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are two independent variables: (1) the subject's age (young, middle-aged, or elderly); and (2) the subject's memory of his or her experiences yesterday, last month, and last year. Each of the 366 subjects was in one of three age groups, and each subject contributed three of the 1098 scores on the Likert-type scales. The subject's age is a between-groups factor, and the subject's memory of yesterday, last month, and last year is a repeated-measures or within-subjects factor. Thus we used a two-factor mixed design for the analysis of variance (Collyer and Enns 1987). We tested the main effects of age and memory as well as the possibility of interaction effects using the MANOVA program from SPSS (1988). In addition, we examined the differences between pairs of means using two-tailed protected *t* tests—uncorrelated for the between-groups factor, correlated for the within-groups factor.

RESULTS

Table 1 presents a summary of the analysis of variance. The results show strong support for our hypotheses. Both of the expected main effects are statistically significant. Clearly, the subject's perception of the passage of time is affected by the subject's memory of his or her experiences yesterday, last month, and last year. Just as clearly, the subject's age (young, middle-aged, or elderly) is a factor shaping his or her perception of the passage of time. In addition, Table 1 shows that there is no evidence of interaction between the two factors of age and memory.

Table 2 presents the means and standard deviations for each subgroup in response to our three questions concerning the perceived passage of time. This table allows us to examine differences among the means across categories of the independent variables, thereby enabling us to give a more detailed analysis of the two main effects.

The Effects of Memory

In accord with the theory concerning temporal compression, subjects perceived time to have passed more quickly the further back in time they were asked to remember. We had hypothesized that the means for the perception of time yesterday, last month, and last year would be in reverse rank-order to their objective length. Table 2 shows that, as expected, the mean for yesterday is lower than the mean for last month, and the mean for last month is lower than the mean for last year in the full sample as well as all three age groups. This, despite the fact that, from the objective standpoint of standard temporal units, yesterday is

Table 1
Analysis of Variance for Temporal Compression

Source	*Sum of Squares*	*Degrees of Freedom*	*Mean Square*	*F*	*Probability*
Between Subjects					
Age	12.60	2	6.30	5.74	.004
Error	398.14	363	1.10		
Within Subjects					
Memory	107.66	2	53.83	94.38	.000
Age × Memory	.92	4	.23	.40	.806
Error	414.08	726	.57		
Total	933.40	1097			

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approximately one-thirtieth of last month, and last month is approximately one-twelfth of last year. Twelve *t* tests are possible for differences between pairs of means: yesterday by last month, yesterday by last year, and last month by last year for three age groups and the full sample. All twelve *t* tests are statistically significant with $p < .008$ in each case.

The theory asserts that the experience of protracted duration is a response to subjective involvement in unusual circumstances. By definition, such episodes are rare, and the memory of them erodes as time passes. Subjects who wanted to characterize their perception of time yesterday, last month, or last year in terms of protracted duration would have selected a 1 (Very Slowly) or a 2 (Slowly) from the Likert-type scales. Therefore, we hypothesized that none of the means for the three scales would be lower than 3.0. Table 2 confirms our prediction. In fact, subjects selected a 1 or a 2 for only 8.4 percent of their 1098 responses: 52 times for yesterday, 26 times for last month, and 14 times for last year. Each of the latter two frequencies is roughly one half the size of the preceding one. Furthermore, the descending order of these frequencies highlights the way in which memory affects the perception of time.

The Effects of Age

Our findings with respect to age were somewhat serendipitous. While we anticipated that age might have a direct effect, we did not expect it to be so strong and systematic. The means for the middle-aged subgroup are higher than the means for the other two age groups in each of the three time periods. This indicates that the middle-aged subgroup consistently perceives time to have passed more quickly than do the other age groups. There are no statistically significant differences between the means of the young and the elderly subgroups; all of the statistically significant differences are found when contrasting the middle-aged subgroup with one of the other two age groups.

Looking first at the means for yesterday, we find that the mean for the middle-aged subgroup is significantly different than that of the young ($p = .052$) as well as that of the elderly ($p = .013$). Similarly, when we examine the means for last month, we find that the mean for the middle-aged subgroup is significantly different than that of the young ($p = .011$) as well as that of the elderly ($p = .027$). It is only in the contrasts for last year that the differences between the means for the middle-aged and the means for

Table 2
Means and Standard Deviations of Responses to Questions on Perceived Passage of Time by Age of Respondent

	Yesterday		*Last Month*		*Last Year*	
	Mean[a]	*SD*	*Mean*	*SD*	*Mean*	*SD*
Young (N = 122)	3.402	.888	3.836	.965	4.131	.953
Middle-Aged (N = 122)	3.631	.947	4.115	.718	4.328	.673
Elderly (N = 122)	3.344	.851	3.885	.883	4.189	.846
Full Sample (N = 366)	3.459	.902	3.945	.868	4.216	.834

[a]1 = Very Slowly, 5 = Very Quickly.

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the other two subgroups are not quite significant ($p = .064$ for the young and $p = .156$ for the elderly).

In computing the F value for the main effects of age, the MANOVA program creates an index for the perception of time by adding the subject's scores on the three scales (yesterday, last month, and last year). This index serves as the dependent variable in a one-way analysis of variance, and the program computes a mean for this index within each of the three age groups (young, middle-aged, and elderly). The differences among the means for the three age groups become even more distinct when this index is used as the basis for the protected *t* tests. Again, there is no significant difference between the means for the young and the elderly ($p = .838$). Moreover, as before, the mean for the middle-aged subgroup is significantly different than that of the young ($p = .002$) and that of the elderly ($p = .004$).

We suspect that the age structure of our sample serves as an indirect indicator of variation in the degree of habitual conduct which characterizes different stages in the life cycle.[14] Certainly there is considerable evidence supporting this interpretation. Ryff (1985, p. 105) observes that middle-aged people experience greater routine complexity in their daily lives than do the young or elderly. Her data dovetail with those of Robinson (1990, p. 33) who finds that "it is adults aged 35 to 54 who are most likely to report feeling rushed." Cohler (1982, p. 221) notes that, with adulthood, one usually acquires "a complex role portfolio . . . including marriage, parenthood, and work." In contrast, research by the Carnegie Corporation of New York (1992, p. 28) shows that approximately "40 percent of adolescents' waking hours are discretionary—not committed to other activities (such as eating, school, homework, chores, or working for pay)." At the other end of the age spectrum, the elderly must contend with what Rosow (1974, p. 9) calls "role loss" due to departure of their children as well as their own illness, retirement, and widowhood. Given the logic of our theory, if middle-aged people engage in more habitual conduct, then we should expect them to perceive time as having passed more quickly. Still, this is a post hoc interpretation, and verification of that portion of the theory concerning habitual conduct must await a more direct examination of its effects.

In sum, the effects of memory on the perception of time seem to be more general than do the effects of age. While age generates temporal compression only among the middle-aged, memory generates temporal compression among all age groups.[15]

DISCUSSION

Collins (1989, p. 2) has argued that Mead "developed a sociological theory of mind," albeit one that is in need of revision and further development. To that end, Collins (1989, p. 18) has proposed a theory of "interaction ritual chains" which extends Mead's model by elaborating on the latter's simplistic view of role-taking:

> One might say there is a continuum from tentative and ambiguous role-taking at one end, to completely certain role-taking at the other. A key ingredient of ritual interaction is that the role-taking is at the high certainty end of this continuum.

Implicit in this statement is the assumption that the individual will need to devote more or less attentional resources to interaction depending on the degree to which the immediate situation is problematic.

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This assumption is, as we have seen, just as fundamental for Dewey as it is for Mead. These forerunners of symbolic interactionism tell us that there is variation in the volume of subjective experience, and that this variation reflects variation in the nature of one's circumstances. The phenomenologists—Heidegger, Husserl, Schutz—direct our analysis to internal time consciousness, and they demonstrate that temporality varies across different realms of being. From Goffman's microstructuralism we learn that subjective involvement with self and situation is conditioned by social conventions. According to the ethnomethodologists, Garfinkel and Cicourel, these social conventions constitute background expectancies enacted in largely tacit fashion through interpretive procedures. In short, our theoretical model integrates elements of symbolic interactionism, phenomenology, microstructuralism, and ethnomethodology. These writings serve as the foundation for a theory that explains variation in the perceived passage of time. All manner of objections can be raised concerning our syncretic approach to what are, after all, apples and oranges. But where those concerned with classification see divergence, those seeking discovery see convergence and a platform for continued development. Thus, we do not view these writings as incompatible texts, but rather as disparate stepping stones which, when properly aligned, allow us to climb a little higher and see a little further.

A theory that is meant to account for variation in the perceived passage of time must take into consideration the interplay of different levels of consciousness. The emerging theory depicts the density of conscious experience as a crucial element conditioning one's perception of the passage of time. In effect, we have argued that protracted duration occurs when conscious information processing is high, synchronicity occurs when conscious information processing is moderate, and temporal compression occurs when conscious information processing is low. Our theoretical model for the perceived passage of time acknowledges the interplay of different levels of consciousness. The model asserts that the intensity with which one directs attentional resources to the situation at hand varies according to where that situation falls along a continuum from abnormally repetitive activity to abnormally problematic activity. Variation in the nature of the social situation, and its implications for self, govern variation in the level of conscious information processing. In turn, variation in the level of conscious information processing is reflected by the density of experience per standard temporal unit. Ultimately, it is the density of experience per standard temporal unit that determines variation in the perception of time.

With this theoretical model, we are in a position to subsume, at a higher level of abstraction, more particular observations concerning the perceived passage of time. For example, Denzin (1984, p. 58) notes that "Intense emotionality appears to stop time." Similarly, Katz (1988, p. 31) contends that rage "magnifies the most minute details" creating the potential for "an endless present." As another example, Charmaz (1991, p. 90) describes "the dragging time of pain and suffering." In each case, these findings can be recognized as specific manifestations of those factors that generate the experience of protracted duration. These empirical statements, then, provide corroboration for a theoretical model that transcends the particulars of this or that research setting, thereby providing us with a broader and deeper understanding of the ways in which subjective and situated processes condition the perception of time.

One component of our theoretical model remains to be examined in light of empirical materials: the postulated relationship between automatic processing and temporal compression. However, in his research on the temporal organization of restaurant kitchens,

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Fine (1990) unintentionally corroborates this part of our model and points the way toward one direction for future research. Fine's study makes it clear that chefs experience two kinds of dinner rush. On some nights, everything goes smoothly and the work is habitual. The chefs report that they cook in an unthinking manner (automatic processing), and those nights seem to pass quickly (temporal compression).[16] On other nights, things go awry and the work is problematic. Their difficulties demand great amounts of attentional resources, and those nights seem to pass slowly (protracted duration). Thus, Fine's study indicates the promise of replication which could confirm the postulated relationship between automatic processing and temporal compression.

Wiley (1989, p. 79) elaborates on the work of Collins by proposing conceptualization of "intra-personal ritual" which functions for the sake of "intra-psychic solidarity." His proposal points to another direction for future research. As it stands, our theoretical model is limited to analysis of how the situation and one's response to the situation condition the perceived passage of time. Hochschild (1979) has demonstrated that emotional experience is not simply a response to the situation at hand, but rather is the result of ritual effort on the part of the self to promote or suppress a certain emotional experience. By analogy, we anticipate that there are temporality rules, and that individuals engage in ritual time work for reasons of intrasubjective and interpersonal solidarity. The emerging theory implicates the micro-management of involvement with self and situation. Further investigation could extend our understanding of the ways in which individuals manipulate their perception of time so as to foster or inhibit a particular temporal experience. Moreover, such research could lead to a richer conception of human subjectivity that integrates the effects of agency and context.

Finally, another direction for future research is suggested by Maines (1989, p. 117) where he states "that despite the great differences in cultural time logics and the substance of time-consciousness . . . various cultures have much in common when it comes to temporality." Does our theoretical model for variation in the perceived passage of time have cross-cultural validity? This question can only be addressed in light of empirical materials that are drawn from cultures very different from our own—especially cultures that are not organized on the basis of clocks or even calendars as we know them. Our data on this issue are, as yet, anecdotal and provisional, but what little we have is encouraging. For example, when a wedding separates two sworn sisters in rural China (Yao 1992, p. 20) one writes to the other of her sorrow:

> Elder Sister being gone three whole days
> Feels like years.

There is, then, important work to be done, and it holds the promise of expanding the horizon of our knowledge concerning human subjectivity.

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NOTES

1. Elsewhere, Dewey (1895, p. 27) states that emotion is provoked when "the conditions for mere habit are denied."
2. Denzin (1988, p. 75) provides justification for the change in emphasis: "Consciousness is the factual starting point of an interpretive theory of experience in the world."
3. Mead's (1938, p. 35) own reservations notwithstanding, we concur with Denzin's (1985, p. 224) argument that "the main tenets of symbolic interactionist thought . . . are compatible with . . . phenomenology."
4. Schutz (1962, p. 230) extends this idea when he argues that each "finite province of meaning" is characterized by "a specific time-perspective."
5. From Husserl's (1928/1964, p. 52) standpoint, each moment perceived as the present draws behind itself "a comet's tail of retentions."
6. Heightened self-consciousness is the crucial linkage between situations characterized by high or low levels of embedded activity. Seemingly "empty" intervals are nothing of the sort; as Mead and Dewey teach us, they are in fact filled with cognitive and emotional responses to one's predicament.
7. More specifically, the activity is not so familiar that it is habitual or so novel that it is cognitively challenging, and there is neither too much nor too little embedded activity.
8. Goffman (1974, p. 117) notes that convention sets limits on one's involvement with self and situation: "it is often understood that although a particular degree of involvement is preferred, considerable variation in intensity is acceptable, boredom marking one boundary and 'overinvolvement' the other."
9. This is in keeping with Goffman's (1963, p. 2) observation that "routines of social intercourse in established settings allow us to deal with anticipated others without special attention or thought." In *Frame Analysis*, he (1974, p. 345) adds that, for the most part, an individual's involvement with matters at hand "is deep only when there is sudden trouble to avoid."
10. As time goes by, there is little or no deterioration in semantic memory (knowledge) or procedural memory (technique). However, episodic memory concerns the details of social interaction in terms of specific events or experiences, and, generally speaking, this type of memory erodes with the passage of time (Ashcraft 1989, p. 241).
11. And, by using such tests, we ground the overall theory in multiple methods or triangulation (Denzin 1989).
12. Thus, it is not a simple random sample from a known sampling frame. However, Henkel (1976, p. 85) points out that "our data can be thought of as a random sample from some hypothetical universe composed of data . . . like those at hand." As is typically the case with procedures of this sort (Henkel 1976, p. 86), we assume that our statistical tests address the following question: "if such a population were to exist, could sampling error account for any differences between the expected and observed value of the statistic?"
13. The word "less" refers to the total volume (i.e., number) of experiences per standard temporal unit.
14. As Maines (1983b, p. 186) reminds us, there are "patterns of life events in relation to age." It follows that the density of experience per standard temporal unit is also structured by "age norms."
15. We found no evidence that perception of the passage of time varies by gender.
16. It is interesting to note that Fine's (1990, pp. 108–109) subjects repeatedly use variations on the word "automatic" as they try to describe their reactions to routine complexity.

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626.8476 CONFIDENTIAL INFORMANTS; REQUIRED POLICY AND TRAINING.

Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms in this subdivision have the meanings given them.

(b) "Confidential informant" means a person who cooperates with a law enforcement agency confidentially in order to protect the person or the agency's intelligence gathering or investigative efforts and:

(1) seeks to avoid arrest or prosecution for a crime, mitigate punishment for a crime in which a sentence will be or has been imposed, or receive a monetary or other benefit; and

(2) is able, by reason of the person's familiarity or close association with suspected criminals, to:

(i) make a controlled buy or controlled sale of contraband, controlled substances, or other items that are material to a criminal investigation;

(ii) supply regular or constant information about suspected or actual criminal activities to a law enforcement agency; or

(iii) otherwise provide information important to ongoing criminal intelligence gathering or criminal investigative efforts.

(c) "Controlled buy" means the purchase of contraband, controlled substances, or other items that are material to a criminal investigation from a target offender that is initiated, managed, overseen, or participated in by law enforcement personnel with the knowledge of a confidential informant.

(d) "Controlled sale" means the sale of contraband, controlled substances, or other items that are material to a criminal investigation to a target offender that is initiated, managed, overseen, or participated in by law enforcement personnel with the knowledge of a confidential informant.

(e) "Mental harm" means a psychological injury that is not necessarily permanent but results in visibly demonstrable manifestations of a disorder of thought or mood that impairs a person's judgment or behavior.

(f) "Target offender" means the person suspected by law enforcement personnel to be implicated in criminal acts by the activities of a confidential informant.

Subd. 2. **Model policy.** (a) By January 1, 2022, the board shall adopt a model policy addressing the use of confidential informants by law enforcement. The model policy must establish policies and procedures for the recruitment, control, and use of confidential informants. In developing the policy, the board shall consult with representatives of the Bureau of Criminal Apprehension, Minnesota Police Chiefs Association, Minnesota Sheriffs' Association, Minnesota Police and Peace Officers Association, Minnesota County Attorneys Association, treatment centers for substance abuse, and mental health organizations. The model policy must include, at a minimum, the following:

(1) information that the law enforcement agency shall maintain about each confidential informant that must include, at a minimum, an emergency contact for the informant in the event of the informant's physical or mental harm or death;

(2) a process to advise a confidential informant of conditions, restrictions, and procedures associated with participating in the agency's investigative or intelligence gathering activities;

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(3) procedures for compensation to an informant that is commensurate with the value of the services and information provided and based on the level of the targeted offender, the amount of any seizure, and the significance of contributions made by the informant;

(4) designated supervisory or command-level review and oversight in the use of a confidential informant;

(5) limits or restrictions on off-duty association or social relationships by law enforcement agency personnel with a confidential informant;

(6) limits or restrictions on the potential exclusion of an informant from engaging in a controlled buy or sale of a controlled substance if the informant is known by the law enforcement agency to: (i) be receiving in-patient or out-patient treatment administered by a licensed service provider for substance abuse; (ii) be participating in a treatment-based drug court program; or (iii) have experienced a drug overdose within the past year;

(7) exclusion of an informant under the age of 18 years from participating in a controlled buy or sale of a controlled substance without the written consent of a parent or legal guardian, except that the informant may provide confidential information to a law enforcement agency;

(8) consideration of an informant's diagnosis of mental illness, substance abuse, or disability, and history of mental illness, substance abuse, or disability;

(9) guidelines for the law enforcement agency to consider if the agency decides to establish a procedure to request an advocate from the county social services agency for an informant if the informant is an addict in recovery or possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction that impairs the informant's ability to understand instructions and make informed decisions, where the agency determines this process does not place the informant in any danger;

(10) guidelines for the law enforcement agency to use to encourage prospective and current confidential informants who are known to be substance abusers or to be at risk for substance abuse to seek prevention or treatment services;

(11) reasonable protective measures for a confidential informant when law enforcement knows or should have known of a risk or threat of harm to a person serving as a confidential informant and the risk or threat of harm is a result of the informant's service to the law enforcement agency;

(12) guidelines for the training and briefing of a confidential informant;

(13) reasonable procedures to help protect the identity of a confidential informant during the time the person is acting as an informant;

(14) procedures to deactivate a confidential informant that maintain the safety and anonymity of the informant;

(15) optional procedures that the law enforcement agency may adopt relating to deactivated confidential informants to offer and provide assistance to them with physical, mental, or emotional health services;

(16) a process to evaluate and report the criminal history and propensity for violence of any target offenders; and

(17) guidelines for a written agreement between the confidential informant and the law enforcement agency that take into consideration, at a minimum, an informant's physical or mental infirmity or other

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physical, mental, or emotional dysfunction that impairs the informant's ability to knowingly contract or otherwise protect the informant's self-interest.

(b) The board shall annually review and, as necessary, revise the model confidential informant policy in collaboration with representatives from the organizations listed under paragraph (a).

Subd. 3. **Agency policies required.** (a) The chief law enforcement officer of every state and local law enforcement agency must establish and enforce a written policy governing the use of confidential informants. The policy must be identical or, at a minimum, substantially similar to the new or revised model policy adopted by the board under subdivision 2.

(b) Every state and local law enforcement agency must certify annually to the board that it has adopted a written policy in compliance with the board's model confidential informant policy.

(c) The board shall assist the chief law enforcement officer of each state and local law enforcement agency in developing and implementing confidential informant policies under this subdivision.

Subd. 4. **Required in-service training.** The chief law enforcement officer of every state and local law enforcement agency shall provide in-service training in the recruitment, control, and use of confidential informants to every peace officer and part-time peace officer employed by the agency who the chief law enforcement officer determines is involved in working with confidential informants given the officer's responsibilities. The training shall comply with learning objectives based on the policies and procedures of the model policy developed and approved by the board.

Subd. 5. **Compliance reviews.** The board has the authority to inspect state and local agency policies to ensure compliance with this section. The board may conduct the inspection based upon a complaint it receives about a particular agency or through a random selection process.

Subd. 6. **Licensing sanctions; injunctive relief.** The board may impose licensing sanctions and seek injunctive relief under section 214.11 for failure to comply with the requirements of this section.

History: *1Sp2021 c 11 art 9 s 29*

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Vance Team & CRU Meeting
May 25, 2023 at 11:00 a.m. (CT)

Present:
CRU - Carrie Sperling, Leti Uzueta, Nick Foster (CRU)
Vance Team – Jim Dorsey, Hanna Day, Christiane Dos Santos, Jason Sole, Carl Warren, Phillip Vance, Nadine Graves

Jim: This is our every other week Vance team meeting. Carrie Sperling has joined us in the past, and we asked her to join for this meeting. Suggested an agenda – for Carrie to tell us where her office is at in this investigation and to give us some sense of the timing. Putting Carrie on the spot but appreciate any insight you can give us.

Carrie: Timeline depends on how you all want to proceed. Met with Darlene Jones, n/k/a Walton. Curious about what your thoughts were about that interview.

Jim: Thoughts are she was consistent that on the evening Phillip was with her, she used her phone to call Chicago and all that. After that, her memory did not conform with what we know are the facts. It was a surprising interview. Key part of where Phillip Vance was is consistent – *Phillip Vance was with me. My mother and grandmother were off playing bingo and I had to make sure the guys were gone before they got back.* Said something about shoes being thrown on the roof, but then afterwards timeline got mixed up about when Phillip returned with shoes/police showed up at house.

Carrie: What do you make of the inconsistencies?

Jim: What inconsistencies? This happened 20 years ago, she wants nothing to do with this case. Has her own life and husband. Signed affidavit, but really hadn't read it. I feel she would have remembered if she read it. Key parts – where was Phillip at the time of the crime? He was right there.

Carrie: One of our questions is, it was interesting, as you point out Jim, she didn't even read the affidavit, what is that process like?

Jim: We prepared the affidavit last summer, sent it to her, and she said it was fine. Based off conversations with her. Then, crickets…You may have gotten into the Innocence Project file and read an interview they did with Darlene where the shoes were mentioned. We talked with Darlene about it, re-wrote the affidavit, and sent to her. Hadn't head anything, but then Jason was able to find a friend of Darlene's husband to convince him to let his wife help (was previously apprehensive). Through his good work, she signed it. I thought we were great – on the key points on the affidavit, she was right. I'm going to go further about Kentrell Anthony – that she rode with the guys downtown. Consistent with Colleen McManus's story seeing them getting dropped off. We did not give that to her.

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Carrie: CRU looks at everything from the standpoint of independence. We do not make a case for the State or for Phillip. At some point, Kathy Keena is going to have to sign-off on this. Curious as to how the team feels about what she may think about the Darlene interview?

Jim: Turning over to Mr. Foster. What did you think of the interview?

Nick: (Introduced himself). Our theory here is that Darlene is the alibi. She was with Phillip at the time of the crime. When we met with her, she condensed 3 weeks of activity into 2 days. As the alibi – how do you know it wasn't December 20th she's referring to? How do you know it's not December 23rd?

Jim: Because we have the cellphone records.

Nick: The cell phone – she said she made that call. Believes she made that call on the 22nd but can't recall. Inconsistencies from the affidavit – who she was calling, why she was calling.

Jim: How often do you interview someone about something that happened over 20 years ago?

Nick: Quite a few times, especially since starting with CRU. Interview was a fact-finding interview. Did not lead-on. Interviewed less than a week after the affidavit was signed, but there was a number of inconsistencies. If you put Darlene in front of opposing counsel, how do you think she'd stand up?

Jim: If she was prepared, but she's difficult to access. You interviewed her cousin, and her story did not have the same collapsing of the 3-week time period. Remembered police invasion and new shoes but didn't get her dates right. Consistent with her wanting nothing to do with this case.

Nick: The interview was non-confrontational. I wanted her to recap what she was telling me. If you put her with someone who is confrontational, would not hold up.

Jason: What does that mean?

Nick: Do you want details about what she said.

Jason: Florida – you want to talk?

Phillip: (Thanks the group). Big part of this is I believe it is very unrealistic to believe a person from 20 years ago is going to have detailed, sharp memory. There is no reason for her to remember this day. I've been thinking about this day for 20 years, so my recollection is clearer. Second, she was interviewed by police. I was told by Prof. Warren that an interview as done with her 20 years ago. Odd I was a suspect of the crime due to a call Coleen McManus made to me the day after. Odd they waited a month later to go and interview people about my alibi. In other cases, they talk to alibi's sooner. First person suspected, but I was asked about my alibi last. Makes things difficult for people to recollect. Was this planned/strategized? If you look at the other suspects, their alibis were immediately verified/cleared. They waited a month later to interview me/alibi witnesses. I don't see a reason why Darlene would need to remember that day. She didn't come to court –

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nothing. I told them immediately I was with her. Almost like it never happened. Was that a strategy?

Nadine: Noticed that, as far as the commonalities between Kentrell and Darlene's statements, is the police never told them when the crime happened. May have thought that, when the police raided her house, was when the crime had happened. I was frustrated with your interview, Nick, because she was not asked/reminded of the timeline when the crime happened.

Nick: I'm impartial and was not there to lead her in a certain direction. Jim commented that he was appreciative of the questions because she seemed to be susceptible to leading.

Phillip: I know they knew nothing about it. I know when the raid happened because they all happened on the same day. I was in Ramsey County jail. Held me, went to court on Monday, was waiting to be released, then was told I had a warrant for a probation violation when I wasn't on probation. During this week is when they conducted all the raids. 2-3 weeks after the murder. This is the first time they came and told me I was being investigated. (Talked about frustration about the wait between when he was a suspect to when his alibis were talked to). If I would have been asked sooner, I would've had a house full of people.

Jim: I'd like to leave the alibi for a moment and talk about the State's case – Phillip and Dominick were at the Radisson. John Martin was with them. Waitress, Melissa Stites, didn't know the 3rd guy. She said they were acting more suspicious than usual. Picked up by the SSP girls. Not one bit of that happened. We know from John Martin's affidavit that he had the wrong night. SSP girls did pick him up, but not that night, because it was a Sunday night. Amy Draeger is consistent that Yvonne was with her. Consistent that it was always Dominick on the other line. Besides alibi, State had no case.

Carrie: John Martin – how do you think he would stand up to an examination now?

Phillip: Regarding Radisson situation, when I looked on those phone records, I looked at the time we were at the Radisson bar. My partner, Townsend, is from Milwaukee. He was the 3rd person with us that day, not John Martin. If anyone is familiar with downtown St. Paul, there's cameras everywhere. I don't understand if Melissa spoke to these officers – why didn't anyone go to find surveillance of who this 3rd person was? It would prove John Martin was not there. What he testified to happened 100%, it just wasn't that day. Crazy how this was put-together by the police. Everything was he say/she say.

Jim: To add, cellphone records show that John Martin said you left at 8:30, but you were at Minnehaha with Darlene to make her call. Wrong date – cellphone records show this.

Phillip: I met Nicole 2 times, and in the 2 times I met her, Dominick took us to get some liquor. Only 2 times I met her. I don't know them at all.

Carrie: So we don't have to deal with memory, there's one question we're trying to get to the bottom of. Whose number is that Chicago number?

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Phillip: It's a landline. I had an investigator, Pat Robinson (sic) who tracked it down. I don't know the person who it's assigned to. Not uncommon that the person who she called could've been at someone else's house. When I look at the phone records, there's #'s I called that I don't recognize the names. I don't know anybody in Chicago. I was the only one in my friends that had a phone. I had free minutes after 9pm and weekends. I know for a fact Darlene used my phone that night and called someone in Chicago.

Nick: Can I go into what I found? I'm not sure about the privacy/privilege of the issue. (Carrie ok'd). When this issue came to me, when we weren't sure if we were going to be able to find her/get an affidavit from Darlene, I did some digging. What I found is that number belonged to a Jacqueline Ross from March 2002 to September 2003. Not knowing if we were going to get a hold of Darlene, figured this may be the next step to prove this alibi. I started trying to link Jacqueline Ross to other people in the case. Third party databases have something called a relationship report. Can run names of people against other people to see where there is overlap. Ran 20 of these reports vs. members of Darlene's family/people in the case. Been unable to find anything. Darlene had said in her interview that she'd call in to her mother to check-in or would need to call neighbor if her mom didn't have a phone. No overlapping addresses between her and her mother. Jacqueline Ross may have family members who could have answered the call but haven't had time to track that down. Although you don't seem concerned about Darlene being the alibi, but if she is unable to link the alibi, Jacqueline Ross may be the way to go.

Phillip: The significance of that phone call is 10 minutes long. Whoever called that number was having a full-on conversation. The thing about Darlene, if you dig into her family, her family has a lot of drug/alcohol problems. Her mom was out there. I get the data, but if things don't link up data-wise doesn't mean it didn't happen. My alibi with Darlene is all I have. I knew from the jump where I was at. At that time, I was hanging out with her a lot. I know for a fact she used my phone that night.

Jim: Did she call you from the bar to ask you to come over to her house so she could make the call?

Phillip: No, but she called and asked me to bring her some cigarettes and to hangout.

Dorsey: Called you on your cellphone.

Nadine: Were you able to verify it was a landline?

Nick: Yes, according to the third-party database.

Christiane: Is this the correct spelling I put in the chat?

Nick: Yes.

Nadine: Are you able to share that address that is linked to it?

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Nick: It doesn't have the address for the landline but can show the address where Jacqueline Ross was living at the time. We had the address for Darlene's mother, but it didn't overlap.

Nadine: People put things in their name for other people. Jacqueline may have done that.

Nick: I'm not saying there is no link, I just haven't been able to find it. There may have been multiple people at that house living there.

Jason: What happens if you find the link?

Nick: Call and interview them. See what they remember. At least there would be a link proving Darlene is the alibi. Stronger alibi.

Phillip: Can I ask a question? Do you guys think an alibi would be the only reason I should be exonerated?

Carrie: Nothing is the sole reason. Everything is connected, but the fact that everything we have trying to prove this alibi continues to fail is problematic. It's not the only thing, but it would be very helpful. If we went back to John Martin – you link yourself to him in your interviews earlier with police, then he testifies he was with you, then he recants, then he recants those recantations. We have an alibi problem and a problem with witnesses who've given testimony who don't have a memory, or a prosecutor might say they are being dishonest. This goes back to people not having good memories of the event.

Phillip: I feel like I am in a very tight situation because I wasn't given a fair opportunity at the time. Investigators allowed time to elapse. I believe it was strategized. In my mind, I thought they'd figure out I had nothing to do with this. I didn't even tell my mom because I was sure I'd get cleared. I didn't know I'd need an alibi for that night. I feel I'm being held accountable for something that the police should have come and asked me.

Carrie: I couldn't tell you what I did a week ago unless I had my calendar, but we can't have it both ways that people can't remember what they did at the time, but also that these people are a solid alibi. That is why we are trying to build the alibi on independent sources that do not rely on memory. Relying on memories 20 years later is very difficult, and process is painstaking and need to find corroborating evidence. We have to work with what we have.

Phillip: The only reason I remember where I was is because it was a Sunday, and the investigator asked about my routine on Sunday. I watch football faithfully. I remember the game I watched that same day. That's how things started growing. I was at Darlene's house, and I watched the late game there. Mr. Foster – I was looking at phone record subpoenas. I saw back in 2002 that in someplace in Kansas, there's a print subpoena union. Is there any way you can find out what information was given to investigators?

Nick: I don't have subpoena power. I did look through the files at one point in time, and believe that at some point, subpoenas were requested from Sprint and other cellphone providers, and some got returned with nothing. I don't know why.

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Phillip: I ask because this murder happened Dec. 22, 2002. If I'm not mistaken, I'm interviewed about it first on January 19th. I sat in an interrogation room for 8 hours straight. Something that always stuck out to me – Thomas Kreager. They acted like they didn't know I had a cell phone. He said do you know what a cell-site tower is? He then explained to me that my location could be pinpointed when I was making phone calls. When I see that time elapsed and they never did it, I believe that's bull.

Jim: In that same interrogation, you told them to get those records, and they didn't.

Phillip: Yes, I did. I really thought I was going home. I thought they could never prove that I did it. Not because I'm arrogant, but because I didn't get it. I believe they did get it, but that it wasn't favorable to them.

Nick: Thoughts on the interviews. The interviews that the police did are the classic Reid technique. Extremely questionable. Problem with that is that the courts have held that the Reid technique is authorized for police to use. While listening to the interviews, they are not good interviews, but legally they are authorized.

Phillip: Why would they tell me they were going to get these records, but didn't? Everything that could've helped me, they didn't have. Feels like they did the complete opposite.

Carl: Without a doubt this would've been key information. The fact they didn't get those records is unfathomable. It doesn't make sense.

Nadine: Question for Mr. Foster. Described yourself as a neutral party. Looking at the state's case – do you see an inconsistency there? Could they prove this case again given what you know?

Nick: Is it on them to have to prove their case again?

Nadine: I'll remove that question. Do you see any inconsistencies in their case?

Nick: I see some potential misconducts, but I don't know if it's at the level where it's exonerating. I think the biggest problem, as I see it, I'm going to get into Melissa Stites, if that's ok with you Carrie. Biggest problem is the affidavits that have been signed. When I look into them, they don't hold up. Darlene's interview was inconsistent. John Martin recanted his affidavit. Melissa Stites also recanted her affidavit when I spoke with her as well. I don't believe Melissa Stites is reputable, but it was shocking. Biggest problem is these affidavits. If we move forward to prove Phillip's innocence, we have to have more concrete statements. What happened with Melissa Stites?

Nadine: That was before we were on the case.

Phillip: Mary Moriarty wrote that. They had vetted her and spoke over the phone with Melissa. Flew out on a plane. Said Melissa put her up in a hotel (still works for the Radisson).

Carl: Are you talking about Perry Moriarty, not Mary Moriarty?

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Phillip: I don't know.

Jason: All I know is this came from lawyers and their information. When are you going to wrap up? Give us some sort of timeline about this playing out.

Nick: I don't make those decisions. I'm just an instrument. There comes a time in any investigation I do that, at a certain point, I'm going to stop depending on what attorneys dictate. I usually get asked to stop when it is going away from the theory that was presented/not holding up under the investigation. We're kind of heading that direction right now.

Carrie: We'll provide you with the Melissa Stites interview. I think this meeting was good and I'm glad Phillip could join us. We'd also be willing to do a formal interview if your team felt that would be appropriate. Like Nick said, we've been investigating, trying to uncover/follow the leads, but they are not going in the direction we expected.

Phillip: I respect your truth and honesty. Personally, I'm tired. I've been waiting a long time and been patient as I can be. With all due respect, if there's nothing more the CRU can do for me, I would really appreciate it if you'd just let me know so I can go in my own direction. My fight will never stop. I need some type of closure to this aspect of the investigation. I would really appreciate it sooner rather than later. I don't want to hold up any more of your time if you feel things are not going in a positive direction.

Carrie: We'll meet with your lawyers again and come up with a timeline/plan as soon as we can.

Nadine: Have you reached out to Darlene or Kentrell if they know Jacqueline Ross?

Nick: I asked Darlene during the interview, and she said no. I also asked Jacqueline Ezell when I interviewed her, and she said no. I was not present during Kentrell's interview.

Carrie: Like I said, maybe we should meet next week, Nadine and Jim.

Everyone said good-byes. Meeting concluded at 12:05 p.m.

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STATE OF MINNESOTA | DISTRICT COURT

COUNTY OF DAKOTA | FIRST JUDICIAL DISTRICT

File No. K5-04-3658

State of Minnesota,

Plaintiff,

v

Nicolle Lynn Rauschnot,

Defendant.

ORDER

The above-entitled matter came before Rex D. Stacey, Judge of District Court, on April 11, 2005, at the Dakota County Government Center, Hastings, Minnesota.

Kathy Keena appeared for the State.

Earl Grey appeared with the Defendant.

Based upon the proceedings, this Court makes the following:

ORDER

1. Defendant's jury trial is continued to June 20, 2005, at 9:00 a.m. at the Dakota County Judicial Center, Hastings, Minnesota

2. Defendant's alibi defense is reasserted.

Dated: April 13, 2005

BY THE COURT:

Rex D. Stacey
Judge of District Court

FILED
DAKOTA COUNTY
VAN A [illegible]OM Court Administrator
APR 15 2005
BY _____ DEPUTY

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STATE OF MINNESOTA COUNTY OF RAMSEY	DISTRICT COURT SECOND JUDICIAL DISTRICT
James Michael Green, Petitioner, vs. State of Minnesota, Respondent.	**PETITION TO VACATE CONVICTION UNDER MN LEGIS 52 (2023), 2023 MINN. SESS. LAW SERV. CH. 52 (S.F. 2909) AND MINN. STAT. §§ 609.05, SUBDIVISION 2A, 609.185(A)(3)** Court File No.: 62-K6-04-001372

TO: The above captioned Court and the Ramsey County Attorney's Office, representing the State of Minnesota

INTRODUCTION

Mr. James Michael Green ("Petitioner") previously submitted a preliminary application for postconviction relief pursuant to MN LEGIS 52, 2023 Minn. Sess. Law Serv. Ch. 52 (S.F. 2909) and Minn. Stat. §§ 609.05, subd.2a(a), 609.185(a)(3). *See* Index #17. On February 15, 2024, Petitioner's preliminary application was granted. Index #20. Pursuant to the Court's order, Petitioner hereby files a petition to vacate his conviction within 60 days of the Court's order. *See id.*

PETITION TO VACATE CONVICTION

Petitioner states:

1. Petitioner's name is James Michael Green. He was convicted under this name.

2. Petitioner's date of birth is June 28, 1981.

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3. The district court case number of the case for which Petitioner seeks relief is 62-K6-04-001372.

4. Petitioner was convicted following a trial. Petitioner testified in his own defense and has unwaveringly denied intentionally aiding, advising, hiring, counseling, or conspiring with or otherwise procured the other with the intent to cause the death of a human being.

5. Petitioner filed a direct appeal from the conviction. The Supreme Court case number for Petitioner's conviction is A05-336. The decision is published. *State v. Green*, 719 N.W.2d 664 (Minn. 2006). Petitioner also filed one or more postconviction motions which were denied.

STATEMENT IN SUPPORT OF PETITION

I. Petitioner's First-Degree Murder Charge Must Be Vacated.

Petitioner was convicted of three counts of aiding/abetting first-degree felony murder / attempted murder under Minn. Stat. § 609.185(a)(3) in 2004. *See* Minn. Stat. 609.05, subd.2a(a) (Aug. 1, 2023).

On direct appeal, the Minnesota Supreme Court held "[t]here was no evidence or suggestion that [Petitioner] fired any of the shots" that resulted in the death of two individuals or injury to a third individual. *Green*, 719 N.W.2d at 669. The Court further found that forensic testing indicated the four bullet fragments that were found were all fired from a single firearm which was possessed and fired by someone other than Petitioner. *See id.*

Petitioner did not intentionally aid, advise, hire, counsel, or conspire with or

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otherwise procure the other with the intent to cause the death of a human being. *See* Minn. Stat. 609.05, subd.2a(a) (Aug. 1, 2023); *accord* Exhibit B, Petitioner's Trial Testimony Transcript ("Pet. Tr.") at 22 (explaining Petitioner did not carry a firearm and was incentivized to stay away from firearms due to prior conviction for possession of a firearm by an ineligible person); Pet. Tr. at 31 (reiterating neither Petitioner nor his co-defendant Mr. Valtierra had a firearm, and further stating Petitioner was unaware the shooter had a firearm until he brandished it at the victims); Pet. Tr. at 31-32 (demonstrating the shooter fired because he wanted the drugs and had been challenged to shoot by the victim); Pet Tr. at 48-49, 51-53, 93 (further reiterating Petitioner had no advance knowledge of the shooter's intent or even ability to cause the death of any person); Exhibit C, Valtierra's Trial Testimony Transcript ("Valtierra Tr.") at 13-18, 47-49 (corroborating Petitioner's account).

One of Petitioner's co-defendants, Mr. Daniel Valtierra, testified consistently with Petitioner. *See Green*, 719 N.W.2d at 668. Petitioner and Mr. Valtierra both testified that the shooter, Mr. Michael Medal-Mendoza, "did not tell them that he was going to rob or kill anyone." *Id.* Mr. Valtierra further testified that neither he nor Petitioner "had a gun." *Id.* Mr. Valtierra testified that Petitioner fled from the premises as soon as the first shot was fired, getting out of the house even before Mr. Valtierra. *See id.* Petitioner's testimony was consistent with Mr. Valtierra's. *See id.*

After the shooting, Petitioner fled, as did Mr. Valtierra and Mr. Medal-Mendoza. *See id.* at 669. Within less than a day, Petitioner learned at least one person had died, "so he called a Saint Paul police officer to turn himself in because he felt he did nothing

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wrong." *Id.* St. Paul police later confirmed that Petitioner did have a standing meeting to turn himself in, but noted he was arrested a few hours early after police received a tip about Petitioner's location. *See id.* ("An officer acknowledged that this was the initial plan but said they decided to arrest him when they received the tip").

According to MCRO, Petitioner was also "convicted" of aiding/abetting three counts of second-degree intentional murder / attempted murder in violation of Minn. Stat. § 609.19, subd.1. However, it is a legal impossibility for Petitioner to have been convicted of both first-degree murder and second-degree murder for the same conduct. Minn. Stat. § 609.035, subd.1 (subject to exceptions not relevant here, "if a person's conduct constitutes more than one offense under the laws of this state, the person may be punished for only one of the offenses and a conviction or acquittal of any one of them is a bar to prosecution for any other of them. All the offenses, if prosecuted, shall be included in one prosecution which shall be stated in separate counts."); *see also* Minn. Stat. § 609.035, *Cmt. By Maynard E. Pirsig (1963)* ("Ordinarily, a criminal prosecution for a given crime involves but a single violation of law resulting from a single criminal act. But sometimes, a single incident of criminal behavior involves a multiplicity of violations permitting a series of prosecutions and of sentences which exaggerate the criminality of the behavior involved and, in a sense, defeat the policy underlying the constitutional protection against double jeopardy. The intent of the section is to meet these objections by limiting the sentence to the maximum permitted for the most serious crime committed. In determining, therefore, whether two or more crimes fall within this policy, among the factors to be considered are the singleness of purpose of the defendant and the unity of time and of place of the

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behavior."); Minn. Stat. § 609.04, subd.1 ("Upon prosecution for a crime, the actor may be convicted of either the crime charged or an included offense, but not both."); Minn. Stat. § 609.04, subd.2 ("A conviction or acquittal of a crime is a bar to further prosecution of any included offense, or other degree of the same crime."). The impossibility of Petitioner having been convicted of second-degree murder is evident in light of the Minnesota Supreme Court's holding in *Spann v. State*, wherein it held:

> At Spann's trial the jury returned guilty verdicts for first-degree murder while committing an aggravated robbery, intentional second-degree murder, and first-degree aggravated robbery. A conviction is defined as either a plea of guilty or a verdict or finding of guilty that is "accepted and recorded by the court." Minn.Stat. § 609.02, subd. 5 (2006). A guilty verdict alone is not a conviction. We have previously instructed sentencing courts:
>
> > **"[W]hen the defendant is convicted on more than one charge for the same act * * * the court [is] to adjudicate formally and impose sentence on one count only. The remaining conviction(s) should not be formally adjudicated at this time.** If the adjudicated conviction is later vacated for a reason not relevant to the remaining unadjudicated conviction(s), one of the remaining unadjudicated convictions can then be formally adjudicated and sentence imposed, with credit, of course, given for time already served on the vacated sentence."
>
> *State v. Pflepsen*, 590 N.W.2d 759, 766 (Minn.1999) (quoting *State v. LaTourelle*, 343 N.W.2d 277, 284 (Minn.1984)). In this case, the district court "received" the jury verdicts and sentenced Spann without stating on which offenses the court was entering formal adjudications of conviction. We may also look to the "official judgment of conviction" in the district court file "as conclusive evidence of whether an offense has been formally adjudicated." *Id.* at 767. In Spann's case, the official judgment of conviction shows that formal adjudication was entered on all three guilty verdicts. Spann argues that these three convictions violate Minn.Stat. § 609.04.
>
> **Section 609.04 prohibits convictions on both a crime charged and an included offense, specifying that "[a] lesser degree of the same crime" and "[a] crime necessarily proved if the crime charged were proved" are**

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> **both included offenses.** Minn.Stat. § 609.04, subd. 1(1), (4). **Here, intentional second-degree murder is a lesser degree of first-degree murder, and aggravated robbery is an offense "necessarily proved" if felony murder is proved.** *E.g., State v. Fratzke*, 354 N.W.2d 402, 410 (Minn.1984). Thus, **we vacate the convictions for the lesser-included offenses of intentional second-degree murder and first-degree aggravated robbery, offenses for which Spann received no sentence**. We affirm the postconviction court's denial of relief with respect to Spann's conviction and sentence for first-degree murder.

Spann v. State, 740 N.W.2d 570, 573-74 (Minn. 2007) (emphasis added).

Because it is impossible for Petitioner to have been convicted of both first-degree murder/attempted murder and second-degree murder/attempted murder, and because Petitioner was convicted of the more serious first-degree murder charge, any indication or allegation that Petitioner caused the death of another with the intent to do so by reference to a second-degree murder "conviction" is categorically incapable of justifying a determination that Petitioner is ineligible for statutory relief under the felony murder reform law.

Petitioner's second-degree "conviction" cannot cause Petitioner to be ineligible for the requested relief. Any other holding would violate Minnesota's single behavioral incident rule, constitutional prohibitions of double jeopardy, and Minn. Stat. §§ 609.035, 609.04. The fact of the first-degree murder convictions severely inhibited Petitioner's ability to be heard on the merits of the second-degree "convictions," to the extent they might be capable of being called convictions. This detracts from the reliability of the jury verdicts with respect to the second-degree "convictions" and implicates due process concerns. It would be a manifest injustice and fundamentally unfair to hold that a lesser included crime of conviction, which is statutorily incapable of constituting a "conviction"

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under Minnesota law, can somehow operate to deprive an individual convicted of first-degree murder of eligibility for ameliorative statutory relief.

II. Petitioner's Second-Degree Murder Charges Must Be Dismissed or Retried.

If Petitioner's case had been tried subsequent to August 1, 2023, he could not have been convicted of first-degree murder under § 609.185(a)(3) under an aiding and abetting theory of liability unless the prosecution could show beyond a reasonable doubt that Petitioner intended to cause the death of one or more persons and did so. This was not true at the time of Petitioner's conviction.

Because the jury determined Petitioner was guilty of violating § 609.185(a)(3), a more serious crime than second degree intentional murder, it is likely that the jury simply found Petitioner guilty of second-degree intentional murder because it was a lesser included offense of first-degree murder. The jury likely believed they could not convict Petitioner of first-degree murder while acquitting him of second-degree murder. This issue would have seemed irrelevant to the district and appellate courts at the time since the first-degree convictions were obtained and upheld on appeal. *See State v. Green*, 719 N.W.2d 664 (Minn. 2006) (omitting any substantive discussion of the second-degree murder charges and "convictions").

It is unclear to the undersigned whether prior counsel made any attempt to fight the second-degree murder "convictions," or whether prior counsel's ability to do so was inhibited by needing to focus on the vastly more serious first-degree murder charges which imposed a life-sentence rather than a maximum of 40 years. However, it does not appear

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from trial counsel's opening statement that he made any attempt to distinguish between the first-degree and second-degree charges. *See* Exhibit A, Transcript of Mr. Coleman's Opening Statement.

Similarly, it is unclear whether Petitioner's appellate or prior postconviction counsels made any attempt to challenge the second-degree murder convictions, but it is notable that not one portion of the Supreme Court's opinion addressed the sufficiency of the evidence with respect to the second-degree murder charges. *See State v. Green*, 719 N.W2d 664 (Minn. 2006). The total absence of discussion likely resulted from the fact that such issues would not have been properly on appeal since Petitioner was only allowed to be convicted of first-degree murder under the procedural posture of his case for the aforementioned reasons relating to second-degree murder being a lesser included crime of first-degree murder. *Supra.*

The discussion about Petitioner's lack of opportunity to meaningfully challenge jury verdicts relating to the second-degree murder charges is relevant considering the following statement previously made by the Minnesota Supreme Court in *State v. Pflepsen*:

> [W]hen the defendant is convicted on more than one charge for the same act * * * the court [is] to adjudicate formally and impose sentence on one count only. The remaining conviction(s) should not be formally adjudicated at this time. **If the adjudicated conviction is later vacated for a reason not relevant to the remaining unadjudicated conviction(s), one of the remaining unadjudicated convictions can then be formally adjudicated and sentence imposed, with credit, of course, given for time already served on the vacated sentence."**

State v. Pflepsen, 590 N.W.2d 759, 766 (Minn. 1999) (quoting *State v. LaTourelle*, 343 N.W.2d 277, 284 (Minn. 1984)).

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Thus, it may initially appear that when the Court vacates Petitioner's first-degree murder charges, the Court is required to formally adjudicate and sentence Petitioner on the second-degree murder charges for which the jury returned verdicts of guilt. However, the *Pflepsen* court used the word "can," which is analogous to the permissive "may" rather than the mandatory "shall" or "must." Therefore, *Pflepsen* does not prevent this Court from vacating both the first-degree murder conviction, and the lesser-included second-degree murder convictions (if they can be called convictions). Though the first-degree murder convictions must be vacated in accordance with statute, whereas the second-degree murder convictions are not *required* by statute to be vacated, concerns of fundamental fairness, due process, and the interests of justice justify vacating the second-degree murder convictions.

Concerns of fundamental fairness, due process, and the interests of justice justify vacating the second-degree murder convictions because Petitioner never had a meaningful opportunity to present legal, factual, or evidentiary arguments about the second-degree murder verdicts on direct appeal or prior postconviction motions as a result of the fact that such convictions were not "convictions" at the time under Minnesota law. *Supra.* Adding to the fundamental fairness and interests of justice concerns is the realization that it is more likely than not that any jury which returns a guilty verdict of first-degree murder with respect to an individual defendant is almost certain to also return a guilty verdict on any lesser-included second-degree murder charges. The undersigned is aware of no case, and has not been able to locate any case, in which a jury returned a verdict of guilt on a first-degree murder charge but an acquittal on a second-degree murder charge where both

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charges were based on the same underlying overt act. While one might expect a jury to sometimes find a defendant guilty of second-degree murder after finding the same defendant not guilty of first-degree murder, it is inconceivable that the reverse would ever occur.

The Minnesota Supreme Court has explained that in most cases, "intent and premeditation are not easily susceptible to direct proof." *State v. Dahlin*, 695 N.W.2d 588, 601) (Minn. 2005); *see also State v. Flores*, 418 N.W.2d 150, 155 (Minn.1988) ("Premeditation, being a process of the mind, is wholly subjective and hence not always susceptible to proof by direct evidence.") (quoting 10 Minn. Dist. Judges Ass'n, Minnesota Practice-Jury Instruction Guides, Criminal, CRIMJIG 11.02 (1985)). These realizations, in combination with Petitioner's and his co-defendant Valtierra's testimony that Petitioner did not intend to cause the death of any person, cast serious doubt on the sufficiency of the evidence as to Petitioner's intent with regard to the second-degree murder charges once the first-degree murder convictions have been vacated and set aside.

At minimum, Petitioner should be able to file a new direct appeal and to have his postconviction time limits and numerical limits reset with respect to the second-degree murder verdicts once the first-degree murder verdicts have been vacated. Because this bifurcated appeal process would be completely impracticable 20 years after the initial trial, both for the Petitioner and the Courts, the only sensible option remaining to the Court is to set aside the jury's verdicts with respect to the second-degree murder charges and either order a new trial or dismiss the case with prejudice, either of which are justified in the interests of justice. Of these options, Petitioner's preference is dismissal.

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Petitioner's request to vacate and set aside the jury's second-degree murder verdicts is also consistent with due process. To assert a viable procedural-due-process claim, an aggrieved party must demonstrate they (1) have been deprived of a protected life, liberty, or property interest (2) without "constitutionally sufficient" procedural protections. *Hall v. State*, 908 N.W.2d 345, 358 (Minn. 2018). Under United States Supreme Court and Minnesota Supreme Court precedent, this court "must look to the nature of an interest to determine if it is within the scope of the Fourteenth Amendment's protection of liberty and property." *Carrillo v. Fabian*, 701 N.W.2d 763, 768 (Minn. 2005) (citing *Bd. of Regents of State Colls. v. Roth*, 408 U.S. 564, 570-71 (1972); *Sandin v. Conner*, 515 U.S. 472, 484 (1995)). In determining the appropriate burden of proof for due process cases, courts consider three factors: (1) the private interest at stake; (2) the "risk of an erroneous deprivation of such interest"; and (3) the Government's interests, including any potential "fiscal and administrative burdens." *Mathews v. Eldridge*, 424 U.S. 319, 321 (1976).

Here, Petitioner asserts that he has been deprived of his liberty interest, with respect to the jury's second-degree murder verdicts, without constitutionally sufficient procedural protections. Namely, because his second-degree murder verdicts were for a lesser-included crime regarding the same overt acts underlying the first-degree murder convictions, Petitioner was placed in a position where it was completely and totally futile and pointless for Petitioner to challenge the sufficiency of the second-degree murder verdicts; he clearly and obviously needed to focus instead on the first-degree murder verdicts, which were the only verdicts that actually resulted in a "conviction" under Minnesota law. He was therefore totally and completely deprived of the ability to be present arguments regarding

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the sufficiency of the second-degree murder verdicts and have those arguments considered with respect to his direct appeal. Notably, even if Petitioner had convinced the Minnesota Supreme Court on direct appeal that the second-degree murder verdict could not stand, the Court would have likely designated this harmless error so long as the first-degree murder convictions remained in place.

Under the *Mathews* tripartite test, the showing in this statement should be sufficient to hold that Petitioner has met whatever burden is necessary to justify vacating and setting aside the second-degree murder verdicts. The private interest at stake is an extremely weighty 40 years of Petitioner's life for each count and strongly favor's granting Petitioner's request. The risk of erroneously depriving Petitioner of his liberty interest in this case is also extraordinarily weighty and favors granting Petitioner's request. The government's interests, whatever they may be, do not come anywhere close to outweighing the first two *Mathews* factors which so strongly favor Petitioner.

CONCLUSION

The Court must vacate Petitioner's first-degree murder convictions in accordance with statute. The Court should further vacate and set aside the jury verdicts relating to Petitioner's second-degree murder charges in the interests of justice and to vindicate Petitioner's constitutional due process rights. The Court should either dismiss the murder charges against Petitioner in the interests of justice, or should order a new trial in the interests of justice. At minimum, the Court must resentence Petitioner.

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Dated: April 4, 2024

Respectfully submitted,

RATKOWSKI LAW PLLC

/s/ Nico Ratkowski

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Attorney for James Michael Green

MINNESOTA JUDICIAL BRANCH

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STATE OF MINNESOTA | IN DISTRICT COURT

COUNTY OF DAKOTA | FIFTH JUDICIAL DISTRICT

Philip Randall Vance,

Petitioner,

vs.

State of Minnesota,

Respondent.

PETITION FOR POSTCONVICTION RELIEF

D.C. File No. 19-K6-04-000736

TO: THE ABOVE-NAMED DISTRICT COURT

The undersigned represents and states:

I. Identification of Case

Petitioner seeks review of his conviction on October 5, 2004, following a jury trial in Dakota County, of first-degree premeditated murder, first-degree felony murder during an aggravated robbery, and second-degree intentional murder for the shooting death of Khaled Al-Bakri on December 22, 2002.

II. Identification of Previous and Current Proceedings

In an opinion dated May 25, 2006, the Minnesota Supreme Court affirmed the conviction. State v. Vance, 714 N.W.2d 428 (Minn. 2006).

In May 2007, Vance brought a petition for post-conviction relief that was denied by the District Court. That denial was affirmed by the Minnesota Supreme Court. State v. Vance, 752 N.W.2d 509 (Minn. 2008).

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On July 20, 2008, Vance brought a pro se habeas corpus petition in federal court. In an order dated February 5, 2009, U.S. District Court Judge Montgomery denied the petition.

The Office of the Minnesota Attorney General, through its Conviction Review Unit, is currently reviewing Vance's conviction. Pursuant to the CRU charter, at the conclusion of its investigation, the CRU may join in this Petition for Post-Conviction Relief.

III. Facts, Grounds, and Prayer for Relief

Vance seeks an order vacating his conviction on the grounds that: (1) newly discovered evidence disproves key elements of the state's case; (2) newly discovered evidence reveals a pattern of illegal police conduct in the investigation of the crime; and (3) newly discovered evidence proves that, at the time of the crime, Vance was with three other people at a duplex at 956 Minnehaha Ave. E. in Saint Paul. Vance also challenges his conviction based on other grounds relating to the Constitution and laws of the United States or Minnesota that appear from the records and proceedings and such grounds as this Court may consider though not specifically raised by him.

IV. Evidentiary Hearing

An evidentiary hearing is required unless the files, records, and proceedings conclusively show that Vance is not entitled to relief. Minn. Stat. § 590.04, subd. 1 (2022). With the Court's permission, within 45 day of the CRU's conclusion of its investigation of the conviction in this matter, Vance will file a memorandum of law in support of this Petition. Vance will at that time decide whether to request an evidentiary hearing. Vance

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does not object to the state's delaying filing a response until 20 days after the filing of his memorandum. *See* Minn. Stat. § 590.03 (2022).

Dated: December 14, 2022

Respectfully submitted,

s/ James E. Dorsey
James E. Dorsey (#0137893)
Fredrikson & Byron, P.A.
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612-492-7079
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s/ Nadine Graves
Nadine Graves (#0399241)
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Legal Rights Center
1611 Park Ave.
Minneapolis, Minnesota 55404
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ATTORNEYS FOR PETITIONER

MINNESOTA JUDICIAL BRANCH

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2/27/2004 10:16 AM

State of Minnesota County of Dakota District Court

CCT	LIST CHARGE STATUTE ONLY	MOC	GOC	CTY ATTY FILE NO.	CONTROLLING AGENCY	CONTROL NO.
01	609.185(a)(1)	H1313	N	CA-03-2679	MN0100600	02018427
02	609.185(a)(3)	H1313	N			
03	609.19,S1(1)	H2013	N			

[ ] Domestic Assault

COURT CASE NO. K6-04-736

DATE FILED 3-12-04

State of Minnesota,

Defense Atty

PLAINTIFF,

INDICTMENT

[X] Serious Felony
[ ] Felony
[ ] Gross Misdm DWI
[ ] Gross Misdm

NAME: first, middle, last
PHILLIP RANDALL VANCE

Date of Birth
10-20-80

SJIS Complaint Number
19-11-X-069676

DEFENDANT.

INDICTMENT

The above named Defendant(s) is/are hereby accused and charged by the Grand Jury of the above named County, in the State of Minnesota, by this indictment of the offense(s) of:

OFFENSE(S): SEE PAGES 2 AND 3

IN VIOLATION OF SECTION : SEE PAGES 2 AND 3

Committed on the 22nd day of December, 2002, at

LOCATION: In the City of South St. Paul

in the above-named County, Minnesota

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The Dakota County Grand Jury met on March 3, 10 and 11, 2004, regarding the investigation into the facts and circumstances surrounding the death of Khaled Al-Bakri. The following witnesses appeared and testified during this investigation:

1 Tariq Bakkri, 2 Captain Daniel Vujovich, 3 Corporal Mark Sawyer, 4 Kathleen Johnson, 5 Samantha Renville, 6 Matthew Renville, 7 Dale Marx, Jr., 8 Mohammed Sedqi, Dr. Lindsey 9 Thomas, 10 John Martin, 11 Melissa Stites, 12 Maynard Cross, 13 Colleen McManus, 14 Eric Griffin, 15 Fabian Wilson, 16 Regina Haggerman, and 17 Geronimo Estrada.

At least 16 members of the Grand Jury were present during this investigation and at least 12 members of the Grand Jury have returned the following indictment(s):

OFFENSE(S)

COUNT I - MURDER IN THE FIRST DEGREE (PREMEDITATION)
M.S. 609.185(a)(1) **Life Imprisonment**

That on or about December 22, 2002, in the City of South St. Paul, Dakota County, Minnesota, **PHILLIP RANDALL VANCE**, caused the death of Khaled Al-Bakri with premeditation and with intent to effect the death of Khaled Al-Bakri.

COUNT II - MURDER IN THE FIRST DEGREE
(WHILE COMMITTING AGGRAVATED ROBBERY IN THE FIRST DEGREE)
M.S. 609.185(a)(3) **Life Imprisonment**

That on or about December 22, 2002, in the City of South St. Paul, Dakota County, Minnesota, **PHILLIP RANDALL VANCE**, caused the death of Khaled Al-Bakri with intent to effect the death of Khaled Al-Bakri, while committing the crime of Aggravated Robbery in the First Degree.

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COUNT III - MURDER IN THE SECOND DEGREE (INTENTIONAL)
M.S. 609.19, Subd. 1(1) **3 to 40 years**

That on or about December 22, 2002, in the City of South St. Paul, Dakota County, Minnesota, **PHILLIP RANDALL VANCE**, caused the death of Khaled Al-Bakri with intent to effect the death of Khaled Al-Bakri.

DATE:
March 11, 2004

Signature of Foreperson of the Grand Jury

//S// FOREPERSON OF THE GRAND JURY

STATE OF MINNESOTA *COUNTY OF DAKOTA*

State of Minnesota

Plaintiff

vs.

PHILLIP RANDALL VANCE

Defendant(s)

FILED DAKOTA COUNTY
VAN A. BROSTROM, Court Administrator
MAR 12 2004
BY MKW

Clerk's Signature or File Stamp

RETURN OF SERVICE
I hereby Certify and Return that I have served a copy of this INDICTMENT - SUMMONS, WARRANT, ORDER OF DETENTION upon the Defendant herein-named.
Signature of Authorized Service Agent:

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COPY

DAY # 1

STATE OF MINNESOTA — IN DISTRICT COURT
COUNTY OF DAKOTA — FIRST JUDICIAL DISTRICT

File No. K6-04-736

State of Minnesota,

Appellate Court
File No. 04-0407

Plaintiff,

vs.

VOLUME 1

Philip Vance,

Defendant.

The above-entitled matter came duly on for Jury Trial before the Honorable Rex D. Stacey, one of the Judges of the above-named Court, commencing on September 20, 2004, at the Dakota County Judicial Center, Hastings, Minnesota.

RECEIVED
MAR 1 8 2005

APPEARANCES:

KATHRYN M. KEENA, Assistant Dakota County Attorney, Dakota County Judicial Center, 1560 Highway 55, Hastings, Minnesota 55033, appeared representing the State.

NITU SINGH and CEAN SHANDS, Public Defender's Office, appeared as co-counsel representing defendant.

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PART #

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SEPTEMBER 27, 2004

THE COURT: The parties can remain seated. Would the jury please rise and take the oath?

(An oath was administered by the court clerk)

THE COURT: Good morning. The trial is about to begin. During the trial, you are going to hear the testimony of several witnesses. You will have to make judgments about the credibility and weight of their testimony. Be patient and listen carefully to the testimony of all the witnesses. Keep it all in mind until you've heard all of the evidence.

As you listen to the witnesses, you should take note of such matters as the witness's interest or lack of interest in the outcome of the case; the witness's ability and opportunity to know, remember and tell the facts; their experience, frankness and sincerity or the lack thereof; the reasonableness or unreasonableness of their testimony in light of all the other evidence, and any other factors that bear on the question of believability and credibility. In the last analysis, you should rely on your own experience, judgment and common sense.

You may take notes during the trial, but you should not feel required to do that. The most important thing is to give full attention to the testimony as you hear it.

You should keep an open mind about all the

evidence until the end of the trial, until you have heard final arguments of the attorneys and until I have instructed you in the law.

Now evidence is what witnesses say and any exhibits received in evidence and submitted to you in the jury deliberation room is also evidence. What the attorneys say is not evidence. However, you should listen carefully to any statements the attorneys make. Those statements are made so that you can better understand the testimony.

During the trial an objection may be made to some evidence, and I may sustain or overrule the objection, and direct that a question not be asked or answered. You should not speculate about what the possible answer would have been.

If I instruct you during the trial to disregard some statement that a witness has made, then you must disregard it.

There are things you should not do during the trial. I will remind you again. You are not investigators. You are not to go out and do any looking and you are not to ask people about this matter. Above all, you must not talk to anyone who is involved, the lawyers or the witnesses.

You should not discuss the case among yourselves. At the end of the trial you will have as much time as you need to discuss it, but that's at the end and not during the trial.

When you go home during the trial, your family

and friends will be curious as to what you were doing. You may tell them you are sitting as a juror in a criminal case and that's all you should tell them.

You don't have to stay away from people or refuse to speak to them. Do whatever you wish, just don't talk about this case. And don't read about it in the newspapers or listen to news about it on radio or television.

Please make a mental note of the seat you are in and keep that seat throughout the trial.

At this time we will listen to the attorneys' opening statements. This is their opportunity to tell you what they believe the evidence will show.

Thanks. Ms. Keena.

MS. KEENA: Thank you, Your Honor.

Good morning. Welcome back. I would just like to take this opportunity to introduce myself again. I am Kathy Keena, Assistant Dakota County Attorney, and I represent the state in this matter.

I would like to take this opportunity to introduce you to the reason why we are all here. This is Khaled Al-Bakri. Khaled was born on March 23, 1977, in Hebron, which is just south of Jerusalem.

Khaled attended Amon University in Jordan where he earned a degree in accounting. While at the University, he served as a student body president for three years. And then

he graduated, he graduated number one academically in his class.

Khaled came to the United States in the year of 2000 on a student visa. His brother, Tariq Bakkri, was already here and was the owner of Sabreen's Market in South St. Paul.

Khaled lived with his brother Tariq and Tariq's wife Kate for about a year and then he moved out and got his own apartment where he lived for about a year.

While in Minnesota, Khaled was attending Century College where he was taking business classes and English classes. He had also taken a review course in preparation of taking the CPA exam, which he was scheduled to sit for in January of 2003.

Khaled was engaged to be married. His fiancée lived in Hebron, and Khaled was to return there to be wed on June 21, 2003. Unfortunately, it's a wedding that never took place because on the night of December 22, 2002, Khaled's life came to a very tragic end, for it was on that night that the defendant and his good friend, Dominic Johnson, entered Sabreen's and killed Khaled during the course of a robbery.

Khaled was shot twice in the back of his head. It was the defendant who pulled the trigger that night, ending the life of a young man with a bright, promising future.

The defendant has been indicted and is standing trial on three separate counts: Murder in the First Degree

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Premeditated, Murder in the First Degree while committing Aggravated Robbery, and Murder in the Second Degree Intentional.

Over the course of the next few days, the state is going to prove beyond a reasonable doubt that the defendant is guilty of committing these crimes. To do that, the state will be introducing the testimony of several witnesses. And I would like to highlight some of the witnesses' testimony with you at this time.

As I already mentioned, Tariq Bakkri is the victim's brother. He's the owner of Sabreen's Market which is a neighborhood grocery story located in South St. Paul.

On December 22, 2002, Tariq had opened the store at about 8:00 in the morning and it was scheduled to remain open until 10:00 that night.

On that day, as was common for Khaled to do, he came down to see his brother at the store. He came in at about 2:00, and they had coffee and just shot the breeze.

Tariq was a new father at the time, and he left the store at approximately 6:00, and Khaled agreed to work the store in his brother's absence.

Tariq had kind of another sideline business and he was faxing out some letters on that evening in regards to that other business.

Tariq came back to the store at about 9:17 to fax a

letter. He left the store, and on his way home he got a phone call telling him that he needed to fax the letter to another location. So he returned to the store and left for the last time at about 9:29.

According to the last entry on the cash register tape, the till was opened at 9:35 for a no sale. That's when the robbery was occurring.

When Tariq was finally allowed to go back into the store, he determined that there were a number of items that were missing. He estimates that there was between $625 to $650 that was taken. He was missing a cordless phone, which Khaled had a habit of carrying around in his waistband. They were missing lottery tickets, cigarettes and a number of their plastic bags that they loaded groceries into.

Kathleen Johnson had the misfortune of walking into Sabreen's through the front door at the time that the robbery was in progress. On that date she was at a friend's residence just a few blocks from Sabreen's.

At approximately 9:40, she drove to Sabreen's to buy some cigarettes. She parked on the street in front of Sabreen's which has a glass front, but she couldn't see inside because there were so many advertisements hanging in the windows.

She entered the store and saw a man behind the counter emptying the cash register. She heard the man behind

the counter yell something. She couldn't quite make out what the word was, but yell something as if alerting a second person in the store.

When the man behind the counter saw her, he reached for his waistband and she thought he was reaching for a gun. She ran out of the store and returned to her car.

While she was sitting in her car, she observed two men run out the front of the store, turn and run around the corner towards the back of the store. There's an alley that runs behind the store.

She described both men as having thin builds, one being approximately five-nine, the other approximately five-seven. She described what both men were wearing, dark hooded sweatshirts, baggy, low-slung jeans, and not able to identify their faces because they both were wearing black ski masks.

She immediately returned to her friend's residence and told them what happened, and they called 911.

In the meantime, in the back of the store in the alley, Sam and Matt Renville, who are kids, they are brother and sister, they were walking to Sabreen's with Dale Marx, who is a friend of theirs and who lives in the neighborhood. He lives right across the street from Sabreen's, as a matter of fact. Those three, along with a younger boy named Jacob, were walking to the store to get snacks. They were having a

sleepover at the Renville residence that night and knew that the store closed at 10:00 and that they needed to get themselves down there if they wanted to get there before it closed.

They were walking to Sabreen's in the alley. And as they were approaching the store, they see that there's a car parked in the alley, and that it's running. They see two males run out from between Sabreen's and a garage, run to the waiting car, yelling, "Go, go, hurry, hurry."

They described the males as swearing baggy, dark colored clothing. Samantha sees that both are wearing hoodies, which are hooded sweatshirts. Again, because they are so far away from the car, they were not able to provide a description as far as the faces of what these two men looked like.

So the kids enter Sabreen's and they don't see anybody. They know Khaled well, they go to the store often. Dale Marx helps out at the store. He works at the store every once in a while. So he is looking around the store. He's looking everywhere in the store to try to find Khaled.

As they get up to the counter, they notice that something doesn't look right about the cash register, the drawer is missing. So Dale peers over the counter and sees that Khaled has been shot.

He tells the others to run from the store. They run

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to Dale Marx's house across the street, they tell his dad what they discovered, and they call 911.

You are going to hear from the person who performed the autopsy on Khaled. She was called to the scene of the crime. Her name is Dr. Lindsey Thomas. In performing the autopsy, she determines the cause of death to be as a result of two gunshot wounds to the victim's head. She determines the manner of death to be a homicide. During the autopsy she extracts both bullets from the head. It did not go through. They were still in his head.

The Minnesota Bureau of Criminal Apprehension was called to the crime scene to process it. In processing the crime scene, they found four .22 caliber cartridge casings near the victim's body behind the counter. There was one bullet found imbedded in a flashlight that was on a very low shelf behind the counter. So they had one bullet from the flashlight. They had two bullets from the head and they were never able to find the fourth bullet, which you will understand when you see the size of them. They are small.

Kurt Moline, with the BCA, examined the four cartridge casings and determined that all four were fired from the same weapon, *boom, boom, boom, boom.* Two of the casings were Winchester brand and two of the casings were CCI brand. He will describe to you how -- for those of you who are not familiar with ammunition, that each cartridge has a head-

stamp on it identifying who the manufacturer is.

One of the witnesses you are going to hear from is a woman by the name of Colleen McManus. On December 22, 2002, she was employed as the night manager at the Buttery Bar, which is located in downtown St. Paul. At that point she had worked there for approximately one and-a-half years and was familiar with both Mr. Vance and his friend Dominic Johnson.

Between 10:15 and 10:30 that night -- she had been at the bar at 7:00, that's when she started work. She left at about 8:15, or so, to go home and make sure that the kids were all in bed. She has older teenagers. So she is returning to the bar at 10:15, 10:30. And when she drives up, as she is driving up to the bar, she sees Mr. Vance and Mr. Johnson being dropped off.

She goes into the bar, puts her things away, and has an opportunity to talk to Mr. Vance. She notices that there is something not quite right. Mr. Vance and Mr. Johnson aren't acting their normal selves. So she talks to them, and Vance tells her that he really needs to leave town because he had really fucked up this time.

Vance told her that he didn't mean for it to go off and that he just wanted to scare him. As he was making these comments, Mr. Vance held out his hand like he was holding a gun. At this point Colleen McManus has no idea what had

happened at Sabreen's. She has no idea what he's talking about.

She will describe to you that Mr. Vance seemed very upset and started crying when talking to her, which was very unusual for Mr. Vance.

Conversation continued and finally she asked Vance, "Did you shoot someone?"

Vance's reply was "Yeah, I did."

Between 11:00 and 11:15, Vance and Johnson left the Buttery Bar and then they returned at about 12:25 on December 23rd.

She again spoke to Vance at that time. He was still upset, cried again. She noted that Mr. Johnson was unusually quiet and at one point went into the bathroom and vomited. He vomited twice that night, and did once in the bathroom and one outside the front door of the bar.

Both Vance and Johnson left the bar at closing. Now Colleen McManus just happens to have a brother who is a St. Paul Police Officer assigned to the Minnesota Gang Strike Force. So she calls her brother and asks him, you know, "Have you heard anything about any shootings?" She tells him what Mr. Vance told her in the bar that night.

At that point, he wasn't aware of any homicides, but he wasn't yet aware of what had happened at Sabreen's in South St. Paul.

Eventually, after he found out about the shooting, he relayed the information that his sister told to him to the South St. Paul Police Department.

Following that night, Vance had been to the bar after that night, December 22nd, on a number of occasions. On one occasion Vance told Colleen McManus that he had spent four hundred dollars on Christmas presents for his children. Colleen found this very suspicious in light of the fact that Mr. Vance had not been employed for over a year.

While at the Buttery Bar that night on December 22nd, 2002, there was a man there by the name of Eric Griffin. He has a street name of St. Louis. Throughout this trial you are going to hear people referred to both by their given name and street names. A lot of these folks don't know each other except by their street names. Mr. Vance's street name was Florida and Mr. Johnson's street name was Stacks. So if you hear that --

MR. SHANDS: Your Honor, I am going to object at this time.

THE COURT: Why don't you approach.

(Off record discussion at bench)

MS. KEENA: I apologize, they are nicknames. The nickname for Eric Griffin is *St. Louis.* The nickname for Mr. Vance is *Florida.* And the nickname for Dominic Johnson is Stacks.

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Mr. Griffin was at the Buttery Bar on the night of December 22, 2002. He arrived at approximately 10:00 p.m. and spoke with Vance after Vance got there.

Vance told him that he had just committed a robbery in South St. Paul. Vance indicated that the robbery went bad because the guy refused to give up the money and Vance fucked him up.

The investigation revealed that prior to the murder Mr. Vance and Mr. Johnson were at the Radisson Bar which is also located in downtown St. Paul. It's technically, I think, the Capitol Grill and Bar, but a lot of people refer to it as the Radisson Bar.

Melissa Stites was a bartender there. She came forward on December 23, 2002 and reported that on the night of December 22, 2002 she was working at the bar and that at approximately 8:00 p.m. Mr. Vance and Mr. Johnson were in the bar with a third individual who was later identified as John Martin.

Ms. Stites reported that while seated in the bar, the three men appeared to be very secretive and appeared to be planning something. At one point Mr. Vance told her that they were just getting their plan on.

As the men left the bar, she commented to them that tips were low that night. In response, Mr. Vance told her, "Baby, when I get back I will have a lot of money."

Melissa Stites decided to try and help in the investigation, and she did so by agreeing to go undercover in an attempt to purchase the murder weapon from Mr. Vance. On January 3, 2003, she was wired and she met with Vance first at the Buttery Bar and they later traveled to a bar called the Lap.

The conversations between she and Vance were monitored by members of the Minnesota Gang Strike Force, the South St. Paul Police Department, and a Special Agent from ATF.

During the conversation between Melissa Stites and Vance on that night, Melissa asked Vance whether he had any guns and whether he would teach her to shoot.

In response, Vance told her that he had four guns. She asked, "Well, when is the last time you used one"? In response, Vance told her "Two weeks ago, a Winchester over on the south side."

When she asked Vance what happened, he told her that he shot a guy five times in the back. She asked Vance, "Well, did you stop to see if the guy was dead?" Vance replied, "Nope, I just kept going."

You are going to hear the officers who are going to come in and testify, the officers that monitored that conversation.

During the course of the investigation, officers talk

to John Martin, who was the third individual that was at the Radisson Bar prior to the murder. They were at the bar together for approximately, what John Martin recollects, about an hour and a half.

While at the bar, Vance and Johnson told John Martin that they were going to South St. Paul that night. John Martin denies that they discussed any robbery plans in front of him, but that the two did mention -- and ignore my typo there. I just caught it -- did discuss how they were going to put two and two together to buy Christmas presents for their kids.

While at the bar, using Vance's cell phone, Vance and Johnson called who John Martin refers to, and what they are commonly referred to, as the *South St. Paul Girls*, Yvonne and Nicole. They called Yvonne and Nicole for a ride.

The three men then left the bar together. And John Martin was going over to his girlfriend's place, he wasn't going with Mr. Vance and Mr. Johnson that night. While he was waiting for his bus, he saw Mr. Vance and Mr. Johnson being picked up by Nicole and Yvonne in a blue Corsica.

The car was being driven by Nicole. And as the testimony will bear out, Nicole is actually Nicole Rauschnot and she did in fact own a blue Corsica at the time.

Another witness that you are going to hear from is Fabian Wilson. Fabian actually came to light through John Martin. John Martin told officers that "My half-brother Fabian

Wilson has information."

Fabian Wilson has a child in common with Mr. Vance's sister. Fabian Wilson tells officers that when he was at Shawna Vance's house one night, Mr. Vance's sister, Vance was there and they briefly talked about the homicide at Sabreen's. In the context of that conversation, Vance told Fabian Wilson that he and Dominic did it and that they gave him fives to the back of the head.

You are also going to hear testimony from Regina Haggerman. Regina Haggerman lives in St. Paul. In December of 2002, Mr. Vance was dating her niece, Darlene Jones.

The Saturday before the January 2, 2003 Super Bowl, Vance was at her house and started talking about a homicide. This was the first time Regina Haggerman ever met Mr. Vance.

In talking about it, Vance tells her that he and one of his friends killed someone. Vance told her that the police were investigating him for the murder, which he knew because by this point he has already been questioned by the police a couple times. He knows he is being investigated for the murder, but that the police had no evidence and that he had good lawyers.

He said that he committed the murder, but that nobody is going to be able to prove it. And you know what? It's true about one of the statements. The state doesn't have

any actual physical evidence. If you're looking for DNA to be all over a piece of clothing that Mr. Vance might have been wearing that night, we don't have it.

One of the things when you are looking at the evidence with the coroner, and the amount of blood, you are going to see that there wasn't a lot of blood. There was no blood splatter at this crime scene. It's one of the neatest crime scenes I've ever seen. We don't have that.

We don't have foot imprints. You know, that was one of the things why I asked you about CSI. We tried. The BCA worked their buns off. We tried to get partial prints. Nothing. So he is right about that. We don't have any physical evidence. But, by God, we got a bunch of people that he told.

Another person that he told was Tyrone Crawford. Tyrone Crawford was housed with Vance in the Sherburne County Jail for a period of time in 2003. Vance knows he is being investigated for this murder. He knows it. He can't keep his mouth shut, though.

He tells Crawford that he and another person had robbed a grocery store and shot a guy. When he tells it to Mr. Crawford, he says that the shooting was an accident and that the gun had discharged because Vance was nervous. It discharged four times. And, granted, these guys have criminal histories. You are going to hear about it. But he is telling this to a lot of different folks in a lot of different settings.

John Nunn. John Nunn and Vance were also incarcerated together at the Sherburne County Jail and again at the Sandstone Correctional Facility. And John Nunn came to us after Tyrone Crawford said, "You know, he talked to these other guys too. They were pretty close. You might want to go interview them."

So the police did. And John Nunn said, "Yeah, Vance told me he was being investigated for committing this murder at Sabreen's."

During conversations between the two, Vance told him that he had to merck somebody -- and Mr. Nunn will explain that to merck somebody means that you actually hit somebody with a bullet -- and that he did it at a store and that he used a .22. Now there were .22 casings that were found at the store.

Isaac Hodge. Isaac Hodge came to us through John Nunn. John Nunn said, "Well, if you're talking to me, you should talk to Isaac Hodge. He's my nephew. He and Vance were even closer than we were."

Mr. Hodge and Mr. Vance were incarnated at the Sherburne County Jail. In numerous conversations Vance told him -- again knowing that he was being investigated for the Sabreen's homicide -- that he had killed someone during the course of a robbery and that it wasn't worth it. That they didn't get that much money and it wasn't worth it.

Dontay Reese is another witness you're going to hear from. Dontay Reese has a criminal history, and I'll be up front with you. Dontay Reese, we found out about him through another inmate at the Dakota County Jail. And when we first approached Dontay Reese, he didn't want to talk. He wasn't saying anything against Mr. Vance.

So after having a conversation with his dad and his mom -- and I will be upfront with you, he was, and still is, being held in jail on a serious felony matter and he is going to get 36 months off of his sentence for coming in and cooperating. Sometimes it's something you have to do when you are weighing seriousness of each case.

So the defense is going to pound on that, but Dontay Reese, when you hear his testimony, it all kind of starts to fit together. Dontay Reese has known Vance and Johnson for six years. They were friends outside of jail.

They were housed together in the Dakota County Jail, and while together Vance told him, "You know, I am charged with the homicide at Sabreen's."

In conversations between the two, Vance provided the following details to Mr. Reese: On December 22, 2002, Vance and Johnson met John Martin at the Radisson Bar. While at the bar, Johnson used Vance's cell phone to call two women for a ride. Reese remembers the names as Yvonne and Nicky. He has murder and these South St. Paul girls are up

thought it was Yvonne and Nicky or Ricky, or something like that.

The two women picked Vance and Johnson up in what Reese recalls as either a blue Corsica or an Accord. He remembers it had an *A* in it. And he is recalling this conversation about five or six months after it actually happened.

The four meet up with a man by the name of Richard Robinson who has a nickname of Hennessy. They also meet up with a man by the name of Troy Crawford, and they meet at a residence of Robinson's girlfriend, which is located in South St. Paul. It actually is the residence of Keitha McKinney, who was dating Robinson at the time, and she only lived about a block and-a-half from Sabreen's.

Keitha McKinney is going to come in and testify. She's never met Mr. Vance. She thinks that the night that this happened she was battling -- she had hepatitis and had been hospitalized and she doesn't recall whether she was in the hospital at that time or whether she was home sick.

According to Dontay Reese, Vance told him that he, Johnson, Crawford and the two girls drove to Sabreen's and parked in the alley. Vance and Johnson entered the store while Mr. Crawford acted as a lookout in the back of the store.

While inside Sabreen's, Johnson yelled something at Vance, while Vance was behind the counter, which is consistent with what Kathleen Johnson says, that she heard

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somebody yell something. It was Johnson alerting Vance that someone had entered the store.

Vance told Reese that he "gave the dude five to the back of the head, got the money, and got out of there." They then got back into the car and got dropped off at the Buttery. As to the type of weapon used, Vance said he used a *deuce deuce*. That's how he described it to Dontay Reese. Dontay Reese, in his mind that means a .22 pistol.

Finally, you are going to hear -- one of the witnesses you are going to hear from is Geronimo Estrada. Geronimo Estrada, in February of 2003, was housed in the Ramsey County Workhouse with Vance and Johnson. He actually was in the same unit as Mr. Vance.

Vance told him that he was being investigated for the homicide at Sabreen's. Vance told him how it went down. He told Mr. Estrada that he and Johnson entered Sabreen's and that Vance went behind the counter. Vance described how he told the victim to get on the ground and that the victim was pleading with Vance not to hurt him. Vance stated that he laid the victim on the floor and popped him two times.

Vance told him that they were wearing Ninja masks at the time that this happened, which is consistent with what Kathleen Johnson indicated, that the two men were wearing Ninja masks.

Ninja masks are black masks that cover your

entire face. That was consistent with what Kathleen Johnson has indicated.

Vance indicated that he threw away the shoes he was wearing the night of the homicide, and he indicated -- and this was never made public. He indicated that they got stacks of money, lottery tickets, cigarettes, a phone, and baggies. By gosh, what were they missing from the store? You know, what's Tariq Bakkri going to testify to? Those are the exact things that they were missing from the store.

So that's a brief summary of what some of the evidence that the state intends to introduce during the course of this trial.

During your questioning that you underwent to be a member of this jury, I believe I asked every one of you whether you thought you had good common sense. And each of you assured me that you did. As you listen to the facts of this case, use your common sense.

What does the evidence tell you? What does it tell your common sense? Make the reasonable conclusions of the facts that are presented to you.

At the close of this case, the state is going to ask you to apply your common sense to the facts and law that are presented to you, and is going to ask you to return guilty verdicts on all three counts that Mr. Vance is charged with.

Thank you.

THE COURT: Ms. Singh.

MS. SINGH: Your Honor, may it please the court, ladies and gentlemen of the jury, Mr. Vance, Ms. Keena and Mr. Shands. On December 22, 2002, Khaled Al-Bakri told his brother, "Go home, take your young family home, I will close up, it's Sunday night. It's not very busy here."

His family went and he stayed behind. Moments later, Kathleen Johnson walks into the store. She doesn't make it very far into that store. She walks into the front door, something's just not right, and she notices it right away.

She's not in there for more than a couple moments. Remember, she sees a man behind the counter. He is dressed in all black, he's got a mask on. He's about five-seven, she says. So she turns around and walks out.

She doesn't see anybody else inside of that store. She just sees that one man, but she notices he motions for somebody else. She knows something's wrong, so she walks out.

When she walks out, she gets into her car. Now mind you, moments are going by. This isn't happening at a slow pace, it's happening very quickly. She gets into her car and as she is about to drive off, she sees two people walk out of Sabreen's, outside the front door, and run through the parking lot and into the back alley.

She notices one man is small and one man is

bigger. She says their height's about five-seven for one of them and the other one about five-nine.

It's an evening, it's winter time, it's dark out, it's a residential street. But that's what she notices.

Moments later, four local teenagers are on their way to Sabreen's. It's Christmas vacation. They've got time off. They're watching movies at a friend's house, so they want to get some snacks. They're walking to Sabreen's, they're just having a good time, sliding on the ice, just having fun, not really paying attention to what's going on around them.

They see two men getting into a car. And this is the testimony that you will hear from some of these kids. Samantha Renville and her brother Matt, they notice the car. They notice that it was a silver-grey automobile. And the size of that car is very critical. They notice it to be a full-sized car. They said it was a full-sized car.

Samantha will identify it like a Cadillac and Matthew will say it's kind of like a police-sized car, a Crown Victoria, something bigger, not that small car, a bigger car. They see the two people getting into the car. One in the front passenger seat and one in the back passenger seat.

Matthew Renville will testify they were all wearing black, baggy clothes, everything. The state told you that's what they were wearing. But that's what the kids saw. They don't think anything of it until they walk into Sabreen's. They're

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having a good time, it's vacation and they don't have to worry about school the next day.

Matthew walks in, he hangs out at the counter, while Samantha and their other young friend go get snacks. And Dale Marx, Jr., he notices that something is amiss. He doesn't see the store owner there, the clerk, so he walks back to the cooler to see if he can find the store owner. He knows who these people are, he lives across the street.

He walks to the back, he goes to the cooler, he doesn't see anybody, doesn't see anything, so he comes back up front, and that's when he notices the register is open.

He walks behind the counter, he looks over the counter, that's when he notices Khaled Al-Bakri on the ground. He's laying on his side and he's got gunshot wounds, and there's blood. There's change strewn everywhere.

So the young Mr. Marx runs across the street to his parents' home and he says, "Something's wrong, something's wrong, call the cops." His father, not believing him, he's a young teenager, goes across the street and checks it out himself. And that's when the investigation began.

The Bureau of Criminal Apprehension is called, the coroner's office is called. They block it off with yellow tape. The crime scene is processed. The coroner takes the body to later do an autopsy. Dr. Mohammed Sedqi, from the Bureau of Criminal Apprehension, will come in here and he will tell you

about what he did as far as the crime scene -- the crime scene things.

He will tell you how he took fingerprints, body fluids, any body fluids that they could find, they took those to process, any footprint impressions they could find in that store. And he will tell you they did find a lot of footprint impressions along with fingerprints. He will tell you this is a convenience store, there's a lot of people. He will tell you that he finds those.

He will also tell you that the other thing that they did was they processed the crime scene and they found random cigarette butts out in the parking lot, because they went as far as the parking lot and to the back alley because they knew that the individuals left from back there.

So they found cigarette butts, they took impressions of tire tracks. They found empty soda cans, they took anything and everything they could find, because they wanted to process this crime scene to see what they could get off of it.

That same evening, on December 22, 2002, about 10:15, 10:30, Colleen McManus -- she's a night manager at the Buttery Bar in downtown St. Paul -- has a conversation with Mr. Vance.

You will learn that Mr. Vance was kicked out of the Buttery Bar because he got into a fight with somebody earlier. A few days earlier he got kicked out of there. So he walked in,

he was a little nervous, he doesn't know if she's going to kick him out again. And Mr. Vance, being a smart fellow and realizing that, you know, maybe I could have a few drinks, he goes up to her and he does make a comment.

He tells her, "I was nervous." He says, "I shot him five times in the south side." Do not forget that. It's very critical because you will hear that more than once.

There are other people in that bar who he had conversations with: Eric Griffin, and there's another individual in that bar. There's a person by the name of Maynard Cross, who will come in here and testify that he was there too.

Now the evening of December 22nd Ms. McManus, after having a conversation with Mr. Vance, is a little concerned. She has a right to be. She knows these people. She knows that Mr. Vance's nickname is Florida. Why is his nickname Florida? He grew up in Florida. He came to Minnesota as a teenager, and he would tell people he grew up in Florida, so they called him Florida.

Ms. McManus is a little concerned, so what does she do? She asks Mr. Vance for his phone number. He gives her his cell number. That same evening she contacts her brother, John McManus from the St. Paul Police Department. He tells her he doesn't know if there's been any shootings tonight, but he'll check on it.

And she asks him that next day, the police

department in South St. Paul has got a suspect. On December 23rd they've got a guy in a bar who's been drinking, he made some comments to get a free drink, they got a suspect. This is what I want you to remember and pay attention to as you hear these witnesses come in and testify because this is the beginning of the police officers in South St. Paul's tunnel vision. It begins and ends with Mr. Vance and his friend, Mr. Johnson.

As the investigation proceeds, they get information from other people in the neighborhood. This is a neighborhood store. People know the people who run Sabreen's. They get information from other neighborhood people who contact the police officers and say, "Hey, there's been some rumblings going on down at such and such a place, and so and so has been saying this or that."

What do the police officers do with that information they get? Now this is a homicide investigation. Anyone and everyone should be investigated here. What do they do? They dismiss those people after five minutes of checking out that information.

You see, the eyewitnesses that were there that night, very critical here, that were there that night, cannot tell us who the people were inside of Sabreen's Supermarket. They can't tell us that. They can't tell us if they were Black, Asian, Hispanic or White. They can't tell us anything.

The only words we hear that begin this process is

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Should not have happened.

the words of Mr. Vance. So the South St. Paul Police Department, they've got their suspect. Now the next step here for them, instead of letting the evidence that they have collected lead them to the individual, they're going to create the evidence to get their suspect.

MS. KEENA: Objection, Your Honor.

THE COURT: It's a little argumentative.

MS. SINGH: The evidence is being collected here. Now the evidence should lead them to the suspect. So the police officers contact Mr. Vance. They find out that he is being housed at the Ramsey County Workhouse. They contact Mr. Vance, he is in there. They interview him a couple times, and this is the consistent part of what he says to them. Every time the police officers speak to Mr. Vance he says, "I didn't do this. What do I do to clear my name? I didn't do this."

What do the police officers do? They get Melissa Stites involved as an agent for them. She becomes an undercover officer for them. She engages Mr. Vance in a conversation because, remember, they've got their suspect, so now they've got to get some evidence against him.

So they set up this operation with Melissa Stites. She goes undercover. They give her government funds to purchase a weapon from him. He'll admit it. She purchases a weapon from him. "Ding, ding, ding, we got our murder weapon, we're going ahead with this investigation." The police

officers are happy, they're excited, this is going along, this is what we want.

Now this is critical. That gun that was purchased, it gets tested. It gets tested eventually and, low and behold, it doesn't match. It doesn't match to that gun.

Let's talk about the other stuff that doesn't match. Kurt Moline will come in here and he will testify about the shell casings that were found and the bullets that were found, his testing that he did.

The Bureau of Criminal Apprehension has a hundred year old method for testing guns and testing bullets, casings, and so forth. A tried and true method. This is something they have been doing for years, and that's what they're good at, and this is what they do. None of it ever matches to that gun. The only tie that actually exists to Mr. Vance, the gun, it doesn't ever match.

Now the other things that were collected. The other things that were collected that we talked about, the body fluids, any fluids they could find, fingerprints, the footprints, the cigarette butts, the empty soda can, any of that stuff that was collected at the crime scene, none of it ever matches to Mr. Vance. It never places him inside of Sabreen's on December 22nd, 2002. Why doesn't it place him in there? Because he wasn't there. He's not the one that they have, even though the tunnel vision has begun and gone.

Now let's talk about the timeline here. The investigation for the BCA, that takes time. So they didn't have their reports back for the DNA analysis and the fingerprint analysis. That took some time, so they didn't have this information back until about, I would say, probably sometime in mid 2003. This evidence tends to take time. This isn't like on TV where everything gets resolved in an hour.

It's about January -- late January, early 2000, early February 2003. Police officers have got Mr. Vance in mind, so they go to speak to him, and they talk to him. And what do they say to him?

They say, "We've got evidence against you. We got the gun, we got the video surveillance from the store, and the guy was shot five times in the back of the head. We've got your fingerprints, when that stuff comes back, your DNA, everything is going to come back. It's going to match up to you." That's what they tell him. And these are trained police officers. They know it's their job to get information from people.

How do they get information from people? They give them things. They tell them things. And what did Mr. Vance say? When presented with all this evidence that they had on him, what does he say? "I didn't do this. I don't know what you're talking about. What do I do to clear my name?" He was very consistent in saying this.

Now Ms. Keena talked about a person by the name

of Geronimo Estrada. He is an individual who was in the Ramsey County Workhouse around the end of January-February, 2003. He tells the police officers in South St. Paul that he is in there with Mr. Vance and Mr. Johnson. He tells the police officers that he's engaged in a conversation with Mr. Vance and Mr. Johnson at different times.

Now one of the things that you didn't hear Ms. Keena talk about, but Mr. Geronimo Estrada will definitely testify to, is this. Mr. Estrada contacted the South St. Paul Police Department through his girlfriend. And Mr. Estrada is getting a benefit for walking into this courtroom and taking the stand.

MS. KEENA: Your Honor, objection. Could we approach?

THE COURT: Yes.

(Off record discussion at the bench)

MS. SINGH: Mr. Estrada, he's in custody with Mr. Vance and Mr. Johnson. At this time Mr. Vance knows he is being investigated for a homicide in South St. Paul. He's had conversations with the police department. He's had many conversations with the police department. He knows he's being under investigation.

And, ladies and gentlemen, I am going to tell you about something. When people are in custody, when people are in jail, there's a hierarchy among people. There are some

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people that are in custody for petty crimes, misdemeanors, and then there are some people that are in custody for very serious offenses.

At that time, Mr. Vance was in there for something petty. But he knew that he was being looked at for something very serious. He knew that he was under investigation for a homicide. And at that time he needed to get some information. And you would be so surprised, the people in the criminal justice system, they've got a lot of knowledge. Conversations in jail, there's a lot of knowledge there. So he asks people about that.

This, I want you to remember, this is very critical, because this is where it all starts. It starts with Mr. Estrada-- the gravy train that becomes Mr. Vance. He's under investigation for a homicide. "Let's get this guy talking. Let's have him talk about the sun, the moon and stars, and let's have him talk about anything and everything," because we know that as soon as we contact the police department, we could use that to leverage our own case. That's what people in jail know. That anyone and everyone who walks through these doors and takes this witness stand, they either have a criminal record or convicted felons. Or, they've got something pending.

Some of them, you will hear, were given actual cash, money. Others, you will hear, will get their charges dismissed. Wow, the ultimate benefit. They don't have to

worry about going to jail. And others, as Ms. Keena spoke of, Dontay Reese, he's getting a full three years knocked off his sentence. They are getting a benefit for being here. And don't forget the other people who are getting a benefit for being here, the people that you never hear about, the people that you don't talk about, the individuals from the South St. Paul Police Department.

This crime occurred almost two years ago. This investigation has been going on for that long. It's been going on for a very long time. The number of man hours, the number of funds, the money that has gone into this, if you don't think that the South St. Paul Police Department isn't invested in coming in here and telling you about their case, then you are very mistaken because they have a vested interest.

Their vested interest does exist here. They want this case closed. They think they know who did it. But pay attention, because they really don't know who did it. Their tunnel vision took over a long time ago. They let a lot of critical leads pass them by.

Now there's another individual who's going to come in here and testify. He also was at the Buttery on December 22nd, a person by the name of Maynard Cross. Mr. Cross will be a witness. What will his testimony be?

He will testify, it's anticipated he will testify to being there and having a conversation with Mr. Vance that

same night. And he will speak of the conversation of how Mr. Vance told him about this event. Pay attention to Mr. Cross's testimony. You see, Mr. Cross, he's in prison. Why is he in prison? Because he and his associate and his girlfriend went to a store in Minneapolis and --

MS. KEENA: Your Honor, objection.

THE COURT: Sustained.

MS. KEENA: Can we approach?

THE COURT: Yes.

(Off record discussion at bench)

MS. SINGH: Maynard Cross, that's where we left off. He will come in here and he will testify. Maynard Cross, ladies and gentlemen, is a convicted murderer. He only spoke to the South St. Paul Police Department and various people while his case was pending, and he wanted to work something out with them as well. He wanted to ride the gravy train.

One thing that you will hear consistently throughout these proceedings is this. A lot of people will come in and testify that Mr. Vance told them a lot of things. "Number five to the back of the head." That's a number that's used a lot, *five*.

You will learn, through Lindsey Thomas, the coroner -- excuse me. Dr. Lindsey Thomas will come in here and she will testify that Khaled Al-Bakri died of two gunshot wounds. One was in the neck and one was up on the top of his head. Those were the two fatal bullets that killed him.

Dr. Sedqi will come in here and testify that as part of their processing the crime scene, they found four shell casings behind the counter. These four shell casings were then matched up to three bullets. The three bullets that they were matched up to, two inside Mr. Khaled Al-Bakri, and one in a flashlight found on a shelf.

The fourth bullet was never found. He will testify they did anything and everything to try to find that fourth bullet. They even used, you know, this is the BCA Crime Lab, they've got sophisticated techniques. This might be a small bullet, but this is sophisticated stuff that they deal with. They used various methods to try to locate that fourth bullet and it was never found. They even used some type of a lead component to try to detect lead inside of there and it wasn't found.

Remember that, ladies and gentlemen. Those are the numbers that are going to be very critical here. Any and all of the witnesses that come in here and testify will never say "Mr. Philip Vance told me he talked into Sabreen's on December 22nd and he shot and killed the clerk. And this is how he did it." None of them will ever say that.

You know who else will never come in here and say anything? That phantom party. Those teenagers will testify, the Renville children and Mr. Marx, they will come in here and testify that two people got into a car, they got into the front passenger seat and the back passenger seat.

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Who drove that car? Who was there that night? Who has information about this? That person won't be here because Mr. Vance wasn't there. He doesn't know anything about this crime.

There are a lot of things you are going to hear in this case about the way Mr. Vance lived. He didn't work, he didn't have a job, he ran around with many women. He is a young man in his early twenties. His lifestyle is not going to be to your liking. You know what? That's not what's on trial here. His lifestyle isn't an issue. It's whether the state can prove that Philip Reynold Vance was inside of Sabreen's on December 22, 2002, and you will learn he wasn't there.

The state cannot prove its case. There are way too many *ifs, ands* and *buts* throughout this whole case. It's a mystery, and it is still a mystery. This case hasn't been resolved. The family of Khaled Al-Bakri still doesn't know who did this.

The tragedy that occurred that night, it is a tragedy. And Mr. Vance will tell you it's a tragedy. I will tell you it's a tragedy. It's awful what happened to Mr. Khaled Al-Bakri that night. Those emotions you have to put aside.

Many, if not all of you, told Mr. Vance that you will be fair. You are to listen to all the evidence that's presented to you. Everything that's presented to you, every witness that takes the stand. You're going to have to weigh their credibility.

You're going to have to weigh their testimony. You are going to have to use you experiences in life to see if you believe what that person is saying. Even after you hear that -- they are coming in here to testify and they might have worked something out with the state to come in and testify. Even after you hear that, you will have to weigh their testimony. That is your job as jurors.

One of the other things I want you to remember about this case is this. Like I said, there are too many *ifs, ands* and *buts* here. I just want to step back here a little. After reviewing my notes, I forgot a critical point that I wanted to point out.

Let's go back to the night of December 22nd to the one person, John Martin, who saw Mr. Vance and Mr. Johnson that evening. They are at the bar, they're drinking, they're having a couple cocktails. And you will hear that Mr. Vance likes to drink. Again, his lifestyle is not on trial here.

They are having their cocktails, Mr. Martin leaves, he has got to go to his girlfriend's house, he has to catch the bus to the east side, he's on his way. He has a conversation with Mr. Vance and Mr. Johnson earlier that evening, where they talk about Mr. Vance and Mr. Johnson need money for Christmas gifts for their children.

But you will never hear Mr. Martin say they planned a robbery. You will never hear him say that they

planned to go to Sabreen's Supermarket in South St. Paul and rob it.

It's December 22nd, Christmas is two days away. They don't have any gifts for their children. They don't have jobs. They're a little concerned, well, you know, they would rather have a good time than worry about their children, but they still want to buy Christmas gifts for their kids.

So Mr. Martin will talk about how he leaves, he gets on a bus, and he sees Mr. Vance and Mr. Johnson getting into a blue Corsica with two girls. A blue Corsica.

A Corsica is a mid-sized car. It's not a compact car. It's a four-door. The only eyewitnesses to this crime, those teenagers and Ms. Johnson. Ms. Johnson didn't see the car, but the kids saw the car. And they described the car as a gray-silver, full-sized automobile.

Don't forget those critical facts. Those are the critical facts and those are the small details that I want you to pay attention to throughout these proceedings because those are the ones that are going to lead you to the *ifs, ands* or *buts* in this case. And they're going to lead you to the conclusion the state cannot prove its case.

The state cannot prove its case. And we are asking at the end of this trial, after you've given careful consideration to the testimonies of everyone that's brought in here, there's no physical evidence, it's just going to be testimony, after that,

that you return a verdict to Mr. Vance of not guilty.

Thank you.

THE COURT: Let's take a 19-minute break.

(Morning break was taken)

THE COURT: Have a seat. Please proceed, Ms. Keena.

MS. KEENA: Your Honor, the state calls as its first witness Tariq Bakkri.

THE CLERK: Please step forward and be sworn. Raise your right hand.

TARIQ BAKKRI,

being duly sworn, was examined and testified as follows:

THE CLERK: For the record, please state your full name, spelling your first and last name.

THE WITNESS: My name is Tariq Bakkri, first name T-A-R-I-Q. Last name Bakkri, B-A-K-K-R-I.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. KEENA:

Q Good morning.

A Good morning.

Q Are you the owner of Sabreen's Supermarket?

A Yes, I am.

Q Where is that located?

A It's located at 345 Fourth Avenue South, South St. Paul,

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Minnesota 55075.
Q Is that located in Dakota County?
A Yes.
Q How long have you owned the store?
A Since September of 2000.
Q Were you the owner of the store on December 22, 2002?
A Yes, I was.
MS. KEENA: Permission to approach, Your Honor?
THE COURT: You may.
(Exhibit Nos. 1 through 6 were marked for identification)
BY MS. KEENA:
Q Mr. Bakkri, I am showing you what's been marked for identification as Exhibit 1. Do you recognize that?
A Yes.
Q What is that?
A This is the front of the store.
Q It's a picture of the front of your store?
A Yes.
Q Does that picture accurately reflect what the front of the store looked like on December 22, 2002?
A Yes, it does.
MS. KEENA: Your Honor, for the record, I am showing counsel. The state would offer Exhibit No. 1.
MR. SHANDS: We have no objection, Your Honor.

THE COURT: Exhibit 1 is received.
(Exhibit No. 1 was received in evidence.)
MS. KEENA: Your Honor, I am just going to publish it to the jury by showing it up on the screen.
THE COURT: Go ahead.
BY MS. KEENA:
Q So, Mr. Bakkri, just behind you on the screen, that's the picture that I just showed you?
A Yes.
Q Is this the only entrance into Sabreen's or is there another entrance?
A Well, this is the main, but there's an emergency exit in the back. But this is the entrance, yes.
Q I am now showing you what's been marked for identification as Exhibit 2. Do you recognize that?
A Yes.
Q What is that?
A This is the store.
Q Is that a picture of the store?
A Yes.
Q Is that an aerial view of the store?
A Yes.
Q Does that picture accurately depict what the store looked like on December 22, 2002?

A Yes, it does.
MS. KEENA: For the record, I am showing defense counsel Exhibit 2. Your Honor, the state would offer Exhibit 2.
THE COURT: Any objection?
MR. SHANDS: No objection, Your Honor.
THE COURT: Exhibit 2 is received.
(Exhibit No. 2 was received in evidence.)
BY MS. KEENA:
Q Mr. Bakkri, I am going to put a picture up on the screen behind you. Is that the picture that I just showed you?
A Yes.
Q Could you get up and kind of explain the buildings that are around Sabreen's and where the alley is?
A This is the entrance to the store. This is the building, the whole building, all the way to the end. The emergency exit will be right here (indicating), and that's fenced too. This is the three garages of the store. You could walk out all the way to the alley from here and a small car could get into to drive.
Q Is that the parking lot then?
A Yes, and this area is the whole parking lot to the store.
Q What's the street that runs in front of Sabreen's?
A This is Fourth Avenue.
Q Thank you. You may be seated. I am now showing you a picture that's been marked for identification as Exhibit 3. Do

you recognize that?
A Yes.
Q What is that a picture of?
A This is a picture of the store right here (indicating).
Q Is that an aerial view of the store again?
A Yes.
Q From the back side?
A Yes.
Q Does that picture accurately depict what the area looked like on December 22nd, 2002?
A Yes.
MS. KEENA: For the record, I am showing Exhibit No. 3 to defense counsel. Your Honor, the state would offer Exhibit 3.
MR. SHANDS: No objection, Your Honor.
THE COURT: Exhibit 3 is received.
(Exhibit No. 3 was received in evidence.)
BY MS. KEENA:
Q Mr. Bakkri, again I am going to put a picture up on the screen behind you. Is that the picture that I just showed you?
A Yes.
Q Could you just explain to the jury what we are seeing here?
A Okay. This is aerial pictures of the store, the back side of it.
This is the whole store right here (indicating), and this is the

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three garages to the store. And the parking lot right here (indicating).

Q Is that the alley, then, that runs behind the store?

A Well, this is the alley right here (indicating).

Q All right, you may be seated. Thank you. I am now showing you a picture that's been marked for identification as Exhibit 4. Do you recognize that?

A Yes.

Q What's that a picture of?

A This is when you walk into the store, the front of the store when you walk in.

Q Does that picture accurately depict what the store looked like on December 22, 2004?

A Yes.

MS. KEENA: For the record, I am showing Exhibit No. 4 to defense counsel.

MR. SHANDS: No objection, Your Honor.

MS. KEENA: Your Honor, the state would offer Exhibit No. 4.

THE COURT: Exhibit 4 is received.

(Exhibit No. 4 was received in evidence.)

BY MS. KEENA:

Q Mr. Bakkri, again I am putting a picture up on the screen behind you. Is that the picture I just showed you?

A Yes.

Q Could you again explain to the jury what it is that we are seeing here?

A This is the main entrance of the store when you walk in. This is the front area of the store.

Q So if you walk into the front entrance of the store, where is the counter in relation?

A That would be when you walk in on the right side, right in this area it would be (indicating).

Q At the time this happened, was that the only way you could get behind the counter?

A Well, you mean just walking, yeah. You walk in from here (indicating), and -- yeah.

Q You may be seated. Thank you. I am now showing you a picture that's been marked for identification as Exhibit No. 5. Do you recognize that?

A Yes.

Q What's that a picture of?

A This is the counter of the, you know, the cash register, counter of the store.

Q Does that picture accurately reflect what it looked like on December 22, 2002?

A Yes, it does.

MS. KEENA: For the record, I am showing Exhibit No. 5 to defense counsel.

MR. SHANDS: No objection, Your Honor.

MS. KEENA: The state would offer Exhibit 5.

THE COURT: Exhibit 5 is received.

(Exhibit No. 5 was received in evidence.)

BY MS. KEENA:

Q Mr. Bakkri, I am putting a picture up on the screen behind you. Is that the picture that I just showed you?

A Yes.

Q Would you please describe what it is we are seeing here.

A This is the counter of the store, this is the cash register, and behind it the cigarettes.

Q So where would you enter to get behind the counter?

A You'll walk -- well, as an employee, right?

Q Yes.

A You walk in to here, this area is open so you could walk in and go behind the counter.

Q Was there any way to get out from this side of the counter if you were down past the cash register?

A No. It has next to it some coolers for pop and soda.

Q You may be seated.

A Thank you.

Q Showing you a picture that's been marked for identification as Exhibit 6, do you recognize that?

A Yes.

Q What's that a picture of?

A This is the picture as you walk in the front. On the right side of the counter and cash register and this would be the first aisle going all the way to the end of the store.

Q Does that picture accurately reflect what the store looked like on December 22, 2002?

A Yes.

MS. KEENA: For the record, I am showing Exhibit No. 6 to defense counsel.

MR. SHANDS: No objection, Your Honor.

MS. KEENA: The state would offer Exhibit 6.

THE COURT: Exhibit 6 is received.

(Exhibit No. 6 was received in evidence.)

BY MS. KEENA:

Q Mr. Bakkri, I am placing a picture up on the screen behind you. Is that the picture I just showed you?

A Yes.

Q Again, this is the first aisle as you are walking through the front door?

A Yes, all the way to the end of this one (indicating).

Q How many aisles are there total in the store?

A This first aisle, second and third, but long one.

Q Thank you. Be seated. I would like to draw your attention to December 22, 2002. Did you work on that date?

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A Yes, I did.
Q Did you typically work at the store?
A Yes.
Q What were your hours of operation on that date?
A On the date of December 22nd we opened at 8:00 in the morning until 10:00 p.m. at night.
Q And those were your typical hours of operation?
A Yes.
Q That's the hours you were open on December 22nd?
A Yes.
Q Did anyone help you at the store on December 22nd?
A Yes.
Q Who was that?
A That was my brother Khaled.
Q What time did he arrive at the store that day?
A He arrived about 2:00 p.m., afternoon.
Q Was he an employee?
A No, he wasn't.
Q How often would he help you out at the store?
A Whenever I need him.
Q Did your wife work at the store?
A Yes.
Q How often would she work?
A She was working since we opened up in the morning, she used to manage it. In the morning and at night, I usually work from

one or two o'clock until ten o'clock. Most of the time, or sometimes, my brother would help me out, Khaled.
Q So what's your wife's name?
A Katie, Katherine.
Q Katie would work in the morning?
A Yes.
Q During this timeframe in December was she working in the store?
A No, she wasn't. Actually, in December frame she had -- she was pregnant. We had our baby, a newborn, December 1st. So at that time of the month I had a cousin of mine help me for a little bit, trained to be hired in January as a manager to take over the store. And Khaled, too. He was helping me.
Q On December 22nd were you initially planning to work until 10:00 that night?
A Yes, I was.
Q When your brother arrived at 2:00, what did the two of you do?
A Well, you know, he is not even supposed to be there. He just came 2:00, he came, I was talking overseas to the family. He talked to the family too. And we just chatting and, you know, drinking coffee together. So he stayed for his time with me.
Q Did you leave the store at some point?
A Yes, I did.
Q What time did you leave the store?
A Well, I was not behind the cash register probably from, I would

say, 5:30 all the way until -- well, maybe 5:00 until 7:00. I was doing, you know, we have a huge parking lot, as you see, so I was cleaning the whole leaves, you know, I was cleaning the whole parking lot because it's my job to do that.
Q Then did you actually leave the store?
A Then actually I left the store. I had some business to take care of, you know, for emergency. I had to go and do some typing. I have to do invitation letter for a businessman supposed to come to do some business with me. So it was actually Sunday, and overseas would be the next day in the morning, and so he needed it on Monday. So I went to Kinko's and then to my mother-in-law to do the typing. And my wife she was at her family. Then I picked her up and we came back at the store.
Q What time did you arrive back at the store?
A I did arrive back, I left a few hours, probably I was -- the first time it was 9:10, 9:17, along that. And then I -- this is when my wife and my newborn child was and she, my wife, she went inside, got some grocery items, you know, and then she came back to the car. I was waiting in the car because we have a newborn. We can't leave a newborn in the car.
Q So you went into the store and did your letter –
A Yes.
Q -- came back out to the car --
A Yes.
Q -- and let Katie go into the store to get groceries?

A Yes. Then I drove all the way to Fifth Avenue, it's about a couple blocks down from the store, and I received a phone call from overseas requesting me to fax some paper to the Embassy of United States in Dubai, United Arab Emirates. So I came back, I did the faxing and I left after that.
Q What time did you leave?
A I would say 9:27 to 9:30, at the most, I was gone.
Q Did you talk to your brother when you came back to the store that second time?
A Yes, "Do you need anything?" I said. You know, every Sunday we would usually go to -- there is a café, you know, they serve Middle Eastern food, so we go every Sunday at night. I told him, "Do you want me to come back?"
He said, "No, just go help your wife," because she cannot carry stuff. So I said, "Okay, I'll come back before you close."
He said, "No, no, don't come back. I'll come to the house and we'll drive one car and we go and have dinner."
Q Did you then go home?
A Yes, I did.
Q When did you learn of your brother's death?
A After 10:00.
Q How old was your brother when he died?
A He was twenty-five years old.
Q How long had he been in the United States?
A About two years.

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Q Was he going to school?
A Yes, he was.
Q For what?
A He was doing his master's degree in accounting, plus he was doing -- last month he was accepted actually to do the test of CPA, certified public accounting.
Q How tall or how big was Khaled?
A Same, typical like me.
Q Same size as you?
A Yeah, if you look at the back, you cannot recognize one or the other.
Q How tall are you?
A That's a good question. Maybe five-eight, I don't know.
Q After the crime scene was investigated, did you have an opportunity to go back into your store?
A Yes.
Q Did you determine whether anything was missing from the store?
A Yes.
Q What did you determine to be missing?
A There was some of the items we determined that it was actually missing for sure, like moneywise. When we did the "Z" closing for the cash register and the money that the police of South St. Paul gave us, we got the difference. It was approximately between six hundred twenty-five to six hundred fifty dollars.

That's the first. The second, we believe there was some cigarettes items missing by cartons.
Q But you weren't able to tell exactly how many?
A Couldn't tell exactly. Then some lottery tickets and the way how they were displayed.
Q Were you missing anything else?
A At the time or after? After we found out that we were missing the cordless phone for the store.

MS. KEENA: Your Honor, permission to approach?

THE COURT: Go ahead.

(Exhibit 7 was marked for identification)

BY MS. KEENA:
Q I am showing you what's been marked for identification as Exhibit 7. Do you recognize that item?
A Yes.
Q What is that?
A This is the base of the cordless phone that was missing.
Q This is the one that was in your store?
A Yes.
Q And it was in your store on December 22, 2002?
A Yes.

MS. KEENA: For the record, I am showing defense counsel Exhibit 7.

MR. SHANDS: Your Honor, can I voir dire briefly?

THE COURT: Sure.

BY MR. SHANDS:
Q Mr. Bakkri, the telephone base in your store, did you put any markings on that so you could specifically distinguish that telephone base from any other telephone base like it?
A We have only that phone in the store.
Q Right. Did you do anything to the base at the store so that you could identify it from others?
A Not that I am aware of.

MS. KEENA: Your Honor, may I show him what he is referring to?

THE WITNESS: Maybe that would be a good idea.

BY MS. KEENA:
Q Mr. Bakkri, I am showing you the exhibit again. There is some writing that appears to be possibly a case number. Did you write that on there?
A No, I didn't.
Q Did the police come and take this from you and put it into evidence?
A Yes.

MS. KEENA: Okay.

MR. SHANDS: Your Honor, we object to the foundation from this witness to admit it into evidence.

THE COURT: Overruled. It's received.

(Exhibit No. 7 was received in evidence)

BY MS. KEENA:
Q Mr. Bakkri, where was that phone kept, the phone base?
A The phone base was next to the fax, behind the counter, and if there's a picture I could show you exactly where it was.
Q Mr. Bakkri, I am showing you what's been marked for identification as Exhibit 8. Do you recognize that?
A It's right here (indicating).
Q We'll get there. I am showing you a picture. Would you just please describe what that is a picture of?
A This is a picture of the base of the phone. This is behind the counter. It's sitting on a cabinet next to the fax.
Q Does that picture accurately depict what Sabreen's looked like on December 22, 2002?
A Yes.
Q Does that picture accurately depict where the base of the phone was located on that date?
A Yes.
Q Would you just take this marker and draw a circle around the phone base?
A (Witness complies)
Q Then just put your initials by it.
A (Witness complies)

MS. KEENA: Your Honor, for the record, I am showing Exhibit 8 to defense counsel.

MR. SHANDS: We have no objection, Your Honor.

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THE COURT: Exhibit 8 is received.

(Exhibit No. 8 was received in evidence)

BY MS. KEENA:

Q Mr. Bakkri, I am going to put a picture up on the screen behind you. Is that the picture that I just showed you?

A Yes.

Q Would you point out to the jury --

A This is the base.

Q That's behind the counter?

A Yes.

Q Where would the cash register be located in relation to that?

A A little bit further on that side (indicating).

Q Right on the corner of the picture?

A This is the credit card machine, so next to it.

Q Thank you. You may be seated.

MS. KEENA: Permission to approach, Your Honor?

THE COURT: Granted.

BY MS. KEENA:

Q Mr. Bakkri, did you have like shopping bags that you used in your store?

A Yes.

Q What did they look like?

A They're a *Smiley* bag, yellow surrounds with the blue.

Q What's the primary color of the bag?

A White.

Q Okay. I am showing you what's been marked for identification as Exhibit 9. Do you recognize that?

A Yes.

Q What is that?

A This is the shopping bags that we use.

Q Are these the bags that you were using on December 22, 2002?

A Yes.

MS. KEENA: For the record, I am showing Exhibit 9 to defense counsel.

MR. SHANDS: We have no objection, Your Honor.

MS. KEENA: The state would offer Exhibit 9.

THE COURT: Received.

(Exhibit No. 9 was received in evidence)

BY MS. KEENA:

Q Where were those bags kept?

A They are in a box -- next to the cash register, they come with a hook, so we hook them up with it.

Q Mr. Bakkri, I am showing you what's been marked for identification as Exhibit 10. It's a picture. Could you please describe what it's a picture of?

A This is the picture of behind the counter.

Q And does that picture accurately depict what the counter -- behind your counter at Sabreen's looked like on December 22,

2002?

A Yes.

Q And the white hook that you talked about that you kept the bags on, is it present in that picture?

A Yes.

Q Just please take this pen and draw a circle around that.

A It's right here (indicating).

Q And put your initials down.

A (Witness complies)

MS. KEENA: For the record, I am showing Exhibit 10 to defense counsel.

MR. SHANDS: We have no objection, Your Honor.

MS. KEENA: The state offers Exhibit 10.

THE COURT: Received.

(Exhibit No. 10 was received in evidence)

BY MS. KEENA:

Q Mr. Bakkri, I am going to put a picture up behind you on the screen again. Is that the picture that I just showed you?

A Yes.

Q And could you point the hook out to the jury.

A This is the white hook right here (indicating).

Q So that's where you kept the bags?

A Yes.

Q When you were at the store earlier in the day, any idea how

many bags were on that hook?

A There was at least a stack, you know, it comes in a bundle, so at least -- bundle, two bundle.

Q So how many in a bundle, like fifty or one hundred?

MR. SHANDS: Objection, Your Honor, leading.

THE COURT: How many in a bundle, do you know?

THE WITNESS: It's like, I think they come five packs -- 1,000 so it should be about two hundred, Your Honor, I believe so.

THE COURT: Thank you.

MS. KEENA: All those bags were missing?

MR. SHANDS: Objection, Your Honor, leading.

THE COURT: Can you rephrase it?

BY MS. KEENA:

Q Were there any bags present on that hook when you got back into the store?

A After I get back, not on the -- I didn't see none.

Q Did you find any of those bags around the store anywhere?

A No.

Q Could you point out to the jury where the lottery tickets are?

A Right here (indicating).

Q Now there appears to be one set of lottery tickets that's pulled out to the floor.

A Yes, which is that one (indicating).

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Q And is that unusual?
A Yes.
Q How did you usually keep them?
A Okay. This is the way how we keep them. Like you see, like the first tray right here (indicating), this is the way how we keep our lottery, you know. At the most, it will be one ticket out or two. That's at the most, not all the way down.
Q You can be seated.
A Thank you.
Q Mr. Bakkri, the cash register that you had in the store, did that have like a cash register tape?
A Yes.

MS. KEENA: Permission to approach, Your Honor?

THE COURT: Granted.

(Exhibit 11 was marked for identification)

BY MS. KEENA:

Q Mr. Bakkri, I am showing you what's been marked for identification as Exhibit 11. Do you recognize that?
A Yes.
Q What is that item?
A This is the cash register tape that show all the sales that have been done through the whole day.
Q Was that the cash register tape that was in your cash register--
A Yes.
Q On what date?

A December 22nd of 2002.
Q Now on your cash register tape, when there's a sale that's rung up, what does it show?
A It will say the date, the time and exactly what was sold and how much change. If the cash register get opened, it will still register that the cash register got open and what time.
Q Now did you have any problems with the time --
A Yes.
Q -- on your cash register?
A Yes. Like this right here, like it said 22:22. It's actually 21:22.
Q So it was off an hour?
A Yes, and we didn't fix it because I am the one that usually do the closing, so I know it's off an hour.
Q There are some initials and a date at the very bottom of the cash register tape. That isn't anything that you did, correct?
A No, I didn't do that.
Q This is something that the police took into evidence, is that correct?
A Yes.
Q According to the cash register tape, what was the last item on the tape?
A Well, 9:22 p.m. there was a sale for three thirty-nine and somebody gave five dollars to the tiller and the change was one dollar and sixty-one. Then you see "NS", no sale, cash got opened at 9:35.

Q So the cash register was opened at 9:35 according to the tape?
A Well, "NS" mean no sale. In the cash register there is a button, you just push it and it will open the cash register. That was at 9:35, 21:35.
Q There's another little receipt in this bag. Do you have any idea what that is?
A Yes.
Q What is that?
A Okay. This is the batch -- we do a batch, every time we do like for the credit cards we have to do like the total sales, so this is a batch of total sales.
Q For that date?
A For that-- that was done, at 12/23/02 at 5:37 in the morning that was done. So I didn't do it.
Q You didn't do it?
A I didn't do it.

MS. KEENA: For the record, I am showing Exhibit Number 11 to defense counsel.

MR. SHANDS: We have no objection, Your Honor.

THE COURT: Exhibit 11 is received.

(Exhibit No. 11 was received in evidence.)

BY MS. KEENA:

Q The cigarettes, where were they kept in the store?
A Behind the counter, the display.

Q So in order to get to them, the clerk would have to get them for you -- if I were to come in and buy some cigarettes?
A Yes.

MS. KEENA: Your Honor, the state has no further questions of this witness.

THE COURT: Thanks. Mr. Shands.

MR. SHANDS: Thank you, Your Honor.

(Exhibit 12 was marked for identification)

MR. SHANDS: Your Honor, may I approach, please?

THE COURT: Sure.

CROSS-EXAMINATION

BY MR. SHANDS:

Q Mr. Bakkri, I am showing you what's marked as Exhibit 12 for identification. Do you recognize that?
A Yes.
Q How do you recognize that?
A This is my signature.
Q What is it?
A It's a letter. Do you want me to read it?
Q No, not yet. Does that letter appear to be in the same condition as when you wrote it?
A It is.
Q Does it look like -- is that the letter that you wrote?
A Yes.
Q Besides the three holes that have been punched on the side

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and there's a little highlight of your name here, other than that, does this appear to be a true and accurate depiction of the letter?

A Yes.

MR. SHANDS: We offer Exhibit 12.

MS. KEENA: Your Honor, I am going to object. If we may approach?

THE COURT: Sure.

(Off record discussion at the bench)

THE COURT: I am going to give you a short break and bring you back in a few minutes.

(JURORS EXCUSED)

THE COURT: Mr. Bakkri, you can step down if you would like. Don't go too far because you'll be back in a minute.

We are back on the record. The jury has been excused. Mr. Shands seeks to offer into evidence a February 3, 2004 letter to Maynard Cross signed by Tariq Bakkri. Mr. Shands.

MR. SHANDS: Your Honor, I am offering the letter into evidence as a letter that was written by the witness. The witness has testified that letter is true and correct as to what he wrote down. He wrote this letter because he was offering reward money. The letter was given to us by the state.

The letter, for one, we are offering it to show that in fact the reward money was offered and who it was offered to.

Basically, I mean, the letter speaks for itself. It's our position that it's not hearsay. The witness is here, the witness is here to testify to it, and it's true and accurate for what it depicts. And that's what we are offering it for.

MS. KEENA: Your Honor, the state objects to the introduction of this letter because foundation has not been completed yet. They still have to prove that Mr. Maynard Cross actually received this letter, and it's at that time. I mean, this is the first piece of foundation they have to lay, but they have to prove that Maynard Cross actually got this letter.

This letter is being introduced for the purpose of impeaching Maynard Cross if he testifies. So until that full foundation is laid, the state objects to it in that regard. I don't have any objection to it coming in if Maynard Cross gets up and testifies and says he got it.

If the evidence does come in, the state would object to portions of the letter because it refers to the facts of Mr. Maynard Cross's underlying crime that he is currently serving time for. The court has ruled that any of that alternative perpetrator evidence, what he did, doesn't come in to evidence. So if the court allows it, that portion of it should come out.

MR. SHANDS: Your Honor, we are not offering it to impeach Mr. Cross's testimony. I am offering this letter for the sole fact that this witness, Mr. Bakkri, actually wrote the letter and sent the letter.

I have not commented on the fact that it got to Mr. Cross. I am offering it solely to show that in fact Mr. Bakkri wrote it and Mr. Bakkri sent it.

MS. KEENA: It's irrelevant. The whole letter is about Maynard Cross and what Maynard Cross might get in return for his testimony.

MR. SHANDS: That's not true, Your Honor. The letter is very relevant in that he was offering reward money. He is sending a letter out to potential witnesses, that I know of. I have a question regarding who he sent it to. I have a question in regards to if he gave it to the police officer, did they even know about it? I am assuming they did, since the state in fact gave us this letter. But for Ms. Keena to say that I am introducing it for bias and all that, I am introducing it to show that he offered reward money, he offered that money in the form of a letter. This is the letter that he wrote and sent.

MS. KEENA: Your Honor, I think -- go ahead.

THE COURT: Ms. Keena is right in one respect. If you are going to argue that Maynard Cross was influenced by an offer of a reward, he will have to testify, number one. And he will have had to have received the letter. So foundation is not complete, if that's the reason you are offering it, unless and until Maynard Cross testifies.

You can certainly ask Mr. Bakkri if he offered a reward and who he offered it to, but the letter, addressed to

Maynard Cross, I mean, it's addressed to a specific purpose. I didn't see an address on it. I don't know where he sent it. But the letter can't go in unless and until Cross testifies, but you can ask Mr. Bakkri who he offered rewards to.

MR. SHANDS: Okay. Subsequently if I ask him did he offer a reward, did he offer it to a specific person, why did he just send the reward to this person? There had to be a reason for it, and then offer is this the letter you sent?

THE COURT: What would the relevance be?

MS. KEENA: It's not relevant unless Mr. Cross gets up and testifies.

MR. SHANDS: She can object. I think it is relevant. It's a piece of evidence that went in. He wrote it. The relevance is it's a piece of evidence that he wrote and I understand there is maybe facts that hurt the state's case, but that's the nature of what we are doing here. There are facts that are going to hurt their case. This is a letter that should get in, it's been authenticated and Ms. Keena can make her objections and I can ask questions --

THE COURT: Maybe there is some other reason for your offering it, other than to show bias.

MR. SHANDS: It's not reverse Spreigl. We are offering it as third party perpetrator.

MS. KEENA: Well, that's out on Maynard Cross.

MR. SHANDS: No, I said reverse Spreigl is out.

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We can question him, the investigation went through and he does exist. They talked to him.

MS. KEENA: Reverse Spreigl and alternative perpetrator is the same thing. Reverse Spreigl is one type of alternative perpetrator.

THE COURT: It is. But my ruling was not just that the reverse Spreigl was inadmissible, but that alternative perpetrator evidence was inadmissible with respect to Mr. Cross.

MR. SHANDS: All I am saying is it's our position if we don't bring in the substance, "Did you talk to this person?" "Did you send him a reward or request for reward?" That's fine. That's as far as I need to go.

MS. KEENA: You have done that.

THE COURT: Make me some kind of offer of proof. I mean this letter is dated February 3rd. Had Mr. Cross already spoken with the police about the conversation with Mr. Vance on December 22nd or 23rd?

MS. SINGH: 2004. The letter is dated February of 2004.

THE COURT: So, Mr. Bakkri, would you step out of the courtroom, please?

THE WITNESS: Sure.

THE COURT: Thanks. So he is not writing Mr. Cross because he thinks Cross did it, right? He is writing

Cross because he knows that Cross --

MS. KEENA: Has information about the case.

THE COURT: -- allegedly spoke to Vance on the night in question and then communicated that information to the police. So it's not an alternative perpetrator matter.

MS. KEENA: No, it's not. It's a letter that the foundation hasn't been set for until Maynard Cross gets on the stand and says --

THE COURT: But I can't receive it and put it into evidence solely on the basis that he wrote it and put it in the mail, but if Cross testifies, then you are right. I think it comes in.

MR. SHANDS: Well, can I question other witnesses about it? Here's the problem. If I question other witnesses about it, or what not, the reason I want to get it in through the witness, Mr. Bakkri, is because he is the one who created it. He is the one who can testify to "Yup, this is what I put in. This is what's going on." He is the only one who can authenticate it.

MS. KEENA: He just did.

THE COURT: You can ask him all that. You can ask him about offering a reward and who he offered the reward to. That's certainly fair game. And why, too.

MR. SHANDS: We got a record. Thank you.

THE COURT: But I will have to reserve receiving it

until we see what happens with Cross.

MR. SHANDS: Okay. Nitu, make a note that he reserved receiving this.

THE COURT: Can you bring the jury back in?

(Jurors seated in courtroom)

THE COURT: Mr. Shands.

BY MR. SHANDS:

Q Mr. Bakkri, the letter that I am showing you, that's a letter that you wrote and sent to a gentleman named Maynard Cross?

A Yes, I wrote. I don't think it got sent.

Q You don't think it got sent?

A No.

Q Why don't you think it got sent?

A Because I just gave it to the police. That's it.

Q In this letter you talk about --

MS. KEENA: Objection, Your Honor, on foundation.

THE COURT: Yes. General questions.

BY MR. SHANDS:

Q Mr. Bakkri, you wrote a letter offering Maynard Cross at least $3,000 for information concerning your brother's death. Isn't that correct?

MS. KEENA: Your Honor, objection again.

THE COURT: Overruled. You can answer. Can you answer that?

THE WITNESS: Three thousand, yes.

BY MR. SHANDS:

Q At a minimum?

A Three thousand, that's what I offered, that was my intention.

Q The reason you sent the letter to Maynard Cross is because you received --

A Again, I didn't send it, I gave it to the police.

Q The reason you wrote the letter to Maynard Cross was because at some point you found out that that individual would have some information concerning your brother's death, is that correct?

A Yes.

THE COURT: Was the date mentioned, the date on the letter?

MS. KEENA: No, it was not, Your Honor.

MR. SHANDS: You wrote this letter in February of 2004, is that right?

MS. KEENA: Objection, Your Honor, he already indicated that he did not write the letter.

MR. SHANDS: No, he didn't, Your Honor. He indicated he did not mail the letter.

THE COURT: He wrote it and gave it to the police.

THE WITNESS: No. You mean like write it or type it?

THE COURT: Yes.

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THE WITNESS: No, I didn't.

THE COURT: Who typed it?

THE WITNESS: Actually, I was supposed to come like two hours on that day, I remember, and I was late because of traffic. So I came real late, so I talked to the captain then and I told him why don't you just write it what he wants briefly because anyway I don't know how to write like, you know. So I just signed it.

THE COURT: Okay. Understood.

THE WITNESS: So I did not type it or write it, and I did not send it. I signed it, very much --

MR. SHANDS: Objection, Your Honor. Non-responsive. There's really no question before the witness at this point.

THE COURT: Okay. Go ahead.

BY MR. SHANDS:

Q Let's talk about the lottery tickets. You testified that at the store you sell lottery tickets, correct?

A Yes.

Q Do the lottery tickets have any sort of serial numbers or batch numbers so the state can identify these lottery tickets if they show up elsewhere?

A Yes.

Q Did the police officers ask you for the serial numbers or batch numbers for the lottery tickets so they could identify them?

A Not at the time, no.

Q Did they ever ask you, I mean during the whole course of investigation?

A Yes, they did afterwards, but I went to the state lottery and -- very much they do six-month updating and they couldn't get that information for me. Unless if I have to go through my paper and, as I said again, it's definite, the money. We believe highly that there was lottery that was taken.

MR. SHANDS: Objection.

BY MR. SHANDS:

Q You believe lottery tickets were taken?

A Yes.

Q Do you know exactly how many?

A Lots. I mean, I am assuming at least -- you mean number of tickets?

Q I don't want you to assume. If you don't know, you don't know. You don't know specifically how many tickets were taken?

A Specifically, no. I cannot recall that.

Q Now you testified that you believed some cigarettes were taken?

A Yes.

Q Now when you get the cigarettes, do you get a specific count or do they actually have any specific identification for each carton?

A I don't understand the question, again state it.

Q Are you able to identify, how are you able to identify how many

cigarettes you have in the store?

A In the store, okay. First of all, a quick explanation.

Q Please.

A This business is operated by a family, so I do operate the business. Usually I would know if there's a cigarette missing. We do not count, you know, like we don't count exactly how many cartons because I don't have employees that will -- so, there's no reason to count the cigarettes, first of all.

Second of all, by looking at the pictures or the scene, you could tell right away there are some cigarettes, at least a minimum of five cartons of Marlboro, I believe, that was taken. This is the only way that -- when I got in, I could tell that at least Marlboro was taken.

Q So when you came in you looked at it and you said, "Cigarettes are missing." That was done by you just kind of eyeballing and looking at it?

A Through my experience of five years in grocery business, five years before that, so ten years, yes, I can.

Q So you did not have a running ledger of how many cigarettes you specifically had?

A No. We could try it, but not specifically, as you say.

Q Now I am showing you what's been marked as Exhibit 10. I believe you testified that's the hook where the plastic bags are?

A Yes, sir.

Q Now when you get your plastic bags, you testified that you get

them in a bundle?

A In boxes, yes.

Q Well, first, when you went back into the store, after your brother was killed, and you looked to see if there was anything missing, plastic bags, the police had already been there. Is that correct?

A Yes.

Q The crime scene had already been processed?

A Yes, I couldn't get in until they let me in.

Q How long did it take before they allowed you to get in?

A I think they closed it -- again, I cannot recall the exact, but they closed it at least a few days. Nobody could get in a few days or three days.

Q So about three or four days nobody could get in?

A Yes.

Q So when you testified here concerning what appeared to be missing, that is what you identified four or five days after the death of your brother, correct?

A Yes, after I got into the store, there's no way I cannot – I wouldn't be able to get into the store before that because it's a crime scene.

Q Okay. Did you count your bags? Those plastic bags that you showed --

A Do you think I am going to count the bags, honest?

Q I am asking you, I don't know.

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A No, I am not going to count the bags, but by bundles, by every day. When you go low, you got to fill up on bags.
Q So when you testified that it appeared that some bags were missing, you don't have a specific number of bags that were missing, correct?
A Estimated number, yes.
Q Estimated number, so it's a guess?
A It's a guess.
Q Now the letter that you had written -- now the letter that I was showing you when I was up there next to you, I want to understand how that happened. Now you testified that you did not write the letter out.

MS. KEENA: Objection, asked and answered.

THE COURT: Yes, you didn't write it.

THE WITNESS: No.

BY MR. SHANDS:

Q Did you type it?
A No.
Q Where was it typed?
A It was typed in the police station because of my time.
Q Did the police officers ask you -- did you ask them to draft the letter for you?
A Yeah.
Q You asked them to create it for you?
A Well, just, you know, like this -- what's his name, I don't even know.
Q Maynard Cross.
A You got it. He requested some. So he told me and if I approve, I said, "Okay, that's fine." So they asked me if I want to do this and it's obvious that I had rewards money for $25,000. It's obvious thing, you know.
Q Do you remember being shown a picture of Maynard Cross, a photograph from the newspaper?

MS. KEENA: Objection, Your Honor. May we approach?

THE COURT: Yes.

(Off record discussion at bench)

BY MR. SHANDS:

Q Mr. Bakkri, do you know who Maynard Cross is?
A At the time being now today?
Q Yes.
A Yes, I know.
Q February 3, 2004, did you know who Maynard Cross was?
A Not really, no.
Q Mr. Bakkri, have you since looked for the telephone handset that was missing?
A What's that again?
Q Have you looked for the telephone handset that was missing?
A Yes, we did look, but we couldn't find it.

MR. SHANDS: No more questions, Your Honor.

MS. KEENA: Just a few followup questions, Your Honor.

REDIRECT EXAMINATION

BY MS. KEENA:

Q Mr. Bakkri, there has been a lot of talk about reward money. Let's clarify. You set up a fund, a reward fund, is that correct?
A At the beginning, yes. But if you ask me right now do I have the funds, I say no.

MR. SHANDS: Objection, Your Honor, non-responsive.

THE COURT: Overruled.

BY MS. KEENA:

Q You can continue.
A Okay.
Q Why did you put a reward fund together?
A Friends and family suggested that, so I did it.
Q And why? Why did you do that?
A So if somebody has any information, they would come up and do it because there's a lot of -- my understanding of reward situation like there's people like --

MR. SHANDS: Objection, Your Honor, non-responsive and irrelevant.

THE COURT: Overruled.

BY MS. KEENA:

Q Go ahead.
A It's like, you know, the cops, what they told me about it, when I asked them about the $25,000, they told me there's people like they needed money to move, they needed money to travel, they needed money to, you know, they lose a job because of that, because it would be dangerous for them. So that's why I put the $25,000 up. Plus if there's somebody who has information. Don't worry, I don't have it now. It's gone.
Q I want to talk about the lottery tickets. You get assigned lottery tickets from the state lottery office, correct?
A Yes.
Q The state lottery office keeps track of what they give you, correct?
A Yes.
Q And they give you a certain number how often? Do you get lottery tickets at the store anymore?
A No, the reason why I closed it --

MR. SHANDS: Objection, Your Honor, irrelevant.

THE COURT: Overruled.

THE WITNESS: I closed, I don't have no more lottery at my store. I don't carry it.

BY MS. KEENA:

Q At the time of around December 22nd of 2002, how often would you get batches of lottery tickets?
A Every week, weekly.
Q And if you're missing lottery tickets, do you have to pay the

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state lottery office for the tickets you are missing?

A Yes.

MR. SHANDS: Objection, Your Honor. Leading.

THE COURT: Overruled.

THE WITNESS: Again, the question? He's disturbing me. I'm sorry.

BY MS. KEENA:

Q If you are missing tickets, the lottery office comes back and they get their tickets and there are some that are unaccounted for, do you have to pay for those lottery tickets?

A Yes, no matter what, we have to pay for it. It's a weekly base report. We close daily the machine. And at the end of the week, Monday, beginning of the week, they withdraw the money from the bank electronically, so it doesn't matter. If we have them, don't have them, if we sold them, if we didn't sell them, they will take the money.

Q All right. The last question has to do with the cordless phone that was missing. Did your brother have any special habits in regard to that phone?

A Yup.

Q What was that?

A Usually he would put it in his right side.

Q Like in his waistband?

A Yeah, like there's a clip where he could put the cordless phone.

Q Would he carry it around the store with him?

A Oh, absolutely, yeah, and he would have his cell on the left side.

MS. KEENA: I have no further questions, Your Honor.

MR. SHANDS: Just briefly.

RECROSS EXAMINATION

BY MR. SHANDS:

Q Briefly. Did the State Lottery Commission charge you for the lottery tickets that were missing?

A Yes.

Q Again, the reward money was offered because you felt that this person had information that could help in finding who murdered your brother, correct?

A I didn't even know what kind of information he had, but I would offer anybody for information.

Q Was anyone else offered reward money?

MS. KEENA: Your Honor, objection, that goes beyond the scope of redirect.

THE COURT: It does.

MR. SHANDS: Your Honor, in speaking he talked about what the reward money was written for, why he was there at the police office.

THE COURT: Okay. Go ahead.

MR. SHANDS: Did you write any letters offering reward money to any other people?

THE WITNESS: No.

MR. SHANDS: No further questions.

MS. KEENA: Nothing further, Your Honor.

THE COURT: Thank you. We will break for lunch. See you at 1:30.

(JURORS EXCUSED)

MR. SHANDS: Your Honor, I think we were on the record outside of the hearing of the jury. The only thing I really need to make a record of, I want to make the record clear, is that we were offering into evidence, I believe, Exhibit 12. It is our position that that letter should have been received. It should have been received in its entirety.

THE COURT: Is that what I will be reversed on or my ruling on the alternative perpetrator matter?

MR. SHANDS: I don't know. Maybe you won't get reversed.

THE COURT: Ms. Keena, anything?

MS. KEENA: Your Honor, I think we already made a record. That's when we excused the jury and the witness. And I think there was a sufficient record made at that time.

THE COURT: Okay. Thanks. See you later.

(Lunch break was taken)

SEPTEMBER 27, 2004 - AFTERNOON SESSION

THE COURT: Please proceed.

MS. KEENA: Your Honor, the state would call Mark Sawyer as a witness.

MARK SAWYER,

being duly sworn, was examined and testified as follows:

THE CLERK: For the record, please state your full name, spelling your last name.

THE WITNESS: My name is Mark Sawyer, S-A-W-Y-E-R.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. KEENA:

Q Good afternoon.

A Good afternoon.

Q Officer, by whom are you employed?

A City of South St. Paul.

Q In what capacity?

A I am a corporal with the police department.

Q Are you a licensed peace officer in the state of Minnesota?

A Yes, I am.

Q How long?

A Twenty years.

Q How long have you been employed in your current position in South St. Paul?

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A Fifteen years.
Q Were you employed as a police officer elsewhere?
A Yes, I was.
Q Where was that?
A City of Goodhue.
Q That's in Minnesota?
A Yes, it is.
Q Were you employed in your current position on December 22nd of 2002?
A Yes, I was.
Q On that date were you dispatched to Sabreen's Supermarket?
A I was.
Q When you were dispatched to that location, what information did you have?
A The original call was possible armed robbery in progress. While we were in route to the store, we received additional information that there was possibly somebody down behind the counter and that the cash drawer was open.
Q What time did you get to Sabreen's?
A It would have been approximately 9:43 p.m.
Q Were there 911 calls that had been made reporting this information?
A I believe so.
Q What did you observe upon arriving at the scene?
A I arrived approximately a few seconds after, and another officer

who had a male person proned out in front of the store at gunpoint, and that person we later determined to be a witness, not a suspect.
Q Do you recall the name of that person?
A Mr. Marx.
Q What did you do next?
A I covered Mr. Marx while Officer Roehlen looked inside the front window of the store, and briefly went inside and then came back out.
Q Did you enter the store?
A Yes, we did. When other officers arrived, we three officers, including myself, went in and searched the building to make sure it was clear of any suspects.
Q Did you find any suspects in the store?
A We did not.
Q Did you find any victims in the store?
A Yes, we did.
Q How may?
A One.
Q Where was that victim located?
A Behind the counter on the floor in the front of the store.

MS. KEENA: Permission to approach, Your Honor?
THE COURT: You may.
(Exhibit No. 13 was marked for identification)

BY MS. KEENA:
Q I am showing you what's been marked for identification as Exhibit Number 13. Can you tell me what that is?
A It's a photograph of the victim laying on the floor.
Q And is that behind the counter?
A Yes, it is.
Q Does that picture accurately reflect what you saw when you arrived at the store on December 22, 2002?
A Yes, it does.
Q Did you move the body at all?
A No, I did not.
Q Did you move anything behind the counter?
A No.

MS. KEENA: For the record, I am showing defense counsel Exhibit 13.
Your Honor, the state would offer Exhibit 13.
THE COURT: Any objection?
MR. SHANDS: No objection, Your Honor.
THE COURT: Exhibit 13 is received.
(Exhibit No. 13 was received in evidence)

BY MS. KEENA:
Q Officer, I am going to blind you here with the light and show you picture on the screen behind you. Is that the picture I just showed you?

A Yes.
Q Again, you didn't touch anything behind the counter?
A I did not.
Q Did you bring in any medical personnel?
A Yes, I did.
Q And did they move the body at all?
A They did not.
Q Thank you. When you initially approached the victim, what did you notice?
A The victim was face down on the floor. The cash register was opened, the cash drawer was laying in the area of the deceased. There appeared to be a bullet wound in the back of the victim's head and blood on the back of the head and neck.
Q Did you approach the body to see if there was any indication of life yourself?
A Yes, I did.
Q What did you do?
A I bent down and basically looked to see if I could see any respirations.
Q Did you see any?
A No, I did not.
Q Did you notice anything about the victim's head in particular?
A It appeared to have a gunshot wound in the back of the head.
Q I am showing you what's been marked for identification as Exhibit 14. Can you tell me what that is?

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A It appears to be a close-up of the victim's torso and back of his head.
Q Does that picture accurately depict how you found him on the evening of December 22, 2002?
A Yes, it does.

MS. KEENA: For the record, I am showing defense counsel Exhibit 14. The state would offer Exhibit 14.

MR. SHANDS: No objection.

THE COURT: Received.

(Exhibit No. 14 was received in evidence)

BY MS. KEENA:

Q Officer Sawyer, I am going to put a picture up behind you. Is that the picture I just showed you?
A Yes, it is.
Q Could you kind of point out the wounds that you noticed that you described in the head.
A Right here (indicating) is what appears to be a bullet hole.
Q And the cash register drawer, that's kind of under his arm, right arm pit, that's how it was positioned when you got there?
A Yes, it is.
Q What's that laying on his back, that white item?
A I am not sure.
Q It doesn't come up very well. I'll show you the picture again. Can you tell from that what that is?

A It appears to be a plastic bag.
Q And you didn't put that on the body or anything?
A No, I did not.
Q At that point did you identify the victim at all?
A No, I did not.
Q Did you secure the crime scene?
A Yes, I did.
Q How did you do that?
A Using crime scene tape by cording off the store, the street and the alley behind the store, positioned officers and reserve officers to keep everybody out.

MS. KEENA: I have no further questions, Your Honor.

MR. SHANDS: May I approach the witness, Your Honor?

THE COURT: You may.

CROSS-EXAMINATION

BY MR. SHANDS:

Q Officer Sawyer, I am showing you what's been marked as Exhibit 13. You've identified it, correct?
A Correct.
Q Now there appears to be a bundle of cash right here. Did you see that when you looked down?
A No, I did not.
Q Okay. But you did not go down -- you testified when you came

in you didn't open the door, this cabinet door -- it appears to be a cabinet door. You didn't open any doors to expose it or anything?
A I didn't touch anything by the counter.
Q Okay. So everything that appears in this picture sitting there was just as it's shown in the picture?
A That's correct.

MR. SHANDS: No further questions, Your Honor.

MS. KEENA: I have no questions, Your Honor.

THE COURT: Thank you.

(Witness excused)

MS. KEENA: Your Honor, the state calls Kathleen Johnson.

KATHLEEN JOHNSON,

being duly sworn, was examined and testified as follows:

THE CLERK: For the record, please state your full name, spelling your first and last name.

THE WITNESS: My name is Kathleen Marie Johnson, K-A-T-H-L-E-E-N J-O-H-N-S-O-N.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. KEENA:

Q Good afternoon. What city do you reside in, Ms. Johnson?
A South St. Paul.
Q Are you employed?

A Yes.
Q Where do you work?
A U.S. Bank Corporation.
Q What do you do there?
A I verify home mortgages, loans.
Q I would like to draw your attention to December 22, 2002. Do you recall that date?
A Yes, I do.
Q What did you do in the early evening hours of that day?
A I was visiting friends and having dinner.
Q And where did your friends live at the time?
A In the six hundred block of Second Avenue in South St. Paul.
Q Are you familiar with Sabreen's Market in South St. Paul?
A Yes, I am.
Q Did you go there often?
A Not too often.
Q On the evening of December 22, 2002, did you go to Sabreen's?
A Yes, I did.
Q How did you get there?
A I drove.
Q Why did you go to Sabreen's?
A To buy a pack of cigarettes.
Q Approximately how far is Sabreen's from your friend's residence?
A It's about three blocks. Three of the long blocks, and then just

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two up, so relatively close.
Q Approximately what time did you arrive at Sabreen's that night?
A I would guess it to be about 9:41.
Q How do you recall that time?
A Because when I got in my car, when I turned, I looked at the clock and I just warmed my car up for a little bit and drove over there. I recall thinking to myself I have 20 minutes before they close.
Q When you arrived at Sabreen's where did you park?
A Directly in front of the store on the street.
MS. KEENA: Your Honor, may I approach?
THE COURT: Yes, you may.
BY MS. KEENA:
Q Ms. Johnson, I am going to put a picture up on the screen behind you. Could you just stand up and show the jury where you were parked?
A Exactly right here (indicating).
Q Which way was your car facing?
A This way, going north (indicating).
Q Okay.
THE COURT: Can we have the exhibit number?
MS. KEENA: It would be Exhibit 2, Your Honor.
BY MS. KEENA:
Q When you parked in front of the store, were you able to see

inside?
A No.
Q Why not?
A Well, from my car I didn't even really look, but even as I approached the store, there was advertisements in the windows.
Q Ms. Johnson, I am just going to show you Exhibit 1. Is that how the store looked on December 22nd when you drove up to it?
A Um-hum.
Q That's a *yes*?
A Yes, it is.
Q Okay. Did you enter Sabreen's?
A Yes.
Q What door did you use?
A The door on the right side.
Q Right in the front there?
A Right.
Q What did you observe when you entered the store?
A Initially I was digging in my purse, so I really didn't notice anything right when I walked in the door, then the first thing I noticed was money being removed from the till, really fast. And I thought *they're closing already?* Then I looked up and noticed that it wasn't the clerk, it was a masked man.
Q And what color was the mask?

A Black.
Q Did it cover his entire face?
A Yes.
Q Did you see him do anything else at that point?
A Not initially, no.
Q What happened next?
A I think it was almost kind of simultaneous that we noticed each other or I might have a second before he noticed me. Then he made an alarming kind of -- I didn't understand what he said other than "Hey," and some other words. I don't know if I was in shock or if it was a different language or -- I just knew it sounded like he was alerting somebody that I was there. Then he made a motion like he was going to pull a gun out from his pants, and I just screamed and turned around and ran out the door.
Q So at that point you didn't see another person in the store?
A No.
MS. KEENA: If I may, Your Honor.
Q I am going to put Exhibit 4 up on the screen behind you, Ms. Johnson. Could you just show the jury approximately -- do you recognize what that is?
A Yes.
Q Could you show the jury approximately where you were standing when you initially noticed the man behind the counter?

A Probably just in here (indicating). I had just entered in the door, so not too far, two steps.
Q And where was the person located that you saw?
A This is the cash register side, right?
Q Yes.
A Farther up -- the cash register is up in this area, so he was right at the cash register. He was in front of the cash register taking the money from the till.
Q When you say in front of the cash register, was he behind the counter?
A Yes. Kind of like an L shape.
Q Okay. At that point did you notice anything about the build of the man that you saw behind the counter?
A That's not really when I noticed it because I was more concerned about just leaving. I noticed the builds when they came running out of the store.
Q You said, you indicated that it appeared to you that he was reaching for a gun out of his waistband?
MR. SHANDS: Objection, Your Honor, asked and answered.
MS. KEENA: I'm leading into the next question.
THE COURT: Okay. Go ahead.
BY MS. KEENA:
Q Did you actually see a gun?
A No.

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A Probably just in here (indicating). I had just entered in the door, so not too far, two steps.
Q And where was the person located that you saw?
A This is the cash register side, right?
Q Yes.
A Farther up -- the cash register is up in this area, so he was right at the cash register. He was in front of the cash register taking the money from the till.
Q When you say in front of the cash register, was he behind the counter?
A Yes. Kind of like an L shape.
Q Okay. At that point did you notice anything about the build of the man that you saw behind the counter?
A That's not really when I noticed it because I was more concerned about just leaving. I noticed the builds when they came running out of the store.
Q You said, you indicated that it appeared to you that he was reaching for a gun out of his waistband?

MR. SHANDS: Objection, Your Honor, asked and answered.

MS. KEENA: I'm leading into the next question.

THE COURT: Okay. Go ahead.

BY MS. KEENA:

Q Did you actually see a gun?
A No.

Q Were you able to see the floor behind the counter at all?
A No.
Q You indicated that you heard him yell something?
A Yes.
Q Did he turn his head or anything when he yelled?
A The way he was facing, he would be facing on the first aisle and it was more as if someone was down that aisle. And I didn't know at that time if he was talking to the clerk or -- I didn't know there were two until they exited the building.
Q So you ran out of the store, you said. What did you do then?
A Went right to my car, turned on the key, and as I was starting to put my car into park, they were coming out the front door.
Q How many people came out the front door?
A Two.
Q And were they running, walking?
A They were running very fast.
Q What did you observe about them as they were running out?
A I observed that one person was several inches taller than the other one. That they appeared to both be slender. They were not too tall. I assumed young, because they had very big, baggy pants on, hooded sweatshirts.
Q Do you recall any of the color of the clothing?
A The person behind the cash register had on a blue hooded sweatshirt and the person that was following him as they were exiting the store had either red or maroonish color.

Q When you say maroonish or red, like a darker --
A Darker, yeah, but it wasn't blue.
Q And the blue that the other man had on, how would you describe that type of blue?
A (No response)
Q Let's say a baby blue compared to a dark blue.
A In between, middle, somewhat like that denim shirt, but a little darker, but not navy blue.
Q You indicated that the person in the store had a mask that covered that person's entire face?
A Yes.
Q How about the second person that you saw?
A Well, I saw him for less than a second, but they both had masks on and it appeared to be the same type and style. There was only a short area from the door, and then they went up the side of the building, and it was dark. Once they went around the corner you couldn't see them any more.
Q So you never saw their faces?
A No.
Q When they came running out of the store, where did you see them run to?
A Right next to the building and around. That's all you could see. It was dark.
Q So into like the parking lot?
A Yup. In the parking lot and they were like right close to the

building. There was a car parked there and that's all you could -- well, by that time I am driving away, too.
Q What did you do then when you drove away?
A I didn't have a cell phone, so I went right back to my friend's house and told her. The first thing she asked me was "Where was the clerk?". I said, "I didn't see him." So she actually made the 911 call because I couldn't.

MS. KEENA: I have no further questions, Your Honor.

CROSS-EXAMINATION

BY MR. SINGH:

Q Ms. Johnson, you stated that when you walked in the store the first thing you noticed was hands taking money out of the till, is that correct?
A Correct.
Q Now those hands that you noticed, were they wearing any gloves?
A That I did not notice.
Q So you couldn't tell the race of the person that you saw behind the counter?
A No, I could not.
Q Ms. Johnson, throughout your testimony here you used the pronoun *he*.
A Yes.
Q Now these individuals were wearing baggy clothing and hooded

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sweatshirts, you stated, correct?
A Yes.
Q And they had masks on, correct?
A Yes.
Q But you have been using the pronoun *he*. What led you to that belief?
A I believe it would be his voice, his tone of voice, very deep or you could tell it was a male.
Q Ms. Johnson, you stated that you saw one person inside of the store.
A Yes.
Q But two people running outside of the store?
A Yes.
Q The two people were -- one was taller than the other, correct?
A Yes.
Q And they ran past you, correct?
A I was in my car. They ran right out of the door and right around the building. So they didn't run by me, because I am driving down the street as they are running out.
Q Ms. Johnson, you didn't see them carry anything as they ran around the corner, did you?
A No, I didn't.
Q Did you see the person doing anything else inside of the store besides taking money out?
A No.

MS. SINGH: No further questions, Your Honor.
MS. KEENA: Just a couple followup. Ms. Johnson, what was going through your mind as you were leaving the store getting into your car?
MR. SHANDS: Objection, Your Honor. Irrelevant.
THE COURT: Overruled.
THE WITNESS: I thought if I see an arm come up, I am ducking and driving.
MS. KEENA: So would it be fair to say that you were feeling kind of frantic?
MR. SHANDS: Objection, Your Honor. Leading.
THE COURT: Sustained.

BY MS. KEENA:

Q How would you describe your emotions at that point?
A I guess I would say I was in shock. I mean, I wasn't even sure even after I had been telling my friend, "Wow, this weird thing I just walked in on.". I didn't really set in my mind anything until after.
Q You were asked a question, and the way it was worded to you is "You didn't see them carrying anything?" Do you recall that question?
A Yes.
Q Was it because you actually didn't see anything in their hands or you didn't notice anything in their hands?
A I did not notice anything. I didn't pay attention. I was more

concerned with getting out of there.
MS. KEENA: I have nothing further, Your Honor.
MR. SHANDS: Ms. Johnson, just one question. The description you gave of what was happening after you had run out of the store and gotten in your car --
MS. KEENA: Your Honor, can we approach? I have an objection.
THE COURT: Yes.
(OFF RECORD DISCUSSION)

BY MR. SHANDS:

Q Ms. Johnson, is it fair to say that a lot of description of what was happening as you were leaving the store, you observed it through your rearview mirror.
A Incorrect, no.
Q Or, were you turning around looking?
A When they came out of the store, my car was still in park. And as I pulled down my shifter, I looked out my window. So it wasn't through my rearview mirror, it was through my window.
MR. SHANDS: Okay, I have no further questions, Your Honor.
MS. KEENA: Nothing further.
(Witness excused)
MS. KEENA: The state calls Matthew Renville.

MATTHEW RENVILLE,

being duly sworn, was examined and testified as follows:

THE CLERK: For the record, please state your full name, spelling your first and last name.
THE WITNESS: Matthew Richard Renville, M-A-T-T-H-E-W R-I-C-H-A-R-D R-E-N-V-I-L-L-E.
THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. KEENA:

Q Good afternoon.
A Good afternoon.
Q Mr. Renville, what grade are you in this year?
A Eleventh.
Q I am going to ask you to speak up a little bit, okay?
A Eleventh.
Q What city do you live?
A South St. Paul.
Q Are you familiar with Sabreen's Market?
A Yes, very much.
Q Did you go there often?
A Yeah, a lot.
Q How often would you go there?
A Like four times a day.
Q How far is Sabreen's from your house?
A A block.
Q So did you know the owner?
A Yes.

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Q And did you know Khaled?
A Yes.
Q I would like to draw your attention to the evening of December 22nd of 2002. Do you recall that date?
A Yes.
Q On that particular night did you go to Sabreen's?
A Yeah.
Q How did you get there?
A We walked.
Q Who was with you?
A My sister and a friend.
Q Which friend?
A Dale.
Q What's his last name?
A Marx.
Q What's your sister's name?
A Samantha Renville.
Q Was there anybody else with you?
A My little Godbrother, Jacob.
Q How old is he?
A I am saying fourteen.
Q And were you at home at the time that you decided to go to Sabreen's?
A Yes.
Q What time did you leave home to go?

A Around nine-thirty.
Q How do you recall that time?
A Because we were trying to make it there before it closed.
Q What time does it close?
A Ten.
Q What route did you take to go to Sabreen's that night?
A Well, I live across the street, and I go down the one-way and down the alley.

MS. KEENA: Could I have permission to approach, Your Honor?

THE COURT: You may.

BY MS. KEENA:

Q I am going to put a picture up on the screen behind you, Exhibit 3, for the record. Do you recognize that?
A Yes.
Q And so where would you have been coming from as you were walking to Sabreen's?
A Over here (indicating).
Q So that would be north of Sabreen's?
A (Nodding)
Q That's a yes?
A Yes.
Q And you were walking, and that's the alley?
A Yeah.
Q How is the lighting in the alley?

A Very bad.
Q Are there any street lights or anything in the alley?
A I think there is only like one light around this area here by the trees.
Q So the night that you were walking up to Sabreen's, what was the lighting like that night?
A I couldn't see anything really.
Q So it was dark?
A Yeah.
Q As you were approaching Sabreen's, did you notice anything in the alley?
A Yes, a car parked in the middle of the alley.
Q Where do you recall the car being parked?
A Right here (indicating).
Q Was it like parked in the middle of the alley, off to the side?
A In the middle.
Q Is that paved?
A Yes.
Q What did the car look like?
A Regular sized car, gray.
Q What kind of gray?
A Shiny.
Q Shiny --
A Shiny, tinted gray.
Q I am not quite sure what that color is. A light color, dark?

color?
A Darkish.
Q Darkish?
A Yeah.
Q Did you notice how many doors the car had?
A Four.
Q What part of the car was facing you?
A The back end.
Q When you saw the car, did you notice if there were any -- were there any lights on inside of the car?
A No, there wasn't.
Q Did you notice any lights on the outside, like the headlights or the tail lights, if they were on?
A The tail lights, they're oval.
Q Do you know if the car was running?
A No, I didn't hear it.
Q What did you see next?
A Couple guys ran out, jumped in and then took off.
Q And could you just show up on the picture where you saw them running from?
A When we were over here (indicating).
Q Where did they run out from?
A Right here (indicating).
Q So between the store and that garage?
A Yes.

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Q Did you hear either one of them say anything?
A Yeah, I heard them say, "Hurry up, let's go and get out of here."
Q Did they get into the car?
A Yes.
Q I'm sorry, I don't remember if I asked you this, but did you notice how many car doors there were?
A Four.
Q Do you recall which doors they got into?
A Both on the passenger side.
Q So, one --
A The back passenger and the front passenger side.
Q Did you notice if there was anybody else in the car?
A No.
Q No, you didn't notice?
A No.
Q Did you notice what the men were wearing?
A No, I didn't, it was too dark.
Q Did you notice anything about the clothing at all?
A Just baggy.
Q You talk about *baggy*. What kind of clothing were they wearing?
A Black, I don't know, jeans, maybe a sweatshirt.
Q Were you able to see the men's faces at all?
A No, I wasn't.
Q Did you notice anything about their physical builds?

A No.
Q Did you notice if either one of them were carrying anything?
A No, I couldn't. I was too far down the street to.
Q Did the car drive off?
A Yes.
Q And did it drive off slowly, quickly?
A It took off pretty fast.
Q When the car drove off, did the car have its headlights on?
A Once it turned the corner, they turned them on.
Q When you say turned the corner, where did the car drive off to?
A That way (indicating), and it took a left, and then turned the lights on.
Q Were you able to see the license plate at all?
A No, I wasn't.
Q What did you do next?
A I didn't know what to do next.
Q Did you think anything of what you had just seen?
A No, I didn't.
Q So did you go into the store then?
A Yes.
Q And what door did you use to go inside of the store?
A The right door in the front.
Q So did you walk through the parking lot?
A Yeah.
Q To get to the front doors?

A Yes.
Q What did you do once you went into the store?
A We went and got the things that we were going to get and we brought them up to the counter, and my friend Dale was looking all around for the guy and he couldn't find him.
Q So when you got in there, did you see anybody?
A No.
Q And you said Dale went and looked around the store?
A Yes.
Q Did you go walk around the store?
A No, I didn't.
Q What did you do?
A I just went with my sister to get her stuff and went up to the counter and just sat there.
Q So you didn't walk around looking for him, but you walked to a location and got some groceries?
A Yeah, right in the front there.
Q What happened next?
A My friend Dale looked over the counter and there he was, and we all like ran out.
Q Where did you run to?
A Across the street.
Q When you were in the store did you notice anything unusual about the cash register?
A Huh-uh.

Q Did you notice anything out of place in front of the counter at all?
A No, I didn't.
Q Did you ever go behind the counter?
A No.
Q Did you see any of your friends go behind the counter?
A No.
Q They didn't go behind there?
A No.
Q Then where did you run to?
A Across the street to my friend's house.
Q Which friend was that?
A Dale.
Q Dale Marx?
A Yes.
Q What did you do there?
A We called the police.
Q Did you do that by 911?
A Yes.

MS. KEENA: I have no further questions.
MS. SINGH: No questions, Your Honor.
THE COURT: Thank you.
(Witness excused)
MS. KEENA: The state would call Samantha Renville.

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SAMANTHA RENVILLE,

being duly sworn, was examined and testified as follows:

THE CLERK: For the record, please state your full name, spelling your first and last name.

THE WITNESS: Samantha, S-A-M-A-N-T-H-A, Renville, R-E-N-V-I-L-L-E.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. KEENA:

Q Miss Renville, how old are you?
A Sixteen.
Q What grade are you in this year?
A Tenth.
Q What city do you live in?
A South St. Paul.
Q Are you familiar with Sabreen's Market?
A Yes.
Q Do you go there often?
A Yes.
Q How often?
A Like every day.
Q How far away is Sabreen's from your house?
A Two blocks.
Q I would like to draw your attention to the evening of December 22nd of 2002. Do you recall that date?

SAMANTHA RENVILLE 116

SAMANTHA RENVILLE,

being duly sworn, was examined and testified as follows:

THE CLERK: For the record, please state your full name, spelling your first and last name.

THE WITNESS: Samantha, S-A-M-A-N-T-H-A, Renville, R-E-N-V-I-L-L-E.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. KEENA:

Q Miss Renville, how old are you?
A Sixteen.
Q What grade are you in this year?
A Tenth.
Q What city do you live in?
A South St. Paul.
Q Are you familiar with Sabreen's Market?
A Yes.
Q Do you go there often?
A Yes.
Q How often?
A Like every day.
Q How far away is Sabreen's from your house?
A Two blocks.
Q I would like to draw your attention to the evening of December 22nd of 2002. Do you recall that date?

A Yes.
Q On that particular night did you go to Sabreen's Supermarket?
A Yes.
Q What were you doing before you went to Sabreen's?
A Sitting at my house.
Q And who ended up going to Sabreen's that night?
A Me, my brother, my brother's friend Dale, and our little Godbrother.
Q How did you get there that night?
A Walked through the alley.
Q I am just going to put up a picture behind you. For the record, it's Exhibit 3. Can you just turn around and look at that? Do you recognize that?
A Yes.
Q I will point out this is where Sabreen's is.
A Yeah.
Q Okay. So how did you get there from your house?
A Walked.
Q And which route did you use?
A The alley.
Q Does that run right from your house or how did you --
A We had to go through the one-way, then turn in the alley.
Q Do you recall what time you left the house to go to Sabreen's?
A I can't remember. Around, like, nine.
Q Was there a special reason why you were going to Sabreen's

that night?
A To get candy.
Q So it was dark out?
A Yeah.
Q Were you worried about getting there before it closed or anything?
A No.
Q As you were approaching the store, did you notice anything in the alley?
A A car.
Q And where did you see the car?
A Parked right here (indicating).
Q That was in the alley?
A Yup.
Q When you saw the car, what part of the car was facing you?
A The back.
Q What did the car look like?
A It was dark, four-door.
Q It was a dark four-door, was it a bigger car, smaller car?
A Bigger.
Q At one point you had indicated, I think in one of your statements, that you thought it was the size of a Cadillac.
A Yeah.

MR. SHANDS: Objection, Your Honor, leading.

THE COURT: Sustained.

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BY MS. KEENA:

Q Do you think the car that you saw was -- there's many different sizes of cars. Do your mom and dad have a car?
A Yeah.
Q What type of car is that?
A Small Ford.
Q Was this car that you saw --
A Bigger.
Q Was it a lot bigger or a little bit bigger?
A Lot bigger.
Q How many doors did it have?
A Four.
Q And I'm sorry, what did you say the color was?
A Like grayish-black.
Q Darker?
A Yeah.
Q How is the lighting in the alley back there?
A It's bright, but dark. Some spots have light and then some spots don't.
Q How about on that night, do you recall what it was like?
A It was -- like once we get by the store, there's lights, so we could see, but we couldn't.
Q Where were you at when you first noticed the car?
A Right here (indicating).
Q And how is the lighting right behind the store?

A Dark.
Q When you saw the car were there any lights on the inside?
A No.
Q Did you notice that the car was running at all?
A No.
Q It wasn't running or you didn't notice?
A Didn't notice.
Q What, if anything, did you see next?
A I saw two dudes run out.
Q Where did you see them run out from?
A Right here (indicating).
Q So from between Sabreen's and that garage?
A Yup.
Q Where did they run to?
A The car.
Q Did you see them get inside of the car?
A Yeah.
Q Did you hear either one of them say anything?
A "Go, hurry, hurry."
Q When they opened the car doors, do you recall if any of the interior lights came on?
A None.
Q Could you see if they were holding anything?
A No.
Q Why weren't you able to see?

A It was dark.
Q Did you notice anything about what the two men were wearing?
A Like sweatshirts, pants. Maybe a hood.
Q What type of pants?
A Jeans.
Q And did you notice anything in particular about the jeans?
A No.
Q As far as color?
A Probably black.
Q So they were darker?
A Yeah.
Q Did you notice anything about the fit of the jeans?
A No.
Q Did you notice, like, for example, if they were tight?
A Probably loose.
Q Probably or they were loose?
A Loose, yeah.
Q What makes you say that?
A I don't know. Just how I saw it.
Q Okay. That's what you recall seeing?
A Yeah.
Q Then you talk about sweatshirts. Do you recall what color?
A No, too dark.
Q And you said something about hoods. What was that?
A Couldn't see their face, it happened too fast.

Q I am not following you. Did they have the hoods up that you couldn't see their face?
A Yeah.
Q Okay. Did you notice anything about their physical builds?
A No.
Q Did you see the car drive off?
A Yes.
Q How did the car leave?
A Just went out the alley.
Q When it left, did it drive away slow or how would you describe the speed?
A Medium.
Q Were you able to see the license plate at all?
A No.
Q What did you do next?
A We went to the store because we didn't suspect anything of it.
Q So that didn't -- what you just saw didn't really hit you that anything happened?
A No.
Q What did you do inside of the store?
A We went and got some food and put it on the counter. And usually the guy is standing right behind the counter, so we knew something was wrong. My brother and his friend Dale looked around the store, and Dale looked behind the counter and saw him. And we ran to his house across the street and

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called the police.

MS. KEENA: I have no further questions, Your Honor.

CROSS EXAMINATION

BY MS. SINGH:

Q Ms. Renville, it's your testimony here today that you couldn't see the faces of the individuals in the back alley?

A Right.

Q So you weren't able to identify what race they were, if they were black, white, Spanish or Asian?

A They were black, though, because they had hoodies on, but I noticed that they were black because, if they turned, you could see all dark.

Q But they had hoodies on, you said?

A Yeah.

Q But you couldn't see their faces?

A Yeah.

Q How could you identify their race if you couldn't see their face?

A I don't know.

Q It's your testimony that you couldn't identify their race.

MS. KEENA: Your Honor, she asked and answered that question.

THE COURT: Overruled.

MS. SINGH: No further questions.

MS. KEENA: I just want to clear that up.

BY MS. KEENA:

Q You said that they turned their faces?

A No, I said if they turned their faces.

Q I am not following. You said that they turned their heads. Did they turn their heads?

A (No response)

Q Miss Renville?

A No.

Q That's all right, we are just asking you what you remember. Okay? So you saw the hoodies up over their heads?

A Yeah.

Q And you can't identify the physical features of the face, right?

A Right.

Q Okay. But you indicated that you thought or you said that they were black?

A Yeah.

MR. SHANDS: Objection, Your Honor. Leading. I move to strike the response.

THE COURT: Overruled.

MS. KEENA: So you saw black?

THE WITNESS: Yeah.

MS. KEENA: Okay, I have no further questions.

MS. SINGH: No questions, Your Honor.

THE COURT: Thank you. That's it.

(Witness excused)

MS. KEENA: The state calls Dale Marx.

DALE MARX,

being duly sworn, was examined and testified as follows:

THE CLERK: For the record, please state your full name, spelling your first and last name.

THE WITNESS: Dale Duane Marx, D-A-L-E M-A-R-X.

THE CLERK: Thank you.

THE COURT: Can you speak up, please, Dale? Thanks.

DIRECT EXAMINATION

BY MS. KEENA:

Q Mr. Marx, how old are you?

A Eighteen.

Q Are you still in high school or did you graduate?

A I am still in high school.

Q What school do you go to?

A South St. Paul High School.

Q Where do you live?

A South St. Paul, across the street from the store.

Q From Sabreen's?

A Yeah.

Q I would like to draw your attention to the evening of December 22, 2002. Do you recall that date?

A Yes.

Q What were you doing that night?

A Sleeping over at a friend's house.

Q Whose friend's house was that?

A Matt Renville's.

Q On that particular night did you go to Sabreen's?

A Yeah.

Q Why did you go there?

A To get some snacks.

Q Did you go to Sabreen's often?

A All the time.

Q How often?

A About three times a day.

Q Did you ever work there?

A I helped, I would stock the shelves and stuff.

Q So you know the owner?

A Yeah.

Q Did you know Khaled?

A Yeah.

Q How did you get to Sabreen's on December 22nd?

A We walked.

Q Do you recall what time you left Renvilles to go to Sabreen's?

A It was towards closing time, it was almost closing time, and we were trying to hurry up to get there.

Q What did you think closing time was?

A I think it was like ten, but I don't remember.

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Q Who went to Sabreen's with you that night?
A Me, my friend Matt, his sister Sam, and Jacob.
Q And what route did you take to go to Sabreen's?
A We went down a one-way, and then down an alley.
Q And does that alley run behind Sabreen's?
A Yeah.
Q As you were walking up the alley towards Sabreen's, did you notice anything?
A A car speed off.
Q Prior to seeing the car speed off, did you happen to see it just -- did you see it parked or?
A Well, I saw it there for a second, but I didn't really pay attention to it.
Q What were you doing as you were going up the alley?
A Sliding on the ice.
Q Did you notice anything about the car?
A No.
Q Did you notice anything about the size of the car?
A I don't remember.
Q How about the color?
A It was pretty dark out. It was a darker color though.
Q While you were walking up to the store, did you see anyone else?
A We saw a couple people run out to the car.
Q Where did they come running from?

A From the entrance leading to Sabreen's, the back way.
Q So like from the parking lot?
A Yeah.
Q Did you hear these men say anything?
A No.
Q And you didn't see their faces at all, is that fair?
A Yeah, we didn't see them.
Q Did you notice what car doors they got into?
A I believe the passenger door opened. Yeah, I think I saw the passenger door open, that was about it, I think.
Q What part of the car was facing you?
A The back.
Q Did you see either one of them get into the driver's door?
A No.
Q And you indicated that the car sped off?
A Yeah.
Q Did you see where it went to?
A I just remember seeing a car speed off and then I turned my head.
Q So at this point did you think there was anything out of the ordinary?
A No.
Q What did you do next?
A Walked to Sabreen's.
Q And did you go into Sabreen's?

A Yeah.
Q And what doors did you use to enter?
A The front doors.
Q When you entered the store, did you see anybody?
A No.
Q What did you do when you got inside?
A I started to look for him. I knew him pretty well, so I started to walk around looking for him, and stuff.
Q When you say *him*, who are you referring to? The owner or Khaled?
A Khaled.
Q Where did you look?
A I walked towards the back of the store and I walked in the back and then I walked back up to the front looking for him. And then I just -- I saw the cash register open and I just looked over the counter.
Q And when you looked over the counter, where were you standing?
A On the farther side of the desk piece.
Q So near the cash register or?
A Um.
Q I will show you an exhibit. I show you Exhibit 5. Does that show where you were standing?
A Over here (indicating).
Q So as you were facing the counter, you were to the left of the

cash register?
A Yeah.
Q How did you look over the counter? Did you just stand on your tippy toes and peer over?
A I just leaned just a little bit over.
Q What did you see?
A Him laying there.
Q Who is *him*?
A Khaled.
Q How did he appear to you?
A Not moving, some blood.
Q Where did you see blood?
A On the ground and stuff.
Q Did you think he was dead?
A Yeah, I just -- when I glanced over there, I just quick glanced at everything, I just kind of just ran out of the store, across the street to my house.
Q Did you go behind the counter at all?
A No.
Q And did any of the others that were with you go behind the counter that night?
A No.
Q You said you ran home?
A Yes.
Q What did you do when you ran home?

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A I woke up my dad and then he started going across the street to Sabreen's, and then I called 911.

MS. KEENA: I have no further questions, Your Honor.

MR. SHANDS: Your Honor, we have no questions for this witness.

THE COURT: Thanks.

(Witness excused)

MS. KEENA: Could we approach briefly?

THE COURT: Is it a good time for a break?

MS. KEENA: No, I just want to talk to you.

(OFF RECORD DISCUSSION)

MS. KEENA: Your Honor, the state would call Dale Marx.

DALE MARX, SR.

being duly sworn, was examined and testified as follows:

THE CLERK: For the record, please state your full name, spelling your first and last name.

THE WITNESS: Dale Duane Marx, M-A-R-X.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. KEENA:

Q Good afternoon, Mr. Marx. Where do you live?

A 334 Fourth Avenue South.

Q What city?

A South St. Paul.

Q Are you familiar with Sabreen's Market?

A Yes, I am.

Q Where is your house located in relation to Sabreen's?

A Almost right across the street and one house over.

Q I would like to draw your attention to the evening of December 22, 2002. Do you recall that date?

A Yeah.

Q Are you the father of Dale Marx, Jr.

A Yes, I am.

Q Does he go by *Junior*?

A Yeah.

Q At some point on that evening, did your son come and report something to you?

A Yeah, he came while I was sleeping, he woke me up out of bed, and he told me that the guy over at the store was laying down behind the counter. And they were yelling and screaming.

Q What did you do?

A Jumped out of bed, put my pants on, and ran across the street. I thought maybe he had a heart attack, or something, and I thought maybe I could help him.

Q So when the kids came over, they didn't tell you the circumstances or what he looked like or --

A No.

Q I'm sorry, why did you go to the store?

A Because the boys were yelling and screaming that the guy at the store was laying behind the counter.

Q So were you going to go try to help him?

A Yeah.

Q Did you know Khaled Al-Bakri?

A I am bad with names.

Q The people that own the store.

A Yeah.

Q Did you go into Sabreen's often?

A Lot, yeah. That's where I get my milk and stuff.

Q What did you do when you got inside of the store?

A I just looked over the counter and turned around and walked back out. I knew I couldn't help him.

Q What did you see when you looked over the counter?

A You could tell he was dead.

Q How could you tell that?

A Well, he already had went in his pants and stuff. From my schooling I know, what I was taught, you know, that they're gone.

Q What kind of schooling do you have that you knew that?

A I got three years of college as a forester and some of it's law enforcement and stuff.

Q Did you have, like, first aid training as part of that?

A Yes, I'm a first responder, I also have that.

Q Do you recall how the body was positioned?

A He was on his side.

Q I am going to show you a picture. I am going to put Exhibit 13 up on the screen behind you. Do you recognize that?

A Yeah.

Q Is that an accurate depiction of what you saw that night?

A Yeah, because I was over here (indicating), just kind of looked over the counter, and that's all I did.

Q Oh, so you were at the end of the counter and you looked over?

A Right. I just looked over, you know.

Q So you didn't look over the counter?

A No.

Q Okay. Mr. Marx, did you ever go behind the counter for any reason?

A No, I did not.

Q So you didn't touch anything behind the counter?

A No.

Q Did you touch the body at all?

A No.

Q What did you do after you saw this?

A Turned around and walked outside the door there and standed there for a couple seconds and that's when the squads came up.

Q So the police arrived?

A Yeah.

MS. KEENA: I have no further questions, Your

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Honor.

MR. SHANDS: I have no questions, Your Honor.

THE COURT: Thank you. That's it.

(Witness excused)

MS. KEENA: Your Honor, may we approach?

THE COURT: Yes.

(OFF RECORD DISCUSSION)

THE COURT: We are actually a little ahead of schedule. We are out of witnesses for today. We are going to let you go. Be back at 9:00, ready to go at 9:00.

Remember, don't talk to anyone about the case. Thanks, and see you tomorrow.

(Adjourned)

SEPTEMBER 28, 2004

THE COURT: Have a seat. I apologize for the delay. I had a case on at 8:30 that went longer than they told me it would. Ms. Keena.

MS. KEENA: Thank you, Your Honor. The state calls Dr. Mohamed Sedqi.

DR. MOHAMED SEDQI,

being duly sworn, was examined and testified as follows:

THE CLERK: For the record, please state your full name, spelling your first and last name.

THE WITNESS: My name is Dr. Mohamed Sedqi, M-O-H-A-M-E-D S-E-D-Q-I.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. KEENA:

Q Good morning, Dr. Sedqi.

A Good morning.

Q By whom are you employed?

A With the Department of Public Safety, Bureau of Criminal Apprehension in St. Paul.

Q What is the Bureau of Criminal Apprehension?

A It's a state agency that has three divisions in it. We have the investigative division, with all special agents, and we have the forensic science laboratory that conducts, like, evidence testing and analyses. And we have the Criminal Justice Information

System that tracks basically the criminal background.

Q What do you do at the BCA?

A I am a lead forensic scientist and also a crime scene team leader.

Q What are your duties in your position?

A Which one?

Q Well, let's start with the crime scene team leader.

A I am in charge of a crime scene team that has like three scientists and two agents. And we only respond to major crimes like homicides, attempted homicides, kidnappings, and police involved shooting.

Q What are your responsibilities in your other position?

A I am a lead forensic scientist. Receiving evidence, examining evidence for DNA, and to testify in court when it's necessary.

Q How long have you been employed with the BCA?

A Since 1997.

Q Did you hold any other positions prior to that?

A At the BCA?

Q Well, anywhere.

A Yes. I was a post-doctoral associate in medical school, University of Minnesota.

Q What's your educational background?

A I have a master's and a Ph.D degree in biochemistry from the University of Paris, France. Then I have four years of post-doctoral experience at the University of Minnesota Medical

School, Department of Pharmacology.

Q Do you belong to any professional organizations?

A Yes.

Q What are those?

A The Midwestern Association of Forensic Scientists, the International Association of Identification, the International Association of Blood Spatter Analysts. I think that's it.

Q Do you hold any special certifications at all?

A No.

Q Were you employed by the BCA on December 22nd of 2002?

A Yes.

Q On that date were you called to Sabreen's Supermarket in South St. Paul on a robbery/homicide?

A Yes.

Q And for what purpose were you called to that location?

A For that investigation.

Q In what capacity were you going out there in?

A As a crime scene team leader.

Q And who or how many people made up your crime scene team on that occasion?

A We have three forensic scientists, myself, then we have a team member, and we have special operation division forensic. Then we were about three -- I had also three special agents on the team.

Q When you arrive at a crime scene, what typical steps do you

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undertake?
A Well, the first thing we do is get briefed by the case agent about what they think had happened. Then we basically have a walk-through of the crime scene.
Q What did you do in this case?
A Once we were briefed by the case agent, I asked to not have the walk-through in the crime scene.
Q Why was that?
A Because we basically had a non-suspect case, and I wanted to preserve the floor of the store, preserve any kind of footprint impressions. That's why I did not allow anybody to enter that store.
Q And so did you go in and process the floor first?
A Yes. The floor was processed first.
Q After the floor was processed, did you take a video of the crime scene?
A Yes, our agents took a video of the scene.
Q And you have that video -- you've seen the video?
A Yes, I did.
Q At the time that the video was taken, had anything else been processed in the store?
A Only the floor.
Q So the body remained where it was?
A Yes, behind the counter was not touched yet.
MS. KEENA: May I approach, Your Honor?

THE COURT: Yes.
BY MS. KEENA:
Q Doctor, I am showing you what's been marked for identification as Exhibit 15. Do you know what that is?
A That's the video we are talking about.
Q So that's a video of the crime scene at Sabreen's?
A Yes, taken at 345 Fourth Avenue, South St. Paul.
Q Is this the original tape or a copy of the tape?
A I believe it's the copy.
Q And you have seen this copy before?
A Yes.
Q Is it an accurate reproduction of the original?
A Yes.
MS. KEENA: Your Honor, the state is going to offer Exhibit 15. For the record, I am showing it to defense counsel.
MR. SHANDS: Your Honor, could I make an objection? May we approach?
THE COURT: Yes.
(OFF RECORD DISCUSSION)
THE COURT: Back on the record. What was the number?
MS. KEENA: Number 15.
THE COURT: 15 is received.
(Exhibit 15 was received in evidence)
MS. KEENA: Your Honor, at this time we are going

to play Exhibit 15. Dr. Sedqi, I'd ask you to come off down the stand.
THE WITNESS: Okay.
(Video being played)
BY MS. KEENA:
Q Dr. Sedqui, this doesn't have any audio on it, correct?
A That's correct.
Q Dr. Sedqi, as we are watching the video, I may have questions for you and just kind of ask you to walk us through the scene. Now right here what are we seeing?
A That's the main entrance to the store located on the west side.
Q What are we seeing here?
A The inside of the store, that's the counter to the right, and the other side is where the body is laying down.
Q That's the body laying behind the counter?
A That's correct.
Q At this point nothing has been moved?
A Nothing has been moved in the area of the store.
Q What are we focusing in here?
A It's a cartridge casing.
Q What's that on his back?
A The white stuff?
Q Yes.
A It's a white plastic grocery bag.
Q There's a white [illegible] right there.

A Yup.
Q Is that how the hook appeared when you were processing the scene?
A Yes.
Q What are we focusing in on there?
A This is a wound to the back of his head.
Q What are we looking at here?
A We are looking east to the back of the store, where the back door is.
Q Would that be the first aisle?
A Yes.
Q Those little yellow placards that we're seeing on the floor, what are those?
A They're indicating where footprint impressions were found on the floor. And we found fourteen inside of the store.
Q Is this the back wall of the store?
A Yes.
Q Where is this?
A It's the back of the store, this is the back door right here (indicating).
Q Like the storage area?
A Yes.
Q Where does that door go to?
A It goes to the back of the store to the east alley.
Q Was that door open or closed when you processed the scene?

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A When we arrived at the scene, the door was barred up, it was locked. And we did not see any kind of forced entry.
Q So it actually had a bar across it?
A That's correct.
Q Is this the third aisle of the store?
A Yes.
Q So now we are back outside of the store. When was this footage shot?
A The next day. We responded at night, then the next day.
Q So is this the north side of the building?
A That's correct, north parking lot.
Q What are we seeing here?
A Now we are looking west. Now we are looking at the east of the east alley. That's where some tire track impressions were found.
Q Is that where the back door comes out, what we just saw there?
A Yes.
Q Thank you, Dr. Sedqi. You may have a seat.

(Video tape completed)

BY MS. KEENA:

Q Dr. Sedqi, I would like to focus on the crime scene investigation behind the counter. You indicated, as we were looking at the video, we noticed the one cartridge casing. Were there any other casings found behind the counter?

A Yes.
Q How many?
A We found four cartridges.
Q Could you explain what a cartridge casing is?
A Basically when you fire a handgun, the bullet will go out and then the cartridge casing will be ejected.
Q So the bullet comes out of the barrel and the casing gets ejected?
A That's correct.

MS. KEENA: Permission to approach, Your Honor?

THE COURT: You may.

(Exhibit No. 16 through 25 were marked for identification)

BY MS. KEENA:

Q Dr. Sedqi, I am showing you what's been marked for identification as Exhibit 25. Could you please describe what's contained in that exhibit?
A They're item 21 through item 24, and they are basically all the four cartridge casings that we collected from the store from behind the counter.
Q And Items 21 through 24, those are numbers that you assigned to each casing?
A That's correct.
Q Are those in the same or similar condition as when you found them on December 22, 2002?

A Yes.

MS. KEENA: For the record, I am showing Exhibit Number 25 to counsel. Your Honor, at this time the state would offer Exhibit 25.

MS. SINGH: No objection.

THE COURT: Exhibit 25 is received.

(Exhibit No. 25 was received in evidence.)

MS. KEENA: Your Honor, if I may publish it to the jury?

THE COURT: You may.

BY MS. KEENA:

Q Dr. Sedqi, I would next like to walk through where you found each of the casings. So first focusing on Item 21, I show you two pictures here. The first one has been marked for identification as Exhibit 16. The second one has been marked for identification as Exhibit 17. Could you please tell me what those are pictures of?
A They are pictures of a cartridge casing, which I collected as Item 21.
Q Do these pictures accurately depict what the scene looked like at the time you collected that evidence on December 22nd –or, was it actually December 23rd when you were there collecting it?
A I believe it's December 23rd, the next day.

Q Are those accurate depictions of what you saw that day?
A Yes. In this case we had to remove a cash register before we could see it.
Q So the tray that we saw in the video, that was lying next to the body?
A Yes.
Q You had to move that?
A In order for us to take a photograph of this one.

MS. KEENA: For the record, I am showing Exhibit Number 16 and 17 to counsel.

Your Honor, the state would offer Exhibits 16 and 17.

MS. SINGH: No objection.

THE COURT: Received.

(Exhibits 16 and 17 were received in evidence.)

BY MS. KEENA:

Q Dr. Sedqi, on Exhibit 17, could you place a circle around the casing that's present in that picture?
A (Witness complies)
Q Just put your initials by it.
A (Witness complies)
Q Dr. Sedqi, I am going to put up a picture on the screen behind you. Is that Exhibit 16 that I just showed you?
A Yes, it is.

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Q It's kind of hard to see on there, but could you point out to the jury where the casing is?
A It's right here (indicating).
Q And I am now going to put Exhibit 17 up on the screen. Again, could you point out where the casing is?
A (Indicating).
Q Thank you.
Q Dr. Sedqi, I am now showing you two pictures that have been marked for identification. The first one is Exhibit 18. The second one is Exhibit 19. Do you recognize those pictures?
A Yes.
Q What are those pictures of?
A They are photographs of the cartridge casing that was collected as Item 22 from behind the counter.
Q And where was this casing located in relation to the body?
A That's the one that was underneath the body basically and/or the victim's left shoulder.
Q So you had to move the body before you could see this casing?
A That's correct.
Q Do these pictures accurately depict what the scene looked like at the time you collected that evidence on December 23, 2002?
A Yes.

MS. KEENA: For the record, I am showing Exhibits 18 and 19 to defense counsel.

Your Honor, the state would offer Exhibits

Numbers 18 and 19.

MS. SINGH: No objection.

THE COURT: Received.

(Exhibits 18 and 19 were received in evidence.)

BY MS. KEENA:

Q Again, Dr. Sedqi, I am going to put a picture up on the screen behind you. Is this the picture that I just showed you, Exhibit 18?
A Yes.
Q And that's the casing that we're seeing?
A That's correct.
Q And I am now putting Exhibit 19 on the screen. Again, that's a picture of the casing?
A Yes.
Q I am sorry, what part of the body did you say it was located under?
A Under the victim's left shoulder.
Q Dr. Sedqi, I am now showing you a series of three pictures that have been marked for identification as Exhibits 20, 21 and 22. Do you recognize those photographs?
A Yes.
Q What is depicted in those photographs?
A Two cartridge casings found behind the counter.
Q And what item numbers are these two casings?

A We labeled them as 23 and 24.
Q And what's depicted in Exhibit 22?
A It shows the two cartridge casings along with several sheet of papers on the floor.
Q Do these pictures accurately depict what the scene looked like at the time you collected this evidence?
A Yes.

MS. KEENA: For the record, I am showing Exhibits 20, 21 and 22 to defense counsel.

Your Honor, the state would offer Exhibits 20, 21 and 22.

MS. SINGH: No objection.

THE COURT: Received.

(Exhibit Nos. 20, 21 and 22 were received in evidence.)

BY MS. KEENA:

Q Dr. Sedqi, I am going to hand you Exhibit 22. Would you just take this black pen and circle the casings on the picture, and initial them?
A (Witness complies)
Q Dr. Sedqi, I am going to put a picture up on the screen behind you again. That's Exhibit 20 that I just showed you. Could you just please tell the jury again what that is?
A That's the cartridge casing collected as item 23 from behind the counter.

Q Now I am putting Exhibit 21 up on the screen, and could you please tell the jury what that is?
A It's a photograph of the cartridge casing that was collected as Item 24, from behind the counter.
Q Finally, I'm bringing the last exhibit up, Number 22. Could you please point out to the jury what we are seeing in this picture?
A We have a cartridge casing right here (indicating), and another cartridge casing by the cabinet. Then we have this sheet of papers that we found scattered at the scene when we arrived.
Q So the cartridge casing that is to your right, is that item 23?
A Yes.
Q And the one closer to the base of the cabinet is item 24?
A Correct.
Q Where was the body located in relation to those casings?
A This way (indicating). This is farther in in the counter.
Q Thank you. Did you find any bullets at the scene?
A We found one bullet.
Q Now with four cartridge casings, there should be four bullets, correct?
A That's correct.
Q How many were you able to account for?
A Three.
Q So there was one in the flashlight. Where were the other two that you found?

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A In the victim's body.
Q And you were unable to locate the fourth one?
A That's correct.
MS. KEENA: May I have permission to approach, Your Honor?
THE COURT: You may.
(Exhibit Nos. 26 was marked for identification.)
BY MS. KEENA:
Q Dr. Sedqi, I am showing you what's been marked for identification as Exhibit 26. Would you please identify for the record what that item is?
A It's a bullet that was collected as Item 27.
Q Where was that bullet collected from?
A From a flashlight.
Q In Sabreen's?
A In Sabreen's.
Q And is it in the same or similar condition as when you found it?
A Yes.
MS. KEENA: For the record, I am showing Exhibit Number 26 to defense counsel.
Your Honor, the state would offer Exhibit 26.
MS. SINGH: No objection.
THE COURT: Received.
(Exhibit No. 26 was received in

evidence.)
BY MS. KEENA:
Q Dr. Sedqi, I am going to show you Exhibit 13. Do you recognize that picture?
A Yes.
Q And is the flashlight that you collected that bullet from contained in that picture?
A Yes.
Q Where was the flashlight located?
A By the head of the victim.
Q Was it located on a shelf?
A Yes, the bottom shelf.
Q Dr. Sedqi, I am going to put Exhibit 13 up on the screen behind you. Could you just point out to the jury where that flashlight was located?
A (Witness indicates)
MS. KEENA: Permission to approach, Your Honor?
THE COURT: You may.
(Exhibit Nos. 27 and 28 were marked for identification)
BY MS. KEENA:
Q Dr. Sedqi, I am showing you what's been marked for identification as Exhibit 27. Could you please identify what that item is?
A It's the flashlight that was collected from Sabreen's as Item –

Q Let's do it this way instead.
A As Item 44.
Q I am going to show you what's been marked for identification as Exhibit 28. Could you please describe what that item is?
A That's a battery.
Q And when you found the bullet, where was it in the flashlight?
A It was in the battery.
Q So did you have to tear the battery apart to get the bullet out?
A Yes.
Q So that's what Item 28 is?
A That's correct.
Q And I'm seeing a hole in Exhibit 27 up on the top of the flashlight. What is that?
A That's where the bullet entered the flashlight.
Q And except for having to take this battery apart, are these in the same or similar condition as when they were collected?
A Yes, they are.
MS. KEENA: For the record, I am showing defense counsel Exhibits 27 and 28.
Your Honor, the state would offer Exhibits 27 and 28.
MS. SINGH: No objection.
THE COURT: Received.
(Exhibit Nos. 27 and 28 were received in evidence.)

MS. KEENA: Your Honor, if I may, I would like to publish Exhibit 27.
THE COURT: Go ahead.
(Exhibit 27 was published to the jury)
BY MS. KEENA:
Q Dr. Sedqi, you testified earlier that you were only able to recover -- or totally there were only three bullets recovered?
A That's correct.
Q So, presumably, the missing fourth bullet is in the store somewhere?
A That's correct.
Q What type of search did you undertake to attempt to locate that fourth bullet?
A We conducted basically visual search, and we did also some chemical testing on every single hole that we saw in the store. That's what we call lead testing.
Q What type of ceiling was in the store, do you recall?
A I don't know.
Q Did you check the ceiling at all?
A Yes, we did.
Q And you were unable to locate the fourth bullet?
A We could not locate the fourth bullet.
Q Dr. Sedqi, I am now showing you two photographs that have been marked for identification as Exhibits 23 and 24. Do you recognize those photographs?

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A Yes.
Q What is depicted in each of those?
A A bullet hole on one of the shelves of the cabinet.
Q And is this the cabinet where the flashlight was located?
A That's correct.
Q So this is the bullet hole -- so did the bullet travel through that shelving into the flashlight?
A That's correct.
Q Do these pictures accurately depict the scene as it existed on December 23, 2002?
A Yes.

MS. KEENA: For the record, I am showing Exhibits 23 and 24 to defense counsel.

Your Honor, the state would offer Exhibit Numbers 23 and 24.

MS. SINGH: No objection, Your Honor.

THE COURT: Received.

(Exhibit Nos. 23 and 24 were received in evidence.)

BY MS. KEENA:

Q Dr. Sedqi, on the screen behind you I am going to put Exhibit Number 23. Is that the picture that I just showed you?
A Yes.
Q Could you just please describe to the jury what it is that we are seeing here?

A Well, we are seeing a bullet hole on this shelf right there (indicating).
Q And the flashlight is obviously removed from this picture?
A Yes, the flashlight was removed. That's where it was (indicating) when we arrived at the scene.
Q Now I am going to put Exhibit 24 up. Could you please describe to the jury what we're seeing in this picture?
A It's the same bullet hole with a probe or a flag going through it.
Q And what's the purpose of putting a probe through there?
A We were trying to establish the bullet trajectory.
Q And what did you establish?
A That the bullet was going downward.
Q Given the location where you found the body, the casings, the bullets, were you able to form any opinion as to where the shooter was standing at the time?
A We can say that they were behind the counter.
Q And what do you base that opinion on?
A Based on the bullet hole. You have to be either -- I mean, the perpetrator has to be either behind the counter or leaning downward firing his article downward.
Q But in this case you are of the opinion that the shooter was behind the counter?
A Either the shooter or the weapon.
Q Okay. Did you submit the casings and the bullet that you recovered from the scene for analysis to the BCA Lab?

A Yes.

MS. KEENA: Your Honor, I have no further questions.

THE COURT: Your witness.

MS. SINGH: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. SINGH:

Q Dr. Sedqi, you said you have been BCA forensic scientist since 1997, is that correct?
A That's correct.
Q So you've worked on many cases like this, is that correct?
A Yes.
Q You found four shell casings behind the counter, correct?
A That's correct.
Q Two of them were close to the body, correct?
A They were all close to the body.
Q One was actually underneath the body?
A That's correct.
Q And one was underneath a shelf or close to the shelf behind the counter, correct?
A That's correct.
Q Two were in a non-carpeted area, as was depicted in the picture, is that correct?
A That's correct.
Q The body was located on the carpet, is that correct?

A That's correct.

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

THE COURT: You may.

BY MS. SINGH:

Q Dr. Sedqi, I am showing you Exhibit 13 again. You stated in your testimony this is the depiction of the scene at Sabreen's the morning when you arrived, correct?
A That's correct.
Q There's some shelves that are here (indicating). Now you didn't do anything to manipulate those shelves or move anything, correct?
A That's correct.
Q So there was no doors on these shelves, correct?
A That's correct.

MS. SINGH: May I approach the witness again, Your Honor?

THE COURT: Yes, you may.

BY MS. SINGH:

Q Dr. Sedqi, I am bringing you back Exhibit 13 here. Now in this picture there's a stack of money on the shelf. Do you recognize that?
A Yes.
Q Now was that money setting out there when you arrived at that scene and processed it?

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A That's correct.
Q That is the same shelf where the flashlight is, correct?
A That's correct, the top shelf.
Q Yes. Now, Dr. Sedqi, you stated that when you processed the floor of Sabreen's you found fourteen footprint impressions, correct?
A Inside of the store, that's correct.
Q Did you find any footprint impressions outside of the store?
A Yes, we did.
Q Did you process those?
A Yes, we did.
Q Did you find any other items outside of the store that you processed?
A Yes, we did.
Q What were those?
A We found a cigarette butt in the north parking lot that was collected as Item 31. We found a pop can in the east alley that was collected as Item 18. We found also some skid marks or tire track impressions on the east alley that were lifted and photographed as Items 16 and 17. And we also found some footprint impressions in the snow, dusting of snow, by the fence, that were lifted and photographed as Item 15, I believe.
Q Dr. Sedqi, did you process any of those items that you lifted from the premises?
A Which one are you talking about?

Q Did you do any testing on any of the items?
A You mean back in the lab?
Q Yes.
A No.
Q Now, Dr. Sedqi, you testified that when you were searching for the fourth bullet to associate to the fourth shell casing, you conducted a visual test?
A Visual search, yes.
Q So you looked at the walls of the counter area in the super-market, correct?
A That's correct.
Q And you looked at the ceiling?
A Yes.
Q Did you look at any insulation of the walls?
A We did, yes.
Q You also conducted a test of -- you stated it was a lead test?
A Yes, that's correct.
Q That test would detect any type of lead that would be in there, is that correct?
A That's correct. If we are dealing with like a bullet hole.
Q Is it the hole that would have the lead in it or the bullet itself that would have the lead in it?
A It's the hole itself, the surrounding of the hole itself. But, again, when it's positive for lead, yes, it's an apparent bullet hole. But when it's negative for lead, it does not mean that it is

not a bullet hole. So we still have to dig it anyway.
Q Now, Dr. Sedqi, when you arrived at Sabreen's, and you showed the video to the jury earlier today, the video was taken down the three separate aisles, correct?
A That's correct.
Q Now this is a small grocery store. Are there any windows on any sides of the walls at all?
A I don't think there is.
Q There is a back fire exit that you had in your video, is that correct?
A That's correct.
Q You stated in your testimony that that door was barred shut, so there wasn't any entry in and out of that?
A That's correct.
Q In your video, the door was in a fenced-in area as well, correct?
A Yes. It leads to a fenced area on the south side of the store.

MS. SINGH: I have no more questions, Your Honor.

MS. KEENA: I have nothing further, Your Honor.

THE COURT: Thank you.

(Witness excused)

THE COURT: Let's take a morning break.

(Morning break was taken)

MS. KEENA: The state calls Dr. Lindsey Thomas.

DR. LINDSEY THOMAS,

being duly sworn, was examined and testified as follows:

THE CLERK: For the record, please state your full name, spelling your first and last name.

THE WITNESS: Lindsey Thomas, L-I-N-D-S-E-Y T-H-O-M-A-S.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. KEENA:

Q Dr. Thomas, what is your occupation?
A I am a forensic pathologist and coroner.
Q Are you licensed to practice medicine in the state of Minnesota?
A Yes.
Q Since when?
A 1984.
Q What is your educational background as it relates to your current position?
A I got my bachelor's degree from Oberlin College in Ohio. I got my medical degree from University of Minnesota in Ann Arbor. Then I did my residency in anatomic and clinical pathology also at the University of Michigan and I became board certified in anatomical and clinical pathology.

Then I did a one-year fellowship in forensic pathology at the Hennepin County Medical Examiner's Office in Minnea-

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polis. I got board certified in forensic pathology in 1988. Then I worked for many years at the Hennepin County Medical Examiner's Office as assistant medical examiner. Since 1997, I have been with the coroner's office here.

Q How long were you in Hennepin County?

A Well, I started there, I think, in '85 and left in about 2000, I think.

Q Are you a member of any medical societies or professional groups?

A Yes. The Minnesota Medical Association; American Medical Association; American Association of Forensic Science; National Association of Medical Examiners; Minnesota Society of Pathology, probably some others.

Q You mentioned that you serve as a coroner?

A Yes.

Q Is that an appointed position?

A Yes.

Q And who appointed you or what body appointed you to that position?

A Each County Board of Commissioners appoints the coroner.

Q And are you coroner for more than one county?

A Yes.

Q How many counties?

A I am coroner for seven counties. I cover Carver, Chisago, Dakota, Fillmore, Goodhue, Houston and Scott Counties.

Q You indicated that you are a forensic pathologist?

A Yes.

Q What is a forensic pathologist?

A Well, forensic pathology is the area in medicine where medical issues and legal issues kind of overlap. So, for example, sexual assaults, toxicology involving alcohol or dugs, injury interpretation, those are all things that come under the education and experience of a forensic pathologist.

Primarily what I do is death investigation, so I investigate deaths that occur either unnaturally or unexpectedly in the counties that I am the coroner for. So forensic pathology also involves doing autopsies in death investigation.

Q You mentioned you perform autopsies?

A Right.

Q Any idea how many you've performed over the years?

A Oh, probably about two thousand, something like that.

Q Have you testified at legal proceedings before?

A Yes.

Q What types of proceedings have you testified?

A Grand juries, criminal cases, civil cases.

Q Approximately how many times have you testified in legal proceedings?

A Oh, one hundred, one hundred fifty, something like that.

Q I would like to draw your attention to the time period of

December 22nd and 23rd of 2002. During that timeframe were you employed in your current position?

A Yes.

Q During that timeframe were you called to a crime scene at Sabreen's Market in South St. Paul?

A Yes, I was.

Q When did you go to the scene?

A On December 23, 2002, I got to the scene at 4:35 a.m.

Q What did you observe upon arriving?

A It was a small grocery store and Mr. Khaled Al-Bakri's body was lying on the floor behind the counter.

THE COURT: Doctor, you are referring to a written document?

THE WITNESS: Yes.

THE COURT: Can you just tell us what that is?

THE WITNESS: It's a copy of my autopsy report.

THE COURT: Thank you.

BY MS. KEENA:

Q I am going to show you a picture. I will put it up on the screen behind you. For the record, that's Exhibit 13. Does that picture accurately depict what you saw when you arrived?

A Yes.

Q So everything is the same?

A Yes.

Q What did you do after you arrived there?

A I just did a brief examination of the body at the scene. And then we took Mr. Al-Bakri back to the Regina Medical Center, where the coroner's office is, and then later that day we did the autopsy.

MS. KEENA: Permission to approach, Your Honor?

THE COURT: Yes, you may.

(Exhibit No. 29 was marked for identification)

BY MS. KEENA:

Q Dr. Thomas, you just testified that you examined the body at the scene. When you did that, did you notice any apparent wounds?

A Yes.

Q Where were those wounds located?

A There appeared to be gunshot wounds to his head.

Q Showing you what's been marked for identification as Exhibit 29, it's a photograph. Could you please describe what that depicts?

A Sure. This is a close-up photograph of the back and side of Mr. Al-Bakri's head at the scene. And it shows two gunshot wounds, although they are hard to see because of the blood, but there is one on his head and one on his neck.

Q Does that picture accurately depict what the body looked like the day that you were there on the 23rd?

A Yes.

MS. KEENA: For the record, I am showing Exhibit

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Number 29 to counsel.

Your Honor, the state would offer Exhibit 29.

MS. SINGH: No objection, Your Honor.

THE COURT: Received.

(Exhibit No. 29 was received in evidence.)

BY MS. KEENA:

Q Dr. Thomas, I am going to put Exhibit 29 on the screen behind you. Is that the picture I just showed you?

A Yes.

Q Could you point out to the jury the wounds that you were just describing?

A There's a wound here on his head, then a wound on his -- somewhere in here (indicating). It's not very clear here in this photograph, on his neck.

Q When you were examining the scene, was there any blood anywhere?

A There was some blood under his head.

Q And where was the blood primarily located, was it pooling or how would you describe it?

A I would describe it as pooling, primarily just under where his head was.

Q Did you notice any other bodily fluids at the scene?

A Yes, it appeared that he had vomited and so there was some vomit on the floor also.

Q And why would that happen?

A It's a fairly common, almost a reflex that happens at the time of death. There's a couple of reasons why it happens. One is that at the time of death all of the muscles relax, so the muscle that holds the contents of the stomach in the stomach also relaxes, and so the food, or whatever, that is in the stomach can just come out.

Also, it can sometimes be a reflex reaction to traumatic head injury or other types of injuries that cause death. So it's fairly common that we see vomit that's occurred at about the time of death.

Q Now you indicated Mr. Al-Bakri's name. You did identify him?

A Yes, he was visually compared to a photograph that was provided.

Q And you also indicated that you performed an autopsy on him?

A Yes.

Q On what date did you perform the autopsy?

A That was on December 23, 2002.

Q Generally speaking, what are you trying to determine when you perform an autopsy?

A Well, the goal when I do an autopsy is to determine the cause of death and the manner of death. With manner of death, we only have five options: accident, natural, suicide, homicide or undetermined.

Then the cause of death is the disease process or the

injury process that actually caused the death. So that's the primary information that I am trying to get when I do an autopsy.

Part of the autopsy involves documenting any diseased processes or injuries that will help me come to a conclusion about the cause and manner of death.

Q Before you actually perform the autopsy and -- in this case did you have to remove any personal items from Mr. Al-Bakri?

A Yes.

Q And in removing his personal items, what did you find?

A He had a cell phone that was clipped to his belt and then there were a few coins and papers in his pockets. Then his clothing was a pair of shoes, pair of socks, pair of jeans, underpants, a belt, T-shirt and a sweater.

Q Did you find a cordless phone?

A No.

Q Based on your examination of Mr. Al-Bakri during the autopsy, did you reach a conclusion on the cause of death?

A Yes.

Q What did you determine that to be?

A Gunshot wounds to the head.

Q Did you extract bullets from Mr. Al-Bakri's head?

A Yes.

Q How many?

A Two.

Q So there were no exit wounds?

A Right.

MS. KEENA: Permission to approach, Your Honor?

THE COURT: Yes, you may.

(Exhibits 30 and 31 were marked)

BY MS. KEENA:

Q Dr. Thomas, I am showing you what's been marked for identification as Exhibit 30 and also Exhibit 31. Would you please describe for the record what those items are?

A Exhibits 30 and 31 are both small pieces of gray metal that are consistent with bullets that have been fired. And these are the two that I retrieved from Mr. Al-Bakri's body.

Q Are they in the same or similar condition as when you extracted them?

A Yes.

MS. KEENA: For the record, I am showing the exhibits to counsel. Your Honor, the state would offer Exhibit 30 and Exhibit 31.

THE COURT: Any objection?

MS. SINGH: No objection, Your Honor.

THE COURT: Received.

(Exhibit Nos. 30 and 31 were received in evidence.)

MS. KEENA: If I may, I would like to publish them to the jury

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THE COURT: Sure.

(Exhibits 30 and 31 published to the jury.)

BY MS. KEENA:

Q Dr. Thomas, I am now showing you what's been marked for identification as Exhibit 32. Do you recognize that?

A Yes.

Q What is that?

A This is a photograph that was taken at the time of the autopsy of Mr. Al-Bakri. And it shows the two gunshot wounds, one to the left side of his neck and one to the left side of the back of his head.

Q Does that picture accurately depict what they looked like at the time you performed the autopsy?

A Yes.

MS. KEENA: For the record, I am showing Exhibit Number 32 to counsel.

MR. SHANDS: Your Honor, I am going to make an objection. May we approach?

THE COURT: Sure.

(OFF RECORD DISCUSSION)

THE COURT: Exhibit 32 is received.

(Exhibit No. 32 was received in evidence)

MS. KEENA: Your Honor, may I publish this picture to the jury?

THE COURT: You may.

BY MS. KEENA:

Q I don't have this on power point, so we have to do this old-fashionedly. I am going to put 29 up, just so we can talk about which wounds that we are relating to in the exhibit that you have in front of you. Could you describe each of the injuries?

A Sure. There are two gunshot entrance wounds. One is this (indicating), to the left side of -- to the back of his head. And then the other is in this area (indicating) to the left side of his neck.

The gunshot wound to the left side of his head went through the left side of his brain, from back to front, and injured the brain tissue on the left side of his brain and also fractured his skull on that side.

The other gunshot wound to the left side of the neck went from back to front and from the left side to the right side, so that one went through the cerebellum, which is a part of the brain that's in the back of the head, and then also went through the brain stem, which is the part of the brain that connects the brain to the spinal cord. And then ended up in the right side of his brain. That one was also associated with injuries to his brain and skull fractures.

Q Would either wound, taken separately, have been fatal?

A Yes.

Q Did you notice, was there any powder or soot around the

wounds?

A I didn't see any powder or soot around either of the wounds. So there are a couple of reasons for that. When a gun is fired not only does the bullet come out of the end of the gun, but there's also soot and powder that comes out. And depending how close the end of the muzzle of the gun is to the person who is being shot, there will be possibly soot or powder around the wound.

However, when I don't see that, it could be one of two things: either that the gun is further back, in which case the soot and powder hasn't traveled; or, in both of these wounds, the one on the back of his head there was hair around it, and hair can filter out soot and powder so that I wouldn't be able to see it.

And the one on his neck, he's got this sweater that had a hole in it, so the bullet went through the sweater. So it's possible that if there was soot and powder, it would be on the sweater. Therefore, I wouldn't see it on his skin.

So for both of those, I would consider them to be indeterminate range, meaning that I can't tell how far away the gun was.

Q Did you see any signs of stippling?

A No.

Q Just briefly explain what that is.

A Stippling is when the unburned powder comes out of

the end of the gun it hits the skin, if it's close enough, and causes little red marks. That's called powder stippling or powder tattooing. Again, it's one of the things that we use when we're trying to make a determination about how far away the gun was from the body, but because of the hair and the sweater, I wouldn't see it on the skin. So I can't really say whether, you know, it would have been there, but for the hair and the sweater.

Q Now you talked about the bullets and the angle of the bullets. Could you just kind of explain how they went through? Were they straight, were they angled?

A Sure. The bullet that entered in the left side of his head went from the back to the front, very slightly to the right. It started on the left side of his head and ended on the left side of his head, but where it ended was closer to the midline. So it was slightly left to right. And then also it very slightly went up, so that it entered in the head a little bit lower than where it ended up. But basically that one went pretty much straight through, back to front.

The other one that went in on the left side of his neck went from the left side of his neck to the right side of his head, so -- and also went from the back to the front, so that one went from left to right, back to front. And that one where the bullet ended up was slightly above where it went in. So again slightly up, left to right, back to front and slightly up on that one.

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Q During your autopsy did you find any bruising or scrapes on the victim's face or body?
A No.
Q Given the trajectory of the bullets and the condition of the body, are you able to give an opinion on how the body was positioned at the time or how Mr. Al-Bakri was positioned at the time that he was shot?
A Well, there's a few things that I can say. I can, you know, I can tell the direction that the bullet went once it entered his body. I can't say exactly, you know, what the relationship between the gun and his body was because it would depend on how the gun was being held.

But based on the fact that he didn't really have any injuries, if someone were shot and they were standing up and then fell full body weight down, I might expect to see some scrapes or bruises, or something like that, so that would make me think that he probably wasn't standing full upright when he was shot.

Then the other thing that I would look at is the evidence from the scene of where the other bullets, if there were other bullets found -- in this case there was one other bullet found and where the casings were found. And then put that together with the information that I have from the autopsy.

And those, put together, would make me think that his body was low down. He was sitting or kneeling, or lying down,

when he was shot.
Q Through your investigation, did you reach a conclusion as to the manner of death?
A Yes.
Q What conclusion did you reach?
A That it was a homicide.
Q What did you base your opinion on in reaching that conclusion?
A Well, as I mentioned, with manner of death we only have five choices. Obviously gunshot wounds to the head aren't natural deaths. There's no way that someone could do this to themselves because each of the wounds independently were fatal, so it wouldn't be a suicide. And then based on the scene and investigation, I concluded that it was a homicide.
Q The bullets that you recovered from the body, did you give those to the BCA?
A Yes, I gave them to, I believe, the Dakota County Sheriff's Office and then they gave them to the BCA.

MS. KEENA: I have no further questions, Your Honor.

CROSS-EXAMINATION

BY MS. SINGH:

Q Dr. Thomas, you stated that you performed an autopsy on December 23, 2002?
A Yes.

Q When you performed that autopsy -- excuse me. Let me backtrack a little bit. When you arrived at the scene at Sabreen's, you made a visual determination of what you saw, correct?
A Right.
Q That determination was that there was gunshot wounds?
A Right.
Q But at that time you were not able to determine how many?
A Right.
Q You had to do that when the body was taken back to the medical center?
A Right.
Q At that time you determined there were two gunshot wounds?
A Yes.
Q One to the head and one to the neck?
A Yes.
Q You stated that some of the property that you recovered from Mr. Al-Bakri was clothing, various items in his pocket, and a cell phone attached to his belt, correct?
A Yes.
Q Now, Dr. Thomas, when you arrived at the scene and you saw the body, was there a lot of blood?
A Not a huge amount.
Q Most of the blood was below the body, correct?
A Right.

Q Is that because of gravity, it just goes down and pools at the bottom?
A Yes.
Q And there were only two entrance wounds that you found, correct?
A Yes.
Q You weren't able to determine where the gun might have been, because there was no stippling or no gun powder residue or anything like that, correct?
A Right.
Q And you also weren't able to determine if Mr. Al-Bakri was kneeling or standing or laying down?
A Right.
Q Dr. Thomas, one of the things you were able to determine was that the gun wasn't pressed up against the body and caused the wounds, correct?
A Right. It did not appear to be a contact gunshot wound.
Q And nothing in the investigation that you did would connect Mr. Vance to this, correct?
A No, that wouldn't be my job.

MS. SINGH: No further questions, Your Honor.

MS. KEENA: Your Honor, may I approach?

THE COURT: Yes, you may.

(Exhibit No. 33 was marked for identification)

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REDIRECT EXAMINATION

BY MS. KEENA:

Q Doctor, I am showing you what's been marked for identification as Exhibit 33. Do you recognize that?

A Well, it's my handwriting that's on the envelope here.

Q Do you recall what was placed in that envelope?

A No. My guess would be that it's the property that was removed from him.

Q I am going to have to open this one up. Just for the record, I've just opened the main envelope contained in Exhibit 33. Could you just tell me what's inside of there?

A This is a cell phone with a clip on it, two pennies, some papers and then envelopes from our office that are probably fingernail clippings and hair, pulled hair.

Q Just for the record, I am going to pull the cell phone out. Is that the cell phone you recovered from Mr. Al-Bakri?

A Yes.

Q And there were no -- again, no cordless phones?

A No.

MS. KEENA: Your Honor, for the record, I am showing the exhibit to counsel.

MS. SINGH: Your Honor, may we approach?

THE COURT: Yes.

(OFF RECORD DISCUSSION)

THE COURT: We are going to remove some of the

items from Exhibit 33, nail clippings, and other things, collected by Dr. Thomas. But the personal effects that were removed from Mr. Al-Bakri will be received in Exhibit 33.

(Exhibit No. 33 was received in evidence.)

MS. KEENA: Your Honor, I have no further questions.

THE COURT: Anything else from the defense?

MS. SINGH: No further questions.

THE COURT: Thank you, Doctor.

(Witness excused)

MS. KEENA: Your Honor, the state calls John Martin.

JOHN MARTIN,

being duly sworn, was examined and testified as follows:

THE CLERK: For the record, please state your full name, spelling your first and last name.

THE WITNESS: John Edward Martin, M-A-R-T-I-N.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. KEENA:

Q Good morning, Mr. Martin.

A Good morning.

Q As a preliminary matter, I would like to briefly review your criminal history. You have a prior conviction for burglary in

the third degree dated October 16, 2003, is that correct?

A Yes.

Q And are you receiving anything in exchange for your testimony here today?

A No.

Q Do you know Philip Vance?

A Yes.

Q And did you know him more commonly by a nickname?

A Yeah, Florida.

Q Is the person that you know as Philip Vance present in the courtroom today?

A Yes.

Q Where is he at?

A Right there (indicating).

MS. KEENA: May the record reflect that the witness has identified Philip Vance?

THE COURT: It may.

BY MS. KEENA:

Q How long have you known Mr. Vance?

A Like two to three years now.

Q How would you describe your relationship?

A As a friend pretty much.

Q How often would you guys get together?

A Not very often, but on certain occasions pretty much.

Q How often would the two of you get together?

A Well, it all depends. Like, I work, so when I see him downtown going to work, I say "Hello, what's up?" Then when I get off work, we'd like go out, but not very often. It all depends, the days vary, what I am doing for the day. But not too often though.

Q When you say *downtown*, what downtown are you referring to?

A Downtown St. Paul, because I use the bus, so I see him downtown on my way going to work and I say, "Hello," see what he's doing. When I get off work, he'll be downtown as well, so it all depends. If I'm tired, then I just go home. If not, then we'll just hang downtown for a minute and have a conversation. That's about it.

Q Do you know Dominic Johnson?

A Yeah.

Q Do you know him more commonly by a nickname?

A Common name is *Stacks*.

Q How long have you known Mr. Johnson?

A About the same time.

Q That was two to three years?

A Yeah, two to three years.

Q Did you ever see Mr. Vance and Mr. Johnson together?

A Yeah.

Q How would you describe their relationship?

A Pretty --

MR. SHANDS: Objection, Your Honor, calls for

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speculation.

THE COURT: Overruled.

THE WITNESS: Pretty much the same. Most likely, they'd be together. They had a good relationship.

BY MS. KEENA:

Q I would like to draw your attention to December 22, 2002. Did you meet up with Mr. Vance and Mr. Johnson that evening?

A Yes.

Q Where did you meet them?

A I met them on Sixth and Minnesota Street.

Q Where did you go from there?

A We went to the Radisson Bar.

Q And where is that located?

A Downtown St. Paul in the skyway area.

Q What time did you get to the bar?

A I would say around, like, 7:00, maybe 8:00.

Q And did the three of you sit together?

A Yes.

Q Where did you sit?

A We sat at the table towards the front at the Radisson Bar.

Q What did you talk about while you were sitting together?

A It was around Christmas time, so we was talking about the Christmas occasions, what we all going to get our kids for Christmas, our girl friends, and et cetera, like that.

Q Did the defendant have children at that time?

A Yes.

Q Do you know how many?

A No.

Q What did the defendant say about Christmas presents for his kids?

A They was talking about how they was going to arrange to get their kids something for Christmas.

Q Was that the words he used or did he use other words?

A No, they was just basically saying they was going to try to figure out how they going to make money arrangements to get their kids something for Christmas.

Q Did they discuss how they planned on doing that?

A No, not really. They just said they was going to ask around and see what they going to get; with the money they already had, they was going to make arrangements to get their kids something for Christmas.

Q And did they talk about a robbery that night with you?

A No.

Q Did either one of them say anything about South St. Paul that evening?

A Not at the very first beginning. When I was ready to depart they made a phone call.

Q Why don't you tell me what happened with that?

A They made a phone call to go to South St. Paul on our departure time, on our way to leave. That was around, like,

8:30.

Q You said they called. What did they call on?

A A cell phone.

Q Whose cell phone was it?

A I think it was Mr. Vance right there, his cell phone.

Q And who made the phone call?

A Stacks made the phone call.

Q And who did he call?

MR. SHANDS: Objection, Your Honor, lack of foundation for this witness to testify to who he called.

THE COURT: Do you know who he called?

THE WITNESS: He called Yvonne and Nicole, to be exact.

MR. SHANDS: Same objection, Your Honor.

THE COURT: How do you know that?

THE WITNESS: Because I was there. I was there when they called.

THE COURT: Okay.

BY MS. KEENA:

Q Did they tell you who they were calling?

A Yeah, they said they was calling Yvonne and Nicole.

Q Do you know who Yvonne and Nicole are?

A I don't know 'em, like, to be exact, like know 'em -- know them, but I seen Nicole and Yvonne like twice.

Q Do you know what their relationship is to Mr. Vance and Mr.

Johnson?

A Just friends.

MR. SHANDS: Objection, Your Honor, non-responsive and lack of foundation.

THE COURT: Overruled.

BY MS. KEENA:

Q Did Mr. Vance and Mr. Johnson talk about Yvonne and Nicole?

A Not really. They just said they was calling Yvonne and Nicole.

MR. SHANDS: Objection, Your Honor. I move to strike everything from *not really* as non-responsive.

THE COURT: Okay.

MR. SHANDS: I would ask for an instruction for the jury to -- I would ask for a jury instruction on that also.

THE COURT: Well, I am not going to prohibit the state from asking additional questions. I suppose there is no point in striking it without instructing -- disregard what he said after *not really*, but I will allow both parties to continue questioning.

Thanks.

BYMS. KEENA:

Q Did Mr. Vance and Mr. Johnson refer to Yvonne and Nicole by a nickname at all?

A Well, Stacks called 'em the South St. Paul girls, to my knowledge.

Q Is that how they were introduced to you?

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A Yes.
Q Now you indicated that -- discussions about South St. Paul. Could you just repeat again what you said?
MR. SHANDS: Objection, Your Honor, asked and answered.
MS. KEENA: We had so many objections I can't keep it straight, Your Honor.
MR. SHANDS: May we approach, Your Honor?
THE COURT: No. Overruled. Go ahead.
THE WITNESS: Can you repeat the question?
BY MS. KEENA:
Q What was said about South St. Paul that night?
A That they was just going to South St. Paul.
Q Did they tell you for what purpose they were calling the girls?
A No.
Q Did they invite you along?
A Yes.
Q What time did you leave the bar?
A Around 8:30. Prior to that time, like, 8:30 – before 9:00.
Q Did the three of you leave at the same time?
A Yes.
Q Where did you go to?
A I went towards Fifth and Minnesota because I was getting on the sixty-four.
Q Is that a bus stop?

A Yes.
Q Where were you headed to?
A I was going to my girl house.
Q Did you in fact go there?
A Yes.
Q Where was she living at the time?
A 1265 Hazlewood, Apartment 205, St. Paul, Minnesota.
Q Did you see Mr. Vance and Mr. Johnson after you left the bar?
A Yes.
Q Where did you see them?
A On Fifth and Minnesota.
Q Did you see them leave from that location?
A Yeah, they walked over to the other bus stop.
Q What did you see next?
A Before I got on the bus, I seen Yvonne and Nicole car comes around the block before I got on the bus.
Q What did you see next?
A That's pretty much it, I got on the bus.
Q Did you see Mr. Vance and Mr. Johnson get into the car?
MR. SHANDS: Objection, Your Honor, leading.
THE COURT: Overruled. I'm sorry?
THE WITNESS: No, I didn't see them get in the car.
BY MS. KEENA:
Q Did you see them in the car at all?

A No. Prior to -- before the bus came, I seen just Yvonne and Nicole in the car. But before the bus left Fifth and Minnesota, I seen other people in the car.
Q What type of car was it?
A I believe it was a blue Corsica, I believe.
Q What color?
A Blue.
Q I'm sorry, what type of blue?
A Dark blue, I believe.
Q How many doors does this car have?
A I believe four.
Q Who was driving the car?
A Yvonne.
Q I'm sorry, you said Yvonne was driving?
A Yeah.
Q What does Yvonne look like?
A Kind of like heavyset, long hair.
Q Is she white?
A Yeah, she's white.
MS. KEENA: Your Honor, may we approach?
THE COURT: Yes.
MS. KEENA: Never mine, I just need a moment.
BY MS. KEENA:
Q Mr. Martin, you were interviewed by the police in this case, correct?

A Right.
Q And they talked to you about this car, right?
A Yeah.
Q Did they show you any pictures when they were talking about Yvonne and Nicole?
A Yes.
MS. KEENA: Permission to approach, Your Honor.
THE COURT: Granted.
BY MS. KEENA:
Q I am just going to show you a picture here. Do you recognize that picture?
A Yeah.
Q Who do you know that person to be?
A Yvonne or Nicole. Rephrase, because I only seen 'em twice, so I get 'em mixed up.
Q Was she the one --
A She was the passenger.
Q I am going to show you, are those your initials on this piece of paper?
A Yes.
Q Who does it identify that person as being?
MR. SHANDS: Objection, Your Honor, hearsay.
THE COURT: Overruled.
THE WITNESS: Yvonne.
THE COURT: Go ahead.

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BY MS. KEENA:

Q So the person that you know as Yvonne was actually the passenger that night?

A Right.

MS. KEENA: I have no further questions, Your Honor.

CROSS-EXAMINATION

BY MR. SHANDS:

Q Mr. Martin, you testified that you remembered the person that was driving the vehicle as being Yvonne?

A Right.

Q Is that your testimony?

A Yeah.

Q That's what you remember?

A I mean I get 'em mixed up, so I have to see a picture to realize which one is which, because I only met 'em twice, so I really don't know, you know, I got to see they picture because I really don't know 'em by their name. I got to see a picture.

Q That's because this happened two years ago?

A Right.

Q That's a long time ago. Now, let's go back to the bar. You testified that you know Mr. Vance and Mr. Johnson by just kind of meeting downtown in the bar, correct?

A Right.

Q And you have gone to the Radisson Bar before to drink?

A What?

Q You have been to the Radisson Bar before and had cocktails, is that correct?

A Yes.

Q This was something you guys do when you hook up downtown?

A Sometimes, yes.

Q Sometimes you don't?

A Right. Sometimes we don't.

Q You are familiar with the bartender down at the Radisson Bar?

A Yes.

Q What's her name, do you remember?

A Her name is, I believe, Melissa. To be exact -- it's been a while, so I'm not commonly familiar with names, but pretty much I think it was Melissa, I believe it was.

Q You don't know her last name?

A No.

Q Now isn't it true that one of the reasons you go to that bar is because Melissa lets you guys write checks?

A Right.

MS. KEENA: Objection, Your Honor, irrelevant.

THE COURT: Overruled.

MS. KEENA: May we approach, Your Honor?

THE COURT: No.

BY MR. SHANDS:

Q Another reason why you go to that bar is because Melissa lets

Mr. Johnson drink, although she knows he is not twenty-one years old, is that correct?

A Right.

Q Now you testified that you guys met on the 22nd. Is that correct? And you sat down at a table and you guys were just talking about what you were going to do for Christmas. The fact that, you know, what are you guys going to get your kids, your girlfriends, that sort of thing, is that correct?

A Right.

Q This wasn't a hush-hush conversation, is that correct?

A No. No, it was not a hush-hush conversation.

Q In fact, you guys were just kind of sitting there talking?

A Right. We sat there, we had a couple of drinks and we ordered pizza that night. So we just sat there, ate pizza, had a couple drinks, and we talked.

Q You indicated Mr. Vance talked about he had to put two and two together or make some moves?

A Right. We was all saying the same thing. We was all saying that we was trying to get our girls something for Christmas, because I don't have no kids, so I was talking about my girl, and they was talking about their kids.

Q You also participated in this conversation talking about you've got to make some moves or put some stuff together so you can get something nice for your girl?

A Right.

Q At no time did Mr. Vance ever say that he intended on doing a robbery or anything to get any money?

A No, there was no robbery discussed at that table at all that night.

Q Okay. Mr. Vance indicated when he said he had to *put two and two together*, that kind of meant that he had some money.

MS. KEENA: Objection, Your Honor, calls for an opinion on what he meant.

THE COURT: Maybe you could rephrase it.

BY MR. SHANDS:

Q Isn't it true that Mr. Vance already had some money together and he just needed to put some more money together to get some toys?

A Right. We all had money. We wasn't broke. We all had money at the time.

MR. SHANDS: Thank you, Mr. Martin. I have no further questions, Your Honor.

REDIRECT EXAMINATION

BY MS. KEENA:

Q Mr. Martin, just to clarify again, the picture that I showed you earlier, that's the person you know as who?

A Yvonne. That's the passenger in the car.

Q She was the passenger?

A Yes.

Q Again to clarify, where did the two men indicate they were

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going that night?
A South St. Paul.
Q But they didn't say why?
A They didn't say why.
MS. KEENA: I have no further questions.
MR. SHANDS: Just a few questions.
RECROSS EXAMINATION
BY MR. SHANDS:
Q Mr. Martin, isn't it true that you were paid some money by the South St. Paul Police to write a letter to Mr. Johnson to get him to possibly talk about the robbery that took place in South St. Paul?
MS. KEENA: Your Honor, I am going to object to this question. It goes beyond the scope of the state's redirect.
THE COURT: Overruled.
THE WITNESS: No, I was not paid.
BY MR. SHANDS:
Q You received no money from the state at all?
A No.
Q So it's your testimony that the South St. Paul Police Department did not pay you one hundred sixty-nine dollars and fifty cents to act as an informant in this case?
A Nope. I didn't get no hundred and sixty-nine dollars. The only money that I received was for coming down here and testifying. That's it. And that comes in a Dakota check. That's the only

money I ever seen in being a witness for any of this.
MR. SHANDS: Thank you. I appreciate your honesty. Thank you.
THE WITNESS: You are welcome.
MS. KEENA: I have no further questions.
THE COURT: Thank you, Mr. Martin. You can go.
(Witness excused)
THE COURT: Lunch time. We will start again at 1:15.
(JURORS EXCUSED)

THE COURT: We need to make a record about something now that the jury has left. I just want to note for the record that at a side bar there was an objection to Exhibit 32, the photo taken during the autopsy of the back of Mr. Bakri's head. Objection by Mr. Shands was overruled.
MR. SHANDS: Yes, and the basis for that objection was that it's cumulative and we have multiple pictures of the bullet wounds in the back of the head.
I would like the record to also reflect that there was an objection made and Ms. Keena had argued the objection from the table. The reason I wanted to approach is because I wanted the judge to instruct Ms. Keena, as I've raised as an objection, that if there's an objection it needs to be made at the table. And if there's any argument of it, it needs to be done at

a side bar and not in front of the jury. And that had taken place, so that's what I wanted to approach for. The court denied the approach.
THE COURT: For the first time. I have allowed all of you to come up every other time you asked, and it's going to happen less often.
MR. SHANDS: That's fine, Your Honor. I just want the record to reflect that was my purpose for wanting to come up to the bench.
THE COURT: I apologize. I don't recall Ms. Keena arguing at the counsel table.
MR. SHANDS: That's fine, Your Honor. I feel uncomfortable because it puts me in a position where I don't want to say, "Your Honor, Ms. Keena is arguing from the table," to draw more attention to it, so I will figure out a way to deal with that if I need to.
THE COURT: Make the objection and we will always make a record of it as soon as we can.
MS. KEENA: Your Honor, I would just like to note on the photographs, I think the state has been very discreet in what it has introduced as pictures in this case. The state has only introduced one autopsy photo which was pretty benign compared to what the other autopsy photos look like.
THE COURT: I agree, that's why I let it in. It's the only photo that's been presented. Okay, anything else?

MR. SHANDS: No.
THE COURT: It was beyond the scope, but I let you ask it any way. See you at 1:15.
(Lunch break was taken)

SEPTEMBER 28, 2004 - AFTERNOON SESSION
THE COURT: Have a seat. It's impressive how you all come in in order. Go ahead, Ms. Keena.
MS. KEENA: The state calls Ms. Melissa Stites.
MELISSA STITES,
being duly sworn, was examined and testified as follows:
THE CLERK: For the record, please state your full name, spelling your first and last name.
THE WITNESS: Melissa Stites, M-E-L-I-S-S-A S-T-I-T-E-S.
THE CLERK: Thank you.
DIRECT EXAMINATION
BY MS. KEENA:
Q Good afternoon, Ms. Stites. As a preliminary matter, I would like to briefly review your criminal history. You have a conviction for offering a forged check dated November 20, 1996?
A Yes.

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Q I would like to draw your attention to December 22, 2002. Were you employed on that date?
A Yes, I was.
Q Where at?
A The Radisson in St. Paul.
Q And was there somewhere particular in the Radisson that you worked?
A I was the head bartender.
Q What was the name of the bar?
A Capitol City Market Café.
Q Is it also known as the Radisson Bar?
A Yeah, it's connected to the skyway system. There's two Radissons. I worked at the one in the City Centre, in St. Paul.
Q And you indicated you were the head bartender?
A Yeah.
Q How long had you been employed there up until December 22, 2002?
A Probably a year and-a-half.
Q Were you working the night of December 22nd?
A Yes, ma'am.
Q What hours did you work?
A Usually I'd start at 4:30 to 10:00, whenever it was like slow, then we'd close usually at 10:00.
Q At that time did you know two men by the street names of Florida and Stacks?

A Yes, ma'am.

MS. SINGH: Objection, Your Honor. May we approach?

THE COURT: No nicknames.

MS. KEENA: Did I say it again? Sorry. Permission to approach, Your Honor?

THE COURT: Yes.

(Exhibits 34 and 35 marked)

BY MS. KEENA:

Q Ms. Stites, at some point did you come to learn the real names of who Florida and Stacks were?
A Yes, ma'am.
Q How was that done?
A By introduction.
Q Were you shown a photo lineup?
A Yes, I was.
Q Ms. Stites, I am first going to show you Exhibit 34. Do you recognize that?
A Yes, ma'am.
Q What is that?
A That's a picture of Florida, right there (indicating).
Q And there are six photographs on there, correct?
A Yes, ma'am.
Q Did a police officer show this to you?
A Yes.

Q There are some initials, M.S. Then there is a date. What's the date?
A 12/27/02.
Q And the initials are what?
A My initials, M.S.
Q You did that?
A Yes, ma'am.
Q That's the person that you identified as Florida?
A Florida.
Q I am now showing you Exhibit Number 35. Do you recognize that?
A Yes.
Q What's that?
A Stacks, Dominic Johnson.
Q Is that another photo lineup?
A Yes.
Q And a police officer showed that to you?
A Yes.
Q Did you put your initials and date by the photo of the person that you were referring to as who?
A Stacks.

MS. KEENA: For the record, I am showing counsel Exhibits 34 and 35.

MR. SHANDS: No objection, Your Honor.

THE COURT: Exhibits 34 and 35 are received.

(Exhibit Nos. 34 and 35 were received in evidence)

BY MS. KEENA:

Q Ms. Stites, is the person that you know as Florida present in the courtroom today?
A Yes.
Q Where is he?
A He is sitting right there (indicating).

MS. KEENA: May the record reflect she has identified Philip Vance?

THE COURT: It may.

BY MS. KEENA:

Q Going back to December 22nd of 2002 -- I am going to refer to Stacks as Mr. Johnson. Okay?
A Okay.
Q Did Mr. Vance and Mr. Johnson come into the Radisson Bar that night?
A On December 22nd?
Q Yes.
A Yes.
Q Did you know them prior to December 22nd?
A Yes.
Q From where?
A From them coming into the Radisson. They had been in there a few other times.

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Q What time did they arrive at the bar on the evening of December 22nd?
A Approximately 7:30.
Q Was there anyone else with them that night?
A There was another gentleman.
Q And did you know the third man?
A No.
Q What did he look like?
A He was about as tall as Mr. Vance, and lighter skinned, like he had a big nose and like puffed *Eddy* Sunglasses and one of those big leather parka things.
Q Was he an African-American male?
A Yes, ma'am.
Q While they were in the bar did you have an opportunity to observe them?
A Yes.
Q Were they seated inside of the bar?
A Yes, there's like four or five tables in the bar. They sat at the table closest to the bar. The bar is real small.
Q Did you wait on them?
A Yes.
Q During your contact with them, did you notice anything in particular about the way they were acting?
A Just that they weren't like as friendly as they usually were, like more secretive, like, they weren't -- usually when they're in

there they're, like, "Yoa, Melissa, what's up, girl?" You know, "When are we going to go out?" or whatever. They were just real secretive to themselves. I asked them, too, "What's going on?" Florida said, "Oh, we're just --

MR. SHANDS: Objection, Your Honor, non-responsive.

THE COURT: Sustained.

BY MS. KEENA:

Q Did you ask them something?
A I asked them "What's going on?" And he just said that they were getting their plan on.

MR. SHANDS: Objection, Your Honor, vague as to who is speaking.

THE WITNESS: Mr. Vance said that they were getting their plan on.

THE COURT: Overruled.

BY MS. KEENA:

Q Did they eventually leave the bar?
A Yes, ma'am.
Q Do you recall what time?
A Maybe 20, 30 minutes later. They weren't there too long, like, if they were there at 7:15, 7:45, probably there for about a half an hour.
Q As they were leaving, did Mr. Vance make any -- or, did you make any comments to Mr. Vance?

A Yes, I did.
Q And what did you say?
A Well, I told him, I said that *tips are real low that night,* because they generally never tipped, and it was like two days before Christmas. And Mr. Vance said, "Don't worry, Baby, when I get back there's going to be plenty of money."
Q Did you report that to anybody?
A Yes, ma'am. I called Officer McManus the next day.
Q Why did you call Officer McManus?
A Just because I knew something was going on. They were real secretive and *plan on* usually means like a robbery or something.

MR. SHANDS: Objection, Your Honor, non-responsive.

THE COURT: No. Why don't you approach?

(OFF RECORD DISCUSSION)

BY MS. KEENA:

Q This Officer McManus, what department does he work for?
A The Minnesota Gang Strike Force.
Q So had you provided information to him in the past? I mean, you had a relationship with him?
A Yes.
Q Okay. I would like to now draw your attention to January 3, 2003. On that date were you involved in an undercover operation involving Mr. Vance?

A Yes.
Q Could you just -- well, were you wired?
A Yes, I was wired.
Q So were you being monitored by police officers?
A Yes.
Q Did you meet Mr. Vance that night?
A Yes. We met at the Buttery on Sixth and Robert in St. Paul.
Q And after you met him at the Buttery, what happened?
A Well, Florida or Mr. Vance didn't want to be at the Buttery for some reason, so he wanted to go to The Lab, which is in St. Paul.
Q Is that another bar?
A It's another bar in St. Paul. And the police had given me a Cyota (ph) telephone because they said that I couldn't do anything without their permission.

MR. SHANDS: Your Honor, I am going to object at this time. I would ask that questions be asked of the witness and she be not allowed to give a narrative.

THE COURT: Well, as to this particular response, overruled.

BY MS. KEENA:

Q So the police officers gave you a --
A Cyota (ph) telephone. So I went in the bathroom and I called, I think it was Andy Shoemaker, and he is on the Minnesota Gang Strike Force, and I got permission to go from the Buttery

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to The Lab, because there were cars outside, like twelve full of undercover police officers. So I had to get permission to go, so they would follow me over there with Mr. Vance.

Q Did you get permission to go?
A Yes, I got permission to go.
Q Did you go over to The Lab?
A Yes, we went to The Lab, me and Mr. Vance.
Q How did you get there?
A We drove in my car.
Q While you were with Mr. Vance that night, was there any conversation regarding guns?
A Yes.
Q Where did this conversation occur?
A In The Lab.
Q What did Mr. Vance say or what was your conversation in regard to guns?
A Well, we were -- when the gun conversation came up, he said that he had four guns. And I said, "Oh, cool." Then I asked him if he ever shot anybody.

He said that he had "shot a guy two weeks ago over south side five times in the back."

And then I said, "Did you check to see if he was dead?"

MR. SHANDS: Objection, Your Honor.

THE COURT: Overruled.

BY MS. KEENA:

Q I am sorry, what did you just say?
A I asked him, I said, "Oh, did you check and see if he was dead?" and he's like "No, Girl, I just kept going." Or something like that.

MS. KEENA: I have no further questions.

THE COURT: Mr. Shands.

CROSS-EXAMINATION

BY MR. SHANDS:

Q Is it Stites?
A Yes, sir.
Q Now you asked Mr. Vance if he had shot anyone before, correct?
A Yes, sir.
Q Now the reason you were asking this question is because you were trying to elicit a confession from Mr. Vance for the police that were listening, correct?
A Yes.
Q They had instructed you to inquire of Mr. Vance about if he's ever shot anyone, correct?
A Yes.
Q Now Mr. Vance never said he shot anybody in South St. Paul, is that correct?
A He said South Side.
Q The question, he never said he shot anybody in South St. Paul,

did he?
A Never said St. Paul.
Q He never said that he shot the store clerk at Sabreen's, did he?
A No, sir.
Q Now with your relationship, you knew Mr. Vance for a while, correct?
A For about a month prior to December 22nd.
Q You had known him for about a month prior to December 22nd?
A Just from coming into my work.
Q Now he would come into your work and he would have conversations with you, correct?
A Yes.
Q Mr. Johnson would have conversations with you, correct?
A Yup.
Q You know Mr. Johnson also?
A Yes, sir.
Q You know Mr. Johnson is not 21 years old, don't you?
A No.
Q Melissa, isn't it true that the reason why they come to your bar is because you will serve Mr. Johnson even though he is under age?
A No. I didn't know that. If I knew that, I wouldn't have served him.
Q Do you know a John Martin?
A Um -- no.

Q Let's back up. On December 22nd isn't it true that John Martin was sitting with Mr. Vance and Mr. Johnson at the bar?

MS. KEENA: Your Honor, objection. Foundation. She already indicated she didn't know John Martin.

THE COURT: Well, he can get at it another way.

THE WITNESS: I never identified a third person.

BY MR. SHANDS:

Q Isn't it true that, as they sat there, they ordered some pizza?
A They ordered pizza.
Q They ordered some drinks?
A I think they had a drink a piece.
Q Okay. Now you testified that in your opinion -- you asked Mr. Vance what was going on?
A At the Radisson on the 22nd?
Q Correct.
A Did I ask Mr. Vance what was going --
Q You asked Mr. Vance what was going on?
A Yes.
Q At this point you have only known Mr. Vance for about a month?
A About a month.
Q And it's your testimony that this behavior was out of the ordinary from their normal behavior?
A Yes.
Q Okay. So how many times had they been in previously within

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that month?
A Five or six times.
Q Five or six?
A Um-hum.
Q Two maybe?
A Five or six times. They frequented quite a bit more.
Q Five or six times, is that how many times they had been in?
A Yes.
Q Now your testimony is Mr. Vance told you "Don't worry, they got a plan. When they come back they'll have some money," correct?
A They're getting their plan on.

MS. KEENA: Your Honor, objection, that isn't what her testimony was.

MR. SHANDS: Objection, Your Honor. Can we not argue objections from the bench, Your Honor?

THE COURT: You both have just within the last 15 minutes. But that's not what she testified to. If you can use the words that she used, go right ahead.

MR. SHANDS: Well, let me make sure.

BY MR. SHANDS:

Q Mr. Vance and Mr. Johnson get up to leave after being at the Radisson Bar for about 20 minutes, is that correct?
A Twenty or thirty minutes, yes, sir.
Q Is it twenty or is it thirty?

A Twenty minutes.
Q Okay. After being there for twenty minutes, they get up to leave?
A (Nodding)
Q As they are leaving, you engage them, correct? You asked them something?
A Yes.
Q You asked them, you say, "Hey, guys," you remind them about tipping, correct?
A I said, "Tips are low tonight."
Q And you say, "Tips are low" because you want them to give you some money?
A Yeah, because they never did hardly.
Q Mr. Vance says to you, "Don't worry, when we get back, I'll have some money."
A "There's going to be plenty of money."
Q Plenty of money?
A Yeah.
Q Mr. Vance never came back, did he?
A No. I got off work at ten.
Q So he never came back and gave you any money?
A No.
Q Mr. Vance never said he was going to do anything illegal?
A No, not directly.
Q So it's your testimony that Mr. Vance said he had a plan. Is

that correct?
A Yeah. He was getting a plan on.
Q Getting his plan on. Okay, he said nothing about his plan being going to rob someone, did he?
A No.
Q As a matter of fact, he didn't indicate -- that's all he said, correct?
A That he was getting his plan on.
Q Yes. So when you testified that, to you, that plan meant to do a robbery, you were just speculating, isn't that correct?
A Did I ever testify that he was doing a robbery?
Q Is that what you said? That's what I heard you say when you were sitting on the stand.
A Well, that's what *plan on* usually means, doesn't it?
Q No.

MS. KEENA: Objection, Your Honor.

THE COURT: Sustained.

BY MR. SHANDS:

Q So is it your testimony here today that if someone says they're *going to get their plan on*, that means to you to do a robbery?
A Yes.
Q Now have you had that experience in the past?
A A robbery?
Q Or someone saying *get their plan on*, and then they committed a robbery?

A Well, that's how people talk, you know.
Q What people?
A In general.
Q Has anyone ever told you, "I am going to get my plan on," and you found out that they committed a robbery?
A Yes.
Q Okay. Who said that?
A Who said what?

MS. KEENA: Objection, irrelevant, Your Honor.

MR. SHANDS: Who said --

THE COURT: Overruled.

BY MR. SHANDS:

Q Who told you that they're going to get their plan on and then went out and committed a robbery?
A Mr. Vance.
Q So you know he committed a robbery?
A Yes, I believe he did.
Q You believe he did?
A Yes.
Q But you don't have any firsthand knowledge of that?
A I wouldn't be here if I didn't believe he didn't.
Q You don't have any firsthand knowledge of it, do you?
A Well, on January 3rd I got a confession that's exactly what he did.
Q Let's go to January 3rd. Now on January 3rd you testified, as

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you were questioning, he said he shot someone?
A Um-hum. He said he shot plenty of people.
Q And he said he *put five to the back of the head?*
A Um-hum.
Q At no point did he ever say "I did a robbery," did he?
A Well, no.
Q Okay. Now you are coming up with this story after you talked to Officer McManus, isn't that correct?
A No, that's the way it was on January 3rd. That's what he said.
Q He never said anything about a robbery?
A No, he said he shot a guy five times in the back.
Q Okay. Now you testified that you called Officer McManus?
A Yes, sir.
Q How do you know Officer McManus?
A Well, I know Officer McManus and Andy Shoemaker from the Minnesota Gang Strike Force.
Q How do you know them?
A Because I provided information for them before.
Q When you provide information for them, isn't it true that they give you money for being an informant?
A Sometimes.
Q Now at the time that you called them -- this was around Christmas time, correct?
A Yes, sir, it was the day before Christmas.
Q You are working hard, you're trying to get some money to get

presents -- Christmas money, correct?
A Yes.
Q You testified at the grand jury, is that correct?
A For the indictment?
Q At the grand jury, yes.
A Yes, sir.
Q Have you had an opportunity to discuss your testimony, to talk to anyone from the county attorney's office about your testimony?
A No.
Q You haven't talked to Ms. Keena at all?
A No.
Q Have you had an opportunity to review your grand jury testimony?
A No.
Q When you asked Mr. Vance about the gun he was very -- you're sure he told you that he shot the person five times?
A Over South Side, yes. It's all on the recorder.
Q I am asking you, do you remember?
A Yes.
Q He said, "Five times on the South Side"?
A Yes.
Q And he was very specific about that number?
A Yes.
Q Ms. Stites, now the police set up a sting operation. Basically

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they got you to ask Mr. Vance for a gun, correct?
A I bought a gun from him.
Q That was set up by the police?
A Yeah.
Q You didn't go out and buy the gun on your own without the police knowing about it?
A No.
Q You had a wire on?
A Yes.
Q In fact, Mr. Vance sold you a gun?
A Yes.
Q You took that gun and you gave it right to the police, correct?
A Yes.
Q You have relocated since this event, correct?
A Yes.
Q In fact, the police have given you money to help you defer the cost of your relocation?
A Little bit to move, for the general move.
Q They gave you money for it?
A Little bit.
Q Do you know exactly how much they have given you?
A I think it was for the U-Haul truck, like fifteen hundred.
MR. SHANDS: Objection, Your Honor.
A It was fifteen hundred. The U-Haul truck was $999, plus expenses for gas.

Q Did they reimburse your expenses for being here today?
A Twenty dollars and forty for loss of my wages because of my job, because I had to take a week off of work to come here.
MR. SHANDS: I have no further questions, Your Honor.
MS. KEENA: A few follow-up questions, Your Honor.

REDIRECT EXAMINATION

BY MS. KEENA:

Q Ms. Stites, as far as the money that you received, those were purely for relocation costs?
A Purely.
Q And did you move out of state?
A Yes, ma'am.
Q Why did you move out of state?
A Because I felt in fear, fear for myself, fear for my family.
Q So your life was put in an upheaval?
A It's been for two years.
MR. SHANDS: Objection, Your Honor.
THE COURT: Overruled.

BY MS. KEENA:

Q Is the reason why you went and told Officer McManus about what you heard or what Mr. Vance told you at the bar on December 22nd -- did you go tell Officer McManus that to get money?

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A No.

MR. SHANDS: Objection, Your Honor, leading.

THE COURT: Overruled.

THE WITNESS: No.

BY MS. KEENA:

Q You indicated on cross-examination that Mr. Vance never told you exactly *South St. Paul?*

A Yes.

Q And the words he used, you said, were *South Side.*

A Yes.

Q Does the term *South Side* have any meaning for you?

A Well, because we both lived in St. Paul, I thought it meant South St. Paul, that's what I thought it meant.

MS. KEENA: I have no further questions.

MR. SHANDS: Mr. Vance never threatened you, did he?

THE WITNESS: No, he is very aggressive, though.

MR. SHANDS: Mr. Vance has never threatened you, has he?

THE WITNESS: No.

MR. SHANDS: No further questions, Your Honor.

MS. KEENA: Nothing further, Your Honor.

THE COURT: Thank you, Ms. Stites.

(Witness excused)

MS. KEENA: The state calls Colleen McManus.

COLLEEN M. McMANUS,

being duly sworn, was examined and testified as follows:

THE CLERK: For the record, please state your full name, spelling your first and last name.

THE WITNESS: Colleen Mary McManus, C-O-L-L-E-E-N M-A-R-Y M-c M-A-N-U-S.

THE CLERK: Thank you.

THE COURT: Thanks for saying *hello* to me. You didn't do that because I am at a bar every night, did you (laughter)?

THE WITNESS: No, sir.

DIRECT EXAMINATION

BY MS. KEENA:

Q Ms. McManus, I would like to draw your attention to December 22, 2002. Were you employed at that time?

A Yes, ma'am.

Q Where were you employed?

A At the Buttery Bar.

Q Where is that located?

A 395 North Robert Street, St. Paul.

Q How long had you been employed there up until December 22nd?

A Two years.

Q What was your position there?

A I was the night manager.

Q What hours did you typically work?

A 7:00 p.m. to 2:00 a.m.

Q And in your position at the Buttery Bar, did you come to know two individuals referred to as Florida and Stacks?

A Yes, I did.

Q Initially did you know them by their formal names?

A Mr. Vance I knew by his name because I had ID'd him and he had a current valid ID.

Q The person that you know as Mr. Vance, is he present in the courtroom today?

A Yes, he is. He is sitting at that table.

MS. KEENA: I would like the record to reflect she has identified the defendant, Philip Vance.

THE COURT: Okay.

BY MS. KEENA:

Q I am going to refer to Stacks as Mr. Johnson. You know him as that now?

A Yes.

Q How did you come to know Mr. Vance and Mr. Johnson?

A They used to come into the bar.

Q How often would they come into the bar?

A Three or four times a week. Florida, Mr. Vance, was there more than Mr. Johnson.

Q Did you work the night of December 22, 2002?

A Yes, I did.

Q And what hours did you work that night?

A I was there at 7:00 p.m. to 8:15, and I had left to go home. And I came back between 10:15 and 10:30 that night until 2:00 a.m.

Q When you initially arrived at the bar at 7:00, did you see either Mr. Vance or Mr. Johnson at the Buttery Bar?

A No, I did not.

Q And you indicated -- what time did you leave the bar?

A 8:15.

Q And you indicated you went where?

A Home.

Q And at that time, before you left, did you see either Mr. Vance or Mr. Johnson at the Buttery Bar?

A No, I did not.

Q And when you returned to the bar the second time, did you drive back? Did you drive to the bar?

A Yes, I did.

Q Would you just please describe what you observed when you were driving back up to the bar?

A Mr. Johnson and Mr. Vance were getting out of a car that was on 6th Street, between Robert and Minnesota.

Q And do you recall what the car looked like?

A It was a newer model, four-door car. The street lights down-town are really that orange-yellow, so it kind of distorts some of the colors.

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MR. SHANDS: Objection, non-responsive.

THE COURT: Sustained.

BY MS. KEENA:

Q Could you describe the color of the car to the best of your recollection?

A Silver, light green.

Q How is the lighting down by the bar?

A I cannot give a more definitive answer than what I just gave.

Q What was the size of the car?

A It was a midsize car.

Q And so you saw the two men get out of the car?

A Correct.

Q Did you notice anybody else in the car?

A Just the driver. That was the only other occupant.

Q And were you able to provide a description at all of the driver?

A No, I was not.

Q Do you recall what doors Mr. Vance and Mr. Johnson got out of?

A It was the -- it would be the driver's side. Mr. Johnson was getting out of the back and Mr. Vance was already outside of the car when I pulled up.

Q Okay. Did you see where they went, Mr. Vance and Mr. Johnson, after you saw them?

A After I drove away?

Q Yes.

A No.

Q What did you do next?

A I went and parked my car and walked along the side of the building and looked in the window to see who was there. Then I saw Mr. Vance and Mr. Johnson in the bar.

Q Did you enter the bar?

A Yes, I did.

Q What did you do upon entering the bar?

A I looked around to see who was there. Mr. Vance said, "Don't throw me out." And I said, "Well, just a minute, let me go put my coat away." And I went to the back, to the office, and put away my coat and got ready to start work.

Q I'm sorry, who said that to you?

A Mr. Vance.

Q Was Mr. Vance not to be in the bar?

A No, he was not.

Q Why?

A Previous, a couple weeks before that, he had punched somebody.

Q So you kicked him out?

A So he was asked to leave.

Q Did you talk to either Mr. Vance or Mr. Johnson at this point when you're coming into the bar?

A No, I just told them that I would be back and we would talk then.

Q Do you recall what the two men were wearing that night?

A Yes, I do.

Q What were they wearing?

A Mr. Johnson had a white Doorag (ph) hooded sweatshirt and a light blue starter jacket, dark jeans and white tennis shoes.

Q How about Mr. Vance?

A Mr. Vance had like a -- looks like a letter jacket, with leather sleeves, dark blue, dark pants, he had a dark hooded sweatshirt on. The hood wasn't on. And some new tennis shoes.

Q Did you eventually come back out and talk to the two men?

A Yes, I did.

Q Describe what their demeanor was?

A They were both very nervous. Mr. Johnson was hanging onto Mr. Vance's arm and they were very uncomfortable. They were not -- they were real skittery, jittery.

Q Did you talk to Mr. Vance?

A Yes, I did.

Q Where did this conversation take place?

A It took place in the bar. The way the bar is divided, there is a lower bar where the actual bar itself is, there's tables. It was up on the partition.

Q Did you go and talk to Mr. Vance or did he approach you?

A I went and talked to Mr. Vance.

Q Why did you go and talk to him?

A Because I wanted to know what he was doing there when he

wasn't supposed to be.

Q What was the substance of your conversation with Mr. Vance?

A I asked him what he was doing. He said to me, "Don't throw me out. You know, I'm going to be leaving here, and I just wanted to come in and talk to the other guys that were sitting at the bar."

Q And did you respond to that?

A I said -- but he was very, his voice was quaking, he was upset. I said, I asked him, "What was wrong?"

He goes, then, he just said, "I really fucked up this time."

And I said, you know, "It couldn't have been that bad."

He said, "Oh, yeah, it was. I really did it this time. I did it this time."

Then someone interrupted our conversation to say something to Mr. Vance.

Q And then did you continue the conversation with Mr. Vance?

A No, someone had called my attention to another area of the bar, and so our conversation was interrupted.

Q At some point did you have further conversation with Mr. Vance?

A Later on that night.

Q And what happened in the mean time from the time that you were interrupted up until you had another conversation with Mr. Vance?

A There was a gentleman there who was yelling at Mr. Vance,

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Maynard Cross, he was yelling at him.
Q Okay. At this point what was Mr. Vance's demeanor like when he told you that he really fucked up?
A He was very upset. I mean at one point I told him he looked like he was going to cry.
Q Was he crying?
A Not at that time. After I said, "You look like you are going to cry," then he cried.
Q Did that seem unusual to you?
A Oh, incredibly unusual.
Q So did you then engage him in other conversation after seeing that?
A Yes. I said, "You know, what could you possibly have done that you had --
I said, "You are not yourself."
He told me that "he had just really screwed up and he had to get out of here. He had to get out of here. I really fucked up this time."
I said, "What could you possibly have done that would have been that bad?" And he goes, you know, he was just bouncing. He couldn't stand in one place. You know, shifting feet and moving around. I said, "What could you have done that was that bad?"
He goes, "Well, I didn't mean for it to happen, it wasn't supposed to happen that way."

And he put his hand down his coat and came out like this (indicating), and went like that a couple times. And I said, "You shot somebody?"
He said, "It wasn't supposed to happen like that. It wasn't supposed to happen like that."
Q So did you specifically ask him if he shot somebody?
A Pardon?
Q Did you ask him or --
A I said it as a comment. I didn't ask him.
I said, "You shot somebody?" and he didn't deny it.
Q Did you ask him any details about what had happened?
A No.
Q Did you give Mr. Vance any free drinks after he told you this?
A No.
Q Did Mr. Vance and Mr. Johnson leave the bar at some point?
A Yes, they did.
Q Do you recall what time?
A I'd say between 11:00 and 11:30.
Q Did you see them again that night?
A Yes, they came in sometime after midnight, about, I would say, between 12:15 and 12:30.
Q Did you have contact with the two men again when they came back?
A Yes.
Q What was their demeanor like at that time?

A They came in through the skyway door, and Mr. Vance came to the bar and Mr. Johnson went into the bathroom.
Q What was Mr. Vance's demeanor?
A Well, he was a little more -- he was still very nervous, and he had had -- he smelled of alcohol. He had been drinking, wherever he went after that. And he said he just came in for one more drink, "Could he have one drink before they were going to leave?"
Q Did you give him a drink?
A No.
Q Did you sell him a drink?
A No, I did not.
Q So was there any further conversation between you and Mr. Vance the second time he came back to the bar?
A Yes, I asked him about his plans, you know, how he was going to get out of town the next day. And he gave me an airline and a flight number and told me where he was going.
Q Did the two men leave the bar, then, at closing time?
A Yes.
Q Did you report this conversation to anybody?
A Yes, I did.
Q Who did you report it to?
A To my brother, John McManus.
Q And who is John McManus?
A John McManus is a SPPO police officer with the Minneapolis

Gang Task Force.
Q When did you call him?
A After my first encounter with Mr. Vance when he pulled out his hand, I called my brother.
Q Did you see Mr. Vance with a cell phone that evening?
A Yes.
Q Had you seen him with a cell phone in the past?
A Well, he had just gotten a new one a few days before that.
Q How did you know that?
A Because he brought it up to me and showed it to me.
Q Did you ever call him on his cell phone?
A Yes, I did.
Q When did you call him?
A On or about the 23rd of December.
Q How did that come about?
A Detective David Sjogren from the Dakota County Sheriff's Office came to -- met me downtown and we looked at a surveillance tape from the bank across the street because I didn't know who Mr. Johnson's real -- his last name I knew, just by his street name. They took a statement from me and he had asked me to call Florida. And he had that conversation taped.
Q Had Mr. Vance given you his cell phone number at some point?
A Yes. I would say on or about the 20th or 21st of December, just a couple days before this happened.
Q So were you trying to check on his welfare or why did you?

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A That was the pretense, yes. And I really was concerned about him, you know.
Q I would like to draw your attention to later in the week, after Christmas. After Christmas, but before New Years Eve. Did you see Mr. Vance in the Buttery during that timeframe?
A No, I did not.
Q Did you see him again after your encounter on the 22nd, or your conversations on the 22nd?
A Not until a time that -- I believe it was the 29th. It was after Christmas, but before New Years.
Q On that occasion he came into the bar?
A Yes, he did.
Q What conversation, if any, did you have with him on that occasion?
A I asked him how his Christmas was and, you know, how his kids were. And, you know, if he had a nice Christmas. He said, "Yes, he did." Then he told me what he had gotten his children for Christmas.
Q And did he tell you how much he had spent on Christmas presents?
A About four hundred, four hundred fifty dollars.
Q And at that point were you aware of the robbery and homicide at Sabreen's?
A Yes, I was.
Q And at that point did you engage Mr. Vance in any

conversation about the comments he made to you on December 22nd?
A No, I did not.
Q Why not?
A Because the police were already investigating it, and he and I would talk. I didn't want to shut any of that out.

MS. KEENA: I have no further questions, Your Honor.

THE COURT: Mr. Shands.

MR. SHANDS: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. SHANDS:

Q Ms. McManus, first you indicated that you saw Mr. Vance subsequent to Christmas in the bar, correct?
A Correct.
Q He came in and he talked to you, correct?
A Yes.
Q But you didn't engage him in any conversation about the robbery at Sabreen's because you were somebody who he talks to, correct?
A That is correct.
Q You didn't want to shut that down, correct?
A That is correct.
Q Basically if he told you something about -- if he made an admission to you about the Sabreen's robbery, you would have

told your brother, correct?
A No, sir.
Q You would not have told your brother?
A They had their own investigation. I do like Mr. Vance. I always have.
Q So if he would have told you something specific about the robbery, you would have told your brother?
A No, sir.
Q In fact, he never did tell you anything specific about the Sabreen's robber, correct?
A That's correct.
Q Now you indicated he told you he spent about -- well, after he comes back into Sabreen's, after Christmas, he told you he spent four to four hundred fifty dollars on Christmas presents, is that correct?

MS. KEENA: Objection, Your Honor, that wasn't the testimony. It's four hundred.

THE COURT: She said four to four fifty, as I recall, but go ahead. The jury will rely on their own memories.

BY MR. SHANDS:

Q He never indicated that was money that he had come about from robbing Sabreen's Store, did he?
A No, sir.
Q Now you indicated when you were talking to Mr. Vance -- specifically you were engaging about what he had done that

was so wrong. And you indicated that he just put his hands in his pants and kind of raised like this (indicating), and did kind of a motion. And you said, "You shot someone?" and he didn't deny it, is that correct?
A No, sir. I said he pulled his hand out of his jacket.
Q Sorry, out of his jacket. Then you said, "You shot someone?" and is it correct he didn't deny it?
A That is true.
Q But he didn't affirm it either.
A Well, at that point he was crying. I mean, he couldn't-- he was not able to have a conversation.
Q He did not?
A He did not confirm or deny, that is correct.
Q Now you indicated that you were engaged in a conversation with Mr. Vance and someone interrupted you?
A Correct.
Q Did you know who that person was?
A Yes, I did.
Q Who was that?
A That was Maynard Cross.
Q And you know Mr. Cross?
A Yes, I do.
Q How did he interrupt you?
A He shouted from across the bar to Mr. Vance.
Q Did you make out what he was saying?

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A Yes, sir.
Q What did he say?
A "Quit acting like a crazy motherfucker. Shut your mouth."
Q Have you known Mr. Vance for a while?
A Yes, sir.
Q Isn't it true that Mr. Vance often exaggerates his toughness?

MS. KEENA: Objection, Your Honor.

THE COURT: Overruled. Does he exaggerate his toughness?

THE WITNESS: No, sir.

BY MR. SHANDS:

Q Now you testified on the 23rd – well, you saw Mr. Vance, you engaged in a conversation with him, and him and Mr. Johnson eventually left the bar, correct?
A Correct.
Q At that point you got on the telephone and you called your brother, correct?
A Correct.
Q Now the following day you called Mr. Vance on his cell phone?
A Yes.
Q And was that at the direction of law enforcement?
A Yes, sir.
Q Who was at this -- what law enforcement asked you to call Mr. Vance?
A Dakota County.

Q Do you remember who it was specifically?
A Detective Sjogren.
Q And you indicated that this conversation was tape-recorded?
A I believe it was.
Q What would make you believe that it was tape-recorded?
A The detective had some little device that he was trying to hook up, but he'd also taped a conversation with myself.
Q I'm sorry?
A He also taped my statement.
Q Your statement when?
A The 23rd.
Q When you contacted Mr. Vance -- when you called him on the 23rd, did you get in contact with him?
A Yes, sir.
Q So was he in town or did you -- I should ask you, did you ask him if he was in town?
A Yes, I did.
Q Was he?
A Yes, he was.
Q But he had indicated to you the night before that he was going to be leaving town, correct?
A Leaving town.
Q As a matter of fact, he gave you flight numbers?
A He told me an airline.
Q Ms. McManus, do you remember Mr. Johnson during the night

of the 22nd -- the 22nd when at the Buttery, do you remember Mr. Johnson seeking money for reimbursement from other people for a pack of cigarettes?
A That was at the end of the night and it was just Mr. Vance and Mr. Johnson left in the bar.
Q Then Mr. Johnson got a pack of cigarettes and he was seeking reimbursement for them?
A They haggled over who was going to pay for them.
Q Did they also haggle over who was going to pay for drinks?
A They weren't offered any drinks and they were told they weren't going to be able to get any.
Q Do you know Mr. Vance to smoke cigarettes?
A I don't recall, no.
Q Okay.

MR. SHANDS: I have no further questions, Your Honor.

MS. KEENA: Just a few follow-up, Your Honor.

REDIRECT EXAMINATION

BY MS. KEENA:

Q You talked about giving a statement to Dave Sjogren. Did he take your statement and then you placed the phone call?
A Yes.
Q And did he have, like, a little mini-recorder that he was recording you with?
A Yes.

Q So you don't know if he actually taped the phone call?
A No, I do not.
Q But that's the machine he used?
A That's the machine he used when he took my statement.
Q You were asked about hearing Maynard Cross yell something across the bar. And I apologize, I didn't get it all down, it was "Quit acting like a motherfucker --
A Do I have to say it again? "Quit acting like a crazy motherfucker."
Q Did he say anything after that?
A Yeah, "Don't be a dumb nigger and shut your mouth."
Q When you came back into the bar, between 10:15 and 10:30 that you testified to, was Maynard Cross in the bar?
A Yes, he was.
Q Did you see Mr. Vance and Mr. Cross engage in any conversation?
A After 10 o'clock?
Q Yes.
A When I had come in, they were -- I could see through the window. It has windows all along. They were talking to this other group of people, and Mr. Cross was in that group.
Q As to the conversation that you had with Mr. Vance later that week, after Christmas, about the Christmas presents and the money that was spent, did you ever talk to Mr. Vance about his employment?

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A Yes. And he had just been hired at United Hospital.
Q When was that?
A I would say the second week in December. It was the 6th of December, it was my sister's birthday, and that night I did buy him a drink.
Q And you indicated that had Mr. Vance made comments to you about the robbery and homicide at Sabreen's, following your initial report to your brother, you indicated that you wouldn't have made any further reports to him, correct?
A Well, correct. That's because I didn't want to interfere. I mean here's my brother, a police officer, and I am -- you know, it was real complicated.
Q Why is it complicated? Why wouldn't you do that?
A I didn't want to, you know, in appearances of impropriety, the collusion or -- because my brother is also in the judicial practices.
Q You've got a brother that's a judge in Dakota County?
A Yes.
Q So it's your practice to try and --
A Not have it look too incestuous, you know. But I mean it was.
Q And you don't want to become a witness in your brother's case?
A I didn't mind becoming a witness. I just didn't want it to appear that there was any kind of setup or coercion or --
Q So you were taking a hands-off approach?
A Yes.

Q After reporting it on December 22nd?
A Yes.

MS. KEENA: I have no further questions, Your Honor.

MR. SHANDS: I just have one, Your Honor.

RECROSS EXAMINATION

BY MR. SHANDS:

Q Ms. McManus, had you told Mr. Vance that your brother was a police officer?
A Yes, he and Mr. Johnson both knew that he was.

MR. SHANDS: Thank you.

MS. KEENA: When did you tell them that?

THE WITNESS: A year ago, before he was -- when he was just out of St. Paul, before he went to the Gang Task Force. I don't even know if he remembered.

MS. KEENA: I have nothing further, Your Honor.

THE COURT: Thank you. Now would be a good time to take a break.

(JURORS EXCUSED)

THE COURT: Ms. Keena.

MS. KEENA: Thank you, Your Honor. Ms. McManus just finished testifying, and in speaking with her outside of the courtroom, she indicated to me -- the point being, one of the questions that had arisen was the issue about

the four hundred -- between the four hundred and four hundred fifty dollars that Mr. Vance told her he had spent on Christmas presents.

I then inquired about whether he had talked to her about employment, and Ms. McManus in her testimony made it sound as if he had obtained employment on December 6th and then he was employed up until the time that they had conversation.

When we left the courtroom, the witness chided me for not asking the follow-up question. She said that Mr. Vance had told her that he had quit three days later. So that would be her testimony, and it's an important point that the state needs to make. If we don't do it this way, then the state would intend on subpoenaing his employment records.

MR. SHANDS: Your Honor, we object to recalling Ms. McManus. If my recollection serves me correct, she did not mention employment and result to a question. That was something that she coffered on her own.

THE COURT: She was asked. I forget who had asked it.

MS. KEENA: I asked her.

MR. SHANDS: But, anyway, we object to it, Your Honor.

THE COURT: Well, as long as she is still here -- I don't think anybody is prejudiced by it. I will let you recall

her.

MS. KEENA: We can go off the record now and talk about the schedule for this afternoon.

(OFF RECORD DISCUSSION)

* * *

THE COURT: Mr. Rush, I know you mentioned to Toni, our court attendant, that you didn't realize at the time -- frankly, I never made the connection either -- but you know Judge McManus?

JUROR: Yes, I do.

THE COURT: Does anybody want to ask Mr. Rush about it?

MR. SHANDS: Sure, Your Honor.

BY MR. SHANDS:

Q Mr. Rush, is there anything about your relationship with Judge McManus that now, sitting in retrospect hearing some testimony from his sister, is there anything about the relationship between you and Judge McManus that would come into play in your deliberations in this case?
A No, I just wanted to make you aware of it because I mentioned earlier that I knew another attorney, so I wanted to bring it up so that everybody was aware of it. That's all.

THE COURT: Ms. Keena, anything?

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MS. KEENA: You are just being cautious?
JUROR: Yes.
MS. KEENA: I have nothing further.
MS. KEENA: Get the other jurors now.

* * * *

THE COURT: Have a seat. Ms. Keena.
MS. KEENA: Thank you, Your Honor. The state recalls Colleen McManus.

REDIRECT EXAMINATION (CONTINUED)

BY MS. KEENA:

Q Ms. McManus, after you got off the stand previously, you and I had a conversation, is that correct?
A That's correct.
Q And when I asked you about Mr. Vance's employment, do you recall what you indicated?
A That he had just gotten a job at United Hospital.
Q And what was the date that you recalled that he got that job?
A December 6th.
Q Do you know how long he held that job?
A Four days.
Q How do you know that?
A Because that following week is my birthday and I had seen him at a time where he should have been working. And I asked him

why he was not at work. He said he was no longer there.
Q Do you have any knowledge if he had any employment around Christmas time?
A He was not employed.
Q How do you know that?
A Because I would see him at all hours.

MS. KEENA: I have no further questions, Your Honor.
MR. SHANDS: I have no questions, Your Honor.
THE COURT: You can leave again. Thank you.
(Witness excused)
MS. KEENA: Your Honor, the state would call Andy Shoemaker.

ANDREW SHOEMAKER,

being duly sworn, was examined and testified as follows:

THE CLERK: For the record, please state your full name, spelling your first and last name.
THE WITNESS: My name is Andrew Shoemaker, S-H-O-E-M-A-K-E-R.
THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. KEENA:

Q Where are you currently employed?
A I am employed by the City of St. Paul as a police officer. I am currently assigned to the Minnesota Gang Strike Force as an

investigator.
Q How long have you been a police officer?
A Almost 20 years. I am in my 19th year.
Q Have you spent your entire career at St. Paul?
A I have not. I was previously employed by the Stillwater Police Department from 1985 until 1990. I came to St. Paul in 1990.
Q Are you currently a licensed peace officer in the state of Minnesota?
A Yes, I am.
Q And you have been since 1985?
A That's correct.
Q Has your agency been assisting in the investigation of the robbery-homicide at Sabreen's?
A Yes, we have.
Q Were you employed in your current position on January 3, 2003?
A Yes.
Q On that date were you involved in an undercover operation involving Melissa Stites?
A Yes, I was.
Q Did you meet with Ms. Stites and discuss the operation with her?
A Yes, I did.
Q What was the purpose of the operation?
A The purpose of the operation was to have Ms. Stites meet with

two persons that she had provided us with information on as possible suspects in the Sabreen robbery-homicide. Also, the purpose was for her to discuss with these parties whether or not they had any guns. And if so, if they did possess guns, what type they were, gather as much intelligence as possible, and maybe lay the groundwork for some further options, possibly obtaining one of those firearms.
Q And so did you discuss with Ms. Stites types of questions that she should ask Mr. Vance?
A Yes, we did. We discussed a number of options. We had to give her a number of different rules, ground rules, to work by, safety considerations. But most of our briefing was directed at what types of things she should probe, which areas she should go as far as questions, what kind of things we wanted her to learn from the two suspects.
Q And was Ms. Stites wired for sound?
A Yes, she was.
Q Prior to this undercover operation, did you know who Philip Vance was?
A Yes, I was aware of who Philip Vance was, through my partner and my current assignment, John McManus. Investigator McManus had talked to me previously about Mr. Vance.
Q Did you participate in the actual surveillance of Ms. Stites and Mr. Vance that night?
A Yes, I did.

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Q And were you able to monitor the conversation between Ms. Stites and Mr. Vance?

A Yes, I did. I had a monitor tuned to the frequency of the transmitter and monitored the entire operation.

Q Could you just kind of go through what happened that night as far as -- starting from when Ms. Stites initially met with Mr. Vance, where that occurred, and walk us through that.

A Okay. Ms. Stites advised me earlier in the evening that Philip Vance had stopped by her place of employment and agreed to meet with her at the Buttery Bar. The Buttery is located at Sixth and Robert, Downtown St. Paul. And that they were to meet at about 10:30 p.m. that evening.

It was our plan to get her down to the Buttery Bar by about 10:30 that evening. As it worked out, she had some duties where she worked, that she had to wrap up before she could leave. So we met with her initially at 10:00 p.m., but she didn't get down to the Buttery until about quarter after 11:00, about 11:15, or thereabouts, that evening.

We followed her from our meeting point to the Buttery Bar, watched her park the car, watched her walk inside. We had specifically given her some instructions on maybe where to try to position herself within the bar.

And she almost immediately, upon entering and moving to the area where we told her to go, she was approached by two parties we recognized to be Philip Vance and Mr. Johnson.

Q And did they go into the Buttery together?

A No, she went into the Buttery alone and almost immediately was met by them inside the bar. So they had already been inside.

Q So you were hearing this?

A Yes. The position she took was near the corner of -- that would be the southwest corner of Robert and Sixth Street. And there's some large plateglass windows where you can actually see quite a bit of the bar. That was the area she initially went to and we could actually see her meet with these people.

Q Did they leave the Buttery at some point?

A Yes. That was -- well, at one point she called us from the bar to talk to Investigator McManus, and said that Mr. Vance wanted to leave the bar and go to another bar in the downtown area, lowertown area, called The Lab, also known as Fourth Street Station.

And she wanted to know if that would be safe to do so. We advised her that, yes, it would. She could leave that bar, go with Vance to another bar, and that we would be providing constant surveillance and backup to her.

Q Did they go to The Lab?

A Yes, they left and arrived at The Lab at approximately twelve -- about 12:19 p.m.

Q Did Mr. Johnson go with them?

A No, he did not. He stayed at the Buttery.

Q During your surveillance of Ms. Stites and Mr. Vance, did you hear any conversation between the two regarding guns?

A Yes, I did.

Q What was said in that regard?

A At approximately 12:45 a.m., Ms. Stites started to question Vance about firearms. She asked him if he owned any guns -- asked Vance if he owned any guns and if he would be willing to teach her how to shoot. Vance immediately said that he did in fact own four guns and that he would be willing to teach her how to shoot.

Q Was there any other conversation about firearms?

A Yes. Ms. Stites asked Vance if he had ever used a firearm, had to shoot anybody. And Vance replied, "Yes, about two weeks ago over south, Boo." That's what he said to her about shooting someone. At that point, Ms. Stites asked him, "What did you do? What happened?"

He replied that, "I shot a guy in the back five times."

"I had to shoot a guy in the back five times."

Ms. Stites asked him if at any point he stopped to see if the guy was dead or alive?

He said, "No, I just kept going."

Following that comment, Vance also told Ms. Stites that he's had to shoot at quite a few people previously.

Q Were you able to record any of this conversation?

A No. We initially intended to record this conversation but

immediately at the Buttery and then through the night, over to the Lab, Fourth Street Station, the background noise was so loud and it was so much interferring, that it was difficult at points to hear the conversation.

From past experience in similar situations as this, we recognized right away that a tape would not be possible, where you could actually hear the conversation on a tape-recorder. Just a lot of background noise, voices yelling and shouting, music, just a lot of noises and some distortion or static in the transmitter itself would make it impossible to receive any kind of quality recording -- or make any quality recording that night.

Q Were you able to hear clearly this part of the conversation?

A Yeah, the part that I've testified here to, as far as the questions about the firearms, the weapons, at that point that occurred in The Lab or Fourth Street Station. At that point my signal was clear and I could very clearly hear that conversation.

Q Where were you positioned at this point outside of the bar?

A Fourth Street Station is at the northeast corner of Fourth and Sibley and it's called the Lower Town area of St. Paul, kind of a warehouse looking building there. I was parked in a vehicle approximately 200 to 250 feet directly east of the main entrance.

There is a multi-level parking ramp, and I pulled into the parking ramp and I moved to the top, which I believe is three floors up in the parking ramp. On the top of the parking ramp

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there's nothing above me, no other physical structure, and that would be the best place in that ramp to receive on the top versus having another level above you.

Q Was there anybody in the vehicle with you? Were you partnered with anybody?

A No.

Q And that's your recollection of the conversation that occurred regarding firearms?

A That's correct.

MS. KEENA: I have no further questions, Your Honor.

MR. SHANDS: Just briefly, Your Honor.

CROSS EXAMINATION

BY MR. SHANDS:

Q Officer Shoemaker, did you tape the conversation then after replaying it or listening to it and found that it was inaudible, just kind of discard the tape as being inaudible? Or, did you just make a decision -- did you tape it at all?

A No, I did not. I had a tape with, but immediately decided that it would not be of quality enough to produce a tape. So I did not tape anything that night.

Q So when you say the reason the quality wasn't going to be good is because there is static in the receiver, correct?

A That was one of the reasons. There was some static at certain points within the evening.

Q There was background music?

A Yes.

Q Background noise in general?

A Yes.

Q That was playing also while you were listening?

A That's correct.

Q Now Mr. Vance specifically said that he had to put five in the back of someone over south, is that correct?

A He specifically mentioned five shots, that's correct.

Q Okay. Did he mention the back?

A Yes.

Q And south?

A Over south. That's correct.

Q He did not say South St. Paul?

A No, he did not.

Q He did not say Sabreen's Grocery Store either?

A No.

Q Now one of the things you were hoping for when you set up this sting was basically that Mr. Vance would give you the weapon that was used in the Sabreen's homicide?

A That would be one of the possibilities we were looking for, yes.

Q Did you actually have contact with Ms. Stites after her encounter with Mr. Vance?

A Yes, we debriefed her at some point in the evening when the detail was ended.

Q And she gave you a gun that Mr. Vance gave her?

A No, not on this evening.

Q Okay. Mr. Vance had indicated he had shot a few people, is that correct?

A He said that he had shot at many people previously.

Q All right. Did you do any independent investigation to confirm or deny that? Or disprove that?

A About all we had at this point would be to look at his criminal record. We had not had any other leads showing that he had shot at anybody at this time.

MR. SHANDS: We have no further questions, Your Honor.

MS. KEENA: Just a couple follow-up questions, Your Honor.

REDIRECT EXAMINATION

BY MS. KEENA:

Q You were asked about hoping to purchase the murder weapon and you said that was one of the possibilities. What other possibilities were you hoping for that night?

A There were a number of things we were hoping to obtain, possible admission. That he had in fact shot someone at the, you know, at Sabreen's Market. That he had been involved in other shootings that we could investigate, some specifics of that.

Maybe that he would mention a particular caliber of

weapon used in a shooting. You know, there was quite a few different things we were hoping for that night. Something to further -- to give us further leads to go on for the investigation.

Q You indicated about the two different nights. There actually was a subsequent meeting between Ms. Stites and Mr. Vance, is that correct?

A Yes, that's correct, on January 7th.

Q Did she purchase a gun from him on that night?

A Yes, she did obtain a firearm she purchased from Mr. Vance on that night.

Q Do you recall what type of firearm that was?

A The firearm was a -- I believe it to be a Browning semi-automatic pistol, .22 caliber firearm. It was unloaded with no magazine.

MS. KEENA: I have no further questions, Your Honor.

MR. SHANDS: Just briefly.

RECROSS EXAMINATION

BY MR. SHANDS:

Q You didn't do any testing on that gun to see if in fact it was the gun used at the Sabreen's crime scene?

A No, I did not. I am not anywhere trained in that area of ballistics.

Q Okay. Do you know the answer, do you know if it was sent to be tested?

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A To my knowledge, yes, the firearm was tested.
Q Do you know what the results were of that test? Was it the firearm used?
MS. KEENA: Objection, Your Honor, foundation.
THE COURT: Well, just ask him if he knows. Do you know?
THE WITNESS: Yes. My understanding --
THE COURT: Wait.
THE WITNESS: Yes.
MR. SHAND: What was the conclusion?
MS. KEENA: Objection, foundation.
THE COURT: Why don't you come up?
(OFF RECORD DISCUSSION)
MS. KEENA: You know what, it doesn't matter. I withdraw my objection.
THE COURT: Thanks. What was the result?
THE WITNESS: I'm sorry?
THE COURT: What was the result of the testing?
THE WITNESS: I have not formerly read any test results, or anything, but my understanding is that the firearm did not match the ballistics of the weapon in the crime scene.
MR. SHANDS: I have no further questions, Your Honor.
MS. KEENA: Nothing further.
(Witness excused)

MS. KEENA: The state calls Sandra Kennedy.

SANDRA KENNEDY,

being duly sworn, was examined and testified as follows:

THE CLERK: For the record, please state your full name, spelling your last name.

THE WITNESS: Sandra Lynn Kennedy, K-E-N-N-E-D-Y.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. KEENA:

Q What's your current position?
A I am a St. Paul Police Officer currently assigned to the Minnesota Gang Strike Force as an investigator.
Q How long have you been a St. Paul police officer?
A Approximately ten years.
Q I'm sorry?
A Ten years.
Q What are your duties in your current assignment?
A In my current assignment I deal with any crime involving gang members, anything from contact on the streets with them to reading reports and categorizing them as gang members, undercover details, narcotics buys, homicides, robberies, agg assaults, anything to do with gang involvement.
Q And you are obviously a licensed peace officer?
A Yes, I am.

Q How long have you--
MR. SHANDS: Objection.
THE COURT: Why don't you approach.
(OFF RECORD DISCUSSION)

BY MS. KEENA:

Q Officer Kennedy, how long have you been a licensed police officer in the state of Minnesota?
A Ten years.
Q So all your time has been spent in St. Paul?
A Excluding the last three years as Minnesota Gang Strike Force. It permits me to go statewide.
Q Okay. Were you employed in your current position on January 3rd, 2003?
A Yes, I was.
Q And it's my understanding that you got brought into the investigation based on John McManus's connection with one of the witnesses, Colleen McManus?
A Yes.
Q On the date of January 3, 2003, were you involved in an undercover operation involving Melissa Stites?
A Yes, I was.
Q And what involvement did you initially play in setting that up?
A In the initial involvement it was arranged that Investigator Shoemaker, Investigator McManus and myself would go and pick up the CRI known as Melissa at her place of employment.

So we went to pick her up. She was still working at that time, so we had to wait until she got off of work. And we spoke with her a little bit on what would be expected of her and how to act, and basically putting the transmitter, the mike, the bug on her body, the different things to look for. So we briefed her on that, and we waited for her to get off of work. I think it was about 10:30 when she got off of work.
Q So were you one of the officers that, then, initially met with her? Did you put the wire on her?
A Myself, Investigator Shoemaker and Investigator McManus met her at the hotel. I drove back with Melissa and Investigators McManus and Shoemaker followed us to headquarters. Once we got to headquarters, I was the one who put the transmitter on her, yes.
Q You knew what the purpose of the undercover operation was?
A Yes, I did.
Q What was your understanding?
A The understanding was to have the person involved in a possible homicide admit to the homicide or the involvement in the homicide.
Q Were you involved in instructing Ms. Stites on the types of questions to ask or was that more Investigator Shoemaker?
A That would be Investigator Shoemaker.
Q Did you know who the subject was of your undercover surveillance aside from Ms. Stites? Did you know the other

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person?
A The other person that we were looking for, yeah, Vance Philips. Yes, and we were shown a picture of him before we went in.
Q Did you participate in the actual surveillance?
A Of that night, yes, I did.
Q Were you also monitoring the conversations that Ms. Stites had?
A Yes, I did.
Q Did you see Ms. Stites meet up with Mr. Vance that night?
A When we left, we got to the Buttery at approximately quarter after 11:00, and we were parked just east of the Buttery so we had the view of her going into the bar. So we observed her going into the bar. We were informed later, through phone calls to Investigators McManus and Shoemaker, that they were inside of the bar. So did I see her with him? No, I did not, but we could monitor through the bug that she was talking to him.
Q So you could hear their conversation?
A Yes, we could hear the conversation and she comes back to us and she tells us that that's who she's talking to.
Q Did Ms. Stites leave the Buttery?
A She left the Buttery at -- she informed us that Vance wanted to leave and wanted to go to another bar, so that was at about ten -- I believe that was about ten after 12:00 that she left the Buttery with Vance. And we followed them from the Buttery to another bar called The Lab.

Q And did the two of them go into The Lab?
A Yes, we set up, we followed them all the way over. We parked and we watched the two of them both walk into the bar together. And, yeah, we watched them walk into the bar.
Q During your surveillance did you hear any conversation between Mr. Vance and Ms. Stites regarding guns?
A Yes, we did.
Q And where were they when that conversation was occurring?
A They were inside of the bar. We could not see them, but they were inside of the bar, and I was in the vehicle with Sergeant Pyka. I was taking notes as things were said over the microphone.
Q And what do you recall that was said during that conversation about guns?
A CRI Melissa informed Vance that she owned a gun, but she didn't know how to shoot the gun. Vance in return said that he owned four guns. She said, "Have you ever shot somebody?"
And Vance in return says, "Two weeks ago Wincester on the south side."
She says, "What happened?"
He returns in saying, "I shot a guy five times in the back."
She said, "Did you see if he was dead?"
He said, "Nope. I got out of there."
Then she said -- she again referred to that she wanted to know

how to shoot the gun.
He said that he goes down by the railroad tracks in St. Paul. He goes down by the railroad tracks, and that's where he shoots his guns off.
Q Did the two eventually leave The Lab?
A The two left the lab. I did not document what time they left The Lab, but I am guessing approximately, maybe ten after 1:00 that they left The Lab.
Q And do you know where they went?
A We followed them over to 956 Minnehaha.
Q And that's in St. Paul?
A Yes.
Q Do you know who resides there?
A I know from previous experience, I know a Kevin Anthony resides there. So probably the Anthony family does. I know his grandparents live there.
Q And were you able to hear the conversation clearly that night?
A It was a little distorted, especially when she was in the Buttery. When we got over to the Lab, with the music in the back, it was loud, but you could still pick up what was being said.
MS. KEENA: I have no further questions, Your Honor.
MR. SHANDS: We have no questions, Your Honor.
THE COURT: Thank you.
(Witness excused)

JOHN PYKA,

being duly sworn, was examined and testified as follows:

THE CLERK: For the record, please state your full name, spelling your and last name.
THE WITNESS: John Elmer Pyka, P-Y-K-A.
THE CLERK: Thank you.
MR. SHANDS: May we approach, Your Honor?
THE COURT: Yes.
(OFF RECORD DISCUSSION)

DIRECT EXAMINATION

BY MS. KEENA:

Q Good afternoon.
A Good afternoon.
Q Where are you currently employed?
A Well, I am a sergeant with the St. Paul Police Department on assignment to Minnesota Gang Strike Force.
Q How long have you been a peace officer?
A Since – I started in June of 1984 at Austin, Minnesota. Then in December of 1984 I started in St. Paul.
Q Are you a licensed peace officer in Minnesota?
A Yes, ma'am.
Q And have been since 1984?
A Yes, ma'am.
Q And has your department been assisting South St. Paul in the investigation of a robbery and homicide at Sabreen's?

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A Yes, ma'am.
Q Were you employed in your current position on January 3, 2003?
A Yes, ma'am.
Q On that date were you involved in an undercover operation involving Melissa Stites?
A Yes, ma'am.
Q And there have been witnesses in before you that have kind of set up the scene for us. Getting to the point where Mr. Vance and Melissa Stites were in the Buttery, where were you positioned?
A I was parked in a car with Officer Kennedy on Sixth, facing westbound looking at the Robert and Sixth, the front of the bar.
Q Are you familiar with Dominic Johnson?
A Yes.
Q Did you see him that evening?
A I don't think I saw him that evening.
Q Did Ms. Stites eventually leave the Buttery?
A Yes.
Q And who left with her?
A Philip Vance.
Q And do you know where they went?
A Yes. We followed them over to a bar, I think it's called *The Lab.*
Q And were you monitoring conversations between Ms. Stites and

Mr. Vance?
A Yes.
Q During your surveillance did you hear any conversation between Mr. Vance and Ms. Stites regarding guns?
A Yes.
Q What was said in that regard?
A Well, it was when they were in the bar, in the -- she was talking about she wanted to buy a gun, but she didn't know how to shoot the gun. Then he said he could teach her. Then he was also -- he was telling her that he was a drug dealer at the Buttery and at The Lab.
She asked him something about the last time he used it. He said it was like a couple weeks ago on the south side. He said something about a *Winchester*, and then he said he *shot somebody five times in the back.*
Q And you indicated there was something said about a Winchester?
A Yes.
Q Do you recall in what portion of his statement that came out in?
A Well, it was the whole sequence. She's talking about buying a gun, but needs to learn how to shoot. He already talked something about being a drug dealer down at those bars. Then she asked him something about "Have you ever used it or shot anybody?" And that's when he starts telling her, "Yeah, he

shot somebody in the south side five times and it was a Winchester.
Q Did he indicate a timeframe, how long ago that happened?
A Without looking at the report, I think he told her *two weeks ago.*
Q Was there any other conversation?
A Yeah, he was telling her where he goes and shoots by some pathways by some train tracks, and that he was going to teach her how to shoot.
Q Did they eventually leave the Lab?
A Yes, ma'am.
Q Did they leave together?
A Yes, ma'am.
Q Did you follow them?
A Yes, we did.
Q Did you see where they went?
A Yes, they parked on -- I have to look at my report. It was like 956 East Minnehaha, I think was the address.
Q Sitting here today, do you know who lives there?
A I thought some relatives of Philip Vance lived there. I have been there a few times over the last year and a half on different things.
Q Does the name Kevin Anthony mean anything to you?
A Yes, Kevin Anthony --
MR. SHANDS: Objection, Your Honor, leading.

THE COURT: Overruled.
THE WITNESS: Kevin Anthony was living there, I don't know if he does now or not.

BY MS. KEENA:

Q Did you know if he was living there at the time?
A I don't recall.
MS. KEENA: I have no further questions, Your Honor.
MR. SHANDS: I have no questions, Your Honor.
THE COURT: Thanks.
(Witness excused)
MS. KEENA: The state calls Dave Nygren.

DAVID NYGREN,

being duly sworn, was examined and testified as follows:

THE CLERK: For the record, please state your full name, spelling your last name.
THE WITNESS: David Scott Nygren, N-Y-G-R-E-N.
THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. KEENA:

Q Good afternoon. Where are you currently employed?
A I am employed with the Department of Justice, Federal Bureau of Alcohol, Tobacco, Firearms and Explosives, ATF.
Q What is your position there?
A My current assignment is Special Agent and Criminal

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Investigator.

Q What type of licensures do you hold?

A I have been employed with ATF for approximately fourteen years. Prior to coming with ATF, I attended the National Academy down in Glencoe, Georgia for a period of nineteen weeks.

Q In your current position, have you been assisting in the investigation of the robbery-homicide at Sabreen's?

A Yes.

Q Were you employed in your current position on January 3, 2003?

A Yes, I was.

Q On that date, were you involved in an undercover operation involving Melissa Stites and Philip Vance?

A Yes, as part of my assignment to the Gang Strike Force, I was out there assisting with the surveillance.

Q Initially, we've had previous witnesses that have come in and testified about the setup of the operation. Were you positioned outside of the Buttery Bar?

A I was positioned down the street from the Buttery Bar, yes.

Q And were you monitoring the conversation between Ms. Stites and Mr. Vance?

A Yes, I was.

Q At some point did Ms. Stites and Mr. Vance leave the Buttery?

A Yes, they did.

Q Where did they go to?

A To a bar on Fourth and Sibley known as *The Lab*. Now I believe it's called the Fourth Street Station.

Q Were you monitoring their conversations this entire time?

A Yes.

Q Was there anybody -- were you in your own car?

A I was, yes.

Q Was there anybody with you?

A There was another investigator with the Minnesota Gang Strike Force, he was a St. Paul police officer.

Q Do you recall his name?

A Officer Frank Verdaya (ph). — X X

Q Did Ms. Stites and Mr. Vance go into The Lab?

A Yes, they did.

Q While they were in The Lab, did you hear any conversation between the two regarding guns?

A Yes.

Q What was the substance of that conversation?

A Ms. Stites was asking Mr. Vance about getting a firearm. And she asked him if he owned any firearms, to which he replied that he had owned four guns.

Ms. Stites asked if he might each her how to shoot a handgun sometime. They talked about that.

She had asked him if he ever shot a gun. He said he had. His response was that he had shot a guy five times in the back on

the south side.

And she asked him what he did, if he checked to see if the person was okay.

He said, "No, he got out of there."

And he also told her he shoots all the time down by the railroad tracks.

Q When Mr. Vance was making these comments about having shot someone, did he indicate a time period as to when that had occurred?

A Yes, he said "I shot a guy two weeks ago on the south side.

MS. KEENA: I have no further questions.

MR. SHANDS: No questions, Your Honor.

THE COURT: Thank you.

(Witness excused)

MS. KEENA: May we approach, Your Honor?

THE COURT: You may.

(OFF RECORD DISCUSSION)

THE COURT: Go home, but don't talk about it.

(JURORS EXCUSED)

THE COURT: Let's make a record of the Gang Strike Task Force. There was a motion made by the defense for an Order prohibiting any testimony regarding street gang affiliation of defendant. That was granted.

There has been no such evidence other than -- I mean nobody has testified that Mr. Vance is a gang member or

is affiliated with a gang. But maybe the impression is there, since members of the Gang Strike Task Force have testified.

Ms. Keena, did elicit from Sandra Kennedy that her involvement from the case stemmed from McManus's involvement with witnesses. So I leave it to you. I know you asked for a cautionary instruction, and I don't know, maybe it's best to leave it alone. Maybe I'll tell the jury this is not a gang investigation and leave it at that.

MR. SHANDS: Your Honor, with Officer Kennedy it was not only that she said "I work for the Gang Task Force," she was pretty strong in indicating the only time she's involved is when there is gang activity or when a gang member has been accused of a homicide. And there was strong inference from her and that's what really drew the objection.

We did ask for a cautionary instruction, and the court kind of tossed it back at us and said what did they look like? And, quite frankly, it's kind of late --

THE COURT: Actually, I suggested a verbatim cautionary instruction I would give, but it didn't appear to fit.

MR. SHANDS: So at this point, it's kind of late, quite frankly, off the hip I can't come up with one.

THE COURT: I could start in the morning by telling them this is not a gang investigation.

MR. SHANDS: That would be fine.

THE COURT: I want to be correct, though.

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MS. KEENA: Yes, and I would disagree with that characterization of it. I mean, it's not a crime that involves or I've charged that it was for the benefit of a gang. But Mr. Vance is a known gang member and it was my understanding that that was what, you know, the initial motion was. You know I was prohibited from eliciting any of that testimony. And as far as Sandra Kennedy, you know, I tried to temper what she said what her duties were by coming back and asking her what the connection was.

THE COURT: I think you did.

MS. KEENA: Quite frankly, the jury has already seen that they were involved through the jury questionnaire, which specifically asked them in the jury questionnaire whether they had any contacts with the Minnesota Gang Strike Force. So that knowledge is there. And sitting here as a litigator, I don't know if drawing more attention to it with a cautionary instruction would do more harm than good.

THE COURT: Well, the jury is already gone, so let's revisit it the first thing in the morning before we bring them back in.

Now what about Pyka testifying that defendant told Melissa Stites he was a drug dealer.

MS. KEENA: There was no objection to that.

THE COURT: And there was no prior --

MR. SHANDS: There was a motion in limine, Your Honor.

THE COURT: Which one?

MR. SHANDS: We made reference to no drug dealing references in our motion in limine, I believe. I don't have it in front of me.

THE COURT: I looked through it and I couldn't find anything.

MS. KEENA: I instructed my witnesses to stay away from any of the drug activity. I don't think it was something that was done intentionally. I think he was nervous about testifying. You know, there was no objection at the time and there was no request made for a cautionary instruction at that time. Again, you know, I guess I would leave it to the defense on what they want to do with that.

MR. SHAND: Right. Only point being made is there was agreement the state was not going to elicit that testimony. It's not our position that the state did, but the testimony did come in. There was a motion in limine. The record basically --

THE COURT: I am not finding it.

MR. SHANDS: Because there were a lot of things, Your Honor. If you remember that day there were a lot of things that were agreed upon that didn't necessarily have to be in the exact motion because the state had indicated they were not going to elicit it. We all agreed that it was inappropriate

testimony.

THE COURT: I don't recall anything coming up about drug dealing. This is the first I've heard, since my involvement in the case, that there was ever a hint of drug dealing.

MR. SHANDS: That was the first witness.

THE COURT: I mean it never came up in any motions, any argument.

MR. SHANDS: And that's what we disagree because my recollection is it did come up. But it's neither here nor there, we did not object to it, we did not want to bring further attention to it.

THE COURT: You know what we could do is add the --

MS. KEENA: Well, if there's no objection, I mean there's no objection made, so I don't think the court has to do anything.

THE COURT: I want to try to do the right thing. We can add the instruction at the end. I don't think I've gotten your proposed instructions. But Ms. Keena's I have seen, and it doesn't include the instruction he is not to be convicted of anything he's not charged with. So think about it and we will revisit it. But when I instruct him, I could give him that instruction.

You know, there was a written motion for an Order

prohibiting any testimony regarding prior alleged physical and/or verbal altercations and/or assaults. And Colleen McManus testified he was kicked out of the bar for punching somebody. Again, no objection was made.

MR. SHANDS: Well, we asked for the motion in limine. And I understand that Ms. Keena did not elicit that, but it is her witness.

MS. KEENA: Well, it was on redirect, though, after the door --

THE COURT: Oh, was it?

MS. KEENA: That's my recollection. Again, there was no objection made, so I am not sure why we are having the conversation about it.

THE COURT: Well, I guess it's --

MR. SHANDS: I guess one more thing, then we probably have to revisit it in the morning. I guess it's Ms. Keena's intention on introducing audio tape of some interviews with Mr. Vance while he was in custody, and there's some redacting. She provided us with some redacted transcripts. I know she wanted to talk. So maybe we could come up with some agreement on what's appropriate redaction or how we are going to deal with it.

MS. KEENA: Yes, I mean I had the redactions made that I thought were appropriate. Then after I heard the opening statement of defense, there might be some things that

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they want to keep in. I took out the obvious stuff about dope dealing. I took out anything having to do with the Bois Stress Test that he underwent.

I took out things where -- well, what I thought would be objectionable, and tried to look at it from a defense standpoint as well.

I have provided them with copies of what I redacted, and thought it would be okay. But after hearing the opening statement, there had never been any discussion or any motions brought by the defense as to specifically what they want redacted from the statements. So they are going to have to look – I have provided copies of what I intend on using.

THE COURT: Should I take a copy home with me so I am prepared in the event I have to rule on anything?

MS. SINGH: Well, we still need to go through it and figure out what we need to take out and so forth.

THE COURT: Why don't we gather a little early tomorrow. Is that okay?

MS. KEENA: This is the problem -- I don't know if all of this needs to be on the record. It's just logistic stuff.

THE COURT: Okay. We will go off the record.

(OFF THE RECORD

(Adjourned)

SEPTEMBER 29, 2004

THE COURT: Ms. Kenna.

MS. KEENA: Your Honor, the state would call Kurt Moline.

KURT MOLINE,

being duly sworn, was examined and testified under oath as follows:

THE CLERK: For the record, please state your full name, spelling your first and last name.

THE WITNESS: It's Kurt Willis Moline, K-U-R-T M-O-L-I-N-E.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. KEENA:

Q Good morning. By whom are you employed?

A I work for the Minnesota Bureau of Criminal Apprehension, Forensic Science Laboratory. It's the crime laboratory for the state.

Q How long have you worked there?

A I have worked there since March of 1989.

Q And what's your job title?

A I am a forensic scientist.

Q And do you have any specialties as a forensic scientist?

A Yes, I do. I am presently working in the firearms and toolmarks section of the laboratory of firearms examiner.

Q What type of examinations does a firearms examiner do?

A Usually when people think of the firearms section, they think of comparing a fired bullet or a fired cartridge case back to a firearm to see if it was fired by that gun.

In addition to those exams, we can look at gunshot residue patterns found around bullet holes, usually on the victim's clothing. We can look at how firearms function. If they are functioning correctly, we can do toolmark examinations.

These are typically burglary types of cases where someone has used a pry bar to pry open a door and gain access to a residence. Or, maybe they've used a bolt cutter to cut a padlock off to gain access into whatever it is. So those are toolmark examinations.

We can also do *no gun type* of firearms examinations where we might just have a bullet or cartridge cases, and we will try and determine what information we can from those items.

Q What is your educational background?

A I have a bachelor's degree in biology from the College of St. Thomas and a master's degree in biology from the University of South Carolina in Columbia, South Carolina.

Q What specialized training do you have in the field of firearms examination?

A I've trained for a little over three years with the senior firearms

examiner at the time, Jim Lansing. In addition to the in-service training with him, I have taken a variety of armors courses from different firearms manufacturers for M16, AR 15, Smith & Wesson pistols and revolvers, Beretta pistols, Benelli shotguns, Heckler & Koch, MP 5 Submachine guns and pistols.

I have also taken crime scene training through the laboratory and some FBI courses for firearms examiners also. Shooting reconstruction, firearms examinations and techniques and gunshot residue testing.

Q Do you belong to any professional organizations?

A Yes, I do. I belong to the American Academy of Forensic Sciences and The Association of Firearms and Toolmark Examiners. Also, I am a firearms instructor and belong to the Minnesota Association of Law Enforcement Firearms Instructors, and also the Minnesota Division of the International Association for Identification.

Q Have you testified as an expert witness in the area of firearms on previous occasions?

A Yes, I have.

Q How many times?

A More than sixty.

Q Drawing your attention to a case file, you are familiar with the investigation of the robbery-homicide at Sabreen's Market in South St. Paul?

A Yes.

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Q And were various items submitted to you from the South St. Paul Police Department in connection with that case?
A Yes, they were collected by our crime scene team.
Q So actually the BCA submitted them to you?
A Yes.

MS. KEENA: Permission to approach, Your Honor.

THE COURT: Granted.

BY MS. KEENA:

Q Mr. Moline, I am showing you Exhibit 25. Do you recognize that exhibit?
A Yes, I do.
Q And could you just, please, explain what that is?
A Exhibit 25 are four cartridge cases that were collected by our crime scene team, and then were submitted to me for examination.
Q Did you in fact examine those casings?
A Yes, I did.
Q Now showing you Exhibit 26, do you recognize that item?
A Exhibit 26, yes, I do. It has our laboratory case number and item number on the packaging. It is a bullet that was recovered.
Q And do you recall where that bullet was recovered from?
A I believe it was recovered at the crime scene.
Q And there were also two bullets recovered from the victim's

body, is that correct?
A I had bullets that were submitted to me, yes, that were said to have been recovered from him.
Q I am showing you Exhibits 30 and 31.
A Yes. I recognize these items, Exhibit 30 and 31.
Q And those were also submitted to you for exam?
A Yes, they were.
Q Mr. Moline, we got casings and bullets up there before you. Could you briefly explain what a cartridge is?
A Sure. A cartridge is a unit of ammunition. It's composed of the cartridge case, it has the bullet, and inside of the cartridge case there's some powder, then it also has a primer. Then when the firearm holds that cartridge, it's contained within the firearm, and the firing pin of the gun strikes the primary area of the cartridge it will cause the primer to detonate, it will start the powder to burn, and because it's contained within the gun, the powder burning will create gas and increase the pressure, and the pressure will push the bullet through the barrel of the firearm and then the cartridge cases contained within the gun.
Q So when the cartridge is fired, what components come out of the gun?
A The bullet will come out of the barrel and the cartridge case, which is contained in the firearm, can be extracted and ejected or thrown clear of the firearm from the firing process also.
Q You examined and compared the cartridge casings in this case,

is that correct?
A Yes.
Q Would you please describe the procedure you used in making that comparison?
A Sure. The four cartridge cases that were recovered at the scene, I intercompared them on my comparison microscope. I wanted to see if they were fired from the same gun or if more than one gun was involved.

My comparison microscope is one microscope on the left, microscope on the right, and then with an optical bridge it connects the two microscopes. So I can put one evidence cartridge case on one side, another one on the other side, and I can look for those matching features that are left on these cartridge cases from when they were fired by the gun. So in doing this, I was able to determine that the four cartridge cases were fired by the same gun.
Q And what type of casings were they?
A These are .22 caliber, these are rim fire cartridge cases which means the priming compound is on the outside or on the rim of it.
Q Were you able to determine what brands the casings were?
A Yes, I was. If you look on the head or the back part of the cartridge case, most manufacturers will put identifying marks because they want everybody to know whose ammunition they are shooting. They want to let them know that they are shoot-

ing their brand of ammunition.

So if you look on the back of each cartridge case, you can tell by the markings what brand it is. Two of the cartridge cases have a large "C" on the head, which indicates that it's CCI brand ammunition, and two of the cartridge cases have a diamond shape on the head of it which indicates that it's Winchester Western Brand of ammunition.
Q And when most people think of Winchester, they think of rifles. But Winchester makes ammunition, correct?
A Yes.
Q Does Winchester make ammunition for semi-automatic pistols or pistols?
A Yes.
Q After you determined that the casings had been fired from the same weapon, did you enter that information into any form of database?
A Yes, I did.
Q What database is that?
A In the laboratory we've got a computer system that's been provided by the Bureau of Alcohol, Tobacco, Firearms and Explosives, and it's called IVIS (ph). The government program name is NIVEN (ph). And what it allows us to do is keep an open case file on shooting cases.

So, for example, I took one of the cartridge cases. I took pictures of it, entered it into the database, and the database

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does a search against the other evidence that's in there to see if the firearm that fired this evidence was used somewhere else. And also this image is in our computer, and it's still in our computer, and any time something new is entered, it will be compared against all of the previously entered images of the fired cartridge cases.

Q So after you completed your comparison, you entered the results into that system?

A Yes.

Q And did you get any hits?

A No.

Q It wasn't matched up to any other reported shootings anywhere?

A No.

Q Did you check again after that time to determine whether there was any matches in the system up until today?

A No. If a hit would be spotted, you know, if we'd entered something new and we'd spot a hit, then we would compare it. To my knowledge, there has been no hit with the evidence.

Q The one bullet that was recovered from the scene, did you examine that as well?

A Yes, I did.

Q Do you use the same type of procedure to examine the bullet as you do for the casings or is it a different type of examination?

A It's a little bit different. I did use my comparison microscope to

inter-compare the bullets that I had received to see if I could be able to determine if they were all fired from the same gun or not.

Q What were your results in examining the bullets?

A With respect to comparing the bullets that I received, it was inconclusive. I couldn't say if the three bullets were from the same gun or not.

Q Why not?

A There wasn't enough features on the fired bullets to be able to identify them to each other.

Q In just looking at the bullet that was recovered from the scene, what can you tell us about that bullet?

A It's consistent with a .22 caliber bullet. It's been fired from a firearm that has six slants and grooves, which means inside of the barrel of that gun it's .22 caliber in diameter and there are six grooves that have been cut into the barrel that fired this gun. Those are class characteristics. They would apply to a whole group or class of firearms.

Also looking at the bullet, you can see that it's kind of grayish in color, which indicates that it's lead. It also has some copper remnants on it. So originally it was a copper-plated lead .22 caliber bullet.

Q And you can't tell if that came from the *CCI* brand or the Winchester brand, is that correct?

A No, I can't link this bullet with one of these cartridge cases.

Q In examining the casings and the bullets, were you able to draw any conclusions on the type of firearm that the bullets may have been fired from?

A Well, in looking at the bullet and -- Exhibit 26 was in the best condition. And in looking at those class characteristics on Exhibit 26, you know, it's .22 caliber, it has remnants of six slants and groves impressed on it, and then I was able to measure, using a micrometer, measure the dimensions of those slants and grooves, and then refer and try to come up with a list of possible firearms that could have fired this bullet. And it's not an all inclusive list.

Q Could you describe what a semi-automatic firearm is?

A A semi-automatic action type for firearm is one in which the energy of firing will work the mechanism and prepare it to be fired again. So by pulling the trigger, the firearm will fire, the cartridge case will be extracted or pulled out of the chamber, it will be ejected or thrown free of the firearm, and then the next cartridge will be loaded and ready to fire. And at that point, all a person needs to do is release the trigger and pull it again and it would fire again then, assuming everything is functioning correctly.

Q So would a semi-automatic firearm in good-working condition eject casings?

A Yes.

Q And, Mr. Moline, in your examination of these items, you [illegible]

never provided with a weapon in which you were able to match those casings with a certain weapon, is that correct?

A Was I provided with a gun that I could identify to these cartridge cases?

Q Correct.

A No.

MS. KEENA: I have no further questions.

THE COURT: Ms. Singh.

MS. SINGH: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. SINGH:

Q Going back to that last question, you weren't provided with a weapon that you could match to the cartridge casings, correct?

A Correct.

Q Were you provided with a weapon to do testing on?

A Yes, I was.

Q Did you personally do any testing on that weapon?

A Yes.

Q And there was no match between that weapon and these cartridge casings?

A That's correct.

Q What type of weapon was it?

A I would need to refer to the case file.

Q You can refresh your memory if you need to.

A Okay. The firearm that was provided with, that I tested, was

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a Marlin Brand, 22 long rifle caliber, rifle.
Q And you stated that that didn't match the cartridge casings that were found at the scene?
A That's correct.
Q Mr. Moline, from the testing that you did, you determined that it was a semi-automatic weapon, correct?
A No, I can't say that what fired these cartridge cases was a semi-automatic firearm.
Q You can only say that it was a .22 caliber weapon?
A That fired the cartridge cases and the bullets?
Q Yes.
A Yes, .22 caliber.
Q You said there were two types of bullets that were found -- two types of cartridge casings, excuse me, that were found at the scene. There was a Winchester brand and a CCI brand, correct?
A Yes.
Q And those were the type of cartridge casings, correct?
A Those were the brands, yes.
Q Now do both of those makers make ammunition only or do they make weapons as well?
A Winchester at that time made firearms. CCI does not make firearms. They only make ammunition.
Q Now through the testing that you did, could you determine that those bullets that you received and the cartridge casings would

match to a particular weapon?
A I would have to have a gun to be able to determine if I could identify the evidence back to a firearm.
Q Without the actual firearm, you can't link the cartridge casings and the bullets together, correct?
A Correct, yes.
Q Now, Mr. Moline, you stated that you entered this information into a database?
A Yes.
Q And there were no hits on that database as to other crime scenes, correct?
A Yes, correct.
Q And that database, that is kept up for how long?
A How long have we had it or how long do we keep it?
Q How long does the information stay in the database?
A It would stay in there. We aren't deleting anything, so it would stay in there.

MS. SINGH: No more questions, Your Honor.

MS. KEENA: I just have a followup.

REDIRECT EXAMINATION

BY MS. KEENA:

Q You indicated that you were given one weapon, a 22 long rifle for comparison purposes?
A Yes, Marlin Brand rifle.
Q Did you or any of your co-workers receive any other firearms in

for comparison?
A Yes, they did.
Q Could you tell me how many?
A I would have to refer to the file.
Q Go ahead.
A One of the other firearm examiners, Stephanie Eckerman, she examined another firearm and compared it to the evidence that we have here.
Q What was that firearm?
A The brand?
Q Yes.
A It was a Beretta, .22 caliber pistol.
Q That one wasn't a match?
A No.
Q Were there any others?
A No. There were no other firearms.
Q The Winchester casings that you found, was there anything unusual about them?
A The diamond on the headstamp hasn't been used for quite a while. References I have indicate that they stopped using that headstamp in about 1969, so it's relatively old.
Q So would you consider that older ammunition?
A We get old ammunition all the time in for cases.
Q So from that aspect, it wasn't unusual for you to be seeing that type of casing?

A I wasn't surprised.

MS. KEENA: I have no further questions, Your Honor.

MS. SINGH: I have no questions, Your Honor.

THE COURT: Thank you.

(Witness excused)

JACQUELINE EZELL,

being duly sworn, was examined and testified under oath as follows:

THE CLERK: Please state and spell your full name for the record.

THE WITNESS: My name is Jacqueline Ezell, I spell it J-A-C-Q-U-E-L-I-N-E E-Z-E-L-L.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. KEENA:

Q Good morning.
A Good morning.
Q Ms. Ezell, where do you live?
A 956 East Minnehaha Avenue, St. Paul.
Q I would like to draw your attention to Friday, January 3, 2003. Did you reside at that same address at that time?
A Yes.
Q Do you know Philip Vance?
A Yes.
Q Do you know him as Florida?

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COPY

STATE OF MINNESOTA — IN DISTRICT COURT
COUNTY OF DAKOTA — FIRST JUDICIAL DISTRICT

File No. K6-04-736

State of Minnesota,

Appellate Court File No. _____

Plaintiff,

vs.

VOLUME 2

Philip Vance,

Defendant.

The above-entitled matter came duly on for Jury Trial before the Honorable Rex D. Stacey, one of the Judges of the above-named Court, commencing on September 20, 2004, at the Dakota County Judicial Center, Hastings, Minnesota.

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APPEARANCES:

KATHRYN M. KEENA, Assistant Dakota County Attorney, Dakota County Judicial Center, 1560 Highway 55, Hastings, Minnesota 55033, appeared representing the State.

NITU SINGH and CEAN SHANDS, Public Defender's Office, appeared as co-counsel representing defendant.

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A Yes, as Florida.
Q We are going to refer to him as Mr. Vance this morning.
A Okay.
Q Is the person that you know as *Florida* present in the courtroom today?
A Yes, he is.
Q Where is he at?
A He is there (indicating).

MS. KEENA: May the record reflect that she's identified the defendant, Philip Vance?

THE COURT: It may.

BY MS. KEENA:

Q Did you know Mr. Vance as of January 3, 2003?
A Yes.
Q How did you know him?
A He came to the house to see my granddaughter.
Q What's her name?
A Darlene Jones.
Q Were they dating at the time?
A You could say yeah, I would say yeah.
Q On that day did Mr. Vance come to your house?
A Yes.
Q What time was that?
A After twelve, after midnight.
Q So actually it would have been like early Saturday morning

then?
A Yes.
Q What were you doing at the time?
A Sitting, looking at TV. Watching TV.
Q And was Darlene home with you?
A Yes.
Q What was she doing?
A Putting her baby to sleep.
Q What happened when Mr. Vance came over to your house?
A He knocked on the door and I said, "Who is it?
And he said, "Florida Boy."
In the process of him knocking on the door, my granddaughter came out of the room and told me to tell him that she wasn't there.
Q So she wanted --
A She didn't want to see him. So I answered the door, but I wouldn't let him in. And I asked him what did he want? And he kept saying that -- he asked me "Was Darlene asleep?"
I said, "No, she's not here."
He said, "Well, I need to come in."
I said, "For what?"
He said, "I need to get something out of the bedroom."
I said, "What is it?"
He wouldn't tell me at first. So I said, "Well, you not coming in." So then he said, "Well, I really need to go get something

out of the bedroom."
I said, "Well, I'm sorry, you are not coming in because Darlene didn't want -- she wasn't asleep, she just didn't want to be bothered," and I wasn't going to let him in.
So I say, "You have to tell me what it is and I'll go get it."
I thought it was a sweater or something. He said, "No, if I tell you, you going to be upset. You going to be mad."
I said, "Well, you're not coming in, so you might as well just tell me what it is you want out of the bedroom."
Q So you eventually found that something that he was looking for in the bedroom, is that correct?
A Yes, I did.

MR. SHANDS: Objection, Your Honor, lack of foundation.

THE COURT: Overruled.

THE WITNESS: Yes, I did.

BY MS. KEENA:

Q Did you give that to Mr. Vance?
A Yes, I did.
Q Okay. And did he then leave the house?
A Yes, he did.
Q What happened next?
A Well, Darlene come out of the room because she knew she was in hot water with me. So she was explaining herself. Then a little while later, it begins to have been about a half an hour

someone else knocked on the door.
I said, "What is this, this time of night people coming to the house this late?" So he came in.
Q Who was he?
A All I know his name is Stacks. That's the name I know him by, Stacks. Stacks came in. So he asked us -- he wasn't really talking to me. Darlene was just sitting by me. He was really talking to her. He was asking her had she seen Florida. And we both just told him Florida just left not too long ago.
He said, "Well, when you -- he was talking to Darlene, "When you see Florida, you tell him that he was bogus. And he's no longer -- I don't want nothing to do with him, he's no longer my friend. He played me wrong. And I just want my money. Be sure to tell him that." Because on the way, somewhere he was coming from or, what he said, a police was shooting at him and he had to --
Q We are not going to go into that part of it. Thank you.
A Okay.

MS. KEENA: I have no further questions, Your Honor.

CROSS EXAMINATION

BY MS. SINGH:

Q Ms. Ezell, you just testified that Stacks came to your home that evening and he stated that he wanted his money, correct?
A Yes.

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Q That's all he said to you?
A (No response)
Q Let me ask another question. He told you that *Florida played him wrong – Mr. Vance played him wrong?*
A Yes, he did.
Q And those were the only comments that he made to you that evening?
A No, he made a lot of other comments, but it's not -- you know, a lot of cuss words and lot of this and -- he was really upset with Florida.
Q But there was other things he was upset about that night too?
A His money.

MS. SINGH: No more questions.

MS. KEENA: I have nothing further, Your Honor.

THE COURT: Thank you, Ms. Ezell.

THE WITNESS: Thank you.

MS. KEENA: The next witness will require set up and transcripts, so if we could take a 20-minute break?

THE COURT: Sure.

(Break was taken)

MS. KEENA: Your Honor, the state would call Tom Kreager.

THOMAS KREAGER,

being duly sworn, was examined and testified under oath as follows:

THE CLERK: For the record, please state your full name, spelling your last name.

THE WITNESS: Thomas Edward Kreager, K-R-E-A-G-E-R.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. KEENA:

Q Good morning.
A Good morning.
Q Were you employed by the South St. Paul Police Department?
A Yes, I was.
Q How long were you with that department?
A Twenty years.
Q And you've since retired, correct?
A This past July, yes.
Q And you were a licensed peace officer with that department?
A Yes, I was.
Q What was your last position with the police department prior to retiring?
A I was a police corporal assigned to the patrol division.
Q And at one time did you serve as a detective in that department?
A I served in the investigative unit for approximately five years.
Q Were you employed with the South St. Paul Police Department on December 22, 2002?

A Yes, I was.
Q And at that time were you in the investigative unit?
A Yes, I was.
Q On that date did you become involved in the investigation of the death of Khaled Al-Bakri at Sabreen's?
A Yes, I did.
Q And you were involved hands on in the investigation for how long?
A Months.
Q Drawing your attention to early on in the investigation, did you receive leads on potential suspects from two women that were identified to you?
A Yes, we did.
Q And that would have been Colleen McManus and Melissa Stites?
A Yes.
Q After receiving that information, did you take any action to determine whether there had been any other shootings on the night of December 22, 2002?
A Yes, I did.
Q What did you do?
A I contacted the major metropolitan law enforcement agencies around the twin cities. That would include the St. Paul Police Department, Minneapolis Police Department, Ramsey County Sheriff's Office, Hennepin County Sheriff's Office, Dakota

County Sheriff's Office, Anoka County Sheriff's Office, Scott County Sheriff's Office, State Patrol, I also directly contacted Ramsey County and Hennepin County Medical Examiner's Offices.
Q Why did you contact those two offices? What does a medical examiner do?
A The medical examiner is responsible for forensic examination of a deceased person on unnatural or death outside of medical care.
Q So you were checking to see if any autopsies had been performed?
A Correct.
Q What were the results of all those phone calls that you made?
A There were no other reported shootings or shooting deaths on the evening of the 22nd of December.
Q Following the information that you received from Colleen McManus and Melissa Stites, were you involved in conducting any interviews of Philip Vance?
A Yes, I was.
Q When was the first interview of Mr. Vance conducted?
A I would have to refer to my notes to know the exact date.
Q Go ahead and do that.
A I believe that was January 15th.
Q Of 2003?
A Correct.

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MS. KEENA: Your Honor, permission to approach?

THE COURT: You may.

(Exhibit 36 A, B & C marked)

BY MS. KEENA:

Q In the interview that you conducted of Mr. Vance on January 15, 2003, did you tape that interview?

A Yes, we did.

Q I am showing you what's been marked for identification as Exhibits 36 A, B and C. Do you recognize what those items are?

A Those are cassette recordings indicating that is the interview with Philip Vance on January 15th of 2003.

Q What's Item 36-C?

A It's a typed transcript of the conversation that we had with Mr. Vance.

Q There have been some redactions made from both the tapes and the transcript, is that correct?

A Yes.

Q Other than that, are they the same as the originals?

A Yes.

Q Who participated in this first interview?

A Myself and Captain Vujovich.

Q Captain Vujovich is with the South St. Paul Police Department?

A Correct. He was my supervisor as an investigator with our department.

MS. KEENA: Your Honor, the state is going to offer Exhibits 36 A and B. Exhibit C will be a court exhibit. I would like to play them at this time.

THE COURT: Any objection?

MS. SINGH: Not at this time.

THE COURT: Exhibit 36-C is received as a court exhibit. That means it doesn't go back with the jury at the end of the case.

MS. KEENA: Your Honor, may I distribute the transcripts?

THE COURT: You may. We give you a copy of the written transcript to follow along with the tape. We will collect those when we're done.

(Whereupon, cassette tape was played of January 15, 2003 interview)

THE COURT: Could you pass the transcripts down, please?

MS. KEENA: Your Honor, could we approach?

THE COURT: Yes.

(OFF RECORD DISCUSSION)

THE COURT: Shall we let Mr. Kreager step down?

MS. KEENA: Sure.

THE COURT: Why don't you step down. We will break for lunch, and start again at 1:00.

(Lunch break was taken)

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SEPTEMBER 29, 2004 - AFTERNOON

THE COURT: We are going to interrupt the testimony of Mr. Kreager and put another witness on.

KEITHA McKINNEY,

being duly sworn, was examined and testified under oath as follows:

THE CLERK: For the record, please state your full name, spelling your first and last name.

THE WITNESS: Keitha McKinney, K-E-I-T-H-A M-c-K-I-N-N-E-Y.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. KEENA:

Q Good afternoon. Ms. McKinney, I would like to draw your attention to the time period of December, 2002. Where were you residing at that time?

A In South St. Paul.

Q What was the address?

A 141 Fourth Avenue.

Q What timeframe did you reside at that residence?

A I don't remember the exact time that I was there.

Q Approximately how long did you live at that residence?

A Almost a year.

Q While living there, were you familiar with Sabreen's Market?

A Yes.

Q Did you ever go to Sabreen's?

A Yes.

Q How far was Sabreen's from where you were living?

A A few blocks.

Q Do you know a man by the name of Richard Robinson?

A Yes.

Q How do you know him?

A I used to date him.

Q Approximately how long did you date him?

A Maybe six, seven months.

Q Do you recall from what month to what month that you dated him approximately?

A Maybe November to April of '03.

Q So November of 2002?

A Um-hum. Yes.

Q Does Mr. Robinson have a nickname that he is commonly referred to as?

A Yes.

Q What is that?

A Hennessy.

Q Do you know Philip Vance at all?

A No, I don't.

Q Do you know Dominic Johnson?

A No.

Q Do you recall on the evening of December 22, 2002, did you see either one of them that night?

A No.

Q During that month were you having some health complications?

A Yes.

Q How long were you sick?

A About a month.

Q And did that sickness require some hospitalization at some point?

A Well, I had three trips to the emergency room.

Q And in December of 2002, on that particular night, do you specifically recall what you were doing on December 22nd?

A No, I don't.

Q When you were getting sick from what you had, would you have to go to bed or what would you have to do?

A I was mostly in bed if I wasn't at the emergency room.

MS. KEENA: I have no further questions.

THE COURT: Mr. Shands.

CROSS EXAMINATION

BY MR. SHANDS:

Q Ms. McKinney, I just have a few questions for you. You were interviewed several times by South St. Paul Police?

A Yes.

Q Is that correct?

A Um-hum.

Q And they asked you if you knew Mr. Vance, is that correct?

A Yes.

Q Each time that they interviewed you, you told them that you did not know Mr. Vance, is that correct?

A Yes.

Q And you also told them that you did not see Mr. Vance on the night of December 22, 2002?

A Right.

Q And no one has ever discussed with you anything about a robbery that happened at Sabreen's, is that correct?

A Right.

MR. SHANDS: I have no further questions, Your Honor.

MS. KEENA: Just a follow-up question. You talked about being interviewed by the South St. Paul Police Department. During the course of questioning, did you -- first of all, Dominic Johnson, do you know him by any nickname or do you know him as Dominic Johnson?

THE WITNESS: I don't know him.

MS. KEENA: Did you come to learn during the questioning of you, any relationship between Dominec Johnson and your boyfriend at the time, Hennessy?

THE WITNESS: Yes.

MS. KEENA: What was that relationship?

THE WITNESS: They are cousins.

MS. KEENA: I have no further questions, Your

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Honor.

MR. SHANDS: I have no questions, Your Honor.

THE COURT: Thank you.

(Witness excused)

MS. KEENA: Your Honor, the state would recall Tom Kreager.

THE COURT: You are still under oath.

THOMAS KREAGER,

being previously duly sworn, was examined and testified under oath as follows:

DIRECT EXAMINATION (Cont'd)

BY MS. KEENA:

Q Mr. Kreager, we just finished listening to the January 15, 2003 interview that was conducted of Mr. Vance. Did you participate in an interview of Mr. Vance on January 16, 2003?

A Yes, I did.

MS. KEENA: Permission to approach, Your Honor?

THE COURT: You may.

(Exhibit 37 A, B and C marked)

BY MS. KEENA:

Q I am showing you what's been marked for identification as Exhibits 37 A, B and C. Do you recognize those items?

A Yes, I do.

Q What are they?

A Two cassette recordings of the interview taken that day with myself, Mr. Vance, Captain Vujovich of the South St. Paul Police, and Investigator Sjogren of the Dakota County Sheriff's Office.

Q And these are copies of the originals, correct?

A Correct.

Q Exhibit 37-C and the tapes, there are redactions made to those items, correct?

A Correct.

Q Aside from those redactions, are they true and correct copies of the originals?

A They are.

MS. KEENA: For the record, I am showing counsel the exhibits.

Your Honor, the state would offer as exhibits 37-A and B. And we offer Exhibit37-C as a court exhibit.

THE COURT: Received.

(Exhibit 37 A and B received)

MS. KEENA: Your Honor, may I pass out transcripts?

THE COURT: You may.

(Whereupon, cassette tape was played of January 16, 2003 interview)

THE COURT: We are done for the day. We will remind you tomorrow that we are on page 178. Remember,

don't talk to anyone about it, don't read any newspaper articles, don't listen to any news.

Have a nice evening.

(Adjourned at 4:40 p.m.

SEPTEMBER 30, 2004

MR. SHANDS: Judge, I need to make a little record before we start.

THE COURT: Okay. Mr. Shands, you wanted to put something on the record.

MR. SHANDS: I did, Your Honor.

Your Honor, through our investigation, our investigators spoke to a Christina Perasaud. Ms. Perasaud was in custody down in Shakopee with a Mary Fleming. Mary Fleming is connected with Maynard Cross.

While Christina Perasaud was in custody with Mary Fleming, she indicated that Ms. Fleming had written letters to her or notes to her concerning the case here at hand.

Ms. Perasaud indicated that the deputies at Shakopee had confiscated these letters and subsequently turned them over to investigators, who are investigating this case.

We have not seen the letters. The letters were not

in our discovery. We believe they may have exculpatory information in regards to Mr. Vance.

We haven't received the letters, plus with the court's ruling on third-party perpetrator and reverse Spreigl on Mr. Cross, we wanted the record to be clear that we believe this evidence is out there. I don't know if in fact this is -- this is information we received. We have not received any letters in discovery.

If they are in the custody of the investigating officers on this case, we would ask that they be turned over to us. I guess that's sort of a Brady issue, but we just wanted the record to be clear on that.

Also, I want to put on the record, as this trial has been going, I anticipate that the state is going to call a Richard Robinson to come and testify, Yvonne White, Nicole Rauschnot and maybe a Troy Crawford.

Especially with Richard Robinson and Yvonne White, it's our position that these people, if the state calls them to testify, have the right to have an attorney here. And I'm not trying the state's case, but if they are to testify, they would possibly be implicated in this crime. And at least they could be considered aiding offender after the fact.

If the state intends to call them, they need to have representation. And I think that needs to come out now because if the public defender's office is going to be expected to

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step in and advise those people, they need to know. As this court well knows, our office is spread thin. We don't have anyone, plus, quite frankly, we will probably have to bring someone from another county to advise them.

So we wanted to make the record clear on that. Quite frankly, probably -- Keitha McKinney probably should have had an attorney also. Again, I am anticipating what the state is planning on doing, but I believe Keitha McKinney could be implicated as being someone who's involved in this crime or again, at least, an aider after the fact. She should probably have had an attorney to advise her of whether or not she should have testified under oath.

THE COURT: Ms. Keena?

MS. KEENA: Your Honor, on the Perasaud issue, the state is unaware of any of these letters that Ms. Perasaud is indicating to the defense investigator that she wrote. Ms. Perasaud is -- her credibility is zero to none. And she stepped forward basically trying to give us information implicating Maynard Cross, but wanted to get out of prison.

In investigating her, prison staff told us that she had a history of fabricating information in an effort to gain release.

Ms. Perasaud, within the previous year, claimed to have developed breast cancer and even went as far as having false medical documents sent to prison officials in an attempt

to get released early.

THE COURT: What's her relationship to Cross?

MS. KEENA: She was in custody serving time with Mary Fleming at Shakopee. Mary Fleming was a co-defendant to Mr. Cross. So she claims that Mary Fleming was telling her all these things, that Maynard Cross had told her some things. But her credibility is nill. And I have no letters.

During the investigation, they went out to the prison, they talked to her, they talked to prison officials. There are no letters. So I think Ms. Perasaud is feeding them a line. I will check it out again, but to my knowledge, there are no letters.

THE COURT: Letters, are these letters from Maynard Cross implicating himself with –

MS. KEENA: No.

MS. SINGH: They are letters from Mary Fleming to Christine Perasaud discussing this particular crime.

MR. SHANDS: The real significance of that is Mary Fleming was the driver on the Maynard Cross murder that he was convicted of in Minneapolis. And so she -- at the point when this crime happened, Maynard Cross was not in custody, neither was Mary Fleming. That case had not been solved and taken care of.

In regards to the credibility issue, I understand that the police spoke to her. They did not find her credible.

But there are other people that have the right to listen to testimony or see testimony and that's where the credibility is.

Judge, I am not saying that Ms. Keena has information she's not giving. I want to make this issue clear that this is what we are indicating, so in -- quite frankly, if Mr. Vance is ultimately convicted and then all of a sudden the letters surface, I want to make the record clear that we have Brady issues as far as having exculpatory evidence. This is evidence that we do not have now and somehow it was ruled out.

I just want to make the record clear that we are constantly still trying to investigate this case. This is information I have and I just wanted it on the record.

THE COURT: But it's not a case where anybody has a letter that was purportedly written by Maynard Cross in which he makes admissions?

MS. KEENA: No.

MR. SHANDS: That's not what -- I mean, no, it's my understanding that Maynard Cross didn't write the letters, but there's information in there concerning this actual investigation coming from someone who, quite frankly, may have been involved.

Now I understand that the court ruled we could not point the finger at Maynard Cross and basically show that he was not the one involved. Possibly if we were allowed to do

that, Mary Fleming could have been argued to have been the driver, just like she had been previously.

THE COURT: But I wouldn't have ruled as I did had I been presented with letters written by Maynard Cross in which he admitted, because I am allowing alternative perpetrator evidence on Mr. Smith, who apparently made some admissions.

MS. KEENA: There are no letters like that. There are no Maynard Cross letters to anybody indicating that he had any involvement in this crime. From what I gather, this is purely a Brady issue. The state is unaware of any letters. Mary Fleming was interviewed. She denies that she had any conversations with this Christina Perasaud about her case.

THE COURT: Okay.

MR. SHANDS: In regards to the --

MS. KEENA: In regards to appointing attorneys, as to Keitha McKinney, I did speak with her yesterday and she indicated to me that she had talked to an attorney and that she was just willing to come in and testify yesterday.

The other people that have been mentioned, I think if they take the stand, before the jury were called out, I think we would do an inquiry of them and, you know, I don't know how that's going to play out. But, you know, before the jury were brought in that we would have them take the stand and tell them that they have a right to an attorney. Nicole

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Rauschnot has got Earl Gray.

THE COURT: Well, she's well represented.

MS. KEENA: Some of them already have attorneys. I understand the public defender's office would want some notice on that, but until they walk in, or whatever happens, we can't deal with it right now.

MR. SHANDS: My concern, Your Honor, is Keitha McKinney was arrested for aiding and abetting this crime. She had an attorney, Ira Whitlock.

I think the inquiry about *do you understand that you have certain constitutional rights, Fifth Amendment Rights,* that needs to be done by the court. And it should have been done on the record to make sure she clearly understands the gravity of what she's doing here today.

THE COURT: Well, why wasn't I told?

MR. SHANDS: The reason it came up now, Your Honor, quite frankly, is when Keitha McKinney took the stand I didn't understand what that was about. And I feel like, after talking with colleagues and what not, I do feel like I have somewhat sense of inkling of what it's about.

THE COURT: Okay.

MR. SHANDS: Quite frankly, I think she should have been brought into court, there should have been an inquiry on the record. That's just something I wanted to put on the record.

MS. KEENA: Mr. Shands doesn't represent Keitha McKinney. I mean, Keitha McKinney, the risk that she takes is if the state were ever to prosecute her, and what she said on the stand yesterday could be used against her. That's her issue. That's not Mr. Vance's issue, that's not Mr. Shands' issue. So, yes, procedurally.

Procedurally, yes, but she indicated to me that she did talk to her attorney and that she was willing to take the stand and testify. So she did seek counsel. As far as for this case, that part of it isn't relevant.

MR. SHANDS: Your Honor, it's very relevant because that needs to be done on the record. And the problem that -- looking at the state, the problem they have is that if she has counsel, and she has an opportunity to say, "I'm taking the Fifth, I'm not going to testify," that becomes a witness that the state can't use.

And to propose to have this done outside the purview of the court -- because this is the court's inquiry about whether someone understands their rights and what's going on. It's not the county attorney, it's the court. I just want to make the record clear on my perspective of what happened.

THE COURT: Okay. Shall we start then?

MR. SHANDS: That's fine.

* * * *

THE COURT: Good morning. We had to discuss a few things, so we got a little late start. Please turn to page 178 and we will begin.

(Whereupon, cassette tape was continued of January 16, 2003 interview)

BY MS. KEENA:

Q Mr. Kreager, do you recall on the last comments made by Mr. Vance during the interview, was there anybody in the room with him at that time?

A No, there was not.

Q But somebody left the recorder running, obviously?

A Yes.

Q Did Mr. Vance contact you after that interview?

A Yes, he did.

Q And do you recall the date of that contact?

A January 23, 2003.

Q And was that in person or by phone?

A He called me at my office at the police department.

Q Did you record that phone call?

A Yes, I did.

MS. KEENA: Permission to approach, Your Honor?

THE COURT: You may.

(Exhibits 38 A and B were marked)

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for identification)

BY MS. KEENA:

Q Mr. Kreager, showing you what has been marked for identification as Exhibits 38-A and 38-B, do you recognize those?

A Yes, I do.

Q What are they?

A It's a cassette recording of the phone call I received on January 23, 2003 from Mr. Vance, and a transcript of that.

Q And these are copies of the original, correct?

A That is correct.

Q And there's redactions made from both the tape and the transcript, is that correct?

A Yes.

Q And other than those redactions, are they accurate copies of the originals?

A Yes, they are.

MS. KEENA: Your Honor, the state would offer Exhibit 38-A as an exhibit, and Exhibit 38-B as a court exhibit only.

THE COURT: Received.

(Exhibits 38-A and 38-B were received in evidence.)

MS. KEENA: At this time, Your Honor, I would like

to play the tape.

THE COURT: Okay.

(Whereupon, cassette tape was played of January 23 , 2003 phone call)

MS. KEENA: Your Honor, for the next statement I have to set up the computer, so if we could take a break?

THE COURT: Okay. Fifteen minutes, ten after.

(A break was taken.)

THE COURT: Have a seat. Proceed.

BY MS. KEENA:

Q Mr. Kreager, following the January 23rd phone call with Mr. Vance, did you have an opportunity to participate in another interview of Mr. Vance?

A Yes, I did.

Q When did that interview take place?

A April 17, 2003.

Q And aside from you, who participated in that interview with Mr. Vance?

A Captain Vujovich of the South St. Paul Police Department, Sergeant Pyka of the Minnesota Gang Strike Force, and Investigator Nygren, who I believe is ATF.

Q Was that interview recorded?

A Yes, it was.

MS. KEENA: Permission to approach, Your Honor?

THE COURT: You may.

information did they give you regarding the blue Corsica?

A That they had a friend named Nicole Rauschnot that did own a blue Corsica, four door.

Q What did you do with that information?

A They had told me that they had used the car and ridden with her in the car at various times in the past, but it had broken down in Eagan and Nicole had basically abandoned the car where it broke down. This was at the end of the winter, they believed.

Q When you spoke with these two women, did they indicate whether they knew Mr. Johnson and Mr. Vance?

MR. SHANDS: Objection, Your Honor, leading.

THE COURT: Overruled.

THE WITNESS: Yes, I did.

BY MS. KEENA:

Q And what did they tell you?

A They did know Mr. Vance and Mr. Johnson.

Q So were you able to locate Nicole Rauschnot's blue Corsica that was described to you?

A Yes, I was. Through record searches, we found that the car had a lien on it. The lien holder was Car Hop Auto in West St. Paul.

Q Did you go to that location?

A Yes, I did.

Q Did you find Nicole Rauschnot's car there?

A No, I did not. They informed me that the car had been impounded in Eagan through Magnum Towing, and they had written the car off as a loss. And it was still there to the best of their knowledge.

Q Did you go to Magnum Towing then?

A Yes, I did.

Q Did you find the car at that location?

A Yes, I did.

MS. KEENA: Permission to approach?

THE COURT: You may.

(Exhibit No. 41 was marked for identification)

BY MS. KEENA:

Q I am showing you what's been marked for identification as Exhibit 41. Do you recognize that?

A Yes, I do.

Q What is that?

A The car that had belonged to Nicole Rauschnot.

Q When approximately did you take the car -- did you take the car into custody?

A I did not.

Q Did the department take it into custody?

A Yes, they did. At the time the information was forwarded through Captain Vujovich, who assigned it to a detective to recover at that time.

Q What timeframe are we talking about? When was this going

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(Exhibits 39-A and 39-B were marked for identification)

BY MS. KEENA:

Q I show you what's been marked for identification as Exhibits 39-A and 39-B. Do you recognize those?
A Yes, I do.
Q And this interview was digitally recorded, correct?
A That's correct.
Q What's Item 39-A?
A It's a disk containing the recording of that interview.
Q And what's 39-B?
A A transcript of that interview.
Q There's redactions from each of these items, is that correct?
A Yes.
Q And aside from those redactions are 39-A and 39-B accurate copies of the originals?
A Yes, they are.

MS. KEENA: Your Honor, the state would offer Exhibit 39-A as an exhibit. And we will offer 39-B as a court exhibit only.

MS. SINGH: No objection, Your Honor.

THE COURT: Received.

(Exhibit 39-A was received in evidence)

MS. KEENA: I would like to play it at this time.

THE COURT: Proceed.

(Whereupon, digital recording was played of April 17, 2003 interview)

THE COURT: Why don't we break for lunch. We will start at 1:15.

(Lunch break was taken)

* * * *

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THE COURT: Have a seat.

BY MS. KEENA:

Q Mr. Kreager, during the April 17, 2003 interview with Mr. Vance, during the interview it was indicated that you guys were going to go back and talk to him the next day. Did you do that?
A Yes, we did.
Q So that was on April 18, 2003?
A That's correct.
Q Did you interview Mr. Vance on that date?
A Yes, I did.
Q Was that interview recorded?
A Yes, it was.
Q Who was present at that interview?
A Captain Daniel Vujovich of the South St. Paul Police

Department, myself, and Philip Vance.

MS. KEENA: Permission to approach, Your Honor?

THE COURT: You may.

(Exhibits 40-A and 40-B marked)

BY MS. KEENA:

Q Mr. Kreager, I am showing you what's been marked for identification as Exhibits 40-A and 40-B. Do you recognize those?
A Yes, I do.
Q What are they?
A Exhibit 40-A is a cassette recording of the interview between Mr. Vance, myself and Captain Vujovich on April 18, 2003. Exhibit 40-B is a transcript of that tape.
Q And these are copies of the originals?
A That's correct.
Q And there's redactions in each exhibit, is that correct?
A Yes.
Q And aside from those redactions, are they true and accurate copies of the originals?
A Yes, they are.

MS. KEENA: Your Honor, the state would offer Exhibit 40-A. And Exhibit 40-B is a court exhibit only.

THE COURT: Any objection?

MS. SINGH: No objection.

THE COURT: Received.

(Exhibit 40-A was received in evidence)

MS. KEENA: Your Honor, I'm going to play the tape at this time. First I am going to pass out transcripts.

(Whereupon, cassette tape was played of April 18, 2003 interview)

BY MS. KEENA:

Q During the January 23, 2003 phone call and this last April 18th interview with Mr. Vance, there was discussion had about a blue Corsica?
A That is correct.
Q Through your investigation were you able to track down a blue Corsica?
A Yes, I was.
Q Would you please explain what investigation you did? How you came to this car.
A I reinterviewed the women that he was talking about that lived in Eagan on Rahn Road, Amy Drager and Yvonne White. I interviewed them a couple of different occasions at the apartment there. At the second interview --

MR. SHANDS: Your Honor, I am going to object to this sort of testimony as a narrative. I'd ask that questions be asked of this witness.

THE COURT: Okay.

BY MS. KEENA:

Q So after you interviewed Yvonne White and Amy Drager, what

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Q When you were interviewing Mr. Vance, while you were talking about the situation at Sabreen's, where you were interrogating him, sometimes you would bring out pictures of the dead body. Isn't that true?
A That is true.
Q You bring that out because you want to show him that dead body, hoping for some sympathy or hoping that will jog his -- hoping that would make him confess. Isn't that true?
A The pictures are used to stimulate an emotional response.
Q Now when you were interviewing Mr. Vance, you were involved with interviews more -- I will ask you, did you interview Mr. Vance or involved in any interrogation with Mr. Vance other than the tapes that we've heard?
A Possibly. I am not sure if there's more tapes to be introduced that I am on.
Q Were you aware that Mr. Vance was interviewed by law enforcement officers more than the tapes that we've heard today? Or the tapes that we heard yesterday also?
A I do not have an exact accounting as to how many interviews are on record.
Q So were there interviews that weren't on record?
A No.
Q Now during your investigation of the Sabreen's homicide, isn't it true that you received information about other people that possibly committed this crime?

A Yes.
Q You received information that other people possibly committed this crime. And during the course of this investigation, isn't it true that you authorized deals to be given to other people in exchange for information that Mr. Vance may have said something about this crime while he was in jail?
A I did not.
Q You didn't authorize it?
A No, sir.
Q Did you know that it was happening?
A Yes, sir.
Q Now during part of this investigation or when you were interrogating Mr. Vance, especially during the January period, Mr. Vance was not in custody, isn't that correct?
A That's correct.
Q Mr. Vance never tried to abscond from St. Paul or leave or get away without telling you, did he?
A No.
Q In fact, Mr. Vance cooperated with you, whenever you wanted to interview him, he cooperated with the interview, correct?
A Yes, he did.
Q On April 17th of 2003 you interviewed Mr. Vance. Do you remember that interview?
A I believe so.
Q Mr. Vance wasn't in custody at that point, is that correct?

MS. KEENA: Do you need to refresh your recollection?
MR. SHANDS: If it would help you to look at your notes, go ahead.
MS. KEENA: Your Honor, could we approach for just a minute?
THE COURT: Yes.
(OFF RECORD DISCUSSION)

BY MR. SHANDS:

Q Officer Kreager, when you interviewed him on the 17th, that interview was done at a law enforcement facility, is that correct?
A Yes, it was.
Q When you interviewed Mr. Vance did you ever give him a breathalyzer or a PBT to determine if he had been drinking before the interview?
A I never did.
Q Do you know if any of your other fellow officers did?
A I have no knowledge of that.
Q Now with your understanding of Mr. Vance's drinking habits, when you talked to him, you never questioned whether or not he was sober when you interviewed him?
A I did not.
Q Now when you were interrogating Mr. Vance, you indicated that other people were given incentives or deals for people

you mentioned was Hennessy. Do you remember that part of the interrogation?
A I'm sorry, could you rephrase all of that?
Q You indicated to Mr. Vance that you already had Hennessy, and that Hennessy was already cutting a deal, and that Mr. Vance should be thinking about his own butt.
MS. KEENA: I am going to object, Your Honor. I don't recall that being in. Maybe they could point it out. I don't recall that being the contents of any of the interviews.
THE COURT: Maybe you could show in the transcript.
MR. SHANDS: You testified that, you know, you are aware that there are other people that had been accused of this crime.
MS. KEENA: Objection, Your Honor. I don't think he's -- oh, I'm sorry, I withdraw that.
THE COURT: Okay.

BY MR. SHANDS:

Q You testified that you knew that there were other people that had been accused of this crime or had been investigated for -- investigated as a suspect in the Sabreen's robbery and homicide, is that correct?
A Yes.
Q And isn't it true that some of those people actually lived in the South Metro area?

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on?
A The car was recovered in the middle of July, 2003.
Q Does this picture of the car accurately reflect what it looked like at the time that you found it?
A Basically, yes. It has been sealed with evidence stickers, but aside from that, it is in the condition I found it.
MS. KEENA: For the record, I am showing Exhibit 41 to counsel.
MR. SHANDS: Can I voir dire the witness?
THE COURT: Yes.
BY MR. SHANDS:
Q Officer Kreager, this picture also indicates that there shows a key in the trunk of the vehicle. Was the key in the trunk of the vehicle when you found it in the lot first?
A I don't recall.
Q So basically you don't recall if the key was in the trunk of the vehicle?
A No.
Q Did you inspect the vehicle when you first saw it?
A Visually from a distance.
Q Okay.
MR. SHANDS: I object to the photograph, Your Honor, as not ---
THE COURT: Why don't you come up.
(OFF RECORD DISCUSSION)

THE COURT: Overruled, and Exhibit 41 is received.
(Exhibit No. 41 was received in evidence.)
MS. KEENA: Your Honor, may I publish this to the jury?
THE COURT: You may.
BY MS. KEENA:
Q During one of the interviews it was mentioned that there was a surveillance system at Sabreen's. Was there in fact a surveillance system at Sabreen's?
A Yes, there was.
Q During the course of your investigation did you check the surveillance system for the night of December 22, 2002?
A Yes, I did.
Q What did you do in that regard?
A The closed circuit TV and the video monitor were clearly still functioning and powered on. There was a video recorder attached remotely to it. That was basically a VCR recorder.
Q Did you find a tape in the recorder?
A There was a tape in the recorder. The recorder was not powered on.
Q So did you review the tape?
A Yes, I did.
Q Was there any events at all from December 22nd of 2002 on

that tape?
A There were not.
Q Was there a date on the tape?
A The tape was time stamped.
Q When was it from?
A Approximately two months prior.
MS. KEENA: I have no further questions, Your Honor.
CROSS-EXAMINATION
BY MR. SHANDS:
Q Now, Officer Kreager, you testified that you spent -- on the tape you specified that you spent over 500 man hours on the case?
A I believe I did refer to that figure.
Q Is that accurate?
A I am not sure.
Q You spent a lot of time on this case, correct?
A Yes, sir.
Q And you spent -- not only the South St. Paul Police Department was involved in this, but you had the Alcohol, Tobacco and Firearms, they were involved in it, correct?
A Correct.
Q You had assistance of the Minnesota Gang Task Force involved in it, correct?
A Yes.
Q You have been an officer for over twenty years, correct?

A Yes, sir.
Q During your training as an officer, you have gone to schools where they teach you interrogation tactics, is that correct?
A Yes.
Q They teach you how to use *good cop, bad cop*, correct? Is that one of the techniques they use?
A I never heard that in any school that I have been to.
Q Why don't you tell me some of the techniques that you have been taught about.
A I have been to the Reid School for that technique of interviewing. I have had, I believe, two other interview classes by other experts in the field that have their own similar style technique close to Reid. And I've had in-field training by more experienced investigators.
Q Now you referred to the Reid Technique. What is that? Is that the *good cop, bad cop* that I was referring to?
A I've never had anybody train me in a *good cop, bad cop* scenario.
Q The scenario I am talking about is one cop comes in and he's more of an aggressive cop. He does screaming up and down. He's mean, he's more direct. Then you have another police officer that comes through and he tries to make a -- he makes contact with the individual that's being interrogated and tries to make a connection with him, like, you know, that they can talk to him. The other guy is mean and I can understand why

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you wouldn't want to, but you can talk to the other one. And that's one way that they try to elicit information from him. Is that a technique? Is that the Reid Technique?

A No, it is not.

Q Why don't you tell me what the Reid Technique is.

MS. KEENA: Your Honor, I am going to object as to relevance.

THE COURT: Overruled.

THE WITNESS: The Reid Technique usually revolves around a single interviewer with a single suspect, trying to establish initially some type of rapport, searching for some common ground with the individual you are trying to interview. Then at some point you're introducing the evidence to the suspect to demonstrate the contradictions or the strength of the situation that the investigator has.

BY MR. SHANDS:

Q Okay. And you do that to -- you're trying to get a confession, correct?

A Yes, sir.

Q Now you used that technique on Mr. Vance, is that correct?

A In a form, yes, sir.

Q You interviewed Mr. Vance over all the hours of tape that we've heard so far and you were trying to get him to confess to the crime, isn't that true?

A No.

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MS. KEENA: Your Honor, I am going to object. May we approach?

THE COURT: Yes.

(OFF RECORD DISCUSSION)

BY MR. SHANDS:

Q Officer Kreager, you testified that you used the Reid Technique on Mr. Vance?

A Of sorts. I used parts of that technique that have proven successful for me in the past.

Q When confronted with the Sabreen's robbery/homicide, Mr. Vance emphatically denied doing it, correct?

A He made denials.

Q He made denials that he didn't know who else did?

A Correct.

Q Now you confronted Mr. Vance with the possibility that you were going to go down and get the surveillance from Sabreen's, is that correct?

A Correct.

Q And you told him, you know, this was his only time to confess and come clean because when you got the tape it was going to show all, correct?

A Correct.

Q You also told him that you had fingerprints, you had ammunition, you had the shells, and he better come clean because you're going to test it all, correct?

A Correct.

Q And if you didn't come clean then, that the DNA was going to come back and show that it was Mr. Vance, correct? Or, the fingerprints -- I'm sorry.

A To that affect.

Q Okay. Now in fact we know Mr. Vance is not on any surveillances at the store, correct?

A Correct.

Q We know that they did not find any shoeprints that fit the shoes that Mr. Vance was wearing at the store?

MS. KEENA: Your Honor, I am going object to that question as to foundation.

THE COURT: Well, you can ask him if he's aware of any foot impressions that were taken.

MR. SHANDS: Okay.

BY MR. SHANDS:

Q Are you aware of any foot impressions that were taken at the crime scene?

A Yes, there were.

Q None of those came back and matched up to Mr. Vance?

MS. KEENA: Your Honor, I am going to object to that as to foundation.

THE COURT: Well, I think you can ask him if he is aware if there was any match.

BY MR. SHANDS:

Q Are you aware if there was any match?

A I am not aware of any.

Q Are you aware that they found tire track impressions in the back of Sabreen's?

A Yes.

Q Are you aware if they attempted to match those tire tracks to the blue Corsica that Ms. Rauschnot used to own?

A I was not part of that part of the investigation.

Q I am asking you if you are aware that they did it?

MS. KEENA: Your Honor, I am going to object. Asked and answered.

THE COURT: It is.

BY MR. SHANDS:

Q Officer Kreager, you were asked some questions at the end of one of the audios we heard this morning. The audio was the one where you questioned -- whoever was doing the interrogation left the room and the audiotape was left on, and it picked up Mr. Vance talking. Do you remember that?

A Yes.

Q Okay. Is that a technique that you use in interrogation where you get up and you leave the room and you leave the tape recorder going in hopes that whoever you are interviewing will make some incriminating statements?

A Yes.

Q So when that happened, that was not done by accident?

A Again, I have no knowledge if it was done intentionally or not at that time.

Q But that is an interrogation technique?

A It is a possible technique.

Q Now you also use a technique by telling Mr. Vance that Stacks, or Mr. Johnson, had already began to confess and that it was going to draw Mr. Vance in. So Mr. Vance should probably come clean now to try to save his skin. Isn't that correct?

A Off the top of my head, I don't recall saying that.

Q You used the technique to tell Mr. Vance if he tells you it was an accident, he can get a deal. He can maybe get, you know, manslaughter, three, four years. But if he doesn't, it's going to go down as premeditation. That's a technique you use to get someone to give you information that may incriminate them, is that correct?

A Yes.

Q Ands you used that with Mr. Vance?

A Yes.

Q Did you also use a technique where you interrogate Mr. Vance over a long period of time, you use multiple people to kind of wear him down, to get him tired.

A There were longer interviews with several officers participating, yes.

Q And one of the purposes of having that sort of interrogation,

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the hope is that the person will get tired after multiple people have interviewed him about the same stuff and eventually they will break down and elicit and give you incriminating information?

A The point of any interview is to learn the truth.

Q And you accomplished your point.

MS. KEENA: Objection. Argumentative.

THE COURT: Well, overruled.

THE WITNESS: Would you restate it for me?

BY MR. SHANDS:

Q You accomplished your point. You say the purpose of any interrogation is to get to the truth.

MS. KEENA: Your Honor, I'm objecting --

THE COURT: Maybe you could rephrase it.

MS. KEENA: Could we approach so I can clarify what the --

THE COURT: Yes.

(OFF RECORD DISCUSSION)

MR. SHANDS: I have no further questions, Your Honor.

MS. KEENA: Just a few follow-up questions, Your Honor.

REDIRECT EXAMINATION

BY MS. KEENA:

Q Mr. Kreager, one of the questions that was asked of you on

cross was that in using the Reid Technique, that you are trying to get a confession, and you indicated *no*. What are you trying to do during the interview?

A During an interview you're trying to elicit facts that establish the truth, be those facts that prove the suspect was a participant in the incident or to prove that he was not, and I can focus my attention on someone that is.

Q One of the other questions you were asked about was whether you or any of the officers submitted Mr. Vance to a PBT. First of all, could you just explain what a PBT is briefly?

A It's a generic term for a preliminary breath test, to test the alcohol in one person's system on their breath.

Q And during the interviews that you were involved in with Mr. Vance, was there any indication that he was under the influence of anything?

A No. We were pretty sure he wasn't.

Q Why was that?

A He had been -- most of the time he had been under observation.

THE COURT: Can you come up?

(OFF RECORD DISCUSSION)

THE COURT: Go ahead.

BY MS. KEENA:

Q You can finish your answer.

A He had been in a controlled setting under observation for

numerous hours before we spoke with him.

Q You were asked about the Reid Technique and what the Reid Technique is. As part of the Reid Technique, are you also taught to look for body signals from the person that you are interviewing?

A Body language is a good portion of what's taught during the Reid Technique.

Q What does the Reid Technique teach you in that regard?

A That there are human traits that when they're under stress -- and typically stress from trying to think of an untruth -- human nature is certain body movements are quite reactive to that, and there are things that you look for to try and establish if you are receiving a truthful statement at that time.

Q So what type of body movements would be indicative of deception?

A Subtle ones from the direction that the interviewee's eyes go when he's speaking, where his eyes go when the interviewer is speaking. Body language, which is fairly well known, such as crossing arms, crossing legs, drawing themselves into a more defensive position, positions that are more open, which indicate the party's more likely to be truthful, more relaxed positions where they are open and expressive.

Q So in applying your training in the Reid Technique, what type of signals was Mr. Vance sending you during the course of these interviews?

A They were not consistent with open honesty.

MS. KEENA: I have no further questions.

MR. SHANDS: Just a few, Your Honor.

THE COURT: Yes.

RECROSS EXAMINATION

BY MR. SHANDS:

Q So is it your testimony that when you were interrogating Mr. Vance you were only seeking to get information and not seeking to get a confession?

A Yes.

Q So you're telling this jury that when you were sitting there and you were interrogating Mr. Vance, that you weren't trying to get him to confess to any crime?

MS. KEENA: Objection, asked and answered and argumentative.

THE COURT: He answered it. Sustained.

BY MR. SHANDS:

Q Now you talked about the Reid Technique. Now when you were interviewing Mr. Vance, you had the resources to get a video camera, and not only have these interviews audio-taped, but also video-taped, is that true?

A It could have been possible.

MS. KEENA: Your Honor, could we approach real briefly on that point?

THE COURT: Yes.

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(OFF RECORD DISCUSSION)

BY MR. SHANDS:

Q When you interrogated Mr. Vance, you let him know that he was being interrogated for a homicide, isn't that correct?

A Yes.

Q Okay. Isn't it true that most people who are being investigatedas a suspect in a homicide would be nervous?

A Yes.

MR. SHANDS: I have no further questions.

MS. KEENA: Again, with the Reid Technique, though, in your training are you taught to take that into account?

THE WITNESS: Yes.

MS. KEENA: Nothing further, Your Honor.

MR. SHANDS: I have nothing further.

THE COURT: Thank you.

THE WITNESS: Thank you.

(Witness excused)

MS. KEENA: Shall we take a break?

THE COURT: Break time.

(Afternoon break was taken.)

MS. KEENA: The state calls Daniel Vujovich.

DANIEL VUJOVICH,

being duly sworn, was examined and testified under oath as follows:

THE CLERK: For the record, please state your full name, spelling your last name.

THE WITNESS: Daniel Vujovich, V-U-J-O-V-I-C-H.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. KEENA:

Q Good afternoon.

A Good afternoon.

Q Captain Vujovich, what's your current employment position?

A I am employed by the City of South St. Paul in the police department. I am the captain in charge of operations, patrol, and investigations.

Q How long have you been with the South St. Paul Police Department?

A About 25 years.

Q Has that been your entire law enforcement career?

A Yes.

Q You are a licensed peace officer in the state of Minnesota?

A Yes, I am.

Q Were you employed in your current position on December 22, 2002?

A Yes.

Q On that date did you become involved in the investigation of the robbery/homicide at Sabreen's?

A Yes, I did.

Q Where is Sabreen's located?

A It's located at 345 Fourth Avenue South in South St. Paul.

Q That's in Dakota County?

A Yes.

Q Have you been responsible for overseeing the investigation of this case?

A Yes, I have.

Q Drawing your attention to early on in the investigation, did you receive leads on potential suspects from he Minnesota Gang Strike Force?

A Yes, I did.

Q And what information was that?

A The first information we had was from an informant that the Minnesota Gang Strike Force had. Colleen McManus had called and said that the night before, on the 22nd, two individuals were in the Buttery Bar where she's employed and a man, later identified as Mr. Vance, was making comments that were suspicious to her.

Q What other information did you receive?

A He was saying that "he had really screwed up this time, that things were over, and he didn't mean it to go off, and just meant to scare him." While he was doing so, he was kind of

holding his hand out illustrating as if he had a weapon.

MR. SHANDS: Objection, Your Honor, hearsay.

THE COURT: Why don't you come up.

(OFF RECORD DISCUSSION)

BY MS. KEENA:

Q Captain Vujovich, that was the information from Colleen McManus. Was there information that Minnesota Gang Strike Force advised you of from another witness?

A Yes, a Melissa Stites.

Q And from that information you indicated -- you mentioned Philip Vance's name?

A Yes.

Q In developing this information, did you obtain a physical description of Mr. Vance?

A Yes, we did.

Q How did you get that information?

A I believe it was off a computer printout that we had at our office.

Q Where does the computer printout information come from?

A It was off a booking sheet from a prior arrest.

Q And what was the listed height of Mr. Vance?

A Five foot nine.

Q Did you do the same thing for Mr. Johnson?

A Yes.

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Q What was the listed height of Mr. Johnson?
A Five foot seven.
MR. SHANDS: Objection, Your Honor, calls for hearsay.
THE COURT: Overruled.
BY MS. KEENA:
Q I'm sorry, what was the height of Mr. Johnson?
A Five foot seven.
Q I would like to draw your attention to January 3, 2003. On that date were you involved in an undercover operation involving Melissa Stites?
A I was involved, yes.
Q And we've heard from a number of witnesses already in that regard. Were you able to monitor the conversation between Mr. Vance and Melissa Stites?
A Yes.
Q While you were monitoring the conversation between the two, was there anything said about guns?
A Yes.
Q What was said in that regard?
A Melissa Stites had the conversation about how many weapons, how many guns he had. He commented that he had four of them. Then the conversation turned to "When was the last time he had used one?" and, he said, *I believe it was about two weeks ago prior, over on the south side, and that he gave an*

individual five to the back.
Q Was there any other conversation?
A When he said he *gave him five to the back*, he said, "*Five to the back with my Winchester.*"
Q During the course of your investigation were there any search warrants executed?
A Pardon me?
Q Were there any search warrants executed?
A Yes, there were.
Q Was there a search warrant executed at 291 Birmingham, Apartment 2, in St. Paul?
A Yes.
Q On what day was that search warrant executed?
A January 9th.
Q Of what year?
A Of 2003.
Q Who resided at that apartment at the time?
A Terynthia Simms and Shawna Vance.
Q What is Shawna Vance's relationship to Philip Vance?
A It would be his sister.
Q In the course of the investigation did you conduct interviews of Philip Vance?
A Yes, I did.
Q And you were involved in a number of them with Detective Kreager, is that correct?

A Yes.
MS. KEENA: Permission to approach, Your Honor?
THE COURT: You may.
(Exhibit Nos. 42-A and 42-B were marked for identification)
BY MS. KEENA:
Q Captain Vujovich, I am showing you what's been marked for identification as Exhibits 42-A and 42-B. Do you recognize those items?
A Yes.
Q And what are they?
A A copy of an audiotape, Philip Vance's statement from April 21st. And this would be the transcript.
Q What year was that taken?
A 2003.
Q And these aren't the originals, correct?
A No, they are not.
Q There's redactions made in both 42-A and 42-B, is that correct?
A Yes.
Q Aside from those redactions, is the tape and the transcript the same as the originals?
A Yes.
Q Who participated with you in this April 21st interview?
A It would be Agent Dave Nygren from ATF and myself.

Q Thank you.
MS. KEENA: Your Honor, at this time the state would offer Exhibit 42-A as an actual exhibit, and Exhibit 42-B as a court exhibit.
THE COURT: Received.
(Exhibit 42-A was received in evidence.)
MS. KEENA: For the record, Your Honor, I will pass out transcripts.
(Whereupon, cassette tape was played of April 21, 2003 interview)
BY MS. KEENA:
Q Captain Vujovich, you had one more opportunity to interview Mr. Vance following this interview, is that correct?
A Yes, we did.
Q Do you recall the date of that interview?
A It would have been June 18th, and it was Detective Kreager and I.
Q That was 2003?
A Yes.
Q And was that interview recorded?
A Yes, it was.
(Exhibit Nos. 43-A and 43-B were marked for identification.)

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BY MS. KEENA:

Q Captain Vujovich, I am showing you an exhibit that's been marked as 43-A and an exhibit marked as 43-B. Was this interview digitally recorded?

A Yes, it was.

Q So Exhibit 43-A is a CD, correct?

A Yes.

Q Does that contain the June 18th interview?

A Yes, it does.

Q What's Exhibit 43-B?

A That would be a transcript. Again, redacted as the previous one.

Q Are the redactions made on the CD as well?

A Yes.

Q Besides those redactions, are these accurate duplicates of the originals?

A Yes.

MS. KEENA: Your Honor, the state would offer Exhibit 43-A, and would offer Exhibit 43-B as a court exhibit only.

THE COURT: Received.

(Exhibit No. 43-A was received in evidence.)

MS. KEENA: Your Honor, I would like to play the disk. For the record, I am going to pass out transcripts.

THE COURT: Go ahead.

(Whereupon, digital recording was played of June 18, 2003 interview)

THE COURT: This would be a good time to break.

MS. KEENA: Excellent.

THE COURT: 9:00 tomorrow we will start. Remember, don't talk to anyone about it. Don't watch the news.

(Adjourned at 4:35 p.m.)

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STATE OF MINNESOTA — DISTRICT COURT
COUNTY OF DAKOTA — FIRST JUDICIAL DISTRICT

State of Minnesota, — File No. K6-04-000736
Plaintiff,
vs.
Philip Randall Vance, — VOLUME 3 (October 1 and 4, 2004)
Defendant.

The above-entitled matter came duly on for Jury Trial before the Honorable Rex D. Stacey, one of the Judges of the above-named Court, commencing on September 20, 2004, at the Dakota County Judicial Center, City of Hastings, County of Dakota, State of Minnesota.

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APPEARANCES

KATHRYN M. KEENA, Assistant Dakota County Attorney, Dakota County Judicial Center, 1560 Highway 55, Hastings, Minnesota, 55033, appeared representing the State.

CEAN F. SHANDS, Assistant Public Defender, and NITU K. SINGH, Assistant Public Defender, appeared as counsel for and on behalf of the defendant.

THE DEFENDANT appeared personally.

COPY

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44 - Aerial Photo	360	361	361
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(Whereupon, the following proceedings were duly had of record October 1, 2004:)

MR. SHANDS: Your Honor, at this time I -- well, yesterday I had indicated to the Court concern that Keitha --

MS. SINGH: McKinney.

MR. SHANDS: -- that Keitha McKinney had testified. She was represented. She had been arrested. I had some concern. I had further found out -- I did call her attorney, who I -- Ira Whitlock represented Ms. McKinney. He represented her when she was arrested. He indicated to me that he still represents her. In fact, he represents her on another matter. He was not contacted by the County Attorney's Office.

It's our position that evidence -- that her testimony is evidence that should not have been in this trial. We believe that prejudices Mr. Vance. At this time we'd make a motion for a mistrial.

MS. KEENA: I am totally confused by this motion. I don't understand why the defense feels that they -- the rights that we're talking about are Keitha McKinney's rights, and it's Keitha McKinney's risk when she gets up on the stand in that anything she says can be used against her in any future court proceedings.

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She doesn't get to take the stand in front of the jury and be advised that she has the right to remain silent as a suspect in front of the jury. That isn't the way it works. We do that outside the presence of the jury. They're her rights; I discussed them with her. She told me she talked to her attorney. I told her what testimony I was going to elicit from her. She indicated to me that she would proceed without her attorney, without me granting her any use immunity.

So I -- the State doesn't understand what the issue is here. And there's no -- it doesn't affect this trial in any way, shape, or form.

MR. SHANDS: Your Honor, the issue here is that there was testimony that was brought up that was improperly brought into the courtroom. The Court is to advise Ms. McKinney of her rights. It doesn't have to happen in front of the jury.

THE COURT: Why didn't you ask me to do that?

MR. SHANDS: Because I didn't --

THE COURT: I don't know this case. I don't have all the reports.

MR. SHANDS: Your Honor, I didn't know Keitha McKinney was their next witness. Keitha McKinney came in here and got on the stand. I didn't know that Ms. Keena was out there talking to her about her

rights, about use immunity. She hits the stand, and if the Court remembers, she was on the stand for approximately 30 seconds. I have no -- I'm sitting there, she pops up, I don't know, and I'm thinking about it.

The point is we have improper testimony in Mr. Vance's trial. I think --

THE COURT: It's not improper testimony.

MR. SHANDS: Ms. McKinney -- Ms. McKinney was approached as a witness; her attorney was not approached. We don't know if her rights were read to her. We don't know what she -- what -- I don't know what was said. I know what's been said by Ms. Keena. It didn't happen in the courtroom; it happened somewhere else.

I'm making the motion. The Court can deny it. I want the record to be clear that we think that testimony was improperly admitted in Mr. Vance's trial. We think it prejudices him, and we're making the motion for a mistrial.

THE COURT: Denied.

Anything else before we continue?

MS. KEENA: Not by the State, Your Honor.

MR. SHANDS: How about the -- we also have other witnesses.

THE COURT: Richard Robinson and Yvonne White?

MR. SHANDS: Yvonne White -- I'm anticipating as the State's -- as they're putting their case in, I think she should be advised of her rights. You know, some of the people on the witness list -- I don't know who Ms. Keena's calling. She hasn't called everyone on her witness list. You know, maybe she can inform the Court of who she's going to call. She doesn't have to tell us. The Court may want to look at the situation to see if they need to be advised of their attorney.

THE COURT: Okay. And I think I told you yesterday Arlene Perkkio called and wants to be present when Troy Crawford -- and would like to talk to Troy Crawford prior to his testifying.

Okay. Then can we continue?

MR. SHANDS: Yeah.

THE COURT: Bring them in.

(The jury returned to the courtroom.)

DANIEL VUJOVICH

CONTINUED DIRECT EXAMINATION

BY MS. KEENA:

Q. Captain Vujovich, during the course of your investigation, were you down in the area of St. Paul where The Buttery bar and the Madisson bar are located?

A. Yes, I was.

Q. And how far apart are those two bars?

A. About a block, block and a half.

Q. During your investigation, did you determine what the distance is between that vicinity of St. Paul where the bars are located and Sabreen's?

A. Yes, I did.

Q. And what's the distance?

A. It's approximately 5.4 miles.

Q. During your investigation, did you ever drive that route and time it?

A. Yes, I did.

Q. And what route did you take?

A. I left from the vicinity of The Buttery bar, went south on Robert to Concord, and then I continued on Concord into South St. Paul southbound. And when I got to Grand Avenue, I made a westbound turn, followed that up a hill, where I made a southbound turn on to Third Avenue, continued on to Third Street, where I made a right-hand turn. So I continued westbound and made a quick left-hand turn to continue southbound in the alley behind Sabreen's.

Q. And do you recall how many -- how many stoplights there are in that route you took?

A. I counted 12.

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Q. And how many stoplights did you hit a red light at?
A. Four of them.
Q. And when you drove it, how long did it take you?
A. Approximately 12 minutes.
MS. KEENA: Permission to approach, Your Honor?
THE COURT: You may.
(Exhibit Number 44 was marked for identification.)
THE CLERK: Exhibit 44 marked for identification.
BY MS. KEENA:
Q. Captain, I'm showing you what's been marked for identification as Exhibit 44. Do you recognize that?
A. I do.
Q. And what's that -- what is it?
A. It's an aerial photograph of the area surrounding Sabreen's store which was taken by Sergeant Gringo of our department.
Q. And does this picture accurately reflect the area around Sabreen's as it existed on December 22nd, 2002?
A. Yes.
Q. Now I note that there's two notations on the picture contained in white boxes. One -- could you just please describe what those are?

A. One has a notation of Sabreen's, 345 Fourth Avenue South. The other one has a notation of 141 Fourth Avenue South.
Q. And during your investigation, did you determine who lived at the 141 Fourth Avenue South address --
A. We did.
Q. -- as of December 22nd, 2002?
A. Yes, we did.
Q. And who resided there?
A. Keitha McKinney, and a friend of hers was staying there by the name of Richard Robinson.
MS. KEENA: For the record, I'm showing Exhibit 44 to Counsel.
Your Honor, the State would offer Exhibit 44.
MR. SHANDS: No objection, Your Honor.
THE COURT: Received.
BY MS. KEENA:
Q. Captain, I'm going to hand you Exhibit 44 again. Could you describe how far apart those two locations are, the 141 Fourth Avenue South and Sabreen's?
A. Approximately a block to a block and a half.
Q. And there's an alley that runs behind Sabreen's. Is that correct?
A. Yes.
Q. And does that alley run all the way straight through

past the 141 Fourth Avenue South address?
A. Yes, it does.
Q. Thank you.
MS. KEENA: Your Honor, may I publish this to the jury?
THE COURT: You may.
(Exhibit displayed to the jury.)
BY MS. KEENA:
Q. Captain, did the South St. Paul Police Department issue any press releases during the course of this investigation?
A. Yes, they did.
Q. In any of those press releases, did your department release any information about the items that were reported taken from the store?
A. Other than the -- there was a -- cash that was in the articles. No mention of any other items.
Q. So there was no mention of the lottery tickets?
A. No.
Q. Was there any mention of a cordless phone?
A. No.
Q. Was there any mention of the white bags?
A. No.
Q. And was there any mention of the cigarettes?
A. No.

Q. While this case has been going on, have you been retaining newspaper articles?
A. We've retained them via the Internet, off the Web page. We have those articles.
Q. And have you reviewed all of those articles?
A. I have and Sergeant Oeffling has also.
Q. And in those -- and from what newspapers have you been doing that from?
A. St. Paul Pioneer Press and the Minneapolis Star and Tribune.
Q. And in any of the articles that you've seen, has there been any information about those missing articles I just described?
A. No.
MS. KEENA: I have no further questions, Your Honor.
MR. SHANDS: Thank you, Your Honor.
CROSS-EXAMINATION
BY MR. SHANDS:
Q. Captain Vujovich, you talked to Mr. Vance during your interviews about articles at the store that were missing. Isn't that correct?
A. Yes.
Q. You talked to Mr. Vance about the cordless phone. Is that correct?

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A. I don't specifically recall. I may have.
Q. Isn't it true you talked to Mr. Vance about the plastic bags?
A. Yes.
Q. Isn't it true you talked to Mr. Vance about the cigarettes?
A. I'm sorry. What?
Q. About the cigarettes.
A. Yes.
Q. Officer Vujovich, do you have problems hearing?
A. I do have slight hearing loss, yes. If you would speak up, I'd appreciate it a little bit.
Q. I'm sorry.
A. Thank you.
Q. Now during the time that -- well, on the sting operation with Melissa Stites, you sat in on that. Correct?
A. Yes, I did.
Q. And at that time you had hearing loss also. Isn't that correct?
A. I do.
Q. Okay. Now, you testified that you heard over -- well, let me go back.

What kind of hearing device did you have to listen to the conversation between Melissa Stites and

Mr. Vance?
A. It's a hand pack, similar like to a walkie-talkie.
Q. Okay.
A. You know, if you describe it like that. And it's transmitted over that.
Q. All right. Now, you testified that you heard Mr. Vance mention the south side and -- well, he said the south side with a Winchester. Is that correct?
A. Yes.
Q. Okay. Now, Mr. Vance later told you he was speaking about a Fabian Wilson, and he talked about maybe he was talking about the south side of Chicago on Winchester Street. Is that correct? Do you remember that information?
A. He told me 45th and Winchester.
Q. 45th and Winchester. Now, you didn't check to see if there was a Winchester on the south side of Chicago, did you?
A. There is, according to the MapQuest.
Q. Okay. So you checked MapQuest and there was --
A. Yes.
Q. -- a Winchester on the south side of Chicago?
A. Yes.
Q. Now being the head investigator on this case, you were in a position to give inducements to witnesses in

exchange for -- in exchange for their information. Is that correct?

MS. KEENA: Objection. What's the definition of "inducement"? I'm not sure the officer understands what that means.

BY MR. SHANDS:
Q. Do you understand what an inducement is?
A. I don't know -- I don't understand what your meaning of it is.
Q. What's your meaning of "inducement"? What's your understanding of it?
A. We could make a recommendation -- if they had a pending case, we could make a recommendation to the attorneys that they were cooperating with us.
Q. Okay. In effect, you've made some recommendations to attorneys on people on this case. Isn't that a correct -- well, let me be more specific. Isn't it true that in exchange for information -- in exchange for information from Eric Griffin, you have -- you told -- you've promised him that you would talk to the prosecuting authorities of Ramsey County about dismissing a third-degree controlled substance crime case?
A. I told him we would. I have not spoken to an attorney there yet.

Q. But that's what you told him you would do if he came in and testified. Correct?
A. We would let them know that he was helping us out, yes.
Q. Isn't it true that you authorize -- or talked to the prosecuting authority, which in this case would be Dakota County, that in exchange for Dontay Reese's testimony --

MS. KEENA: Your Honor, I'm going to object. May we approach?

THE COURT: Okay.

(Off-the-record bench discussion.)

BY MR. SHANDS:
Q. Now Officer Vujovich, isn't it true that Dontay Reese, in exchange for his testimony, there is agreement that he would receive a 36-month decrease on his sentencing for a criminal sexual conduct charge in the second degree?

MS. KEENA: Objection, Your Honor. Can we approach?

THE COURT: Yeah.

(Off-the-record bench discussion.)

THE COURT: Was that question answered?

MR. SHANDS: I don't believe so, Your Honor.

BY MR. SHANDS:
Q. Officer Vujovich, you've -- are you familiar with a

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Geronimo Estrada?
A. Yes, I am.
Q. And you're familiar with Mr. Estrada because he had a -- he had his girlfriend contact you to indicate to you that he had some information on this case. Is that correct?
A. Yes.
Q. And with Mr. Estrada, did you authorize or tell Mr. Estrada about any inducements or exchanges you would give him in exchange for his testimony?
A. It was not for an exchange for his testimony. I did give him funds for his inconvenience for phone bills.
Q. You gave him funds for his phone bills. Do you remember how much?
A. I think at this point approximately $400 over time.
Q. So you've given him 400 bucks -- $400 for his phone bills, not his testimony?
A. To cover his phone calls, yes.
Q. Mr. Estrada contacted you. Isn't that correct?
A. Pardon me?
Q. Well Mr. Estrada, he contacted your department or he had his girlfriend contact your department.
A. Right, through his girlfriend, wife.
MR. SHANDS: I have no further questions, Your Honor.

MS. KEENA: Just a few follow-up, Your Honor.

REDIRECT EXAMINATION

BY MS. KEENA:
Q. Captain Vujovich, pointing your attention back to the undercover operation where you heard the conversation between Mr. Vance and Melissa Stites, you were asked about the comment about southside and Winchester. What was -- in the context of that conversation, was there any discussion about the city of Chicago?
A. No.
Q. Was there any discussion about Fabian Wilson?
A. No.
Q. What was the discussion about?
A. It was talking about -- the conversation was directed towards guns and when was the last time he had used one.
Q. In regards to what Dontay Reese and the inducement for Dontay Reese, how did Dontay Reese become known to you as a potential witness?
A. One of our officers received a call from an inmate from the Dakota County Jail indicating that he had information in this case, and when we met with him, he suggested that we speak with Dontay Reese.
Q. And the inmate that called your department, he was -- he was in the jail at the time, but where does he

typically reside?
A. He lives about a block away from Sabreen's store to the south of it.
Q. So after you received that information, did somebody go talk to Dontay Reese?
A. Sergeant Oeffling and I did, yes.
Q. And what was his initial reaction when you came and spoke to him?
A. He looked at us and said, "I don't want to talk about it."
Q. But he eventually did.
A. He eventually ended up calling our department and was in contact with Sergeant Oeffling.
Q. And did he tell you who he had to call before he called you?
A. (No response.)
Q. In making the decision to --
A. When making his decision, yes, he contacted his mother, his father, and I believe his attorney.
Q. In regards to Geronimo Estrada, did he ever ask you for anything in exchange for his cooperation in this case?
A. No.
Q. Why did your department -- well, first let's explain, he was housed in the Ramsey County Workhouse at the time he reported. Is that correct?

A. Yes.
Q. When inmates are making phone calls out of the jail, is there an expense for that?
A. Yes, there is. They're collect calls.
Q. So whoever's receiving the phone call has to pay for it. Correct?
A. Yes.
MR. SHANDS: Objection, Your Honor. Calls for speculation in this case.
THE COURT: Overruled.
BY MS. KEENA:
Q. So what was the impetus -- or why did you give him this money for these phone calls?
A. Well, the short story of it is that he has a young child with his wife; he's not employed. He was at Ramsey County Workhouse. His wife was working in a pizza restaurant, and the calls were starting to build up when he was calling home. The expense were there, and we helped him out so he could continue to call his family and also that he could call us if he needed to.
Q. After Mr. Estrada came forward, are you aware of any difficulties that he had in the Ramsey County Workhouse?
MR. SHANDS: Objection, Your Honor. Irrelevant.

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THE COURT: Overruled.

THE WITNESS: He had an incident where he was assaulted that he thought could be in connection with this case.

BY MS. KEENA:

Q. And in recalling the -- I believe it was the June 18th statement of Mr. Vance yesterday, did you -- you mentioned to Mr. Vance during that interview about -- you didn't name Mr. Estrada, but you mentioned that there was someone in the jail that had information. Is that correct?

MR. SHANDS: Objection, Your Honor. Leading. Counsel's testifying.

THE COURT: Sustained.

BY MS. KEENA:

Q. During the June 18th interview, did you tell Mr. Vance that you had additional information?

A. Yes.

Q. And was -- and what was that information?

A. We had heard thirdhand that --

MR. SHANDS: Objection, Your Honor. Hearsay.

THE COURT: Overruled.

BY MS. KEENA:

Q. You may continue.

A. Okay. We had heard thirdhand that another individual that was with Mr. Vance may have been the actual shooter in this case, so we wanted to present that information to Mr. Vance to see what his response would be.

Q. In regards to Mr. Estrada, did you tell him about that information on June 18th, without mentioning Mr. Estrada's name? That you had additional information from an inmate.

A. We told Mr. Vance that, yes.

Q. Yeah. Okay.

What happened to Mr. -- you indicated Mr. Estrada was assaulted while in jail.

A. (Nodding.)

Q. What happened then?

A. We requested the Ramsey County Workhouse to put him into protective custody for his safety.

Q. And did they do that?

A. Yes, they did.

Q. And what does "protective custody" in the workhouse mean?

A. Basically it's segregation from the other inmates and very limited contact with anyone else.

Q. And how often do they get out of their cell when they're in segregation?

MR. SHANDS: Objection, Your Honor. Calls for speculation. Irrelevant.

THE COURT: Well, do you know?

THE WITNESS: I'm sorry, can you repeat the --

BY MS. KEENA:

Q. When they're in segregation like that -- well, in Mr. Estrada's case, do you know how often he would get out of his cell?

A. I don't know. It was just described to me as limited.

MS. KEENA: I have nothing further, Your Honor.

MR. SHANDS: Just briefly, Your Honor.

RE-CROSS EXAMINATION

BY MR. SHANDS:

Q. Now, you talked -- you spoke to Mr. -- you spoke to Mr. Estrada that you had obtained information that someone else other than Mr. Vance was the shooter at Sabreen's?

A. Not from Mr. Estrada.

Q. I know you didn't receive it from Mr. Estrada, but that was the information you received. Isn't that correct?

A. Yes.

Q. Yes. The money that you gave Mr. Estrada was for him to be able to use the telephone at no expense to other people. Is that correct?

A. No expense to his family, yes.

Q. You weren't with Mr. Estrada and looked at every phone call and only gave him money for the phone calls that went to his home, did you?

A. No.

Q. Okay. So basically when they submitted or if they ask for money for phone expenses, you gave it to them, but you don't -- but you didn't verify who he called.

A. No.

Q. So the phone call money was just for that, phone calls.

A. That's what I gave it to him for.

Q. Isn't it true that Dontay Reese would refuse to talk to you when you first came to him about this case?

A. He said he did not want to talk to us, yes.

Q. He refused to talk to you.

MS. KEENA: Objection. Asked and answered.

THE COURT: Okay. Go ahead.

BY MR. SHANDS:

Q. But after you spoke about the possibilities of what you can do with him, then he spoke to you?

A. He contacted Sergeant Oeffling on his own, yes.

MR. SHANDS: I have no further questions, Your Honor.

FURTHER REDIRECT EXAMINATION

BY MS. KEENA:

Q. Captain Vujovich, you indicated that in the June 18th statement that you had received information that someone other than Vance was the shooter.

A. Yes.

Q. Did you track that information down?

A. Sergeant Oeffling followed up on that, and to the best of our ability.

Q. And what were the results of that part of the investigation?

MR. SHANDS: Objection, Your Honor. It calls for hearsay.

THE COURT: Would -- Oeffling's going to testify. Right?

MS. KEENA: He opened it. He asked him about it, so I should be able to follow up.

MR. SHANDS: Can we approach?

THE COURT: Okay.

(Off-the-record bench discussion.)

THE COURT: Objection --

MS. KEENA: Captain --

THE COURT: Sorry. Objection's overruled. Go ahead.

BY MS. KEENA:

Q. Captain Vujovich, the information that you received, you indicated that it was followed up on.

A. Yes.

Q. And what was the nature of that information? Who did it come from?

A. It came from -- do you want the name specifically?

Q. Yes.

A. It was through Eugene O'Connor, who received it through Regina Hagerman --

MR. SHANDS: Objection, Your Honor --

THE COURT: Overruled.

THE WITNESS: -- who received it through Vanessa Franko.

BY MS. KEENA:

Q. So -- and who was -- who were they indicating that the shooter was?

A. Dominic Johnson.

MS. KEENA: I have no further questions.

FURTHER RECROSS EXAMINATION

BY MR. SHANDS:

Q. Did Mr. Estrada indicate to you that there were other people present when he -- when he spoke with Mr. Vance?

MS. KEENA: Your Honor, I'm going to object. That's outside the scope of the redirect.

THE COURT: Overruled.

THE WITNESS: He said there were other people present, yes.

BY MR. SHANDS:

Q. Okay. And when Mr. Estrada was in the workhouse, Ramsey County Workhouse, there were other people in the workhouse besides Mr. Vance that were being investigated for the Sabreen's robbery. Isn't that correct?

A. I don't know if that individual was there at that time or not.

Q. I'm not speaking of that individual. There were other people at the Ramsey County Workhouse besides Mr. Vance that you -- that was -- that you suspect was involved in the Sabreen's robbery. Is that correct?

MS. KEENA: Your Honor, I'm going to object. Can we approach, please?

THE COURT: Okay.

(Off-the-record bench discussion.)

MR. SHANDS: I have no further questions, Your Honor.

FURTHER REDIRECT EXAMINATION

BY MS. KEENA:

Q. Captain Vujovich, did you attempt to talk to the other people that were present during the conversations that

Mr. Estrada reported to you?

A. We did talk to one person that was there, yes.

Q. And was that person cooperative?

A. No.

MS. KEENA: I have nothing further.

FURTHER RECROSS EXAMINATION

BY MR. SHANDS:

Q. When you say that person wasn't cooperative, that means they didn't talk to you.

A. Did but had no comments about that.

MR. SHANDS: Okay. I have no further questions.

MS. KEENA: Nothing further.

THE COURT: Thank you.

(The witness was excused.)

MS. KEENA: Can we take a short break so I can line up who's here and who's not?

THE COURT: Okay. Ten minutes?

(The jury exited the courtroom.)

(A short recess was taken.)

(The jury returned to the courtroom.)

THE CLERK: Please step forward to be sworn. Please raise your right hand.

(The oath was administered.)

THE CLERK: Please have a seat.

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For the record, please state your full name, spelling your first and last name.

THE WITNESS: Regina Hagerman. R-E-G-I-N-A, H-A-G-E-R-M-A-N.

THE CLERK: Thank you.

REGINA HAGERMAN,

having been first duly sworn, was examined and testified on her oath as follows:

DIRECT EXAMINATION

BY MS. KEENA:

Q. Good morning.

A. Good morning.

Q. Ms. Hagerman, do you know an individual by the nickname of Florida?

A. Yes.

Q. And is the person that you know by that nickname present in the courtroom today?

A. Yes.

Q. Where is he at?

A. (Indicating.) Right there.

MS. KEENA: May the record reflect that Ms. Hagerman has identified the defendant, Philip Vance?

THE COURT: It may.

BY MS. KEENA:

Q. How do you know Mr. Vance?

A. He used to go out with my niece.

Q. And what's her name?

A. Darlene Jones.

Q. And is -- who's your mother?

A. Jacqueline Ezell.

Q. I would like to draw your attention to January of 2003. Did Mr. Vance come to your house during that month?

A. Yes.

Q. And when did he come there?

A. The day before the Super Bowl.

Q. So it was a Saturday?

A. I think so.

Q. Was that the first time you had met Mr. Vance?

A. Yes.

Q. What was he doing at your house that day?

A. Visiting my niece, drinking and talking.

Q. And how long was he at your house that day?

A. About five, six hours.

Q. And while he was at your house, did he say anything about a murder?

A. Yes.

Q. What did he say?

A. He just said he was under investigation for a murder.

Q. And did he say anything else?

A. That him and his friend did it. That's it.

Q. Did he say anything about the investigation itself?

A. No.

Q. Did he say anything about the police?

A. No.

MS. KEENA: Just one moment, Your Honor.

THE COURT: Okay.

BY MS. KEENA:

Q. When he told you this, what was his demeanor?

A. He was drunk.

Q. Was he acting drunk or did you think he was really drunk?

MR. SHANDS: Objection, Your Honor.

THE COURT: Overruled.

THE WITNESS: Do I answer?

BY MS. KEENA:

Q. Yeah.

A. I don't know because I had just met him, so I don't know.

Q. Did you notice anything else about his demeanor, how he was acting?

A. Strange. I don't know.

Q. What do you mean by "strange"?

MR. SHANDS: Objection, Your Honor. calls

for speculation.

THE COURT: Overruled.

THE WITNESS: I really can't explain. He was just drunk, laughing. I don't know.

BY MS. KEENA:

Q. You testified in the grand jury in this matter. Correct?

A. Yeah.

MS. KEENA: Permission to approach, Your Honor?

THE COURT: (Nodding.)

MR. SHANDS: Your --

MS. KEENA: Ms. Hagerman --

MR. SHANDS: Your Honor, I'm going to object at this point.

THE COURT: Why don't you come up.

(Off-the-record bench discussion.)

BY MS. KEENA:

Q. Ms. Hagerman, again, you testified at the grand jury back in March it was, I believe --

A. Yeah.

Q. -- correct? And earlier -- this is a copy of your grand jury testimony. Okay?

A. Yes.

Q. And I want you to use this to refresh your memory.

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A. Okay.
Q. Okay? Now earlier I asked you about whether or not he indicated that the police had said anything -- or that they said anything about the police. I just want you to read through this.
A. Which part?
Q. Right here.
A. Read that?
Q. No, just read it to yourself to refresh your memory.
A. (Pause.) All right.
Q. Okay. So when Mr. Vance was over there that day, did he say anything about the police and the investigation?
A. He said this (indicating).
Q. Okay. What did he say? Don't read it; just what you remember.
A. I don't remember.
Q. (Indicating.)
A. Oh, what I just read. He said he was under investigation but -- I don't remember. And they wasn't -- under investigation and they wasn't going to be able to prove it.
Q. And would it help if I gave you your initial interview to refresh your memory?
A. It might.
Q. Ms. Hagerman, I'm showing you a transcript of the

interview that the police conducted of you on April 23rd, 2003. Okay?
A. (Nodding.)
Q. (Indicating.)
A. (Pause.) I don't remember that. (Pause.)
Q. Do you remember that?
A. (Nodding.)
Q. Okay. So this statement was taken over a year ago. Right?
A. Yeah.
Q. You're having a little trouble remembering this morning?
A. Yeah, this is early.
Q. Okay. So does that refresh your memory? Asking you the question again, did he say anything about the police and the investigation?
A. He just said he was under investigation for a murder him and his friend committed, but he had good lawyers and they wasn't coming up with nothing, the police.
Q. Okay.
A. Am I done?
Q. Nope. The other question I had asked you was about his demeanor, and I'm going to show you your grand jury testimony again. So I'm just going to ask you to review this again.

A. (Pause.)
Q. So you indicated that he was acting drunk?
A. Yes.
Q. Okay. And strange?
A. Yes.
Q. And you answered this -- did you think he was serious when he told you that?
A. I don't know.
Q. You don't know?
A. I had just met him, so --
Q. Okay.

MS. KEENA: I have no further questions, Your Honor.

MR. SHANDS: Just briefly, Your Honor.

CROSS-EXAMINATION

BY MR. SHANDS:
Q. Ms. Hagerman, Mr. Vance had been at your house for approximately about five hours. Correct?
A. Yes.
Q. Okay. And during that time, he had been drinking alcohol.
A. Right.
Q. Okay. And he was drunk.
A. Correct.
Q. And isn't it true that when you told him that -- when

he told you that him and a friend did it, you thought that he was trying to be hard. Isn't that correct?
A. It was like he was bragging about something.
Q. Right. He was sitting there bragging --

MS. KEENA: Objection, Your Honor.

THE COURT: Sustained. Go ahead.

BY MR. SHANDS:
Q. Can you tell me what you -- can you tell me what "trying to be hard" means to you?
A. Bragging, stuff like that.
Q. Isn't it true "trying to be hard" is trying to impress other people?
A. Yes.
Q. Okay. Mr. Vance didn't talk about any details.
A. No.
Q. But he said they would not be able to prove it. Is that correct?
A. Correct.
Q. And this -- and I just want to make sure: This was the day before the Super Bowl?
A. Yes.
Q. Okay. And that was -- was that at the end of January or was it in February?
A. I don't remember.
Q. You don't remember --

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A. I don't watch it.
Q. Okay.
MR. SHANDS: I have no further questions.
REDIRECT EXAMINATION
BY MS. KEENA:
Q. Ms. Hagerman, when he -- he told you that they were under investigation -- that he was under investigation for a murder. Correct?
A. Correct.
Q. And you were asked questions about -- you indicated that he was bragging. Correct?
A. Correct.
Q. Did what he tell you impress you?
A. I don't know who --
MR. SHANDS: Objection, Your Honor. Objection. Question calls for speculation.
THE COURT: Overruled.
BY MS. KEENA:
Q. Did that impress you?
A. I don't know who -- no, I don't know who he was trying to impress.
MS. KEENA: I have no further questions, Your Honor.
MR. SHANDS: I have no further questions.
THE COURT: Thank you.

(The witness was excused.)
THE CLERK: Please step forward to be sworn.
(The oath was administered.)
THE CLERK: Please have a seat.
For the record, please state your full name, spelling your first and last name.
THE WITNESS: Eric Griffin. E-R-I-C, G-R-I-F-F-I-N.
THE CLERK: Thank you.
ERIC GRIFFIN,
having been first duly sworn, was examined and testified on his oath as follows:
DIRECT EXAMINATION
BY MS. KEENA:
Q. Good morning, Mr. Griffin.
A. Good morning.
Q. As a preliminary matter, I would like to briefly review your criminal history. You have a conviction for nonsupport, failure to pay child support, from October of '97 and a conviction for controlled substance crime in the fifth degree from March of 2000. Is that correct?
A. Yes.
Q. I'd also like to review with you what you're receiving in exchange for your cooperation in this case. Okay?

A. Yes.
Q. It's my understanding that you have a pending drug charge in Ramsey County. Is that correct?
A. Yes.
Q. And that the arresting agency was the Minnesota Gang Strike Force, and they have agreed to recommend to the prosecutor that that drug charge be dismissed for your cooperation. Is that correct?
A. Yes.
Q. Do you know two individuals with the nicknames of Florida and Stacks?
A. Yes.
Q. And is the person that you know as Florida present in the courtroom today?
A. Yes.
Q. And where is he at?
A. (Indicating.)
MS. KEENA: May the record reflect that the witness has identified Philip Vance?
THE COURT: It may.
BY MS. KEENA:
Q. How long have you known Mr. Vance?
A. Maybe about two years.
Q. And how long have you known Stacks or -- do you know Stacks' real name?

A. No.
Q. How long have you known Stacks?
A. Maybe about the same.
Q. How would you describe your relationship with Mr. Vance?
A. Okay -- okay friends, I guess.
Q. How often would you see each other?
A. Pretty much about maybe three, four times a week.
Q. And where would you typically see him?
A. Downtown St. Paul.
Q. I would like to draw your attention to the evening of December 22nd, 2002. Are you familiar with The Buttery bar?
A. Yes.
Q. And where is that located?
A. Downtown St. Paul.
Q. And were you at The Buttery that evening?
A. Yes.
Q. What time did you arrive?
A. Around 10:00.
Q. And did you go there by yourself?
A. Yes.
Q. While you were at The Buttery that night, did you see Mr. Vance and Stacks?
A. Yes.

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Q. Did they arrive after you or were they already in the bar --
A. After.
Q. They arrived after you.
A. Yes.
Q. Did you speak with Mr. Vance that night?
A. Yes.
Q. And where were you at in the bar when you were talking to him?
A. At the bar just with my back toward the window.
Q. What was Mr. Vance's demeanor that night when you were talking to him?
A. Just kind of wild, you know, from drinking.
Q. Do you recall what he was wearing that night?
A. Black hooded sweater and dark blue jeans.
Q. And in describing the blue jeans, were they a tight-fitting jean? A loose-fitting jean?
A. Loose fitting.
Q. When you spoke with Mr. Vance, was it just a one-on-one conversation or were there other people present?
A. Yes, there was other people present around me, but it was just me and him speaking, you know. They was on their own conversation.
Q. What was the substance of the conversation that you had with Mr. Vance?

A. We was talking about like robberies and stuff.
Q. And what did he tell you?
A. He said that he had did a robbery and it had gone bad, and the guy he was robbing, he had fucked him up.
Q. And did he indicate where this had occurred?
A. In South St. Paul.
Q. And you said that -- that he said he fucked him up?
A. Uh-huh.
Q. Did he say anything about who he robbed?
A. No.
Q. And did he say anything about where in South St. Paul this had occurred?
A. No.
Q. Do you know Dontay Reese?
A. No.
Q. Do you know Fabian Wilson?
A. No.
Q. Do you know Regina Hagerman?
A. No.
Q. Do you know Tyrone Crawford?
A. No.
Q. Do you know John Nunn?
A. No.
Q. Do you know Isaac Hodge?
A. No.

Q. Do you know Geronimo Estrada?
A. No.

MS. KEENA: I have no further questions.

MS. SINGH: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. SINGH:

Q. Mr. Griffin, you stated that you've known Mr. Vance for about two years now?
A. Yeah.
Q. So back in two thousand -- back in December of 2002, you'd only known him for a short amount of time?
A. Yeah.
Q. Now you stated that you used to see him about three or four times a week at that time.
A. Yeah.
Q. Okay. You also stated that that evening on the 22nd he had a black hooded sweatshirt and loose-fitting blue jeans on. Right?
A. Yeah.
Q. Now you saw Mr. Vance quite a few times during that time period. Correct?
A. Uh-huh.
Q. Is that a "yes"?
A. Yes.
Q. And was that a general outfit that he wore during the

times that you saw him?
A. He wore different outfits, you know.
Q. But he generally wore loose-fitted jeans?
A. Yeah.
Q. And he generally wore sweaters or hooded sweatshirts?
A. Yes.
Q. Now Mr. Griffin, you spoke to individuals from the Minnesota Gang Task Force. Is that correct?
A. Yes.
Q. And the first contact you had with them was January 5th of 2004. Correct?
A. I can't recall what date it was, the exact date.
Q. Okay. But your first contact with them, you spoke to them about having them help you get out of jail?
A. Yes.
Q. You were in custody for the offense of the controlled substance. Correct?
A. Yes.
Q. And that conversation -- the first conversation you had regarded having them help you out of jail?
A. Yes.
Q. And you told them you had information on this particular case, and you would only speak to them if they helped you get out of jail?
A. Yes.

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Q. And the Task Force people along with individuals from the South St. Paul Police Department told you that they would work on that for you.
A. Yes.
Q. And then they came back and spoke to you on another day?
A. Yes.
Q. And that's when they told you that they had spoken to the people and they were going to get you out of jail?
A. Yes.
Q. And that's when you gave them the information that you gave them?
A. Yes.
Q. Now you stated that when Mr. Vance told you he committed a robbery and he fucked him up -- those were the words that you used. Correctly [sic]?
A. Yes.
Q. Excuse me. You took that to mean he beat up the person. Correct?
A. Yes.
Q. And you didn't take him seriously that evening. Correct?
A. Yes.
Q. You stated that he was acting kind of wild and was drunk that night.

A. Yes.
Q. Now Mr. Griffin, you were drinking as well that evening. Correct?
A. Yes.

MS. SINGH: I have no further questions.

REDIRECT EXAMINATION

BY MS. KEENA:
Q. Mr. Griffin, how many drinks had you had prior to talking to Mr. Vance?
A. Well, maybe one or two.
Q. And you indicated that Mr. Vance wore different types of outfits as well?
A. Yes.
Q. What other types of outfits would he wear?
A. Just regular jeans or khakis, T-shirts.
Q. So you've seen him in lots of different types of clothing?
A. Yes.
Q. Mr. Griffin, was it easy for you to step forward and provide this information?

MR. SHANDS: Objection, Your Honor. Irrelevant.

THE COURT: Overruled.

THE WITNESS: Excuse me?

Never cross examined

BY MS. KEENA:
Q. Was it easy for you to step forward and provide this information to the Minnesota Gang Strike Force?
A. No.
Q. Have you had any negative consequences as a result of stepping forward?
A. Yes.
Q. What are they?
A. Well, I had to leave town.
Q. And why did you have to leave town?
A. Because I felt threatened.
Q. How so? What happened?
A. It was an incident that some guys pulled me over and asked me about --

MR. SHANDS: Objection, Your Honor. Beyond the scope of cross. Irrelevant.

THE COURT: Overruled.

THE WITNESS: These guys had pulled me over and asked me about Florida and Stacks, and once -- I didn't know who they was at first when they asked me to come to the car, and I didn't come to the car. And I asked them could they get out. The guy got out and he asked me a question. I can't really recall what it was. Then he asked me about Florida and Stacks, and then he proceeded to go to the --

MR. SHANDS: Objection, Your Honor. I'm going to object to this sort of testimony as being narrative. I'd ask that they ask questions.

THE COURT: Overruled.

THE WITNESS: And he asked me -- after I told him yeah, I knew who he was and he stepped from the car, it seemed like he was retrieving something from the guy in the back seat, and I took off running. And since then I had to pack up and move.

BY MS. KEENA:
Q. And you moved out of state?
A. Yes.

MS. KEENA: I have nothing further.

RE-CROSS EXAMINATION

BY MS. SINGH:
Q. Now Mr. Griffin, you've never been threatened by Mr. Vance. Isn't that correct?
A. No.

MS. SINGH: I have no further questions.

MS. KEENA: Nothing further.

THE COURT: Thank you. You can step down.

(The witness was excused.)

MS. KEENA: Your Honor, may we approach, please?

THE COURT: Come on up.

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(Off-the-record bench discussion.)
THE COURT: Break time.
(The jury exited the courtroom.)
(A short recess was taken.)
(The jury returned to the courtroom.)
MS. KEENA: Your Honor, the State would call Isaac Hodge as a witness.
THE CLERK: Would you please stop to be sworn? Please raise your right hand.
(The oath was administered.)
THE CLERK: You may be seated.
For the record, please state your full name, spelling your first and last name.
THE WITNESS: Isaac Hodge, III. Isaac, I-S-A-A-C. Last name Hodge, H-O-D-G-E, III.

ISAAC HODGE, III,

having been first duly sworn, was examined and testified on his oath as follows:

DIRECT EXAMINATION

BY MS. KEENA:

Q. Good morning, Mr. Hodge. As a preliminary matter, I would like to briefly review your criminal history. You have a 1997 and a 1998 conviction for controlled substance crime in the fifth degree?

A. Yes.

Q. Do you know an individual by the name of Philip Vance?

A. Yes.

Q. And the person that you know as Philip Vance, is he present in the courtroom today?

A. Yes.

Q. Where is he located?

A. Sitting over there (indicating).

MS. KEENA: May the record reflect that the witness has identified the defendant, Phillip Vance?

THE COURT: It may.

BY MS. KEENA:

Q. How do you know Mr. Vance?

A. I know him from Sherburne County. We were locked up together for a period of time.

Q. And do you recall what time period you were housed together?

A. I left Sherburne in July, so it was probably April, May, June, July somewhere.

Q. That was July of 2003 you left?

MR. SHANDS: Objection, Your Honor. Leading.

THE COURT: What year was it?

THE WITNESS: 2003 that I left.

BY MS. KEENA:

Q. During the time that you were housed together, did you get to know Mr. Vance?

A. We was having little conversations, you know, play volleyball, play cards, things like that.

Q. While you were housed with Mr. Vance, was there an occasion where he voiced some concern to you about seeing someone's picture in the paper?

A. Yeah, we was looking in the paper and we saw some guy in there -- do you know what I'm saying -- which was Cross, and he said, "Man, this dude put my name in some bullshit."

Q. And what was the person's name?

A. His last name was Cross. I don't know them all like that.

Q. Did -- after seeing that picture, did you engage in any conversation --

A. Yeah, we had a short conversation. Basically, you know, walked up and had a short conversation, you know. We were talking about -- he was telling me about -- he just basically said like a murder-robbery had happened.

Q. That he was involved in the murder-robbery?

A. Yeah, a murder-robbery.

Q. Did you have any other conversations regarding that?

A. He had came back from Kansas. I asked him why he came back from Kansas if he was in trouble. You know, he was just saying that basically he was involved in a murder-robbery or whatever. I was, like, "Man, why

would you come back from Kansas if people are looking for you?" He said, "To get some money."

Q. That was his response?

A. Yeah.

Q. What was it?

A. "To get some money."

Q. Did he tell you who else was involved in the murder-robbery?

A. No, he didn't get into no specific details about the incident or where it took place. He was basically saying that, you know, he was involved in a murder-robbery, meaning that, you know, someone got killed on a robbery.

Q. Did he say anything about the type of gun?

A. No, but he told me a couple of war stories. I know when he caught his federal case, it was a little gun. So I started joking he had a little gun on him, you know. At the time of the incident we were talking about that, he didn't directly state what type of gun it was.

Q. Okay. Mr. Hodge, have you received anything in exchange here for your testimony today?

A. No.

MS. KEENA: I have no further questions.

MS. SINGH: Thank you, Your Honor. If I

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could just have one minute.

THE COURT: Yep.

(Pause.)

CROSS-EXAMINATION

BY MS. SINGH:

Q. Mr. Hodge, the conversation that you are speaking of with Mr. Vance occurred after he saw a picture of a person in the paper. Is that correct?

A. Yes.

Q. And you stated that person's name was Cross, but you didn't know him?

A. No, I didn't know the dude.

Q. Mr. Vance told you that this Mr. Cross put him in some bullshit. Is that your testimony?

A. Yes.

Q. And then he told you that he was being investigated for a robbery-homicide.

A. Yes.

Q. Okay.

A. No, he said the dude put his name in some bullshit, but he didn't say he was being investigated for it. He said he was involved in it.

Q. Now Mr. Hodge, he never gave you any details about the gun or where the robbery occurred.

A. No.

MS. SINGH: I have no more questions, Your Honor.

REDIRECT EXAMINATION

BY MS. KEENA:

Q. Just so we're clear, Mr. Vance said he was involved in a robbery-murder.

A. Yes.

Q. Okay. Thank you.

A. Meaning that, you know, they robbed somebody and somebody got killed.

MR. SHANDS: Objection, Your Honor.

THE WITNESS: He said it wasn't worth it.

MR. SHANDS: Objection, Your Honor. Nonresponsive. Move to strike the witness's last statements.

THE COURT: Well --

MS. KEENA: I can ask follow-up questions.

THE COURT: Okay. I mean, it wasn't nonresponsive. It was --

MS. KEENA: More than we were expecting.

THE COURT: Yeah.

BY MS. KEENA:

Q. I'm sorry. You indicated that Mr. Vance said something else?

A. Yeah, like it wasn't worth it.

Q. That killing somebody wasn't worth it?

A. Yeah, because I guess the amount of money that was took wasn't worth it.

MS. KEENA: I have nothing further, Your Honor.

MS. SINGH: No more questions, Your Honor.

THE COURT: Thank you, Mr. Hodge.

(The witness was excused.)

MS. KEENA: Your Honor, may we approach, please?

THE COURT: Yeah.

(Off-the-record bench discussion.)

THE COURT: Okay. We're going to break for lunch and start again at 1:00, so you'll get a jump on everybody going to lunch in town.

And I want to -- I neglected to tell you prior to our having listened to a number of tapes that the attorneys, of course, have reviewed all the tapes, transcripts. "Redacted" means certain things that you don't need to hear are taken out. And I should have told you that right upfront, but now you know.

Thanks.

(The jury exited the courtroom.)

(Lunch recess.)

(The jury returned to the courtroom.)

MS. KEENA: Your Honor, the State would call Tyrone Crawford.

THE CLERK: Please stand to be sworn. Please raise your right hand.

(The oath was administered.)

THE CLERK: Please have a seat.

For the record, please state your full name, spelling your first and last name.

THE WITNESS: Tyrone Powell Crawford. T-Y-R-O-N-E, C-R-A-W-F-O-R-D.

THE CLERK: Thank you.

TYRONE CRAWFORD,

having been first duly sworn, was examined and testified on his oath as follows:

DIRECT EXAMINATION

BY MS. KEENA:

Q. Good afternoon, Mr. Crawford. As a preliminary matter, I would like to briefly review your criminal history. You have an October '98 conviction for check forgery and a February 2004 conviction for mail fraud. Is that correct?

A. Yes.

Q. From the time period of -- I'd like to point your attention to the time period of February 2002 until March of 2004. Were you housed at the Sherburne

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County Jail on the mail fraud charge?
A. Yes.
Q. Do you know an individual by the nickname of Florida?
A. Yes.
Q. And is the person that you know as Florida present in the courtroom today?
A. Yes.
Q. Where is he at?
A. Seated (indicating) right there.
MS. KEENA: May the record reflect that the witness has identified Philip Vance?
THE COURT: It may.
BY MS. KEENA:
Q. Mr. Crawford, I'm going to refer to him as Mr. Vance for my questioning. Okay?
A. (Nodding.)
Q. Did you have contact with Mr. Vance while you were incarcerated in the Sherburne County Jail?
A. Yes.
Q. Were the two of you housed together in the jail?
A. Yes.
Q. Approximately how long were you housed together?
A. Several months at a time. They were bouncing us around from different unit to different unit.
Q. While you were housed together, did you establish a

relationship with Mr. Vance as far as, you know, doing things with him, talking to him?
A. Yes, somewhat.
Q. While you were housed together, did Mr. Vance express or voice any concern to you after seeing a newspaper article?
A. Well, it was prior to the news article.
MR. SHANDS: Objection, Your Honor. Nonresponsive.
THE COURT: Overruled.
THE WITNESS: We had a conversation where we knew the -- a mutual person, and he was expressing concern about a situation that had -- that he had been into before, and he was concerned that he was going to be getting him into trouble with that. He wasn't quite sure who the person was, but I knew who he was. And he didn't know what he looked like; he just knew his name.
BY MS. KEENA:
Q. Okay. So then what happened next?
A. Well, I don't know what you mean by "what happened next."
Q. Well, getting to the newspaper article.
A. Oh. After the -- is it all right if I say his name?
Q. Yeah.
A. Monk, he had -- he had got in some trouble, and the

newspaper article had came out. And he had seen his picture and said, "Oh, yeah, I know him," you know, and --
Q. And could you -- do you know Monk's real name?
A. Maynard Cross.
Q. Okay. And -- so Mr. Vance indicated that he knew who that guy was?
A. Yes.
Q. And did he say anything about that?
A. Well, what he was concerned about is there was a robbery that happened that he had shot somebody, and at the time I thought he was just joking around about it or -- you know, a lot of people lie around there. And when the -- the news -- the thing come out in the news, I knew the stuff was real, you know. But what he was saying, though, is that Maynard Cross was going to testify against him about shooting somebody, you know, at a grocery store.
Q. So did Mr. Vance tell you that he was under investigation for a robbery and homicide?
A. He -- he didn't tell me he was under investigation, but he told me that it had happened. He didn't tell me, "I'm under investigation for it." He was just more concerned about him being under investigation about it because this was shortly after I had met him, so we

didn't go real into detail about it. He just said that it had happened.
Q. And did he tell you what he did?
A. He just told me he shot a guy at the grocery store, and he was concerned that that was going to come back on him.
Q. Did he give you any information on whether anyone else was involved?
A. No, he didn't.
Q. Did he -- when he spoke about this, did he use the pronoun that "I did this" or "we did this"?
A. When I say he didn't give any indication about anybody else, he didn't mention any names, but I was pretty sure that he didn't do it by his-self. He didn't mention anybody else's name.
Q. And what made you think that he didn't do it by himself?
A. Well, the nouns that you were referring to, "we," "us," things like that. But --
Q. Mr. Crawford, are you receiving anything in exchange for your cooperation in this case?
A. No.
MS. KEENA: I have no further questions.
MR. SHANDS: Just briefly, Your Honor.

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CROSS-EXAMINATION

BY MR. SHANDS:

Q. Mr. Crawford, you mentioned that he indicated to you that he was concerned with Maynard Cross telling the police or telling on him about this crime. Correct?

A. Yes.

Q. So he did indicate to you that he -- that Maynard Cross had some information about this crime.

A. Yes.

Q. He indicate -- and it's true that the information that he was worried that Maynard Cross had was very important.

A. Can you repeat --

Q. It was very important information --

A. Oh, yes.

Q. -- in regards to it.

A. Yes.

Q. Now you talked about in jail -- at first you didn't believe Mr. Vance when he told you about it. Correct?

A. Yes.

Q. Because people in jail, they're always talking about they're killing somebody or --

MS. KEENA: Objection, Your Honor.

THE COURT: Well, overruled.

BY MR. SHANDS:

Q. People in jail often talk about killing somebody or to make themselves look hard while they're in jail.

A. Yes.

Q. Can you explain to the jury -- when I say make them "look hard," make themselves "look hard," can you explain to the jury what that means.

A. Sometimes they brag about crimes and things that they committed to make themselves look so much more tougher than they really are.

Q. Okay. And is it true that they also brag about things that they didn't do or just mix things up to make them look tougher?

A. It's not just with violence. It's with money or anything. They just lie about their whole life, you know.

Q. Thank you.

MR. SHANDS: I have no further questions.

REDIRECT EXAMINATION

BY MS. KEENA:

Q. And just so we're clear, you initially thought that Mr. Vance was puffing?

A. Yes.

Q. And you changed that opinion?

A. Yes.

MS. KEENA: I have nothing further, Your Honor.

MR. SHANDS: I have nothing further.

THE COURT: Thank you, Mr. Crawford.

(The witness was excused.)

THE CLERK: Please step forward to be sworn. Please raise your right hand to be sworn.

(The oath was administered.)

THE CLERK: Please have a seat.

For the record, please state your full name, spelling your first and last name.

THE WITNESS: John Peter Nunn. J-O-H-N, N-U-N-N.

THE CLERK: Thank you.

JOHN P. NUNN,

having been first duly sworn, was examined and testified on his oath as follows:

DIRECT EXAMINATION

BY MS. KEENA:

Q. Good afternoon, Mr. Nunn. As a preliminary matter, I would like to briefly review your criminal history. You have a May 28th, 2003, conviction for conspiracy to distribute narcotics?

A. Yes.

Q. Mr. Nunn, [illegible]

Florida?

A. Yes.

Q. And the person that you know as Florida, is he present in the courtroom today?

A. Yes.

Q. Would you please --

A. (Indicating.)

Q. -- point out -- okay.

MS. KEENA: May the record reflect that the defendant has identified the defendant, Philip Vance?

THE COURT: It may.

BY MS. KEENA:

Q. How do you know Mr. Vance?

A. I was in the county jail with him and the Sandstone prison.

Q. And which county jail were you in with him?

A. Sherburne.

Q. And how did you initially meet Mr. Vance?

A. When I came in the county jail and moved into the unit that they moved -- that they was in, him and my nephew was friends.

Q. And your nephew is who?

A. Isaac Hodge.

Q. Did you have contact with Mr. Vance while you were [illegible] with him in [illegible] -- both facilities?

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A. In the county jail, we was in the same unit, and in Sandstone, we used to walk the yard together and play pool.
Q. During the time that you had contact with him, was there any conversation regarding a crime that Mr. Vance was being investigated for?
A. Yeah, in Sandstone.
Q. Would you please describe what that conversation was or what Mr. Vance told you?
A. Yeah. We was just walking the yard and discussing about a gun that was supposed to have been at somebody's house or something, a girl's house.
Q. Okay.
A. And a robbery.
Q. Okay. What did he say about the robbery?
A. That somebody had got murked in the robbery and that the gun that -- he was afraid of it being found.
Q. So did he -- did he tell you that he had committed this robbery?
MR. SHANDS: Objection, Your Honor.
THE WITNESS: Yeah.
MR. SHANDS: Leading.
THE COURT: Overruled. Go ahead.
BY MS. KEENA:
Q. Did he tell you that he committed this robbery?

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A. Yeah, it was just only me and him talking.
Q. Okay. And you used the term "murk," that he -- what did he say in that regard?
A. That somebody had got murked.
Q. And what does that mean?
A. To me it means two different ways: Somebody could have got hurt or got shot at, or somebody could have got shot and killed.
Q. And you said he was concerned about somebody finding the gun?
A. Yeah.
Q. Okay. What did he tell you in that regard?
A. That it was a twenty-two and that it was at some girl's house, and the reason why I know the area that he -- he was talking about the area, which I know because my son had used to live in that area.
Q. And what area was he talking about?
A. Maryland. Right off of Maryland and 35W.
Q. Okay.
A. Or 35E.
Q. Okay. Mr. Nunn, have you received anything in exchange for your testimony here today?
A. No.
MS. KEENA: I have no further questions.

CROSS-EXAMINATION
BY MR. SHANDS:
Q. Now Mr. Nunn, it's your testimony that Mr. Vance told you about a gun that he wanted to get. He was concerned about a gun that was over -- over near 35E and Maryland. When he was in the yard, he was concerned about this gun because he didn't want the authorities to find it. Correct?
A. Yeah.
Q. And he told -- in fact, he told you a street where it was. Correct?
A. No.
Q. He didn't tell you the street?
A. No, he described it, the area. That's how I know.
Q. Okay. And did you tell that to the police?
A. Yeah.
Q. Now you indicated -- is it your cousin, Isaac Hodge?
A. My nephew.
Q. Your nephew? Now he was in custody with Mr. Vance also during this time?
A. During the time that we had that conversation?
Q. Yeah.
A. No.
Q. When did you find out that --
A. We was in Sandstone when we had the conversation.

Q. Okay.
A. I met Vance in the county jail.
Q. Okay. Was your cousin at the county jail at the time when you met Vance?
A. My nephew.
Q. Your nephew?
A. Yeah, he was at the county jail. All of us was in the same block.
Q. Okay. Did you have occasion to talk to your cousin -- your nephew, I'm sorry -- your nephew when you were down at the county jail and all of you guys were together?
A. Yeah.
MS. KEENA: Could we --
MR. SHANDS: I have no further questions, Your Honor.

REDIRECT EXAMINATION
BY MS. KEENA:
Q. I just want to clarify what county jail we're talking about.
A. Sherburne County.
Q. Okay. You didn't have any conversation -- have you had any conversations with Isaac Hodge about this case?
A. No.
Q. And did you discuss your testimony with Isaac Hodge at

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all?
A. No.
MS. KEENA: I have nothing further, Your Honor.
RECROSS EXAMINATION
BY MR. SHANDS:
Q. Have you talked -- have you spoken with Isaac Hodge since the time that you guys were together in the county jail?
A. Yeah.
MR. SHANDS: I have no further questions, Your Honor.
FURTHER REDIRECT EXAMINATION
BY MS. KEENA:
Q. What did you guys talk about? Well, let me --
A. We --
Q. Let me put it to you this way: Did you talk about this case when you last spoke to Isaac Hodge?
A. No, because I didn't know nothing about I was being even called for a witness or nothing until just a few weeks ago, and I hadn't -- I hadn't talked to him since I've known that and now.
Q. Okay.
MS. KEENA: Nothing further.
MR. SHANDS: Nothing further, Your Honor.

THE COURT: Thank you, Mr. Nunn.
(The witness was excused.)
THE CLERK: Please step forward to be sworn. Please raise your right hand.
(The oath was administered.)
THE CLERK: Please have a seat.
For the record, please state your full name, spelling your first and last name.
THE WITNESS: Sanya Marie Clark. "Sanya" is spelled S-A-N-Y-A. "Clark" is spelled C-L-A-R-K.
THE CLERK: Thank you.
SANYA M. CLARK,
having been first duly sworn, was examined and testified on her oath as follows:
DIRECT EXAMINATION
BY MS. KEENA:
Q. Good afternoon, Ms. Clark. Ms. Clark, do you know Philip Vance?
A. Yes.
Q. And is he present in the courtroom today?
A. Yes.
Q. And could you point him out, please?
A. (Indicating.)
MS. KEENA: May the record reflect that the witness has identified Philip Vance?

THE COURT: It may.
BY MS. KEENA:
Q. How long have you known Philip Vance?
A. Six years.
Q. And how would you describe your relationship to Mr. Vance?
A. On-again, off-again love interest.
Q. And do you share a child in common?
A. Yes.
Q. Back in September of 2003, Mr. Vance was incarcerated in Sherburne County Jail. Is that correct?
A. Yep.
Q. And were you involved in sending letters on his behalf?
A. Yes.
Q. And those letters were being sent to Dominic Johnson?
A. Yep.
MS. KEENA: Permission to approach, Your Honor?
THE COURT: You may.
(Exhibit Number 45 was marked for identification.)
THE CLERK: Exhibit 45 marked for identification.
BY MS. KEENA:
Q. Does Mr. Vance write you letters?

A. Yes.
Q. Okay. So you're familiar with his handwriting?
A. Uh-huh. Yes.
Q. I'm showing you what's been marked for identification as Exhibit 45. And it's a letter -- or it contains a letter and an envelope. Do you recognize these items?
A. Uh-huh. Yeah.
Q. And the envelope has a return address, Sanya Clark. Is that correct?
A. Yep.
Q. And what's the date of this letter?
MR. SHANDS: Your Honor, I'm going to object. Can we --
THE COURT: Why don't you come up.
(Off-the-record bench discussion.)
BY MS. KEENA:
Q. So is this one of the letters that you sent to Dominic Johnson on behalf of Philip Vance?
A. Yeah.
Q. And you were doing this because you know that inmates in one facility can't send letters to inmates in another facility.
MR. SHANDS: Objection, Your Honor. Counsel's testifying.
THE WITNESS: Sorry.

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THE COURT: You can rephrase that.

BY MS. KEENA:

Q. Why were you sending these letters on Mr. Vance's behalf?

A. County jails that he was in were not able -- he wasn't able to send out to a different facility.

MS. KEENA: Okay. I have no further questions, Your Honor.

MR. SHANDS: I have no questions, Your Honor.

THE COURT: Thank you, Ms. Clark.

(The witness was excused.)

MS. KEENA: Your Honor, the State would call Phil Oeffling.

(The oath was administered.)

THE CLERK: Please have a seat.

For the record, please state your full name, spelling your first and last name.

THE WITNESS: Phillip, P-H-I-L-L-I-P, Nick, Oeffling is spelled O-E-F-F-L-I-N-G.

THE CLERK: Thank you.

PHILLIP N. OEFFLING,

having been first duly sworn, was examined and testified on his oath as follows:

DIRECT EXAMINATION

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BY MS. KEENA:

Q. Good afternoon.

A. Good afternoon.

Q. Where are you currently employed?

A. South St. Paul Police Department.

Q. And what position do you hold there?

A. I'm a sergeant currently assigned to investigations.

Q. And how long have you been employed in your current position?

A. Just about a year as investigator and ten years as an officer.

Q. And that's all with the South St. Paul Police Department?

A. Correct. Yep.

Q. Are you a licensed peace officer?

A. Yes, I am.

Q. I would like to draw your attention to the date of September 23rd, 2004. Did you have occasion to go out to the Minnesota Correctional Facility in Stillwater and engage in a search?

A. Yes, I did.

Q. Would you please describe how that came about?

A. Captain Vujovich had heard from a witness in this case, Regina Hagerman, that her fiance, who's also housed in Stillwater, had received a threat over her involvement

in this case. Reportedly that threat had come via a letter from the defendant to Dominic Johnson, who's also housed in Stillwater.

Q. And so did you go out --

A. I contacted the prison investigator and informed him what we'd been told, and he arranged for us to review all of Johnson's correspondence.

Q. And did you go out and do that?

A. Yes, I did.

Q. And did you find the -- a threatening letter concerning Regina Hagerman?

A. No.

Q. Did you find any other letters?

A. I did, yes.

MS. KEENA: Permission to approach, Your Honor?

THE COURT: You may.

(Exhibit Number 46 was marked for identification.)

THE CLERK: Exhibit 46 marked for identification.

BY MS. KEENA:

Q. I'm showing you what's been marked for identification as Exhibits 45 and 46. First drawing your attention to Exhibit 45, do you know what that item is?

A. That's the letter that I found at Stillwater.

Q. And this was found where?

A. The envelope -- the letter was with the envelope.

Q. And where in Stillwater was it?

A. Oh, I'm sorry. It was found in Dominic Johnson's cell and brought into an interview room, where I reviewed it.

Q. And I'm showing you Exhibit 46. Can you describe what that is.

A. It's a letter that was addressed -- the envelope, at least, was addressed to Dominic Johnson, and the letter is written to Dominic Johnson and signed by Florida Boy. And then on the back there's the defendant's information as to -- with instructions to write him back, to Johnson.

Q. And is item -- item 46, with the exception that some of the information's been redacted, is that a copy of the original that we're seeing in Exhibit 45?

A. Yes, it is.

Q. And that's an accurate copy?

A. Correct.

MS. KEENA: For the record, I'm showing Exhibit 46 to Counsel.

(Pause.)

MS. KEENA: Your Honor, the State would offer

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Exhibit 46.

MR. SHANDS: No objection.

THE COURT: Received.

BY MS. KEENA:

Q. Officer Oeffling, could you just read the first couple sentences here?

A. Of this paragraph here?

Q. Of this -- well, starting up --

A. Okay. It begins 10:23 p.m, lock-down, the date of 9/10 of '03. It reads, "What's up my nigga. I always somehow seem to find you -- find you last. See they got you in the Cloud. Damn." Continues, "Before I holler at you I'm going to let you know," and then in capital letters, "never, ever discuss the past."

MS. KEENA: Thank you. I have no further questions.

MR. SHANDS: I have no questions, Your Honor.

THE COURT: Thank you.

THE WITNESS: Thank you.

(The witness was excused.)

MS. KEENA: May we approach, Your Honor?

THE COURT: Yeah.

(Off-the-record bench discussion.)

THE COURT: Break time.

(The jury exited the courtroom.)

(A short recess was taken.)

(The jury returned to the courtroom.)

MS. KEENA: The State would call Dontay Reese.

THE CLERK: Please stand to be sworn. Please raise your right hand.

(The oath was administered.)

THE CLERK: Please have a seat.

For the record, please state your full name, spelling your first and last name.

THE WITNESS: Dontay Reese. D-O-N-T-A-Y, R-E-E-S-E.

THE CLERK: Thank you.

DONTAY REESE,

having been first duly sworn, was examined and testified on his oath as follows:

DIRECT EXAMINATION

BY MS. KEENA:

Q. Good afternoon, Mr. Reese.

A. (Nodding.)

Q. As a preliminary matter, I would like to briefly review your criminal history. You have a theft conviction from October of '99, a burglary from June of 2000, a controlled substance crime in the fifth degree from June of 2000, and a theft of a motor vehicle from

December of 2001. Is that correct?

A. Yeah.

Q. I'd also like to review as a preliminary matter what you're receiving in exchange for your cooperation in this case. Okay?

A. (Nodding.)

Q. You're currently awaiting sentencing on a felony case. Is that correct?

A. Right.

Q. And the prison sentence that you could possibly get is 98 months. Correct?

A. Right.

Q. And that my office has agreed to recommend to the sentencing judge that you be given a reduction of 36 months. Is that correct?

A. Right.

Q. Turning to the case at hand, do you know Philip Vance?

A. Yep.

Q. And is the person that you know as Philip Vance present in the courtroom today?

A. Yep.

Q. Where is he at?

A. (Indicating.)

MS. KEENA: May the record reflect that the witness has identified Philip Vance?

MR. SHANDS: Your Honor, maybe if we could have the witness be a little more specific who Mr. Vance is.

THE COURT: What's he wearing?

THE WITNESS: I ain't got my glasses, but it looks like a bone-colored shirt.

THE COURT: Okay. The record may reflect that he's identified Mr. Vance.

BY MS. KEENA:

Q. Mr. Reese, how long have you known Mr. Vance?

A. Five -- five, six years.

Q. And how did you initially meet him?

A. Downtown. Downtown St. Paul.

Q. And -- I'm sorry.

A. Shoot -- we were shooting dice and stuff, so I met him.

Q. Did you hang out with Mr. Vance?

A. Yeah, a couple times at bars mostly downtown.

Q. And how often would you get together with Mr. Vance?

A. Not -- I don't know. Every -- it's been a while, but every time we got together, it was probably once a week or something like that, every Friday, Saturday.

Q. Do you consider him a friend?

A. Yeah, it's -- yeah.

Q. Do you know Dominic Johnson?

A. No.

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Q. Do you know someone by the name -- nickname of Stacks?
A. Yeah.
Q. And how long have you known him?
A. About the same amount of time, take away a year.
Q. So --
A. About four years? Four years, five years, something like that.
Q. And how did you meet Stacks?
A. I met Stacks the same spot downtown doing the same thing.
Q. And so you did the same types of things with Stacks that did you with Mr. Vance?
A. Yes.
Q. When you were with Mr. Vance, was Stacks with you on those occasions as well?
A. Was Stacks with Vance? Yeah.
Q. So all three of you would be together?
A. Yes.
Q. How would you describe the relationship between Mr. Vance and Stacks?
A. Close. Real close. Like brothers.
Q. You were incarcerated in the Dakota County Jail this past year. Is that correct?
A. Right.
Q. While you were there, did you have contact with

Mr. Vance?
A. Yes.
Q. Was there a time when the two of you were housed in the same unit in the jail?
A. Yep, there was a couple times.
Q. And did you and Mr. Vance speak to each other?
A. Yep.
Q. During your conversations with Mr. Vance, did he tell you anything about the crime that he was charged with?
A. Yeah, he did.
Q. And did he tell you things in one conversation or was there several conversations?
A. It was -- it was -- it was a bunch of conversations on and off.
Q. And when did these conversations occur?
A. The first -- the first conversation was like five months ago. I don't really -- I don't really remember the time. It was about five, six months ago when I first went to max. And then after that -- do you know what I'm saying -- it was conversations when I got out of max and came back to max. It was conversations and people interrupting and stuff like that.
Q. So you're saying people interrupting you. Why was that important?
A. Because -- do you know what I'm saying -- you don't

want to talk about -- you don't want to talk about your case -- do you know what I'm saying -- around so many ears. And at the time -- do you know what I'm saying -- me and -- before this took place, me and Florida boy were kind of close, so he was able to tell me stuff. And then anybody that would come around, we'd cut the conversation dead or he would step in my room and the guard would be, like, get out of my room and we'd start the conversation back up later or something.
Q. As it relates to this case, what did Mr. Vance tell you?
A. Basically he -- well, the first conversation was him telling me that he -- he said he didn't do -- he said he didn't do what he did, and then I told him he ain't got to lie to me. And he said -- and then I brought up "Why are you wearing a mask" and stuff. And he said -- I said, "Why you wearing a mask if you're going" -- do you know what I'm saying -- "if you was going to kill the dude anyways?" That's when he was, like, "Well, it wasn't supposed to go down like that. Stacks" -- do you know what I'm saying -- he called him "Cuz" at the time. He said, "Cuz said my name and stuff."
Q. So let's back up a little bit. Were you aware of the -- did he tell you where this happened?

A. Not -- not at this point in time. Not this conversation.
Q. Okay. I'm sorry. Keep going with what you were saying.
A. Right. Well, he said -- he said -- anyway, he was, like, "Cuz said my name and it wasn't supposed to go down like that. I was zooted, I was drunk" -- do you know what I'm saying -- "and I gave the dude five. And then we got the money and got lit" -- do you know what I'm saying -- "They dropped us back off downtown."
Now I ain't know nothing about no -- nothing at this time. This is just the first conversation I remember.
Q. Okay. Did you have another conversation about it?
A. Uh-huh.
Q. That's a "yes"?
A. Yes. Yes. Sorry.
Q. What was said during the next conversation?
A. I'm not -- I don't remember how it went in order, but I mean as far as -- as far as him telling me that he was with the females and stuff like that, that all came -- that all came in the conversation we were talking about him, "E", which is John -- do you know what I'm saying -- about them doing something with some chicks at the little bar.

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Q. What's the little -- is there another name for the little bar?
A. No. Small bar.
Q. Do you know where it's at?
A. It's right next to the Radisson.
Q. Okay. So he told you that who -- who was at the -- at the little bar?
A. Him, "E", and Stacks.
Q. And I'm sorry. Who was "E"?
A. "E" is John.
Q. Okay. And then what did he tell you?
A. He was just telling me, okay, he was doing that with the chicks and whatever. They were supposed to get some money. And John -- they all left then because Stacks called these females, Yvonne and -- Yvonne and I think Tiffany or Nikki. I don't remember the name.
Q. I'm sorry. What were the names?
A. Yvonne was one I know, but I don't remember if it was Tiffany or Nikki. I don't remember the other one. But they called them -- they called them to get a ride to go out to -- to his cousin's house. He was going to use the money they used, not the checks, but they ended up using the money they were supposed to get off the checks because John ended up leaving with his BM, his babe, his girl. So -- do you know what I'm saying?

Q. Did he tell you anything else during this conversation?
A. I don't think it was the same conversation, no, but he did tell me other things -- do you know what I'm saying -- in other conversations.
Q. Okay. What else did he tell you?
A. He told me that him -- him and Stacks -- him and Cuz went out to Hennessey's house, met up with Troy.
Q. And who's Troy? Did he tell you who Troy was?
A. He's Troy.
Q. Okay. What else did he tell you?
A. He told me that him and Troy and Stacks and them, they went to the store, to the mom-and-pop store, and that's when -- do you know what I'm saying -- the first conversation just went into play with everything else he just said. Do you know what I'm saying?
Q. Who did he tell you went inside the store?
A. Him and -- him and Stacks, him and Cuz.
Q. And what did he tell you about what happened inside the store?
A. He told me it wasn't supposed to go down -- it wasn't supposed to go down the way it went down. He went in there to get some money, and Cuz ended up saying his name, so --
Q. When you say "Cuz" --
A. Stacks.

Q. That's Stacks?
A. Yeah. Stacks ended up saying his name, hollering -- do you know what I'm saying -- his name some type of way, and that's when he gave the dude five to the back of the head and they left. They got the money and left.
Q. And did he tell you what they did after they left?
A. They went to the -- they went back down -- they had the hos drop them back off down at the bar.
Q. That's how he described the girls?
A. Yeah.
Q. Did he say what happened with Troy?
A. He didn't say nothing about Troy going with them or leaving or anything.
Q. Did he say anything about Hennessey going with?
A. No.
Q. Did he tell you where the girls dropped them off?
A. Yeah, back at the bar. Not the little bar, though; at The Butter.
Q. Did he indicate to you the type of car that the girls had?
A. When he said -- when he said that there was -- him and Stacks had called -- him and Cuz had called the females to pick them up, that they was looking for a blue car. That was the car they was looking for.
Q. And did he mention the make of the car?

A. It had a "or" name, and I think he said Corsica or Accord or something like that. I don't remember.
Q. Did Mr. Vance say what type of gun he used to kill the clerk?
A. Yeah, deuce-deuce.
Q. A deuce-deuce?
A. Yeah. It's a twenty-two handgun.
Q. Did he tell you what he did with the gun?
A. Nope.
Q. Did he tell you anything about the whereabouts of this blue car?
A. That -- he just said the police got it.

MS. KEENA: I have no further questions, Your Honor.

MS. SINGH: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. SINGH:

Q. Mr. Reese, you spoke to the cop -- to the police officers on August 4th of 2004. Is that correct?
A. Yeah -- yeah, I believe so.
Q. That wasn't your first conversation with them. Is that correct?
A. Uh-uh.
Q. You spoke to them before that.
A. Right.

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Q. And when you first spoke to the police officers, you indicated you had no information regarding this crime.
A. Right.
Q. But after speaking with your family members and your lawyer, you changed your mind.
A. Right.
Q. And that's when the offer from the County Attorney's Office came back that they were going to give a sentencing recommendation to give you a reduction of sentence. Correct?
A. Yes.
Q. Now it's your testimony here today that Mr. Vance told you that he went to Hennessey's house. Is that correct?
A. Right.
Q. And you know Hennessey to be who?
A. Hennessey.
Q. Okay. You don't know his --
A. Ricky.
Q. -- given name. And you stated in your statement that when they went to Hennessey's house, that Troy was there.
A. Right.
Q. And you don't know who Troy is?
A. No.

Q. Okay. And then in your statement you also stated that from that point they went to the store.
A. Right.
Q. And you told the police officers that Troy got out of the car.
A. Right.
Q. And he was the lookout.
A. Right.
Q. And he went into the store to the back of the store.
A. Yeah, except he didn't go in the store; he was in the back of the store or around the store somewhere.
Q. He never went inside the store.
A. No.
Q. And it's your testimony here today that Mr. Vance told you that they went into the store and then came out and left.
A. Right.
Q. And that you don't know what happened to Troy after that.
A. Right.
Q. So Troy walked away?
A. Probably have to ask him that. I don't know.
Q. And when you -- you stated that Mr. Vance told you the type of gun it was was a deuce-deuce. Correct?
A. Yeah.

Q. Now, he didn't say it was a twenty-two.
A. No.
Q. He said deuce-deuce.
A. Right.
Q. You interpreted it to mean a twenty-two.
A. Yeah.
Q. Okay. Now you also stated that the -- Mr. Vance told you that he gave him five to the back of the head?
A. Right.
Q. And that he also told you that he was zooted?
A. Right.
Q. And that means to be drunk.
A. Right.
Q. Okay. And have you seen Mr. Vance drunk in the past?
A. Yes.
Q. And Mr. Reese, you didn't know the name of the store. The officers had to tell you the name of the store was Sabreen's. Correct?
A. Sabreen's?
Q. That's the name of the supermarket.
A. Yeah, I guess.
Q. Mr. Vance never told you that name.
A. No, he said -- pop store is what Mr. Vance said.
MS. SINGH: I have no more questions, Your Honor.

MS. KEENA: I just have one follow-up question.

REDIRECT EXAMINATION

BY MS. KEENA:
Q. Mr. Reese, before you made the decision to talk to the police about this case, did you talk to your mom and dad about it?
A. Yeah.
Q. And what did your dad tell you to do?
MR. SHANDS: Objection, Your Honor. Question calls for hearsay.
THE COURT: Sustained.
BY MS. KEENA:
Q. Did you seek counsel from your parents before you decided to come forward?
A. Right.
MS. KEENA: I have no further questions.
MS. SINGH: No questions, Your Honor.
THE COURT: Thank you, Mr. Reese.
(The witness was excused.)
MS. KEENA: I have to do a little equipment stuff before the next witness.
THE COURT: Well, let's take a break.
MS. KEENA: Like a 10-minute break?
(The jury exited the courtroom.)

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(A short recess was taken.)

(The jury returned to the courtroom.)

MS. KEENA: Your Honor, the State would call Geronimo Estrada.

THE CLERK: Please step forward and be sworn. Please raise your right hand.

(The oath was administered.)

THE CLERK: Please have a seat.

For the record, please state your full name, spelling your first and last name.

THE WITNESS: Geronimo Estrada.

G-E-R-O-N-I-M-O. Last name Estrada, E-S-T-R-A-D-A.

THE CLERK: Thank you.

GERONIMO ESTRADA,

having been first duly sworn, was examined and testified on his oath as follows:

DIRECT EXAMINATION

BY MS. KEENA:

Q. Good afternoon, Mr. Estrada. As a preliminary matter, I'd like to briefly review your criminal history. You have a fifth-degree controlled substance conviction from 2002, a second-degree controlled substance conviction from 2003, and an unauthorized use of a motor vehicle from March 8th of 2004.

A. That's correct.

Q. I would like to draw your attention to the time period of early February 2003. During that month, were you incarcerated at the Ramsey County Workhouse?

A. Yes, I was.

Q. While you were -- do you know Philip Vance?

A. I didn't know him until I met him in Dorm 100 at the workhouse.

Q. And did you know him as Philip Vance or by a nickname?

A. I got to know him by -- the name he used was Florida.

Q. And is the person that you know as Florida present in the courtroom today?

A. Yes, he is. He's sitting right over there (indicating).

Q. And what color shirt does he have on?

A. Cream color, tan.

MS. KEENA: May the record reflect that the witness has identified Philip Vance?

THE COURT: It may.

BY MS. KEENA:

Q. While you were -- you indicated that while you were at the Ramsey County Workhouse, Mr. Vance was there as well?

A. Yes, he was. But his appearance was totally different. He had dread -- or braided hair, longer.

MR. SHANDS: Objection, Your Honor.

Nonresponsive.

THE COURT: Okay. Sustained.

BY MS. KEENA:

Q. Are you familiar with a person by the -- that has the nickname of Stacks?

A. Yeah.

Q. And do you know Stacks' real name?

A. No, I don't.

Q. Was he incarcerated in the Ramsey County Workhouse the same time period as you as well?

A. Yes.

Q. And was there a time period when you, Stacks, and Mr. Vance were together in the Ramsey County Workhouse?

A. Yeah, that was only one time during the day, though. It was during recreation.

Q. And so you and Mr. Vance were actually -- were you housed in the same unit?

A. Yes, we were.

Q. And what was the unit again?

A. Dorm 100. It's an intake unit.

Q. While you were housed with Mr. Vance, did he engage you in any conversation about a crime that he was being investigated for?

A. I was speaking to another inmate -- his name was Deville about

Q. I'm sorry. Could you just speak up a little bit?

A. I was talking to another inmate in there -- his name was Deville -- and he was talking about his case. And I had some law books, and then Florida came up and asked me if there was any statute of limitations on murder. And I told him no, there's no statute of limitations on murder.

Q. And were there any subsequent conversations after that?

A. Well, after that Deville, myself, and -- I forgot -- another inmate, a Mexican guy, were sitting at the card table and he started talking about that he was being harassed by some cops investigating him about a murder.

Q. And was there any further conversation at that point?

A. At that point Deville started talking to him, and Florida started getting confused and he started talking about some things about the -- about the store, about what was gone from the store, what he had. Deville kept throwing things at him, and Florida got shook up and he stopped talking.

Q. And -- so was there any conversation following that occasion?

A. No. I'd say about an hour and a half later, he started talking about that they ain't going to catch me, they ain't got nothing on me, and he started mocking them, [illegible] around like it was nothing.

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Q. So when you say he was mocking them --
A. The police officers, the investigators that were investigating him.
Q. Okay. Did he say anything else on that occasion?
A. He made a comment about "I touched him like they touched my cousin up on the hill" because apparently he was related to somebody that tried to rob somebody for some dope, but he got shot instead, his cousin. So he said he touched that person the same way they touched his cousin.
Q. So did he say anything else?
MR. SHANDS: Objection, Your Honor. Vague, as in the question.
THE COURT: Overruled.
THE WITNESS: He just kept talking, you know, talking about it like it was nothing, like they're not going to do anything.
BY MS. KEENA:
Q. So did you have another conversation after this?
A. After that I went -- I was talking to him and he started talking about a car that he lost, a new Cadi that they used leaving Minnesota. He said they hit a deer and there was holes in the hood of the car and that they left the car at the rest stop with everything else inside of it.

Q. I want to go back. Did he talk specifically about being involved in the crime that he was being investigated for?
A. He made -- he made gestures to the crime, but he didn't directly say he committed the crime. But he was making gestures, making fun, like it was nothing, like it was no big deal.
Q. What was he saying?
A. Just a lot of mostly rude comments about, you know, about the person.
Q. Okay.
A. That he was a little bitch. "He cried like a bitch when he got shot," things like that, you know.
Q. So did he indicate that -- where this happened?
A. No.
Q. Did he indicate about who was with him?
A. No.
Q. What did he say about the guy in the store?
A. That he cried like a little bitch when he got shot. That's what -- that's what caught me right there.
Q. Did he say anything about what he did to the guy?
A. Laid him down. He said he laid him down and he put one in him, he capped him, capped his ass. "Cried like a bitch before he died," he said.
Q. I'm sorry. I can't hear you.

A. He said he cried like a bitch before he died.
Q. And what did you say about laying him down?
A. That he laid him down and then he shot him.
Q. Is that the words he used, "shot him," or did he --
A. He capped him, put a cap in his ass. "I laid the bitch down and I put a cap in his ass."
Q. Did he indicate what -- if the victim was saying anything?
A. He was saying that the guy was hysterical and crying. He was crying, the man was crying "Please don't hurt me," things like that.
Q. Mr. Estrada, do you remember testifying in the grand jury in this matter?
A. Yes, I do.
MS. KEENA: Permission to approach, Your Honor?
THE COURT: You may.
BY MS. KEENA:
Q. Mr. Estrada, I'm just going to ask you to review your testimony from the grand jury to refresh your memory.
A. (Pause.) Yeah. I remember this.
Q. Okay. This is what you testified at the grand jury. What you just read is your recollection?
A. Yes.
Q. So pointing your attention to the store, he didn't tell

you the name of the store. Correct?
A. Uh-uh.
Q. And did he tell you what happened when they entered the store?
A. That the guy was startled and didn't know what was going on, and that they rushed him right away. And they were going after the money, and another guy was grabbing stuff, cigarettes, bags, and stuff like that. He was telling me about plastic baggies, that they grabbed baggies. I don't know what for. And they grabbed a phone. He started talking about an expensive phone that they had.
Q. And how many times did he indicate he had shot him?
A. He said he shot him once in the back of the head.
MS. KEENA: Permission to approach, Your Honor?
THE COURT: You may.
BY MS. KEENA:
Q. What's your --
A. (Pause.) He kept saying one or two.
Q. Okay. I just was showing you your grand jury testimony, and during the grand jury, you indicated two.
A. Uh-huh.
Q. What's your recollection today?

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A. Two. But he always -- he was talking all over the dorm, you know. He kept saying one, two --

MR. SHANDS: Objection, Your Honor. Nonresponsive. Move to strike.

THE COURT: Well, overruled.

BY MS. KEENA:

Q. Did he -- again, you said -- as far as when they went into the store, you're saying they went into the store. Did he ever tell you who "they" were?

A. No.

Q. And did he -- I'm sorry.

A. Till Stacks opened his mouth.

Q. Okay. So at another -- on another occasion, did you have a conversation where Stacks was present?

A. Yeah, in the gym.

Q. And was Mr. Vance present for that conversation as well?

A. Yes, he was.

Q. And what was said during that conversation?

A. They were teasing Stacks about his -- his Nike Airs. They were imitation, and he was grilling Stacks about it and --

Q. And --

A. -- that's when Stacks started talking about when I get out, I got Stack some money and lottery tickets that I

can cash in when I get out of here and buy some new tennis shoes.

Q. And was there anything further about Stacks' involvement at that point?

A. No. None that I can remember. You know, it's -- it's been a while --

Q. Yeah.

A. -- since.

Q. Going back to the store again, what did Mr. Vance tell you that was taken from the store?

A. Lottery tickets, cash, a phone, and baggies.

Q. Did he say anything about cigarettes?

MR. SHANDS: Objection, Your Honor. Leading.

THE COURT: Overruled.

THE WITNESS: I think he mentioned something about Newports, they had a bunch of Newports. They had Newports in the workhouse. I remember that now. They had cigarettes because they didn't spend money on the canteen. They were selling cigarettes inside the workhouse. You can't smoke in there.

BY MS. KEENA:

Q. Did Mr. Vance say anything about the gun that he used?

A. All I can remember is that he said that he left that in the car, in the Cadillac that he was -- they used.

Q. This Cadillac that he talked about, did he -- did he

say that that was the car that they took to the store?

A. No.

MR. SHANDS: Objection, Your Honor. Leading.

THE WITNESS: No.

THE COURT: Overruled. Was that answered?

MS. KEENA: Yes. He answered that question.

THE COURT: Okay.

BY MS. KEENA:

Q. Did he indicate what they did with the clothing that they were wearing that night?

A. He said he left it in the car and had somebody else come and pick him up from the rest stop.

Q. That was in -- like in this Cadillac you're talking about?

A. Yeah, they said they left it off the side of the road in a rest stop in Wisconsin.

Q. And that's the one you were talking about --

A. So when he told me about that they hit a deer and left holes on the hood (indicating) and cracked the battery or something like that because they couldn't get it going.

Q. Did Mr. Vance mention what city this occurred in?

A. Wisconsin.

Q. No, I'm sorry. Going back to the shooting, did he indicate where it occurred?

A. No. I don't think so.

Q. After you heard these comments, what did you do?

A. Well, I turned around, walked away from him, called him a sick bastard, and went and laid down because I couldn't believe what I was hearing because the man had no remorse.

MR. SHANDS: Objection, Your Honor. Question -- the answer called for speculation. I move to strike.

THE COURT: Overruled.

BY MS. KEENA:

Q. Did you eventually contact someone about it?

A. Yeah, I called my fiancee.

Q. What's her name?

A. Sonja.

Q. Did you call her the same day that these comments were being made?

A. Yeah, I called at like two hours after because I had to think about it.

Q. What did you ask Sonja to do?

A. To contact a police officer out in South St. Paul.

Q. And the phone calls at the workhouse, they're recorded. Is that right?

A. Yeah.

Q. You understand that right?

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A. Yeah, everybody does.

MS. KEENA: Permission to approach, Your Honor.

THE COURT: You may.

(Exhibit Numbers 47A and 47B were marked for identification.)

THE CLERK: 47A and B marked for identification.

BY MS. KEENA:

Q. Mr. Estrada, I'm showing you what's been marked for identification as Exhibits 47A and 47B. 47A is a CD and 47B is a transcript. Is that right?

A. Yes.

Q. And before you came into court today, you listened to what's on the CD. Correct?

A. Yes.

Q. And what's on here?

A. It's a conversation with me and Sonja.

Q. And is this a conversation where you're telling her -- or asking her to call the police?

A. Yes.

Q. And there were some things taken out of it. Right?

A. Yeah.

Q. Okay. And on the transcript as well. Right?

A. Yes.

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Q. But other than that, this is an accurate representation of your phone call that day?

A. Yes, it is.

MS. KEENA: For the record, I'm showing Counsel.

(Pause.)

MR. SHANDS: I have no objection, Your Honor.

MS. KEENA: Your Honor, the State would offer 47A as an exhibit and 47B as a court exhibit only.

THE COURT: Received.

MS. KEENA: And at this time I'd like to play Exhibit 47A but first pass out the transcripts.

(Exhibit 47A was played.)

BY MS. KEENA:

Q. Mr. Estrada, what was the date of that phone call?

A. Back on February 9 of 2003.

Q. And so that's the same day that he was telling you about this?

A. Yeah. Two hours after.

Q. Mr. Estrada, did Mr. Vance tell you anything or describe to you what he was wearing at the time?

A. He said they had some masks on, that they were covered -- they were covered up in dark clothing. They had masks on and they went into the store. And that after it was all said and done, he got rid of his

tennis shoes as well in that car. He kept talking about that.

Q. Did he say -- did he describe the mask at all?

A. All that was showing were the eyes. (Indicating.) That was it.

Q. Did he have a specific name for the mask?

A. No.

MS. KEENA: Permission to approach, Your Honor?

THE COURT: You may.

BY MS. KEENA:

Q. Mr. Estrada, I just want to show you a page from your grand jury testimony to refresh your memory.

A. (Pause.) Yeah.

Q. Okay. Having just refreshed your memory, was there a description of the type of mask?

A. Yeah, a ninja mask.

Q. And is that what Mr. Vance called it or is that what you called it?

A. That's what I called it.

Q. Okay. And to you what's a ninja mask?

A. A ninja mask covers the whole face but it leaves you space -- enough space so you can see out of the mask.

Q. And how did Mr. Vance describe to you the mask that he had on?

A. God, he said that but -- he just said he had a mask that covered his whole face. I can't -- I can't recall it.

Q. Okay. That's fine. Just final -- one final question: When they walked into the store, did Mr. Vance indicate where he went?

A. He ran back of the counter. Went and grabbed him right away.

Q. Went and grabbed who right away?

A. I don't know the man's name. He grabbed the person that was working inside that store.

Q. Okay. And did he indicate where the other person went to?

A. The other -- he said the other -- the other guy was running around grabbing stuff, and he said he laid him down and the guy started crying, started yelling --

MR. SHANDS: Objection, Your Honor. Nonresponsive.

THE COURT: Sustained.

MS. KEENA: That's fine. We've gone over that.

I have no further questions, Your Honor.

MS. SINGH: Thank you, Your Honor. I have no questions.

THE COURT: Thank you, Mr. Estrada.

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THE WITNESS: Thank you.

(The witness was excused.)

MS. KEENA: Your Honor, can we approach?

THE COURT: Yes.

(Off-the-record bench discussion.)

THE COURT: We're going to let you go now, and we're not going to make you sit in the jury room and wait for an hour before you can get out of the building. You can go home now.

But let me remind you: Don't talk to anyone about the case, don't read anything, listen to anything, and have a great weekend. Monday at 9:00.

(The jury exited the courtroom.)

(Proceedings adjourned.)

October 4, 2004

(Whereupon, the following proceedings were duly had of record October 4, 2004:)

(The jury returned to the courtroom.)

MS. KEENA: Your Honor, the State would re-call Daniel Vujovich.

THE COURT: You're still under oath.

DIRECT EXAMINATION

BY MS. KEENA:

Q. Captain Vujovich, as the officer overseeing this investigation, were you aware of the statement of John Nunn stating that Mr. Vance was worried about the police finding the gun that was used in the crime at some friend's residence off of 35E and Marion?

A. Yes.

Q. When did your department initially receive that information from Mr. Nunn?

A. Detective Oeffling took that statement on September 17th.

Q. Of what year?

A. 2004.

Q. So that was more than a year and a half after the crime was committed?

A. Yes.

Q. After receiving that information, did you take any

action to try to determine who that friend might be?

A. We did not have a name, but in the jail records from Sandstone, we found a phone number that Mr. Vance had called. Checking that phone number, came back to a female party.

Q. And what was the female party's name?

A. Cassandra Yorga.

Q. And where did you determine -- or did you determine where she lived?

A. Yes, in St. Paul at 265 Ravoux Street.

Q. And that's spelled R-A-V-O-U-X?

A. Yes.

Q. And where is her residence located in relation to 35E and Marion?

A. It's not too far off of Marion. I just looked at it on MapQuest. It appears to be a half a block to a block off of Marion.

Q. Did you speak to Ms. Yorga about the investigation?

A. Yes, I did.

Q. And do you recall when you spoke to her?

A. It was just general conversation --

Q. No, I'm sorry. When you spoke to her.

A. Oh. Last week. I'd check my report to get the exact date.

Q. Do you have it with you?

A. September 25th.

Q. Did Ms. Yorga know anything about the investigation?

A. No.

Q. Did she tell you anything about the gun?

A. No.

Q. As -- in overseeing this investigation, did you conduct an interview of Geronimo Estrada on February 9th of 2003?

A. Yes.

Q. During the course of that interview, did Mr. Estrada tell you about Mr. Vance's comments regarding putting the shoes and clothing and the gun into a gray Cadillac?

A. Yes.

Q. When you interviewed Mr. Estrada, did he indicate to you that that was the car that was used in the crime?

A. No.

Q. What was he indicating to you when he told you that?

MR. SHANDS: Objection, Your Honor. Calls for speculation.

THE COURT: Overruled.

THE WITNESS: He indicated to me that some items that were items of clothing and shoes were left in that vehicle.

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BY MS. KEENA:
Q. After receiving that information, did your department undertake any investigation to try to locate that car?
A. Yes.
Q. And where did Mr. Estrada -- or what did Mr. Estrada tell you about the location of that car?
A. He indicated to us that it was abandoned along 94 on its way to Eau Claire by like a rest stop area. He did not have a specific location.
Q. And that's Eau Claire, Wisconsin?
A. Yes.
Q. So what did your department do after receiving that information?
A. Detective Brockman from our department contacted the various law enforcement agencies along -- from St. Paul to Eau Claire and also the towing companies that had contracts for towing any vehicles that were left abandoned on the highway or way-stop area trying to see if any vehicle matching that description had been impounded.
Q. And were you able to locate that vehicle?
A. No.
Q. During the course of your investigation, did you receive information from John Martin that placed Mr. Vance and Mr. Johnson in a blue Corsica prior to

the time of the homicide?
MR. SHANDS: Objection, Your Honor. Vouching.
THE COURT: Overruled.
THE WITNESS: Yes.
BY MS. KEENA:
Q. And we heard earlier testimony, but are you aware if a blue Corsica was found?
A. Yes.
MR. SHANDS: Objection, Your Honor. Can we approach?
THE COURT: Yeah.
(Off-the-record bench discussion.)
BY MS. KEENA:
Q. Captain Vujovich, do you recall when the blue Corsica was located?
A. In July of 2003.
Q. So that would have been nearly -- or over six months past the time that the crime was committed.
A. Yes.
Q. Was a search conducted of the vehicle at that time?
A. Yes.
Q. And who conducted the search?
A. The Minnesota Bureau of Criminal Apprehension Forensic Unit.

Q. And was there anything of evidentiary value found in the car?
A. No.
Q. You conducted an interview of Mr. Vance on January 15th, 2003. Is that correct?
A. Yes.
Q. During the course of that interview, did you ever mention to him that there were lottery tickets taken?
A. No.
Q. Did you ever mention to him that there were cigarettes taken?
A. No.
Q. Did you ever mention to him that there were white plastic bags taken?
A. No.
Q. Did you ever mention to Mr. Vance during that interview whether there was a phone taken?
A. No.
Q. You interviewed Mr. Vance again on January 16th, 2003. Is that correct?
A. Yes.
Q. During that interview, did you ever mention that there were cigarettes taken?
A. No.
Q. Did you ever mention lottery tickets?

A. No.
Q. Did you ever mention the white plastic bags?
A. No.
Q. Did you ever mention the phone?
A. No.
Q. And again, when did you conduct your interview of Geronimo Estrada?
A. February 9th.
Q. Of 2003?
A. Yes. I'm sorry.
Q. Following your interview of Mr. Estrada, you conducted additional interviews of Mr. Vance. Is that correct?
A. Yes.
Q. Now in your earlier testimony you indicated on cross-examination that you thought you might have mentioned the phone to Mr. Vance during the June 18th, 2003, interview. Do you recall that testimony?
A. Yes.
Q. Following your earlier testimony, did you have an opportunity to review the interviews that you conducted of Mr. Vance?
A. Yes, I did.
Q. During any of the interviews following Mr. Estrada's February 9th, 2003, interview, did you ever mention during the interviews with Mr. Vance the missing

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lottery tickets?

MR. SHANDS: Objection, Your Honor. The evidence that's in speaks for itself --

THE COURT: Okay.

MR. SHANDS: -- vouching testimony.

THE COURT: Overruled.

BY MS. KEENA:

Q. Did you ever mention to him the missing lottery tickets?

A. Checking my statements, I did not find that.

Q. Did you ever mention cigarettes?

A. No.

Q. Did you ever mention in those statements that white plastic bags were taken?

A. No.

Q. Did you ever mention that a phone was taken?

A. No.

MS. KEENA: I have no further questions, Your Honor.

MR. SHANDS: We have no questions, Your Honor.

THE COURT: Thanks.

(The witness was excused.)

THE COURT: Stipulation?

MS. KEENA: Yes, Your Honor.

THE COURT: The attorneys -- the parties have entered into an agreement. I'm going to read that to you now.

It is hereby agreed and stipulated that Philip Vance and Geronimo Estrada were incarcerated together in the Ramsey County Workhouse from February 6, 2003, through February 10, 2003.

Philip Vance and Tyrone Crawford were incarcerated together in the Sherburne County Jail from April 21, 2003, through December 19, 2003.

Philip Vance and John Nunn were incarcerated together in the Sherburne County Jail from April 22, 2003, through June 9, 2003.

Philip Vance and John Nunn were incarcerated together in the Sandstone Correctional Facility from December 19, 2003, through February 13, 2004.

Philip Vance and Isaac Hodge were incarcerated together in the Sherburne County Jail from April 21, 2003, through July 18, 2003.

And Philip Vance and Dontay Reese were incarcerated together in the Dakota County Jail from March 18, 2004, through March 20, 2004, and June 22nd, 2004, through August 4, 2004.

MS. KEENA: Thank you, Your Honor. And with that, the State rests.

THE COURT: Thank you. We'll take a break. I know it's early, but we'll take a break.

(The jury exited the courtroom.)

THE COURT: Have a seat.

We should make a record of the objection regarding Mr. Vujovich.

MR. SHANDS: Yes, Your Honor. I did object to Captain Vujovich's testimony. Captain Vujovich had testified previously, had been cross-examined and basically had been dismissed as a witness. The testimony he gave today basically was vouching testimony for evidence that had already been presented -- that had been presented -- evidence had been presented through Geronimo Estrada. Geronimo Estrada testified to certain -- to what he heard and what was said. Captain Vujovich's testimony today was just to -- to bolster the credibility of what Mr. Estrada said. Captain Vujovich did not add anything new. Basically his testimony today was solely to bolster the credibility or truthfulness of Mr. Estrada's testimony. It's our position that it was improper and it should not have been admitted.

THE COURT: Anything?

MS. KEENA: Your Honor, the State's purpose for introducing that additional testimony -- State's

State had to ask the -- kind of the foundation questions on where I was going, so I had to be able to explain to the jury the underlying information that Mr. Estrada brought forward during the investigation.

The reason for calling Daniel Vujovich again on that point was to show the efforts that the police took after receiving that information from Mr. Estrada in trying to locate that vehicle so that the claim could not be made by the defense that we had lazy cops here and we weren't following leads. That's the same reason why I brought up the testimony about Cassandra Yorga, to show that the police, you know, were trying to follow up on things, on new information they got, including new information that they just got on September 17th, 2004.

So that was the purpose for the testimony, Your Honor.

THE COURT: Okay. Then --

MR. SHANDS: And we also, Your Honor, at this time we would make a motion for a directed verdict at this point. We -- quite frankly, we wanted to make -- we would make the motion, we would ask the Court to reserve brief argument on the motion for tomorrow morning before the Court. But we just want the record to reflect that we have made the motion after the

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State's case, and we just reserve to make the brief oral argument tomorrow morning before we close.

THE COURT: Okay. Anything else we need to put on the record?

MR. SHANDS: Oh. We need to -- I need to speak with Mr. Vance briefly and talk about whether or not he's going to testify, and depending on his decision, we may need to just put on the record his decision.

THE COURT: Okay. Then why don't we break, and we'll give you a copy of the proposed jury instructions.

(A short recess was taken.)

(The oath was administered.)

THE CLERK: You may be seated.

PHILIP VANCE,

having been first duly sworn, was examined and testified on his oath as follows:

EXAMINATION

BY MR. SHANDS:

Q. Mr. Vance, you and I have had some conversations about decisions that your attorneys can make and decisions that only you can make. Correct?

A. Yes.

Q. Okay. One of the decisions I told you that is solely

up to you is whether or not you have a jury trial or you have a trial to a judge. Correct?

A. Correct.

Q. Okay. And you decided that you wanted a jury trial in this matter. Correct?

A. Correct.

Q. And we've just had a jury trial.

A. Correct.

Q. The other right that's solely yours is the right to testify. Correct?

A. Correct.

Q. And I explained to you that I can give you advice in regards to whether you testify or not, but that is solely your decision. Correct?

A. Correct.

Q. And it's my understanding that with my advice and your decision, you've decided not to testify. Is that correct?

A. Correct.

Q. Okay. I haven't given you -- myself or anyone else, we haven't given you any promises, we haven't threatened you, coerced you, or done anything to make that decision for you in regards to testifying or not. Correct?

A. That's correct.

Q. And you made that on your own --

A. Yes.

Q. -- volition?

A. Yes.

Q. All right. Throughout this trial, a couple of times I have come to you and explained to you that the State has made offers to you. Is that correct?

A. Correct.

Q. One of the offers was to plead to a second-degree intentional murder. Correct?

A. Correct.

Q. And you would have -- if you were to take that deal, you would have to testify or basically tell what happened in this case. Is that correct?

A. Correct.

Q. And at that time I brought to you one that was -- we had talked about you would get the time in the sentencing guidelines on the grid?

A. Correct.

Q. And I believe that's over 300 months.

A. Yes.

Q. You did not want to take that deal. Is that correct?

A. That's right.

Q. I also came to you that the State offered yesterday a deal for you to plead guilty. You would have to do 40

months -- 40 months -- 40 years in prison, and you would also have to allocute, meaning tell what happened. Is that correct?

A. Yes.

Q. And you do not want to take that deal.

A. No.

Q. Okay. And I didn't make any promises, threats, or try to coerce you in any way to not take their deal?

A. No, you didn't.

Q. Okay. That's your decision?

A. Yes.

Q. Okay.

MR. SHANDS: I think that's it.

MS. KEENA: I don't have any questions.

I just wanted to clarify on the plea offer, that the State only made one plea offer in this case, and that was yesterday afternoon. The other -- other plea offer that was discussed was not actually a plea offer made by the State but a suggestion that the State might be open to a second-degree intentional murder.

THE COURT: Okay. Okay. You can step down.

(The defendant was excused.)

(A short recess was taken.)

THE COURT: We'll make a record. We're going through jury instructions. Mr. Shands has asked the

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Court to instruct the jury on the defendant's failure to testify, and I don't have a copy of it in front of me. Do you have the book?

MR. SHANDS: I got the book right here. I'm trying to --

MS. KEENA: It's up in the thirties somewhere.

MR. SHANDS: It's CRIM JIG 3.17 -- page 31 -- you got it? 3.17?

THE COURT: I'll have it in a minute.

(Off-the-record discussion.)

THE COURT: Let's go on the record.

We're back on the record in the Vance case, and there is a request to sequester the jury, so I'll -- when we let them go today, I'll tell them to bring clothing and personal effects.

The defendant will formally rest before the jury but is reserving the right to argue a motion for judgment of acquittal, and we'll do that before the jury is seated tomorrow morning.

But we -- I know you may want more time to look at the jury instructions, but are the ones -- the boilerplate instructions that we went through acceptable? And I will make changes. I will take out the last paragraph on direct and circumstantial. I've

indicated I don't intend to give the suggested instruction in State versus Bernhard and take out, on impeachment, evidence of the witness's reputation for truthfulness.

MR. SHANDS: Right. I mean, just briefly, I mean -- I haven't read the case -- I would ask that you give that third paragraph.

THE COURT: Okay. Then denied.

And if you need -- would you like to take some time now to review the substantive instructions? I know we've all had that for some time now. Maybe you've already had a chance to go through it.

We had a note -- a ruling on Exhibit 12, letter from Tariq Bakkri to Maynard Cross, was reserved. I think I made clear at some point that I wasn't going to allow that in.

MS. KEENA: Yeah, only at the end of the foundation had been laid.

THE COURT: Yeah. So do you need some time or --

MR. SHANDS: Yeah, just briefly.

THE COURT: Okay.

MR. SHANDS: I just want to match them up.

(Off-the-record discussion.)

THE COURT: We'll put on the record that with

respect to instructions, the defense has considered it and will not ask for a cautionary instruction regarding testimony of the Gang Strike Task Force, not wanting to emphasize that testimony or -- so that's on the record.

(Off-the-record discussion.)

(The jury returned to the courtroom.)

THE COURT: Have a seat.

Mr. Shands.

MR. SHANDS: Your Honor, Mr. Vance rests.

THE COURT: Thank you. I'm going to instruct you on the law. There's a lot. I'm going to give each of you a copy of the written instructions to consult in the jury deliberation room, but listen carefully.

It is your duty to decide the questions of facts in this case. It is my duty to give you the rules of law you must apply in arriving at your verdict. You must follow and apply the rules of law as I give them to you, even if you believe the law is or should be different.

Deciding questions of fact is your exclusive responsibility, and in doing so, you must consider all the evidence you have heard and seen in this trial, and you must disregard anything you may have heard or seen elsewhere about this case.

Those instructions, or by any

ruling or expression during the trial, intended to indicate my opinion regarding the facts or outcome of this case. If I have said or done anything that would seem to indicate such an opinion, you are to disregard it.

You must consider these instructions as a whole and regard each instruction in the light of all the others. The order in which the instructions are given is of no significance, and you are free to consider the issues in any order you wish.

You've been allowed to take notes during the trial. You may take those notes with you to the jury room. You should not consider these notes binding or conclusive, whether they're your notes or those of another juror. The notes should be used as an aid to your memory and not as a substitute for it.

You should disregard anything -- I'm sorry. It is your recollection of the evidence that should control. You should disregard anything contrary to your recollection that may appear in your own notes or those of another juror. You should not give greater weight to a particular piece of evidence solely because it is referred to in a note taken by a juror.

Attorneys are officers of the court. It is their duty to make objections they think proper and to

argue their client's cause. However, the arguments or other remarks of an attorney are not evidence. If the attorneys or I have made or should make any statement as to what the evidence is which differs from your recollection of the evidence, you should disregard the statement and rely solely on your own memory. If an attorney's argument contains any statement of the law that differs from the law I give you, disregard the statement.

During this trial, I have ruled on objections to certain testimony and exhibits. You must not concern yourself with the reasons for the rulings since they are controlled by rules of law. By receiving evidence to which objection was made, I did not intend to indicate the weight to be given such evidence. You are not to speculate as to possible answers to questions I did not require to be answered, and you are to disregard all evidence I have ordered stricken or have told you to disregard.

A fact may be proven by either direct or circumstantial evidence or by both. The law does not prefer one form of evidence over the other. A fact is proven by direct evidence when, for example, it is proven by witnesses who testify to what they saw, heard, or experienced, or by physical evidence of the fact itself. A fact is proven by circumstantial evidence when its existence can be reasonably inferred from other facts proven in the case.

You are the sole judges of whether a witness is to be believed and of the weight to be given a witness's testimony. There are no hard and fast rules to guide you in this respect. In determining believability and weight of testimony, you may take into consideration the following nine factors:

One, the witness's interest or lack of interest in the outcome of the case. Two, the witness's relationship to the parties. Three, the witness's ability and opportunity to know, remember, and relate the facts. Four, the witness's manner. Five, the witness's age and experience. Six, the witness's frankness and sincerity or lack thereof. Seven, the reasonableness or unreasonableness of their testimony in the light of all the other evidence in the case. Eight, any impeachment of the witness's testimony. More on that in a second. Nine, any other factors that bear on believability and weight. You should rely, in the last analysis, on your own experience, good judgment, and common sense.

In deciding the believability and weight to be given the testimony of a witness, you may consider:

First, evidence that the witness has been convicted of a crime. You may consider whether the kind of crime committed indicates the likelihood the witness is telling or not telling the truth. Second, you may consider evidence of a statement by or conduct of the witness on some prior occasion that is inconsistent with the witness's present testimony. Evidence of any prior inconsistent statement or conduct should be considered only to test the believability and weight of the witness's testimony. In the case of the defendant, however, evidence of any statement he may have made may be considered by you for all purposes.

A witness who has special training, education, or experience in a particular science, occupation, or calling is allowed to express an opinion as to certain facts. In determining the believability and weight to be given such opinion evidence, you may consider the following four factors:

One, the education, training, experience, knowledge, and ability of the witness. Two, the reasons given for the opinion. Three, the sources of the information. And four, factors already given you for evaluating the testimony of a witness. Such opinion evidence is entitled to neither more nor less consideration by you than any other evidence.

The defendant is presumed innocent of the charges made. This presumption remains with the defendant unless and until the defendant has been proven guilty beyond a reasonable doubt. That the defendant has been brought before the court by the ordinary processes of the law and is on trial should not be considered by you as in any way suggesting guilt. The burden of proving guilt is on the State. The defendant does not have to prove innocence.

Proof beyond a reasonable doubt is such proof as ordinarily prudent men and women would act upon in their most important affairs. A reasonable doubt is a doubt based upon reason and common sense. It does not mean a fanciful or capricious doubt, nor does it mean beyond all possibility of doubt.

The State must convince you by evidence beyond a reasonable doubt that the defendant is guilty of the crimes charged. The defendant has no obligation to prove innocence.

The defendant has the right not to testify. This right is guaranteed by the federal and state constitutions. You should not draw any inference from the fact that the defendant has not testified in this case.

Now, before the defendant may be convicted of

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an offense charged, you must find that the defendant committed that specific offense. You are not to convict the defendant of any offense with which he is not charged.

There are three charges. First, murder in the first degree. The statutes of Minnesota provide that whoever causes the death of a human being with premeditation and with the intent to effect the death of the person or another is guilty of murder in the first degree.

The elements of murder in the first degree are: First, the death of Khaled al-Bakri must be proven. Second, the defendant caused the death of Khaled al-Bakri. Third, the defendant acted with premeditation and with the intent to kill Khaled al-Bakri.

"Premeditation" means that the defendant considered, planned, prepared for, or determined to commit the act before he committed it. Premeditation, being a process of the mind, is wholly subjective and hence not always susceptible to proof by direct evidence. It may be inferred from all of the circumstances surrounding the event. It is not necessary that premeditation exist for any specific length of time. A premeditated decision to kill may be

reached in a short period of time. However, an unconsidered or rash impulse, even though it includes an intent to kill, is not premeditated. In order to have had an intent to kill, the defendant must have acted with the purpose of causing death or believe that the act would have that result.

Fourth element: That defendant's act took place on or about December 22, 2002, in Dakota County.

If you find that each of these elements has been proven beyond a reasonable doubt, the defendant is guilty. If you have a reasonable doubt that there was premeditation but you find that all the other elements are proven, then the defendant is guilty of murder in the second degree.

The crime of murder in the second degree differs from murder in the first degree only in that the killing was done with intent to kill another person but not with premeditation. If you find that any element other than premeditation has not been proven beyond a reasonable doubt, the defendant is not guilty of murder.

Second offense: Murder in the first degree while committing aggravated robbery. This is -- the statutes of Minnesota provide that whoever causes the death of a human being with intent to effect the death

of that person while committing the crime of aggravated robbery is guilty of murder in the first degree.

The elements of this count of murder in the first degree are: First, the death of Khaled al-Bakri must be proven. Second, the defendant caused the death of Khaled al-Bakri. Third, the defendant acted with the intent to kill Khaled al-Bakri.

In order to find the defendant had an intent to kill, you must find that Defendant acted with the purpose of causing death or believed that the act would have that result. Intent, being a process of the mind, is not always susceptible to proof by direct evidence but may be inferred from all the circumstances surrounding the event. It is not necessary that the defendant's act be premeditated.

Fourth element: At the time of the act causing the death of Khaled al-Bakri, the defendant was engaged in the act of committing the crime of aggravated robbery in the first degree. The statutes of Minnesota define aggravated robbery in the first degree as follows: Whoever, knowing he was not entitled to do so, takes personal property from another, either from the person or in the presence of the person, and uses force or the threat of imminent force against any person to overcome resistance or

compel acquiescence in the taking or carrying away of the property is guilty of a crime if the defendant is armed with a dangerous weapon or inflicts bodily harm upon another person.

The elements of aggravated robbery in the first degree are: That the defendant took property from the person of or in the presence of Khaled al-Bakri knowing that the defendant was not entitled to take it.

Second element: That the defendant used force or the threat of imminent force against Khaled al-Bakri to overcome resistance or to compel acquiescence in the taking or carrying off of the property. The term "threat of imminent force" means the intentional creation in Khaled al-Bakri's mind of an understanding that if he resisted or refused to cooperate, force would immediately be used against him.

Third element: That the defendant was harmed with a dangerous weapon or inflicted bodily harm upon Khaled al-Bakri. A firearm, whether loaded or unloaded, is a dangerous weapon. "Bodily harm" means physical pain or injury, illness, or any impairment of physical condition.

Fifth element: That the defendant's act took place on or about December 22, 2002, in Dakota County,

Minnesota.

If you find that each of these elements has been proven beyond a reasonable doubt, the defendant is guilty. If you find that any element has not been proven beyond a reasonable doubt, the defendant is not guilty.

Third offense: Murder in the second degree. The statutes of Minnesota provide that whoever causes the death of a human with intent to cause the death of that person but without premeditation is guilty of murder in the second degree.

The elements of murder in the second degree are: First, the death of Khaled al-Bakri must be proven. Second, it must be proven that defendant caused the death of Khaled al-Bakri. Third, that the defendant acted with intent to kill Khaled al-Bakri.

In order to find the defendant had an intent to kill, you must find that the defendant acted with the purpose of causing death or believed that the act would have that result. Intent, being a process of the mind, is not always susceptible to proof beyond direct evidence but may be inferred from all the circumstances surrounding the event. It is not necessary that the defendant's act be premeditated.

Fourth element: That the defendant's act

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took place on or about December 22, 2002, in Dakota County, Minnesota.

If you find that each of these elements has been proven beyond a reasonable doubt, the defendant is guilty. If you find that any element has not been proven beyond a reasonable doubt, the defendant is not guilty.

Counsel wish to point out any errors or omissions in the instructions?

MS. KEENA: Nothing by the State, Your Honor.

MR. SHANDS: No, Your Honor.

THE COURT: Well, it's 10:50. We're well ahead of schedule, and we're going to send you home now. When you come back tomorrow morning at 9:00, you'll hear the attorneys' closing arguments. I'll then have a few additional instructions and guidelines for you. Again, you'll get a written copy, each of you, in the jury room and then you'll begin deliberating. Bring clothes and personal effects.

Can the attorneys approach?

(Off-the-record bench discussion.)

THE COURT: I ask you to bring clothes and personal effects because you may not be returning home tomorrow. Once you get the case, you'll be deliberating where you'll be together until you reach a

verdict.

Anything else?

MS. KEENA: Not at this time.

MR. SHANDS: No, Your Honor.

THE COURT: Remember: Don't talk about it, don't read about it, don't listen to any stories about it, and thanks. See you tomorrow morning, 9:00.

(The jury exited the courtroom.)

(Proceedings adjourned.)

STATE OF MINNESOTA)
) ss:
COUNTY OF DAKOTA)

REPORTER'S CERTIFICATE

I, MONICA R. MORIARTY, do hereby certify that the above and foregoing transcript, consisting of the preceding 138 pages, is a correct transcript of my stenographic notes and is a full, true, and complete transcript of the proceedings to the best of my ability.

Dated: November 2, 2004

MONICA R. MORIARTY, RDR, CRR
Dakota County Judicial Center
1560 West Highway 55
Hastings, MN 55033
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STATE OF MINNESOTA — IN DISTRICT COURT
COUNTY OF DAKOTA — FIRST JUDICIAL DISTRICT

File No. K6-04-736

State of Minnesota,

Appellate Court
File No. 04-0407

Plaintiff,

vs.

VOLUME 4

Philip Vance,

Defendant.

The above-entitled matter came duly on for Jury Trial before the Honorable Rex D. Stacey, one of the Judges of the above-named Court, commencing on September 20, 2004, at the Dakota County Judicial Center, Hastings, Minnesota.

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APPEARANCES:

KATHRYN M. KEENA, Assistant Dakota County Attorney, Dakota County Judicial Center, 1560 Highway 55, Hastings, Minnesota 55033, appeared representing the State.

NITU SINGH and CEAN SHANDS, Public Defender's Office, appeared as co-counsel representing defendant.

OCTOBER 5, 2004

THE COURT: Please proceed, Ms. Singh.

MS. SINGH: Thank you, Your Honor. At this time the defense would just like to make a motion for a judgment of acquittal on this matter. It's our position that the State has not proved its case beyond a reasonable doubt. We have mere speculation on this matter.

There is uncorroborated testimony from various witnesses that don't even put Mr. Vance at the crime scene. The only assumption -- the state is asking the jury to make an assumption in this case that puts Mr. Vance in South St. Paul, and that is through Keitha McKinney being a resident of South St. Paul during this time. In her testimony she stated she didn't even know Mr. Vance or Mr. Johnson, and she's never met them before, and she's only learned of the connection with Mr. Johnson through the investigation of this case.

We would assert that the state hasn't proven or showed anything that places Mr. Vance even in South St. Paul. And even through Keitha McKinney's testimony, she stated she was in and out of the emergency room during the month of December and was sick or was in her home. The state hasn't even shown that on December 22nd she was or wasn't at home.

CLOSING ARGUMENTS

THE COURT: Does the state wish to respond?

MS. KEENA: Your Honor, the state was present for the entire trial and heard all the evidence in this case. The state has introduced a plethora of evidence and believes it has met its burden in this case and would ask that the motion be denied.

THE COURT: Motion denied. Then we will bring the jury in. I will give them an abbreviated instruction regarding the transcripts that I've had a chance to read to the parties, and we'll start.

MR. KEENA: Your Honor, there was an additional issue that the state would like addressed this morning. I don't recall yesterday the exact sequence of events, but Mr. Shands had requested on behalf of Mr. Vance the instruction regarding the defendant's right not to testify. The jury has already been instructed on that.

Mr. Shands did converse with Mr. Vance about that. But before the jury actually gets a set of the instructions and takes them back to their deliberations, the state would ask that the court inquire of Mr. Vance if he in fact does wish the jury to have that instruction.

THE COURT: Okay. Mr. Shands.

MR. SHANDS: Your Honor, I have spoke with Mr. Vance. Yesterday we did put on the record certain

things that are Mr. Vance's rights. He made his decision in regards to whether or not to have a jury trial and whether or not he would testify.

In regards to the jury instructions and what instructions we would ask the court to give, we have conversed with Mr. Vance. He has been present and he was present when we went over the instructions. He was here when I asked the court to give that instruction. I am assuming that Mr. Vance wants that instruction to be given. Is that correct, Mr. Vance?

MR. VANCE: Yes.

THE COURT: Okay.

MS. KEENA: Thank you, Your Honor.

THE COURT: Bring the jury in.

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THE COURT: Good morning. You were provided with copies of taped conversations during the trial. You should rely on what you heard rather than what you read, if you find a difference between the tape and the transcript.

The transcripts were provided to you to assist you in listening to the tapes and were collected from you at the conclusion of the playing of each tape. The transcripts will not be available to you during your deliberations.

We will now hear final arguments of the parties, and Ms. Keena will begin.

MS. KEENA: Thank you, Your Honor. Good morning. May it please the court, counsel, members of the jury. We have reached that final stage of closing arguments, and this is my opportunity to argue to you the facts that you've heard over the course of this trial.

At the conclusion of my argument, I am going to ask you to return verdicts of guilty against Mr. Vance for the crimes of First Degree Premeditated Murder, First Degree Murder while committing aggravated robbery, and Second Degree Intentional Murder.

Let's turn to the facts of this case and what the state established happened the night of December 22, 2002.

Fact: Vance and Johnson went to the Radisson Bar in downtown St. Paul sometime between 7:00

p.m. and 8:00 p.m. What evidence did the state present to establish that fact?

You heard from John Martin. John Martin testified that he met the two men at the Radisson Bar the evening of December 22, 2002 at approximately 7:00 p.m.

You also heard from Melissa Stites. As you recall, Melissa Stites was a bartender at the Radisson Bar at the time. She worked that particular evening from 4:30 p.m. to 10:00 p.m. She recalls Vance, Johnson and a third African male getting there about 8:00.

She also testified that while the men were in the bar, the three men appeared secretive, and Vance did not engage her in the conversation as he usually would, you know, like, "Hey, Melissa, Hey Baby, how 'ya doing?" He didn't do that that night.

Melissa Stites testified that when she talked to Vance and asked him what they were up to, his response was, "We're just getting our plan on."

You also heard from Dontay Reese. Dontay Reese testified that Vance told him that on the night of December 22, 2002, he and Johnson went to the little bar. The *little bar,* according to Dontay Reese, is also the Radisson Bar. He described it as the *little bar* up in the skyway level in downtown St. Paul in the Radisson.

Vance put himself at the Radisson Bar that

night. In his January 16th statement, in his January 23rd phone call with Tom Kreager, in his April 18th statement, in his June 18th statement, Vance said he went to the Radisson Bar the night of December 22, 2002.

Fact: While at the Radisson Bar, Vance and Johnson tell John Martin that they're going to South St. Paul that evening. What evidence did we introduce to establish that? Again, John Martin.

John Martin testified that that's what Vance and Johnson told him, that they were going to South St. Paul that evening. And while at the bar together, Vance and Johnson discussed with him how they were going to put money together for Christmas presents for their kids.

Fact: While at the Radisson Bar, Johnson uses Vance's cell phone to call the South St. Paul girls. How did we establish that? Again through John Martin.

John Martin testified that Johnson used Vance's cell phone to call the South St. Paul girls for a ride. He identified the South St. Paul girls as Yvonne White and Nicole Rauschnot. He identified Yvonne White as being one of Johnson's girlfriends.

Dontay Reese testified. He testified that Vance told him that Stacks, nickname for Johnson, used Vance's cell phone while at the Radisson Bar to call two girls for a ride. He testified the girls' names to be Yvonne and Nicky

or Tiffany.

Fact: Vance and Johnson left the Radisson Bar at approximately 8:30 p.m. that night. How did the state establish that? Again through the testimony of John Martin. John Martin testified that he, Vance and Johnson left the bar together at approximately 8:30 that night.

We also had testimony of Melissa Stites. Melissa Stites testified that the three men left at approximately 8:30 p.m. As they left, you recall Melissa Stites testified that she commented to Vance, because these three never tip her, *that the tips were low that night.*

In response, Vance turned back to her and said, "Hey, Baby, when I get back, there'll be plenty of money." Melissa Stites subsequently reported this information to the Minnesota Gang Strike Force.

Fact: Vance and Johnson, after they left the Radisson Bar, entered a blue Corsica automobile which contained Nicole Rauschnot and Yvonne White. How did the state establish that? John Martin.

John Martin testified that he saw Vance and Johnson get into a blue Corsica by the bus sto, which was located right in that area outside of the Radisson Bar. He identified Nicole and Yvonne as being in the car. He identified Yvonne as the passenger and Nicole, the driver.

You also heard testimony from Dontay

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Reese. Dontay Reese testified that Vance told him that he and Johnson were picked up near the bus stop by two girls. Dontay Reese recalls Vance telling him that they got into what he thought was either a blue Corsica or a blue Accord. He remembers that the car name or the brand had an "O" in it.

Tom Kreager, through his investigation, located a blue Corsica registered to none other than Nicole Rauschnot. And you saw a picture of that car, dark car, mid-sized, four doors.

Fact: Vance, Johnson, Nicole and Yvonne drove to Hennessy's place in South St. Paul where they met up with Troy Crawford. What evidence do we have to support that?

By way of background information, remember that in Vance's statement, in his April 17th interview, Vance said that he knew this guy named Hennessy, Richard Robinson, and had known him for about two years and also knew that Johnson and Hennessy were actual blood cousins.

You heard testimony from Dontay Reese. Dontay Reese testified that Vance told him that he, Johnson and the two girls drove to Hennessy's place to meet Troy Crawford.

You heard testimony from Keitha McKinney. She never met Mr. Vance before, but what was relevant about her testimony was that as of December 22, 2002, she was

residing about a block and a half from Sabreen's, and at the time she was dating Richard Robinson, who was more commonly known by his nickname of Hennessy. And Hennessy stayed at her place.

You also heard on this point from Captain Daniel Vujovich, who also testified that as of that date Keitha McKinney and Hennessy were residing at that address. That the residence is only about a block and a half from Sabreen's and that the distance to travel from the Radisson Bar to that area near Sabreen's is approximately 5.4 miles and takes approximately twelve minutes to travel. Plenty of time.

That's the picture that you saw (indicating) which shows how close the two places are, and also it shows that there is an alley that runs from the 141 Fourth Avenue South address all the way down to Sabreen's.

Fact: Vance, Johnson, Nicole, Yvonne and Troy drove to Sabreen's and parked behind the store in the alley. What evidence did we introduce to establish that? Dontay Reese. Dontay Reese testified that Vance told him that they drove down to Sabreen's and parked in the alley.

We have the three kids who came in and testified. As they approached Sabreen's in the alley, they saw a car parked in the middle of the alley.

Fact: Vance, Johnson and Troy exit the vehicle, and Troy stays outside in back of the store, outside of

the back of the store. We have the testimony of Dontay Reese that supports that. Vance told Dontay Reese that Vance, Johnson and Troy exited the vehicle and that Troy stayed outside at the back of the store.

Fact: Vance and Johnson went to the front of the store and entered Sabreen's through the front door. How do we know that? Well, Dontay Reese testified that Vance told him that they entered the store, and Vance never told Dontay Reese the name of the store. He did tell them what he was under investigation for. He didn't refer to the store as Sabreen's. He referred to it as a *pop store*. Well, that's what it is. It's a family-owned business.

You heard Tariq Bakkri testify. It's a family owned business. The fact that they went through the front door was also supported by the testimony of Dr. Sedqi who testified that the back door of Sabreen's had not been tampered with, and that when they actually went inside the store it was barred from the inside. You wouldn't have been able to get into the store through the back door.

Fact: When Vance and Johnson entered Sabreen's, they were wearing black masks that covered their faces. How do we know that? You heard the testimony of Kathleen Johnson. She testified that when she saw -- actually, when she entered the store she saw the man behind the counter wearing a black mask, but when she saw them exiting

the store, she noticed that both of them were wearing black masks that completely covered their faces.

You also heard the testimony of Geronimo Estrada, who testified that Vance told him that at the time they committed the crime he was wearing a black mask.

Fact: Upon entering Sabreen's, Vance ran behind the counter while Johnson ran around the store. What evidence do we have of that? The testimony of Geronimo Estrada. Geronimo testified that Vance told him that upon entering Sabreen's, Vance immediately ran behind the counter while Johnson went around the store.

As you recall from the testimony, this is a picture of the front door of Sabreen's. As Tariq Bakkri told you, that's the only way back behind the counter. It's right by the door. So Vance ran through that front door and immediately went behind that counter.

Kathleen Johnson testified that when she entered Sabreen's, she saw one man behind the counter. This supports what Vance told Geronimo Estrada. Kathleen Johnson only saw one man behind the counter, and figured there was a second person in the store because she heard somebody say something. She described it as being *"Hey,"* like someone else was being alerted.

Fact: Vance commanded Khaled to the floor and shot at him four times, striking him twice in the back of

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the head. What evidence do we have of that?

Geronimo Estrada testified that Mr. Vance told him what he was under investigation for. He didn't say the name of the store. He didn't say "I did this at Sabreen's," but he told Geronimo Estrada that it happened in South St. Paul, at a store located in South St. Paul.

Vance also told him that, "We entered the store," meaning he and Mr. Johnson. Geronimo Estrada also testified that Vance told him that after running behind the counter, the clerk was crying. Khaled was crying and begging Vance not to hurt him.

Vance told the guy to "shut up." And when he wouldn't, Vance, in his words to Geronimo Estrada, "laid the bitch down and shot him twice in the head." That was corroborated by Dr. Lindsey Thomas's testimony. She performed the autopsy on Khaled. She recovered two bullets from Khaled's head. One of the entrance wounds was to the back of his head and the other entrance wound was to the back of his neck. So he had one there, and he had one there (indicating).

Either shot was fatal. We know -- or, the evidence supports the fact that Khaled was in fact laid down before he was shot. When officers arrived, when Dr. Thomas arrived at the scene, she described for you, and we showed you a picture, of how the body was found. Khaled was found face

down behind the counter.

Dr. Thomas also explained to you the trajectory of the bullets that were found in Khaled's head, and that the lack of injuries that he had -- he had no injuries on his face, no injuries indicating that he fell. She testified that all of that taken together was consistent with him either having been sitting down -- there were no chairs behind there -- or kneeling or actually laying down at the time that he was shot.

The crime scene investigation also supported that Khaled was laying down at the time he was shot. As you recall, there was a third bullet that was found at the crime scene that was found in a flashlight that was located on a very low shelf, which was near Khaled's head. The trajectory of that bullet was indicative of him being down on the ground, face down, laying down, at the time that he was shot.

There is the flashlight right there (indicating). See how close his head is? This picture shows that after the flashlight is removed, it shows the flag going through to show you the trajectory. It's a downward trajectory. The man was laying down when he was shot, a fact that Mr. Vance knew and was relaying to other people.

The fact that there were four shots fired was corroborated by Dr. Sedqi, who testified that there were four casings that were recovered from behind the counter.

Fact: Vance used a .22 pistol to murder

Khaled Al-Bakri. How do we know that it was a .22 pistol? Well, you heard the testimony of Dontay Reese. Dontay Reese testified that Vance told him that he used a *deuce deuce*. Mr. Reese told you that lingo means a .22 pistol.

You heard the testimony of John Nunn. Vance told John Nunn that he used a .22 when committing the crime. It's all substantiated by Kurt Moline. Kurt Moline examined the four casings and determined that all four were .22 caliber and were fired from the same weapon, *bang, bang, bang, bang*. Same time.

He also examined the two bullets recovered from Khaled's body and the bullet recovered at the scene and determined those to be .22 caliber as well. It's all consistent, it all fits together.

Fact: Vance opened the cash register at approximately 9:35 and took the money from the register. What evidence do we have for this? Tariq.

You heard testimony from Tariq Bakkri. He indicated that he left the store at approximately 9:29 that night, after he faxed a business letter overseas.

The state also introduced the register tape. And the last transaction on that cash register tape shows that the register was opened and it says, "NS," which means *no sale*. And the time that the cash register was opened was at 9:35 -- minutes, minutes after his brother left the store.

The timing was also established by Kathleen Johnson who testified that she entered the store at approximately 9:40 that night and saw a man standing behind the counter whipping cash out of the register. She only saw one man behind the counter because Khaled was already dead on the floor.

Fact: In addition to cash, Vance and Johnson took lottery tickets, cigarettes, white bags and a cordless phone. What evidence did the state introduce to substantiate that? Well, we had the testimony of Tariq Bakkri. Those are the things that he said were missing from his store following the murder.

You heard testimony from Geronimo Estrada. On February 9th of 2003, Vance told him that he had gotten stacks of money, lottery tickets, cigarettes, baggies and a phone. What was so significant about this, and what makes Geronimo Estrada so completely credible, is that aside from the money, none of those other items were ever mentioned in press releases, they weren't in any newspaper articles, Mr. Vance was never questioned in the five different statements that he gave about any of those items. They were never mentioned. That's items that only someone who was there, the perpetrator, would know were taken from the store.

These are all items that were located conveniently behind the counter. The cash register is right

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there, the lottery tickets right there.

You heard Mr. Bakkri testify about how unusual it was to have these lottery tickets pulled out in such a fashion. Usually there'd just be maybe one or two that might be out. The little white hook right there (indicating), that held all the white bags are gone, and the cigarettes all along this wall, and the phone base. The phone was missing. I can't tell you if the phone was right there that night or if Khaleb was carrying it around in his waistband, like his brother testified to. That Khaled had a habit of carrying that phone around on one side and his cell phone on the other. All we know is that it was taken. It was missing.

Fact: After seeing Kathleen Johnson enter the store, Vance and Johnson exited Sabreen's and ran to the car that was still parked in the alley. What evidence supports that fact? Testimony from Dontay Reese.

Vance told him that after they did it, they ran back to the car and jumped in. Vance also told Dontay Reese that Crawford, Troy, did now get into the car and that Vance did not know what happened to him, where he went.

Kathleen Johnson supports this fact. She testified that she saw two men exit Sabreen's and run around the corner towards the alley. Samantha and Matthew Renville testified that they saw two men run to a waiting car yelling "go, go, hurry."

Fact: Vance and Johnson left South St. Paul and were dropped off at the Buttery Bar in Downtown St. Paul at approximately 10:15 p.m. What evidence establishes this fact? The testimony of Dontay Reese. Vance told him that they were dropped off at the Buttery Bar following the homicide.

Colleen McManus testified that she saw Vance and Johnson getting out of a car outside of the bar at approximately 10:15 as she was returning to the bar. As you recall, she left for a while to go home and check on her kids. And she saw them as she was pulling up to the bar.

Eric Griffin testified that he arrived at the Buttery Bar that night about 10:00 p.m. and that Vance and Johnson entered the bar together a short time after that.

Fact: Vance murdered Khaled Al-Bakri. At the beginning of this case, I was very open with you. I told you that the state did not have any physical evidence that linked Mr. Vance or Mr. Johnson to the scene of the crime. I am sure the defense is going to hammer that point in their closing. But the law doesn't require the state to have physical evidence. The law doesn't require physical evidence for you to find someone guilty of this crime. It's not required for me to introduce physical evidence to you to meet my burden of proving to you beyond a reasonable doubt that this man did what he is accused of doing.

While I don't have any physical evidence, I've

got something just as good, it's equally as compelling: admission, after admission, after admission, after admission that he committed this crime. So let's take a look at those admissions.

Colleen McManus, that's the first admission you heard about. Less than an hour, less than an hour after Khaled is shot at Sabreen's, Vance enters the Buttery Bar. Colleen sees Vance is talking to Maynard Cross.

Eventually Vance and Colleen talk, and she observes that he is very upset, so upset that he's crying. And Colleen McManus, as you heard, found this extremely unusual for Mr. Vance. He tells Colleen McManus, "I really fucked up this time and I need to leave town." He continues and tells her that he didn't mean for it to go off, and that he just wanted to scare the guy.

As you recall, Colleen McManus demonstrated to you that during this conversation Vance then gestured his hand and pointed his hand as if firing a gun. He went "Bang, bang."

Colleen asked him, "Did you shoot a guy?" And, through his tears, Vance told her that he did. While speaking with Vance, you heard testimony about this during the cross-examination of Colleen McManus, Maynard Cross interrupts their conversation by yelling at Vance "Quit acting like a crazy motherfucker. Shut your mouth."

I would submit to you that the first admission wasn't to Colleen McManus, it was to Maynard Cross. Colleen saw them talking together. Why else would he be yelling that?

With Colleen McManus, you should also remember that her brother was a cop. Everybody in the bar, all those guys that hung out there, knew that her brother was a cop. So what does she do? She immediately reports it to her brother.

Next admission. Eric Griffin. While he was at the Buttery Bar that night, Vance told him that he had just committed a robbery in South St. Paul. He further told, and Eric Griffin testified to this, that Vance told him that the guy wouldn't give up the money so Vance fucked him up.

Tom Kreager, you heard from him. Melissa Stites and Colleen McManus reported the conversations that they had with Mr. Vance the night of December 22, 2002. Upon learning of this information, Tom Kreager, as he testified, checked all over the metro area to see if there had been any other shootings that night. There weren't.

The Sabreen shooting was the only one. It is the only shooting that Mr. Vance could have been referring to when he told Colleen McManus what he did. The same holds true with the admission to Eric Griffin.

The next admission comes in the January 3,

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2003 undercover operation, where Melissa Stites was wired, and several law enforcement officers were monitoring the conversations between she and Mr. Vance.

They started out at the Buttery Bar, but then eventually ended up at the Lab Bar that night. While at the Lab Bar the conversation between the two turned to guns. Melissa Stites asked Mr. Vance, "Do you have any guns?" and Mr. Vance said, "Yeah, I have four guns."

She asked him, "When was the last time you used one?" His response, "Two weeks ago on the south side." The murder/robbery at Sabreen's occurred twelve days earlier. When asked what he did, Vance told her that he shot a guy five times in the back.

You heard from Regina Hagerman. Vance was at her house the Saturday before the 2003 Super Bowl. So, more than likely, for those of you who actually watch the Super Bowl, that would be sometime in late January. At the time Vance was dating her niece, Darlene Jones.

By this time, Mr. Vance has already been interviewed twice by police officers. He was interviewed January 15th and January 16th. He knows he's under investigation. He knows he is the primary suspect for the crime. He tells Regina Hagerman that. He tells her that he did it, but that the police won't be able to prove it.

Ah, Mr. Estrada. Mr. Estrada was

incarcerated with Vance at the Ramsey County Workhouse from February 6th to February 10th of 2003. You heard testimony from him that on February 9th Vance told him that he was being harassed by officers for a murder in South St. Paul. Approximately 45 minutes later, Vance tells Mr. Estrada how it went down.

He tells Mr. Estrada that he and Stacks, meaning Mr. Johnson, entered the store in South St. Paul. That Vance ran behind the counter and "laid the guy down." The guy was crying, asking Vance not to hurt him. Vance shot him twice in the head. This is what he told Geronimo Estrada. He told Geronimo Estrada, "I took stacks of money, lottery tickets, cigarettes, baggies and a phone."

I already told you what the significance of that is. Vance also told him that they were wearing black masks at the time they committed the crime. All consistent.

You heard from Tyrone Crawford. By now we're up to the sixth admission. This is the sixth or seventh admission. Tyrone Crawford, he was incarcerated with Mr. Vance in the Sherburne County Jail from April 21, 2003 to December 19, 2003.

He testified that when Vance saw Maynard Cross's picture in the paper, he became nervous because Cross had knowledge about something that Vance had done. Again, information that supports that he most probably told Maynard

Cross that night at the Buttery Bar what he had done.

Later, Vance told him that he was under investigation for a robbery/homicide and that he had shot a guy while robbing a grocery store. You saw what the store looks like. It is a grocery store. It's a small one, but it's a grocery store. We know which one he's talking about.

John Nunn, seventh or eighth admission. John Nunn and Mr. Vance were incarcerated together in the Sherburne County Jail from April 22nd through June 9th of 2003. And, again, at the Sandstone Correctional Facility from December 19, 2003 through February 13, 2004.

Mr. Nunn testified that a few days before Vance was scheduled to be released from Sandstone, Vance told him that he had committed a robbery at a store using a gun and that he had to merck someone. As Mr. Nunn explained, that means that he shot or killed someone.

Isaac Hodge, admission number nine or ten. Isaac Hodge testified that he and Mr. Vance were incarcerated together in the Sherburne County Jail from April 21st through July 18th of 2003. Here again the Maynard Cross admission -- or admission to Maynard Cross. Isaac Hodge testified that when Vance saw Maynard Cross's picture in the paper, he became nervous because Maynard Cross had some shit on him.

Vance told Isaac Hodge that he *committed a*

murder/robbery and no truer words were ever spoken than that he killed a guy and that it wasn't worth it.

Dontay Reese. You know, we had Geronimo Estrada who kind of gave you all the details. Vance gave him the details about what happened inside of the store. With Dontay Reese we got more of the details about being at the Radisson Bar, getting into the blue Corsica, going over to Hennessy's house, driving down to Sabreen's. He gave us a fuller picture of how it went down that night. All information that could be corroborated through other witnesses.

Dontay Reese and Mr. Vance were incarcerated together in the Dakota County Jail from March 18, 2004 through March 20, 2004. Then again from June 22nd through August 4th. Now Mr. Reese testified that the conversation that he had with Mr. Vance occurred about five or six months ago, which would put it right in that March 18th to 20th timeframe. That's when that conversation occurred.

Dontay Reese told you how Vance told him that Johnson and Vance met with John Martin, met up with Martin at the Radisson Bar that night. That while at the bar, Johnson used Vance's cell phone and called two girls for a ride. Reese remembers the names, in his testimony, as being Yvonne and Nicky. He testified that Vance told him that the two girls picked the two men up, near the Radisson Bar, in a blue Corsica or an Accord.

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The four drove to Hennessy's place and met up with Troy Crawford. Vance, Johnson and Crawford, and the two girls, drove to Sabreen's and parked in the alley behind the store. Vance and Johnson entered the store while Crawford stayed in back of the store.

Inside of the store Johnson yelled something at Vance while they were robbing Sabreen's. Vance told him -- and which may be consistent with when Kathleen Johnson walked in. Kathleen Johnson testified that she heard somebody yell something like "*Hey.*" That was probably the yelling.

Vance told Dontay Reese that he gave *dude* five to the back of the head, got the money and got out of there. Vance told Dontay Reese that they ran back to the car, drove off, and were dropped off at the Buttery Bar.

Vance also told Dontay Reese that he didn't know what happened to Troy. Troy didn't get back into the car with them.

Again, as I told you earlier, Vance didn't tell him the name of the store, but referred to it as a *pop store.* And he also told Dontay Reese the type of weapon that he used, a deuce deuce.

Other things that I would point your attention to, besides all the admissions, is the physical description. Captain Vujovich testified that Vance is five foot nine. Johnson is five foot seven. Kathleen Johnson described

that one of the men was approximately five nine and the other man was a couple of inches shorter. She described both men as having slender builds. You can see for yourself, Mr. Vance has got a slender build.

We also have the clothing description. Kathleen Johnson described the men as wearing baggy jeans and hooded sweatshirts. Samantha Renville described the men as wearing loose fitting jeans and hoodies, which means hooded sweatshirts.

Colleen McManus, dark baggy pants and hooded sweatshirts under jackets, by the time they got to the Buttery.

Eric Griffin, he testified that Vance was wearing dark baggy bluejeans and a hoodie. All consistent.

So let's talk about the money. What happened to the money? Not that it's relevant, but let's talk about it because it fits in the facts of this case.

Vance told Colleen McManus a few days after Christmas that he had purchased Christmas presents for his kids, and that he spent about four hundred dollars, which is very interesting, given the fact that he had been unemployed for about a year, which you heard in his January 15th statement.

When questioned about money for Christmas presents, Vance's explanation was, "Well, Sonya gives it to me.

Sonya's got the rich grandma, so she gives me whatever I need." The problem is that he told investigators that she only gave him fifty to a hundred dollars. It wasn't four hundred dollars.

Then there must have been a little falling out, as you heard from Jackie Ezell. Jackie Ezell told you that Vance showed up at her house on the night of January 3rd, 2003, which was the same night as the undercover operation. He was there to get something. At the time Vance was dating her granddaughter, Darlene Jones, who lived at that residence.

Vance left, and approximately a half hour later Johnson shows up. And he's upset. He says he's looking for Florida, Mr. Vance. Looking for Vance because Vance has his money, and he tells Jackie and Darlene that he is done with Vance.

Eventually they mend their fences and they agree to a code of silence. Vance and Johnson are very close. In his January 15th statement, Vance refers to Johnson as his *homey,* and tells officers that he doesn't hang around with anyone else but Stacks, Mr. Johnson. They adopt a code of silence, which was exemplified in the September 10, 2003 letter from Vance to Johnson, which I introduced.

This is a portion of that letter. "Before I holler at you, I'm letting you know, never ever discuss the past," *never ever* – in capital letters. Gee, I wonder what he's

referring to? To accentuate the meaning of the code of silence, this is how he signs the letter. This is his closing, "Blood Brothers, Florida."

What's the message in that letter? Don't tell. Don't tell. Mr. Vance didn't follow his own advice. He couldn't keep his mouth shut. He knew as early as January 9, 2003 that he was being investigated and that he was a suspect in this crime because that's when his sister's house was searched.

There was a search warrant executed at her house because he was staying there off and on, and you can damn well bet that his sister told him, because nobody likes to have their door come crashing down in a search warrant, you can well bet that Mr. Vance knew about that search warrant that was executed on January 9th, and he definitely knew as of January 15th that he was a suspect, because that's when he was first interviewed by the police.

Even so, even when he knew that he was being investigated, he continues to admit and discuss his role in the crime to several other people: Regina Hagerman, Geronimo Estrada, Tyrone Crawford, Isaac Hodge, John Nunn and Dontay Reese. This is why his explanation to officers about his admissions to Colleen McManus is so completely unbelievable.

In his January 15th statement, Mr. Vance was confronted about his admission to Colleen McManus at the

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Buttery Bar on the night of December 22nd when he told her that he *shot someone.*

He initially denied making that statement. "I didn't say that, I didn't say that." But, then, all of a sudden, "oh, yeah, oh, that." You know, he magically remembers that he had told her that because he was broke and he really wanted a free drink.

Officer Kreager pointed out, "Why wouldn't you tell somebody that your dog died or, as he said, your kitten fell out the window." No, instead you tell somebody that you blasted somebody to get a free drink. To garner sympathy, you told somebody that you killed somebody. Who would do that? Who's going to be sympathetic to that?

It didn't work on Colleen McManus. She didn't give him any free drinks that night. She didn't give him any drinks that night. She called her cop brother instead.

And if this is the reason why he told Colleen McManus that he shot somebody, what was he thinking when he told Geronimo Estrada at the Ramsey County Workhouse, "Yeah, I did this." Can I have my free drink now? It makes no sense.

Why would he tell John Nunn, Isaac Hodge, Tyrone Crawford? They're all in custody. You don't get to drink alcohol when you're in custody. Did he think he was going to get free drinks from all those folks? No. He told them

because he did it.

One of your jobs as a juror is to assess credibility, to assess credibility of the witnesses that you've heard testify. In their opening statement, the defense characterized Mr. Vance as a *gravy train.*

The defense asserted that the only reason many of the state's witnesses came forward is because they were receiving something in exchange for their testimony, insinuating that the state's witnesses should not be believed.

After hearing all of the state's witnesses, it should be clear to you that Mr. Vance is nothing – he is not a gravy train. He is anything but. I characterize him as a wrecking ball. (1)

(14) Look at Melissa Stites. Melissa Stites received some relocation expenses. But she felt it necessary to move out of state for her own safety.

This wasn't some glamorous relocation like you see on TV with the Witness Protection Program, where they get put up in some swanky penthouse apartment and given everything, you know, the best that life has to offer. You heard her. She sat there and she went, "Well, I remember I had to spend about $999 of the money on a U-Haul trailer. *Whoopty do.* Wrecking ball. (2) Her life was placed in total upheaval because she was willing to come forward and do the right thing in this case.

(1) Colleen McManus. Colleen McManus did not get a thing in exchange for her testimony. The only thing she got was that she had to quit her job. Wrecking ball. (2)

Eric Griffin. Eric Griffin, he did get something in exchange. Minnesota Gang Strike Force had arrested him on a drug charge and, because of his cooperation, they are going to recommend to the Ramsey County Attorney's Office that the drug charge be dismissed.

(9) Even so, Eric Griffin felt it necessary to move out of state. He described the situation that happened to him as he was standing outside of his house. He felt threatened. His life was put in total upheaval.

Regina Hagerman. Regina Hagerman isn't getting anything, not a thing.

Tyrone Crawford. Tyrone Crawford, he is not getting anything in exchange for his cooperation except going back to the Sandstone Correctional Facility, probably with the label of being a snitch, which is not a real great label to have when you are in that type of setting.

Same thing with Isaac Hodge. Isaac Hodge isn't getting anything for his testimony except a label. He is going back to the Anoka County Jail with a label.

John Nunn. John Nunn is not getting anything.

And then there's these people that I discussed as

they were testifying. You know, they just came up and told you what they knew.

Dontay Reese. Dontay Reese is getting something in exchange. Dontay Reese is getting 36 months knocked off on his sentence. But, remember, when you are assessing his credibility, Dontay Reese did not come forward on his own. He was outed.

He was outed by another inmate from South St. Paul, who lived in South St. Paul, was familiar with Sabreen's and wanted to see justice done. So it was him, it was that inmate that called the South St. Paul Police Department and said, "This guy has got information on your case, good information. You need to come and talk to him."

So they did. Dontay Reese said, "I don't want to talk to you." And before he made the decision, because that's something he's never done before, he talked to his mom and his dad, and he talked to his lawyer. You know, are you going to fault a guy for putting himself out there, for wanting a little time shaved off? Think about how he appeared on the stand. He was open. He told you what he knew.

Law enforcement officers. In their opening statement and during their questioning of the officers in this case, the defense insinuated, and right out told you during the opening, that the officers in this case have a vested interest in what happens. All the hours that have been worked, the

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nature of the crime, you know, it's telling you that cops have a vested interest.

They don't have a vested interest in this case. They're trying to insinuate that you can't believe the officers, that they had tunnel vision. You know, that they were on Philip Vance from day one. They had to solve this crime. That's not the case.

They don't have a vested interest. And they shouldn't have to stand up here -- and I am not going to stand up here and apologize for police officers doing their job. You want your officers to put in the hours that it takes to solve a crime, any crime, especially a crime of this magnitude. You want to get a killer off the streets. That's what the public wants, that's their job.

Whether they solve it or not, they still get to go home at night. They don't have a vested interest. They don't have any monetary interest in the case. They are just doing their job and they shouldn't have to apologize for it.

Finally, Geronimo Estrada. This man was probably the most negatively impacted person in all of this, because he was willing to cooperate. He didn't like what Vance had done.

He was incarcerated with him, and on February 9th Mr. Vance began spilling his guts about the murder at Sabreen's. There were other people present. You

heard that. There were other people present. But Mr. Estrada was the only one who was willing to step forward. It wasn't an easy decision for him. You heard how after Vance spilled his guts, he went and laid on his bunk for two hours trying to decide what he should do. Thank God he made the decision that he did.

And then he called his girlfriend Sonya, and you heard the phone call. You heard the distress that he was under. He said, "Baby, I don't want none of that. I don't want none of that." Meaning I don't want to hear this, because he knows he is now a witness.

He did not put himself in that position. Philip Vance put him in that position. Philip Vance put all those people in that position. They didn't go out looking for it. It was him. It was his admissions.

Geronimo Estrada did it anyway because he knew it was the right thing to do. For his cooperation, he got beat up at the Ramsey County Workhouse. He got thrown into seclusion for his own protection. He had to be placed into protective custody. That's not fun -- I mean jail is not fun anyway, but being in protective custody is worse.

He did receive four hundred dollars from the South St. Paul Police Department. As you heard, when you are making phone calls out of the jail, they're collect phone calls. He and his girlfriend had racked up a bill. So after he came

forward, after he testified in the grand jury, they gave him four hundred dollars to go towards his overdue phone bill. Whoopty do.

We've got all these people. All these people, the only two people that had any relationship or knew each other were Isaac Hodge and John Nunn. Isaac Hodge was John Nunn's nephew. They testified that they never talked about this. They never talked about this case.

You've got all these different people, all these admissions were made to these people. They were made at different times, different locations, and they all point to Philip Vance. The one common denominator is Philip Vance.

So when you are assessing their credibility, I want you to keep a few points in mind. Some of them we've already talked about. These people didn't ask to bear witness to his confessions. They just came up here and told you what they knew. None of the witnesses exaggerated their testimony about what Mr. Vance told them. Again, they just came up and they told you what they knew, and they did so in a very straight-forward manner.

Keep in mind again the testimony of Geronimo Estrada and the details that Vance related to him at the Ramsey County Workhouse. What was taken the night of the murder? They were items that only the perpetrator had knowledge of--Philip Vance.

In their closing statement, the defense will undoubtedly talk about the statements that were made by Mr. Vance to law enforcement officers in this case, and accentuate the point that throughout all of those statements he kept saying "I didn't do it, I didn't do it, I didn't do it."

I am sure, and I hope you realize by the time we finally got to the June 18th statement, that the state didn't introduce those statements so that you could hear the denial after denial after denial. What was key in those statements is all the inconsistencies: inconsistency after inconsistency after inconsistency.

Mr. Vance was never able to provide an explanation as to where the hell he was at on December 22, 2002. He was never able to tell the investigators where he was during that timeframe that the murder was committed.

For example, first he said that he and Dominic Johnson were together all night, which would not be unusual because they were very close. They were homeys. When pressed about his whereabouts that evening, he told investigators during the January 16th statement that he was at the home of Jackie Ezell where his girlfriend, Darlene Jones, lived.

Well, that was refuted by Tom Kreager. You heard that. They went and checked it out. "Nope, you weren't there."

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"Hum, well, gee, I guess I'm going to have to come up with something else."

During his January 23rd phone call with Tom Kreager, he places himself smack dab in the middle of the truth. He was at the Radisson Bar with Johnson and John Martin, and he and Mr. Johnson were picked up by two girls driving a blue Corsica.

In that telephone call, one of the girls was someone Mr. Johnson was messing with, that being Yvonne White. "Hum," well, realizing that "gosh now I put myself in this blue Corsica, and I really was in the blue Corsica that night," he had to come up with yet again another story.

Later he says – "Oh, no, no, no. That was another night. That was another night I was in the blue Corsica." Even though John Martin put him in the blue Corsica that night, even though he told Dontay Reese he was in the blue Corsica that night.

During the first interview, Mr. Vance was adamant that he was with Mr. Johnson all night. "I was with Mr. Johnson all that night."

In his April 17th statement, Mr. Vance was confronted with his cell phone records. These were the cell phone records that were going to shed the light on his whereabouts that night. When he was confronted with telephone calls going to Keitha McKinney, Hennessy's girlfriend, to her

phone, he then all of a sudden, "Oh, ho, ho, ho, wait a sec. No, no, no, no. No, that was the night that Mr. Johnson had my cell phone and I was trying to find him, and I wasn't with him between eight and ten that night," the time that the murder and robbery was going to happen.

"No, no, I wasn't with him. I caught up with him at the Buttery later that night, and he was already sitting in the Buttery, and then I saw him, and so I walked in." That's a bunch of hooey. Colleen McManus saw him go in together. Eric Griffin saw them come in together. Another inconsistency.

When confronted with the comments that he made during the January 3, 2003 undercover operation, Mr. Vance adamantly denied that he made them. "I did not say that." And he maintained this denial even though Melissa Stites heard it and six or seven law enforcement officers heard it.

And what did they hear? That he had four guns, that he shot a guy two weeks ago on the south side, that he shot a guy five times in the back, and that he didn't stop to check to see if the guy was dead.

To get around this statement and the other statements that Mr. Vance has made about, you know, that he shot someone five times in the back -- not four times, but he shot someone five times in the back, that the defense in their questioning have asked the witnesses, "Well, now he said five

times, right? Not four times. He said five times, right?"

"Yes. That's what he said." So he couldn't have been talking about the murder of Khaled Al-Bakri at Sabreen's because there were only four shots fired. Well, I would submit to you that anybody in that position, who runs into a store and is out to kill somebody, doesn't remember whether it was *bang, bang, bang, bang* or *bang, bang, bang, bang, bang*. One shot difference. You're not going to remember that. He was one off. It was four in the back.

I just want you to remember in those statements, inconsistency after inconsistency after inconsistency. The statements did nothing but support the state's case.

I would like to turn to the substantive law. You have three crimes under consideration during your deliberations. The Judge instructed you on these yesterday, but I just want to briefly touch on them at this time.

The first is First Degree Premeditated Murder. And there are four elements. First, the death of Khaled Al-Bakri must be proven.

Two, the defendant caused the death of Khaled Al-Bakri.

Three, the defendant acted with premeditation and with the intent to kill Khaled Al-Bakri.

Finally, the defendant's act took place on or

about December 22, 2002, in Dakota County. And you will have all of these given to you before you retire to your deliberations.

The one element that I would like to touch upon and discuss with you is element number three, premeditation and the intent element. This is a portion of the definition. You will get the full definition in the instructions. But briefly, premeditation means that the defendant considered, planned, prepared for, or determined to commit the act before he committed it. And premeditation, there's no certain amount of time that is required to form premeditation. It's not required that the premeditation occurred the day before, that this plan came the day before. There is no time period.

Mr. Vance acted with premeditation and with intent to kill Khaled Al-Bakri. This is most evident by the fact that Mr. Vance entered the store with a loaded pistol that night. He didn't need to do that. He did not need to do that. He could have gone in with an unloaded pistol, pointed an unloaded pistol at Khaled Al-Bakri. He probably could have stuck a finger in his hoodie and pointed it at Khaled Al-Bakri and made threats at him. You know, "Give me the money or else."

No, he didn't do that. Nope. He went in with a loaded pistol, ran immediately into the front door, right

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behind the counter, laid Khaled Al-Bakri down and shot him. He knew he was going to do that the moment he entered the store. He wasn't going to leave a witness behind. He had that planned before he went in. That was his plan.

Khaled Al-Bakri was already dead by the time he was whipping money out of the cash register. He was already dead when they were taking other items from the store. If you look at the picture again of Khaled laying there, you will see that the drawer from the cash register is positioned merely on top of his body. There is a white plastic bag laying on top of his back. Those are items that had to have been placed there after he was already dead on the floor.

He knew, he planned it. And Khaled didn't stand a chance that night. Khaled had no escape route because the only exit from the counter was blocked by an armed man wearing a black mask, Philip Vance.

Alternatively, you know, if the premeditation didn't occur there, premeditation occurred when Vance was telling Khaled Al-Bakri to shut up. And when he got tired of listening to Khaled Al-Bakri plead for his life, he decided to lay him down on the floor and shoot him.

That's a shorter amount of time, but it's still sufficient for premeditation. And the intent, even Mr. Vance admits in his statement, that if you shoot at a guy four times, you sure as hell intended, it's not an accident.

Murder in the Second Degree, Intentional Murder in the Second Degree, also has four elements. The death of Khaled Al-Bakri must be proven. The defendant caused the death of Khaled Al-Bakri, the defendant acted with the intent to kill Khaled Al-Bakri, and the defendant's act took place on or about December 22, 2002.

These elements are identical to First Degree Premeditated Murder with the exception that with First Degree you have to act with premeditation and intent. With Murder in the Second Degree, you just have to act with intent. Premeditation isn't required.

So if you find that he's guilty of First Degree Premeditated Murder, this is a lesser included offense of that crime. He would then also necessarily be guilty of Second Degree Intentional Murder.

The last crime is Murder in the First Degree while committing aggravated robbery. The first element, the death of Khaled Al-Bakri must be proven. The defendant caused the death of Khaled Al-Bakri. The defendant acted with the intent to kill Khaled Al-Bakri. And at the time of the act causing the death, the defendant was committing the crime of aggravated robbery.

Finally, the defendant's act took place on or about December 22, 2002, in Dakota County.

The laws of Minnesota provide that if you kill

someone while you're committing an aggravated robbery, where you are stealing stuff from somebody, where you go in with a gun and start stealing stuff from somebody, if you kill anybody during the course of that robbery, you are guilty of Murder in the First Degree while committing aggravated robbery.

The state has proven each of the elements of each of these crimes beyond a reasonable doubt. Money, cigarettes, lottery tickets, plastic bags and a cordless phone. That's all Mr. Vance got that night.

The one truism that Mr. Vance voiced in all the admissions that he made, which I already told you, was when he told Isaac Hodge *it wasn't worth it* It wasn't worth it. He is so right. It wasn't worth it.

Khaled Al_Bakri's life, as any human life, cannot be measured by material things. This man had a bright, promising future that was cut short by Philip Vance's act of violence and greed.

Thank you for your attention and your consideration throughout this trial. When you retire to deliberate today, the state would ask that you apply your common sense, apply it to the evidence that you've seen and heard, and find the defendant guilty of First Degree Premeditated Murder, First Degree Murder while committing aggravated robbery, and Second Degree Intentional Murder.

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Thank you.

THE COURT: We will take a break.

(A break was taken.)

THE COURT: Mr. Shands.

MR. SHANDS: Thank you, Your Honor. May it please the court, Ms. Keena, Mr. Vance, ladies and gentlemen of the jury. You know, yesterday as we were sitting here and Captain Vujovich was testifying, I was thinking about what I was going to say to you in my closing argument. I knew that the case was almost over and I was going to have to close.I was thinking about what was I going to say.

Captain Vujovich talked about doing some investigation on this case as late as September 25, 2004. That was the preceding Friday.

This case still has not been solved. If the police knew what happened, they would not be continuing investigating the case. They still haven't solved it. Captain Vujovich told you he's still looking for the gun. They don't know what happened. I can tell you what happened.

On December 22, 2002, there was a robbery at Sabreen's. While this robbery was in process, Kathleen Johnson came upon it. She testified she walked in on the robbery, looked up, realized what was happening, startled the robber, she was startled herself. She turned around, she ran.

While she was in the store, she indicated she heard the person she saw behind the counter say something.

She didn't know what he said, but he said something. That's how she knew that there were men doing the robbery. A deep voice. She indicated she knew they were men. She ran out and got into her car.

She testified that she saw two people run out. She was specific. She said one of them had on a dark blue hoodie, one of them had on a dark maroon hoodie, baggy pants, dark. She testified they ran through the back alley.

Now the kids are walking down the back alley as this happens. Their testimony is very important. They were there. They testified to what they saw. Matthew Renville saw two people get into a vehicle. It was a big vehicle. It was gray. He was very specific about the color. It had oval tail-lights, he remembered that.

Samantha Renville, remember her testimony. She saw the two people get into the car. She heard someone say "Go, go, go." She also remembered it was a large car. She was very specific about that. She told you she knew it was a large car. Her parents had a four-door Ford Taurus. She knew it was much bigger than that.

Two people, they drive out of the alley and they leave. Now if we go back earlier in the afternoon, you have Mr. Vance, Mr. Martin and Mr. Johnson. They are at the Capitol Bar. The reason they go to the Capitol Bar is because Melissa Stites works there.

Now Mr. Martin is a convicted felon. You heard testimony about how he gets money, his deal is he takes checks, he writes checks, writes it for over the amount, gets money back. They like to go to the Capitol Bar because Melissa Stites allows him to write checks there. She also serves Mr. Johnson, who is underage. That's why they like to go there.

Now Melissa Stites also is a convicted felon, and her conviction is for passing forged checks. She knows the game. That's why they like to go there.

Now Mr. Vance recently turned twenty-one, and has a ninth grade education. You heard about that. He doesn't have a job. The way to get money is that he has his girlfriend give him money. The way he gets drinks -- and you heard he likes to drink. As a matter of fact, most of the testimony you heard about Mr. Vance is he's trying to get drunk or he is drunk.

December 22, 2002, they are at the Capitol Bar. Mr. Martin said they're sitting around talking about Christmas presents, what are they going to get their kids for presents, what is Mr. Martin going to get his girlfriend. His testimony was they weren't secretive. They were sitting out in the opening, they all have drinks, they bought pizza.

They leave the bar. Now as they leave the bar, Mr. Martin gets on the bus and he goes to see his girlfriend. Now he testified that Mr. Vance and Mr. Johnson are

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being picked up by some girls in a blue car, two females. He recognized one as Yvonne. He didn't know if she was driving or if she was a passenger, but there were two people and it was a blue car.

Now Mr. Vance and Mr. Johnson, they get in the car, and they leave. Later Mr. Vance and Mr. Johnson go to the Buttery. They go inside of the Buttery to do what they always do, get drunk, trying to scam, trying to continue to drink and get drunk.

They go into the Buttery and they have a conversation. First conversation they have is with the people that committed the robbery and the murder at Sabreen's. Those people tell Mr. Vance --

MS. KEENA: Objection, Your Honor.

THE COURT: Approach.

(OFF RECORD DISCUSSION)

MR. SHANDS: Mr. Vance has a conversation with someone. After that conversation, Mr. Vance is ecstatic, he is loud, can't believe it. He continues on with what he normally does, goes to the bar, and talks to Eric Griffin. Talks to Eric Griffin, talking about a robbery/homicide, trying to make himself be big.

Mr. Griffin testified that he didn't even believe Mr. Vance what he was talking about. Mr. Vance said something about *fucking somebody up.* He thought he meant

beating him up.

Next, Colleen McManus comes in. Now Colleen McManus testified that she sees Mr. Vance and he immediately comes over to her and he says, "Don't kick me out, don't kick me out," because he was not supposed to be in the bar.

She said, "I'll talk to you later." She goes in the back, takes off her coat, comes back. Then she says she engages in conversation with Mr. Vance and she is asking him "What's wrong? Something looks wrong."

He's like, "No, no."

She said, "Really, what's wrong?"

Then she said Mr. Vance put his hands in his jacket and brought it out and did something that she thought was a shooting gesture. She was very specific after that.

She asked Mr. Vance, "Did you shoot somebody?" Now she testified that Mr. Vance did not affirm that question. He did not say *yes,* but he did not deny it either.

At this point they're interrupted in their conversation. Maynard Cross, he yelled across the bar, "Shut your mouth, you crazy nigger. Quit acting crazy. Shut your mouth." At that point they are interrupted. Colleen McManus and Mr. Vance don't finish their conversation.

Mr. Vance does continue to try to get drinks. He's trying to scam his way to get drinks, "I'm leaving out of town. Man, I gotta get out of here. Come on, Colleen, hook me up with one more drink. Take care of me."

She testified that Mr. Johnson interrupts them also. Mr. Johnson comes over and he interrupts them because he's trying to get some money for cigarettes. They leave the bar. Colleen McManus calls her brother. She doesn't know, she thinks Mr. Vance knows something about something that happened. She calls her brother.

The very next day Colleen McManus calls Mr. Vance again. This time law enforcement is with her. She calls, she couldn't remember if that call was tape-recorded, but she knew law enforcement was there. She calls to see if he's okay. He doesn't mention anything about any robbery, any homicide. She urges him if he wants to talk about something. "No, everything's fine."

Now Mr. Vance is on the radar. Melissa Stites reenters the picture. Colleen McManus's brother is a police officer. And what he does, he's worked with Melissa Stites before. She testified that she has done undercover work for the police before. She knows she gets paid for it, too. She knows that.

She talked about being lean on money around this time. They set up a sting operation. The purpose

for the sting operation is Mr. Vance has some information, that's what they suspect, so they want to set up a sting operation to, one, they want Melissa to get Mr. Vance to sell her a gun. Two, they want to get some information from Mr. Vance. They want a confession.

A sting operation takes place. Mr. Vance – let me back up. Remember, Mr. Vance thinks he's on a date. He doesn't know there's a sting operation. He is with Melissa. He goes back into his mode. He always pumps himself up. He's trying to be hard, he's trying to get the street credibility. The most important thing -- or the highest street credibility that you can have is to be investigated for a murder. That's it. That's the biggest thing you can be investigated for and that's how you get the credibility.

He sells Melissa Stites a gun. We heard that that gun was tested and it was not the gun used in the Sabreen's robbery. That was a hoax. That was not the gun. He makes the comment "Two weeks ago, *five in the back on the south side.*"

Now the significance of that is we know certain things from the crime scene. One, it was not five. Mr. Al-Bakri was shot twice. *South side,* didn't say South St. Paul. So we had to make the assumption he was talking about South St. Paul.

He has information of what happened, but

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you need more than information. They have to prove that he did it. All along Mr. Vance, he has information of what is going on, but we don't know how he got this information. The state contends the only way you can get the information is by doing it. Mr. Vance has the information because he was told about it and he --

MS. KEENA: Objection, Your Honor.

THE COURT: Sustained. Why don't you approach.

(OFF RECORD DISCUSSION)

MR. SHANDS: Mr. Vance is no longer on the radar. Mr. Vance is a full-fledged suspect. Now at this point Mr. Vance is brought in, and he is interrogated. This is Detective Kreager. This is when the tapes come in. Now the tapes speak for themselves and you heard the tapes.

Part of the significance of the tape is I wanted you to see the interrogation methods that are used. Detective Kreager testified, he's retired now, he has been a police officer for over twenty years.

This is what he's trained to do. He's trained to get confessions and that's what he tried to do. You'll be able to see all the techniques that he used.

One thing that stays consistent, Mr. Vance not only says "I didn't do it," but he says, "When you get that evidence, when you get all the DNA, the footprints, the

fingerrints, the tire tracks, when you go to the crime scene and you get that evidence, it's going to show you that I didn't do it. I am confident in that. He maintains that.

Now the first time he gets investigated is early. He's now in jail, he gets out of jail, he leaves the state. He testified one of his children's mother went to Kansas City. He went to Kansas City on a Greyhound bus to see her and he came back.

Those aren't the actions of a guilty mind. As a matter of fact, we heard of some other criminals who were in jail. They asked him the same question, "If you did it, why did you come back"? Because Mr. Vance knows there's no evidence against him. He knows that the evidence they have will not put him there. He's confident in that. Mr. Vance goes to Regina Hagerman's Super Bowl party.

This is another example of what Mr. Vance does. He tries to get drunk or gets drunk, and he starts puffing himself up. He's getting on, he wants to make himself look big, the big man. He talks about the fact he is being investigated for a homicide. He tells her that. He doesn't even know her. That's why he's trying to impress her and that's why he's talking up a big game. He talks about being investigated. He talks about they surely won't prove it.

She testified he said they won't prove it because he has a good lawyer. At that point he didn't even

have a lawyer. But he was confident that he was going to be exonerated. Again, he falls back and says, "Bring me the evidence."

Now in opening statements Ms. Keena talked about the evidence. And there's an insinuation that there was no evidence at the scene. In fact, there was a ton of evidence. And you heard Dr. Sedqi come in and talk about some of the things they found at the scene. They found tire tracks. They collected cigarette butts. The purpose of that is to check the DNA, match it against suspects.

They found shoeprints. They found fingerprints. They found the shell casings. They found fingerprints on the countertop, on the till, on the door. There was a lot of evidence. And that evidence was tested. And guess what? They vindicated Mr. Vance, he was sure about it. He told them, "Check that stuff."

You remember in interrogation there was a surveillance tape of that store. Detective Kreager says, "Hey, you better fess up now because this is going to go down. If we have to wait until we get this evidence, you're not going to have a chance to cut any deals. You better fess up now."

Mr. Vance says, "I'm not worried about it. That stuff is going to show you I wasn't there. I didn't do it." Mr. Vance has knowledge. They can't prove how he has that knowledge. If they had a gun that was used in that shooting,

put it in Mr. Vance's hands, then prove it.

If they had somebody who was with him who came in and confessed, "Hey, we did it, and this is Mr. Vance's role in it," they would have proof. They don't, and they're searching for it. They're still searching for it to this very day.

They have evidence, they do not have proof. The interrogation of Mr. Vance continues. And again we heard two days worth of interrogation. You heard it, I heard it, and I will let you reflect back on what was said.

But now Mr. Vance is in custody, and we had what I kind of referred to as the day of snitches. This was all the people that came in and said, "I was in custody with Mr. Vance, this is what he said."

Now Tyrone Crawford is important here. Tyrone Crawford indicates he's in jail with Mr. Vance, and Mr. Vance says -- they either see a news article on Maynard Cross or they see a newspaper article. Tyrone Crawford says, "Mr. Vance sees it and says "That's the guy who's putting my name in a bunch of bullshit."

Now Tyrone Crawford also talked about jail life. He told you people come into jail and they lie about their crimes and they lie about their lives. There's a hierarchy in jail. To be on the top, be investigated for murder. You're the tough guy, you're the big guy. Mr. Vance will perpetuate that. But he knows he's going to be exonerated.

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He's in jail. He knows he's going to be exonerated because they're going to get that evidence, the evidence that will prove who did it. They will get it and that evidence will not point to him. He knows it. That's why he keeps talking about it. He's in jail. He knows about the crime. But we don't know how he knows. He keeps talking about it, talking about it.

Now Eric Griffin. And, remember when some of these witnesses testify, one of the things Ms. Keena would do is she'd talk about the preliminary matters. And the preliminary matter would be a criminal history.

That's not a preliminary matter. That's part of these people. These people that were in jail with Mr. Vance are criminals. They're familiar with jail. They know what to do.

Not only do you try to pump yourself up while you are in jail to be the big man, you also keep your ears open to hear what people are saying so you can try to use it to help yourself out.

Eric Griffin. Eric Griffin did not come forward with this information until he was in jail. When he first met the police, he told them, "I'm not going to talk to you until you can do something for me." It got Eric Griffin out of jail, and for his testimony, his case is going to be dismissed in Ramsey County.

Isaac Hodge, John Nunn, uncle, nephew. I mean we have whole families using Mr. Vance. Now Dakota County may not have gave them anything in exchange for their testimony, but they didn't come in here out of the goodness of their heart. They come in, they testify, maybe they'll get something in return.

Dontay Reese. Dontay Reese, first, is a convicted felon. When he first came to light, he was not going to testify. He talked to his attorney, talked to his mother, talked to his family, realized, "Hey, you can get three years cut off your sentence." Dontay Reese is going to be sentenced on another felony. In exchange for his testimony, he's going to get three years cut off his sentence.

Dontay Reese brings a story in. Dontay Reese comes in and the story differs from what I tell you, in that Dontay Reese's explanation is Yvonne and another woman picks up Mr. Vance and Mr. Johnson. They go to Richard Robinson's house where Troy Crawford is at.

Troy Crawford comes up with a plan, "Let's rob a store." Troy Crawford is the lookout. Troy Crawford didn't go in the store -- and this is important to remember, because he is very specific about it. Troy Crawford does not go into the store. He stays in the back of the store.

He says, "Mr. Vance and Mr. Johnson go in, rob the store, come out, and run to the car." Now the reason

this version of the story is -- I find illuminating, is because it is disproved by what we know by witnesses who were there.

First of all, it makes no sense that Troy Crawford would be behind the store. Sabreen's does not have any back windows, there's no way to communicate to people in the store from out in the back in the alley. Why would the look-out be in the back of the alley if he cannot warn people that someone is coming?

In fact, someone did walk in on them. Kathleen Johnson. That makes no sense. But, most importantly, they are stuck with the blue car. If Dontay Reese is right, you are stuck with the blue car.

Witnesses that saw the two people get into the vehicle and leave, Matthew Renville, Samantha Renville, it was not a blue car, it was a gray car, it was a big car. We are familiar with the Corsica. There's a picture of it. The Corsica does not have oval tail lights. The Corsica will not hold six people to do the robbery. Those are the facts from the scene, from the people who were there, who saw it. It could not have gone down like Dontay Reese said it did.

Geronimo Estrada. Now, Geronimo Estrada met Mr. Vance in jail. Mr. Vance is doing what he does in jail, in the hierarchy. He is talking about being investigated for a homicide.

Now Mr. Vance talked about some facts.

Well, Mr. Estrada comes in and says, "Mr. Vance told him some things." And the state contends that the only way he would know of these items is if he did the crime. I submit to you, if someone tells you about it, you would know.

MS. KEENA: Objection, Your Honor.

THE COURT: Approach.

(OFF RECORD DISCUSSION)

MR. SHANDS: Let's talk about some of the things that the state finds significant. Telephone, cigarettes, money, lottery tickets, and I believe the plastic bags. Now there's a difference between evidence and proof. There is evidence that these items were missing from the store. I submit to you the state hasn't proved it.

Now when we talked -- if you remember the testimony of Tariq Bakkri, I asked him, "How many cigarettes were taken?" And he indicated to me, "Well, I don't do inventory. This is a mom and pop store. I don't do inventory. I didn't write down how many cartons of cigarettes I have. I kind of eyeball it. I speculated. It looked different."

There's evidence that cigarettes are gone. There is no proof that cigarettes were taken from that store, but there is speculation. Let's assume, for argument sake, that cigarettes are missing, specifically identifying Marlboro cigarettes. Let's go back to Geronimo Estrada.

Geronimo Estrada was very specific when he

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was talking about the cigarettes, he said, because they were bragging that they had snuck some of the cigarettes into the workhouse. They were selling them to other people, it was contraband in the workhouse. He was also specific about Newports. It completely contradicts Tariq Bakkri. He was specific in Marlboros. He has been to the store.

The hand-held phone. Now the hand-held phone baffles me because this is one of the phones where you – it's alleged that the phone was taken, but they left the base, which makes absolutely no sense. These are one of these phones that to use the phone you got to take it off. You would have to be across the street, that's the range of the phone, and then the battery is going to die because you can't recharge it.

Now there was speculation as to if Khaled Al-Bakri even had the phone on him. His brother testified it's his habit to take the phone, put it in his belt. Okay? So the assumption is if the phone was taken, it was taken from his belt.

Dr. Thomas testified that he had a cell phone on his belt. If they're looking to take this expensive phone, why didn't they take the cell phone?

If you remember, Geronimo Estrada also talked about lottery tickets. Again, there was speculation that lottery tickets were taken. I asked about the serial numbers. Can we track it back to the State Lottery Department to figure

out "Well, we issued you this many. This was a serial of the ones you have. What's missing? Have they been cashed? We could find out who cashed them." That's how we prove things. Again, he eyeballed them. They've never come up.

Mr. Estrada also talked about it was the first time, and the only time, about the Cadillac. Remember Mr. Estrada's testimony? He came in and he told a story about how Mr. Vance was driving a Cadillac in Wisconsin, they hit a deer, they thought it was somewhere near Eau Claire, they had some clothes in there, all the evidence. They abandoned the car at a truck stop. And that whole story never went anywhere. It does not match the facts that we've got.

Mr. Estrada was -- well, Mr. Estrada also talked about the facts of Mr. Al-Bakri being laid down. That's what really he thought was wrong. I submit to you that that's not how he's going down. That was talking big, that was bragging, saying that *he cried like a bitch.* That was bragging. We don't know how he went down.

I made a big *to do* about Exhibit 13, and you will see it back in the jury room. The money was taken out of the till. If you look at Exhibit 13, right above Mr. Bakri's head, right where the flashlight was found with a bullet in it, there's a big stack of cash sitting wide and open.

If he had already shot Mr. Bakri and was back there taking cash out, why didn't he take the cash that's

right in front of him?

You had Mr. Sedqi come in and he said, "You know what, the people didn't necessarily have to be behind the counter. Either they were behind the counter or the gun was pointed behind the counter."

I submit to you the state has proven that Mr. Vance knows about the crime. They have not proven to you that he committed the crime. And that's a problem because Mr. Vance is not charged with knowing about the crime.

The state has to prove, by proof beyond a reasonable doubt, all the charges against Mr. Vance. I submit to you that I have presented a theory of this crime, but I have not proven it to you. I have given you evidence and pointed out evidence that makes my theory just as plausible as the state, but I haven't proven it. And neither has the state. But I don't have the burden. The state does.

Presumption of innocence and proof beyond a reasonable doubt are the cornerstones for the criminal justice system. That's what it's built on. The exact opposite of that is suspicion of guilt. That's what eats away at it.

An example of suspicion of guilt is Melissa Stites. Remember when Melissa Stites talked about *getting their plan on?* And she said that meant to do a robbery.

On December 22nd of 2002, getting the plan

on didn't mean a robbery. She put two and two together afterwards, after she found out what happened, after she found out they were investigating. She told you that because she knows Mr. Vance is being investigated for a robbery. That's suspicion of guilt.

Suspicion of guilt is when we switch the burden on Mr. Vance. He couldn't tell the police -- he couldn't prove to the police that he didn't do it, and they wanted him to. They investigated. He couldn't prove that. He doesn't have to. That's suspicion of guilt. When you go there, the system is not working.

Another example we saw of suspicion of guilt is Samantha Renville. God bless her heart, she's the kid who goes to Sabreen's. She knew them. She was familiar with Sabreen's. The testimony that shows suspicion of guilt is when she talked about the race of the perpetrators.

She testified that she didn't see them, didn't see their faces. But she assumed on the stand, she said, "Well, they're black." She didn't do that because she's a racist. She didn't do that because she was trying to set Mr. Vance up. She was trying to help the state. She looked over and saw Mr. Vance was on trial, she said, "Well, they must have been black." That's suspicion of guilty.

Reasonable doubt, I like to use a railing as an example when I talk about reasonable doubt. If you look at

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this railing and consider it continual proof. You start here and you move this way. Right here is preponderance of evidence (indicating). This is when you have two stories competing and you say, "Well, I think this one is right." That's preponderance of evidence.

You move down further, you have clear and convincing. That's when you say it's fifty-one to forty-nine. That's how you weigh them. You get here (indicating), this is reasonable doubt. The state doesn't only have to take you all the way down here, they have to take you out here (indicating). It's proof beyond a reasonable doubt. It's not enough to get you here to reasonable doubt. They have to get you here (indicating).

It's like in a football game, you march down the field, you get to the goal line and you don't get to stop and say "I scored a touchdown." You have to score. You have to get over that line.

I have worked on this case for a long time. And in my representation of Mr. Vance I have done the best I could do. Sometimes, in representing zealously, I offend or I say something that will offend a juror. If I have done that, I apologize. And if I have done that, please do not hold it against Mr. Vance.

Lot of times lawyers take responsibility for making sure the system works. It's zealous representation.

You hear about judges taking responsibility for it. The truth is, you're the reason it works. I asked you in jury selection, we talked about your civic duty, and you all said, "Hey, it's something we have to do," and acknowledging the gravity of the case that's before you. It's a murder case.

Mr. Vance's life is in your hands and you acknowledged that. You told us that you would listen to the evidence, that you would be fair, that you would hold the state to their burden.

Now I ask you, when you go back into the jury room, look over the evidence, talk to each other, deliberate. Come back in, deliver a verdict that the evidence compels, that justice requires, verdicts of not guilty on all counts.

Thank you.

THE COURT: Ten-minute break.

(JURORS EXCUSED)

THE COURT: We should make a record. There were objections made by the state during Mr. Shands' final argument. Ms. Keena?

MS. KEENA: Your Honor, the objections that were most noteworthy, as you recall, were Mr. Shands' innuendos regarding an alternative perpetrator having committed this crime and that Mr. Vance obtained his knowledge about these crimes or about the facts of the case

from an alternative perpetrator.

I think, again going back to Maynard Cross connection, it's been made very clear that Mr. Cross was not linked to this crime. There was no evidence put forward in the proffer that he was linked to this crime.

The fact is that Mr. Vance made an admission to Maynard Cross at the Buttery Bar that night. That's what the evidence was that went into the grand jury, so for the defense to get up and argue that it was Maynard Cross who committed it, that was the basis for the state's objection.

THE COURT: Anything, Mr. Shands?

MR. SHANDS: Your Honor, in the state's closing argument, they brought up Maynard Cross. They said Mr. Vance had a conversation with Maynard Cross. They did not bring Maynard Cross in to say that Mr. Vance told them. It was speculation innuendo. All I did was give the jury something else, that maybe during this conversation Mr. Vance did not confess to Mr. Cross, but maybe it was vice versa. I did not say it was.

Quite frankly, I told the jury I didn't prove anything. But when the state dabbled into speculation of what was happening with that conversation, I believe they opened the door for me to at least address it.

THE COURT: Anything else?

MS. KEENA: No, Your Honor.

THE COURT: Thanks. Ten minutes. Quarter to.

(A break was taken)

THE COURT: Please be seated. Our rules of court allow the state to make a rebuttal argument. Ms. Keena.

MS. KEENA: Thank you, Your Honor. And I promise to be brief. I promise. I just want to touch on a few points that defense raised in their closing. One was the discussion about the car and how the state is stuck with this blue Corsica. Well, the state doesn't feel stuck with the blue Corsica. That's the information that Vance provided to Dontay Reese. John Martin saw Vance and Johnson get into a blue Corsica.

The only thing that doesn't quite fit is what the kids described or how they described the car in the alley. What I want you to remember is the testimony of those three kids. They indicated that as they walked up into the alley they were messing around. Excuse me, Mr. Dale Marx talked about how he was sliding on the ice. Mr. Renville testified how dark it was behind the store, the lighting was bad, and all three of them testified that when they saw these two guys out, they didn't think anything of it.

They didn't realize what they were witnessing, they didn't realize the significance of what they were

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reasonable doubt along the rail here and he had you way out here (indicating) on reasonable doubt. That's proof beyond all doubt. The state is not required to prove Mr. Vance's guilt beyond all doubt. It's a reasonable doubt.

Reasonable doubt, as the court told you yesterday, it doesn't mean a fanciful or capricious doubt nor does it mean beyond all possibility of doubt. It's such proof as ordinarily prudent men and women would act upon in their most important affairs: when you are buying a house, when you are buying a car. That's proof beyond a reasonable doubt, not way off the railing.

Thank you.

THE COURT: In order for you to return a verdict, whether guilty or not guilty, each juror must agree with that verdict. Your verdict must be unanimous.

You should discuss the case with one another and deliberate with a view toward reaching agreement, if you can do so without violating your individual judgment.

You should decide the case for yourself, but only after you have discussed the case with your fellow jurors and have carefully considered their views.

You should not hesitate to reexamine your views and change your opinion if you become convinced they are erroneous. But, you should not surrender your honest

opinion simply because other jurors disagree or merely to reach a verdict.

In arriving at your verdict, you shall not permit bias, prejudice or sympathy to affect your verdict. You should base your verdict entirely upon the evidence which has been received in court and upon the law which I have given you in these instructions.

There are twelve of you on this jury. And in order to reach your verdict, again, all of you must agree the verdict must be unanimous. The verdict is to be signed by the foreperson alone, who will insert the date and hour at which you arrive at the verdict.

You will remain in the jury deliberation room until you deliver your verdict in open court. When you arrive at a verdict, notify the officer in charge or bailiff, and the court will be summoned to receive your verdict, no matter at what hour of the day or night you are ready to report.

I mentioned verdict forms. You will receive six verdict forms. One for Murder in the First Degree with premeditation. You will receive a guilty verdict form and a not guilty verdict form.

Murder in the Second Degree, Intentional. You will receive a guilty verdict form and a not guilty verdict form.

First Degree Murder while committing an

seeing. Three kids, Samantha was fourteen, I believe, at the time. So they were fourteen and fifteen years old. They were mistaken.

There was also discussion about Samantha Renville and this idea of suspicion of guilt and how when she was asked on cross-examination she, you know, was asked, "Well, you don't know if they were White, Hispanic," you know, this whole litany, and she blurted out, "I saw Black." She said "Black."

Now she didn't say that to help the state. That's what she saw -- thought she saw. If you recall Ms. Renville, after the cross-examination, she completely shut down up on that stand. She did not like the experience that she was going through, and I had to coax her into answering more questions for the state. She didn't blurt out *Black* because of anything that the state did.

There was also mention in the defense's closing argument about that Vance could have obtained this information elsewhere, the specific facts about the crime. There is absolutely no evidence that has been submitted in this case indicating that, that he could have obtained that knowledge about this case, about the specific things that were taken, from anywhere else or from anyone else.

Finally, the last item I want to talk about is reasonable doubt. Mr. Shands showed you this continuum of

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armed robbery, you will receive two verdicts, a guilty verdict form and a not guilty verdict form.

During your deliberations you are not to communicate with members of your family or with other persons except the bailiffs in charge. And to them and them alone you may make known your needs.

After you have retired for your deliberations, if you desire information on any point of law in the case, you may ask the bailiff to bring you back into the courtroom. And, ladies and gentlemen, in considering this case, remember that you are not advocates or partisans, but that you are judges of the facts.

The final test of the quality of your service will lie in the verdict you return to this court and not in any of the opinions you may have as you retire from this case.

Let the court remind you that in your deliberations in the jury room there can be no triumph except the ascertainment and declaration of the truth. And remember that this case is important to both sides.

It is important in the respect that a person who is guilty of committing a crime be brought to justice and be punished. It is equally important that a person who is not guilty of a crime should not be punished for something they did not do.

I will swear the bailiffs.

(The court administered an oath to the bailiffs)

THE COURT: Well, this is difficult because there are fourteen of you sitting there, and twelve will decide the case. Mr. Walters and Ms. Pape, you are our alternates. I will allow you to go back with the other jurors, but no one is to discuss the case. And we are going to keep you available in the event we need one of you. So as you wait together, don't talk about the case, the two of you. And we will make you as comfortable as we can.

Anything else?

MR. SHANDS: No, Your Honor.

MS. KEENA: No, Your Honor.

THE COURT: Thanks.

(Adjourned at 12:00 p.m.)

(Whereupon, the jury reached a verdict at 8:30 p.m. Sentencing was set for October 8, 2004)

STATE OF MINNESOTA)
: ss.
COUNTY OF DAKOTA)

I, Theresa Kossan, being one of the official court reporters for Dakota County, First Judicial District, State of Minnesota, do hereby certify that the foregoing transcript, consisting of the preceding 561 pages, is a true and accurate reproduction of my original Stenographic machine shorthand notes taken by, heard before the Honorable Rex D. Stacey.

Dated: November 9, 2004

Theresa Kossan
Official Court Reporter
1560 Highway 55
Hastings, MN 55033
(651) 438-8041

MINNESOTA JUDICIAL BRANCH

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STATE OF MINNESOTA DISTRICT COURT

COUNTY OF DAKOTA FIRST JUDICIAL DISTRICT
Court File No. K6-04-736

State of Minnesota,

Plaintiff,

vs.

STATE'S DISCLOSURE OF TRIAL WITNESSES

Phillip Randall Vance,

Defendant.

TO: THE ABOVE-NAMED DEFENDANT AND HIS ATTORNEY, NITU SINGH, ASSISTANT PUBLIC DEFENDER, 7300 WEST 147TH STREET, SUITE 400, APPLE VALLEY, MN 55124.

I hereby inform you, pursuant to Rule 9.01, Subd. 1(1), Minnesota Rules of Criminal Procedure, that the State intends to call the following witnesses at trial in the above-entitled matter:

1. Tariq Bakkri – nitu
[redacted]
Blaine, MN 55434
Phone: 651-226-8877
Record of Convictions: None
Inducements: None

2. Kathleen Johnson → eyewitness – nitu
[redacted]
South St. Paul, MN 55075
Phone: 651-455-2696
Record of Convictions: None
Inducements: None

3. Matthew Renville → teenager – nitu
[redacted]
South St. Paul, MN 55075
Phone: 651-457-2541
Record of Convictions: None
Inducements: None

LOCATION: RX TIME 08/13 '04 14:58

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4. Samantha Renville - with
[redacted]
South St. Paul, MN 55075
Phone: 651-457-2541
Record of Convictions: None
Inducements: None

5. Dale Marx, Jr. - with
[redacted]
South St. Paul, MN 55075
Phone: 651-451-6783
Record of Convictions: None
Inducements: None

6. Dale Marx → clear
[redacted]
South St. Paul, MN 55075
Phone: 651-451-6783
Record of Convictions:
(1) 11/13/79: Unauthorized Use of a Motor Vehicle, Dakota County
(2) 09/27/90: DWI, Dakota County
(3) 03/27/97: DWI, Ramsey County
Inducements: None

call to ✓

7. Melissa Stites clear boyfriend in Prison in PA..?
19121/2 Tittston Ave.
Scranton, PA 18505
Phone: Unknown at this time
Record of Convictions:
(1) 04/17/98: DWI, Ramsey County
(2) 11/20/96: Check Forgery, Hennepin County
Inducements: Please note, the following inducements were not promised in exchange for the testimony of the witness.
(1) Witness was advised that she may be eligible for reward money from the victim's family.
(2) Witness received funds from the Minnesota Gang Strike Force for relocation expenses. Amount unknown.
(3) Witness received $550.00 from the South St. Paul Police Department as informant pay and for relocation expenses.

call to need / meeting

8. Colleen McManus clear
Current address unknown.
Ms. McManus has retained Peter Orput for contact purposes.
Peter Orput
Attorney at Law
4660 Slater Rd.

Exhibit 2, Page 2 - Exhibit 2 - CRU Supporting Materials and Documents - Pg. 1265

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11. Maynard Cross — clear
Minnesota Correctional Facility – Oak Park Heights
5329 Osgood Ave. N.
Stillwater, MN 55082
Phone: 651-779-1400
Record of Convictions:
(1) 01/09/98: Assault in the Second Degree, Ramsey County
(2) 03/12/02: Possession of Firearm by Felon, Hennepin County
(3) 09/09/03: Murder in the First Degree, Hennepin County
Inducements: In exchange for the cooperation of this witness, the state agreed to request from the Minnesota Department of Corrections that the witness be transferred from the medium security facility of Rush City to the maximum-security facility of Oak Park Heights. This witness was also advised by the South St. Paul Police Department that the witness may be eligible for reward money from the victim's family.

talk to her

12. Yvonne White with Darby Rutsat Steve.
[redacted]
Hastings, MN 55033
Phone: 651-480-1114
Record of Convictions: None
Inducements: None

talk to her

13. Amy Drager with house afterwards.
[redacted]
Eagan, MN 55122
Phone: 651-686-4676
Record of Convictions: None
Inducements: None

14. Regina Haggerman with Darlene authie
[redacted] Vance holdbar can did it.
St. Paul, MN 55104 Darby locked up at Ramsey
Phone: 651-493-9126
Record of Convictions: None
Inducements: None

15. Vanessa Franco clear Stucks chicky
[redacted]
St. Paul, MN 55102
Phone: Unknown
Record of Convictions: None
Inducements: None

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16. Christopher Koskie clear → Bartender at Butter.
[redacted]
St. Paul, MN 55102
Phone: 651-330-1109
Record of Convictions: None
Inducements: None

17. Rochelle Perez clear Shacks other's girl.
[redacted]
St. Paul, MN
Phone: 651-340-5824
Record of Convictions: None
Inducements: None

18. Sonya Clark with Vance child's momma
[redacted]
Maple Grove, MN
Phone: 763-416-0860
Record of Convictions: None
Inducements: None

19. John Martin with → Says he's at the Radisson
[redacted]
St. Paul, MN 55106
Phone: Unknown
Record of Convictions:
(1) 10/16/03: Burglary in the Third Degree, Ramsey County
Inducements: Please note, the following inducements were not promised in exchange for the testimony of the witness.
(1) The South St. Paul Police Department paid the sum of $169.50 to this witness as an informant.

20. Fabian Wilson clear Ch 5
[redacted] Vance's sister's boyfriend.
St. Paul, MN 55102
Phone: 651-265-3476
Record of Convictions:
(1) 09/19/03: Burglary in the Third Degree, Ramsey County
Record of Juvenile Adjudications:
(1) 12/07/98: Simple Robbery
Inducements: None

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21. Nicole Rauschnot with → driver owner of blue Cacsica
[redacted]
West St. Paul, MN 55118
Phone: Unknown
Record of Convictions: None
Inducements: None

22. Kentrell Anthony with Regina's niece
956 Minnehaha Ave. E.
St. Paul, MN 55106
Phone: 651-772-8334
Record of Convictions:
(1) 07/02/04: Misdemeanor Theft, Ramsey County
Record of Juvenile Adjudications:
(1) 10/04/00: Aggravated Robbery in the First Degree, Ramsey County
Inducements: None

23. Eric Griffin clean St. Louis name.
[redacted]
St. Paul, MN 55104
Phone: 651-207-5719
Record of Convictions:
(1) 10/02/97: Nonsupport, Missouri
(2) 03/02/00: Controlled Substance Crime in the Fifth Degree, Ramsey County
Inducements: This witness has a pending charge of controlled substance crime in the third degree in Ramsey County. The arresting agency was the Minnesota Gang Strike Force. This witness reached an agreement with the Strike Force that in exchange for his cooperation, the Strike Force will ask the Ramsey County Attorney's Office to dismiss the pending drug charge.

24. Tyrone Crawford clean
Sherburne County Jail
Record of Convictions:
(1) 08/14/91: Controlled Substance Crime in the Third Degree, Ramsey County
(2) 12/12/91: Controlled Substance Crime in the Fifth Degree, Ramsey County
(3) 10/06/98: Check Forgery, Ramsey County
(4) 02/19/04: Mail Fraud, Federal Court, District of Minnesota
Inducements: None

Exhibit 2 - CRU Supporting Materials and Documents - Pg. 1268

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25. Dontay Reese
Goodhue County Jail
Record of Convictions:
(1) 05/15/99: Misdemeanor Obstructing Legal Process, Hennepin County
(2) 10/14/99: Gross Misdemeanor Theft, Ramsey County
(3) 10/25/99: Misdemeanor Receiving Stolen Property, Hennepin County
(4) 11/11/99: Misdemeanor Assault in the Fifth Degree, Ramsey County
(5) 12/21/99: Misdemeanor Trespassing, Hennepin County
(6) 03/02/00: Misdemeanor Assault in the Fifth Degree, Ramsey County
(7) 05/04/00: Misdemeanor Trespass, Hennepin County
(8) 06/01/00: Misdemeanor Theft, Ramsey County
(9) 06/17/00: Burglary in the First Degree
(10) 06/26/00: Controlled Substance Crime in the Fifth Degree, Ramsey County
(11) 12/02/01: Theft of Motor Vehicle, Ramsey County
(12) 09/16/02: Minor in Possession, Scott County not this
Record of Juvenile Adjudications:
(1) 03/24/95: Misdemeanor Assault in the Fifth Degree, Dakota County
(2) 08/16/95: Misdemeanor Motor Vehicle Tampering, Dakota County
(3) 11/09/95: Misdemeanor Possession of a Small Amount of Marijuana, Dakota County
(4) 11/09/95: Misdemeanor Theft, Dakota County
(5) 05/12/98: Disorderly Conduct, Dakota County
(6) 07/11/98: Misdemeanor Crime Against the Administration of Justice, Dakota County
(7) 05/19/98: Misdemeanor Assault in the Fifth Degree, Dakota County
Inducements: The defendant is awaiting sentencing in Dakota County on a charge of Criminal Sexual Conduct in the Second Degree. In exchange for his cooperation, the state has agreed to a downward durational departure from 98 months to 62 months.

26. Katharine Bakkri [redacted]
Blaine, MN 55434
Phone: 651-226-8877
Record of Convictions: None
Inducements: None

Exhibit 2, Page 6 Exhibit 2 - CRU Supporting Materials and Documents - Pg. 1269

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27. Troy Crawford clear
Minnesota Correctional Facility-St. Cloud
2305 Minnesota Blvd. SE
St. Cloud, MN 56304
Phone: 320-240-3000
Record of Convictions:
(1) 02/21/01: Assault in the Second Degree, Ramsey County
(2) 09/16/03: Unlawful Possession of a Pistol by a Felon, Ramsey County
Inducements: None

28. Trevor Crawford - clear
Minnesota Correctional Facility-St. Cloud
2305 Minnesota Blvd. SE
St. Cloud, MN 56304
Phone: 320-240-3000
Record of Convictions:
(1) 08/10/01: DL/False Info, Ramsey County
(2) 02/19/03: DL/ Unlawful Acts, Ramsey County
(3) 03/14/03: DL/Unlawful Acts, Ramsey County
(4) 04/28/03: Controlled Substance Crime in the Fifth Degree, Hennepin County
(5) 06/30/04: Unlawful Possession of a Pistol by a Felon, Ramsey County
Record of Juvenile Adjudications:
(1) 09/08/98: Assault in the Fifth Degree, Ramsey County
(2) 06/14/00: Controlled Substance Crime in the Fourth Degree
Inducements: None

29. Dominique Blatcher clear → gets calls all night long
Address Unknown
Phone: Unknown
Record of Convictions: None
Inducements: None

30. Lugene O'Connor with Kentrall Grandfather.
956 Minnehaha Ave. E. shacks shaved up Branding #
St. Paul, MN 55106
Phone: 651-772-8334
Record of Convictions: None
Inducements: None

Exhibit 16, Page 7 Exhibit 2 - CRU Supporting Materials and Documents - Pg. 1270

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31. Jacqueline Ezell - with wife & Eugene.
956 Minnehaha Ave. E.
St. Paul, MN 55106
Phone: 651-772-8334
Record of Convictions: None
Inducements: None

32. Keitha McKinney - clear Minnesota's women Robinson call all nights after I have been Shucks + Shanee.
[redacted]
St. Paul, MN
Unknown
Record of Convictions:
(1) 01/21/03: Wrongfully Obtaining Public Assistance, Ramsey County
Inducements: None

33. Richard Robinson - clear
Ramsey County Jail
Record of Convictions:
(1) 02/19/02: DL/Unlawful Acts, Ramsey County
(2) 03/13/02: Receiving Stolen Property, Ramsey County
Inducements: None

34. South St. Paul Police Dept.
Dave Greengo
Richard Roehlen
Michael Smith
Mark Sawyer
Tom Kreager
Daniel Vujovich
Phillip Oeffling
Steve Ploeckelmann
with

35. Dakota County Sheriff's Dept.
David Sjogren
Brad Wayne
clear

36. Minnesota Gang Strike Force
John McManus
John Pyka
Andy Shoemaker
clear

Minnesota Gang Strike Force
1919 University Ave. #550
St. Paul, MN 55104

37. Minnesota Bureau of Criminal Apprehension
Kurt Moline
Dr. Mohamed Sedqi
Dr. Jay Wenner
Donald Melander
Joshua Bergeron
Sarah Leach
Susan Gross

MN BCA
1430 Maryland Ave. E.
St. Paul, MN 55106

38. Special Agent Dave Nygren
Dept. of the Treasury
Bureau of Alcohol, Tobacco and Firearms
190 E. 5th St. #310
St. Paul, MN 55101

Since the state does not have access to your file, it will only rely on written notices from you as to what witnesses you intend to call, what defenses you intend to raise, and what evidence you intend to introduce. If the state does not receive written notice, it will conclude that your only defense will be not guilty and your only witness will be the defendant.

DATED: August 13, 2004

JAMES C. BACKSTROM
DAKOTA COUNTY ATTORNEY

By: Kathryn M. Keena

Kathryn M. Keena
Assistant County Attorney
Reg. No. 20092x
Dakota County Attorney's Office
1560 Highway 55
Hastings, MN 55033
Telephone: (651) 438-4438

Exhibit 2, Page 9 Exhibit 2 - CRU Supporting Materials and Documents - Pg. 1272

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2/27/2026 10:46 PM

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF DAKOTA

FIRST JUDICIAL DISTRICT
Court File No. K6-04-736

State of Minnesota,

Plaintiff,

vs.

STATE'S DISCLOSURE OF TRIAL WITNESSES

Phillip Randall Vance,

Defendant.

TO: THE ABOVE-NAMED DEFENDANT AND HIS ATTORNEY, NITU SINGH, ASSISTANT PUBLIC DEFENDER, 7300 WEST 147TH STREET, SUITE 400, APPLE VALLEY, MN 55124.

I hereby inform you, pursuant to Rule 9.01, Subd. 1(1), Minnesota Rules of Criminal Procedure, that the State intends to call the following witnesses at trial in the above-entitled matter:

1. Tariq Bakkri → nitu
[redacted]
Blaine, MN 55434
Phone: 651-226-8877
Record of Convictions: None
Inducements: None

2. Kathleen Johnson → nitu
[redacted]
South St. Paul, MN 55075
Phone: 651-455-2696
Record of Convictions: None
Inducements: None

3. Matthew Renville — nitu
[redacted]
South St. Paul, MN 55075
Phone: 651-457-2541
Record of Convictions: None
Inducements: None

Filed in District Court
State of Minnesota
2/27/2026 10:46 PM

4. Samantha Renville – nihi
[redacted]
South St. Paul, MN 55075
Phone: 651-457-2541
Record of Convictions: None
Inducements: None

5. Dale Marx, Jr. – nihi
[redacted]
South St. Paul, MN 55075
Phone: 651-451-6783
Record of Convictions: None
Inducements: None

6. Dale Marx – clear
[redacted]
South St. Paul, MN 55075
Phone: 651-451-6783
Record of Convictions:
(1) 11/13/79: Unauthorized Use of a Motor Vehicle, Dakota County
(2) 09/27/90: DWI, Dakota County
(3) 03/27/97: DWI, Ramsey County
Inducements: None

→ 7. Melissa Stites – clear
19121/2 Tittston Ave.
Scranton, PA 18505
Phone: Unknown at this time
Record of Convictions:
(1) 04/17/98: DWI, Ramsey County
* (2) 11/20/96: Check Forgery, Hennepin County
Inducements: Please note, the following inducements were not promised in exchange for the testimony of the witness.
(1) Witness was advised that she may be eligible for reward money from the victim's family.
(2) Witness received funds from the Minnesota Gang Strike Force for relocation expenses. Amount unknown.
(3) Witness received $550.00 from the South St. Paul Police Department as informant pay and for relocation expenses.

→ 8. Colleen McManus – clear
Current address unknown.
Ms. McManus has retained Peter Orput for contact purposes.
Peter Orput
Attorney at Law
4660 Slater Rd.

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State of Minnesota
2/27/2026 10:46 PM

Suite 230
Eagan, MN 55122
651-209-0567
Record of Convictions: None
Inducements: Please note, the following inducements were not promised in exchange for the testimony of the witness.

(1) The South St. Paul Police Department paid the sum of $330.00 to this witness as an informant.

9. Lindsey Thomas, M.D. — nitu
Minnesota Regional Coroner's Office
Regina Medical Center
1175 Nininger Road
Hastings, MN 55033
Phone: 651-480-4253
Criminal Convictions: None
Inducements: None

10. Geronimo Estrada — nitu
[redacted]
West St. Paul, MN 55118
Phone: Unknown
Record of Convictions:

(1) 09/08/87: Burglary, Dakota County
(2) 10/20/92: Possession of Pistol by Ineligible Person, Ramsey County
(3) 10/09/02: Controlled Substance Crime in the Fifth Degree, Ramsey County
(4) 04/15/03: Controlled Substance Crime in the Second Degree, Dakota County
(5) 03/08/04: Unauthorized Use of a Motor Vehicle, Wisconsin

Inducements: Please note, the following inducements were not promised in exchange for the testimony of the witness.

(1) The South St. Paul Police Department paid the wife of this witness $400.00 to defray phone costs between she and the witness while he was incarcerated at the Ramsey County Workhouse. $200.00 was paid on March 11, 2004; $100.00 was paid on March 19, 2004; and $100.00 was paid on June 17, 2004.
(2) The witness is currently on probation in Dakota County for Controlled Substance Crime in the Second Degree. On November 25, 2003, the witness admitted to a probation violation and was required to perform 25 days of EHM. The witness was subsequently incarcerated at the Ramsey County Workhouse. On May 4, 2004, Judge Sutherland entered an amended order on the Dakota County probation violation. Rather than serving 25 days of EHM, the witness was required to serve 30 days in jail, concurrent with the time he served in Ramsey County.

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11. Maynard Cross — Clear
Minnesota Correctional Facility – Oak Park Heights
5329 Osgood Ave. N.
Stillwater, MN 55082
Phone: 651-779-1400
Record of Convictions:
(1) 01/09/98: Assault in the Second Degree, Ramsey County
(2) 03/12/02: Possession of Firearm by Felon, Hennepin County
(3) 09/09/03: Murder in the First Degree, Hennepin County
Inducements: In exchange for the cooperation of this witness, the state agreed to request from the Minnesota Department of Corrections that the witness be transferred from the medium security facility of Rush City to the maximum-security facility of Oak Park Heights. This witness was also advised by the South St. Paul Police Department that the witness may be eligible for reward money from the victim's family.

12. Yvonne White — With
[redacted]
Hastings, MN 55033
Phone: 651-480-1114
Record of Convictions: None
Inducements: None
Dontaye claims she's one of the white girls driving car Dontaye pors ver @ scene.

13. Amy Drager — With
[redacted]
Eagan, MN 55122
Phone: 651-686-4676
Record of Convictions: None
Inducements: None
supposedly was going to be used as alibi for Johnson & Vance.

14. Regina Haggerman — With
[redacted]
St. Paul, MN 55104
Phone: 651-493-9126
Record of Convictions: None
Inducements: None
Vance is a friend of her niece. Sat B4 super Bowl

15. Vanessa Franco — ~~Was~~ Clear
[redacted]
St. Paul, MN 55102
Phone: Unknown
Record of Convictions: None
Inducements: None
says she doesn't ~~Shit~~ Know shit.

LOCATION: RX TIME 08/13 '04 14:58

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State of Minnesota
2/27/2026 10:46 PM

16. Christopher Koskie — clear — another Bartender @ Butler. who was there
[redacted]
St. Paul, MN 55102
Phone: 651-330-1109
Record of Convictions: None
Inducements: None

17. Rochelle Perez — clear — was w/ Vance, Johnson, & Franco
[redacted]
St. Paul, MN — Lord & G did it
Phone: 651-340-5824
Record of Convictions: None
Inducements: None

18. Sonya Clark — n/th — Bought Cell phone for Vance
[redacted] Baby momma.
Maple Grove, MN
Phone: 763-416-0860
Record of Convictions: None
Inducements: None

19. John Martin — n/th — Knew Nicole picked up Vance & Johnson and she has a Blue Car.
[redacted] Testifys @ grand Jury.
St. Paul, MN 55106
Phone: Unknown
Record of Convictions:
(1) 10/16/03: Burglary in the Third Degree, Ramsey County
Inducements: Please note, the following inducements were not promised in exchange for the testimony of the witness.
(1) The South St. Paul Police Department paid the sum of $169.50 to this witness as an informant.

20. Fabian Wilson — clear — Has a Child w/ Vance's sister
[redacted] Says Vance admitted it and
St. Paul, MN 55102 said Vance said S— P The head.
Phone: 651-265-3476
Record of Convictions:
(1) 09/19/03: Burglary in the Third Degree, Ramsey County
Record of Juvenile Adjudications:
(1) 12/07/98: Simple Robbery
Inducements: None

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State of Minnesota
2/27/2020 10:46 PM

21. Nicole Rauschnot [redacted] West St. Paul, MN 55118
Phone: Unknown
Record of Convictions: None
Inducements: None

22. Kentrell Anthony
956 Minnehaha Ave. E.
St. Paul, MN 55106
Phone: 651-772-8334
Record of Convictions:
(1) 07/02/04: Misdemeanor Theft, Ramsey County
Record of Juvenile Adjudications:
(1) 10/04/00: Aggravated Robbery in the First Degree, Ramsey County
Inducements: None

23. Eric Griffin [redacted]
St. Paul, MN 55104
Phone: 651-207-5719
Record of Convictions:
(1) 10/02/97: Nonsupport, Missouri
(2) 03/02/00: Controlled Substance Crime in the Fifth Degree, Ramsey County
Inducements: This witness has a pending charge of controlled substance crime in the third degree in Ramsey County. The arresting agency was the Minnesota Gang Strike Force. This witness reached an agreement with the Strike Force that in exchange for his cooperation, the Strike Force will ask the Ramsey County Attorney's Office to dismiss the pending drug charge.

24. Tyrone Crawford
Sherburne County Jail
Record of Convictions:
(1) 08/14/91: Controlled Substance Crime in the Third Degree, Ramsey County
(2) 12/12/91: Controlled Substance Crime in the Fifth Degree, Ramsey County
(3) 10/06/98: Check Forgery, Ramsey County
(4) 02/19/04: Mail Fraud, Federal Court, District of Minnesota
Inducements: None

Exhibit 16, Page 15 State's Exhibit 2 - CRU Supporting Materials and Documents - Pg. 1278

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State of Minnesota
2/27/2026 10:46 PM

Suite 230
Eagan, MN 55122
651-209-0567
Record of Convictions: None
Inducements: Please note, the following inducements were not promised in exchange for the testimony of the witness.

(1) The South St. Paul Police Department paid the sum of $330.00 to this witness as an informant.

9. Lindsey Thomas, M.D. nihu
Minnesota Regional Coroner's Office
Regina Medical Center
1175 Nininger Road
Hastings, MN 55033
Phone: 651-480-4253
Criminal Convictions: None
Inducements: None

talk to Will 8/10. 10. Geronimo Estrada nihu
[redacted]
West St. Paul, MN 55118
Phone: Unknown
Record of Convictions:

(1) 09/08/87: Burglary, Dakota County
(2) 10/20/92: Possession of Pistol by Ineligible Person, Ramsey County
(3) 10/09/02: Controlled Substance Crime in the Fifth Degree, Ramsey County
(4) 04/15/03: Controlled Substance Crime in the Second Degree, Dakota County
(5) 03/08/04: Unauthorized Use of a Motor Vehicle, Wisconsin

Inducements: Please note, the following inducements were not promised in exchange for the testimony of the witness.

(1) The South St. Paul Police Department paid the wife of this witness $400.00 to defray phone costs between she and the witness while he was incarcerated at the Ramsey County Workhouse. $200.00 was paid on March 11, 2004; $100.00 was paid on March 19, 2004; and $100.00 was paid on June 17, 2004.
(2) The witness is currently on probation in Dakota County for Controlled Substance Crime in the Second Degree. On November 25, 2003, the witness admitted to a probation violation and was required to perform 25 days of EHM. The witness was subsequently incarcerated at the Ramsey County Workhouse. On May 4, 2004, Judge Sutherland entered an amended order on the Dakota County probation violation. Rather than serving 25 days of EHM, the witness was required to serve 30 days in jail, concurrent with the time he served in Ramsey County.

Exhibit 2 - CRU Supporting Materials and Documents - Pg. 1279

Filed in District Court
State of Minnesota
2/27/2026 10:46 PM

25. Dontay Reese — with did Represent Him.
Goodhue County Jail
Record of Convictions:
(1) 05/15/99: Misdemeanor Obstructing Legal Process, Hennepin County
(2) 10/14/99: Gross Misdemeanor Theft, Ramsey County
(3) 10/25/99: Misdemeanor Receiving Stolen Property, Hennepin County
(4) 11/11/99: Misdemeanor Assault in the Fifth Degree, Ramsey County
(5) 12/21/99: Misdemeanor Trespassing, Hennepin County
(6) 03/02/00: Misdemeanor Assault in the Fifth Degree, Ramsey County
(7) 05/04/00: Misdemeanor Trespass, Hennepin County
(8) 06/01/00: Misdemeanor Theft, Ramsey County
(9) 06/17/00: Burglary in the First Degree
(10) 06/26/00: Controlled Substance Crime in the Fifth Degree, Ramsey County
(11) 12/02/01: Theft of Motor Vehicle, Ramsey County
(12) 09/16/02: Minor in Possession, Scott County
Record of Juvenile Adjudications:
(1) 03/24/95: Misdemeanor Assault in the Fifth Degree, Dakota County
(2) 08/16/95: Misdemeanor Motor Vehicle Tampering, Dakota County
(3) 11/09/95: Misdemeanor Possession of a Small Amount of Marijuana, Dakota County
(4) 11/09/95: Misdemeanor Theft, Dakota County
(5) 05/12/98: Disorderly Conduct, Dakota County
(6) 07/11/98: Misdemeanor Crime Against the Administration of Justice, Dakota County
(7) 05/19/98: Misdemeanor Assault in the Fifth Degree, Dakota County
Inducements: The defendant is awaiting sentencing in Dakota County on a charge of Criminal Sexual Conduct in the Second Degree. In exchange for his cooperation, the state has agreed to a downward durational departure from 98 months to 62 months.

26. Katharine Bakkri — with
[redacted]
Blaine, MN 55434
Phone: 651-226-8877
Record of Convictions: None
Inducements: None

Exhibit 2 - CRU Supporting Materials and Documents - Pg. 1280

Filed in District Court
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2/27/2026 10:16 PM

27. Troy Crawford - Jean Dontaye and Cross say Crawford was involved.
Minnesota Correctional Facility-St. Cloud
2305 Minnesota Blvd. SE
St. Cloud, MN 56304 He denies everything.
Phone: 320-240-3000
Record of Convictions:
(1) 02/21/01: Assault in the Second Degree, Ramsey County
(2) 09/16/03: Unlawful Possession of a Pistol by a Felon, Ramsey County
Inducements: None

28. Trevor Crawford - with Cross puts Trevor @ Battery
Minnesota Correctional Facility-St. Cloud The night of the shooting.
2305 Minnesota Blvd. SE
St. Cloud, MN 56304 But → Trevor was in jail
Phone: 320-240-3000
Record of Convictions:
(1) 08/10/01: DL/False Info, Ramsey County
(2) 02/19/03: DL/ Unlawful Acts, Ramsey County
(3) 03/14/03: DL/Unlawful Acts, Ramsey County
(4) 04/28/03: Controlled Substance Crime in the Fifth Degree, Hennepin County
(5) 06/30/04: Unlawful Possession of a Pistol by a Felon, Ramsey County
Record of Juvenile Adjudications:
(1) 09/08/98: Assault in the Fifth Degree, Ramsey County
(2) 06/14/00: Controlled Substance Crime in the Fourth Degree
Inducements: None

29. Dominique Blatcher - Jean Johnson's Baby Mama.
Address Unknown Cop Thinks She helped.
Phone: Unknown
Record of Convictions: None
Inducements: None

30. Lugene O'Connor - with granddaughter his Kestrell
956 Minnehaha Ave. E. Johnson did Shooting.
St. Paul, MN 55106
Phone: 651-772-8334
Record of Convictions: None
Inducements: None

Filed in District Court
State of Minnesota
2/27/2026 10:16 PM

37. Minnesota Bureau of Criminal Apprehension
Kurt Moline – nitm
Dr. Mohamed Sedqi – nitm
Dr. Jay Wenner
Donald Melander
Joshua Bergeron
Sarah Leach
Susan Gross

nitm

MN BCA
1430 Maryland Ave. E.
St. Paul, MN 55106

38. Special Agent Dave Nygren – clear
Dept. of the Treasury
Bureau of Alcohol, Tobacco and Firearms
190 E. 5th St. #310
St. Paul, MN 55101

Since the state does not have access to your file, it will only rely on written notices from you as to what witnesses you intend to call, what defenses you intend to raise, and what evidence you intend to introduce. If the state does not receive written notice, it will conclude that your only defense will be not guilty and your only witness will be the defendant.

DATED: August 13, 2004

JAMES C. BACKSTROM
DAKOTA COUNTY ATTORNEY

By: Kathryn M. Keena

Kathryn M. Keena
Assistant County Attorney
Reg. No. 20092x
Dakota County Attorney's Office
1560 Highway 55
Hastings, MN 55033
Telephone: (651) 438-4438

MINNESOTA JUDICIAL BRANCH

Filed in District Court
State of Minnesota
2/27/2026 10:46 PM

31. Jacqueline Ezell — nitti
956 Minnehaha Ave. E. Eugene's Wife.
St. Paul, MN 55106
Phone: 651-772-8334
Record of Convictions: None
Inducements: None

32. Keitha McKinney — Richard Robinsons girlfriend.
[redacted]
St. Paul, MN Robinsons girlfriend ? Alibi
Unknown
Record of Convictions:
(1) 01/21/03: Wrongfully Obtaining Public Assistance, Ramsey County
Inducements: None

33. Richard Robinson — HENNESSY don't know shit.
Ramsey County Jail
Record of Convictions:
(1) 02/19/02: DL/Unlawful Acts, Ramsey County
(2) 03/13/02: Receiving Stolen Property, Ramsey County
Inducements: None

34. South St. Paul Police Dept. — nitti
Dave Greengo
Richard Roehlen
Michael Smith
Mark Sawyer
Tom Kreager
Daniel Vujovich
Phillip Oeffling
Steve Ploeckelmann

35. Dakota County Sheriff's Dept. — ceau
David Sjogren
Brad Wayne

36. Minnesota Gang Strike Force — ceau
John McManus
John Pyka
Andy Shoemaker

Minnesota Gang Strike Force
1919 University Ave. #550
St. Paul, MN 55104

Exhibit 2, Page 20 Exhibit 2 - CRU Supporting Materials and Documents - Pg. 1283

Filed in District Court
State of Minnesota
2/27/2026 10:16 PM

MINNESOTA GANG STRIKE FORCE
REPORT OF INVESTIGATION

TYPE OF REPORT
- ☒ INITIAL REPORT
- ☒ INVESTIGATION REPORT
- ☒ CRIMINAL INVESTIGATION
- ☐ CASE CLOSURE
- ☒ GANG IDENTIFICATION REPORT

TO BE FILED
- ☒ INVESTIGATIVE
- ☒ GANG GROUP
- ☒ PERSONAL

APPROVED BY:

GSF NUMBER	OFFENSE CATEGORY	OFFENSE CODE
02-000504	Investigation of Death	

COUNTY OF OCCURRENCE	DATE / TIME OF INCIDENT	SUBMITTED BY:	REGION
Dakota	12/22/02 @ 2143 hrs.	Shoemaker	Metro

CASE TITLE	CROSS REFERENCE	DATE / TIME ACTIVITY
S. St. Paul Robbery/Homicide	S.St. Paul P.D. 02-018427	01/03/03 @ 2200 hrs.

SUBJECT(S):
1. CRI X0164
2. VANCE, Phillip Randall, B/M, dob/[redacted], AKA: FLORIDA, lives at 956 E. Minnehaha, St. Paul. Unkn. if upstairs, or down.
3. JOHNSON, Dominick Dwayne, B/M, dob/111582, AKA: STACKS, unkn. address.

SYNOPSIS:
Met with the CRI at CRI's place of business. CRI finished work at 2200 hours. CRI was outfitted with a transmitter, then went to the "Buttery", located at the corner of Robert/6th St., to meet with the above parties and see if CRI could get the above suspects to say anything about the above incident which would indicate that they were involved in the above Robbery/Homicide.

PERSONNEL ASSIGNED:
Shoemaker, McManus, Kennedy, Bautista, Meskan, Freichels, Pinoniemi, Sgt. Pyka - MGSF, Capt. Vujovich - S. St. Paul P.D.

DETAILS:
This reporting Officer (Shoemaker - MGSF #120) is currently assigned to the Minnesota Gang Strike Force, as an Investigator.

From information obtained by the CRI, and a second Concerned Citizen (CC), information was obtained which leads Officers to belive that the above individuals have knowledge of, or were involved in, a shooting incident during the past two weeks.

I was assisted by Officers McManus, and Kennedy. We met with the CRI at 311 Minnesota Street at approx. 2200 hours. The CRI works in the downtown area. The CRI told us that VANCE had stopped by earlier in the evening and agreed to meet with the CRI at the "Buttery" at approx. 2230 hrs. Officer Kennedy gave the CRI a hardwire transmitter, which would allow us to monitor any conversation the CRI had with anyone. We also gave the CRI instructions as to what questions the CRI should ask VANCE or JOHNSON, and several safety rules to follow.

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We followed the CRI to the Butt[illegible] at 2307 hrs., and observed the CRI en[illegible]he Buttery at 2315 hrs. The CRI could be seen through the front windows of the business at the corner of Robert/6th and the CRI was immediately met by two parties the CRI had previously described/identified to us as VANCE, and JOHNSON.

JOHNSON was wearing a white "doo rag" on his head, a black jacket - carharts type, and black jeans. VANCE was wearing a white/beige/brown leather jacket, black pants, and had recently taken the braids out of his hair, making his hair, "stand up irregularly". A third B/M was also with the above two parties. This B/M went by the name of "Rooster" and is believed to be: WILLIAMS, Montrell, B/M, dob[redacted], 602, 157#, unkn. address.

The CRI spoke with the above parties while seated near the windows. The CRI and suspects were monitored by all Officers assigned to this detail. Although the conversations could be heard, background noise was so loud that any attempts at recording the conversations would not be successful. At 2342 hrs., the CRI went to the restroom and phoned Officer McManus. The CRI said things were going okay, and that VANCE wanted to go to another downtown bar called, "The Lab". We advised the CRI that it would be okay to take VANCE to that location and that we would provide constant surveillance while enroute there. The CRI left the Buttery with VANCE at approx. 0010 hrs. and arrived at the Lab (actually called the 4th Street Station) which is located at the NE corner of 4th St./Sibley in the Lowertown portion of St. Paul, at 0019 hrs.

The CRI had told us that VANCE was collecting money constantly while in the Buttery. People were giving him $20 bills and while seated there, VANCE collected what the CRI estimated to be $300 in cash. VANCE told the CRI that he is a drug dealer, and deals drugs in the Buttery and at, "The Lab". While with VANCE, the CRI saw VANCE with several bags of what the CRI recognized as marijuana, and observed VANCE make several drug sales.

At approx. 0045 hrs., the CRI asked VANCE about guns. The following conversation took place between the CRI and VANCE:

CRI-Do you have any guns? CRI- Will you teach me how to shoot? VANCE-Yeah, I got four of them. CRI-When's the last time you used one? VANCE-Two weeks ago, over south, Boo. CRI-What happened? CRI-What did you do? VANCE-I shot the guy five times in the back. CRI-Didn't you stop to see if he was dead? VANCE-Nope, I just kept going. VANCE-I've shot at lots of people before.

Following the above conversation, the CRI told VANCE that the CRI owned a gun, but didn't know how to shoot it. VANCE told the CRI that he shoots all the time by some railroad tracks. The CRI and VANCE then discussed going shooting the next day. VANCE said he would teach the CRI how to shoot the gun.

The CRI left the 4th Street Station (LAB) with VANCE at 0116 hrs. They walked to the CRI's vehicle together. The CRI and VANCE were still talking about going shooting. VANCE offered to show the CRI one of his guns, and directed the CRI to his "crib", which is a street term for home, or residence. We tailed the CRI and VANCE W/B 4th St. onto N/B Sibley, then E/B on 5th St., to N/B Wall, then E/B I94. The CRI exited at the 6th St./Mounds Blvd exit, then continued E/B on 6th St. to Forest, then N/B Forest to Minnehaha, then E/B a short distance on Minnehaha where the CRI pulled to the curb at 956 E. Minnehaha.

The CRI was told by VANCE to wait outside, he was going inside to get one of his guns to show the CRI. Officers set up in the area, but it was extremely difficult to see up to the front of 956 E. Minnehaha as no street lights or porch lights were on in the immediate area. The CRI waited approx. five minutes at which point we contacted the CRI and told the CRI to leave and meet us at a prearraged location. The CRI pulled away at approx. the same time that VANCE was observed by surveillance Officers to come back out the front door and wait on the steps near where the CRI had been waiting. The CRI cleared 956 E. Minnehaha at 0128 hrs.

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Two vehicles were observed par[illegible] unoccupied in front of 956 E. Minnel[illegible]a and possibly related to that address. Vehicle #1 is a grey Mercury, Minnesota license plate FDX-556. Vehicle #2 is a Minnesota license plate of 363-NUX. Vehicle #1 (FDX-556) lists to a 1985 Mercury 4door, gray, registering to KERAN, Katherine Marie, dob[redacted], of [redacted] S., So. St. Paul, Mn 55075. Vehicle #2 (363-NUX) lists to a 1989 Ford Tempo, gray, registering to DACCARDI, Robert James and Sharon Marie, of [redacted]. So, Cottage Grove, Mn. This vehicle is flagged, held for resale, from a dealership.

We met briefly with the CRI after the CRI had left the residence. It should be noted that the CRI told Officers that VANCE was still in possession of several bags of marijuana when he went into the residence at 956 E. Minnehaha.

DESCRIPTION AND CUSTODY OF EVIDENCE:
N/A

CASE STATUS: OPEN☒ CLOSED☐ CONTINUED PENDING INFO☐

MINNESOTA JUDICIAL BRANCH

Filed in District Court
State of Minnesota
2/27/2026 10:46 PM

DATE: **January 6, 2003**

CASE #: **02018427**

INTERVIEW: **Captain Daniel Vujovich**

SUBJECT: **Dominick Johnson**

Oper At the Ramsey County Correctional Facility. To refuse this call, hang up. If you accept this call, do not use 3-way or call waiting feature or you will be disconnected. This call will be recorded or monitored. To accept this call dial one now.

(Beep)

Oper Thank you.

?? Hello?

DJ Is this Melissa?

?? Yeah.

DJ Do you know who this is?

?? No.

DJ This is Dominick.

?? What are you doing?

DJ I'm locked up.

?? Why?

DJ Cuz I told you it wasn't looking good.

?? How come you, how long do you have to be there?

DJ For a month.

?? A month?

DJ Yeah. But I got probation too.

?? Huh?

MINNESOTA JUDICIAL BRANCH

Filed in District Court
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2/27/2026 10:46 PM

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SUBJECT: **Dominick Johnson**

Oper At the Ramsey County Correctional Facility. To refuse this call, hang up. If you accept this call, do not use 3-way or call waiting feature or you will be disconnected. This call will be recorded or monitored. To accept this call dial one now.

(Beep)

Oper Thank you.

?? Hello?

DJ Is this Melissa?

?? Yeah.

DJ Do you know who this is?

?? No.

DJ This is Dominick.

?? What are you doing?

DJ I'm locked up.

?? Why?

DJ Cuz I told you it wasn't looking good.

?? How come you, how long do you have to be there?

DJ For a month.

?? A month?

DJ Yeah. But I got probation too.

?? Huh?

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DJ Yeah. Like 33 days.

?? Oh, honey, I'm sorry. I'm like,

DJ I'm like

?? how many fucking people do I know in jail? I'm like I know (inaudible) is in Pennsylvania.

DJ (laughing)

?? Wow.

DJ Yeah.

?? Are you okay?

DJ Yeah. I'm cool.

?? What is it, is it the workhouse?

DJ Yeah. I'm in the workhouse.

?? Oh.

DJ It's cool so.

?? Well, you'll be okay. You can call me.

DJ Yeah.

?? Do you want me to visit you?

DJ You're going to come visit?

?? I don't know. I can.

DJ Yeah, you can if you want to.

?? Well, what the hell. So you're going to stay there for 33 days, but with your good time how many do you do?

DJ They gave me 60.

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?? Oh. So 33's good time.

DJ Yeah.

?? Oh, good for you.

DJ Right.

?? Well, that's good that you turned yourself in.

DJ Actually, they gave me 33 months.

?? What?

DJ But I ain't got to do that 33 months cuz they going to get me probation.

?? Oh.

DJ Yep.

?? Well, I'm proud of you sweetie.

DJ Yeah.

?? That's good though cuz now you're taking care of your business. And now you won't, you know what I mean. This won't hang over your head.

DJ Right. Right.

?? Good.

DJ And I ain't worried about it no more.

?? Good.

DJ I was just bored. I didn't have nobody to call.

?? Did you remember my phone number?

DJ I had I written down. Remember you writ it, you written it down for me.

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?? Oh, my God I love you. It's okay. You can call me anytime. Everybody always does.

DJ Yeah.

?? I'm like mama of everybody. Oh. I'll come visit you.

DJ When?

?? Well, do you have to get me on the list?

DJ No. There ain't no visitor's list. Just got to call and tell them the person you want to see a day ahead of time.

?? Okay. When's visiting?

DJ Ah, Wednesday's. Monday, Tuesday

?? Okay. Hold on. Let me write this down. I'll visit you before I got to Pennsylvania.

DJ When you going there?

?? Oh, look I think I'm going to leave on the 16th.

DJ Yeah.

?? And then ah, I'm going to be gone for like a week.

DJ Right.

?? And then I can visit you when I get back. Hold on, let me write this shit down. Where is Florida?

DJ I don't know where he at. He called. He said he was going to go look for a job. (Sound) (laughing)

?? Right.

DJ He was serious though cuz he woke up this morning and they're like (inaudible)less.

?? Really?

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DJ Yeah.

?? I hope he does. Okay. Alright. So visiting, okay. Let me write this down. Where are you in now? What place are you at?

DJ At the Ramsey County workhouse.

?? Okay, where?

DJ In Maplewood.

?? In Maplewood?

DJ Yeah.

?? My mom used to have a townhouse over there so I think I know where it is.

DJ It's on like Century.

?? Yeah.

DJ Right off of 94.

?? Yep. Yep. Ramsey County workhouse. Okay and then when are visiting?

DJ Um, Tuesday, Wednesday, Thursday and Saturdays and Sundays.

?? Tuesday, Wednesday, Thursday and Saturday?

DJ Yeah. And Saturday and Sunday.

?? All those days?

DJ Yeah.

?? I could come visit you a lot.

DJ But you can only get one visit a week.

?? By the one person?

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DJ Yeah. Only the one person can come and see you a week.

?? But you can have as many people as you want right?

DJ Yeah.

?? Okay. So I can only visit once a week. I'll probably do it Tuesday or Wednesday too. I work every other day.

DJ Right.

?? And then what time can I visit?

DJ Ah, like 9 to like 11. And then like 1 to 3. So shit like that.

?? Okay.

DJ But you got to call up here and they'll tell you the visiting hours.

?? Okay. And how do you spell your name?

DJ D-o-m

?? Ah huh.

DJ i-n-i-c-k.

?? i-c-k?

DJ Yeah. Johnson.

?? Johnson?

DJ Yeah.

?? J-o-h-n

DJ s-o-n.

?? s-o-n. Okay.

DJ You can write me to in your spare time.

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?? Okay what's your, okay. Let me write this down now. Oh. I'm sorry. I was in jail one time for like 4 days.

DJ (laughing)

?? And I cried like a baby. I was just like, I was such a baby. And I was like, (Crying) I can't handle it.

DJ What were you there for? None of my business.

?? Huh?

DJ None of my business.

?? I was in for DWI.

DJ Yeah.

?? I was really (inaudible)

DJ I got one of them too. But I, I, they, I took care of all that and I don't got to deal with that no more.

?? Well, um, these things, you know, like if you get one, there's like, so, like mandatory like 30 days. Like when I got mine, pass that law, like a month later you know.

DJ Right.

?? And my mom has had like 3. She was in the workhouse too.

DJ Yeah.

?? Okay. What's your address?

DJ I don't know. Let me get it. Alright? I got to get the address.

?? Okay.

DJ Hello.

?? Hi.

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DJ Yeah. It's ah, 297.

?? 297?

DJ Yeah. Um, South Century.

?? South Century. And then ah, Maplewood?

DJ Yeah. Maplewood, Minnesota.

?? And the zip code?

DJ 55115

?? 5511?

DJ Hey, what is it like 55114? (Laughing) you got it? Hello?

?? Yeah. 55115?

DJ Yeah.

?? Okay. And then just put in care of your name?

DJ No. It's 55119.

?? 55119?

DJ Yeah.

?? Okay.

DJ What did you say now?

?? Should I put like in care of your name?

DJ Like when you right, you can just write my name and the address and then (inaudible)

?? Do you have money?

DJ Huh?

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?? Do you have money?

DJ A little bit. Not much. I only had like 20 dollars but I spent it. Cuz you got to pay $10 when you first get here for booking fee.

?? What?

DJ Yeah. They take $10 from you. And then I just ordered me like some soap, deodorant, toothpaste and other shit with the other 10.

?? A booking fee.

DJ Yeah.

?? What a fucking ripoff.

DJ (Laughing)

?? Um, I'm trying to think. Do you remember what we were talking about that one thing?

DJ Like what?

?? At my work. Remember?

DJ Yeah.

?? Should I get that from Florida, and have him send money down there?

DJ What?

?? Remember?

DJ You got to refresh me.

?? Remember what I was talking about? Like about that one was too big and then (inaudible)

DJ Oh. Yeah, yeah, yeah, yeah, yeah. Get it cuz he, I told you the time that (inaudible) or you could just wait until I get out because I don't want to, they don't know

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where mine at.

?? Does he, does he, okay.

DJ But he probably, but he, I know he would.

?? I know but I want to give you some money.

DJ Oh, yeah?

?? You know what I mean?

DJ What, while I'm here?

?? Yeah. 75 bucks. Well, I'll just talk to him and see what he says.

DJ Right.

?? Um, what's his phone number?

DJ What's his?

?? Yeah.

DJ Ah, got a pen, or, yeah, you got a pen. Ah, 763

?? 763

DJ 443

?? 043?

DJ No. 443

?? 443

DJ Ah, what is it? Ah, oh, damn. Hold on.

?? I have it somewhere, but I can't find it.

DJ 763-443, man I can't even think about it. I can't even think of it right now.

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?? (laughing) 763-443

DJ I know it's 763-443, I forgot. I forgot. I'm going to remember it though.

?? Okay. Well, um, let's see. Do you want me to come see you tomorrow?

DJ Huh?

?? Should I come see you tomorrow or maybe Wednesday?

DJ See it's too late to call up here now. Cuz that little office now is closed.

?? Should I call tomorrow about coming Wednesday?

DJ Yeah.

?? Okay. Don't worry you got me. I'm the best.

DJ Yeah. You're going to be my friend while I'm here?

?? Huh?

DJ I say, you're going to be my friend while I'm in here? I'll call you and talk to you?

?? Yeah. You can call me honey. I promise. I just went and paid my phone bill. Thank God.

DJ Yeah.

?? It was like $280 for one month.

DJ Damn. Who are you calling?

?? (inaudible) I'm so glad he's in the hole. I don't even what to tell you. My phone bill's going to be a small as hell this month.

DJ Right.

?? Every call is like 8.95.

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DJ Yeah.

?? Because um,

DJ Oh, that's long distance.

?? Yeah, because Federal they have the same calls as Evercom where you have to pay them.

DJ Right.

?? And, and

DJ You got to send money to the Evercom people?

?? you send money to them because the inmates can buy phone cards.

DJ Yeah. Buy there own phone card.

?? Yeah, but I'm just going to wait. I called him (inaudible) today and I have to send a US Postal money order. So I'm just going to wait to like the last couple of days I go so it will credit his account right away, he's in the hole. What's he going to do, but he's not getting out until the 16th.

DJ Right.

?? So I'm just going to wait.

DJ You're going to go see him, you're going to go see him when he gets out of the hole then?

?? Yep. You can actually visit them when you're in the hole though. They can still get visiting days.

DJ We got to line up an account. Next time can I talk to you?

?? Yeah. Call me anytime. Do you remember his number? I'm going to call him real quick.

DJ No, I got, Florida?

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?? Yeah. 443

DJ It's 443, I swear I can't remember it right now. (Snoring sound) But um,

?? Okay. Well, I'm going to go tanning and then I'm going to go get some food at the grocery store and I'll be home all night.

DJ So you want me to call you back?

?? Yeah.

DJ Like 8, 9?

?? Huh?

DJ What time?

?? Um, 8.

DJ Alright.

?? Okay. You're okay honey. I'm so proud of you. Keep your head up. Okay.

DJ Alright.

?? Okay. Sweetie.

DJ Stay sweet.

?? Okay. I will.

DJ Bye.

?? Okay. We love you. (smacking sound)

DJ Bye.

?? Okay. Bye.

(Second Side of Tape)

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Oper At the Ramsey County Correctional Facility. To refuse this call hang up. If you accept this call do not use 3-way or call waiting feature or you will be disconnected. This call will be recorded or monitored. To accept this call, dial one now.

(Beep)

Oper Thank you.

?? Hello.

DJ Hello.

?? How are you doing?

DJ I'm alright.

?? Are you sure?

DJ Yeah. I remembered the number too.

?? Did you remember it by heart?

DJ Yeah. Not your number. I'm talking about Florida's.

?? Oh. Florida's number?

DJ Yeah. I was thinking like damn. What is the fuck, is it? How can I forget that number?

?? Oh. Why, why did you have a line up? Did you get in trouble?

DJ Huh?

?? Why did you have a line up?

DJ A line up.

?? Yeah. You said you had a line up or something?

DJ What do you mean?

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?? Why did you have to hang up?

DJ Oh, no, cuz ah, they ah, we had to go do count.

?? Oh.

DJ They got, we had to stand in line so they can count us. They can swear by here, nobody escaped.

?? Okay. Um, yeah. Should I call him right now or whatever?

DJ If you want to.

?? Okay. Do you, um, do you think that um, do you think he has like, what you had, like for 25, the small ones?

DJ He got, he got a little one. That's exactly what he got. His is littler than mine.

?? Oh. His is littler?

DJ Yeah.

?? What was yours a 26? I don't even know the difference.

DJ (laughing)

?? Don't laugh at me. I don't even know.

DJ No, he got a 22. I got a 25.

?? He's got a 22?

DJ Yeah.

?? Okay. Well, um,

DJ But if you call him now, then the phone going to hang up. It can't click over.

?? Okay. I can wait to call him.

DJ Do you want to write his number down now though?

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?? Oh, yeah. I'd better write the number down. Okay. I'm sorry.

DJ You got a pen?

?? Yep. I'm ready.

DJ Alright. 763

?? 763

DJ 443

?? 443

DJ 86

?? 86

DJ 40.

?? 40. Okay. So the (inaudible) isn't yours. You want me to, it's his, right?

DJ Yeah.

?? Okay.

DJ So what's you doing?

?? Nothing. I'm just sitting here bored and lonely. I miss you.

DJ Miss you too.

?? I don't have nothing to do. I was going to go up to the Buttery, but then Juan and that wheelchair would be eating up all over me. I feel so bad for him.

DJ (laughing)

?? Do you know what I mean? For a shorty.

DJ I wish I was, would be out and I would kick it with you,

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you know hold it or something.

?? I know. Do you um, do you want me to see if I can get money from him to put in your account for you?

DJ Yeah, he going to bring me some money anyway.

?? Okay.

DJ Just tell him.

?? Okay.

DJ Yeah.

?? I'll talk to him tonight. I'll just talk to him. He's probably like, he's at the Buttery or something. I'll call him or whatever and tell him (inaudible).

DJ (laughing)

?? (laughing)

DJ Did you go tanning?

?? Huh?

DJ Did you go tanning?

?? Yeah. I'm so burnt. My butt, my big old butt got all black.

DJ (laughing)

?? (laughing) The big old juicy part.

DJ (laughing)

?? (laughing)

DJ Alright.

?? Yeah. You'll be alright. I feel so bad for you, but you know what, you made a good decision to do that instead of

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getting into more trouble. Do you know what I mean?

DJ Yeah. I ain't stupid.

?? I know. Um, but ah, yeah, I'll come up. What time should I come up? Should I come up Tuesday or I have to call tomorrow and then schedule for Wednesday. Is that what I do?

DJ Yeah.

?? Okay. Because um, I got ah, I'm going to leave like in probably like 10 days or whatever and then I can't come see you until I get back.

DJ How long are you going to be gone? A week?

?? Probably 8 days.

DJ Are you driving?

?? Yeah. I'm going to drive. With my, I think I'm going to take my girlfriend. She's a big old drunk Indian girl.

DJ Yeah.

?? Ah, have you talked to Florida yet?

DJ No. Not yet.

?? But, did he know that I was going to um, get that heater or whatever?

DJ Yeah. I told him. We was talking about it the other day. He said he was going to take you to the ah, the train tracks.

?? He said he was going to take me to the shooting range?

DJ To the train tracks.

?? The train tracks?

DJ Yeah. (Laughing)

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?? Man, I'll get scared if I go crazy down there on the train tracks. He's nuts. And then he drinks and I'm like oh, my God, I got to keep up with him?

DJ (laughing) Hell no.

?? Oh, that's all right. You guys are cool. I love you guys, you know?

DJ Yeah. You're nice as hell too. I like your attitude.

?? Yep. (Laughing) We all have a positive outlook on things. I don't know, you can be really high and then all of a sudden somebody can knock you down, you know?

DJ Yeah. Don't let nobody knock you down.

?? Nobody going to knock you down?

DJ Oh, hell no.

?? Well, that's my baby.

DJ Nope.

?? So ah, so who do I talk to tomorrow when I call, like just anybody?

DJ I don't even know their number here.

?? I don't even know anything. I think I know where the place is cuz my mom used to have a townhouse out there or something. Isn't there like a bunch of townhouses out there?

DJ A bunch like, yeah, like across the street or something.

?? Oh.

DJ But yeah.

?? Um, maybe I'll bring Florida out there to visit you too. Does he drive?

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DJ He don't have an ID.

?? He doesn't have an ID?

DJ (laughing) Nope.

?? (laughing) How's he supposed to visit you?

DJ I don't know. He just (inaudible) but I ain't going to be here that long. I only got 32 days left.

?? I know. I feel bad for you though.

DJ Yeah.

?? I remember when I was in jail. I cried every day. I looked out at the river like, oh, my God I'm going to die.

DJ I can't even imagine you in jail.

?? I'm like a butterfly. Like I was like going crazy. I was reading the bible. Like, I'm going to die in here. Everyone was laughing at me. Everyone felt bad. They were like, okay, come here little girl.

DJ You was at Ramsey County?

?? Yeah.

DJ (laughing) I love it (inaudible)

?? This is when I got my DWI.

DJ Ah, yeah.

?? And this one, this one black lady, she was my cell mate and I, all I remember is she came into the room and she was like, God damn, I'm getting drunk smelling this girl. That's all I remember.

DJ (laughing)

?? (inaudible)

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DJ Still smelt like liquor?

?? Yep, I was wreaking like liquor. Yep. Um, so yeah, I'll come Wednesday for sure and then I work Thursday, Friday, Saturday. But you know what I was thinking? I could come Saturday during the day too.

DJ Saturday?

?? Yeah.

DJ It don't matter. Whenever, you know what I'm saying, whenever you are free. I, you know, I can really do my time, but you want to come and see me, you can, you don't got to though.

?? Well, I know. I'm going to make time though. Somebody's got to make time.

DJ Yeah.

?? Um, well, I don't know. Are you going to call me tomorrow?

DJ Do you want me to?

?? Yeah. Call me tomorrow.

DJ Alright. What time?

?? Um, I get up and I'll probably exercise and um, call at like noon. Because I'll get up, I'll call down there and see about visiting and then I'll talk to Florida about that tonight or whatever and you know to tomorrow, you know,

DJ Right.

?? so probably like noon.

DJ 12:30?

?? Yeah. 12:30. Okay.

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DJ Alright. Well, I'm going to let you go. Cuz you sound like you're in a hurry.

?? Okay.

DJ So I'll talk to you. Alright?

?? Okay. Honey, take care okay?

DJ Alright.

?? Okay. Bye.

End of Statement

DV/jdc

MINNESOTA JUDICIAL BRANCH

Filed in District Court
State of Minnesota
2/27/2026 10:46 AM

FIRST JUDICIAL DISTRICT PUBLIC DEFENDER

7300 West 147th Street, Suite 400
Apple Valley, Minnesota 55124
952/953-6070
Fax 952/953-6073

June 19, 2003

Phillip Vance – Inmate
Sherburne County Jail
13880 Highway 10 NW
Elk River, MN 55330

Dear Mr. Vance:

Our office was contacted by your federal public defender, Peter Wold, concerning your request for representation on possible homicide charges in Dakota County. Our Chief Public Defender has decided to appoint an attorney to represent you at this time. If you are charged in Dakota County I will continue to represent you.

As we discussed on the telephone today, it is absolutely essential that you do not discuss the situation with anyone in the jail, on the telephone or through the mail. Do not discuss this any further with law enforcement officers. If you are approached by law enforcement and asked to discuss this or any other matter please tell them to contact me.

I will come to visit you before the end of the month. Please contact me if you have any questions or concerns.

Sincerely,

Lisa K. Janzen
Assistant Public Defender

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State of Minnesota
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MINNESOTA JUDICIAL BRANCH

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1 OF 1 RECORD(S)

SmartLinx®Person Report

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Report created for: Ratkowski Law, Pllc

Person Summary

Name	Address	County	Phone
Stites, Melissa Cecilia	[redacted]		[redacted]
LexID	**SSN**	**DOB**	**Email**
[redacted]	[redacted]	[redacted]/1976 (Age: 48) (Female)	[redacted]

At a Glance

Real Property	1	Criminal/Arrest	16
Personal Property	0	Bankruptcy	0
Professional Licenses	0	Judgments/Liens	5
Business Connections	0	Foreclosure/Notice of Default	0

Name Variations, SSN Summary and DOBs

Name Variations	SSN Summary	Reported DOBs
Seites, Melissa Sites, Melissa C Stiles, Melissa Stites, Melissa Cecilia Stites, Melissa M Stites, Melissia Stites, Mellisa C Stites, Mellissa Stities, Melissa C	[redacted] Issued in Minnesota, 1977	[redacted]/1976

Physical Description

Hair Color	N/A	
Eye Color	N/A	
Height	[redacted]	Date last seen: 12/2014
Weight (lb)	[redacted]	Date last seen: 12/2014
Scars/Marks	N/A	

Address Summary (1 current, 31 prior)

No.	Address	Status	To-From	Phone
1.	[redacted]	Current	03/2024 - 11/2024 (Current Residence)	
Neighborhood Profile Average Age: 42 Median Household Income: $57,500 Median Home Value: $213,043 Average Years of Education: 13				
2.	[redacted] (Residential)	Prior	09/2019 - 04/2024	
Neighborhood Profile Average Age: 36 Median Household Income: $44,167 Median Home Value: $151,563 Average Years of Education: 13				
3.	[redacted] (Residential, High-rise)	Prior	09/2017 - 09/2019	
Name Associated with Address Bishop, Courtney Ann **Neighborhood Profile** Average Age: 41 Median Household Income: $38,145 Median Home Value: $77,692 Average Years of Education: 14				
4.	[redacted] (Residential, High-rise)	Prior	11/2016 - 02/2018	
Neighborhood Profile Average Age: 31 Median Household Income: $39,779 Median Home Value: $92,400 Average Years of Education: 13				
5.	[redacted]	Prior	09/2010 - 12/2014	
Neighborhood Profile Average Age: 37 Median Household Income: $27,333 Median Home Value: $166,447 Average Years of Education: 12				
6.	[redacted] (Residential)	Prior	09/2013 - 05/2015	
Neighborhood Profile Average Age: 41 Median Household Income: $46,304				

Median Home Value: $79,437 Average Years of Education: 13				
7.	[redacted] (Residential)	Prior	03/2008 - 03/2020	
Neighborhood Profile Average Age: 42 Median Household Income: $67,947 Median Home Value: $221,581 Average Years of Education: 15				
8.	[redacted] (Residential, High-rise)	Prior	09/2001 - 09/2017	
Neighborhood Profile Average Age: 31 Median Household Income: $60,498 Median Home Value: $184,776 Average Years of Education: 15				
9.	[redacted]	Prior	09/2005 - 05/2007	
10.	[redacted] (Residential)	Prior	04/2006 - 05/2007	
Neighborhood Profile Average Age: 31 Median Household Income: $62,875 Median Home Value: $185,110 Average Years of Education: 14				
11.	[redacted] (Residential)	Prior	03/2005 - 06/2007	
Possible Household Members Stites, James C **Neighborhood Profile** Average Age: 31 Median Household Income: $62,875 Median Home Value: $185,110 Average Years of Education: 14				
12.	[redacted] (Residential)	Prior	05/2005 - 09/2005	
Possible Household Members Stites, James C				
13.	[redacted]	Prior	03/2007 - 03/2008	

	[redacted] (Residential, PO Box)			

Name Associated with Address
Hough, Jawnie Kaye
Neighborhood Profile
Average Age: 34
Median Household Income: $29,868
Median Home Value: $56,552
Average Years of Education: 13

14.	[redacted] (Residential)	Prior	12/2006	

Neighborhood Profile
Average Age: 38
Median Household Income: $47,921
Median Home Value: $109,918
Average Years of Education: 12

15.	1912 1/2 Pittston Ave Scranton, PA 18505-3232 Lackawanna County (Residential)	Prior	06/2003 - 07/2005	

Neighborhood Profile
Average Age: 38
Median Household Income: $47,921
Median Home Value: $109,918
Average Years of Education: 12

16.	1912 1 2 Pittston Ave Scranton, PA 18505	Prior	06/2005 - 10/2005	

Neighborhood Profile
Average Age: 39
Median Household Income: $36,391
Median Home Value: $77,708
Average Years of Education: 12

17.	[redacted]	Prior	03/2003 - 04/2003	

Possible Household Members
Stites, Eva E

18.	[redacted]	Prior	12/2001 - 01/2023	

Neighborhood Profile
Average Age: 32
Median Household Income: $49,174
Median Home Value: $181,932
Average Years of Education: 13

19.	519 Bay St Apt 1 Saint Paul, MN 55102-3849	Prior	11/1996 - 04/2003	

Neighborhood Profile
Average Age: 38

Median Household Income: $43,191 Median Home Value: $190,680 Average Years of Education: 13				
20.	[redacted] (Residential)	Prior	09/2001 - 12/2005	
Neighborhood Profile Average Age: 29 Median Household Income: $50,000 Median Home Value: $167,819 Average Years of Education: 13				
21.	[redacted]	Prior	04/1995 - 09/2001	
Neighborhood Profile Average Age: 25 Median Household Income: $20,202 Median Home Value: $151,974 Average Years of Education: 16				
22.	[redacted] (Residential)	Prior	04/1997 - 10/2000	
Neighborhood Profile Average Age: 32 Median Household Income: $66,337 Median Home Value: $315,625 Average Years of Education: 14				
23.	[redacted] (Residential)	Prior	04/1996 - 01/1997	
Neighborhood Profile Average Age: 37 Median Household Income: $71,264 Median Home Value: $221,341 Average Years of Education: 15				
24.	[redacted] (Residential, High-rise)	Prior	10/1996	
Neighborhood Profile Average Age: 30 Median Household Income: $47,466 Median Home Value: $188,487 Average Years of Education: 13				
25.	[redacted] (Residential)	Prior	05/1995 - 09/1996	
Neighborhood Profile				

Average Age: 37 Median Household Income: $71,264 Median Home Value: $221,341 Average Years of Education: 15				
26.	[redacted] (Residential)	Prior	09/1994 - 01/1996	
Neighborhood Profile Average Age: 35 Median Household Income: $49,571 Median Home Value: $171,642 Average Years of Education: 12				
27.	[redacted] (Residential)	Prior		
Neighborhood Profile Average Age: 39 Median Household Income: $32,400 Median Home Value: $87,121 Average Years of Education: 11				
28.	[redacted] (Residential)	Prior	07/2022	
Neighborhood Profile Average Age: 45 Median Household Income: $45,993 Median Home Value: $125,938 Average Years of Education: 12				
29.	[redacted]	Prior	11/2010 - 11/2011	
Neighborhood Profile Average Age: 37 Median Household Income: $27,333 Median Home Value: $166,447 Average Years of Education: 12				
30.	[redacted]	Prior	08/2005 - 06/2012	
Neighborhood Profile Average Age: 38 Median Household Income: $47,921 Median Home Value: $109,918 Average Years of Education: 12				
31.	[redacted] (Residential)	Prior	04/2000 - 01/2011	
Neighborhood Profile				

Average Age: 28
Median Household Income: $36,200
Median Home Value: $200,000
Average Years of Education: 12

32.	[redacted] (Residential)	Prior	11/1998	

Neighborhood Profile
Average Age: 35
Median Household Income: $59,167
Median Home Value: $171,944
Average Years of Education: 13

Phone Summary (5 phones)

No.	Phone	To-From	Line Type	Listing Name	Carrier
1.	[redacted]	7/2019 - 9/2024.	Possible Wireless.	MELISSA STITES.	CELLCO PARTNERSHIP DBA VERIZON WIRELESS - PA.
2.	[redacted]	8/2015 - 12/2017.	Possible VoIP.	MOUNTAIN GANDER.	PEERLESS NETWORK OF ILLINOIS, LLC - IL.
3.	[redacted]	2/2019 - 9/2020.	Possible Wireless.	MELISSA STITES.	VERIZON.
4.	[redacted]	11/2023 - 11/2023.	Landline.	JENNIFER M BASSLER.	ILLINOIS BELL TEL CO.
5.	[redacted]	12/2011 - 9/2015.	Possible Wireless.	MELISSA STITES.	AERIAL COMMUNICATIONS, INC..

Licenses/Voter (6 licenses)

Driver Licenses - 5 licenses

No.	DL Name/Address	Status	Issued/Expired	Location
1.	Stites, Melissa Cecilia [redacted] Saint Paul, MN 55101-2419	Historical	Issued: 04/01/2013 Expired: 03/2017	MN

Personal Information

SSN: [redacted]
Dob: [redacted]
Gender: Female
Height: [redacted]
Weight: [redacted]

Driver Information

Data Source: Governmental: MN

License Information

License Type: Regular License
License Class: Valid For Single Unit Vehicles Designed To Carry Less Than 15 Passengers With A Gvw Less Than26000 Lbs; Vehicle Combinations With A Gvw Less Than 26000 Lbs; Farm Trucks; Fire Trucks And Emergency Equipment Or Personal Recreational Equipment.

2.	Stites, Melissa Cecilia [redacted] Saint Paul, MN 55110-5215	Historical	Issued: 07/06/2001 Expired: 03/2005	MN

Personal Information

SSN: [redacted]
Dob: 03/1976
Gender: Female
Height: [redacted]
Weight: [redacted]s

Driver Information

Data Source: Governmental: MN

License Information

License Type: Regular License
License Class: Conax Record.This Could Mean A Conviction Only, No Driver License.

3.	Stites, Melissa [redacted]			MN

Personal Information

SSN: [redacted]

Driver Information

Data Source: Non-Governmental: MN

License Information

License Type: No Class - Used For Permits
License Class: No Class - Used For Permits

4.	Stites, Melissa [redacted]			MN

Personal Information

SSN: [redacted]

Dob: [redacted]

Driver Information

Data Source: Non-Governmental: MN

License Information

License Type: No Class - Used For Permits
License Class: No Class - Used For Permits

5.	Stites, Melissa C [redacted]	Historical		OH

Personal Information

SSN: [redacted]
Dob: [redacted]
Gender: Unknown

Driver Information

Data Source: Governmental: OH

License Information

Other Licenses - 1 licenses

No.	Type	Status	Issued/Expired	Location
1.	Voter	Active	Registration: 09/01/2016	PA

Personal Information

Name: Stites, Melissa C
Address: [redacted]
Scranton, PA 18510-2356
Home Phone: [redacted]
SSN: [redacted]
DOB: [redacted]
Age Range: 45-54
Gender: Female

Voter Information

Registration Date: [redacted]
Last Vote Date: [redacted]
Party: [redacted]
Active or Inactive: [redacted]

Real Property (1 current, 0 prior)

No.	Address	Status	Purchase Price	Sale Price	State
1.	[redacted] Honesdale, PA 18431-7931 Source: A	Current	$[redacted]		PA

Owner Info

Stites, Melissa

[redacted]
Scranton, PA 18510-2356

Legal Info

Sale Date: 03/07/2024
Sale Price: [redacted]
Recording Date: 03/18/2024
Document Type: Deed
Type of Address: Single Family Residence
Book/Page: [redacted]

Mortgage Info 1

Loan Amount: [redacted]
Description: Mortgage
Lender Name: UNITED WHOLESALE MTG UNITED WHOLESALE MT
Loan Type: [redacted]
Recording Date: 03/18/2024
Contract Date: 03/07/2024
Transaction Type: Resale

Personal Property (0 current, 3 prior)

No.	Type	Status	Year/Make	Model	VIN	Jurisdiction
1.	MVR	Prior	2002 Chevrolet	Trailblazer, 4 Dr Wagon Sport Utility	[redacted]	MN

Vehicle Information

VIN: [redacted]
Model Year: 2002
Make: Chevrolet
Model: Trailblazer
Series: LS~LT~LTZ
Class/Type: Passenger Car/Light Truck
Body Style: 4 Dr Wagon Sport Utility
State of Origin: MN
Base Price: [redacted]

Source Information

Data Source: GOVERNMENTAL

Owner 1

Stites, Melissa Cecilia

[redacted]
Saint Paul, MN 55110-5651
Dob: [redacted]/1976
Title Number: [redacted]
Title Date: 03/31/2008
Status: :
Mileage: 0

Registrant 1

Stites, Melissa Cecilia

[redacted]
Saint Paul, MN 55101-2419
Dob: [redacted]
Plate Number: [redacted]
License Plate State: MN
Previous Plate Number: [redacted]
Previous Plate State: MN
Original Registration Date: 07/22/2013
Latest Registration Date: 07/22/2013
Expiration Date: 06/30/2014

Lien Holder 1

WI AUTO TITLE LOANS INC.

1407 Coulee Rd
Hudson, WI 54016-2135

2.	MVR	Prior	1992 Ford	Taurus, Sedan 4 Door	[redacted]	MN

Vehicle Information

VIN: [redacted]
Model Year: 1992
Make: Ford
Model: Taurus
Series: GL
Class/Type: Passenger Car/Light Truck
Body Style: Sedan 4 Door
Primary Color: Burgundy
State of Origin: MN
Base Price: [redacted]

Source Information

Data Source: GOVERNMENTAL

Registrant 1

Stites, Melissa Cecilia

[redacted]
Saint Paul, MN 55110-5215
Dob: [redacted]
Plate Number: [redacted]
License Plate State: MN
Previous Plate Number: [redacted]
Previous Plate State: MN
Original Registration Date: 12/09/2002
Latest Registration Date: 12/09/2002
Expiration Date: 11/30/2003

3.	MVR	Prior	1995 Jeep	Wrangler, 2 Dr Wagon Sport Utility	[redacted]	MN

Vehicle Information

VIN: [redacted]
Model Year: 1995
Make: Jeep
Model: Wrangler
Class/Type: Passenger Car/Light Truck
Body Style: 2 Dr Wagon Sport Utility
Primary Color: Black
State of Origin: MN
Base Price: [redacted]

Source Information

Data Source: GOVERNMENTAL

Registrant 1

Stites, Melissa Cecilia

[redacted]
Saint Paul, MN 55110-5215
Dob: [redacted]
Plate Number: [redacted]
Expiration Date: 09/01/2002

Possible Education (0 records found)

Possible Criminal/Arrest (16 filings)

No.	Name	Type	Offense	Date	State
1.	Stites, Melissa C	Criminal	Permit Parking Only	04/19/2023	Pennsylvania

Personal Information

Data Source: Criminal Court
SSN: [redacted]
LexID: [redacted]
Address: Scranton, PA 18510
Offender Id: [redacted]
Filing Date: 04/19/2023
Origin State: Pennsylvania

Offense 1

Categories: TRAFFIC
Case Number: MJ-45102-TR-0001505-2023
Case Type: TRAFFIC
Case Filing Date: 04/19/2023
Offense Town: LACKAWANNA COUNTY
Offense Date: 03/21/2023
Court Description: MAGISTERIAL DISTRICT COURT
Court Disposition: GUILTY PLEA
Court Disposition Date: 06/12/2023
Court Level/Degree: TRAFFIC
Court Offense: PERMIT PARKING ONLY
Court Statute: LO.439-64

2.	Stites, Melissa C	Criminal	Meter Overtime	12/18/2018	Pennsylvania

Personal Information

Data Source: Criminal Court
SSN: [redacted]
LexID: [redacted]
Address: Scranton, PA 18510
Offender Id: [redacted]
Filing Date: 12/18/2018
Origin State: Pennsylvania

Offense 1

Categories: TRAFFIC
Case Number: MJ-45102-TR-0007542-2018
Case Type: TRAFFIC
Case Filing Date: 12/18/2018
Offense Town: LACKAWANNA COUNTY
Offense Date: 10/02/2018
Court Description: MAGISTERIAL DISTRICT COURT
Court Level/Degree: TRAFFIC
Court Offense: METER OVERTIME
Court Statute: LO.ABM-195.87

3.	Stites, Melissa Cecilia	Criminal	Traffic Regulation - Vehicle Registration Required	01/12/2011	Minnesota

Personal Information

Data Source: Criminal Court
Date of Birth: [redacted]
SSN: [redacted]

LexID: [redacted]
Address: MN
Offender Id: [redacted]
Filing Date: 01/12/2011
Sex: Female
Origin State: Minnesota

Offense 1

Categories: TRAFFIC
Case Number: 70VB11879
Case Type: CRIM/TRAF NON-MAND
Case Filing Date: 01/12/2011
Offense Town: SCOTT COUNTY
Agency: MN STATE PATROL - GOLDEN VALLEY
Court Disposition: CONVICTED Status:CLOSED
Court Disposition Date: 02/28/2011
Court Level/Degree: PETTY MISDEMEANOR
Court Offense: TRAFFIC REGULATION - VEHICLE REGISTRATION REQUIRED
Court Statute: 169.79.1

4.	Stites, Melissa Cecilia	Criminal	Drivers' Licenses - No Drivers License In Possession Or Fail To Display Upo	04/01/2009	Minnesota

Personal Information

Data Source: Criminal Court
Date of Birth: [redacted]
SSN: [redacted]
LexID: [redacted]
Address: MN
Offender Id: [redacted]
Filing Date: 04/01/2009
Sex: Female
Origin State: Minnesota

Offense 1

Categories: TRAFFIC
Case Number: 70CR097294
Case Type: CRIM/TRAF MANDATORY
Case Filing Date: 04/01/2009
Offense Town: SCOTT COUNTY
Agency: SHAKOPEE POLICE DEPARTMENT
Court Disposition: CONVICTED Status:CLOSED
Court Disposition Date: 05/20/2010
Court Level/Degree: MISDEMEANOR
Court Offense: DRIVERS' LICENSES - NO DRIVERS LICENSE IN POSSESSION OR FAIL TO DISPLAY UPO
Court Statute: 171.08

Offense 2

Categories: TRAFFIC
Case Number: 70CR097294

Case Type: CRIM/TRAF MANDATORY
Case Filing Date: 04/01/2009
Offense Town: SCOTT COUNTY
Agency: SHAKOPEE POLICE DEPARTMENT
Court Disposition: DISMISSED Status:CLOSED
Court Disposition Date: 05/20/2010
Court Level/Degree: MISDEMEANOR
Court Offense: TRAFFIC REGULATION - DRIVER MUST CARRY PROOF OF INSURANCE WHEN OPERATING VE
Court Statute: 169.791.2

5.	Stites, Melissa Cecilia	Criminal	Parked Vehicle - Expired Registration/Failure To Registure	06/15/2007	Minnesota

Personal Information

Data Source: Criminal Court
SSN: [redacted]
LexID: [redacted]
Address: MN
Offender Id: [redacted]
Filing Date: 06/15/2007
Origin State: Minnesota

Offense 1

Categories: TRAFFIC
Case Number: 62VB07807062744
Case Type: CRIM/TRAF NON-MAND
Case Filing Date: 06/15/2007
Offense Town: RAMSEY COUNTY
Agency: ST. PAUL POLICE DEPARTMENT
Court Disposition: CONVICTED Status:CONVERTED CLOSED
Court Disposition Date: 09/14/2010
Court Level/Degree: PETTY MISDEMEANOR
Court Offense: PARKED VEHICLE - EXPIRED REGISTRATION/FAILURE TO REGISTURE
Court Statute: 168.09.1

6.	Stites, Melissa Cecilia	Criminal	(Tcis Amended Charge) Identity Theft	09/28/2006	Minnesota

Personal Information

Data Source: Criminal Court
Date of Birth: [redacted]
SSN: [redacted]
LexID: [redacted]
Address: MN
Offender Id: [redacted]
Filing Date: 09/28/2006
Sex: Female
Origin State: Minnesota

Offense 1

Categories: FRAUD IDENTITY_THEFT
Case Number: 82K706006214

Case Type: GROSS MISDEMEANOR
Case Filing Date: 09/28/2006
Offense Town: WASHINGTON COUNTY
Agency: COTTAGE GROVE POLICE DEPARTMENT
Court Disposition: CONVICTED Status:CLOSED
Court Disposition Date: 06/15/2007
Court Level/Degree: GROSS MISDEMEANOR
Court Offense: (TCIS AMENDED CHARGE) IDENTITY THEFT
Court Statute: 609.527.2 3 3

7.	Stites, Melissa Cecilia	Criminal	Das	08/07/2006	Minnesota

Personal Information

Data Source: Criminal Court
Date of Birth: [redacted]
SSN: [redacted]
LexID: [redacted]
Address: MN
Offender Id: [redacted]
Filing Date: 08/07/2006
Sex: Female
Origin State: Minnesota

Offense 1

Categories: TRAFFIC
Case Number: 82T606023537
Case Type: MOVING - MISDEMEANOR
Case Filing Date: 08/07/2006
Offense Town: WASHINGTON COUNTY
Agency: STILLWATER POLICE DEPARTMENT
Court Disposition: GUILTY Status:CONVERTED CLOSED
Court Disposition Date: 02/20/2007
Court Level/Degree: MISDEMEANOR
Court Offense: DAS
Court Statute: 171.24

8.	Stites, Melissa Cecilia	Criminal	No Proof Of Insurance	12/28/2005	Minnesota

Personal Information

Data Source: Criminal Court
Date of Birth: [redacted]
SSN: [redacted]
LexID: [redacted]
Address: MN
Offender Id: [redacted]
Filing Date: 12/28/2005
Sex: Female
Origin State: Minnesota

Offense 1

Categories: TRAFFIC
Case Number: 82T506000296

Case Type: SPEEDING-PETTY MISD
Case Filing Date: 12/28/2005
Offense Town: WASHINGTON COUNTY
Agency: MN STATE PATROL - OAKDALE
Court Disposition: DISMISSED Status:CONVERTED CLOSED
Court Disposition Date: 01/18/2006
Court Level/Degree: PETTY MISDEMEANOR
Court Offense: NO PROOF OF INSURANCE
Court Statute: 169.791

Offense 2

Categories: CANNOT_CLASSIFY
Case Number: 82T506000296
Case Type: SPEEDING-PETTY MISD
Case Filing Date: 12/28/2005
Offense Town: WASHINGTON COUNTY
Agency: MN STATE PATROL - OAKDALE
Court Disposition: GUILTY Status:CONVERTED CLOSED
Court Disposition Date: 01/18/2006
Court Level/Degree: PETTY MISDEMEANOR
Court Offense: 77/60 $142
Court Statute: 169.14

9.	Stites, Melissa Cecilia	Criminal	(Tcis Amended Charge) Check Forgery	08/19/2005	Minnesota

Personal Information

Data Source: Criminal Court
Date of Birth: [redacted]
SSN: [redacted]
LexID: [redacted]
Address: MN
Offender Id: [redacted]
Filing Date: 08/19/2005
Sex: Female
Origin State: Minnesota

Offense 1

Categories: COUNTERFEITING_FORGERY
Case Number: 82K705005442
Case Type: MISDEMEANOR
Case Filing Date: 08/19/2005
Offense Town: WASHINGTON COUNTY
Agency: WOODBURY POLICE DEPARTMENT
Court Disposition: CONVICTED Status:CONVERTED CLOSED
Court Disposition Date: 10/16/2006
Court Level/Degree: MISDEMEANOR
Court Offense: (TCIS AMENDED CHARGE) CHECK FORGERY
Court Statute: 609.631

10.	Stites, Melissa C	Criminal	Speeding	01/21/2003	Ohio

Personal Information

Data Source: Criminal Court
Date of Birth: [redacted]
SSN: [redacted]
LexID: [redacted]
Address: [redacted]
Saint Paul, MN 55106-2709
Offender Id: [redacted]
County: SUMMIT
Filing Date: 01/21/2003
Origin State: Ohio

Offense 1

Categories: TRAFFIC
Case Number: 2003TRD01095
Case Type: TRAFFIC
Case Filing Date: 01/21/2003
Number Counts: 1
Offense Date: 01/17/2003
Agency: OHIO STATE PATROL POST 91
Court Description: STOW MUNICIPAL
Court Disposition: GUILTY
Court Fine: 10300
Court Level/Degree: TRAFFIC
Court Offense: SPEEDING
Court Statute: 4511.21D2

11.	Stites, Melissa Cecilia	Criminal	Offering A Forged Check	07/25/1995	Minnesota

Personal Information

Data Source: Criminal Court
Date of Birth: [redacted]
SSN: [redacted]
LexID: [redacted]
Address: MN
Offender Id: [redacted]
Filing Date: 07/25/1995
Sex: Female
Origin State: Minnesota

Offense 1

Categories: COUNTERFEITING_FORGERY
Case Number: 27CR95059976
Case Type: CRIM/TRAF MANDATORY
Case Filing Date: 07/25/1995
Offense Town: HENNEPIN COUNTY
Agency: MN STATE PATROL - CENTRAL OFFICE
Court Disposition: CONVICTED Status:CLOSED
Court Disposition Date: 04/14/1999
Court Level/Degree: FELONY
Court Offense: OFFERING A FORGED CHECK
Court Statute: 609.631S3

12.	Stites, Melissa Cecilia	Criminal	Identity Theft.		Minnesota

Personal Information

Data Source: Criminal Court
Date of Birth: [redacted]
SSN: [redacted]
LexID: [redacted]
Address: MN
Offender Id: [redacted]
Origin State: Minnesota

Offense 1

Categories: FRAUD IDENTITY_THEFT
Case Number: 06002508
Offense Town: WASHINGTON
Court Description: WASHINGTON COUNTY DISTRICT COURT
Court Disposition: CONV-310-CONVICTED
Court Disposition Date: 06/15/2007
Court Offense: IDENTITY THEFT.
Court Statute: 609.527
Probation: Max: 2 Years

13.	Stites, Melissa Cecelia	Criminal	Identity Theft.		Minnesota

Personal Information

Data Source: Criminal Court
Date of Birth: [redacted]
SSN: [redacted]
LexID: [redacted]
Address: MN
Offender Id: [redacted]
Origin State: Minnesota

Offense 1

Categories: FRAUD IDENTITY_THEFT
Case Number: 06002508
Offense Town: WASHINGTON
Court Description: WASHINGTON COUNTY DISTRICT COURT
Court Disposition: CONV-310-CONVICTED
Court Disposition Date: 06/15/2007
Court Offense: IDENTITY THEFT.
Court Statute: 609.527
Probation: Max: 2 Years

14.	Stites, Melissa C	Criminal	Use/Poss Of Drug Paraph		Pennsylvania

Personal Information

Data Source: Criminal Court
Date of Birth: [redacted]
SSN: [redacted]
LexID: [redacted]

Address: Scranton, PA 18505
Offender Id: [redacted]
Race: WHITE
Sex: Female
Origin State: Pennsylvania

Offense 1

Categories: DRUG_NARCOTIC
Case Number: MJ-11102-CR-0000993-2015
Case Type: CRIMINAL
Offense Town: LUZERNE COUNTY
Offense Date: 08/23/2015
Court Description: MAGISTERIAL DISTRICT COURT
Court Disposition: HELD FOR COURT Status:OFFENSE LAST UPDATED 20151023
Court Disposition Date: 12/03/2015
Court Offense: USE/POSS OF DRUG PARAPH
Court Statute: 35.780-113.A32

15.	Stites, Melissa	Criminal	Criminal Use Of Communication Facility		Pennsylvania

Personal Information

Data Source: Criminal Court
Date of Birth: [redacted]
SSN: [redacted]
LexID: [redacted]
Address: Taylor, PA 18517
Offender Id: [redacted]
Race: WHITE
Sex: Female
Origin State: Pennsylvania

Offense 1

Categories: OTHER
Case Number: CP-35-CR-0000922-2015
Case Type: CRIMINAL
Offense Town: LACKAWANNA COUNTY
Offense Date: 04/30/2015
Court Description: LACKAWANNA
Court Disposition: GUILTY PLEA
Court Disposition Date: 10/14/2015
Court Offense: CRIMINAL USE OF COMMUNICATION FACILITY

16.	Stites, Melissa C	Criminal	Use/Poss Of Drug Paraph		Pennsylvania

Personal Information

Data Source: Criminal Court
Date of Birth: [redacted]
SSN: [redacted]
LexID: [redacted]
Address: Scranton, PA 18508
Offender Id: [redacted]

Race: WHITE
Sex: Female
Origin State: Pennsylvania

Offense 1

Categories: DRUG_NARCOTIC
Case Number: CP-40-CR-0004372-2015
Case Type: CRIMINAL
Offense Town: LUZERNE COUNTY
Offense Date: 08/23/2015
Court Description: LUZERNE
Court Disposition: GUILTY PLEA
Court Disposition Date: 11/22/2016
Court Offense: USE/POSS OF DRUG PARAPH

Bankruptcy (0 active, 0 closed)

Judgment / Liens (5 active, 0 closed)

No.	Type	Status	Amount	Filing Date	Filing Number	Jurisdiction
1.	Civil New Filing	See Details		11/20/2009	62HGCV093728	Minnesota

Debtor 1

Stites, Melissa

[redacted]
White Bear Lk, MN 55110-7008
[redacted]

Creditor 1

James Schneider

Filing 1

Landlord/Tenant Dispute Records: Yes
Type: Civil New Filing
Agency: Ramsey County District Court
Agency State: MN
Agency County: Ramsey
Number: 62HGCV093728

2.	Forcible Entry/Detainer	See Details		01/16/2009	62HGCV094	Minnesota

Debtor 1

Stites, Melissa

[redacted]
White Bear Lk, MN 55110-7008

SSN: [redacted]

Creditor 1

James Schneider

Filing 1

Landlord/Tenant Dispute Records: Yes
Type: Forcible Entry/Detainer
Agency: Ramsey County District Court
Agency State: MN
Agency County: Ramsey
Number: 62HGCV094

3.	Small Claims Judgment	See Details	$2,945.00	11/20/2008	82CO081524	Minnesota

Debtor 1

Stites, Melissa

[redacted]
Woodbury, MN 55125-4038
SSN: [redacted]

Creditor 1

Saqib Khawaja

Filing 1

Landlord/Tenant Dispute Records: No
Type: Small Claims Judgment
Agency: Washington Conciliation Court
Agency State: MN
Agency County: Washington
Number: 82CO081524

4.	Forcible Entry/Detainer	See Details		07/21/2008	62HGCV082527	Minnesota

Debtor 1

Stites, Melissa

[redacted]
White Bear Lk, MN 55110-7008
SSN: [redacted]

Creditor 1

James Schneider

Filing 1

Landlord/Tenant Dispute Records: Yes
Type: Forcible Entry/Detainer
Agency: Ramsey County District Court
Agency State: MN
Agency County: Ramsey
Number: 62HGCV082527

5.	Civil Judgment	See Details	$2,785.00	08/12/2005	82C705006154	Minnesota

Debtor 1

Stites, Melissa

[redacted]
Woodbury, MN 55125-4038
SSN: [redacted]

Creditor 1

Eva Stites

Filing 1

Landlord/Tenant Dispute Records: No
Type: Civil Judgment
Agency: Washington County District Court
Agency State: MN
Agency County: Washington
Number: 82C705006154

UCC Filings (0 debtor, 0 creditor)

Associates (21 records)
Possible Relatives - 1st Degree: 2, 2nd Degree: 2, 3rd Degree: 1

No.	First Degree Relatives	Address	Phone
1.	Stites, James C (Possible Father) • AKA Stites, Jim K • AKA Stites, James • AKA Stites, James Chester • AKA Stites, James C • AKA Stites, James C • AKA Stites, James C • AKA Stities, James C • AKA Stites, C James • AKA Sites, James • AKA Stites, James C • AKA Stites, James G • AKA Stites, James M • AKA Stites, James Madeline • AKA Stites, James Madeline SSN: [redacted] LexID: [redacted]	[redacted] Saint Paul, MN 55125-2408	

	DOB: 07/1947 - 01/03/2020 (DOD) (Age at Death: 72) Deceased		
	First Degree Relative		
2.	Stites, Mattie C (Possible Grandmother) • AKA Stites, Madeline • AKA Stites, Mattie C • AKA Stites, Mattie Christenso SSN: [redacted] LexID: [redacted] DOB: 04/1910 - 12/16/1995 (DOD) (Age at Death: 85) Deceased	[redacted] Minneapolis, MN 55411-1306	
	Second Degree Relatives	**Address**	**Phone**
1.	Stites, Eva Emma • AKA Stites, Eva • AKA Stites, Ava E • AKA Stites, Eve E • AKA Stites, Eva Null • AKA Stites, Eva S • AKA Salon, Avas • AKA Stites, Eva E • AKA Stites, Emma E • AKA Spites, Eva • AKA Stites, Eva P • AKA Stiteies, Iva SSN: [redacted] LexID: [redacted] DOB: 02/1949 - 03/13/2023 (DOD) (Age at Death: 74) Deceased	[redacted] Saint Paul, MN 55106-2709	
	Third Degree Relatives	**Address**	**Phone**
1.	Stites, Eva E LexID: [redacted] DOB: [redacted]/1936	[redacted] Saint Paul, MN 55106-2709	
2.	Stites, Arthur C • AKA Stites, A SSN: [redacted] LexID: [redacted] DOB: 11/1908 - 08/1979 (DOD) (Age at Death: 70) Deceased	[redacted] Saint Paul, MN 55105-1533	

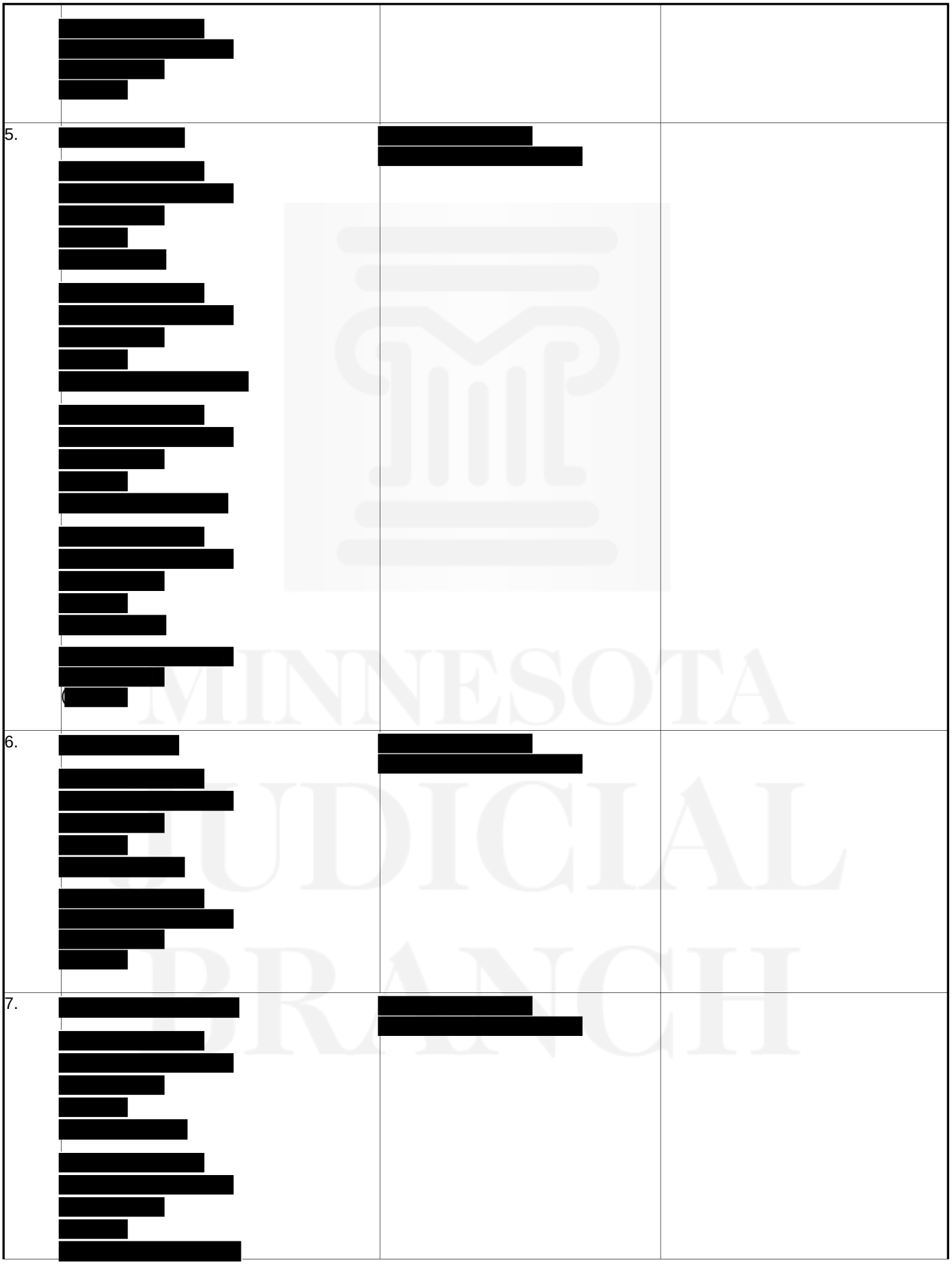
Person Associates - 2 records found

No.	Full Name	Address	Role
1.	Bishop, Courtney Ann SSN: [redacted] LexID: [redacted] DOB: [redacted]	[redacted] Apalachin, NY 13732-0613	Possible Roommate
2.	Hough, Jawnie Kaye SSN: [redacted] LexID: [redacted] DOB: [redacted]	[redacted] Cass Lake, MN 56633-3068	Associate

Neighbors - 11 records found

Found Near: 811 Carley Brook Rd
Honesdale, PA 18431-7931 - 11 records found

No.	Full Name	Address	Phone
1.	[redacted]	[redacted]	
2.	[redacted]	[redacted]	
3.	[redacted]	[redacted]	
4.	[redacted]	[redacted]	



	[redacted]		
8.	[redacted]	[redacted]	
9.	[redacted]	[redacted]	
10.	[redacted]	[redacted]	
11.	[redacted]	[redacted]	

Business Connections - 0 records found

Possible Employers - 2 records found.

No.	Name	Address	Phone
1.	GANDER MOUNTAIN COMPANY	180 5th St E Ste 1300 Saint Paul, MN 55101-1664	[redacted]

Details

Name: Stites, Melissa
SSN: [redacted]
LexID: [redacted]
BusinessId: [redacted]
Company Time Zone: CST
Title: FOOT WARE SUPERVISOR
Date First Seen: 08/10/2015
Date Last Seen: 12/19/2017
Confidence Level: Medium

2.	MINNESOTA MUSIC CAFE		

Details

Name: Stites, Melissa C
SSN: [redacted]
LexID: [redacted]
Title: CONTACT
Confidence Level: Medium

Business Associates - 1 records found.

No.	Name	Address	Role
1.	WISCONSIN AUTO TITLE LOANS	1407 Coulee Rd Hudson, WI 54016-2135	Personal Property

Sources (271 sources)

All Sources	271 Source Documents
Criminal	16 Source Documents
Deed Transfers	1 Source Documents
Driver Licenses	5 Source Documents
Email Addresses	24 Source Documents
Historical Person Locator	37 Source Documents
Liens and Judgments	5 Source Documents
Motor Vehicle Registrations	9 Source Documents
Person Locator 1	18 Source Documents
Person Locator 2	9 Source Documents
Person Locator 5	85 Source Documents
Person Locator 6	52 Source Documents
PhonesPlus Records	8 Source Documents
Voter Registrations	2 Source Documents

Key

High Risk Indicator. These symbols may prompt you to investigate further.

Moderate Risk Indicator. These symbols may prompt you to investigate further.

General Information Indicator. These symbols inform you that additional information is provided.

The most recent telephone listing as reported by Electronic Directory Assistance.

Important: The Public Records and commercially available data sources used on reports have errors. Data is sometimes entered poorly, processed incorrectly and is generally not free from defect. This system should not be relied upon as definitively accurate. Before relying on any data this system supplies, it should be independently verified. For Secretary of State documents, the following data is for information purposes only and is not an official record. Certified copies may be obtained from that individual state's Department of State.

Your DPPA Permissible Use: Litigation
Your Secondary DPPA Permissible Use: None
Your GLBA Permissible Use: Fraud Prevention or Detection
Your DMF Permissible Use: Legitimate Business Purpose

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MINNESOTA JUDICIAL BRANCH

Filed in District Court
State of Minnesota
2/27/2023 10:16 PM

SOUTH ST. PAUL POLICE DEPARTMENT
PROPERTY AND INVENTORY REPORT

CASE NUMBER: 03 000626

OFFICER	BADGE NO.	DATE	TIME
GRAVEM	212G	12/30/03	

PROPERTY TAKEN INTO CUSTODY AT (ADDRESS/LOCATION): 612 Stewart — TOWNSHIP:

FROM: 612 Stewart — PHONE NUMBER:

OWNER AND OR VICTIM: Lorenzo & Rebecca Eide — PHONE NUMBER: 455-4328

ADDRESS: 612 Stewart

REASON PROPERTY HELD:
☒ EVIDENCE ☐ STOLEN PROPERTY RECOVERED ☐ FOUND PROPERTY ☐ OTHER (EXPLAIN)

MOC: — CASE TYPE:

ITEM #	ITEMIZE: DESCRIBE, LIST SERIAL NUMBERS, MODEL NUMBERS, BRAND NAME, CALIBER, ETC.
1	Trash Pull / 60 bags Searched

ITEM #	DATE	CHAIN OF POSSESSION
1	8/26/03	From 212G to Property Room

ORIGINAL – EVIDENCE TECHNICIAN YELLOW – MAIN FILE PINK – OFFICER GOLD – CITIZEN

Filed in District Court
State of Minnesota
2/27/2026 10:16 PM

SOUTH ST. PAUL POLICE DEPARTMENT
PROPERTY AND INVENTORY REPORT

CASE NUMBER: 02018247

OFFICER	BADGE NO.	DATE	TIME
Offling	2107	12-23-02	1550

PROPERTY TAKEN INTO CUSTODY AT (ADDRESS/LOCATION): Sabreen's - 349 4th Ave S — TOWNSHIP: SSP

FROM: Sabreen's Grocery - ~~Bill~~ — PHONE NUMBER:

OWNER AND OR VICTIM: Bill Luke 12-5-45 — PHONE NUMBER:

ADDRESS: Same

REASON PROPERTY HELD
☐EVIDENCE ☐STOLEN PROPERTY RECOVERED ☐FOUND PROPERTY ☐OTHER (EXPLAIN)

MOC — CASE TYPE

ITEM #	ITEMIZE: DESCRIBE, LIST SERIAL NUMBERS, MODEL NUMBERS, BRAND NAME, CALIBER, ETC.
1	$ ~~[illegible] CASH~~ Rec. Aq $ 1087 oo + Bag of Coin
2	Cash Register Receipt / Tape -
3	Video taken By 2127
4	Wallet taken By 2127

ITEM #	DATE	CHAIN OF POSSESSION
1	12-23-02	2107 to Mr. Luke B.L.
2 -	12-23-02	BCA - G.L. to 2127
3-4	12-22-02	Store to 2127

MINNESOTA JUDICIAL BRANCH

ORIGINAL – EVIDENCE TECHNICIAN YELLOW – MAIN FILE PINK – OFFICER GOLD – CITIZEN

Filed in District Court
State of Minnesota
2/27/2026 10:46 PM

SOUTH ST. PAUL POLICE DEPARTMENT
PROPERTY AND INVENTORY REPORT

CONTINUATION

CASE NUMBER 03018427

ITEM #	ITEMIZE: DESCRIBE, LIST SERIAL NUMBERS, MODEL NUMBERS, BRAND NAME, CALIBER, ETC.
–	VTECH CORDLESS PHONE SYSTEM- BASE UNIT.
	RECOVERED BY 2127- S/N 858040101465008
	TAKEN TO BCA- 10/8/03 BY 2102.

MINNESOTA JUDICIAL BRANCH

DISTRIBUTION: EVIDENCE TECHNICIAN YELLOW – MAIN FILE PINK – OFFICER GOLD – CITIZEN

Filed in District Court
State of Minnesota
2/27/2026 10:46 PM

SOUTH ST. PAUL POLICE DEPARTMENT
PROPERTY AND INVENTORY REPORT

CASE NUMBER 02018427

OFFICER	BADGE NO.	DATE	TIME

PROPERTY TAKEN INTO CUSTODY AT (ADDRESS/LOCATION) | TOWNSHIP

FROM | PHONE NUMBER

OWNER AND OR VICTIM | PHONE NUMBER

ADDRESS

REASON PROPERTY HELD
☒EVIDENCE ☐STOLEN PROPERTY RECOVERED ☐FOUND PROPERTY ☐OTHER (EXPLAIN)

MOC | CASE TYPE HOMICIDE

ITEM #	ITEMIZE: DESCRIBE, LIST SERIAL NUMBERS, MODEL NUMBERS, BRAND NAME, CALIBER, ETC.
NLR-1	CIGARETTE FILTER /SALIVA OF NICOLLE LYNN RAUSCHNOT 3-23-79
2	Set of Keys to JFW567 w/ Grossman Chev Key tag

ITEM #	DATE	CHAIN OF POSSESSION
NLR-1	7-23-03	2127 From P.R. to 2138 to 2118 to B.C.A. LAB 7/24/03 1800hrs by 2118
2	7-24-03	Keys to BCA by 2118 Diane L Sloan

ORIGINAL – EVIDENCE TECHNICIAN YELLOW – MAIN FILE PINK – OFFICER GOLD – CITIZEN

Filed in District Court
State of Minnesota
2/27/2026 10:46 PM

SOUTH ST. PAUL POLICE DEPARTMENT
PROPERTY AND INVENTORY REPORT

CASE NUMBER 03184327

OFFICER	BADGE NO.	DATE	TIME
K. Woog	218	11-5-03	

PROPERTY TAKEN INTO CUSTODY AT (ADDRESS/LOCATION) BCA — TOWNSHIP

FROM — PHONE NUMBER

OWNER AND OR VICTIM — PHONE NUMBER

ADDRESS

REASON PROPERTY HELD
☐EVIDENCE ☐STOLEN PROPERTY RECOVERED ☐FOUND PROPERTY ☐OTHER (EXPLAIN)

MOC — CASE TYPE

ITEM #	ITEMIZE: DESCRIBE, LIST SERIAL NUMBERS, MODEL NUMBERS, BRAND NAME, CALIBER, ETC.
70	Manilla envelope marked as item 70
72	" " " " " 72
73	" " " " " 73
77	Long flat cardboard box marked as item 77

ITEM #	DATE	CHAIN OF POSSESSION
70, 72, 73	11-5-03	from BCA to Box 1
77	11-5-03	from BCA to Shelf 28

ORIGINAL – EVIDENCE TECHNICIAN YELLOW – MAIN FILE PINK – OFFICER GOLD – CITIZEN

Filed in District Court
State of Minnesota
2/27/2026 10:48 PM

SOUTH ST. PAUL POLICE DEPARTMENT
PROPERTY AND INVENTORY REPORT

CASE NUMBER 02018427

OFFICER	BADGE NO.	DATE	TIME
K. Wood	218	10-29-03	0815

PROPERTY TAKEN INTO CUSTODY AT (ADDRESS/LOCATION) | TOWNSHIP

FROM | PHONE NUMBER

OWNER AND OR VICTIM | PHONE NUMBER

ADDRESS

REASON PROPERTY HELD
☒EVIDENCE ☐STOLEN PROPERTY RECOVERED ☐FOUND PROPERTY ☐OTHER (EXPLAIN)

MOC | CASE TYPE

ITEM #	ITEMIZE: DESCRIBE, LIST SERIAL NUMBERS, MODEL NUMBERS, BRAND NAME, CALIBER, ETC.
	BCA items 43, 45-51, 53-56, 58, 61-64 (latent prints)

ITEM #	DATE	CHAIN OF POSSESSION
	10-29-03	items to BCA as requested

ORIGINAL – EVIDENCE TECHNICIAN YELLOW – MAIN FILE PINK – OFFICER GOLD – CITIZEN

Filed in District Court
State of Minnesota
2/27/2026 10:18 PM

SOUTH ST. PAUL POLICE DEPARTMENT
PROPERTY AND INVENTORY REPORT

CASE NUMBER 02018427

OFFICER	BADGE NO.	DATE	TIME
C. Woog	2118	8-6-03	1234

PROPERTY TAKEN INTO CUSTODY AT (ADDRESS/LOCATION) — TOWNSHIP

FROM D. Vujovich office — PHONE NUMBER

OWNER AND OR VICTIM — PHONE NUMBER

ADDRESS

REASON PROPERTY HELD
☒ EVIDENCE ☐ STOLEN PROPERTY RECOVERED ☐ FOUND PROPERTY ☐ OTHER (EXPLAIN)

MOC — CASE TYPE

ITEM #	ITEMIZE: DESCRIBE, LIST SERIAL NUMBERS, MODEL NUMBERS, BRAND NAME, CALIBER, ETC.
1	1 box containing a Cigarette pack (D Th cellophane wrapper

ITEM #	DATE	CHAIN OF POSSESSION
1	8-6-03	2102 to 2118 to Shelf 28 (box)

Filed in District Court
State of Minnesota
2/27/2026 10:16 PM

SOUTH ST. PAUL POLICE DEPARTMENT
PROPERTY AND INVENTORY REPORT

CASE NUMBER: 0200184127

OFFICER	BADGE NO.	DATE	TIME
Division	2102	7/30/03	1425 - 1511

PROPERTY TAKEN INTO CUSTODY AT (ADDRESS/LOCATION): 125 - 3rd Ave No. SSP. MN. | TOWNSHIP: —

FROM: MN. Registration: JWF-567 | PHONE NUMBER: —

OWNER AND OR VICTIM: Nicolle Lynn Rausenhot 3/23/1979 | PHONE NUMBER: —

ADDRESS: —

REASON PROPERTY HELD
☒EVIDENCE ☐STOLEN PROPERTY RECOVERED ☐FOUND PROPERTY ☐OTHER (EXPLAIN)

MOC | CASE TYPE: Robbery - Hom. Att.

ITEM #	ITEMIZE: DESCRIBE, LIST SERIAL NUMBERS, MODEL NUMBERS, BRAND NAME, CALIBER, ETC.
1-	Traffic Citation - 9030 92765 - Rausenhot 2127
2-	Health Partners - "CIPRO" / Kentrell Anthony 2127
3	Traffic Citation 9030 87964 - Rausenhot 2127
4-	Misc Papers w/ Suspected Telephone Numbers 2127
5	McLeod U.D.A. - Injured - Rausenhot 2127
	NOTE - Above Noted Items were in a Brown Paper Bag - Front Passenger Seat.

ITEM #	DATE	CHAIN OF POSSESSION
1-3	7/30/03	2127 to 2102 - Property Room
4	7/30/03	2127 to 578-(531 MDSF to be Reviewed JM
5	7/30/03	2127 - to 2102 - Property Room

ORIGINAL – EVIDENCE TECHNICIAN YELLOW – MAIN FILE PINK – OFFICER GOLD – CITIZEN

Filed in District Court
State of Minnesota
2/27/2026 10:46 PM

SOUTH ST. PAUL POLICE DEPARTMENT
PROPERTY AND INVENTORY REPORT

CASE NUMBER: 02018427

OFFICER	BADGE NO.	DATE	TIME
Ploeckelmann	2134	7-16-03	

PROPERTY TAKEN INTO CUSTODY AT (ADDRESS/LOCATION): Magnum Towing — TOWNSHIP:

FROM — PHONE NUMBER:

OWNER AND OR VICTIM — PHONE NUMBER:

ADDRESS:

REASON PROPERTY HELD
☒ EVIDENCE ☐ STOLEN PROPERTY RECOVERED ☐ FOUND PROPERTY ☐ OTHER (EXPLAIN)

MOC — CASE TYPE:

ITEM #	ITEMIZE: DESCRIBE, LIST SERIAL NUMBERS, MODEL NUMBERS, BRAND NAME, CALIBER, ETC.
100	JWF567 1996 Chev. VIN# 1G1LD55MXTY243744 RO: Nicolle Lynn Rauschnot DOB 3-23-79

ITEM #	DATE	CHAIN OF POSSESSION
100	7/16	from Magnum Towing to SSP Garage. by Inv. Ploeckelmann
100	7/23	from SSP Garage → towed to BCA → with 2130 for forensic search
100	7/30	from BCA Garage to Southst Paul Garage towed by Southeast
100	8/1	from SSP Garage to Service Center - secured in locked fence area. by 2130

Filed in District Court
State of Minnesota
2/27/2026 10:46 PM

SOUTH ST. PAUL POLICE DEPARTMENT
PROPERTY AND INVENTORY REPORT

CASE NUMBER: 02018427

OFFICER	BADGE NO.	DATE	TIME
D. Sullivan	2102	7-11-03	1509

PROPERTY TAKEN INTO CUSTODY AT (ADDRESS/LOCATION): Ramsey County Jail - ADC

TOWNSHIP:

FROM: John Edward Martin

PHONE NUMBER: 651-340-8842

OWNER AND OR VICTIM: 1161 St Clair Ave #10 - St. Paul, MN.

PHONE NUMBER:

~~ADDRESS~~

REASON PROPERTY HELD
☒EVIDENCE ☐STOLEN PROPERTY RECOVERED ☐FOUND PROPERTY ☐OTHER (EXPLAIN)

MOC:

CASE TYPE: Robbery - Home St.

ITEM #	ITEMIZE: DESCRIBE, LIST SERIAL NUMBERS, MODEL NUMBERS, BRAND NAME, CALIBER, ETC.
1.	Saliva Swab for the Purpose of D.N.A. Testing for Case # 02018427

ITEM #	DATE	CHAIN OF POSSESSION
1	7/11/03	Martin - 2102 - Property Locker.

MINNESOTA JUDICIAL BRANCH

ORIGINAL – EVIDENCE TECHNICIAN YELLOW – MAIN FILE PINK – OFFICER GOLD – CITIZEN

Filed in District Court
State of Minnesota
2/27/2026 10:46 PM

SOUTH ST. PAUL POLICE DEPARTMENT
PROPERTY AND INVENTORY REPORT

CASE NUMBER 02018427

OFFICER	BADGE NO.	DATE	TIME
Ploeckelmann	2134	May 21, 03	1415

PROPERTY TAKEN INTO CUSTODY AT (ADDRESS/LOCATION): Dakota Co Jail — TOWNSHIP:

FROM: Philip Randall Vance — PHONE NUMBER:

OWNER AND OR VICTIM: — PHONE NUMBER:

ADDRESS:

REASON PROPERTY HELD
☑EVIDENCE ☐STOLEN PROPERTY RECOVERED ☐FOUND PROPERTY ☐OTHER (EXPLAIN)

MOC: — CASE TYPE: Murder

ITEM #	ITEMIZE: DESCRIBE, LIST SERIAL NUMBERS, MODEL NUMBERS, BRAND NAME, CALIBER, ETC.
1	2x2 cotton gauze for DNA testing

ITEM #	DATE	CHAIN OF POSSESSION
1	5-21-03	Vance to 2134 to Property Room

ORIGINAL – EVIDENCE TECHNICIAN YELLOW – MAIN FILE PINK – OFFICER GOLD – CITIZEN

Filed in District Court
State of Minnesota
2/27/2026 10:46 PM

SOUTH ST. PAUL POLICE DEPARTMENT
PROPERTY AND INVENTORY REPORT

CASE NUMBER 0200184 27

OFFICER	BADGE NO.	DATE	TIME
D. Vaughan	2109	5-1-03	1500 HRS

PROPERTY TAKEN INTO CUSTODY AT (ADDRESS/LOCATION): 759- Jesse - St. Paul - | TOWNSHIP:

FROM: Inv Kendricks | PHONE NUMBER:

OWNER AND OR VICTIM: Kenneth Lee Wilson | PHONE NUMBER:

ADDRESS: 759- Jesse-

REASON PROPERTY HELD
☐EVIDENCE ☐STOLEN PROPERTY RECOVERED ☐FOUND PROPERTY ☐OTHER (EXPLAIN)

MOC | CASE TYPE

ITEM #	ITEMIZE: DESCRIBE, LIST SERIAL NUMBERS, MODEL NUMBERS, BRAND NAME, CALIBER, ETC.
1	Three. .22 Cal. Rounds of Ammunition

ITEM #	DATE	CHAIN OF POSSESSION
1	5/1/03	2109- Property/- 2127

ORIGINAL – EVIDENCE TECHNICIAN YELLOW – MAIN FILE PINK – OFFICER GOLD – CITIZEN

MINNESOTA JUDICIAL BRANCH

Filed in District Court
State of Minnesota
2/27/2026 10:48 PM

SOUTH ST. PAUL POLICE DEPARTMENT
PROPERTY AND INVENTORY REPORT

CASE NUMBER 02018427

OFFICER	BADGE NO.	DATE	TIME
KREAGER	2127	1-7-03	2215 HRS

PROPERTY TAKEN INTO CUSTODY AT (ADDRESS/LOCATION) — TOWNSHIP

FROM UNDER COVER OPERATIVE — PHONE NUMBER

OWNER AND OR VICTIM — PHONE NUMBER

ADDRESS

REASON PROPERTY HELD
☒EVIDENCE ☐STOLEN PROPERTY RECOVERED ☐FOUND PROPERTY ☒OTHER (EXPLAIN)

MOC — CASE TYPE ROBBERY/HOMICIDE

ITEM #	ITEMIZE: DESCRIBE, LIST SERIAL NUMBERS, MODEL NUMBERS, BRAND NAME, CALIBER, ETC.
G-1	BERETTA MODEL #21A # BBS 36757U .22LR CAL
G-2	U.C.O. ORAL SWAB

ITEM #	DATE	CHAIN OF POSSESSION
G-1	1-7-03	FROM U.C.O. TO McMANUS SPD TO CAPT. VUJOVICH
	1-7-03	SSP PD TO OFF GRAVEM SSPPD 2126
G-2	1-7-03	2330 HRS FROM U.C.O. TO OFF GRAVEM

ORIGINAL – EVIDENCE TECHNICIAN YELLOW – MAIN FILE PINK – OFFICER GOLD – CITIZEN

Filed in District Court
State of Minnesota
2/27/2026 10:46 AM

To whom it may concern.

I'm writing in regard to the Phillip Vance case. My name is Maynard Cross and I gave you all a statement concerning Mr. Vance case I'm sure you still have records of that statement. In brif of my statement to you, it was about how the police (homicide detectives) fed me the case. I didn't know of a Phillip Vance or a Florida Boy until the homicide detectives, came and qustioned me about his case. So as before, I'll testify to that. I know the last time I talked to you all, you didn't know what I was gone do, I'm telling you I'm sincer about helping Mr. Vance

Sincerely,

O.I.D. # 194776

Signed before me this
15th day of August 2004
Funkhouser

CAMI FUNKHOUSER
Notary Public
Minnesota
My Commission Expires January 31, 2010

Filed in District Court
State of Minnesota
2/27/2026 10:16 PM

STATE OF MINNESOTA | IN DISTRICT COURT

COUNTY OF DAKOTA | FIRST JUDICIAL DISTRICT

State of Minnesota,

Petitioner,

vs.

Philip Vance,

Respondent.

Affidavit of Maynard Cross

D.C. File. No. K6-04-000736

The undersigned being duly sworn, upon oath, deposes and states that:

1. I am currently an inmate at Minnesota Correctional Facility Rush City serving a life sentence.
2. I made certain statements and gave testimony before the grand jury regarding State of Minnesota vs. Philip Vance K6-04-000736.
3. On August 15, 2006, I signed a statement recanting my previous testimony relating to the above matter. This affidavit I am signing today is intended to supplement that affidavit by providing additional information.
4. I am signing this affidavit of my own free will. No one has given or promised me anything in exchange for the statements that I am making in this affidavit.
5. While in jail pending first-degree murder charges, I was approached by officers from the Metro Gang Strike Force regarding the robbery and shooting at Sabreen's on December 22, 2002. I did not know Philip Vance and I did not know anything about what happened at Sabreen's.
6. The MGSF officers asked me to incriminate Philip Vance for the crime. The officers told me details about the crime and about Philip Vance. I used that information to give statements and testimony against Philip Vance to the police and before the grand jury. I did this because I hoped it would get me better treatment on criminal charges that I was facing at the time.
7. All statements and testimony that I gave saying that Philip Vance was involved in the Sabreen's robbery or shooting are false. All details about the crime that I

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State of Minnesota
2/27/2026 10:16 PM

testified to were details given to me by the MGSF officers. At the time, I did not know Philip Vance, and I did not have any information (other than what the officers told me) about what happened at Sabreen's.

8. On the night of December 22, 2002, I was in Milwaukee, Wisconsin. In my testimony before the grand jury on March 3, 2004, I was untruthful when I stated I was at the Buttery Bar on December 22, 2002 and that I spoke with Philip Vance and Dominick Johnson. Anyone who says that I was talking to Philip Vance at the Buttery Bar on the night of December 22, 2002,or that I was in the Buttery Bar at all that night, would be lying.
9. I read this Affidavit before signing it and I had the chance to correct anything that was wrong in it. I swear that all statements herein are true to the best of my knowledge.

I declare under penalty of perjury that everything I have stated in this document is true and correct.

Maynard Cross, Affiant

Dated: 12-6, 2021.

Subscribed and sworn to before me this ___ day of _____, 2021 at _____.
I hereby certify that I have personally examined the herein affiants and I am satisfied that they voluntarily executed and understood their given affidavit.

Notary Public

Filed in District Court
State of Minnesota
2/27/2022 10:16 AM

STATE OF MINNESOTA	IN DISTRICT COURT
COUNTY OF DAKOTA	FIRST JUDICIAL DISTRICT

Phillip Vance, Petitioner, vs. State of Minnesota, Respondent.	Affidavit of Maynard Cross D.C. File. No. K6-04-000736

The undersigned being duly sworn, upon oath, deposes and states that:

1. I am currently an inmate at Minnesota Correctional Facility Moose Lake serving a life sentence.
2. I made certain statements and gave testimony before the grand jury regarding State of Minnesota vs. Philip Vance, K6-04-000736.
3. On August 15, 2006, I signed a statement recanting my previous testimony relating to the above matter. This affidavit I am signing today is intended to supplement that affidavit by providing additional information.
4. On December 6, 2021, I signed an affidavit providing further details relating to my prior testimony in the above matter. The affidavit I am signing today is intended to supplement that affidavit by providing additional information.
5. I am signing this affidavit of my own free will. No one has given or promised me anything in exchange for the statements that I am making in this affidavit.
6. While in jail pending first-degree murder charges, I was approached by officers from the Metro Gang Strike Force regarding the robbery and shooting at Sabreen's on December 22, 2002. I did not know Philip Vance and I did not know anything about what happened at Sabreen's.
7. The MGSF officers asked me to incriminate Philip Vance for the crime. I told the officers I didn't know anything about the case and told them to leave me alone. The officers told me details about the crime and about Philip Vance. The officers also mentioned a monetary reward that was being offered for information about the case.

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State of Minnesota
2/27/2024 10:16 PM

8. Even though I told the investigators I did not know Phillip Vance, they kept coming back and asking me questions about the case. All of the information I learned about the case came from the officers telling me about it during these conversations. Each conversation I had with the officers was audio recorded.
9. If there are not audio recordings of conversations that I had with MGSF investigators that demonstrate I knew nothing about the case and was being fed information by those investigators, then the investigators must have either lost or destroyed the tapes.
10. I read this Affidavit before signing it and I had the chance to correct anything that was wrong in it. I swear that all statements herein are true to the best of my knowledge.

I declare under penalty of perjury pursuant to Minn. Stat. § 358.116 that everything I have stated in this document is true and correct.

Maynard Cross, Affiant

Dated: Nov-30-24 2024.

MINNESOTA JUDICIAL BRANCH

Filed in District Court
State of Minnesota
2/27/2026 10:46 PM

STATE OF MINNESOTA
COUNTY OF DAKOTA COUNTY

STATE of Minnesota,

AFFIDAVIT OF MELISSA STITES

v.

Phillip VANCE,

I, Melissa Stites, first being duly sworn, do depose and state that:

1. I am 44 years old, and I currently reside in the State of Pennsylvania.

2. I made certain statements and gave testimony in connection with the above-referenced case. I write this affidavit to retract these statements and testimony and provide a truthful account of the events of December 22, 2002 and the investigation that followed.

3. I am writing this affidavit of my own free will. No one has given or promised me anything in exchange for the statements that I am making in this affidavit.

4. In 2002, I was the head bartender at the Radisson Hotel located in downtown St. Paul. On or about October 5, 2004, I testified at trial that: (1) I contacted Police Officer John McManus on December 23, 2002 to report on a conversation that I had with Phillip Vance the day before; (2) I interpreted Phillip's comment about "getting his plan on" to be mean "planning to commit a robbery"; (3) Phillip was "more secretive than usual;" and (4) when I later wore a wire, I asked Phillip if he ever shot anyone, and he said "I shot a guy two weeks ago over south side five times in the back." This testimony was false.

Filed in District Court
State of Minnesota
2/27/2023 10:18 PM

5. The following is a true and accurate account my interaction with Phillip Vance on December 22, 2002 and my subsequent interactions with law enforcement:

a. On some date on or around December 23, 2002, Police Officer John McManus and other officers came into the Radisson Hotel and asked me questions about Phillip Vance, who was also known as "Florida." During the course of my conversation with Officer McManus, I was asked to make false statements about Phillip Vance. I was also pressured by the officers to wear a wire and engage in future conversations with Phillip. I did not reach out to these officers; they came to me.

b. I was familiar with Phillip and his friends because they came into the bar fairly regularly. Phillip did come into the bar on December 22, 2002, and I recall having a conversation with him. However, I did not think he was "more secretive than usual," or that he was planning to commit a robbery. Officers instructed me to say this.

c. Officers placed me in a potentially dangerous situation more than once by having me wear a wire to buy a gun from Phillip and question him at the jail. At no time during the conversation did Phillip tell me that he committed a robbery or that he shot anyone, and I have no reason to believe he did.

d. I agreed to say and do these things, because during that time, I had gotten into some legal trouble. The officers told me that they would not charge me with any crimes and I would not face any jail time if I said what they told me to say and did what they told me to do. I did not feel like I had a choice. At the time, I was a 26-year-old woman, and I was spending time with the wrong people. I was

State's Exhibit 2 - CRU Supporting Materials and Documents - Pg. 1360

Filed in District Court
State of Minnesota
2/27/2026 10:16 PM

vulnerable and scared of getting in trouble. I was also struggling with chemical dependency. I agreed to give false statements about Phillip Vance in an effort to protect myself.

e. Today, I am five years sober, and I help other women stay on the right path. I am coming forward now to correct the statements I made about Phillip, because it is the right thing to do. Back then I did not feel like I had a voice or a say in the matter, but now I do. I never wanted to lie, wear a wire, or be involved in this case.

I declare under penalty of perjury that everything I have stated in this document is true and correct.

Melissa Stites

Melissa Stites, Affiant

Dated: 1/22/2021

SUBSCRIBED AND SWORN to before me this 22 day of January, 2021 at Hornbeck Chevrolet Susq. County. I HEREBY CERTIFY that I have personally examined the herein affiants and I am satisfied that they voluntarily executed and understood their given affidavit.

Margaret Wilkins

Notary Public

Commonwealth of Pennsylvania – Notary Seal
Margaret Wilkins, Notary Public
Susquehanna County
My Commission Expires July 14, 2021
Commission Number 1178931

MINNESOTA JUDICIAL BRANCH

Filed in District Court
State of Minnesota
2/27/2026 10:18 PM

STATE OF MINNESOTA — IN DISTRICT COURT

COUNTY OF DAKOTA — FIRST JUDICIAL DISTRICT

State of Minnesota,

Petitioner,

vs.

Philip Vance,

Respondent.

Declaration of Regina Hagerman

D. C. File No. K6-04-000736

For her Declaration pursuant to Minn. Stat. § 358.116, Regina Hagerman states as follows:

1. I testified against Philip Vance before the Grand Jury and at his trial in 2004. My testimony was false. I gave the false testimony because of pressure and threats from the police.
2. I had many encounters with the police during the investigation of the robbery and killing at Sabreen's. They were talking to me because around that time, Philip Vance was going with my niece, Darlene Jones. I knew Philip Vance as "Florida."
3. The police wanted me to say that Florida was involved in the robbery and killing at Sabreen's. I didn't know anything about that, and I told them so. But they would not leave me alone. They kept telling me I had to say something against Florida. I kept telling them that I didn't know anything about it, so I had nothing to say. They said I had to say something.
4. Police would often be at my house when I came home from my job at Goodwill, and they would keep pressuring me to say something against Florida. Also, when I went to work in the morning, the police would show up and confront me at my bus stop, still trying to get me to say that I knew something about Florida being involved with what happened at Sabreen's. But I didn't know anything so I had nothing to tell them. Sometimes they would be at the bus stop when I was coming back from work, and they would confront me again. It scared me when I would see them at the bus stop. I thought I was in trouble.

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State of Minnesota
2/27/2023 10:16 PM

5. The police threatened me. They told me that I would go to jail if I did not tell them what they wanted to hear about Florida. Also, at the time my fiancé and my child's father, George McCleod, was in jail, and the police told me that something bad was going to happen to George in jail if I would not tell the police what they wanted to hear about Florida.

6. I was scared for myself and for George. I didn't want to go to jail, I didn't want anything to happen to George, and I wanted to be left alone. That is why I agreed to say that Florida was at my house the Saturday before the Superbowl in 2003. He never said that he was involved in a crime. I testified about this before the Grand Jury and at the trial.

7. My testimony about what Florida said was false. The truth is, Florida never said that he had anything to do with the robbery and killing at Sabreen's. Like I told the police at the beginning, I don't know anything about it.

8. The false testimony I gave has bothered me more and more over the years. I am worried that because I gave in to pressure and threats from the police, an innocent man may be in prison for life.

9. No one has threatened me, or given me, or promised me anything for signing this Declaration. I am doing this because I want the truth to come out.

10. I read this Declaration before signing it and I had the chance to correct anything that was wrong in it.

11. I declare under penalty of perjury that everything I have stated in this document is true and correct.

Dated: 2-2-21, 2021.

Regina Hagerman

Cook County, Illinois
County and State where Signed

Filed in District Court
State of Minnesota
2/27/2026 10:46 PM

STATE OF MINNESOTA | IN DISTRICT COURT

COUNTY OF DAKOTA | FIRST JUDICIAL DISTRICT

State of Minnesota,

Petitioner,

vs.

Philip Vance,

Respondent.

Affidavit of Dominick Johnson

D. C. File No. K6-04-000736

COUNTY OF WASHINGTON

STATE OF MINNESOTA

The undersigned being duly sworn, upon oath, deposes and states that:

1. In November 2004, I pled guilty to Second Degree Felony Murder for the December 22, 2002 robbery at Sabreen's in South St. Paul and the shooting of Khaled Al Bakkri.
2. I pled guilty to a crime that I did not commit. I had nothing to do with the Sabreen's robbery or with the shooting of Mr. Bakkri. I did not participate in the crime, and I did not witness the crime. I was not there.
3. At the time I entered my guilty plea, I testified that Philip Vance committed the robbery and killing at Sabreen's. This testimony was also false. I did not witness any part of this crime, and I do not know who committed it.
4. In fact, I know that Philip Vance did not commit this crime.
5. I understand that providing a false guilty plea is a serious matter. At the time, my attorney told me that it was in my best interest to take a plea deal because I was young, and because I would face a much longer sentence if I went to trial and was convicted. I had already been in custody for almost two years while I waited for trial. Also, Philip Vance had already been convicted based on very limited evidence, and I was afraid that the same thing would happen to me.

Filed in District Court
State of Minnesota
2/27/2026 10:16 PM

6. Back in 2004, and especially after Philip Vance was convicted, I felt I had no way of proving that people were testifying falsely against us, and I had no faith in the justice system. I am coming forward now because I want the truth to come out, even if that means admitting I lied.
7. No one has threatened me, or given me, or promised me anything for signing this Affidavit.
8. I read this Affidavit before signing it and I had the chance to correct anything that was wrong in it.

FURTHER YOUR AFFIANT SAITH NOT.

Dated: 9-19-, 2021.

Dominick Johnson

MINNESOTA JUDICIAL BRANCH

Filed in District Court
State of Minnesota
2/27/2026 10:48 PM

AFFIDAVIT OF DARLENE WALTON

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

The undersigned, Darlene Walton, being first duly sworn, hereby deposes and states as follows:

1. I am over the age of 18, and I am a resident of the State of Illinois. I have personal knowledge of the facts stated herein.

2. In December 2002, I was 20 years old and living with my grandmother, Jaqueline Ezell, and my grandfather, Eugene O'Connor, in the lower unit of a duplex located at 956 Minnehaha Ave. East in St. Paul, Minnesota. My name at that time was Darlene Jones.

3. My aunt lived in the second-story unit with my cousin Kentrell Anthony.

4. On Sunday, December 22, 2002, a number of family members and friends spent the afternoon and evening watching TV and having conversation in the sunroom of my grandmother's unit. The sunroom was also my bedroom.

5. Philip Vance and Dominick Johnson were with us that day. I was Philip's girlfriend at the time. My cousin Kentrell was Dominick's girlfriend.

6. At one point during the late afternoon of December 22, Philip and Dominick left the house for a couple hours.

7. My grandmother and my aunt left the house at around 5 PM to go play bingo.

8. Philip and Dominick returned to the house in the early evening. Upon their return, I used Phillip's cellphone to call Chicago to check on how my young daughter was doing. I also began braiding Philip's hair. Shortly thereafter, Dominick and Kentrell went to the upstairs unit to be alone together while my grandmother and her mother were out playing bingo.

9. At some point later on that evening, Philip and I got into an argument. In order to keep me from leaving the house, Philip threw my only pair of shoes up onto the roof of my grandmother's house. I had just moved into the house, and Philip knew that I had only the one pair.

10. After he threw the shoes onto the roof, Philip was walking and yelling in the alley behind the house. At about that same (around 10 pm that evening), Kentrell arranged for my uncle Demetrius O'Connor to drive Philip and Dominick from the duplex on Minnehaha Ave. East to the Buttery Bar in downtown Saint Paul. Demetrious yelled at Philip to come and get in his car, which Philip did.

11. Kentrell rode in the car with them. After they dropped Philip and Dominick off at the bar, Demetrius and Kentrell returned to the duplex.

12. A couple of days later, Philip dropped by the house and gave me a new pair of shoes. Until then, I had been wearing a pair of my grandmother's shoes.

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State of Minnesota
2/27/2026 10:46 PM

13. Several weeks after that, the police kicked in the doors at our duplex and questioned us about Philip and Dominick and a murder that had taken place on December 22. I was questioned once at my grandmother's place on Minnehaha Avenue and later, when I moved in with my aunt, Regina Hagerman, at her place. But I was never taken to a police station for questioning.

14. On the two occasions when I was questioned by the police, no one ever told me that the robbery and murder took place at about 9:45 pm on Dec. 22, 2002. If someone had done so, I would have told the police that neither Philip nor Dominick could have been involved in that crime because they were both with me at the duplex where I was living at 956 Minnehaha Ave. East in St. Paul until about 10 pm that evening.

15. The police offered my grandfather, Eugene O'Connor, lots of money if we would just say what they wanted us to say. So my grandfather, who as usual had spent most of that day in his bedroom and had no knowledge of who was there or what had happened that day, encouraged us to say whatever the police wanted us to say.

I declare that, to the best of my knowledge and belief, the information set forth above is true, correct, and complete.

Darlene Walton

Darlene Walton

Sworn to and subscribed before me on this 1st day of May, 2023.

Notary Public

My commission expires:

MONSERRATE HERNANDEZ
OFFICIAL SEAL
Notary Public, State of Illinois
My Commission Expires
December 01, 2025

MINNESOTA JUDICIAL BRANCH

Filed in District Court
State of Minnesota
2/27/2026 10:46 PM

AFFIDAVIT OF KENTRELL ANTHONY

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The undersigned, Kentrell Anthony, being first duly sworn, hereby deposes and states as follows:

1. I am over the age of 18, and I am a resident of the State of Minnesota. I have personal knowledge of the facts stated herein.

2. In December 2002, I was 19 years old and living with my mother in the upper unit of a duplex located at 956 Minnehaha Ave. East in St. Paul, Minnesota.

3. My grandmother, Jacqueline Ezell, lived in the unit below with my cousin Darlene Jones.

4. On Sunday, December 22, 2002, a number of family members and friends spent the afternoon and evening watching TV and having conversation in the sunroom of my grandmother's unit. The sunroom was also my cousin Darlene's bedroom.

5. Philip Vance and Dominick Johnson were with us that day. I was one of Dominick's girlfriends at the time. My cousin Darlene was Phillip's girlfriend.

6. My friend Nicolle Rauschnot was also visiting that day. She left the duplex at some point in the evening. A couple of days after Christmas, Nicolle and I drove in her small silver car to visit Chicago for about ten days.

7. At one point during the late afternoon of December 22, Philip and Dominick left the house for a couple hours. But they came back in the early evening.

8. My mother left the house at around 5 PM to go play bingo.

9. When Philip and Dominick returned to the house in the early evening, Darlene used Phillip's cellphone to call Chicago to check on how her daughter was doing. Darlene also began braiding Philip's hair. Shortly thereafter, Dominick and I went to the upstairs unit and were physically intimate while my mother was out playing bingo.

10. At around 10 or 11 PM (sometime before 11 pm) that evening, my uncle Lawrence "Demetrius" O'Connor drove Philip and Dominick from the duplex on Minnehaha Ave. East to the Buttery Bar in downtown Saint Paul. I wanted them out of the duplex before my mother came back from playing bingo, which was usually 11 pm. I rode in the car with them. After we dropped Philip and Dominick off at the bar, "Demetrius" and I returned to the duplex.

11. Several weeks later, the police kicked in our doors at the duplex and questioned us about Philip and Dominick and a murder that had taken place on December 22. Over the next weeks, the police returned to the duplex a number of times and took us down the station several times to question us. They were always rude and intimidating. And that is why, all these years later, I still have a clear memory of the day and evening of December 22, 2002.

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State of Minnesota
2/27/2026 10:46 PM

12. In the course of the police interviews/interrogations, no one ever told me that the robbery and murder took place at about 9:45 pm on Dec. 22, 2002. If someone had done so, I would have told the police that neither Philip nor Dominick could have been involved in that crime because they were both with me at the duplex where I was living at 956 Minnehaha Ave. East in St. Paul until about 10 or 11 pm that evening.

13. The police offered my grandfather, Eugene O'Connor, lots of money if we would just say what they wanted us to say. So my grandfather, who as usual had spent most of that day in his bedroom and had no knowledge of who was there or what had happened that day, encouraged us to say whatever the police wanted us to say.

I declare that, to the best of my knowledge and belief, the information set forth above is true, correct, and complete.

Kentrell Anthony

Sworn to and subscribed before me on this 5 day of August, 2022.

VERONICA GONZALEZ DE BECERRIL
NOTARY PUBLIC
STATE OF MINNESOTA
MY COMMISSION EXPIRES
JAN. 31, 2026

Notary Public

My commission expires:

Jan. 31, 2026

MINNESOTA JUDICIAL BRANCH

Filed in District Court
State of Minnesota
2/27/2008 10:46 AM

STATE OF MINNESOTA]
]SS. AFFIDAVIT
COUNTY OF DAKOTA]

I, Dontay Reese, The above name affiant, hereby certify and declare under the penalty of perjury, That this affidavit is true and correct to the best of my ability and knowledge.

I Dontay Reese of sound mind and body, swear to the following After the date February 13, 2004. I was acquainted with a **Philip Vance** of whom I had known from the streets. "While we were in Dakota County Jail, I had learned that he was charged with numerous counts of murder. We discussed witnesses we both knew that were involved in this investigation and while doing legal research in the facilities Law library, I read his court transcript involving his charges. Because of a statement I made to another inmate, investigators came to question me. They promised me if I knew or had any information that could help their case it would be greatly appreciated, and in return they would speak with the D.A. on my behalf for a lower sentence for a case I was facing. After speaking with my mother and Attorney I agreed to testify. In september of 2004, I testified before a jury that **Mr. Philip Vance** confessed to commiting this murder which occured on Dec. 22, 2004 When the truth is, **Mr. Philip Vance** never told me that he commited any murder. I knew the states case evidence was weak so I fabricated a story to get lesser time regardless of what would happen to **Mr. philip Vance.** I feel guilty about what harm I have caused him and feel I should right the injustice I did to **Mr. philip Vance.** My testimony at trial against **Mr. P. Vance** was false.

I submit this affidavit under perjury and swear it to be the truth, the whole truth, and nothing but the truth.

Notary Signature Carol A Mielke

Dated 1-30-07

CAROL A. MIELKE
Notary Public-Minnesota
My Commission Expires Jan 31, 2011

Affidavit Name Dontay Reese

Dated 1-27-07

Filed in District Court
State of Minnesota
2/27/2026 10:46 AM

3/1/07

I John Edward Martin Swear to The Following

Sometime after new years of 2003 I spoke with Philip Vance ar discussion center cround trying to figure out his where abouts on The evening of dec 22. 2002. Sometime round This time myself mr Vance and mr Johnson had visited a bar in The Skyway downtown (Radisson bar) during The discussion between mr Vance and myself we come to The conclusion That we had been together on The date of 12/22/02 mr Vance and mr Johnson later left with two females yvonne and nicole.

once we reached This conclusion Vance felt This gave him an alibi and he couldnt have committed any robbery or homicide now I testified at trial and before a grand jury to This when The truth is I really wasnt 100 percent positive That The day I testified to was actually 12/22/02.

I do remember This day occuring, but actually happening on The 22nd of december Im [redacted] postive now Johnson and Vance discussed going to The liquor store and if The 22nd of december was a Sunday Then The day I testified to wasnt on 12/22/02.

now I never attempted to lie about anything. The date or my recollection was incorrect and with That I submit This affidavit under The penalty of perjury

RECEIVED
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RECEIVED

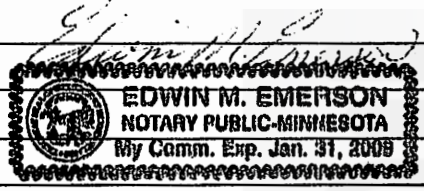
Filed in District Court
State of Minnesota
2/27/2026 10:46 PM

John Edward Martin

3/1/07

John Edward Martin

3/1/07



MINNESOTA JUDICIAL BRANCH

Filed in District Court
State of Minnesota
2/27/2026 10:16 PM

I, EDWARD TOWNSEND
BEING OF SOUNDMIND & BODY
SWEAR TO THE FOLLOW:
ON 12/22/02 I WAS HANGIN OUT WITH (FLORIDA)
PHILIP VANCE & (STACKS) DOMINICK JOHSON IN THE DOWN-
TOWN AREA OF ST.PAUL. TOWARDS THE EVENING WE
HAD DRINKS AT A BAR INSIDE TOWN SQUARE
INSIDE THE RADISSON HOTEL, WE ATE & DRANK FOR
AWHILE, I MADE SOME CALLS TO WISCONSIN ON VANCE'S
CELL PHONE CAUSE IT WAS NEAR CHRISMAS. SHORTLEY
AFTER WE LEFT THE BAR VANCE & JOHNSON STATED
THAT THEY WERE GOING TO DARLENE & KENTRELL'S
HOUSE & I WENT MY OWN WAY. DURING OUR
VISIT AT THE BAR VANCE OR JOHNSON NEVER
DISCUSSED ROBBERY OR MURDER, LIKE I SAID
BEFORE WE ATE & DRANK, I MADE A FEW CALLS
I WENT MY OWN WAY. I KNEW OF THE
IMPORTANCE OF ME COMING FORWARD WITH THIS
INFORMATION BEFORE I JUST DIDN'T WANNA GET IN-
VOLVED WITH ANY INVESTIGATION AT THE TIME. I
SUBMIT THIS AFFIDAVIT UNDER THE PENALTY OF PERJURY
& SWEAR IT TO BE THE TRUTH.

PAUL H. NAVIS
NOTARY
PUBLIC
STATE OF WISCONSIN

Edward Townsend
NAME

4-12-07
Edward Townsend
DATE/SIGNATURE

Paul H. Navis 04-12-07
NOTARY SIGNATURE
Exp: 06.30.07

DATE

Filed in District Court
State of Minnesota
2/27/2026 10:16 PM

3-21-05

I Michael E. White spoke with Dontay Reese in the Segregation unit of MCF.ST.Cloud concerning him being on (Floridas) case. (Mr. Vance).

During this conversation with Dontay Reese, I asked him why he jumped on Floridas case He told me that "its my life, and I had to do what I had to do to get home to my family".

During another conversation, Dontay Reese asked me if I was in his position would I have done the same thing to go home sooner. I told him No, because he basically took another mans life to keep from doing his own time, and that I dont get down like that. Dontay told me, "its not about how you get down, or how you dont get down, its about doing what needs to be done to better your situations".

RAMONA JOANNE BISHIR
NOTARY PUBLIC - MINNESOTA
My Comm. Exp. Jan. 31, 2010

Sworn before me on this
22nd day of March 2005
Ramona Joanne Bishir

Michael E. White
3-21-05

Filed in District Court
State of Minnesota
2/27/2026 10:46 AM

I Wayne Jones of Sound mind and body Swear to the following.

I was in the Court on the day of phillip Vance trial and was told by my attorney Sean Shands that his client phillip Vance was guilty and that if he could of kept his mouth closed he wouldnt of been tried.

I Submit this affidavit under the penalties of perjury and swear it to be the truth

Wayne Jones — 11-1-07
date

signature — 11-1-07
date

SUBSCRIBED AND SWORN BEFORE ME
THIS FIRST DAY OF NOVEMBER 07

ANDREW J. LIEFFORT
Notary Public-Minnesota
My Commission Expires Jan 31, 2009

notary

Filed in District Court
State of Minnesota
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To whom this may Concern

My name is Trevor A. Crawford and I am currently incaccerated at M.C.F. Faribault. This statement is addressing the credibility of the initial Statement given by myself, and Maynard R. Cross to the South St. paul Police Department in referrance to a robbery and Homicide that took place in 2002. The letter that I wrote to Phillip R. Vance Stating the facts and grounds on wich the Statements against him were "derrived" by Maynard R. Cross are fake, but was used by Mr. Cross as a rouse to get a time reduction off the Current life Sentence he is serving. I went along with it as a favor to help Mr. Cross out, but used my better Judgement because it was the wrong thing to do to a innocent man. I was forced to make a State-ment by the police, because they threatend to envolve my older brother. I was not forced to write this Statement, I am simply doing it because it is the right thing to do.

Sincerely yours: Trevor A. Crawford

Trevor A. Crawford

Notarized:

JANIS M. DUGAN
Notary Public-Minnesota
My Commission Expires Jan 31, 2010

Witness: Janis M. Dugan

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Kentrell Anthony CRU Interview Transcript

September 7 at 3:37pm (2022 or 2023)

Interviewer: Carrie Sperling
Interviewee: Kentrell Anthony
Present: Jim Dorsey, Nadine Graves

CS: It's uhm September 7 at 3:37pm and my name is Carrie Sperling. I work with the Attorney General's Office here in, uhm, Minnesota and for the Conviction Review Unit. I don't know if you know about the Conviction Review Unit at all?

KA: No, I don't.

CS: And I want to introduce you to, Kentrell Anthony, right?—

KA: Yeah.

CS: Is that right? Okay, and uhm, what's your full name?

KA: Kentrell Anthony, or you want my middle name too?

CS: Sure.

KA: Latasha

CS: Okay, Latasha. And then uhm, uh, so, the Conviction Review Unit is a new unit in the Attorney General's Office. And what we do is we accept applications from people who are incarcerated who claim they were wrongly convicted. And, uhm, we have a lot of applications. And we investigate as many as we can, but there aren't many that we can really fully investigate at one time. One of the ones we are investigating is Philip Vance's case. And that's what, I think, brings you here today. Uhm, and, uh, so he has claimed that he was wrongly convicted that he didn't take, uh, have a role in the crime that happened at Sabreens back in December 22, 2002. Uhm, and so, I wanted to, I know you've given an affidavit, uhm, and so I wanted to ask you some questions about that. Uhm, I also wanted to let you know that, uhm, the interview is purely voluntary, uhm, you know you can say I don't want to answer a question, you can cut off the interview and leave if you want to. You're not going to hurt my feelings, uhm, and uhm, so—

JD: Or for some reason you wanted to talk to me or if you have any questions of us.

KA: Okay.

CS: I just wanted to check, uhm, just to be sure, if you are represented by an attorney.

KA: I got a lawyer, but it ain't for this.

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CS: Not..not. Okay, okay. Because if you were represented for this matter, I wouldn't be able to talk to you without an attorney. Okay.

KA: No.

CS: Alright. Any questions before we get started?

KA: No.

CS: Alright. Uhm, and would you just, uh, give us your date of birth.

KA: [redacted]

CS: Okay and what is your current address?

KA: I don't want to put my address on there.

CS: Okay, alright.

KA: I want nobody finding me after this.

CS: Okay, uhm, and your phone number..would you?

KA: [redacted]

CS: Okay, and then back in —

JD: Could you confirm you live in the metropolitan area?

KA: Oh, yeah I live in the metropolitan area. I just don't want people to have my address.

CS: Okay, I understand. And what was your address back in 2002, 2003.

KA: 956 East Minnehaha.

CS: Okay. And uh how long had you, like how long did you live there?

KA: I don't know, a long time. Maybe over 8 years, 9 years, I don't know.

CS: Okay

KA: I don't remember it, I know it's long.

CS: Okay. And during that time did you stay anywhere else. Did you? Like during the 8 years that you?

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KA: Hanging out with friends like if I go hang out with them. Yeah, stuff like that, but yeah I live [muffled voice, don't think anything was missed]

CS: Uhm, alright, and uhm, lemme, I'm going to give you a copy of the affidavit that I have. So, there and its printed on front on back. There is the affidavit that has your name on it and I just want to ask you is this an affidavit that you, uhm, wrote, signed?

KA: Yes.

CS: And I assume you didn't write this—

KA: I didn't write it, but yeah.

CS: It was typed up. And uhm, how did this affidavit come about? Do you know what I mean? Like, what —

KA: I got a phone call asking can I, uhm, talk to his lawyers and I didn't have a problem with it.

CS: Okay and when was that?

KA: I don't really remember the exact date. But it was, it was within the past month.

CS: Okay, alright, and uhm, did you have any meetings to discuss the contents or phone calls. Did you —

KA: What do you mean?

CS: Did you talk about what you knew before the affidavit got prepared with anybody?

KA: Yeah, I had talked to him and her [presumably pointing to JD and NG] about, they asked me what happened that day and I just told them what I remember.

CS: Okay and did you do that over the phone, in person?

KA: In person.

CS: And where did you?

KA: I say something on the phone, I don't remember all of it, but yeah.

CS: And, uhm, do you remember when that was?

KA: No, not the exact date. It was about oh, two weeks ago, maybe three weeks ago.

CS: Okay.

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JD: It's dated. Turn it over **[turned affidavit over]**

KA: Oh, August 5. Like it was recent. **[laughs]** Uhm

CS: Okay, uhm. Before you, uhm, met and put down the contents of this affidavit. Uhm, had you told anybody else the facts that were in this affidavit?

KA: Uhm, yeah, when I was younger when all this had took place. This hasn't been brought back up to me until this year and it's been almost 20 years.

CS: Yeah, yeah. So, who would you have told?

KA: I would have talked about this with my grandpa, my cousins, my whole family knows about this, like my house got raided for this.

CS: Uh-huh.

KA: My grandma's house got raided for this. So, back then, we- it was my family I talked to about it.

CS: Okay.

KA: I haven't talked to nobody else about it outside of my family because I haven't been around nobody, I moved away from everybody in St. Paul.

CS: And when did you move away?

KA: I moved away a long time ago, uhm, when I turned 22, I moved out of St. Paul.

CS: Okay and, uhm, so would you say that your family knew about the contents of this affidavit because you talked about it—

KA: My family don't know this affidavit stuff, they knew what happened with the situation that our house got raided and all of that in the past, yes. But this new affidavit and things like that, the only person I ever talked about this affidavit was these two [presumably Nadine Graves and Jim Dorsey] and my cousin, Darlene. And I asked her to reach out to them.

CS: Okay. And so, I'm assuming that they know about the events because they were there with you on December 22.

KA: Yes.

CS: And can you just take me through that day, like, when you woke up to when the day ended.

KA: [laughs] You don't remember all the contents of when you woke up, but okay. But I do remember, uh, I got up that day, I was hanging out with my cousins, uhm—

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CS: And who? Would Darlene be one?

KA: Darlene and Tenisha. But Tenisha's passed away, so.

CS: Oh, I'm sorry.

KA: But me, Darlene, and Tenisha always used to hang out downtown St. Paul, uhm, Dominick, Stacks at the time, uhm, and Florida. Those were the names that we knew them by. We used to hang out with them all the time 24/7 down there. I was messing around with Dominick and my cousin Darlene was messing around with Florida. So just hanging out, young girls running around, uhm doing, God knows what [laughs]. Downtown St. Paul from there to my mom's house uhm—

CS: So, you had, so from early in the morning did you leave the house and go downtown St. Paul.

KA: Yeah, cause Dominick's used to live off of 7th Street, well his, Vanessa used to live off of 7th Street so that's where I used to meet him at. And then he used to meet me downtown and we would go and hang out.

CS: So, would you say—did you meet at Vanessa's house?

KA: No, I met him downtown and we went back to my house. Uhm, hung out for a lil bit. They left, me and my cousins were home.

CS: So about what time did you get there and what time did they leave. Do you remember if it was like—

KA: I don't remember when we got there but it was in the afternoon sometime—

CS: Was it like, had you had lunch or anything like that?

KA: No, we don't eat lunch like uhm, normally. Okay somewhere between 2, 3, 4, 5, somewhere in there. It was afternoon, it wasn't late night or anything like that, it was the afternoon.

CS: Okay.

KA: So, it was still daytime when we were at my mom's. Uhm, Darlene was getting ready to braid Philip's hair that day. So, my mom goes to bingo.

CS: So, they were there—

KA: They left, and they came back after my mom was at bingo.

CS: Okay, when they uhm, when they left did they tell you where they were going?

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KA: I know downtown, that's where they usually hang at, that's where everybody hangs at. Downtown was like the hang out, you know.

CS: Uh-huh. And uhm, was there any conversation about like, we will be back, or anything like that —

KA: Yeah.

CS: Okay, so they planned to come back?

KA: Yep. Florida, my cousin braids hair, so Florida, her boyfriend at the time, Florida at the time was coming to get his hair done. So, when my mom went to bingo, they came back and he was getting his hair done while we were down at my grandma's house and me and Dominick went upstairs to my house.

CS: Okay.

KA: Cause it was a duplex. So, my mom lived upstairs and my grandma lived downstairs.

CS: I'm wondering too, like, to order to get a sense of the, so it's a duplex.

KA: Uh-huh. [affirmative]

CS: Can you describe the space.

KA: Well, it's a big front porch when you come in and you open the door and it's like a front area and you have my mom's door and my grandma's door.

CS: Okay.

KA: So, there are two doors right here. This is my mom's door; this is my grandma's door. On the left is my grandma's door on the right is my mom's door.

CS: Like the door to go into the unit.

KA: Into they house, yeah. Well, ours goes upstairs and theirs go directly in.

CS: Okay. And where would you usually hang out?

KA: Downstairs in Darlene's room, she had, when you go in my grandma's house it's like a sunporch area, and that was her room. So, we would hang out.

CS: Did it look like that? [presumably showing a picture of the Minnehaha house]

KA: That's exactly it.

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CS: Okay and uhm, so, you. On this day, the 22nd when you, Stacks, and Florida were there, and your cousin were there. Was anybody else there?

KA: My grandpa, the kids, my uncle now.

CS: Okay. Uh—

KA: My momma my granny had went to bingo.

CS: Okay. And uhm, so where was everybody, in—

KA: My grandpa was in his room, we were in Darlene's room.

CS: And was he, where was his room?

KA: In the back.

CS: Upstairs, downstairs?

KA: Downstairs. They lived downstairs, I lived upstairs. My grandma's apartment is downstairs, my mom's is upstairs. Nobody goes upstairs in my mom's apartment as far as my grandpa and them down there. My grandpa is old so he's not going back and forth upstairs. My grandpa's room, if you go in my grandma's house, there is a hallway, goes to the back, his room is to the right.

CS: Okay, and so, everybody is hanging out downstairs in the front room, is that right?

KA: Mhm [affirmative]

CS: Is everybody hanging out but grandpa, there?

KA: Yes, the girls and the boys as far as who we came there with. Dominick—

CS: So the four of you?

KA: My cousin Tenisha was there too.

CS: Okay. That's Tenisha. And uhm, so going back to —

KA: But she wasn't like hanging out with us like, it was more of like a couple's type of thing, I don't, we were young, nobody want to be the third wheel so she came in here and there. We smoke weed, hung out.

CS: Uhm, when Stacks and Florida were at the house the first time, about how long did they stay?

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KA: Uh, about probably an hour maybe. I don't really remember the exact time that. They didn't stay too long and then they wound up leaving and coming back.

CS: Okay and when they left to go downtown, how did they get there?

KA: Uhm, I think the bus or somebody came and picked them up. I don't remember the exact.

CS: Okay. And then uhm, when they came back, did they come back uhm, so they came back after 5. Was it dark?

KA: No, it was like mid-day, so the sun was getting ready to set maybe, but it wasn't dark.

CS: Okay, okay. And uhm—

KA: It started to get dark while they were there though.

CS: Uh-huh. And what was it…was it snowing, was it cold, was it sunny?

KA: It was cold. Snow.

CS: Cold and snowing? And uhm, so when they come back it's, do you remember how close. So, what time does your mom leave for bingo?

KA: About 6 something my mom goes to bingo and she doesn't get out of bingo until about 10. Cause it's sessions.

CS: Okay and so then, does that mean they got, did they get back before your mom left or after your mom left?

KA: Around the time she was leaving.

CS: Okay

KA: So, she had left and then they were coming back. So, it was like boom boom type of situation.

CS: And then uhm, and then, what happened?

KA: We were hanging out, Darlene start braiding Philip's hair and we started talking to, uhm, probably smoked, uhm, I'm sure Darlene. Darlene used Philip's phone to call Chicago to talk to her daughter cause her daughter went back to Chicago. Uhm, we were all hanging out and then me and Dominick left from them two and went upstairs to my mom's house and was doing grown people stuff. And then we came downstairs and they had to leave before my mom got home.

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CS: Okay. About how long were you upstairs with Dominick?

KA: Probably a good hour.

CS: And do you know about what time that would have been?

KA: It was in between the time that my mom was gone, uhm, I don't know the exact time but it was probably about 7, 6, 7, 8. Somewhere up in there.

CS: Okay so from about 7 or 8 until 9 or so.

KA: Hm-huh. [affirmative] Yeah.

CS: Okay. Uhm, and uhm, what, how was Stacks acting that evening?

KA: Normal. I didn't think nothing was different. I was really shocked when all of this took place. Let me tell you ahead of time, I was shocked, I was confused when our house got raided because I would have never even thought that Stacks would do nothing like that, like. We hung out when we were young, doing dumb stuff, getting drunk, and smoking weed, and acting childish. But I would have never pictured him to do something like this. He wasn't acting weird, like, scary or nothing, he wasn't acting like paranoid, nothing like that, so.

CS: Was he distracted?

KA: No.

CS: Okay.

KA: He didn't. That's why I was confused cause he didn't, he was his normal self. I didn't see, I didn't think it was, no. No. I couldn't even see him being that way.

CS: So, when you were hanging out with him upstairs did you have any conversation, were you just kind of.

KA: We had conversations about grown people stuff.

CS: Okay, yep.

KA: Doing bad stuff when we were together, we had no conversations about nobody shooting nobody, no guns, no nothing.

CS: Were you interrupted at all?

KA: No. I have a room, if you go upstairs in our house, uhm, our rooms in the attic and I have a lock on my door, so nobody getting in my room but me. So, I didn't, no.

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CS: Now, of all the people in the house, was there a house phone, like a landline?

KA: I have a lot of people in the house. It's a whole lot of kids and a whole lot of adults in that house.

CS: So, uh, does the house have like a landline, a phone that—

KA: Yep.

CS: Uhm, and then did, did anybody have their cell phones. Did anybody have a cell phone during that time?

KA: Yeah, uhm, I think it was Dominick's phone at the time but it was Florida's phone from what I was getting. They use each other's phone. They some lil cheaters. They be having all kinds of girls so, I mean, I yeah. They had phones but we, still, we had our, what is it called, our house phone still.

CS: You didn't have a cell phone at the time?

KA: No.

CS: And Darlene didn't?

KA: No not that I remember. I remember him having a phone though.

CS: And did you notice, like, you, either Stacks or Florida being on the phone a lot.

KA: Well, Stacks used the phone a few times and then Florida used the phone, and Darlene used the phone. I'm a very jealous hearted person when it comes to my man. You're not going to sit on the phone too much with me. And then I'm going to think you're talking to another girl and I'm going to be mad. So, no, he wasn't on the phone 24/7 or something like that.

CS: Okay. And when did you meet Stacks.

KA: Oh, uhm [mumbles]

CS: Do you remember? Remember where or how?

KA: I met him downtown St. Paul

CS: Okay.

KA: Uhm, it was the summertime and it was over, okay, uhm, you know where the Galtier Plaza is downtown St. Paul. It was in that area. And I met him and Florida in that area. Started hanging out with them, uhm. Everybody, it- it- it- was so much downtown, like we used to, like everybody, kids that you knew back then would all come downtown and hang out. It was this

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group of people, this group of people, my brothers, my cousins, everybody was just hanging out down there. So, when you meet dudes, you know, it wasn't, I never pictured it to be a big issue. You know?

CS: Would you take the bus down there?

KA: Hm-hmm [affirmative]

CS: And how long did it take to ride the bus?

KA: From the east side?

CS: Yeah, from your Minnehaha address.

KA: It depended on when the bus was coming. So, if the bus was coming and he wasn't trying to drive slow, it would take 15-20 minutes. You know, uhm, because they got they little stops but it wasn't really a long ride downtown.

CS: Okay, uhm, and at the time when you met Stacks, did you know that he had like other girlfriends?

KA: Yeah.

CS: Okay. So —

KA: But I was the main girlfriend [laughs]. I knew he had a baby mama.

CS: Uh-huh.

KA: Dominique.

CS: Dominique, okay. How about Vanessa?

KA: Vanessa I never knew about that situation until after all of this happened and that like kinda hurt my feelings because I was like…wait what?! That was a curve ball there, but I shoulda knew. Just going back in my mind, I shoulda knew.

CS: And, uhm, so you would have been a bit upset if he were with you and calling some other girls.

KA: Yeah. Yes

CS: Uhm–

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KA: Only person I, he ever really talked to in front of me was Vanessa because I never thought it was that type of situation, I always thought it was like a sisterly type of situation. So, for it to go from that to that I probably would have been arguing with her too back then if I knew.

CS: Right. Did, uhm, I mean this may be rumor but I've seen it in the records and stuff. But did you know he was talking, he was with Yvonne White as a girlfriend?

KA: No, that was Florida girlfriend, right?

CS: Well, not from my understanding.

KA: Really….? [laughs]

CS: But like I said, these are rumors.

KA: I had, look, they if they was, I had no idea about that situation.

CS: Okay. So, you didn't know about, I mean did you know Yvonne White?

KA: No, I just knew of the name, I thought it was Florida situation though. This is where the confusion coming in at because the name in my head was Florida's girlfriend. And so, if they were being sneaky, they were hiding that from me, from Stacks. Cause he knew I would have been mad if I found out that.

CS: Makes sense. Okay, I'm going to go back to the house and uhm, and your mom. So, she lived upstairs with you?

KA: Mhm-hmm

CS: And is that Regina Haggerman—

KA: No, that's my auntie.

CS: Okay. And what is your mom's name—

KA: Dee Dee. She don't want to be involved in this and I'm not going to put her in this because she going to stress out.

CS: No that's alright. Cause I haven't seen her name anywhere but I have seen Regina's.

KA: Cause she don't want her name in it. But it was her house.

CS: So, uh, Regina, is your aunt, she lived there too?

KA: That's my Auntie. She lived downstairs with my grandma.

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CS: Downstairs, okay. Uhm, and then, uh—

KA: I don't even think my auntie was living up there at the time.

CS: Regina?

KA: Yeah. I thought she had, she had her own place, or she got her own place in the process of all that.

CS: Okay. And then your grandmother.

KA: Mm-hmm. [affirmative] My grandpa. Her name is Jackie.

CS: Ezell? Is that how you say it?

KA: Ezell.

CS: And then your grandfathers name?

KA: Eugene O'Connor.

CS: Okay. And then was your, is this your cousin Jesse.

KA: Yep, that's my uncle.

CS: Your uncle is Jesse?

KA: Yes.

CS: Okay. And also Demetrius, right?

KA: Yes, that's my uncle.

CS: Okay. Now Demetrius, he- did he live at 956?

KA: Yes.

CS: Okay.

KA: I think we all young kids at this time. We don't got all our own places.

CS: So they are all around your same age?

KA: Yeah. Demetrius is the same age. Just 6 months older than me.

CS: Now uh, and, Nicole or Nikki.

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KA: Is my friend.

CS: Rauschnot? Is that how you say it?

KA: Something with an R, I don't know how to say it.

CS: Rauschnot it looks like to me. But anyway, so, uhm, was she there that day too?

KA: This is the thing, Nicole me and Nicole used to hang out all the time. I cannot picture, I know that Nicole comes through and she will leave but she did not hang out with my boyfriend or my cousin's boyfriend. So, if she did come there, it was a quick hangout with me and my cousin and then her go about her business. To say that she's going to go and I'm not gonna go with her and my man. That ain't happening.

CS: Oh right, cause, so are you saying she kinda wouldn't be allowed to be around—

KA: Exactly. She is not going to go nowhere—

CS: Stacks and Florida?

KA: —with my man and my cousin's man. I don't like stuff like that, so.

CS: Did you not trust her?

KA: I don't trust nobody. [laughs] I don't trust nobody. And it's just you know being young and always going through somebody cheating and stuff. And I don't I don't like when my friends hang out with my man. That's not something that's gonna be looked, frowned upon. Like, hey, you gonna go hang out now, now, what do he need to be with you for, type stuff.

CS: Uhm, so but as far as you remember was, she there—

KA: She came through but she left.

CS: Okay.

KA: Uhm, me and Nicole hang out on our own terms. Me and Nicole, my other baby, my kid's father, at the time we were young uhm, me and Nicole was hanging out with him and his friends, you know, doing our own stuff. Other than her thinking she was going to hang out with Dominick. I was really obsessed with Dominick at the time when I was younger. Lord Jesus, I don't know why.

CS: I was going to say, what do you think it was?

KA: [laughs] Probably the sex. I'm not even going to lie.

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CS: [laughs] He seemed to have a lot of girlfriends.

KA: He…he was very well, he was very good, I guess. So. [laughs]

CS: That would, that was kinda what I had been thinking. Uhm, so, going back—

KA: And he knew how to tell a girl how to make her feel good [laughs]

CS: That goes a long way. It can go a long way. So—

JD: You guys, I'm going to step out [laughs, joking]

[Everybody laughs]

CS: So, with, let's go back to, okay your mom has left and grandma goes to?

KA: Yep. My mom, my auntie lady, and my grandma. Yep.

CS: And then uhm, Darlene is doing Florida's hair

KA: Florida's hair, yes. And we are all in her room and we sitting down watching TV and we go in the basement to smoke cause my grandpa would probably beat us up if he caught us smoking in the house.

CS: I was going to say where were you smoking?

KA: We smoked in the basement.

CS: Open a window or anything?

KA: No, we smoked in the basement.

CS: Okay.

KA: We had all the liquor in the room but you know when it's time for us to smoke, we smoke in the basement.

CS: Okay. And so, when you say uh Darlene is braiding his hair, what kind of braids was she doing, you remember?

KA: French braids

CS: Were they like small or were they big or were they?

KA: They were small, normal average French braids.

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CS: And how long was his hair at the time?

KA: Long. Florida always had long pretty hair.

CS: Okay. Uhm, so how long was that going to take? Or do you remember—

KA: About a good hour, maybe longer. It was enough time for me to go upstairs and have some fun and come back—

CS: So when you came back, he still—

KA: —and when I came back he still was not done.

CS: Okay— Alright, uhm and do you, what were they wearing?

KA: Oh man that is something I can't even remember.

CS: Okay. Did they—

KA: I don't even remember what I wore.

CS: Did they wear generally the same type of stuff?

KA: Mmhmm, [affirmative] like baggy clothes, nothing no suits or nothing like that.

CS: Jeans and—

KA: Jeans and t-shirt.

KA: [phone rings] Okay I need to take this call, I'm sorry.

CS: Oh sure, no problem.

KA: I'm just going to text him. You can go ahead and keep talking.

CS: You sure?

KA: It's my son, yeah.

CS: Okay. If you need to go, I'll shut off the—

KA: Oh no, you're okay. [phone rings, doesn't answer]

CS: Okay so Darlene made a call to Chicago.

KA: Mhmm.

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CS: Who was she calling?

KA: Her daughter Diana [could have said Diamond] to check on her baby.

CS: Uh-huh.

KA: She had a baby at the time, uh, her little girl, her name Diamond.

CS: And how old was her little girl then?

KA: Probably about 1 or 2, something like that.

CS: And did Darlene spend a lot of time in Chicago or how did that work?

KA: Back and forth, we were, we always went back and forth to Chicago.

CS: Okay. And who was her daughter staying with?

KA: I think her mom at the time, her baby dad. I'm trying to think.

CS: Okay, oh so Darlene's mom lived in Chicago?

KA: Yes, my Auntie lives in Chicago. She has, she come up here but she don't live up here.

CS: Okay, and was that number, was she calling like a landline, like at a house?

KA: Probably.

CS: And do you remember, like what part of town.

KA: What part of town in Chicago?

CS: Yeah.

KA: I think south, I don't know. I thought we lived on the south side of Chicago. I mean most of my family did. They be in Columbus, all kind of stuff, I don't know. Okay, it's some part in Chicago that's like not Chicago but it is Chicago. I don't know the name of it. It's before you get to Indiana. It's just too much in Chicago.

CS: I was going to say, I don't know Chicago all that well.

KA: It's like literally boom, boom, boom, just the outskirts of it. You'll go to a whole different place.

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CS: So uhm, so in total how much time would you say that Stacks and Florida spent at your house on the 22nd? Like, from the first time they are there, about an hour, until combined with how much time they spent there when they came back.

KA: Maybe 6-7 hours, if we combining.

CS: Okay. And then, so, do you, uhm—

KA: Cause I know my mom be at bingo for a while. She be staying at her bingo.

CS: That's what—

KA: She got two sessions in bingo.

CS: So, you wanted to get them out—

[phone call interrupts]

KA: Huh?

CS: So, you wanted to get them out of the house before your mom came back.

KA: Uh-huh [affirmative]. I had to get them out of the house before my mom came back or I was going to be in trouble

CS: Did she not like them being there?

KA: No. She, my mom don't want no man in the house, especially now that she know I be doing something grown in her house.

CS: Yeah.

KA: Probably would have gotten a whooping that day.

CS: And how about your grandmother. Did she—

KA: My grandmother, she is more laid back. She ain't really, she ain't like my mom She doesn't like my mom. [mumbling]

CS: And your grandfather, did he?

KA: He was okay. He didn't care for the dude's period.

CS: Yep.

KA: But he was aight, he was going to do it regardless.

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CS: And your aunt, Regina, did she dislike either one of them?

KA: No. They don't really be doing too much interacting, you know. It was hey here and there.

CS: Okay. Uhm—

KA: Uhm, I wouldn't say that neither one of them not like them.

CS: Okay. Uhm—

KA: I know that they didn't like them after our house got raided.

CS: Well, that's what I wanted to- so now, let's talk about after the 22nd. So well, let me finish up. So well, the 22nd, after, when getting them out of the house. How, how did that go? What happened?

KA: Well, I asked my uncle can you drop them off before my mom get back.

CS: Uh-uh.

KA: And, uhm, I paid my uncle and I smoked with him.

CS: Okay.

KA: And we dropped them off. We dropped them off downtown Min-, downtown St. Paul, and we came back home.

CS: Okay. And, uhm, what kind of car does he drive, or did he drive?

KA: Uh, I think it was a Cutlass at the time. Uhm—

CS: Do you remember the color?

KA: No, no, champagne maybe, I don't know, gold?

CS: Okay, and where did you drop them off?

KA: Downtown by 5th and Minnesota or by the 6th and Minnesota. Somewhere, you know it was a bar we always used to hang out in there so. We dropped them off and then we just left.

CS: Okay, uhm, and then, uh is that the last time you saw Stacks and Florida that evening.

KA: Yeah.

CS: When did you next talk to Stacks?

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KA: I talked to Stacks the next day.

CS: The next day? Okay

KA: I mean okay I never knew any of this was playing out at that time, like, you gotta know like I'm the girlfriend, I'm, what you doing at, you know. And my thing was, when I dropped them off, I thought that he went to Vanessa's house because the next time I talked to him, he was at Vanessa's house. So.

CS: And now do you know where he went?

KA: No. I still don't. Like, to break this down, this situation that happened, I don't believe that was them. I just, I can't put this as them. Like, no. I can't. I couldn't, they so goofy acting [laughs] I couldn't see them doing nothing like this. But I remember talking to him the next day, he was at Vanessa's house. I wound up going over to Vanessa's house because I used to hang with Vanessa as well. I was still— we were hanging out like it was normal. I never knew anything bad was going on at the time. You know. It didn't play out like he was acting weird or strange, and all of that, and him and Florida. No, he didn't do anything like that, for me.

CS: And were they like together still?

KA: Peanut butter and jelly.

CS: They were at Vanessa's together—

KA: When you saw him, you saw him. Only time you probably didn't see Florida with him is when Florida was with his baby mama and his kids.

CS: Okay.

KA: And it wasn't long for them, like maybe like an hour or two, maybe like two or three hours away from each other.

CS: Is that Sonia?

KA: I don't know Florida baby mama name, I thought it was the other girl. Uh, hold on one second [takes phone call]. Uhm, what was the other girl name that you said later?

CS: Yvonne?

KA: Yvonne. I thought that was Florida's girlfriend. So go back and picture that, I don't even know.

CS: Well, I'm just saying, it may be a rumor, so I don't know, it's just what I—

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KA: I always thought it was his girlfriend, so. You know, I thought he had kids with Yvonne. From the name, I didn't know. I just knew about Stacks, Dominick's baby mom, Dominique.

CS: Yep, right, oh right Dominique.

KA: And that's the girlfriend that baby mama that I always knew about him going off on me and doing stuff with, you know, that I was always mad about. I never thought Vanessa. I hung out with Vanessa like, so I never pictured that. And this other person, I thought it was Florida's girlfriend.

CS: Yeah, okay. And, uhm, so, after the 22nd, you just kinda kept hanging out with—

KA: Mhmm [affirmative]

CS: Stacks and Florida?—

KA: Mhmm [affirmative]

CS: —and Nikki?

KA: —until I went to Chicago. Nikki? Yep.

CS: And things just going on as usual with Nikki?

KA: Yep. And me and Nikki wound up going to Chicago with my kid's dad and his friend.

CS: So, you all drove, the four of you drove, to—

KA: to Chicago, mhmm. [affirmative] In Nikki's car, the little gray car and back.

CS: Okay, so, uhm. Do you remember what kind of car she had on the 22nd?

KA: I know it was a little gray car.

CS: Okay, always she had the little gray car?

KA: Yeah. I never know her to have a different car. She only had that one specific car that we used to ride around in.

CS: Okay, so you never knew her to have a blue car?

KA: No.

CS: Okay, uhm, so, you never obviously rode in her blue car?

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KA: I know she had a little 4-door car, that looked like a slug-bug, or something or some kind of weird looking car—

CS: So, 4-door, gray.

KA: Yes.

CS: Alright. And, uhm. So, you took that to Chicago.

KA: Mhmm. And back.

CS: And did you plan the trip or was it spontaneous?

KA: Nope, it was spontaneous, we just picked up and left.

CS: Okay. And where did you stay when you went?

KA: We got a hotel room.

CS: Okay.

KA: And then, we went to my daughters, dads, cousins house. It was either his cousins or his aunties house.

CS: Okay, uhm—

KA: But we didn't stay in Chicago long. We only stayed for like 2 days, 3 days probably and then came back.

CS: Okay. And then, uhm so, uhm, then, so you were back in St. Paul. Do you remember, so if like, if Christmas obviously is on the 25th, do you know about what day you would have gone to Chicago? What the date would be?

KA: I can't remember if it was before Christmas or after Christmas because we weren't in Chicago during that Christmas period.

CS: And were you in Chicago for New Years?

KA: No.

CS: Okay so were you back in St. Paul for New Years.

KA: Yeah.

CS: Tell me what you remember about when the duplex was raided.

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KA: Oh man, that night I had came home at like 12:30-1 o'clock in the morning and I was out being bad out with my daughter's dad. And uh, hanging out. Wound up going upstairs in my house after I got done smoking with Darlene and them. We were all talking, chilling, hanging out. Counting my money. And, uh, I went upstairs and I went to the attic room, which was my room. I laid down. I went to sleep. I woke back up to the police had guns all in our faces. My mom was yelling and screaming at me like "What the fuck did you do?" And I'm like, I don't know what I did, you know, I was asking like what did I do? I'm sorry, I didn't know, you know. And my mom was mad at me cause she was like why is the house getting raided. I thought it was something I did cause we were all hanging downtown and we were doing all kind of, god knows, all kinds of stuff, you know. And so I thought it was something that I did that got my mom's house raided. And then when they took us all to the police station and start asking us questions about Dominick's and, uh—

CS: So that day they took you into the police station?

KA: Yeah. That, yeah. They told us that we had to come and talk to them.

CS: Okay.

KA: And I was so confused by that. I was shocked, I was scared more than anything. Because my mom was upset and police had guns in our faces. And I didn't even know what to do at that time. I was just really shocked.

CS: And do you remember was it dark out when they?

KA: It was dark, yeah. But it was like early in the morning. So, it was like, right after I went to sleep. I was probably only asleep probably 3 hours, 2 hours.

CS: Okay.

KA: And they came and kicked in our door.

CS: And which unit door did they kick in?

KA: They kicked in both doors. They and, that's why my mom was mad at me because she's like why is my house getting raided? I didn't know. I was really lost. I was like, ma, I don't know. But we went to the police station and they started talking to uh, and the police officer was like, yeah you know uh, they called them by their real name. Dominick and Philip. And I'm like yeaahhh, like I was confused. Like why are y'all even asking me about these two dudes. And they were like well we were told there was a gun in your house. I ain't ever in my life seen nobody and no gun in my house. I would have cussed both of them out. My mom ain't going, I'm not even going cause I don't want my momma to get on me. I never seen no gun. So, when the police officers said it to me, I was like, uhm, you lying. I don't know what you are talking about cause I ain't see the gun. And he was like, well, we know that you were hanging out with him and da, da, da and I'm like. Dude. I never knew any of this was going on, like. If you, I did

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not know nobody even got murdered. So, when they raided our house, it just was something that was just out of the blue to me, like what the freak is this.

CS: So, when they were asking you about the guns in the house, at that point did you know somebody had been murdered.

KA: Yeah, because once they had raided us and had took us down there and they started telling us what was going on and they said some Indian or some kind of dude got killed at a store.

CS: Yeah.

KA: And I'm like what, I don't know. I didn't, you know. I can't explain that to you, I didn't see this happen, I wasn't there. And the police officer was like well you know more about it. I was told that you, that the gun was in your mom's house, in your house. In my grandma's house. I was told the gun was in your grandma's house and you guys knew about it and I never knew my cousin, I never knew there were no guns in my grandma's house period. But the night that we were all hanging out, he asked us about that, I said yeah, we were hanging out there. You know, they did come over and me and Dominick went upstairs and they were downstairs but I never knew about no gun. They tried to make it seem like I knew more than what I knew, and I didn't. And the police officer was being mean and rude and was like "yeah you know." And I'm like, dude I don't. But then he wound up sending my grandpa there to talk to me. And my grandpa was like they are going to give us $10,000 if you tell them you know what's going on and all, and I'm like. I didn't, I didn't know. I couldn't tell you what happened in that murder situation because I wasn't there. No, it didn't even happen. I didn't know there was a gun in the house either. You know. My cousin may have knew, from after, what I found out about all of this. She knew about a gun, but I didn't.

CS: So, Darlene did know?

KA: From what these papers said, yeah. From what I've been reading about.

CS: But you never talked to her about it?

KA: No.

CS: And your Grandpa, knew about $10,000?

KA: Uh-huh [affirmative]. The officer was offering us money to tell us- to get us to give information. They used to come to my grandma's house after that whole, after they took us back home, that police officer used to come over every week and talk to my grandpa and try to get information out of us and try to make us remember stuff and I'm like, dude I can't. I-I couldn't even tell you and he always used to make me seem like I was lying to him and I'm like, I'm not lying to you cause I don't know what happened. I don't remember none of that. Like if you telling me I was at the Buttery with him and all that stuff, I can't remember that. I can't go back to say we are going out and hanging, we go out, hand out, and get drunk, and stuff like that. But as far as a murder go, I ain't got time for that. I would have cussed both of them out, I ain't even,

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I, but that's just, me, my character. I'm very outspoken when it comes to BS that I don't like and I don't want to be a part of. So, if he would have brought that up to me, I would have been like, uh, you got to go. Cause I don't want no parts of nothing like that.

CS: So, after the raid, did you have much communication with Stacks?

KA: Nope. I was really mad at him. I had called uhm, Vanessa, and told her my house got raided and she said her house got raided. And they, and she was telling me that everybody house was getting raided and they found a gun. And I'm like- how did they find- like where was this gun at? Like I was confused about this gun situation. So, after this was all said and done, my cousin and my grandpa knew about this gun, I didn't know about it. All I knew was the police came to our house, they raided our house, and they said that they killed somebody. And that we knew about them killing them cause they told us about it. They never once told me about somebody getting killed.

CS: Did anybody ever? Did you hear rumors about who did it?

KA: I heard rumors about people saying that- oh yeah- they supposed to had killed him that the shorter was supposed to had killed the man and not the taller one. Well, Dominick is the shorter one.

CS: Okay.

KA: Philip is the taller one, so. If anybody was doing it, it was him. Right? So, and but I never would have pictured him to do nothing like that cause he, like he, they talkative. Like, you know, we all get drunk and we just get to talking about all kind of stuff, reminiscing about life. I'm sure it would have been brought up plenty of times to us if- we- if- you know? I don't, couldn't picture that.

CS: Uhm. [long pause] So, had you ever, so, after that initial raid on the house, did you ever like, contact the police to say "hey, let me tell you what I know"?

KA: They kept contacting us. They kept coming to our house, they kept, like they- I felt like I was being stalked by them. I felt like that police officer was pressuring people and he wanted to hear something and he don't care what it was but he wanted you to tell him something. My grandma used to make us go and talk to this man and they- he used to, my grandpa always used to bring up that this man was offering us $10,000. He offered my auntie money, he offered my grandpa money. And any time he come to us and tell us to talk to him, they tell us to tell this man what they want to hear so that we can get this money.

CS: So, your grandpa—

KA: [phone rings] My grandpa used to always be like "just talk to them and tell them!" and I'm like, okay. What do you want me to tell them but I just went on ahead and I guess talked to the man and told him what he wanted to hear.

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CS: Do you remember what you told him?

KA: I probably told him that Florida was crazy because back then I thought he was flirting with me and stuff, I used to think he was kinda crazy like as far as tryna get a girl to uhm, to get him some. Like he was more persuasive of trying to get something from you, but I'm your friend's girlfriend, so that can't work and I'm a jealous type of person so. That was more of me saying, hey, if that's what yall saying yeah, I'm going to agree. My grandpa said to go agree and get this $10,000, so let's do it.

CS: Okay.

KA: I think that's why they probably never brought me in there to say get on the stand because I told that police officer plenty of times, dude, I don't know. And he kept forcing it on me like I knew and I kept trying to explain it to him, I don't know dude. I never talked to him about no murder. I never knew there was no gun in this house. But if you gon' keep telling me I do know and my grandpa telling me to say "hey, let get this money real quick," I'm going to say what you need me to say let's just get this over with. So you can stop harassing me because that police officer was really harassing, he was very rude and disrespectful to me.

CS: So, in the end did you give him information that linked—

KA: I probably did—

CS: Stacks and Vance?

KA: I don't remember. I probably did. If my grandpa told me to go up in there and tell that man what he needed to hear to get the money, yeah I probably did. And I probably, that was me being young and I probably did some stuff that I ain't had no business doing, saying some stuff. And he- I had a case at the time, that's what it was. I had a case and the police officer told me that I could get out of my case if I talk to him and tell him what he needed to know.

CS: Okay.

KA: And I kept telling him, I don't, I don't know nothing about this. But my grandpa and them saying that this is what happened so I'm going to go off of what they telling me and we gon' leave it at that.

CS: Did the case go away?

KA: Yeah.

CS: Okay. Uhm, did you talk with your grandpa and grandma and—

KA: I talked to my grandpa a lot about it.

CS: Like, and what and what—

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KA: My grandpa always just brought up the money. He always told us let's try to get this money. They telling us they gon' get us $10,000, they kicked in our door. He always used to like, yeah Officer such-and-such is very friendly man but my grandpa, he was more of a police loving man, so he was up, he about all the stuff with the police. Whatever the police said he, yes he's right, you know.

CS: So, did you ever try and get your story straight? Or did you just kind of wing it—

KA: I probably try with my grandpa and make my story fall in line with what my grandpa was saying.

CS: Okay. Uhm, and do you remember what that story was?

KA: No, I don't remember that story, all I remember is that I know that my grandpa always used to tell us "tell them what they want to hear so that we can get this money." And my Auntie, Regina, got offered money from them to. So they was offering money, I was like okay well, we needed the money, let's do it, you know? But I think that's probably why they didn't use me because I think I probably told that police officer after he was recording me, I said, "am I going to get my money now?" and he was like "what do you mean?" And I said well, my grandpa said I was getting some money from this and that police officer was mad at me after that. He never talked to me no more after that.

CS: Okay. And uhm—

KA: But he still kept coming and visiting my grandpa. Still hounding- it was so weird to me that this police officer, every time you come home, there he go. I'm like oh man, Officer friendly here. And he be like "Kentrell don't remember anything," Like, no.

CS: Do you remember talking to him about, uhm, Nicole? Once Nicole got kinda drug into it?

KA: Mhm-hmm [affirmative]. But this is my thing though with Nicole. They kept trying to put Nicole with them and I kept telling him, Nicole can't be with my boyfriend alone. So, I'm confused if Nicole got away from me and went and met up with my boyfriend, I felt some type a way about it cause now my friend just snuck behind my back and was with my man and she know how I am. I don't want you around my man when I'm not around.

CS: Do you remember saying to the police that Nicole was not being honest with them and saying that she didn't know Stacks and Florida?

KA: I probably did cause she did know them, if she didn't, if she told them that she didn't know them yeah you did know them. But you ain't finna hang around with my man. So you knew them but like, like she knew of them to say "hey, I, passing by, that's Kentrell's friend" or whatever you know, smoke a blunt, go about your business. But the conversation saying they hanging out, no. No. She did not know them like that. I'm not going to sit here and sugar coat that, no because I would have been highly upset.

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CS: And, uhm, did, do you remember whether your mom went- I'm sorry, whether your aunt, Regina, went and testified before the grand jury?

KA: Yep. She said she was getting some money back from the police if she testified.

CS: And then, your grandma too?

KA: Yeah, they had all of us at the courthouse.

CS: Okay.

KA: I mean at the jail. It was some kind of little precinct or self, something, something like this, and the police officers were in there talking to us. One minute they be recording and the next minute they wouldn't be.

CS: Okay, and, uhm, so, when did you realize that like, they were going to prosecute—

KA: [yawns] I'm sorry.

CS: —Stacks and Florida.

KA: I didn't realize, uhm, I didn't realize that uhm, until my grandpa said if they make me go to court that I need to tell them what they need to hear and if I go into trial, I'm sure he probably gon' tell yall that cause it just hit the memory in my head, that police officer really hated my guts after a while. Cause I figured, if you put me on the stand, I'm tell the judge that you told me that he was giving me some money to do this. Cause I told you I didn't know nothing and you steady pushing it on me like he knew something but when you get on that stand, I'm tell the judge on you. And that officer hated me, like, he, I was not one of the people that he wanted to deal with.

CS: Do you remember ever calling and saying you didn't think you could testify because, that you had spoken to, —

KA: I said a lot of things.

CS: —you had spoken to Florida's sister and that you didn't think you should testify.

KA: I don't even remember speaking to Florida's sister. Uhm, but I did say a lot of things at that time cause I was trying to get myself out of this situation with that police officer and I don't, I didn't want to go, uhm, down that road. So, I didn't really know anything for me to really be up there testifying. But the way that police officer drilled me and the way he made it seem like I knew, I just was like whatever, what do you want to do because I don't want to be in trouble and I don't want to keep arguing with you about saying that I don't know. You know. And you're telling me I do. And I don't. So.

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CS: Did, did anyone for Stacks or Florida, at that time, try to get a hold of you and get your story, like these folks have? [presumably pointing to Jim Dorsey and Nadine Graves]

KA: No. I didn't talk to. No. I didn't talk to two—

CS: So, nobody came to you and said "hey, Dominick says he was with you"—

KA: I think they did. Uh [long pause] No, no I don't remember that.

CS: Okay.

KA: I don't remember that.

CS: Did you know John Martin?

KA: No. Who is John Martin?

CS: Not ringing a bell?

KA: Maybe by a different name?

CS: Oh, I think E, was his street name.

KA: Braids E, tall skinny, yeah, I do know a dude named E. But I didn't think his name was John—

CS: I think he was kind of described as straggly.

KA: Yeah, I know E. [laughs] I was like wait, I do know E. But I didn't know that was his name.

CS: And, uhm, Tenisha, you said—

KA: My cousin.

CS: Who is no longer with us. Uhm, did you ever, so, did you ever tell anybody around that time that you had been staying with her at the Economy Inn on December 22.

KA: Staying with who?

CS: Tenisha. That you and Tenisha were at the Economy Inn.

KA: Now. This is a conversation that I probably don't want to really have without me being in trouble myself. Because just, that conversation right there from the Economy Inn. I was in a situation in that hotel where it got raided by the police for a drug case.

CS: Okay.

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KA: I don't want to talk about that part.

JD: Was it that night?

KA: No.

JD: If it's not that night, we aren't going there.

KA: No, it wasn't that night that, that place was one of my regular hang-out spots.

CS: Is it possible you could have been there on the 22nd and made a phone call to Florida or Stacks? Or told the police that you did?

KA: [sighs] Later on that night, probably. I was probably there about 1-2 o'clock in the morning. Somewhere up in, it was late night, if I was at that hotel, it would never be during the day. It would be late night doing something I ain't got no business doing.

CS: Okay, I'm not going to ask you about that. Uhm, and then, uh, Troy Crawford. Do you remember that guy?

KA: [may have nodded affirmatively]

CS: Uhm, and he's no longer with us either, right?

KA: Yup, he got killed.

CS: Uh, was he with Nikki around that time? Like, were they?

KA: Not that I know of.

CS: No? Okay.

KA: Now she was doing that alone that was on her, this is the thing though, we ain't always in each other like personal—

CS: Did you talk to—

KA: I don't want to talk too much on that situation but we was doing a lot of things back then, so it's—

CS: Yeah, yeah, I'm not here to—

KA: — it was just a different life to do certain things but yeah, it was never plus a long period stretch of time because we do what we do to get out of the area.

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CS: Uhm, did you know a guy named Hennessey?

KA: Yep, that's Stacks cousin.

CS: Okay. And uhm, did he hang out with them a lot?

KA: Not a lot, but he hung out with him.

CS: Okay. And he would hang out downtown St. Paul? —

KA: Yep.

CS: With all that group?

KA: Yep. We all used to hang out and get drunk down there.

CS: Uhm—

KA: It was a lot of drinking going on for us, and smoking weed and our time during that downtown situation.

CS: Now, uhm, so, did you, did you know that Nicole, Nikki's car was like impounded and searched—

KA: Yep—

CS: —in the summer?

KA: I found that out with that police officer man.

CS: Okay, and is, so her car gets searched on July 30, 2003, and then you, did you call the police the next day or talk to the police the next day?

KA: I don't remember. Probably.

CS: Is there a reason you reached out to them, were they going to find something in her car or something like that, that would link you?

KA: Yeah, probably. Yep.

CS: And do you know if they did?

KA: Uh- yep- uhm- [pause] I don't want to incriminate myself.

CS: Yeah, don't, well I will just say —

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KA: But I'm sure they found something—

CS: There was just like, there was like a prescription.

KA: Yeah, okay.

CS: Yeah, it was, yeah, nothing illegal. But I was just wondering if—

KA: It was a few things they would have found and some illegal things that you know, yeah.

CS: There was one thing that had your name on it and it was a prescription. So that would link you, but the other stuff, maybe not. Uhm, and, uhm—

KA: But that police officer, you gotta think, he always made it seem like I was with Nicole. He tried to make it seem like I was with Nicole the day of the situation.

CS: Oh yeah.

KA: He tried to make it seem like I was a part of it. And I'm like, no I wasn't there, like I didn't know nothing about this situation. And he was like you would hang out with Nicole, and you were there and you were in the car with her, in the getaway car. And I'm like, no, like, no, I couldn't even, no. I mean I ain't trying to be nobody's murder. That is one thing that I would not be able to live with my conscience.

CS: And so, like the day after, or two days after that, do you remember sitting down with the police and giving 'em an interview.

KA: I remember sitting down with them a few times, yep.

CS: And do you remember—

KA: I just don't remember the contents of the conversation too much. I know that at the time I was willing to say anything to get the money for my grandpa.

CS: Okay. So, it wouldn't surprise you—

KA: If I told them whatever they wanted to hear? It wouldn't surprise me. As long as my grandpa was in my ear saying "we finna get $10,000," I was okay with it. We needed it at the time.

CS: Do you remember telling them that you thought Nicole probably pulled the trigger.

KA: Oh, baby! I was on a roll wasn't I? [laughs] Nah, I don't remember that

CS: Okay, uhm—

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KA: I probably did cause when they told me the shorter person did it, I probably would have been like well if the shorter person did it, it would probably be Dominick or Nicole because Philip's tall. So, it would never be me saying it was him doing it because he's tall so how was he going to be able to do something like this if yall saying it's shorter person did it. But that's what they kept telling us, it was the shorter person that pulled the trigger.

CS: Now, Nicole is white, right?

KA: Mhm-hmm. [affirmative]

CS: And did you ever know what they though the race of the people of the shooter.

KA: Black. Some Black dudes.

CS: Okay. Uhm—

KA: I only find out about Nicole supposed to be in there with that police officer man. I didn't know Nicole was supposed to be the getaway driver being there, I never would have pictured my friend to be with my man and his cousin doing no murder.

CS: Now at some point, it, so, you, uhm, did you tell the police that they called you that night and they were in the car, Stacks, Florida, and Nikki, and Stacks and Florida were saying they were in Chicago and Nikki was saying no they were in South St. Paul. Do you remember telling the police that?

KA: Why would I tell them they in Chicago? No. I don't remember saying that. I probably did though. I'm not even going to say no I don't say it, cause if you got it and I did say it, I said whatever I needed to say to get some money for my grandpa. And I'm telling you, my grandpa made it his business to tell me and my cousin Darlene, they giving us $10,000. My Auntie Regina getting $10,000, we need to get this money. If they gon' blame me, just go ahead and tell them so we get the money. So, that's what I needed to do.

CS: So let me just ask you this. Is it fair to say at the time that you sorta knew the information you were giving to the police—

KA: Was a lie?

CS: Was, well, well first, would connect Stacks and Florida to the- and Nicole to the murder?

KA: Well—

CS: Did you know?

KA: Well, uh no. I didn't know about this murder situation until my door got kicked in and when they took us down there, they started asking us some questions about them and at first I was very reluctant, didn't say anything cause I didn't know what was saying, what was going on. And

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once I did get back home and we start all talking about it, it was probably about 50 different stories from 50 different people. And you can put pieces together what you heard and what you needed to know and you gon' go that way and the way that my grandpa drilled it on us, if we was going get the money, we had figure this out. So, yeah it sounds bad and as I got older, and it just came back to resurface and haunt me, I think about it and I'm like, that was some real fucked up shit to say and do. But I was young at the time and I didn't know what to do. I was listening to my grandpa, I was listening to the police. I didn't know what to do, I was just going off what I knew to do, you know, and now I'm older, I wish like, I didn't do that. I wish that I didn't, I wish I would have stuck to my thing to tell the police I don't know and you need to leave me alone. But being young and scared and listening to everybody, it was what you needed to do at the time.

CS: Well obviously to order to get the $10,000 you got to give them some information—

KA: Yep.

CS: —that linked them to that, right?

KA: Hmm-mhm [affirmative]. You gotta put them in the situation- yeah, and I guess because everybody kept saying there's guns at my grandpas house, that's what made me say forget it, let's go. Cause I never knew about the gun until after the situation, so.

CS: And then, uhm, but, then nobody contacted you until just recently about—

KA: Yep.

CS: —your story?

KA: And this, and that's why I say "woah" you resurfaced that after all these years, but, it gives me the opportunity to right my wrong.

CS: Yeah, well I appreciate you coming in.

KA: Because I felt bad after just, you know, thinking about all this and thinking about, like, I did sit down with a police officer a few times and told him a few different stories and all kind of stuff. And I feel bad. Because I should have just told them I really didn't know, I didn't know. And I should have just stuck with it instead of just trying to fall in line trying to get some money for people. You know, I feel bad for that. Maybe my friend wouldn't be sitting in jail 20 years of his life.

CS: And do you think it's possible. So, a lot of people throughout the investigation, for instance—

KA: Everybody was lying, everybody was trying to come up with some kind of way to like- and just thinking about it was so much drama and lies going on at the time and it was like, as you get older and you mature through the situation, you are like what the freak, was this.

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CS: Well and it's like a lot of people were like trying to give, gave, you know give one story about where they were and then was like, oh I was mistaken about the day. I actually was with this person and it was a different day. Do you think there was any way that maybe you got the days confused?

KA: I couldn't even tell you. I mean, I remember him being at that house with us. And it, the day they say that this gun situation was at my grandma's house, I remember us all being there.

CS: Right, right.

KA: I remember going up there with him in my mom's house. I remember my cousin doing Dom-, I mean Florida's hair. I mean there was a football game on or something. There was, I remember that, but I can't tell you to say I remember him having no gun in the house. I remember uh, me telling, me letting him go somewhere with Nicole. I probably did no stuff like that. I, as a grown woman, I would have never done nothing like that cause I don't even play like that with my friends with my man. Uhm, I, I feel bad because I feel like I lied, when I was younger, I lied about a lot of stuff with this situation and it was more per se, listen to what my grandpa said. And it just, what my grandpa wanted us to do at the time. He wanted the money and we wanted it to. He always told us, we was going to get some money off of it.

CS: Did he ever get any?

KA: No. And that's the messed-up part about it. He got mad at that man about that. He died wanting his money.

CS: So has he passed too?

KA: Yeah, my grandpa died.

CS: Is your grandmother still around?

KA: Yep.

CS: Oh good, okay. Has she—

KA: Won't talk about this. This something from the past.

CS: Yeah.

KA: This- I ain't even told her I'm doing none of this.

CS: Yeah, no, I understand.

KA: My auntie, she just passed away, Regina.

CS: Regina did?

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KA: So, I didn't get the chance, the opportunity to talk to her about it either. You know, to even just go off of to remember what happened that day. To say, yeah, this is what we was telling them, you know, when we went to the police station. I ain't get a chance to talk to her about none of that.

CS: Did uhm, have you spoken to Stacks at all? Like since he got out—

KA: I spoke to him when he got out of jail just to say hey, I'm glad you out, how are you doing? Other than that, I haven't heard from him. That's why I was shocked when I got a call about this and got a call from Florida. I was really shocked. But I know that I played a part in the situation to get him in this situation and so, I know that I was wrong at the time when I was young and I was doing stuff just to do it, listening to other people. And I shouldn't have, I should have just stuck to it, me not knowing what was going on. And me not knowing nothing about that murder. I should have just stuck with my word instead of just trying to flip it around, get some money, get some help out here and there to put words and put people in scenarios. I feel bad about that, you know?

CS: Yep.

KA: I need to right my wrong for that.

CS: Well, I appreciate you, uhm, talking with us and taking time out of your day to come and talk about this, I know this is tough stuff and I appreciate it.

JD: I've got just a few questions.

CS: Yep. Sure. And this is Jim Dorsey jumping in.

JD: Yes, thank you. Uhm, let's go back to that night. In the car, where Demetrius is driving you-

KA: Downtown.

JD: — downtown, were you sitting in back or were you sitting in front?

KA: Passenger.

JD: I'm sorry?

KA: Passenger.

JD: Passenger seat. Front seat passenger seat?

KA: Yep.

JD: Do you remember if anything was said. Do you remember?

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KA: There wasn't like nothing crazy said. Nothing like that. Just going to drop them off so—

JD: [muffles] You dropped them off and then what did you do, you went back to?—

KA: My house. Yeah.

JD: Was your mom and grandma back?

KA: Yeah.

JD: They were back by the time you got back?

KA: Yep.

JD: You sure? I just, [muffles]

KA: I believe they were back.

JD: Okay so that tells us, they usually, back around 10.

KA: Yeah, back around 10.

JD: You- you- were driving them downtown around 10.

KA: Yeah, cause I know that he had to be gone by the time my momma got out of bingo. Cause if she made it to that house before, he and he was there, then I was in trouble.

JD: Okay. The robbery occurred around 9:45 that night.

KA: They couldn't have been at that robbery.

JD: Okay, fine. Did the police ever tell you—

KA: No.

JD: That the robbery occurred, that the robbery/shooting occurred around 9:45?

KA: No, they never told me that.

JD: You're kidding.

KA: No, they never told me that. Uhm, I thought it was later on in the night at like 3 o'clock in the morning, 4 o'clock in the morning type of stuff.

JD: Okay. Uhm, just—

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KA: That's why- that's another thing, because that was around the time after that they couldn't have even did it because at the end of the time, how can you be in two places, how can you be over here and over there killing somebody and then make it to us and act like everything is okay. Like, no.

JD: Kentrell, if the police had told you that the crime occurred at 9:45, what would you have said to them?

KA: That' a lie cause they was at my house.

JD: Alright. Do you recall anyone, either of them, calling Hennessey that night? Or Hennessey's girlfriend, Keitha? I'm blanking on Keitha's last name.

KA: I believe it was Stacks that called Hennessey that night.

JD: Did he call once, several times?

KA: I don't remember the exact amount of times, I know he talked to Hennessey. Uhm, we were drinking that night and it was, we were hanging out and smoking weed and stuff. And there, it wasn't like, we were watching the game and stuff and having fun.

JD: No, okay, I'm just going to—

KA: It wasn't like—

JD: Got it. Just asking. Why was Stacks calling Hennessey?

KA: That's his cousin. He was probably, to hang out with him afterwards.

JD: Is there any chance, they knew they had to leave cause you wanted them to leave. You think that he was calling to figure out where he was going to go?

KA: Yeah, probably, yes.

JD: That's just a guess, you don't know that?

KA: Yeah that's just a guess. Yeah.

JD: Uh—

KA: What the plan was for the rest of the night. That's what he talked to him about, what they finna do the rest of the night after they leave here, let's go hang out here. Everybody hangs out downtown St. Paul, so if anything, once you get dropped off downtown St. Paul, it's a little park area we go to and hang out at. We go smoke and we go drink. That would be more than anything that I could see them doing.

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JD: I am showing you now the list of phone calls that were made on the cell phone that night. And here is the call that was made to Chicago at 7:44pm. 19:44, that's 7:44, and that's for ten minutes.

KA: Yeah.

JD: Does that sound about right?

KA: Yeah, that's my cousin, yeah.

JD: Yeah? Diamond. Alright. And then we get here about 9:20, there are four calls made to Keitha's place, and a couple calls from St. Paul to Yvonne White, is that, I'm just asking whether that rings any bells or brings back any memories—

KA: I just remember them being on the phone, I don't remember what was talked about and who they was talking to but I remember my cousin talked to her daughter that day. I remember Stacks asking Florida to give him the phone. I remember Florida taking the phone back and me and Stacks going upstairs and doing what we was doing and when we came back, Florida was still getting his hair braided, it was half way almost done. We were hanging out a little bit more, smoked some weed. I asked my uncle to drop them off and from there my uncle dropped them off and that was the last thing that I remember that night.

JD: Okay.

KA: To say I thought the murder happened at 2 o'clock or 3 o'clock in the morning. If the police, when the police, made it seem like oh they killed somebody, they didn't tell us no afternoon, I mean no midnight, like nine, ten o'clock because I would have literally said to them like that it's impossible.

JD: In the car again driving downtown with Demetrius—

KA: Demetrius.

JD: and the guys in the back, were you on the phone, were either of them on the phone?

KA: Probably.

JD: Probably? Being—

KA: Uh-huh [affirmative]

JD: Okay. Was Officer Kreager the name of your good friend who kept on—

KA: Yeah! Mr. Man, yes that's the crazy officer that is mean to everybody—

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JD: That's just a lucky guess—

KA: — that he just stuck on telling you that's what happened.

JD: Ah, that's just a lucky guess on my part. Uhm—

KA: You gotta understand though, this police officer man that came over my grandpa house, all the time, weekly after this situation. He would not let up. He was not hearing that you do not know what happened. He was not hearing that. He was like, you know, you know. And I'm like dude, I don't. Yes, you do. You telling me that's your boyfriend and you don't know anything about him?

JD: Then lastly, when is the last time Demetrius spoke about this case? Never?

KA: Back when this happened, when the police raided us.

JD: You have not talked to him in the past couple of months?

KA: No, I ain't brought this up to him.

JD: Are you still in touch with him?

KA: Yeah. That's my uncle.

JD: Does he live in St. Paul?

KA: Hm-mhm [affirmative] but I haven't talked to him about this.

JD: Okay, alright.

KA: I'm sure he don't want to have no parts in this like he didn't want to have no parts in it a long time ago. No, I mean, the only reason that we really cared to have some parts in it was because of the money. My grandpa was always just, just make us talk about this money and my Auntie Regina, they offered us money. So, and, [laughs] you knew us back then we need all the money we can get.

JD: Kentrell, I want to thank you for coming down. I want to thank you for your patience and for doing, and for helping us out. That's all I got.

KA: Can you just make sure they know I feel bad for me telling these police everything like, I don't even know half of the stuff that I said to the police. I know that I was saying stuff just to say it to just try to get this money for my grandpa and I feel bad about it and I feel like, I don't even know how to go around to even fixing that. I feel bad.

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CS: Uhm, you say, I forgot to ask you, and I won't take a long time, uhm, when you, when you're at your house, uhm, and you said you smoked some, and there was some alcohol. Was anybody like, I mean how much did people have to drink?

KA: We was feeling good, we was feeling ourselves like not wasted to the point where we can't walk or move, but, you know? The average little drinking, smoking.

CS: And then do you remember, so the football was on as you recall?—

KA: Cause if you go in her room, it's like half of this room and she got her little bed right there, the TV right there by the door, they, you know, the little couch little let out couch area, because Tenisha used to sleep on that couch when she came in that room, uhm. It wasn't big, so, you know we all sitting in a little spot like this. And then—

CS: And that's going on, and football is going on—

KA: She braiding his hair on the bed. Getting ready to start greasing his scalp from hurting his hair and me and Dominick go upstairs, and.

CS: And when you and Dominick go upstairs, does the phone go with you or—

KA: Nah, I think the phone stay downstairs.

CS: Okay.

KA: I knew he had no phone in his hand. [laughs] No.

CS: Did, did Stacks have a phone?

KA: Probably did, no no, they shared a phone. No. They shared a phone.

CS: Okay.

KA: Yep, they shared a phone.

CS: Uhm, anything else?

KA: [phone rings, answers phone]

CS: Uhm, yeah, I, uh.

NG: I have a question, this is Nadine Graves. Uhm, did the officers ever make any statements connecting the gun that they said they found at your house to the murder?

KA: Not that I know of. I was told that the gun was sold to somebody else and the police got the gun. So not that I know of. I didn't, I didn't know they had no murder weapon for these two. So.

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CS: I guess, I have like, one, like really broad general question and that is uh, it seemed like everybody, well maybe not everybody, everybody we have talked about that you knew at the time, you know like, uhm, John Martin, the scrappy guy, Stacks, Florida, Nikki—

KA: John Martin is E, right?

CS: Yeah. And then, uh, Vanessa and your entire family. I mean everybody was being questioned about the police like, did, were you not like sitting around talking about that?

KA: No, cause we wasn't all hanging together. We wasn't all together during the time the police was questioning us like, it wasn't. After the situation after police start questioning us and all of that, I think Dominick was in jail and Florida was in jail so we didn't have no contact with them to talk to them about nothing. And Nicole, was, she, she disappeared. Like, that was, my friend at the time. She just dropped off the face of the earth. Right now to this day I can't even tell you anything about Nicole since that happened. Uhm, everybody just went their own separate ways. And I had a baby that following time in 2003 in October, I didn't even care for this after that. Like, this was the least of my worries at the time. So, once they went through his stuff and they say he got life, I was just lost behind that. Like, what? How? And he's not even the one that said killed the person, you know, so how did he wound up getting life and the person that yall claimed killed him ain't get life. So, I don't know, it just got confusing, I just, I don't want no part of something, I just left it alone and I moved out of St. Paul.

CS: Okay.

KA: I really am not, how do I, I'm not the friendly type of girl. I'm not, I'm really not. So, when it comes to their friends, E and Hennessey and all of them, I'm the hi and bye type of person. I'm not the let's go hang out, hang girl, home girl, I don't do that. I don't, and I don't like when my friends do it to my man, so I'm not going to do it to them. You know, so. To say that we all having conversations about it, no. Only person I probably have conversations of this kind of stuff about this with is my grandma and my aunt.

CS: Well right, yeah, like your aunt and grandmother both testified at trial, you didn't talk to them about any of that?

KA: No. They—

CS: They just kept it to themselves?

KA: I don't even know my auntie, my grandma went to trial. I knew my auntie did but you telling me my grandma went. That's something new to me. I'm like wait. I know my grandpa had something to do his hand in it, and my auntie. For you to say my grandma went to trial and gave her testimony, I don't know nothing about that, I don't know what my grandma said, none of that.

JD: Neither of them testified about what happened on December 22—

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KA: Yeah, that's why I—

JD: They testified about the gun and your aunt testified about things, that, that Philip Vance said to her that she since recanted.

KA: But then, that's what I'm saying, because why would he be talking to my Auntie about something like that? Like he, they ain't got no relationship like that to say they are going to have a conversation about something so personal and something that could ruin his life for the rest of his life. He is not going to talk to my Auntie like that. Yeah no, I couldn't even picture no stuff like that cause my Auntie and him don't have that type of relationship. If anybody he would talk to something like that about, it would be Darlene. Other than that, I couldn't see him talking to none of them about something like that. Cause that was just, why would you sell yourself out and throw yourself under the bus to tell some random lady about a situation like this. Nah. So, I knew that, from my point of view or what I got from the whole situation, my grandpa was being offered a lot of money. My auntie was being offered money. We needed money. You gon' say what you need to say and the officers gon' tell you "was it this time? Was it doing it this time? And oh remember this?" And you gon' put it together and piece it, you know? They helped with a lot of it by giving out information that we probably would have never knew cause, pssh, I never knew about the gun so for me to find out about that I was like, what? And my grandpa, he actually had somebody else's gun in hos house. My grandpa would have went crazy if I had that. He don't play that game. They took all of this guns, so I was confused by that. It just, it was a lot of lies and BS going on at that time to try to get this case solved or whatever they wanted to do. They wanted to lock them up, well they got them basically off of just, hey we got $10,000, we got some money, $5,000, then let's go.

CS: Well they got a lot of people to say Florida did it. Is that because people don't like him?

KA: I, I really I couldn't even understand why, how they could say Florida did it because from what I got gathered with these police, the short person did it. Florida was never the short person. So how you get he is the shooter out of the short person. If you put them two together you could tell which one was shorter. So, if you got a camera, oh that's what that officer told us, they got them on camera! That man said they had him on camera shooting him. So, if you got them on camera, you say the shorter person did it, how is the taller person going to jail for the rest of his life and the shorter person did it. How can he, how can all of us say it was him and it was him. Yall got it on camera saying it was him [shorter person], but you got all of us saying it was him [taller person/Philip]. Make it make sense. It was just a, people was trying to get this case solved and everybody was okay because everybody just got raided and we was all doing illegal things that we had no business doing and the police knew and they knew how to get us to say what we needed to say and save us from catching cases. Because a lot of us probably would have had drug cases during that time cause a lot of us was doing a lot of illegal drugs then.

CS: Did they recover any drugs when they—

KA: Probably did.

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CS: —kicked in your door.

KA: Probably did find some crack in there a few times. That's I'm not trying to incriminate myself with this situation, but. We was all doing things at the time that we had no business doing. To save our own ass, we would throw anybody under the bus and that's what I felt like a lot of us did and I feel like, I feel bad about the whole situation because I shouldn't have did it. I shouldn't have just listened to them, I should have just went with my own story and told the truth and said hey, "I don't know," so if we get there and you want to put me in jail then put me in jail, but I don't know.

CS: Okay. Well again, I don't want to take any more of your time, I know you have some other stuff going on.

KA: Yeah, my kids are harassing me [laughs]

CS: And I'm going to go ahead and end the interview at 5:12pm.

MINNESOTA JUDICIAL BRANCH

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South St. Paul Police Department
Case Number 02018427
Case Notes D.S. Vujovich / 2102
Notes 02018427

Suspect:
Phillip Randal Vance **date of birth, 10/20/1980**
A.K.A. Florida or Florida Boy
Black male, 22 years of age, 5 -09, 140 pounds
Known to associate with numerous members of Gangster Disciples Gang.

Suspect:
Dominick Dwayne Johnson **date of birth, 11/15/1982**
A.K.A. Stacks
Black male, 20 years of age, 5 -06, 145 pounds
Suppose to be a member of the Vice Lord Gang but is been hanging around with members of the Gangster Disciples Gang.

December 22, 2002

Officers received a report of a robbery in progress at 345 4th Avenue North, Sabreens. It was later learn that Khaled Majed Rajablal-Bakri, date of birth of [redacted], 1997 is DOA. The area was secured by Officer Mary Sawyer and Sergeant Dave Greengo. Witnesses located and interviewed by Detective Tom Kreager, Lieutenant Brad Wayne, BCA Agent Leatherman, Dakota County Sheriff Deputy Terry Ecker.

At approximately 9:30 P.M. Sabreen's Grocery Store was robbed by at least two suspects. The lone clerk in the store at the time of the robbery was found on the floor behind the counter dead from two gunshot wounds to the back of his head. The victim has been identified as Khalied Al-Bakkri, date of birth, [redacted]-1977.

SSP PD began focusing their efforts on two individuals, Vance and Johnson who have been identified by informants as being involved.

The following is a list of witnesses who were identified at the scene and interviewed.

James Robert Lascewski, [redacted]-1982. He was in the store about 9:30 p.m. and observed a suspicious white male 5-8, 5-7 wearing a gray hooded sweat shirt. Lascewski observes a possible suspect vehicle. He describes it as a gray vehicle.

David Allen Michaelson, [redacted]-1982 was in the store with Lascewski. Michaelson observes the suspicious individual. He describes him as a white male 5-10, 5-11, late 20's early 30's small to medium build, possible light mustache, wearing a dark gray hooded sweat shirt. Michaelson observes a possible suspect vehicle and describes it as a gray Nissan or Volkswagen.

Kathleen Lorena Johnson, [redacted]-1952 entered the store and observed a lone male in a dark hooded sweat shirt behind the front counter. The suspect was removing the contents from the cash drawer. He saw her,

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South St. Paul Police Department
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moved his hand toward his waist area. Johnson fled to the store to her vehicle and left the area. While doing so she observes two suspects fleeing the store on foot. Johnson placed the first 911 call at 2143 hours. She describes the two suspects as:

- male 5-7 thin build, dark blue hooded sweatshirt, black ski mask, baggy low slung jeans, early 20's

- male 5-9, thin build, dark blue hooded sweatshirt, black ski mask ,baggy low slung jeans,

☐Samantha Jean Renville, [redacted]-1982

☐Dale Duane Marx, Jr., [redacted]-1986

☐Matt Richard Renville, [redacted]-1987

are walking south bound in the 300 block alley behind the store. Samantha observes two males wearing dark clothing on foot running, get into a grayish colored vehicle described as possibly a four door Cadillac. One of the suspects is heard saying hurry, hurry. The suspect is described as: On suspect enters the vehicle via the front passenger door and the other via the rear passenger door.

- Males early 20's wearing dark clothing, masks

☐BCA lab team processed the scene and seized the following items of evidence:

Shoe impressions

Latex prints

Cigarette butt

Pop can

Bullet

Four .22 caliber brass cartridges

December 22, 2002

On December 22, 2003 at 22:45 hours, Detective Tom Kreager interviewed Kathleen Lorena Johnson at (unknown location) in reference to this investigation.

On December 22, 2002, Detective Kreager spoke with Kathleen Johnson who was identified as a witness. Johnson stated she was at Sabreen's about 9:41 P.M. When she entered the store she observed an individual behind the check out counter removing contents from the cash drawer. As her attention was drawn to this individual she observed saw that the individual was wearing a black mask. About that point the individual made movements towards his waist area. Johnson stated she thought the individuals was reaching fro a gun. Johnson describes the individual as wearing the mask, baggy pants, about 5 -7, thin build. Johnson states she heard the suspect make a comment as if he were alerting another individual in the store. Johnson states she quickly left the store fearing for her safety. Johnson states outside the store she observed two individuals exit the store. Johnson describes the second individual a couple inches taller than the first individual which would be 5 -9, thin build, wearing a mask, and baggy pants. Johnson states the two individuals were running very fast and thought they may be after her but they continued running past her eastbound toward the alley.

Johnson stated she left the area and went to a friends home at 654 2nd Avenue South, South St. Paul, where she called 911 to report the incident.

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This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

December 22, 2002

On December 22, 2003 at 23:45 hours, Lt. Brad Wayne of the Dakota County Sheriff's Office and BCA Investigator Gene Leatherman interviewed Samantha Jean Renville at the South St. Paul Police Department in reference to this investigation.

On December 22, 2002, Lieutenant Brad Wayne, Dakota County Sheriff's Office and B.C.A. Agent Gene Lethermann spoke with Samantha Renville who was identified as a wittness to the incident. Samantha stated stated she was walking southbound in the alley between 4th Avenue and 3rd Avenue in the 400 block south, en route to Sabreen's, with Dale Marx, and her brother, Matthew Renville, when she observed two individuals wearing black clothing get into a vehicle described as a "grayish Cadillac". Samantha states she heard on individual say "hurry, go, go". The vehicle then left southbound in the alley. Samantha describes the two individuals as wearing black clothing, pants, hat, mittens, sweat shirt with a hood. Samantha states she observed others in the vehicle but was not able to provide a description. Samantha states they then went into the store and observed the victim. They exited and went to the Marx residence, 334 4th Avenue South, located across the street from Sabreen's.

The interview with Samantha was audio recorded and has been transcribed. The transcription is included in this case file. See transcription for further details Samantha's statement.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

December 22, 2002

On December 22, 2002 at 23:29 hours, Detective Tom Kreager and Detective Terry Ecker of the Dakota County Sheriff's Office interviewed Dale Duane Marx, Jr. at the South St. Paul Police Department in reference to this investigation.

On December 22, 2002, Detective Kreager and Investigator Terry Ecker, Dakota County Sheriff's Office, spoke with Dale Marx J.R. who was identified as a witness to the incident. Dale states he was walking southbound in the alley between 4th Avenue and 3rd Avenue in the 400 block south, en route to Sabreen's, with Matt and Samantha Renville. Dale stated he did not notice anything in the alley way but his friends did. Dale stated inside the store they observed the victim. Dale stated they left the store and went to his residence, 334 4th Avenue South, and told his father what they had just seen.

The interview with Dale was audio recorded and has been transcribed. The transcription is included in this case file. See transcription for further details Dale's statement

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

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December 22, 2002

On December 22, 2003 at 23:54 hours, Detective Terry Ecker of the Dakota County Sheriff's Office interviewed Matthew Richard Renville at the South St. Paul Police Department in reference to this investigation.
On December 22, 2002, Detective Kreager and Investigator Terry Ecker, Dakota County Sheriff's Office, spoke with Matt Renville who was identified as a witness. Matt states he was walking southbound in the alley between 4th Avenue and 3rd Avenue in the 400 block south, en route to Sabreen's, with his sister, Samantha Renville, Dale Marx and his God-brother Jacob when he saw two individuals who were running get into a gray vehicle and leave the area southbound. Matt states he observed a third individual who was the driver of the vehicle but was not able to give a description. Matt states he heard on of the individuals say "hurry, hurry, go, go, go,. Matt describes the two individuals as 5-10, and estimates their age to be 19 due to the voice he heard, wearing dark clothing.

The interview with Matt was audio recorded and has been transcribed. The transcription is included in this case file. See transcription for further details Matt's statement.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

December 22, 2002

On December 23, 2003 at 00:01 hours, Lt. Brad Wayne of the Dakota County Sheriff's Office and BCA Investigator Gene Leatherman interviewed Dale Duane Marx at the South St. Paul Police Department in reference to this investigation.

On December 22, 2002, Lieutenant Brad Wayne, Dakota County Sheriff's Office and B.C.A. Agent Gene Lethermann spoke with Dale Marx S.R. who was identified as a witness. Dale stated he was home when his son, Dale J.R. and friend Matt came into the home telling him what they has just seen inside of Sabreen's. Dale stated he called 911 and then went to the store to see if he could help. Dale stated inside the store he observed the victim and then exited the store.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

December 22, 2003

On December 23, 2003 at 00:22 hours, Lt. Brad Wayne of the Dakota County Sheriff's Office interviewed James Robert Lascewski at the South St. Paul Police Department in reference to this investigation.

James Robert Lascewski, [redacted]-1982. He was in the store about 9:30 p.m. and observed a suspicious white male 5-8, 5-7 wearing a gray hooded sweat shirt. Lascewski observes a possible suspect vehicle. He describes it as a gray vehicle.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

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State of Minnesota
2/27/2020 10:58 AM

South St. Paul Police Department
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Case Notes D.S. Vujovich / 2102
DAVID ALLEN MICHAELSON DOB/1-18-82
946 Marion St.
St. Paul, MN 55117
651-459-4543

On December 23, 2002 at 00:10 hours, Lt. Brad Wayne of the Dakota County Sheriff's Office, and BCA Investigator Gene Leatherman interviewed David Allen Michaelson at the South St. Paul Police Department in reference to this investigation.

David Allen Michaelson, [redacted]-1982 was in the store with Lascewski. Michaelson observes the suspicious individual. He describes him as a white male 5-10, 5-11, late 20's early 30's small to medium build, possible light mustache, wearing a dark gray hooded sweat shirt. Michaelson observes a possible suspect vehicle and describes it as a gray Nissan or Volkswagen.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

December 22, 2002,

MGSF Agent John McManus received a telephone call from C.R.I.. CM. CM states about 22-15 hours - 2230 hours an individual with a street name of Florida (later identified as Vance) is at the Buttery Bar, located in St. Paul, making the statement that his life is over, he just shot a guy, he did not mean to do it, the gun just went off. While making these statements Florida is holding his arm out as if he has a gun to illustrate his actions. CM states Florida is with an individual with a street name of Stacks (later identified as Johnson) who is visibly upset and vomiting. CM . knows both of these individuals and their behavior is out of character for them. Vance and Johnson are seen in a gray vehicle. CM was not able to obtain a license number.

December 23, 2003
MGSF Agent Andy Shoemaker received a telephone call form a second C.R.I. MS who states three individuals were at the Radisson Bar, located in downtown St. Paul about 2000 hours on December 22, 2002. MS. states the three individuals appeared to making some type of plan. MS. made the comment to the individuals that the tips were slow that night. Their response was do not worry when they get back they will have money.

December 23, 2002
Officers met with the CM who identified, by a photograph show up, Florida as being Phillip Randal Vance.
On December 23, 2002 at 17:32 hours, Detective David Sjogren of the Dakota County Sheriff's Office interviewed Colleen Mary McManus at (unknown location) in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

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December 23, 2002

Captain Dan Vujovich drafted a search warrant which was signed by Judge Edward Lynch at 04:00 hours. Judge Lynch also signed a second search warrant at 10:45 AM. The reason for the second warrant was expanding the number of officers available to remain at the search scene.

December 23, 2002

The store was released to the owner Tariq Bakri at approximately 16:00 hours.
$1087 in US currency was given to (inaudible) by Sergeant Phil Oeffling.
The cash register tape was given to Detective Tom Kreager by BCA Agent Gene Leatherman.
Sergeant Oeffling took possession of the videotape that was in the videorecorder at the store. The video recorder was not in operation at the time of the incident.
Corporal Tom Kreager took possession of the victim's wallet.

December 23, 2002

BCA Lab crew retains all other items of evidence.

December 23, 2003
On December 23, 2003 at (unknown) hours, Detective Tom Kreager interviewed Mary Rose Garvey Martinez in a phone conversation in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

December 23, 2002

Autopsy is performed on the victim, Khaled Bakri by Doctor Lindsey Thomas, Dakota County Coroner's Office. It was determined that Khaled died as a result of two gunshot wounds to the back of the head.

December 24, 2002

Items of evidence from the Coroner's Office were taken to the BCA by Dakota County Sheriff's Deputy Steve Forrey.

December 24, 2002
On December 24, 2002, Detective Tom Kreager interviewed Mary Rose Garvey Martinez in a phone conversation in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription

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December 24, 2002

Detective Steve Ploeckelmann met with family members and obtained a battery with a possible projectile in it. Detective Ploeckelmann gave those items to BCA Agent Gene Leatherman who later transported them to the Bureau of Criminal Apprehension for further analysis.

December 26, 2002

Met with Tariq Majed Bakri, date of birth [redacted]79 at 345 4th Avenue South, owner of Sabreens. He reviewed and signed a consent to search for complete (inaudible) and processing.

December 26, 2002

The victim's wallets and contents were released to (Bill Lupe), date of birth [redacted]-45, who is the father-in-law of storeowner Tariq Bakri. The items were released by CSO Mike Running.

December 27, 2002

Captain Vujovich met with Colleen McManus. Colleen McManus viewed a photo lineup which contained a photograph of Dominique Johnson. Colleen McManus identifies Dominick Johnson as being with Philip Vance, throwing up at the Buttery Bar on December 22, 2002.

December 27, 2002

At approximately 9:45 PM, Captain Vujovich received a telephone call from Colleen McManus who stated that Vance and Johnson were in the bar with Earl Edward Townsend, date of birth of [redacted]-1980 and that he would be meeting them later on.

December 27, 2002

A check of QMOs run for Earl Edward Townsend, date of birth [redacted]-1980, Philip Randall Vance, date of birth 10-20-1980 and Dominick Johnson, date of birth 11-15-1982. No vehicles were listed in either of their names.

December 27, 2002

Captain Vujovich met with Colleen McManus at the South St. Paul Police Department. She viewed a photo lineup which contained a photo of Michael Smith. Colleen McManus was not able to pick him out as being in St. Paul at the Buttery Bar on December 22, 2002.

Colleen McManus states individual with Vance on Sunday was upset and vomited twice. She described him as a black male with Vice Lord tattoo on his left forearm and a tattoo of I Love Dominick on his left bicep shoulder. Colleen McManus stated this individual's street name is Stacks.

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From description given by Colleen McManus, Minnesota Gang Strike Force Agent John McManus obtained a possible name of Dominick Dewayne Johnson, date of birth 11-15-1982.

December 27, 2002

Captain Vujovich and Officer McManus met with Melissa Stitz who viewed a photo lineup of Philip Vance. She identified the photograph of Philip Vance as being at the Radisson Bar on Sunday evening with another black male who appeared to be planning something. These individuals stated they would be back later to take care of a tip.

December 27, 2002

Captain Vujovich showed Melissa Stitz a photo lineup which contained a photo of Dominick Johnson. She states he is the one who was with Vance on Sunday evening, December 22, 2002.

December 28, 2002

Received a call from Colleen McManus who states that Vance, Johnson, Waldo, Tazz and Rooster were at the Buttery Bar and went to Ryan's. Colleen McManus identifies Tazz as a white male, six foot two, 190 to 200 pounds, with a shaved head, blue eyes and no facial hairs. Colleen McManus states that Vance is having personal problems and is having anxiety attacks.

December 28, 2002

Colleen McManus states that while Vance is at the Buttery Bar he used her cell phone to call 612-998-6711, 612-879-9792, 612-827-4549 and 651-330-6958.

Colleen McManus states that Rooster and Waldo were also in the bar on Sunday night when Vance and Johnson came in.

Colleen McManus states that Vance's cell phone number is 651-398-5888.

December 28, 2002

651-291-8800, approximately 16:15 hours, Colleen McManus states that Vance losing his cool, very quiet, she will also try to get a telephone number of Townsend.

December 28, 2002

Captain Vujovich receives possible suspect vehicle is a white Cadillac which belongs to Eide's girlfriend or mother, Jesse at 651-455-3141. At this time we start receiving information that Vic, Jesse Magnuson, Lorenzo Eide were involved.

December 28, 2002

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Approximately 16:00 hours received a call from Meghan at 330-9203. Meghan called and stated an individual named Dan Erdman, a friend of her boyfriend Brian Krutchek stated he knows who did a homicide at Sabreens but would not tell her. She describes the events basically as the same as in the paper. Meghan will try to get additional information.

December 28, 2002

At approximately 16:00 hours, received a telephone call of Yamid from 612-791-9199. He stated that a maroon blazer, 1995 to 1996 with Minnesota license plate JKA455 was seen in the area of Sabreens. Mike Smith was driving this vehicle. Mike was at the store with a white male expressing his condolences, offered to help by putting Khaled's photo on his next CD. A check of the 1995 blazer shows it lists to Jennifer Marie Dorher, date of birth of [redacted]-74. The vehicle lists to 80 West Rose Street in St. Paul. Jennifer's DL lists to [redacted] Street in St. Paul.

December 28, 2002

Captain Vujovich received information from Colleen McManus who stated that a Colby Damon Bracey, date of birth of [redacted]-1980 was at the bar with Vance.

December 30, 2002

At approximately 12:40 hours received a telephone call from St. Paul Police Officer Tony Holter. He stated he had contact with Vance on December 24, 2002 at approximately 03:00 hours at 147 Forbes Avenue, apartment number 4. The complainant in the call is a Vanessa Franco who has a common child with Vance. Vance was attempting to get into the apartment. A Brianna Henderson made the telephone call and squads responded and removed Vance from the area. Vance stated he was going to East Side. Per Officer Holter Vance was acting very nervous. It was later determined that the officer may have Vance and Johnson's names mixed up.

December 30, 2002

At approximately 19:15 hours, 2102 received a telephone call from Stephanie at 330-5411. She stated she heard from Leah that Lorenzo Eide did the homicide but would not give any other information.

December 30, 2002

Contact was made with Tom Monack, whose name was given to Captain Vujovich by Chief Messerich. Tom Monack was in the store at approximately 19:15 hours on December 22, 2002. At that time he saw three suspicious males first described as a black male, six foot, early 20s, late teens. Next one was a black male, six foot one or six foot two, early 20s, late teens, long hair, black coat. The third one was a white male with a hooded sweatshirt, early 20s, approximately 205 pounds. Monack stated he saw a Oldsmobile parked on 4th Avenue and 4th Street, older style, that may have been involved.

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December 30, 2002

Officer McManus received information from Melissa Stitz that there was going to be a gathering of numerous individuals at 1519 or 1525 Prosperity Avenue in St. Paul for New Year's Eve. Melissa was going to go to that party and attempt to get additional information. No information was received.

December 31, 2002

St. Paul officers spoke with Sergeant Dave Greengo and stated they observed Vance in a green Expedition possible address was the 200 to 300 block of Birmingham in St. Paul, or 861 Marion Avenue in St. Paul.

December 31, 2002

At approximately 1:15 AM, Captain Vujovich received a call from Colleen McManus. She stated Vance was at a bar with a girlfriend, a white female in her twenties, approximately 175 pounds, brown hair, dark eyes and supposedly with his child, driving Minnesota registration AVL543. At that time she stated Vance has a new cell phone of 763-443-5640. Colleen McManus states that Vance told her that he still has Johnson's car but he could not bring it to the bar because it's full of drugs.

December 31, 2002

Administrative subpoena was prepared for 763-443-5640.

December 31, 2002

Tariq came to the police department with an individual who was identified as Robert S. Torres, date of birth of 3-28-1979, with a telephone number of 651-271-0925. Torres stated he heard Eide and an individual named Salsbury did it, the homicide. He heard it from a Nick Utech.

December 31, 2002

Heard from Officer McManus that Melissa Stitz states the correct address for the party is going to be 1525 Hazelwood in St. Paul. Again no other additional information came out of that meeting.

December 31, 2002

Melissa Stitz told Officer McManus that Vance was at the bar on the previous night and was acting out of control.

January 3, 2003

At approximately 11:30 hours I spoke with Sergeant Gainey, St. Paul Police Department who stated he was at Franco's residence. Sergeant Gainey stated that Johnson stays at that residence off and on and has a bed there. He stated that Vance is a problem there and Vanessa Franco does not allow him to stay there. He stated that Johnson does have personal items at that residence. That would be at 147 Forbes Avenue.

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January 3, 2003

Captain Vujovich received a telephone call from Candy with a work phone number of 651-457-7045. Her daughter heard that Dexter might have did the robbery homicide. She heard this at Club Cancun. Mike and Vic do rap at a place called the Red Sea. Candy stated that her daughter heard this from a Shelly Utech.

Candy stated while working at Sabreens she saw cash as much as $1000 pass through in car titles, one being specifically from a neighbor who lives in a gray house on 4th Avenue.

January 03, 2003

MS met with Vance. During this meeting Vance speaks about having firearms and that he has shot lots of people. Vance also make a statement that the last time he used a firearm was about two weeks prior, on the south side, when he shot an individual in the back five times with his Winchester. Vance claims to have more than one firearm. MS was equipped with a voice transmitter, the conversation was recorded and heard by numerous officers.

On January 03, 2003

Captain Vujovich received information requested through an Administrative Subpoena from Sprint that cellular telephone number 651 398 5888 being used by Vance is owned by Sonya Clark. Contact was made with Clark and she confirmed she gave Vance her cellular telephone so she can contact him. She is pregnant with his child.

January 3, 2003

Working with the Gang Strike Force in the area of the Buttery Bar, identified 960 East Minnehaha as a possible residence where Vance and Johnson are known to frequent. At that location we saw Minnesota registration FDX556. The registered owner is a Kathleen Marie Keran, date of birth of February 22, 1952 with an address of 118 13th Avenue South, South St. Paul. Also listed, checking South St. Paul records, a Robert Allen Plemmons, date of birth of December 5, 1956 also resides at that residence.

January 4, 2003

Captain Vujovich, Detective Tom Kreager, Officer Steve Gravem, Detective Steve Ploeckelmann attended a meeting at the Minnesota Gang Strike Force office. At that time a decision was made to try to purchase a weapon from Vance through Melissa Stitz.

January 4, 2003

At approximately 18:00 hours, a consent to search was signed for Sabreens. At that time we were looking for a fourth, fifth round shell casing or projectile. The search was met with negative results. This

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was based on information received while monitoring Melissa Stitz's conversation with Vance on January 3.

Per Tariq we were able to establish that the amount of monetary loss for the robbery was $625 to $650.

Detective Kreager seized the register tape, a shelf and a flashlight battery. Detective Kreager has those items of evidence which were later logged into evidence.

January 5, 2003

Melissa Stitz contacts Officer McManus and states that Johnson is willing to sell her a gun for $75. She will also try and make a purchase from Vance.

January 6, 2003

Johnson tells Melissa Stitz that Vance has a 22 caliber handgun for sale.

January 7, 2003

Detective Kreager received information from the BCA lab that the shell casings found at the crime scene were two separate brands. The first being CCI and the second being Winchester. The lab told Detective Kreager that the Winchester ammunition has a diamond on it. The diamond stamped ammunition has not been made since about 1969.

January 9, 2003

Search warrants were executed at 2057 Bradley, apartment 109, at 291 Birmingham, 147 Forbes and 956 Minnehaha.

I was at the search warrant at 2057 Bradley, apartment 109. At that time I spoke briefly with Monica Jean Blatcher, date of birth of [redacted]-1956 with a home phone number of 651-493-1202. At that time it was learned from Monica that her daughter Dominique was involved in a relationship with Dominick Johnson and they do have a child together. Monica states that she does not have Johnson over at her residence and has very little contact with her daughter when she was (inaudible) with Dominick Johnson.

January 10, 2003

Melissa Stitz spoke with Johnson. At that time she tells Johnson that South St. Paul Police Department was at her work and wanted to speak with her. Johnson basically tells her to be cool. She then informs Johnson what's happening with Florida is jail, why are all the search warrants happening. Johnson informs her that Florida stole a gun from a punk.

January 12, 2003

While Vance is in jail, the first phone call he made was to 651-215-5444. Detective Kreager ID'd this person as Iron Dante Smith, date of birth of [redacted]-1979, who resides at 1045 Rainey Avenue in St. Paul, who

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also has a girlfriend, unknown name at this time. Iron does not have a criminal history. We learned that Vance and Iron do rap together.

January 13, 2003

Received a telephone call from Golden Valley Police Department. They had two robberies with black males, approximately five foot eight, five foot nine and the possible vehicle was an Oldsmobile Cutlass. They were going to hold a briefing at approximately 10:00 on Thursday January 16. Contact person is a Sergeant Nate Grove, telephone number 763-593-8071.

January 13, 2003

Received a telephone call from Officer McManus who stated that Vance had called Melissa Stitz last night.

Also received information from Tony Sloane, telephone number of 612-232-5544. He states that Lorenzo's ex-girlfriend may be in West St. Paul court. She was a witness to an assault where Lorenzo was the victim in case we wanted to talk to her about possible information on Lorenzo.

January 14, 2003

Received a call from Officer McManus. He stated that speaking with the Ramsey County Workhouse he learned that Dominick Johnson has been receiving telephone calls from a Trish Bailey, phone number of 715-247-2150, who has set up visitation at the Ramsey County Workhouse for January 15, 2003.

The above phone number lists to an Antonio Roman Erbano, of 314 Main Street in Somerset Wisconsin.

Trish Bailey is identified as Trish Ann Bailey, date of birth of [redacted] 1978 with a current address in Wisconsin. Checking South St. Paul records she used to live at [redacted] #14. Her vehicle is a 1992 Chevrolet Lumina with Minnesota registration EVY815. This vehicle does match the description of a vehicle of a witness that Officer Steve Gravem spoke with. Detective Steve Ploeckelmann will be following up on this information. After following up on it, Detective Ploeckelmann later learned that this vehicle was returned to a car dealer in mid-December of 2002 and it was at the dealership and not available to her at the time of the robbery homicide.

January 15, 2003

Met with Irxam Tasamoun, date of birth of [redacted]-1965. He has a phone number of 612-250-1760 at Sabreens. He viewed photo lineups of Vance and Johnson. He was not able to identify them from the lineup. Irxam is a full time employee at Sabreens and works many hours there.

January 15, 2003

Corporal Kreager and Captain Vujovich interview Vance at the Ramsey County Jail. He is being held on a probation violation. Vance does not admit to being involved in the Robbery / Homicide. Vance agrees to take a voice stress test to prove his innocense.

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PHILIP RANDALL VANCE DOB/10-20-80

On January 15, 2003 at 14:16 hours, Captain Daniel Vujovich and Detective Tom Kreager of the South St. Paul Police Department interviewed Philip Randall Vance at the Ramsey County Adult Detention Center in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

January 16, 2003

Captain Vujovich met with other officers at the Golden Valley Police Department in reference to numerous robberies in the metro area. At that time it was determined that the robbery homicide at Sabreens probably did not have a connection with those robberies in Minneapolis.

January 16, 2003

On January 16, 2003 at 13:17 hours Captain Daniel Vujovich, Detective Tom Kreager and Deputy Dave Sjogren of the Dakota County Sheriff's Office interviewed Philip Randall Vance at the Dakota County Sheriff's Department in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

Captain Vujovich met Detective Kreager and Officer Gravem, Dave Sjogren, Brad Wayne at the Dakota County Sheriff's Office. Officer Gravem met with Vance at the Ramsey County Adult Detention Center upon his release from there and (inaudible) to go with Officer Gravem to Dakota County Sheriff's Office to take a voice stress test. The test results shows deception. At that time Captain Vujovich and Detective Kreager interviewed Vance after Miranda. Vance continues to deny any involvement in the robbery homicide. At that time he does admit that he took the gun from an individual and that is on the audio recording.

January 17, 2003

Dakota County Drug Task Force does a search warrant at 612 Stewart Avenue. Captain Vujovich spoke with Eide who states that he did not do it, that Rose is setting him up. No items of evidence were seen there that would match the robbery homicide.

January 17, 2003

On January 17, 2003 at 14:54 hours Captain Daniel Vujovich interviewed Dominick Johnson at the Ramsey County Workhouse in reference to this investigation.

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This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription

January 23, 2003

Captain Vujovich received a telephone call from the FBI, Ben Moose, who stated that a Minneapolis store where there was an incident was connected to the Waswa. At that time they had an attorney by the name of Phil Resnick who was a high powered attorney who will be defending the suspect Rex Rogers. Ben Moose will be speaking with Rogers in an attempt to learn any additional information about Sabreens store in South St. Paul. Two of the suspects in that incident were black males. This is for information only. It does not appear to be connected with the South St. Paul store.

January 27, 2003

On January 27, 2003 at 12:45 hours, Officer Steve Gravem interviewed Samantha Marie O'Reilly at the South St. Paul Police Department in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

January 28, 2003

A contact with an individual by the name of Kay Harrington at 651-329-9386. She resides at [redacted] in St. Paul. Kay spoke with Detective Kreager. At that time he gave me a cell number for a Brandy Kay Harrington, date of birth [redacted]-1986 with a cell phone number of 651-329-9380. Kay stated that Brandy is with a Nick Miller. She stated she spoke with Brandy who states the guys who did the Sabreens are being taken care of. Kay is going to try to continue to get information with Brandy. Brandy will not speak with officers.

January 29, 2003

Met with Tariq, showed him photo, see information sheet re: in reference to Sheila.

January 29, 2003

Met with Tariq at the Police Department. At that time he gave me his MCI telephone records showing he made a call at 9:29 PM on December 22, 2002 from the store. While meeting with him Tariq asked if he could view a photograph of his brother for personal reasons. Did show him two photographs of his brother. Tariq gave no indication that the shooter in this case may have been after him versus his brother.

January 30, 2003

I met with Sergeant Kevin Moore, St. Paul Police Department. He had a CRI that was in the store just before the incident. CRI was not able to identify or provide any new information.

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January 31, 2003

Received a telephone call from Lorenzo Eide at approximately 10:15 AM. During this conversation Eide began to question the search warrant at his residence. He stated he is not responsible for Sabreens and that people are making up accusations in an attempt to recover the reward money. Eide stated he would discuss the possibility of taking a voice stress test, stated he'll be speaking with his attorney Mary Winfield with a telephone number of 651-653-1022. At that time Eide requested all contact go through his attorney.

February 7, 2003

I called and left a message for Mary Winfield in reference to Eide taking the stress test.

February 9, 2003

Received a telephone call from a Sonya Lee McKenzie, date of birth of [redacted]-70, who resides at [redacted] West St. Paul, at 455-8062. Sonya informed me that her boyfriend Geronimo Estrada, date of birth of [redacted]-1966 was currently being held at the Ramsey County Workhouse. While there he overheard two individuals talking about the Sabreens homicide and how they shot him. Per Sonya, Geronimo states these individuals are GDs.

February 09, 2003,

Captain Vujovich met with C.R.I. GE who stated he is in the Ramsey County Work House serving time for a probation violation. . GE states Vance, who is also there, is speaking about doing the robbery / homicide. GE states Vance describes having the clerk lay down, he was pleading for his life, and how he "capped" him in the back. Vance also talk about traveling to Wisconsin that night, their vehicle striking a deer and leaving the vehicle. Vance states the clothing worn and weapon used were left in the vehicle. . GE states Vance is mocking the police because they have no evidence and will not be able to find any.

February 3, 2003

I was able to make telephone contact with Brandy Harrington at 651-329-9380, the cell number provided by her grandmother. Brandy stated she has no information about the incident and her boyfriend Nick Miller got on the phone and states that they only know about rumors and would not go into any type of details about the rumors. Brandy was told to call at a later time if she had any additional information.

February 4, 2003

Tariq came to the police department and spoke about the possible hit as the reason for the homicide. Tariq stated he would be able to increase the reward money and he will work to attempt to get other witness' names.

February 5, 2003

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Contacted Minnesota Gang Strike Force and requested reports in reference to the search warrant. Also arranged for a meeting with Tariq, Dakota County Sheriff's Deputy Sjogren and the FBI. The meeting will be held at the South St. Paul Police Department on February 7, 2003.

February 6, 2003

Met at the Minnesota Gang Strike Force and worked on locating Melissa Stitz.

February 6, 2003

I met with Tariq. He stated that he may not be able to make the meeting which was scheduled for Friday because he needs to go to California in reference to his car business where the partner is embezzling thousands of dollars from him.

February 7, 2003

Received information - spoke with Tariq and he cancelled the meeting stating he does need to go to California.

February 7, 2003

Phone number for Brandy Harrington, 329-9380.

February 7, 2003

Received information from a Cameo Gazza at 768-7025. She resides at 8837 90th Street in Cottage Grove. She has a boyfriend by the name of Charles Michael Ford, date of birth [redacted]1981. She states that this boyfriend who will not talk to the police may have information in reference to the Sabreens homicide.

February 9, 2003

Received a telephone call to contact Geronimo Estrada at the Ramsey County Workhouse. Geronimo Estrada states on the night of the robbery Florida was talking about wearing masks, having the clerk lie down, capped him in the back and going to Eau Claire, a college town to meet some girls. While going there they struck a deer, broke down at or near a rest stop and left the vehicle, called and got a ride back home and left in the vehicle was the gun and clothing. Information will be on the statement taken from Geronimo.

February 10, 2003

At approximately 13:30 hours, Captain Vujovich and Dakota County Sheriff Dave Sjogren met with Johnson at the Ramsey County Workhouse. Johnson had agreed to take a voice stress test. The test results showed deception. Johnson stated his new address was 256 Birmingham Apartment number 2 in St. Paul, but he does not have a phone number. During that conversation, during that interview Johnson states that he either took a Citywide Cab, phone number 489-1111, Diamond Cab, 642-1188 to Eagan. Citywide and Diamond checked their records and did not find any fares going to the Eagan address where Drager or White reside on Rahn Road.

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February 10, 2003

Attempted to contact Sonya Clark and left a message at her residence, which is 763-416-0860.

February 10, 2003

Left a message for Sheila McDonough at 458-1067 I would be calling in the next day with other possible information.

February 10, 2003

Received a telephone call from an individual named Raymond. He called at approximately 11:00. His phone number is 459-6961. He stated on the night of the robbery at approximately 9:45 PM on Highway 61 a Cadillac passed him on the shoulder of the room going at approximately 100 miles an hour. A black male was seated in the rear seat area with two in the front seat. It was possibly a white Cadillac.

February 10, 2003

Received a telephone call from Mary Winfield at 651-653-9742 and also phone number of 651-653-1022. She stated she will discuss with Eide the possibility of setting up a voice stress test and will get back to us on that.

February 10, 2003

Captain Vujovich contacted Yvonne White. She states that the last time Vance and Johnson were at her residence were a few days before Christmas. They arrived there at approximately 2:30 AM.

On February 10, 2003 at 12:01 hours, Captain Daniel Vujovich interviewed Yvonne White in a phone conversation in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

February 10, 2003

A letter was dated, authored by Mary Winfield, who stated that she is representing Eide and according to our request she would do anything - she would not allow Eide to speak to us regarding the criminal investigation. Our requests are denied.

February 10, 2003

During the meeting with Johnson at the Ramsey County Workhouse, during the voice test stress, Johnson would keep repeating the message, you have evidence, go ahead and charge me, prove it. Johnson states that Florida got the 22 gun from G at the Buttery. G is later identified as Kenny Wilson. Then Johnson states that they got to Eagan, Yvonne

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White's house on 12-23-02 by a cab and they paid $25 for the fare. I checked with both cabs which show no fares to White's residence.

February 11, 2003

I spoke with Sonya Marie Clark, date of birth of [redacted]-1981, phone number 763-416-0860. Sonya Clark is pregnant with Vance's child and is due approximately May 13, 2003. Clark has a gold four door vehicle, Toyota. Clark stated she last saw Vance downtown St. Paul in the morning hours of December 22, 2002. The next time she saw Vance was on Christmas Eve. Clark also states that she was with Florida when he took the gun from G at the Buttery.

February 11, 2003

Detective Ploeckelmann met with Vanessa Franco, phone number 224-1179.

February 11, 2003

Captain Vujovich met with Geronimo Estrada at the Ramsey County Workhouse. The interview was conducted.

February 11, 2003, met with. GE who provided a audio recorded statement. GE recalls Vance talking about wearing masks that night and they were purchased at the Unidale Mall in St. Paul.

February 11, 2003

I spoke with Amy Drager, Yvonne White's roommate. She states that Florida arrived at their apartment on 12-23 at approximately 03:00 hours and that they arrived in a Suburban Cab. Amy states that they left the apartment the next day at approximately 2 to 3 in the afternoon.

On February 11, 2003, at (unknown) hours Captain Daniel Vujovich interviewed Amy Drager in a phone conversation in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription

February 11, 2003

I spoke with John at Suburban Cab. He states the records - any records over a month are hard to find but he'll check a back up system and could send them a request for that to verify any cab going to Rahn Road or picking them up leaving. They were not able to locate any of those records.

February 11, 2003

Approximately 11:35 AM, Captain Vujovich met with Geronimo Estrada at the Ramsey County Workhouse. Geronimo Estrada states in addition to the information given, Geronimo Estrada states Florida told him that he got rid of his shoes. Stacks told him he had a girlfriend in South St. Paul, near possibly Kaposia School, not for sure. Vance had Newport

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cigarettes and (inaudible) 400 on February 6 or 7th of 2003, that they purchased the masks at Uniondale Mall on University and Dale and that Vance had made a statement similar to in describing how they shot Khaled, touched in the way he touched my cousin, my bitch ass cried to me. Possible others to interview are a Deval Harris, a Bobby Flores and Betty.

On February 11, 2002 at 12:05 hours, Captain Daniel Vujovich interviewed Geronimo Estrada at the Ramsey County Workhouse in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

February 11, 2003

Minnesota Gang Strike Force Pyka and Schumaker interviewed Johnson at the Ramsey County Workhouse. They believed Johnson has direct knowledge of who did it and they have documented their interview in a report.

February 11, 2003

Sonya Clark returned a telephone call and we'll need to call her between 13:00 and 17:00 hours.

On February (unknown), 2003 at (unknown) hours, Captain Daniel Vujovich interviewed Sanya Clark at (unknown location) in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

Ron from Diamond Cab called. There was no pick up going to Rahn Road. Received a phone call from McKenzie who stated that Geronimo Estrada has additional information.

February 11, 2003

Received another phone call from Ron at Diamond Cab. No pick up at Forbes Avenue or a run to Rahn Road in Eagan.

February 12, 2003

Tariq is in California and the interview is set for Friday of that week.

February 12, 2003

Nick Miller called from 329-9380. He was concerned why we wanted to speak with Brandy who is his girlfriend. We were able to contact Brandy Harrington. She only has information based on rumors that Dexter Salsbury is involved.

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February 12, 2003

A clerk is murdered during a robbery of in MPLS. The suspects were identified and their photographs shown in the February 20, 2003 St. Paul Pioneer Press Newspaper. The suspects are; Maynard Cross, Anthony Hayes, and Elizabeth Fleming.

February 14, 2003

I spoke with Josh at the BCA, phone number 642-0743, who stated he is working on latent prints.

February 14, 2003

TARIQ MAJID BAKKRI [redacted]-79
[redacted]
Inver Grove Heights, MN
554-9890
Cell: 651-226-8877

On February 14, 2003 at (unknown) hours, Deputy Dave Sjogren of Dakota County Sheriff's Office and Agent David Voth interviewed Tariq Majid Bakkri at the South St. Paul Police Department in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

February 14, 2003

Received audiotapes from the Ramsey County Workhouse in reference to Geronimo Estrada's phone call to his girlfriend requesting her to contact the police department.

February 18, 2003

Contact was made with (Kern) in reference to Minnesota registration FDX556. She stated she sold the vehicle to a Dolores Easel on October 2, 2002. I have a copy of the sellers notice. Dolores Easel is Vance's girlfriend who resides at 956 Minnehaha. Did have (Kern's) boyfriend Robert Plemmons who handled most of the sale look at a photograph lineup of Vance and stated he looked familiar but could not positively identify him as being there when the vehicle was sold. He was not able to pick Johnson out of any lineup.

February 21, 2003

Met Sam at the Sabreen's store. He stated he saw in the paper a Minneapolis homicide suspect Maynard Cross in Sabreen's store approximately 2 to 3 days before the homicide. Maynard Cross is identified as Maynard Randy Cross, date of birth [redacted]-1979 with a address of [redacted] in St. Paul.

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February 21, 2003

Met with Sam at the Police Department to view a lineup made by Officer McManus. He was not able to identify cross, lineup number 11567, 568, 566. Sam then viewed the newspaper photo again and said that he was 100% sure it was Cross that he saw in Sabreens two to three days before the robbery. It should be noted that in the photo lineup of Cross his appearance is somewhat different than the photograph in the newspaper.

February 21, 2003

We had Tariq view the photo lineup of the Minnesota Gang Strike Force. Tariq picked out number two, which is Cross as being in either his St. Paul store or his South St. Paul store. He said Cross did look familiar but he was not able to say for sure what store he recognized him from.

February 22, 2003

Captain Vujovich met with Mary Kay Bitney at Sabreens. She stated that she saw in a newspaper article in reference a Minnesota homicide. While reviewing the article she recognized one of the suspects as Q. Mary states that Q was at her home a number of times in December of 2002 delivering drugs there. Q has been identified as Maynard Cross.

February 24, 2003

At approximately 11:53 AM, a Kevin Zytanobizz, with a telephone number of 651-296-0780 came to the police department. He states that he used to live on 6th Avenue in the 400 block. Kevin states his old neighbor by the name of Mark, first home south of 437 6th Avenue South states he knows who did the robbery at Sabreens.

February 25, 2003

Captain Vujovich met with Mary Kay Bitney at the Drover's Inn parking lot. She was in a vehicle, Minnesota registration ETA438. May Kay Bitney identifies Cross as Q. She states that he does have friends from South St. Paul and would know his way around town.

February 26, 2003

We met with Minneapolis PD homicide investigators (inaudible) who may have additional information about Cross. Detective Ploeckelmann is following up on that information. No new information at this time.

February 27, 2003

Met with Colleen McManus at the Police Department. She viewed a lineup of Cross, lineup number 11568. She identified Cross as the Q that she spoke of earlier. Colleen stated that she ID'd him once and knows his first name as Maynard. Colleen states that she has seen him with Vance and Johnson and that they were together the night of the shooting.
On February 27, 2003 at 16:00 hours, Captain Daniel Vujovich interviewed Colleen Mary McManus at (unknown location) in reference to this investigation.

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This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

March 4, 2003

Detective Ploeckelmann and Sergeant Pyka met with Anthony Hayes at the Hennepin County Jail. Hayes stated he has information about the Sabreens homicide but he wants his attorney present, Anne Murray (inaudible) attorney.

March 4, 2003

Contact was made with Scott Hersey and advised him of the situation.

March 5, 2003

Made contact with Lee Gray, Hennepin County Attorney who is handling the case with Cross and Hayes. His number is 612-348-4261. Advised him of the situation and he basically did not want to speak with officers but would speak with Dakota County Attorney.

March 6, 2003

Received information from Sergeant Pyka that Johnson was arrested for a probation violation and will be at the Adult Detention Center until the first of the month. Did listen to some of Johnson's phone calls at the Adult Detention Center. Nothing of interest.

March 7, 2003

Tariq came to the police department to report that a Rick Jacobsen who was in jail received a visitor who stated he was involved in the Sabreens shooting. Received info of possible vehicle Minnesota registration KEC024. Detective Ploeckelmann is following up on that.

March 7, 2003

Tariq came to the Police Department and states that the phone base may have been touched and the suspects stole his phone.

March 7, 2003

I spoke with Tariq who informed me that the base to the store's cordless phone may have been touched during this conversation. Tariq informed me that the handset was missing. Detective Kreager took possession of the phone base. Note that's interesting to note that in Geronimo Estrada's statement he spoke about Vance and Johnson taking the victim's phone.

March 13, 2003

Arrangements were made for Melissa Stitz to view the lineup of Cross on March 14, 2003 at 11:00.

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March 13, 2003

I spoke with Scott Hersey, Dakota County Attorney's Office, who will be attempting to speak with Anthony Haye's attorney.

March 14, 2003

At approximately 11:00 hours Officer McManus and I conducted a telephone conference call with () PD and Melissa Stitz, the purpose of the conference call was to show Melissa Stitz a photograph lineup in attempt to ID the third person at the Buttery Bar. After reviewing the photograph, Melissa Stitz was not able to make an identification. The conference call was audio recorded and the audio recording will be transcribed and included in the case file.

March 17, 2003

A probation violation warrant was issued for Johnson.

March 19, 2003

Captain Vujovich went to the Economy Inn in St. Paul and reviewed the desk register. No names were familiar.

March 19, 2003

A message was left for Anne Remington who is the attorney for Anthony Hayes.

March 26, 2003

Detective Ploeckelmann and MGSF Agent Pyka meet with Cross. Cross states he has information about the SSP Robbery / Homicide and identifies Vance as being involved. Cross states he will give a statement and testify. Cross states an individual named Trevor Crawford can verify his statements. (Detective Ploeckelmann, Detective Kreager, MGSF Agents Pyka and Kennedy have spoken with Cross. He states he wants to provide information for this Robbery / Homicide and two other St. Paul Homicides in exchange for having a date when he can tell his mother he will be released from jail, knowing that it will be many years down the road. The last meeting on April 21, 2003. During the April 21, 2003 meeting Cross told Agent Pyka that he can give police the SSP Robbery / Homicide in a package for a reduction of five years off his sentence. Cross stated that he has asked Crawford to hold off on gathering information until the attorneys can reach an agreement. Conversations to this point between Dakota County Attorney Office, Hennepin County Attorney's Office and Cross's attorney are unsuccessful.

April 4, 2003

I made telephone contact with Amy Drager. The purpose of this phone call was to check to see if she had learned any additional information that may be important to this investigation. Amy Drager stated that she has not.

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April 4, 2003

I made telephone contact with Yvonne White. The purpose of this telephone call was to check to see if she had received any additional information that may be important for this investigation. Yvonne White stated that she had not.

April 08, 2003

Detective Ploeckelmann meets with Crawford. Crawford states that he was at the Buttery bar when he heard Vance tell Cross about shooting a guy on the south side. Crawford is willing to gather more information. On April 8, 2003 at 13:16 hours, Detective Steve Ploeckelmann interviewed Trevor Alvin Crawford at 837 Como Ave. #18 in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

April 16, 2003

Met at the Minnesota Gang Strike Force office. Basically we were checking the addresses for Vance and Johnson. Did receive some reports that they were spotted at a homeless shelter in Minneapolis located at 1010 Curry.

April 16, 2003,

MGSF Agents Pyka and Kennedy meet with Cross. Cross states he was at the Buttery Bar on the night of the Homicide / Robbery with Crawford. Cross states Vance and Johnson are known to do "stick ups " at local stores. Cross states that Vance told him that he just shot a guy. Cross states the homicide was the result of a robbery gone bad. Cross states he continued to see Vance and Johnson after the incident and would supply them with narcotics. Cross states he is willing to testify. On April 16, 2003 at (unknown) hours, John Pyka and Sandy Kennedy of the Minnesota Gang Strike Force interviewed Maynard Cross at (unknown location) in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

April 17, 2003,

Keitha McKinney and Richard Vincent Robinson was arrested for 1 st Degree Sale of Narcotics. Robinson's street name is Hennessy. Per CM Robinson associated with Vance and Johnson at the Buttery Bar. Through the cellular telephone records of Sonya Clark, telephone being used by Vance, officers learned calls were placed to Keitha McKinney's telephone just prior to and just after the Robbery / Homicide. Robinson is McKinney's current boyfriend. McKinney lives two blocks

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away from the Robbery / Homicide. Corporal Kreager learned that Robinson is Johnson's cousin. Corporal Kreager and Detective Ploeckelmann interview McKinney and Robinson. Both state they have no knowledge of the Robbery / Homicide.

April 17, 2003

On April 17, 2003 at (unknown) hours, Captain Daniel Vujovich, Detective Tom Kreager, John Pyka of the Minnesota Gang Strike Force and Dave Nygren interviewed Philip Randall Vance at (unknown) location in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

Vance was arrested by the Minnesota Gang Strike Force for probable cause sale of a weapon. At approximately 10:50 PM that evening Vance was interviewed. We do have a taped statement for that.

April 17, 2003

We assisted with a search warrant at 185 Como Avenue. That was in reference to the purchase of narcotics Richard Robinson.

April 17, 2003

Detective Kreager and Detective Ploeckelmann met with Keitha McKenney who was being held at the Ramsey County Sheriff's Office in reference to a narcotics violation. McKenney did not have any knowledge of who was calling her cell phone on the night of the homicide or Vance's or Johnson's involvement in the homicide.

April 17, 2003

Detective Kreager and Detective Ploeckelmann met with Richard Robinson at the Ramsey County Sheriff's Office. He was being held there on an unrelated charge. Robinson denied any knowledge of who may be involved in the Sabreens robbery homicide.

April 17, 2003

Ramsey County Sheriff's Department arrested Richard Vincent Robinson, AKA Hennessey and Keith McKenny for first degree sale of narcotics. They were interviewed by Detective Ploeckelmann and Detective Kreager.

April 17, 2003

Approximately 17:00 hours, I spoke with Colleen McManus. She stated she has identified Richard Vincent Robinson, AKA Hennessy before at the Buttery. Colleen states that Robinson and Johnson are true cousins and they are from Illinois .Colleen also states that Hennessy has been at the Buttery Bar with a female with a gold tooth, possibly Keitha but was not there the night of the shooting.

April 18, 2003

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Received a telephone call from Vance who was at the Ramsey County Jail stating after reviewing things in his head that when he made the comment to Melissa Stitz that in reference to shooting someone five times with his Winchester what he was really saying was 45th and Winchester, referring to an address in Chicago. We later did a taped statement regarding those comments.

April 18, 2003

On April 18, 2003 at 16:16 hours, Captain Daniel Vujovich and Detective Tom Kreager interviewed Philip Randall Vance at the Ramsey County Annex in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

Detective Kreager and ATF Agent Nygren, myself met with Philip Vance at the Ramsey County Sheriff's Office where he is being held on the St. Paul gun charge. Statement was taken and was audio recorded and transcribed.

April 21, 2003

On April 21, 2003 at 11:54 hours, Captain Daniel Vujovich and Dave Nygren interviewed Philip Randall Vance at the US Marshall's Office in Minneapolis in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

ATF Agent Nygren and I met with Vance at the United States Marshall's Office prior to his court appearance. Again we gave Vance his rights per Miranda. During this interview Vance stated that he now recalls that he was not with Dominick Johnson between the hours of 8 PM and 10 PM after leaving the Radisson and being seen at the Buttery Bar together. That interview was also audio recorded.

April 21, 2003

We interviewed Vance at the United States Marshalls Office at Minneapolis prior to going into the courtroom for a detention hearing. The interview was conducted by myself and Agent Nygren, ATF. Vance stated he was not with Johnson on the night of the shooting between 8:00 PM and 10 PM.

April 22, 2003

Contact was made with Sergeant Cook, Peoria, Illinois in reference to helping to look for Johnson who was supposedly there with an outstanding Minnesota probation violation warrant.

April 23, 2003

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Captain Vujovich and MGSF Agent McManus spoke with Regina Haggerman. Regina states on the Saturday before Super Bowl Sunday in January 2003 Vance was her house visiting her niece, Darlene Jones. Regina states Vance told her that he was being investigated for a murder, that he did it but the police were not going to be able to prove it because of lack of evidence.

On April 23, 2002 at 17:25 hours, Captain Daniel Vujovich interviewed Regina Haggerman at 3rd Street and Earl in St. Paul in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

April 23, 2003

On April 23, 2003 at 17:37 hours, Captain Daniel Vujovich interviewed Lugene O'Connor at 3rd Street and Earl in St. Paul in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

On April 23, 2003, Captain Vujovich and MGSF Agent McManus spoke with Eugene O'Connor. Lugene states in December 2002, after Christmas but before New Years Johnson came to his home looking for Vance, who was dating Lugene's granddaughter. Johnson stated he was looking for Vance because he wanted his half of the $ 650.00 that Vance left with. (This is about the amount taken from Sabreen's. (The granddaughter is not willing to speak with police and does have regular contact with Vance.)

April 24, 2003
Vance made a second appearance in Federal Court. He is being detained until trial. Currently he is being held in Sherburne County Jail.

May 01, 2003

Captain Vujovich and ATF Agent Nygren met with Kenny Wilson at the Ramsey County Workhouse. Wilson gave a statement detailing how Vance stole the .22 caliber gun from him.

Wilson gave us permission to go to his mothers home to look for the clip. 759 Jesse, St. Paul.

Captain Vujovich, Nygren, McManus and Leko go to 759 Jesse Meet with Ina Kendricks Wilson's mother. She too gives u s permission to check the residence for the clip or ammo. Ina did give me three rounds of ammo. The ammo was later given to Kreager.

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Nygren takes tapes to make copies for Federal Case

May 02, 2003

Received a telephone call from BCA indicating that DNA on a cigarette butt found in the parking lot of Sabreen's matches the DNA found on a cigarette butt at a burglary scene in Wright County on March 12, 2003.

Wright County Burglary Case Number 03006569 BCA
Case Number S 03 02108
Wright County Investigator Mark Tuttle

2102 made contact with Detective Enderson, Wright County Sheriff's office. A request was made to fax the burglary reports to our office. Fax received

May 05, 2003

2101 contacted Scott Hersey and requested a meeting to discuss this investigation

Federal Grand Jury will be meeting today to indite Vance of weapons violation

ATF Nygren returned video recording of the interview with Vance date 04/17/03. The interview was at St. Paul PD after Vance's arrest. PC weapons violation. Nygren was coping tapes for Federal Grand Jury.

May 6, 2003

Received a telephone call from Officer McManus stating that a St. Paul informant has told officers that Johnson is still in the St. Paul area, still working to pick up Johnson on the Ramsey County probation violation warrant.

May 19, 2003

Tariq called and stated an individual by the name of Andy's girlfriend Sara, I believe that to be maybe Sara Schultz, has direct information. He states that a Brad Jacobsen that's in treatment. Brad Jacobsen apparently has a visitor who has information about the robbery homicide. We have not been able to conclude who Brad Jacobsen is.

May 27, 2003

I received information from Minnesota Gang Strike Force, Officer Agent Schumaker that stated Johnson was arrested in Peoria Illinois and did make arrangements went to Peoria Illinois and spoke with Johnson at approximately 22:00 hours. A taped statement was taken.

May , 2003

A search warrant is executed to obtain a sample from Vance for DNA testing.
The DNA sample was taken to the BCA Lab for testing

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May 27, 2003

Johnson was arrested in Peoria, Illinois for Ramsey County Probation Warrant

May 27, 2003

On May 27, 2003 at (unknown) hours Captain Daniel Vujovich, Detective Tom Kreager and John Pyka of the Minnesota Gang Strike Force interviewed Dominick Johnson at (unknown location) in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

On May XXX, Detective Kreager , MGSF Pyka, and Captain Vujovich interviewed Johnson in Peoria. Johnson did not provide new information but did give a different time line. He confrimed the use of Clark's cell phone

May 2003

MGSF Pyka and Johnson interview Cross. Cross states that Vance told him that he and Johnson did a convenience store robbery and the clerk was shot and he may be dead. This was about 11:00 p.m. on 12/22/02

On May 28, 2003 at (unknown) hours, John Pyka and Sandy Kennedy of the Minnesota Gang Strike Force interviewed Maynard Cross at (unknown location) in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

May

The media is informed of the investigation by an unknown sorce.

June 04, 2003

MGSF McManus receives information from Eugene O Conno that Latrell, who lives upstairs spoke with Johnson's girlfriend. Per her she spoke with Johnson who stated that he and Vance did Sabreens, Johnson was the shooter, he used his .22, Vance took the money, and the third person, look out, was Johnson's cousin Donte.
McManus ID Shamar Donte Jenkins [redacted]1979 as the possible third person. He is Johnson's cousin and possible half brother to Robinson. C.M. viewed photo of Jenkins and stated he has been at the Buttery with Vance and Johnson. McManus will be working on getting a statement form Latrell.

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June XXX
On June 9, 2003, Captain Daniel Vujovich, Andy Schumaker of the Minnesota Gang Strike Force and John McManus of the Minnesota Gang Strike Force interviewed Lugene O'Connor at (unknown location) in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

On June 9, 2003 at (unknown) hours, Captain Daniel Vujovich, Andy Schumaker of the Gang Strike Force and John McManus of the Minnesota Gang Strike Force interviewed Jacqueline Ezell at (unknown location) in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

Captain Vujovich and Agent McManus interview Lugene O'Connor and Jaclqualine Ezell in reference to the investigation. During their statements they speak about a night when Vance came to their house and took possession of a small frame firearm. A short time later Johnson came to the house looking for Vance. When told he just left with a gun Johnson siad when you see Vance tell him I want my half of the $ 650.00

June
On (unknown date and time) John McManus of the Minnesota Gang Strike Force interviewed Lugene and Jackie O'Connell at (unknown location) in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

Agent McManus spoke with O'Connor and Ezell they were hearing that Johnson was the shooter and Vance was either passed out in the vehicle or took the money from the cash drawer.

June 04, 2003,

MGSF McManus receives information from Eugene O Conno that Latrell, who lives upstairs spoke with Johnson's girlfriend. Per her she spoke with Johnson who stated that he and Vance did Sabreens, Johnson was the shooter, he used his .22, Vance took the money, and the third person, look out, was Johnson's cousin Donte.
McManus ID Shamar Donte Jenkins [redacted]1979 as the possible third person. He is Johnson's cousin and possible half brother to Robinson. C.M. viewed photo of Jenkins and stated he has been at the Buttery with Vance and Johnson. McManus will be working on getting a statement form Latrell.

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June 5, 2003

Contact was made with Sonya Clark at her residence. Sonya Clark agreed to come to the South St. Paul Police Department to discuss it. She did arrive and reviewed the phone records that we had and indicated that she had not made any of those phone calls.

On June 5, 2003, at 13:12 hours, Captain Daniel Vujovich interviewed Sanya Marie Clark at the South St. Paul Police Department in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

June 18, 2003

On June 18, 2003 at 15:05 hours, Captain Daniel Vujovich and Detective Tom Kreager interviewed Philip Randall Vance at the Sherburne County Jail in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

June 20, 2003

I received a message from Dakota County Attorney Kathy Keena stating that she has received notice that Philip Vance has been appointed a public defender to represent him in reference to the homicide. The public defender is Lisa Jensen and I do have a letter indicating that.

June 23, 2003

I received a telephone call from Officer McManus stating that he spoke with Lugene O'Conner who stated that he had heard from his granddaughter Cantrell Anthony that Dominick Johnson was actually the shooter. Lugene O'Connor also heard that there were two 22 caliber weapons used. The one used to kill the clerk was thrown into a lake or a river.

June 24, 2003

I made contact with Don Rostein, Minnesota Correctional Facility St. Cloud, 651-987-4770, or 320-240-3055. Advised him of this investigation. Stated that agents at St. Cloud Facility will be attempting to monitor Johnson's phone calls.

June

Captain Vujovich and Corporal Kreager interview Vance in Sherburne County Jail. During the interview Vance denies involvement in the crime. He does speak about and accident he was involved in when Robinson was driving a vehicle on East 7th Street, The vehicle was gray

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and belonged to his aunt. Copies of the St. Paul report are included in case file.

June

MGSF continue to hear that the vehicle used belonged to Johnson's baby's mama. Monica Blatcher. On xxxxx Agent McManus and I spoke with Blacther at ther esidence. She stated she does not own a vehicle and has little contact with her.

June XXXX

Agent McManus and Detective Plocekekmann meet with O'Connor and Ezell and get an audio recorded statement in reference to Vance and Johnson using Blacther's vehicle.

***July 11, 2003**

Officer McManus and Minnesota Gang Strike Force Agent Paul Meskin and I met at the Ramsey County Jail to interview John Martin who has been held there on an unrelated charge. We did receive a statement from Martin.

July 11, 2003

Officer McManus, Meskin and I met with a Fabian Mynell Wilson, date of birth [redacted]83 at the Ramsey County Jail in reference to this investigation. The interview was conducted with Wilson and a taped statement was received. During this statement Fabian Wilson states that Vance told him that him and Stacks were responsible for the shooting.

July 11, 2003

Officer McManus and I again met with John Martin. The purpose of the meeting was for Martin to receive, review several photographs and attempt to identify individuals that were with Vance and Johnson and who they refer to as the South St. Paul girls. Martin identified Yvonne Marie White, date of birth of [redacted]-1984 as an individual that he knows as a South St. Paul girl. During this meeting Martin also gave a sample of saliva for DNA testing comparison for evidence found (inaudible) crime scene. He did that after reviewing a waiver and consent to search.

On July 11, 2003 at 15:07 hours, Captain Daniel Vujovich and John McManus of the Minnesota Gang Strike Force interviewed John Edward Martin at the Ramsey County Jail.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

On July 11, 2003 at (unknown) hours, Captain Daniel Vujovich, John McManus of the Minnesota Gang Strike Force and Minnesota Paul Misken of the Gang Strike Force interviewed John Edward Martin at the Ramsey County Jail in reference to this investigation.

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This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription

July 11, 2003

On July 11, 2003 at 12:08 hours, Captain Daniel Vujovich and John McManus of the Minnesota Gang Strike Force interviewed Fabian Lionel Wilson at St. Paul Police Department in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

On July 11, 2003 at 15:35 hours, Captain Daniel Vujovich and John McManus of the Minnesota Gang Strike Force interviewed Fabian Lionel Wilson at the Ramsey County Annex in St. Paul in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

July 15, 2003

On July 15, 2003 at (unknown) hours, Detective Tom Kreager interviewed Amy Drager and Yvonne White in a phone conversation in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

On July 15, 2003, Detective Tom Kreager interviewed Amy Drager and Yvonne White in a phone conversation in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

July 15, 2003

On July 15, 2003, Corporal Kreager learned that Rauschnot's vehicle was abandoned and later impounded. Corporal Kreager was able to determine the vehicle was currently being held at Magnum Towing located in Eagan Minnesota . A hold was placed on the vehicle.

July 16, 2003

On July 16, 2003, Detective Ploeckelmann met with owner, K.M., of Magnum Towing. Detective Ploeckelmann was able to determine that Minnesota Registration, JWF 567 is registered to Nicolle Lynn Rauschnot, date of birth, [redacted]1979. The owner, K.M. stated due to the storage charges the lien holder has turned over title of the vehicle to him. The owner, K.M.

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and gave Detective Ploeckelmann permission to have it towed to the South St. Paul Police Department pending further investigation.

The vehicle was towed to South St. Paul Police Department and is currently being held in the police garage pending further investigation.

July 16, 2003

On July 18, 2003, Detective Ploeckelmann and Agent McManus interviewed NICOLLE LYNN RAUSCHNOT/DOB [redacted]79.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription

On July 16, 2003, Minnesota Gang Strike Force Agent McManus and Detective Ploeckelmann met with Nicolle Rauschnot at her place of employment. During their conversation with her she denies knowing Vance, Johnson, or Cooperating Individual J.M. Rauschnot admitted ownership of Minnesota Registration JWF 567 and that she is the only driver but did allow White to use the vehicle to go to the store but that is a rare occasion. Additionally she denied being in St. Paul Minnesota on December 22, 2003.

July 17, 2003

I met with John Martin at the South St. Paul Police Department. At that point we had a vehicle belonging to Nicole Rauschnot in the Police garage. John Martin saw that vehicle and stated - identified as being a vehicle that he observed Vance and Johnson get into at approximately 9:00 on December 22, 2002. A taped statement was later taken from Martin in reference to that.

On July 17, 2003 at 11:40 hrs, Captain Daniel Vujovich and John McManus of the Minnesota Gang Strike Force interviewed John Edward Martin at (unknown) location in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription

July 18, 2003

On July 18, 2003, Detective Ploeckelmann and Agent McManus interviewed NICOLLE LYNN RAUSCHNOT/DOB [redacted]-79.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription

July 21, 2003

Corporal Kreager had search warrant for Rauschnot's vehicle signed.
To BCA for examination

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July 29, 2003
On July 29, 2003, at (unknown) hours Detective Tom Kreager interviewed Amy Drager in a phone conversation in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

July 30, 2003

A search warrant was drafted for Rauschnot's vehicle and was presented to Judge Murphy, was signed on July 30, 2003. We did execute the search warrant and items of evidence were taken from the vehicle. The vehicle was then transferred to the Minnesota Bureau of Criminal Apprehension for further processing and a search warrant was written for that vehicle for that.

August 1, 2003

Officer McManus and Captain Vujovich interviewed Cantrell Laticia Anthony, date of birth [redacted]1983 in reference to this investigation. During this interview Cantrell stated that Franco told her during conversation that she had with Johnson that he admitted to her that he was involved in the South St. Paul robbery homicide. Cantrell stated that she used to be friends with Nicole Rauschnot and that Nicole was friends with Vance and Johnson. That interview was also audio recorded.

On August 1, 2003 at (unknown) hours, Captain Daniel Vujovich and John McManus of the Minnesota Gang Strike Force interviewed Kentrell Latasha Anthony at (unknown location) in reference to this investigation.

This interview has been audio recorded. The audio recording has been transcribed and is included in this case file. See transcription.

August 6, 2003

Detective Ploeckelmann met with Vanessa Franco and transported her to the Sheriff's Office where she did take the voice stress test. The test results show that she is - the test results indicate deception and that she does have some knowledge of the robbery homicide.

***August 8, 2003**

Detective Ploeckelmann and Officer McManus again met with Vanessa Franco in reference to the investigation. Franco continued to deny to have any knowledge of Vance's or Johnson's involvement in the homicide. Detective Ploeckelmann offered Franco the opportunity to take a voice stress test. Franco agreed to do so and arrangements were made to have that done on August 6, 2003. Detective Ploeckelmann did audio record that statement and that will be transcribed.

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August 8, 2003

Detective Ploeckelmann and Officer McManus met with Dominique Blatcher in reference to this investigation. Dominique Blatcher states that she has no knowledge of Johnson or Vance's involvement. That interview was also audiorecorded and will be transcribed.

August 13, 2003

I met with John Martin. At that time John Martin wrote a letter to Johnson, who was being held at the Minnesota Correctional Facility, St. Cloud. That letter is requesting Johnson to call Martin in reference to the police trying to talk to him about the robbery homicide. And we do have a copy of the letter.

October 21, 2003

Steve met with Cross this morning as a follow up to his last visit. Steve explained to Cross because of when the 30 year rule became mandatory there is no data available to indicate how many years he may expect to serve. Near the end of the conversation Steve mentioned to Cross there was reward money available and if he is able to get solid information he may be eligible. Cross is now interested.

Cross is currently in the same cell block as Johnson but due to being on restrictions he has not had any contact with him. Those restrictions will be lifted.
Cross will be able to speak with Johnson during meal times. Steve told him we are looking for information as to who pulled the trigger, the driver, the vehicle ect. Cross indicated he will do what he can.

Cross's phone privileges will be restored.

MCF Investigators will be monitoring Cross and Johnson's phone calls.

Steve will be following up with Cross and his family.

October 31, 2003

Vance made an appearance in Federal Court. He was sentenced to 10 months with credit for time served. Expected release date is February 17, 2004

Date unknown

Steve will also be getting a copy of a letter that Vance sent to Johnson advising him to write or say anything as phone calls and mail may be monitored.

November 13, 2003

Ploeckelmann spoke with MCFSC Investigator who stated that Cross told him that Johnson would not speak with him due to hearing that he has already spoken with officers. Johnson did say that the gun we

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recovered is not the one that was used. Steve will be following up on this and getting a statement from Cross.

Steve spoke with a MCFSC investigator who stated he spoke with Cross who informed him that Johnson told him that the gun we recovered was not the one they used. Also they seized a letter Johnson wrote to Vance advising him that we do not have any evidence and to hold tight.

Steve went to MCFSC yesterday to get a statement from Cross. He stated he would be willing to give a statement but before doing so he wanted assurances that he would be moved to Appleton prison. He made the statement to Steve that he could make or break our case. (not sure what he means) He fears that if he testifies or gives a statement that he could be harmed.

Steve is here this morning and I would like to set up a time when we could do a conference call to discuss what is the best way to get a statement from Cross. If you let me know when you are available I will set it up with Steve.

MCFSC gave Steve a copy of a letter that Johnson was sending to Vance. They did not keep a copy of the letter that Vance sent to Johnson

November 14, 2003

Spoke with Kathy Kenna about the information received by Steve. She will be doing some research on it but it does not look like we will be pursuing it. May not be possible to get Cross to Appleton.

Spoke with John McManus MSGSF who stated he has a CRI that was sent to MCFSC about two weeks ago. The CRI is somewhat of a con man who is doing time for fraud. He has given good information in the past about activity happening prison (drug deal). John is going to see if he is willing to try and speak with Johnson. John is going to speak with MCFSC investigators about getting them in the same pod.

The CRI has a pending check case in Dakota County and may be looking for some time off if he can get good information.

John will keep us advised

November 17, 2003

I spoke with McManus who stated he had a conversation with M.S. who stated she has seen Vance and Johnson with white females in the bar. She stated she would be willing to look at a photo line up to determine if she could recognize anyone.

I contacted Ms 570 941 0508 570 351 1401
Advised her it would be next week sometime. She did state she does recall seeing a white female in the bar earlier that night 12/22/02 that was with Vance and Johnson before Martin arrived.

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November 18, 2003

Ploeckelmann made contact with Cross's father. He stated he does recall meeting his son at the Buttery on occations but does not remember specifically 12/22/02. He did state as a rule his son did not share with him much information such as that.

November 21, 2003

Met with Kathy Keena and provided her with a phone listing for subpoenas. Also provided her with a time line for those incustody.

***** No date**

Sergeant Pyka and Detective Ploeckelmann spoke with Cross who stated that he did have information about who - that Florida did a lick in South St. Paul. There is an interview for that.

*****No date**

The telephone base was taken from the South St. Paul Police Department to the BCA for analysis by Captain Vujovich.

MINNESOTA JUDICIAL BRANCH

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Public Defender's Records Obtained

1. 911 Call - Kathleen Johnson
2. Al-Bakri Victim Coroner's Report 12.23.02
3. Application for Search Warrant 291 Birmingham #2 1/8/03
4. Application for withholding search warrant filing 291 Birmingham #2 1/14/03
5. ATF Report of Investigation on Vance, Burglary, Stolen Gun 5/02/03
6. ATF Report of Investigation on Vance, MGSF Links Stolen Gun to Vance 5/05/03
7. Attorney Letter RE Client Meeting and Call with Keena 6/19/03
8. Bail Request
9. Bakkri, Katherine Interview Transcript and Vance Volume I and II Index
10. Bakkri, Tariq Letter to Maynard Cross 2/03/04
11. Bakkri, Tariq Phone Record
12. BCA Evidence Laboratory Analysis Request
13. BCA Forensics Report on Exam of Physical Evidence
14. BCA Recommendation for Prosecution - Vance
15. Blatcher , Dominique Shavonna SSPPD Report 1/08/04
16. Blatcher, Dominique police interview and correspondence with Johnson
17. Chaska PD - Jacqueline Ezell File
18. Clark, Sanya 9.22.04 SSPPD Phone Call Transcript
19. Clark, Sonya Application for Search Warrant telephone
20. Clark, Sonya Cell Phone Record Warrant SSPPD/MGSF
21. Crawford Tyrone 2/26/04 Amended Judgment No. 02-CR-82
22. Crawford, Tyrone 2/17/04 Letter to Richard Sletten
23. Crawford, Tyrone 2/18/04 Defendants Motion for Downward Departure No. 02-82
24. Crawford, Tyrone 2/19/04 Judgement in a Criminal Case No. 02-CR-82
25. Crawford, Tyrone Defendant's Position Regarding Sentencing No. 02-82 5/07/03
26. Crawford, Tyrone Position of the Government Regarding Sentencing No. 02-82 2/14/03
27. Crime Scene Witness PDs notes
28. Cross --Note RE Cross witness in Darnell Smith case
29. Cross, Maynard case info and report
30. Cross, Maynard FBI Records
31. Cross, Maynard Handwritten questions
32. Cross, Maynard Interview w. PDs 8.11.04 - police threats
33. Cross, Maynard Plea of guilty
34. Cross, Maynard Proffer
35. Cross, Maynard Transcript of Taped interview
36. Dakota County Indictment, Discovery Demand and Bail Request - Vance
37. Dakota County Indictment, Discovery Demand and Bail Request - Vance
38. Dakota PD, Commencement of Grand Jury Investigation Email
39. Defendant Demand for Disclosure 2004
40. Defendant Request for Disclosure, copies, and omnibus notice and motion
41. Defendant's Notice to AG of Intent to Challenge Constitutionality of Minnesota Statute and Motion to Dismiss
42. Detective Tom Kreager Narrative

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43. Drager, Amy 11.16.04 SSPPD Interview Transcript
44. Estrada, Geronimo 2/09/03 Phone Call with Girlfriend Sonya McKenzie
45. Estrada, Geronimo 2/09/03 Phone Call with Girlfriend
46. Estrada, Geronimo and Sonya McKenzie 2.9.03 Prison Phone Trascript
47. Estrada, Geronimo notes
48. FBI 3.5.03 Report on Charles Perkins interview (RE business relationship with Amjad Wadi
49. FBI Transcript, Charles Perkins 3-05-03
50. Fleming, Dejuan 9.28.04 SSPPD Interview Transcript
51. Fleming, Mary 2/12/04 - Police Interview, MGSF Investigation Report, SSPPD Investigation Report
52. Franco, Vanessa 8.5.03 SSPPD Interview Transcript
53. Grand Jury Testimony of Maynard Cross
54. Grand Jury Transcript Pt. 1
55. Grand Jury Transcript Pt. 2
56. Griffin, Eric 1/5/2004 SSPPD Interview
57. Griffin, Eric 1/5/2004 SSPPD Interview2
58. Griffin, Eric 1/7/2004 SSPPD Interview
59. Griffin, Eric Trial Testimony and SSPPD Narrative excerpt
60. Haggerman, Regina - Cross exam
61. Haggerman, Regina Cross Exam Notes
62. Handwritten notes about Vance, maynard, johnson, trevor
63. Handwritten Phone Call notes
64. Hodge and Nunn Interview SSPPD
65. Hodge Filing History 10/16/2002
66. Hodge, Isaac 9.21.04 Interview Transcript with Officer Oeffling
67. Hodge, Isaac and John Nunn 9.21.04 Interview by SSPPD
68. Holmgren Email to Janzen Assigning Vance's Case 6/19/03
69. IP Maggie Bischoff Email to Vance, Re: Interview with Anthony Lamonte Hayes 4/12/17
70. IP Megan Odom Email to Vance - Search for Dontay Reese 4/30/17
71. IP Megan Odom Email to Vance - Search for John Nunn 4/30/17
72. IP Megan Odom Email to Vance - Search for Melissa Stites, IP Letters to Melissa Stites 1/31/17 - 4/20/17 (COPY 2)
73. IP Megan Odom Email to Vance - Search for Melissa Stites, IP Letters to Melissa Stites 1/31/17 - 4/20/17
74. IP Megan Odom Email to Vance - Search for Nicole Rauschnot 1/31/17 - 3/29/17
75. IP Megan Odom Email to Vance - Search for Nicole Rauschnot 1/31/17 - 3/29/17
76. IP Megan Odom Email to Vance - Search for Samantha O'Reilly 5/15/17
77. IP Megan Odom Email to Vance on Maynard Cross, Memorandum Attached 5/15/17
78. IP Megan Odom Email to Vance, Re: Interview with Dominick Johnson 1/12/17
79. IP Megan Odom Email to Vance, Re: Search for Isaac Hodge 4/30/17
80. IP Megan Odom Email to Vance, Re: Search for Jesse Magnuson 5/15/17
81. IP Megan Odom Email to Vance, Re: Search for Lorenzo Eide 5/15/17
82. IP Megan Odom Emails to Vance, Re: Locating Tyrone Crawford 2017
83. IP Megan Odom Emails to Vance, Re: Searching for Geronimo Estrada 2017

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84. IP Megan Odom Emails to Vance; Re: Search for Colleen McManus 2017
85. IP Megan Odom Letter to Dominick Johnson 1/14/17
86. IP Memo to Vance - Alternative Suspects 4/27/11
87. Isaac Hodge, John Nunn, Marquita Williams - Criminal Docket No. 02-00323 10/16/02
88. Janzen 6/19/03 ltr to Vance RE representation
89. Janzen ltr to Vujovich
90. Johnson, Dominic Letter to Vance 11/10/03
91. Johnson, Dominick MGSF Interview 1/06/03
92. Johnson, Dominick 4/13/05 Plea and Sentence No. K4-04-735
93. Johnson, Dominick Letter to Dominique Blatcher and son 7/07/03
94. Johnson, Dominick Letter to Vance 11/10/03
95. Johnson, Kathleen Police Interview 12/22/02
96. K6-04-0736 States Requested Jury Instructions
97. K6-04-736 Findings of Fact and order for recusal, order for dismissal and scheduling order
98. K6-04-736 PDs Notice of Motion and Motion to dismiss
99. K6-04-736 11.19.04 States Memo in Oppopsition to Motions in Limine
100. K6-04-736 8.13.04 State's filing coversheet
101. K6-04-736 8.27.04 Defendant's Memo RE Vance Impeachment Evidence
102. K6-04-736 Administrative Subpoena for Sprint Records
103. K6-04-736 Defendan'ts notice of Motion and Motion to Disclose Compensation and Defendant's motion to dismiss grand jury indictment
104. K6-04-736 Defendant's blank filing forms
105. K6-04-736 Defendant's Motion on reverse Spreigl and alt perpetrator
106. K6-04-736 Defendant's notice to disclose compensation
107. K6-04-736 Defendant's objection to state's motion to allow impeachmentby conviction for the possession of stolen gun
108. K6-04-736 Defendants Motion in Limine 8.20.04
109. K6-04-736 Judge Stacey Order on reverse-Spreigl alternative perpetrator evidence
110. K6-04-736 Letter brief regarding impeachment of Vance w. Prior convictions
111. K6-04-736 Memo in support of State's motion to limit impeachement by use of prior convictions
112. K6-04-736 Memo of Law in Support of States Motion to Limit Impeachment
113. K6-04-736 Motion by Prosecuting Attorney to seal state's disclosure of trial witnesses
114. K6-04-736 Notice of Defense Witnesses
115. K6-04-736 Notice of Filing order 9.8.04 RE motions in limine
116. K6-04-736 order Judge Stacey
117. K6-04-736 Order RE motions in limine and Fabian Wilson contempt
118. K6-04-736 PDs Motion in Limine
119. K6-04-736 PDs Subpoena of witnesses
120. K6-04-736 State and Defendant's motions in limine with notes
121. K6-04-736 State Notice RE new witnesses Paul Meskan (MGSF) and Sprint Records Custodian
122. K6-04-736 State's Coverletter for Filings
123. K6-04-736 State's Disclosure of Trial Witnesses (2)
124. K6-04-736 State's Disclosure of Trial Witnesses 8/13/04 with PD Notes
125. K6-04-736 State's Disclosure of Trial Witnesses

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126. K6-04-736 State's Disclosure of Trial Witnesses
127. K6-04-736 State's intent to call John Nunn, Isaac Hodge, and George Matlock at trial
128. K6-04-736 State's letter to PD about Constitutionality challenge
129. K6-04-736 State's Memo in opposition to motion to dismiss
130. K6-04-736 State's Memo in Support of motion limit impeachment by use of prior convictions
131. K6-04-736 State's Motion in Limine RE sequestered witnesses & reverse Spriegl
132. K6-04-736 State's motion to limit impeachment WITH NOTES
133. K6-04-736 State's motion to limit impeachment
134. K6-04-736 State's motions in limine impeachment by evidence of prior convictions Witnesses
135. K6-04-736 State's Motions in Limine RE alt perpetrators 9.3.04
136. K6-04-736 State's Motions in Limine
137. K6-04-736 State's requested Jury Instructions
138. K6-04-736 State's Witness List
139. K6-04-736 States 9/04 intend to call witnesses and police reports
140. K6-04-736 States Discovery - supp. report of Dect. Kreager and Transcript of Dontay Reese Statement
141. K6-04-736 States memo of law in opposition to defendants motion for intro of alternative perpetrator evidence
142. K6-04-736 Vance Witnesses Info
143. K6-04-736 Vance Witnesses, Tariq Bakkri lack of cooperation
144. K6-04-736 Writ of Habeas Corpus Ad Testificandum - Prroduce Tysann Celestain
145. K7-04-437 Dakota County Complaint and Warrant
146. K7-04-437 Hearing Transcript
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Application

STATE OF MINNESOTA, COUNTY OF RAMSEY DISTRICT COURT

STATE OF MINNESOTA)
) SS.
COUNTY OF RAMSEY)

APPLICATION FOR SEARCH WARRANT AND SUPPORTING AFFIDAVIT

Investigator Chris Freichels being first duly sworn upon oath hereby makes an application to this Court for a warrant to search the premises hereinafter described for the property and things hereinafter described.

Affiant knows the contents of this application and supporting affidavit, and the statements herein are true of his own knowledge, save as to such as are herein stated on information and belief, and as to those, he believes them to be true.

Affiant has good reason to believe, and does believe, that the following described things to wit:

- Marijuana
- All other drugs covered under the controlled substance law
- Money, precious metals and stones, bank books, bank statements and other papers which show profit from drug sales
- Address books, other papers with phone numbers and names
- Lock boxes and safes
- Scales and other drug paraphernalia used in the sale/use of drugs
- .22 handgun, other handguns, long guns, rifles and shotguns
- Other weapons, ammunition, handgun parts and ammunition casings
- Letters, bills, other mail and papers which tend to show owner/renter/occupants of premises
- Digital readout pagers, pagers, cellular phones, caller ID boxes
- Any photos, video recordings, papers and drawings that relate to gang members or gang activity
- Clothing that bears symbols of gang membership
- Stolen property
- Items of evidence documenting possession / ownership/ sale / transfer / purchase of weapons
- Items of evidence documenting possession / ownership / sale / purchase of ammunition including but not limited to unused ammunition, spent casings, and practice targets
- Clothing worn by Philipp Vance/Dominick Johnson including but not limited to shoes, baggy gangster type blue jeans several sizes larger than Philipp Vance/Dominick Johnson actual size, dark color hooded sweatshirt / jacket, dark color face mask
- Documentation indicating vehicles owned, operated or in possession of/by Philip Vance/Dominick Johnson

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- Vehicle keys for vehicles owned, operated, or in possession of/by Philip Vance/Dominick Johnson
- Cash proceeds in the amount of $ 625.00 - $ 650.00, checks and or items indicating a financial, transaction from the Robbery of 345 4th Avenue South, South St. Paul, Minnesota
- Plastic Bags white in color bearing yellow / black markings including a "smile face"
- Items of evidence containing trace evidence from Philip Vance/Dominick including but not limited to hair, blood, and body fluids

Will be at the premises described as:

291 Birmingham Street, apartment #2, Saint Paul, Minnesota

Located in the City of Saint Paul, County of Ramsey, and State of Minnesota.

This affiant applies for issuance of a search warrant upon the following grounds:

1. The property above-described was used as a means of committing a crime.
2. The possession of the above-described property constitutes a crime.
3. The property above described is in the possession of a person with intent to use such property as a means of committing a crime.
4. The property above-described constitutes evidence which tends to show a crime has been committed, or tends to show that a particular person has committed a crime.

The facts tending to establish the foregoing grounds for issuance of a search warrant are as follows:

Affiant is a Deputy Sheriff with Ramsey County and has been with the Sheriffs Department for eight years. The Affiant is currently assigned to the Minnesota Gang Strike Force (MGSF). Affiant has been investigating gang related crimes for the past four years. The MGSF investigates gang related criminal activity to include the sale of controlled substance, gang related shootings, weapons violations, gang related murders and other crimes committed by gang members. Your affiant in the course of his duties has attended numerous training seminars involving the activities of criminal gangs, and participated in multiple gang investigations where search warrants were executed.

On 12-23-2002, Affiant was contacted by Investigator McManus of the Minnesota Gang Strike Force. A Confidential Reliable Informant(CRI) contacted Investigator McManus on 12-22-2002 with information. The CRI has provided accurate and reliable information to police in the last three years, This information has led arrests and felony convictions.

On 12-22-02, at 2300 hours, Investigator McManus of the Minnesota Gang Strike Force was contacted by a Confidential Reliable Informant. The CRI advised Investigator McManus that Philipp Vance, aka "Florida", was currently in the Buttery Bar in Saint Paul and was visably upset. CRI asked "Florida" what was wrong and "Florida" responded "I really Fucked up". The

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CRI told Investigator McManus that "Florida" again repeated the comment and had watery eyes as if he were about to cry. The CRI told "Florida" that it couldn't be that bad. "Florida" responded "I didn't mean for it to go off. I just pulled it out. I just wanted to scare him." The CRI told Investigator McManus, when "Florida" was making the statement, he was making the hand motions consistant with pulling a gun out of his waistband and pointing it. When "Florida" made this statement to the CRI , the CRI moved out of sight of "Florida" and contacted Investigator McManus with this information. The CRI was unaware of any incident that may have taken place, but felt the conversation and actions of "Florida" should be told to someone.

This CRI has known "Florida" for almost a year and this behavior and demeanor is totally out of character for Philipp Vance. It should be noted that while the conversation between the CRI #1 and Philipp Vance was occurring, another male identified by the CRI, Johnson, Dominick Dwayne, aka "Stacks", dob 11-15-82, was outside the bar throwing up. CRI looked out the window and saw Dominick Johnson throwing up. According to the CRI, a short time later Dominick Johnson came into the Buttery and sat with Philipp Vance for a couple of minutes before the two of them left together.

Saint Paul Police Officer Conroy identified Dominick Johnson as a Vice Lord gang member. Dominick Johnson told Officer Conroy he was a traveling Vice Lord. Per Ramsey County booking records, Dominick Johnson has TVL tatoos which is known to Affiant to represent the Traveling Vice Lords. The Traveling Vice Lords are a Chicago based criminal gang known to be invloved in gang related murders, robberies and sale of narcotics.

The CRI identified "Florida" and "Staks" through a Ramsey County Sheriff photo line-up. The CRI identified "Florida" as Philipp Randall Vance 10-28-1980 and "Stacks" as Dominick Dwayne Johnson 11-15-1982.

On 12-23-02, at 0600 hours, Sgt Pyka of the Minnesota Gang Strike Force advised Investigator McManus there was a Robbery/Homicide in South St Paul on 12-22-02, at approximately 2130 hours. Investigator McManus advised Sgt Pyka of the information he had been received from a CRI. Sgt Pyka than made contact with South St Paul Police.

On 12-23-02, at 1030 hours, Investigator McManus was contacted by another CRI. This CRI has provided reliable and accurate information in the past. This information has led to felony arrests and convictions. This CRI advised Investigator McManus that PhilippVance, Dominck Johnson and a third unknown black male were inside the bar at the Radisson Hotel(downtown St Paul) at 2000 hours, on 12-22-02. This CRI stated that the three were gathered in a tight group and according the this CRI they were being very secretive. This CRI who is very familiar with both Philipp Vance aka "Florida" and Dominick Johnson aka as "Staks". This CRI said while the three were huddled in a group, the CRI asked why they were being so secretive. Philipp Vance told the CRI, " we are just getting our plan on". A few minutes later the group appeared to be leaving and the CRI stated how little money they made that night. Philipp Vance told the CRI, "baby when I get back, I'll have a lot of money". Philipp Vance, Dominick Johnson and the third male then left Radisson.

The CRI was shown a Ramsey County photo line-up. The CRI picked "Florida" as Philipp Randall Vance 10-28-1980 and "Staks" as Dominick Dwayne Johnson 11-15-1982.

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Later that day Investigator McManus was in contact with Lieutenat Brad Wayne, Dakota County Sherrif's Office and Captain Daniel Vujovich, South St. Paul Police Department. During numerous conversations in the following days Affiant and Investigator McManus were provided additional information relating to the Robbery / Homicide Investigation at 345 4th Avenue South in South Saint Paul. Affiant learned the victim died of gunshots to the back of his head. Evidence at the scene indicated the weapon used was a .22 calibre. Additionally Affiant learned that the B.C.A. Forenseic Lab Unit was processing the scene and collected numerous items of evidence. These items of evidence include .22 calibre shell casings, samples of blood, body fluids, vomit, latent prints, shoe impressions, and tire impressions. Information learned from processing the scene, Captain Vujovich believes $625 to $650 US currency, checks and other papers were taken from the crime scene located at 345 4th Avenue in South St Paul. Captain Vujovich believes plastic bags with yellow/black markings with a "smile face" on them were taken during the robbery.

Affiant further learned the witnesses at the scene describe the suspects wearing dark clothing consisting of hooded sweatshirts/jackets, face masks and blue jeans several sizes too large. Witnesses saw an older light colored vehicle, possibly gray, four door leaving the area after the robbery/homicide.

On 01-03-03, Investigator McManus met with a CRI and made arrangements for the CRI to meet with PhilippVance. The CRI was equipped with a transmitting device to allow investigators to monitor and record the conversation. The CRI was instructed to maintain contact via phone with Investigator McManus in the event something were to happen.

On 01-03-2002, the CRI met with Philipp Vance at the Buttery Bar at 2230 hours. The Buttery Bar is located in downtown Saint Paul on 6th and Robert Street. Affiant and other investigators conducted surviellance in the area of the Buttery. Dominick Johnson was with Phillip Vance at the Buttery. The CRI was kept under both visual and audio surveillance. While in the Buttery Bar, the CRI witnessed several people meet with PhilippVance and exchange money for drugs. The CRI saw Philipp Vance sellings marijuana.The CRI asked PhillipVance about the drug activity and Philipp Vance said "I am the biggest drug dealer down here". "If you need drugs, you come to me". Philipp Vance asked the CRI to go to another bar with him to play pool. Shortly thereafter, the CRI and Philipp Vance left the Buttery. As they were leaving, Domonick Johnson followed them out and watched them until they got into the the CRI's vehicle. After the CRI and Philipp Vance drove away, Dominick Johnson returned to the Buttery.

Affiant and other investigators followed the CRI and Phillip Vance to the Lab Bar(4th/Sibley) where they continued their conversation. Philipp Vance continued to talk to the CRI about his drug dealings. During the course of this conversation, CRI asked Philipp Vance if he had any guns. The CRI asked if he would teach the CRI how to shoot. Philipp Vance said he had four guns. The CRI asked Philipp Vance when was the last time he used a gun. Philipp Vance said two weeks ago over on the south side. Investigators heard PhilippVance say he used a .22 and shot someone five times in the back. Philipp Vance said after the shooting he then took off. The CRI asked PhilippVance if he stopped to see if he was dead. Philipp Vance stated "nope I kept going". Philipp Vance said "I've shot lots of people before". The CRI told Philipp Vance he owned a gun but didn't know how to shoot it. Philipp Vance told the CRI that he shoots all the time by the railroad tracks. The CRI and Philipp Vance discussed going shooting the next

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day. Philipp Vance said he would teach the CRI how to shoot the gun. Philipp Vance talked about having four handguns.

The CRI left the Lab bar with Phillip Vance at 0116 hours. The CRI and Philipp Vance were still talking about going shooting. Philipp Vance offered to show the CRI one of his guns and directed the CRI to a house located at 956 East Minnehaha. Investigators followed the CRI and Philipp Vance to 956 E. Minnehaha. The CRI pulled to the curb at 956 E. Minnehaha.

The CRI was told by Philipp Vance to wait outside and he was going to get one of his guns to show the CRI. Philipp Vance exited the vehicle and was observed going into 956 East Minnehaha. The CRI waited approximately five minutes. The CRI was instructed by Investigators to leave the area before Philipp Vance returned. The CRI pulled away and met Investigators at a designated location. About a minute later, Investigators saw PhilippVance walked out of 956 East Minneaha and pace in the front of 956 East Minnehaha. Phillip Vance waited outside for sometime and Investigators cleared the area.

Philipp Vance contacted the CRI the following day and asked why the CRI left. Philipp Vance said he came out to show the CRI the gun and was going to show the CRI how to shoot. The CRI informed Philipp Vance an emergency came up and had to leave.

Captain Vujovich has checked with several County Coroners Offices in the Twin Cities Metro area and learned that there were no reports of shootings resulting in death other than the South St Paul Robbery/Homicide during the time period given by Philipp Vance. Phillip Vance was heard by investigators via the transmitter from the CRI, talking about shooting someone in the back five times using a .22. This statement given by Philipp Vance is consistent with the findings from the crime scene.

On 01-07-2002, Affiant assisted Officer McManus on surveillance and to set-up a handgun purchase with Philipp Vance. Philipp Vance has said he would sell the CRI a handgun. The CRI was given a transmitting device so investigators could listen to the conversation between the CRI and Philipp Vance. This conversation was audio taped. The CRI was given pre-recorded buy fund money to the purchase the handgun. The CRI met with Phillip Vance at the Buttery. The CRI told Phillip Vance that he/she was looking to buy a small handgun. Philipp Vance said he had a handgun to sell. After talking for awhile they left the Buttery. Philipp Vance wanted to go to the Lab Bar located at 4th and Sibley in Saint Paul. They talked for short while and left the Lab Bar. Philipp Vance and the CRI went to the CRI's vehicle to talk. Phillip Vance wanted to count the $100.00 the CRI was using to the purchase the handgun. The CRI gave Philipp Vance the recorded buy fund money. Philipp Vance told the CRI to drive to get the handgun. Investigators followed the CRI and Philipp Vance to the area of Burns and Birmingham in Saint Paul. The CRI parked near 291 Birmingham and Philipp Vance told the CRI to wait in the vehicle. Philip Vance walked towards 291 Birmingham and came back a few minutes later. Philipp Vance gave the CRI a .22 Beretta handgun. Philipp Vance and the CRI left the area. Philipp Vance told the CRI he left the magazine and bullets inside the apartment. Investigators' followed them back to the Buttery in Saint Paul. The CRI left the handgun locked inside the CRI's vehicle. Philipp Vance and the CRI went into the Buttery. A few minutes later, the CRI left the Buttery alone. Investigators met with the CRI and recovered the handgun.

On 01-08-2002 the recovered Beretta handgun was tested at the BCA crime lab. The

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testing did not match handgun to the recovered casings from the crime scene at 345 4th Avenue South. Philipp Vance talked about having a total of four handguns which have not been recovered other than the one handgun that was purchased by the CRI on 01-07-2002. A .22 caliber is used in handguns and rifles.

On 01-08-2002, Phillip Vance was arrested on a separate incident for misdemeanor charges. Philipp Vance was booked at the Ramsey County Jail. Philipp Vance gave 291 Birmingham, #2 as a home address.

Affiant requests to search 291 Birmingham apartment #2 for marijuana, a .22 handgun or rifle, items related to the murder in South Saint Paul and other related items listed on the search warrant.

Affiant requests the names of the CRI and CRI to remain confidential within the meaning of Minn Stat. § 13.82 Subd. 10 (c) as I believe the CRI and CRI would be in danger of death or great bodily harm if the name became known.

It has been the experience of the Affiant that when a Search Warrant is executed narcotics, drugs other than ones specifically listed on the warrant and handguns, rifles, shotguns, ammunition and other weapons are found. It is therefore requested that all drugs covered under the controlled substance law and handguns, rifles, shotguns and other weapons be included on the warrant.

During narcotics search warrants scales and other drug paraphernalia are usually found. It is requested these types of items be seized which show the sale and use of illegal drugs.

Affiant requests address books and other papers with names and phone numbers. In Affiant's experience drug dealers will have written names and phone numbers of others involved in their drug activity.

Affiant requests that lock boxes and safes be included. It is Affiant's experience that money and controlled substances are sometimes stored inside for safekeeping.

Affiant requests caller ID boxes and retrieved names and phone numbers from the caller ID boxes. In Affiant's experience drug dealers use telephones for their drug activity. These names and numbers in my experience might show others involved in the sale of narcotics.

Affiant requests all monies, precious metals and stones and bank books, bank statements and other papers which show profits from drug sales.

Affiant request any mail, letters and papers which show Philipp Vance and others who are living at or had lived at the residence during the time of this crime.

It has been the Affiant's experience that almost all persons arrested for narcotics violations are in possession of digital readout pagers and use the pagers to enhance their ability to escape detection from law enforcement. It is requested that all pagers found on the premise be subject to seizure. These pagers are capable of storing incoming messages and/or telephone numbers. It is requested that the memory portion of the pagers be searched by the police to be used

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in the investigation of their drug activities.

It has been the Affiant's experience that most drug dealers arrested for narcotics violations are in possession of cellular phones. These cellular phones help drug dealers avoid detection from law enforcement. Cellular phones are used for the drug dealers to have contact with their buyers and suppliers. Affiant request that all cellular phones are subject to seizure and all phone numbers and messages to be retrieved by the police from these cellular phones.

Affiant requests that all gang related items, and evidence of gang membership or association be recovered. It has been the Affiant's experience that gang members use photographs, video recordings and drawings to identify with other gang members. Your affiant believes that the sale of narcotics and murder/robbery is a crime to benefit gang.

In order to prove the existence of criminal gang, your Affiant must show existence of an ongoing group of three or more persons who have a common name or symbol and includes members who individually or collectively engage or have engaged in a pattern of criminal activity and one of the primary purposes of criminal gangs is commit crimes such as sale of narcotics, murder/robbery and other listed crimes listed in Minnesota Statute 609.11 subd.9. In order to accomplish the above, the Affiant request that gang related items be included for seizure on the warrant.

It has been the Affiant's experience that stolen property is found in narcotics search warrants. It is known by Affiant that stolen property is used to purchase illegal drugs. It is requested that searching officers check serial numbers and other identifiers and seize all stolen property.

A nighttime search outside the hours of 7am and 8pm is requested because: Affiant is familiar with this area and knows drug activity frequently occurs in this area. This area is difficult to approach without being seen by the residents. Investigators would be able to approach under the cover of darkness so not to detected by the residents when approaching this address.

WHEREFORE, Affiant requests a search warrant be issued, commanding Christian Freichels, MGSF Investigators and other officers under their direction, peace officers of the State of Minnesota between the hours of 7 A.M. and 8 P.M. (AND A NIGHTTIME SEARCH OUTSIDE THOSE HOURS OF 7AM AND 8PM) and to search the hereinbefore described premises for the described property and things and to seize said property and things and to keep said property and things in custody until the same be dealt with according to law.

Affiant

Subscribed and sworn to
Before me this 8th
Day of January, 2003.

JUDGE OF DISTRICT COURT

19-K6-04-000736

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REPORT OF THE METRO GANG STRIKE FORCE REVIEW PANEL

AUGUST 20, 2009

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REPORT OF THE METRO GANG STRIKE FORCE REVIEW PANEL

Panel Members

Andrew Luger John Egelhof

INTRODUCTION

This Report constitutes the findings and recommendations of the Metro Gang Strike Force Review Panel. The Panel was formed on May 26, 2009 at the request of the Commissioner of Public Safety, Michael Campion. The two members of the Review Panel are:

Andrew M. Luger. Mr. Luger is a former federal prosecutor and partner with the Minneapolis litigation firm of Greene Espel P.L.L.P. Mr. Luger received his B.A. from Amherst College and his law degree from the Georgetown University Law Center. In 1989, after three years in private practice in New York City, Mr. Luger was appointed an Assistant United States Attorney in the Eastern District of New York. As a federal prosecutor in New York, Mr. Luger investigated and prosecuted drug and violent crimes, white collar crimes and international financial crimes. In 1992, Mr. Luger was appointed an Assistant United States Attorney in Minnesota, focusing on white collar investigations and prosecutions. In 1995, Mr. Luger joined Greene Espel where his practice is comprised of internal investigations, business litigation and white collar criminal defense.

John Patrick Egelhof. Mr. Egelhof retired from the Federal Bureau of Investigation in 2008 following 28 years service. Mr. Egelhof joined the FBI in 1980, serving in Washington, D.C. and New York City before being appointed as a Special Agent in 1984. He served as a Special Agent in Richmond, Virginia, where he ran a fugitive task force; Boston, Massachusetts, as a member of an Armored Car/Bank Robbery Task Force; Concord, New Hampshire and finally Bemidji, Minnesota. Mr. Egelhof served as a member of an Evidence Response Team and as a SWAT operator for two FBI field divisions. In 2005, he started the Headwaters Safe Trails Task Force, composed of federal/state/local and tribal officers who targeted violent, drug and gun crimes on the three reservations near Bemidji. Following his retirement, Mr. Egelhof taught for the Department of Justice's International Criminal Investigative Training and Assistance Program as a law enforcement instructor in Pakistan, and as an instructor for the FBI. Since 2009 he has worked as a Private Detective under JP Egelhof Investigations, LLC.

The Panel was formed following the May 20, 2009 Financial Audit Division Report by the Office of the Legislative Auditor (the "Legislative Auditor's Report"). The Legislative Auditor's Report concluded that:

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> The Metro Gang Strike Force's internal controls were not adequate to safeguard seized and forfeited property, properly authorize its financial transactions, accurately record its financial activity in the accounting records, and conduct its financial activities in a reasonable and prudent manner.

The Legislative Auditor then listed eleven specific findings and recommendations concerning various aspects of the Strike Force's operations and oversight. A copy of the Legislative Auditor's Report is attached to this Report as Exhibit A.

Following the issuance of the Legislative Auditor's report, on the night of May 20, a number of Strike Force officers were observed shredding documents at the Strike Force offices. At that time, the Commissioner of the Department of Public Safety shut down the Strike Force pending further investigation by this Panel and the F.B.I.

The Panel's Scope of Work

This Panel was originally charged by the Commissioner of Public Safety with: (1) recommending policies and procedures to implement the findings of the Legislative Auditor so that the Strike Force could be re-opened in early July; and (2) conducting an investigation into the conduct giving rise to the auditor's findings. The Commissioner requested that the Panel report any potentially criminal conduct to the F.B.I. The Panel was tasked to work independently and to report back to the Commissioner as to its findings and recommendations.[1]

Implicit in the Panel's scope of work was the presumption that the Strike Force would be re-opened under the pre-May 2009 configuration with the same Advisory Board and similar structure. Shortly after undertaking its work, however, the Panel learned of credible allegations of misconduct relating to Strike Force employees that went beyond the findings of the Legislative Auditor. These allegations raised serious questions regarding the Strike Force's operations. Consequently, on June 11, 2009, the Panel issued a Preliminary Report recommending that the Department of Public Safety not re-open the Strike Force under its current structure during the pendency of the Panel's investigation. A copy of the Panel's June 11, 2009 Preliminary Report is attached to this Report as Exhibit B.

Following the Panel's Preliminary Report, and consistent with the Panel's recommendation, on June 11, 2009 the Department of Public Safety announced that it would open a temporary gang strike force that would operate out of the offices of the Minnesota Bureau of Criminal Apprehension ("BCA"), utilizing the BCA's evidence room and policies and procedures. Shortly thereafter, some law enforcement agencies announced that they would end their participation in the Metro Gang Strike Force. As a result of these and other developments, the Department of Public Safety announced that it would cancel plans to open a temporary gang strike force.

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[1] This Report contains the independent Findings, Conclusions and Recommendations of the two Panel members.

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The Panel's Work Plan

The Panel's efforts were focused on determining whether officers and employees at the Strike Force engaged in inappropriate conduct beyond that exposed by the Legislative Auditor's report, as well developing an understanding of the root causes for any misconduct. The Panel also developed recommendations regarding the future of multi-jurisdictional anti-gang efforts. In performing our work, the Panel:

- Interviewed former Strike Force officers and employees[2];
- Conducted a thorough inventory of the evidence room at the Strike Force's offices;
- Located and documented the existence of evidence at the Strike Force's offices outside of the evidence room;
- Reviewed hundreds of case files as well as other records maintained by the Strike Force[3];
- Interviewed private individuals who interacted with the Strike Force;
- Interviewed Advisory Board members;
- Compared evidence found in the Strike Force offices with evidence-related information in case files; and
- Discussed with law enforcement officials and others the structural causes for the failures at the Strike Force and ideas for avoiding such problems in the future.

The Panel wishes to express its appreciation for the cooperation of law enforcement officials from the agencies participating in the Strike Force. Sheriffs, Police Chiefs and their deputies were always available to speak with us on short notice and provided us with valuable assistance in our investigation. We are similarly appreciative of the assistance provided by the staffs of the Legislative Auditor and the Office of the Attorney General. The Panel is also grateful for the many hours of hard work provided by various employees and interns working for the Department of Public Safety. This Report would not be possible without their help.

[2] A number of Strike Force officers and employees declined the Panel's requests for an interview.

[3] Many of the case files contained little documentation to explain the work performed on that matter. These poorly documented cases often made it difficult for the Panel to understand and comment on particular investigations.

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OVERVIEW OF THE REVIEW PANEL'S FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

As we detail in this report, the Panel found extensive evidence that the Strike Force conducted important and well thought out investigations of suspected gang members and that the Strike Force, and particularly its Commander, engaged in extensive training and other educational activities related to gangs. This work benefited the community and was commendable. At the same time, however, the Panel uncovered substantial evidence of misconduct by Strike Force employees. For all of the good work that Strike Force employees accomplished, it is this misconduct that will always be associated with the Metro Gang Strike Force. While this is regrettable, it is also understandable. Minnesotans have rightfully come to expect the best from law enforcement. And they should. The behavior uncovered by this Panel is deeply disturbing and must be addressed by law enforcement leaders, policy makers and the community. We hope that this Report contributes to a dialogue that ensures such behavior does not occur in Minnesota again.

The following is a summary of the Panel's findings and recommendations, reached after conducting extensive interviews, reviewing volumes of evidence and hundreds of case files and analyzing the operations and work of the Strike Force:

- **Evidence Issues**

1. Employees, including sworn officers, repeatedly took property obtained during searches for their own personal use. These items included, among other things, flat screen and large screen televisions, laptops and other computer equipment, electronics, jewelry and recreational items. On a few occasions, officers returned property to the Strike Force offices when others made an issue of their conduct. Some of the items removed by officers for their personal use were items that were stolen by a defendant in a case, and could have been returned to their rightful owner.

2. On a number of occasions, officers or their family members were permitted to purchase, at low prices, items from the evidence room including flat screen and large screen televisions, jet skis, a trailer and other items.

3. Substantial quantities of evidence that should still be in the evidence room are missing. These include televisions, electronic equipment, computer equipment, recreational items and jewelry.

4. A large number of valuable items found both in and outside of the evidence room are falsely reported to have been destroyed in Strike Force case files.

5. Many items that were seized by the Strike Force, including narcotics, were never entered into evidence and were found in the offices outside of the evidence room.

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6. Certain items, such as two firearms, were found outside of the evidence room and cannot be traced to any individual case.

- **Issues Related to Interactions With Individuals**

1. Members of the Strike Force engaged in "saturation" details that originally involved providing a law enforcement presence at locations where suspected gang members were expected to congregate. Over time, these saturation details grew to include stops of individuals who had no connection to gang activity, along with searches of these individuals and seizures of money and property.

2. As the saturation details grew to include stops that were not gang-related, Strike Force officers began to seize funds from those stopped, regardless of any intent to file charges against the people stopped and without regard to whether the funds could reasonably be connected to illegal activity.

3. On a number of occasions, individuals stopped during these saturation details were in possession of small amounts of marijuana, amounts associated with personal use. Invariably, when money was found during one of these searches – whether the person possessed marijuana or not – the money was taken by the Strike Force officers.

4. Many of the files we reviewed included no information to suggest that the people stopped and searched had any gang connection or that they could provide the officers with gang-related information.

5. On repeated occasions during these saturation detail stops, Strike Force officers searched the cell phones of the individuals who were stopped. Many of these individuals were not arrested, but merely stopped on the street or at an event. Officers searched their cell phones without a warrant.

6. Strike Force officers regularly required individuals stopped during saturation details to be photographed with Metro Gang Strike Force identification placed in the picture. These photographs included pictures of children and others with no known gang connections.

7. During searches conducted pursuant to lawfully obtained warrants, Strike Force officers often seized money and personal items (including televisions, computer equipment and jewelry) that, based on our review, bore no relation to the matter under investigation and could not be tied to criminal activity. On at least one occasion, seized property was later ordered returned but was missing from the Strike Force offices.

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- **Additional Issues**

1. There is reason to believe that at least one employee of the Strike Force repeatedly accessed the National Criminal Information Center database at the Strike Force's offices for non-governmental purposes.

2. Of the $18,126 in funds that the Legislative Auditor was unable to account for during their review, the Panel is still unable to account for $10,781[4].

3. A relative of a Strike Force employee had regular access to the Strike Force offices and was observed handling seized property.

4. In late 2008, Strike Force officers were asked to sign blank forms permitting the evidence in their cases to be destroyed. Once these documents were signed, Strike Force personnel placed forms noting that evidence was destroyed into files in which the evidence was not, in fact, destroyed.

5. On the day that the Legislative Auditor's report was released, a number of Strike Force officers shredded documents and most likely placed a large amount of additional material in bins inside the Strike Force offices for shredding by a professional firm. These bins were full when reviewed by this Panel shortly thereafter. The bins included material relevant to numerous cases, including one entire case file. Additionally, sensitive material, including official case material, old items of evidence, at least two live rounds of ammunition and sensitive information about a Strike Force officer were placed in a publicly accessible dumpster outside of the Strike Force's offices.

6. In the days following the Legislative Auditor's report, a Strike Force employee tried to delete a file relating to confidential informants working with the Strike Force.

7. The day after the Legislative Auditor's report, a Strike Force officer caused a local crime lab to test narcotics purportedly from a number of cases dating back up to 8 years. Only some of these were active cases and some had little or no documentation in the file. In some cases, the narcotics sent for testing did not relate to the case designated by the officer. Two days after the Report, the lab faxed the results of these narcotics to the Strike Force offices.

8. In many of the case files we reviewed, the file begins and ends with a stop and a seizure, or a search and a seizure. In these cases, there is no apparent follow-up investigation and no attempt to bring the matter to a prosecutor. Although thousands of dollars may have been seized, along with jewelry, electronics and

[4] We have located no documentation detailing what happened to these remaining funds. This money could have been used for Strike Force purposes, but we are unable to make a determination one way or the other in this regard.

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other items, in these cases there was no apparent further action taken and, in many cases, nothing done to return the property taken during the search at the conclusion of the case.[5]

9. Many case files we reviewed were severely lacking: (1) information about searches and seizures; (2) information about the involvement of informants; (3) evidence tracking; (4) case status; and (5) communications with prosecutors. There are many cases in which the file is completely empty, including cases in which the Panel was able to obtain information from other sources to show that there was substantial activity in the case.

- **Causes of the Problems at the Strike Force**

1. In 2003, the predecessor to the Strike Force lost much of its state funding. Some working at the Strike Force developed a mentality that forfeiture funds were necessary to make certain the Strike Force would survive. For those who adopted this mentality, the seizure of funds became a priority.

2. Some Strike Force employees used the term "money police" to describe their focus on financial seizures.

3. The saturation details employed by the Strike Force were ill-defined and not well supervised. The lack of definition and supervision, coupled with the perceived need to obtain forfeiture funds for the operation of the Strike Force, led some officers to turn an otherwise useful technique for lowering gang violence into what appears to the Panel to be an opportunity to obtain money from people with no gang association.

4. The Strike Force was not directed or administered by any one law enforcement agency and therefore was not accountable to any specific police or Sheriff's office or any civilian review panel or similar body.

5. The Strike Force had far less internal supervision than a standard metro area police or Sheriff's office of comparable size.

6. Advisory Board members were focused on running their own agencies, and had insufficient time to oversee a large independent police force.

7. The Strike Force had little administrative support and no clerical staff with sufficient training and experience in law enforcement best practices relating to the handling of evidence and seized funds.

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[5] The Panel has been informed that some officers may have kept additional files at their home agencies. It is possible that these additional files, if they exist, may shed additional light on the work performed in these investigations.

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8. The Strike Force did not have a functional Record Management System in place, nor a uniform reporting method for its officers. Strike Force officers were unable to perform routine tasks using computers such as name checks or to determine whether another officer had prior contact with an individual or a location.

9. As a result of issues 1-8 above, some Strike Force officers engaged in conduct that would be unthinkable at their home agencies. As the conduct continued without challenge, it appears to have increased over time.

- **Recommendations of the Review Panel**

1. **Stand Alone Strike Forces.** The Panel recommends against the continued use of stand alone strike forces not administered and directed by any specific law enforcement agency. The lack of accountability and supervision with a stand alone force is too problematic, even if some can function well on occasion. Should law enforcement want to utilize stand alone forces in the future, we recommend that a prosecutor participate in the strike force, overseeing its investigations and tactics. Any stand alone strike force should be staffed by personnel with significant experience in the handling of evidence and the processing of forfeitures. The strike force should be audited by experienced professionals who oversee these matters at other law enforcement agencies and should be given a short time to correct deficiencies. If staffing is inadequate to handle evidence, funds and forfeitures, the strike force should be shut down.

2. **Forfeitures.** The Panel recommends against the use of forfeitures as a significant factor in the funding of a law enforcement agency or strike force. The Panel also recommends that the legislature examine whether Minnesota's current forfeiture statute should be revised to provide more protections against the type of conduct described in this Report. We also recommend that law enforcement adopt best practices guidelines regarding forfeitures – guidelines that would deter the type of conduct that occurred here.

3. **Saturation Details.** The use of saturation details should be carefully supervised by an officer present on the scene to prevent the type of conduct discussed in this Report. Saturation details should have a narrowly-defined scope and purpose and the officers involved should be carefully briefed on their tasks and role.

4. **Appointment of a Special Master.** We recommend the appointment of a Special Master to administer the funds that remain in various Strike Force-related forfeiture accounts and to insure the proper disposition of other evidence and personal property currently in the possession of the Strike Force. The Special Master should be charged with returning funds and property to individuals in situations where the funds and property were not submitted to forfeiture and where the individuals were not given proper notice of their right to challenge a seizure.

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5. **Anti-Gang Efforts in the Future.** We also recommend that the Commissioner of Public Safety convene a meeting of law enforcement officials and local prosecutors to create a new approach to investigating gangs across jurisdictional lines. The new approach should involve coordinated efforts at information sharing and the ability to coordinate investigations and prosecutions.

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THE METRO GANG STRIKE FORCE REVIEW PANEL'S FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

Background

The Metro Gang Strike Force was created by the Minnesota Legislature in 2005. The Mission of the Strike Force is restated a number of times, and is summarized in the "Joint Powers Agreement Creating the Metro Gang Strike Force" as follows:

> The Metro Gang Strike Force (hereinafter "MGSF") is hereby established by the Parties to coordinate efforts to prevent gang activity; and investigate, apprehend and prosecute those individuals engaged in such crimes which could be defined as gang related or crimes committed for the benefit of a gang.

This definition of the Strike Force's mission is consistent with the understanding of Strike Force Advisory Board members as to what they believed their officers were doing while assigned to the Strike Force. As board members explained to the Panel, they believed that the officers assigned to the Strike Force were engaged in gang-related investigations and prosecutions, and that their work was designed to prevent gang violence and develop information on gangs that could be used in state and federal prosecutions. The board members we spoke with explained that they were not told that Strike Force officers were spending a great deal of time on matters having nothing to do with the investigation of gangs.

Prior to its formation in 2005, the Strike Force was part of the Minnesota Gang Strike Force. In 2003, the Minnesota Gang Strike Force lost much of its funding from the state legislature. At that time, the Minnesota Gang Strike Force relied on a variety of sources for funding, including forfeitures. Officers familiar with the Minnesota and Metro Gang Strike Forces told the Panel that many who worked at the two Strike Forces developed a "depression era" mentality about funding that included constant concern that the entities would not survive financially. According to the people who spoke with us about this topic, the concern about the ability to fund the Strike Forces' operations most likely led to the increased focus on forfeitures as a revenue source.

Two Strike Forces

During our review, the members of the Panel were repeatedly struck by the contrast between the hard and thorough work of some Strike Force officers on gang-related cases and the unfocused, and sometimes unethical and highly questionable conduct of others engaged in saturation details and stops and searches unrelated to gang activity. The contrast is so great, that it appeared as though there were in fact two Strike Forces: one that adhered to the mission set out in the Joint Powers agreements, and one that functioned as an independent police force with few constraints.

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In the dialogue that follows the issuance of this Report, it is our hope that the good work of the "first" Strike Force is not lost on the public and policy makers. Despite the egregious conduct of some, the Strike Force made positive contributions in a number of ways. As policy makers consider the needs of law enforcement in fighting gangs going forward, they must take into account the need for these types of positive efforts.

As to the contributions of the Strike Force, our review indicates that:

- Many Strike Force officers worked hard to develop gang-related intelligence that led to important investigations and prosecutions. In support of this work, Strike Force officers coordinated activities with other state, local and federal law enforcement agencies and prosecutors and contributed to successful gang prosecutions. In addition, Strike Force officers coordinated the sharing of gang-related information among a variety of law enforcement bodies and often assisted local police forces through the dissemination of important information.

- Strike Force officers cooperated with investigations outside of the metro area when called upon by other jurisdictions and lent their knowledge and expertise to the efforts of others.

- Strike Force officers, most notably the Commander, willingly gave their time to outreach efforts with schools, non-profits and others to describe efforts and techniques useful to prevent the spread of gangs.

At the same time, these constructive and laudable efforts cannot mask the stain created by the highly questionable conduct described in this Report, the conduct of that "second" Strike Force. As we reviewed documents, members of the Panel were struck by how many cases had no connection to any gang activity and could not be reconciled with the mission of the Strike Force. The Strike Force's mission does not support the creation of roving "saturation" details that stop people for traffic violations or seize the funds of an undocumented alien who has committed no other offense. Yet this is what we found, many times over. The mission of the Strike Force does not contemplate officers seizing large quantities of personal items during the execution of search warrants without any effort to tie these items to criminal activity. Yet this was a regular occurrence. And the mission of the Strike Force does not authorize officers to take seized items home or purchase these items for their own personal use. But this is what happened, time and again.

In this Report, we will provide examples of the egregious conduct we conclude took place at the Strike Force. As professionals who have worked closely with law enforcement, we have nothing but the greatest respect for the work that police officers, investigators and sheriff's deputies perform on a daily basis. Nothing that we found during this investigation changes our views. Yet, something went terribly wrong at the Metro Gang Strike Force, and it should not be allowed to happen again. The misconduct we discovered during the course of our investigation was appalling and outrageous. We provide details about this misconduct, and suggestions for how to avoid it in the future. There are many lessons to be learned from the misconduct that

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occurred at the Strike Force, and, in this Report, we provide our thoughts and recommendations concerning those lessons.

The Panel's Work

Upon formation of the Panel in late May 2009, the Panel members set out a work plan and methodology for organizing our efforts, making findings and reaching conclusions. The plan and methodology are set forth below:

- First, based on the findings contained in the Legislative Auditor's report and our own initial observations, we conducted a thorough inventory of the items in the evidence room.[6]

- Next, we made every effort to match items found in the evidence room to specific case files at the Strike Force offices.

- In addition, we conducted a review and inventory of all evidence (such as weapons, narcotics, photos) and other property related to the work of the Strike Force found in lockers, desks and other areas outside of the evidence room.

- Early on, the Panel obtained the work papers of the Legislative Auditor and the work files related to audits performed by the Department of Public Safety. We reviewed these documents to determine potential problem areas warranting further investigation.

- At the same time as we were conducting evidence and property inventories and reviewing the work performed in prior audits, we began to review select case files. The case files we reviewed consisted of the following:

    - Case files related to evidence logged into the Strike Force evidence room where items were missing and could not be accounted for;
    - Case files related to seizures and forfeitures questioned in prior audits, including files identified as containing "unclaimed evidence";
    - Case files that were believed to provide information concerning unidentified evidence found both in and outside of the evidence room; and
    - Case files reviewed as a result of information obtained from a witness or other information.

- We also reviewed a number of files and documents related to how Strike Force employees and supervisors addressed evidence and procedural issues.

- We obtained records from an on-line auction company utilized by the Strike Force for the sale of property and interviewed the principal of that company.

[6] This work was performed by Panel Member Egelhof with the assistance of employees and interns from the Department of Public Safety. Given the disorganized state of the evidence room, the inventory took many weeks to complete.

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- As we reviewed evidence, prior audits and case files, we identified a number of Strike Force employees and individuals not employed by the Strike Force for interview. We then contacted these individuals to request an interview. A number of Strike Force employees chose not to grant us interviews.

- Lawyers representing individuals who interacted with the Strike Force contacted us to discuss issues related to the Strike Force. We interviewed a number of these individuals.

- We received information relevant to our inquiries from the Office of the Attorney General and the Legislative Auditor.

- Our efforts to reconstruct the activities of Strike Force employees and to understand the rationale for certain actions were repeatedly hindered by the lack of useful documentation in case files.

- Finally, we reviewed certain policy questions with Strike Force Advisory Board members to determine whether they were aware of certain conduct and to understand their views regarding some of the allegations we were investigating.

The Panel's Methodology for Making Findings

During the course of our work, we were presented with many allegations, rumors and suggestions of misconduct by Strike Force officers. We were determined not to allow individual agendas or pure rumor to affect our work, and therefore put into place a protocol for reaching findings and conclusions:

- Whenever possible, we looked for documents or information that would either support or refute an allegation. If we came across a document or information that appeared to be legitimate and disproved an allegation, we did not include that allegation in our Report.

- No allegation was included in the Report unless it was confirmed by at least two sources. On most occasions, allegations were confirmed by more than two sources. On those occasions in which only two sources provided information regarding an allegation, we relied on additional information gathered from documents and other sources to consider the credibility of the allegation.

- As noted above, we met with individuals who interacted with the Strike Force to learn about their encounters. Some we found credible, others less so. If we had any question about the reliability of their information or could not substantiate their allegations through independent means, we did not include their allegations in the Report.

- After gathering the information described above, the Panel members considered the various allegations and areas of inquiry and reached a consensus as to what should be contained in this Report.

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ALLEGATIONS RELATED TO THE SEIZURE AND HANDLING OF EVIDENCE AND PROPERTY

It is difficult to classify, in terms of severity, the areas of misconduct revealed by this investigation. At the outset, however, we want to make clear that we found the allegations related to the handling of evidence to be shocking. Searches – whether conducted pursuant to a warrant or other lawful means – are so highly intrusive that there is an entire body of constitutional law related just to this subject. Law enforcement officers, prosecutors and judges receive extensive training on the law related to searches and the seizure of property. Given the amount of attention and training dedicated to Fourth Amendment issues within law enforcement, there is no excuse for the cavalier attitude displayed by some in the Strike Force with respect to the execution of search warrants and the treatment of seized evidence. The training provided to officers, prosecutors and judges is designed to ensure that all involved in our criminal justice system understand and respect the delicate balance between the legitimate and important needs of law enforcement to investigate and prosecute criminal activity and the profound concern for individual rights and liberties set forth in the United States Constitution. Based on our review, it is clear that some officers at the Strike Force lost sight of this delicate balance.

While our focus on problems related to searches and seizures led us to many areas, we began our inquiry by examining the troublesome and undefined category of "unclaimed evidence." Strike Force documents – whether in case files or in separate files dedicated to evidence issues – listed items seized during searches and placed them into different categories. Some items were held for use in court cases while others were submitted for forfeiture, destroyed or sold at auction.[7] Other items were simply listed as "unclaimed evidence." Because the category "unclaimed evidence" was not defined in any Strike Force documents we reviewed, and there was such a substantial amount of "unclaimed evidence" identified in the files, we spent time tracing the origins of these items, as well as their disposition. Our findings reflect the many problems we uncovered as we conducted our research into this category of seized property.

Unclaimed evidence, for the most part, turned out to represent money and property seized during the execution of search warrants or taken during the stop of an individual but not needed for court cases and not submitted to the Attorney General for forfeiture. In many cases involving unclaimed evidence, it does not appear that Strike Force officers provided the owner with notification of their right to contest the seizure and forfeiture.[8] It is therefore not surprising that much property went unclaimed – the people who could make the claim were not informed of their right to do so and no attempt was made to let them know that the property was available to

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[7] Currency, automobiles and certain valuable items are subject to administrative forfeiture when they are seized pursuant to a lawful search in a narcotics case. Once law enforcement provides notice of the seizure and intent to forfeit the items, these items are presumed to be subject to forfeiture unless challenged by the owner. The owner has 60 days to challenge the forfeiture through a demand for a judicial determination of the forfeiture and must then establish that the items were not the proceeds of criminal activity nor intended for use in a narcotics transaction.

[8] On occasion, there was a last minute attempt to fix the problem by contacting the owner of the property at the end of an investigation.

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be released to them. In a significant number of Strike Force cases, there was no follow-up investigation or prosecution, and thus no need for the property as evidence.

Given the extraordinary volume of property that Strike Force officers seized, and the fact that so much of this property had no apparent nexus to criminal activity and was of no evidentiary value, we explored why Strike Force officers would seize it in the first place. We found two explanations, both deeply concerning.

Taking Property Officers Believed People Did Not "Deserve" to Own

The first explanation for Strike Force officers seizing such a large volume of material that was not needed as evidence comes from a mindset that developed within the Strike Force. This mindset was described by the Commander of the Strike Force in a candid assessment provided to the Legislative Auditor. In his interview with the Legislative Auditor, the Commander was asked about the term "unclaimed evidence" and was asked to distinguish between property constituting evidence and other items seized for forfeiture. His forthright response provides an insight into why some officers engaged in the troubling practice of seizing items unrelated to their cases:

> Q: Okay. Now we've heard different terminology. We heard unclaimed evidence, we heard seizures, we heard forfeitures, we heard evidence. So how, when your guys go out to do a search warrant or a bust, how is the property that is seized identified either as evidence or forfeiture? Or is there a distinct line there?
>
> A: I can't speak to the person that was out there and what was in their mind. If something is pertinent to the charge, we got a gun and we're charging the guy with an assault with a gun, that would go under the, you know, evidence, cause that would be used in court. They go out to a – some mope, he's a dope dealer, he's never had a job and he's got this whole array of stuff that's really neat, that's better than the stuff the copper's got in his house, and they have this thing that they don't deserve so we're going to take it, we're going to forfeit it. You know. That's just the mentality of the coppers. So you almost have to tell 'em, quit taking stuff, you know, just take the, you know.

In our review of Strike Force case files, we found much support for the notion, expressed by the Commander, that some Strike Force officers were engaged in the practice of seizing items that were "really neat" and that officers clearly believed the individual did not "deserve" to have. In many cases, the Commander's explanation appears to be the only one that makes sense. Because officers appeared to seize a large number of personal items from suspects without any consideration of how the personal items might relate to any criminal activity, one is left with the distinct impression that officers simply believed that the owner did not "deserve" to possess those items.

Items that appear to fit this description – that is, items the owner did not deserve to have – included: tools, jewelry, appliances, televisions, computer equipment, electronics equipment and recreational items such as an ice auger. The Panel was struck by the number of

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large screen and flat screen televisions, along with electronics and computer equipment, that officers seized in case after case.

Notably, the Commander was not the only one to spot this problem. Some officers we interviewed expressed their own concerns about the nature of the seizures they observed. Some told us that they refused to participate in these broad seizures, and, when assigned to certain search teams, preferred to wait outside while a search was conducted.

Taking Items for Officers' Personal Use

The Commander's candid statement explained one reason why officers might want to seize items that they did not intend to use as evidence and did not plan to submit for forfeiture. But, we learned, there was another.

The problems at the Strike Force did not end with the overbroad execution of search warrants. Strike Force officers also crossed the line when handling evidence. Interviews with Strike Force employees revealed that officers and employees routinely took property for their personal use. Sometimes officers and employees literally took these items home, while on other occasions they paid for them. Indeed, at the Strike Force offices, we located some isolated records, some of which were handwritten, confirming the sale of items such as televisions, jet skis, trailers, tools, and a washer/dryer to Strike Force employees. Witnesses described that it was common for Strike Force employees to take home televisions and computer equipment, among other items. One witness described it as a "free for all."

There can be no ambiguity regarding this conduct. No professional law enforcement agency allows employees to take seized evidence home for their personal use. Similarly, law enforcement agencies do not allow for private sales of seized property to their employees. Many do not even allow officers to bid on seized evidence sold at public auction. Moreover, this conduct directly violated the policies and procedures governing the Strike Force. The "Operating Procedures and Guidelines" adopted by the Minnesota State Gang/Drug Oversight Council on May 2, 2006 provides for the disposition of evidence at the end of a case.

> *3-14.10 Disposal of Evidence.* When no longer needed for evidentiary purposes, all evidence, except contraband and forfeited property, shall be returned to the owner unless title to the evidence has been transferred by court order or in another lawful manner, or the lawful owner fails to claim the evidence within sixty (60) days of notification. In such cases, the Task Force may:
>
> - Destroy it;
> - Dispose of it at public auction;
> - Retain it for use by the appropriate jurisdiction.

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The Guidelines contain no provision allowing officers to keep seized evidence or to buy it from the Strike Force itself.[9]

Moreover, there may have been some attempt to hide who was purchasing items. One handwritten list we found simply included a list of items sold (two televisions sets and one chainsaw), the cases the items came from and the amounts ($30 and $25 each for the televisions, $35 for the chainsaw). Conspicuously absent from this brief report was any mention of who purchased the items. On other occasions, items were purchased using money orders, cashiers checks or third party checks.

Finally, our review of the evidence room supports the conclusion that many items were taken by Strike Force employees. When the inventory of evidence at the Strike Force offices was complete, we found many items that were listed as being in the Strike Force evidence room that we could not locate. There is no record of these items being destroyed or sent to auction. They are simply missing. We also found many other items of evidence that could not be linked to any specific case. We designated these items as "unidentified" evidence. Some of these items were found in officers' desks, lockers and other locations in the Strike Force offices.

We then compiled a list of possible "missing" and "unidentified" evidence. We reviewed the case files connected to those items where possible. Because the Strike Force was permitted to auction off evidence at the end of a case, however, we compared our preliminary "missing" evidence list with the list of items sent to auction[10], and with the items on the "unidentified" list in attempt to determine whether items were truly missing. This process took many weeks to complete. At the end of this process, we were able to identify some items originally thought to be missing that might have been auctioned. Many items, however, remain unaccounted for and are simply missing.

We not only conclude that officers took items from the Strike Force offices for their personal use, but there is also reason to believe that they did so with the knowledge that the items could be returned to rightful owners. For example, we learned of two instances where apparent stolen property could have been returned to its rightful owner but was not. In one case involving a trailer, the rightful owner was easily identified, yet the trailer was sold to a relative of a Strike

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[9] During Advisory Board meetings, Strike Force representatives stated that property no longer needed for active cases was given to charity or other agencies. The Advisory Board was specifically told that vehicles were sent to auction. As the Legislative Auditor found, the Strike Force entered into an agreement with Cars with Heart for the disposal of many vehicles. We did not find evidence that Strike Force employees informed the board of the Strike Force's relationship with Cars with Heart.

[10] During much of the time in question, the Strike Force sent items for auction to an online auction company, Crankyape.com. We interviewed the owner of Crankyape.com and obtained from him a comprehensive list of all items sent from the Strike Force. We also compared that information with lists maintained at the Strike Force offices of items designated to be sent to Crankyape.com. Notably, some of the lists at the Strike Force contained items that were originally designated for Crankyape.com, but were pulled from the list. These included televisions and computer and electronics equipment.

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Force officer. In the second case, a new, expensive 4-wheel ATV could have been returned to its owner but was converted to the Strike Force's own use by equipping it with police lights. In these instances, there is no evidence in the Strike Force's files to indicate that the owners gave permission for the Strike Force to keep the items.[11]

In addition, we found many troubling examples of items of evidence located outside of the evidence room including:

- narcotics and currency from old cases (either reported destroyed or apparently never entered into evidence) in locked file cabinets;
- electronics apparently seized from an unknown case located in an officer's file cabinet;
- a backpack containing two handguns from a specific case found inside a safe utilized by certain members of the Strike Force despite the fact that the weapons were listed as being in the evidence room.[12]

Finally, we learned that many items listed as "destroyed" in case files were actually still in the evidence room or outside of the room but in the Strike Force offices. In October 2008, the Department of Public Safety conducted a review of the Strike Force that revealed specific problems concerning the handling of evidence and forfeiture funds. The Department and the Advisory Board considered retaining an independent audit firm to conduct a more thorough audit. As a result, on November 14, 2008, the chair of the Strike Force Advisory Board issued a written order that no further property would be destroyed pending the audit. In December 2008, Strike Force officials disregarded the order and instructed officers to destroy items no longer necessary for their cases. A Strike Force employee then requested that numerous officers sign blank destruction authorization forms. Indeed, the Panel found a large stack of signed, blank authorization forms in the Strike Force offices. Many case files contain notations in January 2009 claiming that property was destroyed. Many such items were, in fact, not destroyed, but remain in the evidence room.

FINDINGS CONCERNING ISSUES RELATED TO THE HANDLING AND DISPOSITION OF EVIDENCE AND PROPERTY

The Panel concludes that officers took seized property for their personal use and, on certain occasions, purchased property for themselves and their family members. This is in violation of the Strike Force's policies and procedures and would not have been permitted by

[11] Shortly before finalizing this Report, the Panel was informed that some members of the Strike Force claim that the owner of the ATV did not want it returned. We were unable to verify this information. In any event, there is nothing in the case file to document that the owner did not want the item returned.

[12] Also inside the backpack was a sawed off rifle that we could not identify as belonging to any specific case. In addition, the backpack contained small amounts of narcotics and other items.

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officers' home law enforcement agencies.[13] The Panel only reviewed a small percentage of case files and we were only able to interview a limited number of Strike Force employees. As a result, we believe that there may be many more examples of improper conduct with respect to the handling of evidence and seized property.

The following are some specific examples of what the Panel learned during the investigation:

- **Televisions.** Witnesses told us that, over the years, a number of officers took large screen and flat screen televisions home for their personal use. In one instance, witnesses recalled that an officer took a large screen television home for that officer's child as a present. Other witnesses admitted that they were given valuable items of evidence from the Strike Force evidence room as "presents."

- **Laptops and Computer Equipment.** Witnesses also stated that it was routine for officers to take home for their personal use seized computers. In one example, the Panel was told that an officer took home a seized laptop, and later asked a Strike Force employee to help fix problems with the laptop.[14]

- **The Ice Auger.** Strike Force employees recalled an instance when an ice auger (often used to assist in ice fishing) went missing from the evidence room. The auger was seized as part of a narcotics case. At the conclusion of the case, the owner requested that the ice auger be returned. During ice fishing season, it was widely discussed at the Strike Force that a particular officer had taken the auger. The officer in charge of the case threatened to obtain a search warrant for the home of the officer who took the auger. The auger was then quietly and anonymously returned to the Strike Force offices. We interviewed the owner of the auger who recalled that the officer who returned the item remarked that it had been slightly used by another officer.

- **The Missing Watches.** In one case, an officer executed a search warrant in a matter involving theft of stolen property. Among the items seized, were 70 watches, many with the price tags still on them. Most of the tags indicated that the watches were to be sold for approximately $100. Shortly after the seizure, the officer in charge of the case was approached by a Strike Force employee who asked him to sign a blank form allowing for the destruction of evidence in his cases. The officer was told that this was being done to facilitate the destruction of a large amount of evidence that was no longer needed. The officer refused. The officer then noticed two Strike Force employees and the relative of a Strike Force employee in a conference room. All three were looking through the

[13] We also note that the Advisory Board was told by Strike Force leaders that seized items were given to charity or destroyed. We are not aware of any evidence to suggest that the Board was told that officers took items home or purchased them.

[14] We have been informed that some Strike Force officers have stated that they used laptops removed from the evidence room for official purposes. The Panel has not located any documents authorizing officers to remove laptops for work-related purposes.

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watches. One was holding a watch up to their wrist. Upon seeing the officer in charge of the case watching them, one of the employees stated that they were not doing anything wrong. During our inventory, only 50 of the 70 watches could be found in the evidence room. In addition, the case file contains the statement that all of the watches were sent to a specific jeweler to be sold. The jeweler denies receiving any of the watches. Indeed, the jeweler clearly recalls that a Strike Force employee contacted him to determine if he was interested in selling these watches. The jeweler explained that he was not interested. Yet, the employee entered a notation in the file that all watches were given to this jeweler. As a result, 20 watches potentially worth $2,000 are missing, and the case file contains a false statement that the watches were given to a jeweler for sale.

- **Missing Evidence.** In addition, the following is a sampling of the items that fall under the category of "missing" evidence after a review of the evidence room, case files related to the evidence in the evidence room and a cross check with items auctioned. Based on the statements of witnesses, and the lack of documentation indicating what happened to these items, there is reason to believe that many were taken by employees of the Strike Force for their personal use:

    - Drill set
    - Bosch jigsaw
    - Black and Decker laser level
    - Bostitch air nailer
    - HP laptop
    - Laptop of unknown make and model
    - DVD/VHS player
    - 2 Televisions of unknown make and model
    - 5 DVD players
    - 11 Speakers
    - GE Refrigerator
    - Various sanders
    - Kahler Powerwasher
    - Graco Paint Sprayer
    - Snowblowers
    - Magnavox Flat Screen television
    - Tool set
    - Battery charger
    - Baseball cards
    - Computer equipment
    - Silver tea service and platter
    - Magnavox VHS recorder
    - Reciprocating saw
    - Powermate generator
    - Air compressor
    - A set of dining room chairs
    - Yamaha stereo receiver
    - NEC computer screen

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- HP printer and HP flat screen monitor
- Dell and Gateway laptops
- Sony camcorder
- Jewelry[15]

- **Items Purchased by Strike Force Employees.**[16] We have obtained documents that indicate the following items were purchased by Strike Force employees for the following amounts:

Trailer	$300
Trailer	$500
2 Jet Skis	$800
Television	$30
Television	$25
Washer/Dryer	$75
Electric Stove	$175
Chain Saw	$35
Large chair	$190[17]

- We also found many items in the evidence room, such as jewelry, televisions, electronics equipment and other items that were falsely marked as destroyed in their respective case files.

- In addition, jewelry from different cases was often put together in packages in the evidence room.[18]

ALLEGATIONS RELATED TO STRIKE FORCE INTERACTIONS WITH INDIVIDUALS AND THE SEIZURE OF FUNDS

The Panel investigated two types of allegations related to Strike Force officer interactions with the public and questionable conduct related to the seizure of funds. First, we investigated interactions between Strike Force officers and the public that arose from saturation details.

[15] Over the years, Strike Force officers seized many pieces of jewelry. Because of a significant lack of documentation as to the items seized, photographs or detailed descriptions, it is impossible to determine with any degree of confidence what jewelry might have been destroyed, sold or taken by officers. We are able to conclude, however, that a great deal of jewelry is missing.

[16] Few of the items listed here were processed through formal forfeiture proceedings. For many of these items, we were able to determine that they were sold to officers for far less than their true value.

[17] Through interviews of those involved, we have learned that this chair was sold to an officer as a present for the officer's spouse.

[18] All of these problems lead us to the conclusion that the integrity of the Strike Force evidence room was compromised.

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Second, we investigated allegations that arose from cases in which Strike Force officers chose to follow leads and other information in potential drug cases unrelated to gang activity. Regardless of whether the interaction was part of a saturation detail or a tip of some kind, one thing remained constant: when individuals stopped by the Strike Force on these occasions had money, it was typically seized by the officers.

There were a number of troubling aspects to these allegations. First, most of these encounters had no relation to gang activity. The case files do not mention gangs and there is nothing to indicate that the officers involved suspected the individuals of gang activity. Second, these encounters almost always involved a person of color. Whether the person was in a car, on the street or at a location, they were often singled out for nervous or suspicious behavior. In one case described below, the file simply states that officers were told "Hispanics" would be at a specific location to pick up narcotics. Two families of Hispanic descent had funds seized as a result even though they had nothing to do with drug dealing.

In addition, officers appeared to conduct themselves much differently when working for the Strike Force than if they were still back at their home agencies. Many of the cases we reviewed involved individuals who possessed small amounts of marijuana. Law enforcement officials we spoke with explained that it would be highly unusual for officers to seize large amounts of money from people during street stops simply because they possessed $10 worth of marijuana. But that is exactly what occurred on a regular basis at the Strike Force.

FINDINGS RELATED TO STRIKE FORCE INTERACTIONS WITH INDIVIDUALS AND THE SEIZURE OF FUNDS

The following are a few examples of the type of conduct we learned of through witnesses and case files:

The Impound Lot Case and Seizure of Funds

A minimally documented Strike Force case file indicates that officers received information that people of Hispanic descent would arrive at the Minneapolis impound lot to retrieve a car that had narcotics in the trunk. There was no information in the file to suggest where this information came from, or whether the source was a reliable informant. That evening, two separate families arrived at the impound lot to retrieve two vehicles. One family was of Honduran descent, the other of Mexican descent. They did not know each other prior to that night.[19] When the two families arrived and requested the release of their cars, Strike Force officers appeared, lined them up and forced all family members to stand with hands over their heads while they were frisked. No drugs or weapons were found and the officers recovered no evidence of illegal activity. One man from the Honduran family had $4,500 in his pocket from his position as foreman of a construction crew, while the man from the Mexican family had $100

[19] Our recitation of the facts of this matter is based on a review of the file as well as interviews with the family members who interacted with the Strike Force officers that evening. We also reviewed documents provided by the families related to the funds in their possession that night.

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in his wallet. Strike Force officers seized these funds and, in the case of the $4,500, made a point of remarking to one another about the large amount of money in the man's possession. Despite protests that these funds were legally the property of the men, the funds were not returned. Because both men were undocumented aliens, the Strike Force officers contacted ICE, and federal agents arrived to process the men for deportation proceedings. No drugs or other contraband were recovered from either man, and no member of either family was accused of participating in a gang.

The facts of this case are deeply troubling.

First, the case file does not make clear why the Strike Force officers took on this matter.[20] The tip that they received makes no mention of gang activity and is both vague and of questionable reliability. This matter could have easily been referred to the Minneapolis Police Department.

Second, the stop itself is of questionable validity. Officers conducting a stop must have reasonable suspicion that individuals are engaged in criminal activity. Here, the only information in the officers' possession were: (1) a vague claim that someone had "information" that Hispanics would arrive at the Impound Lot to retrieve a vehicle with narcotics in the trunk; and (2) the unremarkable fact that two families of Hispanic descent had arrived at the Impound Lot to retrieve vehicles.

Third, when they stopped and frisked the two families, the Strike Force officers developed no information leading to the conclusion that they were engaged in illegal conduct. To the extent that this interaction had any validity, it should have ended there. Instead, the Strike Force officers seized funds belonging to the two men.

Fourth, the Honduran man reported that $4,500 was seized from him. The limited documentation in the file indicates that $4,014 was seized. There is no documentation regarding the $100 the second man claims was taken from him. We were unable to resolve these discrepancies.

Fifth, while the men were undocumented aliens, the Minneapolis Police Department has a policy against contacting immigration authorities or asking suspects about their immigration status in situations such as this. It appears as though these Strike Force officers, acting on information in Minneapolis, failed to adhere to Minneapolis Police protocol. The two men now face deportation.

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[20] Strike Force officers complained to this Panel that too many officers dedicated time to "small time drug cases" with no gang connection. They related to the Panel that they believed the Strike Force should have been focused exclusively on developing cases against gangs. This view was reinforced by Advisory Board members who expressed concern with officers spending so much time on drug cases with no gang connection.

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The Motorcycle Stop and Seizure of Funds

Strike Force officers were working a saturation detail, driving the streets of a neighborhood where gang members were known to congregate. They noticed a man on a motorcycle violating traffic laws and pulled him over. Upon review, the motorcycle was unregistered. They then frisked the man and found a small amount of marijuana and $1,306 in cash. They seized the motorcycle and the $1,306 in cash. There is no evidence in the file to indicate that the man had any gang connections or that the officers tried to convince him to provide information on gangs (if he had any). There was no follow-up investigation in this matter, and the man whose funds were seized was not prosecuted for any offense.

This matter is of concern to the Panel for the following reasons. First, the purpose of a saturation detail is to show gang members that Strike Force officers are in the vicinity. The goal is to lower gang-related violence by establishing a deterring presence. Strike Force officers have access to a database of suspected gang members and their associates. Here, the officers stopped a man with no known gang connection for what amounts to a traffic type violation. Second, the amount of marijuana in his possession was equivalent to personal use, not trafficking. Third, while the officers may have technically had the ability to seize the $1,306 because the funds were in proximity to a controlled substance, police officers typically do not make seizures of this size when they encounter such a small amount of marijuana.[21]

Finally, this case – and the others just like it – gives the impression of officers roaming the streets, for the most part unsupervised, in search of funds to seize. Advisory Board members we spoke with were troubled by these types of encounters. In essence, they communicated to the Panel that this case is not what the Strike Force was supposed to be doing. If this was an isolated example of such conduct, it might not raise so many concerns. But it was not.

A Suspicious Car and the Seizure of Funds

During a saturation detail, an officer stopped a vehicle for suspicious activity. During the car stop, the officer found one marijuana cigarette, a bottle of Grey Goose vodka and $2,440 in cash. The officer seized the cash.

The Bar Stop and Seizure of Funds

One evening, a young man arrived at a bar in Minneapolis. It is a bar he has frequented on previous occasions. The bar employs a bouncer who frisks everyone who enters. This particular man had a large amount of cash on him and he showed it to the bouncer who frisked him. Within a minute after he entered the bar, the man was brought to a private room, along with another patron, and told to stand facing the wall with his hands above him. A Strike Force officer questioned him about gang affiliation, which he denied. The Strike Force officer then took the cash from his pocket ($3,600) along with about $10 worth of marijuana. The officer

[21] While no officer we spoke with condoned the use of marijuana or driving an unregistered vehicle, they were in agreement that police departments do not typically seize funds under these circumstances.

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accused him of engaging in a drug deal with the other gentleman who was brought to the office. The man with the $3,600 in his pocket explained that this was tax refund money and that he was shopping for a car for his fiancé. He offered to call the car dealer he had just visited. Both men stated that they came to the bar alone, and had never met before. The second man also had cash on him, money that the bouncer noticed upon his entrance to the bar. The second man did not have any marijuana on him. Both men were placed under arrest, and their funds, totaling over $5,600 were seized by the Strike Force.[22] The Strike Force conducted no further investigation and neither man has been prosecuted.

For many of the same reasons as set forth above, the Panel is deeply concerned about this encounter. There was no allegation that these men were engaged in gang activity, and no reason for officers from the Metro Gang Strike Force (as opposed to the Minneapolis police) to be handling this matter. The allegation that they were involved in a narcotics transaction makes no sense on its face, and neither man was subject to any follow-up investigation or prosecution. Again, if this was one isolated incident, it might not be as troubling (although we do not condone what occurred). But our review of case files suggests that this was not an isolated occurrence.

At the end of our interview, the young man with the $10 of marijuana in his pocket explained that he was still trying to get his money back. He expressed shock that officers would seize his funds and arrest him under these circumstances. As we ended the interview, he shook his head and stated: "I thought the police were supposed to protect us."

The Mistaken Identity Case

While staking out the home of an alleged fugitive, Strike Force officers noticed two men outside of the home, one of whom they believed to be the fugitive. They approached and stopped the two men and quickly realized that neither was the fugitive. Both acted suspiciously, however, and one tried to run from the officers. They were both handcuffed and searched. One man had a small amount of marijuana on him and $224 in cash. The second man had $230 in his possession and no marijuana. The officers seized both the $224 and the $230. Neither man appears to have been referred for prosecution, although both were arrested for possession and distribution of narcotics.

Searches of Cell Phones

Based on our review of case files, along with our interviews of officers and people who interacted with the Strike Force, it appears as though Strike Force officers routinely searched the cell phones of people stopped pursuant to saturation details. We found no evidence that officers conducting these stops obtained search warrants before searching the cell phones. While there

[22] When we interviewed the man whose $3,600 was seized, he was visibly shaken by this encounter and explained in detail where he had gone with the funds to look for a car, and the origin of the funds. The man is employed and denied any gang affiliation or involvement. He admitted that he smokes marijuana, and that the marijuana in his possession that night was for his own personal use.

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may be occasions when exigent circumstances require an officer to conduct such a search, this was a regular practice at the Strike Force. We found this conduct to be highly questionable.[23]

Pictures of Individuals Stopped On the Street

Similarly, we found a great deal of evidence to suggest that Strike Force officers conducting saturation detail stops would routinely take pictures of the individuals they encountered, including photographs with individuals holding Metro Gang Strike Force identifying information. These included pictures of children. We are troubled by this practice of requiring innocent people to be photographed as though they had engaged in illegal conduct. It is our understanding that these photographs were maintained at the Strike Force offices.

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[23] Similarly, the case files and the evidence room indicate that officers routinely seized cell phones and computers. There are dozens of cell phones and computers in the evidence room at this time. Yet, we found almost no evidence to suggest that officers conducted forensic analysis of the phones or laptops and few examples to suggest that they applied for warrants once the seizures were made. Search warrants would have been necessary if the officers wanted to investigate the contents of these items. Rather, it appears as though these items simply sat in the evidence room.

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ADDITIONAL ALLEGATIONS AND AREAS OF CONCERN

Potential Abuse of the NCIC Database

The Strike Force had access to the Criminal Justice Information System database, and, through it, the records of the National Criminal Information Center ("NCIC") database. This is a highly regulated database that the F.B.I. provides to law enforcement agencies for use in the investigation of criminal conduct. Law enforcement agencies receive training and strict instruction that the database is to be used for law enforcement purposes only.

The Panel heard from a number of witnesses who alleged that the NCIC system was accessed by Strike Force employees for non-governmental purposes. If true, this is a direct violation of the terms of use of the NCIC database.

Relative of a Strike Force Employee Given Access to Evidence

Numerous witnesses told the Panel that they observed a relative of a Strike Force employee in the Strike Force offices on a frequent basis handling evidence and seized property. There is no justification for allowing someone who is not employed by the Strike Force this type of access to the offices and seized property. This practice simply flies in the face of standard law enforcement protocol.

Blank Pre-Signed Property Destruction Forms

The Panel discovered a stack of blank, pre-signed evidence destruction authorization forms in the Strike Force offices. Witnesses explained that a Strike Force employee asked officers to sign the forms so that large quantities of property that was no longer needed could be destroyed. According to witnesses, the forms were to be signed in blank to speed up the process. Many were. Unfortunately, the forms were signed and placed into case files with notations that the property seized in those cases was destroyed. In some cases, this form was used to justify the destruction of evidence without the knowledge or permission of the case officer. In many instances, the property was not destroyed but remains in the evidence room. The case files therefore contain false documents and it is difficult to know whether items that are not in the evidence room were actually destroyed.

Remaining "Unclaimed Evidence"

Prior to our investigation, the Legislative Auditor and the Department of Public Safety identified a significant amount of currency and vehicles, along with other items of value, that were seized but never submitted to the Minnesota Attorney General's office for forfeiture. In most of these cases, there is no evidence that the required notification was given to the person from whom the item was taken. In other cases, the Attorney General rejected the forfeiture for failure to comply with legal requirements.

Similarly, both the Legislative Auditor and the Department of Public Safety have identified vehicles and other property that were seized but never submitted for forfeiture.

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In addition, the Legislative Auditor has noted that the Attorney General's office did not receive its 20% of forfeited proceeds as required by statute. Although there appears to have been an agreement between then Attorney General Hatch and the Strike Force in which the Attorney General allowed the Strike Force to keep this 20% of forfeited proceeds, the Legislative Auditor has not found any support in the statute permitting such an agreement. The Legislative Auditor recommends that the Strike Force pay to the Attorney General its statutory share of past forfeited funds.

The Panel is informed that various law enforcement agencies are holding, for resolution of these issues, approximately $1,000,000 in forfeited funds. In our list of Recommendations, we call for the appointment of a Special Master or Receiver with authority over these remaining forfeiture funds. The Special Master should return funds and property that were not properly forfeited and resolve the question of funds owed to the Attorney General.

Activities Immediately Following the Legislative Auditor's Report

The same day that the Legislative Auditor's Report was released, a small group of Strike Force officers started shredding documents at the Strike Force offices. We have been unable to determine what the officers shredded or why. Most likely at the same time, however, these officers placed large volumes of material in storage bins to be accessed by a professional document destruction firm used by the Strike Force. The firm had recently been to the Strike Force and emptied the bins. According to this firm, the bins were typically not full when they came to retrieve the items for destruction. The Panel examined the bins as part of our investigation. They were completely full, and contained a great deal of material from Strike Force case files. Some of the items placed in the bins for shredding included: several lists identifying Strike Force informants, information relating to currency held at the Strike Force offices, copies of documents confirming the amount of money seized in various cases and one entire Strike Force case file.

Within days of the Legislative Auditor's Report, a Strike Force employee tried to delete a computer file listing Strike Force informants. Two days after the Legislative Auditor's Report, the Strike Force received a fax from a local crime lab. The fax contained lab reports confirming that substances from a series of cases dating back up to eight years were narcotics. In some instances, the case numbers were incorrect in that the case files did not indicate that the substances tested in May 2009 were part of the case identified on the lab report.

Poor Security and Safety Practices

The Panel noticed many problematic practices that negatively affected the integrity of Strike Force records and personnel. These included the following:

- A large number of Confidential Informant ("CI") files, including names of the informants and other identifying information were found in an open box in the warehouse area at the Strike Force;

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- A card-index file of informant names and information was discovered in the unsecured file cabinet of a Strike Force employee;

- Two firearms in the evidence room had live rounds in the chamber, without any warnings or notification that this was the case;

- A can of highly flammable material was found in the evidence room.

Documentation Issues Regarding Confidential Informants

Our review of both case files and CI files[24] reveals a number of substantial issues, including the following:

- Many cases involving the use of a CI did not contain any reference to the CI by symbol or code number, thus eliminating any ability outside of personally contacting the officer who handled the CI to determine which CI provided information should that become necessary;

- In several instances, CI files did not contain any biographical data about the CI, thus, outside of the officer who handled the CI there is nothing to identify that CI;

- Often, CI files contained payment receipts that were not signed by the CI and there is nothing in the file in which the CI acknowledges receipt of payment. In addition, there are questions regarding the authenticity of the CI signatures in several files;

- The CI files themselves generally do not contain any independent debriefings or record of the content of information provided by the CI;

- On at least one occasion, a CI was paid with funds that had not cleared forfeiture by the Attorney General's office following a seizure;

- The above-mentioned practices and situations are in direct conflict with currently-accepted best practices utilized by most law enforcement agencies.

General Documentation Issues

- The Panel feels compelled to emphasize the unusually poor and problematic state of Strike Force investigative documentation. The most basic underpinning of criminal investigation is preservation and documentation. While there are a number of examples of well-documented cases, many of the Strike Force's case files fail to meet even minimal standards. This includes dozens of case files which are completely empty.

[24] The review of CI files was performed at the request of the Panel, but was undertaken by sworn officers.

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- Among the documentation problems we noted were those relating to the handling of evidence. In many cases, there was no documentation to establish when evidence was removed from the evidence room and when it was returned. In other cases, the signatures of officers on removal documents were illegible. Chain of custody sheets were often missing and various types of evidence were combined on one sheet, contrary to typical law enforcement practice. In a number of cases, the file contains no information to suggest that evidence signed out to another agency (such as a prosecutor's office) was received by that agency.

- Letters to property owners/subjects regarding the disposal of seized items were absent from many of the case files reviewed.

- In many cases, property owners were not given seizure notices informing them of their right to challenge the forfeiture of their property.

Documentation Concerning the Execution of Search Warrants

- While there may be additional records at officers' home agencies, many case files in which there were search warrants and seizures contain inadequate documentation, and more than a few contain nothing more than a brief report. In many cases, there were few photographs of the search, and those photographs that were taken were often inadequate.

Additional Issues Related to Cars with Heart

- The Legislative Auditor addressed the existence of a "hand shake" deal between a Strike Force employee and Cars with Heart. The Panel learned of additional concerns relating to the Strike Force's interactions with Cars with Heart.[25]

- The Panel has learned that Cars with Heart entered into an earlier agreement with the Strike Force, in addition to the agreement described by the Legislative Auditor. In that second agreement, Cars with Heart received two vehicles from the Strike Force in exchange for one vehicle donated by a private citizen.

- In addition, the principal of Cars with Heart informed the Panel that he provided a car to a Strike Force officer and one of the officer's relatives at discounts.

- Several of the vehicles transferred and ultimately disposed of by Cars with Heart apparently were never properly forfeited.

[25] At the time of the Legislative Auditor's original report, there was a question about the location of a number of vehicles. It is our understanding that the vehicles have been located. While this does not resolve other questions regarding the vehicles, it is useful that they have been found.

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THE PANEL'S FINDINGS AS TO THE CAUSES OF MISCONDUCT AT THE METRO GANG STRIKE FORCE

Part of the Panel's charge was to determine the causes of the problems at the Strike Force. As we discovered evidence of misconduct, questionable conduct and activities that would not be tolerated at a police force or Sheriff's office, we asked witnesses why they believed this happened. While there is no simple answer to this question, our work has revealed at least a basic framework for understanding how and why the Strike Force lost its way.

Based on our review, we believe that the problems discussed in this Report started as a result of two otherwise independent factors.

First, the predecessor to the Strike Force lost most of its funding in 2003. When the statewide Strike Force became the Metro Gang Strike Force, some of the same people made the transition. As noted earlier, these people never lost their concern over funding and the future of the Strike Force as an entity. This "depression era" mentality led, we believe, to an inordinate focus on forfeitures as the lifeblood of the Strike Force.

Second, the Strike Force was created to be a stand alone police agency. This is what law enforcement, and, ultimately, the legislature wanted. In the abstract, this makes sense: a group of dedicated officers from different agencies come to a neutral site in order to work across jurisdictional lines to fight a common problem. Because gangs do not operate within city and county boundaries, the agency fighting them also should not.

But there were significant flaws with this concept that, along with the perceived need for forfeiture funds, became major factors in what ultimately occurred. One flaw was the lack of external supervision. The Strike Force was to be supervised by the leaders of the law enforcement agencies that contributed officers to the organization. Each of these leaders, however, had more than enough on their plates. They had their own agencies to run, and little time to scrutinize the direction of the Strike Force. The other flaw has to do with the very nature of an independent stand alone law enforcement body. Our review shows that some officers took the idea of independence literally. Traditional law enforcement agencies have strict supervision protocols and multiple layers of review. Some officers likely viewed their time at the Strike Force as an escape from the onerous supervision at their home agencies. As a result, they believed that the independence provided by the stand alone structure gave them the ability to do what they wanted, even if they could not do it at their home agency.

The funding concerns and the fact that the Strike Force was a stand alone agency combined to allow for the development of other problems that led to the issues described in this Report. Were it not for the fact that the Strike Force was a stand alone agency with little internal or external supervision, officers would not have been able to engage in the types of ill-defined saturation details as occurred here. But even the saturation details would not have been possible had the officers stuck to the original mission of the Strike Force. How were they able to stretch the force's mission to permit the type of conduct exhibited during saturation details? The answer is important to an understanding of the problems associated with the saturation details.

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Working at an independent stand alone agency with little supervision, some officers were able to define their mission broadly. Since a good deal of gang activity involves the distribution of narcotics, they believed they could justify investigating all potential narcotics cases, regardless of overt gang connections. The same was true for cases involving the potential for violence, stolen property and a whole array of other crimes. Because gangs *could* be involved in any of these matters, they seemed to have taken the position that the Strike Force *should* investigate all of them. This type of "mission creep," (defining the mission so broadly as to encompass purely non-gang activity) in our view, when coupled with the ability to engage in roaming patrols for illegal conduct, was a disastrous combination. Freed of the constraints of a highly supervised environment, their broad definition of the Strike Force's mission became the rationale for officers driving through neighborhoods stopping people for traffic violations with small amounts of marijuana.

Finally, there is a reason why so many law enforcement agencies have strict evidence reporting and handling procedures, provide oversight relating to seizures and employ highly trained and experienced property and forfeiture professionals. The temptation to take an item that you believe no one needs or does not "deserve" (whether for personal gain or punitive reasons) exists. The vast majority of law enforcement officers do not require policies and procedures to avoid the temptation. But some do. And the Strike Force was sorely lacking in policies, procedures and highly trained staff to prevent such activity. When taken in combination with the other factors described above, this failing was the final straw. There is no excuse for the conduct of the officers who took items for their personal use. But as we look to the future, we should make certain that we do not take officers from a highly regulated environment and place them into a chaotic one. The risk that some will stray is too high.

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RECOMMENDATIONS

1. **Stand Alone Strike Forces.** We recommend against the continued use of stand alone strike forces not administered and directed by a specific law enforcement agency. While some stand alone forces may work well under certain circumstances, stand alone agencies are too prone to a lack of supervision and a lack of accountability. Police agencies need accountability and careful supervision. It is simply too difficult to make certain that this is done when no one police agency is in charge. Rather, we recommend coordination of anti-gang efforts across jurisdictional lines and a mechanism for the sharing of information. Despite this recommendation, to the extent that policy makers decide to utilize stand alone strike forces in the future, we suggest that they need an active and engaged board that includes an executive committee with the time to ensure that audits, evaluations and staff reviews are performed promptly and in a meaningful fashion. In short, if they agree to participate in a stand alone agency, board members must commit to taking the time to make certain that the strike force operates with the same type of supervision, review, documentation standards and oversight as their own home agency. In addition, if a stand alone strike force is to be used in the future, there should be strict time limits on how long Commanders and Assistant Commanders can be in place along with time limits on strike force officers.

2. **Prosecutors as Strike Force Participants.** Many strike forces around the country are either run by a prosecutor, or have a prosecutor overseeing investigations and law enforcement tactics. This is one important way to make certain that investigations follow the mission of the strike force and stay on track. We recommend that law enforcement consider this model for any future anti-gang efforts.

3. **Saturation Details and Forfeitures.** Our review of a number of case files suggests that officers used saturation details to obtain large seizures. Saturation details must be carefully constructed such that the roaming, unsupervised police actions that took place in this instance cannot occur again. Strike forces need written guidelines governing the circumstances in which seizures will be made in cases in which no follow-up investigation or prosecution is contemplated. Strike force officers engaged in saturation details must be closely supervised. Saturation details must be carefully scrutinized so that they are consistent with the mission of the strike force and not simply a means for making seizures or confronting individuals. Moreover, command and control should be exercised by a supervisor from the jurisdiction in which the detail is taking place.

4. **Staffing.** Any strike force or task force that will handle large amounts of evidence and seized assets requires experienced and professionally trained staff dedicated to overseeing these functions. These staff members must have the appropriate technological resources to perform their work.

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5. **Auditing.** Similarly, strike forces and task forces should be subject to rigorous audits by teams comprised of professionals with significant experience in the handling of evidence and seized property. These audits should be made available to the public. If the audit teams raise any concerns for the force's handling of these matters, they should issue a list of corrective actions and schedule a follow-up audit to determine if the issues have been resolved. No strike force or task force should be permitted to operate with insufficient staffing or with apparent flaws in its system of handling evidence and seized assets.

6. **Forfeitures as a Funding Mechanism.** We recommend against the use of forfeitures as a significant source of funding for law enforcement operations. No law enforcement officer's employment or salary should be dependent upon seizures or forfeitures. The same should be true of any law enforcement agency. This is consistent with the guidance of the Department of Justice's "National Code of Professional Conduct for Asset Forfeiture."

7. **The Forfeiture Statute.** Under Minnesota's forfeiture laws, officers can seize funds and other valuable items under circumstances that create a presumption that the items are subject to forfeiture. This presumption requires an individual to challenge the forfeiture and establish that the items were not related to criminal activity. If no challenge is made, no lawyer reviews the facts of the case and the items are cleared for forfeiture. In some of the cases described in this Report, individuals retained lawyers and are challenging the attempt to forfeit their funds. Based on what occurred at the Strike Force, we have concerns about the breadth of the forfeiture statute and the lack of legal oversight of the process. We recommend that the legislature, in conjunction with law enforcement officials, prosecutors and defense lawyers, consider whether Minnesota's forfeiture laws provide sufficient oversight and protection for the rights of individuals and whether principles or guidelines binding on law enforcement are warranted given the practices detailed in this Report.

8. **Appointment of a Special Master to Handle Remaining Forfeiture Funds.** The Panel has been informed that there are approximately one million dollars remaining in forfeiture funds in various Strike Force law enforcement accounts. Because proper notice has not been provided in some cases and the funds have not been submitted for forfeiture, and for other reasons, every effort should be made to return some of these funds. In addition, a number of vehicles have been seized without proper notification and have not been submitted for forfeiture. These vehicles will have incurred significant towing and storage fees that the owner should not have to pay. Moreover, the Legislative Auditor has recommended that funds be paid to the Attorney General pursuant to the statutory requirement that the Attorney General receive 20% of seized funds it handled for the Strike Force.[26] We recommend the appointment of a Special Master with authority to locate property owners, return property not lawfully forfeited

[26] The Panel was able to confirm that the agreement between Attorney General Hatch and the Strike Force regarding the Attorney General's share of forfeited funds (as reported in the Legislative Auditor's Report) was disclosed by the Commander to the Advisory Board.

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to them (including funds, vehicles and other items), pay for fees incurred on vehicles and determine how much needs to be paid to the Attorney General. The Special Master should be given a budget and a time frame to complete these tasks.

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CONCLUSION

Many of the officers of the Metro Gang Strike Force investigated gangs, followed the law and good police procedures, developed appropriate information on gang-related activity and assisted communities in their fight against the gang problem. But others took seized property for their personal use, engaged in highly questionable stops, searches and seizures and acted in a manner wholly inconsistent with the standards expected of Minnesota law enforcement officers. This is now a time to repair the damage by developing a new anti-gang approach that focuses on information sharing and the coordination of investigations and prosecutions. The public, along with law enforcement, should be involved in discussions going forward.

The Metro Gang Strike Force was started with the best of intentions. Along the way, some of its members lost their focus, engaged in egregious conduct and tarnished the reputations of all associated with this multi-jurisdictional body.

The temptation to lay blame for this course of events with one agency or another, and to point fingers, will be high. But this Panel believes that the opposite is necessary. Our charge was to disclose what went wrong, and to make recommendations for the future. Perhaps our strongest recommendation is that the discussions about the Strike Force that must now take place not resort to an exercise in placing blame. The appropriate authorities will review the conduct of the specific personnel who engaged in the wrongful acts set forth in this Report. They should carefully analyze the facts and take strong action where appropriate. But law enforcement and the public are still left with determining how to fight gangs appropriately and within the law. We encourage policy makers, law enforcement officials, community leaders and our elected representatives to engage in a constructive dialogue about the future of anti-gang efforts, a dialogue that will address the causes of this unfortunate episode without pointing fingers. We recommend that the Commissioner of Public Safety immediately convene a meeting of law enforcement leaders to develop constructive ideas for the future consistent with our recommendations. What occurred at the Metro Gang Strike Force is not the fault of any one person or any one governmental body. Anyone who chooses to lay such blame is oversimplifying what went wrong and why. In our discussion of the root causes of the misconduct and our list of recommendations, we have tried to provide some guidance for a productive dialogue about the Strike Force and future efforts to fight gangs. Our community deserves such a discussion.

Andrew Luger
John Egelhof

August 20, 2009

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STATE OF MINNESOTA

FINANCIAL AUDIT DIVISION REPORT

Metro Gang Strike Force
Special Review

May 20, 2009 **Report 09-18**

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EXHIBIT A

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State of Minnesota • James Nobles, Legislative Auditor

May 20, 2009

Senator Ann H. Rest, Chair
Legislative Audit Commission

Members of the Legislative Audit Commission

Sheriff Rodney Bartsh, Chair
Minnesota Gang and Drug Oversight Council

Chief Manila (Bud) Shaver, Chair
Metro Gang Strike Force Advisory Board

Captain Chris Omodt, Commander
Metro Gang Strike Force

This report explains the results of our special review of the Metro Gang Strike Force for the period July 1, 2005, through March 31, 2009.

Page 1 contains a Report Summary that presents our audit conclusions, key findings, scope and objectives, and background about the strike force. The Table of Contents indicates where to locate more detailed information about the audit within the report.

We discussed the results of the special review with the strike force's staff at an exit conference on May 7, 2009, and with the Metro Gang Strike Force Advisory Board on May 14, 2009. This audit was conducted by David Poliseno, CPA, CISA, CFE, (Audit Manager) and Sonya Johnson, CPA (Auditor-in-Charge), assisted by auditors Pat Ryan and Jerry Foty.

We received the full cooperation of the strike force's staff while performing this special review.

James R. Nobles
Legislative Auditor

Cecile M. Ferkul, CPA, CISA
Deputy Legislative Auditor

CC: Members of the Minnesota Gang and Drug Oversight Council
Members of the Metro Gang Strike Force Advisory Board
Sheriff Bob Fletcher, Ramsey County Sheriff's Office, fiscal agent
Mr. Michael Campion, Commissioner, Department of Public Safety

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Report Summary

Conclusions

The Metro Gang Strike Force's internal controls were not adequate to safeguard seized and forfeited property, properly authorize its financial transactions, accurately record its financial activity in the accounting records, and conduct its financial activities in a reasonable and prudent manner. The Metro Gang Strike Force was unable to account for at least $18,126[1] of seized cash and could not locate or support the legal disposition of at least 13 forfeited vehicles and one seized vehicle held as evidence. The Metro Gang Strike Force did not comply with some finance-related legal requirements for seized and forfeited property. The Minnesota Gang and Drug Oversight Council and the Metro Gang Strike Force Advisory Board did not provide sufficient oversight of the Metro Gang Strike Force's financial activity.

Key Findings

- The Metro Gang Strike Force did not develop basic internal controls to ensure that it properly safeguarded or accounted for all seized cash (Finding 1, page 7), seized or forfeited vehicles (Finding 2, page 9), or other seized property (Finding 3, page 10).

- The Metro Gang Strike Force did not adequately segregate key duties over its local checking accounts (Finding 5, page 11) or properly use confidential informant funds (Finding 6, page 12).

- The Metro Gang Strike Force used significant resources to send six officers to a conference in Hawaii without required prior approval from the board (Finding 7, page 14).

- The Metro Gang Strike Force frequently did not follow the state's statutory forfeiture procedures (Finding 8, page 15).

- The Metro Gang Strike Force did not distribute forfeited money and proceeds from the sale of forfeited property in compliance with statutory requirements (Finding 9, page 16).

[1] In its response to the draft report, the Ramsey County Sheriff's Office, the Metro Gang Strike Force's fiscal agent through December 31, 2008, asserted that it had deposited $2,960 of this amount, and that the unaccounted for amount was actually $15,166. We did not validate this claim.

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Audit Objectives and Scope

Our special review of the Metro Gang Strike Force covered the time period from July 1, 2005, through March 31, 2009, and included internal controls and legal compliance over forfeiture receipts and expenditures, confidential informant fund uses, local checking account activity, and seized and forfeited property.

Background

In February 2009, the Office of the Legislative Auditor (OLA) was asked to review certain financial concerns at the Metro Gang Strike Force. Based on a preliminary assessment of the issues involved, we decided to conduct an immediate review, primarily to determine whether the Metro Gang Strike Force had adequate policies, procedures, and internal controls to ensure appropriate handling of seized and forfeited money and property.

The Legislature created the Metro Gang Strike Force in 2005 as part of a reorganization of the state's approach to addressing gang and drug-related crimes. The Legislature dissolved the existing Minnesota Gang Strike Force and created a state level Gang and Drug Oversight Council with a mandate to establish and supervise multi-jurisdictional task forces and strike forces across the state. The law specifically directed the council to establish a Metro Gang Strike Force.

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Metro Gang Strike Force

In February 2009, the Office of the Legislative Auditor (OLA) was asked to review financial concerns at the Metro Gang Strike Force. Based on a preliminary assessment of the issues involved, we decided to conduct an immediate review, primarily to determine whether the Metro Gang Strike Force had adequate policies, procedures, and internal controls to ensure appropriate handling of seized and forfeited money and property.

Objective, Scope, and Methodology

We examined certain financial operations of the Metro Gang Strike Force from July 1, 2005, through March 31, 2009. Our objective was to answer the following questions:

- Did the Metro Gang Strike Force have adequate internal controls to safeguard seized and forfeited assets, including cash, vehicles, and other property; properly authorize its financial activity; accurately record transactions in the accounting records; and conduct its financial activities in a reasonable and prudent manner?

- Did the Metro Gang Strike Force comply with finance-related legal requirements, including state laws, joint powers agreements, and policies and procedures of the Minnesota Gang and Drug Oversight Council and Metro Gang Strike Force Advisory Board?

- Did the Minnesota Gang and Drug Oversight Council and the Metro Gang Strike Force Advisory Board provide sufficient oversight of the Metro Gang Strike Force's financial activity?

To answer these questions, we interviewed the Minnesota Gang and Drug Oversight Council's statewide coordinator, the chair of the Metro Gang Strike Force Advisory Board, the Metro Gang Strike Force's current and former commanders, other Metro Gang Strike Force staff, and employees of the Department of Public Safety and Ramsey County Sheriff's Office (the strike force's fiscal agent through December 31, 2008). We examined and tested documentation supporting transactions related to seized and forfeited property, confidential informant funds, and selected expenditures of state grant funds.

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Background

The Legislature created the Metro Gang Strike Force in 2005 as part of a reorganization of the state's approach to addressing gang and drug-related crimes. The Legislature dissolved the existing Minnesota Gang Strike Force and created a state level Gang and Drug Oversight Council with a mandate to establish multi-jurisdictional task forces and strike forces across the state. The law specifically directed the council to establish a Metro Gang Strike Force.[2]

As a multi-jurisdictional strike force, the strike force operates through joint powers agreements with the participating law enforcement agencies. The agreements provide that the strike force will be under the direction of a commander appointed by the Metro Gang Strike Force Advisory Board. According to the agreements, the board consists of the chief law enforcement officers (or their designees) from the agencies that participate in the strike force. As of March 2009, the Metro Gang Strike Force had 34 law enforcement officers from 13 local law enforcement agencies.

In 2005, Ron Ryan, who had been the statewide commander of the Minnesota Gang Strike Force, became the commander of the Metro Gang Strike Force. He served as commander until his retirement in October 2008. The Ramsey County Sheriff's Office was the strike force's fiscal agent and provided it with administrative support. In December 2008, after Commander Ryan's retirement, the advisory board appointed Chris Omodt, a captain with the Hennepin County Sheriff's Office, as commander of the strike force. It also designated the Hennepin County Sheriff's Office as its fiscal agent, effective January 1, 2009; as of March 31, 2009, it had not transferred these responsibilities to Hennepin County.

During the time period we reviewed, the participating law enforcement agencies paid the salaries, benefits, and expenses for staff assigned to the strike force.[3] The strike force funded its other operating costs, such as rent and supplies, primarily through state grants from the Department of Public Safety and with proceeds obtained through forfeiture of seized cash and property. State grants totaled about $2 million each fiscal year. The strike force's fiscal agent reported forfeited money and property to be $125,913, $148,238, and $394,283 for fiscal years 2006, 2007, and 2008, respectively. As noted in the findings in this report, the strike force did not deposit all forfeiture proceeds with the fiscal agent.

[2] *Minnesota Statutes* 2008, 299A.641, subd. 3(2).

[3] The participating law enforcement agencies received partial salary reimbursement through state grants from the Department of Public Safety.

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Conclusions

The Metro Gang Strike Force's internal controls were not adequate to safeguard seized and forfeited property, properly authorize its financial transactions, accurately record its financial activity in the accounting records, and conduct its financial activities in a reasonable and prudent manner. The Metro Gang Strike Force was unable to account for at least $18,126[4] of seized cash and could not locate or support the legal disposition of at least 13 forfeited vehicles and one seized vehicle held as evidence.

The Metro Gang Strike Force did not comply with some finance-related legal requirements for seized and forfeited property.

The Minnesota Gang and Drug Oversight Council and the Metro Gang Strike Force Advisory Board did not provide sufficient oversight of the Metro Gang Strike Force's financial activity.

The following *Findings and Recommendations* further explain the basis for these conclusions.

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[4] In its response to the draft report, the Ramsey County Sheriff's Office, the Metro Gang Strike Force's fiscal agent through December 31, 2008, asserted that it had deposited $2,960 of this amount, and that the unaccounted for amount was actually $15,166. We did not validate this claim.

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Findings and Recommendations

Inadequate Internal Controls and Financial Practices

Finding 1

The Metro Gang Strike Force did not properly deposit or account for all seized cash.

After a complete review of strike force and fiscal agent documentation of forfeited cash transactions, we were unable to substantiate the disposition of $18,126 of forfeited cash.[5] The strike force's records showed that on 15 occasions, from September 2004 through July 2008, cash was removed from the property room, but the fiscal agent had no record of a corresponding deposit.

The strike force's seized cash process lacked fundamental internal controls, as follows:

- The strike force did not deposit seized cash immediately with the fiscal agent. The strike force held seized cash in the property room for extended periods. For example, during August through November 2008, the strike force deposited about $378,000 that it accumulated over a lengthy period of time. As of February 2009, the strike force still had on hand nearly $400,000 of seized cash, some of which related to cases dating back to 2000 when the strike force's former commander was the head of the Minnesota Gang Strike Force.[6]

  The former commander told us he believed that the inability to produce the actual cash seized as evidence at trial would negatively affect the outcome of the case. The oversight council's operating procedures and guidelines stated that digital pictures of seized cash were acceptable evidence at court trials and required that all seized cash be deposited immediately with the fiscal agent. Other law enforcement agencies we spoke with, including the state's Bureau of Criminal Apprehension, followed this practice. The delay in depositing this cash increased the risk of loss or theft.

[5] In its response to the draft report, the Ramsey County Sheriff's Office, the Metro Gang Strike Force's fiscal agent through December 31, 2008, asserted that it had deposited $2,960 of this amount, and that the unaccounted for amount was actually $15,166. We did not validate this claim.

[6] In 2005, the Legislature dissolved the Minnesota Gang Strike Force and created the Minnesota Drug and Gang Oversight Council with a mandate to establish and supervise multi-jurisdictional task forces and strike forces across the state, including a metro gang strike force.

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- The strike force did not maintain adequate records of cash seizures. The administrative assistant's tracking records were not complete to track the flow of cash. Once the former commander prepared a deposit, the administrative assistant would delete these transactions from her tracking record so that her record would only include cash held in the property room. She also did not always update the tracking records when seized cash was returned to the owner. Without a complete record of the disposition of the seized cash, there was no assurance that all cash removed from the property room was actually deposited.

- The strike force did not adequately separate incompatible duties. Once the investigators brought the seized cash to the office, only the administrative assistant had access to the cash, the receipt tracking records, and the investigators' case files. No one independent of the cash handling process verified that the cash seizures reported in the case files and the receipt tracking records agreed to cash held or deposited with the fiscal agent.

  Once the strike force decided that it would make a deposit, the strike force's former commander had complete control of the deposit process. He notified the administrative assistant when funds were forfeited and cleared for deposit, prepared the deposit, and brought the funds to the fiscal agent. He sometimes made errors in his deposit memos to the fiscal agent; in 13 instances, he inaccurately identified related case numbers or had math errors. The strike force's former commander did not have someone review the deposit memos or verify the supporting currency count sheet. Such a review could have detected these errors.

- The strike force sometimes bypassed the fiscal agent deposit process and used seized cash for other purposes. We identified three instances when seized cash, totaling $15,111, was not deposited with the fiscal agent and used directly for confidential informant activities. We also identified one instance when the strike force deposited $11,657 of seized funds into its "travel and training" account. To maintain appropriate accountability over seized cash, the strike force should have deposited these funds with its fiscal agent.

This lack of fundamental internal controls created an unacceptable risk of fraud and, together with the discrepancies identified, made it impossible for us to conclude that all seized cash was either held in the property room or deposited with the fiscal agent.

Recommendations

- *The strike force should immediately deposit all seized cash with its fiscal agent.*

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- *The strike force should comply with the oversight council's operating procedures and guidelines for seizures.*

- *The strike force should develop fundamental internal controls for its cash receipts process, including maintaining accurate accounting records, separating incompatible duties, and reconciling the case files, the accounting records, and the deposits.*

Finding 2

The Metro Gang Strike Force did not adequately safeguard or account for seized or forfeited vehicles.

The strike force could not locate 13 of the 80 vehicles forfeited between August 2005 and October 2008. The strike force's records and the case files did not contain information to document the vehicles' locations. Through the administrative forfeiture process, seized vehicles that are forfeited become the property of the strike force. The Department of Public Safety provided us with evidence showing that as of April 2009 these vehicles had active titles, and three of them were still registered to the person they were seized from or a lien holder. In addition to the 13 forfeited vehicles, the strike force was also unable to locate one seized vehicle it was holding pending a court hearing.

The strike force's vehicle seizure process lacked fundamental internal controls. The strike force did not have accurate records to show the location of seized and forfeited vehicles. Although the strike force had a contract for towing and impound services, strike force investigators sometimes had the cars towed to other law enforcement impound lots. The strike force's vehicle tracking report was not always consistent with the information contained in the criminal case files about where a vehicle was actually towed.

The oversight council's operating procedures and guidelines did not adequately address vehicle seizure and tracking practices. Without formal operating procedures, there is an increased risk that the strike force will not properly safeguard and account for seized and forfeited vehicles.

Recommendations

- *The strike force should develop fundamental internal controls for its vehicle seizure and forfeiture process, including maintaining accurate inventory records. The system should include information about the location of the vehicles, the status of forfeiture proceedings, and the final disposition of vehicles.*

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- *The strike force should develop formal policies that address towing and storing of seized vehicles and tracking seized and forfeited vehicles.*

Finding 3

The Metro Gang Strike Force did not establish sufficient internal controls for other seized property.

The strike force did not adequately account for and secure seized property. We learned of the following two instances when strike force personnel improperly handled seized property:

- The former strike force commander sold a seized flat screen television for $30 to a student worker employed by the Department of Public Safety working at the strike force. When the original owner later had a legal right to get the television back, the strike force had to recover the TV and refund the money to the employee.

- The administrative assistant gave some seized jewelry determined to have no value to another Department of Public Safety employee working at the strike force. Later, the employee's supervisor required her to return the jewelry to the strike force.

In addition, the strike force's property room lacked basic physical security, and inventory records did not agree to items in the property room. We saw numerous items in the property room that the strike force's records identified as destroyed. In addition, we were unable to find 7 of a sample of 62 items recorded on inventory records. Strike force personnel did not periodically compare its inventory records to items held in its property room.

In 2006, the Department of Public Safety's Office of Justice Programs approved a grant to the strike force that it could have used to obtain a computerized inventory system for its evidence and seized property. The Project Safe Neighborhood Grant for $168,000 provided funding to the strike force for technological equipment, software, and services. The strike force used some of these funds for other technology needs. However, because the strike force failed to submit a needs assessment, the Department of Public Safety cancelled $73,000 of the grant.

Recommendations

- *The strike force should dispose of seized property in accordance with applicable rules and regulations.*

- *The strike force should ensure that the property room has adequate physical security.*

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- *The strike force should maintain accurate inventory records. It should consider obtaining a computerized inventory system.*

- *The strike force should conduct a periodic physical inventory of the property room to ensure the accuracy and integrity of the property room's inventory records.*

The Metro Gang Strike Force did not have sufficient administrative staff to conduct its operations. **Finding 4**

The strike force had one administrative assistant to perform all of its administrative functions. This person maintained all of the inventory records, was the property room custodian, was responsible for two local checking accounts, controlled the confidential informant funds, sent seizure notices to the Attorney General's Office, obtained reimbursements from the fiscal agent, maintained the case files, and performed other office functions, such as answering phones and providing clerical services. The strike force had not documented the work performed by this person or developed any backup plans in the event of this person's absence.

The administrative assistant told us that she often worked weekends and evenings to try to keep up with her workload, and that even on her vacation days, she would regularly report to the office. Nevertheless, the oversight council's annual evaluation of the strike force's operations identified weaknesses in areas under the administrative assistant's control. By relying on one person for so much of its administrative functions, the strike force increased the risk of a breakdown in its financial operations.

Recommendations

- *The strike force should ensure that it has sufficient administrative resources to carry out its financial operations.*

- *The strike force should document key aspects of its financial operations.*

The Metro Gang Strike Force did not adequately segregate key duties over its local checking accounts and did not adequately control some of the accounts' activities. **Finding 5**

The strike force did not segregate incompatible duties for checking accounts it has for its confidential informants and "training and travel" activities. The administrative assistant performed all functions related to these accounts. She signed all the checks, reconciled the bank statements, requested, endorsed, and

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deposited or cashed the checks from the fiscal agent, prepared the deposits, and made cash withdrawals for both accounts. From July 2005 through March 2009, the fiscal agent replenished about $138,000 to the confidential informant account and reimbursed about $56,000 to the training and travel account.

The strike force did not always obtain funds for the travel and training account through reimbursement from the fiscal agent. We identified two instances when this occurred. Finding 1 discussed the inappropriate deposit of $11,657 forfeited cash. In addition, the strike force inappropriately deposited into the travel and training account $12,252 from Reachout, Inc., identified by the former commander as a donation to be used for strike force vehicle repairs.

A good system of internal controls requires that policies and procedures are in place to ensure that receipts are properly safeguarded, deposited, and recorded, and an adequate segregation of duties exists. The lack of proper segregation of duties increased the risk of errors or irregularities from occurring and not being detected and created an unacceptable risk of fraud.

Recommendations

- *The strike force should ensure an adequate segregation of duties over the local checking accounts to ensure that no one person has complete control of the process.*
- *The strike force should only deposit reimbursements from the fiscal agent into the training and travel account.*

Finding 6

The Metro Gang Strike Force did not properly use or control its confidential informant fund activity.

The Metro Gang Strike Force failed to comply with the oversight council's operating procedures and guidelines and its own internal procedures related to the confidential informant fund. The strike force used this fund to pay confidential informants for information about criminal activity, to purchase evidence associated with criminal activity, and to purchase services and equipment for authorized undercover operations. The strike force mainly funded this activity through the grant from Department of Public Safety. It could supplement the grant funds with forfeitures. The strike force had the following weaknesses in its administration of this fund:

- The strike force inappropriately used about $5,100 of confidential informant funds for unallowable or unreasonable purposes, including the following:
  - $1,807 for evidence room shelving.

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- $1,000 advanced to the assistant commander without sufficient documentation.
- $850 advanced to investigators for evidence purchases that were not supported by information in the case files.
- $600 for a travel advance.
- $279 advanced to the former commander in violation of the oversight council's guidelines, which prohibit a strike force commander to disburse confidential informant funds to himself.
- $250 to purchase beverages at a bar for an investigator and/or informant.
- $138 reimbursed to the council's statewide coordinator for office supplies.
- $103 for a canister vacuum.
- $72 for doughnuts during a search warrant briefing.

- The fiscal agent did not perform an effective reconciliation of the confidential informant account. He did not reconcile the account to an authorized balance, did not resolve variances identified on the reconciliations, did not include all confidential informant funds in the reconciliation, and could not reconstruct prior months' reconciliations because he overwrote the files.

- The former commander kept $1,400 of seized funds in his office in case an officer needed confidential informant funds when the administrative assistant was not available. Strike force staff could not tell us how these funds were used, reimbursed, reconciled, or the disposition of these funds when the former commander retired.

- We also identified 179 instances where advances taken out by investigators were not settled within 10-14 days of the initial advance, as required by the strike force's internal policy. In one instance, the investigator failed to settle the advance for a year. To settle an advance, the investigator had to provide evidence of how it was used and return any unspent amounts to the administrative assistant.

- Finally, the fiscal agent did not require any documentation to support the amount requested to replenish the confidential informant account. Instead, the strike force's administrative assistant periodically requested a check from the fiscal agent for an arbitrary amount. The grant agreement requires that grant funds only be used to reimburse the strike force for actual costs.

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The oversight council's operating procedures and guidelines outline the management and operation of the fund. The strike force also had its own internal procedures for using this fund. The strike force's confidential informant fund practices did not comply with either of these procedures.

Recommendations

- *The strike force should only use the confidential informant funds for allowable and reasonable activities.*
- *The strike force should maintain adequate documentation to support all confidential informant fund activities.*
- *The strike force should ensure that it independently reconciles its confidential informant fund to an authorized amount, resolves all variances, and retains sufficient documentation.*
- *The strike force should require investigators to settle all advances within the required timelines.*
- *The confidential informant fund should be replenished on a reimbursement basis.*

Finding 7

The Metro Gang Strike Force used significant resources to send six officers to a conference in Hawaii without required prior approval from the board.[7]

Six officers from the Metro Gang Strike Force attended the International Conference on Asian Organized Crime and Terrorism held in Honolulu, Hawaii, March 22-27, 2009. The former commander approved the officers' participation in the conference without authorization from the advisory board. A board bylaw requires prior authorization by the board of expenditures exceeding $5,000. As of March 31, 2009, the strike force had paid $8,961 in costs related to the conference, with the possibility that additional costs could be paid. We estimated that the cost of the officers' participation in the conference totaled approximately $17,000, although some of those costs may be paid by the officers' home law enforcement agencies.

In January 2009, the new commander discussed with the board chair whether to cancel the strike force officers' participation in the conference based on concerns about the lack of board approval and the growing financial crisis in the public and private sectors. In a February 18, 2009, e-mail to the assistant commander, the commander stated that he was "quite upset" to learn that airline tickets to Hawaii

[7] Although the strike force paid for seven conference registrations, only six officers attended the conference.

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for strike force officers had been purchased. In the e-mail, the commander referred to an earlier conversation with the assistant commander when he had expressed concern that the conference was "not a good idea" and that they needed to reevaluate the situation. Despite the commander's concern, on March 18, 2009, the advisory board retroactively approved the strike force paying costs associated with officers attending the conference.

In addition to the advisory board not authorizing the trip in advance of expenses being incurred, the strike force did not obtain prior approval from the Department of Public Safety. The grant agreement between the strike force's fiscal agent and the Department of Public Safety required the department's prior approval for out-of-state travel. The fiscal agent reimbursed the strike force for $1,365 of the conference registration fees from grant funds.

Recommendations

- *The strike force should obtain prior approval from the Metro Gang Strike Force Advisory Board for all expenditures exceeding $5,000, as required by board bylaws.*

- *The strike force should obtain advance approval from the Department of Public Safety for any out-of-state travel paid with grant funds.*

Noncompliance with Legal Requirements

Finding 8

The Metro Gang Strike Force frequently did not follow the state's statutory forfeiture procedures.

The strike force did not have documentation to show that it served seizure notices for 202 of 545 cash seizures we tested, totaling about $165,650. By not serving the required notice of seizure, the strike force violated the statutory administrative forfeiture process and may not have a legal right to retain the seized cash. As part of its operations, strike force investigators often seized property, including cash, suspected to be associated with criminal activity. They held this property for use as evidence in court trials, returned it to the owner, or took possession of it through the statutory administrative forfeiture process.[8]

Minnesota Statutes 2008, 609.5314, states that money, precious metals and stones, vehicles, and firearms and ammunition are presumed to be subject to administrative forfeiture if seized in connection with the seizure of a controlled substance. This statute prescribes the administrative forfeiture process, including a requirement to provide written notice to the owner of the property at the time of

[8] The strike force also seized property that did not qualify for administrative forfeiture.

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seizure or within a reasonable time after that, about their right to a judicial review. To invoke that right, the owner must file a demand for a judicial review within 60 days following service of the notice of seizure and forfeiture. If the owner does not file a demand for judicial review within 60 days, the property forfeits to the strike force. Failure to follow the statutory administrative process, including to properly safeguard and account for seized property, could jeopardize court cases or prevent the strike force from complying with the administrative and judicial review process.

Recommendations

- *The strike force should ensure that it serves notices to owners of seized property within a reasonable time after the seizure.*

- *The strike force should review all case files to determine whether it properly served the owner with a notice of seizure. If not, the strike force should work with the Attorney General's Office to determine the proper disposition.*

Finding 9

The Metro Gang Strike Force did not distribute forfeited money and proceeds from the sale of forfeited property in compliance with statutory requirements.

The strike force's former commander routinely directed the fiscal agent to retain forfeited amounts that should have been paid to the Attorney General's Office. Our review of forfeiture distributions made by the fiscal agent identified at least $229,000 retained by the strike force that should have been paid to the Attorney General's Office.

Minnesota Statutes 2008, 609.5315, prescribe how the strike force can dispose of forfeited property and how it must distribute forfeited money and proceeds from the sale of forfeited property. It requires that the strike force distribute the funds as follows:

- The strike force can keep 70 percent of the money or proceeds as a supplement to its operating fund for use in law enforcement.

- The strike force must pay 20 percent of the money or proceeds to the prosecuting agency that handled the forfeiture for deposit as a supplement to its operating fund for prosecutorial purposes. The Minnesota Attorney General's Office handles forfeiture proceedings for the strike force.

- The strike force must pay the remaining 10 percent of the money or proceeds to the state treasury, credited to the state's General Fund, within 60 days after resolution of the forfeiture.

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The strike force's former commander told us that when he had been commander of the Minnesota Gang Strike Force, he had a verbal agreement with the Attorney General allowing the Minnesota Gang Strike Force to keep the Attorney General's statutorily required 20 percent of forfeited funds. He said that, at that time, the Minnesota Gang Strike Force lacked sufficient funding for its operations. We are not aware of the Attorney General's authority to redirect forfeiture distributions required by statute. In addition, it was inappropriate for the commander to carry forward an agreement from the Minnesota Gang Strike Force to the operations of the Metro Gang Strike Force. Finally, in March 2009, the Attorney General's Office notified us that it had no knowledge or record of this agreement with the former Attorney General, and it expected to receive the forfeited funds that it was due under statute.

Recommendations

- *The Metro Gang Strike Force should remit to the Attorney General's Office its statutory share of past forfeiture money that the strike force inappropriately retained.*

- *The Metro Gang Strike Force should ensure that the Attorney General's Office receives its share of future forfeiture funds, as required by statute.*

The Metro Gang Strike Force did not report seizures to the Office of the State Auditor.

Finding 10

The strike force did not file an annual report with the Office of the State Auditor as required by *Minnesota Statutes*.[9] The statute requires all law enforcement agencies to file an annual report of each seizure incident to the State Auditor. Although the strike force had often seized property, it only reported one seizure to the State Auditor since 2005. According to that filing, the seizure occurred in 2007 for $1,322. The former commander stated that he believed the fiscal agent filed these reports.

Recommendation

- *The strike force should report all seizure incidents to the State Auditor, as required by Minnesota Statutes.*

[9] *Minnesota Statutes* 2008, 609.5315, subd. 6.

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Lack of Oversight by Council and Advisory Board

Finding 11

The Minnesota Gang and Drug Oversight Council and the Metro Gang Strike Force Advisory Board did not sufficiently oversee the Metro Gang Strike Force's financial operations.

Neither the Minnesota Gang and Drug Oversight Council or the Metro Gang Strike Force Advisory Board oversaw the financial practices of the Metro Gang Strike Force, allowing the strike force's commander to determine how the strike force would operate. Those practices put at risk the strike force's ability to safeguard and account for seized assets and maintain the integrity of criminal evidence.

The Minnesota Gang and Drug Oversight Council had broad responsibilities for drug task forces and gang strike forces throughout the state, including the Metro Gang Strike Force. In May 2006, the oversight council issued the *Multijurisdictional Task Force Operating Procedures and Guidelines Manual.* The council stated that this document served as the minimum professional standards for the strike forces' operations. Further, the council cautioned that variances from these minimum standards may jeopardize future grant funding through the Department of Public Safety. The oversight council's statewide coordinator used the guidelines as a basis to annually evaluate the strike forces' operations.

The Metro Gang Strike Force Advisory Board had direct oversight of the strike force. The advisory board's responsibilities included selecting and supervising the strike force's commander, reviewing the strike force's operations and other business, approving its expenditures, and selecting the strike force's fiscal agent. The advisory board chair had the authority to act on the board's behalf, if needed, to conduct day-to-day operations of the strike force. The advisory board met every other month.

Despite their expectations and authority, neither the oversight council nor the advisory board provided effective oversight to the Metro Gang Strike Force or its commander. For example:

- The advisory board did not create a position description for the strike force's former commander. A position description would define performance expectations and limits of authority. The advisory board also did not formally evaluate the commander to assess his performance. These were both provisions of the oversight council's operating procedures and guidelines.

- The oversight council's annual examination of the strike force's operations did not sufficiently consider whether its financial controls and practices met the minimum standards stated in the oversight council's operating procedures

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and guidelines. For example, the examination did not identify that the strike force routinely held cash for unreasonable periods of time after seizure, contrary to the guidelines, which required that the strike force deposit the cash as soon as possible. The former commander told us that he did not use the guidelines as a basis for his operating practices.

- The advisory board did not ensure that the strike force's former commander implemented recommendations made by the oversight council's statewide coordinator following his evaluation of the strike force's 2007 operations. For example, this report noted that the strike force had incomplete investigative case files, lacked data to track and organize case file information and investigative activities, and did not have appropriate documentation in its confidential informant files. When the statewide coordinator reviewed the 2008 operations, he found that the strike force continued to have deficiencies in these areas. The advisory board failed to ensure the commander resolved these deficiencies.

- Although the advisory board's bylaws required the commander to provide board members with a monthly accounting of all funds disbursed, the advisory board's meeting minutes did not indicate that it routinely reviewed expenditures to determine whether activities were authorized and appropriate. For example, the advisory board failed to identify that during 2008 the strike force had paid $3,185 in registration fees for seven strike force officers to attend a March 2009 conference in Hawaii.[10]

Recommendations

- *The Metro Gang Strike Force Advisory Board should perform an annual evaluation of the commander's performance.*

- *The Minnesota Gang and Drug Oversight Council should expand its annual reviews of strike force operations to ensure compliance with the minimum operations standards it adopted in its* oversight *council's operating procedures and guidelines.*

- *The Metro Gang Strike Force Advisory Board should actively monitor the strike force's financial operations, as outlined in its bylaws, to ensure that financial activity is authorized and appropriate, and that the strike force implements recommendations from the oversight council's annual evaluation.*

[10] Although the strike force paid for seven conference registrations, only six officers attended the conference.

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METRO GANG STRIKE FORCE

May 18, 2009

Mr. James R. Nobles, Legislative Auditor
Office of the Legislative Auditor
State of Minnesota
Room 140 Centennial Building
658 Cedar Street
St. Paul, MN 55155-1603

Subject: Response to the Legislative Audit

Legislative Auditor Nobles:

Thank you to you and your staff for conducting the audit of the Metro Gang Strike Force (MGSF). In working with your staff we found them to be professional and amicable. Below is our response to the draft audit report, including specific comments and actions plans for each of the individual findings; many of which are already in progress.

Starting back in the Fall of 2007 the Advisory Board began and continues the process of reviewing the structure and procedures established at the MGSF. This review resulted in the need to more comprehensively evaluate our evidentiary system, a plan for which was developed and adopted by the Board in October 2008. In this plan the Board opted to request a legislative audit if our original audit indicated concerns or other issues. However, during this process the Advisory Board was notified of your upcoming audit and the need to place our work on hold. Although the legislative audit was an option to our original plan, the result of the legislative audit has provided an independent review of the MGSF. The Advisory Board has seized this review as an opportunity to establish the framework for the Advisory Board and the MGSF commander to proceed forward in improving MGSF operations.

Finding 1

Inadequate Internal Controls and Financial Practices – The Metro Gang Strike Force did not properly deposit or account for all seized cash.

With the selection of a new commander, the fiscal agent responsibilities are in the

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process of being transferred to Hennepin County. This has allowed for an additional review of our records and processes. Currently, the Hennepin County Sheriff's Office readily allows for cash seizures from 2009 to be deposited at their Accounting Division and to date all seized monies from 2009 have been deposited. In addition, monies seized prior to 2009 have been separately deposited. These seizures are pending a thorough review of their status. To date all monies have been deposited with the exception of roughly $4,000 that is being held pending a civil litigation claim.

The Seized Evidence Currency Log that is utilized by investigators to verify seized monies was modified to allow for the investigator to notify their supervisor whether or not the seized cash needs to be held as evidence or can be deposited. A review for an electronic accounting/evidence system is also underway. It is anticipated the electronic system will enable better tracking of seized cash.

The legislative audit clearly points out some failures to follow established protocols, including submitting proper notifications and paperwork. The new commander has reviewed established protocols and reinforced with his staff the need to stringently enforce these procedures. Supervisors were instructed that any deviation from these procedures must have their signed approval. A secondary check and balance is being established at the case filing and journal entry points to ensure missing or incomplete paperwork is caught early on.

The MGSF is currently in the process of hiring the services of a bookkeeper on a contractual basis to improve internal controls in order to better track seized assets and property. The first task for the bookkeeper will be to review the accounting processes that are currently in place and to develop an improved system to mitigate concerns pointed out in the legislative audit. The target date for this bookkeeper to start is June 1st. As previously mentioned, the bookkeeper position provides an additional check and balance as seized monies are processed through our system. Serious consideration is being given to keep the bookkeeper position as an independent contractual person in order to build-in autonomous and segregate duties.

Finding 2

Inadequate Internal Controls and Financial Practices – The strike force did not adequately safeguard or account for seized or forfeited vehicles.

The new commander is in the process of revising the MGSF vehicle seizure policy so that all vehicles seized by MGSF personnel are reviewed by a supervisor as soon as practical after the seizure. This new process allows for a supervisory review of the legal basis of the seizure, to ensure that required legal forms have been served and that the vehicle is properly recorded.

Because there are multiple towing vendors used by MGSF personnel, it has complicated an inventory check. The commander is currently considering simplifying the use of multiple towing vendors in order to better account for seized and towed vehicles.

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As stated in our response to Finding #1, the MGSF is currently in the process of hiring the services of an independent bookkeeper to improve internal controls to better track seized assets and property. This would also include the tracking of seized and/or forfeited vehicles.

As outlined in our response to Finding #3 below, the MGSF will be moving to an independent, electronic evidentiary system. Seized vehicles are considered "evidence," and as such need to be entered into and tracked by MGSF's evidentiary system. The bookkeeper's records of seized assets and property, including vehicles, will be compared to the independent records of the evidence system on a monthly or quarterly basis.

Finding 3

Inadequate Internal Controls and Financial Practices – The strike force did not establish sufficient internal controls for other seized property.

The Advisory Board and the new commander are in the process of obtaining a contract with the New Brighton Police Department to utilize their property room. The New Brighton Police Department has recently completed a new, state-of-the-art property room with a 24-hour property staging area via an electronic, traceable, card entry system into their facility. A staging area consists of lockers where investigators can temporary place items to be formally placed into the property room and recorded in the evidence system by the property room specialist. This system in effect, keeps investigators out of the evidence room. Moreover, the New Brighton Police Department is in close proximity to the MGSF office thereby minimizing travel time for MGSF investigators.

Part of this agreement will be to establish a property room specialist to supervise the property room for both the MGSF and the New Brighton Police Department. The New Brighton City Council has conditionally approved the hiring of this position. Again, like the bookkeeper, to improve internal controls, the property room specialist is designed to be an independent position. The property room specialist would be responsible for receiving, storing, tracking, and disposing of evidence and conducting periodic audits of the property room. This is a desirable approach as consolidating resources, particularly in these tough economic times, simply makes sense.

The new commander has been in regular communication with the staff at the Minnesota Bureau of Criminal Apprehension (BCA) to possibly obtain a computerized record management system (RMS). The BCA is in the process of implementing a new RMS and should have this RMS in place by June 2009. The BCA has indicated they will allow the MGSF to connect into their system once their system is up and running. The BCA has assured that MGSF data will remain separate from other data in order to segregate different data and to mitigate any violation of data privacy laws.

This will be a significant improvement from the fractionized paper reporting and tracking system currently used by MGSF members. Having a single RMS will allow for supervisors to readily identify missing or lacking reports, as well as ensuring seized

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property has a corresponding incident report. Lastly, the new RMS will encapsulate a supervisory approval process, thereby bolstering accountability. The MGSF should have this new RMS in place by August 2009.

Finding 4

Inadequate Internal Controls and Financial Practices – The strike force did not have sufficient administrative staff to conduct its operations.

Administrative staffing is being actively discussed and is anticipated to be acted upon by the MGSF Advisory Board in the near future. The previous commander was provided resources to hire additional staff, but chose not to do so. With the new commander just starting, the Advisory Board wanted to let the commander make an assessment and propose a recommendation as to the staff he may require to properly manage the MGSF unit. Even prior to the legislative audit, he had recognized the need for additional support staff.

One sergeant recently returned to his home agency leaving the MGSF unit short one first-line supervisor, but this is expected to be a temporary vacancy. Currently, MGSF's structure consists of the Commander, Assistant Commander, three sergeants (line supervisors), 32 investigators, three criminal analysts (who are assigned from the Department of Public Safety), one office assistant and four student workers. The hiring of a property room specialist by the New Brighton Police Department will reduce some of the administrative and evidence duties that are currently assigned to the office assistant. The bookkeeper contract will also help in segregating administrative responsibilities, as well as expediting the implementation of improved internal controls. To maintain a separation of duties and multiple checks and balances, it is anticipated that both the property room specialist and the bookkeeping position will be requested as permanent, independent assignments/contracts.

The Advisory Board and the new commander are in discussion as to whether there should be two assistant commanders, a civilian assistant to the commander or an additional line supervisor to better manage and oversee this active and complex investigative unit. The previous commander and Board had struggled some in balancing the limited financial resources among administrative personnel and field investigators.

Finding 5

Inadequate Internal Controls and Financial Practices – The Metro Gang Strike Force did not adequately segregate key duties over its local checking accounts and did not adequately control some of the accounts' activities.

When the Hennepin County Sheriff's Office assumes the responsibilities as the fiscal agent, consideration in abolishing local checking accounts will be strongly considered in lieu of an alterative system, such as debit cards, in order to readily track expenditures

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while streamlining requests such as for informant reimbursement. If there is a continued need to maintain some type of checking account, the independent bookkeeper will provide a separate, autonomous control and review of funds associated with the account.

Finding 6

Inadequate Internal Controls and Financial Practices – The Metro Gang Strike Force did not properly use or control its confidential informant fund activity.

It is acknowledged better internal controls are required for this sensitive expense area. Supervisors need to more closely scrutinize these requests and subsequent documentation. Implementation of a debit card system should help in the documentation of transferred funds, as well as making access to funds easier for investigators at odd hours. This type of system has a proven track record in other task forces.

Finding 7

Inadequate Internal Controls and Financial Practices – The Metro Gang Strike Force used significant resources for six officers to attend a conference in Hawaii contrary to the direction of the commander and the advisory board chair.

The Metro Gang Strike Force Advisory Board has bylaws that were not followed by a number of personnel. As pointed out in the finding, any MGSF expense exceeding $5,000 needs pre-approval from the Advisory Board. The imminent hiring of a bookkeeper to set up internal controls should assist with the safeguarding of large expenditures. In addition, Advisory Board expense reports showing greater detail should alert Board members to non-routine expenditures. Lastly, the lack of written training requests, approvals and overall MGSF training records exasperated this incident. The new commander has been requested to improve this process.

Finding 8

Noncompliance with Legal Requirements – The Metro Gang Strike Force frequently did not follow the state's statutory forfeiture procedures.

All line supervisors have been re-trained in the review process of case files. They have been assigned to review past investigative files for completeness. Current investigative cases files are required to be approved by the unit's supervisor before the case can be closed or charged. Each unit supervisor is responsible for the completeness of his or her unit's cases.

In addition, the commander will be establishing a procedure to incorporate the property room specialist, the bookkeeper, the case file and the case attorney, as a multi-layer, autonomous check and balance system. Of primary importance, as supervisory approvals

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and internal control improvements are made, is the proper tracking, coding and reporting of forfeited assets.

Finding 9

Noncompliance with Legal Requirements – The Metro Gang Strike Force did not distribute forfeited money and proceeds from the sale of forfeited property in compliance with statutory requirements.

This finding illustrates the need to more clearly document and communicate with the Advisory Board when special circumstances are agreed too. The likelihood in resolving this claim will prove difficult and will likely consume considerable legal time. For future forfeitures the bookkeeper will be instructed to develop a record system to separately track individual forfeitures depending on the specific disbursement rule or law that applies to that forfeiture. The bookkeeper and Assistant Attorney General will need to conduct a comprehensive review of the separately deposited forfeitures (pre 2009), to determine the legal status of each forfeiture and the lawful requirements for their disbursement.

Finding 10

Noncompliance with Legal Requirements – The Metro Gang Strike Force did not report seizures to the Office of the State Auditor.

The new commander is considering developing a series of monthly reports in order to monitor MGSF performance based upon a specific activity. For instance, there may be property room reports, accounting balance sheets, open case status reports, open and completed forfeiture reports, etc., etc.. These reports may be used to more easily create an annual report. Required monthly reports, such as the report of seizures to the Office of the State Auditor, will be listed on a log or monthly "to do" list to be signed-off as each report or requirement is completed.

Finding 11

Lack of Oversight by Council and Advisory Board – The Minnesota Gang and Drug Oversight Council and the Metro Gang Strike Force Advisory Board did not sufficiently oversee the Metro Gang Strike Force's financial operations.

The Advisory Board acknowledges its responsibility for MGSF oversight. The previous commander had been with MGSF since its inception in 2006 and also had a long tenure with the Minnesota Gang Strike Force that was created in 1997. There may have been a belief that the commander was following duties and responsibilities carried over from being the statewide task force administrator. The previous commander's expertise with task forces, his lack of concern or reports to the Advisory Board about daily operations,

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impressive statistical annual reports and acceptable task force report cards most likely provided a false sense of accomplishment to the Advisory Board. That said, the Advisory Board's responsibilities are clear, the Board needs to have a more significant role in verifying that MGSF tasks are being properly accomplished and goals are being reached.

In pursing a possible solution to this recommendation, the Advisory Board has begun discussions on creating specific subcommittees to assist the commander and monitor particular MGSF functions. As an example, one subcommittee is proposed to help develop, support and monitor operational activities; the "how we do it" operations. Another subcommittee is proposed to assist in the support function (computers, building, supplies, etc.) or the "what we do it with" activities. This is comparable to established governance models in our county boards and city councils.

Prior to the selection of the new commander in 2009, a detailed position description, specifically designed for MGSF operations, was created and approved by the Advisory Board. The listed responsibilities in the commander's position description will be just one part of the commander's required annual review process. In addition, the Gang and Drug Oversight Council's annual task force report card will also be incorporated into the commander's goal and review process.

As the new commander assesses his staff and their specific assignment responsibilities required to manage the MGSF, additional position descriptions will be established. Having articulated, detailed responsibilities, combined with written measurable goals, is essential to accountability and continued improvement of MGSF operations.

With the establishment of independent support staff persons, such as the bookkeeper and property room specialist, and the Advisory Board subcommittees, combined with increased details in Advisory Board reports, will enhance the Board's ability to more readily identify and respond to operational deficiencies. While improvements to the MGSF are being made, specific reviews or increased audits may be in order. How this is going to be accomplished is currently being discussed by the Advisory Board.

Although this response cannot speak for the Gang and Drug Oversight Council, we both share an oversight responsibility. A specific dialog needs to take place on how task force advisory boards and the Council can better work together to administer and monitor task forces for compliance. Together we need to review the monitoring and evaluating processes in order to identify overlooked or underrated high-risk operational areas so that they are reviewed and rated in accordance to their risk. I am sure that as the result of this audit that discussion will take place.

Closing Comments

The objective and scope of the legislative audit was specific, a review of internal controls and legal compliance over forfeited assets. The purpose of any audit is to raise and identify areas of concern, which has been done. The Advisory Board acknowledges the

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results of this audit and is already using the recommendations as a basis for an improvement plan to mitigate these concerns and bolster MGSF operations.

Although specific issues have been identified, some of the findings such as unaccounted monies and forfeited vehicles still need further investigation. The exact status of these items has yet to be determined. This is the responsibility of the Advisory Board as we move forward.

Furthermore, the auditor's criticisms are one of management, not enforcement. It was not the audit's purpose to examine the growing drug and gang problem in the metro area, nor were the auditors responsible for measuring the effectiveness or value of MGSF investigators. The MGSF is and continues to be a formidable task force in mitigating gang and drug violence. No other task force is able to gather and share the information and intelligence as the MGSF is doing. Because of our unique multiagency partnerships, informational flow between MGSF members, their home agencies and communities is amplified. It is this informational flow that solves crimes and is essential in keeping violence in check.

The MGSF consistently partners to a much greater degree than any other task force in Minnesota with federal and state law enforcement agencies. In essence, the MGSF often becomes the hub in this collaborative enforcement relationship. This relationship is critical as gang and drug trends continue to expand across state lines.

No other task force in Minnesota can assemble and respond in the numbers that MGSF can. This resource and the MGSF investigators' unique expertise are vital for midsize and smaller agencies in their response to gang expansion and violence. It is essentially their community's only way to respond.

In closing, the issues raised in the auditor's report were long in their making. Many individuals during that time frame contributed to this problem. It will be the responsibility of the current Advisory Board and the new commander to make sure our response plan, which is already in progress, is implemented in short order.

Sincerely,

Manila Shaver, Advisory Board Chair
Metro Gang Strike Force

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BOB FLETCHER
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May 11, 2009

James Nobles, Legislative Auditor
Suite 140, Centennial Building
658 Cedar Street
St. Paul, MN 55155

Dear Sir,

After a review of the draft audit report for the audit of the Metro Gang Strike Force, the Ramsey County Sheriff's Office would like to provide the following comments for findings related specifically to the department's role as the fiscal agent.

Finding 1 - Page 7, line 8
"After a complete review of strike force and fiscal agent documentation of forfeited cash transactions, we were unable to substantiate the disposition of $18,126 of forfeited cash. The strike force's records showed that on 15 occasions from September 2004 through July 2008, cash was removed from the property room, but the fiscal agent had no record of a corresponding deposit."

Comment
Two of the case amounts totaling $2,960 were included in a deposit with the fiscal agent, but were inadvertently missed in the typed memo itemizing the cases included in the deposit. Unaccounted cash would therefore be $15,166.

Finding 6 - Page 13, line 32
"The fiscal agent did not perform an effective reconciliation of the confidential informant account. He did not reconcile the account to an authorized balance, did not resolve variances identified on the reconciliations, did not include all confidential informant funds in reconciliation, and could not reconstruct prior months' reconciliations because he overwrote the files."

Comment
The fiscal agent was never tasked with the responsibility of auditing the confidential funds. Our Account Clerk would monthly review the confidential cash by verifying that amounts issued by check from the operating grant were added into the account, and matching the balance of cash on hand plus outstanding advances and receipts to the authorized amount. He documented this

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reconciliation on a spreadsheet and kept copies, and updated the file each month for the new reconciliation. The monthly review was effective for keeping the confidential funds in balance and for pushing for the return of outstanding advances.

Finding 6 - Page 14, line 5

"Finally, the fiscal agent did not require any documentation to support the amount requested to replenish the confidential informant account. Instead the strike force's office assistant periodically requested a check from the fiscal agent for an arbitrary amount. The grant requires that grant funds only be used to reimburse the strike force for actual costs."

Comments

Confidential funds were issued by check to the strike force based on a signed memo requesting the funds by the Commander. The check amounts were generally for $10,000. The amount of cash on hand in the confidential funds at the end of every quarter was deducted from the amount requested for reimbursement from the State through the operating grant. Consequently, grant funds were only used to reimburse for actual costs.

Thank you for the opportunity to comment on the findings.

Trudi Winek

Trudi Winek
Accountant IV
Ramsey County Sheriff's Office

CC: David Poliseno, Audit Manager, Legislative Auditor's Office

MINNESOTA JUDICIAL BRANCH

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Date: May 12, 2009

To: James Nobles
Legislative Auditor, State of Minnesota

From: Ron Ryan
Former Commander, Metro Gang Strike Force

Subject: My Response to the Legislature Audit Report of the Metro Gang Strike Force Completed May 2009

BACKGROUND

The original Gang Strike Force was created during the 1997 Legislature. It was established to target gang members, for prosecution, who were involved in "criminal activity".

Our start was compared to starting up a moderate sized police department from scratch. We were a statewide multi-jurisdictional agency funded by state monies for our operating budget.

We created our own Policy and Procedural Manual by relying on several avenues of information. We brought forward our past practices from our respective law enforcement agencies; we asked the BCA for recommendations, that we put in place, for handling evidence money and intelligence information gathering; and we met extensively with lawyers from the MN Attorney General's Office who helped and later continued to monitor the policies we established.

During my eleven plus years as Commander for the Minnesota Gang Strike Force/Metro Gang Strike Force I had five different Assistant Commanders, throughout the years, and only one full-time Administrative Assistant who helped manage evidence and files at the Metro office.

PAST PERFORMANCE EVALUATIONS

Operational Program Review - November 1999

This independent audit was requested by the Oversight Council and was conducted by the Criminal Justice Services. They suggested we were operating in a more than adequate fashion.

Legislative Auditor Financial Audit - July 1, 1998 through June 30, 2001

This audit was requested by then Representative Rich Stanek. No findings of problems or irregularities.

Quality Assurance Audit/Assessment Report - March 2002

This independent audit was requested by the Oversight Council and was conducted by the Minneapolis Police Department Quality Assurance Unit. We were found to be operating in a very efficient and effective manner.

Administration Review of Local Grants - May 2002

This was conducted by staff from the Office of Drug Policy, MN Department of Public Safety.

State's Exhibit 2 - CRU Supporting Materials and Documents - Pg. 1549