any D.A. involvement, in the
6 case?

7 A There was a lot of discussion about that, yes.

8 Q Can you recount that for the jury, please?

9 A Um, obviously, uh, there were Calumet County people
10 there. There were, um, Manitowoc County, uh,
11 investigators, administrative staff there. In fact,
12 um, at one point, uh, Deputy Inspector Schetter
13 arrived, and, um, he had, obviously, more knowledge
14 or -- or understanding of what was going -- his
15 perception of maybe a conflict of inter -- interest
16 in some ongoing litigation between, uh, Steven Avery
17 and Manitowoc County.

18 And there was a decision made and a
19 discussion made amongst Manitowoc County
20 individuals, Calumet County individuals, and
21 individuals from each District Attorney's Office
22 that it was probably in the best interest to have
23 Calumet County officers, um, work on the
24 investigation, and, uh, they would even also, uh,
25 ask the State of Wisconsin or DCI to assist also.

1 Q All right. That's from a law enforcement
2 standpoint. Did you also understand that
3 something called a search warrant had to be
4 applied for with a judge?

5 A Yes.

6 Q And were you informed as to, uh, which lawyers
7 might be involved in securing that search
8 warrant?

9 A Yes. Um, it was decided that the Calumet County, uh,
10 District Attorney's Office, in fact, yourself, would,
11 um, take over as, um, special prosecutor in the case
12 or -- or handle the case.

13 Q All right.

14 A And the search warrants would go through Calumet
15 County.

16 Q The search warrant application process, are you
17 familiar with that, generally?

18 A Yes.

19 Q Were you involved that day in applying for a
20 search warrant from, uh, Judge, uh, Fox, of, uh,
21 Manitowoc County?

22 A I was specifically given instructions to go get, um,
23 descriptions of different buildings or residences for
24 the application of a search warrant.

25 Q And did you assist in that process?

1 A Yes.

2 Q In fact, uh, Mr., uh, Remiker, did you accompany
3 some lawyers and some other law enforcement
4 officers to Judge Fox's house, to his residence,
5 in which to secure the search warrant?

6 A I did.

7 Q Was a search warrant obtained that morning? Or,
8 excuse me, that afternoon?

9 A Yes. Between, uh, probably 2 and 3:30, we had, uh,
10 obtained the search warrant signed by Judge Fox.

11 Q All right. After receiving the search warrant,
12 after receiving judicial, uh, authority --
13 authorization to search that premises, tell the
14 jury what you did, please?

15 A We returned -- We got back to the Avery property, uh,
16 about 3:25 in the afternoon. Uh, we all got
17 together. It was -- I believe it was starting to get
18 dark, and we then discussed amongst, um, Investigator
19 Wiegert and Agent Fassbender how we were going to
20 carry out the different tasks that we knew we needed
21 to carry out.

22 And we discussed that. We talked about
23 it. We tried to figure out who was going to do
24 what. Who was going where. What was I -- what
25 was our priority at that time, and, uh, at -- at

1 some point, based on our discussion, we decided
2 that certain individuals would go check certain
3 areas.

4 We -- we were very concerned that Teresa
5 was still out there and hopefully alive, uh, was
6 what we were hoping for. So we needed to do some
7 checks to see if she was somewhere on that
8 property.

9 Q Was there somewhat of a time crunch involved in
10 that decision?

11 A Obviously, if Teresa was out there, and she was
12 injured or hurt or something, we were urgent -- I
13 mean, we had that urgency to see if we could find
14 her. Um, I mean, we were all under the gun out
15 there. We had a lot of work to do.

16 Q All right. Let me ask you -- I -- I forgot to
17 ask. On your return with the search warrant, um,
18 do you recall that a system had been set up to
19 log officers in and out of that property?

20 A Yes.

21 Q And did you then log in when you came back with
22 the search warrant?

23 A Yeah. I don't know how many layers were -- there
24 were. I know there was a vehicle parked at the end
25 of Avery Road and 147 log -- uh, logging people in

1 and out. Um, and then I believe there were
2 additional checks at each portion of the driveway
3 where -- where it kind of forked out. I think there
4 were people there also.

5 Q Let me ask you this, uh, Detective Remiker, when
6 you got this information from Investigator
7 Wiegert, did you, um, keep your boss informed of
8 what was going on out there?

9 A Yes. Right -- right after I confirmed the VIN number
10 on her car, I contacted dispatch and told them to
11 page Lieutenant Lenk and Detective Jacobs.

12 Q When you left, that is, before the search warrant
13 was applied for, was Lieutenant Lenk there yet?

14 A No.

15 Q Upon your return with the ex -- or, excuse me,
16 with the actual search warrant having been signed
17 and authorized by Judge Fox, uh, was Lieutenant
18 Lenk then at the property?

19 A Yes.

20 Q Any question, Detective Remiker, who had command
21 or control authority over this scene?

22 A Uh, definitely Investigator Wiegert and Agent
23 Fassbender. Everything went through them.

24 Q In other words, there's no question in your mind
25 that this wasn't a Manitowoc County case anymore?

1 ATTORNEY STRANG: Leading, and asked and
2 answered.

3 ATTORNEY KRATZ: I -- I -- I can move on,
4 Judge. I just --

5 THE COURT: All right.

6 ATTORNEY KRATZ: This witness', uh,
7 perception is what I would ask, but I'll move --
8 I'll move on.

9 Q (By Attorney Kratz) Were you aware and, in fact,
10 did you provide services, assistance, to
11 Misters Fassbender and Wiegert?

12 A Yes.

13 Q And what, uh, role were you specifically going to
14 provide and, if you know, that of Manitowoc
15 County?

16 A Well, in a case like this, uh, probably the most
17 important people are evidence technicians. Those are
18 people who have specialized training in, um,
19 identifying, collecting, packaging, labeling,
20 sealing, securing, uh, evidence. So those are --
21 those people are very important.

22 And I'm an evidence tech, uh, Lieutenant
23 Lenk is an evidence tech, Sergeant Colborn is an
24 evidence tech. Two individuals that I -- I trust
25 and individuals that I felt would be very

1 thorough and very -- be very competent and
2 professional. So I offered them, um, the
3 services of myself, and Lieutenant Lenk, and
4 Sergeant Colborn to -- to give them a hand. Plus
5 we had all our equipment out there.

6 Q So it was you that volunteered those services?
7 Is that your testimony?

8 A Oh, yes. Definitely.

9 Q Let me ask you this, Detective Remiker, were you
10 familiar at that time that Lieutenant Lenk or
11 Sergeant Colborn had been involved or that
12 provided a deposition in some civil lawsuit by
13 Mr. Avery?

14 A I'll tell you this, when we were out there, and the
15 magnitude of what we all had to do, and the fact that
16 it was very overwhelming, that was never even thought
17 of.

18 ATTORNEY STRANG: That wasn't my
19 question, Your Honor, so I can't move to strike
20 as non-responsive, but it is a narrative.

21 THE COURT: Uh, I'm going to sustain the
22 objection. The answer is unresponsive.

23 ATTORNEY KRATZ: All right. We'll break
24 it into -- into specific, uh -- into specific
25 points.

1 Q (By Attorney Kratz) You talked about the size of
2 this undertaking. Can you put that into context
3 for the jury, please?

4 A Thirty, forty acres, thousands of cars, buildings,
5 outbuildings, residences, shops, garages, uh, there
6 was a lot of searching to do.

7 Q Did you recognize any resource allocation issues
8 or problems?

9 A I felt that myself and -- and the individuals that --
10 that, um, I asked to accompany me could carry out
11 certain tasks. There were other tasks that needed to
12 be done by a lot of other people.

13 Q No. Let me ask you this: The evidence techs, or
14 people that you knew had specialized training
15 in -- in collection, packaging, um, and, uh,
16 processing of evidence, were those individuals
17 put into search teams?

18 A Yes.

19 Q Were you made part of one of those search teams?

20 A Yes.

21 Q Who else was involved in your search team?

22 A Which search?

23 Q That very -- that -- that -- the first day. On
24 the 5th. Or were there more than one searches on
25 the -- on the 5th?

1 A Well, initially, myself and, um, Investigator Steier,
2 Gary Steier from Calumet County Sheriff's Department,
3 we initially went in to Steve's residence for the
4 very first time on that Saturday to see if Teresa was
5 in there. So it -- that was, I guess, in some terms
6 a search. A search for Teresa, and then there was
7 another search done in Steven's trailer a little bit
8 later.

9 Q Is there another term for that, uh, first kind of
10 search?

11 A It was -- I -- we were looking for Teresa. It was
12 a -- it was a -- I wouldn't say it was a forensic
13 search. It was a search rescue-type thing. See if
14 she was in there.

15 Q How long were you in the -- in the residence?

16 A Ten minutes.

17 Q After that initial walk-through of Steve's
18 trailer, were there other teams then that were
19 assembled?

20 A Yes.

21 Q Uh, just so the jury understands, were other
22 residences and outbuildings also gone through
23 quickly that very first time?

24 A Yes.

25 Q So it wasn't just Steve's trailer?

1 A No.

2 Q And thereafter, were you put into a search team?

3 A Yes.

4 Q And who was that search team comprised of?

5 A Myself, um, Lieutenant Lenk, Sergeant Colborn, and
6 Sergeant Bill Tyson from Calumet County Sheriff's
7 Department.

8 Q I don't intend, since we've had three other
9 witnesses talking about the searches, to go
10 through item by item, but I do want to go
11 through, uh, at least some of these things in --
12 in a broad sense. Did you accompany Sergeant
13 Tyson, uh, and those other two Manitowoc
14 individuals to Steve's trailer?

15 A Yes.

16 Q Could you describe that search effort that night,
17 please?

18 A Um, Sergeant Tyson was assigned to, uh, pretty much
19 document as much as he possibly could in that
20 trailer. And then once we, uh, went into the
21 trailer, we had decided that we were going to first
22 go to that back bedroom, uh, which we eventually
23 identified as being the bedroom of Steven Avery.

24 I discussed it with the other officers,
25 and we determined that each officer would take a

1 specific area of that bedroom. I had the closet,
2 the dresser area, which is on one side of the
3 bed, and, um, Sergeant Colborn kind of had the
4 other side of the bed where, um, there was some
5 cabinets and drawers and stuff like that. And,
6 then, uh, I think Lieutenant Lenk helped me, um,
7 in the closet area.

8 Q All right. Was each room of Steve's trailer
9 searched that night?

10 A Yes.

11 Q Were photographs taken?

12 A Yes.

13 Q Um, who was involved in the photography, if you
14 recall?

15 A Um, I took digital photographs and Sergeant Colborn
16 took 35mm photographs.

17 Q About how long did that first search take, if you
18 recall? The second search.

19 A I believe it was from about 7:30 until about
20 10:00 p.m.

21 Q In that two-and-a-half-hour time frame, um, were
22 you aware -- or was it decided whether your
23 search team had a -- a leader or who was
24 directing the search?

25 A Sergeant Tyson was documenting everything. Um, we

1 were -- You know, we discussed everything before we
2 did it. You know, let's now go to this room. You do
3 this, you do that. We all were in agreement. I
4 don't know if there was anybody who was really -- who
5 really stood out or was a commander, I guess.

6 Q Okay. Which individual or which agency took
7 control of the physical items that were seized?

8 A Uh, Calumet County Sheriff's Department took
9 everything.

10 Q By the way, do you remember the weather that
11 night?

12 A Cold. Um, Saturday. I know it was cold. I don't
13 remember if there was precipitation, or rain, or
14 snow. Sunday, there wasn't. I know that.

15 Q After the search was completed in Mr. Avery's
16 trailer with your search team, um, where did you
17 go?

18 A Um, we were done for the night after the, uh -- We
19 did -- we did Steven's trailer, and then, um, I think
20 we went back to the command post, and all the
21 evidence was given to Calumet County, and they --
22 they secured it.

23 Q Do you have any discussions at the end of the day
24 kind of thing?

25 A Yes. What all had -- what had to be done the next

1 day. Um, what our priority was. Um, who needed to
2 be back on the property the next day.

3 Q And who made that decision, if you recall?

4 A Um, Calumet County Investigator Wiegert and Agent
5 Fassbender.

6 Q Agent Fassbender's actually not Calumet County;
7 is that right?

8 A Correct.

9 Q The next day, then, on Sunday, the 6th, can you
10 tell the jury what you did?

11 A Uh, we arrived early in the morning. Our next
12 priority was to search the garage, which we believed
13 was Steven Avery's garage, and, uh, at that point,
14 um, we had a team that got together; myself, um,
15 Sergeant Colborn, Lieutenant Lenk, and Deputy
16 Kucharski from Calumet County Sheriff's Department.

17 And, again, we would designate who did
18 what, what each individual had to do and what
19 their duties were, and, um, I believe it was
20 right at eight o'clock in the morning we went
21 into the garage and started doing our search of
22 the garage.

23 Q Whose garage?

24 A Steven Avery's garage. The detached garage.

25 Q After completing that search, can you tell the

1 jurors where you went next?

2 A Uh, we were done with that about ten to ten with the
3 garage, and we had received some information that
4 there was -- there were some burning barrels. There
5 were four burning barrels behind Barb Janda's
6 trailer, and they wanted to, um, grab those barrels
7 and put them in a -- an enclosed trailer.

8 It was starting to rain, sleet. It
9 was -- it was pretty miserable out there at the
10 time, and I think we got some tarps on the
11 barrels, and then I had told them before we moved
12 them, before we load them out -- load them up,
13 we're going to have to itemize them or designate
14 a number, and then take photographs so we know
15 their exact position prior to them being moved.

16 Q Exhibit 52 that's now being shown in the
17 courtroom. Does that document that event?

18 A Yes.

19 Q And who is that in the orange jacket?

20 A That's myself.

21 Q What are you doing in this picture?

22 A It was windy. Um, to me it looks like I'm holding
23 the tarps down. Um, I may have been moving the tarps
24 so that photographs could be taken of the numbers
25 that I put on the side of the barrels.

1 Q All right. After securing those four burn
2 barrels, tell the jury where you went, please?

3 A After that, we went to Barb's trailer.

4 Q I show you what's been received as Exhibit No.
5 54. Tell the jury if you recognize this picture?

6 A That's, uh -- that's standing outside of Barb's
7 trailer. Uh, the front of -- of the trailer, 12930,
8 I believe, is the address on the house.

9 Q And did you enter this trailer?

10 A Yes.

11 Q What did you do upon entry of this trailer?

12 A Um, we identified ourselves. Um, verbally announced,
13 search warrant. Went into the residence. Um, right
14 when we walked into that side door on the left --
15 It's a linoleum floor. There was what looked to be,
16 um, um, dried, red liquid substance on the floor.
17 Um, so we -- we identified that spot, and then,
18 again, we designated each individual to go to certain
19 areas to, uh -- to search and take -- we took
20 photographs before, um, and then we did our search
21 after that.

22 Q Within the residence and upon completion, uh, of
23 the search, did you have occasion to come across
24 an item which is depicted in an exhibit, which
25 has been received, which is Exhibit No. 55?

1 A Yes.

2 Q Tell the jury what this is, please?

3 A That was, uh -- that was in the residence. Um, it
4 was, I would say, between the kitchen and the living
5 room area. It was on a table or a stand. It's a --
6 it's a digital answering machine.

7 Q Was this answering machine examined by you at
8 that time?

9 A Yes.

10 Q And how was it examined, if you recall?

11 A I was interested in what was on the answering
12 machine. I believe there was, uh, the number 12, or
13 indicated that there were 12 messages on the machine.
14 And I started going through the messages to see if
15 they were of any importance. And then I found, uh,
16 message No. 6 on the answering machine.

17 (Exhibit No. 218 marked for identification.)

18 Q There's a, um -- a -- a video clip, a -- a -- a
19 CD, that's in front of you, um, an exhibit
20 number. Can you tell us what exhibit number that
21 is, please?

22 A Uh, 218, 2-1-8.

23 Q Exhibit No. 218 -- and for the record and
24 Mr. Strang's benefit -- uh, is the video clip
25 of -- of this particular phone call? Is that

1 your understanding?

2 A Yes. This is recorded on my digital camera, which
3 also has the ability to record movies and audio.

4 Q Now, let me ask you this, uh, um, Detective,
5 Remiker, have you been asked to compare this
6 particular phone call that we're about to hear
7 with some, um, business records and determine the
8 date and time of this call?

9 A Yes.

10 Q And have you been able to do that?

11 A Yes.

12 Q What is the date and time of the call that we're
13 about to hear, if you -- if you know?

14 A That phone call, um, was placed on October 31, 2005
15 at 11:43 a.m., I believe.

16 Q All right. I'm going to play this, uh, video
17 clip, and then I'm going to ask if you can
18 identify it.

19 A Okay.

20 Q "Hello. This is Teresa with *Auto Trader*
21 *Magazine*. I'm the photographer, and just giving
22 you a call to let you know that I could come out
23 there today, um, in the afternoon. It would --
24 will probably be around two o'clock or even
25 longer, but, um, if you could please give me a

1 call back and let me know if that will work for
2 you, because I don't have your address or
3 anything, so I can't stop by without getting a
4 call back from you. And my cell phone is
5 737-4731. Again, it's Teresa, 920-737-4731.
6 Thank you."

7 "Monday, 12:25 a.m."

8 Detective Remiker, is that the, um, recording,
9 the answering machine message, that you heard at
10 that time?

11 A Yes.

12 Q From an individual identifying herself as Teresa
13 from *Auto Trader Magazine*. Uh, did you believe
14 that was important and did you, in fact, retain a
15 copy of that message?

16 A Yes.

17 ATTORNEY KRATZ: I will move the
18 admission of Exhibit 218, please.

19 THE COURT: Any objection?

20 ATTORNEY STRANG: None at all. And, um,
21 you know, we -- we consider that the voice of
22 Teresa Halbach to be established.

23 THE COURT: Very well. The exhibit is
24 admitted.

25 ATTORNEY KRATZ: Thank you, Judge.

1 Q (By Attorney Kratz) Detective Remiker, uh, how
2 long did the search of Barb Janda's -- and --
3 and -- and that's where this was found; is that
4 right? In Barb Janda's trailer?

5 A Yes.

6 Q How long did the search of Barb Janda's trailer
7 take?

8 A From about 10:15 until about 12:25, I believe.

9 Q Thereafter, that is, after this answering machine
10 message was recorded, uh, by you, uh, were you
11 asked to assist in other searches that day as
12 well?

13 A Yes.

14 Q And, just generally, since we've been through
15 this several times, and you don't know that but
16 we have, can you tell us the places that were
17 searched?

18 A Uh, we were asked to go back into Steve's trailer,
19 uh, to retrieve some additional items; including some
20 firearms, some bedding, um, I believe either vacuum
21 cleaner or -- or carpet shampooer. Um, so we went
22 back into Steve's -- this would be myself, Lieutenant
23 Lenk, Sergeant Colborn, and Deputy Kucharski -- went
24 back into Steve's trailer to specifically retrieve
25 those items. We were in there for about a half hour.

1 Q Where else did you go then?

2 A After that, we -- I believe the next search would
3 have been, um, the auto shop building.

4 Q All right. Was anything of significance found in
5 that -- in that building?

6 A No. There was a -- there was a car up on a hoist,
7 and we -- In fact, I, physically, I think, climbed up
8 there. We brought the hoist down a little bit to
9 check to see if maybe Teresa was in that car. We
10 searched the office area. Nothing in there.

11 Q Do you recall, was it the Crime Lab, uh, Response
12 Unit -- Field Response Unit, uh, there that day
13 as well? On Sunday, the 6th?

14 A I'm sure they were. I don't ever recall seeing them,
15 specifically.

16 Q Well, my question is, uh, were there other law
17 enforcement officials, not just from Manitowoc or
18 Calumet, but from other agencies, in different
19 parts of this 40-acre salvage yard?

20 A Yes.

21 Q Do you know what all of them were doing?

22 A I -- my focus was on what I had to do. I wasn't
23 really concerned about where everybody else was at
24 the time.

25 Q All right. Let's skip to the -- the end of that

1 day. Detective Remiker, at the conclusion of the
2 day on the 6th of November, um, were you asked to
3 return at all to the Avery salvage property to
4 complete searches in that November?

5 A On that Monday was I asked to return?

6 Q Yes.

7 A I was asked. I wasn't able to return.

8 Q Can you tell us why?

9 A Um, my wife was pregnant and, uh, she had some issues
10 overnight, so I called Lieutenant Lenk and told him
11 that it probably wasn't the best for me to come. She
12 was going to be induced on that Wednesday, so it was
13 best for me to just be done.

14 Q All right.

15 A I had a big day ahead of us.

16 Q And did you then, um, return at all those next
17 following days?

18 A No.

19 Q I'm going to direct your attention, however, to
20 March 1 and 2 of, uh, 2006 at about four months,
21 maybe, after, uh, these initial searches began,
22 ask if you assisted and would ask to assist in
23 some additional searches at the Avery salvage
24 property?

25 A I was.

1 Q And, um, where were you asked to assist? In
2 other words, in what building were you assigned
3 responsibilities for?

4 A On -- on March 1, that first day we got out there, my
5 assignment was to videotape, um, prior to the search
6 of Steven Avery's residence and after the completion
7 of the search. Um, as I was there, as we were, um,
8 standing by, as other people were doing their search,
9 I was asked numerous times about certain pieces of
10 equipment, or what they should do, or how they should
11 collect that, or if I had this, or if I had that and,
12 um, I would then just provide them with whatever they
13 needed.

14 Q You were inside of, uh, Mr. Avery's trailer then
15 on the 1st and 2nd of March?

16 A I believe -- Yes. Both days, yes.

17 Q Were you inside of Mr. Avery's garage on those
18 days?

19 A On the 1st, um, I wasn't in the garage. I may have
20 been near the garage to give them supplies. Um, on
21 the 2nd I was then asked if I could come into the
22 garage and help them.

23 Q All right. Well, it's on the 2nd that I -- I had
24 my next series of questions. Uh, did you, um,
25 assist other law enforcement officers in a

1 thorough search of Mr. Avery's garage on March 2?

2 A Yes.

3 Q And during that thorough search, do you recall
4 coming across any, uh, item of particular
5 interest?

6 A Well, we found some, uh -- some additional shell
7 casings. Um, we were searching on our hands and
8 knees. At one point I remember, um, DCI Agent Kevin
9 Heimerl located what looked to be a bullet fragment
10 near the -- the air compressor, kind of in the back
11 left corner of the garage. And, for the most part, I
12 was specifically -- once stuff was located, my job
13 was to specifically collect that item and make sure
14 it was collected properly.

15 Q Were there a lot of items in this garage at the
16 time?

17 A It was -- it was full. Um, I think every wall was
18 lined with stuff, and -- and this time we physically
19 moved everything from one location to the next.

20 Q During the course of this search, um, did, um --
21 and towards the back wall, which would be towards
22 the south wall of the garage, uh, was any item of
23 particular interest noted by you?

24 A There were -- there was a bullet fragment that was
25 located. Um, there was, um, some fibers, I think off

1 of a glove, or -- or some hair samples that we --
2 that we took off a glove.

3 Q Let me show you an exhibit which has been
4 received into evidence. Exhibit 108. It's a --
5 it's not a photograph, but it's a
6 computer-generated, um, exhibit. Will this help
7 you explain for the jury where that bullet
8 fragment was found?

9 A Yes.

10 Q Tell us what we're looking at, please?

11 A Um, Item No. 23-A, um, is -- right in between there
12 was a large, uh, tool box. Um, to the left of 23-A,
13 I believe, is a car creeper, is what I call it, and
14 that bullet fragment --

15 Q What's a car creeper, before we go any further?

16 A It's -- it's a device that you use -- that you lay
17 on. Usually lay on your back. It's got wheels on it
18 and you can roll yourself underneath a vehicle, um,
19 for whatever reason.

20 Q Was there an item, if you recall, that was
21 between those two -- uh, that is, between the
22 creeper and the tall tool box?

23 A Yes. There was a small, um, lead or a bullet
24 fragment that was located at that spot. That
25 location.

1 Q Now, we'll hear from, um, a gentleman by the name
2 of Kevin Heimerl. By the way, who is
3 Mr. Heimerl?

4 A He is a, uh, agent with, um, the Department of
5 Criminal Investigation. It's a state agency. A
6 state law enforcement investigative agency.

7 Q Was that bullet fragment, uh, photographed and
8 thereafter, uh, collected by state agents at that
9 time?

10 A It was photographed. It was collected by myself.

11 Q Okay. After you collected that bullet fragment,
12 what did you do with it?

13 A Um, I believe Investigator Gary Steier, from Calumet
14 County Sheriff's Department, was in the garage with
15 us. So after it was collected, labeled, sealed, and
16 packaged, then it would go over to, uh, Investigator
17 Steier and he would make his log entries.

18 Q All right. Now, you mentioned Mr. Heimerl. What
19 was his duties that night, if you recall?

20 A He was taking photography. Um, he was one of the
21 individuals on their hands and knees searching,
22 looking, um, identifying different stuff. Uh, we'd
23 find stuff and then we'd look at it to see if it had
24 any significance. So we were -- we were searchers, I
25 guess.

1 Q By the way, how long did the search of this
2 garage take? You said that you moved -- you
3 physically moving every item. How long did that
4 take you?

5 A March 2? Or --

6 Q Well, if you recall? If -- if -- You said you
7 weren't involved on March 1?

8 A Correct. Um, I was in the garage probably around
9 9:00 a.m. on the 2nd and we were done in the garage
10 maybe around 2:00 p.m. on the 2nd.

11 Q And we'll hear from these other individuals, or
12 at least some of them, but you understood that
13 the search had been occurring the day before as
14 well on the 1st?

15 A Definitely, yes.

16 Q I just wanted to, um, clarify one point before I,
17 uh -- I -- I allow Mr., well, Buting or Strang to
18 ask you some questions. The -- Exhibit 218,
19 the -- the, um, recording of the voice message,
20 uh, do you hear a -- a time at the end of it?

21 Uh, twelve-something a.m.?

22 A 12:25 a.m.

23 Q All right. Do you know how that got on there, or
24 can you explain for the jury? If you know.

25 A I don't know. I wasn't -- I wasn't able to determine

1 the exact date stamp on the answering machine at the
2 time. I didn't want to, obviously, erase that
3 message. So, um, how far off it was, uh, according
4 to the date stamp on the answering machine, I don't
5 know.

6 Q But you later come to know that it was 11:43?

7 A A.m., yes.

8 Q The last question. That Exhibit No. 20 -- or,
9 excuse me, Exhibit No. 108, where we now see
10 what's depicted as a -- a evidence tent, 23-A,
11 um, was there a, uh, piece of equipment or an
12 item there?

13 A I believe there was a air compressor in that general
14 vicinity also.

15 Q My question is: Did that have to be moved before
16 you found the bullet?

17 ATTORNEY STRANG: He -- he didn't find
18 the bullet.

19 ATTORNEY KRATZ: I can ask it a different
20 way, Judge.

21 Q (By Attorney Kratz) Before you saw the bullet,
22 did that air compressor have to be moved or --
23 What happened with the air compressor?

24 A I -- I don't know. I can't recall.

25 Q Let's do it this way. I'm showing you what's

1 been received as Exhibit 121, ask if you can tell
2 us what we're looking at here?

3 A That's the area where the bullet fragment was
4 located, and that should be between the, um -- the
5 car creeper that says Black Jack on it and the tool
6 box. It was under that air compressor.

7 Q Use the laser pointer, please. Tell me what --
8 For those of us that don't know what a air
9 compressor looks like ...

10 A It's the green object with the -- the yellow label on
11 it with the tire.

12 Q Where was the bullet fragment?

13 A Under that air compressor. I mean, to the left, to
14 the right, I'm not -- I don't recall. But under that
15 air compressor.

16 Q All right. Under that piece of equipment?

17 A Yes.

18 ATTORNEY KRATZ: That's all I have of
19 Detective Remiker, Judge.

20 THE COURT: All right. Mr. Strang?

21 ATTORNEY STRANG: Yes, Your Honor.

22 Actually, it would be very useful to take about,
23 oh, probably five minutes without the jury, um,
24 before I start my cross.

25 THE COURT: All right. Members of the

1 jury, we'll take a short break at this time.

2 (Jury out at 2:10 p.m.)

3 THE COURT: You may be seated.

4 ATTORNEY STRANG: Uh, why don't we
5 excuse the witness, too, just to be on the -- the
6 safe side.

7 THE COURT: All right. Mr. Remiker, if
8 you could step out in the hall for a few minutes?
9 Mr. Strang?

10 ATTORNEY STRANG: One thing I want to do
11 is make sure the sound works. But, there were --
12 there were also three -- I thought there were
13 three things to bring up, uh, out of the jury's
14 presence with Detective Remiker. Turns out I --
15 I -- I've already talked to Mr. Kratz and checked
16 one off that list.

17 I -- Mr. Remiker's report does not refer
18 to finding a hair, a glove, or a fiber, and I
19 just wanted to make sure that that -- that wasn't
20 going anywhere, and it's not. Um, that's a
21 non-issue I'm -- I'm informed by the State.

22 The two remaining issues -- I don't want
23 to make a big deal about this. It wasn't, uh,
24 worth interrupting the direct, but I -- I think
25 when I explain them, Your Honor will understand

1 why we need to do a little bit of, um, you know,
2 correcting here, for want of a better word.

3 Um, we have -- Detective Remiker wrote
4 reports. Fairly lengthy reports. And on
5 November 4, 2005 we have his report of his
6 meeting with Mr. Avery, and, uh, he recounts
7 Mr. Avery as stating then that the -- the female
8 subject has been on the property numerous times.

9 Now, today, it -- what we heard today
10 was Steve said that she had been in the
11 residence. That gets to be -- you know, the
12 witness wouldn't have known that necessarily, but
13 that gets to be a fairly significant difference
14 and, um, I -- I -- I expect he did not mean to
15 alter or deviate from his report, um, if -- if he
16 did, and that -- and that's an all together
17 different statement, um, than the one disclosed
18 to us.

19 Again, I'm assuming it's -- what he
20 meant was Mr. Avery said she'd been on the
21 property. Um, but, you know, the Court's -- the
22 Court's heard the evidence, under -- understands
23 the importance of the distinction of statements.

24 Um, and then, um, we have his report on
25 the November 6 search where he -- he's asked to

1 retrieve the guns and the vacuum cleaner. And
2 the report, in fact, says -- this is page 15 of
3 the 24-page Manitowoc County, uh, report. Re --
4 report says that they collected the entire vacuum
5 cleaner.

6 Today what he says is, I don't remember
7 if it's a vacuum cleaner, or a carpet cleaner, or
8 carpet shampooer. I don't remember if it's a
9 shampooer or cleaner. But he's, you know -- he's
10 now offering the possibility that this wasn't a
11 normal vacuum cleaner, but was a -- a carpet
12 cleaner, and I'm assuming in the sense of
13 suggesting something wet.

14 Um, the potential importance of that is
15 obvious and, you know, our belief is that this
16 was just a vacuum cleaner, and I thought maybe we
17 ought to take these two points up out of the
18 jury's presence and try to streamline, um, the
19 cross and not create any more problems than we
20 have to.

21 As I say, the third point I've already
22 cleared up with Mr. Kratz.

23 THE COURT: Mr. Strang?

24 ATTORNEY STRANG: That -- that --

25 THE COURT: Or that's Mr., uh, Kratz?

1 Sorry.

2 ATTORNEY KRATZ: Well, Judge, uh, if there
3 are any inconsistencies, obviously Mr., uh, Strang
4 can, uh -- can go into them. Certainly with the
5 vacuum cleaner issue.

6 Uh, regarding the, uh, defendant's
7 statement, if Mr. Strang wanted to take a -- a
8 minute or two with Mr. Remiker outside the
9 presence of the jury, I don't have any problem
10 with that. That may be the easiest way to do
11 that --

12 ATTORNEY STRANG: Yeah.

13 ATTORNEY KRATZ: -- so that there's no
14 question.

15 ATTORNEY STRANG: That's -- that's a
16 good suggestion. Or if it's a non-issue, then we
17 don't have to belabor it.

18 THE COURT: All right. Why don't we bring
19 Mr., uh --

20 ATTORNEY STRANG: Or I -- I can just go
21 to the wit -- witness room. However you want
22 to --

23 THE COURT: Oh.

24 ATTORNEY STRANG: -- do it, Your Honor.

25 ATTORNEY KRATZ: He's got some AV issue

1 as well, Judge, that we thought --

2 THE COURT: Oh.

3 ATTORNEY KRATZ: -- we could take a few
4 minutes here, so--

5 THE COURT: All right.

6 (Wherein Attorney Strang speaks to Detective Remiker.)

7 ATTORNEY STRANG: Your Honor, this is
8 going to wind up taking a few more minutes. Um,
9 sorry about that. I -- I didn't expect the --

10 THE COURT: All right.

11 ATTORNEY STRANG: -- the issue.

12 THE COURT: We'll take about another
13 five minutes then and come back.

14 (Recess had at 2:21 p.m.)

15 (Reconvened at 3:10 p.m.; jurors not present)

16 THE COURT: At this time we are on the
17 record outside the presence of the jury. Uh,
18 Mr. Strang?

19 ATTORNEY STRANG: Thank you, Your Honor.
20 Um, we -- we've addressed, um, a number of issues
21 here in the break, and I appreciate the Court's
22 consideration. The, um -- the witness, Detective
23 Remiker, testified on direct examination by the
24 State to a statement of the defendant that was
25 not disclosed, uh, in discovery materials to the

1 defense, uh, so created a problem of
2 non-compliance with Section 971.23 (1)(b).

3 However, um, the State -- the State,
4 meaning the prosecution team, also did not have
5 that statement. Uh, for whatever reason the
6 Manitowoc County Sheriff's Department did not
7 share with the prosecution this statement or the
8 report document.

9 Uh, we -- we now, uh, have been able to
10 obtain copies of that report. Both sides have
11 it. Um, taking the whole of Detective Remiker's
12 testimony in context, uh, the defense is not
13 moving for a mistrial. Um, we discussed that
14 with Mr. Avery. Uh, I believe he understands why
15 we're not seeking a mistrial and accepts that
16 decision.

17 Uh, collaboratively with the
18 prosecutors, uh, we have agreed on a curative
19 measure, uh, that we think will suffice here in
20 these circumstances, and, um, of course, that
21 handles today's issue.

22 If -- if, uh, an issue of an undisclosed
23 statement of the defendant elicited by the State
24 should arise again, we, of course, may be in a
25 position of seeking other relief. But, uh, I

1 think we've addressed today's issue, um, with the
2 time that we've had and I appreciate it.

3 THE COURT: Anything, uh, from the State?

4 ATTORNEY KRATZ: No, Judge. Just that
5 the inconsistency in, uh, Mr. Remiker's, uh,
6 testimony compared to the reports that the
7 defense did have, uh, as Mr. Strang indicates,
8 is, uh, minimal, uh, especially as, uh, related
9 to Mr. Remiker's statement as a whole.

10 Uh, the curative measure that, uh, we've
11 jointly, uh, come up with, uh, is, um, very
12 acceptable to, uh -- to the State, uh, and we are
13 prepared to have Mr. Strang commence his
14 cross-examination.

15 THE COURT: All right. Before we bring the
16 jury in, let me ask that the, uh, ELMO light be
17 turned off. I would imagine it's stronger to the
18 jurors sitting next to it than it is here and it's
19 got some glare.

20 All right. We'll bring in the jurors at
21 this time and, uh, Mr., uh, Remiker can be
22 brought back into the courtroom as well.

23 (Jury in at 3:15 p.m.)

24 THE COURT: You may be seated. At, uh,
25 this time, Mr. Strang, you may commence your

1 cross-examination of the witness.

2 ATTORNEY STRANG: Thank you, Your Honor.

3 **CROSS-EXAMINATION**

4 BY ATTORNEY STRANG:

5 Q Detective Remiker, when you, uh -- when you
6 explained to counsel, uh, at the prosecution
7 table on direct examination that, uh, Lieutenant
8 James Lenk is your -- is your boss or your
9 supervisor, I believe is the term you used, he
10 is, first of all? I understood you correctly?

11 A Yes.

12 Q All right. Uh, and what you mean by that is
13 that, uh, he's one of the people who reviews your
14 work performance?

15 A Yes.

16 Q Does an annual review? That type of thing?

17 A Annual evaluation.

18 Q Evaluation?

19 A Sure.

20 Q Has some input on whether you get a salary
21 increase and how much?

22 A I don't know about that.

23 Q You know one way or the other?

24 A No.

25 Q Okay. But, you know, I mean, he's your

1 supervisor. He's the one who -- who controls
2 your assignments or passes out assignments to
3 you?

4 A Correct.

5 Q You work with him on the same shift?

6 A Yes.

7 Q The, um -- the meeting on -- on the evening of
8 November 3, after you were paged, you first
9 learned about the missing person report from
10 Calumet County?

11 A Yes.

12 Q You get paged? You come in?

13 A Correct.

14 Q Uh, sometime in the evening?

15 A Yes.

16 Q That, uh -- you -- you told us, uh, that
17 Investigator John Dederling from Calumet County
18 Sheriff's Department was at the meeting?

19 A Yes.

20 Q As was Lieutenant Lenk?

21 A Yes.

22 Q Uh, Detective Dennis Jacobs from your Department?
23 Or no?

24 A Yes.

25 Q He was there. Obviously, you were there. Anyone

1 else you recall being present at that
2 November 3 -- the Thursday night meeting?

3 A At one point we, uh, got with, um, Sergeant Colborn,
4 also. That initial meeting Sergeant Colborn wasn't
5 there.

6 Q Okay. But he -- but Colborn comes back to the
7 Sheriff's Office at some point and you folks
8 touch base with him as well?

9 A Yes.

10 Q Um, the, um -- Detec -- Detective Dennis Jacobs
11 is someone who's a relatively new name here. Uh,
12 colleague of yours?

13 A Yes.

14 Q Was he in the Detective's Unit or Detective
15 Bureau before you joined in May, 2003?

16 A Yes.

17 Q You also worked same shift with him?

18 A Yes.

19 Q You -- you two, uh, frequently worked together?

20 A Yes.

21 Q That evening, then, you joined Investigator
22 Dedering in going out to the Zipperers?

23 A Correct.

24 Q And, um -- and what, uh, had caused me to chuckle
25 in reading the report of yours, which I thought

1 it might have been the understatement of the
2 year, you -- you, uh -- you found that initially
3 George Zipperer was not real cooperative?
4 A It took them a while to answer the door and not real
5 cooperative.
6 Q Yeah. I mean, that's -- that's the way you
7 described it, is it not, in your report?
8 A Uncooperative?
9 Q I think your, uh -- I think your exact words
10 were, uh, initially George was not real
11 cooperative?
12 A That's accurate.
13 Q Does this look like your report from November 3?
14 A Yes.
15 Q You can look at whatever you want to help refresh
16 your recollection, but I -- I highlighted that.
17 A That's what it says. George was not real
18 cooperative.
19 Q That's true, isn't it? Initially?
20 A Yes.
21 Q Took 15 or 20 minutes even to answer the door
22 with sheriff deputies outside?
23 A Yes.
24 Q Uh, wouldn't allow the police to enter the house
25 even then?

1 A Initially, no.

2 Q You had to do it out -- sort of a lengthy
3 interview with his wife, JoEllen, through a
4 window before anybody would let you in the house?

5 A Yes.

6 Q George was belligerent?

7 A I would say a good word to use probably would be a
8 little abrasive.

9 Q A little abrasive. Some hostility?

10 A I'm sure he wasn't real happy to have law enforcement
11 on his property at that time.

12 Q What time was it?

13 A I would say about -- between nine and ten, possibly.

14 Q All right. Uh, this -- this abrasive attitude,
15 and not real happy to have law enforcement on his
16 property, continued even after you told him that
17 a young woman was missing?

18 A He calmed down as we talked to him a little bit
19 further.

20 Q But at one point he told you that he wanted
21 Teresa Halbach arrested?

22 A I don't know if he said that.

23 Q Well --

24 ATTORNEY KRATZ: I'll just inter --
25 interpose a -- a relevance objection, Judge.

1 THE COURT: Um, Mr. Strang?

2 ATTORNEY STRANG: This was -- this was
3 the other person whom they knew -- or they had
4 been told that Teresa had appointments with, and
5 the cooperation, or lack of cooperation, I think,
6 goes to, uh, whether these people merited further
7 investigation, Your Honor.

8 THE COURT: I'll allow the question.

9 Q (By Attorney Strang) Did -- This statement about
10 wanting her arrested is not in your report so
11 that's -- I'm getting that from Detective
12 Dederling. You, in -- you, in any event, don't
13 necessarily remember that comment of George
14 Zipperer?

15 A I don't recall George Zipperer saying that he wanted
16 Teresa Halbach arrested.

17 Q You do not recall that? Or you do?

18 A No.

19 Q I'm sorry. Okay. Uh, you do recall Mr. Zipperer
20 denying that he had contacted *Auto Trader*?

21 A Yes, I believe so.

22 Q Although, you learned that it was his car or a
23 family member's car that she had come to
24 photograph?

25 A I believe it was his son, Jason's, vehicle.

1 Q Uh, Jason denied that he had called to have his
2 car photographed initially, too?

3 A I believe so, yes.

4 Q That was a false denial.

5 A Is that a question or a statement?

6 Q It's a question.

7 A Okay. Um, no, I don't recall that.

8 Q Well, you did talk to JoEllen Zipperer?

9 A Yes.

10 Q And she said, yes, of course, the young woman was
11 out here to photograph a car?

12 A Correct.

13 Q My son, Jason, owns the car?

14 A Yes.

15 Q And the best that JoEllen Zipperer could do is
16 say that Ms. Halbach -- she didn't have a name --
17 Ms. Halbach; right? Just the -- the female
18 photographer?

19 A Yes.

20 Q Uh, that the female photographer may have been on
21 the property some time between noon and 1500
22 hours? No precise time could be obtained from
23 JoEllen?

24 A Correct.

25 Q Fifteen hundred hours is three p.m.?

1 A Three p.m.

2 Q Now, the next morning you and Detective -- or,
3 I'm -- I'm sorry, Lieutenant Lenk go back out to
4 see Mr. Avery again?

5 A Again? That was the first time we seen --

6 Q I -- I --

7 A -- Steve Avery.

8 Q I understand, but -- and I -- I'm sorry.
9 Sergeant Colborn had testified that he saw
10 Mr. Avery the night of the 3rd?

11 A Yes.

12 Q So he had gone there. That's why you went to the
13 Zipperers?

14 A Yes.

15 Q The night of the 3rd?

16 A Correct.

17 Q You go out the 4th, and that's the first time you
18 see Steven Avery yourself?

19 A Yes.

20 Q With Lieutenant Lenk?

21 A Yes.

22 Q Uh, Mr. Avery, by comparison, was very
23 cooperative?

24 A Yes.

25 Q Uh, you had this conversation with him in which

1 he said, you know, she -- she was here a few
2 minutes. Some talk. Hi, how are you doing? I
3 paid her. She left.

4 A Correct.

5 Q He also told you that she'd been on the property
6 several times before?

7 A Yes.

8 Q Photographing vehicles?

9 A Yes.

10 Q Consented to the search of his house?

11 A Correct.

12 Q And that's all -- that -- that's -- that's the
13 sum -- you know, that's what happens November 4,
14 as I understand it?

15 A Yes.

16 Q With you?

17 A Yes.

18 Q Now, November 5, Saturday, um, you -- you may
19 have said this and I -- you know, and I didn't
20 hear it, I apologize, but my recollection is you
21 get out -- you actually arrive at the Avery
22 property right about 11 in the morning?

23 A Yes.

24 Q Give or take a minute?

25 A Correct.

1 Q Something like that. Um, had you met -- Between
2 the short discussion with Mr. Avery on the 4th
3 and 11:00 on the 5th, had you met with Detective
4 Jacobs, Dennis Jacobs, at anytime there? Between
5 those two?

6 A Not on Saturday, the 5th, until he came out there.
7 We may have been working on the 4th, that Friday. He
8 may have been working that same day.

9 Q On shift together, but...

10 A Yes.

11 Q Okay. Now, I'm going to play you, um, part of a
12 taped conversation from November 5. It's Exhibit
13 126. And it's here. And I think he's
14 actually -- you were -- you were the one who
15 physically gave us these CD-ROMs back in the
16 summer?

17 A Yes.

18 Q Okay. Uh, I'm going to play part of this and,
19 um, ask you if you recognize the voices? So I
20 may stop it.

21 A Definitely.

22 Q Okay.

23 (Wherein CD is played.)

24 "10-4." (Unintelligible) "4-0-5."

25 "Go ahead."

1 "I have warrant in hand."

2 "Body only; correct?"

3 (Unintelligible)

4 Q (By Attorney Strang) Now, do you recognize the
5 voices here?

6 A Yes.

7 Q 4-0-5 is Deputy Pete O'Connor?

8 A Correct.

9 Q Okay. And the dispatcher? Is this Katie?

10 A Correct.

11 Q Okay. Um, I -- I only know that because she says
12 her name at some point, but you recognize it as
13 Katie?

14 A Yes.

15 Q All right. Uh, Deputy O'Connor is talking about
16 a body warrant in hand?

17 A That's accurate.

18 Q We just heard him say that?

19 A Correct.

20 Q Uh, a body warrant is something where you have a
21 warrant to pick somebody up and they aren't going
22 to be released on bail until they physically see
23 a judge?

24 A Correct.

25 Q That's what a body warrant means?

1 A Body only warrant means you take that person in
2 custody.

3 Q And -- and a judge sets bail if at all?

4 A Correct.

5 Q Okay. So, typically, that might be something
6 like a missed court appearance where there's
7 what's called a bench warrant?

8 A That could very well be.

9 Q Could -- could be other reasons, but... And so
10 what -- what's happening here is Deputy O'Connor
11 is out at the intersection of Highway 147, Avery
12 Road, somewhere near there?

13 A He is, yes.

14 Q Yeah. I mean that -- that's where you saw him
15 when you -- or later?

16 A Correct.

17 Q Okay. And, in fact, you had told him to stop
18 people coming in and out?

19 A Correct.

20 Q So that's what he's doing, and he's running
21 checks on people, and he comes up with a body
22 only warrant?

23 A I believe so, yes.

24 Q Okay. That's what it will -- sounds like is
25 going on here?

1 A Yes.

2 Q All right. I was just going to continue playing
3 a little more.

4 (Continuation of CD being played.)

5 "409 dispatch."

6 "409."

7 "I'm now 76 to 147 Avery Road, pick up
8 that party."

9 Q (By Attorney Strang) Now, I'm now 76, which is a
10 10 Code?

11 A Uh-huh. Yes.

12 Q 1076?

13 A En route.

14 Q En route to Avery road to pick up the party with
15 the body warrant? Body only warrant?

16 A I believe he says to pick up the party.

17 Q Correct.

18 A Yes.

19 Q And that's -- were you on -- were you on the
20 radio at about this time?

21 A It's after 11 p.m.?

22 Q Um-hmm. Yeah, 11:00 a.m.

23 A A lot of things going on at that time.

24 Q Okay. No, I understand. I'm not asking if you
25 remember but --

1 A Yes.

2 Q -- this is -- this is generally familiar to you?

3 A That's the first time I've heard that.

4 Q Okay.

5 (Continuation of CD being played.)

6 "10-4."

7 "10-3-23, Manitowoc, you can put me

8 10-23."

9 "10-4."

10 "4-8-7-4-9-6?"

11 "Go ahead."

12 "When you get a chance, give me a 21 on

13 that 4-2-2-4."

14 (Unintelligible)

15 "2-7-8 dispatch code."

16 "Go ahead."

17 "You're going to need to get a hold of
18 the Crime Lab for their Evidence Response Team to
19 start responding at this location."

20 Q (By Attorney Strang) Okay. Now, that's you;
21 right?

22 A Absolutely.

23 Q Okay. You're -- you're 2-7-8?

24 A 2-7-8.

25 Q Uh, there's this reference to being in code?

1 A Yes.

2 Q Uh, which -- which means that you're on a
3 non-publicly monitored frequency?

4 A For the most part, yes.

5 Q Okay. Um, and what you're saying here is you're
6 telling the dispatcher she -- she'll need to get
7 a hold of the Crime Lab Evidence Response Team to
8 start responding to this location?

9 A Yes.

10 Q Okay. This, by the way, is -- is a radio tape;
11 correct?

12 A Correct.

13 Q We're listening to radio transmissions here?

14 A Correct.

15 (Continuation of CD being played.)

16 Q "10-4. Crime Lab out of Madison?
17 Milwaukee? Where?"

18 (Unintelligible) "Madison Response
19 Team."

20 "2-7-8. I'm in code. Anything you need
21 other than a portable for Schetter?"

22 "Not that I can think of right now,
23 Dennis."

24 Okay. That's -- that's Detective Dennis Jacobs
25 calling in?

1 A Yes.

2 Q And you're -- you're responding to him?

3 A He's asking me if I need anything besides a portable
4 radio for Deputy Inspector Schetter, and I say, right
5 now I can't think of anything.

6 Q Yeah. Exactly. The portable for Schetter is a
7 portable radio?

8 A Correct.

9 Q And deputy inspector. Okay.

10 (Continuation of CD being played.)

11 Q "Okay. Um, other than the car, do we
12 have anything else?"

13 "Not yet."

14 "Okay. Is he in custody?"

15 "Negative. Nothing yet."

16 "Okay. I'll gather my stuff and, uh,
17 head out."

18 Okay. Now, that's -- that's you and Jacobs going
19 back and forth again; right?

20 A Yes.

21 Q And, um, he asks you, okay, other than the car,
22 do we have anything else, and you tell him, not
23 yet.

24 A Nothing yet.

25 Q He's referring to the -- the Toyota is what he

1 means by the car?

2 A I'm assuming, yes.

3 Q That's how you understood him?

4 A Yes.

5 Q And then he says, okay, is he in custody; right?

6 A That's what he says.

7 Q And you say, negative, nothing yet?

8 A Yes.

9 Q You're not asking who is in custody? Did you
10 know who he meant by "he"?

11 A I'm assuming he meant -- I mean, based on listening
12 to that conversation, it sounds to me like he's
13 indicating Steve Avery, yes.

14 Q Okay. And this is -- this is shortly after
15 you've arrived on Saturday, November 5?

16 A I don't know what -- what time that radio
17 transmission is.

18 Q Okay. Um, I -- but this is -- this is when
19 you're first telling the dispatcher that she's
20 going to need to call the Crime Lab?

21 A Yeah. Crime Lab was probably contacted about 11:30,
22 somewhere around there. Yes.

23 Q Right. And I'll tell you, I think that's
24 actually very close to the time stamp --

25 A Yes.

1 Q -- on this. But somewhere in that ball park --

2 A Okay.

3 Q -- any way; right?

4 A That makes sense.

5 Q Because we do hear you saying you're going to
6 need to contact the Crime Lab?

7 A Correct. That would be about 11:30.

8 Q Okay. Now, track four on the, uh -- on the same
9 exhibit, 126.

10 (Continuation of CD being played.)

11 Q "Good morning, Manitowoc County
12 Sheriff's Department, Katie speaking."

13 "Katie, uh, just rolled into the parking
14 lot. Can you tell me..."

15 Now, this is not a radio call; is that right?

16 A Sounds like an incoming call into dispatch.

17 Q The -- the phone ringing sound at the beginning?

18 A Yes.

19 Q Okay. And do you recognize the -- the voice of
20 the man who says he just rolled into the parking
21 lot?

22 A Yes. That's Detective Jacobs.

23 Q Okay. I'm going to back it up just a little bit
24 here.

25 ATTORNEY KRATZ: Judge, once again, I'm

1 going to interpose a hearsay objection. I know I've
2 made the same objection before with a similar call,
3 but I'm interposing that again at this time.

4 ATTORNEY STRANG: And the -- the jury
5 should understand I'm not offering this for the
6 truth. Just that it was said.

7 ATTORNEY KRATZ: Then it has no relevance,
8 Judge.

9 THE COURT: I'm going to overrule the
10 objection.

11 Q "Good morning, Manitowoc County
12 Sheriff's Department, Katie speaking."

13 "Katie, uh, just rolled into the parking
14 lot. Can you tell me, uh, do we have a body or
15 anything yet?"

16 "I don't believe so."

17 "Do we have Steven Avery in custody,
18 though?"

19 "I have no idea."

20 "Oh, I've heard them say, pick up that
21 party. I --"

22 "Oh, no. We have -- Well, Pete is
23 sitting up there waiting and stopping people from
24 going in and that. He found somebody with a body
25 only warrant for --

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"Oh."

-- our Department."

"Okay. Do we have a -- All right."

"I --"

"Do we have" (unintelligible)

"Yeah. Your best bet is to talk to --
Nothing has come through. We have the vehicle.
That I know."

"All right. Thank you."

"But what more, I don't know. All
right. Bye."

"Bye."

He's talking about Steven Avery? He's asking --

A That's what he says.

Q -- asking if Steven Avery's in custody? This is
when he's rolling into the parking lot before
he's called you on the -- the call we listened to
first?

A That's what the call says. I can't testify to what
he said.

Q The day before, you're thinking Calumet County is
barking up the wrong tree? And the next day, a
car's been found and you two are talking about,
is he in custody yet?

A Those questions are being asked of me. Yeah.

1 Q Okay. Now --

2 A I believe my responses were --

3 Q Negative.

4 A Negative. No.

5 Q I -- I -- I understand.

6 A I can tell by the tone of my voice it even sounds
7 like it's a silly question.

8 Q Okay. And -- and, indeed, I mean, when you got
9 out to the Avery property on November 5, there
10 were customers there?

11 A Yes.

12 Q People -- you know, customers in the pit or the
13 salvage yard part of the business?

14 A Correct.

15 Q Uh, Earl Avery was there?

16 A Yes.

17 Q Uh, you know, this was a -- a business that was
18 open?

19 A Yes.

20 Q Or had been until, you know, law enforcement
21 officers closed off the -- the property?

22 A Correct.

23 Q You knew that a number of Avery family members
24 lived on this roughly 40-acre parcel? And look,
25 I -- you may not have known that then?

1 A I can't say I -- I did.

2 Q But -- but you learned, during the course of the
3 next several days, that there were a number of
4 family members who lived on this property?

5 A I asked Earl when I talked to him down there who all
6 lived there, and where, and what house.

7 Q Right. And I'm not worried now so much about
8 November 5, but in the next several days, you
9 came to learn that Chuck Avery lived on the -- in
10 a trailer on the property?

11 A Yes.

12 Q Allen and Delores lived on the property?

13 A Yes.

14 Q Steven Avery's sister, Barb Janda, about whom you
15 testified, she lived on the property?

16 A Correct.

17 Q Her four sons? Or at least three of them at the
18 time?

19 A I don't know about the sons.

20 Q Okay.

21 A I can't testify to that.

22 Q All right. But there were a number of people,
23 other than Steven Avery, living on the property?

24 A Correct.

25 Q And your understanding was that Ms. Halbach had

1 been there sometime on a Monday, October 31?

2 A Yes.

3 Q Or had an appointment there?

4 A Yes.

5 Q Um, Monday would have been a business day on the
6 Avery salvage property?

7 A I have no idea.

8 Q Okay. But, I mean, in -- in general, Monday's a
9 commercial -- a commercial day?

10 A It was Halloween. I don't know if they close for
11 Halloween. I -- I don't know.

12 Q Okay. It's a business property in any event?

13 A Yes.

14 Q Little later in the morning of the 5th, you're
15 involved in this conversation that you described
16 about that ultimately results in the decision to
17 turn the investigation over to the Calumet County
18 Sheriff's Department?

19 A I was involved in some discussions. Yes.

20 Q This was -- Was this still a missing persons
21 investigation not withstanding the comment --
22 comment about whether we have a body yet?

23 A I wouldn't consider it a missing person, although
24 looking at that vehicle, and the fact that it was
25 concealed, the license plates removed, I was very

1 suspicious at that time. I obviously thought we had
2 something more.

3 Q Um-hmm. And, indeed, um, arrangements were made
4 at part of that conversation to appoint a special
5 prosecutor?

6 A Yes.

7 Q In a missing persons investigation, one wouldn't
8 ordinarily expect a prosecutor for a criminal
9 case if somebody's just gone away for a few days
10 and then shows up later?

11 A I think everybody's thought at that time, based on
12 the events that have tran -- that had transpired, and
13 the fact that we found that vehicle at that location
14 in that condition, I think everybody thought that
15 we -- we had a criminal investigation.

16 Q If there was a criminal investigation --

17 A Yes.

18 Q -- that wouldn't be -- there would be need for a
19 prosecutor?

20 A Yes.

21 Q And there would be a need for search warrants?

22 A Yes.

23 Q Which are used in criminal investigations?

24 A Yes.

25 Q You were part of the group that went to obtain

1 the initial search warrant for the Avery
2 property?

3 A Yes.

4 Q You obtained that about 3:10 in the afternoon?

5 A Yes.

6 Q You know that a search warrant is something
7 that's obtained, in part, by a sworn statement or
8 affidavit typically of a law enforcement officer?

9 A Yes.

10 Q You were present when the application for that
11 search warrant was sworn out?

12 A Yes.

13 Q By Mr. Wiegert?

14 A Yes.

15 Q The search warrant application declared -- and
16 you heard this -- under oath that you folks
17 expected to find evidence of a homicide?

18 A Yes.

19 Q Among other potential offenses?

20 A Correct.

21 Q At the time that search warrant was sworn out
22 before Judge Fox, what you had recovered was the
23 Toyota?

24 A Yes.

25 Q Your testimony is that no one had even opened a

1 door to the Toyota?

2 A I know the officers there did not open a door.

3 Correct.

4 Q As far as you knew, the doors had not been
5 opened?

6 A Correct.

7 Q All right. You had seen, or you and another
8 officer had seen, a white piece of paper with
9 something like the word or the name "Teresa" on
10 it?

11 A I think there was a digital camera photo card.

12 Q Later that evening, then, you acted on -- you and
13 others acted on the search warrant that had been
14 obtained at 3:10?

15 A Yes.

16 Q Two-and-a-half hours in Mr. Avery's house,
17 roughly, give or take? Seven-thirty to ten or
18 thereabout?

19 A Seven-thirty to ten-o-five. Correct. Yes.

20 Q I'm sorry. I didn't mean that to be a trick
21 question. Um, you -- you saw bedding and pillow
22 cases eventually seized, bagged, and removed from
23 Mr. Avery's house?

24 A Yes.

25 Q You saw no blood at all on that bedding or those

1 pillow cases?

2 A I don't -- I didn't observe any at the time we took
3 it. No.

4 Q Mr. Lenk -- Lieutenant Lenk and others searched
5 the bathroom?

6 A Myself, Sergeant Colborn searched the bathroom after
7 we were done with the bedroom. Um, Lieutenant Lenk
8 may have done some searches in the bathroom,
9 initially, too.

10 Q Was it you who found in the living room at the
11 computer desk area that -- the two documents with
12 Teresa Halbach's cell phone number on it? On
13 them?

14 A Yes.

15 Q Uh, I got Exhibit 198 and Exhibit 194 for you.
16 One ninety-eight is the little notebook?

17 A Yes.

18 Q Where -- where did you find that?

19 A There is a desk in the living room of the trailer and
20 that was on top of the desk. I think it was -- it
21 was actually closed, and I opened it up and paged
22 through it and seen it.

23 Q But just sitting on -- on top of the desk much as
24 it is now?

25 A I believe so. Yes.

1 Q Okay.

2 A I think it was like that, initially.

3 Q With the cover --

4 A Yes.

5 Q -- folded? All right. And this sign, that's a
6 "for sale" sign with writing on the back; is --

7 A Yes.

8 Q -- that right?

9 A Correct.

10 Q Where'd you find the "for sale" sign?

11 A That was also on the desk. Um, as I'm facing the
12 desk in the living room, the right side of the
13 fence -- right side of the desk. It was pushed into
14 a slot, or amongst other papers, pushed into an upper
15 portion of the desk area. I pulled it out.

16 Q It was sort of a mail slot --

17 A Yes.

18 Q -- kind of thing --

19 A That's accurate.

20 Q -- with a number of other papers --

21 A Yes.

22 Q -- in there? So you pulled all of them out --

23 A Yes.

24 Q -- looked at them --

25 A Um-hmm.

1 Q -- and decided that since this had Ms. Halbach's
2 cell phone number, it may be worth taking?

3 A Correct.

4 Q Both of those things, I suppose, could have been
5 relatively easily burned in a burn barrel, for
6 example?

7 A I suppose.

8 Q I mean, if somebody was looking to hide them or
9 get rid of them, there were better places than
10 lying out on top of the desk or in the mail slot
11 in the desk?

12 A I guess. Yes.

13 Q The -- the actual page with, uh -- in Exhibit 198
14 with, um, Ms. Halbach's -- Ms. Halbach's, uh,
15 telephone number, is written in two different
16 colors of ink?

17 A I believe so. Yes. Green and blue or black, I
18 believe, is the phone number. Or, I'm sorry, the --
19 the words.

20 Q Whatever. We'll -- we'll go back to it.

21 A Yes. Phone number is in a -- a green, and back to
22 patio doors --

23 Q The green looks to you -- to your eye like a fine
24 point felt sort of -- or rollerball kind of ink?

25 A Yes.

1 Q And the black looks like an -- an ordinary
2 ballpoint pen?

3 A I would say that's accurate.

4 Q No way to know, then, whether there's any
5 connection between the -- the two different
6 things and the two different inks written on the
7 same page?

8 A I have no idea.

9 Q The, uh, obvious that -- it's obvious the page
10 isn't torn out? No tape on the page, that kind
11 of thing?

12 A It looks like it got wet at one time and maybe dried.

13 Q But it's not -- it's not torn out of the --

14 A No.

15 Q And there's no -- as I say, no tape or other --
16 anything to hang it up?

17 A No.

18 Q The search of the garage on November 6, I think
19 that's the first time you actually searched the
20 garage, rather than simply sweeping through it to
21 look for Ms. Halbach?

22 A Correct.

23 Q Uh, you folks found some empty shell casings
24 for -- looked like .22 caliber rounds?

25 A Yes.

1 Q Uh, ten of these? Something like that?

2 A I think 11.

3 Q Eleven?

4 A I believe so.

5 Q On the floor?

6 A Yes.

7 Q Uh, where there are shell casings, there may be

8 bullets?

9 A We found shell casings.

10 Q Were you looking for bullets?

11 A We were looking for everything.

12 Q Found no bullets in the search on November 6 of

13 the garage?

14 A Correct.

15 Q Found no bullets any other time in Steven Avery's

16 garage anytime in November of 2005?

17 A Correct.

18 Q It was March 2, 2006, and you were present when

19 bullets or bullet fragments were found in that

20 garage?

21 A On March 2, yes.

22 Q I'm sorry.

23 A One --

24 Q I'm sorry.

25 A -- bullet fragment.

1 Q What did -- did I say March 6?

2 A I believe so.

3 Q Sorry. March 2, 2006?

4 A Correct.

5 Q One bullet fragment?

6 A Yes.

7 Q I think same name -- uh, same date, November 6,
8 back to November, is when you go into the Janda
9 trailer and you get the answering machine?

10 A Yes.

11 Q Could you tell -- and -- and I don't know, I
12 haven't seen the machine -- but could you tell
13 whether it appeared that those messages had been
14 listened to before you listened to them?

15 A My indication, if that was the case, is that the
16 number would have been blinking, and I don't remember
17 if it was or not. I -- I don't know.

18 Q And I'm not -- I'm not sure I understood what you
19 just said. If they had been listened to, the
20 number would be blinking?

21 A I'm making a comparison to my answering machine,
22 which is a digital answering machine. If there's a
23 mess -- a message on there that needs to be listened
24 to, it would probably blink a number. And once you
25 listen to it, the number stays on. I don't remember

1 if it was blinking or if it was on.

2 Q So you're not able to say whether anyone had

3 reviewed message No. 6?

4 A I don't know that.

5 Q What you do know is that -- is that the digital

6 display suggested there were 12 messages?

7 A Yes.

8 Q Uh, you listened to all 12 of them?

9 A Yes.

10 Q Number 6 was the one that you thought had

11 anything to do with anything?

12 A Correct.

13 Q Again, March 1 and 2 as -- as I move forward

14 there, you were physically present both days?

15 A Yes.

16 Q Did you see Lieutenant Lenk there on site at the

17 Avery's on either day?

18 A In March?

19 Q Yes. March 1 and March 2.

20 A Yeah, he was there. He was, um -- yeah, he was

21 there.

22 Q Both days?

23 A I believe so. Yes.

24 Q Sergeant Colborn?

25 A I don't believe Sergeant Colborn was out there. If

1 he was, it may have been for some security away from
2 the garage area, the residence.

3 Q You just don't know?

4 A I don't know.

5 Q I don't know if you're able to help with this
6 again?

7 A I'll try.

8 Q If you can't, you can't. Okay? Um, 3302 Zander
9 Road. Manitowoc County address? Any idea?

10 A Don't know.

11 Q Don't know of any connection between 3302 Zander
12 Road and Teresa Halbach?

13 A I do not know that.

14 Q Okay. That's all I've got. Thanks.

15 THE COURT: Uh, Mr. Kratz, any redirect?

16 ATTORNEY KRATZ: Yes, Judge. But I do have
17 one issue outside the presence of the jury that I
18 must raise.

19 THE COURT: Very well. We'll excuse the
20 jury here.

21 (Jurors out at 3:56 p.m.)

22 THE COURT: Mr. Kratz.

23 ATTORNEY KRATZ: Thank you, Judge. The
24 record should reflect that this witness has been
25 asked and has, in fact, left the -- the courtroom.

1 Mr. Strang, now, for, uh, at least the second time,
2 uh, and the, uh, first time with this witness, has
3 been allowed to introduce the subject of
4 investigative bias. That is, uh, been allowed with
5 this witness to suggest that there was better reason
6 for the law enforcement officials to be looking at
7 Mr. Zipperer rather than that of Mr. Avery.

8 Apparently, Mr. Strang's suggestion to
9 this witness was because Mr. Avery was seemingly
10 more polite, uh, that the officers, uh, still
11 focused on Mr. Avery. As this Court knows, uh,
12 the State had, uh, asked the Court to, um, reject
13 the notion of, uh, institutional bias, uh, and I
14 think, uh, with specific witnesses, that has been
15 addressed.

16 But this investigative bias, or the
17 distinction that Mr. Strang now makes, is
18 something that the State feels, uh, unable to
19 meet. Feels unable to address. Uh, I suspect
20 that this witness, if asked and if allowed to
21 testify truthfully, would give good reasons why
22 Mr. Avery was a suspect.

23 As between Mr. Zipperer and Mr. Avery,
24 only one of those two people was sent to prison
25 for a violent felony offense, pointing a firearm

1 at a woman. That seems relevant, Judge.

2 And with Mr. Strang and his suggestion
3 now that there was, uh, seemingly no reason to
4 look at Mr. Avery compared to Mr. Zipperer, I
5 want to ask this witness that question. I want
6 to be able, with Mr. Strang having opened that
7 door, uh, to be able to allow Mr., uh, Remiker,
8 on behalf of his Department, to suggest why they
9 might be asking is Mr. Avery in custody, or why
10 Mr. Avery was being, uh, uh, interviewed or
11 investigated. Uh, I think that's going to be the
12 answer.

13 If we ask the Court if I'm allowed, uh,
14 to ask that question, we certainly wouldn't have
15 done it, and I've abided by the Court's pretrial
16 ruling regarding the other acts evidence, but on
17 that specific count, that is, that specific
18 felony offense for which we know, uh, included,
19 uh, imprisonment for Mr. Avery, that now becomes
20 relevant, and the State should be allowed at this
21 time, uh, to inquire, in a limited fashion, as to
22 what these detectives knew of Mr. Avery's violent
23 history.

24 THE COURT: Mr. Strang?

25 ATTORNEY STRANG: Thank you, Your Honor.

1 Uh, and I -- I appreciate Mr. Kratz raising this,
2 uh, out of the jury's presence. Um, I still
3 don't think there's any linkage at all here in
4 this trial, uh, between the 1985 felony
5 conviction involving different people and
6 different conduct, or a different victim, if you
7 will, and different conduct all together, and
8 this investigation, particularly where the visit
9 to the Zipperers, and the evidence about the
10 Zipperers, is limited to November 3.

11 And we have both Detective Remiker and
12 Lieutenant Lenk going out of their way on direct
13 examination to testify that, boy, on November 4,
14 you know, we either thought Calumet County was
15 barking up the wrong tree, or we thought Mr.
16 Avery had nothing to do with -- with it, so I
17 don't think I've opened any back door to bringing
18 in, um, a 22-year-old felony conviction.

19 I -- I just -- I just don't think any
20 door to that has been opened at all. Um, I don't
21 anticipate there'll be further in evidence about
22 the Zipperers, but I don't know that it -- it
23 even matters.

24 THE COURT: Mr. Kratz?

25 ATTORNEY KRATZ: Well, Judge, uh, I -- I

1 can't -- and -- and with -- with apol -- apologies
2 to the Court in oversimplifying this term, uh, I
3 can't see how else to address the concept of poor
4 Steven Avery. Why would you be looking at poor
5 Steven Avery, uh, to have committed this offense?

6 There's very, very good reasons why law
7 enforcement, because of what they knew about his
8 prior violent felony history -- there my be other
9 reasons, Judge, and, perhaps, we'll need an offer
10 of proof for me to do that outside of the
11 presence of the jury, but we should at least be
12 allowed to inquire.

13 THE COURT: Well, maybe I'm missing
14 something here, but, um, seems to me, as I
15 understood the testimony of this witness, it may be
16 that, uh, Mr. Jacobs thought for some reason that
17 the State should be focusing on Mr. Avery. But as I
18 understood Detective Remiker's testimony, at least
19 at the time, he was not. He attempted to distance
20 himself from any, uh, suggestion that at the -- at
21 the time of the -- of the, um, conversation that was
22 from which we heard the audio today, that, um --
23 that, uh, Mr. Remiker had, uh, focused on Steven
24 Avery.

25 ATTORNEY KRATZ: I'm -- I'm heartened

1 that the Court may not have bought into
2 Mr. Strang's cross-examination. I'm not sure
3 that the jury's in the same position, though.
4 They -- they certainly may have, Judge, when
5 Mr. Strang was allowed on cross-examination to
6 continue to talk about, um, how uncooperative
7 Mr. Zipperer was, and why would you then be going
8 back to talk to Mr. Avery?

9 THE COURT: Well, you know, on redirect
10 you can heighten that if you wish. But that was
11 my understanding. Uh, uh, I don't remember the
12 exact quotes that Mr. Remiker gave, but I just --
13 at this point this witness didn't support the
14 premise that, uh, at least he, as a member of the
15 Manitowoc Sheriff's Department, was locked in on
16 Steven Avery.

17 Um, if there's nothing else, we'll bring
18 the jurors back in and bring, uh, the witness
19 back in for redirect.

20 ATTORNEY KRATZ: I -- I assume the Court's
21 denying my request, then, to go into those other
22 matters --

23 THE COURT: Yes, I am.

24 ATTORNEY KRATZ: -- what -- what they
25 knew about his history?

1 THE COURT: Yes.

2 ATTORNEY KRATZ: All right.

3 ATTORNEY STRANG: Um, maybe we could get
4 a sense of the timing of the rest of the day?

5 THE COURT: Mr. Kratz, how much time do you
6 think you'll be, uh, doing your redirect?

7 ATTORNEY KRATZ: Can't be any more than ten
8 minutes, Judge.

9 THE COURT: And, uh, who's the next
10 witness?

11 ATTORNEY KRATZ: Uh, Deputy Kucharski, who
12 has, um, lots of photos and evidence that's going to
13 be introduced. I don't know if the Court wants to
14 break at -- I don't know if there's going to be
15 any -- any recross, but...

16 THE COURT: Well, we'll see what time we
17 have left after, Mr., um, Remiker, but I don't know
18 that it will pay to start another witness by that
19 time.

20 ATTORNEY KRATZ: That's fine. Thank you,
21 Judge.

22 (Jurors in at 4:04 p.m.)

23 THE COURT: You may be seated. Uh,
24 Mr. Kratz, does the State have any redirect?

25 ATTORNEY KRATZ: Yes, Judge.

REDIRECT EXAMINATION

1
2 BY ATTORNEY KRATZ:

3 Q Detective Remiker, on the evening of the 4th of
4 November and the morning hours of the 5th of
5 November, that is, prior to the time that we
6 heard those calls from Detective Jacobs, was your
7 Department informed that Steven Avery was, uh, if
8 not the last, one of the last people to see
9 Teresa Halbach alive?

10 A Yes.

11 Q If this would have been your investigation at
12 that particular moment, would Steven Avery have
13 been a person of interest in your investigation?

14 A Absolutely.

15 Q And so when Detective Jacobs asks, uh, questions
16 about Steven Avery, and is he in custody, were
17 you surprised with Detective Jacobs' request
18 or -- or comments?

19 A Not really. Uh, I mean, he -- definitely, Steve was
20 a person that, um, um, could have been a suspect. He
21 saw her. Um, was the last person to see her.

22 Q Now, when we hear Detective Jacobs' call, and I
23 know that's not your call, and it's hard to ask
24 you, really unfair to ask you, to speak for
25 another person, but what I heard was that two

1 different things were going on, uh, and correct
2 me if I'm wrong, first, was that Teresa's car was
3 found on the Avery property; is that right?

4 A That's what's said. Yes.

5 Q What's going on, also, at almost the identical
6 time, is dispatch is announcing that some party
7 was taken into custody; is that right?

8 A Yes.

9 Q Now, those two things, as it so happens, are
10 unrelated; is that right?

11 A Correct.

12 Q Now, unless Detective Jacobs would have asked if
13 those two events were related or not, is there
14 any way he would have known if they were
15 unrelated?

16 A He wouldn't have known that. Based on the radio
17 traffic, it sounds like somebody was taken into
18 custody. Somebody was taken into custody.

19 Q And Dennis Jacobs asked if that was Steve Avery?

20 A That's what's said. Yes.

21 Q Mr. Strang asked you about Mr. Zipperer, uh, and
22 asked about, um, Mr. Avery, and that both of
23 those individuals were persons of interest to
24 you. That's fair, isn't it?

25 A Definitely.

1 Q On the 4th, that is, the night before Teresa's
2 vehicle is found, was one person -- that is,
3 Mr. Zipperer compared to Mr. Avery -- was one
4 person given more attention than the other
5 person?

6 A I would say it was fairly equal at that point.

7 Q Well, let me just ask by -- by time frame, who
8 did you guys spend more time with, Mr. Avery or
9 Mr. Zipperer?

10 A I spent a lot more time with Mr. Zipperer and
11 JoEllen.

12 Q Are you familiar with, uh, Sergeant Colborn's
13 contact with Mr. Avery earlier? Uh, that'd be on
14 the -- on the 3rd?

15 A Yes.

16 Q And then your contacts on the 4th with Mr. Avery;
17 is that right?

18 A Correct.

19 Q Uh, as between the two, are you able to ascertain
20 which was given more of your time or attention?

21 A We were at the Zipperer property longer than I was at
22 the Avery property on Friday. I think the Avery
23 property was a total of 15 minutes total. I know for
24 a fact we were at the Zipperer property longer than
25 that speaking with George, speaking with JoEllen,

1 speaking with Jason.

2 Q Okay. What was your goal on the 4th? What was
3 your investigative goal that night?

4 A That night? The day of the --

5 Q The -- I'm -- I'm sorry.

6 A The 4th during the --

7 Q Yeah.

8 A -- morning hours?

9 Q Yeah. Day of and -- and evening of the 4th?

10 A My goal was to find Teresa Halbach or to come up with
11 some answers as to where she was. Um, and,
12 obviously, we -- you know, we made contact with
13 Steve, and -- and Steve was cooperative, and at that
14 point I had no reason to believe that Steve was a
15 suspect based on what we had at the time. My goal,
16 entirely, from Thursday, Friday, Saturday, Sunday was
17 to find Teresa. Bottom line.

18 Q Thank you, Detective.

19 ATTORNEY KRATZ: That's all I have,
20 Judge.

21 ATTORNEY STRANG: Nothing more. Thanks.

22 THE COURT: All right. The witness is
23 excused.

24 ATTORNEY KRATZ: Call our next witness,
25 Judge?

1 THE COURT: I think we'll get started, yes.

2 ATTORNEY KRATZ: We'll call, uh, Deputy
3 Kucharski to the stand. Can we approach just for a
4 housekeeping matter, Judge?

5 THE COURT: Yes.

6 (Discussion off the record)

7 THE CLERK: Please raise your right hand.

8 **DANIEL KUCHARSKI,**

9 called as a witness herein, having been first duly
10 sworn, was examined and testified as follows:

11 THE CLERK: Please be seated. Please state
12 your name and spell your last name for the record.

13 THE WITNESS: Daniel Kucharski,
14 K-u-c-h-a-r-s-k-i.

15 **DIRECT EXAMINATION**

16 BY ATTORNEY KRATZ:

17 Q It's pronounced Kucharski?

18 A Yes, it is.

19 Q Mr. Kucharski, how are you employed?

20 A I work for the Calumet County Sheriff's Department.

21 Q What are your duties with the Sheriff's
22 Department?

23 A I work in the patrol division on routine patrol. I
24 also have, uh, additional duties of the armor for the
25 county and evidence tech for the county.

1 Q What kind of, uh, training goes into being an
2 evidence tech?

3 A It's a two-week course, I believe, um, concentrating
4 on the, um, identification of locating, preserving,
5 and collecting evidence.

6 Q How long have you been a evidence tech?

7 A I went through the school, um, August of 2005.

8 Q And could you tell us, Deputy, uh, Kucharski, how
9 long you've been a law enforcement officer?

10 A Approximately five years.

11 Q I'm going to direct your attention to November 5
12 of 2005 and ask if you were employed in the
13 capacity as a deputy sheriff on that day?

14 A Yes, I was.

15 Q On the 5th of November, 2005, do you recall
16 being, um, summoned into work?

17 A Yes. I was, uh, asked to respond to, uh,
18 intersection of Highway 147 and Avery Road to assist
19 in, uh, evidence collection and searching.

20 Q Did you proceed to that scene?

21 A Yes, I did.

22 Q And upon your arrival at the intersection of 147
23 and Avery Road, tell the jury what you first
24 found when you got there?

25 A The first thing was, uh, the command post. I went up

1 to the command post, met with Lieutenant Sippel. Um,
2 Lieutenant Sippel -- There were other officers on
3 scene already. Lieutenant Sippel directed me to, uh,
4 go with direct -- Detective Remiker, pick up a couple
5 of pieces of evidence, and then the remainder of my
6 evening was spent, uh, searching the, um, salvage
7 yard with a cadaver dog. I'm a dog handler.

8 Q All right. Now, the cadaver dog, or search and
9 rescue K-9 part of this case was a rather big
10 undertaking; is that right?

11 A Absolutely.

12 Q Can you describe that, uh, for the jury as I put
13 up Exhibit No. 86? Go ahead. Just -- just tell
14 us about that undertaking?

15 A Well, I -- I was paired up with a single handler and
16 a dog, and we, uh, started out in the, uh -- the
17 actual portion of the salvage yard that held the car.
18 It's kind of on a lower grade than the rest of the,
19 uh -- the rest of the property, and we proceeded to
20 go up and down the rows, um, with the dog, searching,
21 uh, for a body.

22 Q How long did that take you?

23 A The whole evening. I -- I think I cleared from there
24 somewhere around 11:00 that night.

25 Q Do you know about how many cars, uh, the Avery

1 salvage property, uh, holds?

2 A I would say thousands.

3 Q Okay. When you say it took you the whole evening
4 with these, uh -- with these dogs and their
5 handlers, uh, about what time did you complete
6 your duties that first evening?

7 A Uh, I think approximately about 11 o'clock.

8 Q The next day, then, on the 6th of November, were
9 you asked to return to the Avery salvage
10 property?

11 A Yes. I was scheduled to return early in the morning,
12 and, uh, again assist in, uh, searching for evidence.

13 Q What, uh -- what were your responsibilities, and
14 where and from whom did you receive these, um,
15 directions?

16 A Um, the chain of command for me is, uh -- Lieutenant
17 Bowe was my direct supervisor. Um, I knew -- I knew
18 Investigator Wiegert and a -- a agent from the DCI
19 were in charge of the investigation, but I would
20 always go to Lieutenant Bowe to get my assignments.
21 I believe he would get the assignments from the
22 investigators and would trickle down to me.

23 Um, and that morning -- uh, the first
24 morning I was, uh, set to -- we were searching
25 the garage, um, at the Steven Avery residence.

1 That was the first, uh, undertaking that we did.

2 Q Were you teamed up with anybody at that time?

3 A Yes. I was teamed up with, uh, Sergeant, uh,
4 Colborn, Detective Remiker, and Lieutenant Lenk from
5 the Manitowoc County Sheriff's Office.

6 Q Can you describe this garage for us, please?

7 A Two-car detached garage. Um, single side door,
8 service door. A single overhead, uh, car door.

9 (Exhibit Nos. 221-229 marked for identification.)

10 Q Okay. I'm going to show you -- I'm sorry about
11 that. I didn't know that was happening. I'm
12 going to show you an exhibit. It's Exhibit No.
13 227. Mr. Fallon's going to show that to you so
14 we can begin. Tell us what that is, please?

15 A That is a, uh, picture of the overhead garage door of
16 the garage that I searched that morning. It would
17 be, uh, from the, uh, north side of the garage facing
18 south.

19 Q There's a laser pointer, Deputy Kucharski, up,
20 uh, with you. If you can refer to the larger
21 exhibit that we have, uh, up here for the jury,
22 since this is the first view, at least, of the
23 interior from the 6th of November. Use the laser
24 pointer and tell us, uh -- tell us what we're
25 looking at?

1 A Well, this is the interior of the garage. Um, like I
2 said, we're facing south from the north. Um, we're
3 looking at, um -- This is after we had already been
4 searching for awhile. I think you can see down here,
5 uh, some circled spots we had been searching. Uh, we
6 took this photo after -- Um, I took this photo after
7 we removed a, uh, um -- a snowmobile that was parked
8 here.

9 Q We'll show that in just a minute. But what are
10 some of the other major items just so we can
11 orient ourselves to this garage?

12 A Items that we found or --

13 Q Just -- just items in the garage so that we --
14 when we, uh, refer to some areas that you found
15 things, we'll -- we'll be able to know where they
16 were found near.

17 A On the -- on the back wall, um, obviously, a -- a --
18 a tool chest, uh, miscellaneous other tools. There
19 was a lot of, uh -- a lot of clutter, especially
20 outside of this, uh -- this picture -- on this side
21 of the, uh, picture was several feet deep with
22 clutter.

23 Q Okay. Deputy Kucharski, could you, uh, tell us,
24 um, upon your search of this garage -- By the
25 way, whose garage is this?

1 A It's a garage at Steven Avery's residence.

2 Q Based upon your search of the garage, could you
3 tell us the, um -- the first series of items
4 that, uh -- that you found that were noteworthy?

5 A As we walked through the door, the door -- the
6 service door is on this side, and, uh, that's the
7 door we walked in, and we immed -- immediately
8 noticed, uh, several .22 long rifle shell casings
9 sitting on the, uh, concrete in this area.

10 Q Mr. Fallon is going to hand you some exhibits.
11 Actually, they are -- they begin with Exhibit No.
12 221. Tell us what's Exhibit 221?

13 A Two twenty-one is a, uh, empty .22 long rifle shell
14 casing.

15 Q I'm going to put that up for the -- for the jury
16 so they can follow along. There is a -- a
17 number, or a, I think, what's called an evidence
18 tent next to that. Uh, what number is that?

19 A That's No. 11.

20 Q What does No. 11 mean? Just so as we look at
21 some of these, um -- of these photos...

22 A As we're going along, um, identifying evidence, the
23 tents help us, uh, first of all, keep the evidence in
24 sight, meaning that there's a tent there. We know
25 there's ev -- evidence right next to it. Help us --

1 helps us in, uh, um, logging the numbers, also, so
2 that we know, as we're logging them onto the evidence
3 sheets, we can go by number.

4 Q I'm going to come up with a little closer or
5 zoomed-in view of, uh, Exhibit 221. You
6 mentioned for the jury that, uh, you believed
7 that to be a .22 caliber shell casing. Uh, how
8 did you know that?

9 A Through my training and ex -- experience. I'm the
10 armor for the county. I can recognize a .22 long
11 rifle shell casing.

12 Q And that's what this is?

13 A Yes, it is.

14 Q All right. Tell us what Exhibit 222 is, please?

15 A Two twenty-two is another .22 long rifle shell
16 casing. Uh, exhibit with the tent of 12 there.

17 Q Now that the jury can see Exhibit 222, is that
18 what, uh -- what that exhibit depicts?

19 A Yes.

20 Q All right. By the way, where were these items
21 found?

22 A On the floor in the garage.

23 Q Exhibit 223?

24 A Yes.

25 Q Can you tell me what that is, please?

1 A It's another .22 long rifle shell casing with a tent
2 number of 13, found on the floor in the garage.

3 Q And we'll show the jury 223. Is that a picture
4 of what you've just described?

5 A Yes, it is.

6 Q Two twenty-four?

7 A Two twenty-four is another picture of a, uh, .22 long
8 rifle shell casing, uh, found in the garage with tent
9 number of 14.

10 Q Seems to have a worm next to it; is that right?

11 A Yes. Yes.

12 Q You take these pictures kind of as you find them?

13 A Absolutely. As we find them, uh, if we can take a
14 photo of it, we, uh, try not to disturb it. We
15 circle where it was and -- and take a photo before we
16 collect it, so...

17 Q And so the -- the record reflects, that has tent
18 number 14 next to it?

19 A Yes.

20 Q All right. Next shell casing? Tent number 15.

21 What, uh, exhibit?

22 A Exhibit 225. Again, another .22 long rifle shell
23 casing found on the, uh, floor in the garage. Tent
24 number 15.

25 Q Okay. And, finally, Exhibit 226?

1 A Be tent number 16, another .22 long rifle shell
2 casing found on the, uh, floor in the garage.

3 Q Now, Deputy Kucharski, um, I think we've seen --
4 is it six photos of shell casings?

5 A Yes. Six photos.

6 Q How many .22 long rifle shell casings did you
7 find that morning?

8 A Um, 10 or 11 we found.

9 Q And could you tell the jury where they were
10 located? In other words, were they close to each
11 other, or spread around, or give us some kind of
12 a description of where they were?

13 A These were the ones that were out in the open that
14 were able to be photographed. They were spread all
15 over, um, in that portion of the garage. Um, some of
16 them were underneath things. Can't -- couldn't take
17 a picture of it underneath it once we collected it.
18 So these were the ones we could take photos of.

19 Q Mr. Kucharski, before we show you these -- these
20 next photos, I want to talk a little bit about,
21 um, the rest of your team. Who else was with
22 you, uh, at the time, and what responsibilities
23 each of you had? Can you --

24 A Sure.

25 Q -- describe that for us?

1 A Well, I was given the -- basically a team leader
2 position from, uh, Lieutenant Bowe, who said -- told
3 me to take control of the team and -- and give
4 assignments as needed. Uh, Lieutenant Lenk, Sergeant
5 Colborn, and Detective Remiker were on my team. So
6 came up with a plan, um, of what to do. They were
7 searching. Uh, I was photographing, and collecting,
8 and bagging, and tagging evidence.

9 As a piece of evidence would come into,
10 uh -- would be found, they would, uh, point it
11 out to me. Um, I would collect it, I would
12 photograph it, and -- and put it in the bags.

13 Q Okay. I'm going to show you Exhibit 227 again,
14 the open garage door, and I'm going to zoom in
15 and actually show you what appears to be some
16 wires hanging from the rafters. Do you see that?

17 A Yes. Uh, they appear to be some type of, uh -- some
18 type of electrical wires that were tied up there.

19 Q All right. And I'll direct your attention to
20 Exhibit No. 228. Tell the jury what that is,
21 please?

22 A Two twenty-eight, that's a closer up photo of the,
23 uh, um -- of the electrical wires tied there on the
24 rafter.

25 Q And by the way, do all of these photos accurately

1 depict how each of these items looked on the 6th
2 of November?

3 A Yes, they do.

4 Q What's Exhibit 229, please?

5 A Two twenty-nine is a, uh, picture of the, uh -- of
6 the electrical cords after they had been cut down.

7 Q So after they were, um, recovered, seized, put
8 into evidence, this, like all the other evidence,
9 was photographed by somebody; is that right?

10 A Yes.

11 Q And that's 229?

12 A Yes.

13 ATTORNEY KRATZ: Judge, I'm happy to
14 continue if you want me to. Otherwise, we can
15 take our break at this point.

16 THE COURT: No, I think they -- Or this
17 is probably a good time to break, uh, for today.
18 Um, members of the jury, uh, we're going to
19 conclude proceedings for today. I'm going to
20 remind you again not to discuss the case, uh,
21 with yourselves, with each other, any member
22 that's of your family, and, uh, make sure that
23 you're not exposed to any media coverage about
24 the case. Uh, we will resume at the normal time
25 tomorrow morning.

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(Jurors excused at 4:28 p.m.)

THE COURT: You may be seated, counsel. I do have a few matters to take up in chambers before you leave today. I'd like you to stop in.

ATTORNEY BUTING: Do you want to put any of the side bars on the record or...

ATTORNEY KRATZ: The last one was a -- a -- a court administration. I asked how long you wanted to go and --

THE COURT: Yeah. There was just one side bar, I think, we haven't accounted for, which was after four o'clock, and that was Mr. Kratz, uh, asking how far we were going to go today, basically.

ATTORNEY BUTING: Thank you.

(Wherein Court stands adjourned at 4:29 p.m.)

1 STATE OF WISCONSIN)
)SS.
2 COUNTY OF MANITOWOC)

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I, Jennifer K. Hau, Official Court Reporter for Circuit Court Branch 3 and the State of Wisconsin, do hereby certify that I reported the foregoing matter and that the foregoing transcript has been carefully prepared by me with my computerized stenographic notes as taken by me in machine shorthand, and by computer-assisted transcription thereafter transcribed, and that it is a true and correct transcript of the proceedings had in said matter to the best of my knowledge and ability.

Dated this ___ day of _____, 2007.

Jennifer K. Hau, RPR
Official Court Reporter

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