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PROCEEDINGS ON TUESDAY, JUNE 10, 2014

(Beginning of audio recording)

THE WITNESS: ...and one in his upper temple region on his left side.

MR. ADAMS: Judge, could I just add one question in aid of objection at this point?

THE COURT: Sure.

BY MR. ADAMS: Lieutenant, you talked a lot about blood stains. Did you test any of the stains on the floor or the shirt, or are you just calling it blood stains because that's what you think it was?

THE WITNESS: Um, it was not tested at the scene at that -- that night. It was swabbed.

MR. ADAMS: Okay. Well, I would object to him him referring to -- continually referring to these as blood stains then, Judge.

THE COURT: Sustained.

Q. (BY MR. VERHAREN) What about the other deceased male? Can you describe him, please?

A. That deceased male was younger. It was obviously -- the age was significantly different. It was a younger male, approximately ten to thirteen years of age, smaller-framed male. He had numerous injuries. He was, um, proned out face down, hands to his left side, obviously deceased due to the injuries, and a lack

1 of movement and the blood loss.

2 Um, his pant legs had one pant leg on, um, one
3 was off. His left leg had nearly the entire length of
4 his pant leg on just below his buttocks. His socks
5 were, um, red in color due to a stain. He had injuries
6 all over his legs and his arms and his head, his -- back
7 of his head.

8 Q. In terms of his position being prone on the
9 floor as you described, was there any piece of furniture
10 over him?

11 A. Yes.

12 Q. Tell us about that, please.

13 A. There was a bed frame over the individual, um,
14 that had the mattresses removed, and there was blankets
15 throughout the -- and pillows throughout the room, very
16 disorganized, and numerous items throughout the room.

17 Q. All right. And how long were you there that
18 evening, approximately?

19 A. Approximately eight hours --

20 Q. Were you there --

21 A. -- or longer.

22 Q. Were you there when another detective began
23 taking photographs?

24 A. Yes.

25 Q. I have some photographs I want to show you.

1 The first set is marked 2A through 2E. All right. So
2 I'm gonna show you what's been marked as 2A through 2E,
3 and what I'd like to do is just run through them briefly
4 with you and have you briefly describe each one starting
5 with 2A. What's that a photograph of?

6 A. That is the scene of the residence as if you
7 were standing near or on the street. You have the
8 pickup which is registered to Eldon Samuel, Jr.; it's a
9 Dodge pickup. Behind that is the garage, the single,
10 uh, car garage. To the left is a fifth-wheel, and then
11 you've got the residence behind that which is 1311 N.
12 First with the numbers above the porch there.

13 Q. Next one I want to show you is 2B. Can you
14 describe what that is?

15 A. Yeah. That is the kitchen, the linoleum floor
16 with the evidence that I described earlier, the machete,
17 the handgun and the food items and the stove and the
18 cupboards.

19 Q. 2C?

20 A. That is a closer picture of the machete with
21 the blood drops around it and the position that we first
22 located it.

23 MR. ADAMS: Again I'd ask the witness not
24 refer to things as blood if you don't have proof that
25 they're blood.

1 THE COURT: Sustained.

2 Q. (BY MR. VERHAREN) 2D?

3 A. That is another view of the kitchen which is
4 more focused in or, I mean, zoomed in a little bit
5 closer with the -- the handgun on the counter and one of
6 the cupboards open, but same scene.

7 Q. All right. 2E?

8 A. It's a close-up of the handgun.

9 Q. And were you present when all these
10 photographs were taken?

11 A. Yes.

12 Q. About what time were they taken approximately?

13 A. It was after midnight time -- by the time we
14 got the search warrant and executed it.

15 Q. Is that before it was daylight?

16 A. Oh, yes, yes.

17 Q. And are these accurate photographs showing the
18 objects you've just described to us?

19 A. Yes.

20 MR. VERHAREN: Move to admit 2A through 2E.

21 (*Exhibit Nos. Plaintiff's 2A through 2E*
22 *offered*)

23 MR. ADAMS: Are these the ones you showed me?

24 MR. VERHAREN: They are.

25 MR. ADAMS: If I could just ask one question?

1 And the photographs inside the house, had you moved
2 things around before the photographs were taken, or were
3 those photographs taken as it was when the police got
4 there?

5 THE WITNESS: As we entered, they were taken
6 as we entered.

7 MR. ADAMS: So the police didn't move anything
8 in those photographs?

9 THE WITNESS: No. Some of the patrol officers
10 first on scene did move some items but not those that I
11 described.

12 MR. ADAMS: Okay. With that, I have no
13 objection.

14 THE COURT: All right. 2A through E,
15 inclusive, are admitted.

16 *(Exhibit Nos. Plaintiff's 2A through 2E*
17 *admitted)*

18 Q. (BY MR. VERHAREN) Let me show you another
19 series. This is 2F through 2I, okay? Start off with
20 2F. What's that a photograph of?

21 A. That is the entrance carpet just inside the
22 doorway which is on the east side of the residence. In
23 between the kitchen and the front door is the stretch of
24 carpet that goes from the bedroom. You can see into the
25 bedroom on the south side and up to almost where the

1 linoleum stops.

2 Q. 2G?

3 A. That is, um, a photograph of inside the south
4 bedroom from outside the doorway.

5 Q. And is the shotgun visible in this photograph?

6 A. Yes, and the sheath.

7 Q. 2H?

8 A. More close-up of the shotgun inside the room.
9 This shows the shelving, all the items that were
10 described earlier and the futon.

11 Q. 2I?

12 A. That's another photograph of the floor,
13 focusing in on the floor of the south bedroom.

14 Q. 2F through 2I, were these all taken at the
15 same time as the other photographs we discussed?

16 A. Yes.

17 Q. Are they all accurate photographs of what you
18 could see that evening?

19 A. Yes.

20 MR. VERHAREN: Move to admit 2F through 2I.

21 (*Exhibit Nos. Plaintiff's 2F through 2I*
22 *offered*)

23 MR. ADAMS: Those are more of the ones you
24 showed me already?

25 MR. VERHAREN: Yes.

1 MR. ADAMS: If I could just ask again, are
2 these photographs of things as they looked when the
3 police entered, or have the police moved anything in
4 these photographs?

5 THE WITNESS: In these, uh, nothing was moved
6 other than what I'm describing as the blankets were
7 moved over the doors which was -- were hanging, and so
8 when they did their search those are things I know they
9 moved, and one of the mattresses was moved, so other
10 than that, most items were not disturbed, but by the
11 walk-around they could've kicked something, but
12 intentionally moving anything, no.

13 MR. ADAMS: In any of these photographs, 2F, G
14 H and I, are there things that the police moved that are
15 in these photographs?

16 THE WITNESS: Not to my knowledge, no, sir.

17 MR. ADAMS: Okay. Thanks. No objection,
18 Judge.

19 THE COURT: 2F through I, inclusive, are
20 admitted.

21 (*Exhibit Nos. Plaintiff's 2F through I*
22 *admitted*)

23 Q. (BY MR. VERHAREN) The next series is 2J
24 through 2Q. Starting off with 2J, what's that a
25 photograph of?

1 A. That is facing north from the approximate area
2 of the doorway taking a photo of the north -- in the
3 living room, and you actually can see inside of the
4 northwest bedroom, part of the linoleum floor, the
5 couch, the T.V., the window and part of the stove, so
6 you're facing north.

7 Q. 2K?

8 A. Is from the living room, uh, more focusing on
9 the doorway entrance of the bedroom on the northwest
10 corner depicting the bodies.

11 Q. 2L?

12 A. That's inside the northwest bedroom, but
13 taking a photo of the two deceased males.

14 Q. 2M?

15 A. That is a close-up of the adult deceased
16 male's head.

17 Q. 2N?

18 A. That is a more focused-in photograph of the
19 deceased, uh, younger male.

20 Q. 2O?

21 A. That is a picture of the younger male's, uh,
22 legs, buttocks area underneath the bed frame.

23 Q. 2P?

24 A. That is a photo of the bedroom on the
25 northwest corner with the ceiling, focusing in on

1 possible blood splatter on the ceiling.

2 Q. And then 2Q?

3 A. That is a photograph of the adjacent bathroom
4 with the two, um, mattresses on edge in the doorway and
5 half-way in, half-way out.

6 Q. All right. Are these photographs, 2J through
7 2Q, were these taken at the same time frame as the other
8 ones we just discussed?

9 A. Yes.

10 Q. Are they accurate photographs of what you
11 could see that evening?

12 A. Yes.

13 MR. VERHAREN: Move to admit 2J through 2Q.

14 (*Exhibit Nos. Plaintiff's 2J through 2Q*
15 *offered*)

16 MR. ADAMS: These are, again, ones you already
17 showed me? And again if I may, Your Honor. Did you
18 move -- were the bodies moved before these photographs
19 were taken?

20 THE WITNESS: No, sir.

21 MR. ADAMS: What about the mattresses, Q, were
22 they moved before the photograph Exhibit Q was taken?

23 THE WITNESS: One mattress was moved by the
24 officers.

25 MR. ADAMS: Then I'd ask that we explain that,

1 Judge, before I decide whether to object to that, Q with
2 the mattresses. Tell us about the moving -- tell His
3 Honor about the moving of the mattresses.

4 THE WITNESS: Um, well, watching the VIEVU
5 cameras on the patrol officers, when they were clearing
6 the residence, you could clearly see one of the
7 officers -- the mattress -- one of the mattresses was --
8 the bed frame ran from north to south in the northwest
9 bedroom. On the south side of that bed frame was a
10 mattress which was on the edge of it. They moved that
11 to get past that mattress and clear that back bedroom,
12 and so that was stood on edge.

13 MR. ADAMS: Was that mattress that was moved
14 covering either of the bodies when the police moved the
15 mattress?

16 THE WITNESS: No.

17 MR. ADAMS: I don't have any objection, Judge.

18 THE COURT: All right. 2J through Q,
19 inclusive, are admitted.

20 (*Exhibit Nos. Plaintiff's 2J through 2Q*
21 *admitted*)

22 Q. (BY MR. VERHAREN) Two more for you. They've
23 been marked as 2R and 2S. How about 2R, what's that a
24 photograph of?

25 A. That is defendant's leg, pant leg, um,

1 standing on a sidewalk, um, which shows his shoes,
2 pants, and there's a picture of a wheel of a car.

3 Q. All right. And then the last one I have for
4 you is marked as 2S. What's that a photograph of?

5 A. Um, the younger male's -- close-up of his left
6 elbow and hands.

7 Q. Again, these two photographs, 2R and 2S, taken
8 at the same time or around the same time as the other
9 ones?

10 A. That one was not.

11 Q. 2S?

12 A. No. The other one.

13 Q. Okay. So 2R was taken at a different time?

14 A. Yeah. That was taken by a patrol officer.

15 Q. When was that taken?

16 A. Right after he was taken into custody.

17 Q. Were you present when that occurred?

18 A. No.

19 Q. In terms of 2S, is that an accurate photograph
20 of what you just described to us?

21 A. Yes.

22 MR. VERHAREN: I'd move to admit 2S at this
23 time.

24 *(Exhibit No. Plaintiff's 2S offered)*

25 MR. ADAMS: You said 2S is accurate to what

1 you saw there?

2 THE WITNESS: Yes.

3 MR. ADAMS: Okay. No objection to S.

4 THE COURT: What about R?

5 MR. ADAMS: I don't think it's been offered,
6 Judge. I don't think he can lay a foundation.

7 THE COURT: Oh, you're just offering S?

8 MR. VERHAREN: I don't think I was able to lay
9 the foundation for R, so it's just going to be --

10 THE COURT: S would -- 2S would be admitted.
11 R is not offered.

12 *(Exhibit No. Plaintiff's 2S admitted)*

13 MR. VERHAREN: I'm going to include it with
14 the evidence, though, since I marked it.

15 THE COURT: We'll sit it in here, but we'll
16 put it in a different pile there so --

17 MR. VERHAREN: Thank you.

18 Q. (BY MR. VERHAREN) Okay. So when you were
19 present at that address did you at some point watch the
20 two bodies be transported?

21 A. Yes, I did.

22 Q. And prior to that occurring, what took place
23 in terms of the condition of the bodies? Were they put
24 in any sort of container or --

25 A. We -- once we were done at that point -- up to

1 that point photographing and collecting some evidence,
2 we called the funeral home. The coroner was there, and
3 once the funeral home arrived, they were advised of the
4 situation, and they put on the appropriate equipment and
5 come in with body bags.

6 Q. And did you see both the deceased males placed
7 in body bags?

8 A. Yes, I did.

9 Q. Can you describe for us these body bags, just
10 generally?

11 A. They're white plastic with a zip-up, and they
12 are probably six feet in length.

13 Q. And were they zipped up before the bodies were
14 transported?

15 A. Yes, they were.

16 Q. Were they sealed in any fashion?

17 A. Yes. They were sealed, and they also had the
18 names and date of births and the case number written on
19 the bags.

20 Q. And did you make some arrangements to have
21 them transported to anyplace in particular, or did
22 someone else do that?

23 A. The coroner did.

24 Q. Where was that?

25 A. Um, to Holy Family medical examiner's office.

1 Q. In Spokane?

2 A. Yes.

3 Q. So on March 26th, 2014, did you go to Holy
4 Family?

5 A. Yes, I did.

6 Q. What was the purpose of that?

7 A. Observe and collect evidence at the autopsy.

8 Q. Were you present when the autopsies were
9 conducted?

10 A. Yes, I was.

11 Q. Can you describe who the autopsy pertained to
12 in the morning on March 26, 2014?

13 A. The morning's autopsy was on Eldon Samuel,
14 Jr., the adult male.

15 Q. Who performed that autopsy?

16 A. Dr. Sally Aiken.

17 Q. And were you present during the entirety of
18 that autopsy?

19 A. Yes.

20 Q. Can you summarize the wounds that were visible
21 to you during the morning of March 26th prior to the
22 autopsy being conducted?

23 A. Yes. There was a wound to his abdomen and an
24 exit wound in his back, and then there was three entry
25 wounds, uh, on his head. Two were in his cheek area,

1 his left cheek area which were millimeters apart, and
2 one to his temple area --

3 Q. In the afternoon --

4 A. -- on his left side.

5 Q. I'm sorry. In the afternoon were you present
6 for the second autopsy?

7 A. Yes.

8 Q. And who did that pertain to?

9 A. Uh, Jonathan Samuel.

10 Q. Can you describe the wounds that you observed
11 prior to the autopsy?

12 A. There was large wounds to his legs just
13 below -- or the upper thigh area, approximately -- there
14 was two to three which were three inches in diameter
15 approximately. There were laceration or chop marks to
16 the back of his skull. There were incision or incise
17 wounds on his legs. There were numerous incise wounds
18 on his hands, his wrists. His elbows, uh, were nearly
19 severed. His right or his -- his left leg had two, uh,
20 lower large wounds that appeared to be from the shotgun.
21 Um, there were lacerations numerous all over his feet,
22 on his right foot. There was two apparent entry wounds
23 from a handgun on his right chest near his right nipple.
24 His -- he had also two entry and exit wounds on his legs
25 from an apparent smaller caliber weapon.

1 MR. VERHAREN: Judge, I have what's been
2 marked as 3A and 3B. I'm going to move to admit them
3 under 5.1. They're affidavits of Sally Aiken pertaining
4 to those autopsies.

5 (Exhibit Nos. Plaintiff's 3A and 3B offered)

6 THE COURT: So you're moving to admit 3A and
7 B. Mr. Adams, did you receive those?

8 MR. ADAMS: I did. Mr. Verharen showed me
9 those before court, and I received a copy in discovery.
10 My objection is that admission of affidavits in this
11 case violates Eldon's 6th Amendment right to confront
12 the witnesses and evidence against him, so I object
13 under the 6th Amendment, Judge.

14 THE COURT: Mr. Verharen?

15 MR. VERHAREN: Judge, I think they're
16 admissible under 5.1 as medical records. I think they
17 certainly should come in under that particular --

18 MR. ADAMS: Judge, my objection's also that it
19 violates his rights to due process in these proceedings
20 under the 14th Amendment, concomitant provisions of the
21 Idaho Constitution. Thank you.

22 THE COURT: 5.1(b) allows at a preliminary
23 hearing affidavits related to the medical facts and
24 records, provided the magistrate determines the source
25 of said evidence to be credible, and could you lay some

1 further foundation on who this Sally Aiken, M.D., is?

2 MR. VERHAREN: Certainly, Judge.

3 Q. (BY MR. VERHAREN) Can you describe who Sally
4 Aiken is, please?

5 A. She's a doctor over -- employed by medical
6 family -- Holy Family Medical Office.

7 MR. ADAMS: I'm going to object to a lack of
8 foundation for this witness testifying to her medical
9 credentials, if any, without a proper foundation.

10 MR. VERHAREN: Judge, I believe the affidavit
11 sets forth her qualifications.

12 THE COURT: And Lieutenant Turner, you
13 indicated that this Dr. Aiken was the one that did
14 the -- both of the autopsies that you observed?

15 THE WITNESS: That's correct.

16 THE COURT: I'm going to overrule the
17 objections. I will make the necessary findings under
18 Rule 5.1. I do feel that for purposes of a preliminary
19 hearing they are admissible, so 3A and 3B are admitted.
20 The objections are overruled. You may continue.

21 *(Exhibit Nos. Plaintiff's 3A and 3B admitted)*

22 Q. (BY MR. VERHAREN) At some point were you able
23 to see Eldon Samuel, III, that evening?

24 A. Yes.

25 Q. Is he present here today?

1 A. Yes, he is.

2 Q. Please point him out, describe where he's
3 seated, tell us what he's wearing.

4 A. He's seated at the defense table wearing the
5 blue, uh, coveralls, green shirt and orange sandals,
6 white socks.

7 Q. 1311 North First Street in Coeur d'Alene is in
8 Kootenai County, Idaho?

9 A. Yes, it is.

10 MR. VERHAREN: No further questions.

11 THE COURT: Mr. Adams, you may inquire.

12 MR. ADAMS: If I could approach, Judge. Let's
13 get the lone defense exhibit out of the way. Madam
14 Clerk, could I have these marked as Defendant's 1 and 2,
15 please?

16 THE COURT: No. We'll mark them A and B.

17 MR. ADAMS: Oh. We use numbers?

18 THE COURT: Defense always uses letters. I'm
19 a stickler about that.

20 MR. ADAMS: Okay.

21 THE COURT: Minor point but -- unless you
22 switch sides, and I don't think that's gonna happen.

23 MR. ADAMS: That's not gonna happen.

24 THE COURT: That's not gonna happen, no.

25 MR. ADAMS: If I could approach the witness,

1 Your Honor?

2 THE COURT: You may. You certainly may.

3 CROSS-EXAMINATION

4 QUESTIONS BY MR. ADAMS:

5 Q. I'm gonna show you these two photographs that
6 have been marked as Defendant's Exhibits A and B. Would
7 you take a look at those?

8 A. Okay.

9 Q. When you went into the -- when the police went
10 into the house, one of the things you did was search the
11 house?

12 A. Yes.

13 Q. And one of the places you searched was the
14 couch that was in the house?

15 A. Yes.

16 Q. And you took the cushions off the couch, and
17 you found there was a secret compartment under the
18 cushions?

19 A. Yeah. I did not, but there was an officer
20 that did or a detective.

21 Q. And the items depicted in Defendant's A and B
22 were what was inside that secret compartment?

23 A. Yes.

24 Q. Okay. And those photographs A and B truly and
25 accurately reflect the items that the police seized from

1 the secret compartment in the couch that night?

2 A. Correct.

3 MR. ADAMS: Okay. Move for their admission,
4 Judge.

5 *(Exhibits Defendant's A and B offered)*

6 THE COURT: Any objection to Defendant's A or
7 B?

8 MR. VERHAREN: No, Judge.

9 THE COURT: A and B are both admitted.

10 *(Exhibits Defendant's A and B admitted)*

11 MR. ADAMS: Thank you.

12 Q. (BY MR. ADAMS) Let's move back to --

13 THE COURT: If I could have those, Lieutenant?
14 Did you need them for further testimony?

15 MR. ADAMS: No.

16 THE COURT: Okay.

17 Q. (BY MR. ADAMS) Let's move back to the
18 beginning of your testimony. You got the call about
19 nine o'clock the night of the 24th, and you got to the
20 house about ten o'clock?

21 A. No. It was after nine when I got the call.
22 At twenty -- well, it happened at 21:09, and I got the
23 call about 21:20.

24 Q. Okay. And you're looking at your police
25 report to refresh your recollection?

1 A. Yes.

2 Q. Okay. Do you have anything else up there
3 besides your police report that you're gonna use to help
4 you testify?

5 A. No.

6 Q. And it's okay to look at those to refresh your
7 recollection; it's just let us know that's what you're
8 doing, okay?

9 A. Okay.

10 Q. All right. So about nineteen minutes after
11 the call came in, you got to the house? I'm a little
12 confused on the time.

13 A. No. I first went to the police station and
14 was gathering some information. That's where the
15 defendant was taken. I --

16 Q. You mean Eldon?

17 A. Yes.

18 Q. Okay. What time was the 911 call you talked
19 about made?

20 A. I looked at the call screen and that was
21 21:09.

22 Q. And that's nine minutes after nine o'clock at
23 night?

24 A. Yes.

25 Q. Okay. And you got to the police station how

1 long after that 911 call?

2 A. I got the call I believe approximately 21:20
3 so that was --

4 Q. Eleven minutes after the 911 call you got to
5 the police station?

6 A. No. I got the call at home. I was at home.
7 I was not working at a little after nine.

8 Q. You got to the house about ten o'clock that
9 night?

10 A. After ten o'clock.

11 Q. You went to the police station before you went
12 to the house?

13 A. That's correct.

14 Q. What did you do at the police station?

15 A. Um, like I said earlier, I was gathering some
16 evidence, I mean evidence collection, getting
17 information, and I arrived -- I was there when the
18 defendant arrived, when he was brought in.

19 Q. You were there when other policemen brought
20 Eldon into the police station?

21 A. That's correct.

22 Q. What time was that?

23 A. Um, it was within -- between 9:30 and 10:00,
24 roughly.

25 Q. Okay. So less than an hour after the 911 call

1 was made, the police had Eldon in handcuffs in the
2 police station, true?

3 A. Yes, give or take twenty minutes, roughly in
4 that area.

5 Q. Okay. And where did you see Eldon at in the
6 police station?

7 A. Um, he was brought in and -- brought into the
8 interview room.

9 Q. When I hire a secretary, I interview her. Do
10 you do interviews for staff there, or is that an
11 interrogation room where you ask prisoners questions?

12 A. It was an interview room.

13 Q. Okay. Why did you put Eldon in an interview
14 room?

15 A. Um, it was a likely scenario.

16 Q. You put him in there because you were gonna
17 interrogate him, right?

18 MR. VERHAREN: Objection, argumentative.

19 THE COURT: Overruled. You may answer.

20 THE WITNESS: No.

21 Q. (BY MR. ADAMS) So the police didn't have any
22 plans of interrogating Eldon that night? Is that your
23 testimony to this judge?

24 A. My testimony is that we didn't know what we
25 had yet, Your Honor, and we were going to figure that

1 out, and so interview is the first thing, and then an
2 interrogation, if you want to call it that, happens
3 afterwards.

4 Q. (BY MR. ADAMS) And that's the room in which
5 the police do the interrogations at the Coeur d'Alene
6 City Police Department, correct?

7 A. That's one of them.

8 MR. VERHAREN: Objection, asked and answered.

9 THE COURT: Overruled. What's your answer?

10 THE WITNESS: That's one of the rooms.

11 Q. (BY MR. ADAMS) So the police put Eldon in an
12 interrogation room when they got him to the police
13 station, right?

14 MR. VERHAREN: Objection, asked and answered.

15 MR. ADAMS: He's not answering it. He's
16 making me work really hard for this. It's a simple
17 question.

18 THE COURT: Well, I'm not getting where you're
19 going with interview, interrogation. It's --

20 MR. ADAMS: There's a difference. When I
21 hire, somebody I interview them. When I give somebody
22 Miranda rights, I interrogate them, and that's what the
23 U.S. Supreme Court says so that's the difference.

24 THE COURT: The focus is on whether somebody's
25 in custody or not, so let's -- I think we're getting

1 into semantics here, so why don't you ask another
2 question?

3 Q. (BY MR. ADAMS) When you saw Eldon was he in
4 handcuffs?

5 A. Yes.

6 Q. And he was in a police station?

7 A. Yes.

8 Q. And how many policemen were around him?

9 A. I don't know the answer to that.

10 Q. You were there?

11 A. Yes.

12 Q. Policeman McCormick was there?

13 A. We were in and out and all around him that
14 evening, and, uh, at any given time there were at least
15 anywhere from one or four but not all at the same time,
16 so I don't know how to answer your question.

17 Q. Well, it was in a police station. Were there
18 any people that weren't police there at the time you saw
19 Eldon there?

20 A. That weren't police?

21 Q. Yeah.

22 A. At that time I don't believe so.

23 Q. And the police that were around Eldon, did
24 they have uniforms on?

25 A. Some were in uniform and some were not, sir.

1 Q. And they had weapons that were on display?
2 You could see them? They weren't hidden?

3 A. Some had weapons on display and some did not.

4 Q. So at the time you saw Eldon at the Coeur
5 d'Alene Police Department he was in handcuffs; there
6 were many police that were armed around him. Is this
7 true?

8 A. Yes, and he was also taken out of handcuffs at
9 one point.

10 Q. He still had the handcuffs on when you put him
11 in the interrogation room, true?

12 A. When we put him in the interview room he was
13 in handcuffs at the -- initially, sir.

14 Q. How long did you stay there at the police
15 station before you went to the house?

16 A. We're talking minutes, twenty to thirty at the
17 most.

18 Q. And what did you do during that time?

19 A. I don't recall specifically what I did.

20 Q. Did you give anybody any directions about how
21 to treat Eldon, what to do with him?

22 A. Um, yes.

23 Q. Tell us what -- you were the officer in
24 charge, right?

25 A. Yes.

1 Q. Tell us the commands you gave to your staff
2 there, what to do with Eldon.

3 A. Uh, made sure that we got the contaminated
4 clothing off of him and that he was taken care of, food
5 and water.

6 Q. So you told them to strip search him?

7 A. No, I did not.

8 Q. Told them to take his clothes away from him?

9 A. I asked them to get the contaminated clothes
10 off of him.

11 Q. You told the other policemen to take Eldon's
12 clothes, yes?

13 MR. VERHAREN: Objection, argumentative. He's
14 already answered it.

15 THE COURT: Sustained.

16 Q. (BY MR. ADAMS) You told them to take his
17 clothes. You've said yes to that. Did you tell them to
18 put any other clothes on him once they'd taken his
19 clothes away from him?

20 A. Yes.

21 Q. Okay. And what clothes was that you told them
22 to put on him after they'd taken his clothes?

23 A. When I got the call I was advised of some of
24 the circumstances. Before I arrived, I asked the
25 officers on scene to get some clothing from his -- his

1 room, um, or go buy some, but I wanted him to get fresh
2 clothes.

3 Q. Did you tell the officers to bring Eldon
4 underwear?

5 A. No, I did not.

6 Q. Did you tell them to bring him socks?

7 A. No.

8 Q. Did you tell them to bring him shoes?

9 A. No. I told them to bring clothes.

10 Q. Yet the police took his underwear, yes?

11 A. I don't know for certain if they did.

12 Q. Took his socks?

13 A. Okay.

14 Q. And took his shoes?

15 A. Yes, I know that for sure.

16 Q. Don't we call that a strip search, when
17 somebody's naked?

18 MR. VERHAREN: Objection, argumentative.

19 MR. ADAMS: -- and you take all their clothes?

20 THE COURT: Sustained.

21 Q. (BY MR. ADAMS) Did you direct the police
22 under your command to do anything else before you left
23 the police station and went to the house?

24 A. I don't recall. I may have.

25 Q. You don't recall though? Take a minute.

1 A. Nothing's jumping out at me right now.

2 Q. So it was to take his clothes, put some new
3 clothes on him, at least a T-shirt and a pair of
4 trousers on him, and that was it? That's all you can
5 remember telling your officers to do?

6 MR. VERHAREN: Objection, asked and answered.

7 THE COURT: Overruled. You may answer.

8 Q. (BY MR. ADAMS) I'm not trying to trick you,
9 but I don't want you to come back later and say...
10 (*interruption in recording*)... think about it and let us
11 know. I'm not trying to trick you.

12 A. Well, I did a lot of things that night, sir,
13 so specifically what you're looking for --

14 Q. Telling the police before --

15 MR. VERHAREN: Objection. The witness ought
16 to be allowed to finish his answer before counsel poses
17 another question.

18 THE COURT: I agree, and it makes a better
19 record if just one talks at a time.

20 Q. (BY MR. ADAMS) I'm asking you specifically
21 about what you told the people you were in charge with
22 to do with Eldon before you left the police station and
23 went to the house besides take his clothes.

24 MR. VERHAREN: Objection, asked and answered a
25 couple of times now.

1 THE COURT: Overruled. Do you understand the
2 question?

3 THE WITNESS: Not really. No, sir.

4 THE COURT: He doesn't understand your
5 question.

6 Q. (BY MR. ADAMS) You were in command, correct?

7 A. Yes.

8 Q. And you were giving your officers at the
9 police station with Eldon some instructions, some
10 orders.

11 A. It doesn't often work that way. Um, our
12 officers or detectives often times tell me what they're
13 going to do, and I go okay, and so --

14 Q. I'm really not interested in the general
15 background.

16 MR. VERHAREN: Objection. The witness ought
17 to be allowed to finish his answer before counsel poses
18 a question.

19 THE COURT: I think he did.

20 MR. ADAMS: I think he did.

21 THE COURT: I think he did answer --

22 MR. ADAMS: I'm not interested --

23 THE COURT: What's your next question, please?

24 Q. (BY MR. ADAMS) I'm not interested in your
25 general background. I'm asking you what you did with

1 this fourteen-year-old boy there. Let's stick to that,
2 okay? What did you tell the police in your command to
3 do with him that night at the jail before you went to
4 the house?

5 MR. VERHAREN: Objection, asked and answered.

6 THE COURT: Well, Mr. Verharen, it appears to
7 me that Mr. Adams wants to make sure that he --
8 Detective Turner has recited everything that he
9 instructed the others to do and you just need to make
10 sure that that's done, so I'm gonna overrule the
11 objection.

12 Detective Turner, any other response that you
13 have to Mr. Adams' question?

14 Q. (BY MR. ADAMS) You know, and if you really
15 don't remember, just say so, but I want you to think
16 about it.

17 A. I was trying to respond to you in the best way
18 that I could, um, and not try to hide anything, but
19 obviously I did a lot of things and said some things,
20 but I don't recall every detail of what I say.

21 Q. So to be fair, you don't remember telling them
22 to do anything other than take his clothes and put some
23 other clothes on him. Is that fair to say?

24 A. I don't recall at this point.

25 Q. And how long did you stay there when Eldon was

1 at the police station before you left and went to the
2 house?

3 A. Stayed where?

4 Q. At the police station.

5 A. I answered that. Um, twenty to thirty
6 minutes, sir.

7 Q. And then you went directly over to the house,
8 the First Street house you talked about?

9 A. That's correct.

10 Q. Then you went inside the house?

11 A. Yes.

12 Q. Okay. And you've told His Honor a little bit
13 about the condition, but I want to explore that a little
14 bit more with you, okay? I want to talk to you about
15 what was going on inside that house, what it was like,
16 okay? Do you understand?

17 A. Okay.

18 Q. The house was in pretty bad disarray, wasn't
19 it?

20 A. By my standards, yes.

21 Q. There was a lot of stuff lying around?

22 A. Yes.

23 Q. Not a well-kept house?

24 A. No, but I've seen worse.

25 Q. Thank you for that. You've been to houses

1 where children have been abused?

2 A. Yes.

3 Q. Where the filthy living conditions you would
4 consider worse and be an example of child abuse?

5 MR. VERHAREN: Objection. Relevance, beyond
6 the scope.

7 THE COURT: Overruled. You may answer.

8 THE WITNESS: Uh, yeah, it's a gray area but,
9 yeah, there was worse.

10 Q. (BY MR. ADAMS) So your answer is yes?

11 A. I'd say it's a gray area.

12 Q. How many beds were in that house?

13 A. One traditional bed, I believe.

14 Q. How many people lived in the house?

15 A. Three.

16 Q. How many bedrooms were there in the house?

17 A. One -- or two. Correction, two.

18 Q. The bedroom where you located the bodies of
19 Eldon's dad and his brother, that's what you're calling
20 a bedroom, true?

21 A. That's one bedroom.

22 Q. And there's a little room looks like it's been
23 tacked onto the house with a hole cut through the
24 exterior wall. That's what you're calling the second
25 bedroom?

1 A. Yes.

2 Q. Where was the hot water heater in this house?

3 A. I don't recall.

4 Q. You didn't see one, did you?

5 A. Nothing jumps out at me. I don't know if it

6 was underneath the house or --

7 Q. You've been a policeman for how many years?

8 A. Twenty-two.

9 Q. You're a professional investigator employed by

10 the City of Coeur d'Alene?

11 A. Yes.

12 Q. You're a lieutenant of police?

13 A. That's correct.

14 Q. You were here searching a house with two dead

15 bodies in it?

16 A. Correct.

17 Q. That's about the size of this docket that

18 we're in here today. Do you think if there was a water

19 heater in there you would've seen it, Lieutenant?

20 A. I don't recall if it was in the back room like

21 where the storage unit was. I'm trying to recall if it

22 was. It could be hidden back there. I didn't search

23 every inch of that place, sir.

24 Q. Did you see a water heater in the house?

25 A. I don't recall one, no.

1 Q. Okay. So the answer is no, you didn't see a
2 water heater.

3 A. Correct.

4 Q. Okay. Let's talk about the weapons that were
5 in the house. There were a lot of weapons in there,
6 weren't there?

7 A. Correct.

8 Q. You've told us about a few, uh, throwing
9 stars. What's a throwing star?

10 A. I'd describe a throwing star as a multi-bladed
11 circular figure which I've always known as a throwing
12 star. It's round. They're smaller. They can be
13 various sizes, and they have four to six bladed edges on
14 them, pointy, which, if you throw them, they will
15 usually stick into something.

16 Q. You have experience -- you know what those are
17 used for?

18 A. My experience with those are through
19 television, magazines, seeing them now and again.
20 That's my experience with those.

21 Q. Those are used for one person to throw as a
22 weapon at another person?

23 A. Or for fun.

24 Q. Is there any restrictions on buying those or
25 possessing those in Idaho considering they're a weapon?

1 A. Um, that would be up to the discretion of the
2 court.

3 Q. Okay. So the policemen don't make those
4 decisions on weapons in the Coeur d'Alene Police
5 Department?

6 MR. VERHAREN: Objection, relevance and
7 argumentative.

8 THE COURT: What would the relevance of this
9 be, Mr. Adams?

10 MR. ADAMS: Judge, it's gonna be entirely
11 relevant when you listen to the interrogation of the
12 child.

13 THE COURT: Can you expand on that and share
14 with me, other than letting me know there's going to be
15 a curtain open up later?

16 MR. ADAMS: Uh, that's -- I can't tell you in
17 front of the prosecutor and the witness. I can tell you
18 in chambers.

19 THE COURT: Well, I'll sustain the objection
20 at this time.

21 MR. ADAMS: But as an officer of the court,
22 I'm telling you it's relevant to the interrogation.

23 THE COURT: The objection is sustained.

24 Q. (BY MR. ADAMS) The police arrest people in
25 this county all the time for carrying concealed weapons,

1 right? That's a crime, carrying a concealed weapon?

2 MR. VERHAREN: Objection, relevance.

3 THE COURT: Sustained.

4 Q. (BY MR. ADAMS) What other weapons were in the
5 house other than these throwing stars?

6 A. There were numerous knives, machetes,
7 handguns.

8 Q. There are certain types of knives under the
9 Idaho Code that's illegal to possess, correct? Dirks,
10 switchblades, things like that?

11 A. Yes. If they're concealed.

12 Q. So I can -- it's okay for me to walk around
13 with a switchblade or a dirk in my hand as long as it's
14 not concealed? That's your testimony?

15 MR. VERHAREN: Objection, relevance.

16 THE COURT: Sustained.

17 Q. (BY MR. ADAMS) How about weapons, guns,
18 pistols, long rifles, shotguns? Tell us about what you
19 found in that house.

20 A. There were two handguns, a shotgun, numerous
21 knives, machetes, throwing stars. Um, there was a
22 unique like claw-type weapon that you put over your hand
23 that was depicted in the picture that you gave me. Um,
24 nunchucks.

25 Q. How about evidence that there were other

1 weapons that have been in this house that were no longer
2 in the house like, uh, user guides, pawn slips, cases
3 that weapons are stored in? How about those things?

4 A. Yeah, correct. There was a magazine loaded
5 with -- I don't know the caliber of the bullet, but it
6 was like an assault-type weapon like an AR-type weapon.

7 Q. How about owner's manuals for other types of
8 weapons that you didn't locate when you were there?

9 A. I don't know about that, sir.

10 Q. All these weapons you've talked about, these
11 are deadly weapons, aren't they? You can use these to
12 kill people?

13 A. They could, yes.

14 Q. Let's talk about the video games that you
15 said -- I think you mentioned video games and Xbox
16 games. I forget exactly what you testified about, but
17 you know what I'm talking about, video games that the
18 kids use?

19 A. Yes.

20 Q. There were a lot of those?

21 A. Yes. There was, uh, several on top of his
22 dresser. There was some in the living room. I didn't
23 take inventory of those.

24 Q. Can you tell us the titles of those?

25 A. I could tell you the title of one of them and

1 one of the movies.

2 Q. Go ahead.

3 A. One was Grand Theft Auto V which I saw a
4 picture of. It was ejected from the Xbox. I believe it
5 was in Eldon's room. I remember looking up there at the
6 other movies. I don't recall at this point what they
7 were. There was um, like a zombie-type movie. There
8 was Call of Duty in the other one in the living room.
9 Call of Duty was in that one.

10 Q. Is it fair to say that most of the games you
11 saw were games about violence and killing, zombies,
12 soldiers, wars, things like that?

13 A. Yes.

14 Q. And there was other paraphernalia associated
15 with that kind of interest as well there, correct?

16 A. Yes.

17 Q. Hats --

18 A. Yes.

19 Q. -- that had slogans on them like zombie
20 slogans, things like that?

21 A. Correct.

22 Q. And other hats that threatened to kill people
23 if they didn't agree with your beliefs, things like
24 that?

25 A. Correct.

1 Q. Okay. Let's talk about other things that you
2 saw in the house. I want to talk to you about drugs
3 that were in the house. Pharmaceutical drugs, let's
4 talk about those. Tell us what you saw in the house in
5 the way of pharmaceutical drugs.

6 A. I did not inventory that, sir. I know that
7 there was numerous bottles in the kitchen cabinets, um,
8 and I noticed pictures -- I know the detectives were
9 taking pictures of those. I did not focus in on those,
10 and I could not tell you. I remember a few of them
11 but --

12 Q. Tell us the ones you recall.

13 A. Well, the names I would recognize if I saw it
14 again.

15 Q. Hydrocodone?

16 A. I didn't see that one.

17 Q. Hydromorphone?

18 A. No.

19 Q. Dilaudid?

20 A. No.

21 Q. Lorazepam?

22 A. Yes.

23 Q. Fair to say there was a lot of prescription
24 drugs in this house?

25 A. Yeah, and a generic pain killer like an

1 aspirin, I remember one picture of that.

2 Q. It's fair to say there was a lot of
3 prescription drugs in this house, true?

4 A. True.

5 Q. Did you -- can you tell us for whom the drugs
6 had been prescribed? Did you notice that?

7 A. A lot of them, the ones that I saw just said
8 Eldon Samuel, so I didn't know if they were for the dad
9 or the defendant.

10 Q. They will were for an Eldon, not a Jonathan
11 Samuel, true?

12 A. True.

13 Q. And so matter of fact, when you did the blood
14 work from the autopsy you found Dilaudid, hydromorphone
15 and hydrocodone in the dad's blood, right?

16 A. Two of those sound familiar, yes.

17 Q. Did you test Eldon for drugs? Did you take
18 his blood?

19 A. No.

20 Q. Did you do anything to preserve any evidence
21 whatsoever to see if Eldon was under the influence of
22 alcohol or drugs at all? Did the police even do that in
23 this case?

24 A. I would say that our experience and talking --

25 Q. It's a "yes" or "no", sir.

1 A. Did we do anything? Is what you said?

2 Q. Did you take his blood or preserve any body
3 fluids or hair or anything that we'd know whether he was
4 under the influence of drugs that night?

5 A. Well, there's observation and that is a test
6 with us, but no -- are you talking --

7 Q. Objective tests like scientists do with gas
8 chromatographs and things like that?

9 A. No.

10 Q. So you didn't preserve any bodily fluids,
11 hair, toe nail clippings, blood, saliva, anything that
12 we could know what, if any, drugs were in him that
13 night, true?

14 A. True.

15 Q. When you were at the house, how long were you
16 there before the bodies were removed from the house?
17 Maybe a better way to ask it, about what time did the
18 people come and take the bodies away?

19 A. I don't remember the specific hour. I'm
20 guessing.

21 Q. Like eight o'clock in the morning or midnight?
22 Just generally.

23 A. I don't recall what time they took the bodies.

24 Q. You know, it's not really important to this
25 line of question whether it was, you know, 45 minutes or

1 an hour, but it's important whether it was four hours or
2 eight hours. Can you give us even that?

3 A. It was within the early morning. Um, I -- we
4 executed the search warrant after 1:00, I would have to
5 refresh my memory, and then hours later but not eight
6 hours later the bodies were removed.

7 Q. Is it fair to say the bodies weren't removed
8 until after Eldon had been arrested following his
9 interrogation? Is that fair to say?

10 A. Yes.

11 Q. And you were in contact with the police that
12 were doing the interrogation with Eldon while you were
13 at the house with the bodies, true?

14 A. Yes, on one -- at least one occasion.

15 Q. And you knew that Eldon had told the police
16 that his dad had fired a weapon, true?

17 A. I believe there was something mentioned that
18 he said his dad shot the shotgun.

19 Q. So the answer to my question is yes?

20 A. Yes.

21 Q. What did you do to preserve the father's hands
22 so we could GSR them? What did you do?

23 A. Nothing.

24 Q. Nothing. What about at the autopsy? Did you
25 try to recover any evidence from dad's hands to see

1 whether he had shot any of those weapons? Did you guys
2 do any of this stuff?

3 A. No.

4 Q. Let's talk about the autopsy that you
5 attended. You've told us a little bit about the wounds.
6 We've had the affidavits of Sally Aiken admitted. The
7 cause of death to the dad was gunshot wounds, true?

8 A. I believe so.

9 Q. Okay. And you told us about the four wounds,
10 one entering his body in his stomach through the front,
11 exiting his body out the back.

12 A. Correct.

13 Q. Okay. And that's the wound that Dr. Aiken
14 said killed Eldon's dad?

15 A. Yes.

16 Q. And the other three shots were post-mortem
17 shots. He was already dead when Eldon shot him three
18 more times?

19 A. That's correct.

20 Q. Okay. Let's talk about the wounds to Jonathan
21 that you've described. Jonathan was shot five times
22 with a shotgun. If you have your report, I could refer
23 you to your report if you want to refresh your
24 recollection. My Bates number on it is 1261. Do you
25 have those page numbers? Or at the top on the fax

1 number it says Page 37. Does that help you find it?

2 A. Huh-uh.

3 Q. I can approach and show you if you can't find
4 it.

5 A. Is it on the second page?

6 MR. ADAMS: May I approach, Judge?

7 THE COURT: Sure. Does law enforcement put
8 Bates numbers on or is it just the attorneys that do
9 that?

10 MR. VERHAREN: It would be my assistant who
11 puts that on for discovery purposes.

12 THE COURT: So the officer doesn't necessarily
13 get that back, does he?

14 MR. VERHAREN: No.

15 Q. (BY MR. ADAMS) That's why I gave this one to
16 him. I'm just glad I got the Bates number. Do you
17 recognize that? "Detective Gillmore and I attended the
18 autopsy." It looks like at the top here it says
19 Page 37.

20 A. Yeah, that's not mine. That number's not
21 mine, but, uh -- right here?

22 Q. Yeah. If you just want to review that and see
23 if that helps you refresh, I'm gonna ask you about the
24 wounds to Jonathan. That help you recall what you saw
25 at the autopsy?

1 A. I don't know why I divided there and not here.

2 Q. Yeah. I have about six versions of your
3 report.

4 MR. ADAMS: Judge, if it's okay, I can just
5 stand here with him and go over it so we can move on.

6 THE WITNESS: I want to verify what I have
7 here once I find it. Um, I don't see where this is
8 March 26. Do you see that on mine?

9 Q. (BY MR. ADAMS) Do you want to go back to the
10 cover page here?

11 A. Oh, it might be here. I'm sorry. Okay. Here
12 we go. Next page.

13 Q. All right. Is that gonna help you --

14 A. Yes.

15 Q. -- answer questions about the wounds --

16 A. Yes.

17 Q. -- on Jonathan at the autopsy? Okay. The
18 wounds -- he was shot five times with a twelve-gauge
19 shotgun?

20 A. Yeah, I believe so.

21 Q. Okay. And four times with a .45 caliber
22 handgun?

23 A. Correct.

24 Q. That's the same handgun that had been used to
25 shoot the father? Let me ask you this. Did the police

1 believe there were two different .45 handguns involved
2 in shooting dad and brother?

3 A. No, but we just haven't had the forensics back
4 on that, so to say definitively, I would not want to say
5 that at that point.

6 Q. The police arrived at the house while Eldon
7 was still on the 911 call, correct?

8 A. Yes.

9 Q. And you folks spent a lot of time, couple of
10 days searching that house, right?

11 A. Correct.

12 Q. How many .45 caliber automatic handguns did
13 the police find?

14 A. One.

15 Q. Both dad and John were shot with a .45 caliber
16 handgun; the dad four times and Jonathan five times?

17 A. Uh, we recovered one from Jonathan and, again,
18 it's not definitive yet, but it appears to be a .45
19 caliber bullet.

20 Q. I misstated that. Jonathan was shot five
21 times with a shotgun and four times with the .45,
22 correct?

23 A. Correct.

24 Q. And dad was shot four times with a .45?

25 A. Correct.

1 Q. How many bullets, rounds, does the .45 that
2 the police do have hold?

3 A. It was not viewed by me at that point. Um, I
4 believe at least eight.

5 Q. And one in the chamber?

6 A. Correct.

7 Q. So .45 caliber semi-automatic handgun can hold
8 nine rounds?

9 A. If it has an eight-round magazine, it can,
10 yes.

11 Q. Okay. Well, the one they gave me in the Navy
12 did. Have you seen different ones?

13 A. Excuse me?

14 Q. Have you seen different .45 caliber handguns
15 than this one with a clip and the amount of bullets it
16 will hold in them?

17 A. I believe some have extensions, extended
18 magazines, so that's what I was referring to.

19 Q. And the wounds that we find on Eldon's dad and
20 Eldon's brother made with a .45 caliber handgun totaled
21 eight, correct?

22 A. Correct.

23 Q. And this is a gun that shoots -- can shoot
24 nine bullets?

25 A. It could, yes.

1 Q. And you folks were given information that
2 Eldon said his dad had fired that handgun earlier,
3 correct?

4 MR. VERHAREN: Objection, hearsay.

5 THE COURT: Sustained.

6 MR. ADAMS: I'm not offering it for the truth
7 of the matter, Judge. I'm offering it to see what he
8 did about the information.

9 THE COURT: On a limited basis I'll allow.

10 Q. (BY MR. ADAMS) Okay. You were given
11 information that Eldon claimed his dad had shot that
12 handgun, right? That night?

13 A. Yes.

14 Q. And you sent a policeman with a metal detector
15 to look for the bullet?

16 A. Correct, the shell casing.

17 Q. Okay. And despite all that knowledge, again,
18 you didn't bother to check the dad's hands? We've
19 already gone over that.

20 Again, back to the wounds to Jonathan we're
21 talking about. That was five shotgun wounds, four .45
22 caliber handgun wounds, correct?

23 MR. VERHAREN: Objection. Asked and answered
24 a couple of times.

25 THE COURT: Sustained.

1 Q. (BY MR. ADAMS) Two of the gunshot wounds, .45
2 caliber wounds, were to Jonathan's upper chest near the
3 right side of his chest, correct?

4 A. Yes.

5 Q. And the cause of death that Dr. Aiken
6 determined -- Sally Aiken determined to be was those
7 gunshot wounds, correct?

8 A. No.

9 Q. The cause of death Dr. Aiken determined to
10 Jonathan was he had been shot, he died from gunshot
11 wounds, true?

12 A. True.

13 Q. And all of the marks you told us about, the
14 other wounds with the knife and the machete, were all
15 post-mortem wounds. Those were wounds after Jonathan
16 was dead, right?

17 A. No.

18 Q. Well, you have the affidavit of Aiken. Let me
19 get it out here. Do you have wounds that were made
20 prior to -- never mind. I'll move on. The affidavit
21 speaks for itself. Did you do any tests on Jonathan to
22 see what, if any, drugs were in his system when he died?

23 A. I believe the medical examiner does that.

24 Q. You don't know about that?

25 A. Not offhand, no.

1 Q. Now, you were communicating with the police
2 that were interrogating Eldon when you were at the
3 house, true?

4 A. Yes. I had at least one conversation.

5 Q. Tell us about that conversation.

6 A. I don't recall the details of it.

7 Q. Were you asking them questions? Were they
8 asking you questions? What was the nature of that
9 interaction?

10 A. In general, I remember them saying that he
11 admitted shooting his father in the stomach while he was
12 in the south bedroom. He'd come at him and, uh, pushed
13 him and then he -- he shot him in the stomach, and then
14 he stumbled backwards and, uh, crawled and then ended up
15 in the bedroom.

16 Q. Based on any of the things that you were
17 talking about, did you do something at the house based
18 on what the interrogators were telling you?

19 A. Yes, we did. We looked for evidence for that
20 reason, to match up the story from what he -- what he
21 was being told or what we were told.

22 Q. What in particular did you look for based on
23 what the police told you Eldon had said during the
24 interrogation?

25 A. The shell casing in that room, um, the blood

1 trail matched, the story matched what, uh -- what he
2 told us.

3 Q. So what you did is looked for stuff that
4 incriminated Eldon but didn't verify his story that he
5 acted in self-defense; is that fair to say? That's what
6 the police did?

7 MR. VERHAREN: Objection, argumentative.

8 THE COURT: Sustained. Objection is
9 sustained. You may ask a different question.

10 Q. (BY MR. ADAMS) Did you ask the interrogators
11 to do anything based on your investigation of the scene
12 there at the house?

13 A. I don't recall what it was.

14 Q. Now, you and I talked that night?

15 A. Yes.

16 Q. At the police station?

17 A. Yes.

18 Q. I came to the police station?

19 A. Yes.

20 Q. And I brought the police a copy of an Idaho
21 Code statute?

22 A. I believe you did, yes.

23 Q. The statute that says when you have a
24 fourteen-year-old boy in custody, he's entitled to talk
25 with a lawyer or a parent or a friend, right?

1 A. I did not have that interpretation.

2 Q. And I told you who I was because you know me,
3 you know I'm the public defender?

4 A. I assumed you were. Um, I don't read the
5 paper, and I don't know if you were currently at that
6 time.

7 Q. Okay. I cross-examined you in court before?

8 A. In the past you have.

9 Q. And I told you I was still the public
10 defender?

11 MR. VERHAREN: Objection, hearsay.

12 THE COURT: Sustained.

13 Q. (BY MR. ADAMS) And I asked you to let Eldon
14 know that there was a lawyer there, the public defender
15 for Kootenai County, that he could consult with if he
16 desired, true?

17 MR. VERHAREN: Objection, hearsay.

18 THE COURT: Sustained.

19 MR. ADAMS: How is it hearsay? I'm not
20 offering it for --

21 THE COURT: It's an out-of-court statement --

22 MR. ADAMS: Fine, fine. I'll change it.

23 THE COURT: -- offered for the truth of the
24 matter asserted. It's hearsay.

25 Q. (BY MR. ADAMS) You were informed that there

1 was an attorney there for Eldon, true?

2 MR. VERHAREN: Objection, hearsay.

3 THE COURT: Sustained.

4 MR. ADAMS: I don't get how it's hearsay. I'm
5 not offering the statement --

6 THE COURT: I think it is. I guess we have a
7 disagreement.

8 MR. ADAMS: Okay. But you are the judge.

9 Q. (BY MR. ADAMS) You knew there was a lawyer
10 there?

11 MR. VERHAREN: Objection, relevance.

12 THE COURT: Overruled. You may answer that
13 question.

14 THE WITNESS: I was made aware, yes.

15 Q. (BY MR. ADAMS) You talked to that lawyer?

16 A. Yes.

17 Q. And you knew that lawyer was there for Eldon?

18 MR. VERHAREN: Objection. Relevance, hearsay.

19 THE COURT: Overruled. You may answer.

20 THE WITNESS: Yes.

21 Q. (BY MR. ADAMS) And you told that lawyer that
22 that lawyer was impeding your investigation?

23 MR. VERHAREN: Objection, hearsay.

24 THE COURT: Sustained.

25 MR. ADAMS: This is what the officer stated.

1 THE COURT: Still an out-of-court statement.

2 Objection sustained.

3 Q. (BY MR. ADAMS) And you made a statement to
4 that attorney?

5 THE COURT: Did you hear his question?

6 THE WITNESS: Oh, that was a question? Yes, I
7 did.

8 Q. (BY MR. ADAMS) And that statement was that
9 that lawyer was impeding your investigation?

10 MR. VERHAREN: Objection, hearsay.

11 THE COURT: Sustained.

12 Q. (BY MR. ADAMS) What did you tell the lawyer?

13 MR. VERHAREN: Objection, relevance and
14 hearsay.

15 THE COURT: Sustained.

16 Q. (BY MR. ADAMS) Did you inform Eldon that a
17 lawyer was there?

18 MR. VERHAREN: Objection, hearsay.

19 THE COURT: Overruled. Just answer the
20 question "yes" or "no".

21 THE WITNESS: No.

22 Q. (BY MR. ADAMS) He was being interrogated at
23 that time, Eldon was, at the time the lawyer came there?

24 A. I don't know.

25 Q. You don't know if Eldon was still in the

1 building?

2 A. He was.

3 Q. That was pretty -- yeah, Eldon was still in
4 the building. At the time the lawyer came to ask for a
5 consultation with Eldon, Eldon was still there, true?

6 MR. VERHAREN: Objection. Lack of foundation
7 that the lawyer asked for a consultation with Eldon.

8 THE COURT: Sustained.

9 Q. (BY MR. ADAMS) At the time the lawyer was
10 there, Eldon was still there being interrogated, true?

11 MR. VERHAREN: Objection, asked and answered.
12 He said he didn't know.

13 THE COURT: Sustained.

14 Q. (BY MR. ADAMS) There were a couple of
15 prosecutors there while Eldon was being interrogated,
16 true?

17 A. Yes.

18 Q. Donna Gardner and David Robins?

19 A. Yes.

20 Q. Did you talk to them that night?

21 A. Momentarily, yes.

22 Q. Did you tell them there was a lawyer there for
23 Eldon?

24 MR. VERHAREN: Objection, hearsay.

25 THE COURT: Sustained.

1 Q. (BY MR. ADAMS) Did you have any discussions
2 with the prosecutors about a lawyer being there for
3 Eldon?

4 MR. VERHAREN: Objection, hearsay.

5 MR. ADAMS: I didn't ask him what he said. I
6 asked him if there was a discussion.

7 THE COURT: Overruled. You may answer that
8 question "yes" or "no".

9 THE WITNESS: No.

10 Q. (BY MR. ADAMS) There was a judge there that
11 night, right?

12 A. Yes.

13 Q. Did you have any discussions with the judge
14 that the public defender was there for Eldon?

15 MR. VERHAREN: Objection. Lack of foundation
16 that the public defender was there and hearsay.

17 THE COURT: Sustained.

18 Q. (BY MR. ADAMS) You saw me there that night?

19 MR. VERHAREN: Objection.

20 Q. (BY MR. ADAMS) Did you have any discussions
21 with the judge that I was there?

22 MR. VERHAREN: Same objections.

23 THE COURT: Sustained.

24 BY MR. ADAMS: What was the grounds for that
25 one?

1 THE COURT: Hearsay and relevance.

2 Q. (BY MR. ADAMS) I'm not asking you what you
3 said to the judge. Was the judge there the same time
4 that I was there?

5 A. I don't recall.

6 Q. Were the prosecutors there the same time I was
7 there?

8 A. I don't recall.

9 Q. Did I impede your investigation by showing up
10 for the fourteen-year-old boy you were interrogating?

11 MR. VERHAREN: Objection, relevance and
12 argumentative.

13 THE COURT: Sustained.

14 Q. (BY MR. ADAMS) You threatened me to leave,
15 didn't you?

16 MR. VERHAREN: Same objections.

17 THE COURT: Sustained.

18 MR. ADAMS: Will the record reflect he's
19 smiling about that, Judge?

20 THE COURT: I can only see the back of his
21 head.

22 MR. ADAMS: I can see him and I want the
23 record to reflect --

24 THE COURT: Well, then I can't make the record
25 reflect --

1 MR. ADAMS: -- he thinks that's funny.

2 THE COURT: -- something that I don't see.

3 Q. (BY MR. ADAMS) Let's talk about some other
4 items that you saw in the house. Scrubbing Bubbles,
5 tell us about Scrubbing Bubbles. Did you see Scrubbing
6 Bubbles in the house? It's a cleaning product.

7 A. I believe I did.

8 Q. You saw a lot of it there, an inordinate
9 amount for a little house like that?

10 A. No.

11 Q. How many bottles of Scrubbing Bubbles did you
12 see in that little house?

13 A. I don't remember.

14 Q. More than one?

15 MR. VERHAREN: Objection. He said he doesn't
16 remember.

17 THE COURT: Sustained.

18 Q. (BY MR. ADAMS) There was more than one,
19 right?

20 MR. VERHAREN: Objection, asked and answered.

21 THE COURT: Sustained.

22 Q. (BY MR. ADAMS) Did you examine any of those
23 cleaning products that were in that house?

24 A. No.

25 Q. You're familiar that people get high by using

1 products like that to huff them, snort them, right?

2 MR. VERHAREN: Objection, relevance.

3 THE COURT: Overruled. You may answer that
4 question.

5 THE WITNESS: No.

6 Q. (BY MR. ADAMS) You're not familiar with that?

7 MR. VERHAREN: Objection, asked and answered.

8 THE COURT: Sustained. He said no.

9 Q. (BY MR. ADAMS) How long's it been since
10 you've been involved in investigation of crimes
11 involving drugs?

12 A. I was, um, in patrol and I was around it and I
13 read the reports. I see the patrolmen come in with the
14 drugs. I don't recall anyone getting high off of
15 Scrubbing Bubbles so --

16 Q. Okay. My question was how long has it been
17 since you were out there, because I cross-examined you
18 and you testified meth addicts inject with syringes meth
19 into their eyes. Do you remember tes --

20 A. Absolutely.

21 Q. Okay. You're familiar with people injecting
22 methamphetamine into their eyes but not people getting
23 high on household cleaners; is that your testimony?

24 MR. VERHAREN: Objection, argumentative.

25 THE COURT: Overruled. You may answer.

1 THE WITNESS: That wasn't your question.

2 Q. (BY MR. ADAMS) It was a question.

3 A. That wasn't your question when you asked me
4 are you familiar with someone getting high off of these,
5 and my answer was no on what you were talking about
6 preceding that question.

7 MR. ADAMS: Can I take a moment and, uh --

8 THE COURT: Yes, you may. Does the witness
9 need something?

10 THE WITNESS: A break, restroom break.

11 THE COURT: You need a break?

12 THE WITNESS: Yes.

13 THE COURT: We will take a break. Let's take
14 about ten minutes.

15 THE WITNESS: Okay.

16 THE COURT: We can do that.

17 *(Recess taken)*

18 THE COURT: Be seated, please. All right.

19 We're back on the record in Case Number 2014-5178.

20 Detective Turner, you're still under oath.

21 THE WITNESS: Yes I do.

22 THE COURT: All right. Both or all counsel
23 and Mr. Samuel are still present. You may continue
24 there, Mr. Adams.

25 MR. ADAMS: Thank you, Judge.

1 Q. (BY MR. ADAMS) I'm going to go back over
2 those wounds to Jonathan, Judge. We found it in the
3 police report and now I just lost it.

4 A. It's right under your highlighted area.

5 Q. There's a lot of highlights on your report.

6 A. Oh.

7 Q. There it is. We talked a little bit about the
8 wounds that were post-mortem to dad and a little bit
9 about the wounds that were post-mortem to Jonathan. I
10 wanted to make the record clear on the post-mortem
11 wounds to Jonathan, okay?

12 During the break I asked you to read the
13 paragraph in your report about that. Does that refresh
14 your recollection reading that report?

15 A. Oh, no. I was aware of what I answered
16 earlier that, um, not all were post-mortem, sir.

17 Q. Dr. Aiken attributed Jonathan's death to
18 multiple firearm wounds, correct?

19 A. Correct.

20 Q. Okay. And with the exception of two chop
21 wounds to the forehead --

22 A. Correct.

23 Q. -- all of the rest of the wounds on the body
24 were post-mortem, correct?

25 A. She believed so, yes.

1 Q. Okay. And we're talking forty, fifty wounds?

2 A. Yes.

3 MR. ADAMS: I don't have any other questions.

4 Thank you.

5 THE COURT: Any redirect?

6 MR. VERHAREN: No, thank you.

7 THE COURT: All right. Detective, or
8 Lieutenant I should say, you may step down. May he be
9 excused?

10 MR. VERHAREN: Please.

11 THE COURT: Any objection?

12 MR. ADAMS: Are you going to be available if
13 we need you back --

14 THE WITNESS: Yes.

15 MR. ADAMS: -- on the defense case?

16 THE WITNESS: Tomorrow, today. Yes.

17 MR. ADAMS: That's good then. Thank you.

18 THE COURT: All right. You are excused then.

19 Who would you like to call next?

20 MR. VERHAREN: Brandon McCormick.

21 THE COURT: Okay.

22 MR. VERHAREN: Judge, would it be permissible
23 for Lieutenant Turner to stay?

24 THE COURT: Any objection?

25 MR. ADAMS: As long as he's not gonna be

1 called, uh, to testify again after watching another
2 witness' testimony I don't.

3 THE COURT: With that understanding, I don't
4 have any problem with him remaining.

5 MR. VERHAREN: Thank you, Judge.

6 THE COURT: Okay. Officer McCormick, raise
7 your right hand. My clerk will swear you in.

8 BRANDON McCORMICK,
9 called as witness at the request of the
10 Plaintiff, being first duly sworn, was
11 examined and testified as follows:

12 THE COURT: Have a seat. Go ahead.

13 MR. VERHAREN: Thank you.

14 DIRECT EXAMINATION

15 QUESTIONS BY MR. VERHAREN:

16 Q. Please state your full name and spell your
17 last name.

18 A. Brandon McCormick, M-c-C-o-r-m-i-c-k.

19 Q. How are you employed?

20 A. With the Coeur d'Alene Police Department.

21 Q. How long have you been there?

22 A. Fourteen years.

23 Q. Your position?

24 A. I currently am the sergeant of investigations.

25 Q. On March 24th, 2014, did you participate in an

1 interview at the Coeur d'Alene Police Department?

2 A. Yes.

3 Q. About what time did this take place?

4 A. I believe it was around 9:48 that evening.

5 Q. And where, more specifically, at the Coeur
6 d'Alene Police Department did the interview take place?

7 A. Uh, it was in the investigations side of the
8 house in interview room one.

9 Q. Besides yourself, who else was present?

10 A. Detective Wilhelm.

11 Q. And a third person?

12 A. No.

13 Q. Did a third person join in the interview that
14 you and Detective Wilhelm had with -- let me back up a
15 little bit. Was there three people engaged in this
16 interview?

17 A. No.

18 Q. Were there two police officers and a third
19 person in this room at some point?

20 A. Yes.

21 Q. Who was the third person?

22 A. Eldon.

23 Q. Last name?

24 A. Eldon Samuel, III.

25 Q. Is he here today?

1 A. Yes.

2 Q. Please point him out, describe where he's
3 seated, tell us what he's wearing.

4 A. He's seated at the defense table in a green
5 shirt.

6 Q. Prior to the interview with Mr. Samuel did you
7 have him remove his clothes?

8 A. Yes.

9 Q. The purpose of that?

10 A. Um, it was obvious that there was, um, what we
11 believed to be evidence on his clothing and so we -- we
12 took it for evidentiary purposes.

13 Q. Was he given some other clothes to put on?

14 A. Yes. They had brought some clothes from his
15 house with him.

16 Q. This interview room, does it have a recording
17 device?

18 A. Yes.

19 Q. Can you describe it, please?

20 A. It's a camera that basically is up in the
21 ceiling of the room that records video and audio.

22 Q. And was it activated during this interview
23 with Mr. Samuel?

24 A. Correct, yes.

25 Q. Prior to engaging in the interview with him,

1 did you or Detective Wilhelm give him a Miranda warning?

2 A. Yes.

3 Q. Were you present when that occurred?

4 A. I was.

5 Q. And was that a written Miranda warning?

6 A. It was a -- it's on a form that's gone over
7 with the person we're talking to and then signed.

8 Q. All right. Let me show you what's been marked
9 as Exhibit 1A. It's a single piece of paper. Do you
10 recognize it?

11 A. I do.

12 Q. What do you recognize that to be?

13 A. This is the Miranda warning which, um,
14 Mr. Samuel signed as -- and I believe that's Detective
15 Wilhelm's signature.

16 Q. And was that read to Mr. Samuel?

17 A. Correct.

18 Q. Were you present when that happened?

19 A. Yes.

20 Q. Did you watch Mr. Samuel initial that?

21 A. Yes.

22 Q. As well as Detective Wilhelm?

23 A. Yes.

24 Q. Does that appear to you to be an accurate
25 photocopy of the original?

1 A. Yes, sir.

2 MR. VERHAREN: Move to admit 1A.

3 *(Exhibit No. Plaintiff's 1A offered)*

4 MR. ADAMS: There's a lack of foundation for
5 that, Judge, so I'm gonna object to that.

6 THE COURT: Overruled. 1A will be admitted.

7 *(Exhibit No. Plaintiff's 1A admitted)*

8 Q. (BY MR. VERHAREN) Approximately how long was
9 the interview?

10 A. Oh, about a little over three hours.

11 Q. Let me show you what's been marked as 1B, 1C
12 and 1D. They are three individual CDs. Take a moment
13 and look those over, please.

14 A. Okay. All right.

15 Q. Do you recognize 1B, 1C and 1D?

16 A. I do.

17 Q. What do you recognize those to be?

18 A. Uh, B is part one of the interview; two or,
19 um, C is part two, and D is part three.

20 Q. How do you -- how do you recognize those?

21 A. I reviewed the DVDs.

22 Q. Do those appear to you to be an accurate copy
23 of the recording of the interview with Mr. Samuel?

24 A. Yes.

25 Q. One more exhibit for you that's been marked as

1 1E. Do you recognize it?

2 A. This is the transcript of my -- mine and
3 Detective Wilhelm's interview with Mr. Samuel.

4 Q. Have you taken the opportunity to compare 1E
5 with the three CDs that you just discussed?

6 A. I have.

7 Q. And are they the same?

8 A. Yes.

9 Q. Does 1E appear to be an accurate transcript of
10 the recording of the interview of Mr. Samuel --

11 A. Yes.

12 Q. -- that you and Detective Wilhelm had?

13 A. Yes, sir.

14 MR. VERHAREN: Move to admit 1B, C, D and E.

15 (*Exhibit Nos. Plaintiff's 1B through 1E*
16 *offered*)

17 MR. ADAMS: Judge, I object. There's no
18 foundation. The admission of these would violate
19 Eldon's rights under the 5th and 14th Amendment to the
20 U.S. Constitution and also concomitant rights under the
21 Idaho Constitution. There's no adequate foundation that
22 he knowingly and intelligently waived his Constitutional
23 rights to give statements to the police. That
24 foundation hasn't been laid before you.

25 THE COURT: 1B, C, D and 1E are admitted.

1 Objection is overruled.

2 (Exhibit Nos. Plaintiff's 1B through 1E
3 admitted)

4 MR. ADAMS: I meant to say voluntarily as well
5 as knowing and intelligently as part of my objection.

6 Thank you.

7 MR. VERHAREN: No further questions.

8 THE COURT: Mr. Adams?

9 CROSS-EXAMINATION

10 QUESTIONS BY MR. ADAMS:

11 Q. I saw you that night at the police station?

12 A. Yes.

13 Q. I gave you a copy of a Idaho statute?

14 A. You gave me something that I gave to
15 lieutenant, yes, sir.

16 Q. You gave that copy to Lieutenant Turner?

17 A. Correct.

18 Q. Okay. Did you two discuss that?

19 A. I was getting ready or in the middle of doing
20 what we were doing, and so I just kind of gave that to
21 Lieutenant Turner to handle.

22 Q. What'd you tell him when you gave it to him?

23 MR. VERHAREN: Objection, hearsay.

24 MR. ADAMS: It's not hearsay. It's not
25 offered for the truth. It's offered to see what they

1 did in response to a lawyer being there for Eldon. This
2 is part of my objection.

3 THE COURT: If it's not offered for the truth,
4 then how is it relevant?

5 MR. ADAMS: How they acted in response to it.
6 What he told Turner is not offered for the truth of what
7 he told him. It's for how they reacted to the
8 information he had.

9 THE COURT: Then I don't see any relevance to
10 it. The objection is sustained.

11 Q. (BY MR. ADAMS) You knew there was a lawyer
12 there to see Eldon, right?

13 A. Yes.

14 Q. And you communicated that to your supervisor,
15 Lieutenant Turner?

16 A. Correct.

17 MR. VERHAREN: Objection, hearsay.

18 MR. ADAMS: I haven't offered any statements.

19 THE COURT: He volunteered yes before the
20 objection came in, so the answer will stand. Do you
21 have another question?

22 Q. (BY MR. ADAMS) Did you tell -- there were
23 prosecutors there that night, two prosecutors, right?

24 A. Uh, I believe there were two, yes.

25 Q. Did you tell them that the public defender was

1 there for Eldon?

2 MR. VERHAREN: Objection, hearsay.

3 THE COURT: Sustained.

4 Q. (BY MR. ADAMS) Did you communicate with them
5 at all that I was there?

6 MR. VERHAREN: Same objection.

7 MR. ADAMS: It's not hearsay. I'm not asking
8 for a statement.

9 THE COURT: I'll overrule that --

10 MR. ADAMS: It's what he said.

11 THE COURT: Just answer that one "yes" or
12 "no".

13 THE WITNESS: I -- I do not believe I said
14 that to them, no.

15 Q. (BY MR. ADAMS) Did you talk with those
16 prosecutors that night at the police station when you
17 were interrogating Eldon during that night?

18 A. Not while I was interrogating him. In
19 passing.

20 Q. In passing?

21 A. Um-hmm.

22 Q. Was that in passing during the course of the
23 three-plus-hour interrogation?

24 A. At some point, yes, but --

25 Q. You'd take a break and you'd leave the room?

1 A. Um-hmm.

2 Q. That's a yes?

3 A. Yes.

4 Q. Um-hmms are hard to track.

5 A. Sorry.

6 Q. And during the course of the interrogation
7 you'd take a break and then you'd talk with the
8 prosecutors that were there?

9 A. No.

10 Q. I guess I'm confused. You interrogated Eldon
11 for over three hours.

12 A. I interviewed Eldon for three hours, yes.

13 Q. You interrogated him. U.S. Supreme Court says
14 that's an interrogation, Officer.

15 A. Okay.

16 MR. VERHAREN: Objection, argumentative.

17 THE COURT: Sustained.

18 Q. (BY MR. ADAMS) Do you give Miranda rights to
19 people you interview?

20 A. Often.

21 Q. Okay. Are you familiar with why you give
22 Miranda rights?

23 MR. VERHAREN: Objection, relevance.

24 THE COURT: Sustained.

25 Q. (BY MR. ADAMS) Why did you give Miranda

1 rights to Eldon? Why did you do that?

2 A. Um, because he was being accused or had said
3 that he had just killed his brother and father --

4 Q. Well --

5 A. -- and I was gonna ask him questions about
6 that.

7 Q. Okay. You were gonna interrogate him about
8 the murders of his father and his brother, true?

9 A. Correct. Yes.

10 Q. Okay. And in fact, you had him in an
11 interrogation room?

12 MR. VERHAREN: Objection, argumentative.

13 THE COURT: Sustained.

14 Q. (BY MR. ADAMS) Where did you have him when
15 you were asking questions about the murder of his
16 family?

17 A. We had him in interview room one at the Coeur
18 d'Alene Police Department.

19 Q. And how is that set up?

20 A. Uh, there's a table, and I believe this
21 evening there were three chairs.

22 Q. And had you arranged for any particular order,
23 any particular reason to the arrangement of these
24 things?

25 A. Uh, there was myself and Detective Wilhelm on

1 one side, and Eldon was on the other.

2 Q. How did you decide where the three of you were
3 gonna be in the room?

4 A. The room's kind of set up and it tends to be
5 that way. Some detectives like to change the room
6 around. Um, I -- in particular, I just left it the way
7 it was.

8 Q. With two of you on one side?

9 A. Yeah.

10 Q. And Eldon on the other side?

11 A. Yes, sir.

12 Q. And --

13 A. And when I say that, Eldon's up against the
14 wall. There's a table that would be to the right of
15 Eldon, and then Detective Wilhelm was basically kind of
16 directly in front of Eldon, and then I was behind the
17 table on the opposite side.

18 Q. So Eldon's in the corner and you two are out
19 here in front of him. He's got to go through you to get
20 to the door, true?

21 A. The door -- his path to the door was not
22 blocked by either one of us.

23 Q. And the camera's behind you?

24 A. Camera's in the ceiling behind us.

25 Q. Okay. You can't see your face?

1 A. You can see the -- at times on there you can,
2 yes.

3 Q. If you turn around. But the vast majority of
4 the camera's faced at the person being interrogated?

5 A. Yes.

6 Q. Okay. That's why the room's set up that way?

7 A. Yes.

8 Q. Okay. And that's part of your training;
9 that's how you set up an interrogation room?

10 A. Yes.

11 Q. There's a piece of glass there that people
12 outside can watch the interrogation?

13 A. No.

14 Q. Are you aware of whether the prosecutors were
15 able to watch you interrogating Eldon?

16 A. I believe the prosecutor was.

17 Q. Okay. And when you took the breaks you had
18 conversations with the prosecutor?

19 A. Not about the interview.

20 Q. That's not what I asked you. I asked you if
21 you had conversation with him.

22 A. Yes.

23 Q. Now I'm gonna ask you what did you talk about?

24 MR. VERHAREN: Objection, hearsay.

25 THE COURT: Sustained.

1 Q. (BY MR. ADAMS) Did you ever ask the
2 prosecutors for advice on interrogating Eldon?

3 A. No.

4 MR. VERHAREN: Objection, hearsay.

5 THE COURT: Overruled. The answer no will
6 stand.

7 Q. (BY MR. ADAMS) Did the prosecutors ever give
8 you advice about interrogating Eldon?

9 A. No.

10 Q. Did you ever discuss the interrogation?

11 A. No.

12 Q. What about with the judge? Did you talk to
13 the judge that was there that night?

14 A. No.

15 Q. And did you already tell -- or did you tell
16 the prosecutors I was there?

17 MR. VERHAREN: Objection. Asked and answered
18 and hearsay.

19 THE COURT: Sustained.

20 Q. (BY MR. ADAMS) Who did you tell besides
21 Turner that I was there?

22 MR. VERHAREN: Objection, hearsay.

23 MR. ADAMS: It's not hearsay.

24 THE COURT: That's not hearsay. Overruled.
25 You may answer that question.

1 THE WITNESS: I believe I only told Lieutenant
2 Turner.

3 Q. (BY MR. ADAMS) Did you hear Lieutenant Turner
4 discuss it with anyone else that I was there?

5 A. No.

6 Q. Did you tell Eldon there was a lawyer there
7 for him?

8 A. No.

9 Q. Did you try to contact an adult for Eldon at
10 all?

11 A. No.

12 Q. When Eldon first got there, he was strip
13 searched?

14 A. He was not strip searched.

15 Q. Did you take all his clothes off --

16 A. Yes.

17 Q. -- until he was naked?

18 A. Yes.

19 Q. And then you gave him some clothes to put back
20 on?

21 A. Yes.

22 Q. Did you give him any underwear?

23 A. No.

24 Q. Did you give him any socks?

25 A. No.

1 Q. Did you give him any shoes?

2 A. No.

3 Q. Okay. And this was before you advised him of
4 his Miranda rights?

5 A. Yes.

6 Q. How long before did you take his clothes off?
7 How long before you Mirandized him did you take the
8 fourteen-year-old boy's clothes away?

9 A. I don't know exactly the time, but I would --
10 if you want me to guess, I can give you a guesstimate.

11 Q. As long as it's in the ballpark.

12 A. I'd say forty minutes.

13 Q. Okay. How long after you began to take -- you
14 got him into that interrogation room. How long after
15 that was it when you first Mirandized him?

16 A. Again, I want to say around forty minutes, but
17 I don't know that for sure.

18 Q. Well, there's a difference because you
19 interrogated him for quite a while before you Mirandized
20 him after you strip searched him, right? You talked to
21 him for quite a while before you Mirandized him?

22 MR. VERHAREN: Objection, compound question.

23 THE COURT: Sustained.

24 Q. (BY MR. ADAMS) You talked to him for quite a
25 while after the strip search before you Mirandized him?

1 A. But it wasn't asking any questions.

2 Q. I didn't ask you that.

3 A. Okay.

4 Q. And you know the law may have a different view
5 of what interrogation is than you do, Sergeant, okay?

6 A. Okay.

7 Q. After he was taken his clothes off and then
8 searched, you started the questioning after he got
9 dressed, right?

10 A. I guess we have a different perspective of
11 questioning.

12 Q. You talked to him?

13 A. Yes.

14 Q. I'll make it easier.

15 A. Yes. I spoke to Eldon, yes.

16 Q. Okay. And you spoke to him for some time
17 before he was Mirandized?

18 A. Yes.

19 Q. Okay. How much time elapsed between when you
20 first got him into the interrogation room and the time
21 you Mirandized him? That's including the strip search
22 or the taking-of-his-clothes-away search and the talking
23 to him, all of that time together.

24 A. I don't know the exact time.

25 Q. It was more than an hour, wasn't it?

1 MR. VERHAREN: Objection, asked and answered.
2 He stated he doesn't know.

3 THE COURT: I'll overrule that objection. The
4 question was more than an hour? Can you answer that?

5 THE WITNESS: It's very possible. I'm not
6 exactly sure, Judge. For some reason in my mind I'm
7 thinking about 48 minutes into -- into us being with
8 Eldon, but it could've been an hour, yes.

9 Q. (BY MR. ADAMS) Okay. The whole process --
10 have you reviewed these video tapes?

11 A. Yes.

12 Q. I think you just -- okay. It's about four
13 hours' worth of tape there, isn't there?

14 A. Um-hmm.

15 Q. That's a yes?

16 A. Well -- yes.

17 Q. Okay. And you said the interrogation was
18 about three hours.

19 A. When I said the three hours, it was actually
20 three hours and fifteen minutes that we spent talking to
21 Eldon about this. There was a lot of, um, down time and
22 time that he wasn't being talked to. There was time
23 where we were collecting evidence. The entire time that
24 he was at the police department was about five hours.

25 Q. Okay. And I'm just trying to focus on the

1 amount of time he was in your custody before he was
2 Mirandized. That's what I'm trying to get at here.

3 A. Okay.

4 Q. And if I have to tell you, kind of defeats the
5 purpose, so when he first got to the police station he
6 was in handcuffs?

7 A. Yes.

8 Q. And he was put in this room.

9 A. Yes.

10 Q. And describe the size -- the dimensions of
11 that room for the judge, please.

12 A. Nine by nine.

13 Q. That big? Doesn't look that big.

14 A. Again, I don't know. I've never measured the
15 room. It's a -- it's probably a little bit smaller than
16 the jury box square.

17 Q. Okay. And when you first got in there is when
18 you put -- you put white paper on the ground?

19 A. Yes.

20 Q. And that's when you were gonna take his
21 clothes and look him over and take photographs of him,
22 true?

23 A. Yes, yes.

24 Q. Okay. And how many policemen were in that
25 room with Eldon when that occurred?

1 A. Myself, Detective Reneau, Officer Rios, and I
2 believe at one point Detective Sudol was also in there,
3 but he ended up leaving.

4 Q. So we're thinking between three and five
5 police throughout that process were coming in and out of
6 that room?

7 A. I'd say three and four.

8 Q. Okay. It was quite clear that you were
9 policemen.

10 A. Yes.

11 Q. And Eldon was being told what to do?

12 A. Yes.

13 Q. Where to stand?

14 A. Yes.

15 Q. How to stand?

16 A. Yes.

17 Q. Which way to face?

18 A. Yes.

19 Q. And how long into this procedure was it before
20 the handcuffs were taken off him?

21 A. Again, I don't know the precise time, sir.

22 Q. Okay. You didn't just take them off right
23 away when he got in there and say, "Relax, Eldon." You
24 kept the cuffs on him a while and told him what to do;
25 fair to say?

1 A. Yes.

2 Q. Okay. Once he got into that room he never
3 left that room again except to go to the bathroom and be
4 arrested, correct?

5 A. Yes.

6 Q. Okay. He was confined to that space?

7 A. Yes.

8 Q. At a point during the time when the paper's
9 down when you're taking his clothes away from him, one
10 of the policemen told him, "I expect you to do what I
11 tell you to do," or words to that effect, correct?

12 A. I don't know. I mean, I know at one point I
13 asked him to be -- my expectation would be is that he's
14 cooperative.

15 Q. Okay. Is it fair to say that the police in
16 that room were communicating to him that he was expected
17 to do what the police told him to do?

18 A. I can tell you --

19 MR. VERHAREN: Objection, hearsay.

20 THE COURT: Overruled. You may answer the
21 question.

22 THE WITNESS: I can say that I told him that
23 my expectation would be that he cooperates.

24 Q. (BY MR. ADAMS) Okay. So I'm gonna -- so it's
25 fair to say that the police told him that he was

1 expected to do what the police told him to do; is that
2 fair to say?

3 A. Yes.

4 MR. VERHAREN: Objection, asked and answered.

5 MR. ADAMS: His answer was yes.

6 THE COURT: Overruled. What was your answer?

7 THE WITNESS: Yes.

8 THE COURT: Okay. The answer was yes.

9 Q. (BY MR. ADAMS) And that went on through the
10 whole time he was in that room, right, that was fairly
11 communicated to him to do as we tell you to do, right?

12 MR. VERHAREN: Objection, hearsay.

13 THE COURT: Overruled.

14 THE WITNESS: Yes.

15 Q. (BY MR. ADAMS) You were present when the
16 other officer -- who was it that was in there with you?

17 A. Detective Wilhelm.

18 Q. When Wilhelm was in there and went over the
19 Miranda rights with Eldon, true?

20 A. Yes.

21 Q. And you heard Wilhelm tell Eldon, "I have a
22 right to talk to you," true?

23 A. I don't know his exact words, but I believe
24 something to that effect, yes.

25 Q. If you want to review the transcript, please

1 do, because I want those exact words. He told the
2 fourteen-year-old boy, the policeman did that had him in
3 the interrogation room, "I have a right to talk to you"?

4 A. I --

5 MR. VERHAREN: Objection. Asked and answered
6 and the transcript is in evidence now.

7 THE COURT: Did you need to refer to anything?

8 THE WITNESS: I would like to refer to that,
9 Judge, and I can tell him specifically what was said.

10 THE COURT: Okay. I'll hand him one -- is it
11 LE? Is that what that is? Yeah. There you go.

12 THE WITNESS: Thank you.

13 MR. ADAMS: We'll see who finds it first.
14 I'll look, too.

15 Q. (BY MR. ADAMS) Finding some of this about on
16 Page 30. Turn back to I think on Page 29, I believe,
17 where that -- Mirandizing of Eldon. Did you find that?

18 A. I'm looking. Yes, sir.

19 Q. Have you look at Page 32, about a third of the
20 way down under the initials JW. It begins, "No, we're
21 not gonna keep you all night."

22 A. I see.

23 Q. Okay. He told Eldon, "I have the right to
24 talk to you," when he was getting him to sign the
25 Miranda rights form, correct?

1 A. It appears that way, yes, sir.

2 Q. Well, you just testified to get this thing
3 admitted --

4 A. Yes.

5 Q. -- that it was true and correct.

6 A. Yes.

7 Q. So is that true and correct?

8 A. Yes.

9 Q. Let's go back to Page 29, and if you need to
10 refer to this to refresh your recollection, it's been
11 admitted so I think we can do that. The first thing
12 that he was told was that these are the kind of rights
13 you get when you're slammed up against the police car
14 and roughed up by the police, correct? He says, "You
15 know how you see on T.V., you see like these cop shows?
16 They're just T.V. shows. Let me tell you, they're made
17 up. But they slam guys up against the car." Do you see
18 that at the bottom of Page 29?

19 A. Yes.

20 Q. And Eldon nods his head yes, that he
21 understands about police slamming kids or slamming
22 people against cars?

23 A. Yes.

24 Q. And then the policeman in the interrogation
25 rooms goes on, "They're slamming them up against the car

1 and they read these rights to them. And it's kind of at
2 the same time, sometimes they slam up against the car,
3 put them in jail, and then they read his rights. And so
4 that's not anything like this. All right." The
5 policemen told him the Miranda rights he sees on T.V.
6 aren't anything like the Miranda rights he's giving now,
7 true?

8 A. He said it how you read it, yes.

9 Q. Let's go back to Page 29. Now, describe
10 Wilhelm's relationship to Eldon for the judge before we
11 continue. Do that for us, please.

12 A. Detective Wilhelm's --

13 Q. Why did you bring Wilhelm in there to
14 interrogate Eldon?

15 A. Detective Wilhelm is the Lakes Middle School
16 SRO which is the school that Eldon attends, and
17 Detective Wilhelm was familiar with him.

18 Q. You brought him in as a friendly face to
19 interrogate Eldon, true?

20 A. I brought him in because, yes, he was familiar
21 with Eldon.

22 Q. So the first thing Wilhelm tells him is, "We
23 didn't go over this in the office, but 99 percent of the
24 kiddos in my office, we give them this warning because
25 sometimes we talk to parents about what we're gonna talk

1 about and sometimes we won't." That's part of his
2 explanation about his rights under the U.S.
3 Constitution, correct? Twenty-nine, second paragraph
4 from the bottom.

5 A. Yes, sir. I'm just reading it. Yeah. He
6 says, "We didn't go over this in the office, but 99
7 percent of the kiddos in my office, we give them this
8 warning because sometimes we talk to parents about what
9 we're going to talk about and sometimes we won't, okay?"

10 Q. All right. So that's part of the explanation
11 to Eldon about his rights under the United States
12 Constitution, right? You've got the Miranda form out at
13 this point, and that's what you're talking to him about,
14 right?

15 MR. VERHAREN: Objection, compound questions.

16 THE COURT: Sustained. Why don't you shorten
17 that up a little bit?

18 Q. (BY MR. ADAMS) This is after you brought the
19 Miranda forms out and you're trying to get him to waive
20 his rights. That's part of the conversation with him,
21 correct?

22 MR. VERHAREN: Objection, compound question.

23 THE COURT: Overruled. You may answer that.

24 THE WITNESS: Um, yes.

25 Q. (BY MR. ADAMS) Trust me, if the answer's not

1 yes, I'm not asking you the question. And then after
2 that, you go into the part -- or not you, but the
3 policeman that helped you interrogate Eldon, and then he
4 goes into the part about slamming people up against
5 cars, right?

6 A. That's after that, yes.

7 Q. Yeah. And then next he tells him, "I have the
8 right to talk to you"?

9 MR. VERHAREN: Objection, asked and answered.

10 THE COURT: Sustained.

11 Q. (BY MR. ADAMS) You had Eldon at the police
12 station for about five hours. You told us that. Uh,
13 the search of his body, the interrogation, that's about
14 four of those five hours, right? How much time did you
15 spend Mirandizing a fourteen-year-old boy in that five
16 hours?

17 A. Probably five minutes.

18 Q. You think it lasted that long?

19 A. Maybe -- it's a guess.

20 Q. Okay. Just a few minutes you spent giving him
21 his Constitutional rights out of that five hours, right?

22 A. Yes.

23 Q. And when you were asking him to sign, and
24 actually the detective told him to sign, he said, "Sign
25 it here," right? The School Resource Officer, that

1 policeman told him sign here, right?

2 A. He indicated for him to sign, yes. I don't
3 know exact -- his exact wording. If you want me to
4 look, I can.

5 Q. No, that's fine. I'm sure the judge is gonna
6 go over this, and it's in there. Eldon asked you about,
7 when you were going over this with him, "Where am I
8 gonna stay?" Not indicating that, you know, am I gonna
9 be put in jail, but his question to you was are you
10 gonna give me to my mom to stay tonight or are you gonna
11 put me in a hotel? That's what he was asking you, where
12 am I gonna stay, right?

13 MR. VERHAREN: Objection, compound question.

14 THE COURT: Overruled.

15 THE WITNESS: He did ask that question, yes.

16 Q. (BY MR. ADAMS) And your interpretation of
17 that question was that he didn't realize he was going to
18 stay in jail?

19 MR. VERHAREN: Objection, calls for
20 speculation.

21 THE COURT: Sustained.

22 Q. (BY MR. ADAMS) And in part of that he asked
23 you about talking to his mom; calling his mom was part
24 of that where am I gonna stay conversation, right?

25 A. I -- I don't recall. I can look if you'd

1 like.

2 Q. Do you recall that several times during the
3 portion where you were Mirandizing him he asked you
4 about his mom, talking to his mom?

5 A. Again, I know that we talked about his mom,
6 but I don't know how many times or at what point it was.

7 Q. Did you make any effort to contact his mom?

8 A. Not at that point, no.

9 Q. And after Eldon signed the form where he was
10 directed to, then policeman Wilhelm went on to get him
11 to waive those rights. That was the next step, correct?

12 A. Yes.

13 Q. And it was your goal to get him to waive those
14 rights, wasn't it?

15 MR. VERHAREN: Objection, argumentative.

16 THE COURT: Overruled. You may answer.

17 THE WITNESS: It was our goal to be able to
18 talk to Eldon about what happened.

19 Q. (BY MR. ADAMS) So the answer to my question
20 is yes, it was your goal to get him to waive his rights?

21 A. Yes.

22 MR. VERHAREN: Objection, asked and answered.

23 THE COURT: Overruled. The answer yes will
24 stand.

25 Q. (BY MR. ADAMS) And did you and Wilhelm talk

1 about how you were gonna approach Eldon to get him to
2 waive his rights?

3 A. We didn't talk about how to get him to waive
4 his rights.

5 Q. Did you have any discussion about Mirandizing
6 Eldon with anyone that night?

7 A. That we were gonna do -- that we were gonna
8 Mirandize him. That was the only discussion that we
9 had, not how to do it.

10 Q. And that was just the two of you, you and
11 Wilhelm?

12 A. Yes.

13 Q. Did you ever discuss with anybody else that
14 night your Miranda rights on Eldon?

15 A. No.

16 Q. And then after he signed where Wilhelm told
17 him to sign, Wilhelm went on to ask him about waiving
18 those rights, true?

19 A. Yes.

20 Q. And he said, and this is at the top of Page
21 32, make sure I read it right, he says to Eldon, "As I
22 explained them to you, okay? It's because I did such a
23 great job. Secondly, this, it says having these rights
24 in mind, do you wish to talk to us right now? Do you
25 want to talk to me and my boss about what's going on

1 tonight?" That's what Wilhelm asks him, right?

2 A. Yes.

3 Q. And Eldon's eyes shook, he asks you, "Right
4 now?"

5 A. Yes.

6 Q. And Wilhelm tells him, "That's why we're here.
7 Do you want to talk?"

8 A. Yes.

9 Q. And Eldon says, "Where will I stay?" He asks
10 you where he's gonna stay, doesn't he?

11 A. Yes.

12 Q. And he's not asking you if he's gonna stay in
13 jail. He's asking if you're gonna take him home.

14 MR. VERHAREN: Objection. Calls for
15 speculation into Mr. Adams' --

16 THE COURT: Sustained.

17 Q. (BY MR. ADAMS) And your response to that is
18 to mislead him. You tell him, "We're not gonna keep you
19 all night." You don't tell him, yeah, you're gonna be
20 spending in jail. You tell him, well, we won't keep you
21 all night.

22 MR. VERHAREN: Objection, compound question.

23 THE COURT: Overruled -- well, you're making a
24 statement, Mr. Adams. Why don't you ask a question with
25 one part to it?

1 Q. (BY MR. ADAMS) Your response to the question
2 about where will I stay, Wilhelm says, "We're gonna chat
3 in this room, but we're not gonna keep you all night,"
4 right?

5 A. In this particular portion he says, "Just
6 right here, we'll just chat right here," and then I
7 respond and say, "Yes, we're just gonna chat in this
8 room."

9 Q. Keep reading.

10 A. And then Detective Wilhelm says, "No, we're
11 not gonna keep you all night. We'll just chat right
12 now. So, this is just -- because you have, you have the
13 right to talk to me. Like I said, I have the right to
14 talk to you, so this is just saying having these rights
15 in mind, do you want to talk to me right now?"

16 Q. Okay. So in response to Eldon asking you
17 where will I stay, Wilhelm tells him, well, we're not
18 gonna keep you here all night?

19 MR. VERHAREN: Objection, asked and answered.

20 THE WITNESS: Yes. Sorry.

21 THE COURT: Overruled.

22 Q. (BY MR. ADAMS) And then Eldon goes on and
23 says, "Well, talking right now?" That's what he asks?

24 A. Yes. Eldon says that.

25 Q. And Wilhelm responds, "Yeah," and then Eldon

1 says, "Well, how long is it gonna take?"

2 A. Yes.

3 Q. And Wilhelm tells him, or maybe you tell him,
4 "Maybe thirty minutes to an hour"?

5 A. I say that. Detective Wilhelm says, "It won't
6 take long."

7 Q. And this is all in response to him asking
8 questions when Wilhelm asks him to waive his rights,
9 correct?

10 A. Yes.

11 Q. At one point during this point where your goal
12 is to get Eldon to waive his Miranda rights, Wilhelm
13 tells him -- and I'm looking at Page 30.

14 A. Thirty?

15 Q. Thirty. It's the second JW after, "Nods head
16 yes," Wilhelm says, "These are just some rights that
17 everyone is entitled to. Like if I were to talk to my
18 boss or, um, someone that came to my house and said,
19 'Man, I need to talk to you about this.'" That's how
20 Wilhelm explained his Miranda rights to him, right?

21 MR. VERHAREN: Objection, compound question.

22 THE COURT: Overruled. You may answer.

23 THE WITNESS: He --

24 Q. (BY MR. ADAMS) Yes?

25 A. You're reading it from the transcript, and

1 that's what he said to Eldon, yes.

2 Q. And this was before he was directed to
3 place -- to sign away his rights, correct?

4 A. Yes.

5 Q. Did Lieutenant Turner come back to the police
6 station, to your knowledge, during the interrogation of
7 Eldon?

8 A. It's possible. I -- I don't know, Mr. Adams.

9 Q. And I'm sure not trying to test your memory.
10 If you don't know, just say so, and if we have a
11 document that will help refresh your memory, tell us and
12 we'll get it to you, okay? We're not trying to trick
13 you. I'm not trying to trick you.

14 A. I -- I remember seeing Lieutenant Turner
15 there. I just don't know if he left and come back; I
16 don't know at what point.

17 Q. Did you have any discussions with Lieutenant
18 Turner about what to look for or what to do at the house
19 based on the responses you were getting during the
20 interrogation of Eldon?

21 A. Yes. Lieutenant Turner and I communicated.

22 Q. Tell us about that.

23 A. It was very brief. Um, he was trying to
24 understand the scene, and I was, you know, trying to
25 understand how maybe -- or something more I should ask

1 Eldon, um, and it was -- you know, specifically I don't
2 exactly remember, but I know he was trying to understand
3 the scene as was I trying to get something maybe to ask
4 Eldon further.

5 Q. Okay. Was that because you wanted to collect
6 evidence or because you wanted to get him to make
7 certain admissions?

8 A. I just wanted to get the facts of what
9 happened so everything made sense.

10 Q. Isn't it fair to say that sometimes when Eldon
11 told you something you told him, "That's not true. I
12 have detectives at the house that are telling me stuff.
13 Now, Eldon, you gotta change your story"?

14 A. I do recall saying that, yes.

15 Q. Were you lying to him or was that true?

16 A. That was true.

17 Q. Okay. Well, that's what I'm asking you about.
18 What were you told by people at the house to go back in
19 and interrogate Eldon about?

20 A. Again, I don't know the specifics, Mr. Adams.
21 I know that Lieutenant Turner and I communicated, and
22 there was some things that he told me that made me want
23 to go back in and talk to Eldon further about those
24 things.

25 MR. ADAMS: Okay. Fair enough. Geez, I just

1 forgot where I was going. Can I take a break, Judge,
2 and -- I kind of forgot where I was going here.

3 THE COURT: I suppose we could take a short
4 one.

5 MR. ADAMS: Thanks.

6 THE COURT: We'll go off the record.

7 *(Brief break taken)*

8 THE COURT: Let's go back on the record then.
9 All right. We're back on the record in CR-2014-5178.
10 You may resume your questioning there, Mr. Adams.

11 MR. ADAMS: Thank you, Your Honor.

12 Q. (BY MR. ADAMS) I think where I was going when
13 I lost my track there was I wanted to finish up on some
14 of the interrogation and details, okay?

15 A. Okay.

16 Q. In watching the video, it doesn't seem that
17 the date and the time are correct. It's like four
18 o'clock in the morning. Did you notice that?

19 A. The -

20 Q. Oh four hundred?

21 A. I did not notice that, but it's not un -- I've
22 seen before that the time isn't right all the time.

23 Q. And I know we've had these admitted and you
24 verified they were true and accurate. Is it fair to say
25 that the time -- the date and the time may not be

1 accurate? This may not be four o'clock in the morning,
2 or is it four o'clock in the morning when you're
3 interrogating Eldon?

4 A. I would say that it's not accurate.

5 Q. Is there any reason for that? Do we know why
6 the police in 2014 can't get the date and time right on
7 the video camera?

8 A. I have no idea, Mr. Adams. I'm not the tech
9 guy of the department so -- I just use the equipment.

10 Q. Okay. You should talk to the tech guy.
11 Yellow pads. You and Wilhelm both had yellow pads in
12 the interrogation, correct?

13 A. I didn't have a yellow pad, no, sir.

14 Q. You didn't have a pad -- well, a pad of paper
15 sitting in front of you or on your lap?

16 A. No. I had a folder that is used for
17 interviews and interrogation --

18 Q. You had the --

19 A. -- from the Reid school.

20 Q. Excuse me. Sorry. Go ahead.

21 A. It's a -- it's a folder that, uh, just kind of
22 has some things to keep you on track as you interview
23 somebody.

24 Q. Does it have a pad of paper there that you
25 were taking notes on and writing things on?

1 A. It has an area that you can do that, yes.

2 Q. And it looks to me -- I wasn't there, but in
3 watching the video it looks to me like you've got notes
4 on there and you're taking notes.

5 A. I -- I don't usually take notes, no. There's
6 sometimes that I can write some things down, but I
7 don't -- as a practice, I don't keep notes because
8 everything's documented on video.

9 Q. Do you remember did you take notes during this
10 interrogation? Because it looks like you do.

11 A. Nothing of significance, I could certainly
12 tell you that.

13 Q. Well, where are those notes?

14 A. I -- I do not have those. I don't keep them.

15 Q. You were served with a subpoena to bring them
16 here. Did you destroy those notes?

17 A. I would have to look in my folder. I have no
18 idea.

19 Q. Okay. You were served with a subpoena and
20 asking you to bring them here.

21 A. Well, I believe that the subpoena said
22 anything pertaining to this case.

23 Q. Including but not limited to handwritten notes
24 taken during the interrogation.

25 A. There's nothing that I wrote on that piece of

1 paper that wasn't in the video.

2 Q. You were issued a subpoena, Sergeant?

3 A. Yes.

4 Q. Appreciate you looking for those notes, and if
5 you have them, turn them over.

6 A. Yes, I will do that.

7 Q. All right. Thanks. Now, in the video it's
8 clear that policeman Wilhelm has what looks like a
9 yellow pad or a writing pad. Remember him having one?

10 A. He had something, yes.

11 Q. And did you see --

12 A. Whether it was a yellow pad or not, I don't
13 know.

14 Q. Did you see him writing and taking notes
15 during the interrogation?

16 A. I'm sure he did. I -- I don't know that for
17 sure.

18 Q. During the breaks you often left -- several
19 times left Eldon alone in the interrogation room, I
20 believe for up to twenty minutes at a time, and you
21 leave and you take your note pads or the folder you were
22 talking about out of the room with you, and you bring
23 them back in when you come back in, right?

24 A. Um-hmm, yes.

25 Q. What did you do with those pads when you left

1 the room?

2 A. Either set them on the counter or held it.

3 Q. Did you take any notes from any discussions
4 you had during those times you left Eldon alone in the
5 interrogation room?

6 A. You mean like wrote them down to come back in?

7 Q. For instance, yeah, if you went out and talked
8 about, say, what things you want to get him to say, did
9 you write them down before you went back in there?

10 A. Not -- no.

11 Q. And did you see Wilhelm write anything down
12 during those breaks?

13 A. It's possible. I don't know what he wrote on
14 his pad.

15 Q. During those breaks did you discuss how the
16 interrogation was going?

17 A. Certainly.

18 Q. Did you ever have those kind of discussions
19 with the prosecutors that were there?

20 A. No.

21 Q. You asked Eldon some very pointed questions
22 which, to my defense lawyer's mind, looked like you were
23 asking him about elements of crimes. Do you know what
24 elements of crimes are?

25 A. Yes.

1 Q. Did you go in there specifically to get Eldon
2 to admit specific elements of certain crimes like
3 premeditation, deliberation? Was that part of your
4 goal?

5 A. Well, I'm familiar with, you know, elements of
6 crimes, and so it's my goal in an interview to meet the
7 elements of the crime.

8 Q. So the answer to my question is yes?

9 A. Yes.

10 Q. If anybody has anything else on interrogation,
11 write it down because I'm gonna move on to another part
12 of your report now, okay? And it's a different report I
13 think, so if you need me to show it to you to refresh
14 your recollection, say so, okay?

15 A. Okay.

16 Q. Looks like this report is dated 4/10/14 at
17 11:38, and it talks about I think you going to the house
18 the day after the interrogation. Did you go to the
19 house after the interrogation?

20 A. Um, I -- I believe we did. I -- I have
21 something here. Can I see if it's the same one that you
22 have?

23 MR. ADAMS: Yeah, sure. Can I approach,
24 Judge?

25 THE COURT: Sure.

1 Q. (BY MR. ADAMS) I was gonna talk about down
2 here, and on the 26th you and Lowry and Reneau go back
3 to the house?

4 A. This portion?

5 Q. Looks like my report's different, but I think
6 that's it.

7 A. Probably just the way it's printed.

8 Q. Okay. Now, in looking at your report, does it
9 refresh your recollection about going to the house on
10 First Street the day following your interrogation?

11 A. Looking at this, this talks about the 26th.

12 Q. And how long after the interrogation was that?

13 A. Well, we started the interrogation at -- or
14 the interview at nine-forty -- Eldon showed up at the
15 police department on 9:48. That went into about two
16 something in the morning on the 25th, and we went to the
17 house on the 26th.

18 Q. Okay. It was still in police custody at that
19 point?

20 A. The house?

21 Q. Yes.

22 A. Yes.

23 Q. And you went in and you did a policeman's
24 search of the house?

25 A. Yes.

1 Q. Okay. And you had policemen Lowry and Reneau
2 with you?

3 A. Yes, and I believe Sudol, Detective Sudol and
4 Detective Buell joined us.

5 Q. Oh, and Gillmore, too?

6 A. And Gillmore, yes, sir.

7 Q. And Turner?

8 A. Lieutenant showed up a bit later.

9 Q. One, two, three, four, five, six, so that's
10 seven policemen in that little house on that day?

11 A. Yes.

12 Q. And you said in your report why you were all
13 there was because you did not want to miss any piece of
14 potential evidence, right?

15 A. Yes.

16 Q. So you collected some more evidence?

17 A. Yes.

18 Q. You collected a cell phone? I'm looking at
19 the next page on your report under Room A.

20 A. Okay. Two cell phones.

21 Q. Okay. Did you ever do anything with those
22 cell phones, see if they were operational, whose they
23 were, anything like that?

24 A. I'm just trying to remember. I don't know if
25 we did or if we didn't. I don't think that we did, but

1 I -- I don't know that for sure.

2 Q. At one point a cell phone was seized from
3 Eldon. Did you have anything to do with that?

4 A. No.

5 Q. And you never looked at it or explored it or
6 anything?

7 A. No.

8 Q. You recovered empty medication bottles?

9 A. Yes.

10 Q. Okay. How many?

11 A. I don't know.

12 Q. One or two or a hundred?

13 A. I would say it was less than a hundred, but it
14 was more than one or two so --

15 Q. There was a lot of empty medication bottles
16 there, weren't there?

17 A. There were quite a few.

18 Q. These were prescription medication bottles
19 that you need a doctor to write you a script for, right?

20 A. That's what they looked like to me, yes.

21 Q. Did you examine those at all to see what kind
22 of drugs they held or had held?

23 A. No. I -- I'm not familiar with what most of
24 them would be anyway.

25 Q. Okay. Did these bottles have pills in them or

1 were they empty?

2 A. I want to say it was a little bit of both. I
3 think some had some and some didn't.

4 Q. Did you find loose medications, loose drugs
5 around the house?

6 A. I don't know that for sure.

7 Q. Well I'm just wondering if a pill bottle was
8 empty; maybe they were put out on a counter or on a
9 plate. Did you find any --

10 A. Not that I recall.

11 Q. -- pills that should -- okay.

12 A. Not that I recall.

13 Q. You recovered a nine millimeter Ruger owner's
14 manual?

15 A. Yes.

16 Q. And did you recover a nine millimeter Ruger?

17 A. I didn't.

18 Q. Did anybody?

19 A. I -- I don't know, Mr. Adams. I'd have to
20 look at the list of evidence. I -- we collected a lot
21 of things.

22 Q. Did you collect pawn slips?

23 A. I believe we did.

24 Q. Pawn slips for more weapons that had been
25 pawned?

1 A. It's -- it's sounding familiar. I just -- I
2 don't know for sure but I -- I believe we did -- I
3 remember seeing pawn slips.

4 Q. Okay.

5 A. What they were for, I have no idea.

6 MR. ADAMS: Thanks, Sergeant. I don't have
7 any other questions.

8 THE COURT: Mr. Verharen, any redirect?

9 MR. VERHAREN: No, thank you.

10 THE COURT: Sergeant McCormick, is that right?

11 THE WITNESS: Yes, sir.

12 THE COURT: Okay. You may step down. May he
13 be excused at this time?

14 MR. VERHAREN: Please.

15 THE COURT: Any objection?

16 MR. ADAMS: Just again if we need you, are you
17 going to be available if we call you back later?

18 THE WITNESS: Yes, sir.

19 THE COURT: All right.

20 MR. ADAMS: Then I have no objection.

21 THE COURT: Okay. You are excused subject to
22 being called back if we need you.

23 THE WITNESS: Okay.

24 THE COURT: Do you have another witness?

25 MR. VERHAREN: I don't, Judge. State rests.

1 THE COURT: Okay. The State has rested.
2 Mr. Adams, how would you like to proceed?

3 MR. ADAMS: I'd like to proceed tomorrow,
4 Judge. I think we told most of the witnesses not to
5 wait here all afternoon.

6 THE COURT: Well, we can't proceed tomorrow
7 because the Supreme Court in their infinite wisdom wants
8 me to be in Boise tomorrow, so I have to go to Boise
9 tomorrow, much to my chagrin, but -- I'd rather be here,
10 but we can resume, uh, Thursday morning at -- we're
11 doing prelim status call out here starting at 8:30. How
12 many do we have set, Nancy, do we know?

13 THE CLERK: Thursday morning we have fifteen.

14 THE COURT: We have fifteen starting at 8:30,
15 so how about we resume at 9:30?

16 MR. ADAMS: On Thursday?

17 THE COURT: On Thursday.

18 MR. ADAMS: All right.

19 THE COURT: Which would be June 12th.

20 MR. ADAMS: Yes, sir. Thank you.

21 THE COURT: Is that all right, Mr. Verharen?

22 MR. VERHAREN: Yes, Judge.

23 THE COURT: All right. We'll resume on
24 Thursday at 9:30. Thank you. We'll be adjourned.

25 *(Matter adjourned for the day)*