

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

3	UNITED STATES OF AMERICA,)	
4	Plaintiff,)	
5	vs.)	CRIMINAL CASE NO. CCB-17-106
6	DANIEL THOMAS HERSL and)	
7	MARCUS ROOSEVELT TAYLOR,)	
	Defendants.)	
	_____)	

Tuesday, February 6, 2018
Courtroom 1A
Baltimore, Maryland

BEFORE: THE HONORABLE CATHERINE C. BLAKE, JUDGE
(AND A JURY)

VOLUME VIII

For the Plaintiff:

Leo J. Wise, Esquire
Derek E. Hines, Esquire
Assistant United States Attorneys

Reported by:

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1 For the Defendant Daniel Hersl:

2 William B. Purpura, Jr., Esquire
3 Thomas W. Rafter, Esquire

4 For the Defendant Marcus Taylor:

5 Christopher C. Nieto, Esquire
6 Jenifer Wicks, Esquire

7 Also Present:

8 Special Agent Erika Jensen, FBI

9 TFO John Sieracki

10 Matthew Kerrigan, Government's Trial Technician

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P R O C E E D I N G S

(10:08 a.m.)

THE COURT: Good morning, everyone. Be seated, please.

If I could see Mr. Purpura briefly on the ex parte matter.

(Sealed ex parte bench conference under separate cover.)

THE COURT: All right. Are we ready for the jury?

MR. WISE: We are, Your Honor.

Your Honor, would you like Special Agent Jensen on the stand?

THE COURT: Sure.

(Jury entered the courtroom at 10:11 a.m.)

THE COURT: Good morning. You can be seated.

THE CLERK: Agent Jensen, you're still under oath.

THE WITNESS: Yes, ma'am.

SPECIAL AGENT ERIKA JENSEN, GOVERNMENT'S WITNESS,
PREVIOUSLY SWORN.

THE COURT: All right, Mr. Purpura.

MR. PURPURA: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. PURPURA:

Q. Special Agent Jensen, just quickly, going back on the Home Depot and the Lowe's receipts, remember discussing those?

A. Yes, sir.

~~JENSEN~~ ~~CROSS~~

1 Q. And you actually had all the receipts from Home Depot and
2 Lowe's; correct?

3 A. We had several receipts; right.

4 Q. Fair enough.

5 A. Yeah.

6 Q. And those receipts indicated they were credit card
7 purchases; is that correct?

8 A. They were.

9 Q. Okay. They're not cash purchases. They were credit card
10 purchases?

11 A. I don't think any of them are cash. I think they were all
12 debit or credit.

13 Q. Thank you.

14 A. Yes.

15 Q. And using Government Exhibit PP-1A, you recognize this as
16 the overtime slip June 24th, 2015, for Daniel Hersl; is that
17 correct?

18 A. It's dated both 2015 and 2016.

19 Q. Right. And the correct date should be the 24th, 2016; is
20 that correct?

21 A. Yes.

22 Q. Okay. Can you see right by the signature line right here,
23 do you recognize that signature?

24 A. I don't know that signature.

25 Q. Okay. And just above it, it says the signature

~~JENSEN~~ ~~CROSS~~

1 authorizing or the supervisor (indicating); correct?

2 **A.** Yes.

3 **Q.** All right. And you don't know who that is?

4 **A.** No. I didn't -- no, I don't know the signatures.

5 **Q.** Did you ever attempt to find out who authorized this
6 overtime slip?

7 **A.** There was a point in time when we tried to identify some
8 of the signatures. And in a couple cases we were able to if
9 they put their sequence number, their police number. A lot of
10 times we weren't able to.

11 **Q.** Okay. And the same question on the July 14th overtime
12 slip; apparently it's authorized again by someone. Do you
13 recognize that signature?

14 **A.** I don't recognize the signature.

15 **Q.** Did you find out who signed that and authorized the
16 July 14th, 2016 overtime slip?

17 **A.** The sequence number is that -- is -- I do know that
18 sequence number, F934.

19 **Q.** Okay. Authorized by whom?

20 **A.** That's -- I don't know the signature, but I know that
21 number to be associated with Sergeant Thomas Allers.

22 **Q.** Okay. And, again, another signature on July 23rd, 2016,
23 Government Exhibit PP-4A, which was, again, used by Mr. Wise
24 yesterday. Do you recognize that signature who authorized the
25 overtime?

~~JENSEN~~ ~~CROSS~~

1 **A.** I don't.

2 **Q.** And finally, on the last Government exhibit, August 8th,
3 2016, there's a signature again authorizing the overtime for
4 Daniel Hersl on August 8th, 2016.

5 Do you recognize that signature?

6 **A.** I don't.

7 **Q.** Were you able to obtain any information as to who
8 authorized the overtime on this particular date?

9 **A.** Not based on that signature, no.

10 **Q.** Now, yesterday when you testified about the month sometime
11 in September through October of 2016, you testified about
12 cell tower location monitoring; correct?

13 **A.** Yes.

14 **Q.** And I don't think we really explained to the jury, what
15 were you able to do? What did you do to obtain that
16 information?

17 **A.** How did we obtain it?

18 **Q.** Yeah.

19 **A.** Cell site information is provided by a phone company based
20 on a court order or sometimes a tracking warrant. Depends on
21 the phone company, the way they collect their data.

22 So in this case, I think for Mr. Hersl for that time
23 period, it was a court order.

24 **Q.** Okay. So you had cell site information which would be
25 indicative that Mr. Hersl's cell, when it's being used, is

1 bouncing off a particular cell tower; correct?

2 **A.** Yeah. So I would use the word "registered." So for
3 certain telephone calls, your cell phone will be registered at
4 a tower where the signal's transmitted.

5 **Q.** All right. And that gives you an approximate location as
6 to where the phone may or may not be; is that correct?

7 **A.** Correct.

8 **Q.** And you had this -- the investigation started back in
9 2015; correct?

10 **A.** Late 2015, very -- the very end of 2015, yes.

11 **Q.** And when you requested the cell data information from
12 Mr. Hersl's cell phone, did you also request it for the time
13 period from June of 2016 through August 8th of 2016?

14 **A.** We did several court orders for all of their phones, so
15 I'm not sure if I'll be able to recall for you the exact dates
16 and how many we did.

17 We do have cell phone -- or cell site data for the phone
18 used by Mr. Hersl for the summer of 2016. I don't know if I
19 could tell you the exact dates. I think ending sometime in
20 August.

21 And then I think we pulled it again in February maybe of
22 2017 and we pulled it for a longer period of time to try to
23 basically fill gaps.

24 **Q.** Do you remember yesterday, I believe Mr. Wise started by
25 putting on a demonstrative on the screen which was the

~~JENSEN~~ ~~CROSS~~

1 racketeering acts involving both Hersl and Taylor.

2 Do you remember that?

3 **A.** Yes.

4 **Q.** Now, did you obtain the cell site data information for
5 those particular racketeering acts where Mr. Hersl's charged
6 with overtime fraud?

7 **A.** So we have cell site data for that period.

8 **Q.** All right.

9 **A.** But, yes, that includes all of those acts, yes.

10 **Q.** And yesterday -- and correct me if I'm wrong -- I don't
11 believe you testified as to any one of those particular acts as
12 to the cell phone location of Mr. Hersl on those particular
13 racketeering acts, did you?

14 **A.** I didn't for the 14th. I don't think I did for the 29th.
15 I don't think I did for July or August. That's right.

16 **Q.** Thank you.

17 And in addition, you also were able to -- other than
18 looking at cell records, another way to verify whether a person
19 is working or not working or in Baltimore City or not in
20 Baltimore City is via surveillance; correct?

21 **A.** Yes.

22 **Q.** All right. And on any of the particular dates involved in
23 the overt -- strike that. The racketeering acts involving
24 Mr. Hersl, did you attempt to do any surveillance on those
25 particular dates to determine whether Mr. Hersl was or was not

~~JENSEN~~ ~~CROSS~~

1 in Baltimore City when he said he was?

2 **A.** We did not do much surveillance at all because of the risk
3 of being detected by the officers. We were very careful, so we
4 did not.

5 **Q.** You did some surveillance, though; correct?

6 **A.** Some surveillance.

7 **Q.** You did some surveillance on Mr. Gondo; correct?

8 **A.** Very limited. We did primarily residential style
9 surveillance.

10 **Q.** All right. But the bottom line is, although surveillance
11 is a tool, you chose not to use that tool in this particular
12 case for your law enforcement reasons; correct?

13 **A.** Right. We did not do much surveillance.

14 **Q.** Thank you.

15 Now, in addition to what you testified to, there was a
16 Title III in this particular case; is that correct?

17 **A.** Yes.

18 **Q.** And tell the jury just briefly what a Title III is.

19 **A.** A Title III is a court order authorizing us to intercept
20 someone's telephone. Sometimes it's calls. It can be
21 text messages. It could also be data, depending on the type of
22 wiretap authorization we had.

23 **Q.** And you had an intercept on the line (443) 513-1994; is
24 that correct?

25 **A.** Yes, that's correct.

1 Q. And also for (443) 513-1993; is that correct?

2 A. That's correct.

3 Q. And who are those phones associated with?

4 A. Both of those phones were associated with
5 Former Detective Gondo.

6 Q. And can you please tell us when, approximately, you were
7 able to intercept the calls on those phones. When did it
8 start?

9 A. I think our initial wiretap was authorized on April 28th.

10 Q. Of what year?

11 A. 2016.

12 Q. Okay.

13 A. And I think we ran through -- we had a couple of renewals.
14 We went from 19 -- phone number ending in '1994 to '1993, I
15 think. We transitioned. And our last authorization was
16 sometime in the -- toward the third -- the middle of the second
17 half of August, maybe the 19th of August.

18 Q. Okay. So sometime from April 20th, 2016, through
19 August 19th, roughly, of 2016, you, as a Special Agent, and
20 your team were able to monitor the phone calls, incoming and
21 outgoing [sic] calls, to those particular Gondo phones; is
22 that correct?

23 A. That's correct.

24 Q. And what you do when you do that is you attempt to find
25 certain pertinent calls; correct?

1 **A.** We evaluate the calls that come in as -- we make an
2 initial evaluation as to whether we find them pertinent or
3 nonpertinent.

4 **Q.** And are these calls listened to 24/7? Is someone
5 monitoring the wire the entire time?

6 **A.** These wires were monitored, I think, all of them 24 by 7.

7 **Q.** All right. And with that information, what you
8 determined, law enforcement determines what you believe are
9 pertinent calls which may or may not help the case. And that's
10 shared, of course, with the Assistant United States Attorneys;
11 correct?

12 **A.** Yes.

13 **Q.** And if you had pertinent calls or calls, let's say,
14 between Hersl and Gondo that were helpful, you would have
15 pointed -- helpful for your case, you would have pointed those
16 out to Mr. Wise or Mr. Hines; correct?

17 **A.** I'm sure we would have shared information with them, of
18 course.

19 **Q.** And all those calls, then, were available to Government
20 counsel; is that correct?

21 **A.** Yes.

22 **Q.** Okay. In addition to having the Title III on Mr. Gondo's
23 phone for those months, you also had a vehicle wire or a
24 vehicle intercept; is that correct?

25 **A.** We had a microphone in Detective Gondo's BPD rental. It

~~JENSEN~~ ~~CROSS~~

1 was a rental vehicle, but it was a BPD vehicle, yes.

2 **Q.** What kind of vehicle was that?

3 **A.** It was -- it was a gold Chevy, I think Impala, but it
4 might have been a Malibu, yeah.

5 **Q.** Okay. And when can -- when was this microphone installed?

6 **A.** I think in the overnight hours of August 19th, so going
7 into the early morning hours of August 20th.

8 **Q.** So sometime in August 19th of 2016, basically when the
9 wire goes down, the microphone goes up?

10 **A.** Yeah, and I actually think we probably had a few days of
11 overlap, so the wire may have been a few days longer than that.
12 But it was something like that.

13 **Q.** Fair enough. I'm not holding you to dates.

14 And how long was the microphone up in the car, the Gondo
15 police car?

16 **A.** We ran the microphone through the day they were arrested,
17 so March 1st, 2017.

18 **Q.** And, again, is that -- was that monitored like the
19 Title III on a 24/7 basis?

20 **A.** That was not monitored. We had some monitoring. We tried
21 to monitor, but we weren't always there when it was running.

22 **Q.** Okay. But you would or someone did review all the
23 conversations obtained from August 19th, 2016, through
24 March 1st of 2017 in Gondo's police vehicle; is that fair to
25 say?

1 **A.** We would have reviewed most of it. I mean, there may have
2 been some batches we didn't hear, but yes.

3 **Q.** And, again, the same process with the Title III. If you
4 felt it was a call which aided law enforcement in this
5 particular investigation, of course, that would have been
6 shared with Government counsel; correct?

7 **A.** Yes. Sure.

8 **Q.** Now, on March 1st, 2017, that's kind of the takedown day;
9 right?

10 **A.** Correct.

11 **Q.** And that's when all the police officers in this particular
12 case were arrested; correct?

13 **A.** Yes.

14 **Q.** It's my understanding that Detective Hersl was told to
15 report to IID; is that correct?

16 **A.** IAD, yes.

17 **Q.** IAD. Excuse me. I've been doing that the whole trial.
18 IAD.

19 And what time was he supposed to report?

20 **A.** I think we said 9:00, I think, is what we -- I think it
21 was 9 o'clock.

22 **Q.** Pretty close to 9 o'clock did he report?

23 **A.** Yes. I think everybody did sometime between -- before --
24 just before 9:00 and maybe before 10:00, like 9:30, yeah.

25 **Q.** And I assume that Detective Hersl -- at that time

~~JENSEN~~ ~~CROSS~~

1 Detective Hersl -- was not told why he had to report; is that
2 correct?

3 **A.** No, no. That was done for -- purely for safety reasons.

4 **Q.** Right. And you didn't want to forewarn anyone at that
5 point either, did you?

6 **A.** "Anyone" meaning any of them?

7 **Q.** Any of the targets; correct.

8 **A.** No. Right. No.

9 **Q.** And then he was arrested at that time; is that correct?

10 **A.** That's correct.

11 **Q.** And there was also -- simultaneously, there were
12 search warrants obtained or you had search warrants; correct?

13 **A.** We had obtained search warrants prior to the day of the
14 arrest, yes.

15 **Q.** And these were search warrants signed by, I believe, a
16 United States District Court Judge or a Magistrate Judge?

17 **A.** Magistrate Judge, I think.

18 **Q.** So these were lawful search warrants; correct?

19 **A.** Yes.

20 **Q.** All right. Good. And at that point one of the
21 search warrants was to search the Harford County, Joppa
22 residence of Mr. Hersl; is that correct?

23 **A.** Yes.

24 **Q.** And also his vehicle; is that correct?

25 **A.** BPD vehicle. I do not think we did personal vehicles.

1 Q. And you did, in fact, search Mr. Hersl's home; is that
2 correct?

3 A. A search was conducted, yes.

4 Q. And you didn't find any large stash of money, cash;
5 correct?

6 A. I don't think any currency was recovered. If it was, it
7 wasn't a large amount.

8 Q. All right. You didn't find any of the missing watches
9 that were taken in some of these thefts, did you?

10 A. No. I don't think any jewelry was seized or located.

11 Q. And did you see what type of vehicle he had, his personal
12 vehicle?

13 A. I didn't see it, but I know what it is.

14 Q. What is it?

15 A. I think he had just bought a new Toyota 4Runner.

16 Q. And other than that, did he have any other vehicles?

17 A. He had had a Ford F-150, but I don't know if he traded it
18 in. I don't recall whether it was still there or not.

19 Q. Bottom line, in both his police vehicle -- was there any
20 drugs found in his police vehicle?

21 A. (Pause.)

22 Q. I hope that's a "no"?

23 A. I think it's a "no."

24 Q. So search of his police vehicle, search of the house,
25 there's no jewelry; there's no cash; there's no watches;

~~JENSEN~~ ~~CROSS~~

1 correct?

2 **A.** Correct.

3 **Q.** Did you also have the ability to subpoena his bank
4 accounts?

5 **A.** Yes.

6 **Q.** And you did?

7 **A.** We did.

8 **Q.** You looked for large cash deposits or any cash deposits
9 corresponding to any of these incidents; correct?

10 **A.** Yes, we looked for unusual bank activity.

11 **Q.** And you didn't find any, did you?

12 **A.** No. I -- no, nothing.

13 **Q.** Now, you also had the ability, and you did review some of
14 the casinos. Maryland Live! and the Horseshoe, you had some of
15 the videos; correct?

16 **A.** We did not get anything from Horseshoe because of the BPD
17 presence there, actually. We did do one subpoena to
18 Maryland Live! for the July 8th evening and got a little bit of
19 footage for July 14th.

20 **Q.** Bottom line is that any of that footage did not have
21 Dan Hersl at the casino; is that correct?

22 **A.** Right. The footage from the 8th and the 14th from Live!
23 Did not.

24 **Q.** In addition, as we learned from Mr. Hamilton, you also had
25 the ability to contact the casinos and see if they have a

1 player card and to see if they're a player at the casinos;
2 correct?

3 **A.** Yes.

4 **Q.** And did you find out if Mr. Hersl has a player card or is
5 a player at any of the casinos?

6 **A.** We did not check. We did not check Horseshoe for the same
7 reason that we needed BPD liaisons; and we were, frankly,
8 afraid to give the officers' names to them. We did not check
9 Live!, though.

10 **Q.** So the bottom line is you didn't check or you didn't do
11 it; correct?

12 **A.** Correct.

13 **Q.** Now -- just one second.

14 (Counsel conferred.)

15 **BY MR. PURPURA:**

16 **Q.** Now, there came a time when Mr. Hersl, he had -- strike
17 that.

18 As part of the search and seizure, you seized two
19 cell phones from Mr. Hersl, either at the arrest and/or his
20 house; correct?

21 **A.** There were at least two phones seized. I don't know if
22 there were more, but there were two. There was the one he had
23 on him when he was arrested, and then there was one that had a
24 broken screen that I think came from his house, yes.

25 **Q.** And obviously, sometimes cell phones can contain a

~~JENSEN~~ ~~CROSS~~

1 treasure trove of information for law enforcement; correct?

2 **A.** Yes.

3 **Q.** It would have maybe contacts, who the person's contacting
4 on a fairly constant basis; correct?

5 **A.** Yes.

6 **Q.** Has photographs as we learned before; correct?

7 **A.** Yes.

8 **Q.** Lots of information in these iPhones today; fair to say?

9 **A.** Yes.

10 **Q.** Okay. And Mr. Hersl gave you consent, written consent, to
11 search not only the cell phone that he had on him when he was
12 arrested, but also the cracked-screen cell phone at his
13 residence; correct?

14 **A.** Yes.

15 **Q.** Now, we heard about an incident involving the
16 Belvedere Towers and Sergeant Jenkins and a bag of money which
17 was seized plus marijuana or drugs.

18 Do you remember that incident?

19 **A.** Yes.

20 **Q.** And I believe -- I'm not sure. I'm getting them somewhat
21 confused. But it might have been one of the detectives.
22 Perhaps it was Ward -- it was Ward who said that he eventually
23 threw that money out; correct?

24 **A.** I think, if I recall Mr. Ward's testimony, he -- if we're
25 talking about the same incident, when they went to the

1 strip club, he put the \$5,000 in the bag with the marijuana.
2 And then they went in; and when they came out, he never took it
3 out.

4 **Q.** Well, that's one. I'm talking about the second one.
5 Maybe -- I apologize. I don't want to confuse you.

6 There was an incident where he received -- oh, this is
7 when he has the \$20,000 and he ends up putting the money in a
8 briefcase or a suitcase and throws it away.

9 Do you remember that incident?

10 **A.** I don't think it was a briefcase. I think he actually
11 said he had it in a bag and he, like, tossed it into the wind
12 in the field behind his house. That's what you're talking
13 about, the 20,000?

14 **Q.** Right. I am. Yeah.

15 **A.** Yeah.

16 **Q.** Long way to get to the point, but you and TFO Sieracki
17 actually went out to that field; correct?

18 **A.** We didn't.

19 **Q.** You didn't go out there?

20 **A.** We didn't.

21 **Q.** You didn't go back there and look for it?

22 **A.** We didn't. We did look for -- we have looked for things,
23 but not for that.

24 **Q.** All right. Fair enough.

25 Did you ever go in the neighborhood and try to ask anyone

1 if they recovered, you know, like 5 or 10 thousand or 15 or 20
2 thousand dollars in cash in the backyard?

3 **A.** No. But what I did do is I -- because, of course, the
4 first time you hear it, anyone would think the same thing. It
5 seemed unreasonable at the time.

6 So we did -- I looked at a map of the area. So I did
7 verify that like there was a field behind his townhome complex,
8 like an open area. And there was some houses. I could
9 actually picture the map.

10 So what I did was I took the streets, so I thought, well,
11 maybe -- like maybe like one citizen reported found money. So
12 I took the -- just the four or five streets sort of around that
13 area where that field was. And I did search for like -- it's
14 in Baltimore County, so I had to search for, like, lost money.
15 We didn't go door to door and ask people about it.

16 **Q.** But --

17 **A.** I guess we were being a little cynical.

18 **Q.** Good reason for that.

19 **A.** And I didn't find anything.

20 **Q.** The bottom line is that no good citizens of
21 Baltimore County reported recovering 5, 10, 15, 20 thousand
22 dollars in a field, did they?

23 **A.** I don't know that it happened, but I didn't find it.

24 Yeah.

25 **Q.** Thank you.

~~JENSEN~~ ~~CROSS~~

1 And just a couple quick questions.

2 As far as -- did you attempt to determine whether
3 Dan Hersl even has a passport?

4 **A.** I didn't do any records checks for that, and I don't
5 recall whether one was recovered from his home. So I don't
6 know.

7 **Q.** Okay. Do you know if he did any out-of-Maryland -- other
8 than Delaware -- travel in the years of 2015 and 2016 based on
9 this investigation?

10 **A.** I don't think in 2016. I have no information about that.
11 I don't know that I would know about 2015.

12 **Q.** And just finally, while he was still a detective,
13 Detective Hersl did transfer out of the GTTF, is that correct,
14 prior to his arrest?

15 **A.** Yes. He was transferred, I think, to Citywide Shootings,
16 but maybe in January, although I'm not clear on the date.
17 Sometime -- something like that.

18 **Q.** January of --

19 **A.** 2017.

20 **Q.** January of 2017 sounds about the time that Daniel Hersl
21 transferred to Citywide Shootings; is that correct?

22 **A.** I think so.

23 **Q.** Thank you.

24 **MR. PURPURA:** Thank you, Agent.

25 I have no further questions.

~~JENSEN~~ ~~CROSS~~

1 **THE COURT:** Thank you.

2 Ms. Wicks?

3 **MS. WICKS:** Court's indulgence.

4 **THE CLERK:** Mr. Purpura, microphone. Microphone.

5 **MR. PURPURA:** Oh. Sorry.

6 CROSS-EXAMINATION

7 **BY MS. WICKS:**

8 **Q.** Good morning, Agent.

9 **A.** Good morning.

10 **MS. WICKS:** Court's indulgence.

11 **BY MS. WICKS:**

12 **Q.** Yesterday when you started your testimony, you discussed a
13 little bit about how you went about investigating this case;
14 correct?

15 **A.** A little bit, yes.

16 **Q.** Okay. So you started by listening -- well, one thing you
17 did was you listened to jail calls for people that had been
18 arrested; correct?

19 **A.** Yes.

20 **Q.** And you pulled the police reports pertaining to those
21 arrests; correct?

22 **A.** Right. So we pulled -- I mean, we did that fairly early
23 on where we pulled all of the police reports by officer,
24 anything where they were like the author of the incident
25 report.

~~JENSEN~~ ~~CROSS~~

1 Q. Okay. And you pulled the incident report for the
2 search warrant at Shawn Whiting's house; correct?

3 A. We -- I don't recall if we pulled it or we were provided
4 it; but, yeah, we obtained it at some point.

5 Q. Okay. In your investigation you obtained it; correct?

6 A. I don't know if we have the search warrant, but the
7 incident report regarding the search, if that's what you mean.

8 Q. Can I approach showing you what's marked as 7 for ID at
9 this point. (Hanging.)

10 And these are official Baltimore Police Department reports
11 of what occurred during an incident, and this one specifically
12 is a search warrant executed at Shawn Whiting's house; correct?

13 A. I'm not sure. If I've looked at it, it was only once.
14 But this is a Baltimore Police Department incident report of a
15 search that occurred; right.

16 Yeah. This talks about them executing a search warrant.

17 Q. Okay. And this report reflects that Marcus Taylor --

18 MR. WISE: Your Honor, can we approach?

19 THE COURT: Sure.

20 (Bench conference on the record:

21 MS. WICKS: (Hanging.)

22 MR. WISE: So the incident report is not evidence.
23 It's hearsay written by someone other than
24 Special Agent Jensen. If there's a question about what she
25 knows, the question can be posed. If she says, I don't

1 remember something about what the investigation learned or
2 didn't learn --

3 **MS. WICKS:** Sure. I can step back and ask.

4 **MR. WISE:** And then -- I just didn't want it read into
5 the record as to what this report -- it's not admissible,
6 reports to say -- we know that a lot of these reports were
7 false, and so we've been very circumspect with them.

8 **THE COURT:** All right. Maybe just sort of
9 generally --

10 **MS. WICKS:** I'll step back and ask my questions --

11 **THE COURT:** Without this?

12 **MS. WICKS:** -- about her investigation and -- yeah,
13 that's fine.)

14 (Bench conference concluded.)

15 **BY MS. WICKS:**

16 **Q.** And, Agent Jensen, in gathering the reports related to
17 people being stopped or people being arrested by the officers
18 in this investigation, a lot of these reports were authored by
19 the officers under investigation; correct?

20 **A.** Yes. I mean, sure, we pulled reports specifically
21 regarding, you know, that the officers had authored.

22 **Q.** Okay. And you -- during -- throughout the investigation,
23 you had concerns about the veracity of some of the information;
24 correct?

25 **A.** Within the reports?

1 Q. Yes.

2 A. I think we evaluated the reports to see if we could -- if
3 there were inconsistencies, and I think there were times when
4 we felt there were inconsistencies in the reports. I'm talking
5 generally, yes.

6 Q. And clearly there's been testimony about there was
7 inconsistencies between the amount of money seized and the
8 amount of money in the reports, for instance. There's a
9 dispute about that oftentimes?

10 A. Right. I mean, what we knew -- what we knew was that
11 there was an amount put in a report or -- and then we would
12 check, for instance, the evidence that was submitted versus
13 maybe what we heard on a jail call or what someone told us had
14 happened.

15 Q. Okay.

16 A. There were discrepancies there.

17 Q. And so specifically the testimony at trial and through
18 your investigation regarding the search warrant at
19 Shawn Whiting's house, there was testimony that Marcus Taylor
20 was one of the first officers searching the house; correct?

21 A. I don't know if first is how I remember. But I recall
22 Former Detective Ward testifying that it was Detective Taylor
23 that found the money in a box, I think, or a shoebox in a
24 closet, if I remember that incident right.

25 Q. Okay. And --

1 **A.** I don't know if he was the first one searching, but I
2 think that he found it first, maybe.

3 **Q.** Okay. And the -- but the paperwork that you reviewed
4 indicated that Detective Taylor was not actually listed as
5 being part of the raid team; correct?

6 **A.** Oh, I didn't -- I'm sorry. I did not -- did not read that
7 when you handed it to me. I can read it again, if you'd like.

8 **Q.** Sure.

9 **A.** And I -- yeah. I don't know.

10 **Q.** To refresh your recollection, I'm showing you 7 again, the
11 middle of Page 3.

12 **A.** Do you mind if I just read it real quick?

13 **Q.** Sure.

14 **A.** Thank you.

15 (Reviews exhibit.)

16 So like you said, he's not listed here, but if you go to
17 the last page, it says [reading]: All property recovered --
18 was recovered by Detectives Taylor and Detective Pinto.

19 And then the second-to-last paragraph says [reading]:
20 After having -- pardon me. I don't have the right reading
21 glasses on.

22 [Reading]: After having his Miranda rights given by --
23 given, Mr. Shawn Whiting stated to Detective Taylor the reason
24 he had handguns.

25 So he's referenced, although he's not listed on the page

1 before.

2 **Q.** Sure. So my first question, which was, "Was he listed as
3 part of the raid team?" he was not; correct?

4 **A.** He's not listed -- he's not listed on this page, right,
5 with the other officers.

6 **Q.** And the raid team listing identifies officers that are
7 going to be doing pertinent, serious parts of what the police
8 team is doing in effectuating the search warrant; correct?

9 **A.** Well, this report is written after it happens, so I
10 can't -- I didn't write the report, so I don't know a hundred
11 percent.

12 But what I see here is it says "raid team." And then it
13 lists affiant, supervisor, ram, bunker, cover, rear, hands,
14 uniform.

15 Actually, I don't see anything listed for searchers, but
16 yeah.

17 **Q.** Okay. So on the description of the people that take part
18 in certain specific jobs, that would happen at the beginning of
19 a search warrant execution to ensure officer safety and the
20 safety of the people in the house, Detective Taylor is not
21 listed there, although it does indicate, at least
22 chronologically in the description, that he does take a part in
23 recovering property or evidence.

24 **A.** Yeah. So it's -- the raid team, you know, those roles are
25 all things that would sort of go through the door and secure

~~JENSEN~~ ~~CROSS~~

1 the residence. I don't know why he's not listed. I don't -- I
2 can't really speak to that.

3 And then he's just referenced later in the report as
4 having had some interaction with Mr. Whiting and having
5 recovered the property. Yeah.

6 I don't write these reports, so I can't really speak to
7 why they're written the way they're written. (Handing.)

8 **Q.** Now, you were asked yesterday by AUSA Wise about
9 Wayne Jenkins; correct?

10 **A.** Yes.

11 **Q.** And you indicated that he was not cooperating?

12 **A.** Yes.

13 **Q.** He has certainly tried; correct?

14 **A.** What do you mean by "tried"?

15 **Q.** Well, he proffered with the United States.

16 **MR. WISE:** May we approach, Your Honor?

17 **THE COURT:** Yes.

18 (Bench conference on the record:

19 **MR. WISE:** [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]

24 **THE COURT:** [REDACTED]

25 **MS. WICKS:** [REDACTED]

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MR. PURPURA: [REDACTED]

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MR. WISE: [REDACTED]

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THE COURT: [REDACTED]

MR. WISE: [REDACTED]

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THE COURT: [REDACTED]

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MS. WICKS: [REDACTED]

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THE COURT: [REDACTED]

(Bench conference concluded.)

THE COURT: The last question and answer is stricken.

MS. WICKS: Court's indulgence.

BY MS. WICKS:

Q. Agent Jensen, I'm showing you DA-9, which was introduced

~~JENSEN~~ ~~CROSS~~

1 by the Government. And this is a photograph of Donald Stepp's
2 ankle, and the exhibit indicates August 9th of 2016?

3 **A.** Yes.

4 **Q.** And do you know where that date came from?

5 **A.** I didn't personally review these photos, and I didn't
6 seize -- I didn't take them off the camera, I presume, or the
7 phone they came from.

8 **Q.** Okay.

9 **A.** I can give you a general answer about dates on photos, but
10 I can't speak specifically to that.

11 **MS. WICKS:** Court's indulgence.

12 **BY MS. WICKS:**

13 **Q.** And if you looked at the -- this is 9 for identification.
14 If you looked at the display of the photographs in Mr. Stepp's
15 phone, it would show you the date and time that either a movie
16 or a photograph was taken by him on his phone; correct?

17 **A.** And you said this did --

18 **Q.** This is one page of --

19 **A.** This came from his phone (indicating)?

20 **Q.** Yes.

21 **MR. WISE:** Your Honor, I think the -- objection;
22 foundation. I don't know that she's actually seen this.

23 **THE COURT:** I thought she said she had not.

24 **MS. WICKS:** Well, I'm asking her to generally -- can
25 we approach?

1 **THE COURT:** Sure.

2 (Bench conference on the record:

3 **MS. WICKS:** Your Honor, then as the lead of this
4 investigation, if she hasn't seen his phone, what was on it,
5 whoever is the person that downloaded this and provided it to
6 the defense, I'll need that agent for our case. Maybe the
7 Government and I can reach a stipulation, but --

8 **THE COURT:** Yes, maybe --

9 **MR. WISE:** I don't know what it is.

10 **THE COURT:** Tell me more about this.

11 **MS. WICKS:** This is a printout of just a section of
12 the images from his phone. And this is the specific exhibit
13 that was -- it's a movie, actually, that I guess a picture was
14 printed from. And it's dated August 8th, 2016, at 10:29 p.m.

15 **MR. WISE:** Right. And so that's the date that he
16 broke -- he testified he broke in -- that's the date we know he
17 broke into the Armstrong storage locker and he took the picture
18 of his busted ankle at 10:30.

19 **MS. WICKS:** Right. And the Government Exhibit says
20 August 9th, 2016.

21 **MR. WISE:** Well, the phone says two thousand -- that's
22 a number from the phone. That's what the testimony -- he
23 testified about that at length.

24 **MS. WICKS:** Actually, on cross he didn't know -- this
25 8/9/2016 is not in the phone. 8/8/2016 is in the phone.

1 **MR. WISE:** I don't know -- I don't know who can -- we
2 can't call the phone to testify. I don't know how she or any
3 other agent can explain why -- I mean, he tried to, to say,
4 "When I move things from one place to another, sometimes it
5 redates it."

6 They asked Stepp about this at length. This has been
7 covered.

8 I don't have an agent who can explain why -- I mean,
9 he tried to -- why it may be listed as one time in a log but
10 then have another number associated with it.

11 **MS. WICKS:** But this is the number that the Government
12 puts up on it.

13 **MR. WISE:** No. We didn't put the number on. This is
14 what came off the phone.

15 **MS. WICKS:** His iPhone prints that number.

16 **MR. NIETO:** On the bottom left.

17 **MS. WICKS:** On the bottom left.

18 **MR. WISE:** I think that's what he said. I think he
19 said he's not sure.

20 **MS. WICKS:** No, that's not what he said.

21 **MR. WISE:** So I don't understand what the -- I don't
22 know what the relevance of this is.

23 **MS. WICKS:** The relevance is it's the wrong date, and
24 he's telling a story with his ankle as to a moment in time
25 where he's been injured. And the date on there is incorrect.

1 And I don't want there to be a confusion that Wayne Jenkins is
2 not -- is telling the truth when Wayne Jenkins claims
3 Detective Taylor messed up that investigation. This is that
4 whole date.

5 **MR. WISE:** What he testified to was he wasn't sure if
6 he took the picture the night of or the next morning.

7 **MS. WICKS:** Well, this shows that he took it the night
8 of, assuming he was there.

9 **THE COURT:** Can we agree to that?

10 **MR. WISE:** Sure.

11 **MS. WICKS:** I asked for a stipulation last night, and
12 I hadn't gotten an answer back.

13 **MR. WISE:** Not on this.

14 **MS. WICKS:** Can I finish what I had to say?

15 **MR. WISE:** But don't say that we asked for
16 stipulations --

17 **THE COURT:** Stop.

18 **MS. WICKS:** I asked for a stipulation on another
19 matter last night, and I didn't receive a response back. So if
20 there are stipulations, we can --

21 **THE COURT:** Why don't we do this. I don't think this
22 witness is the right person because she did not download it.
23 She said she hasn't looked at these.

24 I would hope that you all could work out a stipulation
25 at the break that there are records that show that the picture

1 was taken -- internal phone records suggest it may have been
2 taken August 8th at 10:36 p.m.

3 **MR. NIETO:** Your Honor, just in an abundance of
4 caution, if, God forbid, we are unable to reach a stipulation,
5 I just want to make sure the Court's aware that it's our
6 position that that particular date on the exhibit was not from
7 the photo. That was put there by the Government in their
8 presentation, so the question, then, is if we cannot reach a
9 stipulation, who put that date there? Because that date, based
10 on the other discovery, is false. And that's what we're
11 looking for.

12 **MR. WISE:** I'll stipulate to it right now so we don't
13 have the "God forbid." I mean, we know this is when the
14 robbery happened. He testified he hurt his ankle and then took
15 a picture of it. I don't -- there's no dispute about this.

16 **THE COURT:** Okay. So we'll be able to work out a
17 stipulation that the internal records of Mr. Stepp's phone show
18 that this picture, DA-9, was taken at whatever it is --

19 **MS. WICKS:** 10:29 p.m. on August 8th of 2016.

20 **THE COURT:** Okay. All right.)

21 (Bench conference concluded.)

22 **THE COURT:** All right. Thank you. We'll work that
23 out later.

24 **MS. WICKS:** Court's indulgence.

25 **THE COURT:** You can probably take the picture off of

~~JENSEN~~ ~~CROSS~~

1 there.

2 **MS. WICKS:** Court's indulgence.

3 **BY MS. WICKS:**

4 **Q.** Agent, I'm showing you FBI-15B that was entered into
5 evidence by the Government. And this is a Badge No. 244 that
6 was located in a wallet that Mr. Taylor was carrying when he
7 was arrested; correct?

8 **A.** Correct.

9 **Q.** And this wallet --

10 **MS. WICKS:** If I could have Defense 12.

11 I'm providing the Government with a copy, albeit
12 poorly printed. This will be Taylor 12.

13 (Pause.)

14 **THE COURT:** Do we have a paper copy of whatever this
15 is?

16 **MS. WICKS:** I can show the paper copy.

17 **BY MS. WICKS:**

18 **Q.** This is the wallet that Mr. Taylor had when he was
19 arrested that has that badge.

20 **A.** Okay.

21 **Q.** Correct?

22 **A.** Yeah. I think you can make out the 244 on the bottom.

23 **Q.** Okay. And the ID in that wallet is Badge No. 224. And
24 if --

25 **MS. WICKS:** Your Honor, can I walk up to the witness

~~JENSEN~~ ~~CROSS~~

1 with my computer?

2 **THE COURT:** Sure.

3 **MS. WICKS:** Actually, I guess I can put my computer
4 screen on ELMO.

5 **BY MS. WICKS:**

6 **Q.** The ID in the wallet with the replica badge is Badge
7 No. 224; correct?

8 **A.** Yes. It says 224.

9 **Q.** Okay. And that appears to be an identification card
10 issued by the Baltimore Police Department; correct?

11 **A.** Yes.

12 **Q.** Okay. And have you yourself examined the badge that was
13 in the wallet?

14 **A.** I have looked at both of those items; yes.

15 **Q.** Okay. And is that badge a replica type of badge that is
16 screwed into the wallet?

17 **A.** That's getting -- that's not something I'm familiar with
18 with the department badges. I didn't look at the back of it.
19 I looked at it in the wallet.

20 **Q.** Okay.

21 **A.** So I know that there are different badges that they can
22 get, but I don't know the specifics of how that works.

23 **Q.** Okay.

24 **A.** It definitely says 244.

25 **Q.** The badge says 244, but --

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1 **A.** And the ID says --

2 **Q.** -- the ID says 224; correct?

3 **A.** Yes.

4 **Q.** And I guess --

5 **MS. WICKS:** Court's indulgence.

6 (Counsel conferred.)

7 **BY MS. WICKS:**

8 **Q.** Defense 11 is -- this is another kind of identification
9 that officers wear commonly on a lanyard, a similar type of
10 identification card from the Baltimore Police Department. And
11 this was seized from Mr. Taylor when he was arrested; correct?

12 **A.** I don't actually specifically remember that. Very
13 possible that this came off his person as well. But I -- I
14 just don't recall.

15 **Q.** And this was provided in discovery with the Bates stamp
16 there. You can see in the upper right corner (indicating)?

17 **A.** Okay.

18 **Q.** And do you know where this was seized from on his person
19 when he was arrested at IAD from the -- his work car or from
20 the house?

21 **A.** I'd be guessing. I just don't remember. If you wanted to
22 show me a report, I could look at that. But --

23 **Q.** Okay. In addition, during -- earlier in the trial there
24 was a badge showed that had Badge No. 926; correct?

25 **A.** Yes.

1 Q. And that badge was recovered from Mr. Taylor's residence;
2 correct?

3 A. Correct. I think it was in a closet. May have been
4 affixed to some police clothing.

5 Q. Okay. And did you check with Baltimore Police Department
6 records to determine that each of those badge numbers, 224, as
7 indicated on the IDs, and 926 were both badge numbers issued to
8 Detective Taylor as a detective with the Baltimore Police
9 Department?

10 A. We did check records, and I'm sorry that I don't recall
11 the specifics as to what all the numbers meant and whether -- I
12 have some memory of something being either lost or expired, but
13 that may not have been Detective Taylor's badge. It may have
14 been Detective Hersl's, so I don't recall without looking at
15 the reports.

16 Q. Okay. And then the tactical vest introduced as FBI --

17 **MS. WICKS:** Court's indulgence.

18 **BY MS. WICKS:**

19 Q. -- as FBI-18 and then the photograph, I think, is 18B,
20 this tactical vest that was identified as Detective Taylor's
21 was located at the Baltimore Police Department offices of the
22 Gun Trace Task Force; correct?

23 A. Correct.

24 Q. And so when this vest was displayed with the badge on it,
25 they were actually found at two different locations; correct?

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1 **A.** No, we didn't display it with a badge. What was there was
2 his -- there's like a little Velcro strip that said, I think,
3 "M. Taylor."

4 **Q.** Okay.

5 **A.** I don't recall there being a badge on it.

6 **Q.** Okay.

7 **A.** I think --

8 **Q.** Do you recall the nametags were found at his residence
9 with his uniform?

10 **A.** No. The little Velcro was with the vest when we found the
11 vest.

12 **Q.** Okay. And so --

13 **A.** I actually -- I actually saw that, so . . .

14 **Q.** Okay. Although it's not evident from the photograph here;
15 correct?

16 **A.** I think it's --

17 **MS. WICKS:** Do we have the badge here? I mean, I'm
18 sorry. Not the badge -- do we have the vest here?

19 **THE WITNESS:** It's not the badge. It's just a
20 little -- you know, it's just like a little -- it's just like a
21 little nametag with a little Velcro strip that said
22 "M. Taylor."

23 **BY MS. WICKS:**

24 **Q.** Okay. But that's different than the nametags that were
25 for his uniform that were located at his residence; correct?

~~JENSEN~~ ~~CROSS~~

1 **A.** If we found nametags, if you mean like little pins,
2 definitely not a pin. It's just a little piece of Velcro strip
3 that would affix to Velcro on his vest.

4 **Q.** Right. But there's nametags that affix to a uniform that
5 are --

6 **A.** Right.

7 **Q.** -- metal; correct?

8 **A.** Yes.

9 **Q.** And those were located at his residence; correct?

10 **A.** I think there was one associated -- yes, found with the
11 clothing with the badge, yeah, 926.

12 **Q.** Thank you.

13 **MS. WICKS:** Court's indulgence.

14 **BY MS. WICKS:**

15 **Q.** And I'm showing you FBI-28 that you looked at yesterday.
16 This exhibit -- I mean, this portion up here was added to the
17 exhibit to indicate what the records pertain to; correct?

18 **A.** Yes.

19 **Q.** And the ticket that Mr. Taylor took, the trip that
20 Mr. Taylor took to the Dominican Republic appears to have been
21 booked in April of 2016; correct?

22 **A.** Yes.

23 **Q.** And did you check whether he had turned in slips for time
24 off to his sergeant? And his sergeant at that time would be
25 Sergeant Jenkins; correct?

1 **A.** You're asking if I --

2 **Q.** I know that was compound.

3 Back in April of 2016, Sergeant Jenkins was the sergeant
4 that Detective Taylor reported to; correct?

5 **A.** Yes.

6 **Q.** And were you able to check if he or Maurice Ward or
7 Hendrix had at any time turned in leave slips for that trip
8 that they had been planning for several months?

9 **A.** As in vacation slips?

10 **Q.** Yes.

11 **A.** I think they're paper slips. We did not locate any. I
12 don't know that there's an accounting in the way the system
13 works in a way that I could guarantee that they hadn't been
14 submitted, but we didn't find any.

15 **Q.** Okay. So from the system as you are able to review the
16 records from the Baltimore Police Department and ADP, you are
17 unable to determine if those slips had been turned in to
18 Sergeant Jenkins or turned in by Sergeant Jenkins to the
19 system; correct?

20 **A.** Right. So what we had was we had the ADP, which is what
21 the clerks enter all their time in. So I don't know exactly
22 how vacation slips work, if they're similar to overtime slips.
23 But the clerks would enter them into the eTIME[®] system. So
24 what we didn't see were the vacation days claimed over that
25 period.

1 Q. Okay.

2 A. I can speak to that.

3 Q. And someone working at the Baltimore Police Department and
4 taking vacation, they would -- if they had vacation time, they
5 would be essentially getting the hours that they would have
6 been working if they had been there; correct?

7 A. I'm sorry. Can you ask that again.

8 Q. With your somewhat of a familiarity with how the system
9 works in the Baltimore Police Department, someone that is on
10 vacation, there should be a notation somewhere that they're on
11 vacation. But in terms of the hours they're receiving as a
12 salaried employee, they would be receiving the same hours if
13 they were working or if they were on vacation, although they
14 should be categorized differently.

15 A. I think if you're asking if they get different pay when
16 they're on vacation, I think the answer would be no, like any
17 of us that are on salary.

18 Q. That's exactly what I'm asking.

19 A. But I will say in ADP, it would be reflected as vacation.
20 You know, you would see a vacation debit, eight hours or
21 whatever it is. I have seen that other places, but not on
22 those days.

23 Q. Okay. But in terms of the process between the Baltimore
24 Police Department and ADP, you just have the records to look
25 at; there weren't specific people that you could go back to

~~JENSEN~~ ~~CROSS~~

1 determine how the information had been entered into the system
2 that then ADP received in order to spit out electronic
3 paychecks; correct?

4 **A.** Right. We don't -- we did not find, I guess, if there
5 were or were not slips. We just . . .

6 **MS. WICKS:** Okay. Court's indulgence.

7 **BY MS. WICKS:**

8 **Q.** And looking at --

9 **MS. WICKS:** Court's indulgence.

10 **BY MS. WICKS:**

11 **Q.** I'm going to show you FBI-9, Page 14, as I think you
12 looked at yesterday.

13 And, again, these are transcripts that were created of
14 actual recordings of the participants; correct?

15 **A.** Yes.

16 **Q.** From the microphone -- from the recording device that was
17 in Detective Gondo's police car; correct?

18 **A.** It would depend on what you're going to show me.

19 **Q.** Sure.

20 **A.** I don't know the page number by hand -- that's actually a
21 wiretap call.

22 **Q.** Okay. That's a wiretap. Sorry.

23 **A.** Yep. Yep.

24 **Q.** Okay. And yesterday you were asked about this line --

25 **THE COURT:** I'm sorry. Do we have like a date or

~~JENSEN~~ ~~CROSS~~

1 exhibit number?

2 **MS. WICKS:** This is FBI-9, Page 14, and it's a wiretap
3 conversation, Session 1745, on July 23rd at approximately
4 4:48 p.m.

5 **THE COURT:** Thank you.

6 **BY MS. WICKS:**

7 **Q.** And, again, this is a conversation between
8 Former Detectives Rayam and Gondo; correct?

9 **A.** Yes.

10 **Q.** And we -- the transcript reflects that Rayam is indicating
11 that Jenkins had said that it was just going to be y'all three;
12 correct?

13 **MR. WISE:** Your Honor, may we approach?

14 (Bench conference on the record:

15 **THE COURT:** What page was it?

16 **MS. WICKS:** Page 14.

17 **THE COURT:** 14. Thank you.

18 Okay. Problem? What's the problem?

19 **MR. WISE:** So Gondo testified about the call. He said
20 who the -- you know, it was supposed to be him and Rayam and
21 Jenkins working that night, and then Rayam's wife was in
22 Pennsylvania. So he didn't know when she was coming back, and
23 so it turned out to be just the two of them. That was the
24 testimony yesterday.

25 I think where this is going is to try to suggest that

1 somehow Taylor was three.

2 **MS. WICKS:** I'm not. I'm just suggesting that -- I'm
3 not going there.

4 **MR. WISE:** But she didn't -- she can't testify about
5 what anyone meant on this call. Gondo would have been the one
6 to do that.

7 **THE COURT:** Sure. I don't know whether the next
8 question is going to be something like: And from your
9 investigation, do you know? Or is it an interpretation of what
10 somebody meant in the call, which is a different issue?

11 **MS. WICKS:** She's listened to these calls. There have
12 been transcripts created. But, you know, y'all -- later on he
13 talks about y'all two; he's talking about y'all three.

14 And that can all be subject to interpretation. I
15 mean, it -- when it was presented with Gondo, it was as if it
16 was consistently y'all two. We have a transcript that says
17 "y'all three." And the jury has the recordings, but we keep
18 using the transcripts. So --

19 **MR. WISE:** We played the recording.

20 **MS. WICKS:** Yes, and the recording says "y'all three,"
21 so I'm just --

22 **MR. WISE:** Because he goes on to explain his wife is
23 coming back from Pennsylvania, so the plans changed. There's
24 not an inconsistency.

25 **THE COURT:** I don't -- what is it that we're going to

1 get from this witness?

2 **MS. WICKS:** I can play the call for her. I mean, it's
3 just listening to the call, because at the end of -- after --
4 last night after I'm looking at my notes at how Gondo
5 testified, I don't think it was clear. She's listened to all
6 the calls. I would presume at least the ones that we're using
7 in court -- I can't imagine she's listening to every single
8 one, but certainly the one being used in court. And I was
9 going to play the call. I can just do it in my closing
10 but . . .

11 **THE COURT:** I mean, I don't see that it's a major
12 issue. If you want to just use this witness to point out that
13 at one point he says "y'all three" and another point it says
14 "y'all two," I don't see how --

15 **MS. WICKS:** That's not -- right. "Y'all two" and
16 "y'all three" is -- neither one of those times is he taking
17 himself out of the equation. I agree in the end, but when
18 he's -- maybe I'm confused. But --

19 **MR. WISE:** All this would have been appropriate for
20 Rayam to be cross-examined on. But to use her as a sort of
21 prop to try to argue that that means somehow Rayam is
22 inconsistent or you can't rely on what he's saying, she's not
23 the competent witness for that. It would have been Rayam or
24 Gondo, and they're not on the stand right now.

25 **MS. WICKS:** I'll withdraw it, and I can argue that in

1 closing if I need to.

2 Okay. Can I just show the color -- we have the color
3 exhibits now instead of just my computer screen.

4 **THE COURT:** Sure.

5 **MS. WICKS:** Thank you.)

6 (Bench conference concluded.)

7 (Counsel conferred.)

8 **BY MS. WICKS:**

9 **Q.** Agent, I just want to show you -- here's a color -- this
10 is Defense Exhibit 11, not on my computer, but what would be
11 the exhibit.

12 And this is Defense 12.

13 **A.** Okay. Yes, ma'am.

14 **Q.** And I'm going to withdraw my previous question.

15 **MS. WICKS:** Court's indulgence.

16 **THE COURT:** Sure.

17 **MS. WICKS:** Can I consult with co-counsel?

18 **THE COURT:** Of course. Would you like the -- the ones
19 that you just put up on the screen, is that what you wanted
20 admitted, the Defendants' 11 and --

21 **MS. WICKS:** Oh, yes, for identification at this point.

22 **THE COURT:** Just for identification. Okay. Thank
23 you.

24 **MS. WICKS:** Court's indulgence.

25 (Counsel conferred.)

~~JENSEN~~ ~~CROSS~~

1 **MS. WICKS:** May I just consult with Government
2 counsel, please?

3 **THE COURT:** Certainly.

4 (Counsel conferred.)

5 **MS. WICKS:** Court's indulgence.

6 **THE COURT:** Sure.

7 **THE CLERK:** Ms. Wicks, please remember to turn your
8 microphone on.

9 **MS. WICKS:** Yes.

10 **BY MS. WICKS:**

11 **Q.** Detective, you did conduct some surveillance of -- well,
12 the team conducted some surveillance of the officers'
13 residences prior to the takedown?

14 **A.** Yes.

15 **Q.** And during that surveillance Mr. -- well, at least one
16 night, Mr. Taylor had a female friend, and you could tell by
17 the car that was in the driveway or located in the street near
18 his house; correct?

19 **A.** You're referring to a surveillance report that I wrote?

20 **Q.** Well, you're aware that he had a female friend that lived
21 in Middle River. And so when reviewing -- yesterday you were
22 talking about his cell site. At certain times the cell phone
23 for Detective Taylor was in Middle River, Maryland; correct?

24 **A.** I don't recall saying that about Detective Taylor's phone
25 yesterday. But if you're asking if I -- there was -- there

1 would be a car parked in his driveway sometimes registered to a
2 woman --

3 **Q.** Yes. And she was a woman who owned a house in
4 Middle River, Maryland.

5 **A.** So she was later identified as a -- we assume is a
6 girlfriend, but we didn't know. And she -- her residence was
7 in Middle River, yes.

8 **Q.** Okay. Well, not to really give anything away, but there
9 were nights when her car was at his house, correct, in February
10 of 2017?

11 **A.** Yeah. I would say more likely it would be early morning
12 maybe that we were checking, but yeah.

13 **Q.** Okay. Early morning and people had -- there were two cars
14 there. One was his car and one was this female person's car;
15 correct?

16 **A.** So the residence had a garage, and we didn't know whether
17 cars were parked in the garage. But there would be like one
18 spot in the driveway, and sometimes that vehicle would be in
19 the driveway.

20 **Q.** Okay.

21 **A.** And he had a personal car that would be parked usually in
22 a spot really adjacent or very close to the residence.

23 **Q.** Okay. And there were times in reviewing the cell site of
24 his phone that the cell phone would be in Middle River,
25 Maryland, where you know that this woman has a residence;

~~JENSEN~~ ~~CROSS~~

1 correct?

2 **A.** So I think if -- I don't think I testified to this. But
3 if you're asking, when I reviewed his cell sites during the
4 summer, which was primarily when I did it, during the summer of
5 2016, come February of 2017, when we put together that, "Oh,
6 this must be a girlfriend. Oh, she lives in Middle River. I
7 have memories of his cell phone being in Middle River.

8 **Q.** Okay.

9 **A.** Like overnight. So, yeah, I mean, I put it together that
10 maybe he was staying at her place sometimes.

11 **Q.** Okay. And you memorialized that in 302s; correct?

12 **A.** I don't --

13 **Q.** The times when the cell phone was in Middle River,
14 Maryland, in the summer of 2016?

15 **A.** Probably, sure, probably.

16 **MS. WICKS:** Okay. Court's indulgence.

17 **BY MS. WICKS:**

18 **Q.** After you -- you indicated that you hadn't checked the
19 casinos during the time that the investigation was ongoing and
20 the officers had not been arrested; correct?

21 **A.** Correct.

22 **Q.** And since then, have you conducted that further
23 investigation of the area casinos?

24 **A.** We have not subpoenaed the casinos, no.

25 **MS. WICKS:** Okay. Thank you.

~~JENSEN REDIRECT~~

1 No further questions, Your Honor.

2 **THE COURT:** All right. Thank you.

3 Any redirect?

4 **MR. WISE:** Just briefly, Your Honor.

5 REDIRECT EXAMINATION

6 **BY MR. WISE:**

7 **Q.** Special Agent Jensen, just briefly, Mr. Purpura asked you
8 a series of questions about the searches that were done on
9 March the 1st of 2017.

10 Do you recall being asked that?

11 **A.** Yes.

12 **Q.** And whether -- what was recovered or not recovered at that
13 time. Do you recall those questions?

14 **A.** Yes.

15 **Q.** Now, in the course of the investigation -- and the jury's
16 heard testimony to this effect -- did you become aware that
17 there were leaks about the existence of the investigation to
18 the -- at that time the targets of the investigation, the men
19 that became the defendants in this case?

20 **A.** Yes.

21 **Q.** And did those leaks occur before March the 1st of 2017?

22 **A.** Yes; much before.

23 **Q.** And, in fact, what did Sergeant Jenkins do in the fall and
24 into the early part of the winter, so late 2016 into --

25 **MS. WICKS:** Objection. May we approach?

~~JENSEN REDIRECT~~

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THE COURT: Yes.

(Bench conference on the record:

MS. WICKS: [REDACTED]

THE COURT: [REDACTED]

MR. WISE: [REDACTED]

THE COURT: [REDACTED]

MS. WICKS: [REDACTED]

MR. WISE: [REDACTED]

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MR. WISE: [REDACTED]

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MS. WICKS: [REDACTED]

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MR. WISE: [REDACTED]

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THE COURT: [REDACTED]

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MR. WISE: [REDACTED]

THE COURT: [REDACTED]

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MR. WISE: [REDACTED]

MR. NIETO: [REDACTED]

[REDACTED]

MR. PURPURA: [REDACTED]

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THE COURT: [REDACTED]

MR. PURPURA: [REDACTED]

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MR. PURPURA: [REDACTED]

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THE COURT: [REDACTED]

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(Bench conference concluded.)

BY MR. WISE:

Q. So, Special Agent Jensen, just to remind us where we were, I had asked you whether you and -- you became aware that there were multiple leaks about the existence of the investigation, the federal investigation to at the time the targets, including these defendants, before they were arrested on March the 1st, 2017.

Do you recall me asking you that?

A. Yes.

Q. And what was your answer?

A. There had been.

Q. And what did Sergeant Jenkins do in the fall of 2016 into the winter of 2017?

A. He abruptly took 90 days of leave.

Q. And you were asked questions by Mr. Purpura about both the wiretap and the microphone that were used in this case.

Do you recall those?

A. Yes.

~~JENSEN REDIRECT~~

1 Q. And the jury has heard multiple calls from the wiretap in
2 the course of the trial; right?

3 A. Yes.

4 Q. And also microphone recordings; correct?

5 A. Yes.

6 Q. And just by way of example, this is FBI-11. This has
7 already been shown to the jury. This is Recording Session 79.
8 It's Page 1 of FBI-11. This is the recording from August the
9 31st of 2016 of the car crash that Detective Rayam testified
10 about; correct?

11 A. Yes.

12 Q. Where --

13 MR. PURPURA: Objection, Judge.

14 THE COURT: Sustained.

15 MR. PURPURA: Thank you. It's not --

16 THE COURT: We've done it.

17 MR. PURPURA: It's like it's closing argument.

18 THE COURT: They've heard it.

19 BY MR. WISE:

20 Q. And that was, to Mr. Purpura's question, one of the
21 microphone recordings that you brought to attention -- brought
22 to the attention of Mr. Hines and myself; correct?

23 A. Yes.

24 Q. And lastly, just on the questions from -- well, you also
25 asked some questions about surveillance, and you said that you

1 chose not to do surveillance. Explain why you chose or were
2 limited in the kind of surveillance you could do.

3 **A.** Well, just law enforcement in general are trained in
4 surveillance themselves. They conducted surveillance
5 themselves.

6 **Q.** And when you say "law enforcement," you mean these
7 defendants (indicating)?

8 **A.** Sure. We were very concerned, and we'd had instances in
9 the past where it was called being burned, basically, being
10 burned on surveillance, so you're spotted, essentially.

11 And anyone who's done enough surveillance knows what
12 that -- that it happens. So we are particularly concerned
13 about, given the gravity of the investigation, basically
14 blowing it because we're following someone and we get seen.

15 We also had had an incident -- so that was even early on.
16 We sort of made a conscious decision not to do a lot of
17 surveillance.

18 The other problem is, you know, they operated, since this
19 was occurring during -- much of it during the time when they
20 were working, the neighborhoods they work in, we would have
21 also just created this added, you know, more police vehicles,
22 basically. A line of police vehicles driving around these
23 neighborhoods wouldn't have been effective.

24 Also, we wouldn't have seen what was going on from
25 surveillance. It would have been very, very difficult to get

~~PENSEN~~ ~~RECRSS~~

1 close enough to see what was actually happening, particularly
2 inside houses and other places.

3 And then in August, we had had an instance when we were
4 burned on surveillance.

5 **Q.** By whom?

6 **A.** Detective Gondo actually spotted our surveillance in
7 mid-August at his residence one night.

8 **Q.** And then just last question. I think there were sort of
9 questions back and forth, so I just want to make sure it's
10 clear. You were asked whether any paper vacation slips for the
11 Dominican Republic trip that Defendant Taylor took were ever
12 recovered.

13 Do you recall being asked about that?

14 **A.** Yes.

15 **Q.** Were any paper vacation slips ever recovered for
16 Defendant Taylor for that trip to the Dominican Republic?

17 **A.** No. We didn't find any.

18 **MR. WISE:** Nothing further, Your Honor.

19 Thank you.

20 **THE COURT:** All right. Thank you.

21 Mr. Purpura?

22 **MR. PURPURA:** Thank you. Just very, very briefly.

23 RECRSS-EXAMINATION

24 **BY MR. PURPURA:**

25 **Q.** Special Agent Jensen, you were just asked by Mr. Wise

1 about surveillance and you gave your reasons for not conducting
2 surveillance; correct?

3 **A.** Correct.

4 **Q.** And when Mr. Wise yesterday went through the particular
5 racketeering acts involving the overtime, specific overtime
6 fraud against Mr. Hersl, I would assume that surveillance at
7 that point, just to see if a person's in Baltimore City or if
8 he's in uniform or if he has his tactical vest on, that would
9 not be particularly difficult, would it?

10 **A.** We -- only I think we have one occasion where we actually
11 had -- we had a surveillance in front of BPD headquarters, and
12 we did a surveillance of them arriving for work. I want to say
13 it was like the 10:30 or 11 o'clock hour in the morning one
14 morning, but we didn't do it otherwise.

15 **Q.** But that would be one way to verify if someone is at work
16 or not at work; correct?

17 **A.** Well, we'd see them -- yeah. I mean, we would see them
18 arrive, and then maybe it would be difficult to follow them
19 after that, sure.

20 **Q.** Let me ask you a follow-up question on the bank accounts
21 of Mr. Hersl.

22 Aside -- aside from Mr. Hersl's bank accounts, did you
23 have or would you in this particular case look into relatives'
24 bank accounts, mother's bank account to see if Mr. Hersl was
25 giving them money or anything like that?

1 **A.** We didn't look into relatives' bank accounts. We did pull
2 other bank accounts because I think they were in his name, but
3 I think they were also in his mother's name. If I remember
4 right, it was a Bank of America account. I don't recall the
5 activity, per se, on it, though.

6 **Q.** But if there would have been some large cash deposits in
7 his mother, Dorothy's account, that would be something that you
8 would -- obviously would be a highlight; correct?

9 **A.** I would probably remember it, yes.

10 **Q.** Thank you. Okay.

11 And just as to the 150, the Ford F-150, that -- do you
12 know if that vehicle was traded in?

13 **A.** Right. I don't know. That's what I'm saying. I know he
14 had it beforehand. I can't tell you whether he traded it in.

15 **Q.** Okay. But he did acquire the Toyota 4Runner just probably
16 a month or two prior to his actually being arrested; correct?

17 **A.** I think it was pretty recent because I saw some paperwork
18 about his car payments. It was in the area of like --

19 **Q.** That's what I was trying to get to.

20 **A.** Right.

21 **Q.** These were car payments being made --

22 **A.** Yes.

23 **Q.** -- on that.

24 And you know that it's been repossessed since then?

25 **A.** I do not know that.

~~PENSEN~~ ~~RECROSS~~

1 **MR. PURPURA:** Okay. Thank you.

2 No further questions.

3 **THE COURT:** Anything else?

4 (No response.)

5 **THE COURT:** All right. Thank you.

6 **THE WITNESS:** Thank you.

7 **THE COURT:** Agent, you can step down.

8 And we'll take a short recess.

9 (Jury left the courtroom at 11:31 a.m.)

10 (Recess taken.)

11 **THE COURT:** All right. You can be seated, please.

12 **MR. PURPURA:** Judge, just before the jury comes in,

13 may we just approach on the scheduling?

14 **THE COURT:** Yes, sure.

15 **MR. PURPURA:** Thanks.

16 (Bench conference on the record:

17 **MR. PURPURA:** So I can tell you that Mr. Hersl is not
18 going to testify, and I believe that the same --

19 **MS. WICKS:** Mr. Taylor will not be testifying.

20 **THE COURT:** Okay.

21 **MR. PURPURA:** I do have two witnesses who are present,
22 ready to come forward. Hope to get them on as soon as the
23 Government closes their -- with this last witness, which
24 shouldn't be too long. We hope to do it before the 1 o'clock
25 lunch break.

1 **THE COURT:** Appreciate your letting me know this.

2 I assumed that after the Government's last witness, we
3 would take a brief recess for purposes of motions, if you want
4 to make them for the record.

5 And perhaps at that point we could put on the record
6 your clients' election and then go back to conclude with your
7 witnesses.

8 **MR. PURPURA:** Right. Very good.

9 **THE COURT:** Does that work for everybody?

10 **MR. WISE:** It does, Your Honor.

11 **THE COURT:** Are you going to be calling witnesses,
12 Ms. Wicks?

13 **MS. WICKS:** We would be calling one or two agents to
14 complete impeachments, but I think hopefully we will be able to
15 work out that stipulation or a stipulation about the file for
16 the picture of the ankle. So if we work out those as
17 stipulations, we wouldn't have any testimony.

18 **THE COURT:** Okay. Just in timing, so I'm trying to
19 figure out whether I'll be able to let the jury go. But do you
20 know what the -- I mean, the one stipulation is the one we've
21 talked about.

22 **MR. WISE:** Right.

23 **THE COURT:** That shouldn't be a problem.

24 **MS. WICKS:** The other two stipulations are just on
25 certain dates at certain time -- certain dates, Donald Stepp

1 spoke with the FBI, and he indicated that he had located three
2 to four kilo wrappers.

3 And then the other one was during a proffer with
4 Hendrix -- no. I'm sorry. The proffer with Gondo, he
5 indicated that it was Jenkins, Taylor, and Hendrix that had
6 driven down on the date Jenkins had the interaction with
7 special -- with a federal agent when following an unnamed
8 person.

9 **THE COURT:** All right. That sounds a bit more
10 complicated, but maybe you can take it up in the break.

11 **MR. WISE:** Sure. I mean, I don't know what the -- we
12 haven't talked about the first one, so I don't know what that
13 is.

14 The second one, Ms. Wicks e-mailed me. And the Gondo
15 proffer where this came up, Special Agent Smith was present. I
16 asked him to look at his notes this morning.

17 The notes don't say, Taylor, Jenkins, Hendrix. They
18 just describe the episode generally, and he doesn't have a
19 memory -- I mean, he wrote the 302. He'll say he wrote the
20 302. He doesn't have a memory of that specific piece of
21 testimony. So --

22 **MR. NIETO:** But it was in the 302. The difference
23 from Officer Gondo's testimony was that Officer Hendrix was
24 included in his, apparently, proffer session. So
25 notwithstanding the lack of notes, that's what the agent had

1 authored in the 302.

2 **MS. WICKS:** And I think there's two agents that were
3 there during that proffer.

4 **THE COURT:** Okay. Well, again, I can't --

5 **MR. WISE:** Yeah, and I'm not exactly sure what it
6 impeaches to have --

7 **MS. WICKS:** He denied that he said that. He denied
8 that he put Hendrix in that vignette, shall we say.

9 **THE COURT:** Okay. If I'm following, there's something
10 in the 302 that is inconsistent with the witness's testimony
11 and you want to call a person that wrote the report to say you
12 wrote this 302; it says in here X, and you believe that -- you
13 take your notes accurately and consistently and just trying to
14 point out that there's something in the 302 --

15 **MS. WICKS:** Right.

16 **THE COURT:** -- that was inconsistent with the
17 witness's testimony.

18 **MS. WICKS:** We don't get the note. We got the 302.

19 **THE COURT:** Right.

20 **MS. WICKS:** So if it's not his notes, it's the other
21 agent's notes that were there --

22 **THE COURT:** Okay.

23 **MS. WICKS:** -- because it is what they communally
24 wrote in the 302.

25 **THE COURT:** Notes are not necessarily relevant. You

1 just want to show a discrepancy with what --

2 **MS. WICKS:** The report that he wrote up --

3 **THE COURT:** Right.

4 **MS. WICKS:** -- about what Gondo said and what Gondo
5 said yesterday.

6 **THE COURT:** And this person that wrote the 302, are
7 they here? Are they available?

8 **MR. WISE:** Yeah. He's ready. He's here.

9 **THE COURT:** Okay. So you can just call him.

10 **MS. WICKS:** Okay.

11 **MR. WISE:** And I don't know what the -- the Stepp
12 thing, we haven't talked about it. I don't know what that is,
13 so I don't know who --

14 **MS. WICKS:** Stepp had testified that there were, I
15 think he said, four to ten kilo wrappers found in the storage
16 unit where he took three-quarters of a kilo of cocaine. He
17 indicated in -- the 302 indicates that he said three to four
18 kilo wrappers. So it's another discrepancy.

19 **THE COURT:** I didn't hear the discrepancy.

20 **MS. WICKS:** He said -- under oath he said ten kilo --
21 I can look at it. I don't have it up here, but I believe
22 there's a discrepancy between what he said on direct and what
23 he said in the 302.

24 **MR. WISE:** Do you know which agent wrote the 302?

25 **MS. WICKS:** I can bring it up.

1 **MR. WISE:** I don't know --

2 **THE COURT:** All right. Well, let's see if you can
3 find that 302 and let the Government know --

4 **MS. WICKS:** Sure.

5 **THE COURT:** -- who that person is. But in the
6 meantime, we'll go ahead, finishing the Government's case.)

7 (Bench conference concluded.)

8 **THE COURT:** Okay. I think we're ready for the jury.
9 (Jury entered the courtroom at 11:53 a.m.)

10 **THE COURT:** All right. You can be seated.
11 Is the Government calling another witness?

12 **MR. WISE:** Yes, Your Honor. The United States calls
13 Officer James Kostoplis.

14 **THE CLERK:** Please raise your right hand.

15 POLICE OFFICER JAMES KOSTOPLIS, GOVERNMENT'S WITNESS,
16 SWORN.

17 **THE CLERK:** Please be seated.

18 Please speak directly into the microphone. State your
19 full name for the record and spell your last name, please.

20 **THE WITNESS:** James Kostoplis, K-O-S-T-O-P-L-I-S.

21 **THE CLERK:** Thank you.

22 **THE COURT:** You may go ahead.

23 **MR. WISE:** Thank you, Your Honor.
24
25

DIRECT EXAMINATION

BY MR. WISE:

Q. Good morning, Officer Kostoplis.

A. Good morning.

Q. What law enforcement agency do you serve with?

A. The Baltimore City Police Department.

Q. And when did you join the Baltimore City Police Department?

A. I originally joined the Baltimore City Police Department September 13th, 2011. Shortly after the riots, I left the department and went to another agency and then returned back to the department February 24th, 2016.

Q. Okay. And where did you go in between when you left and then came back? What were you doing?

A. I was working at a railroad police department.

Q. And where was that?

A. In North Jersey.

Q. Is that where you grew up?

A. I'm from Central Jersey, but it's close.

Q. And when you came back in February of 2016, where were you initially assigned?

A. I was initially assigned to the academy for a brief period, and then I was sent to the Northeast District.

Q. Now, at some point were you assigned -- once you came back and after you had been assigned to the Northeast District, were

1 you assigned to the Gun Trace Task Force?

2 **A.** Yes.

3 **Q.** And when was that?

4 **A.** Towards the end of October.

5 **Q.** Of what year?

6 **A.** 2016.

7 **Q.** All right. So towards the end of October in 2016 is when
8 you were assigned to the Gun Trace Task Force?

9 **A.** Yes.

10 **Q.** How old were you at that time?

11 **A.** 26.

12 **Q.** And who was responsible for you getting assigned to the
13 Gun Trace Task Force at the end of October of 2016?

14 **A.** Sergeant Jenkins.

15 **Q.** And how long were you on the Gun Trace Task Force?

16 **A.** For a few months.

17 **Q.** And until when? What month?

18 **A.** I believe beginning of February.

19 **Q.** So from mid -- you were on the Gun Trace Task Force from,
20 I think you said, the end of October 2016 to the -- say, early
21 February?

22 **A.** Yes.

23 **Q.** Of 2017; is that right?

24 **A.** Yes.

25 **Q.** And you testified that Sergeant Wayne Jenkins was

1 responsible for getting you assigned, I guess, at the end of
2 October; is that right?

3 **A.** Yes.

4 **Q.** And who was responsible for you getting transferred out of
5 the Gun Trace Task Force just a few months later in February of
6 2017?

7 **A.** Sergeant Jenkins.

8 **Q.** Now, I just want to walk through those months you were
9 there.

10 What happened to Wayne Jenkins a few weeks after you
11 joined the unit at the end of October of 2016?

12 **A.** He took a leave.

13 **Q.** He took a what?

14 **A.** Like, I guess like an FMLA leave for him having a baby.

15 **Q.** And how long did he take for this leave?

16 **A.** Quite a while, maybe like a few months.

17 **Q.** So when was he gone, I guess, out of the unit? What
18 months between late October when you joined and early February
19 when you were transferred out?

20 **A.** So it would be -- I guess he -- I guess he came back
21 sometime in January.

22 **Q.** All right. So after the first of the year?

23 **A.** Yes.

24 **Q.** And you said he left just a few weeks after you started at
25 the end of October?

1 **A.** Yes.

2 **Q.** When he was gone, who was in charge?

3 **A.** Ward was in charge for a little while, and then we had
4 Sergeant Blackwell for a little bit. And then I think we might
5 have had a couple of like interim supervisors maybe for a day
6 or two, but . . .

7 **Q.** What kind of work did you do while Jenkins was away for, I
8 guess, almost your entire time on the GTTF?

9 **A.** Not really much of anything.

10 **Q.** What was the GTTF doing at that time?

11 **A.** Nothing.

12 **Q.** Did you try to work?

13 **A.** Yes. I suggested that we maybe go to the ranges that are
14 around Baltimore and check the shooters' logs to see if maybe
15 any prohibited persons are, you know, shooting a gun there.
16 But, you know, that idea was shot down.

17 They said, No, we don't -- we don't do that here.

18 And being the new guy, I wasn't sure if there was maybe a
19 reason for that, but I just was like, Okay.

20 **Q.** And who was -- you've talked about Jenkins, but who was on
21 the GTTF for that period of time when you were there between
22 the end of October 2016 and early February 2017?

23 **A.** Ward, Gondo, Hendrix, Hersl, and Taylor.

24 **Q.** Now, you gave the example of suggesting going out to the
25 ranges to look for prohibited persons; right?

1 A. Right.

2 Q. So that was shot down?

3 A. Uh-huh.

4 Q. Were there some things you were able to do?

5 A. I was able to start looking up 9-1-1 calls for armed
6 persons and going back through to see if there was maybe any
7 callback information to try and see if I could, you know, get
8 more information about people with guns in neighborhoods.

9 Q. So is it accurate to say you were trying to work during
10 this period?

11 A. Yes.

12 Q. Were you able to work any overtime in that period?

13 A. Yes.

14 Q. And what sort of things did you do when you were working
15 overtime?

16 A. I did jail calls. I did -- there was some
17 crime-suppression overtime that was available. I think it was
18 in the tri-district. And I worked one day in patrol.

19 Q. And so when you put in for overtime in that period, did
20 you actually work those hours?

21 A. Yes.

22 Q. Now, what were the other members that you've identified
23 doing during this time?

24 A. Not really much of anything.

25 Q. And at some point -- and that includes Defendant Hersl and

1 Defendant Taylor?

2 A. Yes.

3 Q. Now, at some point did Jenkins come back --

4 A. Yes, he did.

5 Q. -- off of this extended leave?

6 A. Yes.

7 Q. When he came back, what did he ask you to do?

8 A. He approached me in the office and asked if I -- he said I
9 was -- like, we're going to go for a ride real quick.

10 Q. And did you go for a ride with --

11 A. Yes.

12 Q. -- Jenkins?

13 And who else went with you?

14 A. Hersl.

15 Q. Did you know why you were going for a ride?

16 A. No.

17 Q. Did you ask?

18 A. Yes.

19 Q. And what did Jenkins tell you?

20 A. We're just going for a ride real quick.

21 Q. Whose car did you go in?

22 A. Jenkins'.

23 Q. And who was in the car with you?

24 A. It was me, Hersl, and Jenkins.

25 Q. And where did Jenkins take you?

1 **A.** It was a little side street right -- not too far from
2 headquarters.

3 **Q.** So you left headquarters and drove to a little side
4 street?

5 **A.** Right.

6 **Q.** And then what happened when you got to the side street?

7 **A.** We -- he stopped the van. He asked that I leave all my
8 equipment and my phone in the car.

9 **Q.** Who is that? Who asked you that?

10 **A.** Sergeant Jenkins.

11 **Q.** Okay. Did you know why he was asking you to leave your
12 phone in the car?

13 **A.** I was kind of unsure. I just was like, All right.

14 **Q.** And your other equipment, like your vest and things like
15 that?

16 **A.** Like radio and stuff like that.

17 **Q.** Oh, radio. Okay.

18 And did you?

19 **A.** Yes.

20 **Q.** And then what happened?

21 **A.** We -- the three of us walked to the rear of the van.

22 **Q.** And who is the three of you?

23 **A.** Sergeant Jenkins, Hersl, and myself.

24 **Q.** Okay. And then what happened after you walked to the rear
25 of the van?

1 **A.** Sergeant Jenkins -- I don't remember the exact wording,
2 but he was like, Well, what do you think about this? We
3 conduct like -- like an investigation. We start following
4 around a -- like a high-level drug dealer, find out where he's
5 keeping all his cash and his money, and we just go take it.

6 **Q.** And when he said that to you, where was Hersl standing?

7 **A.** Next to Jenkins.

8 **Q.** And what was your reaction when Jenkins asked you that
9 question?

10 **A.** Excuse my language, but I said, "No. That's a terrible
11 fucking idea. You know, you can't have a badge on your chest
12 and do things like that. You know, the fact that
13 law enforcement doesn't do that is what separates
14 law enforcement from criminals."

15 **Q.** And who did you say that to?

16 **A.** Hersl and Jenkins.

17 **Q.** And when you said that, what, if anything, was their
18 reaction?

19 **A.** Their reaction kind of was like, Oh, yeah, that's a bad
20 idea. And then we just got in the car and went back to
21 headquarters.

22 **Q.** And then what happened shortly after that?

23 **A.** Shortly after that, I was transferred out of the unit to
24 Sergeant Moore's squad.

25 **Q.** And did Jenkins give you any reason for why he -- well,

1 who transferred you out of the squad?

2 **A.** Jenkins.

3 **Q.** Did he give you any reason for why he did that?

4 **A.** He said he was on the lieutenant's list and that, you
5 know, he had a lot of complaints. He wanted to get rid of the
6 complaints. They weren't going to be going on the street. And
7 he knows I like being on the street, so he's -- he said I would
8 go to Sergeant Moore's squad so I could be on the street.

9 **Q.** And did you go to Sergeant Moore's squad?

10 **A.** Yes.

11 **Q.** And then shortly after that, did you see Jenkins and the
12 rest of the GTTF out on the street?

13 **A.** Yes.

14 Can I have a glass of water real quick?

15 **Q.** Sure.

16 Now, at the time in early February, why did you think
17 Jenkins was asking you that question about taking money from a
18 drug dealer?

19 **MS. WICKS:** Objection.

20 **THE COURT:** Sustained.

21 **BY MR. WISE:**

22 **Q.** When you saw that the rest of the Gun Trace Task Force had
23 been arrested on March 1st, what, if anything, did you do?

24 **A.** I contacted the FBI.

25 **Q.** And why did you do that?

1 **A.** Because I realized that what he had asked me that night
2 wasn't -- wasn't a test to see if whether I could be trusted
3 around large amounts of money; but he was, in fact, asking me
4 to steal money.

5 **MR. WISE:** Nothing further, Your Honor.

6 **THE COURT:** All right. Mr. Purpura.

7 **MR. PURPURA:** Thank you, Your Honor.

8 CROSS-EXAMINATION

9 **BY MR. PURPURA:**

10 **Q.** Officer Kostoplis, good afternoon, sir.

11 **A.** How you doing?

12 **Q.** Fine. We've never met before, have we?

13 **A.** No.

14 **Q.** And we never discussed this case --

15 **A.** No.

16 **Q.** -- in person, by phone, nothing; correct?

17 **A.** No.

18 **Q.** You met with Mr. Wise before?

19 **A.** Yes.

20 **Q.** Okay. He prepared you to testify today -- well, not
21 prepared. He spoke to you about your testimony today; is that
22 fair to say?

23 **A.** Like typical pretrial meetings, yes.

24 **Q.** I'm sorry?

25 **A.** Typical pretrial meetings, yes.

1 Q. Very typical. That's what you're used to as a police
2 officer, in speaking to the State's Attorney or the Assistant
3 U.S. Attorney before you testify; correct?

4 A. Right.

5 Q. Okay. Fine. And let me take you back quickly.

6 You joined the force in 2011?

7 A. Yes.

8 Q. And you indicated you were on the force for approximately
9 about four years and then you resigned for a period of time;
10 correct?

11 A. Yes.

12 Q. And when you were on the force from September 2011 through
13 the Freddie Gray riots, where were you stationed?

14 A. Northeast.

15 Q. Northeast?

16 A. Yes.

17 Q. And you left soon after the Freddie Gray riots; is that
18 correct? That's sometime in April or May of 2015?

19 A. Yes, sometime around that.

20 Q. Was there a reason for that?

21 A. I wanted to move back to New Jersey to kind of be closer
22 to family. So --

23 Q. Was there problems in the police department after the
24 Freddie Gray riots, officers a little nervous to make arrests
25 and kind of a bad relationship between the hierarchy and the

1 people on the street?

2 **A.** I'm not really sure. I didn't really stick around much
3 after the riots. This was something that I had planned before
4 the riots to go. It was a pretty long process getting hired by
5 the railroad police.

6 **Q.** And you got out right after the riots; correct?

7 **A.** Right.

8 **Q.** You didn't stay very long with the railroad police;
9 correct?

10 **A.** No.

11 **Q.** Okay. And then you came back. You wanted to come back
12 here to Baltimore to be -- continue to be a Baltimore City
13 police officer; correct, sir?

14 **A.** Correct.

15 **Q.** All right. And you contacted Wayne Jenkins at that time;
16 correct?

17 **A.** Yes.

18 **Q.** Because you worked with Wayne Jenkins in the past;
19 correct?

20 **A.** Yes.

21 **Q.** And when you worked with Wayne Jenkins in the past, at
22 least to your knowledge, he wasn't taking money or drugs from
23 people at that time, was he?

24 **A.** No, I didn't believe he was doing that.

25 **Q.** As a matter of fact, I think what you testified to before

1 in the grand jury is that Wayne told you two things; right?

2 **A.** He had two rules.

3 **Q.** And what were the two rules?

4 **A.** You don't take money, and you don't put stuff on people.

5 **Q.** And that's what he told you; correct?

6 **A.** Yeah; the first day I ever worked with him.

7 **Q.** And so based on that, you wanted to come back and work
8 with him again; is that correct?

9 **A.** Yes.

10 **Q.** And when you came back, you had to work the streets for a
11 little bit of time; right?

12 **A.** Yeah.

13 **Q.** And then you came onto the GTTF; is that correct?

14 **A.** Correct.

15 **Q.** And before Wayne Jenkins took off with the birth of his
16 child, what kind of work were you doing?

17 **A.** Like street enforcement.

18 **Q.** What's that?

19 **A.** Just being on the street.

20 **Q.** Getting guns and getting drugs?

21 **A.** Yes.

22 **Q.** Okay. And when you went out on the street, who did you go
23 out with?

24 **A.** Usually with Jenkins.

25 **Q.** Okay. Did you go out with Dan Hersl?

1 **A.** What was that?

2 **Q.** Did you go out with Dan Hersl on the street?

3 **A.** I think a few times, yeah. I think the majority of the
4 time in our car -- I can't remember if Hersl was with us the
5 whole time, but I know Taylor was with us.

6 **Q.** Okay. And you mentioned about that Jenkins, when Jenkins
7 left, there was inactivity in the GTTF; is that correct?

8 **A.** Correct.

9 **Q.** And Sergeant Blackwell was your sergeant at that time;
10 correct?

11 **A.** During the period, yeah.

12 **Q.** And was there a standing order by the sergeant which came
13 down from the lieutenant that the GTTF should stand down for a
14 period?

15 **A.** Not that I can recall. I'm not sure.

16 **Q.** At least you didn't know; is that fair to say?

17 **A.** Yeah, that's fair to say.

18 **Q.** But during this time period, you still managed to work
19 some overtime; is that correct?

20 **A.** Correct.

21 **Q.** Do you know how much overtime you worked from October
22 through January of 2016 with the GTTF?

23 **A.** I'm not sure. I know during 2016, I worked -- I believe
24 it was around 8300 was my annual income for overtime for that
25 year.

1 Q. \$8300 for that year?

2 A. Uh-huh.

3 Q. In 2016?

4 A. Yes.

5 Q. And 2017, did you work some overtime as well?

6 A. Yeah. I've worked a little bit more 2017.

7 Q. Okay. Do you remember what that was for the time you were
8 at the GTTF?

9 A. I'm sorry?

10 Q. Do you know how much overtime you worked for the GTTF in
11 2017?

12 A. I'm not sure.

13 Q. Okay. And just as to this incident, when Jenkins spoke to
14 you about drug dealers, do you remember when that was?

15 A. It was sometime shortly after he came back. You're
16 talking about the meeting outside the --

17 Q. I am, yes, sir.

18 A. Sometime after he had come back from FMLA or whatever kind
19 of leave that was.

20 Q. And as Mr. Wise brought out, you did not report that
21 incident until you read about the indictment; is that correct,
22 sir?

23 A. Correct.

24 Q. Okay. And that's when you went in sometime that day to
25 either IAD or some other person at Baltimore City Police and

1 reported this incident; is that correct?

2 **A.** Correct.

3 **Q.** And that's when you were interviewed, I believe, by
4 Special Agent Jensen, and there was a follow-up interview as
5 well; is that correct?

6 **A.** Yes.

7 **Q.** But shortly before that, I believe at the very end of
8 February of 2017, you were called down to IAD with other
9 members of your squad in reference to a damaged vehicle.

10 Do you remember that?

11 **A.** No, I don't remember that in February.

12 **Q.** Okay. Let me see if I can refresh your recollection.

13 I'm going to show you what has been marked as
14 Defense Exhibit No. 35 for identification only, and that would
15 be the 302 dated March 2nd.

16 And I'll ask you if you recall you were interviewed by a
17 Task Force Officer Matthew Smith and another police detective,
18 Jared Stern.

19 Do you remember those interviews?

20 **A.** Yes.

21 **Q.** I'm just going to ask you not to read out loud, but just
22 read to yourself the final paragraph here and see if that
23 refreshes your recollection. (Handing.)

24 **A.** (Reviews exhibit.)

25 Oh, yes. Okay. I know what you're talking about.

1 Q. It does refresh your recollection; is that correct, sir?

2 A. Yes.

3 Q. So you do recall that in the end of February, you were
4 called in to IAD in reference to damage to an unmarked Impala;
5 is that correct, sir?

6 A. Yes.

7 Q. And during that time when you spoke to the IAD officers,
8 you did not at that time volunteer any information about this
9 statement you just told the jury; is that correct, sir?

10 A. Wait. Wait. Wait. Wait. No, no, no. What you just
11 showed me was a meeting where Jenkins called the whole squad to
12 a location. Can I see what you're telling me again?

13 Q. Sure. Absolutely.

14 A. I don't understand what your --

15 Q. Refresh your recollection. Absolutely.

16 Do you remember the incident at all? Okay. Take a look.

17 A. This one right here, right?

18 Q. Yes. Read it to yourself.

19 A. (Reviews exhibit.)

20 This --

21 Q. Hold on one second.

22 Now, you met with Jenkins to discuss -- Jenkins and other
23 members of the squad to discuss the damage to the vehicle; is
24 that correct? Or did you not?

25 A. I don't -- I don't understand what you're asking here.

~~ROSTONIS~~ ~~CROSS~~

1 Q. What I'm asking is this: Before, before you gave the --
2 this information to the Government on March 1st, 2017, did you
3 go down to IAD and speak to anyone in IAD about this
4 information at any time?

5 A. Not that I recall. The only time I went down to AI -- IAD
6 was for a complaint for my own.

7 Q. Okay. Obviously, you could go down to IAD at any time if
8 you had some information involving a police officer who
9 suggested something wrong; is that fair to say?

10 A. I suppose so; however, I mean, if you're referring to the
11 meeting that we had, I didn't believe at the time that he was
12 being serious. I thought he was testing me to see if I could
13 be trusted around money.

14 Q. I guess that is what I'm referring to.

15 A. Right.

16 Q. So from the time whenever that happened, up until
17 March 1st of 2017, you -- obviously you had the opportunity
18 to --

19 A. I had the opportunity if I believed --

20 Q. Okay. Hold on. Relax.

21 You had the opportunity to go into IAD or to speak to
22 anyone else in the hierarchy at BPD about what occurred in this
23 conversation; correct? Just yes or no and we'll let you
24 explain.

25 A. I don't really understand how that would be correct

1 because that's not what I believed at the time. I mean --

2 Q. Fair enough.

3 What you believed at the time was that Jenkins was just
4 testing you or just being Jenkins fooling around; is that fair
5 to say, then?

6 A. Correct.

7 Q. Okay. So you really didn't think anything wrong at that
8 point, just that it was just like a crazy thing that Jenkins
9 was suggesting; correct?

10 A. Right.

11 Q. Okay. Now, do you recall -- you don't remember the date
12 that this happened; that's fair to say?

13 A. I'm not sure of the date.

14 Q. Do you remember, was it in January --
15 beginning? middle end?

16 A. I believe it was maybe towards the end of January. I'm
17 not a hundred percent sure.

18 Q. Okay. And at that point where did Jenkins approach you?

19 A. What do you mean?

20 Q. To say, "Come with me in the van."

21 A. In the office.

22 Q. Okay. And who's in the office?

23 A. I'm not sure if the whole squad was there, but I know
24 there was a handful -- handful of us in the office.

25 Q. Okay. And so he did this in front of a handful of people

1 in the office at that time; correct?

2 **A.** I believe so.

3 **Q.** Okay. And were you at your desk? Where were you?

4 **A.** I'm not sure. I don't think I was at my desk. I think I
5 was sitting by -- we had like a TV in the office. I think I
6 was sitting over by that.

7 **Q.** Okay. And when he approached you, he said, "Let's take a
8 ride"; correct?

9 **A.** Correct.

10 **Q.** And at that point where was Detective, at that time,
11 Hersl?

12 **A.** I believe he was standing next to Jenkins.

13 **Q.** Now, do you believe or can you picture this? Do you know?

14 **A.** I'm pretty sure, pretty sure he was standing next to
15 Jenkins.

16 **Q.** And then at that time all three of you left; is that
17 correct?

18 **A.** Right.

19 **Q.** And you're working at that point; right? This is working
20 time?

21 **A.** I believe so.

22 **Q.** Well, when you finish work, do you stay at the office?

23 **A.** Yeah, sometimes I'll hang out for a few minutes.

24 **Q.** Do you think you were hanging out at this point, or do you
25 think you were working?

1 A. I'm not sure. I don't remember.

2 Q. Okay. All right. And then at that point you go out and
3 you get into the working van; is that correct? Was that a van?

4 A. Right.

5 Q. And that's what Jenkins used when he was working; correct?

6 A. I'm pretty sure he used it all the time.

7 Q. All right. Personal business and working business; right?

8 A. Right.

9 Q. Okay. And where were you in the van?

10 A. I think I was in the backseat.

11 Q. Okay. You were in the backseat?

12 A. I'm not -- was I? I'm actually -- I'm actually not sure
13 where I was sitting in the van, to be honest, now that I'm
14 thinking back. I'm not a hundred percent sure.

15 Q. Then what happens, you go for a short ride. And Jenkins
16 basically tells you and Hersl to get out of the car, right, at
17 that point?

18 A. I -- I don't remember if he asked Hersl to get out of the
19 car.

20 Q. Well, did Hersl sit in the car and stay in the car?

21 A. No.

22 Q. And so he stops the car and says, "Get out"; right?
23 "Let's get out"; right?

24 A. Right.

25 Q. Something has to happen to have you leave the car; right?

1 A. Right.

2 Q. So he stops the car. And Jenkins says, "Get out of the
3 car"; right?

4 A. (Nods head.)

5 Q. Not only you, but Hersl leaves his radio and his
6 cell phone in the car as well; right?

7 A. I -- I don't know. I'm not -- I don't know if he had his
8 stuff with him or not. I assume so -- I assume he left it in
9 the car.

10 Q. Yeah. Because that's what Jenkins said. He said, "Leave
11 your cell phone and your police radios here in the car"; right?

12 A. Right.

13 Q. All right. And that's what you did; right?

14 A. Right.

15 Q. And you assume that Hersl did the same thing; correct?

16 A. Yeah.

17 Q. And then what happens is that you -- Jenkins talks to you,
18 says something directly to you; right?

19 A. Right.

20 Q. Something which you didn't believe he was being truthful
21 about; correct?

22 A. Right.

23 Q. And then you said, as you said, It's an f'ing bad idea,
24 et cetera; right?

25 A. Right.

1 Q. And Jenkins said, "Yeah, it is a bad idea"; right?

2 A. Right.

3 Q. And Hersl said it's a bad idea; correct?

4 A. I believe they both agreed that it was a bad idea.

5 Q. A bad idea.

6 And at that point -- actually, if you -- I want you to
7 think back at this point. At that point you don't go directly
8 back to the Baltimore police station, do you?

9 A. I thought we did. I'm . . .

10 Q. Do you remember going to -- you know on the west side --
11 you're on the west side of Baltimore when this occurs; correct?

12 A. I thought it was like right down the street from
13 headquarters.

14 Q. A couple blocks away?

15 A. Close.

16 Q. Do you remember driving near the Hippodrome on your way
17 back?

18 A. No.

19 Q. Do you remember Wayne stopping the vehicle and there was
20 someone involved in a drug deal that Wayne chased after; the
21 person dropped their drugs at that time? Think.

22 A. I'm not -- I'm not sure. I really don't remember.

23 Q. Do you remember after that, after Wayne chased that
24 person, that you then went over towards -- you know where the
25 Lexington Terrace used to be? That's before your time,

1 Lexington Terrace?

2 **A.** I'm really not --

3 **Q.** You went over to Martin Luther King Boulevard area. Do
4 you remember that, looking for, in particular, a black Jeep
5 which was a target?

6 Do you remember doing that?

7 **A.** I don't remember, no.

8 **Q.** Do you remember after that that you continued on duty and
9 you drove over to North and Pennsylvania Avenue?

10 **A.** I don't remember.

11 **Q.** Do you remember driving right back?

12 **A.** I thought we drove right back.

13 **Q.** Do you remember, finally, that actually there was a patrol
14 vehicle that was following the van and Wayne tried to speed up
15 to get away, get away from it, and he turned around a corner?

16 **A.** I don't know if that was the same night or not, but I do
17 remember him doing that 'cause I wanted him to stop.

18 **Q.** Right. Right. Right. And at that point actually the
19 patrol vehicle caught up to you all and Wayne showed his badge;
20 right?

21 **A.** Right.

22 **Q.** Same night, though.

23 **A.** I'm not sure if it was the same night, though. I mean, I
24 really don't remember if that's the same night or not.

25 **Q.** And you indicated you transferred out soon after this;

1 correct?

2 **A.** Right.

3 **Q.** Right. And you also know that at that time
4 Detective Hersl transferred out the end of January to
5 Citywide Shooting; correct?

6 **A.** Yes.

7 **MR. PURPURA:** Thank you.

8 I have no further questions.

9 **THE COURT:** All right. Ms. Wicks?

10 **MS. WICKS:** Court's indulgence.

11 CROSS-EXAMINATION

12 **BY MS. WICKS:**

13 **Q.** Good morning, Officer.

14 **A.** Good morning.

15 **Q.** Prior to leaving the Baltimore Police Department and going
16 to the railroad police department in New Jersey, you had worked
17 for Sergeant Jenkins; correct?

18 **A.** Yes.

19 **Q.** And you had worked for him in the Northeast District;
20 correct?

21 **A.** Yes.

22 **Q.** And how long did you work with him there?

23 **A.** I think a couple months.

24 **Q.** Okay. And you didn't have any concerns after working with
25 him for a couple months in the Northeast District; correct?

1 A. No.

2 Q. When you came back to Baltimore, you contacted him
3 about -- 'cause you wanted to work on his squad; correct?

4 A. Right.

5 Q. And you were advised that you would have to go to patrol,
6 but then you could come to GTTF; correct?

7 A. Right.

8 Q. And during the time before -- well, while you were in the
9 squad, there was -- other than apparently this one incident
10 that at the time you thought was a joke, you didn't see
11 anything that you deemed questionable; correct?

12 A. Correct.

13 Q. And you -- before -- well, during the time that
14 Sergeant Jenkins was out of the unit, Ward was your superior;
15 correct?

16 A. Yeah, for a little while.

17 Q. Okay. And Sergeant Blackwell was; correct?

18 A. Yes.

19 Q. And other sergeants sometimes just for the day?

20 A. Yeah. I think we had like a couple pop in for like a day
21 or two, but I don't really remember.

22 Q. And that would be the person that you would take the order
23 from in terms of what you are supposed to be doing on that day;
24 correct?

25 A. Right.

1 Q. And apparently, while you made suggestions in terms of the
2 hierarchy, you were told not to do those things; correct?

3 A. Right.

4 Q. You -- there were gun arrests conducted during that fall;
5 correct?

6 A. During the fall, what do you mean?

7 Q. The fall of 2016 and the -- between your time on GTF [sic]
8 from October 2006 to February 2017, you made -- you were part
9 of the team that --

10 MR. WISE: It's not 2006. You meant 2016.

11 BY MS. WICKS:

12 Q. From October 2016 to February 2017, you were on the
13 Gun Trace Task Force; correct?

14 A. Yes.

15 Q. And during that time, the Gun Trace Task Force made gun
16 arrests; correct?

17 A. Yes.

18 Q. And you were part of the team that made those arrests;
19 correct?

20 A. Yes.

21 Q. And you conducted drug investigation on
22 Pennsylvania Avenue; correct?

23 A. I guess so. I don't really remember, like, particulars
24 about like what investigations we were working on or anything.

25 Q. And during that time period you were wearing a body cam;

1 correct?

2 **A.** Yes.

3 **Q.** And your body cam would record what the other officers on
4 the unit were doing; correct?

5 **A.** Right.

6 **Q.** And their body cams -- some of the other officers in the
7 unit, and specifically Detective Taylor, was at that point
8 wearing a body cam; correct?

9 **A.** Yeah.

10 **Q.** And so his body cam would be recording what you were
11 doing; correct?

12 **A.** Yeah.

13 **Q.** And during the time that you were on the squad, did you
14 request days off?

15 **A.** Yes.

16 **Q.** During the time that Jenkins was there?

17 **A.** I don't remember if I put in any days while he was there.
18 I'm not sure.

19 **Q.** How would you characterize his work in the administrative
20 role as your sergeant?

21 **A.** I guess he was, like, okay at admin.

22 **Q.** Okay. You didn't see anything unusual?

23 **A.** Not really, no. I can't think of anything.

24 **MS. WICKS:** Okay. Thank you.

25 No further questions, Your Honor.

~~ROSTOPLIN~~ ~~CROSS~~

1 **THE COURT:** All right. Thank you.

2 Any redirect?

3 **MR. WISE:** No, Your Honor. Thank you.

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

5 **THE WITNESS:** All right.

6 (Witness excused.)

7 **THE COURT:** All right. Will the Government be calling
8 any additional witnesses?

9 **MR. WISE:** We are not, Your Honor.

10 **THE COURT:** All right.

11 **MR. WISE:** May we approach briefly?

12 **THE COURT:** Yes.

13 (Bench conference on the record:

14 **MR. WISE:** So we're prepared to rest. And I just
15 wanted to make sure that was all right with Your Honor to do it
16 in open court.

17 **THE COURT:** Yes. I think you can rest subject to
18 checking exhibits.

19 **MR. WISE:** Okay.

20 **THE COURT:** Then I was going to excuse the jury long
21 enough to, as we talked about, advise clients and --

22 **MR. PURPURA:** On schedule, I'm going to be brief on
23 direct. I'm not sure if the Government's going to be -- okay.
24 Not lengthy on cross?

25 **MR. HINES:** Well, I don't think so. I think we'll be

1 brief.

2 **MR. PURPURA:** Fair enough. So my thought was maybe
3 you want to let them go for an early lunch and come back at
4 1:30 and then we'll finish.

5 **THE COURT:** The thought crossed my mind as well. But
6 if you wanted to get your witnesses on and off, you know . . .

7 **MR. PURPURA:** I'd like to. We'll go. We'll move.

8 **THE COURT:** Okay.

9 **MR. PURPURA:** Thanks.)

10 (Bench conference concluded.)

11 **THE COURT:** Mr. Wise?

12 **MR. WISE:** At this time, Your Honor, the United States
13 rests.

14 **THE COURT:** All right.

15 Now, ladies and gentlemen, that means, subject to
16 checking exhibits, of course, that the Government has finished
17 presenting its evidence.

18 I need to take a short recess; just ask you all to
19 step back in the jury room for a few minutes.

20 (Jury left the courtroom at 12:29 p.m.)

21 **THE COURT:** Thanks. You can be seated.

22 Mr. Purpura?

23 **MR. PURPURA:** Your Honor, thank you.

24 We're ready to call witnesses.

25 But, first, I think the Court wants an advisement of

1 rights as to the defendants; is that correct?

2 **THE COURT:** Yes, please. If you would like to do that
3 as to Mr. Hersl, obviously Mr. Taylor could be listening. And
4 then we'll see what Ms. Wicks wants to add.

5 Go ahead.

6 **MR. PURPURA:** Very good.

7 Mr. Hersl, as I told you many months ago, there would
8 come a time you have the opportunity -- and it's your choice
9 and only your choice in this particular situation -- whether
10 you wish to testify and/or remain silent; is that correct, sir?

11 **DEFENDANT HERSL:** Correct.

12 **MR. PURPURA:** And you understand what
13 cross-examination is. If you chose to testify, the Government
14 could cross-examine you. They could ask you questions in a
15 leading manner, much the way I've been doing for the past three
16 weeks.

17 Do you understand that, sir?

18 **DEFENDANT HERSL:** Yes, sir.

19 **MR. PURPURA:** They could also ask you about any
20 criminal record which would be appropriate under the criminal
21 rules, the federal criminal rules. My understanding is you
22 have no criminal record; is that correct, sir?

23 **DEFENDANT HERSL:** That's correct.

24 **MR. PURPURA:** Now, knowing all this, sir, is it your
25 wish at this time to testify and to remain silent?

1 **DEFENDANT HERSL:** I think I'm going to choose to
2 remain silent, Your Honor.

3 **MR. PURPURA:** Thank you.

4 **THE COURT:** All right, sir. Do you have any questions
5 at all about your rights? Have you had enough chance to
6 discuss that with Mr. Purpura?

7 **DEFENDANT HERSL:** Yes, ma'am. My attorney was very
8 clear with me, the instructions. I waive my right to testify,
9 Your Honor.

10 **THE COURT:** All right. Thank you.

11 **MS. WICKS:** Your Honor, may I approach with Government
12 counsel and Mr. Taylor to the bench?

13 **THE COURT:** Certainly.

14 (Bench conference on the record:

15 **MS. WICKS:** [REDACTED]
16 [REDACTED]
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THE COURT: [REDACTED]

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THE COURT: [REDACTED]

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DEFENDANT TAYLOR: [REDACTED]

MR. WISE: [REDACTED]

[REDACTED]

MS. WICKS: [REDACTED]

[REDACTED]

MR. WISE: [REDACTED]

THE COURT: [REDACTED]

(Bench conference concluded.)

THE COURT: All right. Just to confirm for the

1 record, Mr. Taylor, I understand that it is your choice, after
2 time to consult with counsel and understanding your rights, it
3 is your choice not to testify; is that correct?

4 **DEFENDANT TAYLOR:** Yes, ma'am.

5 **THE COURT:** All right.

6 **MR. PURPURA:** And, Your Honor, just generally, I'll
7 make a motion under Rule 29 for a judgment of acquittal as to
8 the four counts involving Mr. Hersl. And I would submit on the
9 argument, without any further argument.

10 **THE COURT:** All right.

11 **MS. WICKS:** Your Honor, I'd make the same motion and
12 submit as well on behalf of Mr. Taylor.

13 **THE COURT:** Okay. All right. Well, the Rule 29
14 motions will be denied because I believe that, looking at the
15 evidence in the light most favorable to the Government, there
16 is sufficient evidence that's been proffered, if believed by
17 the jury, to sustain a verdict in favor of the Government on
18 all the counts.

19 Shall we call the jury back in and see if we can get
20 your two witnesses?

21 **MR. PURPURA:** Thanks.

22 Your Honor, may I have the detective take the stand at
23 this time?

24 **THE COURT:** Sure.

25 **MR. PURPURA:** Detective Romeo.

(Jury entered the courtroom at 12:41 p.m.)

THE COURT: You can all be seated, except for the witness. I'm sorry.

Mr. Purpura, you're calling a witness?

MR. PURPURA: Your Honor, if I may, on behalf of Mr. Hersl, the defense calls Detective Timothy Romeo.

THE CLERK: Please raise your right hand.

DETECTIVE TIMOTHY ROMEO, DEFENDANT HERSL'S WITNESS, SWORN.

THE CLERK: Please speak directly into the microphone. State your full name for the record and spell your last name, please.

THE WITNESS: Timothy Romeo, R-O-M-E-O.

THE CLERK: Thank you.

MR. PURPURA: Thank you.

DIRECT EXAMINATION

BY MR. PURPURA:

Q. Detective Romeo, where are you employed?

A. Baltimore City Police Department.

Q. And how long have you worked as a Baltimore City policeman?

A. I'm in my tenth year.

Q. And approximately when did you start? When did you pass -- come to the academy?

A. January of '09.

Q. And can you just briefly tell us what units you've worked

1 at since you came on as a BPD?

2 **A.** I was in patrol. I was in the Monument Street initiative.
3 And then I was in OID, SES, which are citywide units,
4 narcotics, gun units.

5 **Q.** And what are you doing now?

6 **A.** Right now I'm in Eastern District DAT, District Action
7 Team, same thing, narcotics and guns.

8 **Q.** Very good.

9 And I'm going to direct your attention to November 5th,
10 2014. And before I do that, we actually met physically in the
11 hallway today for the first time; is that correct, sir?

12 **A.** Yes.

13 **Q.** I have been able to speak with you a couple times on the
14 phone; is that also correct, sir?

15 **A.** That's correct.

16 **Q.** In addition to meeting with me in the hallway, you met
17 with Mr. Rafter at least for a few minutes in the hallway today
18 as well; is that correct, sir?

19 **A.** Yes.

20 **Q.** Other than that, have we had any contact whatsoever with
21 each other?

22 **A.** No.

23 **Q.** And also is it fair to say that you met -- or you didn't
24 meet, but you spoke with a Special Agent Lisa Christy and
25 Assistant United States Attorneys Christina Hoffman and

1 P.J. Martinez back in December via phone; is that correct, sir?

2 **A.** Yes.

3 **Q.** And in general, I believe we're all discussing the same
4 thing, which are I'm going to take you to November 5th, 2014,
5 Jimmie Griffin.

6 Do you remember that case?

7 **A.** Yes.

8 **Q.** I'm going to show you what has been marked as Defense
9 Exhibit No. 36.

10 Do you recognize that man?

11 **A.** Yes.

12 **Q.** Who is that?

13 **A.** That's Jimmie Griffin.

14 **Q.** Now, in addition, I'm going to show you what has been
15 marked as Government JG-3. And do you recognize that house?

16 **A.** Yes.

17 **Q.** What is that house?

18 **A.** That's Jimmie Griffin's home.

19 **Q.** Very good.

20 And if I may, sir, directing your attention back to
21 November 5th, 2014, what was your role in the investigation?

22 **A.** I was in the same squad as Detective Hersl.

23 **Q.** And what were you doing?

24 **A.** I was assisting him on an investigation up off of
25 Pinewood.

1 Q. And where were you on Pinewood? Where were you actually
2 physically located and approximately what time, if you can
3 remember? Was it around 12:00 noon?

4 A. When we were on Pinewood, it was about 4, 4:30 we executed
5 a search warrant.

6 Q. Before that, before the search warrant was executed?

7 A. Yes, before the search warrant was executed, I was standby
8 with Sergeant Burns and Detective Fassl as part of the arrest
9 team.

10 Q. And did there come a time that you were involved in a stop
11 of a vehicle?

12 A. Yes.

13 Q. Can you please tell us about that.

14 A. Yes. We were notified by Detective Hersl to -- about a
15 vehicle that was coming from Pinewood who was inside of the
16 location. He had a brake light out. When he came out onto
17 Harford Road, we eventually conducted a traffic stop on that
18 vehicle.

19 Q. And what happened at that point, after the traffic stop?

20 A. At that point I made contact with the driver, who was
21 George Lee. I got all of his information and from there told
22 him that another detective would be coming to speak with him
23 pending, you know, another investigation that was being
24 conducted by that person.

25 Q. Okay. And did Detective Hersl then arrive at the scene?

1 A. Yes.

2 Q. And was a K9 called?

3 A. Yes. Eventually a K9 was called and alerted on the
4 vehicle.

5 Q. And what do you mean by "alerted on the vehicle"?

6 A. A K9 does an external scan of the vehicle. And when the
7 K9 catches the odor of a controlled, dangerous substance, it
8 will alert.

9 Q. Okay. And this was the vehicle that George Lee was the
10 driver; is that correct?

11 A. That's correct.

12 Q. And was the vehicle searched?

13 A. Yes.

14 Q. And what was found in the vehicle?

15 A. I believe it was like \$8,500 in cash in the center console
16 and some sandwich bags with residue.

17 Q. And this vehicle was seen leaving the target residence; is
18 that correct?

19 A. Yes.

20 Q. And that's Jimmie Griffin's residence right here; correct?

21 A. Correct.

22 Q. Did you see the vehicle leave?

23 A. No.

24 Q. After the stop of George Lee, there was a warrant
25 prepared; is that correct?

~~ROMEO DIRECT~~

1 A. That is correct.

2 Q. And that was for Jimmie Griffin's residence; is that
3 correct?

4 A. Correct.

5 Q. Were you part of the team involved with the search of the
6 residence?

7 A. Yes.

8 Q. And approximately now, what time is this in the afternoon
9 on November 5th?

10 A. 4:00, 4:30.

11 Q. Can you give us an idea how many people are involved in
12 the team that searched Jimmie Griffin's residence?

13 A. Ten to a dozen.

14 Q. Any names, if you can remember? I know it's been a long
15 time. I apologize.

16 A. Sergeant Burns, Sergeant Bailey, myself, Detective Hersl,
17 Detective Fassl, Detective Iacovo, and then I guess the rest of
18 Sergeant Bailey's squad.

19 Q. And do you recall that there was a large amount of heroin
20 and paraphernalia and scales and kilo press seized?

21 A. Yes.

22 Q. And if I show you what has been now marked as
23 Defense Exhibit No. 37 --

24 (Counsel conferred.)

25 **BY MR. PURPURA:**

1 Q. -- can you tell the jury briefly what this is?

2 A. Yes. What this is is a 56 evidence form, just documenting
3 everything that was seized and submitted.

4 Q. At least what was seized by you; is that correct?

5 A. Yes, that's correct.

6 Q. And so you are the responsible officer and submitting
7 officer (indicating); is that correct?

8 A. That's correct.

9 Q. And why would you seize packaging material?

10 A. 'Cause it's indicative of drug distribution.

11 Q. And why personal documents?

12 A. To prove that that person was staying at the location.

13 Q. And who was that person?

14 A. Jimmie Griffith [sic].

15 Q. And where were these documents seized?

16 A. From the basement.

17 Q. And how about what's -- scales, why is that important?

18 A. Scales are for weighing of the product.

19 Q. "Product" meaning the heroin that was seized?

20 A. Yes.

21 Q. And finally, why would you seize a red bandana?

22 A. 'Cause it proves affiliation to a gang, the Bloods gang.

23 Q. And I'm sorry. I missed that. What gang is that, the red
24 bandana?

25 A. Bloods.

1 Q. Thank you.

2 Sometime after you were at the Pinewood residence, did you
3 or did you not receive information that Jimmie Griffin, the
4 target, was at another location?

5 A. That's correct.

6 Q. And what happened at that point?

7 A. At that point, when we left the dwelling of his residence,
8 we went to the secondary location to place him under arrest.

9 Q. And just ballpark -- I know you probably don't remember
10 exactly where you went, but how far away was this from the
11 Pinewood location?

12 A. Maybe 10 to 15 minutes.

13 Q. And when you say you went or we went, who's the "we," if
14 you recall?

15 A. I know it was at least air squad, myself, Detective Hersl,
16 Detective Fassl, Iacovo, and Sergeant Burns.

17 Q. Okay. And if I didn't ask you, I apologize. Whose
18 investigation was this?

19 A. Detective Hersl.

20 Q. And were you present when Jimmie Griffin -- when
21 Jimmie Griffin was located?

22 A. Yes.

23 Q. And can you tell the jury, where is Jimmie Griffin
24 located?

25 A. He was located in the -- I guess you could call it like a

1 backyard, back driveway. I'm not sure if he was inside a
2 vehicle or outside a vehicle with approximately three to four
3 other persons.

4 Q. So approximately, you said, three to four other people
5 around Jimmie Griffin?

6 A. Yes.

7 Q. And these are not police officers; right?

8 A. No.

9 Q. All right. And how many police officers, ballpark, were
10 there at that time when Jimmie Griffin is eyeballed?

11 A. I would say probably three or four of us.

12 Q. And what happened next to Jimmie Griffin?

13 A. We took him into custody.

14 Q. And who actually arrested Jimmie Griffin in your presence?

15 A. Detective Hersl.

16 Q. And when Jimmie Griffin was arrested, was he searched?

17 A. Yes.

18 Q. And who searched him?

19 A. Detective Hersl.

20 Q. And were you present when Detective Hersl searched
21 Jimmie Griffin?

22 A. Yes.

23 Q. And did you see Detective Hersl go into Jimmie Griffin's
24 pockets?

25 A. Yes.

~~ROMEO DIRECT~~

1 Q. And what did he pull out, if you recall?

2 A. U.S. currency.

3 Q. Okay. Do you know how much currency he pulled out of the
4 pocket?

5 A. At that point in time, no, not until we went back to the
6 district and everything was counted up.

7 Q. And how much had you learned that he pulled out of the
8 pocket?

9 A. \$900.

10 Q. Now, was it a large wad?

11 A. No.

12 Q. Did it appear to be anything close to \$6,000?

13 A. No.

14 Q. Is that the same thing you told Government counsel when
15 they called you on the phone in December?

16 A. Yes.

17 Q. Did you at any time pull Jimmie Griffin's pants down?

18 A. No.

19 Q. Was there a rectum search of Jimmie Griffin at the scene
20 there?

21 A. No.

22 Q. After the money was taken from Jimmie Griffin, what
23 happened to Jimmie Griffin?

24 A. Jimmie Griffin was placed under arrest and transported.

25 Q. Thank you.

1 Last question, if I may, would be that you were the person
2 that actually -- and this is a Government exhibit. I don't
3 know the number, so I'll just make this defense --

4 **MR. HINES:** JG-1.

5 **MR. PURPURA:** What is it?

6 **MR. HINES:** JG-1.

7 **MR. PURPURA:** JG-1.

8 **BY MR. PURPURA:**

9 **Q.** Showing you what has been already entered as JG-1, do you
10 recognize this?

11 **A.** Yes.

12 **Q.** And what is this?

13 **A.** This is the 56, the evidence form where the U.S. currency
14 was submitted.

15 **Q.** And you are the submitting person; is that correct?

16 **A.** That is correct.

17 **Q.** And the amount you submitted, you said 900 was seized from
18 Jimmie Griffin; is that correct?

19 **A.** Yes.

20 **Q.** And so do you know exactly how much was seized from the
21 safe?

22 **A.** 4,003.

23 **Q.** Thank you.

24 Were you present when the safe was searched?

25 **A.** No.

~~ROMEO~~ ~~CROSS~~

1 Q. Do you know who was present when the safe was searched?

2 A. No.

3 MR. PURPURA: Thank you. No further questions. Thank
4 you very much, Detective.

5 THE COURT: All right. Let me just be --

6 MS. WICKS: No questions. Thank you, Your Honor.

7 THE COURT: No questions?

8 Okay. All right. Mr. Hines.

9 CROSS-EXAMINATION

10 BY MR. HINES:

11 Q. All right. Detective Romeo, good morning, sir.

12 A. Good morning.

13 Q. We're also just meeting for the first time --

14 THE CLERK: Excuse me, Mr. Hines, microphone.

15 Thank you.

16 BY MR. HINES:

17 Q. Detective Romeo, we're also just meeting for the first
18 time today; correct?

19 A. Correct.

20 Q. I haven't shown you any documents or any evidence or
21 anything like that before your testimony today?

22 A. No.

23 Q. When you met with counsel for Mr. Hersl, they showed you a
24 statement of probable cause or some other documents from the
25 episode?

~~ROMEO~~ ~~CROSS~~

1 **A.** Yes.

2 **Q.** Did they show you any bank records for a woman named
3 Miss Irby?

4 **A.** No.

5 **Q.** Are you aware that Jimmie Griffin, his cousin
6 Tyrone Creighton, and his Aunt Samara Irby received
7 lead settlement payments?

8 **A.** No.

9 **Q.** Are you aware that Ms. Irby gave Mr. Griffin \$6,000
10 immediately prior to his arrest?

11 **A.** No.

12 **Q.** Defense counsel didn't show you any of those records?

13 **A.** No.

14 **Q.** Directing your attention now to the surveillance leading
15 up to November 5th, 2014, you said you pulled over someone
16 named George Lee?

17 **A.** Yes.

18 **Q.** And there was some money found in his vehicle; is that
19 right?

20 **A.** Correct.

21 **Q.** But you didn't see him leave Jimmie Griffin's residence?

22 **A.** I did not, no.

23 **Q.** Okay. And when you went to Evesham, you said that
24 Daniel Hersl is the one that put Mr. Griffin in handcuffs?

25 **A.** Yes.

~~ROMEO~~ ~~CROSS~~

1 Q. And Daniel Hersl is the one that took his money out of his
2 pocket?

3 A. Yes.

4 Q. And what did Daniel Hersl do with that money then? Did he
5 put it in his own pocket?

6 A. I don't know exactly what he did with it. But once we
7 gathered up all the evidence, we put it in the car. And then
8 we went back to the district.

9 Q. When you were at Evesham, did Daniel Hersl count out the
10 money in front of you?

11 A. No.

12 Q. So you don't know how much money Mr. Griffin had on his
13 person when he was at Evesham?

14 A. No.

15 Q. When you went back to headquarters, Mr. Hersl gave you
16 some money?

17 A. Yes. We had all the evidence that was to be submitted.

18 Q. And the money that Hersl gave you, did you submit that
19 money?

20 A. Yes.

21 Q. Just to be clear, did Daniel Hersl give you \$4,903?

22 A. Yes; from the residence and from Mr. Griffin's person.

23 Q. So you didn't keep any additional money from this episode?

24 A. Absolutely not.

25 **MR. HINES:** No further questions, Your Honor.

~~ROMEO~~ ~~CROSS~~

1 Thank you, sir.

2 **THE COURT:** Thank you. Anything further, Mr. Purpura?

3 **MR. PURPURA:** Nothing. Thank you.

4 Thank you, Detective.

5 (Witness excused.)

6 **THE COURT:** Could I see counsel, please, at the bench.

7 (Bench conference on the record:

8 **THE COURT:** Just seeing that it's basically 1 o'clock,
9 we still have a witness left and you have something that --
10 somebody that you want to call and/or look at a stipulation on.

11 So I think we might as well take lunch and then have
12 your second witness. And by perhaps over lunch, you all can
13 figure out if you're calling Mr. Smith or a stipulation or
14 whatever. Okay?

15 **MR. PURPURA:** Thank you.

16 **THE COURT:** All right. Thank you.)

17 (Bench conference concluded.)

18 **THE COURT:** All right, ladies and gentlemen, this
19 looks like a good time for the lunch recess, so we'll be taking
20 that. I'll ask you to be back at 2 o'clock. And I think
21 you'll have some additional testimony.

22 Thank you, all.

23 (Jury left the courtroom at 12:57 p.m.)

24 (Luncheon recess taken.)

25 (2:07 p.m.)

1 **THE COURT:** All right. You can be seated, please.

2 Before we bring the jury in, I just wanted to bring up
3 a question of scheduling.

4 There's a forecast of sort of snow/sleet/ice, stuff
5 like that tomorrow morning from approximately 3:00 until 10:00,
6 and Ms. Moyé has just advised me that some of the jurors have
7 expressed some concern about that. They are coming from
8 distances.

9 You know, we can simply wait and see what happens in
10 the morning. Again, on the other hand, that doesn't really
11 help the ones that are coming from 50 miles or so.

12 Or -- and I haven't asked how long you all think
13 you're going to need for your closings. Another possibility
14 that occurred to me -- I mean, unless the courthouse just turns
15 out to be closed or something like that -- but would be to let
16 them come in at noon. I would give them instructions and then
17 lunch and then closing arguments. And then they'd start to
18 deliberate, presumably, on Thursday morning rather than after
19 that.

20 But why don't we start with: How long do you think
21 you all are going to be on your closings?

22 **MR. HINES:** I think about an hour and a half,
23 Your Honor, in light of the jury instructions.

24 **THE COURT:** Okay. For combined total?

25 **MR. HINES:** No. For an opening close, an hour and a

1 half and then Mr. Wise's rebuttal.

2 **THE COURT:** Half an hour for rebuttal?

3 **MR. HINES:** I'd think so, Your Honor, yes.

4 **THE COURT:** Total of two hours?

5 **MR. HINES:** Yes, Your Honor.

6 **THE COURT:** Okay. Mr. Purpura, do you have any idea?

7 **MR. PURPURA:** Usually I'm pretty exact on these. This
8 time I have an idea that it should be right around 45 minutes.

9 **THE COURT:** Okay. All right.

10 Ms. Wicks?

11 **MS. WICKS:** I think I'll be less than an hour, but it
12 may be around an hour.

13 **THE COURT:** Around an hour?

14 **MS. WICKS:** Yeah.

15 **THE COURT:** Okay.

16 **MS. WICKS:** It depends.

17 **THE COURT:** Okay. Which would suggest that starting
18 at 11:00 rather than -- we may wind up with an early lunch or,
19 depending on that, just get the Government's opening in and
20 then the rest of them in the afternoon.

21 Okay. Thank you. Are we ready for the witness?

22 **MR. PURPURA:** We are, Your Honor. Can I have my
23 witness take the witness stand?

24 **THE COURT:** Sure.

25 And have we worked out Ms. Wicks' witnesses and/or

1 stipulations?

2 **MR. NIETO:** I'm sorry, Your Honor?

3 **THE COURT:** Have we worked out your witnesses and/or
4 stipulations?

5 **MS. WICKS:** We've worked out one stipulation.

6 **THE COURT:** Okay. Don't get the jury yet.

7 **MR. NIETO:** That's a fair enough question, Your Honor.

8 We were working on stipulations. I believe on behalf
9 of Mr. Taylor, we'll be calling one witness, who is a Task
10 Force Officer, briefly to address some of the issues we had
11 raised at the bench.

12 **THE COURT:** Are we going to be able to finish -- get
13 the stipulation in, then, and the additional witness you're
14 expecting?

15 **MR. NIETO:** Oh, yes, Your Honor, in short order.

16 **THE COURT:** Okay. That's fine. Thanks. I just
17 didn't want to leave anything hanging until tomorrow if we
18 didn't have to. Okay.

19 (Jury entered the courtroom at 2:12 p.m.)

20 **THE COURT:** You can all be seated, except for the
21 witness.

22 **MR. PURPURA:** Thank you, Your Honor.

23 **THE COURT:** Go ahead.

24 **MR. PURPURA:** On behalf of Mr. Hersl, we'd call
25 Mr. Iacovo.

1 **A.** The Baltimore Police Department. I'm sorry.

2 **Q.** That's okay.

3 When did you first join the Baltimore Police Department?

4 **A.** March 27th of 2011 -- I'm sorry.

5 April 27th, 2011.

6 **Q.** That's all right. And how long were you a BPD officer?

7 **A.** Up until I took this new position, which was in November
8 of last year.

9 **Q.** So November of 2017?

10 **A.** Yes, sir.

11 **Q.** Very good.

12 Sir, I'm going to direct your attention back to
13 November 5th, 2014, and that was the investigation of
14 Jimmie Griffin.

15 Do you remember that?

16 **A.** I recall.

17 **Q.** Showing you what I believe is Defense 35, do you recognize
18 this person?

19 **A.** Yes. That's the -- that's Mr. Jimmie Griffin.

20 **Q.** Okay. Very good.

21 And back on November 5th of 2014, what was your position
22 at that time?

23 **A.** At that time, I was a detective.

24 **Q.** And were you working with anyone in particular on that
25 day, November 5th, 2014?

1 **A.** On that day I was conducting surveillance with
2 Detective Hersl.

3 **Q.** Okay. And conducting surveillance, if I show you
4 Government Exhibit JG-3, do you recognize this photograph?

5 **A.** That was the -- I'm used to seeing it from the other side.
6 But that was the house we were surveilling.

7 **Q.** Okay. And that's the house, 3028 Pinewood Avenue; does
8 that sound about right?

9 **A.** Yes, sir.

10 **Q.** Okay. And where were you conducting surveillance from,
11 ballpark?

12 **A.** Almost parked right across the street. We were in a
13 vehicle. I was driving.

14 **Q.** Okay.

15 **A.** We had the car parked right there.

16 **Q.** Very good.

17 And what, if anything, did you see around 12:00 noon?

18 **A.** Around noon we were sitting there. A SUV pulled up almost
19 right in front of where we were, parked. A large individual
20 exited the car, went into the house.

21 It was a pretty short period of time; he came back out.
22 As he was coming out, he was holding money in his hands. He
23 had these like really tight pants. I guess maybe they couldn't
24 fit him. But he was holding money, jumped in the car, and
25 drove off.

1 Q. Let me slow you down for a second.

2 For whatever reason, you remembered the really tight
3 pants; is that fair to say?

4 A. Yes.

5 Q. And can you just give the jury a better description of
6 this individual that came out or a full description?

7 A. Imagine maybe my size, slightly heavier, wearing like the
8 just real tight jeans.

9 Q. Thank you.

10 And you indicated that you saw something else. How long
11 was he in the residence?

12 A. Short -- I mean, we're talking, what, four years ago? But
13 if I remember correctly, it was pretty short, maybe the span of
14 a few minutes.

15 Q. Okay. And he came out, and what could you see?

16 A. As he came out, he was actually -- I believe he was
17 holding money when he came out, if I remember correctly. He
18 was coming out. He was holding money and jumped right back in
19 the car, and then he took off.

20 Q. And can you describe, how did he take off?

21 A. He -- we were facing -- I'm trying to get my directions.
22 We were facing westbound, and then he went -- he pulled up and
23 was facing eastbound like at us. And he came around and we had
24 to turn around. I got on the radio and we were like, Hey,
25 guys, this car's going. We got to get him stopped.

1 He had like, I want to say, a tag light out. I think
2 actually almost all the brake lights were out, if I'm correct
3 in remembering this. I mean, I haven't seen it -- but I think
4 except for one.

5 We're like, Hey, you guys got to stop this car, and we
6 were just trying to keep up with him. He didn't know we were
7 there, but he was just -- that's just how I think he naturally
8 drove. And I just remember saying like, Hey, guys, this car is
9 coming out.

10 **Q.** When you're saying, "Hey, guys, this guy's coming" [sic],
11 who are you talking to?

12 **A.** It would have been to the officers in the other vehicle,
13 which was Sergeant Burns, Detective Romeo, Detective Fassl, and
14 I don't even remember if someone else was there.

15 **Q.** Was this vehicle eventually stopped?

16 **A.** Yeah. They were able to locate it and stop it at -- I
17 think there was a 7-Eleven on Harford Road. And I stopped a
18 few blocks short because we were in that surveillance vehicle
19 and parked it on Harford Road, maybe like three blocks down,
20 four blocks down, give or take.

21 **Q.** And why would you park your vehicle a couple blocks away?

22 **A.** So he wouldn't see. You don't want to burn the cars.

23 **Q.** By "burn the car," this is a surveillance vehicle, and you
24 didn't want anyone else to see it?

25 **A.** Yeah, surveillance car. Everyone uses a surveillance car,

1 not just our unit.

2 **Q.** And then when you got to the 7-Eleven, what happened at
3 that point?

4 **A.** By the time I got up there, they had already had him exit
5 the vehicle. And K9, I believe it was Officer Fox who came up
6 there with her K9. They did a K9 scan of the vehicle. I
7 believe the dog rendered a positive alert.

8 **Q.** Let me slow you down.

9 Are you familiar with K9s?

10 **A.** I am. I was actually a K9 handler myself, but not at this
11 time.

12 **Q.** Okay. And -- okay. I interrupted you. I apologize. So
13 there was a positive alert; is that correct?

14 **A.** Yeah, there was a positive alert. I couldn't tell you
15 where the alert was on the vehicle. I don't -- at this point
16 when he was out of the car, I was -- he was sitting down on the
17 curb. And I was standing there with him, just -- just standing
18 in his direction. And that's when the K9 was up and they
19 alerted.

20 **Q.** And the individual's name was George Lee; is that correct?

21 **A.** Yes, it was George Lee.

22 **Q.** And was anything recovered from the vehicle?

23 **A.** There was -- and I don't know who recovered it, but I
24 recall it was like a large sum of money. It was like in the
25 center console. Like, it was a substantial amount.

1 Q. Thank you.

2 And then after that, was a warrant prepared for the
3 target's address of 3028 Pinewood Avenue?

4 A. Yeah. At that point Detective Hersl went and authored a
5 search warrant for the location.

6 Q. And after you had a search warrant, what did you do?

7 A. Well, once we had a search warrant, we assembled, I guess,
8 a team of maybe, what, 15 officers? I'm spitballing there.
9 And we went to the location, made entry on the location, and --

10 Q. By "the location," you mean the -- this house here; is
11 that correct?

12 A. Yes, that house right there.

13 Q. Thank you.

14 A. I think actually we did dual entries because there was a
15 side door on the right side which was where his apartment was.
16 And we had -- and because the house was big, we had a bunch of
17 officers. We did two entries. One down -- one on the lower
18 level and one going up that front door.

19 Q. Very good.

20 And at that point what did you do after that?

21 A. At that point, as we were coming down, another officer
22 that was part of the raid team -- I think it was
23 Officer Frasier -- said that he had seen a guy walking up the
24 street as we were coming down that looked like Jimmie Griffin.
25 And then a child in the house said that her uncle had -- was

1 supposed to be home. She was asking where her uncle was.

2 So at that point I took that officer and I think it was
3 Officer Chambers, and we actually left for a period of time to
4 canvass the area to see if we could find him at like the
5 Valentino's that was up the street. We drove all around the
6 area.

7 **Q.** All right. Did you return back to this house?

8 **A.** Yeah. Eventually I returned back. And at that point I
9 went into the basement.

10 **Q.** And while you're in the basement, who's in the basement,
11 ballpark? How many officers?

12 **A.** A good amount. Maybe like eight to ten. And I'm totally,
13 like, spitballing there.

14 **Q.** All right. At least more than three or four officers were
15 in the basement during the search; is that correct?

16 **A.** Yeah. The basement was his -- basically kind of like his
17 apartment, Jimmie Griffin's apartment.

18 **Q.** In addition to the heroin and the scales, there's also a
19 red bandana.

20 Do you recall that being seized?

21 **A.** There was a red bandana, and I believe it was with the gun
22 that was in the basement.

23 **Q.** Okay. And what -- what's the red bandana indicative of,
24 if anything?

25 **A.** If it's indicative of anything, it'd be gang affiliation.

1 Q. And which gang?

2 A. Bloods.

3 Q. Thank you.

4 Then did you go to a secondary location?

5 A. Yeah. Upon completion, we went to a second location that
6 was associated with Mr. Griffin, and when we got there, two
7 officers went to the rear. It was officer Romeo and
8 Officer Fillion.

9 And then myself, along with Sergeant Burns,
10 Detective Hersl, Detective Fassl, and I think the other guys
11 came with us from the other squad as well, but I'm not a
12 hundred percent certain.

13 We went and spoke to a lady up front and explained to her
14 what was going on. And while we were there, Detective Romeo
15 got on the air and said, "Hey, there's a bunch of people in the
16 backyard here."

17 So she led us through the house and let us out back. And
18 when we got out back, there's a group of people. It was like a
19 parking pad, I believe. And there was a car there, a car in
20 the alley. And there was a group of people there, maybe four
21 or five people, and Jimmie Griffin was one of 'em.

22 Q. Very good.

23 And were you there when Jimmie Griffin was arrested?

24 A. I was.

25 Q. What -- just tell the jury what you saw in the

1 Jimmie Griffin arrest.

2 **A.** While he was getting arrested, I was standing there. And
3 I was also with -- there was other people there; and just for
4 officer safety purposes, kind of keeping attention to
5 everything.

6 And the one thing -- the one thing that I -- stood out to
7 me about -- and I just recall, for whatever reason that may be,
8 was Detective Hersl seized a chain. Might have been one or two
9 chains, gold chains off him.

10 And I actually -- he handed them to me. And I was the one
11 that ended up submitting them. And for some reason that just
12 stands out. I think it's just because, honestly, I could count
13 on maybe one hand how many times I've ever submitted jewelry or
14 we've seized jewelry.

15 **Q.** I'm going to show you what has been marked as
16 Defense Exhibit No. 39.

17 (Counsel conferred.)

18 **BY MR. PURPURA:**

19 **Q.** Again, what am I showing you?

20 **A.** That's a copy of the 56 submission form.

21 **Q.** Okay. And who is the responsible and submitting officer?

22 **A.** I am.

23 **Q.** And that's right here (indicating); is that correct?

24 **A.** Yep.

25 **Q.** And in particular, it looks like there's one gold chain

1 with angel pendant and a rope gold chain with Jesus pendant; is
2 that correct?

3 **A.** Yep, that was it.

4 **Q.** And the person was Jimmie Griffin (indicating); correct?

5 **A.** Yeah. It was seized off Jimmie Griffin. He was wearing
6 it around his neck.

7 **Q.** And this is what Detective Hersl gave you at that time, to
8 the best of your knowledge?

9 **A.** Yeah.

10 **Q.** Thank you.

11 After Jimmie Griffin was searched, the jewelry taken from
12 him, what happened to Jimmie Griffin?

13 **A.** He was either -- I don't even know who transported him.
14 Either we did or a wagon transported him to Central Booking.

15 **Q.** Was he transported immediately?

16 **A.** Yeah. He went right out.

17 **Q.** Very good.

18 And, finally, during the time that Jimmie Griffin was
19 searched, did anyone pull his pants down?

20 **A.** Not that I recall.

21 **Q.** Okay. Do a rectum or --

22 **A.** No.

23 **Q.** -- check, anything like that?

24 **A.** No.

25 **Q.** Now, I'm going to take you briefly to November 28th, 2015.

1 At that time period what type of work were you doing?

2 **A.** At that time I was the K9 handler assigned to Ceasefire,
3 and I basically served as the K9 handler for the entire
4 operational investigation division.

5 **Q.** I'm sure that we all know what a K9 handler is; but just
6 very briefly, what did you do and what was your quick training
7 on that?

8 **A.** Basically, it was a -- I had a drug dog. He was trained
9 in the odors of cocaine, heroin, and marijuana by the Baltimore
10 Police Department.

11 It was about -- I want to say it was about -- when I got
12 the training, it was during the riots. And so my training was
13 about four to six months, because there's time split from when
14 I had to deal with that.

15 Got the training. And then he maintained a monthly --
16 monthly training that I had to go twice a month and then a
17 yearly certification to keep his certification up.

18 **Q.** Very good.

19 And at that time in November of 2015, what was your dog's
20 name?

21 **A.** Luke.

22 **Q.** Okay. Do you recall getting a call back on November 28th,
23 2015, in reference to Antonio Santiful in the 2200 block of
24 Aisquith Street?

25 **A.** I do.

1 Q. And I know we spoke about this briefly; is that correct?

2 A. Yes.

3 Q. And do you have a very clear recollection of this entire
4 incident?

5 A. No.

6 Q. Okay. Well, just tell the jury, what do you recall, if
7 anything, when you got that call on November 28th, 2015?

8 A. At that time I was home. Part of me being the K9 handler
9 for this unit was that I was basically on call unless I was out
10 of state. And I got a call saying they needed a dog up there
11 for a K9 scan.

12 And I came up there and I had to scan a car that was -- it
13 wasn't even in the same block, I don't think, as the arrestees.
14 I think it was the next block over.

15 And I did a scan; dog alerted. I don't have my K9 report.
16 Usually after all my K9 scans, I write up a report. And I
17 either have it saved on a flash drive or on the BPD database,
18 but I don't have access to it. So I don't recall exactly where
19 the dog alerted, but that was pretty much the extent of my
20 involvement.

21 I think, actually, I was leaving for National Guard
22 training that -- it was like a Friday. Was this a Friday? I
23 think it was like a Friday. I was leaving for like
24 National Guard training, so I pretty much scanned -- did my K9
25 scan, rendered alert, and then I left.

~~IACOVO~~ - ~~CROSS~~

1 Q. Very good.

2 And you indicated that obviously you're not
3 Baltimore City Police. Do you have access to your K9 reports
4 now?

5 A. No.

6 MR. PURPURA: Thank you. I have no further questions.

7 THE COURT: All right. Ms. Wicks or Mr. Nieto, do you
8 have any questions for this witness?

9 MR. NIETO: No, Your Honor.

10 THE COURT: All right. Mr. Wise?

11 MR. WISE: Can I have a moment, Your Honor?

12 THE COURT: Sure.

13 MR. WISE: Just briefly.

14 May I have the microphone?

15 CROSS-EXAMINATION

16 BY MR. WISE:

17 Q. Good afternoon, Mr. Iacovo.

18 A. How you doing, sir?

19 Q. So I just want to make sure I understood the testimony.
20 You actually didn't testify at all about the money that
21 was taken off of Jimmie Griffin; right?

22 A. No.

23 Q. You weren't asked any questions about that; right?

24 A. No, sir.

25 Q. Do you know how much money was taken off of

~~IAOVO~~ - ~~CROSS~~

1 Jimmie Griffin?

2 **A.** No.

3 **Q.** Did you see anything -- did you see Defendant Hersl search
4 him?

5 **A.** I was standing there while Detective Hersl was searching
6 him. I was kind of -- I was standing right there, but I was
7 between paying attention to that and more so paying attention
8 to the people that were there. It was just not something that
9 you focus on. My focus was more so on the individuals around.

10 **Q.** Okay. So bottom line, you don't know how much -- well,
11 you don't even know that money was, I guess, taken from
12 Jimmie Griffin that day?

13 **A.** No.

14 **Q.** All right. And then on the twenty -- that was on the 5th,
15 November the 5th.

16 On the 28th, you said you were asked to do a K9 scan of a
17 car?

18 **A.** Yes, sir.

19 **Q.** Do you know whose car it was?

20 **A.** Like, the defendant -- or I don't know per se. Like, I --
21 yeah.

22 **Q.** All right.

23 **A.** I imagine it's the defendant in that case, but I don't
24 know exactly whose car it was. I couldn't even -- I don't even
25 recall what the car was, truthfully.

~~TACOV0~~ - ~~CROSS~~

1 **MR. WISE:** Okay. Good luck on your deployment.

2 **THE WITNESS:** Thank you, sir.

3 **MR. WISE:** Nothing further, Your Honor.

4 **THE COURT:** All right. Any redirect?

5 **MR. PURPURA:** Nothing. Thank you, Your Honor.

6 **THE COURT:** Okay. Thank you, sir.

7 **THE WITNESS:** Thank you.

8 **THE COURT:** You can step down.

9 (Witness excused.)

10 **THE COURT:** Mr. Purpura?

11 **MR. PURPURA:** Your Honor, thank you. On behalf of
12 Mr. Hersl, we have no further witnesses, and defense rests at
13 this time.

14 **THE COURT:** All right. Thank you.

15 Let me turn to Mr. Nieto.

16 **MR. NIETO:** Yes, Your Honor. I think we have one
17 witness.

18 **THE COURT:** All right.

19 **MR. NIETO:** Task Force Officer Matthew Smith.

20 **THE CLERK:** Please raise your right hand.

21 TASK FORCE OFFICER MATTHEW SMITH, DEFENDANT TAYLOR'S
22 WITNESS, SWORN.

23 **THE CLERK:** Please be seated.

24 Please speak directly into the microphone. State your
25 full name for the record and spell your last name, please.

1 initial interview, Special Agent Jensen covered the first part.
2 I covered the last part. So my notes only reflect the last
3 part of the 302.

4 **Q.** Okay. And so the actual report itself, have you reviewed
5 it?

6 **A.** Yes.

7 **Q.** Okay. And did you write it?

8 **A.** Most of it.

9 **Q.** Most of it. Not the portions with Special Agent Jensen?

10 **A.** Exactly.

11 **Q.** Okay. So --

12 **MR. NIETO:** And I guess, Your Honor, if I may --

13 **BY MR. NIETO:**

14 **Q.** Actually, let me start this off, then. So the report that
15 you -- that has been authored for that particular event is
16 approximately 16 pages long; is that right?

17 **A.** Yes, sir.

18 **Q.** Right. And it seems to be that roughly on Page 6, that
19 seems to reflect when Special Agent Jensen left?

20 **A.** Yes.

21 **Q.** And Task Force Officer Sieracki entered?

22 **A.** Yes.

23 **Q.** And so that would be roughly the time in which your
24 note-taking was the basis for this report?

25 **A.** That's correct.

1 **Q.** Okay. Now, later on -- I think it would be roughly around
2 Page 12 of the 16 -- the topic of discussion began, what I'm
3 going to call the D.C. event; right? And that's the allegation
4 of Jenkins and other police going -- following someone into
5 D.C., only to be sort of interacting with another federal
6 agent.

7 Do you remember that?

8 **A.** Yes.

9 **Q.** Okay. And that at that time, Mr. Gondo had relayed to you
10 and to the federal government that it was Jenkins, Taylor, and
11 Hendrix that had followed a guy from Reisterstown to D.C.; is
12 that correct?

13 **A.** What's in the report? If that's what's in the 302, yes.

14 **MR. NIETO:** Okay. Thank you.

15 Nothing further, Your Honor.

16 **THE COURT:** Okay. Mr. Purpura, any questions?

17 **MR. PURPURA:** No. Thank you.

18 **THE COURT:** Government?

19 **MR. WISE:** No. Thank you, Your Honor.

20 **THE COURT:** All right. Thank you, sir. You can step
21 down.

22 (Witness excused.)

23 **THE COURT:** Mr. Nieto.

24 **MR. NIETO:** So, Your Honor, on behalf of Mr. Taylor,
25 we would rest.

1 **MS. WICKS:** Well, we have a stipulation.

2 **MR. NIETO:** Minus the stipulation.

3 **THE COURT:** Okay. Do we have a stipulation that's
4 been agreed to, or do you need to come up to the bench?

5 **MS. WICKS:** We have a stipulation that's been agreed
6 to.

7 **THE COURT:** Okay. Then I'm happy to hear from you,
8 Ms. Wicks, as to that stipulation.

9 And, ladies and gentlemen, if I haven't explained this
10 before, a stipulation is simply a statement of facts that the
11 parties are all agreeing to; it's correct; and that you may
12 consider it as evidence.

13 **MS. WICKS:** And, Your Honor, I would just show, again,
14 Defense 9 to the jury.

15 **THE COURT:** All right.

16 **MS. WICKS:** Defense 9 has a file, IMG_3566, that is
17 highlighted.

18 **THE COURT:** Yes.

19 **MS. WICKS:** And the Government and Marcus Roosevelt
20 Taylor both stipulate and agree that that file that was created
21 on August 8th, 2016, at 9:29 p.m. is --

22 **THE COURT:** I'm sorry. When?

23 **MS. WICKS:** August 8th, 2016, at 10:29 p.m. --

24 **THE COURT:** Thank you.

25 **MS. WICKS:** -- is the file from which the image as

1 depicted in Government Exhibit DA-9 was printed.

2 **THE COURT:** All right. Thank you.

3 **MS. WICKS:** Subject to discussion of our other
4 exhibits, we rest.

5 **THE COURT:** All right. And if I could see counsel at
6 the bench.

7 (Bench conference on the record:

8 **THE COURT:** So defense is finished. Any rebuttal?

9 **MR. WISE:** No.

10 **THE COURT:** Okay.

11 **MS. WICKS:** I thought they might call Stepp again,
12 but . . .

13 **THE COURT:** Okay. Then I'm just going to tell the
14 jury that the evidence is done and that I expect tomorrow we'll
15 have instructions and closing argument.

16 I'm going to tell them perhaps that they can delay
17 getting here until 11:00 in the morning tomorrow, just so they
18 won't be too worried about that.

19 Obviously, if the courthouse is closed or something,
20 it's closed.

21 Yes, I will tell them, which I also will tell them
22 that I don't -- they might want to stay a little bit later than
23 usual, that they could be prepared to stay a little bit later,
24 but I'm not going to keep anybody past 6 o'clock.

25 **MR. PURPURA:** Judge, just for the record, we renew our

1 motion to Rule 29 judgment of acquittal as to counts involving
2 Mr. Hersl.

3 **THE COURT:** Yes. Thank you.

4 **MS. WICKS:** I'd join on behalf of Mr. Taylor.

5 **THE COURT:** Okay. All right. And they will be
6 denied, but they have been renewed. Thank you.

7 Okay. Anything else?

8 **MR. NIETO:** Quick question, Your Honor.

9 **THE COURT:** Sure.

10 **MR. NIETO:** If, for example, the courthouse is closed
11 tomorrow, would the jury return on Monday?

12 **THE COURT:** No. Thursday.

13 **MR. NIETO:** Thursday. Okay. You're right.
14 Tomorrow's Wednesday. My apologies. Never mind.

15 **THE COURT:** Glad I didn't lose a day somewhere.

16 **MR. NIETO:** Thank you.)

17 (Bench conference concluded.)

18 **THE COURT:** All right. Ladies and gentlemen, it
19 appears that the evidence in the case is concluded. There are
20 some matters that I need to discuss with counsel this
21 afternoon, including jury instructions, so we're going to be
22 excusing you.

23 What I expect tomorrow is that you will hear
24 instructions from me on the law. I'll be reading them to you,
25 but you'll also have them in writing when you go out to

1 deliberate.

2 And you will then hear closing arguments from counsel
3 and some brief, final instructions from me. And then -- I
4 don't know exactly how long that will take.

5 If you can prepare for the possibility of staying a
6 little bit past 5 o'clock tomorrow, that might be helpful. I
7 don't keep people real late, but somewhere between 5:00, 5:30
8 if it's possible, without unduly inconveniencing anybody. It
9 would just be good if you could have a little bit more
10 flexibility at the end of the day tomorrow.

11 The case is not over. You have not heard the
12 instructions. You have not heard closing arguments. You have
13 not had a chance to go back and think about the exhibits. So
14 my instructions to you continue: Please keep an open mind.
15 Don't talk about the case. No research. No looking anything
16 up. No reading of any news accounts.

17 The other thing I did want to address in terms of
18 timing, we have heard a weather forecast for tomorrow morning
19 that indicates a possibility of snow/sleet/freezing rain, that
20 sort of thing. And I know that some of you travel some
21 distance.

22 I hope we will be able to go forward tomorrow. But
23 just in light of that and in light of the distances that some
24 of you have to travel, we're going to start at 11:00 tomorrow
25 morning.

1 Now, obviously you'll be in touch with Ms. Moyé, and
2 you can always go on the -- call the Clerk's Office or
3 whatever. If the courthouse is closed or opening later than
4 that for some reason, you'll get that. But, in any event, I
5 just wanted to give you until 11:00 tomorrow so that we can all
6 get here safely.

7 As I've indicated, obviously this has been -- it's
8 been some time to the trial. There are a lot of issues, a lot
9 of exhibits, so the instructions and the closings will probably
10 take up pretty much tomorrow through the end of the day.

11 So exactly depending on when that is, you may start
12 deliberating or it may be that you'll be excused and be asked
13 to come back Thursday to start your deliberations. I don't
14 know. Let's just see exactly how long everything takes
15 tomorrow.

16 But you are at the conclusion of the evidence in the
17 case.

18 So thank you for your continuing patience and
19 attention, and we will see you tomorrow at 11:00. You are
20 excused.

21 (Jury excused at 2:40 p.m.)

22 **THE COURT:** All right. Counsel, I have three copies
23 of the draft jury instructions if you all want to come and get
24 them.

25 And then I was thinking that perhaps we could meet in

1 chambers at about 4 o'clock; would that work --

2 **MR. WISE:** It's fine for the United States,
3 Your Honor.

4 **THE COURT:** -- to go through the instructions --

5 **MR. PURPURA:** Very good. Thank you.

6 **THE COURT:** -- and the verdict sheet. Okay.

7 All right. I'll see you in chambers at 4:00.

8 (Court adjourned at 2:41 p.m.)

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INDEXGOVERNMENT'S EVIDENCE

<u>WITNESS</u>	<u>DR</u>	<u>CR</u>	<u>RDR</u>	<u>RCR</u>
SA ERIKA JENSEN (Continued from 2/5/2018)	--	3, 22	52	60
PO JAMES KOSTOPLIS	69	78, 93	--	--
DET. TIMOTHY ROMEO	107	118	--	--

DEFENDANT HERSL'S EVIDENCE

<u>WITNESS</u>	<u>DR</u>	<u>CR</u>	<u>RDR</u>	<u>RCR</u>
PETER IACOVO	125	138	--	--

DEFENDANT TAYLOR'S EVIDENCE

<u>WITNESS</u>	<u>DR</u>	<u>CR</u>	<u>RDR</u>	<u>RCR</u>
TFO MATTHEW SMITH	141	--	--	--

I, Douglas J. Zweizig, RDR, CRR, do hereby certify that the foregoing is a correct transcript from the stenographic record of proceedings in the above-entitled matter.

/s/

Douglas J. Zweizig, RDR, CRR
Registered Diplomate Reporter
Certified Realtime Reporter
Federal Official Court Reporter
DATE: August 16, 2018

Case 1:17-cr-00106-CB Document 171 Filed 08/17/18 Page 151 of 173

\$

\$20,000 [1] 19/7

\$4,903 [1] 120/21

\$5,000 [1] 19/1

\$6,000 [2] 116/12 119/9

\$8,500 [1] 111/15

\$8300 [1] 83/1

\$900 [1] 116/9

'

'09 [1] 107/24

'1993 [1] 10/14

'1994 [1] 10/14

'cause [4] 92/17 94/3 113/10 113/22

'em [1] 133/21

/

/s [1] 150/21

1

1 o'clock [2] 63/24 121/8

10 [3] 20/1 20/21 114/12

101 [1] 1/24

106 [1] 1/4

107 [1] 150/6

10:00 [2] 13/24 122/5

10:08 a.m [1] 3/2

10:11 a.m [1] 3/13

10:29 p.m [3] 32/14 35/19 144/23

10:30 [2] 32/18 61/13

10:36 p.m [1] 35/2

11 [5] 38/8 48/10 48/20 58/6 58/8

11 o'clock [1] 61/13

118 [1] 150/6

11:00 [5] 123/18 145/17 147/24 148/5 148/19

11:31 a.m [1] 63/9

11:53 a.m [1] 68/9

12 [4] 36/10 36/12 48/12 143/2

125 [1] 150/10

12:00 [2] 110/3 127/17

12:29 p.m [1] 98/20

12:41 p.m [1] 107/1

12:57 p.m [1] 121/23

138 [1] 150/10

13th [1] 69/10

14 [4] 44/11 45/2 45/16 45/17

141 [1] 150/14

14th [5] 5/11 5/16 8/14 16/19 16/22

15 [4] 20/1 20/21 114/12 131/8

150 [3] 15/17 62/11 62/11

15B [1] 36/4

16 [3] 142/16 143/2 150/24

1745 [1] 45/3

18 [1] 39/19

18B [1] 39/19

19 [1] 10/14

1993 [1] 10/1

1994 [1] 9/23

19th [5] 10/17 10/19 12/6 12/8 12/23

1:30 [1] 98/4

1A [2] 1/9 4/15

1st [9] 12/17 12/24 13/8 52/9 52/21 57/13 77/23 86/2 86/17

2

2 o'clock [1] 121/20

2/5/2018 [1] 150/4

20 [1] 20/1 20/21

20,000 [1] 19/15

2006 [2] 95/8 95/10

2011 [5] 69/10 79/6 79/12 126/4 126/5

2014 [8] 108/10 109/4 109/21 119/15 125/21 126/13 126/21 126/25

2015 [12] 4/16 4/18 7/9 7/10 7/10 21/8 21/11 79/18 135/25 136/19 136/23 137/7

2016 [46] 4/18 4/19 5/16 5/22 6/3 6/4 6/11 7/13 7/13 7/18 10/11 10/18 10/19 12/8 12/23 21/8 21/10 31/2 32/14 32/20 32/25 32/25 35/19 41/21 42/3 51/5 51/14 52/24 57/19 58/9 69/12 69/20 70/6 70/7 70/13 70/20 71/11 72/22 82/22 82/23 83/3 95/7 95/10 95/12 144/21 144/23

2017 [24] 7/22 12/17 12/24 13/8 21/19 21/20 50/10 51/5 52/9 52/21 57/14 57/20 70/23 71/6 72/22 83/5 83/6 83/11 84/8 86/2 86/17 95/8 95/12 126/9

2018 [3] 1/9 150/4 150/24

20th [2] 10/18 12/7

21201 [1] 1/25

22 [1] 150/4

2200 [1] 136/23

224 [5] 36/23 37/7 37/8 38/2 39/6

23rd [2] 5/22 45/3

24 [1] 11/6

24/7 [2] 11/4 12/19

244 [4] 36/5 36/22 37/24 37/25

24th [2] 4/16 4/19 69/12 141/16

26 [1] 70/11

27th [2] 126/4 126/5

28 [1] 41/15

28th [5] 10/9 135/25 136/22 137/7 139/16

29 [3] 106/7 106/13 146/1

29th [1] 8/14

2:07 p.m [1] 121/25

2:12 p.m [1] 124/19

2:40 p.m [1] 148/21

2:41 p.m [1] 149/8

2nd [1] 84/15

3

302 [17] 65/19 65/20 65/22 66/1 66/10 66/12 66/14 66/18 66/24 67/6 67/17 67/23 67/24 68/3 84/15 142/3 143/13

3028 [2] 127/7 131/3

302s [1] 51/11

31st [1] 58/9

35 [2] 84/14 126/17

3566 [1] 144/16

36 [1] 109/9

37 [1] 112/23

39 [1] 134/16

3:00 [1] 122/5

4

4 o'clock [1] 149/1

4,003 [1] 117/22

443 [2] 9/23 10/1

45 [1] 123/8

4:00 [2] 112/10 149/7

4:30 [2] 119/4 112/10

4:48 p.m [1] 45/4

4A [1] 5/23

4Runner [2] 15/15 62/15

4th [1] 1/24

5

5 o'clock [1] 147/6

50 miles [1] 122/11

513-1993 [1] 10/1

513-1994 [1] 9/23

52 [1] 150/4

56 [3] 113/2 117/13 134/20

5:00 [1] 147/7

5:30 [1] 147/7

5th [10] 108/9 109/4 109/21 112/9 119/15 126/13 126/21 126/25 139/14 139/15

6

6 o'clock [1] 145/24

60 [1] 150/4

69 [1] 150/5

7

7-Eleven [2] 129/17 130/2

78 [1] 150/5

79 [1] 58/7

8

8/8/2016 [1] 32/25

8/9/2016 [1] 32/25

8300 [1] 82/24

8th [10] 6/2 6/4 7/13 16/18 16/22 32/14 35/2 35/19 144/21 144/23

9

9 o'clock [2] 13/21 13/22

9-1-1 [1] 73/5

90 [1] 57/21

900 [1] 117/17

926 [3] 38/24 39/7 41/11

93 [1] 150/5

9:00 [2] 13/20 13/24

9:29 p.m [1] 144/21

9:30 [1] 13/24

9th [2] 31/2 32/20

A

a.m [4] 3/2 3/13 63/9 68/9

ability [3] 16/3 16/13 16/25

able [20] 5/8 5/10 6/7 6/15 7/15 8/17 10/7 10/20 35/16 42/6 42/15 64/14 64/19 73/4 73/5 73/12 108/13 124/12 129/16 147/22

about [86] 6/10 6/11 18/15 18/25 19/4 19/13 20/15 21/10 21/11 21/20 22/13 22/13 23/16 23/24 24/1 24/12 24/23 25/6 25/9 28/8 31/9 32/10 32/23 33/6 35/15 44/24 45/19 46/4 46/13 46/13 49/22 49/24 52/8 52/17 57/11 57/22 58/10 58/25 59/13 60/13 61/1 62/18 64/15 64/21 65/12 67/4 67/12 72/20 73/8 76/2 77/17 78/21 79/9 82/6 83/14 83/16 83/21 84/25 85/8 86/3 86/22 90/21 94/3 95/24 97/21 99/19 100/5 110/4 110/13

A		
<p>about... [1] 110/14 113/17 122/7 122/22 127/8 134/7 136/11 136/11 136/13 137/1 138/20 138/23 141/25 145/18 147/13 147/15 149/1 above [2] 4/25 150/20 above-entitled [1] 150/20 abruptly [1] 57/21 Absolutely [3] 85/13 85/15 120/24 abundance [1] 35/3 academy [2] 69/22 107/23 access [2] 137/18 138/3 account [3] 61/24 62/4 62/7 accounting [1] 42/12 accounts [7] 16/4 61/20 61/22 61/24 62/1 62/2 147/16 accurate [1] 73/9 accurately [1] 66/13 acquire [1] 62/15 acquittal [2] 106/7 146/1 across [1] 127/12 Action [1] 108/6 activity [2] 16/10 62/5 acts [7] 8/1 8/5 8/9 8/11 8/13 8/23 61/5 actual [2] 44/14 142/4 actually [42] 4/1 12/10 16/17 19/10 19/17 20/9 26/4 27/15 31/22 32/13 32/24 37/3 38/12 39/25 40/13 40/13 44/20 60/1 60/6 61/10 62/16 73/20 89/12 89/12 91/6 92/13 92/18 108/10 110/1 115/14 117/2 125/13 128/16 129/2 130/10 131/14 132/3 134/10 137/21 138/20 141/25 142/14 add [1] 99/4 added [2] 41/16 59/21 addition [8] 8/17 9/15 11/22 16/24 38/23 108/16 109/14 132/18 additional [4] 97/8 120/23 121/21 124/13 address [3] 124/10 131/3 147/17 adjacent [1] 50/22 adjourned [1] 149/8 admin [1] 96/21 administrative [1] 96/19 admissible [1] 24/5 admitted [1] 48/20 ADP [5] 42/16 42/20 43/19 43/24 44/2 advise [1] 97/21 advised [2] 94/5 122/6 advisement [1] 98/25 affiant [1] 27/13 affiliation [2] 113/22 132/25 affix [2] 41/3 41/4 affixed [1] 39/4 afraid [1] 17/8 after [40] 26/20 26/22 27/9 47/3 47/4 51/18 61/19 64/2 69/10 69/25 71/10 71/22 71/24 75/24 76/22 76/23 77/11 79/17 79/23 80/3 80/6 83/15 83/18 91/20 91/23 91/23 92/8 92/25 93/24 106/1 110/19 111/24 114/2 116/22 122/18 131/2 131/6 131/20 135/11 137/16</p>	<p>afternoon [5] 78/10 112/8 123/30 138/17 145/21 again [19] 5/12 5/22 5/23 6/3 7/21 12/18 13/3 26/7 26/10 43/7 44/13 45/7 66/4 81/8 85/12 122/10 134/19 144/13 145/11 against [1] 61/6 agency [2] 69/5 69/11 agent [30] 2/8 3/10 3/15 3/17 3/23 10/19 21/24 22/8 23/24 24/16 30/25 32/6 33/3 33/8 36/4 48/9 52/7 57/9 60/25 63/7 65/7 65/15 65/25 67/24 84/4 108/24 142/1 142/9 142/19 143/6 Agent Jensen [3] 3/15 24/16 30/25 agent's [1] 66/21 agents [2] 64/13 66/2 ago [2] 99/7 128/12 agree [3] 34/9 47/17 144/20 agreed [3] 91/4 144/4 144/5 agreeing [1] 144/11 ahead [4] 68/6 68/22 99/5 124/23 AI [1] 86/5 aided [1] 13/4 air [2] 114/15 133/15 Aisquith [1] 136/24 Aisquith Street [1] 136/24 albeit [1] 36/11 alert [6] 111/8 130/7 130/13 130/14 130/15 137/25 alerted [5] 111/3 111/5 130/19 137/15 137/19 all [114] 3/8 3/19 4/1 4/11 5/3 7/5 7/14 8/8 8/9 8/22 9/2 9/10 11/6 11/7 11/19 12/22 13/11 14/20 15/8 19/24 22/23 24/8 26/17 27/25 34/24 35/20 35/22 39/11 42/21 46/14 47/5 47/19 52/2 60/20 63/5 63/11 65/9 68/2 68/10 70/7 71/22 75/7 75/13 76/5 78/6 80/15 85/16 88/16 89/2 89/6 89/7 90/13 92/19 93/9 97/1 97/5 97/7 97/10 97/15 98/14 98/18 99/24 100/4 100/5 100/10 105/25 106/5 106/10 106/13 106/18 107/2 109/3 110/21 115/9 118/5 118/8 118/11 120/7 120/17 121/12 121/16 121/18 121/22 122/1 122/12 122/21 123/9 124/20 126/6 129/2 132/5 132/7 132/14 136/5 137/16 138/7 138/10 138/20 139/14 139/22 140/4 140/14 140/18 143/20 144/11 144/15 145/2 145/5 146/5 146/18 148/5 148/22 148/23 149/7 allegation [1] 143/3 Allers [1] 5/21 alley [1] 133/20 almost [4] 72/8 127/12 127/18 129/2 along [1] 133/9 already [3] 58/7 117/9 130/4 also [28] 2/7 7/12 8/17 9/21 10/1 11/23 14/11 14/24 16/3 16/13 16/24 18/12 58/4 58/24 59/15 59/21 59/24 62/3 93/3 99/19 108/14 108/23 118/13 118/17 132/18 134/3 145/21 146/25</p>	<p>although [6] 9/10 21/16 26/25 27/31 40/15 43/13 always [2] 12/21 148/2 am [5] 19/14 83/17 130/10 134/19 134/22 AMERICA [2] 1/3 62/4 amount [8] 15/7 25/7 25/8 25/11 112/19 117/17 130/25 132/12 amounts [1] 78/3 and/or [5] 17/19 99/10 121/10 123/25 124/3 angel [1] 135/1 ankle [5] 31/2 32/18 33/24 35/14 64/16 annual [1] 82/24 another [17] 5/22 8/18 33/4 33/10 34/18 38/8 47/13 67/18 68/11 69/11 84/17 110/22 110/23 114/4 122/13 131/21 143/5 answer [5] 30/22 31/9 34/12 43/16 57/17 Antonio [1] 136/23 Antonio Santiful [1] 136/23 any [61] 4/11 6/7 8/11 8/22 8/24 14/6 14/7 15/4 15/6 15/8 15/10 15/16 15/19 16/8 16/9 16/11 16/20 17/5 21/4 21/7 33/2 42/7 42/11 42/14 43/16 52/3 60/10 60/15 60/17 64/17 72/15 73/6 73/12 76/25 77/3 85/8 86/4 86/7 93/24 96/17 97/2 97/8 99/19 100/4 106/9 108/20 112/14 116/17 118/20 118/20 119/2 119/12 120/23 123/6 138/8 138/23 140/4 143/16 145/8 147/16 148/4 anybody [2] 145/24 147/8 anyone [11] 14/4 14/6 19/25 20/4 46/5 59/11 86/3 86/22 126/24 129/24 135/19 anything [29] 16/16 20/19 22/24 27/15 50/8 61/25 63/3 72/9 73/24 76/17 77/23 87/7 94/11 95/24 96/22 96/23 116/12 118/21 121/2 124/17 127/17 130/22 132/24 132/25 135/23 137/7 139/3 146/7 147/15 apartment [3] 131/15 132/17 132/17 apologies [1] 146/14 apologize [4] 19/5 112/15 114/17 130/12 apparently [4] 5/12 65/24 94/9 95/1 appear [1] 116/12 appears [3] 37/9 41/20 146/19 Appreciate [1] 64/1 approach [10] 23/8 23/18 28/16 31/25 45/13 52/25 63/13 87/18 97/11 100/11 approached [2] 74/8 88/7 appropriate [2] 47/19 99/20 approximate [1] 7/5 approximately [10] 10/6 45/3 79/8 107/22 110/2 112/8 115/2 115/4 122/5 142/16 April [6] 10/9 10/18 41/21 42/3 79/18 126/5 April 20th [1] 10/18 April 27th [1] 126/5 April 28th [1] 10/9 are [57] 3/8 3/9 4/11 10/3 11/4</p>

A	assembled [1] 131/7 assigned [9] 69/21 69/22 69/24 69/25 70/1 70/8 70/12 71/1	40/17 40/18 40/19 41/11 76/11 82/19 badges [2] 37/18 37/21
<p>are... [52] 11/8 23/10 27/6 27/24 34/20 34/25 35/4 37/21 41/5 42/15 42/16 43/17 44/13 59/3 59/12 63/21 64/11 64/24 66/25 67/6 67/7 72/13 72/15 94/23 97/4 97/9 107/17 108/3 108/5 109/4 112/11 113/6 113/18 115/7 117/15 119/5 119/9 122/7 122/11 122/21 123/21 123/22 124/12 125/16 129/11 130/9 141/12 144/11 146/19 148/8 148/16 148/19</p> <p>area [8] 20/6 20/8 20/13 51/23 62/18 92/3 132/4 132/6</p> <p>argue [2] 47/21 47/25</p> <p>argument [4] 58/17 106/9 106/9 145/15</p> <p>arguments [3] 122/17 147/2 147/12</p> <p>armed [1] 73/5</p> <p>Armstrong [1] 32/17</p> <p>around [24] 20/12 59/22 72/14 76/4 78/3 79/19 80/2 82/24 86/13 87/4 92/15 110/3 115/5 123/8 123/12 123/13 127/17 127/18 128/23 128/24 132/5 135/6 139/9 143/1</p> <p>arrest [8] 14/14 17/19 21/14 110/8 114/8 116/24 119/10 134/1</p> <p>arrested [19] 12/16 13/12 14/9 17/23 18/12 22/18 24/17 36/7 36/19 38/11 38/19 51/20 57/13 62/16 77/23 115/14 115/16 133/23 134/2</p> <p>arrestees [1] 137/13</p> <p>arrests [5] 22/21 79/24 95/4 95/16 95/18</p> <p>arrive [2] 61/18 110/25</p> <p>arriving [1] 61/12</p> <p>as [82] 4/15 6/7 7/5 8/11 8/11 10/19 11/1 11/2 16/24 17/18 18/6 21/2 21/2 23/8 24/5 26/4 27/2 28/3 32/3 33/9 33/24 38/13 39/6 39/8 39/11 39/16 39/19 39/20 42/9 42/15 43/11 43/19 44/11 46/15 47/20 50/5 62/11 63/22 63/22 64/16 79/1 80/25 83/5 83/13 83/20 84/4 84/13 90/6 90/23 96/20 97/21 98/5 99/1 99/3 99/7 106/7 106/12 107/19 108/1 108/18 109/8 109/15 109/22 110/8 112/22 117/9 121/11 125/13 125/16 127/22 128/16 131/21 131/24 133/11 134/15 136/3 137/13 144/8 144/12 144/25 146/1 148/7</p> <p>aside [2] 61/22 61/22</p> <p>ask [16] 19/25 20/15 24/3 24/10 43/7 61/20 74/7 74/17 84/16 84/21 98/18 99/14 99/19 114/17 121/20 125/11</p> <p>asked [25] 28/8 33/6 34/11 34/15 34/18 44/24 52/7 52/10 57/10 57/22 58/25 60/10 60/13 60/25 65/16 74/8 75/7 75/9 76/8 78/1 89/18 122/12 138/23 139/16 148/12</p> <p>asking [13] 31/24 42/1 43/15 43/18 49/25 51/3 57/15 75/11 77/17 78/3 85/25 86/1 132/1</p>	<p>136/2</p> <p>Assistant [4] 1/19 11/10 79/2 108/25</p> <p>assisting [1] 109/24</p> <p>associated [6] 5/21 10/3 10/4 33/10 41/10 133/6</p> <p>assume [7] 13/25 50/5 61/6 90/8 90/8 90/15 125/24</p> <p>assumed [1] 64/2</p> <p>assuming [1] 34/8</p> <p>attempt [4] 5/5 8/24 10/24 21/2</p> <p>attention [12] 58/21 58/22 108/9 109/20 119/14 126/12 134/4 139/7 139/7 141/9 141/15 148/19</p> <p>attorney [3] 79/2 79/3 100/7</p> <p>Attorneys [3] 1/19 11/10 108/25</p> <p>August [23] 6/2 6/4 7/13 7/20 8/15 10/17 10/17 10/19 12/6 12/7 12/8 12/23 31/2 32/14 32/20 35/2 35/19 58/8 60/3 60/7 144/21 144/23 150/24</p> <p>August 19th [4] 10/19 12/6 12/8 12/23</p> <p>August 20th [1] 12/7</p> <p>August 8th [8] 6/2 6/4 7/13 32/14 35/2 35/19 144/21 144/23</p> <p>August 9th [2] 31/2 32/20</p> <p>Aunt [1] 119/6</p> <p>AUSA [1] 28/8</p> <p>author [2] 22/24 141/23</p> <p>authored [5] 24/18 24/21 66/1 131/4 142/15</p> <p>authorization [2] 9/22 10/15</p> <p>authorized [7] 5/5 5/12 5/15 5/19 5/24 6/8 10/9</p> <p>authorizing [3] 5/1 6/3 9/19</p> <p>available [3] 11/19 67/7 73/17</p> <p>Avenue [4] 92/9 95/22 127/7 131/3</p> <p>aware [6] 35/5 49/20 52/16 57/10 119/5 119/9</p> <p>away [8] 19/8 50/8 72/7 91/14 92/15 92/15 114/10 129/21</p>	<p>badges [2] 37/18 37/21</p> <p>bag [3] 18/16 19/1 19/11</p> <p>bags [1] 111/16</p> <p>Bailey [1] 112/16</p> <p>Bailey's [1] 112/18</p> <p>ballpark [4] 114/9 115/9 127/11 132/11</p> <p>Baltimore [37] 1/10 1/25 8/19 8/20 9/1 20/14 20/21 23/10 23/14 37/10 38/10 39/5 39/8 39/21 42/16 43/3 43/9 43/23 61/7 69/6 69/7 69/9 72/14 80/12 80/12 83/25 91/8 91/11 93/15 94/2 107/18 107/19 125/25 126/1 126/3 136/9 138/3</p> <p>Baltimore City [11] 8/19 8/20 9/1 61/7 69/6 69/7 69/9 80/12 107/18 107/19 125/25</p> <p>Baltimore City Police [2] 83/25 138/3</p> <p>Baltimore County [2] 20/14 20/21</p> <p>bandana [5] 113/21 113/24 132/19 132/21 132/23</p> <p>bank [10] 16/3 16/10 61/20 61/22 61/24 61/24 62/1 62/2 62/4 119/2</p> <p>Bank of America [1] 62/4</p> <p>based [5] 6/9 6/19 21/8 35/9 81/7</p> <p>basement [7] 113/16 132/9 132/10 132/10 132/15 132/16 132/22</p> <p>basically [11] 7/23 12/8 59/9 59/13 59/22 89/16 121/8 132/16 136/3 136/8 137/9</p> <p>basis [3] 12/19 18/4 142/24</p> <p>batches [1] 13/2</p> <p>Bates [1] 38/15</p> <p>be [120] 3/3 3/14 4/19 5/21 6/24 7/3 7/6 7/15 9/20 9/21 23/25 27/7 33/9 34/1 35/16 36/12 37/9 38/21 41/24 43/5 43/10 43/12 43/14 43/16 43/19 45/11 45/20 45/23 46/8 46/14 47/20 48/10 50/1 50/11 50/17 50/18 50/21 50/24 51/6 61/9 61/15 61/18 62/7 62/8 63/11 63/19 63/24 64/11 64/13 64/14 64/19 64/23 68/10 68/17 71/20 77/6 77/8 78/2 79/21 80/12 80/12 84/15 86/13 86/25 89/13 91/25 94/22 94/23 96/10 97/7 97/22 97/23 97/25 98/21 99/3 99/20 106/14 107/2 110/22 116/12 117/1 118/5 120/17 120/21 121/19 121/20 122/1 122/15 122/15 122/21 123/8 123/11 123/12 124/9 124/12 124/20 125/3 125/16 125/18 132/1 132/25 134/7 140/23 141/25 142/18 142/23 143/1 143/5 145/18 145/23 146/5 146/21 146/24 147/6 147/9 147/22 148/1 148/12 148/12 148/12</p> <p>became [2] 52/19 57/10</p> <p>because [21] 9/2 16/16 20/3 34/22 35/9 46/22 47/3 59/14 62/2 62/17 66/23 78/1 80/18</p>
	<p>B</p> <p>B. [1] 2/2</p> <p>baby [1] 71/14</p> <p>back [61] 3/23 7/8 19/21 24/3 24/10 34/12 34/19 37/18 42/3 43/25 45/22 46/23 60/9 64/6 69/11 69/14 69/20 69/24 71/20 73/6 74/3 74/7 76/20 79/5 79/21 80/11 80/11 81/7 81/10 83/15 83/18 89/14 91/7 91/8 91/17 92/11 92/12 94/2 98/3 98/19 106/19 109/1 109/20 115/1 116/5 120/8 120/15 121/20 125/21 126/12 126/21 127/21 128/18 132/7 132/8 133/17 133/18 136/22 141/9 147/13 148/13</p> <p>backseat [2] 89/10 89/11</p> <p>backyard [3] 20/2 115/1 133/16</p> <p>bad [7] 76/19 79/25 90/23 91/1 91/3 91/4 91/5</p> <p>badge [24] 36/5 36/19 36/23 37/6 37/6 37/12 37/15 37/15 37/25 38/24 38/24 39/1 39/6 39/7 39/13 39/24 40/1 40/5</p>	

B

because... [18] 87/1 90/10
 106/14 129/18 131/14 131/16
 134/12 136/13
 become [1] 52/16
 been [53] 12/4 12/11 13/2 13/5
 13/17 18/21 22/17 24/7 25/6
 33/6 33/25 35/1 39/3 39/13
 39/14 41/20 42/8 42/13 42/17
 43/6 43/6 44/1 46/5 46/12 47/19
 47/23 51/20 57/18 58/7 59/23
 59/25 62/6 62/24 69/25 77/23
 84/13 99/15 106/16 108/13 109/8
 109/14 112/14 112/22 117/9
 129/12 134/8 134/15 142/15
 144/4 144/5 146/6 148/7 148/8
 before [30] 1/11 13/23 13/24
 13/24 18/6 27/1 52/21 52/22
 57/13 63/12 63/24 78/12 78/18
 79/3 80/3 80/25 81/15 84/7 86/1
 86/1 91/25 94/8 94/13 108/10
 110/6 110/6 110/7 118/21 122/2
 144/10
 beforehand [1] 62/14
 began [1] 143/2
 beginning [3] 27/18 70/18 87/15
 behalf [7] 106/12 107/5 124/8
 124/24 140/11 143/24 146/4
 behind [2] 19/12 20/7
 being [25] 6/25 9/3 20/17 24/17
 24/17 26/5 39/12 40/5 47/8 51/7
 52/10 59/9 59/9 60/13 62/16
 62/21 72/18 77/7 81/19 86/12
 87/4 90/20 110/23 132/20 137/8
 believe [32] 7/24 8/11 11/8
 14/15 18/20 63/18 66/12 67/21
 70/18 80/24 82/23 84/3 84/7
 86/11 87/16 88/2 88/12 88/13
 88/21 90/20 91/4 106/14 109/3
 111/15 124/8 125/22 126/17
 128/16 130/5 130/7 132/21
 133/19
 believed [4] 86/19 87/1 87/3
 106/16
 Belvedere [1] 18/16
 Belvedere Towers [1] 18/16
 bench [26] 3/7 23/20 24/14
 28/18 30/21 32/2 35/21 45/14
 48/6 53/2 57/7 63/16 68/7 97/13
 98/10 100/12 100/14 105/24
 121/6 121/7 121/17 124/11 144/4
 145/6 145/7 146/17
 best [1] 135/8
 better [1] 128/5
 between [14] 11/14 13/23 25/7
 43/23 45/7 67/22 69/13 71/18
 72/21 79/25 95/7 139/7 141/17
 147/7
 big [1] 131/16
 birth [1] 81/15
 bit [11] 16/18 22/13 22/15 65/9
 72/4 81/11 83/6 145/22 145/23
 147/6 147/9
 black [1] 92/4
 Blackwell [3] 72/4 82/9 94/17
 BLAKE [1] 1/11
 block [3] 136/23 137/13 137/14
 blocks [5] 91/14 129/18 129/19
 129/20 129/21
 Bloods [3] 113/22 113/25 133/2
 blowing [1] 59/14

body [5] 95/25 96/3 96/6 96/8
 96/19
 body cam [4] 95/25 96/3 96/8
 96/10
 body cams [1] 96/6
 booked [1] 41/21
 Booking [1] 135/14
 both [9] 4/18 8/1 10/4 15/19
 37/14 39/7 57/22 91/4 144/20
 bottom [9] 9/10 15/19 16/20
 17/10 20/20 33/16 33/17 36/22
 139/10
 bought [1] 15/15
 Boulevard [1] 92/3
 bouncing [1] 7/1
 box [1] 25/23
 BPD [10] 11/25 12/1 14/25 16/16
 17/7 61/11 86/22 108/1 126/6
 137/17
 brake [2] 110/16 129/2
 break [3] 34/25 63/25 65/10
 brief [5] 64/3 69/22 97/22 98/1
 147/3
 briefcase [2] 19/8 19/10
 briefly [13] 3/5 9/18 52/4 52/7
 60/22 97/11 107/25 113/1 124/10
 135/25 136/6 137/1 138/13
 bring [3] 67/25 122/2 122/2
 broke [3] 32/16 32/16 32/17
 broken [1] 17/24
 brought [3] 58/21 58/21 83/20
 bunch [2] 131/16 133/15
 bunker [1] 27/13
 burn [2] 129/22 129/23
 burned [3] 59/9 59/10 60/4
 Burns [5] 110/8 112/16 114/16
 129/13 133/9
 business [2] 89/7 89/7
 busted [1] 32/18

C

C. [1] 2/4
 call [24] 13/4 25/13 33/2 44/21
 45/19 46/5 46/10 47/2 47/3 47/9
 66/11 67/9 98/24 106/19 114/25
 121/10 124/24 136/22 137/7
 137/9 137/10 143/3 145/11 148/2
 callback [1] 73/7
 called [8] 59/9 84/8 85/4 85/11
 111/2 111/3 116/15 141/12
 calling [7] 64/11 64/13 68/11
 97/7 107/4 121/13 124/9
 calls [20] 7/3 9/20 10/7 10/20
 10/21 10/25 11/1 11/4 11/9
 11/13 11/13 11/19 22/17 46/11
 47/6 58/1 68/12 73/5 73/16
 107/6
 cam [4] 95/25 96/3 96/8 96/10
 came [31] 17/16 17/24 19/2 31/4
 31/7 31/19 33/14 38/13 65/15
 69/14 69/20 69/24 71/20 74/7
 80/11 81/10 81/13 82/12 83/15
 94/2 108/1 110/16 127/21 128/6
 128/15 128/16 128/17 128/23
 130/5 133/11 137/12
 camera [1] 31/6
 cams [1] 96/6
 can [74] 3/14 4/22 9/20 10/6
 12/5 17/25 23/8 23/18 23/25
 24/3 26/7 31/9 31/24 32/7 33/1
 33/3 33/8 34/9 34/14 34/20
 35/25 36/16 36/22 36/25 37/3

37/21 38/16 43/2 43/7 46/14
 47/8 47/9 47/25 49/2 48/17 63/7
 63/11 63/17 65/10 67/9 67/21
 67/25 68/2 68/10 77/14 82/15
 84/12 85/12 88/13 97/17 98/21
 106/19 107/2 107/25 110/2
 110/13 112/11 112/14 113/1
 114/23 121/12 122/1 122/9
 123/22 124/20 128/5 128/20
 138/11 140/8 143/20 145/16
 147/5 148/2 148/5
 can't [13] 27/10 28/2 28/6
 31/10 33/2 46/4 47/7 47/22
 62/14 66/4 76/11 82/4 96/23
 cannot [1] 35/8
 canvass [1] 132/4
 car [48] 12/14 12/15 38/19
 44/17 49/17 50/1 50/9 50/14
 50/14 50/21 58/9 62/18 62/21
 74/21 74/23 75/8 75/12 76/20
 82/4 89/16 89/19 89/20 89/20
 89/22 89/25 90/2 90/3 90/6 90/9
 90/11 120/7 127/15 127/20
 127/24 128/19 129/5 129/8
 129/23 129/25 129/25 130/16
 133/19 133/19 137/12 139/17
 139/19 139/24 139/25
 car's [1] 128/25
 card [6] 4/6 4/9 17/1 17/4 37/9
 38/10
 careful [1] 9/3
 carrying [1] 36/6
 cars [3] 50/13 50/17 129/22
 case [21] 1/4 6/22 9/12 9/16
 11/9 11/15 13/12 22/13 32/6
 52/19 57/23 61/23 68/6 78/14
 109/6 139/23 141/9 146/19
 147/11 147/15 148/17
 cases [1] 5/8
 cash [10] 4/9 4/11 15/4 15/25
 16/8 16/8 20/2 62/6 76/5 111/15
 casino [1] 16/21
 casinos [7] 16/14 16/25 17/1
 17/5 51/19 51/23 51/24
 catches [1] 111/7
 categorized [1] 43/14
 CATHERINE [1] 1/11
 caught [1] 92/19
 cause [1] 118/24
 caution [1] 35/4
 CCB [1] 1/4
 CCB-17-106 [1] 1/4
 Ceasefire [1] 136/2
 cell [27] 6/12 6/19 6/24 6/25
 7/1 7/3 7/11 7/12 7/17 7/17 8/4
 8/7 8/12 8/18 17/19 17/25 18/11
 18/12 49/22 49/22 50/23 50/24
 51/3 51/7 51/13 90/6 90/11
 cell phone [12] 7/3 7/12 7/17
 8/12 18/11 18/12 49/22 50/24
 51/7 51/13 90/6 90/11
 cell phones [2] 17/19 17/25
 cell records [1] 8/18
 cell site [7] 6/19 6/24 7/17
 8/4 8/7 49/22 50/23
 cell sites [1] 51/3
 cell tower [2] 6/12 7/1
 center [2] 111/15 130/25
 Central [2] 69/19 135/14
 Central Booking [1] 135/14
 Central Jersey [1] 69/19
 certain [8] 7/3 10/25 27/18

<p>C</p> <p>certain... [5] 49/22 64/25 64/25 64/25 133/12</p> <p>certainly [4] 28/13 47/8 49/3 100/13</p> <p>certification [2] 136/17 136/17</p> <p>Certified [1] 150/23</p> <p>certify [1] 150/18</p> <p>cetera [1] 90/24</p> <p>chain [3] 134/8 134/25 135/1</p> <p>chains [2] 134/9 134/9</p> <p>chambers [3] 132/3 149/1 149/7</p> <p>chance [2] 100/5 147/13</p> <p>changed [1] 46/23</p> <p>characterize [1] 96/19</p> <p>charge [2] 72/2 72/3</p> <p>charged [1] 8/5</p> <p>chased [2] 91/20 91/23</p> <p>check [11] 17/6 17/6 17/8 17/10 25/12 39/5 39/10 41/23 42/6 72/14 135/23</p> <p>checked [1] 51/18</p> <p>checking [3] 50/12 97/18 98/16</p> <p>checks [1] 21/4</p> <p>chest [1] 76/11</p> <p>Chevy [1] 12/3</p> <p>child [2] 81/16 131/25</p> <p>choice [4] 99/8 99/9 106/1 106/3</p> <p>choose [1] 100/1</p> <p>chose [4] 9/11 59/1 59/1 99/13</p> <p>Christina [1] 108/25</p> <p>Christina Hoffman [1] 108/25</p> <p>Christopher [1] 2/4</p> <p>Christopher C. Nieto [1] 2/4</p> <p>Christy [1] 108/24</p> <p>chronologically [1] 27/22</p> <p>circumspect [1] 24/7</p> <p>citizen [1] 20/11</p> <p>citizens [1] 20/20</p> <p>City [13] 8/19 8/20 9/1 61/7 69/6 69/7 69/9 80/12 83/25 107/18 107/19 125/25 138/3</p> <p>citywide [4] 21/15 21/21 93/5 108/3</p> <p>Citywide Shooting [1] 93/5</p> <p>Citywide Shootings [2] 21/15 21/21</p> <p>claimed [1] 42/24</p> <p>claims [1] 34/2</p> <p>clear [7] 21/16 47/5 60/10 100/8 120/21 137/3 141/25</p> <p>clearly [1] 25/6</p> <p>Clerk's [1] 148/2</p> <p>Clerk's Office [1] 148/2</p> <p>clerks [2] 42/21 42/23</p> <p>clients [1] 97/21</p> <p>clients' [1] 64/6</p> <p>close [7] 13/22 50/22 60/1 69/19 91/15 116/12 122/25</p> <p>closed [5] 122/15 145/19 145/20 146/10 148/3</p> <p>closer [1] 79/21</p> <p>closes [1] 63/23</p> <p>closet [2] 25/24 39/3</p> <p>closing [7] 47/9 48/1 58/17 122/17 145/15 147/2 147/12</p> <p>closings [3] 122/13 122/21 148/9</p> <p>clothing [2] 39/4 41/11</p> <p>club [1] 19/1</p>	<p>co [1] 48/17</p> <p>co-counsel [1] 49/17</p> <p>cocaine [2] 67/16 136/9</p> <p>collect [1] 6/21</p> <p>color [3] 48/2 48/2 48/9</p> <p>combined [1] 122/24</p> <p>come [17] 11/1 51/5 63/22 74/3 80/11 81/7 83/18 87/20 94/6 98/3 99/8 107/23 110/10 122/16 144/4 148/13 148/23</p> <p>comes [1] 63/12</p> <p>coming [12] 45/22 46/23 110/15 110/22 122/7 122/11 127/22 128/18 129/9 129/10 131/21 131/24</p> <p>commonly [1] 38/9</p> <p>communally [1] 66/23</p> <p>company [2] 6/19 6/21</p> <p>competent [1] 47/23</p> <p>complaint [1] 86/6</p> <p>complaints [2] 77/5 77/6</p> <p>complete [1] 64/14</p> <p>completion [1] 133/5</p> <p>complex [1] 20/7</p> <p>complicated [1] 65/10</p> <p>compound [1] 42/2</p> <p>computer [4] 37/1 37/3 48/3 48/10</p> <p>concern [1] 122/7</p> <p>concerned [2] 59/8 59/12</p> <p>concerns [2] 24/23 93/24</p> <p>conclude [1] 64/6</p> <p>concluded [11] 24/14 30/21 35/21 48/6 57/7 68/7 98/10 105/24 121/17 146/17 146/19</p> <p>conclusion [1] 148/16</p> <p>conduct [2] 49/11 76/3</p> <p>conducted [8] 15/3 49/12 51/22 59/4 95/4 95/21 110/17 110/24</p> <p>conducting [4] 61/1 127/1 127/3 127/10</p> <p>conference [21] 3/7 23/20 24/14 28/18 30/21 32/2 35/21 45/14 48/6 53/2 57/7 63/16 68/7 97/13 98/10 100/14 105/24 121/7 121/17 145/7 146/17</p> <p>conferred [7] 17/14 38/6 48/7 48/25 49/4 112/24 134/17</p> <p>confirm [1] 105/25</p> <p>confuse [1] 19/5</p> <p>confused [2] 18/21 47/18</p> <p>confusion [1] 34/1</p> <p>conscious [1] 59/16</p> <p>consent [2] 18/10 18/10</p> <p>consider [1] 144/12</p> <p>consistently [2] 46/16 66/13</p> <p>console [2] 111/15 130/25</p> <p>constant [1] 18/4</p> <p>consulates [1] 125/19</p> <p>consult [3] 48/17 49/1 106/2</p> <p>contact [3] 16/25 108/20 110/20</p> <p>contacted [3] 77/24 80/15 94/2</p> <p>contacting [1] 18/3</p> <p>contacts [1] 18/3</p> <p>contain [1] 17/25</p> <p>continue [2] 80/12 147/14</p> <p>continued [2] 92/8 150/4</p> <p>continuing [1] 148/18</p> <p>contractor [2] 125/14 125/16</p> <p>controlled [1] 111/7</p> <p>conversation [3] 45/3 45/7 86/23</p>	<p>conversations [1] 12/23</p> <p>cooperating [2] 29/11 141/13</p> <p>copies [1] 148/22</p> <p>copy [4] 36/11 36/14 36/16 134/20</p> <p>corner [2] 38/16 92/15</p> <p>correct [226]</p> <p>correctly [2] 128/13 128/17</p> <p>corresponding [1] 16/9</p> <p>could [32] 3/5 7/19 9/21 20/8 25/2 34/24 36/10 38/22 42/13 43/25 49/16 59/2 64/5 73/7 77/8 78/2 86/7 86/12 94/6 99/3 99/14 99/14 99/19 114/25 121/6 128/15 132/4 134/12 145/5 145/23 147/9 148/25</p> <p>couldn't [3] 127/23 130/14 139/24</p> <p>counsel [21] 11/20 13/6 17/14 38/6 48/7 48/17 48/25 49/2 49/4 100/12 106/2 112/24 116/14 118/23 119/12 121/6 134/17 145/5 146/20 147/2 148/22</p> <p>count [2] 120/9 134/12</p> <p>counted [1] 116/6</p> <p>counts [3] 106/8 106/18 146/1</p> <p>County [3] 14/21 20/14 20/21</p> <p>couple [10] 5/8 10/13 21/1 72/5 91/14 93/23 93/25 94/20 108/13 129/21</p> <p>course [9] 11/10 11/18 13/5 20/3 48/18 52/15 58/2 98/16 141/20</p> <p>court [13] 1/1 1/24 6/20 6/23 7/14 9/19 14/16 47/7 47/8 97/16 98/25 149/8 150/24</p> <p>Court's [17] 22/3 22/10 30/23 31/11 35/5 35/24 36/2 38/5 39/17 41/13 44/6 44/9 48/15 48/24 49/5 51/16 93/10</p> <p>courthouse [4] 122/14 145/19 146/10 148/3</p> <p>courtroom [8] 1/9 3/13 63/9 68/9 98/20 107/1 121/23 124/19</p> <p>cousin [1] 119/5</p> <p>cover [2] 3/7 27/13</p> <p>covered [3] 33/7 142/1 142/2</p> <p>CR [3] 150/3 150/9 150/13</p> <p>cracked [1] 18/12</p> <p>cracked-screen [1] 18/12</p> <p>crash [1] 58/9</p> <p>crazy [1] 87/8</p> <p>created [4] 44/13 46/12 59/21 144/20</p> <p>credit [3] 4/6 4/9 4/12</p> <p>Creighton [1] 119/6</p> <p>crime [1] 73/17</p> <p>crime-suppression [1] 73/17</p> <p>criminal [5] 1/4 99/20 99/20 99/21 99/22</p> <p>criminals [1] 76/14</p> <p>cross [11] 3/21 22/6 32/24 47/20 78/8 93/11 97/24 99/13 99/14 118/9 138/15</p> <p>cross-examination [7] 3/21 22/6 78/8 93/11 99/13 118/9 138/15</p> <p>cross-examine [1] 99/14</p> <p>cross-examined [1] 47/20</p> <p>crossed [1] 98/5</p> <p>CRR [3] 1/23 150/18 150/22</p> <p>curb [1] 130/17</p> <p>currency [4] 15/6 116/2 116/3</p>
--	--	--

<p>C</p> <p>Case 1:17-cr-00106-CB Document 171-1 Filed 08/17/18 Page 156 of 173</p> <p>currency... [1] 117/13 custody [1] 115/13 cynical [1] 20/17</p>	<p>deliberating [1] 148/12 deliberations [1] 148/13 demonstrative [1] 7/25 denied [4] 66/7 66/7 106/14 146/6 department [25] 23/10 23/14 37/10 37/18 38/10 39/5 39/9 39/21 42/16 43/3 43/9 43/24 69/6 69/8 69/9 69/11 69/12 69/15 79/23 93/15 93/16 107/18 126/1 126/3 136/10 depend [1] 44/18 depending [3] 9/21 123/19 148/11 depends [2] 6/20 123/16 depicted [1] 145/1 deploy [1] 125/13 deployment [1] 140/1 deposits [3] 16/8 16/8 62/6 Depot [2] 3/24 4/1 Derek [1] 1/18 Derek E. Hines [1] 1/18 describe [2] 65/18 128/20 described [1] 141/23 description [4] 27/17 27/22 128/5 128/6 desk [2] 88/3 88/4 DET [1] 150/6 detected [1] 9/3 detective [66] 10/5 11/25 13/14 13/25 14/1 21/12 21/13 25/22 25/22 26/4 26/18 26/23 27/20 34/3 39/8 39/8 39/13 39/14 39/20 42/4 44/17 49/11 49/23 49/24 58/9 60/6 84/17 88/10 93/4 96/7 106/22 106/25 107/6 107/8 107/17 109/22 110/8 110/14 110/22 110/25 112/16 112/17 112/17 114/15 114/16 114/19 115/15 115/19 115/20 115/23 118/4 118/11 118/17 121/4 125/22 126/23 127/2 129/13 129/13 131/4 133/10 133/10 133/14 134/8 135/7 139/5 Detective Fassl [5] 110/8 112/17 114/16 129/13 133/10 Detective Gondo [1] 60/6 Detective Gondo's [2] 11/25 44/17 Detective Hersl [21] 13/14 13/25 14/1 21/13 93/4 109/22 110/14 110/25 112/16 114/15 114/19 115/15 115/19 115/20 115/23 127/2 131/4 133/10 134/8 135/7 139/5 Detective Hersl's [1] 39/14 Detective Iacovo [1] 112/17 Detective Pinto [1] 26/18 Detective Rayam [1] 58/9 Detective Romeo [6] 106/25 107/17 118/11 118/17 129/13 133/14 Detective Taylor [9] 25/22 26/4 26/23 27/20 34/3 39/8 42/4 49/23 96/7 Detective Taylor's [3] 39/13 39/20 49/24 Detective Timothy Romeo [1] 107/6 detectives [3] 18/21 26/18 45/8 determine [5] 8/25 21/2 39/6 42/17 44/1</p>	<p>determined [1] 11/8 determines [1] 11/8 device [1] 44/16 did [160] didn't [62] 5/4 8/14 13/2 14/4 15/4 15/8 15/13 16/11 17/10 17/10 19/18 19/19 19/20 19/21 19/22 20/15 20/19 20/23 21/4 24/2 24/4 26/6 27/10 31/5 31/5 31/6 32/24 33/13 34/19 37/18 40/1 42/14 42/24 45/22 46/4 50/6 50/16 60/17 61/14 62/1 67/19 80/2 80/8 80/24 82/16 86/11 87/7 90/20 93/24 94/10 96/22 108/23 114/17 119/12 119/21 120/23 124/17 124/18 129/6 129/24 138/20 146/15 difference [1] 65/22 different [5] 37/21 39/25 40/24 43/15 46/10 differently [1] 43/14 difficult [3] 59/25 61/9 61/18 Diplomate [1] 150/23 direct [8] 67/22 69/1 97/23 107/15 108/9 125/9 126/12 141/7 directing [2] 109/20 119/14 direction [1] 130/18 directions [1] 128/21 directly [6] 68/18 90/18 91/7 107/9 125/4 140/24 discovery [2] 35/10 38/15 discrepancies [1] 25/16 discrepancy [4] 67/1 67/18 67/19 67/22 discuss [4] 85/22 85/23 100/6 146/20 discussed [2] 22/12 78/14 discussing [2] 3/24 109/3 discussion [2] 143/2 145/3 display [2] 31/14 40/1 displayed [1] 39/24 dispute [2] 25/9 35/15 distance [1] 147/21 distances [2] 122/8 147/23 distribution [1] 113/10 district [12] 1/1 1/1 14/16 69/23 69/25 73/18 93/19 93/25 108/6 108/6 116/6 120/8 District Court Judge [1] 14/16 division [2] 1/2 136/4 do [132] 4/23 5/12 5/17 5/24 6/5 6/15 6/15 7/17 7/24 8/2 8/24 9/2 9/13 10/24 10/24 14/25 16/17 17/10 18/18 19/9 20/3 21/4 21/7 26/12 28/14 31/4 34/21 36/14 38/18 40/8 40/17 40/18 44/25 46/6 46/9 47/9 52/10 52/13 52/23 57/15 57/19 57/24 59/1 59/2 59/16 60/13 61/14 62/11 62/25 63/21 63/24 64/19 67/24 69/5 72/7 72/17 73/4 73/14 74/7 76/2 76/12 76/13 77/23 77/25 82/21 83/7 83/10 83/14 84/10 84/19 85/3 85/16 87/11 87/14 87/19 88/13 88/13 88/22 88/24 88/24 91/8 91/10 91/16 91/19 91/23 92/3 92/6 92/8 92/11 92/13 92/16 95/2 95/6 97/15 99/2 99/17 100/4 108/10 109/6 109/10 109/15 111/5 112/19 116/3 117/9 117/20 118/1 120/4 122/20 123/6</p>
<p>D</p> <p>D.C [3] 143/3 143/5 143/11 DA [3] 30/25 35/18 145/1 DA-9 [2] 30/25 35/18 damage [2] 85/4 85/23 damaged [1] 84/9 Dan [4] 16/21 21/3 81/25 82/2 Dan Hersl [4] 16/21 21/3 81/25 82/2 dangerous [1] 111/7 DANIEL [10] 1/5 2/1 4/16 6/4 21/20 119/24 120/1 120/4 120/9 120/21 Daniel Hersl [9] 2/1 4/16 6/4 21/20 119/24 120/1 120/4 120/9 120/21 DAT [1] 108/6 data [6] 6/21 7/11 7/17 8/4 8/7 9/21 database [1] 137/17 date [18] 4/19 6/8 21/16 31/4 31/15 32/15 32/16 33/23 33/25 34/4 35/6 35/9 35/9 44/25 65/6 87/11 87/13 150/24 dated [3] 4/18 32/14 84/15 dates [8] 7/15 7/19 8/22 8/25 12/13 31/9 64/25 64/25 day [16] 12/16 13/8 14/13 72/5 73/18 81/6 83/24 94/19 94/20 94/23 126/25 127/1 139/12 146/15 147/10 148/10 days [7] 12/10 12/11 42/24 43/22 57/21 96/14 96/17 deal [2] 91/20 136/14 dealer [2] 76/4 77/18 dealers [1] 83/14 debit [2] 4/12 43/20 December [2] 109/1 116/15 decision [1] 59/16 deemed [1] 94/11 defendant [14] 2/1 2/3 60/11 60/16 73/25 74/1 107/8 125/2 139/3 139/20 139/23 140/21 150/8 150/12 Defendant Hersl [2] 73/25 139/3 DEFENDANT HERSL'S [1] 107/8 Defendant Taylor [3] 60/11 60/16 74/1 defendants [5] 1/6 52/19 57/13 59/7 99/1 Defendants' [1] 48/20 defense [17] 32/6 36/10 38/8 48/10 48/12 84/14 107/6 109/8 112/23 117/3 119/12 126/17 134/16 140/12 144/14 144/16 145/8 Defense Exhibit No. 35 [1] 84/14 Defense Exhibit No. 37 [1] 112/23 Defense Exhibit No. 39 [1] 134/16 definitely [2] 37/24 41/2 Delaware [1] 21/8 delay [1] 145/16 deliberate [2] 122/18 147/1</p>		

D

do... [22] 126/15 126/17 127/4
 131/6 131/20 132/20 135/21
 136/6 136/22 136/25 137/3 137/6
 138/3 138/7 138/25 139/16
 139/19 141/5 143/7 144/3 144/4
 150/18
 documenting [1] 113/2
 documents [4] 113/11 113/15
 118/20 118/24
 does [7] 27/21 27/22 64/9 64/10
 85/1 111/6 127/7
 doesn't [4] 65/18 65/20 76/13
 122/10
 dog [5] 130/7 136/8 137/10
 137/15 137/19
 dog's [1] 136/19
 doing [20] 13/17 27/7 27/8
 69/14 72/10 73/23 78/11 80/24
 81/16 92/6 92/17 94/23 96/4
 96/11 99/15 108/5 109/23 125/17
 136/1 138/18
 dollars [2] 20/2 20/22
 Dominican [3] 41/20 60/11 60/16
 Dominican Republic [3] 41/20
 60/11 60/16
 don't [132] 4/11 4/24 5/3 5/4
 5/14 5/20 6/1 6/6 6/14 7/18
 8/10 8/14 8/15 15/6 15/10 15/17
 15/18 17/21 19/5 19/10 20/23
 21/4 21/5 21/10 21/11 23/3 23/6
 23/25 25/21 26/1 26/9 26/20
 27/10 27/15 28/1 28/1 28/6
 31/22 32/9 33/1 33/1 33/2 33/8
 33/21 33/21 34/1 34/15 34/21
 34/21 35/12 35/15 37/22 38/12
 38/14 38/21 39/10 39/14 40/5
 42/12 42/21 44/4 44/20 46/7
 46/25 47/5 47/11 47/14 49/24
 51/2 51/12 62/4 62/13 65/11
 65/12 65/17 66/18 67/11 67/12
 67/13 67/21 68/1 72/17 72/17
 76/1 81/4 81/4 84/11 85/14
 85/25 85/25 86/25 87/11 88/4
 89/1 89/18 90/7 90/7 91/7 91/22
 92/7 92/10 92/16 92/24 94/21
 95/23 96/17 97/25 114/9 117/2
 120/6 120/12 122/20 124/6
 129/14 129/22 130/15 130/23
 135/13 137/13 137/15 137/18
 137/18 139/10 139/11 139/20
 139/23 139/24 145/22 147/4
 147/7 147/15 148/13
 Donald [2] 31/1 64/25
 Donald Stepp [1] 64/25
 Donald Stepp's [1] 31/1
 done [5] 14/3 52/8 58/16 59/11
 145/14
 door [5] 20/15 20/15 27/25
 131/15 131/18
 Dorothy's [1] 62/7
 Douglas [3] 1/23 150/18 150/22
 down [24] 12/9 63/7 65/6 72/16
 73/2 82/13 82/13 84/8 86/3 86/5
 86/7 91/12 116/17 128/1 129/19
 129/20 130/8 130/16 131/17
 131/21 131/24 135/19 140/8
 143/21
 download [1] 34/22
 downloaded [1] 32/5
 dozen [1] 112/13

DR [3] 150/3 150/9 150/13
 draft [1] 148/22
 draw [2] 141/9 141/15
 drive [1] 137/17
 driven [1] 65/6
 driver [2] 110/20 111/10
 driveway [5] 49/17 50/1 50/18
 50/19 115/1
 driving [4] 59/22 91/16 92/11
 127/13
 dropped [1] 91/21
 drove [6] 75/3 92/9 92/12
 127/25 129/8 132/5
 drug [7] 76/4 77/18 83/14 91/20
 95/21 113/10 136/8
 drugs [5] 15/20 18/17 80/22
 81/20 91/21
 dual [1] 131/14
 during [32] 23/11 24/22 38/23
 49/15 51/3 51/4 51/19 59/19
 59/19 65/3 66/3 73/9 73/23
 82/11 82/18 82/23 85/7 94/8
 94/13 95/4 95/6 95/15 95/25
 96/13 96/16 132/15 135/18
 136/12 141/12 141/17 141/20
 141/24
 duty [1] 92/8
 dwelling [1] 114/7

E

e-mailed [1] 65/14
 E. [1] 1/18
 each [2] 39/6 108/21
 earlier [1] 38/23
 early [12] 12/7 22/22 50/11
 50/13 52/24 59/15 70/20 71/18
 72/22 77/16 98/3 123/18
 eastbound [1] 128/23
 Eastern [1] 108/6
 Eastern District [1] 108/6
 effect [1] 52/16
 effective [1] 59/23
 effectuating [1] 27/8
 eight [2] 43/20 132/12
 either [8] 14/5 17/19 31/15
 39/12 83/25 135/13 135/14
 137/17
 election [1] 64/6
 electronic [1] 44/2
 Eleven [2] 129/17 130/2
 ELMO [1] 37/4
 else [7] 63/3 74/13 86/22
 128/10 129/14 129/24 146/7
 embassies [1] 125/18
 employed [1] 107/17
 employee [1] 43/12
 end [18] 7/10 47/3 47/17 70/4
 70/7 70/13 70/20 71/1 71/11
 71/25 72/22 84/7 85/3 87/15
 87/16 93/4 147/10 148/10
 ended [1] 134/11
 ending [2] 7/19 10/14
 ends [1] 19/7
 enforcement [11] 9/12 11/8 13/4
 18/1 59/3 59/6 69/5 76/13 76/14
 81/17 125/23
 enough [10] 4/4 12/13 19/24
 59/11 60/1 87/2 97/21 98/2
 100/5 124/7
 ensure [1] 27/19
 enter [2] 42/21 42/23
 entered [8] 3/13 36/4 44/1 68/9

107/1 117/9 124/19 142/21
 entries [1] 145/28 136/3
 137/3
 entitled [1] 150/20
 entries [2] 131/14 131/17
 entry [1] 131/9
 environments [1] 125/14
 episode [3] 65/18 118/25 120/23
 equation [1] 47/17
 equipment [2] 75/8 75/14
 Erika [3] 2/8 3/17 150/4
 Erika Jensen [3] 2/8 3/17 150/4
 Esquire [6] 1/18 1/18 2/2 2/2
 2/4 2/5
 essentially [2] 43/5 59/10
 et [1] 90/24
 et cetera [1] 90/24
 eTIME [1] 42/23
 evaluate [1] 11/1
 evaluated [1] 25/2
 evaluation [1] 11/2
 even [8] 21/3 59/15 129/14
 135/13 137/13 139/11 139/24
 139/24
 evening [1] 16/18
 event [3] 142/15 143/3 148/4
 eventually [5] 18/22 110/17
 111/3 129/15 132/8
 ever [6] 5/5 19/25 60/11 60/15
 81/6 134/13
 every [1] 47/7
 everybody [2] 13/23 64/9
 everyone [2] 3/3 129/25
 everything [4] 113/3 116/6
 134/5 148/14
 Evesham [3] 119/23 120/9 120/13
 evidence [19] 23/22 25/12 27/23
 36/5 98/17 106/15 106/16 113/2
 117/13 118/20 120/7 120/17
 144/12 145/14 146/19 148/16
 150/2 150/8 150/12
 evident [1] 40/14
 ex [2] 3/5 3/7
 ex parte [2] 3/5 3/7
 exact [4] 7/15 7/19 76/1 123/7
 exactly [12] 42/21 43/18 66/5
 114/10 117/20 120/6 137/18
 139/24 142/10 147/4 148/11
 148/14
 examination [13] 3/21 22/6 52/5
 60/23 69/1 78/8 93/11 99/13
 107/15 118/9 125/9 138/15 141/7
 examine [1] 99/14
 examined [2] 37/12 47/20
 example [3] 58/6 72/24 146/10
 except [3] 107/2 124/20 129/4
 excuse [4] 13/17 76/10 97/20
 118/14
 excused [8] 97/4 97/6 121/5
 140/9 143/22 148/12 148/20
 148/21
 excusing [1] 146/22
 executed [4] 23/12 110/4 110/6
 110/7
 executing [1] 23/16
 execution [1] 27/19
 exhibit [22] 4/15 5/23 6/2
 26/15 31/2 32/12 32/19 35/6
 41/16 41/17 45/1 48/10 48/11
 84/14 84/24 85/19 109/9 112/23
 117/2 127/4 134/16 145/1
 Exhibit No. 36 [1] 109/9

<p>E</p> <p>exhibits [6] 48/3 97/18 98/16 145/4 147/13 148/9 existence [2] 52/17 57/11 exit [1] 130/4 exited [1] 127/20 expect [2] 145/14 146/23 expecting [1] 124/14 expired [1] 39/12 explain [5] 33/3 33/8 46/22 59/1 86/24 explained [3] 6/14 133/13 144/9 expressed [1] 122/7 extended [1] 74/5 extent [1] 137/19 external [1] 111/6 eyeballed [1] 115/10</p>	<p>fill [1] 7/23 filling [1] 133/9 final [2] 84/22 147/3 finally [5] 6/2 21/12 92/13 113/21 135/18 find [16] 5/5 5/15 10/24 11/2 15/4 15/8 16/11 17/4 20/19 20/23 42/14 44/4 60/17 68/3 76/4 132/4 fine [5] 24/13 78/12 79/5 124/16 149/2 finish [4] 34/14 88/22 98/4 124/12 finished [2] 98/16 145/8 finishing [1] 68/6 first [16] 20/4 25/20 25/21 26/1 26/2 27/2 65/12 71/22 81/6 98/25 108/11 118/13 118/17 125/24 126/3 142/1 fit [1] 127/24 five [2] 20/12 133/21 flash [1] 137/17 flexibility [1] 147/10 Floor [1] 1/24 FMLA [2] 71/14 83/18 focus [2] 139/9 139/9 follow [3] 61/18 61/20 84/4 follow-up [2] 61/20 84/4 followed [1] 143/11 following [6] 59/14 65/7 66/9 76/3 92/14 143/4 fooling [1] 87/4 footage [3] 16/19 16/20 16/22 forbid [2] 35/4 35/13 force [18] 39/22 70/1 70/8 70/13 70/15 70/19 71/5 77/22 79/6 79/8 79/12 84/17 95/13 95/15 124/10 140/19 140/21 142/21 Ford [2] 15/17 62/11 forecast [2] 122/4 147/18 foregoing [1] 150/19 forewarn [1] 14/4 form [3] 113/2 117/13 134/20 Former [3] 10/5 25/22 45/8 Former Detective Gondo [1] 10/5 Former Detective Ward [1] 25/22 Former Detectives [1] 45/8 forth [1] 60/9 forward [2] 63/22 147/22 found [12] 15/20 20/11 25/23 26/2 39/25 40/8 40/10 41/1 41/10 67/15 111/14 119/18 foundation [1] 31/22 four [14] 20/12 65/2 67/15 67/17 79/9 106/8 115/2 115/4 115/11 128/12 129/20 132/14 133/20 136/13 Fox [1] 130/5 frankly [1] 17/7 Frasier [1] 131/23 fraud [2] 8/6 61/6 Freddie [3] 79/13 79/17 79/24 Freddie Gray [3] 79/13 79/17 79/24 freezing [1] 147/19 Friday [3] 137/22 137/22 137/23 friend [2] 49/16 49/20 front [6] 61/11 87/25 120/10 127/19 131/18 133/13 fucking [1] 76/11 full [6] 68/19 107/10 125/5</p>	<p>125/6 128/6 140/25 further [16] 21/25 51/22 52/1 60/18 63/2 78/5 93/8 96/25 106/9 118/3 120/25 121/2 138/6 140/3 140/12 143/15</p>
<p>F</p> <p>f'ing [1] 90/23 F-150 [2] 15/17 62/11 F934 [1] 5/18 facing [3] 128/21 128/22 128/23 fact [5] 15/1 52/23 76/12 78/3 80/25 facts [1] 144/10 fair [16] 4/4 12/13 12/24 18/8 19/24 78/22 82/16 82/17 86/9 87/2 87/4 87/12 98/2 108/23 124/7 128/3 fairly [2] 18/4 22/22 fall [5] 52/23 57/19 95/4 95/6 95/7 false [2] 24/7 35/10 familiar [2] 37/17 130/9 familiarity [1] 43/8 family [1] 79/22 far [3] 21/2 75/1 114/10 Fassl [5] 110/8 112/17 114/16 129/13 133/10 favor [1] 106/17 favorable [1] 106/15 FBI [11] 2/8 36/4 39/16 39/19 41/15 44/11 45/2 58/6 58/8 65/1 77/24 FBI-11 [2] 58/6 58/8 FBI-15B [1] 36/4 FBI-18 [1] 39/19 FBI-28 [1] 41/15 FBI-9 [2] 44/11 45/2 February [17] 1/9 7/21 50/9 51/5 69/12 69/20 70/18 70/21 71/5 71/18 72/22 77/16 84/8 84/11 85/3 95/8 95/12 February 2017 [3] 72/22 95/8 95/12 February 24th [1] 69/12 federal [8] 1/24 57/12 65/7 99/21 125/14 143/5 143/10 150/24 federal government [1] 143/10 felt [2] 13/4 25/4 female [3] 49/16 49/20 50/14 few [13] 12/10 12/11 70/16 71/5 71/10 71/16 71/24 82/3 88/23 98/19 108/17 128/14 129/18 field [5] 19/12 19/17 20/7 20/13 20/22 figure [2] 64/19 121/13 file [4] 64/15 144/16 144/20 144/25</p>	<p>G</p> <p>gang [5] 113/22 113/22 113/23 132/25 133/1 gaps [1] 7/23 garage [2] 50/16 50/17 gathered [1] 120/7 gathering [1] 24/16 gave [8] 18/10 61/1 72/24 86/1 119/9 120/15 120/18 135/7 general [3] 31/9 59/3 109/3 generally [5] 24/9 25/5 31/24 65/18 106/6 gentlemen [4] 98/15 121/18 144/9 146/18 George [6] 110/21 111/9 111/24 119/16 130/20 130/21 George Lee [2] 130/20 130/21 get [30] 16/16 19/16 37/22 43/15 47/1 59/14 59/25 62/19 63/22 66/18 73/7 77/5 89/3 89/16 89/18 89/22 89/23 90/2 92/15 92/15 98/6 106/19 123/19 124/6 124/12 128/21 128/25 148/4 148/6 148/23 getting [12] 18/20 37/17 43/5 70/12 71/1 71/4 80/4 81/20 81/20 134/2 136/22 145/17 girlfriend [2] 50/6 51/6 give [11] 17/8 31/9 50/8 76/25 77/3 112/11 120/21 122/16 128/5 129/20 148/5 given [3] 26/22 26/23 59/13 gives [1] 7/5 giving [1] 61/25 Glad [1] 146/15 glass [1] 77/14 glasses [1] 26/21 go [42] 19/19 19/21 19/25 20/15 26/16 27/25 43/25 64/6 64/19 68/6 68/22 69/13 72/13 74/9 74/10 74/21 76/5 77/8 77/9 80/4 81/22 81/25 82/2 86/3 86/7 86/21 89/2 89/15 91/7 94/5 98/3 98/7 99/5 115/23 124/23 133/4 136/16 146/25 147/13 147/22 148/2 149/4 God [2] 35/4 35/13 goes [3] 12/9 12/9 46/22 going [52] 3/23 12/6 27/7 44/11 44/18 45/11 45/25 46/3 46/8 46/25 47/9 48/14 59/24 63/18 64/11 72/24 73/6 74/9 74/15 74/20 77/6 77/6 84/13 84/21 91/10 93/15 97/20 97/22 97/23 100/1 108/9 109/4 109/8 109/14 122/13 122/21 124/12 125/11 125/16 126/12 128/25 131/18 133/14 134/15 135/25 143/3 143/4 145/13 145/16 145/24 146/21 147/24 gold [4] 12/3 134/9 134/25 135/1 Gondo [19] 9/7 10/5 10/21 11/14 12/14 45/8 45/19 46/5 46/15 47/4 47/24 60/6 65/4 65/14 67/4 67/4 72/23 141/18 143/9</p>	

G	Gun Trace Task Force [10] 39/22 70/1 70/8 70/13 70/15 70/19 71/5 77/22 95/13 95/15	148/7 hasn't [2] 38/4 34/23 have [116] 7/17 8/7 11/14 11/15
Gondo's [5] 11/22 11/25 12/24 44/17 65/23 gone [2] 71/17 72/2 good [32] 3/3 3/14 14/20 20/18 20/20 22/8 22/9 64/8 69/3 69/4 78/10 93/13 93/14 99/6 108/8 109/19 118/11 118/12 121/19 126/11 126/20 127/16 131/19 132/12 133/22 135/17 136/18 138/1 138/17 140/1 147/9 149/5 got [18] 16/18 66/18 75/6 76/20 80/6 110/21 128/24 128/25 129/5 130/2 130/4 133/6 133/15 133/18 136/11 136/15 137/7 137/10 gotten [1] 34/12 government [33] 4/15 5/23 6/2 11/19 13/6 31/1 32/7 32/19 33/11 35/7 36/5 36/11 49/1 63/23 68/3 68/11 86/2 97/7 98/16 99/13 100/11 106/15 106/17 109/15 116/14 117/2 125/15 127/4 141/18 143/10 143/18 144/19 145/1 Government Exhibit DA-9 [1] 145/1 Government Exhibit JG-3 [1] 127/4 Government Exhibit PP-1A [1] 4/15 Government Exhibit PP-4A [1] 5/23 Government Exhibit says [1] 32/19 Government's [8] 2/10 3/17 64/2 68/6 68/15 97/23 123/19 150/2 grand [1] 81/1 grand jury [1] 81/1 gravity [1] 59/13 Gray [3] 79/13 79/17 79/24 grew [1] 69/18 Griffin [36] 109/5 109/13 114/3 114/20 114/21 114/23 115/5 115/10 115/12 115/14 115/16 115/21 116/19 116/22 116/23 116/24 117/18 119/5 119/9 119/24 120/12 126/14 126/19 131/24 133/6 133/21 133/23 134/1 135/4 135/5 135/11 135/12 135/18 138/21 139/1 139/12 Griffin's [9] 109/18 111/20 112/2 112/12 115/23 116/17 119/21 120/22 132/17 Griffith [1] 113/14 group [2] 133/18 133/20 GTF [1] 95/7 GTTF [12] 21/13 72/8 72/10 72/21 77/12 81/13 82/7 82/13 82/22 83/8 83/10 94/6 guarantee [1] 42/13 Guard [2] 137/21 137/24 guess [20] 20/17 32/13 37/3 38/4 44/4 71/1 71/14 71/17 71/20 71/20 72/8 86/14 95/23 96/21 112/17 114/25 127/23 131/7 139/11 142/12 guessing [1] 38/21 gun [15] 39/22 70/1 70/8 70/13 70/15 70/19 71/5 72/15 77/22 95/4 95/13 95/15 95/15 108/4 132/21	H	11/17 12/4 12/11 13/1 13/1 13/5 15/16 16/3 16/20 16/25 18/3 18/21 19/22 21/10 21/25 23/6 26/20 33/8 33/10 35/1 35/13 36/10 36/14 37/12 37/14 39/3 39/12 39/13 39/13 40/17 40/18 41/20 43/5 43/21 43/24 44/25 46/5 46/11 46/16 47/19 47/23 48/2 51/7 51/22 51/24 59/20 59/23 59/24 59/25 61/10 61/23 62/6 63/21 64/17 65/18 65/20 66/6 67/21 72/5 76/11 77/14 78/12 89/25 93/8 93/24 94/5 99/8 99/22 100/4 100/5 106/22 107/19 108/13 108/20 121/9 121/9 121/11 121/21 122/6 123/6 123/8 123/22 123/25 124/3 124/18 129/12 134/8 137/3 137/15 137/17 137/18 138/3 138/6 138/8 138/11 138/14 140/12 140/16 142/4 144/1 144/3 144/5 145/15 146/6 146/25 147/9 147/11 147/12 147/12 147/18 147/24 148/22 haven't [6] 65/12 67/12 118/20 122/12 129/3 144/9 having [6] 11/22 26/20 26/22 28/4 28/4 71/14 he [200] He'll [1] 65/19 he's [18] 26/16 26/25 26/25 27/4 27/4 28/1 28/3 33/19 33/24 33/25 46/13 47/18 47/22 61/8 67/8 67/8 76/4 77/7 head [1] 90/4 headquarters [6] 61/11 75/2 75/3 76/21 91/13 120/15 hear [6] 13/2 20/4 67/19 144/7 146/23 147/2 heard [8] 18/15 25/13 52/16 58/1 58/18 147/11 147/12 147/18 hearsay [1] 23/23 heavier [1] 128/7 help [2] 11/9 122/11 helpful [3] 11/14 11/15 147/6 Hendrix [8] 42/7 65/4 65/5 65/17 65/23 66/8 72/23 143/11 her [11] 24/12 31/24 47/2 47/20 50/6 50/9 51/10 130/6 131/25 132/1 133/13 here [23] 4/22 26/16 27/12 40/14 40/17 40/18 41/16 66/12 67/7 67/8 67/21 72/17 80/12 84/22 85/17 85/25 90/11 111/20 131/10 133/16 134/23 145/17 148/6 here's [1] 48/9 hereby [1] 150/18 heroin [4] 112/19 113/19 132/18 136/9 HERSL [77] 1/5 2/1 4/16 6/4 6/22 7/18 8/1 8/12 8/24 8/25 11/14 13/14 13/25 14/1 14/22 16/21 17/4 17/16 17/19 18/10 21/3 21/13 21/20 61/6 61/21 61/24 63/17 72/23 73/25 74/14 74/24 75/23 76/6 76/16 81/25 82/2 82/4 88/11 89/16 89/18 89/20 90/5 90/15 91/3 93/4 99/3
	had [115] 4/1 4/3 6/24 7/8 9/22 9/23 10/13 11/13 11/23 11/25 12/10 12/20 14/1 14/12 14/13 15/11 15/15 15/17 15/17 16/13 16/14 16/24 17/16 17/22 17/23 18/11 19/11 20/14 22/17 24/21 24/23 25/13 26/24 28/4 31/23 34/14 36/18 38/24 41/23 42/7 42/8 42/17 42/20 42/20 43/4 43/6 44/1 45/11 49/16 49/20 50/13 50/16 50/21 51/20 57/10 57/18 59/8 59/15 59/15 60/3 60/3 61/11 61/11 62/14 65/1 65/5 65/6 65/25 67/14 69/25 72/3 72/5 77/5 77/22 78/1 80/3 81/2 81/10 83/18 86/8 86/11 86/17 86/19 86/21 88/5 90/7 93/16 93/19 94/20 100/5 108/20 110/16 116/7 120/12 120/17 124/10 127/15 127/23 128/23 129/1 130/4 130/4 131/6 131/7 131/16 131/16 131/23 131/25 136/8 136/14 136/16 137/12 143/9 143/11 147/13 hadn't [3] 34/12 42/13 51/18 half [4] 10/17 122/22 123/1 123/2 hallway [3] 108/11 108/16 108/17 Hamilton [1] 16/24 hand [7] 44/20 68/14 107/7 122/10 125/1 134/13 140/20 handcuffs [1] 119/24 handed [2] 26/7 134/10 handful [3] 87/24 87/24 87/25 handguns [1] 26/24 Handing [4] 23/9 23/21 28/7 84/23 handler [5] 130/10 136/2 136/3 136/5 137/8 hands [2] 27/13 127/22 hang [1] 88/23 hanging [2] 88/24 124/17 happen [2] 27/18 89/25 happened [16] 20/23 25/14 35/14 71/10 75/6 75/20 75/24 76/22 86/16 87/12 110/19 114/6 115/12 116/23 130/2 135/12 happening [1] 60/1 happens [5] 27/9 59/12 89/15 90/17 122/9 happy [1] 144/7 Harford [4] 14/21 110/17 129/17 129/19 Harford County [1] 14/21 Harford Road [3] 110/17 129/17 129/19 has [24] 17/4 18/6 19/7 21/3 28/13 33/6 36/19 46/17 50/25 58/1 58/6 61/8 84/13 89/25 98/16 109/8 109/14 112/22 117/9 122/6 134/15 142/15 144/16	

H

HERSL... [31] 99/7 106/8 107/6
 109/22 110/14 110/25 112/16
 114/15 114/19 115/15 115/19
 115/20 115/23 118/23 119/24
 120/1 120/4 120/9 120/15 120/18
 120/21 124/24 127/2 131/4
 133/10 134/8 135/7 139/3 139/5
 140/12 146/2
 Hersl's [9] 6/25 7/12 8/5 15/1
 39/14 61/22 107/8 125/2 150/8
 Hey [5] 128/24 129/5 129/8
 129/10 133/15
 hierarchy [3] 79/25 86/22 95/2
 high [2] 76/4 125/14
 high-level [1] 76/4
 high-threat [1] 125/14
 highlight [1] 62/8
 highlighted [1] 144/17
 him [35] 17/23 18/11 31/16
 45/20 65/16 67/9 71/14 81/6
 81/8 90/8 92/17 92/17 93/19
 93/22 93/25 94/2 109/24 110/22
 110/22 114/8 115/13 115/18
 119/21 127/24 128/25 129/6
 130/4 130/17 132/4 134/9 135/12
 135/13 135/14 139/4 139/6
 himself [1] 47/17
 Hines [5] 1/18 11/16 58/22
 118/8 118/14
 Hippodrome [1] 91/16
 hired [1] 80/4
 his [81] 14/24 15/11 15/19
 15/20 15/24 16/3 17/19 17/24
 18/12 19/12 20/7 21/5 21/14
 26/22 31/16 31/19 32/4 32/12
 32/18 33/15 33/24 35/14 38/13
 38/18 38/19 40/2 40/8 40/9
 40/25 40/25 41/3 41/9 41/24
 41/24 46/22 49/18 49/22 50/1
 50/9 50/14 50/24 51/3 51/7 60/7
 61/8 62/2 62/3 62/7 62/16 62/18
 65/16 65/24 66/20 76/5 76/5
 81/15 90/5 90/5 90/7 92/19 94/3
 96/10 96/19 110/21 114/7 119/5
 119/6 119/10 119/18 120/1 120/1
 120/5 120/12 127/22 130/18
 131/15 132/16 132/16 135/6
 135/19 136/17
 Hoffman [1] 108/25
 Hold [2] 85/21 86/20
 holding [5] 12/13 127/22 127/24
 128/17 128/18
 home [7] 3/24 4/1 15/1 21/5
 109/18 132/1 137/8
 Home Depot [2] 3/24 4/1
 honest [1] 89/13
 honestly [1] 134/12
 Honor [55] 3/9 3/10 3/20 23/18
 28/16 31/21 32/3 35/3 36/25
 45/13 52/1 52/4 60/18 64/10
 68/12 68/23 78/5 78/7 96/25
 97/3 97/9 97/15 98/12 98/23
 100/2 100/9 100/11 106/6 106/11
 106/22 107/5 118/6 120/25
 122/23 123/3 123/5 123/22 124/2
 124/7 124/15 124/22 138/9
 138/11 140/3 140/5 140/11
 140/16 141/4 142/12 143/15
 143/19 143/24 144/13 146/8
 149/3

HONORABLE [1] 1/11
 hope [5] 15/22 24/24 68/22
 63/24 147/22
 hopefully [1] 64/14
 Horseshoe [3] 16/14 16/16 17/6
 hour [7] 61/13 122/22 122/25
 123/2 123/11 123/12 123/13
 hours [8] 12/6 12/7 43/5 43/11
 43/12 43/20 73/20 123/4
 house [24] 15/24 17/20 17/24
 19/12 23/2 23/12 25/19 25/20
 27/20 38/20 49/18 50/3 50/9
 109/15 109/17 127/6 127/7
 127/20 131/10 131/12 131/16
 131/25 132/7 133/17
 houses [2] 20/8 60/2
 how [43] 6/17 7/16 12/14 22/13
 25/21 33/2 37/22 42/22 43/8
 44/1 47/4 47/14 70/10 70/15
 71/15 78/11 82/21 83/10 86/25
 93/22 96/19 107/19 112/11
 113/17 114/10 115/9 116/3 116/7
 117/20 120/12 122/12 122/20
 126/6 128/10 128/20 129/7
 132/11 134/13 138/18 138/25
 139/10 147/4 148/14
 however [1] 86/10
 huh [2] 73/3 83/2
 hundred [4] 27/10 87/17 89/14
 133/12
 hurt [1] 35/14

I

I'd [5] 38/21 98/7 106/11 123/3
 146/4
 I'll [15] 7/15 24/10 32/6 35/12
 47/25 64/19 84/16 88/23 106/6
 117/3 121/20 123/11 125/18
 146/24 149/7
 I'm [100] 7/15 8/10 11/17 12/13
 18/20 18/20 19/4 21/16 23/13
 25/4 26/6 26/10 30/25 31/24
 36/4 36/11 37/17 39/10 40/17
 41/15 43/7 43/18 44/11 44/25
 46/2 46/2 46/2 46/21 47/4 47/18
 48/14 62/13 64/18 65/4 66/5
 66/9 69/19 78/24 80/2 82/15
 82/23 83/9 83/12 84/13 84/21
 86/1 86/14 87/13 87/16 87/23
 88/4 88/14 89/1 89/6 89/12
 89/12 89/12 89/13 89/14 90/7
 91/9 91/22 91/22 92/2 92/23
 96/18 97/22 97/23 100/1 107/3
 107/21 108/6 108/9 109/4 109/8
 109/14 113/23 115/1 123/7 124/2
 125/11 125/13 126/1 126/4
 126/12 127/5 128/21 129/2 131/8
 132/12 133/11 134/15 135/25
 136/5 143/2 144/7 144/22 145/13
 145/16 145/24
 I've [6] 13/17 23/13 83/6 99/15
 134/13 148/7
 I-A-C-O-V-O [1] 125/7
 Iacovo [8] 112/17 114/16 124/25
 125/2 125/6 125/11 138/17
 150/10
 IAD [13] 13/16 13/17 13/18
 38/19 83/25 84/8 85/4 85/7 86/3
 86/3 86/5 86/7 86/21
 ice [1] 122/4
 ID [5] 23/8 36/23 37/6 38/1
 38/2

idea [11] 72/16 76/11 76/20
 80/23 81/1 81/3 91/4 91/5
 112/11 123/6 123/8
 identification [7] 31/13 37/9
 38/8 38/10 48/21 48/22 84/14
 identified [3] 39/20 50/5 73/22
 identifies [1] 27/6
 identify [1] 5/7
 IDs [1] 39/7
 IID [1] 13/15
 III [6] 9/16 9/18 9/19 11/22
 12/19 13/3
 image [1] 144/25
 images [1] 32/12
 imagine [3] 47/7 128/7 139/23
 IMG [1] 144/16
 immediately [2] 119/10 135/15
 Impala [2] 12/3 85/4
 impeaches [1] 66/6
 impeachments [1] 64/14
 important [1] 113/17
 inactivity [1] 82/7
 incident [19] 18/15 18/18 18/25
 19/6 19/9 22/24 23/1 23/7 23/11
 23/14 23/22 25/24 59/15 83/13
 83/21 84/1 85/16 94/9 137/4
 incidents [1] 16/9
 included [1] 65/24
 includes [2] 8/9 73/25
 including [2] 57/12 146/21
 income [1] 82/24
 incoming [1] 10/20
 inconsistencies [3] 25/3 25/4
 25/7
 inconsistency [1] 46/24
 inconsistent [3] 47/22 66/10
 66/16
 inconveniencing [1] 147/8
 incorrect [1] 33/25
 INDEX [1] 150/1
 indicate [2] 27/21 41/17
 indicated [13] 4/6 26/4 28/11
 39/7 51/18 65/1 65/5 67/17 79/8
 92/25 128/10 138/2 148/7
 indicates [3] 31/2 67/17 147/19
 indicating [8] 5/1 31/19 38/16
 45/10 59/7 113/7 134/23 135/4
 indicative [4] 6/25 113/10
 132/23 132/25
 indictment [1] 83/21
 individual [2] 127/19 128/6
 individual's [1] 130/20
 individuals [1] 139/9
 indulgence [16] 22/3 22/10
 30/23 31/11 35/24 36/2 38/5
 39/17 41/13 44/6 44/9 48/15
 48/24 49/5 51/16 93/10
 information [21] 6/7 6/16 6/19
 6/24 7/11 8/4 11/7 11/17 18/1
 18/8 21/10 24/23 44/1 73/7 73/8
 85/8 86/2 86/4 86/8 110/21
 114/3
 initial [3] 10/9 11/2 142/1
 initially [2] 69/21 69/22
 initiative [1] 108/2
 injured [1] 33/25
 inside [3] 60/2 110/15 115/1
 installed [1] 12/5
 instance [3] 25/8 25/12 60/3
 instances [1] 59/8
 instead [1] 48/3
 instructions [12] 100/8 122/16

I

instructions... [10] 122/23
 145/15 146/21 146/24 147/3
 147/12 147/14 148/9 148/23
 149/4

interacting [1] 143/5
 interaction [2] 28/4 65/6
 intercept [4] 9/19 9/23 10/7
 11/24

interim [1] 72/5
 internal [2] 35/1 35/17
 interpretation [2] 46/9 46/14
 interrupted [1] 130/12
 interview [3] 84/4 141/20 142/1
 interviewed [2] 84/3 84/16
 interviews [1] 84/19
 introduced [2] 30/25 39/16
 investigating [1] 22/13
 investigation [29] 7/8 13/5
 21/9 23/5 24/1 24/12 24/18
 24/19 24/22 25/18 32/4 34/3
 46/9 51/19 51/23 52/15 52/17
 52/18 57/11 57/12 59/13 76/3
 95/21 109/21 109/24 110/23
 114/18 126/13 136/4

investigations [1] 95/24
 investigative [1] 141/10
 involved [5] 8/22 91/20 110/10
 112/5 112/11

involvement [1] 137/20
 involving [7] 8/1 8/23 18/15
 61/5 86/8 106/8 146/1

iPhone [1] 33/15
 iPhones [1] 18/8

Irby [3] 119/3 119/6 119/9

is [227]

issue [2] 46/10 47/12
 issued [2] 37/10 39/7
 issues [2] 124/10 148/8

it [225]

it'd [1] 132/25

it's [49] 4/18 5/12 6/25 9/20
 13/14 15/23 20/13 23/23 24/5
 27/24 32/13 32/14 33/23 35/5
 40/14 40/16 40/19 40/19 40/20
 40/20 41/2 45/2 47/2 47/11 58/8
 58/15 58/17 58/17 60/9 62/24
 66/20 66/20 67/18 69/19 90/23
 91/3 95/10 99/8 112/14 113/10
 121/8 132/25 134/12 139/23
 144/11 145/20 147/8 148/7 149/2

items [1] 37/14
 its [1] 98/17
 itself [1] 142/4

J

J. [1] 1/18

jail [3] 22/17 25/13 73/16
 jail call [1] 25/13
 jail calls [2] 22/17 73/16

James [4] 68/13 68/15 68/20
 150/5

JAMES KOSTOPLIS [3] 68/15 68/20
 150/5

January [9] 21/16 21/18 21/20
 71/21 82/22 87/14 87/16 93/4
 107/24

Jared [1] 84/18
 Jared Stern [1] 84/18

jeans [1] 128/8
 Jeep [1] 92/4

Jenifer [1] 2/5

Jenifer Wilks [1] 12/5

Jenkins [64] 18/16 28/9 34/1
 34/2 41/25 42/3 42/18 42/18
 45/11 45/21 52/23 57/19 65/5
 65/6 65/17 70/14 70/25 71/7
 71/10 72/7 72/20 74/3 74/12
 74/19 74/24 74/25 75/10 75/23
 76/1 76/7 76/8 76/16 76/25 77/2
 77/11 77/17 80/15 80/18 80/21
 81/15 81/24 82/6 82/6 83/13
 85/11 85/22 85/22 87/3 87/4
 87/8 87/18 88/12 88/15 89/5
 89/15 90/2 90/10 90/17 91/1
 93/17 94/14 96/16 143/4 143/10

Jenkins' [1] 74/22

Jensen [16] 2/8 3/10 3/15 3/17
 3/23 23/24 24/16 30/25 52/7
 57/9 60/25 84/4 142/1 142/9
 142/19 150/4

Jersey [4] 69/17 69/19 79/21
 93/16

Jesus [1] 135/1

jewelry [5] 15/10 15/25 134/13
 134/14 135/11

JG [6] 109/15 117/4 117/6 117/7
 117/9 127/4

JG-1 [4] 117/4 117/6 117/7
 117/9

JG-3 [1] 109/15

Jimmie [41] 109/5 109/13 109/18
 111/20 112/2 112/12 113/14
 114/3 114/20 114/21 114/23
 115/5 115/10 115/12 115/14
 115/16 115/21 115/23 116/17
 116/19 116/22 116/23 116/24
 117/18 119/5 119/21 126/14
 126/19 131/24 132/17 133/21
 133/23 134/1 135/4 135/5 135/11
 135/12 135/18 138/21 139/1
 139/12

Jimmie Griffin [31] 109/5
 109/13 114/3 114/20 114/21
 114/23 115/5 115/10 115/12
 115/14 115/16 115/21 116/19
 116/22 116/23 116/24 117/18
 119/5 126/14 131/24 133/21
 133/23 134/1 135/4 135/5 135/11
 135/12 135/18 138/21 139/1
 139/12

Jimmie Griffin's [8] 109/18
 111/20 112/2 112/12 115/23
 116/17 119/21 132/17

jobs [1] 27/18

John [1] 2/9

John Sieracki [1] 2/9

join [4] 69/7 125/24 126/3
 146/4

joined [4] 69/9 71/11 71/18
 79/6

joke [1] 94/10

Joppa [1] 14/21

Jr [1] 2/2

JUDGE [7] 1/11 14/16 14/16
 14/17 58/13 63/12 145/25

judgment [2] 106/7 146/1

July [7] 5/11 5/16 5/22 8/15
 16/18 16/19 45/3

July 14th [3] 5/11 5/16 16/19

July 23rd [2] 5/22 45/3

July 8th [1] 16/18

jumped [2] 127/24 128/18

June [2] 4/16 7/13

June 24th [1] 4/16

jurors [1] 122/6

jury [37] 1/12 3/8 3/13 6/14
 9/18 46/17 58/1 58/7 63/9 63/12
 64/19 68/8 68/9 81/1 85/9 97/20
 98/19 98/20 106/17 106/19 107/1
 113/1 114/23 121/23 122/2
 122/23 124/6 124/19 128/5
 133/25 137/6 144/14 145/14
 146/11 146/21 148/21 148/23

jury's [1] 52/15

just [125] 3/23 4/25 9/18 13/24
 15/15 17/13 20/12 21/1 21/12
 24/4 24/8 26/12 28/3 32/11 35/3
 35/5 38/14 38/21 40/19 40/20
 40/20 41/2 43/24 44/5 45/11
 45/23 46/2 46/21 47/3 47/9
 47/12 48/2 48/3 48/9 48/19
 48/22 49/1 52/4 52/7 57/9 58/6
 58/24 59/3 59/21 60/8 60/9
 60/22 60/25 61/7 62/11 62/15
 63/12 63/13 64/18 64/24 65/18
 66/13 67/1 67/9 71/5 71/8 71/24
 72/19 74/20 75/13 76/5 76/20
 81/19 83/13 84/21 84/21 85/9
 85/10 86/23 87/3 87/4 87/8 87/8
 94/19 97/14 98/18 105/25 106/6
 107/25 113/2 114/9 117/3 118/5
 118/13 118/17 120/21 121/8
 122/2 122/6 122/14 123/19
 124/16 128/5 128/8 129/6 129/7
 129/7 129/8 130/1 130/17 130/17
 133/25 134/3 134/7 134/11
 134/12 136/5 137/6 138/13
 138/19 139/8 141/9 144/13
 145/13 145/17 145/25 147/9
 147/23 148/5 148/14

K

K-O-S-T-O-P-L-I-S [1] 68/20

K9 [19] 111/2 111/3 111/6 111/7
 130/5 130/6 130/6 130/10 130/18
 136/2 136/3 136/5 137/8 137/11
 137/15 137/16 137/24 138/3
 139/16

K9s [1] 130/9

keep [7] 46/17 120/23 129/6
 136/17 145/24 147/7 147/14

keeping [2] 76/5 134/4

Kerrigan [1] 2/10

kilo [6] 65/2 67/15 67/16 67/18
 67/20 112/20

kilo press [1] 112/20

kind [14] 12/2 13/8 38/8 59/2
 72/7 75/13 76/19 79/21 79/25
 81/16 83/18 132/16 134/4 139/6

King [1] 92/3

knew [2] 25/10 25/10

know [117] 4/24 5/3 5/4 5/17
 5/20 5/20 7/18 15/13 15/17
 17/21 20/1 20/23 21/6 21/7
 21/11 21/11 23/6 24/6 24/21
 25/21 26/1 26/9 27/10 27/24
 28/1 31/4 31/22 32/9 32/16
 32/24 33/1 33/1 33/2 33/22
 35/13 37/21 37/22 38/18 40/20
 42/2 42/12 42/21 43/20 44/20
 45/20 45/22 46/7 46/9 46/12
 50/6 50/16 50/25 59/18 59/21
 62/12 62/13 62/13 62/24 62/25
 64/1 64/20 65/11 65/12 67/11

<p>K</p> <p>know... [53] 67/12 67/13 67/24 68/1 68/3 72/15 72/16 73/7 74/15 75/11 76/11 76/12 77/5 82/5 82/16 82/21 82/23 83/10 84/25 87/23 88/13 90/7 90/7 91/10 91/24 92/16 93/3 98/6 110/23 112/14 114/9 114/15 116/3 117/3 117/20 118/1 120/6 120/12 122/9 129/6 130/23 135/13 136/5 137/1 138/25 139/10 139/11 139/19 139/20 139/24 147/4 147/20 148/14 knowing [1] 99/24 knowledge [2] 80/22 135/8 knows [3] 23/25 59/11 77/7 Kostoplis [6] 68/13 68/15 68/20 69/3 78/10 150/5</p>	<p>length [2] 32/23 33/6 lengthy [1] 87/24 Leo [1] 1/18 Leo J. Wise [1] 1/18 less [1] 123/11 let [15] 61/20 64/19 68/3 79/5 84/12 86/23 98/3 118/5 122/15 128/1 130/8 133/17 140/15 141/25 142/14 let's [5] 11/13 68/2 88/7 89/23 148/14 letting [1] 64/1 level [2] 76/4 131/18 Lexington [2] 91/25 92/1 Lexington Terrace [2] 91/25 92/1 liaisons [1] 17/7 lieutenant [1] 82/13 lieutenant's [1] 77/4 light [6] 106/15 110/16 122/23 129/1 147/23 147/23 lights [1] 129/2 like [90] 3/10 12/12 12/18 13/24 19/11 20/1 20/7 20/8 20/11 20/11 20/13 20/14 21/17 22/24 26/7 26/16 40/2 40/20 40/20 41/1 43/16 44/25 46/8 48/18 50/17 51/9 58/17 61/13 61/25 62/18 71/14 71/14 71/16 72/5 72/19 74/9 75/13 75/14 75/14 75/16 75/16 76/2 76/3 76/3 76/4 76/12 76/19 77/7 78/23 81/17 87/8 88/5 91/12 94/20 94/20 95/23 95/24 96/21 98/7 99/2 111/15 114/25 118/21 121/19 122/5 122/15 127/23 128/7 128/23 128/24 129/1 129/5 129/8 129/19 130/24 130/24 130/25 131/24 132/4 132/12 132/13 132/16 133/18 134/25 135/23 137/22 137/23 137/23 139/20 139/20 likely [1] 50/11 limited [2] 9/8 59/2 line [10] 4/22 9/10 9/23 15/19 16/20 17/10 20/20 44/24 59/22 139/10 Lisa [1] 108/24 list [1] 77/4 listed [10] 26/4 26/16 26/25 27/2 27/4 27/4 27/15 27/21 28/1 33/9 listened [4] 11/4 22/17 46/11 47/5 listening [4] 22/16 47/3 47/7 99/3 listing [1] 27/6 lists [1] 27/13 little [24] 16/18 20/17 22/13 22/15 40/2 40/10 40/20 40/20 40/21 40/21 41/1 41/2 72/3 72/4 75/1 75/3 79/24 81/11 83/6 94/16 145/22 145/23 147/6 147/9 Live [4] 16/14 16/18 16/22 17/9 lived [1] 49/20 lives [1] 51/6 locate [2] 42/11 129/16 located [11] 15/10 36/6 39/21 40/25 41/9 49/17 65/1 110/2 114/21 114/24 114/25 location [15] 6/12 7/5 8/12 85/12 110/16 113/12 114/4 114/8</p>	<p>114/11 131/5 131/9 131/9 131/10 133/4 133/5 locations [1] 39/25 locker [1] 32/17 log [1] 33/9 logs [1] 72/14 Lombard [1] 1/24 long [18] 12/14 19/16 63/24 70/15 71/15 80/4 80/8 93/22 97/20 107/19 112/14 122/12 122/20 126/6 128/10 142/16 147/4 148/14 longer [2] 7/22 12/11 look [12] 19/21 19/22 37/18 38/22 43/24 61/23 62/1 65/16 67/21 72/25 85/16 121/10 looked [13] 16/8 16/10 19/22 20/6 23/13 31/13 31/14 34/23 37/14 37/19 41/15 44/12 131/24 looking [9] 8/18 35/11 39/14 44/8 47/4 73/5 92/4 106/14 147/15 looks [2] 121/19 134/25 lose [1] 146/15 lost [2] 20/14 39/12 lot [7] 5/9 24/6 24/18 59/16 77/5 148/8 148/8 Lots [1] 18/8 loud [1] 84/21 Lowe's [2] 3/24 4/2 lower [1] 131/17 luck [1] 140/1 Luke [1] 136/21 lunch [7] 63/25 98/3 121/11 121/12 121/19 122/17 123/18 Luncheon [1] 121/24 Luther [1] 92/3</p>
<p>L</p> <p>lack [1] 65/25 ladies [4] 98/15 121/18 144/9 146/18 lady [1] 133/13 language [1] 76/10 lanyard [1] 38/9 large [9] 15/4 15/7 16/8 62/6 78/3 112/19 116/10 127/19 130/24 last [21] 6/2 10/15 26/17 26/19 30/22 34/11 34/19 47/4 60/8 63/23 64/2 68/19 107/10 117/1 125/5 125/7 126/8 140/25 141/1 142/2 142/2 lastly [1] 58/24 late [4] 7/10 52/24 71/18 147/7 later [9] 28/3 35/23 46/12 50/5 71/5 143/1 145/22 145/23 148/3 latter [1] 141/16 law [10] 9/12 11/8 13/4 18/1 59/3 59/6 69/5 76/13 76/14 146/24 law enforcement [9] 9/12 11/8 13/4 18/1 59/3 59/6 69/5 76/13 76/14 lawful [1] 14/18 lead [2] 32/3 119/7 lead settlement [1] 119/7 leading [2] 99/15 119/14 leaks [3] 52/17 52/21 57/11 learn [1] 24/2 learned [4] 16/24 18/6 24/1 116/7 least [10] 17/21 27/21 47/6 49/15 80/22 82/16 108/17 113/4 114/15 132/14 leave [14] 42/7 57/21 71/12 71/14 71/15 74/5 75/7 75/11 83/19 89/25 90/10 111/22 119/21 124/17 leaves [1] 90/5 leaving [4] 93/15 111/17 137/21 137/23 led [1] 133/17 Lee [6] 110/21 111/9 111/24 119/16 130/20 130/21 left [18] 33/16 33/17 63/9 69/10 69/13 71/24 75/3 79/17 82/7 88/16 90/8 98/20 114/7 121/9 121/23 132/3 137/25 142/19</p>	<p>M</p> <p>M. [2] 40/3 40/22 M. Taylor [2] 40/3 40/22 ma'am [4] 3/16 48/13 100/7 106/4 made [8] 59/16 62/21 95/1 95/8 95/15 95/18 110/20 131/9 Magistrate [2] 14/16 14/17 Magistrate Judge [2] 14/16 14/17 mailed [1] 65/14 maintained [1] 136/15 major [1] 47/11 majority [1] 82/3 make [11] 11/1 35/5 36/22 60/9 64/4 79/24 97/15 106/7 106/11 117/3 138/19 Malibu [1] 12/4 man [1] 109/10 managed [1] 82/18 manner [1] 99/15 many [6] 7/16 99/7 112/11 115/9 132/11 134/13 map [2] 20/6 20/9 March [13] 12/17 12/24 13/8 52/9 52/21 57/13 77/23 84/15 86/2 86/17 126/4 141/16 141/16 March 1st [6] 12/17 12/24 13/8 77/23 86/2 86/17 March 24th [1] 141/16 March 27th [1] 126/4 March 2nd [1] 84/15 MARCUS [5] 1/6 2/3 23/17 25/19 144/19</p>	

M		
<p>Case 1:17-cr-00106-CB Document 171 Filed 08/17/18 Page 163 of 173</p> <p>Marcus Taylor [3] 2/3 23/17 25/19 marijuana [3] 18/17 19/1 136/9 marked [6] 23/8 84/13 109/8 109/15 112/22 134/15 Martin [1] 92/3 Martinez [1] 109/1 MARYLAND [10] 1/1 1/10 1/25 16/14 16/18 21/7 49/23 50/4 50/25 51/14 Maryland Live [2] 16/14 16/18 material [1] 113/9 matter [5] 3/6 34/19 80/25 141/10 150/20 matters [1] 146/20 Matthew [6] 2/10 84/17 140/19 140/21 141/1 150/14 Matthew Kerrigan [1] 2/10 MATTHEW SMITH [3] 140/21 141/1 150/14 Maurice [1] 42/6 Maurice Ward [1] 42/6 Maxwell [1] 125/6 may [33] 7/6 7/6 11/9 11/9 12/11 13/1 28/16 33/9 35/1 39/3 39/13 39/13 45/13 49/1 52/25 63/13 68/22 79/18 97/11 100/11 106/22 107/5 109/20 117/1 123/12 123/18 134/7 138/14 141/4 142/12 144/11 148/11 148/12 maybe [35] 7/21 10/17 13/24 18/3 19/5 20/11 20/11 21/16 24/8 25/13 26/2 32/6 32/8 47/18 50/12 51/10 61/18 65/10 71/16 72/5 72/13 72/14 72/18 73/6 87/16 98/2 114/12 127/23 128/7 128/13 129/19 131/8 132/12 133/20 134/13 me [37] 8/10 13/17 26/7 26/20 32/10 38/22 44/18 57/15 61/20 64/1 65/14 74/8 74/24 78/1 78/3 79/5 84/12 85/11 85/12 86/12 87/20 100/8 108/16 118/5 118/14 122/6 122/14 128/1 130/8 134/7 134/10 137/8 140/15 141/25 142/14 146/24 147/3 mean [31] 13/1 22/22 23/7 24/20 25/10 28/14 33/3 33/8 35/13 40/17 41/1 41/16 46/15 47/2 47/11 51/9 59/6 61/17 64/20 65/11 65/19 86/10 87/1 87/19 92/23 95/6 111/5 122/14 128/12 129/3 131/10 meaning [2] 14/6 113/19 means [2] 47/21 98/15 meant [4] 39/11 46/5 46/10 95/10 meantime [1] 68/6 meet [2] 108/24 148/25 meeting [8] 83/16 85/11 86/11 108/16 118/13 118/17 141/17 141/24 meetings [2] 78/23 78/25 members [3] 73/22 84/9 85/23 memorialized [1] 51/11 memories [1] 51/7 memory [3] 39/12 65/19 65/20 men [1] 52/18 mentioned [1] 82/6</p>	<p>messages [1] 9/21 messed [1] 34/3 met [7] 78/12 78/18 85/22 108/10 108/16 108/23 118/23 metal [1] 41/7 microphone [18] 11/25 12/5 12/9 12/14 12/16 22/4 22/4 44/16 49/8 57/23 58/4 58/21 68/18 107/9 118/14 125/4 138/14 140/24 mid [2] 60/7 70/19 mid-August [1] 60/7 middle [11] 10/16 26/11 49/21 49/23 50/4 50/7 50/24 51/6 51/7 51/13 87/15 middle end [1] 87/15 Middle River [8] 49/21 49/23 50/4 50/7 50/24 51/6 51/7 51/13 might [8] 12/4 18/21 72/4 121/11 134/8 145/11 145/22 147/6 miles [1] 122/11 mind [4] 26/12 98/5 146/14 147/14 Minus [1] 144/2 minutes [6] 88/23 98/19 108/17 114/12 123/8 128/14 Miranda [1] 26/22 Miss [1] 119/3 Miss Irby [1] 119/3 missed [1] 113/23 missing [1] 15/8 moment [2] 33/24 138/11 Monday [1] 146/11 money [35] 15/4 18/16 18/23 19/7 20/11 20/14 25/7 25/8 25/23 61/25 76/5 77/17 78/3 78/4 80/22 81/4 86/13 116/22 119/18 120/1 120/4 120/10 120/12 120/16 120/18 120/19 120/23 127/22 127/24 128/17 128/18 130/24 138/20 138/25 139/11 monitor [2] 10/20 12/21 monitored [3] 11/6 12/18 12/20 monitoring [3] 6/12 11/5 12/20 month [4] 6/10 62/16 70/17 136/16 monthly [2] 136/15 136/16 months [11] 11/23 42/8 70/16 71/5 71/8 71/16 71/18 93/23 93/25 99/7 136/13 Monument [1] 108/2 Monument Street [1] 108/2 Moore's [3] 76/24 77/8 77/9 more [11] 17/22 32/10 50/11 59/21 65/9 73/8 83/6 132/14 139/7 139/9 147/9 morning [23] 3/3 3/14 12/7 22/8 22/9 34/6 50/11 50/13 61/13 61/14 65/16 69/3 69/4 93/13 93/14 118/11 118/12 122/5 122/10 122/18 145/17 147/18 147/25 most [5] 13/1 106/15 141/15 142/8 142/9 mother [1] 62/7 mother's [2] 61/24 62/3 motion [3] 106/7 106/11 146/1 motions [2] 64/3 106/14 move [3] 33/4 79/21 98/7 movie [2] 31/15 32/13</p>	<p>Moyé [2] 122/6 148/1 Mr. [1] 49/15 Mr. [96] 3/5 3/19 5/23 6/22 6/25 7/12 7/18 7/24 8/5 8/12 8/24 8/25 9/7 11/16 11/16 11/22 14/22 15/1 16/24 17/4 17/16 17/19 18/10 18/24 22/4 26/23 28/4 31/14 35/17 36/6 36/18 38/11 39/1 41/19 41/20 49/16 52/7 57/22 58/20 58/22 60/21 60/25 61/4 61/6 61/21 61/22 61/24 63/17 63/19 78/6 78/18 83/20 98/11 98/22 99/3 99/3 99/7 100/6 100/12 106/1 106/8 106/12 107/4 107/6 108/17 118/8 118/14 118/23 119/9 119/24 120/12 120/15 120/22 121/2 121/13 123/1 123/6 124/9 124/24 124/25 125/11 126/19 133/6 138/7 138/10 138/17 140/10 140/12 140/15 141/18 143/9 143/16 143/23 143/24 146/2 146/4 Mr. Gondo [3] 9/7 141/18 143/9 Mr. Gondo's [1] 11/22 Mr. Griffin [4] 119/9 119/24 120/12 133/6 Mr. Griffin's [1] 120/22 Mr. Hamilton [1] 16/24 Mr. Hersl [23] 6/22 7/18 8/12 8/24 8/25 14/22 17/4 17/16 17/19 18/10 61/6 61/21 61/24 63/17 99/3 99/7 106/8 107/6 118/23 120/15 124/24 140/12 146/2 Mr. Hersl's [5] 6/25 7/12 8/5 15/1 61/22 Mr. Hines [4] 11/16 58/22 118/8 118/14 Mr. Iacovo [3] 124/25 125/11 138/17 Mr. Jimmie Griffin [1] 126/19 Mr. Nieto [3] 138/7 140/15 143/23 Mr. Purpura [14] 3/5 3/19 22/4 52/7 57/22 60/21 78/6 98/22 100/6 107/4 121/2 123/6 140/10 143/16 Mr. Purpura's [1] 58/20 Mr. Rafter [1] 108/17 Mr. Shawn Whiting [1] 26/23 Mr. Smith [1] 121/13 Mr. Stepp's [2] 31/14 35/17 Mr. Taylor [14] 36/6 36/18 38/11 41/19 41/20 49/16 63/19 99/3 100/12 106/1 106/12 124/9 143/24 146/4 Mr. Taylor's [1] 39/1 Mr. Ward's [1] 18/24 Mr. Whiting [1] 28/4 Mr. Wise [9] 5/23 7/24 11/16 60/25 61/4 78/18 83/20 98/11 138/10 Mr. Wise's [1] 123/1 Ms. [13] 22/2 49/7 64/12 65/14 93/9 99/4 119/9 122/6 123/10 123/25 138/7 144/8 148/1 Ms. Irby [1] 119/9 Ms. Moyé [2] 122/6 148/1 Ms. Wicks [9] 22/2 49/7 64/12 65/14 93/9 99/4 123/10 138/7 144/8</p>

M
 Ms. Wicks' [1] 123/25
 much [20] 9/2 9/13 52/22 59/19
 72/9 73/24 80/2 82/21 83/10
 99/15 116/3 116/7 117/20 118/4
 120/12 137/19 137/24 138/25
 139/10 148/10
 multiple [2] 57/11 58/1
 must [1] 51/6
 my [36] 13/14 24/10 27/2 37/1
 37/3 47/4 47/9 48/3 48/10 48/14
 75/7 75/8 76/10 82/24 86/6 88/4
 98/2 98/5 99/21 100/7 100/8
 107/21 123/22 125/6 128/7
 128/21 136/12 137/15 137/16
 137/19 137/24 139/9 141/1 142/2
 146/14 147/14
 myself [6] 58/22 75/23 112/16
 114/15 130/10 133/9

N
 name [16] 62/2 62/3 68/19 68/19
 107/10 107/10 125/5 125/5 125/6
 125/7 130/20 136/20 140/25
 140/25 141/1 141/1
 named [2] 119/2 119/16
 names [2] 17/8 112/14
 nametag [1] 40/21
 nametags [4] 40/8 40/24 41/1
 41/4
 narcotics [2] 108/4 108/7
 National [2] 137/21 137/24
 National Guard [2] 137/21
 137/24
 naturally [1] 129/7
 near [2] 49/17 91/16
 necessarily [1] 66/25
 neck [1] 135/6
 need [6] 32/6 48/1 98/18 122/13
 144/4 146/20
 needed [2] 17/7 137/10
 neighborhood [1] 19/25
 neighborhoods [3] 59/20 59/23
 73/8
 neither [1] 47/16
 nervous [1] 79/24
 never [4] 19/2 78/12 78/14
 146/14
 new [5] 15/15 72/18 79/21 93/16
 126/7
 New Jersey [2] 79/21 93/16
 news [1] 147/16
 next [7] 34/6 46/7 76/7 88/12
 88/14 115/12 137/14
 Nieto [4] 2/4 138/7 140/15
 143/23
 night [13] 34/6 34/7 34/11
 34/19 45/21 47/4 49/16 60/7
 78/1 92/16 92/22 92/23 92/24
 nights [1] 50/9
 no [95] 1/4 5/4 5/4 6/9 14/3
 14/3 14/8 14/8 15/10 15/22
 15/23 15/25 15/25 15/25 16/12
 16/12 20/3 20/20 21/10 21/25
 33/13 33/20 35/15 40/1 40/10
 43/16 51/24 52/1 60/17 63/2
 63/4 65/4 72/17 74/16 76/10
 78/13 78/15 78/17 80/10 80/24
 84/11 85/10 85/10 85/10 86/23
 89/21 91/18 92/7 93/8 94/1
 96/23 96/25 97/3 99/22 108/22

111/23 115/8 116/5 116/11
 116/13 116/18 116/21 117/25
 118/2 118/3 118/6 118/7 118/22
 119/4 119/8 119/11 119/13
 119/22 120/11 120/14 120/25
 122/25 135/22 135/24 137/5
 138/5 138/6 138/9 138/22 138/24
 139/2 139/13 140/12 143/17
 143/19 145/9 146/12 147/15
 147/15 147/16
 No. [8] 36/5 36/23 37/7 38/24
 84/14 109/9 112/23 134/16
 No. 224 [2] 36/23 37/7
 No. 244 [1] 36/5
 No. 926 [1] 38/24
 Nods [1] 90/4
 nonpertinent [1] 11/3
 noon [4] 110/3 122/16 127/17
 127/18
 North [2] 69/17 92/9
 North Jersey [1] 69/17
 Northeast [6] 69/23 69/25 79/14
 79/15 93/19 93/25
 Northeast District [4] 69/23
 69/25 93/19 93/25
 NORTHERN [1] 1/2
 not [140] 4/9 6/9 7/6 7/15 8/19
 8/19 8/25 9/2 9/4 9/11 9/13
 11/9 12/13 12/20 14/1 14/25
 15/18 16/16 16/20 16/23 17/6
 17/6 17/8 18/11 18/20 19/23
 21/16 23/13 23/22 24/5 26/4
 26/6 26/6 26/16 26/25 27/3 27/4
 27/4 27/20 28/1 28/11 31/23
 32/25 33/19 33/20 34/2 34/13
 34/22 35/6 37/17 39/13 40/14
 40/18 40/19 41/2 42/11 43/21
 44/4 44/5 46/2 46/3 46/24 47/15
 47/22 47/24 48/10 50/8 51/20
 51/24 52/12 58/15 59/1 59/16
 61/1 61/9 61/16 62/25 63/17
 63/19 66/5 66/20 66/25 72/9
 73/24 75/1 78/20 80/2 82/15
 82/15 82/23 83/12 83/20 84/21
 85/8 85/24 86/5 87/1 87/13
 87/17 87/23 88/4 89/1 89/12
 89/12 89/14 90/5 90/7 90/8
 91/22 91/22 92/2 92/16 92/23
 92/24 95/2 95/10 96/18 96/23
 97/9 97/23 97/24 106/3 114/3
 115/1 115/7 116/5 119/22 120/24
 130/1 130/10 133/11 135/20
 138/2 139/8 142/9 145/24 147/11
 147/11 147/12 147/13
 notation [1] 43/10
 note [2] 66/18 142/24
 note-taking [1] 142/24
 notes [10] 47/4 65/16 65/17
 65/25 66/13 66/20 66/21 66/25
 141/21 142/2
 nothing [9] 16/12 60/18 72/11
 78/5 78/16 121/3 140/3 140/5
 143/15
 notified [1] 110/14
 notwithstanding [1] 65/25
 November [15] 108/9 109/4
 109/21 112/9 119/15 126/7 126/9
 126/13 126/21 126/25 135/25
 136/19 136/22 137/7 139/15
 November 28th [3] 135/25 136/22
 137/7
 November 5th [7] 108/9 109/4

109/21 112/9 119/15 126/13
 126/25
 now [36] 6/10 8/4 9/15 13/8
 16/13 17/13 17/16 18/15 28/8
 35/12 47/24 48/3 52/15 69/24
 71/8 72/24 73/22 74/3 77/16
 85/22 87/11 88/13 89/13 98/15
 99/24 108/5 108/6 109/14 112/8
 112/22 116/10 119/14 135/25
 138/4 143/1 148/1
 number [14] 5/9 5/9 5/17 5/18
 5/21 10/14 32/22 33/10 33/11
 33/13 33/15 44/20 45/1 117/3
 numbers [3] 39/6 39/7 39/11

O
 o'clock [9] 13/21 13/22 61/13
 63/24 121/8 121/20 145/24 147/6
 149/1
 oath [2] 3/15 67/20
 objection [4] 31/21 52/25 58/13
 77/19
 obtain [4] 6/7 6/15 6/17 8/4
 obtained [5] 12/23 14/12 14/13
 23/4 23/5
 obviously [9] 17/25 62/8 86/7
 86/17 99/3 138/2 145/19 148/1
 148/7
 occasion [1] 61/10
 occupation [1] 125/11
 occur [1] 52/21
 occurred [4] 23/11 23/15 86/22
 122/14
 occurring [1] 59/19
 occurs [1] 91/11
 October [13] 6/11 70/4 70/7
 70/13 70/20 71/2 71/11 71/18
 71/25 72/22 82/21 95/8 95/12
 October 2006 [1] 95/8
 October 2016 [3] 70/20 72/22
 95/12
 odor [1] 111/7
 odors [1] 136/9
 off [19] 7/1 31/6 33/14 35/25
 38/13 41/24 74/5 81/15 96/14
 98/6 109/24 127/25 128/19
 128/20 134/9 135/5 138/21
 138/25 142/14
 office [8] 74/8 87/21 87/22
 87/24 88/1 88/5 88/22 148/2
 officer [29] 22/23 27/19 65/23
 65/23 68/13 68/15 69/3 78/10
 79/2 80/13 84/17 86/8 93/13
 113/6 113/7 124/10 126/6 130/5
 131/21 131/23 132/2 132/3 133/7
 133/8 134/4 134/21 140/19
 140/21 142/21
 Officer Chambers [1] 132/3
 Officer Fillion [1] 133/8
 Officer Fox [1] 130/5
 Officer Frasier [1] 131/23
 Officer Gondo's [1] 65/23
 Officer Hendrix [1] 65/23
 Officer James Kostoplis [1]
 68/13
 Officer Kostoplis [2] 69/3
 78/10
 Officer Matthew Smith [2] 84/17
 140/19
 Officer Sieracki [1] 142/21
 officers [22] 9/3 13/11 24/17
 24/19 24/21 25/20 27/5 27/6

officers... [14] 38/9 51/20
 79/24 85/7 96/3 96/6 115/7
 115/9 129/12 131/8 131/17
 132/11 132/14 133/7
 officers' [2] 17/8 49/12
 offices [1] 39/21
 official [3] 1/24 23/10 150/24
 oftentimes [1] 25/9
 oh [10] 19/6 22/5 26/6 48/21
 51/5 51/6 75/17 76/19 84/25
 124/15
 OID [1] 108/3
 okay [162]
 old [1] 70/10
 once [4] 23/13 69/24 120/6
 131/7
 one [59] 8/11 14/20 16/17 17/13
 17/22 17/23 18/21 19/4 19/4
 20/11 21/5 22/16 23/11 25/20
 26/1 31/18 33/4 33/9 41/10 46/5
 47/8 47/8 47/13 47/16 49/15
 50/14 50/14 50/17 58/20 60/7
 61/10 61/13 61/15 64/13 64/20
 64/20 65/3 65/12 65/14 73/18
 85/17 85/21 94/9 119/24 120/1
 124/5 124/9 129/4 131/17 131/17
 131/18 133/21 134/6 134/6 134/8
 134/10 134/13 134/25 140/16
 ones [3] 47/6 48/18 122/11
 ongoing [1] 51/19
 only [9] 18/11 23/13 61/10
 84/14 86/5 90/5 99/9 142/2
 143/5
 open [3] 20/8 97/16 147/14
 opening [3] 122/25 123/19 148/3
 operated [1] 59/18
 operational [1] 136/4
 opportunity [4] 86/17 86/19
 86/21 99/8
 order [7] 6/20 6/23 9/19 44/2
 82/12 94/22 124/15
 orders [1] 7/14
 originally [1] 69/9
 other [38] 8/17 15/16 15/16
 21/7 23/23 27/5 33/3 35/10
 43/21 59/18 60/2 62/2 64/24
 65/3 66/20 73/22 75/14 83/25
 84/8 85/22 94/9 94/19 96/3 96/6
 108/20 108/21 115/3 115/4
 118/24 122/10 127/5 129/12
 133/10 133/11 134/3 143/4 145/3
 147/17
 otherwise [1] 61/14
 our [9] 10/9 10/15 32/6 35/5
 60/6 82/4 130/1 145/3 145/25
 out [79] 5/5 5/15 11/16 17/4
 18/23 19/2 19/3 19/17 19/19
 21/7 21/13 34/24 35/16 35/23
 36/22 44/2 45/23 47/12 47/17
 64/15 64/16 64/19 66/14 71/4
 71/17 71/19 72/24 76/4 76/23
 77/1 77/12 80/6 81/22 81/23
 81/25 82/2 83/20 84/21 88/23
 88/24 89/2 89/16 89/18 89/22
 89/23 90/2 92/25 93/4 94/14
 110/16 110/16 116/1 116/3 116/7
 120/1 120/9 121/13 122/15
 123/25 124/3 124/5 127/21
 127/22 128/6 128/15 128/16
 128/17 128/18 129/1 129/2 129/9

130/16 133/17 133/18 134/6
 134/12 135/16 137/19 146/25
 out-of-Maryland [1] 21/7
 outgoing [1] 10/21
 outside [2] 83/16 115/2
 over [9] 42/24 88/6 91/24 92/3
 92/9 119/15 121/12 137/14
 147/11
 overlap [1] 12/11
 overnight [2] 12/6 51/9
 overseas [1] 125/19
 overt [1] 8/23
 overtime [20] 4/16 5/6 5/11
 5/16 5/25 6/3 6/8 8/6 42/22
 61/5 61/5 73/12 73/15 73/17
 73/19 82/19 82/21 82/24 83/5
 83/10
 own [2] 86/6 120/5
 owned [1] 50/3

P
 P.J. [1] 109/1
 P.J. Martinez [1] 109/1
 p.m. [13] 32/14 35/2 35/19 45/4
 98/20 107/1 121/23 121/25
 124/19 144/21 144/23 148/21
 149/8
 packaging [1] 113/9
 pad [1] 133/19
 page [13] 26/11 26/17 26/25
 27/4 31/18 44/11 44/20 45/2
 45/15 45/16 58/8 142/18 143/2
 Page 1 [1] 58/8
 Page 12 [1] 143/2
 Page 14 [3] 44/11 45/2 45/16
 Page 3 [1] 26/11
 Page 6 [1] 142/18
 pages [1] 142/16
 pants [4] 116/17 127/23 128/3
 135/19
 paper [5] 36/14 36/16 42/11
 60/10 60/15
 paperwork [2] 26/3 62/17
 paragraph [2] 26/19 84/22
 paraphernalia [1] 112/20
 pardon [1] 26/20
 park [1] 129/21
 parked [7] 50/1 50/17 50/21
 127/12 127/15 127/19 129/19
 parking [1] 133/19
 part [16] 17/18 26/5 27/3 27/17
 27/22 52/24 95/8 95/18 110/8
 112/5 131/22 137/8 141/10 142/1
 142/2 142/3
 parte [2] 3/5 3/7
 participants [1] 44/14
 particular [20] 6/8 7/1 8/5
 8/11 8/12 8/22 8/25 9/11 9/16
 10/21 13/5 13/11 35/6 61/4
 61/23 92/4 99/9 126/24 134/25
 142/15
 particularly [3] 59/12 60/1
 61/9
 particulars [1] 95/23
 parties [1] 144/11
 parts [1] 27/7
 pass [1] 107/23
 passport [1] 21/3
 past [6] 59/9 80/18 80/21 99/15
 145/24 147/6
 patience [1] 148/18
 patrol [5] 73/18 92/13 92/19

94/5 108/2
 Pause [2] 15/21 26/13
 pay [1] 43/15
 paychecks [1] 44/3
 paying [2] 139/7 139/7
 payments [3] 62/18 62/21 119/7
 pendant [2] 135/1 135/1
 pending [1] 110/23
 Pennsylvania [4] 45/22 46/23
 92/9 95/22
 Pennsylvania Avenue [2] 92/9
 95/22
 people [22] 20/15 22/17 24/17
 24/17 27/17 27/20 43/25 50/13
 73/8 80/1 80/23 81/4 87/25
 112/11 115/4 133/15 133/18
 133/20 133/21 134/3 139/8 147/7
 per [2] 62/5 139/20
 per se [2] 62/5 139/20
 percent [4] 27/11 87/17 89/14
 133/12
 perhaps [5] 18/22 64/5 121/12
 145/16 148/25
 period [18] 6/23 7/13 7/22 8/7
 42/25 69/23 72/21 73/10 73/12
 73/19 79/9 82/11 82/14 82/18
 95/25 127/21 132/3 136/1
 person [23] 8/18 32/5 34/22
 38/13 38/18 65/8 66/11 67/6
 68/5 78/16 83/25 91/21 91/24
 94/22 110/24 113/12 113/13
 117/1 117/15 120/13 120/22
 126/18 135/4
 person's [3] 18/3 50/14 61/7
 personal [5] 14/25 15/11 50/21
 89/7 113/11
 personally [1] 31/5
 persons [4] 72/15 72/25 73/6
 115/3
 pertain [1] 41/17
 pertaining [1] 22/20
 pertinent [5] 10/25 11/2 11/9
 11/13 27/7
 PETER [3] 125/2 125/6 150/10
 PETER IACOVO [2] 125/2 150/10
 phone [41] 6/19 6/21 7/3 7/6
 7/12 7/17 7/17 8/12 10/14 10/20
 11/23 18/11 18/12 31/7 31/15
 31/16 31/19 32/4 32/12 32/21
 32/22 32/25 32/25 33/2 33/14
 35/1 35/17 49/22 49/24 50/24
 50/24 51/7 51/13 75/8 75/12
 78/16 90/6 90/11 108/14 109/1
 116/15
 phone records [1] 35/1
 phones [8] 7/14 10/3 10/4 10/7
 10/21 17/19 17/21 17/25
 photo [1] 35/7
 photograph [5] 31/1 31/16 39/19
 40/14 127/4
 photographs [2] 18/6 31/14
 photos [2] 31/5 31/9
 physically [2] 108/10 110/2
 picture [10] 20/9 32/13 32/17
 34/6 34/25 35/15 35/18 35/25
 64/16 88/13
 piece [2] 41/2 65/20
 pin [1] 41/2
 Pinewood [8] 109/25 110/1 110/4
 110/15 114/2 114/11 127/7 131/3
 Pinewood Avenue [2] 127/7 131/3
 pins [1] 41/1

P

Pinto [1] 26/18
place [3] 33/4 51/10 114/8
placed [1] 116/24
places [2] 43/21 60/2
Plaintiff [2] 1/3 1/17
planned [1] 80/3
planning [1] 42/8
plans [1] 46/23
play [2] 47/2 47/9
played [1] 46/19
player [4] 17/1 17/1 17/4 17/5
please [26] 3/4 10/6 49/2 49/7
63/11 68/14 68/17 68/18 68/19
99/2 107/7 107/9 107/11 110/13
121/6 122/1 125/1 125/3 125/4
125/5 140/20 140/23 140/24
140/25 141/5 147/14
plus [1] 18/17
PO [1] 150/5
pocket [4] 116/4 116/8 120/2
120/5
pockets [1] 115/24
point [40] 5/7 14/5 14/20 19/16
23/4 23/9 47/12 47/13 47/13
48/21 61/7 64/5 66/14 69/24
73/25 74/3 87/8 87/18 88/10
88/19 88/24 89/2 89/17 91/6
91/7 91/7 92/18 96/7 110/19
110/20 114/6 114/7 116/5 130/3
130/15 131/4 131/20 131/21
132/2 132/8
pointed [2] 11/15 11/15
police [50] 5/9 12/15 12/24
13/11 15/19 15/20 15/24 22/20
22/23 23/10 23/14 27/7 37/10
38/10 39/4 39/5 39/8 39/21
42/16 43/3 43/9 43/24 44/17
59/21 59/22 68/15 69/6 69/7
69/9 69/15 79/1 79/23 80/5 80/8
80/13 83/25 84/17 86/8 90/11
91/8 93/15 93/16 107/18 115/7
115/9 126/1 126/3 136/10 138/3
143/4
policeman [1] 107/20
poorly [1] 36/12
pop [1] 94/20
portion [1] 41/16
portions [1] 142/9
posed [1] 23/25
position [4] 35/6 125/21 126/7
126/21
positive [3] 130/7 130/13
130/14
possibility [3] 122/13 147/5
147/19
possible [2] 38/13 147/8
PP [2] 4/15 5/23
prepare [1] 147/5
prepared [6] 78/20 78/21 97/14
111/25 131/2 145/23
preparing [1] 125/13
presence [2] 16/17 115/14
present [10] 2/7 63/21 65/15
114/20 115/20 117/24 118/1
125/12 141/12 141/16
presentation [1] 35/8
presented [1] 46/15
presenting [1] 98/17
Presently [1] 125/13
press [1] 112/20

presumably [1] 122/18
presume [2] 31/6 47/6
pretrial [2] 78/23 78/25
pretty [12] 13/22 62/17 80/4
88/14 88/14 89/6 123/7 127/21
128/13 137/19 137/24 148/10
previous [1] 48/14
PREVIOUSLY [1] 3/18
primarily [2] 9/8 51/4
printed [3] 32/14 36/12 145/1
printout [1] 32/11
prints [1] 33/15
prior [6] 14/13 21/14 49/13
62/16 93/15 119/10
probable [1] 118/24
probably [9] 12/10 35/25 51/15
51/15 62/9 62/15 114/9 115/11
148/9
problem [4] 45/18 45/18 59/18
64/23
problems [1] 79/23
proceedings [1] 150/20
process [3] 13/3 43/23 80/4
product [2] 113/18 113/19
proffer [7] 65/3 65/4 65/15
65/24 66/3 141/13 141/17
proffered [2] 28/15 106/16
prohibited [2] 72/15 72/25
prop [1] 47/21
property [3] 26/17 27/23 28/5
protective [1] 125/18
prove [1] 113/12
proves [1] 113/22
provided [4] 6/19 23/3 32/5
38/15
providing [2] 36/11 125/18
pull [4] 62/1 116/1 116/17
135/19
pulled [13] 7/21 7/22 22/20
22/22 22/23 23/1 23/3 24/20
116/3 116/7 119/15 127/18
128/22
purchases [3] 4/7 4/9 4/10
purely [1] 14/3
purposes [2] 64/3 134/4
Purpura [14] 3/5 3/19 22/4 52/7
57/22 60/21 78/6 98/22 100/6
107/4 121/2 123/6 140/10 143/16
Purpura's [1] 58/20
Purpura, [1] 2/2
put [18] 5/9 19/1 25/11 33/13
35/7 35/9 37/3 48/19 51/5 51/9
64/5 66/8 73/19 81/4 96/17
119/24 120/5 120/7
puts [1] 33/12
putting [2] 7/25 19/7

Q

quarters [1] 67/16
question [17] 5/11 23/24 23/25
27/2 30/22 35/8 46/8 48/14
58/20 60/8 61/20 76/9 77/17
117/1 122/3 124/7 146/8
questionable [1] 94/11
questions [23] 21/1 21/25 24/10
52/1 52/8 52/13 57/22 58/24
58/25 60/9 63/2 93/8 96/25
99/14 100/4 118/3 118/6 118/7
120/25 138/6 138/8 138/23
143/16
quick [7] 21/1 26/12 74/9 74/20
77/14 136/6 146/8

quickly [2] 3/23 79/5
quite [1] 73/16
R
R-O-M-E-O [1] 107/12
racketeering [5] 8/1 8/5 8/13
8/23 61/5
radio [4] 75/16 75/17 90/5
128/24
radios [1] 90/11
Rafters [2] 2/2 108/17
raid [6] 26/5 27/3 27/6 27/12
27/24 131/22
railroad [4] 69/15 80/5 80/8
93/16
rain [1] 147/19
raise [4] 68/14 107/7 125/1
140/20
raised [1] 124/11
ram [1] 27/13
ran [2] 10/13 12/16
ranges [2] 72/13 72/25
rather [2] 122/18 123/18
Rayam [7] 45/8 45/10 45/20
47/20 47/21 47/23 58/9
Rayam's [1] 45/21
RCR [3] 150/3 150/9 150/13
RDR [6] 1/23 150/3 150/9 150/13
150/18 150/22
reach [3] 32/7 35/4 35/8
reaction [3] 76/8 76/18 76/19
read [8] 24/4 26/6 26/7 26/12
83/21 84/21 84/22 85/18
reading [6] 26/17 26/19 26/20
26/22 146/24 147/16
ready [6] 3/8 63/22 67/8 68/8
98/24 123/21
real [6] 26/12 74/9 74/20 77/14
128/8 147/7
realized [1] 78/1
really [20] 6/14 28/2 28/6 50/8
50/22 72/9 73/24 80/2 80/2
86/25 87/7 91/22 92/2 92/24
94/21 95/23 96/23 122/10 127/23
128/2
Realtime [1] 150/23
rear [4] 27/13 75/21 75/24
133/7
reason [11] 17/7 20/18 26/23
72/19 76/25 77/3 79/20 128/2
134/7 134/11 148/4
reasons [3] 9/12 14/3 61/1
rebuttal [3] 123/1 123/2 145/8
recall [35] 7/15 15/18 18/24
21/5 23/3 25/21 38/14 39/10
39/14 40/5 40/8 49/24 52/10
52/13 57/15 57/24 60/13 62/4
82/15 84/16 85/3 86/5 87/11
112/19 114/14 116/1 126/16
130/24 132/20 134/7 135/20
136/22 137/6 137/18 139/25
receipts [4] 3/24 4/1 4/3 4/6
receive [2] 34/19 114/3
received [3] 19/6 44/2 119/6
receiving [2] 43/11 43/12
recent [1] 62/17
recess [6] 63/8 63/10 64/3
98/18 121/19 121/24
recognize [11] 4/15 4/23 5/13
5/14 5/24 6/5 109/10 109/15
117/10 126/17 127/4
recollection [6] 26/10 84/12

R

recollection... [4] 84/23 85/1
85/15 137/3

record [23] 23/20 24/5 28/18
32/2 45/14 53/2 63/16 64/4 64/5
68/19 96/3 97/13 99/20 99/22
100/14 106/1 107/10 121/7 125/5
140/25 145/7 145/25 150/20

recording [6] 44/16 46/19 46/20
58/7 58/8 96/10

recordings [4] 44/14 46/17 58/4
58/21

records [12] 8/18 21/4 34/25
35/1 35/17 39/6 39/10 41/17
42/16 43/24 119/2 119/12

recovered [13] 15/6 20/1 21/5
26/17 26/18 28/5 39/1 52/12
52/12 60/12 60/15 130/22 130/23

recovering [2] 20/21 27/23

RECROSS [1] 60/23

RECROSS-EXAMINATION [1] 60/23

rectum [2] 116/19 135/21

red [5] 113/21 113/23 132/19
132/21 132/23

redates [1] 33/5

redirect [4] 52/3 52/5 97/2
140/4

reference [3] 84/9 85/4 136/23

referenced [2] 26/25 28/3

referring [3] 49/19 86/10 86/14

reflect [2] 142/2 142/19

reflected [1] 43/19

reflects [2] 23/17 45/10

refresh [4] 26/10 84/12 85/1
85/15

refreshes [1] 84/23

regarding [3] 23/7 24/21 25/18

registered [4] 7/2 7/3 50/1
150/23

Reisterstown [1] 143/11

related [1] 24/16

relationship [1] 79/25

relatives' [2] 61/23 62/1

Relax [1] 86/20

relayed [1] 143/9

relevance [2] 33/22 33/23

relevant [1] 66/25

rely [1] 47/22

remain [3] 99/10 99/25 100/2

remember [52] 3/24 7/24 8/2
18/18 19/9 24/1 25/21 25/24
38/12 38/21 49/7 62/3 62/9 76/1
82/4 83/7 83/14 84/10 84/11
84/19 85/16 87/11 87/14 89/1
89/18 91/10 91/16 91/19 91/22
91/23 92/4 92/6 92/7 92/8 92/10
92/11 92/13 92/17 92/24 94/21
95/23 96/17 109/6 110/3 112/14
114/9 126/15 128/13 128/17
129/8 129/14 143/7

remembered [1] 128/2

remembering [1] 129/3

remind [1] 57/9

rendered [2] 130/7 137/25

renew [1] 145/25

renewals [1] 10/13

renewed [1] 146/6

rental [2] 11/25 12/1

replica [2] 37/6 37/15

report [27] 13/15 13/19 13/22
14/1 22/25 23/1 23/7 23/14

23/17 23/22 24/5 25/11 27/9
27/18 28/3 38/22 49/19 56/11
67/2 83/20 137/15 137/16 141/23
142/4 142/14 142/24 143/13

reported [5] 1/22 20/11 20/21
42/4 84/1

Reporter [4] 1/24 150/23 150/23
150/24

reports [15] 22/20 22/23 23/10
24/6 24/6 24/16 24/18 24/20
24/25 25/2 25/4 25/8 28/6 39/15
138/3

repossessed [1] 62/24

Republic [3] 41/20 60/11 60/16

request [2] 7/12 96/14

requested [1] 7/11

research [1] 147/15

residence [22] 14/22 18/13 28/1
39/1 40/8 40/25 41/9 50/6 50/16
50/22 50/25 60/7 111/17 111/20
112/2 112/6 112/12 114/2 114/7
119/21 120/22 128/11

residences [1] 49/13

residential [1] 9/8

residue [1] 111/16

resigned [1] 79/9

response [2] 34/19 63/4

responsible [5] 70/12 71/1 71/4
113/6 134/21

rest [8] 77/12 77/22 97/14
97/17 112/17 123/20 143/25
145/4

rests [2] 98/13 140/12

return [2] 132/7 146/11

returned [2] 69/11 132/8

review [4] 12/22 16/13 31/5
42/15

reviewed [4] 13/1 26/3 51/3
142/4

reviewing [2] 49/21 50/23

Reviews [3] 26/15 84/24 85/19

rid [1] 77/5

ride [6] 74/9 74/10 74/15 74/20
88/8 89/15

right [186]

rights [4] 26/22 99/1 100/5
106/2

riots [8] 69/10 79/13 79/17
79/24 80/3 80/4 80/6 136/12

risk [1] 9/2

River [8] 49/21 49/23 50/4 50/7
50/24 51/6 51/7 51/13

Road [3] 110/17 129/17 129/19

robbery [1] 35/14

role [2] 96/20 109/21

roles [1] 27/24

Romeo [11] 106/25 107/6 107/8
107/12 107/17 118/11 118/17
129/13 133/7 133/14 150/6

room [1] 98/19

ROOSEVELT [2] 1/6 144/19

rope [1] 135/1

roughly [4] 10/19 142/18 142/23
143/1

Rule [3] 106/7 106/13 146/1

Rule 29 [3] 106/7 106/13 146/1

rules [4] 81/2 81/3 99/21 99/21

running [1] 12/21

S

S-M-I-T-H [1] 141/2

SA [1] 150/4

safe [3] 117/21 117/24 118/1

safety [1] 148/6

safety [4] 14/3 27/19 27/20
134/4

said [50] 9/1 13/20 18/22 19/11
26/16 31/17 31/23 33/18 33/19
33/20 34/23 40/2 40/21 45/11
45/19 58/25 66/7 67/4 67/5
67/15 67/17 67/20 67/20 67/22
67/23 70/20 71/24 72/17 74/8
76/6 76/10 76/17 77/4 77/7 88/7
90/10 90/10 90/23 90/23 91/1
91/3 115/4 117/17 119/15 119/23
131/23 131/25 133/15 139/16
141/24

salaried [1] 43/12

salary [1] 43/17

Samara [1] 119/6

Samara Irby [1] 119/6

same [18] 5/11 13/3 17/6 18/25
20/4 43/12 63/18 90/15 92/16
92/22 92/23 92/24 106/11 108/7
109/3 109/22 116/14 137/13

sandwich [1] 111/16

Santiful [1] 136/23

saved [1] 137/17

saw [5] 40/13 62/17 77/22
128/10 133/25

say [31] 11/13 12/25 18/8 24/6
33/3 34/14 34/15 43/19 50/11
59/6 61/12 65/17 65/19 66/8
66/11 70/20 73/9 76/15 78/22
82/16 82/17 86/9 87/5 87/12
87/20 108/23 114/13 115/11
128/3 129/1 136/11

saying [6] 47/22 49/24 62/13
129/8 129/10 137/10

says [20] 4/25 23/25 26/17
26/19 27/12 32/19 32/21 37/8
37/24 37/25 38/1 38/2 46/16
46/20 47/13 47/13 66/12 89/22
90/2 90/18

scales [4] 112/20 113/17 113/18
132/18

scan [7] 111/6 130/6 137/11
137/12 137/15 137/25 139/16

scanned [1] 137/24

scans [1] 137/16

scene [2] 110/25 116/19

schedule [1] 97/22

scheduling [2] 63/13 122/3

screen [6] 7/25 17/24 18/12
37/4 48/3 48/19

screwed [1] 37/16

se [2] 62/5 139/20

Sealed [1] 3/7

search [34] 14/12 14/12 14/13
14/15 14/18 14/21 14/21 15/1
15/3 15/24 15/24 17/18 18/11
20/13 20/14 23/2 23/6 23/7
23/12 23/15 23/16 25/18 27/8
27/19 110/5 110/6 110/7 112/5
116/19 131/5 131/6 131/7 132/15
139/3

search warrant [13] 23/2 23/6
23/12 23/16 25/18 27/8 27/19
110/5 110/6 110/7 131/5 131/6
131/7

search warrants [6] 14/12 14/12
14/13 14/15 14/18 14/21

searched [9] 111/12 112/12
115/16 115/18 115/20 117/24

<p>S</p> <p>served... [3] 118/1 135/11</p> <p>135/19</p> <p>searchers [1] 27/15</p> <p>searches [1] 52/8</p> <p>searching [3] 25/20 26/1 139/5</p> <p>seated [11] 3/3 3/14 63/11 68/10 68/17 98/21 107/2 122/1 124/20 125/3 140/23</p> <p>second [9] 10/16 17/13 19/4 26/19 65/14 85/21 121/12 128/1 133/5</p> <p>second-to-last [1] 26/19</p> <p>secondary [2] 114/8 133/4</p> <p>section [2] 32/11 125/23</p> <p>secure [1] 27/25</p> <p>security [3] 125/13 125/16 125/18</p> <p>see [49] 3/5 4/22 15/11 15/13 16/25 17/1 25/2 27/12 27/15 38/16 42/24 43/20 47/11 47/14 60/1 61/7 61/17 61/17 61/24 68/2 72/14 73/6 73/7 77/11 78/2 84/12 84/22 85/12 86/12 94/10 96/22 99/4 106/19 111/22 115/23 119/21 121/6 122/9 127/17 128/15 129/22 129/24 132/4 139/3 139/3 145/5 148/14 148/19 149/7</p> <p>seeing [2] 121/8 127/5</p> <p>seemed [1] 20/5</p> <p>seems [2] 142/18 142/19</p> <p>seen [8] 31/22 32/4 43/21 59/14 59/24 111/17 129/3 131/23</p> <p>seize [3] 31/6 113/9 113/21</p> <p>seized [18] 15/10 17/18 17/21 18/17 25/7 38/11 38/18 112/20 113/3 113/4 113/15 113/19 117/17 117/20 132/20 134/8 134/14 135/5</p> <p>seizure [1] 17/18</p> <p>sent [1] 69/23</p> <p>separate [1] 3/7</p> <p>separates [1] 76/13</p> <p>September [3] 6/11 69/10 79/12</p> <p>September 13th [1] 69/10</p> <p>September 2011 [1] 79/12</p> <p>sequence [3] 5/9 5/17 5/18</p> <p>sergeant [35] 5/21 18/16 41/24 41/24 41/25 42/3 42/3 42/18 42/18 52/23 57/19 70/14 70/25 71/7 72/4 75/10 75/23 76/1 76/24 77/8 77/9 82/9 82/9 82/12 93/17 94/14 94/17 96/20 110/8 112/16 112/16 112/18 114/16 129/13 133/9</p> <p>Sergeant Bailey [1] 112/16</p> <p>Sergeant Bailey's [1] 112/18</p> <p>Sergeant Blackwell [3] 72/4 82/9 94/17</p> <p>Sergeant Burns [5] 110/8 112/16 114/16 129/13 133/9</p> <p>Sergeant Jenkins [14] 18/16 41/25 42/3 42/18 42/18 52/23 57/19 70/14 71/7 75/10 75/23 76/1 93/17 94/14</p> <p>Sergeant Moore's [3] 76/24 77/8 77/9</p> <p>Sergeant Wayne Jenkins [1] 70/25</p> <p>sergeants [1] 94/19</p>	<p>series [1] 52/8</p> <p>serious [2] 27/7 86/12</p> <p>serve [1] 69/5</p> <p>served [1] 136/3</p> <p>SES [1] 108/3</p> <p>session [4] 45/3 58/7 65/24 141/17</p> <p>Session 1745 [1] 45/3</p> <p>sessions [1] 141/13</p> <p>settlement [1] 119/7</p> <p>several [3] 4/3 7/14 42/8</p> <p>shall [2] 66/8 106/19</p> <p>shared [3] 11/10 11/17 13/6</p> <p>Shawn [4] 23/2 23/12 25/19 26/23</p> <p>Shawn Whiting's [3] 23/2 23/12 25/19</p> <p>she [18] 23/24 23/25 31/23 31/23 32/4 33/2 34/22 34/23 34/23 45/22 46/4 46/4 50/3 50/5 50/6 51/6 132/1 133/17</p> <p>she's [5] 31/22 46/11 47/5 47/7 47/22</p> <p>sheet [1] 149/6</p> <p>shoebox [1] 25/23</p> <p>shooters' [1] 72/14</p> <p>shooting [2] 72/15 93/5</p> <p>Shootings [2] 21/15 21/21</p> <p>short [8] 63/8 89/15 98/18 124/15 127/21 128/12 128/13 129/18</p> <p>shortly [6] 69/10 76/22 76/23 77/11 83/15 84/7</p> <p>shot [2] 72/16 73/2</p> <p>should [5] 4/19 43/10 43/14 82/13 123/8</p> <p>shouldn't [2] 63/24 64/23</p> <p>show [19] 31/15 34/25 35/17 36/16 38/22 44/11 44/18 48/2 48/9 67/1 84/13 109/8 109/14 112/22 119/2 119/12 127/3 134/15 144/13</p> <p>showed [4] 38/24 85/11 92/19 118/23</p> <p>showing [8] 23/8 26/10 30/25 36/4 41/15 117/9 126/17 134/19</p> <p>shown [2] 58/7 118/20</p> <p>shows [1] 34/7</p> <p>sic [4] 10/21 95/7 113/14 129/10</p> <p>side [8] 75/1 75/3 75/6 91/10 91/11 127/5 131/15 131/15</p> <p>Sieracki [3] 2/9 19/16 142/21</p> <p>signal's [1] 7/4</p> <p>signature [12] 4/22 4/23 4/24 4/25 5/13 5/14 5/20 5/22 5/24 6/3 6/5 6/9</p> <p>signatures [2] 5/4 5/8</p> <p>signed [2] 5/15 14/15</p> <p>silent [3] 99/10 99/25 100/2</p> <p>similar [2] 38/9 42/22</p> <p>simply [2] 122/9 144/10</p> <p>simultaneously [1] 14/11</p> <p>since [4] 51/22 59/18 62/24 108/1</p> <p>single [1] 47/7</p> <p>sir [33] 3/25 78/10 80/13 83/17 83/22 85/1 85/5 85/9 97/4 99/10 99/17 99/18 99/22 99/24 100/4 108/11 108/14 108/18 109/1 109/20 118/11 121/1 126/10 126/12 127/9 138/18 138/24</p>	<p>139/18 140/2 140/6 141/9 142/17 143/20</p> <p>sit [1] 89/20</p> <p>site [7] 6/19 6/24 7/17 8/4 8/7 49/22 50/23</p> <p>sites [1] 51/3</p> <p>sitting [5] 88/5 88/6 89/13 127/18 130/16</p> <p>situation [1] 99/9</p> <p>six [1] 136/13</p> <p>size [1] 128/7</p> <p>sleet [2] 122/4 147/19</p> <p>slightly [1] 128/7</p> <p>slip [4] 4/16 5/6 5/12 5/16</p> <p>slips [10] 41/23 42/7 42/9 42/11 42/17 42/22 42/22 44/5 60/10 60/15</p> <p>slow [2] 128/1 130/8</p> <p>Smith [8] 65/15 84/17 121/13 140/19 140/21 141/1 141/2 150/14</p> <p>snow [2] 122/4 147/19</p> <p>snow/sleet/freezing [1] 147/19</p> <p>snow/sleet/ice [1] 122/4</p> <p>so [143] 6/22 6/24 7/2 7/2 7/14 8/7 9/3 10/18 12/6 12/8 12/11 12/17 14/18 15/24 17/10 20/6 20/6 20/10 20/10 20/11 20/14 21/5 21/22 22/16 22/22 23/22 24/7 25/17 26/16 26/25 27/2 27/9 27/10 27/17 27/24 28/6 32/15 33/21 34/19 35/8 35/12 35/16 37/21 39/14 39/24 40/12 40/13 42/15 42/20 42/21 42/23 45/19 45/22 45/23 46/18 46/21 46/23 49/21 50/5 50/16 51/2 51/9 52/24 57/9 59/10 59/12 59/15 60/9 63/17 64/16 64/18 65/12 65/21 65/24 66/20 67/9 67/13 67/18 70/7 70/19 71/17 71/20 71/22 73/2 73/9 73/19 75/3 77/7 77/8 79/22 81/7 85/3 86/10 86/16 87/7 87/25 88/2 88/21 89/22 90/2 90/8 95/23 96/10 97/14 97/25 98/2 113/6 115/4 117/3 117/20 120/12 120/23 121/11 121/19 122/11 123/3 126/9 129/22 130/12 132/2 133/17 136/12 137/18 137/24 138/19 139/7 139/9 139/10 141/12 142/2 142/4 142/11 142/14 142/23 143/24 145/8 145/17 146/21 147/13 148/5 148/9 148/11 148/18</p> <p>some [47] 5/7 9/5 9/6 9/7 12/20 13/2 15/9 16/13 16/14 20/8 23/4 24/23 28/4 39/4 39/12 49/11 49/12 58/25 62/6 62/17 69/24 73/4 73/16 73/25 74/3 82/19 83/5 83/25 86/8 96/6 111/16 118/24 119/18 120/16 121/21 122/6 122/7 124/10 134/11 141/14 146/20 147/3 147/20 147/20 147/23 148/4 148/8</p> <p>somebody [2] 46/10 121/10</p> <p>somehow [2] 46/1 47/21</p> <p>someone [13] 5/12 11/4 12/22 23/23 25/13 43/3 43/9 59/14 61/15 91/20 119/15 129/14 143/4</p> <p>someone's [1] 9/20</p> <p>something [19] 12/12 21/17 24/1 37/17 39/12 46/8 62/7 66/9</p>
--	--	--

<p>S</p> <p>something... [11] 66/14 80/3 86/9 89/25 90/18 90/20 121/9 122/15 128/10 139/8 145/19 sometime [14] 6/10 7/19 10/16 10/18 12/8 13/23 21/17 71/21 79/18 79/19 83/15 83/18 83/24 114/2 sometimes [9] 6/20 9/20 17/25 33/4 50/1 50/18 51/10 88/23 94/19 somewhat [2] 18/20 43/8 somewhere [3] 43/10 146/15 147/7 soon [3] 63/22 79/17 92/25 sorry [16] 22/5 26/6 39/10 40/18 43/7 44/22 44/25 65/4 78/24 83/9 107/3 113/23 124/2 126/1 126/4 144/22 sort [10] 20/12 24/8 27/25 47/20 59/16 60/8 73/14 122/4 143/5 147/20 sound [1] 127/8 sounds [2] 21/20 65/9 span [1] 128/13 speak [12] 28/2 28/6 31/10 43/2 68/18 86/3 86/21 107/9 108/13 110/22 125/4 140/24 speaking [1] 79/2 special [17] 2/8 3/10 3/17 3/23 10/19 23/24 52/7 57/9 60/25 65/7 65/15 84/4 108/24 125/23 142/1 142/9 142/19 Special Agent [5] 2/8 3/17 10/19 65/15 108/24 Special Agent Jensen [10] 3/10 3/23 23/24 52/7 57/9 60/25 84/4 142/1 142/9 142/19 Special Enforcement Section [1] 125/23 specific [5] 27/18 32/12 43/25 61/5 65/20 specifically [7] 23/11 24/20 25/17 31/10 38/12 96/7 141/15 specifics [2] 37/22 39/11 speed [1] 92/14 spell [4] 68/19 107/10 125/5 140/25 spelled [1] 125/7 spit [1] 44/2 spitballing [2] 131/8 132/13 split [1] 136/13 spoke [7] 65/1 78/21 83/13 85/7 108/24 133/13 137/1 spot [2] 50/18 50/22 spotted [2] 59/10 60/6 squad [15] 76/24 77/1 77/8 77/9 84/9 85/11 85/23 87/23 94/3 94/9 96/13 109/22 112/18 114/15 133/11 stages [1] 141/16 stamp [1] 38/15 stand [5] 3/11 47/24 82/13 106/22 123/23 standby [1] 110/7 standing [9] 76/6 82/12 88/12 88/14 130/17 130/17 134/2 139/5 139/6 stands [1] 134/12 start [10] 10/8 73/5 76/3 107/22 122/17 122/20 142/14</p>	<p>147/24 148/11 148/13 started [5] 7/8 7/24 22/12 22/16 71/24 starting [1] 123/17 stash [1] 15/4 state [5] 68/18 107/10 125/4 137/10 140/24 State's [1] 79/2 stated [1] 26/23 statement [3] 85/9 118/24 144/10 STATES [11] 1/1 1/3 1/19 11/10 14/16 28/15 68/12 98/12 108/25 141/17 149/2 station [1] 91/8 stationed [1] 79/13 stay [5] 80/8 88/22 89/20 145/22 145/23 staying [3] 51/10 113/12 147/5 steal [1] 78/4 stenographic [1] 150/19 step [6] 24/3 24/10 63/7 98/19 140/8 143/20 Stepp [5] 33/6 64/25 67/11 67/14 145/11 Stepp's [3] 31/1 31/14 35/17 Stern [1] 84/18 stick [1] 80/2 still [5] 3/15 15/18 21/12 82/18 121/9 stipulate [2] 35/12 144/20 stipulation [20] 32/7 34/11 34/18 34/24 35/4 35/9 35/17 64/15 64/15 64/20 121/10 121/13 124/5 124/13 144/1 144/2 144/3 144/5 144/8 144/10 stipulations [7] 34/16 34/20 64/17 64/24 124/1 124/4 124/8 stood [1] 134/6 stop [8] 34/17 92/17 110/10 110/17 110/19 111/24 129/5 129/16 stopped [5] 24/17 75/7 128/25 129/15 129/17 stopping [1] 91/19 stops [2] 89/22 90/2 storage [2] 32/17 67/15 story [1] 33/24 street [20] 1/24 49/17 75/1 75/4 75/6 77/6 77/7 77/8 77/12 80/1 81/17 81/19 81/22 82/2 91/12 108/2 127/12 131/24 132/5 136/24 streets [3] 20/10 20/12 81/10 stricken [1] 30/22 strike [2] 8/23 17/16 strip [4] 19/1 40/2 40/21 41/2 strip club [1] 19/1 stuff [4] 75/16 81/4 90/8 122/4 style [1] 9/8 subject [4] 46/14 97/17 98/15 145/3 submission [1] 134/20 submit [3] 106/8 106/12 120/18 submitted [7] 25/12 42/14 113/3 117/14 117/17 120/17 134/13 submitting [4] 113/6 117/15 134/11 134/21 subpoena [2] 16/3 16/17 subpoenaed [1] 51/24 substance [1] 111/7 substantial [1] 130/25</p>	<p>sufficient [1] 106/16 suggest [3] 35/1 45/25 123/17 suggested [2] 72/13 86/9 suggesting [3] 46/2 72/24 87/9 suggestions [1] 95/1 suitcase [1] 19/8 sum [1] 130/24 summer [4] 7/18 51/4 51/4 51/14 superior [1] 94/14 supervisor [2] 5/1 27/13 supervisors [1] 72/5 suppose [1] 86/10 supposed [4] 13/19 45/20 94/23 132/1 suppression [1] 73/17 sure [60] 3/12 7/15 11/17 13/7 18/20 23/13 23/19 24/3 24/20 26/8 26/13 27/2 32/1 33/19 34/5 34/10 35/5 37/2 44/19 46/7 48/4 48/16 49/6 51/15 59/8 60/9 61/19 63/14 65/11 66/5 68/4 72/18 77/15 80/2 82/15 82/23 83/12 85/13 87/13 87/17 87/23 88/4 88/14 88/14 89/1 89/6 89/12 89/14 91/22 92/23 96/18 97/15 97/23 106/24 115/1 123/24 136/5 138/12 138/19 146/9 surveillance [37] 8/20 8/24 9/2 9/5 9/6 9/7 9/9 9/10 9/13 49/11 49/12 49/15 49/19 58/25 59/1 59/2 59/4 59/4 59/10 59/11 59/17 59/25 60/4 60/6 61/1 61/2 61/6 61/11 61/12 119/14 127/1 127/3 127/10 129/18 129/23 129/25 129/25 surveilling [1] 127/6 sustain [1] 106/17 Sustained [2] 58/14 77/20 SUV [1] 127/18 SWORN [5] 3/18 68/16 107/8 125/2 140/22 system [6] 42/12 42/15 42/19 42/23 43/8 44/1</p> <p>T</p> <p>tactical [3] 39/16 39/20 61/8 tag [1] 129/1 take [27] 27/17 27/22 31/6 35/25 63/8 64/3 65/10 66/13 71/15 74/25 76/5 79/5 81/4 85/16 88/7 94/22 98/18 106/22 109/4 121/11 123/23 128/20 129/20 135/25 141/21 147/4 148/10 takedown [2] 13/8 49/13 taken [12] 15/9 31/16 35/1 35/2 35/18 63/10 116/22 121/24 135/11 138/21 138/25 139/11 takes [1] 148/14 taking [6] 43/4 47/16 77/17 80/22 121/19 142/24 talk [1] 147/15 talked [5] 64/21 65/12 67/12 72/20 97/21 talking [10] 18/25 19/4 19/12 25/4 46/13 49/22 83/16 84/25 128/12 129/11 talks [3] 23/16 46/13 90/17 target [3] 92/5 111/17 114/4 target's [1] 131/3 targets [3] 14/7 52/18 57/12 Task [15] 39/22 70/1 70/8 70/13</p>
--	---	---

T
Task... [11] 70/15 70/19 71/5
77/22 84/17 95/13 95/15 124/9
140/19 140/21 142/21
TAYLOR [42] 1/6 2/3 8/1 23/17
25/19 25/22 26/4 26/18 26/23
27/20 34/3 36/6 36/12 36/18
38/11 39/8 40/3 40/22 41/19
41/20 42/4 46/1 49/16 49/23
60/11 60/16 63/19 65/5 65/17
72/23 74/1 82/5 96/7 99/3
100/12 106/1 106/12 124/9
143/10 143/24 144/20 146/4
Taylor's [6] 39/1 39/13 39/20
49/24 140/21 150/12
team [16] 10/20 26/5 27/3 27/6
27/8 27/12 27/24 49/12 95/9
95/18 108/7 110/9 112/5 112/12
131/8 131/22
Technician [1] 2/10
telephone [2] 7/3 9/20
tell [19] 7/19 9/18 10/6 32/10
49/16 62/14 63/17 74/19 107/25
110/13 113/1 114/23 130/14
133/25 137/6 145/13 145/16
145/21 145/21
telling [3] 33/24 34/2 85/12
tells [1] 89/16
ten [4] 67/15 67/20 112/13
132/12
tenth [1] 107/21
terms [5] 43/11 43/23 94/23
95/1 147/17
Terrace [2] 91/25 92/1
terrible [1] 76/10
test [1] 78/2
testified [15] 6/10 6/11 8/11
9/15 32/16 32/23 34/5 35/14
45/19 47/5 51/2 58/9 67/14
70/25 80/25
testify [11] 33/2 46/4 63/18
78/20 79/3 99/10 99/13 99/25
100/8 106/3 138/20
testifying [2] 25/22 63/19
testimony [17] 18/24 22/12 25/6
25/17 25/19 32/22 45/24 52/16
64/17 65/21 65/23 66/10 66/17
78/21 118/21 121/21 138/19
testing [2] 86/12 87/4
text [1] 9/21
text messages [1] 9/21
TFO [3] 2/9 19/16 150/14
TFO Sieracki [1] 19/16
than [14] 8/17 12/11 15/16 21/8
23/23 40/24 94/9 108/20 122/18
123/11 123/18 132/14 145/22
148/3
thank [81] 3/20 4/13 8/16 9/14
20/25 21/23 21/24 22/1 26/14
35/22 41/12 45/5 45/17 48/5
48/22 51/25 52/2 58/15 60/19
60/20 60/22 62/10 63/1 63/5
63/6 68/21 68/23 78/7 93/7
96/24 97/1 97/3 97/4 98/23
100/3 100/10 107/13 107/14
114/1 116/25 117/23 118/3 118/3
118/6 118/15 121/1 121/2 121/3
121/4 121/15 121/16 121/22
123/21 124/22 125/8 125/20
128/9 131/1 131/13 133/3 135/10
138/6 140/2 140/5 140/6 140/7

140/11 140/14 141/3 141/6
143/14 143/17 143/19 143/20
144/24 145/2 146/3 146/6 146/16
148/18 149/5
Thanks [5] 63/15 98/9 98/21
106/21 124/16
that [656]
that's [73] 5/20 8/15 9/25 10/2
10/23 11/9 13/8 13/11 14/10
15/22 19/4 19/12 23/7 24/13
32/15 32/16 32/21 32/22 33/18
33/20 35/10 37/17 37/17 40/24
43/18 44/20 44/22 47/15 62/13
62/19 65/25 76/10 76/19 79/1
79/18 81/5 82/17 83/24 84/3
87/1 87/12 89/5 90/10 90/13
91/25 92/24 99/23 106/16 108/15
109/13 109/18 111/11 111/20
113/5 113/8 114/5 124/7 124/16
125/24 126/2 126/6 126/19
126/19 127/7 129/7 130/18
134/20 134/23 142/25 143/3
143/13 144/3 144/5
thefts [1] 15/9
their [11] 5/9 5/9 6/21 7/14
35/7 42/21 63/23 76/17 76/19
91/21 96/6
them [32] 4/11 11/2 11/6 11/17
14/6 17/8 18/20 23/16 24/7 31/6
42/23 45/23 61/12 61/17 61/17
61/18 61/25 63/22 64/4 98/3
122/16 122/16 123/20 134/10
134/11 141/14 145/16 145/21
145/21 146/24 146/25 148/24
themselves [2] 59/4 59/5
then [80] 7/21 11/19 14/9 17/23
19/2 24/4 25/11 26/19 27/12
28/3 32/3 33/10 35/8 35/14
39/16 39/19 44/2 45/21 51/22
60/3 60/8 61/18 62/24 64/6 65/3
69/11 69/14 69/23 72/3 72/4
75/6 75/20 75/24 76/20 76/22
77/11 79/9 80/11 81/13 87/5
88/16 89/2 89/15 90/17 90/23
91/24 94/6 97/20 98/4 99/4
108/3 110/25 112/17 120/4 120/7
121/11 122/16 122/17 122/17
123/1 123/20 124/13 125/23
128/19 128/22 130/2 131/2
131/25 133/4 133/9 136/15
136/16 137/25 139/14 142/14
144/7 145/13 147/2 147/3 148/25
there [128] 5/7 9/15 12/21 13/1
14/11 14/11 15/18 15/19 16/17
17/16 17/21 17/22 17/22 17/22
17/23 19/6 19/19 19/21 20/7
20/8 25/3 25/3 25/4 25/6 25/11
25/16 25/16 25/19 27/21 33/25
34/1 34/8 34/20 34/25 35/7 35/9
36/1 37/21 38/16 38/23 40/1
40/5 41/10 43/6 43/10 43/25
44/4 46/3 46/11 49/25 49/25
50/8 50/13 50/14 50/17 50/23
52/17 57/10 57/18 60/8 62/6
66/3 66/21 67/14 71/9 72/15
72/18 72/21 73/4 73/6 73/16
79/20 79/23 82/7 82/12 84/4
87/23 87/24 91/19 92/13 93/22
94/9 95/4 96/16 96/17 99/7
106/15 110/10 110/21 111/24
112/19 115/10 116/19 116/20
119/18 127/15 127/18 129/7

129/14 129/17 130/4 130/6
130/13 130/14 130/17 130/23
131/8 131/12 131/14 132/13
132/21 133/6 133/14 133/19
133/19 133/20 133/20 133/23
134/2 134/3 134/3 137/10 137/12
139/5 139/6 139/8 146/19 148/8
there's [22] 6/3 15/25 15/25
15/25 23/24 25/6 25/8 35/15
40/2 41/4 42/12 46/23 66/2 66/9
66/14 67/22 122/4 132/18 133/15
133/18 134/25 136/13
these [23] 11/4 11/6 14/15
14/18 15/9 16/9 18/8 23/10 24/6
24/18 28/6 31/5 34/23 44/13
46/11 57/13 59/6 59/22 62/21
113/15 115/7 123/7 127/23
they [63] 4/6 4/8 4/9 4/11 5/9
6/21 12/16 16/25 18/25 19/2
19/2 20/1 20/22 22/24 31/7 33/6
37/21 39/25 42/8 42/13 43/4
43/4 43/4 43/5 43/6 43/12 43/13
43/13 43/13 43/15 57/13 59/4
59/18 59/19 59/20 62/2 62/3
65/17 66/23 67/7 67/7 72/17
77/6 91/4 99/14 99/19 116/15
118/23 119/2 122/7 127/23
129/16 130/4 130/6 130/18
137/10 145/11 145/16 145/17
145/22 145/23 146/5 146/6
they'd [1] 122/17
they're [10] 4/9 17/1 28/7 28/7
42/11 42/22 43/10 43/11 43/16
47/24
They've [1] 58/18
thing [12] 20/4 22/16 67/12
87/8 90/15 108/7 109/4 116/14
134/6 134/6 147/17 147/20
things [9] 19/22 27/25 33/4
73/4 73/14 75/14 76/12 81/1
95/2
think [113] 4/11 4/11 6/14 6/22
7/19 7/21 8/14 8/15 10/9 10/13
10/15 11/6 12/3 12/6 12/10
13/20 13/20 13/20 13/23 14/17
14/25 15/6 15/10 15/15 15/23
17/24 18/24 19/10 19/10 20/4
21/10 21/15 21/22 25/2 25/3
25/23 26/2 31/21 33/18 33/18
34/21 36/22 39/3 39/19 40/2
40/7 40/16 41/10 42/11 43/15
43/16 44/11 45/25 47/5 51/2
51/2 60/8 61/10 62/2 62/3 62/17
64/14 66/2 67/15 68/8 70/20
72/4 73/17 76/2 77/16 80/25
82/3 82/3 87/7 88/4 88/4 88/5
88/24 88/25 89/10 91/7 91/21
93/23 94/20 96/23 97/17 97/25
97/25 98/25 100/1 121/11 121/20
122/12 122/20 122/22 123/3
123/11 129/1 129/3 129/7 129/17
131/14 131/22 132/2 133/10
134/12 137/13 137/14 137/21
137/23 140/16 143/1 147/13
thinking [2] 89/14 148/25
third [1] 10/16
this [168]
THOMAS [3] 1/5 2/2 5/21
Thomas W. Rafter [1] 2/2
those [32] 3/24 4/6 8/5 8/9
8/11 8/12 8/24 10/3 10/4 10/7
10/21 11/15 11/19 11/23 22/20

T

those... [1] 27/24 37/14 39/6
 41/9 42/17 43/22 47/16 52/13
 52/21 57/24 64/16 71/8 73/20
 84/19 95/2 95/18 119/12
 though [5] 9/5 17/9 62/5 92/22
 92/23
 thought [10] 20/10 31/23 86/12
 91/9 91/12 92/12 94/10 98/2
 98/5 145/11
 thousand [4] 20/1 20/2 20/21
 32/21
 threat [1] 125/14
 three [20] 45/11 46/1 46/13
 46/17 46/20 47/13 47/16 65/1
 67/16 67/17 75/21 75/22 88/16
 99/15 115/2 115/4 115/11 129/19
 132/14 148/22
 three-quarters [1] 67/16
 threw [1] 18/23
 through [16] 6/11 7/13 10/13
 10/18 12/16 12/23 25/17 27/25
 61/4 71/8 73/6 79/12 82/22
 133/17 148/10 149/4
 throughout [1] 24/22
 throws [1] 19/8
 Thursday [4] 122/18 146/12
 146/13 148/13
 ticket [1] 41/19
 tight [3] 127/23 128/2 128/8
 time [102] 5/7 6/22 7/12 7/22
 11/5 13/19 13/25 14/9 17/16
 20/4 20/5 21/20 31/15 33/9
 33/24 41/23 41/24 42/7 42/21
 43/4 51/19 52/13 52/18 57/12
 59/19 64/25 70/10 72/8 72/10
 72/21 73/23 77/16 79/9 80/15
 80/23 81/11 82/4 82/5 82/9
 82/18 83/7 85/7 85/8 86/4 86/5
 86/7 86/11 86/16 87/1 87/3 88/1
 88/10 88/16 88/20 89/6 91/21
 91/25 93/3 94/8 94/10 94/13
 95/7 95/15 95/25 96/13 96/16
 98/12 99/8 99/25 106/2 106/23
 108/11 110/2 110/10 112/8
 112/15 115/10 116/5 116/17
 118/13 118/18 121/19 123/8
 125/21 125/22 126/22 126/23
 127/21 130/4 130/11 132/3 135/7
 135/18 136/1 136/2 136/13
 136/19 137/8 140/13 142/23
 143/9 148/8
 times [9] 5/10 25/3 47/16 49/22
 50/23 51/13 82/3 108/13 134/13
 timing [2] 64/18 147/18
 Timothy [4] 107/6 107/8 107/12
 150/6
 TIMOTHY ROMEO [3] 107/8 107/12
 150/6
 Title [6] 9/16 9/18 9/19 11/22
 12/19 13/3
 Title III [6] 9/16 9/18 9/19
 11/22 12/19 13/3
 today [7] 18/8 78/20 78/21
 108/11 108/17 118/18 118/21
 together [2] 51/5 51/9
 told [10] 13/14 14/1 25/13 81/1
 81/5 85/9 95/2 99/7 110/21
 116/14
 tomorrow [15] 122/5 124/17
 145/14 145/17 146/11 146/23

147/6 147/10 147/18 147/22
 147/34 148/5 148/10 148/15
 148/19
 Tomorrow's [1] 146/14
 too [3] 63/24 75/1 145/18
 took [20] 19/2 20/10 20/12
 32/17 34/6 34/7 35/14 41/19
 41/20 57/21 60/11 67/16 71/12
 71/13 81/15 115/13 120/1 126/7
 128/19 132/2
 tool [2] 9/11 9/11
 topic [1] 143/2
 tossed [1] 19/11
 total [2] 122/24 123/4
 totally [1] 132/12
 touch [1] 148/1
 toward [1] 10/16
 towards [4] 70/4 70/7 87/16
 91/24
 tower [3] 6/12 7/1 7/4
 Towers [1] 18/16
 townhome [1] 20/7
 Toyota [2] 15/15 62/15
 Toyota 4Runner [2] 15/15 62/15
 Trace [10] 39/22 70/1 70/8
 70/13 70/15 70/19 71/5 77/22
 95/13 95/15
 tracking [1] 6/20
 traded [3] 15/17 62/12 62/14
 traffic [2] 110/17 110/19
 trained [2] 59/3 136/8
 training [7] 136/6 136/12
 136/12 136/15 136/16 137/22
 137/24
 transcript [3] 45/10 46/16
 150/19
 transcripts [3] 44/13 46/12
 46/18
 transfer [1] 21/13
 transferred [8] 21/15 21/21
 71/4 71/19 76/23 77/1 92/25
 93/4
 transitioned [1] 10/15
 transmitted [1] 7/4
 transported [4] 116/24 135/13
 135/14 135/15
 travel [3] 21/8 147/20 147/24
 treasure [1] 18/1
 treasure trove [1] 18/1
 tri [1] 73/18
 tri-district [1] 73/18
 trial [6] 2/10 13/17 25/17
 38/23 58/2 148/8
 tried [7] 5/7 12/20 28/13 28/14
 33/3 33/9 92/14
 trip [4] 41/19 42/7 60/11 60/16
 trove [1] 18/1
 trusted [2] 78/2 86/13
 truth [1] 34/2
 truthful [1] 90/20
 truthfully [1] 139/25
 try [6] 7/22 19/25 45/25 47/21
 72/12 73/7
 trying [6] 62/19 64/18 66/13
 73/9 128/21 129/6
 Tuesday [1] 1/9
 turn [3] 49/7 128/24 140/15
 turned [6] 41/23 42/7 42/17
 42/18 45/23 92/15
 turns [1] 122/14
 TV [1] 88/5
 twenty [1] 139/14

twice [1] 136/16
 two [26] 17/18 17/21 17/22
 32/21 39/25 45/23 46/13 46/16
 47/14 47/15 50/13 62/16 63/21
 64/13 64/24 66/2 72/6 81/1 81/2
 81/3 94/21 106/20 123/4 131/17
 133/6 134/8
 type [5] 9/21 15/11 37/15 38/9
 136/1
 typical [3] 78/23 78/25 79/1
 Tyrone [1] 119/6
 Tyrone Creighton [1] 119/6

U

U.S. [3] 79/3 116/2 117/13
 U.S. Attorney [1] 79/3
 U.S. currency [2] 116/2 117/13
 Uh [2] 73/3 83/2
 Uh-huh [2] 73/3 83/2
 unable [2] 35/4 42/17
 uncle [2] 131/25 132/1
 under [8] 3/7 3/15 24/19 67/20
 99/20 106/7 114/8 116/24
 understand [7] 33/21 85/14
 85/25 86/25 99/12 99/17 106/1
 understanding [3] 13/14 99/21
 106/2
 understood [1] 138/19
 unduly [1] 147/8
 uniform [5] 27/14 40/9 40/25
 41/4 61/8
 unit [10] 67/16 71/11 71/17
 76/23 94/14 96/4 96/7 130/1
 137/9 141/10
 UNITED [11] 1/1 1/3 1/19 11/10
 14/16 28/15 68/12 98/12 108/25
 141/17 149/2
 United States [7] 11/10 14/16
 28/15 68/12 98/12 108/25 149/2
 units [3] 107/25 108/3 108/4
 unless [2] 122/14 137/9
 unmarked [1] 85/4
 unnamed [1] 65/7
 unreasonable [1] 20/5
 unsure [1] 75/13
 until [9] 70/17 83/21 86/16
 116/5 122/5 124/17 126/7 145/17
 148/5
 unusual [2] 16/10 96/22
 up [45] 12/9 12/14 19/7 33/12
 34/3 36/25 41/16 48/19 61/20
 65/10 65/15 67/2 67/21 67/25
 69/18 73/5 84/4 86/16 92/14
 92/19 109/24 116/6 119/15 120/7
 122/2 123/18 126/7 127/18
 128/22 129/6 130/4 130/5 130/18
 131/18 131/23 132/5 133/13
 134/11 136/17 137/10 137/12
 137/16 144/4 147/16 148/10
 Upon [1] 133/5
 upper [1] 38/16
 us [17] 9/19 10/6 25/13 43/17
 57/9 75/21 82/4 82/5 87/24
 107/25 110/13 112/11 115/11
 128/23 133/11 133/17 133/17
 use [4] 7/2 9/11 47/12 47/20
 used [10] 5/23 6/25 7/18 47/8
 57/23 79/1 89/5 89/6 91/25
 127/5
 uses [1] 129/25
 using [3] 4/15 46/18 47/6
 usual [1] 145/23

U
 usually [4] 50/21 81/24 123/7 137/16

V
 vacation [13] 42/9 42/22 42/24 43/4 43/4 43/10 43/11 43/13 43/16 43/19 43/20 60/10 60/15
 Valentino's [1] 132/5
 van [9] 75/7 75/21 75/25 87/20 89/3 89/3 89/9 89/13 92/14
 vehicle [44] 11/23 11/24 12/1 12/1 12/2 12/24 14/24 14/25 15/11 15/12 15/19 15/20 15/24 50/18 62/12 84/9 85/23 91/19 92/14 92/19 110/11 110/15 110/18 111/4 111/5 111/6 111/9 111/12 111/14 111/17 111/22 115/2 115/2 119/18 127/13 129/12 129/15 129/18 129/21 129/23 130/5 130/6 130/15 130/22
 vehicles [4] 14/25 15/16 59/21 59/22
 Velcro [5] 40/2 40/10 40/21 41/2 41/3
 veracity [1] 24/23
 verdict [2] 106/17 149/6
 verify [3] 8/18 20/7 61/15
 versus [1] 25/12
 very [32] 7/10 7/10 9/3 9/8 24/7 38/12 50/22 59/8 59/25 59/25 60/22 60/22 64/8 79/1 80/8 84/7 99/6 100/7 108/8 109/19 118/4 126/11 126/20 127/16 131/19 133/22 135/17 136/6 136/18 137/3 138/1 149/5
 vest [9] 39/16 39/20 39/24 40/10 40/11 40/18 41/3 61/8 75/14
 via [2] 8/20 109/1
 videos [1] 16/15
 vignette [1] 66/8
 VIII [1] 1/13
 VOLUME [1] 1/13
 volunteer [1] 85/8

W
 W. [1] 2/2
 wad [1] 116/10
 wagon [1] 135/14
 wait [5] 85/10 85/10 85/10 85/10 122/9
 waive [1] 100/8
 walk [2] 36/25 71/8
 walked [2] 75/21 75/24
 walking [1] 131/23
 wallet [8] 36/6 36/9 36/18 36/23 37/6 37/13 37/16 37/19
 want [26] 14/4 19/5 24/4 34/1 35/5 47/12 48/9 60/9 61/12 64/3 66/11 67/1 71/8 91/6 98/3 121/10 124/17 129/1 129/22 129/24 136/11 138/19 141/9 145/22 147/17 148/23
 wanted [12] 38/21 48/19 77/5 79/21 80/11 81/7 92/17 94/3 97/15 98/6 122/2 148/5
 wants [2] 98/25 99/4
 Ward [7] 18/22 18/22 25/22 42/6 72/3 72/23 94/14

Ward's [1] 18/24
 warrant [16] 6/29 23/2 23/6 23/12 23/16 25/18 27/8 27/19 110/5 110/6 110/7 111/24 131/2 131/5 131/6 131/7
 warrants [6] 14/12 14/12 14/13 14/15 14/18 14/21
 was [435]
 wasn't [7] 15/7 34/5 72/18 78/2 78/2 80/22 137/13
 watches [2] 15/8 15/25
 water [1] 77/14
 way [10] 6/21 8/18 19/16 28/7 42/12 42/13 58/6 61/15 91/16 99/15
 Wayne [15] 28/9 34/1 34/2 70/25 71/10 80/15 80/18 80/21 81/1 81/15 91/19 91/20 91/23 92/14 92/19
 Wayne Jenkins [8] 28/9 34/1 34/2 71/10 80/15 80/18 80/21 81/15
 we [254]
 we'd [3] 59/8 61/17 124/24
 we'll [13] 35/16 35/22 63/8 68/6 86/23 97/25 98/4 98/7 98/7 99/4 121/19 124/9 145/14
 we're [17] 18/24 35/10 46/25 47/6 59/14 68/8 74/9 74/20 97/14 98/24 109/3 118/13 118/17 128/12 129/5 146/21 147/24
 we've [6] 24/7 58/16 64/20 78/12 124/5 134/14
 wear [1] 38/9
 wearing [4] 95/25 96/8 128/7 135/5
 weather [1] 147/18
 Wednesday [1] 146/14
 weeks [3] 71/10 71/24 99/16
 weighing [1] 113/18
 well [39] 19/4 20/10 22/16 27/9 28/15 31/24 32/21 34/7 38/13 49/11 49/15 49/20 50/8 58/24 59/3 61/17 66/4 68/2 76/2 76/25 78/20 83/5 84/5 88/22 89/20 90/6 94/8 94/13 97/25 98/5 106/12 106/13 108/18 121/11 131/7 133/11 137/6 139/10 144/1
 went [31] 10/14 18/25 19/2 19/17 22/13 61/4 69/11 74/13 76/20 81/22 83/24 86/5 91/24 92/3 114/8 114/10 114/13 114/13 116/5 119/23 120/8 120/15 127/20 128/22 131/4 131/9 132/9 133/5 133/7 133/13 135/16
 were [166]
 weren't [5] 5/10 12/21 43/25 77/6 138/23
 west [2] 91/10 91/11
 westbound [1] 128/22
 what [188]
 what's [8] 23/8 45/18 81/18 113/17 125/11 132/23 143/13 143/13
 whatever [8] 35/18 36/14 43/21 83/18 121/14 128/2 134/7 148/3
 whatsoever [1] 108/20
 when [117] 5/7 6/10 6/25 7/11 9/1 10/6 10/7 10/24 12/5 12/5 12/8 12/21 13/11 17/16 17/23 18/11 18/25 19/2 19/7 22/12 25/3 26/7 33/4 34/2 35/13 36/6

36/18 38/11 38/19 39/24 40/10 43/15 45/22 46/15 47/17 49/21 50/9 51/3 51/4 51/5 51/13 59/6 59/19 60/3 61/4 65/7 69/7 69/13 69/20 70/3 70/7 70/17 71/17 71/18 71/19 72/2 72/21 73/14 73/19 74/7 75/6 76/6 76/8 76/17 77/22 79/12 80/21 81/10 81/22 82/6 83/13 83/14 83/24 84/3 85/7 88/7 88/22 89/5 91/11 94/2 107/22 107/22 110/4 110/16 111/6 114/7 114/13 114/20 114/20 115/10 115/16 115/20 116/14 117/24 118/1 118/23 119/23 120/9 120/13 120/15 125/24 126/3 128/17 129/10 130/2 130/16 130/18 133/6 133/18 133/23 136/11 136/13 137/7 142/19 144/22 146/25 148/11
 whenever [1] 86/16
 where [46] 7/4 7/6 8/5 19/6 20/13 22/23 22/24 31/4 33/25 38/18 45/25 50/25 57/9 58/12 59/9 61/10 65/15 67/16 69/13 69/16 69/18 69/20 74/25 76/4 76/6 79/13 85/11 87/18 88/3 88/10 89/9 89/13 91/24 107/17 110/1 110/1 113/15 114/10 114/23 117/13 127/10 127/19 130/15 131/15 132/1 137/18
 whether [17] 8/18 8/25 11/2 15/18 21/2 21/5 39/11 41/23 46/7 50/16 52/12 57/10 60/10 62/14 64/19 78/2 99/9
 which [27] 5/23 6/24 7/25 11/9 13/4 18/16 27/2 30/25 42/20 46/10 51/4 63/23 67/24 82/12 90/20 92/5 99/20 108/3 109/4 123/17 126/7 129/13 131/15 133/1 142/23 144/25 145/21
 while [12] 21/12 71/16 72/3 72/7 94/8 94/16 95/1 96/17 132/10 133/14 134/2 139/5
 Whiting [2] 26/23 28/4
 Whiting's [3] 23/2 23/12 25/19
 who [43] 5/3 5/5 5/15 5/24 6/7 10/3 18/3 18/22 33/1 33/8 35/9 45/20 50/3 63/21 67/13 68/5 70/12 71/4 72/2 72/20 72/20 74/13 74/23 75/9 75/9 75/22 76/15 77/1 81/22 86/8 109/12 110/15 110/20 113/13 115/14 115/18 118/1 124/9 129/11 130/5 130/23 134/21 135/13
 who's [4] 59/11 87/22 114/13 132/10
 whoever [1] 32/5
 whole [5] 13/17 34/4 82/5 85/11 87/23
 whom [2] 5/19 60/5
 whose [4] 74/21 114/17 139/19 139/24
 why [20] 14/1 28/1 28/7 33/3 33/8 33/9 34/21 59/1 74/15 75/11 76/25 77/3 77/16 77/25 113/9 113/11 113/17 113/21 122/20 129/21
 Wicks [10] 2/5 22/2 49/7 64/12 65/14 93/9 99/4 123/10 138/7 144/8
 Wicks' [1] 123/25

W
 wife [2] 45/21 46/22
 will [17] 7/3 36/12 43/19 63/19
 64/14 97/7 106/14 111/8 145/21
 145/21 146/5 146/23 147/2 147/4
 147/22 148/9 148/19
 William [1] 2/2
 William B. Purpura, Jr [1] 2/2
 wind [2] 19/11 123/18
 winter [2] 52/24 57/20
 wire [4] 11/5 11/23 12/9 12/11
 wires [1] 11/6
 wiretap [7] 9/22 10/9 44/21
 44/22 45/2 57/23 58/1
 Wise [11] 1/18 5/23 7/24 11/16
 28/8 60/25 61/4 78/18 83/20
 98/11 138/10
 Wise's [1] 123/1
 wish [2] 99/10 99/25
 withdraw [2] 47/25 48/14
 Within [1] 24/25
 without [4] 24/11 39/14 106/9
 147/8
 witness [32] 3/17 34/22 36/25
 47/1 47/12 47/23 63/23 64/2
 68/11 68/15 97/6 107/3 107/4
 107/8 121/5 121/9 121/12 123/21
 123/23 123/23 124/9 124/13
 124/21 125/2 138/8 140/9 140/17
 140/22 143/22 150/3 150/9
 150/13
 witness's [2] 66/10 66/17
 witnesses [11] 63/21 64/7 64/11
 97/8 98/6 98/24 106/20 123/25
 124/3 140/12 141/13
 woman [4] 50/2 50/3 50/25 119/2
 won't [1] 145/18
 word [1] 7/2
 wording [1] 76/1
 work [28] 34/24 35/16 35/22
 38/19 42/22 59/20 61/12 61/15
 61/16 64/9 64/15 64/16 72/7
 72/12 73/9 73/12 73/20 81/7
 81/10 81/16 82/18 83/5 88/22
 93/22 94/3 96/19 136/1 149/1
 worked [15] 73/18 80/18 80/21
 81/6 82/21 82/23 83/6 83/10
 93/16 93/19 107/19 107/25
 123/25 124/3 124/5
 working [19] 8/19 8/19 43/3
 43/6 43/13 45/21 59/20 69/15
 73/14 88/19 88/19 88/25 89/3
 89/5 89/7 93/24 95/24 124/8
 126/24
 works [3] 37/22 42/13 43/9
 worried [1] 145/18
 would [88] 3/10 6/24 7/2 11/14
 11/15 11/17 12/22 13/1 13/5
 18/3 20/4 21/11 25/11 27/18
 27/25 31/15 34/24 41/3 41/24
 42/23 43/4 43/5 43/5 43/12
 43/16 43/19 43/20 44/18 46/5
 47/6 47/19 47/23 48/10 48/18
 50/1 50/11 50/11 50/17 50/18
 50/21 50/24 59/20 59/25 61/6
 61/8 61/9 61/15 61/17 61/18
 61/23 62/6 62/7 62/8 62/8 62/9
 64/3 64/13 71/20 77/7 84/14
 86/25 94/5 94/22 94/22 96/3
 96/10 96/19 99/2 99/7 99/20
 106/8 110/22 113/9 113/21

115/11 117/1 122/15 122/16
 123/17 129/12 129/21 142/23
 143/1 143/25 144/13 146/11
 147/9 149/1
 wouldn't [4] 59/23 59/24 64/17
 129/22
 wrappers [3] 65/2 67/15 67/18
 write [4] 27/10 28/6 137/16
 142/7
 writing [1] 146/25
 written [5] 18/10 23/23 27/9
 28/7 28/7
 wrong [4] 8/10 33/23 86/9 87/7
 wrote [9] 49/19 65/19 65/19
 66/11 66/12 66/24 67/2 67/6
 67/24

Y
 y'all [11] 45/11 46/12 46/13
 46/13 46/16 46/17 46/20 47/13
 47/14 47/15 47/16
 yeah [51] 4/5 6/18 7/2 12/4
 12/10 13/24 19/14 19/15 20/24
 23/4 23/16 24/12 26/9 27/16
 27/24 28/5 36/22 41/11 50/11
 50/12 51/9 61/17 66/5 67/8
 76/19 81/6 81/12 82/3 82/11
 82/17 83/6 88/23 90/10 90/16
 91/1 94/16 94/20 96/9 96/12
 123/14 129/16 129/25 130/14
 131/4 132/8 132/16 133/5 135/5
 135/9 135/16 139/21
 year [7] 10/10 70/5 71/22 82/25
 83/1 107/21 126/8
 yearly [1] 136/17
 years [3] 21/8 79/9 128/12
 Yep [4] 44/23 44/23 134/24
 135/3
 yes [197]
 yesterday [14] 5/24 6/10 7/24
 8/10 22/12 28/8 41/15 44/12
 44/24 45/24 49/21 49/25 61/4
 67/5
 yet [1] 124/6
 you [755]
 you'd [1] 26/7
 you'll [5] 121/21 146/25 148/1
 148/4 148/12
 you're [26] 3/15 19/12 42/1
 43/15 44/18 49/19 49/20 49/25
 51/3 59/10 79/1 83/15 84/25
 85/12 85/25 86/10 88/19 91/11
 107/4 121/13 122/13 124/13
 129/10 132/10 138/2 146/13
 you've [3] 72/20 73/22 107/25
 your [142] 3/9 3/10 3/20 7/3
 9/12 10/20 11/15 22/12 23/5
 23/18 25/18 26/10 28/16 31/21
 32/3 35/3 36/25 43/8 45/13 46/8
 49/7 52/1 52/4 57/17 60/18 61/1
 64/1 64/6 64/6 64/10 66/13
 68/12 68/14 68/18 68/19 68/23
 72/8 75/11 75/14 75/14 76/8
 76/11 78/5 78/7 78/21 80/22
 82/9 84/9 84/12 84/23 85/1
 85/14 85/15 88/3 90/11 90/11
 91/16 91/25 94/14 95/7 96/3
 96/20 96/25 97/3 97/9 97/15
 98/6 98/12 98/23 99/8 99/9
 99/24 100/2 100/5 100/9 100/11
 106/1 106/2 106/3 106/6 106/11
 106/20 106/22 107/5 107/7

107/10 107/10 108/9 109/20
 109/21 115/74 118/6 118/21
 119/14 120/25 121/12 122/13
 122/21 122/23 123/3 123/5
 123/22 124/2 124/3 124/7 124/15
 124/22 125/1 125/4 125/5 125/11
 125/21 126/12 126/21 129/21
 135/8 136/6 136/19 138/3 138/9
 138/11 140/1 140/3 140/5 140/11
 140/16 140/20 140/24 140/25
 141/4 141/9 141/15 142/12
 142/23 143/15 143/19 143/24
 144/13 146/8 148/13 148/18
 149/3
 Your Honor [55] 3/9 3/10 3/20
 23/18 28/16 31/21 32/3 35/3
 36/25 45/13 52/1 52/4 60/18
 64/10 68/12 68/23 78/5 78/7
 96/25 97/3 97/9 97/15 98/12
 98/23 100/2 100/9 100/11 106/6
 106/11 106/22 107/5 118/6
 120/25 122/23 123/3 123/5
 123/22 124/2 124/7 124/15
 124/22 138/9 138/11 140/3 140/5
 140/11 140/16 141/4 142/12
 143/15 143/19 143/24 144/13
 146/8 149/3
 yourself [3] 37/12 84/22 85/18

Z
 Zweizig [3] 1/23 150/18 150/22