



ASCI • Condensing • Indexing
e-Transcript • Video • Realtime

IN THE IOWA DISTRICT COURT FOR SAC COUNTY
STATE OF IOWA, No. FECR 011900

Plaintiff,

v.

TRACEY ANN RICHTER,

Defendant.

DEPOSITION of TRENT VILETA, taken on behalf
of the Defendant, reported by Jody Malloy, CSR,
RMR, starting at 10:30 a.m. on September 23, 2011,
at the Sac County Courthouse, Sac City, Iowa.

APPEARANCES

Ben Smith
Sac County Attorney
100 N.W. State Street
Sac City, IA 50583
On behalf of the Plaintiff.

Scott L. Bandstra
Karmen Anderson
The Bandstra Law Firm, P.C.
505 5th Avenue, Suite 810
Des Moines, IA 50309
On behalf of the Defendant.

ALSO PRESENT: Tracey Richter

COPY

IN THE IOWA DISTRICT COURT FOR SAC COUNTY
STATE OF IOWA, No. FECR 011900
Plaintiff,
v.
TRACEY ANN RICHTER,
Defendant.

DEPOSITION of TRENT VILETA, taken on behalf
of the Defendant, reported by Jody Malloy, CSR,
RMR, starting at 10:30 a.m. on September 23, 2011,
at the Sac County Courthouse, Sac City, Iowa.

APPEARANCES

Ben Smith
Sac County Attorney
100 N.W. State Street
Sac City, IA 50583
On behalf of the Plaintiff.

Scott L. Bandstra
Karmen Anderson
The Bandstra Law Firm, P.C.
505 5th Avenue, Suite 810
Des Moines, IA 50309
On behalf of the Defendant.

ALSO PRESENT: Tracey Richter

1 ***
2 TRENT VILETA,
3 having been first duly sworn, was examined and
4 testified as follows:
5 EXAMINATION
6 BY MR. BANDSTRA:
7 Q. Will you state and spell your name for
8 the record?
9 A. **My name is Trent Vileta. It's**
10 **T-R-E-N-T, and it's V, as in Victor, I-L-E-T-A.**
11 Q. And, Mr. Vileta, I don't want your
12 current address, but can you tell me where you
13 live, I mean as far as the city?
14 A. **Spirit Lake, Iowa.**
15 Q. And can you give me a summary of your
16 prior educational history? I just -- Did you
17 graduate from high school?
18 A. **Yes. I have an associate degree in law**
19 **enforcement, probably -- depending on what**
20 **college -- five or six credits away from some sort**
21 **of law enforcement degree.**
22 Q. All right. And since -- since -- I
23 assume you've had your deposition taken before.
24 A. **Yes.**
25 Q. And so you understand -- Just

2

INDEX
TRENT VILETA
EXAMINATION

By Mr. Bandstra 3-154
By Mr. Smith 154-156
By Mr. Bandstra 156-164

EXHIBIT DESCRIPTION/REFERRED TO ON PAGE(S):

W 4/21/09 Consultation Report by
Rod Englert 111, 112, 154
X 12/26/01 Interview of Mary Higgins
by Lt. Cessford 145, 146
Y 03/30/11 Interview of Mary Higgins
by Special Agent Vileta ... 148, 149, 150

Adjournment at 3:18 p.m. 163
Certificate of Reporter 164

4

1 housekeeping rules, I'm going to ask you a series
2 of questions. You're going to answer the question
3 and, based upon your response, I'm going to assume
4 that you understood what I was asking.
5 A. **Yes.**
6 Q. And if you don't understand a question,
7 I'm going to ask that you either have me repeat it
8 or rephrase it.
9 A. **Yes.**
10 Q. And the court reporter cannot take down
11 nods of the head, uh-huhs, huh-uhs, or anything,
12 so if you'll speak affirmatively, I'd appreciate
13 it.
14 A. **You bet.**
15 Q. You have in front of you, sir, four sets
16 of 3-ring binders. I assume you've reviewed those
17 documents to prepare for your deposition today.
18 A. **Yes, I have.**
19 Q. Okay. Have you done anything else to
20 prepare for your deposition today other than look
21 through, I assume, which is your DCI file?
22 A. **No, I just reviewed my reports for**
23 **today.**
24 Q. Okay. And I understand you're in law
25 enforcement.

1 A. **Yes.**
 2 Q. When did you first start in law
 3 enforcement?
 4 A. **1996.**
 5 Q. Where at?
 6 A. **The City of Milwaukee Police Department.**
 7 Q. And how long were you with the City of
 8 Milwaukee?
 9 A. **Through 2001. In 2001 I went to the**
 10 **Coralville, Iowa, Police Department.**
 11 Q. That had to be interesting.
 12 A. **It was hard to go from a city of a**
 13 **million to a city of 20,000, I'll say that.**
 14 Q. And it was Iowa City. How long were you
 15 in Coralville?
 16 A. **I was in Coralville from 2001 to 2006,**
 17 **and I've been with the DCI from 2006 on.**
 18 Q. Okay. And what's your job title at the
 19 Division of Criminal Investigation?
 20 A. **Special Agent.**
 21 Q. And have you been a Special Agent with
 22 the DCI since you were employed with the DCI?
 23 A. **Well, I had a 4- or 5-month academy,**
 24 **which -- called a recruit or something.**
 25 Q. And after you completed the 4- or

1 Q. Okay. And prior to December of 2008,
 2 how many homicide investigations had you done as a
 3 DCI investigator? And I don't need to know an
 4 exact number. I'm just trying to get an idea.
 5 A. **You know, I knew you were going ask me**
 6 **that. The problem I guess I have trying to answer**
 7 **you honestly is when we go into MCU, we travel the**
 8 **state and hit every murder case that's going on as**
 9 **part of our training. I don't know, maybe eight**
 10 **or ten before this.**
 11 Q. And when -- I want to make sure I
 12 understand. What's MCU?
 13 A. **It stands for Major Crime Unit.**
 14 Q. Okay. And I've reviewed some documents
 15 the government's provided for me regarding this
 16 case, but can you tell me your best guess on the
 17 date that you would have started this
 18 investigation? And when I say "this
 19 investigation," I'm referring to the
 20 December 13th, 2001, home invasion in Early, Iowa.
 21 A. **I want to say that I started just**
 22 **flipping through the old binders, the 2001**
 23 **binders, probably August of 2008.**
 24 Q. And help me understand the chain of
 25 command. Why were you requested to do a cold case

1 5-month academy, then you were always considered a
 2 Special Agent?
 3 A. **Yes.**
 4 Q. And do you want me to call you
 5 Detective? Do you want me to call you Mister?
 6 What would you prefer?
 7 A. **You can call me Trent.**
 8 Q. Okay.
 9 A. **You can call me Special Agent Vileta in**
 10 **trial all you want, so --**
 11 Q. Okay.
 12 A. **But Trent is a lot easier today for you.**
 13 Q. Well, I have Vileta now. You've helped
 14 me with that.
 15 A. **If you want to do that, that's fine too.**
 16 Q. All right. And, Detective Vileta, do
 17 you have a special type of crime that you
 18 investigate, a specialized area of crime?
 19 A. **I'm assigned to the Major Crime Unit.**
 20 Q. And so a majority of your investigation
 21 would be for Class A murder cases?
 22 A. **Mostly violent crimes. We'll get into**
 23 **some financial crimes, I suppose, misconduct in**
 24 **public office, officer-involved shootings, that**
 25 **sort of thing.**

1 investigation on this matter?
 2 A. **The case was never closed, so ...**
 3 Q. Okay.
 4 A. **-- it wasn't so much -- I think that's a**
 5 **bit like a miscommon use of or misunderstanding**
 6 **right now is that people are saying that we**
 7 **reopened the case. We actually just re-examined**
 8 **it. It was never -- it never went to a closure, I**
 9 **guess.**
 10 Q. Okay. And so who asked you and/or
 11 directed you to begin doing an investigation in
 12 this matter?
 13 A. **My supervisor and it's Special Agent in**
 14 **Charge Terry Klooster, and it's K-L-O-O-S-T-E-R.**
 15 Q. And, Special Agent Vileta, did you work
 16 at all with the Sac County Attorney at that time?
 17 A. **Some, yes.**
 18 Q. And who was that?
 19 A. **Earl Hardisty.**
 20 Q. And what were your directives from
 21 Mr. Klooster?
 22 A. **With a cold case it kind of falls by the**
 23 **wayside if we have something else go on, so kind**
 24 **of look at it when I had time, see if there's**
 25 **anything that we could do with it, that sort of**

1 thing.

2 Q. Okay. And I've looked at a lot of
3 documents --

4 A. Sure.

5 Q. -- so what I want to know is you said
6 you started reviewing this case in August of 2008.
7 I assume that you would have looked at Detective
8 Cessford's or Lieutenant Cessford's report.

9 A. Yeah, of course.

10 Q. You would have looked at the interviews
11 done of the different parties at the time of --
12 shortly after the shooting.

13 A. Uh-huh.

14 Q. Is that a yes?

15 A. Yes, sorry.

16 Q. You're fine.

17 A. It won't be the first time.

18 Q. Well, that's all right, it probably
19 won't be the last.

20 A. Yeah.

21 Q. What other -- From my review you would
22 have interviewed -- you would have interviewed
23 Mona Wehde, who was the decedent's mother, on
24 December 26th of 2008.

25 A. Sounds right, yes.

1 Mona. That's why I made reference to Lieutenant
2 Cessford. Did you look at Lieutenant Cessford's
3 report and then all of the supplemental reports or
4 interviews that he did?

5 A. If the report you're referring to is the
6 one that was in the 2001 case file, then I'm sure
7 I read it.

8 Q. Yes.

9 A. Yeah.

10 Q. Okay.

11 A. Does that answer the question better?

12 Q. I think it does.

13 A. Okay.

14 Q. Did you do any other interviews or
15 investigation prior to meeting with Mona Wehde on
16 December 26 of 2008?

17 A. I don't remember, but if it's in my
18 updated case report, maybe I did. I don't -- I
19 think Mona was the first one I talked to.

20 Q. And just so we're clear, I received
21 documentation from Mr. Smith. I've looked at it.
22 That's the first thing that I saw that you did --

23 A. Okay.

24 Q. -- in -- well, no, in your report, but I
25 want to make sure that I'm not missing something,

1 Q. Okay. And my question is is what did
2 you do as far as reviewing documents prior to
3 meeting with Ms. Wehde on December 26 of 2008?

4 A. I mean it's -- Obviously, I wasn't
5 involved in this case in 2001, so I kind of had to
6 start from the beginning. And as far as reviewing
7 documents, I read the case file. I remember
8 reading Mona's interview I did with her in
9 December of 2008 down in Creston and just trying
10 to gather a feel for, you know, who Dustin was,
11 who the Roberts were at the time. I had never met
12 any of those people before.

13 Q. Okay. And I made reference to Mr. -- or
14 Lieutenant Cessford and DCI Agent Moser. Did you
15 review other documents that we haven't discussed
16 prior to meeting with Mona Wehde on
17 December 26th of 2008?

18 A. I don't think so. The only thing I
19 would have had at that time would have been the
20 2001 case report that Dan Moser did, because I
21 think the Mona interview might have been one of
22 the first things I actually produced myself.

23 Q. Okay. And what I'm -- I understand that
24 was three years ago, but what I'm trying to do is
25 figure out what you did prior to speaking with

1 that you interviewed someone else before her or
2 you looked at additional documentation.

3 A. Sure.

4 Q. So that's the basis for my question.

5 A. Uh-huh.

6 Q. Is that a yes?

7 A. I did it again. Can I clarify a little
8 bit?

9 Q. Please do. Please do.

10 A. You kind of got to approach a cold case
11 as you would approach any other case and you kind
12 of -- you know, what we do with the DCI case
13 report is we obviously have a victim background,
14 we have a suspect background, we have all these
15 other things.

16 I just started kind of procedurally like
17 where we would normally start. You talk to the
18 victim's parents; and since Mona was the only one
19 alive, that's why I picked her first. I don't
20 know if that's kind of what you were asking, but
21 that was the obvious choice is you talk to the
22 victim's mom first.

23 Q. And that makes sense.

24 A. Yeah.

25 Q. I just -- Sort of like you are in this

1 case, you're looking at it trying to put the
2 puzzle together. I'm also trying to do the same
3 thing, so --

4 A. Sure.

5 Q. -- all I'm trying to figure out is I've
6 looked at your report, or at least what's been
7 provided to me, and that's what appears that was
8 done first, but what I want to make sure is I'm
9 doing my job for my client and making sure that
10 I'm not missing something else substantially that
11 you would have done prior to speaking with Mona.

12 A. I have spent a lot of time trying to
13 make sure that nothing has been missed as far as
14 you guys getting the reports that you need.

15 Q. Okay.

16 A. I've actually went through all the 2001
17 reports and I found -- Like I said, Ben Dose was
18 the big one that wasn't added the first time that
19 I found, so I'm trying to make sure that you
20 guys -- we didn't miss anything for you guys.

21 Q. And so to the best of your ability, you
22 would not have done additional investigation other
23 than reading the previous reports, including
24 Lieutenant Cessford and Dan Moser, prior to
25 December 28th of 2008 when you would have talked

1 where Dustin was found in the Roberts' master
2 bedroom?

3 A. I didn't see anything to say that they
4 did or didn't.

5 Q. But if, in fact, a EMS worker would have
6 stepped in Dustin Wehde's blood and then tracked
7 it around, would you agree that's not proper
8 investigative procedure?

9 A. Is there a proper investigative
10 procedure for EMS to give first aid to someone
11 who's been shot?

12 Q. Well, Special Agent --

13 A. I'm not trying to -- I'm sorry, I don't
14 want to be smart with you, I guess. I've been to
15 a lot of death scenes and I've yet to see the EMS
16 do the same thing the same time, you know.

17 Q. Well, Special Agent Vileta, you'd agree
18 that as a DCI Special Agent, you don't encourage
19 EMS providers to step in the blood and then walk
20 around at a murder scene, do you?

21 A. Well, you don't. Obviously you don't
22 want them to do that, but we also are never the
23 people that arrive before the EMS personnel.

24 Q. Right. And if Mr. Bruscher had
25 indicated that the EMS people had contaminated the

14

1 to Mona Wehde.

2 A. I think Mona is when kind of we -- yeah,
3 when I started actually looking at the report
4 more.

5 Q. It's always easy to go back and look at
6 a previous crime scene, but would you agree the
7 initial investigation was flawed?

8 A. I guess I don't understand. You're
9 going to have to be more specific with that.

10 Q. Okay. Well, we can agree that Dan
11 Bruscher was the first one on the scene.

12 A. Yes, he was.

13 Q. And that you'd agree that
14 Mr. Bruscher -- excuse me, Dan Bruscher wasn't
15 sure when you interviewed him later whether he had
16 opened the front door of the Roberts' residence or
17 whether it was open when he got there.

18 A. You know, I don't -- I don't remember
19 that, so ...

20 Q. And would you agree that the EMS people
21 would have contaminated the scene?

22 A. Well, there's going to be contamination
23 anytime EMS goes into a house.

24 Q. Would you agree that one of the EMS
25 responders put his foot in the blood right by

16

1 scene, you wouldn't disagree with that.

2 A. If he indicated that. Obviously when
3 you try to give someone first aid, things that
4 weren't in the scene before are going to be added
5 to the scene later.

6 Q. Okay. But my question is is if
7 Mr. Bruscher indicated that the EMS had
8 contaminated the scene, you're not going to
9 disagree with that, correct? Just yes or no.

10 A. Yes.

11 Q. Okay. Would you agree that Tracey --
12 now it's Richter. Can we call her Richter and we
13 know we're talking about the person who previously
14 was known as Tracey Roberts?

15 A. Yes.

16 Q. Okay. Would you agree that proper
17 procedure would have been to obtain Ms. Richter's
18 clothes after the shooting?

19 A. Again, you know, it's hard for me to
20 criticize what was going on. I don't know what
21 was said that didn't make it in the reports. I
22 don't know -- That's probably a better question
23 for Dan Moser than I suppose me.

24 Q. Sure, and I'm just asking what your
25 opinion is as a DCI --

17

1 A. **Is my opinion --**
 2 Q. Yes, your opinion matters. Your opinion
 3 absolutely matters. Don't sell yourself short.
 4 A. **Well, I'm not selling myself short.**
 5 **It's just --**
 6 Q. Well, let me ask it this way.
 7 A. **Okay.**
 8 Q. As a DCI Special Agent, if there is a
 9 Class A murder --
 10 A. **Sure.**
 11 Q. -- and there is a person who shot the
 12 decedent, would you have an expectation that the
 13 shooter's clothes would be taken into evidence?
 14 A. **I would have that expectation.**
 15 Q. Okay. And --
 16 A. **Can I continue, though, just for -- or**
 17 **are you done with that question?**
 18 Q. No, go ahead.
 19 A. **And, like I said, I don't know what**
 20 **happened at the -- Just looking at when**
 21 **Ms. Richter went to the hospital, I think it's**
 22 **also hospital procedure if you have blood on your**
 23 **clothes, it becomes a biohazard, so the hospital**
 24 **automatically takes it.**
 25 Q. Okay.

1 the bullets out of the floor. Do you have a
 2 recollection of that?
 3 A. **Yes, he did. He said that in his**
 4 **report.**
 5 Q. And do you believe that's proper
 6 procedure not to remove the bullets from the floor
 7 of a shooting scene?
 8 A. **Again, you know, that's a call they made**
 9 **in 2001. I don't know why they did or they didn't**
 10 **do that. That would be a question you'd have to**
 11 **ask Dan Moser.**
 12 Q. And I'm just -- I'm asking you because
 13 you're looking at this from a later perspective.
 14 A. **Yeah.**
 15 Q. Okay. I failed to ask -- First of all,
 16 let me do another housekeeping thing. We've done
 17 a pretty good job so far, but I'm going to try not
 18 to interrupt you and I'd ask that you try not to
 19 interrupt me --
 20 A. **Sure.**
 21 Q. -- because she can't take down both of
 22 us at the same time.
 23 A. **Yeah.**
 24 Q. And I want to keep her happy, all right?
 25 A. **Absolutely.**

18

1 A. **It's my understanding that the hospital**
 2 **never took her clothes, so I can only speculate**
 3 **that there wasn't any blood on there. I have no**
 4 **knowledge then.**
 5 Q. Okay. And my question isn't so much to
 6 do with the blood. My question is if you have
 7 somebody who shot someone else, appropriate police
 8 procedure would be to take the clothes into
 9 evidence to at least examine them.
 10 A. **You bet. Yes.**
 11 Q. And would you also agree that in a
 12 situation where there was a struggle, that you
 13 would at least attempt to get some kind of
 14 scrapings under the fingernails? Would that be
 15 proper police procedure in a --
 16 A. **I'm -- Yeah, optimally, yes, that would**
 17 **work.**
 18 Q. You'd agree with me, sir, that at the
 19 Roberts' residence where the shooting occurred --
 20 A. **Uh-huh.**
 21 Q. -- when you went back there, there were
 22 still bullets in the floor.
 23 A. **Yes, there were.**
 24 Q. And, in fact, the original criminalists
 25 indicated that it wasn't worth the effort to take

20

1 Q. All right. Tell me -- Since I think I
 2 have some, if not all, of your file, you've told
 3 me you looked at Cessford's report, Moser's
 4 report, and the interviews that Moser did,
 5 correct?
 6 A. **Yes.**
 7 Q. That you would have interviewed Mona
 8 Wehde.
 9 A. **Yes.**
 10 Q. You interviewed a Mary Higgins.
 11 A. **Yes.**
 12 Q. You would have done a -- There was -- I
 13 think that there's been two searches of
 14 Ms. Richter's previous house, or is it just one?
 15 A. **Two search warrants? I think there was**
 16 **two search warrants.**
 17 Q. Okay. That's what I thought too. What
 18 I want to do is I want to figure out what you've
 19 done and then narrow it into going through each of
 20 those things.
 21 A. **Okay.**
 22 Q. So I have Cessford, I have Moser, I have
 23 Mona Wehde's interview, I have Mary Higgins'
 24 interview. I think that you interviewed
 25 Ms. Richter. Did you interview her?

1 A. **Not a formal interview, no.**
 2 Q. Okay. Well, is it easier for me to just
 3 ask you what else you've done other than what I've
 4 identified? And I'm trying --
 5 A. **It wouldn't be easy for me to tell you**
 6 **because I probably would leave out something**
 7 **because it's all kind of in the case report. I**
 8 **guess I don't want to --**
 9 Q. And I'm just asking --
 10 A. **Again, I don't want to leave out**
 11 **anything, but --**
 12 Q. I just violated my own rule. Give me
 13 your best guess of what else you've done other
 14 than what we've discussed. And you can review
 15 your log too, whatever you want to do.
 16 A. **It would be hard for me to generalize**
 17 **because obviously I sent an agent out to interview**
 18 **Bert Pitman. I've had conversations with --**
 19 **through e-mail with Ms. Richter. I've had**
 20 **conversations through -- you know, with Mona**
 21 **Wehde. I guess I don't know how to answer. And**
 22 **specifically I could answer per each interview,**
 23 **but, you know, when I compile the case report, it**
 24 **kind of shows exactly what we did when we did it.**
 25 Q. Okay.

1 **than later. I don't know if you have the results**
 2 **of Bert's polygraph. I think I sent that to Ben**
 3 **Smith, so you should have that.**
 4 MR. SMITH: I don't.
 5 A. **Didn't I send that to you?**
 6 Q. I have not received it.
 7 A. **I don't know if I did or not. I don't**
 8 **know if I have that on electronic format or not.**
 9 **The late stuff that kind of arrived were things**
 10 **that we did after the arrest was made, so ...**
 11 Q. Okay. And I appreciate what I've
 12 received. I'm just trying to really figure out if
 13 there's something other than what we've talked
 14 about that's significant that you've done that
 15 either I haven't seen, I've missed it, or it
 16 should be coming.
 17 A. **You know, and I don't know what you've**
 18 **seen, so I would love to say you haven't missed**
 19 **anything, but all I can tell you is I have gone**
 20 **with the lead transcriptionist over and over**
 21 **everything trying to make sure that every report**
 22 **that we've generated has gotten into your hands.**
 23 Q. Okay. Then what I'm going to ask you to
 24 do is this. When I'm going through this --
 25 A. **Okay.**

1 A. **So it's hard for me to I guess answer**
 2 **specifically what I did.**
 3 Q. As far as significant investigation, is
 4 there anything that you can think of that we
 5 haven't discussed that you think you did in this
 6 case? And I heard what you just said.
 7 A. **I have done everything I could to make**
 8 **sure that the defense has every report that I**
 9 **generated or anybody from the DCI generated.**
 10 Q. Okay.
 11 A. **If the Sheriff's office generated a**
 12 **report and didn't give it to me, I don't know**
 13 **about those. Anything that I've been involved**
 14 **with I have generated a report on to the best of**
 15 **my knowledge.**
 16 Q. And I'm not insinuating anything
 17 different. What I want to do is avoid having to
 18 get additional stuff or missing something now that
 19 we have to come back later, so --
 20 A. **And I think I -- And I'm interrupting,**
 21 **so I apologize.**
 22 Q. That's all right. Go ahead.
 23 A. **Like I told you, I know Bert's interview**
 24 **is being worked on. I don't know when it will be**
 25 **done. I'm begging for them to have it done sooner**

1 Q. -- I'm not asking you to hold my hand,
 2 but what I do want is if I'm missing something
 3 that you think is significant, I'd appreciate the
 4 respect that you'd say, "There's something else we
 5 did." Can we agree on that?
 6 A. **Absolutely.**
 7 Q. Okay. Because I'm not insinuating
 8 you're hiding anything.
 9 A. **Sure.**
 10 Q. I just want to make sure I'm doing my
 11 job for my client, all right?
 12 In reviewing Mr. Cessford's reports, did
 13 anything in reviewing those documents cause you
 14 concern or make you believe that there should be
 15 some kind of follow-up done?
 16 A. **Follow-up for what?**
 17 Q. Well, your job was to come in and do a
 18 reinvestigation.
 19 A. **You bet.**
 20 Q. I was going to call it a cold case, but
 21 you've told me I'm wrong on that, so --
 22 A. **I didn't say you're wrong on that.**
 23 **It's -- The problem people keep saying is why all**
 24 **of a sudden did we reopen the case? That's just a**
 25 **big misconception. It was never closed.**

1 Q. Okay.

2 A. **So was it cold? Yeah, because was it**
 3 **being worked on for years? Probably not. I don't**
 4 **know, so ...**

5 Q. And all I'm trying to do is use your
 6 terminology. So you reviewed Mr. Cessford's
 7 report.

8 A. Yes.

9 Q. Lieutenant Cessford's reports with all
 10 the interviews.

11 A. Yep.

12 Q. Your job was to continue the
 13 investigation.

14 A. Yes.

15 Q. After reviewing Lieutenant Cessford's
 16 report, were there any loose ends that you wanted
 17 to follow up on?

18 A. **There was a -- Like I said, when I**
 19 **was -- Since I wasn't there in 2001, it's hard for**
 20 **me to gauge who these people are. You know, all I**
 21 **have is reports. I don't know what these people**
 22 **look like. I don't know who these people are.**

23 **I probably did a lot of things as far as**
 24 **reread reports. I probably ran criminal histories**
 25 **of some people to see if anything's changed with**

1 a puzzle and I'm putting the pieces of the puzzle
 2 together, that's sometimes helpful in recreating
 3 this. Do you have that same mentality when you're
 4 coming in on a case that has been investigated,
 5 but now you're continuing that investigation?

6 A. **Yeah. You need to figure out a way to**
 7 **understand what happened, you know. For me it**
 8 **was, what, seven, eight years ago that it happened**
 9 **when I started.**

10 Q. In reviewing Lieutenant Cessford's
 11 report, did you see a reference in there to a
 12 Jeremy Collins?

13 A. **I'm trying to think of where Jeremy**
 14 **Collins came from. It was quite possible it was**
 15 **from that report. I'm not too sure Mona Wehde**
 16 **didn't tell me at some point that she thought**
 17 **Jeremy Collins might have been involved.**

18 Q. Okay. We'll come back to him in a
 19 minute. Did you see in Lieutenant Cessford's
 20 report there was a reference to a Mark Byham,
 21 B-Y-H-A-M?

22 A. **I don't remember that name.**

23 Q. You'd agree that after the
 24 December 13th, 2001, shooting, there was no
 25 forensic recreation similar to what you did with

1 that.

2 **As far as follow-up, I would imagine**
 3 **follow-up was done. I mean the thing that jumps**
 4 **out in my mind is follow-up -- you know, we did**
 5 **two search warrants on the house and recovered**
 6 **some of the rounds out of the house. We did a**
 7 **Total Station on the house to get a better idea**
 8 **for feet, you know, the distance between certain**
 9 **things, the size of the rooms, that sort of thing.**

10 Q. And you call that a Total Station?

11 A. **It's a Total Station. It's what the**
 12 **State Patrol uses is when there's like a fatality**
 13 **accident so they can tell how fast a car was going**
 14 **by the skid marks, that sort of thing. And I'm**
 15 **not a Total Station expert by any means. All I**
 16 **know is they shine a laser and it tells you the**
 17 **exact distance between objects.**

18 Q. And that's pole, P-O-L-E? Is that a
 19 Pole Station?

20 A. Total.

21 Q. That's what I thought I heard you say.

22 A. **T-O-T-A-L Station.**

23 Q. And if you're anything like me,
 24 sometimes when I look at a whole bunch of
 25 documents, it's almost like if I can look at it as

1 Mr. Englert later on, correct?

2 A. **Nothing at that school, no.**

3 Q. Okay. But was there any forensic
 4 recreation of the shooting prior to your
 5 involvement that you saw in the file?

6 A. **Not that I saw.**

7 Q. Any reason why they couldn't have done
 8 that?

9 A. **Again, you'll have to ask Dan Moser**
 10 **that. I wasn't around in 2001. I don't know what**
 11 **capabilities they had back then, quite honestly.**

12 Q. All right. We have Defendant's Exhibit
 13 E, as in Edward, and in reviewing your file, it
 14 would be Exhibit 5-2B, as in baseball.

15 A. **Is that Mona Wehde's report?**

16 Q. Yeah, it's -- Yes.

17 A. **Is it 5-2 or 5-2A?**

18 Q. Let me look.

19 MR. SMITH: Scott, that's that
 20 transcript? Is that what you're talking about?

21 MR. BANDSTRA: Yeah.

22 A. **I guess I don't know which one I'm**
 23 **looking at here.**

24 Q. According to this, it says 5-2B and it's
 25 1 of 97.

1 A. **Let me get to it here.**
 2 Q. You're fine.
 3 A. **Okay. No, this isn't the right one, is**
 4 **it? Why does that look different?**
 5 Q. I can't --
 6 A. **Okay, here we go. I'm back with you.**
 7 Q. Special Agent Vileta, other than the
 8 transcribed report I have in front of me which
 9 you've identified in the documents produced to me
 10 as 5-2B and what we've marked as Deposition
 11 Exhibit E, do you have any other transcribed
 12 interview of any conversations with the decedent's
 13 mother, Mona Wehde? Because this is the only one
 14 that I've been provided.
 15 A. **From this one? No, nothing transcribed.**
 16 Q. Okay. Do you have subsequent interviews
 17 with Ms. Wehde?
 18 A. **I don't know if I did any.**
 19 Q. If you look through your file and
 20 determine that you have, you don't have to do it
 21 this second, but I'd ask that you produce those to
 22 Mr. Smith so he could provide them to me.
 23 A. **Like I said, I -- To the best of my**
 24 **knowledge, everything that I've done is in this**
 25 **case file right now, so ...**

1 Tracey Richter's first husband?
 2 A. **Yes.**
 3 Q. And she specifically told you -- and I
 4 can turn -- I can show you the page. It's page 7.
 5 She told you that she didn't speak to John Pitman
 6 until Dustin had died, but prior to the burial.
 7 A. **I think she -- I think she's referring**
 8 **to John Pitman, Sr.? Would that be II? Not John**
 9 **Pitman, III.**
 10 Q. And I don't know.
 11 MS. ANDERSON: Junior is the dad, I
 12 think.
 13 MS. RICHTER: Junior's the dad. III is
 14 my ex-husband.
 15 A. **Yeah. So, no, she actually talked to --**
 16 **Then it would be Junior and -- what's her name --**
 17 **Helene would be his wife before that. I don't**
 18 **think she actually talked to Ms. Richter's**
 19 **ex-husband until maybe a couple weeks after that.**
 20 Q. Well, and let me direct you then to
 21 page 7 --
 22 A. **Yes.**
 23 Q. -- line 265.
 24 A. **Yeah.**
 25 Q. And if I am reading this correctly, "TV"

1 Q. And that's why we're talking about
 2 this --
 3 A. **Okay.**
 4 Q. -- and that's why I started the way we
 5 did to figure out what you've done.
 6 A. **Good enough.**
 7 Q. And let's make sure we have the same
 8 document. Is there 97 pages in that
 9 transcribed --
 10 A. **1 of 97 it says -- I'm sorry I**
 11 **interrupted again, but 1 of 97 on the title page.**
 12 Q. Okay. All right. Then I think we're
 13 good.
 14 During the interview of Mona Wehde, you
 15 showed her Dustin Wehde's journal, correct?
 16 A. **I showed her the half of the first page**
 17 **and that depends on how you want to look at it,**
 18 **what the first page is, but the page where she**
 19 **actually -- where John Pitman is written on. I'll**
 20 **refer to that as page 1, and I showed her I want**
 21 **to say the first two paragraphs maybe.**
 22 Q. And so you wouldn't have shown her the
 23 entire document.
 24 A. **She never saw the entire thing.**
 25 Q. And you'd agree that John Pitman was

1 would be for you.
 2 A. **That's me, yes.**
 3 Q. "Also in one of the, uh, statements you
 4 said that her, uh, ex-husband, Dr. Pitman, had
 5 contacted you --" meaning Mona -- after the
 6 incident. And Mona's response was, "Actually,
 7 before Dustin was buried," so she's saying that
 8 she talked to the ex-husband after Dustin was
 9 dead, but before he was buried.
 10 A. **I see your confusion here. That's not**
 11 **true. When you -- Go to line 272. It says,**
 12 **"Dr. Pitman's mother called us."**
 13 Q. Correct.
 14 A. **I think -- and I haven't seen Mona's**
 15 **testimony yet, but I think Mona would tell you**
 16 **that it was actually Junior. I'm sorry, I'm going**
 17 **to confuse myself now.**
 18 Q. Okay.
 19 A. **It was John Pitman, the ex-husband's**
 20 **mother and father that contacted Mona before the**
 21 **burial. This doesn't read right.**
 22 Q. Okay, but you'd agree with me that what
 23 I just read is you're asking her about -- you're
 24 asking Mona about her ex -- Tracey's ex-husband,
 25 Dr. Pitman, correct?

1 A. Yeah, and I understand -- I understand
2 your question. That's what I asked her and -- But
3 the way she answers it, she answers it that
4 Dr. Pitman's mother called us.

5 Q. Okay.

6 A. And --

7 Q. All right.

8 A. I don't think -- and again I don't -- I
9 don't know the date, but I don't think she talked
10 to Dr. Pitman, III, until a couple weeks maybe
11 after that.

12 Q. Okay. And Ms. Wehde indicated that John
13 Pitman had sent her money for her civil wrongful
14 death suit, correct?

15 A. And again -- I think to clarify, I
16 think -- I'm pretty positive that it was John
17 Pitman's parents that sent her the money.

18 Q. Okay. But you'd agree on page 8 that
19 she said, "They sent me money. ... They ... We had
20 conversations a few times while we were in the
21 civil" and then there's ellipsis after that.

22 A. Uh-huh. Yes, I'm sorry. I would agree
23 with that.

24 Q. And you would agree that in part of the
25 journal, Dustin's journal that you showed to Mona

1 Mona Wehde would have known John Pitman prior to
2 the December 13th, 2001, shooting, would that make
3 you re-evaluate any part of this investigation?

4 A. Mona didn't -- How would Mona know John
5 Pitman?

6 Q. And my question is if she knew John
7 Pitman before the shooting occurred, would that
8 affect your opinion in this case?

9 A. My opinion on -- I guess what's my
10 opinion?

11 Q. Well, I'm going to find out what your
12 opinion is later on.

13 A. I guess I don't understand.

14 Q. Okay. Well, would it affect your
15 concern (sic) regarding Mona Wehde's credibility?
16 Let's start there.

17 A. Well, no, it wouldn't, because again
18 with ten years involved in between the original
19 incident and when -- Well, I guess it wasn't ten
20 years, was it? Eight years. It's hard to
21 remember dates. I can't believe that Mona would
22 have known John Pitman and have any way of having
23 contact with John Pitman before that.

24 Q. Well, you would agree that Dustin
25 Wehde's journal was found, according to your

1 Wehde, she confirmed that it was Dustin Wehde's
2 handwriting.

3 A. Yes, she did.

4 Q. Okay. And Ms. Wehde on page 18, she
5 said, "How would John Pitman know us or Dustin?"
6 Is that correct?

7 A. What line would that be? 718 maybe?

8 Q. Objection, leading. Yes, it would be
9 line 718.

10 A. Just trying to help you out here.

11 Q. I appreciate that.

12 A. Yeah.

13 Q. She was confused about how John Pitman
14 would know either Dustin or any member of the
15 Wehde's, correct?

16 A. I think all of us were confused how
17 Dustin would know John Pitman.

18 Q. She also on page 26 further stated
19 that -- and I don't have the line, but I'll find
20 it. She was specifically telling you that at that
21 time that she didn't know who John Pitman was.
22 And that is -- She starts at line 1020 and it goes
23 to 1022; is that correct?

24 A. Yes.

25 Q. Now, Special Agent Vileta, if, in fact,

1 review of the reports, on the front seat of his
2 vehicle after the shooting occurred, correct?

3 A. It was -- There was a pink notebook
4 found. I guess -- I don't -- Is that a journal?
5 I guess I don't know -- Are we referring to it as
6 a journal? Is that what you want to say? The
7 pink notebook found in the car?

8 Q. I'm sorry. You did the exact right
9 thing.

10 A. Yeah.

11 Q. It's my opinion, not that it matters,
12 but my opinion is if we're referring to Dustin's
13 journal, it would have been the pink notebook that
14 was found --

15 A. Okay.

16 Q. -- on the front seat of his car.

17 A. The pink notebook found on the front
18 seat of his car, you're referring to it as
19 Dustin's journal.

20 Q. And those would have been -- at least
21 the front page of that, the handwriting in there
22 is what you showed Mona Wehde on December 26th of
23 2008.

24 A. Yes.

25 Q. And what we've referred to up to this

1 point, I meant that to be the journal. Is there
2 anything you want to change in your previous
3 answers?

4 A. **It doesn't look like a journal to me, I**
5 **guess, so I wouldn't refer to it as a journal,**
6 **so...**

7 Q. Okay. For this line of questions can we
8 refer to that as a journal and be on the same
9 page?

10 A. **Can we just refer to it as the pink**
11 **notebook --**

12 Q. Sure.

13 A. **-- because I think that would clarify**
14 **it.**

15 Q. Sure. In --

16 A. **I guess I just don't see it as a**
17 **journal, I'm sorry, so ...**

18 Q. That's fine. In the pink notebook,
19 Special Agent Vileta, you would agree that there
20 was a reference to John Pitman, and that would be
21 Tracey Richter's ex-husband.

22 A. **There were several references to John**
23 **Pitman.**

24 Q. And, in fact, there was references in
25 the handwriting of Dustin Wehde that he was

1 Q. Well, who did you think that Dustin was
2 writing about at this time? What's your best
3 guess?

4 A. **What's my best guess what he was writing**
5 **about?**

6 Q. Yeah.

7 A. **Do you want me to tell you what I think**
8 **why he wrote that?**

9 Q. Well, no. I guess -- And let me back
10 up. Dustin's car is found at Tracey Richter's
11 residence after the shooting, correct?

12 A. **Yes.**

13 Q. Tracey Richter is John Pitman's ex,
14 correct?

15 A. **Yes, she is.**

16 Q. And if this journal -- I'm sorry, the
17 pink notebook, excuse me, indicates that "JP
18 wishes me to keep watch on his wife, which he is
19 divorcing," watch and investigate, more likely
20 than not that's Tracey now-Richter.

21 A. **I guess I don't -- I don't understand**
22 **how we would assume that, since John Pitman also**
23 **has another wife named Lisa Pitman, although she's**
24 **referred to later on possibly.**

25 Q. So it's --

1 supposed to watch Tracey now-Richter.

2 A. **Yes.**

3 Q. And --

4 A. **Well, not specifically her. It's he's**
5 **supposed to keep an eye on his ex-wife, who he is**
6 **now divorcing. I don't know if he actually said**
7 **specific -- Can I look at that?**

8 Q. Of course you can.

9 A. **Can I answer again?**

10 Q. Yes, of course.

11 A. **I think line two it says, "JP wishes me**
12 **to keep watch on his wife, which he is divorcing."**

13 Q. Well, do you --

14 A. **I don't see where anywhere that says**
15 **that's Tracey Richter.**

16 Q. Well, more likely than not it's Tracey
17 if Dustin has just attacked Tracey in her own
18 home, correct? Did you think it was someone else?

19 A. **Didn't he -- Didn't John Pitman and**
20 **Tracey divorce in, like, '98?**

21 Q. Well, who do you think that Dustin's
22 referring to?

23 A. **Or '92, I'm sorry, I'm sorry. I just**
24 **interrupted you again. I think they divorced in**
25 **'92.**

1 A. **I suppose we could assume it was Tracey**
2 **Richter, but I don't know how we could. It's like**
3 **a speculation that it was Tracey Richter --**

4 Q. All right.

5 A. **-- because they had been divorced nine**
6 **years already.**

7 Q. And if you turn that page, I think it's
8 a circled number seven.

9 A. **Yes.**

10 Q. It says, "JP." We can assume that's
11 John Pitman, correct?

12 A. **Sure.**

13 Q. **"-- wants me to force his ex-wife TR to**
14 **kill her son Burt and then commit suicide, and if**
15 **that plan fails is to make it appear as though TR**
16 **had committed the murder of her son and then**
17 **committed suicide." Am I reading that correctly?**

18 A. **You just read it verbatim.**

19 Q. Okay. All right.

20 A. **Yeah. Can't get much more correct than**
21 **that.**

22 Q. Well, Ben caught me being incorrect last
23 time.

24 MR. SMITH: I'm a stickler.

25 MR. BANDSTRA: You're a stickler.

1 Q. Did you do any investigation regarding
2 John Pitman?

3 A. **Oh, yes, I did, yes.**

4 Q. Okay. Let's come back and talk about
5 that.

6 A. **Great.**

7 Q. Good. The reason why I went through the
8 journal is Mona Wehde is very adamant in your
9 interview with her that she did not know John
10 Pitman prior to the shooting of Dustin. Can we
11 agree on that?

12 A. **Yes.**

13 Q. And so my question previously was if
14 there was reason to believe that Mona Wehde
15 actually knew John Pitman prior to Dustin's death,
16 would that cause you concern regarding Mona's
17 credibility, based upon your investigation and the
18 journal?

19 A. **See, that's a tough question to answer
20 because Ms. Richter was the one that talks about
21 the journal for the last god knows how many years.
22 She was the one that told Mary Higgins all about
23 the journal.**

24 Q. And you have -- How do you know that?

25 A. **Because Mary Higgins told us she did.**

1 MR. BANDSTRA: Okay.

2 MR. SMITH: So that narrows it down to
3 four. I can't remember the date.

4 A. **Exhibit 15-5, December 29th, 2008, at
5 3:51 p.m., and it's actually part of a thread. It
6 looks like an e-mail thread. So it would be
7 page 2 -- or page 3, excuse me. Page 3 of 7 in
8 Exhibit 15-5 where it says, "John Pitman."**

9 Q. Okay. Special Agent Vileta, can you
10 show me -- I'm looking at what I thought was the
11 e-mail to you and I'm just making -- I don't see
12 what you're referring to, but sometimes I'm always
13 the last to know.

14 A. **All right. Do you want me to --**

15 Q. If you don't mind, show me where it is
16 here so that I can follow along on the computer.

17 A. **Well, I mean it's obviously not in the
18 same order and it's not the exact same paragraph,
19 but it's the same language.**

20 Q. And which one are we under? There's a
21 series of names.

22 A. **John Pitman. John Pitman, which is --**

23 MR. BANDSTRA: Hold on. Let's go off
24 the record.

25 (A discussion was held off the record.)

1 Q. Okay. Do you have any other evidence
2 other than Mary Higgins telling you that?

3 A. **She quotes paragraph 4 to me in an
4 e-mail that's almost -- Like you read paragraph 7
5 verbatim. There's an e-mail to me where
6 paragraph 4 is almost verbatim.**

7 Q. And I want to make sure I understand
8 your testimony. Is 4 at the bottom of it appears
9 the third page?

10 A. **Well, it's the old Exhibit 4-12, if that
11 would work better for you.**

12 Q. Yes.

13 A. **Okay.**

14 Q. And what part of an e-mail did Tracey
15 allegedly send to you that was verbatim from
16 paragraph number 4?

17 A. **Do you want me to read it to you?**

18 Q. Yeah, and if you can tell me the date,
19 I'd like to know that as well.

20 MR. SMITH: Scott, I'm not testifying
21 for Agent Vileta, but I think the one that he's
22 referring to -- and he can clarify this, but it's
23 in his Minutes of Testimony. I think there's like
24 four e-mails referenced in there and it's one of
25 those.

1 BY MR. BANDSTRA:

2 Q. You've been nice enough to show me,
3 Special Agent, on the break where you believe that
4 the language is similar between what's identified
5 in the journal, which is Defendant's Exhibit L, as
6 in Larry, and you've identified in your report as
7 4-12.

8 A. **Oh, yes, but that's not -- Here we go.
9 That's not the right one. Is that the right one?**

10 Q. I'm just --

11 A. **Yes, yes, you're correct.**

12 Q. And all I'm trying to do is make sure
13 that we are talking about the same thing. And so
14 you've cited -- You've made an allegation that you
15 believe that the documentation or the same words
16 are used in an e-mail that Tracey Richter sent to
17 you on December 29th of 2008.

18 A. **Yes.**

19 Q. And your testimony -- Well, tell me how
20 you think that the language is the same between
21 what I've identified as Deposition Exhibit L,
22 which you identify as 4-12, and the December 29th,
23 2008, e-mail that Ms. Richter would have provided
24 to you.

25 A. **John Richter -- sorry, John Pitman is**

1 described the same way in the e-mail in the pink
2 notebook in the sense that it says he plays mind
3 games, he majored in psychology. I guess the
4 e-mail says he majored in psychology. The
5 notebook says that he wanted to be a shrink. And
6 the e-mail says he wanted to be a psychiatrist.
7 And then the e-mail also says his parents wouldn't
8 allow it, and then the notebook says his family
9 disapproved, so it's the same language, similar
10 language.

11 Q. Okay. And when I was asking you earlier
12 about your educational background, do you have any
13 specialized training as a linguist or any other
14 language expert?

15 A. I've been to several classes on
16 statement analysis. As a linguist? No.

17 Q. Would we agree that Tracey Richter's now
18 second ex-husband is now Michael Roberts?

19 A. Yes.

20 Q. And wouldn't you agree that Michael
21 Roberts would have known about John Pitman as
22 well?

23 A. Oh, yes, he would have known about John
24 Pitman.

25 Q. And would have the information that you

1 Mr. Smith copies of the e-mails between you and
2 Mr. Roberts?

3 A. I don't know if we have any e-mails
4 because I never really asked him anything that
5 would have went into the report. Mainly it was
6 like, "When were you guys married," that sort of
7 thing. I didn't -- I thought he would be pretty
8 hostile toward Ms. Richter; and I wanted to give
9 her the benefit of the doubt, so I kind of left
10 Michael Roberts out of most of what I did.

11 Q. And my question is why did you not
12 interview Michael Roberts, because you'd agree
13 that he was clearly a person of interest when they
14 were doing this investigation.

15 A. He was interviewed extensively in 2001.
16 It seems to me that he was probably the primary
17 focus in 2001, and the problem I had with -- like
18 I said again with Michael Roberts, there's all
19 this documentation that the 2001 guys didn't have
20 as far as the divorce proceedings, the custody
21 proceedings, there was Bethany Christian Services
22 documents, all the stuff that I never saw in the
23 original report, that I was finding that I never
24 really saw anywhere where Michael Roberts was
25 involved or anybody was making any accusations

1 have identified in the pink notebook, which you
2 have identify as 4-12 and we identify just for the
3 sake of these depositions as Deposition Exhibit L,
4 the information regarding Mr. Pitman as far as him
5 being a doctor and a shrink, Michael Roberts would
6 have known that information.

7 A. I've never heard Michael Roberts
8 describe him as that. I've only heard Ms. Richter
9 describe him that way.

10 Q. And my question is would you agree more
11 likely than not Michael Roberts would have also
12 known the information regarding Tracey Richter's
13 first husband, that he was a doctor and that he
14 had -- he wanted to be a psychologist.

15 A. I can't testify that I know Michael
16 Roberts --

17 Q. Okay.

18 A. -- thought John Pitman wanted to be a
19 psychiatrist.

20 Q. And have you interviewed Michael
21 Roberts?

22 A. Sort of -- Sort of through e-mails, that
23 sort of thing. I haven't really talked with him a
24 whole lot.

25 Q. And do you -- Have you provided to

1 towards Michael Roberts until the divorce happened
2 in 2004, 2005. And I didn't want to investigate a
3 2001 case based on a 2004 divorce hearing when
4 everybody including Ms. Richter thought -- I mean
5 she never -- I don't see her blaming Michael
6 Roberts at all in 2000, 2001.

7 Q. And would you agree that Michael Roberts
8 isn't blaming Tracey Richter in 2001 or 2002?

9 A. No, they looked like -- Every time I've
10 seen them, I think back to the Montel Williams
11 thing, they looked like they were holding hands
12 and were supporting each other.

13 Q. Will you produce -- Go back and look at
14 the E-mails you had between yourself and
15 Mr. Roberts -- and I mean Michael Roberts -- and
16 forward those on to Mr. Smith if they're still in
17 your possession?

18 A. I might have those. Basically what
19 happened was I had a computer -- My computer
20 just -- the hard drive destroyed itself. I don't
21 know. I'm not much of a computer guy. A lot of
22 my stuff was destroyed, but, like I said, I --
23 Knowing Michael Roberts' computer background, I
24 was very cautious to reveal any information to him
25 to ask him any questions. I thought he was just

1 going to be openly hostile --

2 Q. Okay.

3 A. -- towards Ms. Richter. I didn't see
4 the benefit of asking him a question if he
5 obviously didn't like her.

6 Q. Well, I'll say this on the record
7 because I said it off the record. At least in my
8 review of the documentation, you were a lot more
9 thorough than the initial investigation and that's
10 my own personal opinion.

11 A. I try to be thorough.

12 Q. Okay.

13 A. And I wanted to -- Hopefully you would
14 agree that I gave Ms. Richter more than -- I was
15 more than polite with her. I was more than
16 respectful. I could only -- Like I said, I wasn't
17 there in 2001, so it was difficult, to say the
18 least, to try to piece everything together.

19 Q. Well, and I haven't made any allegations
20 that you weren't respectful to my client.

21 A. Well --

22 Q. I'm just saying you'd agree with me that
23 Michael Roberts took a polygraph examination in
24 2002 and failed, correct?

25 A. Do you want me to speculate as to why he

1 A. Sure.

2 Q. You indicated that Tracey Richter has
3 talked extensively about the journal. What
4 additional evidence do you believe that you have
5 in your file evidencing that Tracey had knowledge
6 of the journal other than what we've just
7 described?

8 A. Well, she keeps -- In a lot of these
9 e-mails that she sends me, she keeps trying to
10 blame Michael Roberts for authoring it. I could
11 find the exact thing for you, but I mean there's
12 mentioned that Michael Roberts had a premonition
13 from God that evidence would be found that would
14 allow Mona and Mike to sue John Pitman.

15 There's an e-mail where Ms. Richter says
16 that Michael Roberts had Dustin Wehde write about
17 being a hit man. I think she -- I can't remember
18 the year, 2004 or 2005 she tells Sheriff McClure
19 that Michael Roberts talks in his sleep and told
20 her all about this journal or notebook.

21 It seemed -- What I found odd about all
22 that was she made all these accusations, but I
23 never saw anything to indicate that Michael
24 Roberts had Dustin write about being a hit man.
25 She never produces that. She never tells any

1 failed?

2 Q. No, I'm just asking if you knew that he
3 failed.

4 A. Bert failed his polygraph too, so ...

5 Q. But my question is were you aware that
6 Michael Roberts failed?

7 A. I was aware that he failed one and
8 passed two others, but I -- Polygraph, there's a
9 huge reason why polygraph results aren't allowed
10 in court.

11 Q. And would you -- And I'm not going to
12 disagree with you on that, but would you agree
13 that the report came back, at least according to
14 DCI Special Agent Moser's notes, that Michael was
15 determined to be 99 percent deceptive? Did I read
16 that correctly?

17 A. It's been awhile since I looked at that.
18 I'm not a polygraph expert. I haven't been
19 trained on the polygraph. I don't remember seeing
20 that it was 99 percent deceptive. I know that
21 it's usually ruled as deceptive or truthful. I
22 can't remember what the results were on that one,
23 so ...

24 Q. You indicated -- I'm going a little
25 differently than I planned.

1 details other than that. There's no -- I mean
2 Michael Roberts is talking to God? I guess I
3 don't understand that either, so it just seems to
4 me like she was trying to place the notebook all
5 on Michael Roberts.

6 Q. Okay. Well, you'd agree in Michael
7 Roberts' first interview that when they asked him
8 who he works for, he says he works for God,
9 correct?

10 A. That sounds familiar.

11 Q. Okay. Then you -- Since you didn't
12 interview Michael Roberts, you don't know whether
13 he talks in his sleep or not, correct?

14 A. No, I don't know if he talks in his
15 sleep.

16 Q. And if Tracey found -- If Ms. Richter
17 found out about the pink notebook in 2005, three
18 and a half, four years after the shooting, would
19 you have an expectation that she's going to talk
20 to law enforcement about why they haven't told her
21 about the journal before?

22 A. Yeah, absolutely. I'm glad she asked
23 about it, but I guess where I would disagree with
24 you is she was never told about the details, the
25 actual content. She was never shown this, which

1 **Mary Higgins describes in great detail.**

2 Q. Okay. And we'll get to Mary in a little
3 while.

4 A. **Sure we will.**

5 Q. At the time of trial, Special Agent
6 Vileta, what other evidence, if any, will you have
7 that you allege that Tracey Richter somehow
8 authored the contents found in the pink notebook?
9 Is there other testimony that you'll have?

10 A. **Well, I mean I mentioned briefly the**
11 **flurry of e-mails. I mean we had two statements**
12 **from Mary Higgins. I don't -- I'm not -- It's**
13 **been awhile since I read the trial minutes. I'm**
14 **not sure what my testimony -- what's expected of**
15 **me.**

16 Q. Well, and I don't know either. That's
17 why we're doing the deposition. If you want to
18 take a --

19 A. **Do you have the trial minutes?**

20 Q. I can get them.

21 MR. SMITH: Scott, maybe I just -- I'm
22 needing a little clarification. Stuff that Agent
23 Vileta testified to as to --

24 MR. BANDSTRA: It's Vileta.

25 MR. SMITH: He didn't correct me for

1 A. I guess I understand what you're saying
2 why -- A quick answer is this entire three-page,
3 two-and-a-half-page -- how do you want -- The
4 entire Dustin Wehde handwriting in here is a "I
5 hate John Pitman" testimony.

6 Now, if you want me to go back to 1992
7 and start going through all the stuff that
8 happened between Ms. Richter and Dr. Pitman, I can
9 do that or I can just tell you that at the time
10 that this happened, all the people listed in here
11 outside of Bert are people that Ms. Richter
12 absolutely hates.

13 Q. Okay.

14 A. She files a complaint against Steven
15 Komie, paragraph 6. I think it was September of
16 2001 she files a --

17 Q. And he can't answer.

18 A. He can't answer, I'm sorry.

19 Q. No, you're fine. You're fine.

20 A. September of 2001 she files a complaint
21 against Mr. Komie. By all indications that I've
22 got is that there was a lot of litigation going on
23 that she kept losing. I think she lost a change
24 of venue, moving a custody hearing from Chicago to
25 Iowa. I think Mr. Komie actually flew in and

1 three months and that's his problem, so now --

2 A. **I told you just call me Trent.**

3 MR. SMITH: Okay, Trent. There was
4 stuff that Trent -- I guess the question that you
5 asked, are you asking for things that he has
6 personal knowledge of or things that he's included
7 in his case file that maybe have been obtained
8 from other agents or other agencies that may
9 suggest -- Are you just wanting anything and
10 everything with regards to stuff that would tend
11 to show your client's knowledge of this thing?

12 A. **Because I --**

13 Q. Let me respond to that --

14 A. **Okay.**

15 Q. -- and then we'll go back; is that fair?

16 A. **Yeah.**

17 Q. I'll work on it again. Special Agent
18 Vileta, I want to know at the time of trial, since
19 you've brought up the journal, what additional
20 evidence you believe supports that Tracey Richter
21 is the author of -- it's Deposition Exhibit D --
22 or, excuse me, L and you have it identified as
23 Exhibit 4-12, so I want to know if there's
24 additional evidence you'll testify to at the time
25 of trial.

1 testified on that. There was an increase in child
2 support motion that was denied. There was, oh, a
3 CINA. I think there was a CINA. There was -- She
4 continually lost all these cases leading up to
5 2001. I think she was -- Probably a week or so
6 before Dustin died she was due to go to
7 depositions and she missed depositions and then
8 was due later to go to more depositions.

9 What this notebook is it's evidence
10 basically to show that John Pitman's a horrible
11 dad. He wants -- you know, he wants Dustin to
12 kill Tracey and Bert and make it look like a
13 murder-suicide. Then he wants Dustin to fly out
14 and kill John Pitman's parents, the same parents
15 who accused her of credit card fraud a few years
16 earlier.

17 John Pitman wants -- or Steve Komie, who
18 has his picture taken with Barack Obama and is one
19 of Chicago's power attorneys, decides to hire a
20 special ed kid from Early, Iowa, to break in her
21 house and kill someone that they're defeating in
22 court.

23 This whole journal is -- was produced so
24 she had evidence to take to court to say, "My
25 husband is the most horrible person on earth. I

1 win custody." That's why this whole thing was
2 produced.

3 Q. Okay. And for the sake of this
4 deposition, if you tell me that Tracey Richter
5 didn't like the people identified in Dustin
6 Wehde's journal, that's fine, but what additional
7 evidence do you have to support at the time of
8 trial that Tracey Richter was the author of the
9 Exhibit L, as in Larry, that you're referring to
10 as the contents of the pink notebook?

11 A. This is a conspiracy to commit fraud.
12 It's simple as that. It's -- I mean if you would
13 like, I mean I could go through -- There's several
14 instances of forgery that she committed against
15 Mr. Pitman leading up to this. She continuously
16 makes accusations of child abuse towards
17 Dr. Pitman. This is -- There was literally years
18 of her -- I mean she takes a poster of John Pitman
19 and puts it at a hospital saying that he molests
20 children. We have all this stuff. I mean it's
21 all there. It's -- Why did she author this? She
22 authored this because she needed -- that's the
23 only evidence that she could produce at the time
24 to show that she deserved custody over John
25 Pitman.

1 again you can't disregard the contents of the
2 notebook. You know, you asked me originally what
3 was one of the big mistakes that the original
4 investigators made or what mistakes did they make?
5 I mean their biggest mistake was they never flew
6 out to see John Pitman right away. I think if
7 they would have saw John Pitman right away, the
8 notebook would have made sense to them
9 immediately.

10 Q. Okay. And I'm still trying to
11 understand why you'd fly out to see John Pitman,
12 but you wouldn't even try to call Michael Roberts.

13 A. I did. I talked to Michael Roberts. I
14 just -- Like I said, I confirmed dates and that
15 sort of thing with him. I didn't ask anything
16 relevant.

17 Q. And, see, in my notes it looks like
18 there were just a few e-mails between the two of
19 you, because I asked you if you interviewed him.

20 A. Well, I'm not sure how -- You know, like
21 I said, anything that I thought was relevant to
22 the case I put in. And what I mean by relevant is
23 if I called Michael Roberts to say, "Hey, what
24 year were you and Tracey divorced," I mean that
25 was -- it's a public document anyway, so I was

1 Q. And what direct proof do you have at the
2 time of trial evidencing that Tracey told Dustin
3 Wehde to draft this journal? Do you have any
4 eyewitnesses or anyone like that to establish
5 that --

6 A. I have no --

7 Q. -- Tracey was the author of the contents
8 of the pink notebook?

9 A. I have no eyewitnesses.

10 Q. Okay. And you didn't talk to Michael
11 Roberts because you assumed he was going to be
12 hostile to you, correct?

13 A. I -- Correct. The impression I got from
14 Michael Roberts is he wouldn't provide anything
15 that would -- In order for me to be thorough, I
16 didn't want to go into this thinking Michael
17 Roberts did it, Tracey Richter did it, John Pitman
18 did it. I needed to be extremely open-minded on
19 that, and I thought Michael Roberts was going to
20 do nothing but say bad things about Ms. Richter.

21 Q. Well, did you talk to John Pitman?

22 A. Yes, I did.

23 Q. Okay. Did you expect he was going to be
24 hostile towards Tracey?

25 A. There was some expectation of that, but

1 just confirming some things with him.

2 Q. Do you have an interview with John
3 Pitman?

4 A. There's an interview with John Pitman
5 that was done by the Virginia State Police and I
6 can't think of Garrett -- Garrett Geesto? (sic)
7 And I will look it up for you. 7-10.

8 Q. Special Agent Vileta, my last question
9 to you was did you interview Dr. Pitman, and I
10 think you referred me back to an interview done by
11 someone else. Your answer would be no, correct?
12 You did not interview --

13 A. Yeah, I did not personally interview
14 him, no.

15 Q. Did you ever talk to John Pitman? And
16 I'm referring to Tracey Richter's ex-husband.

17 A. I've talked with him since this
18 interview has been done, but mainly that was when
19 we flew out to interview Bert just to find out
20 where Bert was going to be, that sort of thing, so
21 we could interview him.

22 Q. So do you have notes of your
23 conversation with Dr. Pitman, Tracey Richter's
24 ex-husband?

25 A. No.

1 Q. And would you agree -- and I'm looking
2 at what you referred me to at the time -- and I'm
3 looking at the bottom of that entry when John
4 Pitman was shown -- On page 5 there's parentheses
5 around the third paragraph, and it says
6 "Dr. Pitman was asked if he could provide some of
7 Bert's handwriting from 2000, 2002. When
8 presented with this request, he immediately said
9 he thought the journal entries he was shown
10 earlier appeared to be Bert's handwriting. He
11 advised that he was sure he had some of Bert's old
12 schoolwork and that he would begin to search
13 through it and contact the agent."

14 Do you know what was provided to
15 Dr. Pitman at that time?

16 A. I don't have page 5. I have page 3 and
17 then page 4. I don't know what paragraph you're
18 referring to.

19 Q. Fair enough.

20 A. Like I said, transcription is far from
21 perfect.

22 Q. First of all, do you see where I'm
23 referring to, the third paragraph down, there's
24 parentheses.

25 A. Yeah. I'm not certain, but I think they

1 contents in the pink notebook from what your prior
2 testimony, correct?

3 A. Yes.

4 Q. And you're basing that on alleged
5 ongoing fraud that Tracey allegedly engaged in
6 regarding -- with her ex-husband, Dr. Pitman. You
7 testified to that, correct?

8 A. Alleged fraud allegations. I don't know
9 how you want to describe it.

10 Q. And you would agree that they were
11 having a pretty contentious custody battle
12 regarding Bert Pitman at that time?

13 A. I wasn't there, but from the public
14 documents and that sort of thing that I've read,
15 it looked like it was contentious.

16 Q. And, in fact, you told Mona Wehde in
17 your December 26, 2008, interview that she
18 shouldn't believe everything that Dr. Pitman told
19 her. Do you remember making that statement?

20 A. I don't remember making that statement,
21 no.

22 Q. Does that sound accurate?

23 A. If I -- If it's in that report, then I
24 said it, so ... Do you want me to look that up
25 again?

1 showed him the first page of the notebook.

2 Q. And at that time Dr. Pitman thought that
3 it was Bert Pitman's handwriting, correct?

4 A. Yeah. According to this interview, he
5 said it appeared to be Bert's handwriting.

6 Q. And on page 4 -- Do you have page 4 of
7 that report?

8 A. We'll see. It says page 4 here, but I
9 have page 5 of 5 written here, so I don't --
10 Maybe.

11 Q. Does the first word in the top of
12 page 4, does it say "He"?

13 A. Yeah, "He went back"?

14 Q. Yeah. I'm just making sure. The second
15 paragraph of that same page starts out with the
16 word "Tracey" -- words "Tracey's ex-husband ..."

17 A. Yes.

18 Q. I'm a little concerned now we don't have
19 the same documentation.

20 A. No, that's it.

21 Q. Does it appear in there that Dr. Pitman
22 had a conversations with Michael Roberts where
23 Michael Roberts -- strike that.

24 Here's my confusion, Special Agent.
25 You're sure that Tracey wrote or authored the

1 Q. Give me just a second and I think I can
2 find it for you or come close.

3 A. I'll wait for you to find it. I don't
4 know where you're looking, so ...

5 Q. It's one of those things that I remember
6 reading, and I don't think I --

7 A. I don't remember saying that. Keep in
8 mind that was my first time I talked to Mona and I
9 hadn't -- probably -- I probably can't explain
10 that, why I said that.

11 Q. Well, did you say something to the
12 effect of that "you should take whatever people
13 were saying about Tracey with a grain of salt"?

14 A. I guess my best answer to that is I
15 didn't want to make a mistake and focus on one
16 person. I wanted to start all over from the very
17 beginning and make sure everybody got a fair
18 shake. I guess I don't know how to ... "A grain
19 of salt" doesn't sound like something I would say.
20 Maybe I did.

21 (A discussion was held off the record.)

22 BY MR. BANDSTRA:

23 Q. There was a Mountain Dew phone card that
24 was found with 55 minutes on it on Dustin's
25 personal effects. Were you aware of that?

1 A. I didn't know it had 55 minutes on it.
 2 Q. 155 minutes? Did you ever do any kind
 3 of investigation on that phone card?
 4 A. I think that phone call -- Didn't that
 5 phone card expire in 1999? 1998, 1999?
 6 Q. I don't know. Did you do any follow-up
 7 regarding that phone card?
 8 A. It seems to me like we determined that
 9 it was an expired phone card, but I don't know
 10 where that would be.
 11 Q. Tracey --
 12 A. Was that in the original, the 2001
 13 investigators determined that? I don't know.
 14 Q. I'm just asking what you did and what
 15 you didn't do.
 16 A. Okay.
 17 Q. Mona Wehde's statement on page 40 was
 18 that her understanding was that Michael Roberts
 19 was trying to seduce -- I'm sorry, that Tracey
 20 Roberts now-Richter was trying to seduce Dustin,
 21 and Michael Roberts came home and killed him. Is
 22 that what she told you at the time?
 23 A. That's what she says there.
 24 Q. And that prior to Dustin's death,
 25 Michael had shown Dustin guns in the Roberts'

1 exercise go like that.
 2 Q. Okay. Were you aware that Michael
 3 Roberts also took Dustin shooting on a gun range?
 4 A. I've heard -- I remember seeing that
 5 somewhere.
 6 Q. Okay. And that Michael Roberts about a
 7 month before the home invasion had quit doing
 8 paintball exercises with Dustin because he was
 9 stealing items.
 10 A. I think Dustin stole some sort of
 11 paintball accessory or something like that.
 12 Q. And it appears that in the interview of
 13 Brett Wehde shortly after the shooting, Brett said
 14 he had been locking up his guns. Do you have a
 15 recollection of that?
 16 A. That sounds right, something like in the
 17 trunk of his car or something?
 18 Q. That's correct.
 19 A. Okay.
 20 Q. And so if Michael Roberts shows Dustin
 21 Wehde guns upstairs in the Roberts' residence,
 22 that would be motivation for Dustin to want those
 23 guns that were upstairs.
 24 A. Why didn't Dustin take the guns when he
 25 was upstairs then?

1 upstairs bedroom, on page 46.
 2 A. That sounds familiar. I think so, yes.
 3 Where is that at on 46? Oh, I see it. It's the
 4 bottom paragraph. Sorry.
 5 Q. Am I correct in my reading?
 6 A. Yes. Yes, you are.
 7 Q. And assume this set of facts, Special
 8 Agent Vileta. If Michael Roberts had shown Dustin
 9 Wehde guns upstairs prior to the shooting,
 10 wouldn't that give Dustin a reason to be in the
 11 house on December 13th of 2001?
 12 A. I guess I don't know what -- What do the
 13 guns have to do with him being in the house
 14 December 13th?
 15 Q. Well, Michael had taken Dustin
 16 paintballing, correct?
 17 A. Yes, he did.
 18 Q. And, in fact, they did -- They would go
 19 to abandoned houses and barns and they would
 20 have -- they would have paintball exercises where
 21 they would basically do home invasions. Were you
 22 aware of that?
 23 A. Where they did home invasions?
 24 Q. Yes.
 25 A. I don't -- I've never seen a paintball

1 Q. Wasn't he with Michael at the time?
 2 A. No, I thought we were referring to
 3 December 13th.
 4 Q. On page 46 of this interview.
 5 A. Okay. I'm sorry, I'm not following your
 6 question.
 7 Q. And that's fair.
 8 A. Are you saying that Dustin liked guns
 9 and wanted to steal guns on December 13th?
 10 Q. I'm saying that there's a -- On page 46
 11 of your transcribed interview, Mona Wehde tells
 12 you that prior to Dustin's death, Michael had
 13 shown Dustin guns in the Roberts' upstairs
 14 bedroom.
 15 A. Yes, I see that.
 16 Q. And would you agree that then Dustin
 17 would have known that the Roberts had guns
 18 upstairs?
 19 A. Obviously.
 20 Q. And if his father has locked up the guns
 21 in a trunk, there was obviously concern with
 22 Dustin around guns or Mr. Wehde wouldn't have
 23 locked the guns in the trunk.
 24 A. I -- I have hundreds of -- not hundreds.
 25 Dozen of friends in law enforcement that have

1 children that lock their guns up in their house
2 because they don't want kids to have them.
3 Q. Would you agree that if Michael Roberts
4 showed Dustin guns in the Roberts' upstairs
5 bedroom, that that could have been a reason why
6 Dustin was in the house on December 13th of 2001?
7 A. I guess I can't agree to that. I don't
8 know -- I don't remember seeing anywhere that
9 Dustin even liked guns. I don't -- I guess I
10 don't know what he would want to do with guns.
11 Q. So you were or were not aware that
12 Michael Roberts was taking Dustin to the gun range
13 to shoot?
14 A. Yeah, I was aware of that, yes.
15 Q. Okay. And they're also doing paintball
16 exercises.
17 A. Is it exercises or do you just
18 paintball? I've never paintballed. I don't know.
19 Q. I'm just asking were they doing
20 paintball --
21 A. I think they went paintballing once or
22 twice, yes.
23 Q. And so you don't have an opinion on
24 whether or not Dustin would like guns or not?
25 A. I have no opinion on whether Dustin

1 A. Yes.
2 Q. And your answer was "Chris was in jail."
3 A. Yes.
4 Q. And then she -- Mona Wehde also told you
5 at that time that the description of the second
6 intruder would match Michael, which is Michael
7 Roberts, and Ray, which is Ray Friedman.
8 A. Yes.
9 Q. And she said, "That's who I think the
10 description fits well -- quite well."
11 A. That's what she says, yes.
12 Q. Okay. And you did a 97-page interview
13 of Mona Wehde and the only reference she makes to
14 an unknown accomplice is she identifies Chris,
15 which I assume is Chris Da Geest (sic), and then
16 Michael Roberts and Ray Friedman would have
17 matched that description.
18 A. I think so, yes.
19 Q. Well, that's what she says here, right?
20 A. Yes, exactly what she says.
21 Q. Did she make any reference to you of
22 Jeremy Collins that day?
23 A. Was it in this interview that she talked
24 about Jeremy Collins? I can't remember where I --
25 Q. From my reading of it, sir, it is not.

1 would like guns.
2 Q. And I should have put the page here, but
3 I have a notation it says that Mona told you that
4 when law enforcement originally spoke with her
5 about the unknown accomplice, she said it might be
6 Dustin Wehde's friend, Chris. And I think that's
7 Chris Da Geest (sic).
8 A. Okay. Was he the one that was in jail
9 that night?
10 Q. I believe so. And I know it's in
11 between page 46 and page 57 and I apologize.
12 A. Are we looking for Chris Da Geest or
13 whatever?
14 Q. No, I can't answer whether you're
15 looking for Chris Da Geest or not.
16 A. I thought that's what you were looking
17 for.
18 Q. I am.
19 A. Try 57.
20 Q. Thank you.
21 A. 56?
22 Q. Yes. Thank you. Page 57, line 2277.
23 "RW" would be Ramona Wehde. "They described the
24 unknown accomplice and I said Chris." Do you see
25 that, sir?

1 A. Okay. I think Jeremy Collins came up --
2 I want to say that she told -- or Mona, I'm sorry,
3 Mona told Denny Cessford that she thought Jeremy
4 Collins might be involved.
5 Q. Okay. And my reading of this is that in
6 this 97 pages of your interview with her she
7 doesn't mention Jeremy Collins once.
8 A. Okay. I'll agree with you. I don't --
9 I don't know if that's --
10 Q. And when there's a reference to the
11 unknown accomplice, she identifies Chris, which I
12 assume is Chris Da Geest, and Michael and Ray.
13 A. Okay.
14 Q. Am I reading that right on page 57?
15 A. That's what I read on page 57.
16 Q. And you don't have any reason to dispute
17 that she identified to Dennis Cessford that she
18 believed that this Jeremy Collins was the second
19 intruder.
20 A. Did she say he was the second intruder
21 or did she say he was involved? I can't remember
22 that statement.
23 Q. And that's fair. I think that she said
24 that she was involved, and Mr. Cessford said in
25 his deposition that Ramona Wehde had said that

1 Jeremy Collins was the second intruder.

2 A. Okay. I --

3 Q. And you weren't in the depositions.

4 A. Okay, yeah.

5 Q. But my question is is if you were asking
6 her about the second intruder, doesn't it seem
7 unusual to you, sir, that Ramona Wehde, if she
8 thought that her previous boyfriend was involved,
9 that she wouldn't tell you about him in your
10 investigation?

11 A. I guess I don't know if that's -- She
12 was -- The transcript's not going to show you she
13 was pretty broken up about having to relive this
14 whole experience. I don't -- Maybe she forgot.
15 Maybe she just didn't tell me. I don't know. I
16 didn't -- Reading this, I guess I didn't ask her
17 was there any other people that you could have
18 thought, but I don't know why she didn't tell me.
19 If that answers your question.

20 Q. Well, you seem like someone who can
21 judge people pretty well. Would you have an
22 expectation, if you're talking to Mona Wehde, for
23 her to provide you any and all information
24 regarding a second intruder?

25 A. I think -- My -- I do a lot of death

1 house.

2 Q. Okay.

3 A. If that makes sense.

4 Q. But you were there and I wasn't, so do
5 you think it just slipped Mona Wehde's mind or
6 Mona Wehde's mind about that her boyfriend was
7 involved, do you think she just forgot to tell you
8 that?

9 A. If you want my opinion, my opinion is I
10 think I called her up out of the blue, found out
11 she was going to be in Iowa, and she tried to
12 live -- relive, you know, eight years of memories
13 in -- I want to say this was the day after
14 Christmas that we did this.

15 Q. That's correct.

16 A. And it was late at night already, so I
17 don't know. She could have very well forgot it.
18 I don't know why she didn't mention it.

19 Q. It would have been helpful in your
20 investigation if she would have told you that,
21 correct?

22 A. I mean if you thought Jeremy Collins was
23 helpful in the investigation, I suppose it would
24 have been.

25 Q. Okay. Well, let's talk about that.

1 cases. My expectation from the family is that I
2 hope at some point -- at some point I get all the
3 information. It's hard when people relive
4 horrible experiences in their life to regurgitate
5 everything all at once.

6 Q. And I totally agree. I'm sure that has
7 to be difficult, but if you're asking her
8 specifically about the second intruder and she's
9 identifying a Chris, Michael, or Ray, if she's
10 told Dennis Cessford that she believed her
11 boyfriend was involved, would you have an
12 expectation that she's also going to relay that to
13 you, or did she just forget?

14 A. Well, I guess I would expect for her to
15 relay that, but I don't think it was in that
16 context. I think it was more in the context of
17 Jeremy being involved because Mona believed that
18 Jeremy helped Tracey lure Dustin over to the
19 house. I don't know -- and again I wasn't at
20 Mona's deposition.

21 It was always my belief that Mona didn't
22 think an attack actually happened, so as far as an
23 intruder being Jeremy, I don't think she thought
24 he was actually intruding in the house and
25 attacking. I think she just thought he was at the

1 A. Okay.

2 Q. Would you agree that when Agent Moser
3 checked the Wehde's caller I.D., that the last
4 person who would have made telephone contact with
5 the Wehde residence would have been Jeremy Collins
6 at 4:34 p.m.?

7 A. I think that's correct.

8 Q. And that the phone records also
9 indicated that Jeremy Collins would have had
10 telephone contact with Mona Wehde on the evening
11 of December 13th of 2001 and also December 14th of
12 2001?

13 A. I think so, yes.

14 Q. And do you know what kind of vehicle
15 Jeremy Collins was driving at that time?

16 A. I don't. I know he had access to a
17 couple vehicles. I think he even -- I think his
18 dad owns a big construction company. I don't know
19 what he would have been driving that day. I think
20 when I checked his registration, I think he had --
21 was it like an S-10 pickup and like some sort of
22 car registered to him?

23 Q. Right.

24 A. And I don't know what kind of trucks his
25 dad had access to.

1 Q. But didn't he have a 2001 extended-cab
2 truck at the time of the shooting?
3 A. **Was that registered to him or his dad?**
4 Q. I believe it was registered to him.
5 A. **He might have.**
6 Q. And would you agree in the canvassing
7 notes for Dennis Cessford, that two of the
8 witnesses would have identified a dark
9 extended-cab pickup in front of the Roberts'
10 residence at the time of the shooting?
11 A. **I don't think that was in front of the**
12 **Roberts' residence. Wasn't it on Main Street, if**
13 **I remember right. I think they're two different**
14 **descriptions of trucks too. That would be -- It's**
15 **right here. Let's go with 10-20. 10-19 and**
16 **10-20.**
17 Q. Just a second. Let me -- I'm trying it
18 this way because that's how we identified it
19 before, so give me just a second.
20 A. **It would be a lot easier for you if you**
21 **kept them in the binders.**
22 Q. Thank you. I'll try to remember that
23 next time.
24 A. **I don't know why the attorneys do this.**
25 **They tear it apart and they can't find it.**

1 A. **"I noticed a truck --" Does it say**
2 **what --**
3 Q. Well, does it say it resembled an
4 extended-cab?
5 A. **Yep. Yes, it does. Okay.**
6 Q. And that she saw, meaning Ms. Schmitt,
7 saw lights -- There were lights on it and then the
8 lights stayed on for about 20 minutes.
9 A. **Yes, that's what she says.**
10 Q. Okay. And I've reviewed the police
11 reports. Would you agree that when the responders
12 got there, their lights would have been activated,
13 the emergency lights?
14 A. **I would hope so, yes.**
15 Q. Me too. And then if you look at 10-20,
16 Ms. Vadnais -- and that's V-A-D-N-A-I-S -- she
17 also identifies a pickup truck on the third line.
18 A. **Yes.**
19 Q. And saw the "taillights parked to the
20 north of the house. I watched through the window
21 as the car backed up and parked to the house of
22 the east at that time."
23 A. **Yes.**
24 Q. And also in this one if you look down,
25 it says, "It appeared to be an extended-cab pickup

1 MS. ANDERSON: We didn't get it in
2 binders, Mr. Vileta.
3 A. **Oh.**
4 MS. ANDERSON: We got it e-mailed or on
5 a flashdrive.
6 Q. Yes, sir, 10-20.
7 A. **Okay. 10-19, 10-20?**
8 Q. Yes, sir. And just for the record,
9 that's Defendant's Deposition Exhibit R and I'm
10 looking at 10-19. It's a Melissa Schmitt?
11 A. **Yes.**
12 Q. And she identified a -- She saw a car
13 drive up behind the pickup and then around and go
14 around down the street. Is that what Ms. Schmitt
15 said on -- Well, it says it was December 13th of
16 2001.
17 A. **Yeah, that's at 7:30 p.m.**
18 Q. Right.
19 A. **All the police and everybody there, so**
20 **I'm --**
21 Q. Okay. But you'd --
22 A. **I guess that was probably a First**
23 **Responder vehicle that she was referring to.**
24 Q. Well, you'd agree that there was a
25 pickup truck that was there.

1 truck."
2 A. **Yes.**
3 Q. And if there was evidence that Jeremy
4 Collins had an extended-cab pickup truck at the
5 time, would that cause you concern?
6 A. **No, because Ms. Richter said she looked**
7 **at him in the face. Why didn't she just say the**
8 **Schwan's man was the second attacker then? She's**
9 **seen him before.**
10 Q. And how do you know that?
11 A. **He's been to her house probably eight or**
12 **ten times.**
13 Q. And how do you know that?
14 A. **He's the Schwan's man. He goes to her**
15 **house every week. Even I know who my Schwan's man**
16 **is, and I think that the only -- I think we have a**
17 **recording where she comments to her mom that she**
18 **knows who the Schwan's man is.**
19 Q. But do you know whether that's the
20 Schwan's man before the home invasion or after?
21 A. **He was the Schwan's man before.**
22 Q. Sure.
23 A. **He was the Schwan's man there from**
24 **September, I don't know, 15th until the week that**
25 **Dustin died, December -- I don't remember the**

1 **date. December 11th or something I think was his**
 2 **last day.**
 3 Q. Yeah, December 11th was the last day he
 4 showed up.
 5 A. Yeah.
 6 Q. But do you have any knowledge that
 7 Tracey was receiving Schwan's products before the
 8 home invasion?
 9 A. **No, I don't have any knowledge of that.**
 10 Q. Okay. And if she doesn't receive Schwan
 11 items, would you agree, sir, also that she may not
 12 know who the Schwan's man is?
 13 A. **If -- Yeah, if she never bought Schwan's**
 14 **items, she probably wouldn't know.**
 15 Q. And when did you first learn of Jeremy
 16 Collins? Who told you that? Obviously, Mona
 17 Wehde didn't tell you.
 18 A. **I want to say I was looking for a Jeremy**
 19 **Collins interview or something and I never found**
 20 **one, so ...**
 21 Q. And did you go confront Dennis Cessford
 22 about not following up on Jeremy Collins?
 23 A. **Gosh, I can't remember how this**
 24 **conversation went. They had followed up on it. I**
 25 **couldn't find a report. And trying to be**

1 Q. Oh, I thought you said DO.
 2 A. **Sorry. And he wasn't wearing a ski mask**
 3 **and gloves either, but ...**
 4 Q. Were you aware that Jeremy Collins paid
 5 off his truck shortly before this shooting
 6 occurred?
 7 A. **Yes.**
 8 Q. And, you know, one of the things I've
 9 looked for is do you have documentation of that?
 10 My understanding is that you would have obtained
 11 some documentation that Jeremy paid off -- I think
 12 it was like around 12 -- let me finish.
 13 A. **I know. I'm trying to think of where --**
 14 **I know where you're going with this. I'm trying**
 15 **to think of what -- There was a document and for**
 16 **the life of me I can't -- I want to say his dad**
 17 **paid it off, but I can't -- I don't know where I**
 18 **saw that document.**
 19 **Does the Sheriff's office have that**
 20 **document? I don't know.**
 21 MR. SMITH: If they did, it's in that
 22 second production that's all jumbled somewhere,
 23 so ...
 24 A. **I guess the best way to answer that**
 25 **question, I think somebody -- I want to say**

1 **thorough, I guess I wanted to speak to Jeremy**
 2 **Collins. Like I said, Mona had this huge concern**
 3 **that Collins and Tracey were involved somehow.**
 4 Q. And I want to be clear I understand.
 5 Who do you think followed up with Jeremy Collins?
 6 A. **I think Dennis Cessford had a -- how do**
 7 **I want to say it? I think he had some knowledge**
 8 **at the time about Jeremy Collins, but, you know,**
 9 **the problem was he never really -- Are we going to**
 10 **go into the description of the second guy at some**
 11 **point, because Jeremy Collins wasn't -- doesn't**
 12 **match even the description of the second guy.**
 13 Q. Okay. And how do you know? Because he
 14 had short hair?
 15 A. **He doesn't have brown or dark, wavy hair**
 16 **and he wasn't thin or average build. He was like**
 17 **a bodybuilder. His biceps are like the size of my**
 18 **thighs and I think he had a mustache.**
 19 Q. When did he have a mustache? When you
 20 went and visited him?
 21 A. **He had a mustache at least in the DL**
 22 **photo that I saw of him, and I think that was a**
 23 **month or two before the incident.**
 24 Q. And what's a DO photograph?
 25 A. **DL, driver's license photo.**

1 **someone from the Sheriff's office told me they**
 2 **confirmed that his dad paid it off, but I'm not**
 3 **too sure that just -- I'm not too sure how I know**
 4 **that.**
 5 Q. Did you ever obtain any of Jeremy
 6 Collins' bank records?
 7 A. **No, I didn't.**
 8 Q. You said -- and I assume it was
 9 flippantly -- when you met Jeremy Collins, he also
 10 didn't have a ski mask and gloves.
 11 A. **Yeah. I --**
 12 Q. Okay.
 13 A. **For the life -- I still can't figure out**
 14 **the whole ski mask and gloves thing, why -- I**
 15 **assume Ms. Richter told two people that the second**
 16 **had a ski mask and gloves and then she was going**
 17 **to do a composite drawing of him. I never quite**
 18 **figured that whole part of the story out.**
 19 Q. But we have a gentleman who's having an
 20 affair with Ramona Wehde.
 21 A. **Uh-huh.**
 22 Q. Is that a yes?
 23 A. **Yes, sorry.**
 24 Q. No, you're okay. Your testimony is he
 25 doesn't fit the description because he -- when you

1 saw him he had a mustache and he didn't have a ski
2 mask and gloves on.

3 A. Well, I mean you got to believe that
4 there was actually an attack that took place. You
5 have to believe that there was a second attacker.
6 You got to think of a motive. I mean why would
7 Jeremy Collins and Dustin Wehde be in the house in
8 the first place?

9 It's not like Jeremy Collins would go to
10 Mona's house and say, "Hey, Dustin, I'm having an
11 affair with your mom. Don't tell my wife or your
12 dad." I don't -- There's nothing to indicate that
13 Jeremy Collins and Dustin Wehde had any kind of
14 connection whatsoever.

15 I mean how did -- I mean where does -- I
16 don't know where Jeremy Collins would fit into the
17 whole scenario. Why would he be -- I mean does
18 John Pitman call him and the special ed kid
19 somehow? I mean there's nothing to show that
20 Jeremy Collins was there.

21 Q. But there was no investigation done
22 regarding Jeremy Collins until you flew to Germany
23 to see him.

24 A. Absolutely. Well, no, I'm not going to
25 say -- I absolutely flew to Germany to see him. I

1 **Jeremy Collins talked to each other.**

2 Q. Jeremy Collins' last day at Schwan's was
3 December 11th of 2001.

4 A. I think so.

5 Q. And if the DOT records evidence that he
6 had an extended-cab pickup truck at that time, you
7 wouldn't have any reason to dispute that, would
8 you, sir?

9 A. No, absolutely none.

10 Q. And we can now agree that two witnesses
11 identify an extended-cab pickup truck at the time.

12 A. Yes.

13 MR. SMITH: Excuse me, at the time of
14 what?

15 MR. BANDSTRA: At the time of the
16 shooting.

17 A. It was after the shooting, actually.
18 Don't they both say it's after 7:30 sometime?

19 Q. Well, don't they both say that they
20 observed a extended-cab pickup --

21 A. I think so.

22 Q. -- near the residence?

23 A. I think 7-19, she says it's around 7:30,
24 and I want to say 7-20 says it was after 7:00. I
25 want to say the 911 call came in at -- is it 7:09?

1 guess my fear was is if he was never talked to
2 directly, that at some point someone might -- If
3 we went to trial, I don't know how it was going to
4 happen, but maybe he would walk into the courtroom
5 and someone would say, "Oh, my --" you know,
6 Tracey would say, "Oh, my God, that's him." So I
7 needed to make sure that I felt like I was for
8 certain that it wasn't him.

9 Q. Okay. But we can agree that Jeremy
10 Collins was the last one to call the Wehde
11 residence before Dustin was shot, correct?

12 A. He called the residence, but I don't
13 know if he actually talked to anybody.

14 Q. And we can agree that at the time of the
15 shooting, Mona Wehde is having an affair with
16 Jeremy Collins.

17 A. Yes.

18 Q. And we can agree that Jeremy Collins
19 called the residence and talked to Mona Wehde
20 after the shooting, both on December 13th and
21 December 14th of 2001.

22 A. And they discussed the shooting?

23 Q. I'm just asking if there's evidence that
24 there was calls made.

25 A. I know that -- I know Mona Wehde and

1 Melissa Schmitt said 7:30 she saw the truck and, I
2 don't know, I'll say Molly Vadnais after 7:00.

3 Q. And you flew all the way to Germany to
4 see Jeremy Collins, correct?

5 A. Yeah. He was injured in Iraq. He had
6 suffered a traumatic brain injury. He drove over
7 a landmine, so he was recovering. He wasn't able
8 to come back to the United States.

9 Q. And I just received this yesterday, your
10 interview.

11 A. Okay. When did I do that?

12 Q. Well, at least you talked to him on
13 May 15th of 2009.

14 A. Okay. Yep.

15 Q. And in that interview he indicated that
16 he did quit Schwan's the first or second week of
17 December of 2001.

18 A. Yes.

19 Q. And did you ever check with his father
20 to determine if, in fact, Jeremy had gone back to
21 work for his father?

22 A. I never did personally. I thought the
23 Sheriff's office did, but I don't -- I can't
24 testify that I know if someone did.

25 Q. So you flew all the way to Germany to

1 talk to Jeremy Collins, but you didn't
2 double-check with his father to see if, in fact,
3 Jeremy went back to work with him?

4 A. Yes.

5 Q. And my understanding is there were two
6 notes found in the Wehde residence. One of them
7 had to do with money in November, and the other
8 one had to do with a telephone number that was
9 determined to be a Des Moines hotel. Do you have
10 a recollection of that?

11 A. I don't remember the money in November
12 note, but I remember the hotel number, yes.

13 Q. And did you do any investigation
14 regarding the telephone number for the hotel in
15 Des Moines?

16 A. Yeah, it was -- I think I asked Jeremy
17 Collins about that in the interview. That was the
18 hotel that Mona and him met when they were having
19 an affair.

20 Q. And my question is did you ever go
21 look -- did you ever go to that hotel?

22 A. No, I didn't go to that hotel. I think
23 Denny Cessford had the hotel records.

24 Q. So you don't know which hotel that was?

25 A. I can't remember. At one point I knew,

1 A. I don't remember how that went other
2 than I think I was -- Because Mona mentioned it, I
3 felt like there should be some sort of report
4 regarding Jeremy Collins, and I hadn't seen one.

5 Q. And my question is in your conversation
6 with Dennis Cessford about that December 30th of
7 2001 notation, did Dennis Cessford deny knowledge
8 of recalling that conversation?

9 A. I don't -- I don't remember back then.
10 I think he probably does now. I can't remember if
11 I asked him now or not about it and he can't
12 remember much about Jeremy Collins, but I don't
13 know.

14 Q. And did you look at the -- did you look
15 at Jeremy Collins' bank records to determine if he
16 had paid off a truck for the amount of 12,000
17 shortly before the shooting?

18 A. I already answered that. I don't think
19 I did.

20 Q. You indicated to me a few minutes ago
21 that you said, "Well, why would Jeremy Collins and
22 Dustin Wehde go assault Tracey Richter on
23 December 13th of 2001?" At the time of trial
24 there's going to have to be proof beyond a
25 reasonable doubt that Tracey Richter wasn't

1 yes.

2 MR. SMITH: Again, Scott, those are in
3 that second production. Those hotel records are
4 in that second --

5 MS. ANDERSON: The newest production?

6 MR. SMITH: Yeah. I couldn't even begin
7 to tell you which ones they are because they
8 are -- I just remember seeing them when I was
9 putting them through the scanner.

10 MR. BANDSTRA: Do you want to see if you
11 can find them?

12 MR. SMITH: I've been looking for them,
13 actually.

14 Q. Do you have a recollection of talking
15 with Lieutenant -- former-Lieutenant Cessford
16 about Jeremy Collins?

17 A. I did at some point. I don't remember
18 when I did. I think -- I think just -- The
19 conversation was about the hotel records. Gosh.
20 And I don't remember the conversation.

21 Q. Did Denny Cessford deny knowledge of the
22 interview? And it was identified as December 30th
23 of 2001 where Mona makes reference to thinking
24 that Jeremy was involved. Did you ask Cessford
25 specifically about that part of the report?

1 attacked in her own house by Dustin Wehde and a
2 second intruder. What specific evidence do you
3 have to establish that she wasn't assaulted in her
4 own house on December 13th of 2001?

5 A. Have you gone through the Rod Englert
6 report?

7 Q. I have and we're going to do that in a
8 few minutes.

9 A. We're going through that?

10 Q. Sure.

11 A. Because I can explain that to you later
12 or when we go through it. I don't know. Is there
13 any evidence to show that she was attacked, I
14 guess would be my question.

15 Q. Well, at the time of trial there will
16 have to be a showing that Tracey intended to kill
17 Dustin on December 13th of 2001, that she had a
18 plan, and so my question to you is what evidence
19 do you have to show that she had a plan to kill
20 Dustin, that she lured him into that house on
21 December 13th of 2001?

22 A. The pink notebook pretty much explains
23 everything. It was a conspiracy to commit fraud
24 to frame John Pitman for a murder for hire.
25 Dustin Wehde had an ink pen and \$80 cash in his

1 back pocket. It was probably -- and a crap
2 computer in his car. I guess I -- Like you said,
3 I mean what more evidence do you need? She wanted
4 to set up John Pitman for a murder for hire.
5 That's what it says. I'm going -- you know, "I
6 hate John Pitman. I suspect he's committing sex
7 abuse on Bert, and I want to kill everybody that
8 Tracey hates" and that's the proof that -- I mean
9 that's why he died.

10 Q. Do you have other witnesses to
11 substantiate that Dustin Wehde didn't have
12 permission to be in the residence on
13 December 13th of 2001?

14 A. Do I have witnesses that he didn't have
15 permission?

16 Q. Correct.

17 A. I don't know. Do we have witnesses that
18 he did have permission to be there? I guess I
19 don't understand that question.

20 Q. Sure you do. Do you have evidence that
21 Dustin Wehde had permission to be in the Roberts'
22 residence on December 13th of 2001?

23 A. Oh, I see what you mean. You mean the
24 phone call that Mona says that Tracey made to her
25 the day before and asked Dustin to come over and

1 was that Mona had a conversation with Tracey on
2 December 12th of 2001 that Tracey was asking
3 Dustin to come down and do work. Is that your
4 testimony?

5 A. Yes.

6 Q. I'm going to have you turn to -- it's
7 Exhibit 5-2 and it's pages 1 of 3. Are you there?

8 A. 1 of 3, yes.

9 Q. There's pages 1 of 3 and it's
10 Defendant's Exhibit F, as in Frank. On the third
11 page -- and this is DCI Agent Moser's report
12 for -- well, it says December -- it says
13 September 14th of 2001. I assume that means to be
14 December.

15 A. Probably, yes.

16 Q. Okay. And on the third page of that
17 document he indicated that "Mona indicated she
18 believes Dustin would stop down at the Roberts'
19 home and/or business in the past and believes two
20 days ago stopped by to check to see if there was a
21 job available for him, and apparently Dustin got
22 the impression there was possibly some copying or
23 something of that nature that could be done and
24 possibly get a job. Apparently Dustin was under
25 the impression that after a couple days he would

1 make copies?

2 Q. Well, that was said in, what, 2002?
3 That's not what she told law enforcement right
4 after the shooting, was it?

5 A. What did she tell -- That's what she
6 told -- That's what she's always maintained with
7 me. I think she did tell law enforcement that in
8 2001.

9 Q. Did she also tell them about Jeremy
10 Collins?

11 A. Wasn't that December 30th of 2000?

12 Q. Do you see anywhere in Special Agent
13 Moser's reports that -- making reference to Jeremy
14 Collins?

15 A. No, I don't.

16 MS. ANDERSON: You indicated that we had
17 Jeremy Collins' bank records in the new discovery.

18 MR. SMITH: The hotel records.

19 MS. ANDERSON: Oh, the hotel records.

20 MR. SMITH: That's what I'm looking for.

21 MS. ANDERSON: I haven't found that
22 either.

23 MR. SMITH: There's thousands and
24 thousands of documents.

25 Q. I believe your testimony a minute ago

1 go back and then find out if there would be some
2 type of work available for him."

3 That's -- You'd agree that that's
4 different than Mona's statement to you and to
5 Agent Moser in 2008 where she specifically recalls
6 a conversation on December 12th of 2001 that
7 Tracey had specifically asked Dustin to come down.

8 A. I guess I -- That whole thing that you
9 just read to me, where is that?

10 Q. I just identified it to you. It's Agent
11 Moser's.

12 A. Yeah.

13 Q. And it's identified as September 14th,
14 2001, but we both agree that more likely than not
15 it's December 14th of 2001 and then you laughed
16 because the date was wrong, correct?

17 A. The page is -- it skips on me, so I'm
18 trying to figure out.

19 Q. No, you have it. It's the third page.

20 A. It's this one right here where "Mona
21 indicated that her son did attend one-half a
22 semester" or --

23 Q. I just saw it when you were leafing
24 through it.

25 A. That's not the same. That's not the

1 same one that you have. Oh, okay. It's that
2 page. All right. I see.

3 Q. I don't know why we have different
4 pages.

5 A. This says page 3.

6 Q. And I think I misstated.

7 A. Then it skips to four.

8 Q. I meant four. Excuse me, I'm sorry.

9 A. Okay.

10 Q. Would you agree on the day after the
11 shooting Mona is not making any reference to a
12 telephone call allegedly made between her and
13 Tracey on December 12th of 2001?

14 A. In that interview she does, but I think
15 in another interview around that same day she does
16 mention that phone call.

17 Q. Or could that be in March of 2002
18 shortly before she files her civil wrongful death
19 action?

20 A. I don't -- I don't know where that is.
21 I thought it was another interview that took
22 place, like a reinterview that took place where
23 she mentions that.

24 Q. And it was. You're right. It is the
25 March 28th of 2002 interview by Detective Moser.

1 March 28th of 2002 that she's made reference to
2 Tracey asking Dustin to come down to do work?
3 And I'm going to use the restroom. I'll
4 give you a minute to look that up and see if you
5 find anything earlier than that where Mona makes
6 that allegation.

7 (A short recess was taken.)

8 A. I've got another document I got to add.
9 It's not this. I'm trying to figure out where --
10 I was putting together a bunch of -- all my old
11 paperwork, basically the old case file and I'm
12 paperclipping it.

13 Q. Yeah.

14 A. And this document fell out of Mona
15 Wehde's criminal history from 2001 and it was
16 attached to this, but I can't figure out where
17 that other document came from right now, so I'll
18 try to follow up on that and figure out where --
19 It's not a police document. It's just --

20 Q. Well, and I can go through all the
21 previous interviews, but would you agree with me
22 after taking a break, sir, that prior to
23 March 28th of 2002, Mona Wehde does not make any
24 reference to an alleged telephone call between her
25 and Tracey Richter alleging that she wants Dustin

1 It's identified at least in the documents provided
2 to me as 6-2G. I can't tell you for sure whether
3 that's Moser's or your interviews, but I think
4 that they're yours.

5 A. Why would it be in 6-2G?

6 Q. That's what the front of it looks like.

7 A. That's the one I was going to refer to.
8 Where is that?

9 Q. I can't answer that.

10 A. It's 5-2E, I bet. Uh-huh, you are
11 right.

12 Q. Would you agree on page 2 then Mona
13 Wehde -- of the March 28th, 2002, interview that
14 "Mona Wehde then indicated that on March 28th,
15 2002, her family attended a benefit." I'm sorry,
16 page 3. "Mona Wehde wanted to make sure that
17 investigators knew that on December 12th of 2002
18 before the shooting, she had done a phone
19 conversation with Tracey and that Tracey allegedly
20 had asked Dustin to come down and do some work for
21 the Roberts the next day."

22 A. Yes.

23 Q. Would you agree -- and I know you've
24 been thorough in this -- that that is the first
25 time that Mona Wehde -- and I'm talking about

1 to come down and do work photocopying?

2 A. Yeah, I think you're right. I think
3 that's the first time I found it.

4 Q. And would you agree that in speaking
5 with Marie Friedman, that when she arrived at the
6 Roberts' residence on December 13th of 2001,
7 Tracey told her that Dustin had been there and
8 that Dustin gave her the creeps?

9 A. Yes.

10 Q. And that Tracey wanted Marie Friedman to
11 spend the night.

12 A. Did that happen in -- I think you're
13 right, yes, but --

14 Q. I like it better when you say I'm right,
15 but that's okay. Go ahead.

16 A. Well, I haven't read the Marie Friedman
17 interview in awhile, but I think that was the
18 original intent was for Marie Friedman to stay the
19 night that night.

20 MR. SMITH: Why don't you clarify that.
21 Original intent of who?

22 A. Wasn't it the original intent of
23 Ms. Richter and Marie Friedman for Marie Friedman
24 to stay the night --

25 Q. Correct.

1 A. -- because their husbands were out on
2 business.

3 MR. SMITH: I just wanted you to clarify
4 it.

5 A. Okay.

6 Q. And would you agree that in Dennis
7 Cessford's report after the crime scene personnel
8 had reviewed the crime scene itself that what
9 Dennis' opinion at that time was is that it was
10 consistent with what he had learned in his
11 interviews from both Tracey then-Roberts and with
12 Bert Pitman?

13 A. What interview are you -- What report
14 are you talking about?

15 Q. I'm talking about Dennis Cessford's
16 report. It's marked as Deposition M. Let me
17 figure out what it is for your benefit. It's
18 identified as Exhibit 4-18.

19 A. Can I see that?

20 Q. Of course you can. I'm just trying to
21 give you the --

22 A. I'm going to see if I have one in here.
23 Was that like a narrative report that we discussed
24 earlier?

25 Q. That's correct, sir.

1 as to how the shooting occurred.

2 Q. And you would -- Well, have you used
3 Mr. Englert prior to the reenactment shooting
4 here?

5 A. Did we use him?

6 Q. Have you used him before this?

7 A. DCI has. I haven't personally.

8 Q. And have you used Mr. Englert since
9 then?

10 A. No, I haven't.

11 Q. And before we talk about Englert, you'd
12 agree with me that when you originally interviewed
13 Mona Wehde, she told you specifically that she
14 didn't think that Tracey had shot Dustin.

15 A. I seem to remember that, yeah. I think
16 she said that she thought Michael Roberts shot
17 him, something to the effect that Michael Roberts
18 walked in on Tracey and Dustin messing around, so
19 she shot -- or so Michael Roberts shot Dustin.

20 Q. I'm going to direct you to page 95, line
21 3854.

22 A. Okay.

23 Q. I believe you say, "And the thing we got
24 to ... now the thing you need to understand too as
25 far as Tracey goes, she's not disputing that she

1 A. I don't know if I have that report.
2 4-18? I do have that one.

3 Q. In fact, you are the one who provided --
4 At least how it was provided to me, you are the
5 one who would have provided the subsequent
6 interviews, so I assumed that you had it. Yeah,
7 4-18.

8 A. Okay. I have it right here, yeah. I
9 just thought -- That didn't look like my
10 handwriting, so I thought it was the original
11 exhibit, as opposed to the new exhibit. What
12 question am I answering?

13 Q. On page 4 of that document, last full
14 paragraph, it says, "Basically they told us that
15 what they had found --" meaning the crime scene
16 personnel "-- so far was consistent with what I
17 had been told in the interviews." And those would
18 have been the interviews of Tracey then-Roberts
19 now-Richter and Bert Pitman.

20 A. That's what he said.

21 Q. Okay. And is it your belief, sir, that
22 Mr. Englert's report or interview discredits the
23 consistency of Tracey Richter's story regarding
24 how this shooting occurred?

25 A. Discredits. It gives a lot more detail

1 shot Dustin, so ..." And then Ramona says, "She
2 ... I think she's stupid not to dispute it.
3 That's my opinion because I don't think she did
4 it."

5 A. Yeah, that's what it says.

6 Q. And in her deposition, meaning Mona's
7 deposition, I asked her if that was still her
8 opinion and she indicated that, no, it wasn't.
9 She said based on what you had told her, she now
10 believes Tracey shot Dustin, rather than Michael.
11 And so have you provided Mona Wehde specific
12 information that would lead her to now believe
13 that Tracey shot Dustin? What have you told her?

14 A. I told her to trust me. I mean Tracey's
15 always said that she shot Dustin. I don't think I
16 provided her any evidence or anything other
17 than -- in Tracey's own words she shot Dustin.

18 Q. Okay. And I haven't been there when
19 you've had conversations with Ms. Wehde. Have you
20 memorialized -- meaning have you written down --
21 any additional conversations that you've had with
22 Mona Wehde?

23 A. Well, like -- for like deposition prep
24 or something like that?

25 Q. I don't know, sir. All I know is

1 there's a transcript interview between you and
2 Mona Wehde on December 26th of 2008, and my
3 question is -- You told me you had subsequent
4 conversations with Ms. Wehde.

5 A. Yeah. Obviously, she -- I don't know
6 anybody that's going to say that Dustin wasn't
7 shot by Tracey. Everybody says that that's what
8 happened.

9 Q. No, my question is have you -- you've
10 had subsequent conversations with Mona Wehde.

11 A. Sure.

12 Q. And I'm asking have you written down
13 parts of those conversations?

14 A. No.

15 Q. And why is that?

16 A. Because she would call and say, "Are you
17 guys still looking into the case?" And I would
18 say, "Yes."

19 Q. So you don't have any subsequent
20 interviews of Mona Wehde?

21 A. There might be one in the new supplement
22 that you get from I think the Hutchison Police
23 Department.

24 Q. And I believe that would be Ashley
25 Wehde.

1 Q. Okay. And you asked her to take a
2 polygraph examination. Did Ms. Wehde ever take
3 that polygraph examination?

4 A. I didn't have any intention of giving
5 her one. I was looking at her -- what her
6 response would be if she would -- It's kind of
7 something that we do sometimes is you ask someone,
8 "Hey, will you take a polygraph" to see what their
9 response is.

10 Q. Did you tell Mona Wehde specifically
11 that Michael, meaning Michael Roberts, had nothing
12 to do with it?

13 A. Probably, yes.

14 Q. And what leads you to that conclusion?

15 A. Because Michael Roberts didn't author
16 the journal.

17 Q. Okay. How do you know Michael didn't
18 have anything to do with the shooting?

19 A. Michael was in Minneapolis at the time.

20 Q. Sure. And he had taken Dustin
21 paintballing.

22 A. Okay.

23 Q. Well, had he?

24 A. Yes.

25 Q. So how -- And Michael had increased the

1 A. No. There's actually going to be one
2 from Mona, and I can't remember what the content
3 is. You will have that.

4 Q. And, I'm sorry, I didn't mean to
5 interrupt you.

6 A. Okay.

7 Q. I just saw a previous interview of
8 Ashley Wehde from the Hutchison Police
9 Department --

10 A. Yes.

11 Q. -- so I assumed that that's what you're
12 referring to.

13 A. It's different. It's different than the
14 Ashley Wehde one.

15 Q. Mona Wehde told you that she thought
16 that Michael Roberts had bought off her civil
17 attorney in the wrongful death action. Didn't she
18 tell you about that?

19 A. Yeah, I think so.

20 Q. Okay. And that she thought Michael was
21 insane?

22 A. I think so, yeah.

23 Q. And she thought that Tracey had tried to
24 hit on Dustin to have an affair?

25 A. Yes.

1 life insurance regarding Tracey. Were you aware
2 of that?

3 A. There's a lot of accusations going back
4 and forth between those two regarding life
5 insurance, yes.

6 Q. So how do you know Michael didn't have
7 anything to do with it? You didn't interview him.

8 A. Because Michael doesn't talk about the
9 journal for years. Michael doesn't tell Mary
10 Higgins that the police would find a pink notebook
11 inside the car saying -- that would prove that
12 John Pitman was behind the attack. There's
13 nothing to show that Michael Roberts hated John
14 Pitman or Steven Komie.

15 Q. Sure. You referenced earlier, Special
16 Agent Vileta, that Tracey Richter made reference
17 to the pink journal. Do you see in your reports
18 any reference that she made regarding the pink
19 journal prior to the year of 2005, which would be
20 four years after the shooting.

21 A. Before that? I don't remember any.

22 Q. Okay.

23 MR. SMITH: Hold on.

24 MR. BANDSTRA: Well, you can't answer
25 the question.

1 A. **2005?**
 2 MR. BANDSTRA: You can't answer the
 3 question.
 4 A. **I don't.**
 5 Q. And if she had learned from a state
 6 agent that, in fact, there was that pink notebook
 7 in Dustin Wehde's front seat of his car, wouldn't
 8 you expect her to have questions for law
 9 enforcement about that?
 10 A. **Absolutely.**
 11 Q. And the people present, let's switch to
 12 Mr. Englert. Well, let me back up. You said that
 13 there were two searches of the previous Roberts'
 14 residence. When was the -- When was the first
 15 investigation performed?
 16 A. **Okay, it looks like the search warrants**
 17 **were done -- The first one was done December 22nd,**
 18 **2008? That sounds about right.**
 19 Q. I'm sorry, you said that sounds about
 20 right or it doesn't? I didn't hear.
 21 A. **December 22nd, 2008.**
 22 Q. And the second one?
 23 A. **January 16th, 2009.**
 24 Q. And the original search warrant on
 25 December 22nd, 2008, what was done during that

110

1 search warrant? What specifically was -- actions
 2 were performed?
 3 A. **We took some criminalists with us and we**
 4 **recovered some of the bullets that were still in**
 5 **the floor.**
 6 Q. And that would be Halverson and Murillo?
 7 A. **Yes.**
 8 Q. And why did you do that?
 9 A. **We were trying to start just like a**
 10 **basic reconstruction of everything just trying**
 11 **to -- We also brought the Total Station. We were**
 12 **just trying to get a better feel for how -- since**
 13 **we weren't -- none of us were there in 2001, just**
 14 **how everything kind of -- to the best that we**
 15 **could do in 2008, how everything happened.**
 16 Q. And so the intent there was to retrieve
 17 bullets that were found in the floor as well as do
 18 measurements of the Roberts residence or the
 19 former Roberts residence to then make
 20 determinations regarding the trajectory of the
 21 bullets?
 22 A. **Somewhat, yes. I think that's a fair**
 23 **statement.**
 24 Q. And whose decision was it to engage the
 25 services of Mr. Englert?

1 A. **I think Sac County. Well, obviously Sac**
 2 **County hired him, so either Earl Hardisty or**
 3 **Sheriff McClure were the ones that did the actual**
 4 **hiring.**
 5 (Exhibit W was marked for
 6 identification.)
 7 Q. I have a copy of it if you want.
 8 A. **I'm looking at it. Is that the Englert**
 9 **report that you're talking about?**
 10 Q. Well, let's make sure we're talking
 11 about the same thing.
 12 MR. SMITH: I've got it here. I'll make
 13 sure we're talking about the same thing.
 14 A. **Yep.**
 15 Q. Well, I want to make sure because your
 16 document and mine look different, and I understand
 17 obviously the first page of W would be -- This is
 18 a -- It looks like the envelope for this document,
 19 but it looks like the second page, in comparing
 20 yours with mine, they're different.
 21 A. **It does look different. It looks like**
 22 **it's the same past that.**
 23 Q. Will you look on the last page. Does it
 24 go to page 23?
 25 A. **23, yeah, with the opinion? Is there**

112

1 **"opinion" on there?**
 2 Q. Yes.
 3 A. **Okay.**
 4 Q. But it still looks different because the
 5 one that was produced in discovery is different in
 6 that you have exhibits numbered -- the exhibit --
 7 A. **Yeah, I think the one that you got, I**
 8 **think what happened was is Englert probably sent**
 9 **the county a nice-looking one and I got a copy,**
 10 **because here's his signature and I don't have a**
 11 **signature on mine, so ...**
 12 MR. SMITH: And, Scott, the version that
 13 Agent Vileta has in front of him in his binder is
 14 also in the first production of discovery.
 15 MR. BANDSTRA: And that's where I got
 16 this from. That's what causes me concern.
 17 MR. SMITH: It's twice. This is the one
 18 that was in Earl's office -- my office that I
 19 found.
 20 MR. BANDSTRA: Okay.
 21 MR. SMITH: And then also the one that
 22 appears in what I believe Agent Vileta is reading
 23 from his case file was also produced in discovery.
 24 I just didn't take the time to --
 25 MR. BANDSTRA: That's all right. I just

1 want to make sure we're on the same page.
 2 MR. SMITH: No, I'm pretty sure you have
 3 it, though.
 4 A. I mean it looks the same to me. Like I
 5 said, this top part and the signature at the end
 6 is the only thing I notice.
 7 Q. Well, will you do me a favor? Will you
 8 compare these two? I'm going to go talk to my
 9 associate for just a minute. I think we're fine,
 10 I really do, but I want to make sure.
 11 A. I mean I've flipped through the pages.
 12 The pages are the same past --
 13 (A discussion was held off the record.)
 14 Q. There was reference in -- and I'm
 15 looking on -- If you use this one, then we know
 16 we're talking about the same thing. On -- It's
 17 not -- On the second page --
 18 A. Uh-huh.
 19 Q. -- it says, "April 21st of 2009." Do
 20 you see that?
 21 A. Okay. Yep.
 22 (A discussion was held off the record.)
 23 Q. On page 2 it indicates that a copy of
 24 this would have gone to Earl Hardisty, who was the
 25 former Sac County Attorney, it went to Assistant

1 Attorney General Scott Brown, it went to Special
 2 Agent Trent Vileta, and it was from Rod Englert
 3 and Cheryl Kanzler, and Kanzler is K-A-N-Z-L-E-R.
 4 A. Yep.
 5 Q. And in Mr. Englert's report it makes
 6 reference to at the bottom of page -- what he
 7 identifies as 2.
 8 A. Okay.
 9 Q. That's why I wanted you to have this
 10 copy, just so -- On the top left of most of the
 11 pages there's a page number.
 12 A. Sure.
 13 Q. And I'm trying to do this so we're
 14 following each other. Under the material reviewed
 15 there's 57 crime scene photographs. Do you know
 16 whether these are the photographs that were just
 17 provided to me today or would have they been the
 18 previous photographs of the crime scene, if you
 19 know? And if you don't know, you don't know.
 20 A. I can only guess that they were probably
 21 a combination of the original photographs and then
 22 the first search warrant that we did.
 23 Q. And with the first search warrant, is
 24 that the documents here where the first one, even
 25 though they've been shuffled by Ben, excuse me,

1 Mr. Smith, there's little --
 2 A. Trajectory rods.
 3 Q. -- trajectory rods.
 4 A. Yes.
 5 Q. Were those taken in the first search of
 6 the residence?
 7 A. Yes.
 8 Q. And who would have taken these
 9 photographs?
 10 A. The first search of the residence, are
 11 you referring to 2001 or 2000?
 12 Q. That's a good question. I apologize.
 13 I'm referring to 2008.
 14 A. 2008? That would be Vic Murillo that
 15 would have taken those.
 16 Q. And the trajectory rods, which is the
 17 first photograph here --
 18 A. Yes.
 19 Q. -- does that have -- was this done at
 20 the 2008 search?
 21 A. We did those.
 22 Q. "We" meaning when you were there with --
 23 A. When I was there, yeah.
 24 Q. -- Mr. Murillo and Mr. Halverson?
 25 A. Yes.

1 Q. Okay.
 2 A. How can we explain this? Obviously,
 3 pictures where there's a gun safe and night bags
 4 and all that, we didn't take those because we
 5 weren't there. This is the kind of stuff that we
 6 did.
 7 Q. And I have not seen these photographs
 8 yet, so I'm trying to figure out when these were
 9 done. And they're the ones with the top page that
 10 has the trajectory rods coming out of the floor.
 11 A. Yeah.
 12 Q. And you believe that these photographs
 13 would have been provided to Mr. Englert?
 14 A. Yes. And what I can do for you on
 15 Monday or Tuesday is try to get them all burned to
 16 a CD for you and you can stop by and pick them up.
 17 Q. That's great. And Mr. Englert would
 18 have went to the DCI lab on January 15th of 2009
 19 and that's evidenced by page 4 of his report?
 20 A. Yes.
 21 Q. And then on that same -- and on that
 22 same day there would have been a viewing of the
 23 pair of pantyhose? And I'm now looking on page 6.
 24 A. Page 6.
 25 Q. There's a pair of pantyhose.

1 A. Yes.
2 Q. There was a .40-caliber Beretta. And
3 that's B-E-R-E-T-T-A. And there were test shots
4 fired from that gun.
5 A. I don't think we fired them. Well,
6 maybe we did.
7 Q. Maybe I'm misreading this, but under
8 Englert Forensic Item 2 it says, "A .40-caliber
9 Beretta with test shots performed by the crime lab
10 in a round plastic container." Do you not
11 remember the test shooting of that?
12 A. I wasn't there for that, so I don't know
13 if that was a 2001 or 2008 thing when they did
14 that.
15 Q. Well, if this is Englert, Englert would
16 not have been involved until -- Actually, it would
17 be more accurate 2009, correct?
18 A. I'll clarify for you. With most
19 shooting incidents, the lab will test fire
20 handguns just to make sure they operate properly
21 and all that. If this says the container was
22 not -- or it was shot into a round plastic
23 container, the container was not open. It was
24 quite possible that it was done in 2001 and they
25 just -- I don't think they ever -- It probably

1 A. Yes.
2 Q. Okay. Also on page 9 it looks like
3 there was one red short-sleeved T-shirt.
4 A. Yep.
5 Q. And there were other items that were
6 identified on page 10 of that document. Actually,
7 I take that back. It was a description of the
8 T-shirt.
9 A. I believe that's -- Yeah, he notes
10 defects in the T-shirt.
11 Q. And on pages 11 and 12 he notes the
12 facts regarding a brown leather jacket?
13 A. Yes.
14 Q. Then on January 16th of 2009 you
15 performed the forensic recreation of the shooting.
16 A. Yep.
17 Q. And Mr. Bruscher was there,
18 Mr. Halverson, yourself, Mr. McClure, Assistant
19 Attorney General Scott Brown, Earl Hardisty, a
20 Matt Biede, B-I-E-D-E, analyst Rod Englert,
21 photographer David Brunkow, B-R-U-N-K-O-W, analyst
22 Cheryl Kanzler, K-A-N-Z-L-E-R, and Chief Sac
23 County Deputy Keith Flank.
24 A. Oh, I'm sorry. Yes. I was reading
25 along with you.

1 never left the building, so that might be what
2 they provided to them, but I don't know that for
3 sure.
4 Q. The next page, page 7 under Englert
5 Forensic Item Number 3, it's the 6-shot Ruger,
6 R-U-G-E-R, .357-caliber revolver, is that correct?
7 A. Yes.
8 Q. And then there were items of Dustin's
9 including, but not limited to, a pair of white
10 underwear, a pair of blue jeans with a leather
11 belt, and some shoes; is that correct?
12 A. I'm missing the shoes.
13 Q. Well, look under -- on page 8.
14 A. Is it Forensic Item Number 8?
15 Q. No, it would be Forensic Item Number 5.
16 A. Yep. Okay.
17 Q. And also under Englert Forensic Item
18 Number 4, which is on page 7, it appears that
19 there was a piece of crown molding and one piece
20 of baseboard which were removed from the
21 Roberts' -- Tracey Roberts' residence by
22 criminalist Mike Halverson under the authority of
23 the search warrant. I assume that is the search
24 warrant that was entered or executed on
25 December 22nd of 2008.

1 Q. And you arrived at the former Roberts
2 residence, which was -- is at 105 South Avenue
3 West in Early, Iowa. And I'm looking at page 16.
4 A. Yes.
5 Q. And let me back up a minute. In the
6 initial interview done by Tracey then-Roberts, she
7 indicated that two intruders would have come into
8 that residence on December 13th of 2001.
9 A. Yes.
10 Q. That there was an assault between her
11 and the intruders?
12 A. Yes.
13 Q. And that after the -- and that she broke
14 free and was able to get into what's identified as
15 the master bedroom and obtained a gun out of the
16 gun safe.
17 A. Yes.
18 Q. Is that correct?
19 A. Yes.
20 Q. And that that would have been at the
21 southwest corner of that room.
22 A. Yeah. I'm not sure on directions right
23 now.
24 Q. And that she -- Did she testify that she
25 shot at what we now know is Dustin Wehde a number

1 of times?

2 A. **Yes.**

3 Q. And that she would have shot him, she
4 would have gotten up, that she would have stepped
5 over him, and that he was trying to get up again
6 and that she shot him two more times by the
7 doorway.

8 A. **I don't know if that's completely what
9 she said, is it? Didn't she shoot three times
10 from the doorway?**

11 Q. Okay. Two times, three times, but there
12 were additional --

13 A. **She gave several statements, so I guess
14 I'd have to say I don't know which statement you'd
15 be referring to, but ...**

16 Q. Whether it was two or three shots, those
17 shots were from the doorway.

18 A. **According to her statement, yes.**

19 Q. Okay. And her testimony was is that the
20 person who was on the ground, who she later
21 learned was Dustin Wehde, was trying to get up.
22 He was rocking back and forth and he was trying to
23 get up.

24 A. **Yes.**

25 Q. And then with this what you did to do

1 A. **Yes.**

2 Q. And that dots were used to represent
3 entrance wounds -- I'm sorry, "red dots were used
4 to represent the entrance wounds, and blue dots
5 were to represent the exit wounds."

6 A. **Yes.**

7 Q. And that Special Agent Hopewell, who was
8 role-playing as Tracey Richter now-Roberts, "took
9 a position to the south side of the bed near the
10 area where the safe --" and I assume that's gun
11 safe "-- would have been located on the night of
12 the shooting."

13 A. **Yes.**

14 Q. That "Special Agent Hopewell assumed a
15 position on both knees and then on her stomach."

16 A. **Yeah. I remember reading that.**

17 Q. And I'm still on page 18, sir.

18 A. **I was looking at the directions to make
19 sure you were correct on the directions. It was
20 the south side of the bed, so I'm sorry.**

21 Q. No, you're okay. Take as much time as
22 you want.

23 A. **"Assumed a position on both her knees
24 and then on her stomach," yes.**

25 Q. Okay. And "Entrance Wound #8,

1 the recreation is that you had a Special Agent,
2 Jeff Wheeler, who was close to the body weight and
3 height of Dustin Wehde --

4 A. **Yes.**

5 Q. -- and he was to represent Dustin.

6 A. **Yeah.**

7 Q. And then a Special Agent Karen Hopewell,
8 who's slightly taller and weighs less than Tracey
9 Roberts at the time of the shooting, was used to
10 represent Tracey Roberts.

11 A. **Yes.**

12 Q. And I'm on page 18.

13 A. **Okay.**

14 Q. Because I don't want you to agree with
15 that without looking.

16 A. **I was there. I remember it.**

17 Q. And I wasn't, so I'm just trying to go
18 through this.

19 A. **Yeah.**

20 Q. And that small adhesive dots were placed
21 on Special Agent Wheeler, the person who's
22 role-playing to be Dustin Wehde.

23 A. **Uh-huh. Yes, sorry.**

24 Q. And they were in the approximate
25 location of the entrance and exit wounds.

1 corresponding with Exit Wound #17, appeared to be
2 possible when Special Agent Hopewell was in a
3 position on her stomach or knees and shooting over
4 her shoulder as Agent Wheeler approaches her on
5 the south side of the bed." Am I reading that
6 correctly?

7 A. **Yes.**

8 Q. And that "Exit Wound #8 in the left hip
9 area of Dustin Wehde and exits in the upper left
10 buttocks with a 2-inch rise from the entrance to
11 the exit." Did I read that correctly?

12 A. **Yes.**

13 Q. And on page 19, last full paragraph, we
14 can go over this all if you want, but would you
15 agree, sir, the last sentence says, "All of the
16 trajectory strings ran back to the south side of
17 the bed."

18 A. **Yes.**

19 Q. Am I reading that correctly?

20 A. **Absolutely.**

21 Q. And Tracey's testimony -- or excuse me,
22 Tracey's statement shortly after the shooting was
23 is she's attempting to retrieve -- she retrieved
24 the gun safe from -- that was next to the bed,
25 correct?

1 A. Yes.
2 Q. And that would -- With your Total
3 projections, that would be the southwest side of
4 the room.
5 A. Is it southwest? It looks to me like it
6 would be the southeast side.
7 Q. Well, either way. It does say, "All of
8 the trajectory strings ran to the south side of
9 the bed."
10 A. Okay. Yep.
11 Q. And you were present when they did the
12 recreation.
13 A. Yeah.
14 Q. And did you dispute Mr. Englert's
15 findings that at least the initial shots would
16 have all originated by the south side of the bed?
17 A. No. No, we didn't.
18 Q. You didn't agree with his opinion?
19 A. No, we didn't dispute his findings, no.
20 Q. Okay. And that would be consistent with
21 Tracey's story that she shot from -- by the side
22 of the bed after she retrieved the guns from the
23 gun safe.
24 A. Yes.
25 Q. And I assume at that time, sir, you

1 why you have a blood spatter now, I'm not a blood
2 spatter guy, so I'm not going to pretend to be a
3 blood spatter expert.
4 The best way I can explain this is there
5 was a pool of blood around Dustin's head. There
6 was enough time for some of the blood to
7 coagulate, to clot. At some point then
8 Ms. Richter comes back after Dustin's got one or
9 two fatal shots in the back of his head and shoots
10 him for the third time, the last shot causing the
11 shored wound and causing coagulated blood to fly
12 up onto the walls.
13 Q. Okay. And we're not to the blood
14 splatter yet.
15 A. Okay. And I'm just -- I just threw that
16 out that I'm not the expert on that, so ...
17 Q. Okay. And I appreciate you telling me
18 that, but we can agree you guys -- I'm sorry. Law
19 enforcement went to the former Roberts residence
20 in an attempt to discredit Tracey now-Richter's
21 story about her version of events. You weren't
22 there just to see what the place looked like,
23 correct?
24 A. You're absolutely right, yeah.
25 Q. Okay. And at least for the shots that

1 had -- Well, Mr. Englert was hired to make a
2 determination to dispute Tracey's statement of how
3 the shooting occurred.
4 A. I guess that would be a better question
5 for Mr. Englert. I don't know if we were
6 disputing that she was shooting from that -- I
7 don't remember ever disputing she was shooting
8 from that corner.
9 Q. Well, what was your understanding of all
10 of you being there? Why were you doing this
11 recreation?
12 A. It was a recreation because there was
13 some -- One of the big issues was in the autopsy
14 report there was -- One of the shots to the back
15 of the head was called a shored wound, and
16 basically that means that the head would have had
17 to have been in contact with the surface in order
18 for that wound to be created.
19 The problem that we kept running into
20 with Ms. Richter's statement was is Dustin Wehde
21 kept getting -- you know, he was rocking to his
22 feet, he was in different positions trying to get
23 to his feet, but two of the shots to the back of
24 his head were -- All three shots Dr. Carroll says
25 are instantly fatal. There's actually a -- and

1 came from -- the initial shots that came, they
2 were all from the south side of the bed.
3 A. Yes.
4 Q. And that would -- When you did the
5 role-play with Special Agents Wheeler and
6 Hopewell, those -- there was a determination that
7 the shots were consistent with Tracey's statement
8 of shooting Dustin while he's trying to get at
9 her.
10 A. No, that's not -- That's not true at
11 all.
12 Q. Okay. Well, we can agree the shots came
13 from the south side of the bed.
14 A. Yes.
15 Q. Okay. Thank you.
16 A. Can I --
17 Q. No. And then page 18 --
18 A. 18.
19 Q. I'm sorry, 19. On the third full
20 paragraph down that starts, "As noted in the
21 original crime scene report," do you see where I'm
22 talking about?
23 A. Yes, I do.
24 Q. "The shot that struck the TV may have
25 been possible if Tracey Roberts was on the south

1 side of the bed at the west end and raised the gun
 2 over the edge of the bed." Am I reading that
 3 correctly?
 4 A. Yes.
 5 Q. And then it further says, "The shot from
 6 the south side of the bed would be possible if she
 7 was kneeling or seated in a crouched position."
 8 A. Yes.
 9 (A discussion was held off the record.)
 10 Q. On page 19 and it was what we were
 11 just -- the paragraph we were just talking about.
 12 "Trajectory strings were run from the approximate
 13 locations of bullets strike #18 on the north wall
 14 near the west corner; #14 on the west wall; #13,
 15 the bullet strike in the hutch and the bullet in
 16 the TV. These were attached to a tripod on the
 17 south side of the bed in the approximate location
 18 that Tracey Roberts states she was in at the time
 19 of the shooting."
 20 A. Yes.
 21 Q. And that -- And we've already talked
 22 about all of those trajectory strings would have
 23 run to where she said she was at the time of the
 24 shooting at least initially trying to get the gun
 25 safe.

130

1 A. Yes.
 2 Q. And that one of the EMS -- and now I'm
 3 on page 20. One of the EMS people would have
 4 indicated that he transferred the -- there was a
 5 transfer and then it says "(shoe print)
 6 bloodstains on the floor of the bedroom."
 7 A. Yes.
 8 Q. And then it says it "may have been
 9 caused by EMS First Responders."
 10 A. That's correct.
 11 Q. And then Special Agent Hopewell, who's a
 12 female who's about the same size as Tracey, got
 13 into a position on the south side of the bed with
 14 her hands bound and holding a semiautomatic gun in
 15 her right hand. Am I reading that correctly?
 16 A. Yes.
 17 Q. And that there was a determination that
 18 "it was possible for Special Agent Hopewell to
 19 cause injuries to Special Agent Wheeler in his
 20 left hip and right arm areas from the south side
 21 of the bed. It was determined that these injuries
 22 could have been made while Tracey Roberts was in
 23 position on the south side of the bed. It was
 24 also determined that the injuries to Dustin's
 25 back, including his neck and upper torso, would

1 not have been possible from Tracey Roberts'
 2 position on the south side of the bed."
 3 A. Yes.
 4 Q. I think we talked about it earlier, but
 5 lower in the next paragraph it says, "According to
 6 the original criminalist's report, no bullets were
 7 removed from the walls or floor, as ... the
 8 acquisition of these items would add nothing more
 9 of evidentiary value to the case, it was decided
 10 to forego the effort."
 11 A. Yes.
 12 Q. On the next page on 21 there's reference
 13 to blood splatter patterns -- spatter, excuse me,
 14 patterns.
 15 A. Okay.
 16 Q. Is it your understanding -- You said
 17 you're not a blood spatter expert. Is it your
 18 understanding whether Rod Englert is a blood
 19 spatter expert?
 20 A. Yes, he is.
 21 Q. Okay. And we can both agree that
 22 Mr. Englert wasn't there at the time of the
 23 shooting.
 24 A. No, he wasn't.
 25 Q. Okay, thank you. It indicates from his

132

1 review it says -- and I'm looking at the second
 2 full photograph under "Review of Photographs". He
 3 notices "the blood in the area, as well as on the
 4 east wall, appears to be darker and thicker in
 5 consistency than the blood in patterns #2 and #3."
 6 Did I read that correctly?
 7 A. Yes.
 8 Q. And then it says -- At the end of that
 9 paragraph it says, "We cannot exclude the
 10 possibility that one or more of the shots to
 11 Dustin's head were administered after he had been
 12 previously shot and the large pool of blood that
 13 formed had partially dried or coagulated."
 14 A. Yes.
 15 Q. And would you agree that in that
 16 situation that would be evidence that Dustin was
 17 shot a second time? There were shots from the
 18 west -- from the south, by the south edge of the
 19 bed.
 20 A. Oh, I see what you mean. Yes.
 21 Q. And then there were subsequent shots
 22 made.
 23 A. Yes. Yep.
 24 Q. And then Mr. Englert indicates that "The
 25 blood on Dustin Wehde's right cheek is believed to

1 have been caused when Dustin's head turned into
2 this blood spatter when it was wet, transferring
3 bloodstains onto his right cheek. The blood
4 spatter on the floor, which has been contacted by
5 his right cheek, is lighter in color (diffused)
6 than the surrounding stains." Did I read that
7 correctly?

8 A. **Yes, you did.**

9 Q. And the next paragraph indicates "The
10 third area of blood spatter observed is located
11 above the top of Dustin Wehde's head, traveling in
12 a north direction onto the lower half of the north
13 wall and the north closet door. This spatter
14 pattern indicates that the source of the blood was
15 low to the ground."

16 A. **Was low to the floor.**

17 Q. I'm sorry, you're right, low to the
18 floor. Special Agent Vileta, wouldn't you agree
19 this blood platter evidences that Dustin raised
20 his head or his head was above the floor at the
21 time that he was shot the second time, because you
22 have blood that's already started to coagulate and
23 then there's new blood and there's evidence that
24 Dustin Wehde turned his head.

25 A. **I'd say that would be a good question**

1 Q. And that finally it says, "Dustin Wehde
2 moved his head after receiving one of the neck or
3 head wounds, transferring blood onto his right
4 cheek."

5 A. **Yes.**

6 Q. And, sir, if Tracey indicated to law
7 enforcement on December 17th of 2001 that Dustin
8 is trying to get up after she shot him the first
9 time from the doorway, that would be consistent
10 with Mr. Englert's report that his head was above
11 the floor at the time of the shots from the
12 doorway.

13 A. **Okay.**

14 Q. And that's based upon the forensic
15 recreation done by Sac County and the DCI as well
16 as a review of the entire master bedroom of the
17 Roberts' residence.

18 A. **I guess it's Rod Englert's report. It**
19 **would probably be best for him to explain to you**
20 **what he means by that. I guess I --**

21 Q. Well, let's do it this way. If we
22 look -- He's the expert in blood spatter.

23 A. **Sure.**

24 Q. But you're an accomplished DCI agent.
25 (A discussion was held off the record.)

1 **for Rod Englert. I'm not a blood guy.**

2 Q. Okay. And then under opinions --

3 A. **Okay.**

4 Q. I know you're sad to leave where we're
5 at, but on page 21 --

6 A. **I said I'm not a blood guy, so I mean**
7 **it's --**

8 Q. This is Mr. Englert's report and he
9 indicates that "Tracey Roberts cannot be excluded
10 from being in the position of the south side of
11 the bed when the rounds labeled by criminalists
12 from the Iowa Department of Public Safety as #14,
13 #13, and #18 and the round which struck the TV
14 were fired." Is that correct?

15 A. **Yes.**

16 Q. That the entry wounds to the back of
17 Dustin's head on his upper back labeled as Medical
18 Examiner's entrance wounds 1, 2, and 3 could not
19 have occurred while Tracey Roberts was at the
20 south side of the bed."

21 A. **Yes.**

22 Q. But then the three wounds to the back of
23 Dustin's head/upper neck occurred when his head
24 was on or near the floor.

25 A. **Yes.**

1 Q. But evidence that there's blood, that
2 his head is raised, and then there's -- the
3 original blood coagulates and he's able to turn
4 his head would be evidence that his head would
5 have been off the ground at least at some time
6 prior to Tracey shooting him again.

7 A. **I -- His head would have been off the**
8 **ground, but it doesn't mean that he was getting to**
9 **his feet, I guess. Does that answer it?**

10 Q. Sure.

11 A. **Okay.**

12 Q. You would agree after Mr. Englert's
13 report that no criminal charges were filed against
14 Tracey as of the time that you did this forensic
15 recreation.

16 A. **No.**

17 Q. And that no charges were filed until the
18 end of July of 2001.

19 A. **Yes.**

20 Q. What specific other investigation did
21 you do that we have not talked about, other than
22 the things that we've addressed? I want to make
23 sure that I know everything else that you've done
24 in this case.

25 A. **I hope that I've provided you everything**

1 that we've done. Like I said, I got that
2 supplement that we'll -- I can get into
3 electronically. I think I provided everything to
4 you so far.

5 Q. I'm asking that not in a critical
6 manner. I just want to make sure if there's
7 additional investigation that you've done or you
8 plan on testifying at the time of trial, I want to
9 know it now. That's why I'm asking you that
10 question. It's not -- It's not flippant. I just
11 want to know.

12 A. No, I understand the question. I mean
13 the transcripts of the phone calls from jail,
14 that's going to be added. It's not -- I mean is
15 is that what you're looking for from me or --

16 Q. No, no. I don't know. I just want to
17 know if there's any additional investigation that
18 you've done other than what we've talked about
19 here since 10:30 or there's anything else
20 additionally you plan on testifying at the time of
21 trial.

22 A. No. Everything that I have done so far,
23 I think that -- well, outside of the new update,
24 you should have, so ...

25 Q. And there's a difference between what I

1 regarding Tracey Richter.

2 A. Regarding the 2001 incident? Because
3 I'm getting calls from -- The State Department
4 calls me about passport stuff. I mean I guess --

5 Q. Here's what I want to know. Do you plan
6 on testifying to something else at the time of
7 trial other than what we've discussed in your
8 deposition today? And if you are, I just want to
9 know.

10 A. Well, I would -- I guess the easy answer
11 to that is I think the prosecutors will update any
12 trial minutes on my testimony, won't they?

13 Q. I think they will.

14 A. Okay.

15 Q. That was a good answer, but that doesn't
16 answer my question, and I understand you can only
17 answer questions that are asked, but I want to
18 make sure that I know what your testimony is going
19 to be at the time of trial.

20 A. Sure.

21 Q. And so is there -- If asked, are there
22 additional things that you plan on testifying to
23 other than what we've talked about today?

24 A. All right. So I'm not a defense
25 attorney, I'm not a prosecutor. Can I only

1 have and what you've done.

2 A. Okay.

3 Q. So you testified earlier there's no
4 report or reference regarding Michael Roberts, but
5 then first you tell me that you did a few e-mails
6 with them and then you said you talked with him,
7 and I want to make sure that if there was
8 something else you've done in your investigation
9 since you said August of 2008, I want to make sure
10 that I'm not missing some additional investigation
11 that you've done that you plan on testifying to at
12 the time of trial.

13 A. I don't think you've missed anything.

14 MR. SMITH: And, Scott, just -- and I'm
15 not trying to be picky, but I'm thinking in my
16 head when you say stuff that he has done, are you
17 talking about, like -- I'll give you just one
18 example.

19 Obviously, he has coordinated some
20 efforts with the FBI and the agent there. I mean
21 are you talking about those things or are you
22 talking about just things in his own personal
23 capacity?

24 MR. BANDSTRA: I'm asking anything he's
25 done as far as the arrest and investigation

1 testify to things that are going to be listed in
2 trial minutes?

3 Q. That's up to you.

4 A. Because I guess I'm not -- I'm not
5 trying to deceive you or say I'm hiding anything
6 from you. I guess I don't understand the
7 question. You know what I mean?

8 Q. Right, but is there some additional
9 investigation that you've done that you think is
10 relevant to the prosecution of the December 13th,
11 2001, home invasion regarding Tracey Richter --
12 Tracey Richter-now.

13 A. All of the -- All the investigation that
14 I have found or discovered from 2001 up until
15 today's date I have been earnestly trying to add
16 into the case file so you will have everything
17 that's been done from the law enforcement end.

18 Q. And I understand we're going to get a
19 supplement, but have you talked to any other
20 witnesses that we need to discuss today?

21 A. If there's -- If I talked to a witness
22 and I interviewed a witness, it will -- there will
23 be a narrative that will be -- I think the
24 supplements that I mentioned to you guys you guys
25 already have, Kim Mason and Ben Dose stuff. That

1 was stuff I didn't have before. I don't --
 2 Q. Okay. You indicated that you talked
 3 with John Pitman shortly before Tracey's arrest.
 4 A. Yes.
 5 Q. Did you inter-- You did not interview
 6 Mr. Pitman?
 7 A. No. No, I didn't. We just wanted to
 8 make sure Bert was available to be interviewed, so
 9 we just called him and asked him, "Where is Bert
 10 living? What's Bert's schedule?"
 11 Q. Out of an abundance of thoroughness, why
 12 did you not interview John Pitman at that time?
 13 A. He's already been interviewed, plus we
 14 were going to -- we were going to put him on the
 15 witness list, so we would have another opportunity
 16 to interview him if he were to come to Iowa.
 17 Q. Are you planning on interviewing him
 18 prior to trial?
 19 A. I was planning on doing a deposition
 20 prep with him, but I don't know if an interview --
 21 an actual interview will entail out of that. It's
 22 possible.
 23 Q. And are you planning on interviewing
 24 Michael Roberts now?
 25 A. Michael Roberts, no.

142

1 Q. Are you planning on doing --
 2 A. Is Michael Roberts even on the witness
 3 list?
 4 MR. SMITH: Yes.
 5 Q. Are you planning on doing deposition
 6 preparation with him?
 7 A. I might be asked to do that.
 8 Q. Have you interviewed a Robyn Padgett?
 9 A. Have I? No.
 10 Q. Do you plan on talking with her?
 11 A. I think Sheriff McClure interviewed her.
 12 Q. Okay. Do you plan on doing any
 13 additional investigation prior to trial, which is
 14 set for October 25th of 2011?
 15 A. No.
 16 Q. And your opinion of Tracey's guilt is
 17 solely relying upon your belief that she was the
 18 author or source of information provided to Dustin
 19 that is found in the journal.
 20 A. Solely?
 21 Q. Yeah.
 22 A. Well, not solely.
 23 Q. Okay. What other direct evidence do you
 24 have that can establish that Dustin didn't have --
 25 that Dustin had permission to be in her residence

1 at the time of the shooting?
 2 A. Ms. Richter told Mary Higgins that the
 3 police were going to find this notebook. She
 4 described it in great detail. She described the
 5 contents of it. She even time stamps it when it
 6 happened. It was right around the time that
 7 Ms. Richter was supposed to go do the composite
 8 drawing on the second person.
 9 Q. So let's excise the journal out of this
 10 for a minute, okay?
 11 A. Okay.
 12 Q. Let's just take that out of our set of
 13 facts. What other evidence do you have, firsthand
 14 knowledge that Tracey planned to kill Dustin on
 15 December 13th of 2001?
 16 A. Well, I mean you can't take the best
 17 piece of evidence out of a trial and say then what
 18 do you have? That's like saying -- taking a note
 19 saying "I want to rob the bank" out of a bank
 20 robbery arrest.
 21 Q. Can you answer my question, though? Do
 22 you have any other evidence to establish that
 23 Tracey intended to kill Dustin Wehde on
 24 December 13th of 2001 if the journal is not
 25 included in the mix?

144

1 A. No.
 2 MR. BANDSTRA: Okay. Just a second,
 3 okay?
 4 (A short recess was taken.)
 5 BY MR. BANDSTRA:
 6 Q. We've talked some about Mary Higgins,
 7 but I haven't followed up on that and I want to do
 8 that before we go.
 9 A. Okay.
 10 Q. In reviewing your report, there was a
 11 December 26, 2001, interview of Ms. Higgins by
 12 Dennis Cessford and I think it's identified as
 13 11-17.
 14 A. Okay.
 15 Q. Does that match with your numbering
 16 system?
 17 A. No, it doesn't. The old case report,
 18 the old 2001 report, there was a huge Section 11.
 19 It's not going to be that in mine.
 20 Q. In Mr. Cessford's report after that are
 21 all of the attachments, at least that were
 22 provided to me by the government.
 23 A. Yeah.
 24 Q. And so I assumed -- and it's identified
 25 your report as the supplements.

1 A. **Okay.**
 2 MS. ANDERSON: I have a copy of it.
 3 Q. Okay.
 4 A. **Okay.**
 5 Q. Let's mark that as --
 6 A. **I think the new Mary Higgins section**
 7 **will be Section 11. It's just going to be her own**
 8 **section, but this one is like 11-1 or something in**
 9 **the new one, 11-1, 11-2.**
 10 (Exhibit X was marked for
 11 identification.)
 12 Q. Will you take a minute and look at
 13 Exhibit X?
 14 A. **Okay.**
 15 Q. Have you ever seen what's identified as
 16 Deposition Exhibit X before?
 17 A. **Yes.**
 18 Q. And is that part of your file somewhere?
 19 A. **It is. And I think what happened there**
 20 **is I -- because of the transcript from the video**
 21 **interview with Mary Higgins, it kind of became a**
 22 **big section, so I made -- The new Section 11 is**
 23 **just Mary Higgins.**
 24 Q. Okay.
 25 A. **So I think -- You have the two**

1 Q. Okay.
 2 A. **I have not seen -- They were hoping to**
 3 **have the search done on Wednesday of next week.**
 4 Q. Okay.
 5 A. **But I don't know if there's going to be**
 6 **anything for me to investigate regarding that or**
 7 **not, so I haven't seen the results.**
 8 MR. SMITH: It was an exhibit.
 9 Q. And, Mr. Vileta, this is previous -- and
 10 Mr. Smith was correct, this was part of what was
 11 identified as Deposition Exhibit V, as in Victor.
 12 Part of that would be an April 8 of 2002 interview
 13 of Mary Higgins.
 14 A. **Yes.**
 15 Q. And have you reviewed this interview by
 16 former-Lieutenant Cessford?
 17 A. **I read it. It was a while ago.**
 18 Q. But take your time. Go ahead and look
 19 at it again.
 20 Sir, have you had a chance to review
 21 part of Deposition Exhibit V, as in Victor, which
 22 is Mary Higgins' April 8th of 2002 interview by
 23 former-Lieutenant Dennis Cessford?
 24 A. **Yes.**
 25 Q. And, sir, is there any reference in that

1 **interviews that we did with Mary Higgins.**
 2 (A discussion was held off the record.)
 3 Q. Would you agree that Exhibit X, you've
 4 reviewed that, it's part of what -- the
 5 documentation you reviewed in former-Lieutenant
 6 Cessford's reports.
 7 A. **Yes.**
 8 Q. And at least 13 days after the shooting,
 9 almost two weeks after the shooting, Ms. Higgins'
 10 summary, there's no reference to any kind of
 11 journal, pink journal at that time, correct?
 12 A. **Correct.**
 13 Q. Okay. And it appears that also
 14 Mr. Cessford in April of 2002 would have done a
 15 subsequent interview of Mary Higgins. And mine's
 16 all written up.
 17 A. **I know which one you're referring to.**
 18 Q. Is there a way you can find that in your
 19 file?
 20 (A discussion was held off the record.)
 21 A. **As far as further investigation, I**
 22 **forgot to mention that I just remember looking at**
 23 **his computer, FBI is doing a search on**
 24 **Ms. Richter's computer that they took in Douglas**
 25 **County.**

1 interview to any type of journal?
 2 A. **No.**
 3 Q. And you also interviewed Ms. Higgins on
 4 March 30th of 2011, is that accurate?
 5 A. **Yes.**
 6 MS. ANDERSON: Do you have that
 7 interview or would you like it?
 8 A. **No, I don't have it.**
 9 MR. BANDSTRA: And let's make that Y.
 10 (Exhibit Y was marked for
 11 identification.)
 12 Q. Have you had a chance to review Exhibit
 13 Y --
 14 A. **Yes.**
 15 Q. -- which is your report of Ms. Higgins?
 16 A. **Yes.**
 17 Q. And in that, sir, on the bottom page --
 18 bottom of page 1, excuse me, the allegation in
 19 that is that Tracey Roberts told Higgins -- that's
 20 Mary Higgins -- the police had found two
 21 notebooks.
 22 A. **Yes.**
 23 Q. Do you have -- I notice that in the
 24 other interview we've been provided it's
 25 transcribed. In other words, it was apparently

1 recorded and then someone typed it out.
 2 A. **Yes.**
 3 Q. Do you have a transcribed copy of what's
 4 been marked as Defendant's Exhibit Y?
 5 A. **No.**
 6 Q. And why is that?
 7 A. **We didn't record that one.**
 8 Q. Okay. And Tracey Roberts allegedly told
 9 Mary Higgins the police had found two notebooks.
 10 A. **Yes.**
 11 Q. "Tracey Roberts stated one of the
 12 notebooks had pornography all over it and the
 13 other contained personal information about her and
 14 her son Bert."
 15 A. **Yes.**
 16 Q. Would you agree with me, sir, that we
 17 have it as Defendant's Deposition Exhibit L, as in
 18 Larry. It's the photocopies of the journal
 19 that -- or the contents in the pink notebook. So
 20 I want to make sure you and I are on the same
 21 page.
 22 A. **Okay. Yes.**
 23 Q. Would you agree, sir, that there's no
 24 pornography in the contents of the pink notebook?
 25 A. **No, there's no pornography.**

1 Q. And in Defendant's Deposition Y there's
 2 a reference to notebook, but you've continually
 3 identified it as a pink notebook. Is there any
 4 reference in Exhibit Y that evidences the color of
 5 the notebook?
 6 A. **This is Exhibit Y?**
 7 Q. Yes, sir.
 8 A. **No.**
 9 Q. So Exhibit Y, which you now have in
 10 front of you and it's to your left, the marked one
 11 by the court reporter, who initiated that
 12 conversation? In other words, was it Mary Higgins
 13 contacting you or did you contact Mary Higgins?
 14 A. **Yeah, we contacted Mary Higgins.**
 15 Q. "We" meaning who?
 16 A. **The State. Well, I didn't actually. I**
 17 **think she's actually -- Well, she went to Ben and**
 18 **said that she wanted to talk to us.**
 19 Q. Are you referring to Mr. Smith there?
 20 A. **Yes.**
 21 Q. Okay. All right. And then they came to
 22 you. In other words, you didn't actively go look
 23 for Mary Higgins. Mr. Smith coordinated that so
 24 that the three of you could meet.
 25 A. **Yes.**

1 Q. And was Mr. Smith present when you
 2 interviewed Ms. Higgins on --
 3 A. **Yes.**
 4 Q. -- March of 2011?
 5 A. **March 30 of 2011?**
 6 Q. Yeah.
 7 A. **Yep.**
 8 Q. And did you note that Mr. Smith was
 9 present at that time?
 10 A. **No, I didn't note that.**
 11 Q. Do you know why you didn't do that?
 12 A. **Because he -- I mean I did the**
 13 **interview, so it wasn't him.**
 14 Q. Okay. But I've seen in other interviews
 15 where other people will be identified.
 16 A. **Yeah, and you're right, yeah, I could**
 17 **easily have indicated that too.**
 18 Q. All right. Since I haven't seen the
 19 contents -- There was an address book that was
 20 found at Dustin's residence by Mona Wehde.
 21 A. **Yes.**
 22 Q. All I've seen is the front page of that
 23 address book, so I'm at a disadvantage now.
 24 A. **Okay.**
 25 Q. But was there also numbering or scores

1 on that address book?
 2 A. **I -- It's been a couple years since I've**
 3 **seen that. I don't want to say either way on**
 4 **that. I -- Like I said, I'll be more than happy**
 5 **to get photocopies for you so we can both have**
 6 **them.**
 7 Q. So you don't have a recollection if
 8 there would have been some numbering similar to
 9 the items -- the numbering found in Dustin's
 10 journal?
 11 A. **I have no recollection of that**
 12 **whatsoever. I think that black notebook had the**
 13 **name of the two foreign exchange students. That's**
 14 **the one thing that stands out to me. I don't**
 15 **remember what was past that.**
 16 Q. What two foreign exchange students?
 17 A. **The two foreign exchange students from**
 18 **Storm Lake High School. I think they were in that**
 19 **notebook.**
 20 Q. Okay. Were you responsible for the
 21 arrest of Tracey at the end of July of 2011 or
 22 would have that been solely the Sac County
 23 Sheriff's Department?
 24 A. **Well, I was present, but Douglas County**
 25 **actually did the arrest.**

1 Q. Okay. And did you have any contact with
 2 Michael Roberts at that time?
 3 A. **No. Did I have any contact with Michael**
 4 **Roberts? No.**
 5 Q. And was Michael Roberts present at the
 6 time of the arrest?
 7 A. **No.**
 8 Q. Was he -- Did he arrive shortly
 9 thereafter?
 10 A. **My understanding was is there was some**
 11 **sort of exchange of the children and then they --**
 12 **I don't know. There was a time delay, maybe 20,**
 13 **30 minutes from that exchange of the kids to when**
 14 **she was actually arrested.**
 15 Q. And did Michael come onto the scene of
 16 the arrest?
 17 A. **I did not see him at the scene.**
 18 Q. So he wasn't there openly laughing at
 19 Tracey?
 20 A. **That's ridiculous. No, he wasn't there.**
 21 **If he followed the police car -- the unmarked**
 22 **police cars, which I doubt he has the capacity of**
 23 **doing, so ...**
 24 Q. I'm just asking a question.
 25 A. **I didn't see him there, no.**

1 MR. BANDSTRA: I don't believe I have
 2 any further questions. If those supplements
 3 generate any questions, we might call you back,
 4 but I appreciate your time.
 5 A. **I don't think there will be any**
 6 **surprises. Like I said, most of those I think you**
 7 **guys should have.**
 8 MR. BANDSTRA: We can go off the record.
 9 (A discussion was held off the record.)
 10 EXAMINATION
 11 BY MR. SMITH:
 12 Q. I just have one quick little follow-up.
 13 Trent, Special Agent Vileta, you had indicated and
 14 I don't know if there was just some minor
 15 confusion as to a statement or at least a
 16 conclusion made in the Rod Englert blood spatter
 17 analysis. I believe the last conclusion -- and
 18 I'm showing you here what was marked as -- Was it
 19 W, the Englert report?
 20 MR. BANDSTRA: Yes, sir.
 21 Q. W, and I believe the conclusion -- the
 22 last conclusion was "Dustin Wehde moved his head
 23 after receiving one of the neck or head wounds,
 24 transferring blood onto his right cheek." And
 25 there's a question coming. I'm not just making a

1 statement. There's a question coming.
 2 A. **Okay.**
 3 Q. I'm just referring you to this last
 4 conclusion.
 5 MR. BANDSTRA: Objection, leading.
 6 Compound question.
 7 MR. SMITH: Very compound.
 8 Q. But is -- You've also indicated that
 9 this -- As far as these conclusions go, obviously
 10 you're not a blood spatter expert and it might be
 11 best to ask Rod Englert when he comes what he
 12 meant by these certain things.
 13 A. **Yes.**
 14 Q. Okay. My question now is: Moving your
 15 head from one -- Moving your head in this
 16 context -- and again you didn't write this, but
 17 moving your head, does that necessarily mean it's
 18 off the floor, like entirely?
 19 A. **Well, I don't know what that means.**
 20 **When I read that, I took it to mean that maybe**
 21 **even his head was moved when one of the rounds**
 22 **went into his neck.**
 23 Q. Okay. Well, I just know that earlier --
 24 I think my recollection was that there was a
 25 question posed and maybe in the context it got a

1 little bit confused. My question was -- The
 2 question was posed. The answer made it sound like
 3 that he had picked his head up off the floor, that
 4 this statement could be -- You read this
 5 statement. You could have read this statement as
 6 he picked his head up.
 7 A. **I guess what I -- I guess him moving his**
 8 **head doesn't mean he did it voluntarily. It could**
 9 **have been a round hitting. That's something --**
 10 **Rod Englert wrote that, so that's something he can**
 11 **explain better than me, so ...**
 12 MR. SMITH: I don't have anything else,
 13 Scott.
 14 MR. BANDSTRA: Hold on just a second.
 15 EXAMINATION
 16 BY MR. BANDSTRA:
 17 Q. Special Agent Vileta, do you believe you
 18 were thorough in your investigation?
 19 A. **Yeah. Yes.**
 20 Q. Do you believe you were neutral through
 21 the investigation?
 22 A. **Well, up to a point of course I was.**
 23 Q. Well, when you say "up to a point," what
 24 do you mean?
 25 A. **Until you kind of figure out what**

1 **actually happened, I suppose you're incredibly**
2 **neutral.**

3 Q. And was there any part -- anytime in
4 this investigation where you did not think you
5 could be neutral?

6 A. **What do you mean?**

7 Q. Were you neutral through the whole
8 investigation?

9 A. **No, I think I -- Like I said, I started**
10 **at the very beginning. I took -- Like I said, I**
11 **wasn't there in 2001. I had no idea about**
12 **personalities. I had no idea about -- you know,**
13 **the original report, when I read it, I had no idea**
14 **about the history of Ms. Richter and John Pitman.**

15 Q. Sure. And at least in my realm, as the
16 fact finder it sounds like your job was to just
17 look at the evidence and determine what happened.

18 A. **Well, I mean that's -- Any investigation**
19 **I suppose that's a great way to say it, yeah.**

20 Q. And with this you tried to be fair,
21 objective, and neutral in your investigation.

22 A. **Absolutely.**

23 Q. And did you think there was ever a time
24 that you couldn't be neutral or fair?

25 A. **No.**

1 handwriting in there was Dustin's.

2 A. **Yes.**

3 Q. And that the markings that are
4 identified in its -- in the contents of the pink
5 journal, the marker you would agree is different
6 handwriting.

7 A. **Yes. Well, I guess I can't agree. I**
8 **don't know -- It looks to me like it is, but I'm**
9 **not a handwriting expert, but it's done in a**
10 **marker.**

11 Q. Well, did Mr. Licht make any
12 determination of if it was the same handwriting?
13 I just don't have that report and so we started
14 talking about it during break.

15 A. **When I get -- When I can look at it, I**
16 **suppose I can better answer that. I -- Off the**
17 **top of my head, I don't think it could be**
18 **analyzed. I think that was the determination,**
19 **because you got to have a like writing in order to**
20 **compare it to. And since that was done in marker**
21 **and the other was done in ink, it's -- they**
22 **couldn't compare it.**

23 Q. But your testimony is now it appears
24 that it's the same or similar to the handwriting
25 that was found in the pink journal itself. You

1 MR. BANDSTRA: I don't have any further
2 questions.

3 (A short recess was taken.)

4 BY MR. BANDSTRA:

5 Q. We've been off the record and I
6 apologize because you need to get going and you
7 can stand up. You indicated during the break that
8 regarding the pink notebook, you're not sure of
9 the sequence of pages in that, correct?

10 A. **Correct.**

11 Q. That would be a better question for
12 Detective Moser or DCI Agent Moser.

13 A. **Well, he's retired, so he's no longer a**
14 **DCI agent.**

15 Q. Okay. Former DCI Agent Moser.

16 A. **Yeah.**

17 Q. That you did do handwriting analysis or
18 handwriting analysis was done on the notebook
19 itself.

20 A. **Yes.**

21 Q. And that the -- and that was done by a
22 Gary Lint did you say?

23 A. **Licht. It's L-I-C-H-T, from the Iowa**
24 **Crime Lab.**

25 Q. And the determination was the

1 think that's the same?

2 A. **That's the marker part?**

3 Q. Yeah.

4 A. **No, it doesn't look like it's similar to**
5 **me.**

6 Q. Okay.

7 A. **And, again, you know, I don't -- I can't**
8 **remember if this was the 2001 guys asking. I**
9 **don't know if it was Cessford or Moser, but I**
10 **think at some point someone said that that could**
11 **have been Mona's handwriting, but I don't know.**

12 Q. And do you have any notes regarding that
13 conversation?

14 A. **I don't know where I heard that, quite**
15 **honestly, so I just remember at some point someone**
16 **asking me if they thought that was -- Someone**
17 **thought it might be a card game or something,**
18 **but ...**

19 Q. Okay. Do you know -- You said during
20 the break and I just want to put it on the record.
21 Was there any fingerprint analysis done on the
22 notebook itself? And I'm talking about the --

23 A. **Yes.**

24 Q. -- pink notebook.

25 A. **Yes.**

1 Q. And was there a determination made
2 regarding the set of prints found on the pink
3 notebook?
4 A. It wasn't -- They're not fingerprints.
5 They look -- They're the -- I don't know what you
6 call them.

7 Q. The palm print?

8 A. It's not even -- Well, this is your -- I
9 don't know what you -- I think they call this
10 something else, but it's right below the base -- I
11 guess the base of your fingers.

12 Q. And was there any --

13 A. And it looks like someone held onto it,
14 but -- and just me asking, you know, that could be
15 the clerk putting the -- stacking the notebook
16 into the -- onto the shelf. It could be, you
17 know, the person that loaded it up in the cart or
18 whatever, you know. They don't -- We haven't
19 found anything to be able to compare it to.

20 MS. ANDERSON: Did you compare it to
21 Tracey Roberts' palm or upper palm indentations?

22 A. Yeah, I think they -- Yeah, we tried at
23 one point and it didn't. It says inconclusive.
24 The original -- the stuff off the notebook is very
25 difficult, I mean nine, ten years old when we

1 now.

2 (A discussion was held off the record.)

3 ***

4 (The testimony ended at 3:18 p.m.)
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 pulled them off there.

2 Q. Do you know what results occurred from
3 the fingerprint analysis done at the Roberts'
4 residence after the shooting, whether they did
5 elimination prints or anything else about --

6 A. I don't think they did elimination
7 prints. I know they dusted the entire house, but
8 I -- It was my -- When I was a Milwaukee officer,
9 we spent hours trying to find prints on stuff and
10 it was just really hard, so I don't know if it was
11 hard for them back then too, so ...

12 Q. But that would be a better question for
13 former --

14 A. Dan Moser.

15 Q. -- Special Agent Moser?

16 A. Robert Harvey. I think Linda Knitig is
17 dead now, so they would be able to tell you
18 better.

19 MR. SMITH: Linda -- Did you hear what
20 he said? Linda Knitig --

21 A. Knitig.

22 MR. SMITH: -- she's passed.

23 MR. BANDSTRA: She's dead?

24 MR. SMITH: She's deceased.

25 MR. BANDSTRA: We can go off the record

1 CERTIFICATE

2 I, Jody L. Malloy, Certified Shorthand
3 Reporter of the State of Iowa, do hereby certify
4 that the deponent was duly sworn by me and that
5 the transcript as above set forth is a true and
6 accurate record of the testimony given.

7 That the within and foregoing deposition was
8 taken by me at the time and place herein
9 specified.

10 That I am not counsel, attorney, or relative
11 of either party or otherwise interested in the
12 events of this suit.

13 IN TESTIMONY WHEREOF, I have hereunto placed
14 my hand this 28th day of September, 2011.
15

16
17 Jody L. Malloy, CSR, RMR
18 Certified Shorthand Reporter
19
20
21
22
23
24
25