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Case Number: 092112601010
Case Style: PRIBLE, RONALD JEFFERY JR. - CAPITAL MURDER (MULTI MURDER)
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United States District Court
Southern District of Texas
ENTERED
May 20, 2020
David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

RONALD JEFFERY PRIBLE, Petitioner,	§ § §	
v.	§	H-09-CV-1896
LORIE DAVIS, Director, Texas Department of Criminal Justice, Correctional Institutions Division, Respondent.	§ § § § §	

MEMORANDUM OPINION AND ORDER

In 2002, a Texas jury convicted Ronald Jeffery Prible of capital murder. He was sentenced to death. After unsuccessfully seeking state appellate and post-conviction remedies, Prible filed a federal petition for a writ of habeas corpus in 2009. Now before the Court is Prible's Fourth Amended Petition for Writ of Habeas Corpus. The matters raised by Prible's petition have required significant factual development, extensive briefing, and serious judicial consideration. For the reasons described below, the Court finds that Prible is entitled to federal habeas corpus relief.

I. BACKGROUND

A. The Murders, The Investigation, and Prible's Arrest

At around 6:00 a.m. on April 24, 1999, a neighbor saw smoke pouring from Esteban "Steve" Herrera's house. Authorities found Herrera lying in the middle of the garage in a pool of blood. Four bodies were found inside the smoky house. Herrera's girlfriend Nilda Tirado lay face-down on a couch inside, naked from the waist down. Three children were found dead in the bedrooms.

A forensic investigation revealed that the assailant had used an accelerant to create a flashfire that self-extinguished, but not before suffocating the sleeping children. Both Tirado and

Herrera had died from a single gunshot to the back of the head. Both adults had died before the fire started.

Prible, a friend of Herrera and Tirado, was quickly identified as a suspect. The police investigation established that Prible had spent the evening with Herrera. Herrera's brother-in-law had accompanied Prible and Herrera to a club until around 2:00 a.m. on the morning of the murders. They returned to the Herrera home. Herrera and Prible were in the garage playing pool when the brother-in-law left.

Scientific evidence confirmed that Prible had been present in the Herrera home. A forensic examination uncovered sperm cells from oral, vaginal, and anal swabs taken from Tirado's corpse. Herrera's DNA matched the anal and vaginal swabs. DNA testing identified Prible as the source of the semen found on the oral swab.

The police questioned Prible, but he disclaimed any involvement in the murder. Prible admitted that he had been in the Herrera home after returning from the club, but said that Herrera drove him home at around 4:00 a.m. When the police asked what he would do if they found his DNA at the scene, he added that he had been having an affair with Tirado and had engaged in consensual oral sex with her.

Police searched the home of Prible's parents, where Prible also resided. The search uncovered guns and ammunition. A firearms examiner later testified at trial that a magazine found at Prible's residence could hold bullets similar to those found at the crime scene. But the murder weapon was never recovered. Investigators could not find blood stains, accelerant, or any forensic evidence on Prible or his clothing.

In addition, Prible had an alibi. A teenage neighbor saw Herrera drop Prible off at his parents' home in the early morning hours.

Prible's DNA alone was not enough to pursue prosecution. Prible was not arrested, let alone indicted, in connection with the murders for two years. The case went cold.

In early 2001, Harris County Assistant District Attorney Kelly Siegler was asked to review the cold case. By that point, no new information had been developed that would come out at trial. The State, nonetheless, charged Prible with capital murder on July 5, 2001.

At that time, Prible was housed in the federal prison FCI Beaumont Low for a federal bank robbery conviction.[1] Rather than be transferred to Harris County custody for the state capital murder charges, however, on the day Prible was charged he was transferred to FCI Beaumont Medium. That same day, Nathan Foreman was also transferred to FCI Beaumont Medium and eventually became cellmates with Michael Beckcom. Beckcom would later testify at trial that Prible had confessed the murders in detail to him and Foreman.

Siegler presented Prible's case to the grand jury on August 29, 2001, without calling any witnesses. The grand jury returned an indictment. The State of Texas tried Prible for capital murder in 2002. The State's case against Prible was not strong. As summarized on direct appeal, the State's case rested on six main facts:

> The State presented evidence that: 1) [Prible] was the last person seen with Steve at the house prior to the murders; 2) he had a motive to kill Steve; 3) the bullets that killed Nilda and Steve were fired from the same weapon; 4) [Prible's] sperm was deposited in Nilda's mouth at some point prior to her death; 5) a fire was set to destroy physical evidence, including evidence of [Prible's] DNA; and 6) [Prible] admitted to Beckcom that he committed the murders.

Prible v. State, 175 S.W.3d 724, 730 (Tex. Crim. App. 2005).

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[1] In June 1999, Prible pled guilty to bank robbery in violation of Title 18 U.S.C. § 2113(a). *United States v. Prible*, No. 4:99-cr-348-1 (S.D. Tex. June 17, 1999) (Doc. No. 6). Prible was sentenced in federal court in September 1999. *Id.* (Doc. No. 13).

Most of this evidence, however, does not explicitly inculpate Prible in the murders. At issue in the instant proceedings are the two factors that the State argued directly incriminated Prible: the State's use of inmate testimony and the DNA evidence.

B. The State's Use of Inmate Testimony Against Prible

The star witness for the State was Michael Beckcom, a "jailhouse snitch" who was housed with Prible at FCI Beaumont Medium. Beckcom's key inculpatory testimony was that Prible confessed to him and his cellmate, Nathan Foreman, on November 24, 2001. Before trial, the trial court held a conference devoted largely to discussing the State's interaction with its anticipated witness Beckcom. Trial counsel requested that the State provide (1) information about Beckcom's criminal record and any sentence reductions he had received; (2) information about "the date, time, place, and manner of the State's contacts with [Beckcom], including a statement of how the contact was first issued and with whom it was made"; (3) information about any other cases in which he had provided testimony; (4) a copy of Beckcom's statement to prosecutors and any notes related to conversations between Beckcom and prosecutors; and (5) a copy of any agreement about what Beckcom would receive for his testimony. 2 RR 4, 6, 8.[2] The trial court ordered the release of the first category of information, Beckcom's prior history of testifying, and information about any deals with the prosecution.

The prosecution balked at providing information about its contacts with Beckcom. Siegler stated:

> I'll agree to tell Mr. Gaiser how we came into contact and the times that we've met. I don't remember the dates. I didn't take any notes. And the best that I can remember, I'll let him know what they are, but I'm not going to write it all down. He can come to my office and I'll sit down and tell him what I can remember.

[2] The Court will refer to the Reporter's Record from Defendant's Appeal from the 351st District Court of Harris County, Texas, No. 75587, as _ RR _.

Id. at 5–6. The trial court granted the second request "as to Siegler's oral transmission of the information to Mr. Gaiser as described on the record." *Id.* at 6. The prosecution provided the defense a summary of Beckcom's statement, but the trial court agreed that any notes constituted attorney work product. *Id.* at 7. The prosecution also agreed to tell the defense about any disciplinary violations Beckcom may have committed. *Id.* at 24.

The prosecution also provided some information about any deals it made with Beckcom in exchange for testifying. At the hearing, Siegler stated:

> [I]n exchange for his cooperation and truthful testimony, when this trial is completely over with and resolved I will notify his Assistant United States Attorney [whose] name is Mark Cullers, in Fresno, California, that [Beckcom] cooperated in this case, what the level of his cooperation was, the extent of his cooperation, and whether or not I believe that it was truthful. At that time it will be Mark Cullers' decision as to whether or not to file a [Federal Rules of Criminal Procedure] Rule 35 reduction. Even if he files that Rule 35 reduction, it will be his superior's decision whether or not to proceed with it. And even if they decide to proceed with it, it will be his Federal Judge in California's decision whether or not to give him any kind of reduction in his sentence.

Id. at 29. In that same pre-trial conference, the parties discussed the admission of any written and oral statements the prosecution intended to use. The prosecution had already given the defense all written statements. *Id.* at 27. Siegler told the defense that Prible "made comments and statements to other people in the Beaumont prison" but she already "gave [the defense] their names." *Id.* She told the defense that Beckcom was the only federal inmate the prosecution would use at trial. *Id.* at 28.

The State's opening statement at trial discussed extensively Beckcom's proposed testimony. The State bluntly told jurors that Beckcom is a "vial [sic], disgusting man himself. Who is himself an ex-con several times over. Who is himself convicted of murder on a case that was at one time a capital murder. . . . You're not going to like him. He's going to make you sick to your stomach." 21 RR 79. The State then informed the jury that Beckcom hoped for, but was

not guaranteed, a benefit from his testimony. *Id.* at 79–81. The State's emphasis on Beckcom foretold his importance to their case because only Beckcom would "tell you all of the details of everything that Jeff Prible told him about how he did it that night, including the fact that he was proud of the fact that he killed the whole family." *Id.* at 82.

Beckcom was the State's penultimate witness in its case-in-chief. After preliminary questions regarding his background, the State asked Beckcom about his extensive criminal history. At the time of trial, Beckcom had been incarcerated in federal prison for five years. 26 RR 9. Beckcom explained that he had previously testified against others in exchange for deals with the government. *Id.* at 12–13. Beckcom explained the deal he made with the State that resulted in his testimony against Prible: "[I]f I testify truthfully to this Court that you will reciprocate by calling my Federal prosecutor. At that point it's out of your hands, but just to let him know what I've done." *Id.* at 14. Otherwise, testified Beckcom, the State made him no other promises. *Id.* at 17. Beckcom testified that he could not return to FCI Beaumont because other inmates knew about his testimony against Prible. *Id.* at 19–20. He had, in fact, already been put into protective custody. *Id.* at 21.

When asked when he had heard about Siegler, Beckcom responded: "I didn't learn about your name until . . . probably the end of September, early October of 2001." *Id.* at 22. Beckcom testified that "[p]rior to that I had heard of the case just briefly, something about a guy coming from the [FCI Beaumont] Low charged with murder. I didn't really get too much information on it." *Id.* Beckcom testified that he got Siegler's name from Nathan Foreman who "lived in [his] unit at the prison and then ultimately became [his] cellmate." *Id.* at 23. When he learned about Siegler, Beckcom stated, he did "[n]othing immediately," but eventually called her in "the first half of October 2001." *Id.* at 23, 24. He told her that he "had information regarding this case

involving a murder." *Id.* at 24. Siegler visited him in "either late November or early December." *Id.* Siegler brought investigator Johnny Bonds with her. *Id.* at 24–25. Beckcom thought Siegler was "probably a little skeptical of another inmate maybe spinning a yarn to [her]." *Id.* at 25. Beckcom gave her a letter dated December 10, 2001, detailing his knowledge of the crime. *Id.* Beckcom testified that he had "spoken" with Siegler on the phone "two or three times" and that the phone calls were mostly about her recommending a sentence reduction. *Id.* at 26–27.

In his direct testimony, Beckcom testified as follows regarding his interactions and conversations with Prible:

Beckcom and Prible met in the recreation yard through a shared acquaintance. *Id.* at 28–29. Prible began exercising with the two men, but did not engage Beckcom in conversation for "weeks or maybe a month." *Id.* at 31. Initially, they engaged in "general conversation" mostly about people they both knew. *Id.* at 32. Beckcom had previously "heard bits and pieces of information when [Prible] got there," but he "still really didn't know who he was." *Id.* Eventually, Beckcom asked Prible about the capital charges. *Id.* The two men initially had general conversations about the capital prosecution, but Prible disclaimed any involvement in the crime. *Id.* at 33–34. Beckcom claimed that he "wasn't paying a lot of attention" to Prible's statements about his case, "because it's not something [he] care[d] to relive, [his] capital murder case." *Id.* at 34.

In "bits and pieces of conversations," Prible began to provide Beckcom with details about the crime. *Id.* at 33. Details came out in "[s]everal conversations" over "weeks if not a month." *Id.* at 37. In the beginning, when Prible "was still struggling with actually confiding a lot," he told Beckcom: "'I'm not a sane man'. . . . 'Your deepest, darkest reaches of your worst nightmares

don't come close to me, don't come close to what I am capable of.'" *Id.* at 42. Prible also implied that he would murder for hire. *Id.* at 42–43.

At first, Beckcom "was getting information . . . with no intention of even using it. I was actually curious, trying to find out what the situation looked like." *Id.* at 37. Prible told Beckcom that "they got DNA on [Tirado]," but "everybody knew [he] was having an affair with her," because she and Herrera "had some kind of open relationship." *Id.* at 33–34. Prible also said that the police "were looking for a .38 caliber pistol that they knew he had had, but he had sold it." *Id.* at 34. At any rate, "[i]t was clean. That wasn't the [murder] weapon." *Id.* Still, Prible described Herrera as "his best friend." *Id.* at 39.

Beckcom "at one point . . . actually became interested in" contacting Siegler so he "began prodding [Prible] into conversations at times." *Id.* at 36. When Beckcom asked Prible if he was "sure [the murder weapon] can't be found," Prible answered, "asphalt's good some times for hiding things." *Id.*

Eventually, Beckcom contacted Siegler. From her, Beckcom learned that he would have to know "[s]pecifics about the case, facts," so he "sought to find out as much as [he] could." *Id.* at 37.

After speaking with Siegler for the first time, Beckcom told Prible that he did not care whether Prible had committed the murders, and Prible "softened up a bit" and gave Beckcom more details. *Id.* at 47–48. Prible described how "Steve was shot in the pool room. Nilda was face down on the couch, shot in the back of the head, she was partially clothed." *Id.* at 48. Prible said the children died from smoke inhalation. *Id.* at 49. Prible "gave [Beckcom] the impression" that he had sex with the victim "in the bathroom" on the night of the murder. *Id.* at 44. At the time, Herrera was "[i]n the pool room, in the garage." *Id.* at 45. Prible told Beckcom that he had "a

witness that saw [Herrera] take me home that night." *Id.* at 40. "[A] child of maybe 12 or 13 years . . . had gotten up in the middle of the night to use the restroom and saw him through the window with [Herrera] out in front of his parents' home." *Id.* at 41.

Prible increasingly gained confidence in Beckcom and Foreman. Beckcom said: "He became close to Foreman and I. He called us his brothers and said he loved us . . . . [A]t one point he told us he's told us things that only he and God knows." *Id.* at 49. The two men expressed interest in forming a business with Prible after their incarceration. Beckcom specifically testified that "Foreman was interested. Foreman was interested in investing in the business so we were actually making plans on something to do when we got out." *Id.* at 35.

The last, and most important, conversation was on November 24, 2001. *Id.* at 53. That day, Beckcom, Foreman, and Prible took a photograph together with their parents. *Id.* at 56. Later that night, Prible "really poured it all out." *Id.* at 53. Prible had "finally gotten used to us and relaxed. He felt like, you know, we were going to help him out. We told him we would give him any help we could. We planned on doing business." *Id.* Beckcom described the circumstances under which Prible finally described the murders:

> We were sitting out in the rec yard that particular evening. It was getting dark, we were sitting under—we had these little pavilions out on the rec yard with tables underneath where you can play cards and dominoes.
>
> And [Prible] was just sitting there and he got pretty quite [sic] for a while and I could tell he was thinking about some things. So, he pulled Foreman and I aside and that's when he gave me the information . . . .
>
> He said, "You know, Steve screwed me. He screwed me out of $250,000.00. That was my money." And then he gave me the story about, you know, they were planning to buy some drugs. . . .
>
> Well, [Prible] was very agitated especially when he got to the part, "Well, he was going to steal my money and he's going to kill me, fuck him." And he was literally spitting on us. He was pretty agitated. I could tell he was thinking back to the scene like he was thinking back to the actual event.

Id. at 53–54. Prible said that Herrera "was going to kill [him], so [he] handled [his] business." *Id.* at 51. Prible described how, while they were arguing, he shot Herrera, then when Tirado ran into the house to call the police, Prible shot her. *Id.* Prible looked for the stolen money, but could not find it. *Id.* at 52. Prible lit a fire to cover evidence, but "it didn't take." *Id.* at 51–52.

Beckcom asked Prible: "How the hell did you get in and out of this house without being seen?" Prible responded: "Anybody that can go in a house and take out a whole family and get out without being seen is a bad mother fucker and I'm that mother fucker." *Id.* at 52–53. Referring to his military service, Prible "said that his parents lived a couple of miles from there so it wasn't far. And he said it was a high intensive, low drag maneuver. That's what I was trained for, in and out. I'm a ghost." *Id.* at 55.

Beckcom's direct testimony ended with a confirmation of Prible's confidence in his prison friends. Prible said: "You know, I trust you guys. You're my brothers. You're the only ones that could convict me, but basically he had made his peace. He said, If you do that you'll have to live with it. I'm prepared to die." *Id.* at 54–55.

In cross-examination, trial counsel reviewed Beckcom's extensive criminal history, including prior times he had assisted the Government to get a lesser sentence. *Id.* at 64–69, 77–80. Beckcom admitted: "Oh, I've told lies in the past," but assured that he was now "just telling. . . what [Prible] told me." *Id.* at 62. Beckcom admitted that he had lied under oath before. *Id.* at 91.

When trial counsel questioned why Prible would trust Beckcom and confess after only a few months, Beckcom said: "[O]ne of the first things I told him is you shouldn't be talking about a case that's pending." *Id.* at 70–71. Beckcom admitted that there were similarities between Prible's crime and a capital murder charge which Beckcom had faced, leaving Beckcom with the

impression that Prible "seemed to want to try to understand how they were going to approach him, how long this thing might play out how, how long he might be in jail. And I told him mine took, you know, a year." *Id.* at 72. Beckcom admitted that he made notes about Prible's story. *Id.* at 75.

Trial counsel also asked Beckcom about the written statement that he provided to Siegler after Prible's alleged confession in order to impeach his credibility:

Trial counsel:	And you knew at that point in time, from the time you wrote this statement from a previous conversation you had with Ms. Siegler that what she wanted was details, right?
Beckcom:	I pretty much had them all by that time.
Trial Counsel:	But you knew—well, he had left by that time, but you knew what you needed to make this story come to life, right?
Beckcom:	I didn't necessarily know what I needed. I just gave her what he gave me.
Trial Counsel:	So, you had to put the details, specific details of the murder itself so that—
Beckcom:	So that she would believe me, sure.

Id. at 84. Beckcom stated that he had not seen or heard anything from any person or media about Prible's case, except for Prible's own statements. *Id.* at 85 ("Q: [N]obody talked to you about the case, you didn't know anything about it . . . all the knowledge you acquired, you acquired from Jeff Prible? A: Yes."). Beckcom said that he received Siegler's name from Foreman, and that he understood that Foreman had provided other informants to Siegler. *Id.* at 82. He also confirmed that he and Foreman knew that they were planning to provide Siegler with information about Prible when they took the photo together the day of Prible's confession to corroborate that they knew him. *Id.* at 83. Beckcom clarified that, while Prible told them about his case "[i]n bits and pieces" over two months, he "pretty much had [all the details] by" the time he talked to Siegler. *Id.* at 84.

On redirect, Siegler had Beckcom review numerous details from the crime and affirm that he learned them from Prible. *Id.* at 92–95.

C. Testimony About Prible's DNA

The jury also heard evidence about the DNA found in Tirado's mouth. The State presented two witnesses. The Chief Harris County Medical Examiner, Dr. Joye Carter, testified that sperm cells can be found in a person's mouth at least several hours after ejaculation, and maybe longer. She testified that "semen is a very sticky substance and some of it could actually adhere or stick to like placque that's on the teeth or in the recesses of the mouth [and] not fully be cleaned out." 23 RR 68. She also stated that there was "no indication" that Tirado had been sexually assaulted. *Id.* at 128.

William Watson also testified for the State. At the time of trial, Watson held a master's degree in biology. He performed DNA testing on the sperm cells found on Tirado. Watson testified that a "microscopic" amount of DNA was collected on the swabs taken from Tirado's mouth. This DNA was Prible's. 24 RR 118. In the report that he prepared after the murders, Watson did not try to estimate exactly how long before death the sperm had been deposited in her mouth. Watson testified that he had never developed a DNA profile from an oral swab and had not seen it in the literature. *Id.* at 100, 112. However, Watson stated that the fact that he could develop a profile from the oral swab was "consistent with there being a great deal of sperm present." *Id.* at 94. Watson testified that the fact that he was able to generate a full and complete male profile from the oral swab was inconsistent with the semen being deposited into Tirado's mouth a long time before she was killed. He also said that the fact that he was able to obtain the male profile "certainly would be consistent with" Prible depositing the semen in Tirado's mouth "moments, if not seconds, before she was killed." *Id.* at 101–03.

Dr. Robert Benjamin, a molecular biologist, testified for Prible. Dr. Benjamin said that he did not agree with Watson's testimony because there were too many variables and Watson made too many assumptions. Dr. Benjamin stated that, if the semen had been deposited in a consensual act, the recipient may not take steps to remove it from the mouth. 27 RR 118–21. Dr. Benjamin also stated that using quantities of DNA to estimate time since ejaculation is "just not scientifically valid." *Id.* at 123–24. He said that "there were no controlled scientific studies" to support Watson's conclusions. *Id.* at 136.

D. Arguments and Conviction

The arguments made by the prosecutors in closing foreshadowed the issues raised in the instant proceedings. Prosecutor Vic Wisner's closing focused on two factors: Beckcom's testimony and the DNA evidence. On one hand, Wisner bolstered Beckcom's testimony, urging jurors that "Mike Beckcom is telling the truth." 28 RR 7. On the other hand, Wisner guaranteed that "[w]e've got enough without him. Beckcom just kind of fleshes out what happened, fills in some of the details. We have enough evidence without him, but I suggest to you everything he's telling you about what happened is the truth." *Id.* Wisner told jurors that, in order to believe the defense's case, jurors would have to find that "this Defendant is the unluckiest, unluckiest [sic] criminal defendant who's ever set foot in a courtroom. And there has been a conspiracy to frame this Defendant both in the free world and prison, so audacious it makes any frame up that has ever been conducted in the annals of crime look like child's play." *Id.* at 9. In particular, Prible was unlucky "from a practical hands-on perspective," because the semen found in Ms. Tirado's mouth "had to come right before she was killed or after she was killed." *Id.* at 10. In fact, "[t]here is no way in the world that that semen wasn't deposited either moments before or seconds after Nilda died." *Id.* at 11.

In their closing argument, the defense tried to bolster their DNA testimony and detract from Beckcom's credibility.

But jurors heard last from Siegler. In an emotionally charged argument, Siegler attempted to dismantle the defense's case. Siegler dismissed the claim that Prible and Tirado had an affair, because "appearance is what leads to affairs" and Prible "is creepy and gives you the creeps." *Id.* at 55. Siegler challenged the defense DNA expert's testimony by being "crude for a minute" and suggesting that it depended on Prible having "some kind of magic semen, magic sperm that somehow lives longer than any of y'alls or any other man's in this whole universe." *Id.* Siegler continued that, to believe the defense, jurors would have to assume that "his semen is so tasty that she walked around savoring the flavor of it in her mouth for a couple hours." *Id.* at 55–56. In crass language, Siegler described Prible as someone so depraved that he could kill Tirado while sexually excited. *Id.* at 59. Siegler summed up her argument: "[I]f Jeff Prible had managed to control his ejaculation and his mouth, he might not have ever been caught." *Id.* at 72.

Siegler's argument eventually turned to Beckcom's testimony, arguing: "Is there any evidence in this trial that Michael Beckcom got any facts about what happened anywhere except out of the mouth of this Defendant?" *Id.* at 75. She also told jurors: "[Y]ou can believe everything Mike Beckcom said and find him guilty of capital murder. You can hate his guts and think he's a creep and believe he's telling the truth and find this Defendant guilty of capital murder or you cannot believe one word he had to say and still find Jeff Prible guilty of capital murder." *Id.* at 77. After addressing problems with Beckcom's credibility, Siegler said:

> But the most important thing, how would Mike Beckcon [sic] know all the things that he does know unless the killer told him? Whose fault is it that Mike Beckcom came to court? It's Jeff Prible's for telling him. And whose fault is it that Mike Beckcom knew all the details? Jeff Prible's for telling him. And how did Mike Beckcom know all the details? Because Jeff Prible did it. That's how he knows all these details.

Id. at 81.

The jury convicted Prible of capital murder.

E. Punishment

Under Texas law, a jury decides a capital convict's sentence by answering special issue questions. In this case, the jury had to answer two questions: (1) would Prible be a future threat to society and (2) did mitigating circumstances warrant a life sentence? The State presented testimony from Prible's former wife, a Harris County Sheriff's deputy, and a former business partner whom Prible threatened. The State also relied on evidence of Prible's prior bank robberies. The defense presented testimony from a correctional counselor and family members, and evidence about Prible's good character. The jury answered Texas' special issues in a manner requiring the imposition of a death sentence.

II. PROCEDURAL BACKGROUND

A. State Litigation

On direct appeal, Prible claimed that the evidence supporting his capital-murder conviction was insufficient. Prible emphasized that "Beckcom's testimony was questionable because he testified in the hope of having his own sentence reduced and he could have learned the details of the alleged offense through the probable cause affidavit in [Prible's] possession." *Prible v. State*, 175 S.W.3d 724, 730 (Tex. Crim. App. 2005) (internal quotation marks omitted). The Texas Court of Criminal Appeals found that,

> Beckcom, however, testified about some details that were not contained in the probable cause affidavit. For example, he knew that there was a pool table in the garage and [Prible] had drops of catsup on his shoe. Beckcom's testimony also contradicted or excluded some details that were contained in the probable cause affidavit. He testified that [Prible] told him that Steve "took $250,000 of [his] hard-earned money," but the amount recited in the probable cause affidavit was $45,000. He knew that the police had DNA evidence and that [Prible] claimed to have had

> an affair with Nilda, but he apparently did not know about [Prible's] and Nilda's alleged sexual encounter in the bathroom while Steve was in the garage. The jury was free to take these discrepancies into account and to believe or disbelieve Beckcom's testimony based on their evaluation of his credibility.

Id. (alterations in original). The Court of Criminal Appeals concluded that, "[b]ased on the evidence at trial, a rational jury could have concluded beyond a reasonable doubt that [Prible] committed the murders of Nilda Tirado and Steve Herrera during the same criminal transaction." *Id.*

Prible's initial state habeas application, which was filed by state habeas counsel on November 19, 2004, did not raise any issues relating to Beckcom's testimony or mention anything about an alleged ring of informants. Then, while on death row, Prible started to hear about other defendants—including a man named Hermilo Herrero—who had been prosecuted by Siegler using what seemed to be an overlapping set of prison informants. (Doc. No. 17, at 19). Suspecting that something similar had happened in his case, Prible filed two *pro se* applications in 2007, raising *Brady*,[3] *Giglio*,[4] *Massiah*,[5] and *Strickland*[6] issues relating to the use of inmate testimony in his case. In one application, Prible alleged that "the prosecution (Kelly Siegler) hid her true ties to Mike Beckom [sic] and her jailhouse informants in Beaumont Federal Prison" and was "using Beckom [sic] and his group of friends from Federal Prison to aid her in making cases." (Doc. No. 99, at 44 (citing Ex. 24, at 00384)). Prible argued that, had he "been made aware of the ties [Siegler] had to Beckcom and his group of friends who aided Siegler in other cases," he could have used that as impeachment evidence in his case. (*Id.* (citing Ex. 24, at 00386)). In the other

[3] *Brady v. Maryland*, 373 U.S. 83 (1963).

[4] *Giglio v. United States*, 405 U.S. 150 (1972).

[5] *Massiah v. United States*, 377 U.S. 201 (1964).

[6] *Strickland v. Washington*, 466 U.S. 668 (1984).

application, Prible alleged that his trial counsel was ineffective for not investigating Hermilo Herrero as a potential witness. (*Id.* at 45 (citing Ex. 25, at 00411–15)).

The Court of Criminal Appeals denied Prible's initial state habeas application and construed the second and third *pro se* pleadings as subsequent applications, found that they did not meet the requirement for merits review because neither application contained "sufficient specific facts establishing that the application meets one of the exceptions set out in in Art. 11.071, § 5," *see* TEX. CODE CRIM. PRO. art. 11.071, § 5, and dismissed them as abusive. *Ex parte Prible*, Nos. WR-69,328-01, WR-69,328-02, WR-69,328-03, 2008 WL 2487786, at *1 (Tex. Crim. App. June 18, 2008).

B. Initial Stages of Federal Litigation

Prible timely filed his original federal habeas petition on June 18, 2009. (Doc. No. 1). The petition raised numerous claims, four of which related to the State's development and use of inmate testimony for trial:

- The State intentionally sponsored false and misleading testimony in violation of Prible's due process rights, as established in *Giglio v. United States*, 405 U.S. 150 (1972).
- The State violated Prible's due process rights by suppressing evidence of the nature of the arrangement between Beckcom, Foreman, and the lead prosecutor, contrary to *Brady v. Maryland*, 373 U.S. 83 (1963).
- The State violated Prible's rights under the Sixth Amendment and *Massiah v. United States*, 377 U.S. 201 (1964), by employing Beckcom as a state agent.
- Trial and habeas counsel provided ineffective representation under *Strickland v. Washington*, 466 U.S. 668 (1984), for not raising a *Massiah* objection.

(Doc. No. 1). Unlike some of Prible's other claims,[7] the above four claims had not been properly exhausted in state court.

Prible filed an amended petition on August 17, 2009. (Doc. No. 7). Respondent then moved for summary judgment. (Doc. No. 12). On April 30, 2010, the Court denied the summary judgment motion without prejudice and stayed this action to allow Prible to seek state court review of his unexhausted claims. (Doc. No. 23, at 3). This Court's stay order noted that "Prible secured the affidavits supporting his unexhausted claims after state habeas review had concluded," raising the possibility that the state court might allow Prible to file a successive state habeas action. (*Id.*).

C. Successive State Proceedings

On September 8, 2010, Prible filed a successive application for habeas relief in the 351st District Court of Harris County, raising the following claims:

- Whether "[t]he State violated Prible's rights guaranteed by the Sixth Amendment" and *Massiah*;
- Whether "[t]he State intentionally sponsored false and misleading testimony in violation of Prible's due process rights," as established in *Giglio*;
- Whether "[t]he State violated due process by concealing the nature of the arrangement between Beckcom, Foreman and the lead prosecutor," contrary to *Brady*;
- Whether "[i]n violation of due process, the State permitted its key witness to mislead the jury about the existence and extent of the benefits he expected to receive for testifying against Prible," contrary to *Giglio*; and
- Whether "Prible is actually innocent of capital murder." U.S. Const. amends. VIII, XIV.

[7] Prible's original petition also included claims of improper admission of testimony about the children's deaths, ineffective representation in the handling of DNA evidence, violation of his right to a jury composed of a fair cross-section of society, withholding of information by the prosecution from the defense, and actual innocence.

1. Factual Basis of Prible's Successive State Litigation

The above five claims were based on allegations that Beckcom and Foreman were part of a ring of informants at FCI Beaumont whom Prosecutor Kelly Siegler had recruited and fed information to assist her in securing a conviction against Prible. The allegations relied heavily on an August 26, 2010, interview that Prible's federal habeas counsel had with a federal inmate, Carl Walker, Jr. Federal counsel did not secure an affidavit memorializing Walker's story, but prepared a transcription of the interview. (Doc. No. 99, Ex. 2).

In the interview, Walker described how informants were "recruited" at FCI Beaumont Medium to testify in particular cases, including Prible's. (*Id*. at 4). Walker recounted that, not long after he arrived at FCI Beaumont in the summer of 2000, Beckcom and Foreman approached him in an attempt to bring him into the informant circle. Walker assumed that "the prosecutor was working directly with Foreman," but he was not sure whether Foreman or Beckcom "had more direct control or direct communication with the prosecutor." (*Id*. at 9, 29).

According to Walker, Beckcom and Foreman knew from Siegler that Prible was coming to FCI Beaumont even before Prible arrived. (*Id.* at 9). Walker described how Beckcom and Foreman "s[at] me down, they t[old] me these various events and supposedly details of [Prible's] case and whose [sic] who, and what's what." (*Id*. at 11). Beckcom and Foreman then gave Siegler's number to Walker and directed Walker to call Siegler so that she could assess whether Walker was "a candidate" to testify against Prible. (*Id*. at 13). Walker said he called Siegler "[o]nce or twice." (*Id*.). The other men were "always on the phone" with Siegler. (*Id.* at 23). Foreman was "on the phone almost on a daily basis" regarding the case. (*Id.* at 28). Walker also said that the recruiters directed him to "write a letter" to be sent to Siegler describing "details about [Prible's] case" that Beckcom and Foreman had told him. (*Id*. at 13). Walker claimed that

"common sense" told him that "someone high on the food chain was feeding these guys the information because [Prible] wasn't telling" Walker facts about the crime. (*Id.* at 14, 15). "[T]he whole plot was made out before it was actually executed." (*Id.* at 14).

The understanding was always that informants would be rewarded with "time off, or benefits." (*Id.* at 16). Overall, Walker described a ring of "five or six" informants who were trying to incriminate inmates like Prible. (*Id.* at 22). That same ring, Walker explained, was simultaneously involved in setting up another inmate, Hermilo Herrera, for another cold case murder. (*Id.* at 21–22). According to Walker, "this is how you have [the] miraculous coincidence that the same group of guys . . . have been confessed to by two different people on two different murders, totally different murders." (*Id.* at 21). Walker further described how the informants associated with Prible, including Beckcom and Foreman, got Prible drunk and high, and took group pictures with him to create at least the appearance of a bond with Prible. The men's role was to "get . . . information, then bank it, bank, it." (*Id.* at 20).

To Walker's knowledge, however, Prible never actually confessed. (*Id.* at 16). Walker did not think that Prible had committed the murders. (*Id.* at 18). Ultimately, Walker did not testify against Prible. He said he came to a "moral . . . crossroad" when he asked himself: "[Am I] going to openly lie about information I had no idea about and send this man to his death?" (*Id.* at 30). He added: "I just know these guys is guilty of conspiring against him and working to recruit me and others or whomever that would listen to, actually, ah, get him on death row. I know that for a fact. I do know for a fact that Kelly Siegler was involved." (*Id.* at 49).

2. Litigation of Prible's Successive State Application

After Prible filed his successive habeas application in the trial court on September 8, 2010, the trial court forwarded his application to the Texas Court of Criminal Appeals. Under article

11.071 § 5(a) of the Texas Code of Criminal Procedure, a Texas inmate may file a successive state application only in limited circumstances, including when "the current claims and issues have not been and could not have been presented previously in a timely initial application or in a previously considered application . . . because the factual or legal basis for the claim was unavailable on the date the applicant filed the previous application . . . ." The Court of Criminal Appeals remanded Prible's application for the convicting court to determine "whether the factual basis for these claims was unavailable on the dates that applicant filed his previous applications." *Ex parte Prible*, No. WR-69,328-04, 2010 WL 5185846, at *1 (Tex. Crim. App. Dec. 15, 2010). The Court of Criminal Appeals ordered that Prible "shall have the opportunity to show when and how he obtained the evidence at issue and whether he exercised reasonable diligence to obtain this evidence at the earliest opportunity." *Id.*

In January 2011, Prible moved for *in camera* review of the prosecutor's file.[8] The State did not oppose the motion and voluntarily provided some material for review. The State disclosed three letters that prosecutors had sealed in a letter-sized envelope that was designated "attorney work product."[9] The letters from federal inmates Jesse Gonzalez, Mark A. Martinez, and Walker each described how Prible provided details of the crime while in prison. (Doc. No. 99, Ex. 3). Each explained that Prible told them varying details about the killing. The men referred to prior conversations with Siegler and her interaction with all three. Walker's letter named Beckcom and Foreman, hinted at Siegler's "previous conversations" with them, described how Walker was

[8] During the pendency of the state habeas proceedings, this Court also authorized discovery of Bureau of Prisons telephone records which showed repeated phone calls between Beckcom and Siegler before trial. *Prible v. Quarterman*, No. 4:08-mc-316, Doc. 18 (S.D. Tex. 2018).

[9] The letters are not dated. Two envelopes with the letters were dated in April and May 2002, a few months before trial and a few months after Prible left federal custody.

"present on many occasions when [Prible] was telling his side of the story," and ended: "I'm more than willing to testify to these things in court. I'm currently serving a thirty year sentence for Possession w/Intent to Distribute. I will help you in any way I can and would appreciate any help you could give me." (*Id.* at 10).

The state trial level habeas court held an evidentiary hearing on June 8 and 9, 2011, to determine whether the factual basis for Prible's conspiracy and prosecutorial misconduct claims was unavailable when Prible filed his previous state habeas applications. At this hearing, the court heard testimony from an investigator who worked with Prible's trial counsel; an investigator who worked with defense attorneys who represented inmate Hermilio Herrero, a defendant in an unrelated case involving the same alleged ring of informants; Roland B. Moore, III, Prible's initial state habeas counsel; and Kurt Wentz, one of Prible's trial attorneys.

State habeas counsel Moore provided an affidavit in state habeas court explaining what efforts he made to develop evidence outside the trial record to contest the legality of Prible's capital conviction and sentence, including information regarding the ring of informants. Successive State Habeas Record at 411–16.[10] In his affidavit, Moore stated that, during the period of time that he represented Prible, he "suspected that Beckcom had perjured himself" and "that [Beckcom's] cellmate Nathan Foreman was involved with Mr. Beckcom in a scheme to give false testimony." *Id.* 412. Moore accordingly took "extraordinary measures to contact [Foreman, who was] the one person who had been identified as a possible member of such a ring or organization." *Id.* Trial counsel "had no leads to any other members of a ring or organization of informants" at the time of

[10] The Court will refer to the Record from Defendant's application for writ of habeas corpus in the 351st District Court of Harris County, Texas, No. 921126-B, as "Successive State Habeas Record at _."

trial. *Id.* Among those measures, state habeas counsel "subpoenaed Foreman and attached him to another case." *Id.* at 413. But Foreman "refused to say anything. Foreman refused to talk after he realized what [trial counsel] wanted to speak to him about." *Id.*

On June 24, 2011, the state habeas court issued its "Findings of Fact Pursuant to Tex. Code Crim. App. Art. 11.071, Sec. 5(a)(1)." *Id.* at 797–804. As the title suggests, the court did not rule on the substance of Prible's claims, but found, as a procedural matter, that Texas's abuse-of-the-writ doctrine foreclosed review. The court specifically found that "the factual basis for the instant claims were available when [Prible's] initial habeas petition was filed in November, 2004" and that "a factual basis for [Prible's] conspiracy theory may have been available at the time of [his] trial." *Id.* at 801, 803.

The state court's procedural determination was, nonetheless, intertwined with its assessment of the evidence Prible had provided for his claims. The court summarized that Prible "raise[d] five claims alleging a conspiracy among the lead prosecutor in his case and several federal prison inmates who were housed with [Prible] at FCI Beaumont." *Id.* at 798. The court's findings acknowledged Prible's allegations that Siegler had fed "otherwise-unknown details about [Prible's] case" to Foreman, who in turn "provided information with a ring of snitches he recruited to assist the lead prosecutor in obtaining a false confession from [Prible]," rendering Beckcom a "state agent" and his trial testimony "perjured." *Id.* at 799. The state court concluded that Prible's allegations were largely based on Walker's interview statement. *Id.* The state court, however, found Walker's statement not persuasive because it "consist[ed] almost entirely of hearsay and speculation and contain[ed] no direct evidence of [Prible's] conspiracy theory." *Id.* The state court further concluded that Prible "present[ed] no evidence establishing that State's witness Michael Beckcom has recanted his testimony regarding [Prible's] confession that he committed

the capital murder," and, in fact, Beckcom "denies [Prible's] claim that he was provided with information about [Prible's] case from Nathan Foreman or the lead prosecutor." *Id.* at 800. In the end, the court concluded that Prible was not entitled to successive habeas proceedings because he failed to show that "the factual basis for his claims was unavailable on the dates that [Prible] filed his three previous applications, as required by TEX. CODE CRIM. PRO. art. 11.071 § 5(a)(1)." *Id.* at 803.

In reaching its conclusion, however, the state habeas court did not consider the new supporting and corroborating evidence developed during state habeas review. For instance, the state court did not discuss the impact of the letters suppressed in Siegler's work product file. Instead, the decision focused on the facts presented in the state habeas application filed before factual development occurred, centering its analysis on Walker's statement. Based on this circumscribed analysis, the habeas court found that "the factual basis for the instant claims were available when [Prible's] initial habeas petition was filed in November, 2004." *Id.* at 801.

Without explicitly adopting the lower court's findings, the Court of Criminal Appeals held that "the allegations fail[ed] to satisfy the requirements of Article 11.071, § 5(a)" and dismissed Prible's successive application as an abuse of the writ. *Ex parte Prible*, No. WR-69,328-04, 2011 WL 5221864, at *1 (Tex. Crim. App. Nov. 2, 2011).

D. Prible's Fourth Amended Federal Petition

Prible returned to this Court and requested additional discovery to develop his claims. This Court granted additional discovery, including allowing Prible to access additional portions of Siegler's work product file. (Doc. No. 134). Federal habeas counsel also conducted various authorized interviews and depositions of the prosecution team, FCI Beaumont informants, and Bureau of Prisons personnel throughout 2017.

On March 26, 2018, Prible filed his Fourth Amended Petition for Writ of Habeas Corpus, which is now before the Court. (Doc. No. 181). In his Fourth Petition, Prible raised sixteen claims for relief:

> Claim 1: The State violated due process by sponsoring false and misleading testimony that minimized the State's contact with key witnesses and communications with, and use of, other informants as state agents, to develop evidence incriminating Prible. (Doc. No. 181, at 162).
>
> Claim 2: In violation of due process guaranteed under *Brady*, the State suppressed material evidence that Beckcom and Foreman were part of an organized attempt to secure favors in return for fabricating a false confession. (Doc. No. 181, at 177).
>
> Claim 3: In violation of *Brady* and due process guaranteed by the Fourteenth Amendment, the prosecution suppressed evidence that Foreman, who Beckcom represented could corroborate his story, gave a different account, and was, in fact, fabricating evidence against Prible. (Doc. No. 181, at 196).
>
> Claim 4: In violation of *Brady*, the State suppressed evidence impeaching Beckcom's testimony regarding the circumstances of the alleged "confession" and his motives for questioning Prible. (Doc. No. 181, at 199).
>
> Claim 5: The State withheld evidence that the trial court ordered produced pursuant to *Brady*. (Doc. No. 181, at 203).
>
> Claim 6: The State violated Prible's rights guaranteed by the Sixth Amendment and *Massiah*. (Doc. No. 181, at 233).
>
> Claim 7: Prible was denied his Sixth Amendment right to effective assistance of counsel. (Doc. No. 181, at 237).
>
> Claim 8: In violation of *Massiah*, the State suppressed evidence that independently established that it had deployed Beckcom and Foreman as agents to pry incriminating information from Prible, even though the State was aware Prible was represented by counsel. (Doc. No. 181, at 242).
>
> Claim 9: Prible was deprived of his Fourteenth Amendment right to due process by the admission of evidence documenting the deaths of the complainants' children. (Doc. No. 181, at 244).
>
> Claim 10: In violation of due process under *Brady*, the State suppressed material evidence that Siegler had consulted the head of the Harris County Crime Lab to ask how long semen could remain in the oral cavity and was told it lives up to 72 hours. (Doc. No. 181, at 233).

> Claim 11: The State violated due process by sponsoring false and misleading testimony, and engaging in false and misleading argument, concerning the amount of time that semen could persist in the oral cavity, after being advised by the head of the Harris County Crime Lab that it could live up to 72 hours. (Doc. No. 181, at 256).
>
> Claim 12: Prible received ineffective assistance of counsel, as a matter of federal constitutional law, where trial counsel failed to effectively address and rebut the testimony of William Watson that the semen found in Tirado must have been deposited in her mouth near or at the time of her death, where there was no scientific basis for this expert conclusion. (Doc. No. 181, at 258).
>
> Claim 13: Prible was denied his constitutional right to an impartial jury because the venire did not reflect a fair cross-section of the community. (Doc. No. 181, at 269).
>
> Claim 14: Prible is actually innocent of capital murder and may receive relief through the actual innocence gateway under *Schlup v. Delo*, 513 U.S. 298 (1995). (Doc. No. 181, at 276).
>
> Claim 15: In violation of due process, the State sponsored false testimony to bolster its rape/murder theory and to prevent corroboration of Prible's alibi witness. (Doc. No. 181, at 282).
>
> Claim 16: Trial counsel's failure to utilize Prible's phone records and failure to exclude or refute the foundation of the state's rape theory violated Prible's Sixth Amendment right to effective assistance of counsel. (Doc. No. 181, at 266).

Respondent filed a Motion for Summary Judgment and Answer to Petitioner's Fourth Amended Petition. (Doc. No. 191). Prible filed an opposed motion for an evidentiary hearing to further explore his habeas claims on August 8, 2018. (Doc. No. 199). The stated purpose of the hearing was to explore relevant procedural issues, including whether Prible could establish cause and prejudice to overcome the procedural default of his prosecutorial misconduct claims. (*Id.* at 2–3). The Court granted the motion for evidentiary hearing on February 25, 2019. (Minute Entry 2/25/2019).

The Court held an evidentiary hearing in which the parties presented testimony and evidence relating to the claims involving the prosecution's use of inmate testimony at trial.

III. EVIDENTIARY HEARING

The Court held a three-day evidentiary hearing from April 29, 2019 to May 2, 2019. At this hearing, the Court heard live testimony from Nathan Foreman, Carl Walker, Kelly Siegler, and Terrence Gaiser (Prible's trial attorney). The Court also viewed portions of the depositions of Michael Beckcom, Johnny Bonds (Siegler's investigator on Prible's case), Victor Wisner (the other prosecutor on Prible's case), and Siegler. The Court summarizes the testimony as it applies to Prible's federal habeas claims, as follows.

A. Testimony of Nathan Foreman

At the evidentiary hearing, Foreman's testimony served two purposes: (1) provide background into the ring of informants and their interaction with Siegler, and (2) "testify that Beckcom's story of him and Foreman hearing a confession from Prible was not true." HT1-21.[11]

While incarcerated in FCI Beaumont in 2001, Foreman was held in the Special Housing Unit ("SHU"), which is "like, somewhat solitary, but only difference is there you have, like, two other cellmates." HT1-37. There, he met inmate Jesse Moreno, from whom he had learned some facts about Prible's case. HT1-39.[12] Moreno suggested that Foreman contact Siegler. HT1-40.

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[11] The transcript for the three-day evidentiary hearing is located at docket entries 234, 235, and 236. The Court will cite to the transcript as HT_-__.

[12] Respondent succinctly summarized Moreno's initial interaction with Siegler as follows:

> On April 4, 2001, Jesse Moreno, an inmate at FCI Beaumont-Medium wrote a letter to Kelly Siegler, a prosecutor with the Harris County District Attorney's (HCDA) Office, stating that he had information that could be helpful in one of her unsolved cases. Pet.'s Hrg. Ex. 6. Moreno served as an informant for Siegler several years prior in a case against Jason Morales. *Id.* Siegler met with Moreno on July 3, 2001, at FCI Beaumont-Medium. 2 EHRR 23–25. Moreno was housed in the Special Housing Unit (the "SHU") at the time. *Id.*; *see also* Pet.'s Hrg. Ex. 7. During the interview, which Siegler recorded, Moreno provided her with information implicating fellow-inmate Hermelio Herrero in the murder of Albert Guajardo. Pet.'s Hrg. Ex. 11. Moreno told Siegler that when Herrero confessed his

Foreman, Moreno, Beckcom, and another inmate named Rafael Dominguez all contacted Siegler from the unit manager's phone. HT1-45.

Foreman did not remember when he contacted Siegler but recalled meeting her at the Federal Detention Center in Houston. HT1-44. Siegler and her investigator, Johnny Bonds, met with Foreman at the Federal Detention Center in Houston on August 8, 2001. HT1-14. Foreman did not remember the content of that conversation. HT1-44, 80–81.

Foreman testified that, after he became cellmates with Beckcom in October 2001, they met Prible in the recreational yard. HT1-47. By that point, however, Foreman already knew some facts about Prible's case and had relayed them to Beckcom. HT1-51, 54. Foreman had gotten his information from Moreno and Siegler. HT1-54.

Foreman and other inmates were trying to "roll[] over on" Prible in exchange for "time cuts." HT1-49. But Prible would not talk about the crime—"he didn't really talk about what he was accused of," other than to say that "they were trying to accuse him for something that he didn't do." HT1-51.

Prible's federal habeas attorneys took Foreman line-by-line through the December 10, 2001, letter that Beckcom wrote to Siegler relating to Prible's alleged confession. Foreman directly contradicted Beckcom's account and denied that Prible had ever made inculpatory statements. Importantly, Foreman testified that he did not recall the November 24, 2001,

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> involvement in this murder to him, fellow inmates Raphael Dominguez and Nathan Foreman were also present. Pet.'s Hrg. Ex. 11 at 17. It appears from the transcript that this is the first time Siegler learned of Nathan Foreman. *See* Pet.'s Hrg. Ex. 11 at 18–19. Two days later, on July 5, 2001, Siegler charged Herrero with the murder, specifically referencing the inculpatory information provided by Moreno. 6 Resp.'s Hrg. Ex. 6.

(Doc. No. 240, at 4–5) (footnote omitted).

conversation in which Prible had allegedly confessed to the murders in his presence. HT1-59–60. On the day that Beckcom said that Prible confessed, Foreman testified that the group of inmates used homemade wine to try to get Prible to talk. HT1-71. Prible eventually got so drunk that Foreman had to help him back to his unit, but Prible did not confess. HT1-71–72. Foreman said that he would have remembered if Prible had said anything inculpatory, because he would have used that to inform on Prible. HT1-63.

Foreman convincingly and unwaveringly challenged the basis for Beckcom's trial testimony. Foreman unequivocally and credibly testified that Beckcom did not provide truthful testimony at trial. HT1-64, 70. Foreman testified that Beckcom "should have been a book writer or something," because his testimony was "not true" and completely fictional. HT1-64. The Court finds that Foreman was a credible witness.

B. Testimony of Carl Walker, Jr.

The constitutional claims in Prible's federal petition find their origin in the interview Carl Walker Jr. gave to Prible's attorney in 2010.[13] Walker was incarcerated in FCI Beaumont contemporaneously with Prible. Walker testified credibly about his involvement in the ring of informants vying to inform on Prible. Walker testified that he was "approached or recruited" by some inmates who asked "if [he] wanted a blessing, opportunity to get out of jail without having to do all [his] sentence." HT1-95. The men offered him an opportunity to get a time cut by testifying against Prible. HT1-97. Walker said that he thought that Foreman approached him, but it could also have been Beckcom or his cellmate Oscar Gonzalez. HT1-95, 126. Prible was to be

[13] Counsel had difficulty finding Walker because of confusion over an inmate with a similar name. HT1-119–20.

"a mark . . . [i]n every sense of the word. . . . [H]e was going to be a scapegoat for several individuals to have an opportunity to get out of prison sooner than later." HT1-106.

The men already had a "plethora of information about Mr. Prible's case" when they approached Walker—"details, locations, what was found, where the body was, what happened." HT1-95. The men concocted a plan to "collaborate as if we became prison buddies or pals or et cetera [with Prible], and then he, all of a sudden, feel compelled to confess all these horrific things." HT1-98. The men would then "writ[e] letters to the prosecutor asking to be a witness or—or volunteering to be a witness because we was just so overwhelmed about the information he supposedly give us." *Id.* The two main people involved in this plan were Beckcom and Foreman. HT1-99. Walker was given instructions to call Siegler and tell her what he had supposedly found out from Prible. HT1-100.

In the meantime, a grand jury returned an indictment against Prible on August 29, 2001. Prible would be transferred from FCI Beaumont Medium to the Harris County Jail on November 29, 2001. Before he left, however, on November 24, 2001, the group staged a photo "to create a picture of close intimacy with Mr. Prible, a close connection. . . . to show that . . . he would be comfortable enough or confident enough in your friendship to give you this information." HT1-111. Walker said that everyone in the photo was involved in the plot against Prible, as well as against other inmates. HT1-102, 103.

Walker testified that the group made a batch of wine specifically for Prible and drank it with him. The men intended for him to get so drunk that he would provide details about the murders. HT1-114. However, Walker said that it "really didn't matter" if Prible actually confessed, because "the knowledge was already there, you know. That was more of a formality,

like, you would go through the motions. You would set it up." HT1-114–15, 127. To Walker's knowledge, Prible never actually confessed. HT1-115.

Walker, nonetheless, sent Siegler a letter offering to testify that Prible had confessed. Walker testified that he did not write it himself, he only signed it. HT1-116. Walker's letter was among those kept in the work product folder. Walker explained that the inmates' letters were designed to corroborate each other. HT1-117. He believed that Beckcom wrote the letters, primarily because "[t]he only place to type letters is either in the law library, or maybe if you, like, a teacher or instructor or something teaching a class, you could have privacy or you'll have the exclusivity to have access to a typewriter." HT1-132. Beckcom was the only inmate in the conspiracy with that access.

Walker was a credible witness who was unwavering in his testimony. Walker provided trustworthy testimony that corroborated Foreman's rejection of Beckcom's trial testimony.[14]

C. Deposition Testimony of Johnny Bonds

Bonds was Siegler's investigator on the Prible case. Bonds provided some general background information about the investigation into Prible. He also noted that, initially, there was

[14] Respondent argues that "Prible's conspiracy theory alleging a state-run ring of informants rests almost entirely on speculative statements made by Carl Walker." (Doc. No. 240, at 12). Respondent supports that argument with a factual finding by the state habeas court that "Walker's statements . . . consist almost entirely of hearsay and speculation and contain no direct evidence of [Prible's] conspiracy theory," and that Walker's statements "are unpersuasive and have little evidentiary value with respect to the validity of [Prible's] habeas claims regarding any alleged conspiracy involving the lead prosecutor and federal inmates." (Doc. No. 191, at 13) (quoting Successive State Habeas Record at 799–800). Respondent fails to consider important differences between the allegations in the state habeas proceedings and those as they have developed in the instant case. The state court only considered Walker's statement, which included hearsay and speculation. His federal evidentiary hearing testimony, however, provided substance to his speculation and first-hand knowledge about the events. Walker's evidentiary hearing did not provide much testimony placing Siegler at the head of a ring of informants, but more than confirmed that a conspiracy existed at least among the inmates themselves. The state factual findings, therefore, addressed a much different issue than that considered by this Court.

not enough information to charge Prible. HT1-143. Bonds's experience with the case, however, was somewhat limited. Bonds said that he had never spoken to Beckcom. HT1-140. Bonds also explained that he never saw Walker's letter to Siegler. HT1-154–55. However, after reviewing the informant letters, he acknowledged that it looks like the same person typed them, because they look identical. HT1-180–81.

Bonds testified that, during the August 2001 meeting with Foreman at the Federal Detention Center, "two minutes into his conversation, I'm like, This [sic] guy is lying. He doesn't know anything about this case." HT1-140. Bonds said that Siegler felt the same way. HT1-172.

When confronted with his own notes documenting a visit that he and Siegler had with Foreman at FCI Beaumont in December 2001, Bonds was surprised. HT1-160–62. He only recalled meeting Foreman once. Bonds did not know why they would meet with Foreman when they knew he was a liar. HT1-162–63. Bonds assumed that his notes reflect Siegler's report to him about a meeting that she had with Foreman, rather than a meeting both Bonds and Siegler were in. HT1-164.[15]

Bonds acknowledged that Foreman and Beckcom "might have colluded to get more information." HT1-169. He also acknowledged that it was unlikely that Prible would talk about his crime to other inmates after he was indicted. HT1-171–72.

[15] Respondent concedes that "[n]either Bonds, Siegler, nor Foreman recalled that meeting, but handwritten notes from Bonds suggest the meeting likely occurred." (Doc. No. 240, at 8).

D. Deposition Testimony of Vic Wisner

Wisner was Siegler's co-counsel on the Prible case. Wisner, however, did not have much information directly relevant to this case. For example, Wisner did not know about Foreman. HT1-190. From Wisner's testimony, it was obvious that Siegler guided the prosecution and trial.

Although Wisner said that, as a defense attorney, he would have wanted to know about Foreman and the other inmates who wrote letters in the case, he placed the greatest weight on the presence of Prible's semen in Tirado's mouth. HT1-200–10. He acknowledged that, without the semen, the evidence about the informants would be much more important. HT1-204.

E. Deposition Testimony of Michael Beckcom

Beckcom's testimony was presented from a video deposition. In many ways, Beckcom's hearing testimony mirrored that which he gave at trial. Beckcom found out about Siegler's connection to Prible's case from Foreman after they became cellmates. HT1-215. Beckcom said that he called Siegler from the unit manager's phone. HT1-214. The purpose of Beckcom's first phone call was to discuss the possibility of arranging for a reduction in his sentence. HT1-238. Siegler made clear in that conversation that he needed to get specifics about the case. HT1-238. From then on, Beckcom took notes after conversations with Prible "[t]o have the information that Kelly Siegler asked [him] to get." HT1-239. Beckcom, however, said that a prosecutor has never given him details about a crime in connection with his work as an informant, HT3-7, and that Siegler specifically did not give him details about the facts of Prible's case, HT3-12–13.

At trial, Beckcom testified that he found out that Prible was coming to FCI Beaumont Medium before he arrived. HT1-221. Beckcom and Foreman talked about trying to get a confession from Prible "plenty." HT1-220. But Beckcom did not recall Foreman telling him facts about Prible's case. HT3-17.

Beckcom explained that he was one of "a group of guys from Houston, which after this whole thing got set in motion, it kind of became evident to me that this whole group of, like, fricking ten guys were trying to get information, and somehow I ended up with the information." HT1-218. Beckcom, however, did not know at the start of a conspiracy against Prible; he "kind of surmised that later on." HT1-220.

Beckcom confirmed that Foreman was with him every time Prible talked about his case. HT1-239. Beckcom explained, "[t]he details Jeff Prible gave me, he gave completely and explicitly to me and Nathan Foreman one night. He just rolled it out." HT1-218. Beckcom opined that Foreman's affidavit stating that Prible never confessed is false. HT1-249.

From the beginning, Beckcom testified that Siegler led him to believe that he would "get walked out . . . for [his] testimony" against Prible. HT1-214. Siegler told Beckcom, "[t]his probably will get you out of prison." HT1-213. Beckcom thought that Siegler told him that she had talked to the federal prosecutors about his own case and they would "play ball." HT1-230–31. He said that he had no other reason to develop evidence against Prible other than to receive a Rule 35 letter for a sentence reduction. HT1-236. Beckcom "knew [Siegler] had lied" because he only received one year off of his sentence for his testimony. HT1-214.

In many ways, Beckcom was not a credible witness. From the Court's review of the record and its observation of his live testimony, it is obvious that Beckcom was dishonest when it suited his needs. In other areas, however, Beckcom's testimony corroborated other testimony and the timeline of events. While the Court finds that Beckcom was generally not a credible individual, certain areas of his testimony can be confirmed when compared to the record.

F. Testimony of Kelly Siegler

Siegler testified both by deposition and in live examination before the Court. Siegler testified about her meeting with Foreman at FDC in August 2001. While she brought the Prible case to the grand jury after she met with Foreman, Siegler testified that her decision had nothing to do with him. HT2-45. She did not tell the grand jury that there was a prison informant in Prible's case. HT2-47.

Siegler testified that she never met with Foreman after the FDC meeting. Siegler said that Foreman probably tried to call her, but she did not remember "what we talked about for very long because I knew he was a liar." HT2-95. Siegler claimed that she simply did not believe Foreman and would not have wanted more information from him. HT2-40–41. Siegler conceded, however, that even though she similarly did not believe Foreman in Herrero's case and accordingly did not use his testimony at trial, she nonetheless wrote a Rule 35 letter for him. HT2-52–53, 56–57. When confronted with the evidence that she requested a second meeting with Foreman in December 2001, after she received a letter from Foreman's attorney stating that Foreman knew where the murder weapon was, she said she did not remember why she wanted the second meeting. HT2-105–09.

Siegler recalled receiving the letters from Gonzalez, Walker, and Martinez, but she claimed that she did not believe their accounts. HT2-67–70. As Respondent observes, "Siegler did not use Forman [sic], Gonzalez, Martinez, or Walker as witnesses, because she did not find them credible." (Doc. No. 240, at 9). Curiously, Siegler said that the letters were in the file open for Prible's defense attorneys to read. HT2-71. This, of course, turned out to be untrue.

Siegler acknowledged that she reached out to Beckcom's federal prosecutor months before Prible's trial to introduce herself. HT2-115–16. She discussed a possible Rule 35 for Beckcom in

those pretrial conversations. HT2-117. Siegler said she told Beckcom about the conversations she had with his prosecutor to reassure him about the Rule 35 letter. HT2-118–19.

Consistent with her deposition testimony, Siegler maintained in her live examination that she did not find Foreman credible and did not need to disclose information about her meetings with him to Prible's defense counsel. HT3-38, 42–43. She opined Foreman was a liar "in a category all by himself." HT3-49. She also reiterated that she did not need to disclose information about Moreno to Prible's defense counsel. HT3-35–43.

Siegler testified that she did not give any inmate at FCI Beaumont information about Prible's case or encourage any inmate to obtain information against Prible. HT3-46–47. Siegler said that, to the best of her knowledge, this was the only capital case in which she used prison inmates who were in the same facility as the accused as witnesses. HT3-47.

Siegler acknowledged that she first spoke to Pam McInnis, head of the Harris County crime lab, about the semen and DNA evidence. HT2-144–45. McInnis said that semen could live up to 72 hours in the oral cavity. HT2-145. Siegler thought this evidence was in the trial, but she could not remember if she told Prible's counsel about McInnis's conclusion. *Id.*

Siegler's testimony was not credible on both minor and major points. Siegler made several statements that the record directly refutes. For example, when asked about the SHU (which is where Foreman met Jesse Moreno), she claimed she did not know what the SHU was and that she had never heard the term before. HT2-25. In addition to the fact that SHU is a well-known term, Siegler herself referred to the SHU at Prible's trial. HT3-26 (quoting 26 RR 96). She also testified that the letters from the other inmates trying to inform on Prible were in the open file; it is now undisputed that they were in her work product file and were not disclosed to defense counsel. She testified that she never saw Foreman after the August 2001 FDC meeting; yet, there is unrefuted

evidence that she had a meeting with him in December 2001 at FCI Beaumont. She testified that this was the only capital case in which she used prison inmates as witnesses; in fact, she has done so in numerous other cases. (Doc. No. 241, at 39–40). Siegler was also combative in demeanor and did not appear forthcoming with many of her answers.

G. Testimony of Terry Gaiser

Gaiser, Prible's trial attorney, was appointed on September 28, 2001. HT2-155. Gaiser confirmed that he had not seen the note about McInnis's conclusions on the semen evidence before the federal habeas proceedings. HT2-193. Gaiser said that he asked Siegler for information about how she came into contact with Beckcom. HT2-164. However, Siegler never told him that she had communicated with Foreman or that she had determined that Foreman was lying. HT2-165. In fact, Siegler did not tell Gaiser anything about Foreman; Gaiser was aware of Foreman only because of Beckcom's statements. HT2-165–66. Siegler also did not tell Gaiser that she wrote a Rule 35 letter for Foreman in connection with other cases. HT2-172. Siegler never mentioned Jesse Moreno to Gaiser either. HT2-166.

Gaiser said he would have wanted the letters and evidence about the other inmates because that evidence "brings into question the credibility of these people in the Beaumont facility in terms of people wanting to give information to get consideration for doing this." HT2-179. However, he never saw any of these pieces of evidence before trial. HT2-179–80.

Gaiser confirmed that Siegler had previously told him that she could not contact inmates at FCI Beaumont by phone. HT2-187–88. Gaiser said that the knowledge that she could, in fact, call them was important so he could ascertain "who was cultivating who? . . . [W]ho precipitated the—the information? Who—who was the instigator of the—the informant's testimony?" HT2-188.

With that background, the Court will consider the constitutional claims raised in Prible's fourth amended petition.

IV. LEGAL STANDARDS

"The writ of habeas corpus stands as a safeguard against imprisonment of those held in violation of the law." *Harrington v. Richter*, 562 U.S. 86, 91 (2011). Federal habeas corpus review provides an important, but limited, examination of state criminal judgments. Because "state courts are the principal forum for asserting constitutional challenges to state convictions," *id.* at 103, concerns for comity, federalism, and finality define the contours of federal habeas review. *See Calderon v. Thompson*, 523 U.S. 538, 555–56 (1998); *Barefoot v. Estelle*, 463 U.S. 880, 887 (1983); *Engle v. Isaac*, 456 U.S. 107, 128 (1982).

Accordingly, federal jurisprudence sets procedural hurdles to federal habeas review of state criminal proceedings. "[T]wo fundamental tenets" govern federal review of state convictions:

> First, a state prisoner must exhaust available state remedies before presenting his claim to a federal habeas court. . . . Second, a federal court may not review federal claims that were procedurally defaulted in state court—that is, claims that the state court denied based on an adequate and independent state procedural rule.

Davila v. Davis, 137 S. Ct. 2058, 2064 (2017). "These requirements ensure that the state courts have the first opportunity to correct any error with a state conviction and that their rulings receive due respect in subsequent federal challenges." *Skinner v. Switzer*, 562 U.S. 521, 541–42 (2011) (Thomas, J., dissenting). In the case of procedural default, however, the bar to federal review may be lifted "if the prisoner can demonstrate cause for the [procedural] default [in state court] and actual prejudice as a result of the alleged violation of federal law." *Maples v. Thomas*, 565 U.S. 266, 280 (2012) (internal quotation marks omitted) (alterations in original).

If an inmate has presented his claims in a manner allowing the state courts to resolve their merits, AEDPA provides for a highly deferential federal review. AEDPA "bars relitigation of any

claim adjudicated on the merits in state court, subject only to the exceptions in [28 U.S.C.] §§ 2254(d)(1) and (d)(2)." *Richter*, 562 U.S. at 98 (internal quotation marks omitted). Under those provisions, "a federal court may not grant a habeas corpus application . . . unless the state court's decision 'was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States,' or 'was based on an unreasonable determination of the facts in light of the evidence presented in the State Court proceeding.'" *Berghuis v. Thompkins*, 560 U.S. 370, 380 (2010) (first quoting 28 U.S.C. § 2254(d)(1), then quoting *id.* § 2254(d)(2)).[16] "The question under AEDPA is not whether a federal court believes the state court's determination was incorrect but whether that determination was unreasonable—a substantially higher threshold." *Schriro v. Landrigan*, 550 U.S. 465, 473 (2007) (citing *Williams v. Taylor*, 529 U.S. 362, 409–10 (2000)); *see also Morrow v. Dretke*, 367 F.3d 309, 313 (5th Cir. 2004); *Foster v. Johnson*, 293 F.3d 766, 776 (5th Cir. 2002). Simply put, "AEDPA prevents defendants—and federal courts—from using federal habeas corpus review as a vehicle to second-guess the reasonable decisions of state courts." *Renico v. Lett*, 559 U.S. 766, 779 (2010). Federal courts also generally presume that the state courts have made correct factual findings, unless rebutted by clear and convincing evidence. *See* 28 U.S.C. § 2254(e)(1).

[16] The Supreme Court has clarified that relief lies under § 2254(d)(1) if (1) "the state court arrives at a conclusion opposite to that reached by this Court on a question of law," (2) "the state court decides a case differently than this Court has on a set of materially indistinguishable facts"; or (3) "the state court identifies the correct governing legal principle from this Court's decisions but unreasonably applies that principle to the facts of the prisoner's case." *Williams v. Taylor*, 529 U.S. 362, 413 (2000); *see also Thaler v. Haynes*, 559 U.S. 43, 47 (2010); *Bell v. Cone*, 535 U.S. 685, 694 (2002); *Early v. Packer*, 537 U.S. 3, 7–8 (2002).

V. ANALYSIS

A. *Brady* Claims (Claims 2, 3, 4, 5, and 10)

Claims 2 through 5 and 10 rely on *Brady v. Maryland*, 373 U.S. 83 (1963), in which the Supreme Court held that "the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution." *Id.* at 87. "There are three components of a true *Brady* violation: (1) the evidence at issue, whether exculpatory or impeaching, must be favorable to the accused; (2) that evidence must have been suppressed by the State, either willfully or inadvertently; and (3) prejudice must have ensued." *Canales v. Stephens*, 765 F.3d 551, 574 (5th Cir. 2014) (quoting *Strickler v. Greene*, 527 U.S. 263, 281–82 (1999)). In evaluating whether the evidence was material, the evidence is "considered collectively, not item by item." *Kyles v. Whitley*, 514 U.S. 419, 436 (1995). Impeachment evidence must also be disclosed under *Brady*. *See United States v. Bagley*, 473 U.S. 667, 676 (1985). Evidence that enables the defense to "attack[] the reliability of the investigation" is also *Brady* material. *Kyles*, 514 U.S. at 446.

The extensive factual development in this case has created a rich and complicated portrait of what happened at trial and what was not known to the defense. Years of litigation have resulted in a dense record full of complex arguments and detailed allegations, often branching out into different cases and implicating various incarcerated individuals.

But the ultimate facts of this case are simple. The State's case rested on two facts: (1) a single witness who testified that Prible confessed to the murders and (2) testimony suggesting that Prible's DNA had entered Tirado's mouth only a short while before her death. As the Court will discuss further below, the State did not disclose the full extent of its interaction with its star

witness, Michael Beckcom. The State also failed to disclose evidence which would enable the defense to argue that Beckcom had fabricated his story, conspired with others to inculpate Prible, and tried to corroborate his contrived story by typing letters for other inmates to sign. Given the weakness of the State's case against Prible, stopping the defense from developing impeachment evidence against its star witness is unconstitutional.

The State also hid evidence about its DNA evidence. Prible admitted that he had sexual relations with Tirado. He claimed, however, that they had done so hours before the murder happened. The State's case depended on showing that the sexual acts occurred moments before Tirado died. The State did not disclose that it had developed evidence supporting the defense's expert testimony on the DNA, but still presented testimony with directly opposite scientific conclusions. The suppression of information from the defense hampered, if not prevented, the development of a defense to counter the two facts that supported Prible's conviction.

As previously discussed, no matter how egregious the underlying constitutional violation, certain procedural requirements curb federal habeas review. Before turning to the merits of Prible's *Brady* claims, the Court must decide whether he has presented those arguments in a timely and procedurally proper manner.

1. Procedural Reviewability

Respondent argues that procedural defects preclude federal review of Prible's *Brady* claims. First, Respondent contends that Prible did not file some of those claims in federal court in a timely manner, rendering them time-barred by the AEDPA one-year limitations period. Second, Respondent argues that Prible failed to litigate his claims in compliance with state law, rendering

them procedurally unreviewable. As discussed below, the Court finds that all of Prible's *Brady* claims are available for federal review.

a. Limitations Period

Respondent argues that Prible filed Claims 3, 4, 5, and 10 outside the time period allowed under AEDPA's limitations period. AEDPA established a one-year deadline, subject to statutory and equitable tolling, in which an inmate must raise his federal habeas claims after the conclusion of state review.[17] Prible filed a timely federal habeas petition on June 18, 2009. On March 26, 2018, Prible filed his Fourth Amended Habeas Petition raising Claims 3, 4, 5, and 10 for the first time. Because Prible raised those claims almost nine years after his original petition, Respondent contends that they are barred from federal consideration. As discussed below, the Court finds that

[17] AEDPA provides:

> (1) A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—
>
> > (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
> > (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;
> > (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
> > (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.
>
> (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

28 U.S.C. § 2244(d).

the claims are available for federal consideration because (1) Claims 3, 4, and 5 relate back to the original petition and (2) the facts leading to Claim 10 could not have been discovered previously.

Prible argues that Claims 3, 4, and 5 relate back to the seventh claim in his original petition. A federal habeas court may consider the merits of an otherwise untimely claim if it relates back to a timely filed federal habeas petition. *See Mayle v. Felix*, 545 U.S. 644, 656 (2005). A claim in an amended federal habeas petition relates back under Federal Rule of Civil Procedure 15(c) if the timely claim and the proposed claim to be added by amendment "are tied to a common core of operative facts." *Id.* at 664. "An amended habeas petition . . . does not relate back . . . when it asserts a new ground for relief supported by facts that differ in both time and type from those the original pleading set forth." *Id.* at 650.

Prible's seventh claim, the only *Brady* claim in the original petition, focused on the State suppressing evidence of its relationship with Foreman, Beckcom, and other informants, and the impact this suppression had on the defense's ability to impeach Beckcom's credibility at trial. Specifically, the seventh claim's "core of operative facts" asserted that the State suppressed:

- evidence that Siegler had contacted Foreman, Beckcom's cellmate, on numerous occasions;
- evidence that Siegler was using a circle of informants (including Beckcom and Foreman) at the prison to investigate and provide testimony against Prible;
- evidence that Foreman and his crew were told specifics about the offense that the State was trying to prove against Prible; and
- evidence that Siegler used the ring of informants to prosecute defendants in other cases.

The original petition alleges that the suppressed evidence was material, because "defense counsel would have completely undermined the integrity of the State s [sic] case if he had information that would have allowed him to demonstrate that the State was involved in a conspiracy to violate Mr.

Prible's right to counsel and was trying to incriminate Mr. Prible with the testimony from members of this conspiracy." (Doc. No. 1, at 44).

Claims 3, 4, and 5 in the Fourth Amended Petition cover substantially the same allegations. Specifically, the Fourth Amended Petition describes the challenged claims as follows:

- **Claim 3**: In violation of *Brady* and due process guaranteed by the Fourteenth Amendment, the prosecution suppressed evidence that Foreman, whom Beckcom represented could corroborate his story, gave a different account, and was, in fact, fabricating evidence against Prible. (Doc. No. 181, at 196).

- **Claim 4**: In violation of *Brady*, the State suppressed evidence impeaching its [Beckcom's] testimony regarding the circumstances of the alleged "confession" and his motives for questioning Prible. (Doc. No. 181, at 199).

- **Claim 5**: The State withheld evidence that the trial court ordered produced pursuant to *Brady*. (Doc. No. 181, at 203).

The only difference between the *Brady* claim in the original petition and those in the Fourth Amended Petition is that, as a result of additional discovery in the case, the new claims specify with greater particularity the evidence that Siegler suppressed. In other words, the original and amended claims share a common core of operative facts: they concern suppression of exculpatory evidence that (1) originates from the same time (a five-month period between July and December, 2001), (2) was suppressed by the same actor (Siegler), (3) concern the same subject matter (the State's relationship to Foreman and Beckcom and their motives and roles in the ring of informants), and (4) is material for the same reason (impeachment of Beckcom's testimony regarding the alleged confession).

Mandacina v. United States, 328 F.3d 995 (8th Cir. 2003), which the Supreme Court in *Mayle* cited with approval in laying out the relation back standard, is instructive. In *Mandacina*, the inmate's original federal habeas petition raised a *Brady* violation involving the suppression of "evidence of other suspects obtained by the Gladstone Police Department." *Id.* at 1001. The

inmate then sought to amend his habeas petition to include suppression of a particular report—to which the original petition made no reference—that documented a witness interview implicating other persons in the victim's murder. The Eighth Circuit held that the amended pleading related back to the original pleading. *See id.* *Mayle* suggests that relation back was appropriate in *Mandacina* because "[b]oth pleadings related to evidence obtained at the same time by the same police department." *Mayle*, 545 U.S. at 664 n.7. The relationship between Claims 3, 4, and 5 and the original seventh claim closely resembles the relationship between the original and amended pleadings in *Mandacina*. The only difference between the allegations in the original petition and the challenged ones is that, as a result of additional discovery in the case, the later claims specify with greater particularity the evidence that was suppressed by Siegler. As in *Mandacina*, the suppressed evidence that is mentioned for the first time in the new claims falls directly under the category of suppressed evidence already identified in the original petition and, thus, those claims relate back to the original petition. The Court thus finds that Claims 3, 4, and 5 relate to a common core of facts that do not differ in substantial thrust from the allegations made in Prible's earlier filings.[18]

[18] In the alternative, Prible argues that the Court can reach any procedurally defaulted claims through the *Schlup v. Delo*, 513 U.S. 298 (1995), actual innocence gateway. In *Schlup*, the Supreme Court held that prisoners seeking review of defaulted claims on the ground of actual innocence must establish that "it is more likely than not that no reasonable juror would have found petitioner guilty beyond a reasonable doubt" in light of "new reliable evidence—whether it be exculpatory scientific evidence, trustworthy eyewitness accounts, or critical physical evidence." *Id.* at 324, 327. A *Schlup* claim of innocence is "not itself a constitutional claim, but instead a gateway through which a habeas petitioner must pass to have his otherwise barred constitutional claim considered on the merits." *Id.* at 315 (quoting *Herrera v. Collins*, 506 U.S. 390, 404 (1993)). However, because the Court determines that Prible's amended pleadings relate back to his original pleadings and are thus are not barred by AEDPA's limitations period, the Court need not reach Prible's actual innocence claim.

Respondent also argues that Prible failed to raise Claim 10 in a timely manner. Claim 10 argues that, "[i]n violation of due process under *Brady*, the State suppressed material evidence that Siegler had consulted the head of the Harris County Crime Lab to ask how long semen could remain in the oral cavity, and was told it lives up to 72 hours." (Doc. No. 181, at 233). Habeas counsel learned of the suppressed evidence only through Siegler's own notes, which were disclosed on May 11, 2017, pursuant to this Court's order. The suppressed evidence is material, Prible argues, because "it supports his defense that he had consensual sexual contact with Nilda earlier in the night before she was murdered, rather than immediately prior to her execution." (*Id.*) Prible highlights the fact that "Petitioner could not have discovered these notes earlier; it took a court order for the HCDA [Harris County District Attorney's] Office to finally let Petitioner see them." (Doc. No. 198, at 56).

Section 2244(d)(1)(D) provides that the AEDPA limitations period begins to run from "the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence." Because the State kept information about Siegler's interaction with the crime lab hidden in the attorney work product file, Prible could not have known of the facts that would have supported a *Brady* claim until at least May 11, 2017, when the State finally disclosed Siegler's work product file. Prible could not have discovered the factual basis of that claim earlier because the State only disclosed Siegler's work product material pursuant to court order. Prible filed his amended habeas petition on March 26, 2018, within one year of the disclosure. Thus, Prible filed Claim 10 in a timely manner under 28 U.S.C. § 2244(d)(1)(D).

The Court therefore concludes that Claims 3, 4, 5, and 10 are not barred by AEDPA's limitations period.

b. Procedural Default

Respondent next argues that Prible's *Brady* claims are procedurally unreviewable because Prible failed to litigate his claims in compliance with state law. A federal constitutional claim raised on federal habeas is procedurally defaulted and may not be reviewed if the last state court to consider that claim expressly relied on an adequate and independent state procedural bar for denial of relief. *See Coleman v. Thompson*, 501 U.S. 722, 750 (1991). A procedural default may be excused, however, if a petitioner can show cause and prejudice to overcome the default. *Id.* at 750–51. The Court finds that Prible's *Brady* claims are procedurally defaulted, but that Prible has shown cause and prejudice to overcome the default.

i. *Prible's* Brady *Claims Are Procedurally Defaulted*

The Court agrees that Prible's second *Brady* claim is procedurally defaulted. As discussed above, the state court dismissed Prible's successive state habeas application, which included Claim 2, under Texas's "abuse of the writ doctrine," codified at Texas Code of Criminal Procedure Article 11.071 § 5(a). A dismissal pursuant to Article 11.071 "is an independent and adequate state ground for the purpose of imposing a procedural bar" in a subsequent federal habeas proceeding. *Hughes v. Quarterman*, 530 F.3d 336, 342 (5th Cir. 2008).

The Court further agrees with Respondent that Prible's other *Brady* claims are procedurally defaulted. "A procedural default also occurs when a prisoner fails to exhaust available state remedies and 'the court to which the petitioner would be required to present his claims in order to meet the exhaustion requirement would now find the claims procedurally barred.'" *Nobles v. Johnson*, 127 F.3d 409, 420 (5th Cir. 1997) (quoting *Coleman v. Thompson*, 501 U.S. 722, 735 n.1 (1991)); *see also Finley v. Johnson*, 243 F.3d 215, 218 (5th Cir. 2001). Without distinguishing between individual claims, the state trial level habeas court dismissed Prible's successive state

habeas petition because it concluded that the "factual basis" for Prible's ring-of-informants "conspiracy theory" was "available" when Prible filed his original state habeas petition in 2004. (Doc. No. 90-1 ¶¶ 26, 32, 34). Given the breadth of this conclusion, as well as the similarities between Claims 3–5 and Claim 2, which was included in the successive petition, it is clear that the state court would apply the same procedural bar to Claims 3–5 if presented with those claims. Respondent reaches the same conclusion. For Claims 3–5, Respondent avers that "the Texas abuse-of-the-writ doctrine, set out in Tex. Code Crim. Proc. Art. 11071 § 5, would procedurally bar Prible's attempt to raise this unexhausted claim in a subsequent writ application." (*Id.* at 32). Respondent similarly asserts that Claim 10 "would be dismissed as an abuse of the writ if he were to raise [it] in a subsequent state habeas application." (Doc. No. 191, at 150). Prible's *Brady* claims are procedurally defaulted.[19]

[19] Respondent also briefly argues that Claims 3–5 are unreviewable because they are unexhausted, (Doc. No. 191, at 32), though Respondent does not raise the same argument against Claim 10, (*Id.* at 150; Doc. No. 240). However, by acknowledging the procedural default of Claims 3–5 and 10, Respondent has effectively waived any nonexhaustion argument. *See Thompson v. Wainwright*, 714 F.2d 1495, 1501 (11th Cir. 1983) ("[W]hen the state affirmatively acknowledges futility [of exhaustion] . . . its statement is often considered under the rubric of waiver."); *see also McGee v. Estelle*, 722 F.2d 1206, 1212–13 (5th Cir. 1984) (citing *Thompson* for the proposition that "the state may waive exhaustion"). Treating an acknowledgement of procedural default as a waiver of exhaustion makes sense because exhaustion is a matter of comity, not jurisdiction, and comity does not require that a federal court force a case back into the state system when the state itself has determined that review would be procedurally barred. *See Felder v. Estelle*, 693 F.2d 549, 551–54 (5th Cir. 1982) (discussing waivers of exhaustion and comity). Moreover, waiver aside, nonexhaustion does not bar review of Claims 3–5 and 10 because "exhaustion is not required if it would plainly be futile." *Graham v. Johnson*, 94 F.3d 958, 969 (5th Cir. 1996). Exhaustion is futile if "there is no opportunity to obtain redress in state court . . . ." *Id.* (quoting *Duckworth v. Serrano*, 454 U.S. 1, 3 (1981)). The procedural default of Claims 3–5 and 10 renders redress in state court unavailable. *See Coleman v. Thompson*, 501 U.S. 722, 732 (1991) ("A habeas petitioner who has defaulted his federal claims in state court meets the technical requirements for exhaustion; there are no state remedies any longer 'available' to him."). Thus, ultimately, it is the procedural default, and not the nonexhaustion, of Claims 3–5 and 10 that presents a procedural hurdle to their federal review.

ii. *Cause and Prejudice Overcomes Default*

A procedural default may be excused upon a showing of cause and prejudice. *Fisher v. State*, 169 F.3d 295, 301 (5th Cir. 1999). "The resolution of 'when and how defaults in compliance with state procedural rules can preclude federal court consideration of a federal question is itself a federal question.'" *Barrientes v. Johnson*, 221 F.3d 741, 763 (5th Cir. 2000) (alterations omitted) (quoting *Fairman v. Anderson*, 188 F.3d 635, 641 (5th Cir.1999)). "To the extent, therefore, that the Texas Court of Criminal Appeals decided issues of cause and prejudice in dismissing [defendant's] [successive] State Petition, we are not bound by its decision."[20] *Id.*

"[T]he existence of cause for a procedural default must ordinarily turn on whether the prisoner can show that some objective factor external to the defense impeded counsel's efforts to comply with the State's procedural rule." *Murray v. Carrier*, 477 U.S. 478, 488 (1986). "[A] showing that the factual or legal basis for a claim was not reasonably available to counsel, or that

[20] The situation in *Barrientes* closely parallels that here. Barrientes's federal habeas petition contained prosecutorial misconduct claims, including a *Brady* claim, related to exculpatory evidence from a sheriff's file that Barrientes alleged was unavailable to him when filing his state court habeas application. *See Barrientes*, 221 F.3d at 752, 764. Barrientes was sent back to state court to exhaust his prosecutorial misconduct claims. *Id.* at 750. The Texas Court of Criminal Appeals denied his successive petition as an abuse of the writ, rendering his claims procedurally defaulted. *Id.* In considering whether Barrientes had shown cause and prejudice to overcome the default, the Fifth Circuit held that it was "not bound" by the Texas Court of Criminal Appeals' abuse-of-the-writ decision and that the district court should have held an evidentiary hearing to reach its own findings as to cause and prejudice. *Id.* at 763, 768.

Still, Respondent argues that 28 U.S.C. § 2254(e)(1)—which provides that "a determination of a factual issue made by a State court shall be presumed to be correct" unless rebutted by "clear and convincing evidence"—nonetheless requires that this Court, in conducting its cause analysis, apply a presumption of correctness to the state court's underlying factual determinations articulated in its "Findings of Fact Pursuant to Tex. Code Crim. App. Art. 11.071, Sec. 5(a)(1)." Respondent cites no binding precedent for this claim. Even so, the Court finds, as discussed *infra*, that Prible has rebutted with clear and convincing evidence the state court's key findings of fact in support of its decision to apply the abuse of the writ doctrine to his successive state court habeas petition.

some interference by officials made compliance impracticable, would constitute cause under this standard." *Id.* (citations omitted). "A *Brady* violation can provide cause and prejudice to overcome a procedural bar on a habeas claim." *Thompson v. Davis*, 916 F.3d 444, 455 (5th Cir. 2019); *see also Banks v. Dretke*, 540 U.S. 668, 691 (2004).

The Supreme Court has recognized overlap between a substantive *Brady* claim and the showing required to overcome the procedural bar of a *Brady* claim. For a defaulted *Brady* claim, "cause and prejudice parallel two of the three components of the alleged *Brady* violation itself." *Strickler v. Greene*, 527 U.S. 263, 282 (1999); *see also Banks*, 540 U.S. at 691. There are three elements of a substantive *Brady* claim: "The evidence at issue must be favorable to the accused, either because it is exculpatory, or because it is impeaching; that evidence must have been suppressed by the State, either willfully or inadvertently; and prejudice must have ensued." *Strickler*, 527 U.S. at 281–82. "Corresponding to the second *Brady* component (evidence suppressed by the State), a petitioner shows 'cause' when the reason for his failure to develop facts in state-court proceedings was the State's suppression of the relevant evidence." *Banks*, 540 U.S. at 691. "[C]oincident with the third *Brady* component (prejudice), prejudice within the compass of the 'cause and prejudice' requirement exists when the suppressed evidence is 'material' for *Brady* purposes." *Id.*

The Court will discuss the favorable evidence that Siegler suppressed, and its materiality under *Brady*'s prejudice prong, at length in addressing the merits of Prible's *Brady* claims, *see infra* V.2.a & V.2.b. Here, the Court focuses on how Siegler's suppression of that evidence prevented Prible from developing his *Brady* claims in state court, thus providing cause to overcome their default.

"Under *Banks*, a petitioner shows 'cause' if 'the reason for his failure to develop facts in state-court proceedings was the State's suppression of the relevant evidence.'" *Murphy v. Davis*, 901 F.3d 578, 597 (5th Cir. 2018) (quoting *Banks*, 540 U.S. at 691). It is beyond serious dispute that the prosecution withheld critical information from the defense in this case. Siegler knew that Beckcom was associated with several other inmates intent on gaining favor by securing evidence against Prible, and that some of these same inmates were involved in the case against Hermilo Herrero. Yet the State did not divulge that other inmates sought out the prosecution to inform against Prible. Nor did Siegler disclose the extent of her interactions with Beckcom or the precise nature of the deals made for his testimony. Nor did she reveal the extent of her interactions with Foreman or divulge that Foreman—who, without testifying, still loomed over the trial testimony—had twice given patently false accounts of Prible's supposed confession to her.

In the end, the Court need not look further than the State's own file to demonstrate that Siegler prevented the defense from learning about exculpatory material evidence. In her deposition, Siegler claimed that she had an "open file" policy and did not maintain a separate work product file. (Doc. No. 181, Ex. 4-A, at 112, 147). In reality, however, the State maintained a dense work product file containing a significant amount of exculpatory information that was not disclosed to the defense, including notes memorializing meetings with Foreman and Beckcom concerning Prible's case, letters from several inmates—including Walker—trying to inform on Prible, and a note revealing that Siegler had consulted Pam McGinnis, the head of the Harris County Crime Lab, who told her semen could live up to seventy-two hours in the mouth.[21] These

[21] As discussed in this Court's order compelling production of certain materials contained in Siegler's work product file, the work product doctrine does not excuse Siegler's suppression. (Doc. No. 154, at 2). As an attorney representing a client, a prosecutor is entitled to rely on the work product, within constitutional limitations. The work-product doctrine protects "documents

materials came to light only because of court proceedings and court orders occurring after Prible filed his initial federal petition.

The State's suppression of evidence prevented Prible from developing his *Brady* claims in state court proceedings. Prible's trial attorney, Terrence Gaiser, brought several pre-trial *Brady* motions requesting that the State furnish, among other things, the date, place, and manner of all contacts with Beckcom, a statement of how contact with Beckcom was first initiated, a copy of all statements made by Beckcom, notes of any conversations had with Beckcom, and any agreements made with Beckcom concerning benefits in exchange for testimony. 2 RR 4, 6, 8. In response, Siegler provided a handwritten note from Beckcom and indicated that he had been the one to initiate contact. HT2-165. At a pre-trial hearing, Siegler disclosed that she had had four or five telephone conversations with Beckcom. Siegler did not, however, disclose that she had initiated some of those contacts, that she had long been communicating with Beckcom's cellmate Foreman, or that she found Foreman's testimony regarding Prible's confession to not be credible. *Id*. Gaiser testified at the evidentiary hearing that he had reviewed everything in the State's file on Prible, but that the file did not include the letters from Walker and other inmates concerning Prible's case, or any other information that would have alerted him to Siegler's contacts with the other informants.

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and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative []including the other party's attorney . . . ." Fed. R. Civ. P. 26(b)(3). "[T]he work product doctrine insulates a lawyer's research, analysis of legal theories, mental impressions, notes, and memoranda of witnesses' statements from an opposing counsel's inquiries." *Dunn v. State Farm Fire & Cas. Co.*, 927 F.2d 869, 875 (5th Cir. 1991). But "[t]he privilege derived from the work-product doctrine is not absolute." *United States v. Nobles*, 422 U.S. 225, 239 (1975). "Because *Brady* is based on the Constitution, it overrides court-made rules of procedure. Thus, the work-product immunity for discovery . . . prohibits discovery . . . but it does not alter the prosecutor's duty to disclose material that is within *Brady*." *See* 2 Charles Alan Wright, Federal Practice and Procedure § 254.2 (3d ed. 2000); *see also Dickson v. Quarterman*, 462 F.3d 470, 479 n.7 (5th Cir. 2006) (quoting Wright § 254.2). The work-product doctrine cannot excuse Siegler's efforts to hide relevant and exculpatory information from the defense, including information about her contacts with inmates and letters inmates sent to her claiming that Prible confessed.

Indeed, Siegler's co-counsel, prosecutor Victor Wisner, attested that even he was not made aware of Siegler's communications with the other informants, or the letters they sent her. HT1-189–97. Because of the evidence Siegler suppressed, Prible's defense team had no knowledge of her contacts and communications with other FCI Beaumont informants, or even the full extent and nature of her contacts with Beckcom.

Similarly, evidence of a larger ring of informants was not available to Prible's state habeas counsel, Roland Moore, despite his diligent attempts to discover it. Siegler's suppression of evidence left precious little for Moore to work with in investigating suspicions of prosecutorial misconduct. The only information Moore had was the identities of Beckcom and Foreman, and Prible's suggestion that a man with the last name of Walker might have relevant information. (Doc. No. 198-1, at 57–59). Beckcom and Foreman refused to speak with Moore. (*Id.* at 57). And though Moore tried to find a person named Walker, with no other identifying information, that effort quickly became "a fool's errand." (*Id.* at 59). With no concrete evidence to support such claims, Moore did not include any prosecutorial misconduct claims in Prible's original federal habeas application.

Prible later sought to discover Walker's identity and whereabouts on his own, but mistakenly assumed that a different person, Larry Wayne Walker, was the Walker with information about the ring of informants. Prible sent Larry Walker several letters through Ward Larkin, a layperson and anti-death penalty advocate. (Doc. No. 181-51, at 14). Only through sheer coincidence did Prible learn Carl Walker's identity: after Larry Walker was transferred from FCI Beaumont to a BOP facility in Yazoo, Mississippi, where Carl Walker had also since been transferred, he realized Carl Walker might be the intended recipient of the letters and shared them with him. (*Id.* at 48); HT1-121. Although Carl Walker did alert Larkin that he was the Walker

being sought, Carl Walker did not respond to further inquiries at the time, (Doc. No. 181-51, at 48), and Prible had no way to contact him further (Doc. No. 198, at 15–16). Thus, even though Prible identified Carl Walker before he filed his 2007 *pro se* petition, he had no way to obtain supporting evidence from him.[22] Only after federal proceedings commenced did Walker change his mind and provide a statement.

Respondent argues that Prible cannot establish cause to overcome the default of his *Brady* claims because he, like the defendant in *Robison v. Johnson*, 151 F.3d 256 (5th Cir. 1998), "confuses knowledge of the factual predicate of the claim with access to the best evidence supporting that claim." (Doc. No. 191, at 37). But the facts adduced at the evidentiary hearing as just described clearly undermine this argument. Although Prible may have suspected prosecutorial misconduct, including *Brady* violations, during the course of state court proceedings, Siegler's efforts to suppress evidence of her contacts with Beckcom and the other informants left Prible with no concrete evidence to support such a claim during those proceedings, despite Prible and his counsel's diligent efforts to discover such evidence. Prible may not be penalized for failing to raise claims for which he lacked any evidence. *Strickler*, 527 U.S. at 286 ("Proper respect for state procedures counsels against a requirement that all possible claims be raised in state collateral proceedings, even when no known facts support them."). Relatedly, because Prible has shown by clear and convincing evidence that the factual predicates for his *Brady* claims were not available until after he had filed his state court habeas applications, Prible has refuted any presumption of correctness owed to the State court's findings to the contrary.

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[22] Prible also had no means to compel Walker's testimony through court-ordered process. Texas law does not authorize discovery on subsequent applications unless a court finds that the application meets the requirements of Article 11.071 § 5, and the Texas Court of Criminal Appeals found that Prible did not meet those requirements.

In sum, Siegler's suppression of evidence created an external obstacle that impeded Prible's ability to bring his *Brady* claims during state habeas proceedings. Siegler's actions in this case therefore provide cause to forgive the procedural default of Prible's *Brady* claims.

In addition to cause for the default, Prible must show actual prejudice. As discussed above, the prejudice inquiry in this context overlaps with *Brady*'s materiality standard. *See Banks*, 540 U.S. at 698 ("Unless suppressed evidence is material for *Brady* purposes, its suppression does not give rise to sufficient prejudice to overcome a procedural default." (quotation and alterations omitted)). The test for materiality and prejudice is whether "there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." *Strickler*, 527 U.S. at 280; *see Banks*, 540 U.S. at 698. As the Court will discuss *infra* in connection with the underlying *Brady* claim, Prible has shown actual prejudice from the State's withholding of information.

Accordingly, the Court finds that Prible's *Brady* claims are procedurally reviewable. The Court first reviews Prible's *Brady* claims stemming from the prosecution's use of informants (Claims 2–5) and then Prible's *Brady* claim relating to the State's investigation into DNA evidence (Claim 10). Because the state courts did not adjudicate the merits of Prible's *Brady* claims, this Court's review of those claims is *de novo*.

2. The Suppressed Evidence Was Favorable to Prible's Defense

a. Prible's Ring of Informants *Brady* Claims (Claims 2–5)

Prible's four interrelated *Brady* claims concern the suppression of evidence about the group of FCI Beaumont informants. Prible claims that:

- Claim 2: In violation of due process guaranteed under *Brady*, the State suppressed material evidence that Beckcom and Foreman were part of an organized attempt to secure favors in return for fabricating a false confession. (Doc. No. 181, at 177).

- Claim 3: In violation of *Brady* and due process guaranteed by the Fourteenth Amendment, the prosecution suppressed evidence that Foreman, whom Beckcom represented could corroborate his story, gave a different account, and was, in fact, fabricating evidence against Prible. (Doc. No. 181, at 196).

- Claim 4: In violation of *Brady*, the State suppressed evidence impeaching [Beckcom's] testimony regarding the circumstances of the alleged "confession" and his motives for questioning Prible. (Doc. No. 181, at 199).

- Claim 5: The State withheld evidence that the trial court ordered produced pursuant to *Brady*. (Doc. No. 181, at 203).

At their core, each of the four claims relate to Prible's purported confession and Siegler's interaction with FCI Beaumont inmates.

i. *Information about Nathan Foreman*

The State suppressed substantial evidence about Nathan Foreman, who, although he did not testify at trial, was used by the state to corroborate Beckcom's testimony. At trial, the State based its case in large part on inmate witness Beckcom, without calling any other witnesses to corroborate his testimony that Prible confessed to other inmates. Even so, the State sought to implicitly bolster Beckcom's testimony by emphasizing that Prible told Foreman, and others, about the murders.

Beckcom testified at trial that he received Siegler's name from his cellmate, Foreman, and that Foreman was present for each of his relevant conversations with Prible. Beckcom was able to create a more convincing story by adding Foreman to his narrative because it gave the impression that someone else had heard the same confession, thereby making it less likely that Beckcom fabricated the story. Foreman was, in essence, a non-testifying corroborating witness to Beckcom's story about Prible's confession—and the prosecution implied as much. For instance, when countering the defense's argument that Beckcom derived information about Prible's

probable cause statement, Siegler argued in closing that other inmates "never saw Jeff Prible show it to Mike Beckcom or Nathan Foreman." 28 RR 83.

The facts developed through the federal habeas process show, however, that the jury lacked significant information about Foreman, and consequently, about Beckcom's credibility. Well before Prible was indicted, Siegler anticipated using inmate testimony. (Doc. No. 181, at 19–20). Jesse Moreno, an inmate who had acted as an informant in the past, suggested that Siegler and investigator Johnny Bonds seek out the assistance of Foreman. In a pre-trial hearing, Siegler stated that Foreman first contacted her in October of 2001 and that she did not meet with him until December of 2001. 20 RR 12. Not until this Court ordered the disclosure of Siegler's work product notes, however, was it verified that Siegler and Bonds met with Foreman at the Federal Detention Center in Houston on August 8, 2001.

After charges were filed on Prible, he was moved from FCI Beaumont Low to FCI Beaumont Medium on July 25, 2001. Around this time, Foreman was moved from FCI Beaumont Medium's SHU back into general population. (Doc. No. 181, Ex. 17, 18). Foreman and Beckcom became cellmates.

On August 8, 2001, Siegler and Bonds met with Foreman at the Federal Detention Center in Houston to find out what Foreman knew about Prible (the "August 8 Meeting"). They learned that Foreman was looking for a deal to testify against Prible. However, both Siegler and Bonds testified that they believed that Foreman not only lacked credibility, but also was fabricating evidence against Prible before he had even met him.

Board of Prisons (BOP) records indicate that Foreman continued to speak with Siegler after the August 8 Meeting. (Doc. No. 181, Ex. 21). Foreman's attorney also contacted Siegler. (Doc.

No. 181, Ex. 23). Siegler's notes show that even Foreman's wife contacted her. (Doc. No. 181, Ex. 19).

Bonds' notes show that Siegler met with Foreman again on December 10, 2001, immediately before an interview she had with Beckcom, in which Beckcom drafted a ten-page document describing his alleged conversation with Prible. (Doc. No. 181, at 26). The notes memorializing that meeting were placed in the work product file. (Doc. No. 181, Ex. 20). Siegler maintains that they did not find Foreman credible throughout the interaction. HT3-38–39.

Siegler did not tell the defense about her interactions with Foreman, other than to mention that he called her "around October of 2001" and that they did not "go see him until December." 20 RR 12. Respondent argues that, "[d]espite what Prible contends . . . the prosecutor was under no duty to disclose this information" primarily because "Forman [sic] did not testify against Prible. Th[e] nature and extent of his meetings with the State is [sic] not, therefore, likely to impact the jury's verdict on guilt-innocence." (Doc. No. 191, at 113–14).

Respondent's argument relies on a constricted view of Foreman's explicit and implicit influence in this case. Before even meeting Prible, Foreman claimed to have knowledge about him. The prosecution continued communicating with Foreman, even though Siegler professed to find him lacking credibility.

Importantly, Foreman's credibility was not independent from Beckcom's testimony. Foreman was the only other man present when Prible allegedly confessed; he was the only person who could vouch for Beckcom's testimony. Because Beckcom's testimony turned on conversations witnessed by Foreman, information about Foreman and his credibility would be central to the jury's assessment of the only testimony describing the crime. Yet for reasons not completely apparent on federal habeas review, the prosecution found Beckcom credible while

determining that Foreman was not. Evidence that Foreman had previously claimed, falsely, that Prible confessed; that Foreman was working with Beckcom and other inmates to provide evidence against Prible in exchange for a sentence reduction; that Siegler provided Foreman with information about Prible's case (namely, the existence of the DNA evidence); that Siegler had written Foreman a Rule 35 letter in another case even though she determined that he was not credible; and that Foreman worked with Beckcom to orchestrate a confession, all had substantial impeachment value. The information about Foreman also casts doubt on the State's method of investigation: it demonstrated that Siegler was willing to meet with, take evidence from, and do favors for inmates she deemed not credible. Siegler kept that information from the defense. HT2-165, 186–87. Simply put, the State suppressed exculpatory and material evidence about Foreman.

ii. *Letters from Other Inmates*

During his successive state proceedings, Prible sought *in camera* review of the State's file. The State did not oppose that motion, but still did not turn over the whole file. For the first time in February 2011, the State provided Prible with three letters that prosecutors had sealed in a letter-sized envelope designated "attorney work product." The letters to Siegler were from inmates Carl Walker, Mark Martinez, and Oscar Gonzalez. These letters all indicated that several inmates had heard Prible confess to the murders. As described in Walker's letter, "[a]s you may, or may not, know from previous conversations with Nathan Foreman, myself, Mark Martinez, Jesse Gonzalez, his father Felix Gonzalez and Beckcom were all close friends of Pribble [sic]." (Doc. No. 99-3, at 10). Each letter offered to testify against Prible in exchange for a time cut. (Doc. No. 99-3). The letters each told a similar story and provided corroboration for the others.

At a minimum, the letters reveal that a ring of informants was engaged in a collective, coordinated effort to secure sentence reductions in return for providing the State with incriminating

evidence in the form of manufactured confessions. Testimony developed on federal habeas review has shown that the corroboration was likely due to Beckcom's calculated efforts. The inmates testified in the evidentiary hearing that they did not write the letters. Walker testified that although he signed a letter, he did not write it. HT1-116. Martinez denied altogether signing the letter bearing his name. (Doc. No. 181, at 121). According to Walker, the inmates' letters were designed to corroborate each other, HT1-117, and he believed that they were all written by Beckcom. Walker explained that Beckcom was the only inmate in the conspiracy with access to a typewriter, and all of the letters were typewritten. HT1-132. Each letter misspells Prible's name as "Pribble," (Doc. No. 99-3), and Beckcom's deposition suggests that he believed that this latter spelling, "Pribble," was the correct one, HT1-233. It goes without saying that evidence showing that the State's star witness was fabricating statements by other witnesses, especially those the prosecutor apparently did not deem credible, is favorable to the defense.

Disclosure of these letters would have prompted a reasonable attorney to interview each of the inmates. Both Gaiser and Wisner testified at the evidentiary hearing that the letters would have been relevant and useful to argue that a group of men engaged in a coordinated attempt to obtain and/or manufacture incriminating evidence against Prible.

Respondent argues that "[t]he State had no duty to produce these letters to the defense because they are not 'favorable' as contemplated under *Brady*." (Doc. No. 191, at 45). Respondent, however, bases this argument on a confined view of the benefit the documents would have had to the defense. Respondent argues:

> Each of the letters contain the assertion that Prible confessed to the murders. Nor are they impeachment evidence. They do not, as Prible claims, prove his ring-of-informants claim or undermine the credibility of Beckcom's testimony. The fact that multiple federal inmates wrote to the prosecutor regarding another fellow inmate seeking to trade incriminating information for a reduction in their sentence does not prove the State solicited their help, or that Beckcom's testimony is false.

> Nor does the fact that Beckcom was not the only inmate looking to inform on Prible prove a state-run conspiracy. And, as acknowledged by the state court in the habeas hearing "everyone knows" that it is not uncommon for federal inmates to come forward to testify against other inmates in order to reduce their sentences.

(*Id.*). True, the letters themselves do not establish that Siegler guided a ring of informants that would fabricate testimony against Prible. As shown in the evidentiary hearing, however, and as discussed *supra*, the letters could certainly have been the first steps toward showing a conspiracy formed by the inmates themselves.

Had the letters not been hidden away in the work product file, the defense could have pointed out similarities in the letters, both in form and in content. Testimony from the evidentiary hearing suggested that only Beckcom would have had the opportunity to type the letters for other inmates. And disclosing the letters would have allowed the defense to develop testimony, such as that from Walker in the evidentiary hearing: that Prible never confessed but was in fact set up by other inmates and that someone, likely the State's star witness Beckcom, wrote letters for the other inmates saying that Prible had in fact confessed.

The evidentiary hearing testimony uncovered that the letters were likely fabricated. From that information, as evinced by the federal evidentiary hearing, the defense could have developed rich, credible evidence that would have challenged the content and reliability of testimony from the State's star witness. On federal review, disclosure of the false letters, along with suppressed information about the State's dealings with Foreman, shows that Beckcom was committed to creating a false narrative about Prible's confession. Indeed, the State did not believe Foreman, who was said to corroborate Beckcom's testimony against Prible. Armed with full knowledge of Beckcom's efforts, a reasonable jury may well have reached a different outcome. The Court thus concludes that this evidence would have been favorable to the defense.

iii. *Other Information from the Work Product File*

Prible has identified significant amounts of information that was not previously available to the defense. Such information consists of, among others, BOP records and records from other trials. Most problematic, however, is the information contained in the prosecutor's work product file. In October 2015, the State also provided for the first time other documents from the work product file. As described by Prible, these documents included:

- The November 12, 2001, letter from Nathan Foreman's attorney, Alan Percely, to Siegler, in which Percely conveys Foreman's desire to provide evidence against Prible in exchange for Siegler's assistance in getting Foreman's sentence reduced.

- Texas Crime Information Center (TCIC)/National Crime Information Center (NCIC) criminal background reports for Foreman and Rafael Dominguez, dated December 6, 2001. These reports were produced from a folder of privileged material containing TCIC/NCIC reports for potential witnesses and testifying witnesses at Prible's trial.

- A sticky note attached to would-be informant Mark Martinez's April 30, 2002, letter to Siegler, which appears to memorialize a March 7th voicemail from Martinez regarding the Prible case. It directs Siegler to call Martinez's counselor at FCI Beaumont.

- An undated letter from Beckcom to Siegler referencing his upcoming testimony in Prible's trial and expressing concern that he could not count on his California AUSA to assist him, and proposing that Siegler help him secure a Rule 35 sentence reduction by arranging for him and another FCI Beaumont inmate named Anton Davi to inform on even more FCI Beaumont inmates.

- A letter from the HCDA to Lt. Robert Clark at FCI Beaumont, asking for permission for Siegler and Bonds to interview Beckcom and Anton Davi, as Beckcom requested, in May 2002, five months before Prible's trial.

- Documents showing that, after Prible's trial, Siegler strenuously lobbied Beckcom's AUSA for a time cut and evidently even recruited an AUSA working out of the Houston office to weigh in on Beckcom's behalf.

(Doc. No. 181, at 73–74). These suppressed documents reveal the extent of Siegler's involvement with the ring of informants and, in particular, Beckcom. Indeed, the documents indicate that, in exchange for information on Prible and other inmates, Siegler lobbied to reduce the informants'

sentences. They also reveal that Beckcom in fact proposed to Siegler that he inform on other FCI Beaumont inmates in exchange for a Rule 35 sentence reduction. This information tends to impeach Beckcom's credibility and the manner in which the State assembled its case against Prible. The withholding of these documents further solidifies the Court's finding that the State in this case withheld important, favorable information from the defense.

Prible has accordingly demonstrated that the suppressed evidence would have been favorable to his defense for the purposes of his third, fourth, and fifth *Brady* claims.

b. Prible's DNA Evidence *Brady* Claim (Claim 10)

Long before Prible was charged with capital murder, the prosecution knew that Prible's semen had been found in Tirado's mouth. That fact alone was not necessarily inculpatory. The evidence did not suggest that Tirado had been sexually assaulted, and while Prible admitted that he had sexual relations with Tirado, he claimed that it was consensual and had occurred long before the murders. The prosecution thus needed to prove that "[t]here is no way in the world that that semen wasn't deposited either moments before or seconds after [Tirado] died." 28 RR 11. Accordingly, at trial the prosecution's case in chief relied heavily on evidence about the longevity of semen to prove that Prible had been in the house around the time of the killings. Indeed, Prible's DNA evidence was one of two pillars upon which the prosecution's case relied almost exclusively, the other being Beckcom's testimony.

At trial, the State called two expert witnesses to testify as to the DINA evidence. Testimony from the first witness, Chief Harris County Medical Examiner Dr. Joye Carter, did not help the State's theory that Prible's sexual contact with Tirado had to have occurred seconds before she was killed. Dr. Carter testified that sperm cells can be found in a person's mouth for hours after ejaculation, possibly because "it could actually adhere or stick to like plaque that's on the teeth or

in the recesses of the mouth." 23 RR 68. The State instead bolstered its theory with testimony from William Watson, an expert in molecular biology. Watson did not try to estimate an exact perimortem interval (PMI) between oral sex and death, but still testified that the quantity of the DNA sample was inconsistent with the semen being deposited into Tirado's mouth as long as an hour before she was killed. He also said that the fact that he was able to obtain the male profile "certainly would be consistent with" Prible depositing the semen in Tirado's mouth "moments, if not seconds, before she was killed." 24 RR 101–03.

The defense responded with testimony from a molecular biologist, Dr. Robert Benjamin, who disagreed with Watson's testimony because there were too many variables and Watson made too many assumptions. Dr. Benjamin testified that using quantities of DNA to estimate time since ejaculation is "just not scientifically valid" and "no controlled scientific studies" supported Watson's conclusions. 27 RR 123–24, 136. The prosecution, nonetheless, heavily emphasized Watson's testimony in its closing argument.

In Claim 10, Prible argues that the State suppressed *Brady* evidence relating to Watson's testimony. Factual development on federal habeas review has added important new dimensions to the DNA evidence at trial. Recent evidence refutes Watson's methodology and conclusions.[23]

[23] Prible attaches to his petition a report from Dr. Elizabeth A. Johnson, an expert in molecular biology and DNA analysis. Dr. Johnson's report rejects both Watson's methodology and conclusions. Dr. Johnson states that Watson "could not reliably" state that the oral swab was "consistent with there being a great deal of sperm present" because he did not perform either a microscopic evaluation of the sample to assess the number of spermatozoa present or a test for the P30 protein. (Doc. 181, Ex. 114 ¶¶ 14–16). She states that, using Watson's stated yield of DNA in the oral swab, the volume of seminal fluid "is far less than the volume of seminal fluid that would be found in someone's mouth if ejaculation had occurred moments if not seconds before the victim was killed as Mr. Watson testified upon direct examination." (*Id.* ¶ 16). Dr. Johnson also points out that there was literature at the time of trial "on the duration of spermatozoa in the mouth after ejaculation into the oral cavity of live individuals," which confirms that "[t]he removal and dilution of spermatozoa from any body cavity occurs faster in a live individual than a deceased

Even more importantly, however, factual development has revealed that the State suppressed evidence that the prosecution had information that contradicted Watson's testimony, but did not turn it over to the defense.

This Court performed an *in camera* review of the State's work product file. Siegler's notes revealed that she had investigated the survival period for semen to determine a PMI. Siegler's notes revealed that she had contacted Pam McInnis, the head of the Harris County Crime Lab. McInnis told Siegler that semen can survive in the mouth for up to seventy-two hours. Siegler made a note about this but buried it in her work product file rather than reveal it to the defense. (Doc. No. 181, Ex. 20).

Prible contends that the State violated *Brady* by hiding the State's knowledge about the PMI in the work product folder. There is no question that the prosecution kept that information from the defense. This evidence is favorable to Prible because it supports his assertion that the oral sex was consensual and took place many hours before the murder. It also impeaches Watson's testimony that semen survives for only minutes, if not seconds, which the State relied heavily on at trial.

Respondent advances two arguments, however, as to why the suppression of this evidence did not amount to a *Brady* violation that warrants habeas relief. First, Respondent argues that "[a]lthough the evidence appears to be impeachment evidence, it lacks foundational support."

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individual due to activity." (*Id.* ¶¶ 18–19). She concludes from this that "Mr. Watson could not have reliably testified as he did at trial regarding the amount of spermatozoa on the oral swab taken from [Tirado] or the timing of the deposit of semen into her mouth relative to the time of her death." (*Id.* ¶ 20). Accordingly, Prible argues Dr. Johnson's expert testimony meets the *Schlup* standard for innocence and that an evidentiary hearing is necessary to determine how the report and its impeachment of Watson's testimony would affect a jury. (Doc. No. 199, at 21). However, because the Court grants Prible habeas relief on his *Brady* claims, as discussed *infra*, the Court need not address Prible's actual innocence claim.

(Doc. No. 191, at 152). True, neither party has produced any evidence that would support the position that the semen may exist inside the victim's mouth for seventy-two hours. However, the veracity of McInnis's opinion is not the issue. The value in divulging that material to the defense would be proving that the prosecution knew that DNA samples could last longer, possibly much longer, than the seconds or minutes testified to by Watson. Also, disclosure would allow Prible to argue that the State had information that would support his defense, but hid it and instead, shopped for an expert who would support its theory.

Second, Respondent contends that the suppressed evidence is "immaterial." (*Id.* at 153). Respondent argues that, because Dr. Carter testified that semen could exist in the victim's mouth for some time and Dr. Benjamin testified that scientific research did not support Watson's testimony, "the testimony offered at trial was sufficient to refute [Watson's] testimony for Prible's purposes." (*Id.*). The Court disagrees. Further evidence undercutting one of the State's principal arguments, especially when that evidence is from the head of the Harris County Crime Lab, could have been of paramount importance to the defense.

The DNA testimony was critical to the State's case, as the State was able to argue that Prible killed Tirado immediately after ejaculating in her mouth. Evidence that Siegler received McInnis's contradicting opinion undercuts both the veracity of the State's DNA theory and Siegler's method of investigation. The defense could have used the suppressed note about McInnis's opinion to show that Siegler shopped around for someone willing to say that Prible was lying about the timing of the oral sex, even though she knew that Prible's version was scientifically plausible. Accordingly, this evidence is favorable under *Brady* because it both refutes the validity of Watson's testimony and undermines the integrity of the State's investigation of Prible's case.

3. Prejudice

To establish prejudice, Prible must show that the nondisclosed information was material. The test for materiality is whether "there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." *Strickler*, 527 U.S. at 280; *see Banks*, 540 U.S. at 698. "[T]he materiality standard for *Brady* claims is met when 'the favorable evidence could reasonably be taken to put the whole case in such a different light as to undermine confidence in the verdict.'" *Banks*, 540 U.S. at 698 (quoting *Kyles*, 514 U.S. at 435). "[M]ateriality must be assessed collectively, not point by point." *Banks v. Thaler*, 583 F.3d 295, 328 (5th Cir. 2009) (citing *Kyle*, 514 U.S. at 436).

The cumulative effect of the suppressed evidence in this case is such that it can "reasonably be taken to put the whole case in such a different light as to undermine confidence in the verdict." *Id*. Had this evidence been disclosed to the defense, it would reasonably have undercut the two pillars upon which the prosecution's case against Prible solely rested: Beckcom's testimony and Prible's DNA evidence.

The Court turns first to the suppressed evidence relating to Beckcom's testimony. As discussed *supra*, the prosecution at trial relied heavily on Beckcom's testimony that Prible had confessed to him and Foreman about the murders. Beckcom's testimony was bolstered by his claim that Foreman was present at each interaction with Beckcom. Yet, as the Court has discussed at length *supra*, the suppressed evidence—the letters to Siegler, the new information about Foreman, and the numerous other documents uncovered in Siegler's work product folder—reveals an orchestrated effort by a ring of informants to fabricate a confession from Prible in return for sentence reductions. Had this evidence been disclosed, the defense could have argued not only that Beckcom was part of a ring of informants that sought to obtain incriminating evidence against

Prible for their own gain, but also that Beckcom, the State's star witness, had in fact fabricated and falsified evidence against Prible.

Indeed, the suppressed evidence could have been used to impeach Beckcom's credibility. Armed with the letters to Siegler from several would-be informants that echoed Beckcom's testimony regarding Prible's confession, the defense could have emphasized Siegler's curious decision to present only Beckcom at trial. Such evidence, as Gaiser testified at the hearing, would have raised questions as to what made Beckcom unique amongst the corroborating informants and, accordingly, cast doubt on his motivations and credibility. HT2-180–81. Moreover, as Gaiser testified, the defense could have used documents showing that Beckcom proposed informing on even more FCI Beaumont inmates in exchange for Siegler's help securing a Rule 35 sentence reduction, to highlight the extent to which Beckcom was willing to go to receive personal benefit. HT2-194–95; *supra* at 61–62. This evidence would have certainly impugned Beckcom's motivations and credibility.

Not only could the defense have used this evidence to impeach the State's star witness individually, but indeed, it could have been used to uncover a broad, orchestrated effort to manufacture confessions against Prible and others, like Herrera. For instance, the defense could have invoked the curious similarity in the form and content of the letters—including consistently misspelling Prible's name as "Pribble," (Doc. No. 99, Ex. 3)—to show that the letters were written by the same person or, at a minimum, in a deliberately coordinated effort. Indeed, as Gaiser testified, the letters could have been used to demonstrate just how many inmates were willing to act for personal benefit. HT2-179. To bolster this presentation of a ring of informants, the defense could have pointed to the suppressed evidence that Siegler wrote and lobbied for Rule 35 sentence reductions for Beckcom, Foreman, and numerous other informants. Moreover, the defense could

have used suppressed evidence that Foreman was apparently present during all critical interactions between Prible and Beckcom to cast doubt on the veracity of Beckcom's testimony and the trustworthiness of the State's assembly of its case against Prible, especially in light of Siegler's professed distrust of Foreman. Using this evidence, in conjunction with the other documents suppressed in Siegler's work product file, the defense could have developed a compelling argument around the ring of informants and cast doubt both on Beckcom's testimony and the manner in which the State investigated and constructed its case against Prible. Without the suppressed evidence, the defense at trial was left to attempt to impeach Beckcom with only his past conduct.

Taken as a whole, these efforts would have, at the very least, cast serious doubt on the veracity of the State's star witness and, in turn, one of the State's two pillars against Prible. The materiality standard for *Brady* prejudice requires that there be a reasonable probability that the outcome would have been different. *Banks*, 540 U.S. at 699. That standard is certainly met here. This is especially true when considering the additional impact of the suppressed evidence related to the State's second pillar—DNA evidence—to which the Court turns next.

At trial, the prosecution's case in chief relied heavily on using Prible's semen to prove that he had been in the house at the time of the killings. Critical to the State's theory of the case was Watson's testimony that Prible likely deposited the semen in Tirado's mouth "moments, if not seconds, before she was killed." 24 RR 101–03. Suppressed evidence from Siegler's work product file, however, revealed a contradicting opinion from McInnis, the head of the Harris County Crime Lab, that semen can survive in the mouth for up to seventy-two hours. (Doc. No. 181, Ex. 20). Had this evidence been disclosed to the defense, it would have bolstered the defense's theory that Prible's sexual encounter with Tirado occurred hours, not seconds, before she was killed, and that

Prible had returned home by the time of the killing. Indeed, that this evidence came from the head of the Harris County Crime Lab, which is connected with law enforcement, may have lent more credibility to McInnis and accordingly may well have held more sway in the eyes of a reasonable jury.

Where, as here, the suppressed evidence taken as a whole would have allowed the defense to seriously undercut the two main arguments the prosecution relied upon, the Court has no trouble finding that a reasonable jury may well have reached a different outcome. The Court thus concludes that the suppressed evidence is material and, accordingly, that Prible has shown prejudice to overcome any procedural default and to satisfy the third prong of his *Brady* claims.

4. Conclusion of *Brady* Claims

Unlike a civil attorney representing a client, there is a "special role played by the American prosecutor in the search for truth in criminal trials." *Strickler*, 527 U.S. at 281. A prosecutor may litigate with zeal, but the Constitution ensures that, "though the attorney for the sovereign must prosecute the accused with earnestness and vigor, he must always be faithful to his client's overriding interest that justice shall be done. He is the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer." *United States v. Agurs*, 427 U.S. 97, 110–11 (1976) (quotation omitted).

"Courts, litigants, and juries properly anticipate that 'obligations [to refrain from improper methods to secure a conviction] . . . plainly rest[ing] upon the prosecuting attorney, will be faithfully observed.'" *Banks*, 540 U.S. at 696 (quoting *Berger v. United States*, 295 U.S. 78, 88 (1935)). Here, it plainly was not. Without question, the prosecution in this case engaged in a pattern of deceptive behavior and active concealment. And the evidence suppressed sufficiently serves to controvert the primary basis for Prible's conviction. Simply put, the prosecution withheld

material evidence. The Constitution requires far more, especially in the case of a man sentenced to death. The Court will grant habeas relief on Claims 2, 3, 4, 5, and 10.

B. *Giglio* Claims (Claims 1 and 11)

Prible also contends that the State sponsored false and misleading testimony through Beckcom and Watson in violation of *Giglio v. United States*, 405 U.S. 150 (1972). In Claim 1, Prible focuses on Beckcom's testimony that Beckcom and Foreman had learned of the crime only from Prible himself. Prible relies on an array of sources—testimony from the other inmates, records showing extensive contacts between the inmates and Siegler, and documents from other cases—to demonstrate that Siegler gave Beckcom the information that served as the basis of his trial testimony. In Claim 11, Prible argues that the prosecution adduced false and misleading testimony because Watson's DNA testimony was scientifically baseless and likely wrong.

In *Giglio*, the Supreme Court held that "deliberate deception of a court and jurors by the presentation of known false evidence is incompatible with rudimentary demands of justice." *Id.* at 153 (quotation omitted). "To establish a due process violation based on the State's knowing use of false or misleading evidence, [petitioner] must show (1) the evidence was false, (2) the evidence was material, and (3) the prosecution knew that the evidence was false." *Nobles v. Johnson*, 127 F.3d 409, 415 (5th Cir. 1997) (citing *Giglio*, 405 U.S. at 153–54). The Court "will not tolerate prosecutorial participation in technically correct, yet seriously misleading, testimony which serves to conceal the existence of a deal with material witnesses." *Blankenship v. Estelle*, 545 F.2d 510, 513 (5th Cir. 1977).

Prible has made a strong showing that he can meet the first two prongs of the *Giglio* test with regards to Beckcom's testimony. As discussed *supra*, testimony and evidence developed after trial have shown that the defense could have developed a strong and possibly successful

argument that Beckcom testified falsely. Additionally, Beckcom's testimony, as one of two main pieces of evidence that the prosecution relied on, was certainly material.

However, the Court finds that Prible has not satisfied the third *Giglio* criterion. Prible has presented evidence supporting the assertion that Siegler knew that she was presenting false evidence. The record undeniably shows that Siegler contacted Beckcom's prosecutor several times in an effort to secure him a sentence reduction. Siegler minimized and hid the extent and content of those contacts. Siegler and Beckcom even disclosed to the jury that Beckcom's goal in testifying was to obtain a sentence reduction. As already discussed, Siegler certainly suppressed material that would have significantly undercut Beckcom's story. Beckcom acted as her agent in securing information from Prible. However, while this evidence may not reflect well on Siegler, the Court finds that, taken as a whole, the evidence is not conclusive as to whether Siegler knew she was presenting false or seriously misleading testimony.

Likewise, Prible has not shown that Siegler knew that Watson's DNA testimony was false or seriously misleading. Siegler was aware that experts had different views on the amount of time that semen could survive in the oral cavity. As discussed *supra*, she was obligated under *Brady* to disclose to Prible the information that she found. However, Siegler's failure to disclose does not necessarily mean that she knew Watson's testimony was false or seriously misleading.

This Court does not endorse the cavalier attitude Siegler has displayed regarding her constitutional duty to preserve the fundamental fairness of the trial proceedings. Siegler intentionally and knowingly withheld information with the defense, was deceptive about her efforts to do so, and was far from credible in her federal court testimony. But the evidence has not shown that she knew that Beckcom was lying or that the scientific evidence was indisputably false. Although the issue is not free from doubt, the Court must deny Prible's *Giglio* claims.

C. *Massiah* Claims (Claims 6, 7, and 8)

Prible raises three claims relating to the State's influence over inmates as they sought information from Prible. In Claims 6 and 8, Prible argues that Beckcom and Foreman unconstitutionally acted as agents of the State in securing information against him. In Claim 7, Prible argues that he was denied his Sixth Amendment right to effective assistance of counsel at trial and on state habeas because his trial counsel failed to object to Beckcom's testimony under *Massiah* and his state habeas counsel failed to make an ineffective-assistance claim on that basis. (Doc. No. 181, at 215–19).

As previously discussed, the prosecution's ability to convict Prible hinged on the testimony of a single informant. The use of informant testimony is constitutionally permissible. The Constitution, however, requires that the informant acquire information independently, not as an agent for the State. Under *Massiah v. United States*, 377 U.S. 201 (1964), a government agent may not seek information from a criminal defendant outside the presence of the defendant's counsel once the Sixth Amendment's right to counsel has attached. *See Thompson v. Davis*, 916 F.3d 444, 454 (5th Cir. 2019).

"A *Massiah* violation has three elements: (1) the Sixth Amendment right to counsel has attached; (2) the individual seeking information from the defendant is a government agent acting without the defendant's counsel's being present; and (3) that agent 'deliberately elicit[s]' incriminating statements from the defendant." *Henderson v. Quarterman*, 460 F.3d 654, 664 (5th Cir. 2006) (quoting *Massiah*, 377 U.S. at 206). "Under the Fifth Circuit's two-prong test for determining whether an agency relationship exists between the government and a jailhouse informant, the defendant bears the burden of showing that 'the informant: (1) was promised, reasonably led to believe, or actually received a benefit in exchange for soliciting information from

the defendant; and (2) acted pursuant to instructions from the State, or otherwise submitted to the State's control." *United States v. Bates*, 850 F.3d 807, 810 (5th Cir. 2017) (quoting *Creel v. Johnson*, 162 F.3d 385, 393 (5th Cir. 1998)).

When Prible first filed his federal habeas petition, he alleged that Siegler had recruited inmate informers who, at her direction, set into motion circumstances in which they could extract a confession from Prible. Although extensive factual development in the years since has lent support to this ring-of-informants theory, not all of Prible's allegations have been completely verified. Yet, even on Beckcom's and Siegler's accountings of the facts, Beckcom still acted as an agent of the State by taking Prible's uncounseled statements with the promise of a reward from Siegler. Before turning to the merits of Prible's *Massiah* claims, however, the Court will discuss procedural concerns raised by Respondent.

1. Procedural Bar

Respondent argues that Prible defaulted his *Massiah* claims by litigating them in a manner that did not comply with state law. Prible first raised a *Massiah* claim in his *pro se* application that the Court of Criminal Appeals found to be an abuse of the writ. Prible raised the *Massiah* issue again in his federal petition in 2009. By that point, Prible had developed additional evidence supporting his allegation that Siegler had used inmates as agents to gather information against him. As discussed above, this Court stayed proceedings in 2010 to allow Prible to exhaust state court review of several claims, including his *Massiah* claim, by filing a successive state habeas application. The subsequent actions of the state habeas court in reviewing Prible's *Massiah* claim mirror those already discussed above in relation to Prible's *Brady* claims: the state court allowed some factual development of the *Massiah* claim, but ultimately did not reach the claim's merits after finding the claim procedurally barred by Texas's abuse-of-the-writ doctrine. Respondent

argues that this state-imposed procedural bar renders Prible's *Massiah* claim procedurally defaulted. The Court agrees. Prible has shown, however, that he can establish cause and prejudice to overcome the procedural default.

As discussed *supra* in connection with Prible's *Brady* claims, an inmate can meet the cause requirement by showing that "some objective factor external to the defense impeded [the defense's] efforts to comply with the State's procedural rule," *Murray v. Carrier*, 477 U.S. 478, 488 (1986), or that "the factual or legal basis for a claim was not reasonably available to counsel," *Coleman v. Thompson*, 501 U.S. 722, 753 (1991). As with his *Brady* claims, Prible's ability to develop his *Massiah* claims in state court proceedings was hobbled by Siegler's suppression of information regarding the extent of her relationship with Beckcom and other inmates, and the nature of the arrangement between her and Beckcom. During trial, direct appeal, and state habeas proceedings, Prible and his attorneys had no reason to know that Siegler was suppressing evidence of her relationship with informers. As with Prible's *Brady* claim, it was only after federal habeas counsel was finally able to conduct interviews with Walker and other inmates that Prible's *Massiah* claim became anything more than speculative. Indeed, the full nature of Beckcom's interaction with the prosecution only came into focus with Beckcom's interview, clarified and contextualized by later testimony from other inmates. Only in his deposition did Beckcom finally acknowledge that the only reason he acted was to get himself a sentence reduction. In sum, only once federal review began was Prible able to remove the obstacle that Siegler's suppression of evidence had created for the development of his *Massiah* claims. Because Siegler's suppression of evidence was an "objective factor" that impeded the development of Prible's *Massiah* claims, Prible has shown cause to overcome the default of those claims. Moreover, as discussed further below, prejudice is clear given the critical import of Beckcom's testimony at trial. The Court finds cause

and prejudice to allow federal review of Prible's *Massiah* claims. Because the state courts never adjudicated the merits of his claims, federal review of those issues is *de novo*.

2. Prible's *Massiah* Claim: Beckcom (Claim 6)

In Claim 6, Prible argues that the State violated *Massiah* because:

> Beckcom's testimony leaves little doubt that (1) his initial phone call to Siegler in early October 2001 was for the purpose of reaching an agreement for him to serve as an agent to investigate Prible, and (2) Beckcom had learned very little about the case from Prible until after he and Siegler had worked out a deal that would reward him for informing on Prible.

(Doc. No. 181, at 213). From this, Prible concludes that "[t]he State and Beckcom thereafter conspired to violate Prible's constitutional rights by eliciting statements about the crime in the absence of defense counsel." (*Id.* at 214). The issue before the Court is thus whether Beckcom acted as an agent of the state in deliberately eliciting incriminating evidence from Prible after his right to counsel had attached. For the purposes of analyzing this issue, the Court assumes that Beckcom testified credibly at trial and that Prible did indeed confess to the murder, because even under these assumptions, the Court finds that Beckcom was in an agency relationship with Siegler in violation of Prible's constitutional rights.

Prible's Sixth Amendment right to counsel had attached by the time Prible's trial counsel was appointed on September 28, 2001. *See United States v. Gouveia*, 467 U.S. 180, 189 (1984) ("[T]he right to counsel attaches at the initiation of adversary judicial criminal proceedings."). Beckcom acknowledged that he first contacted Siegler in October 2001 to discuss the possibility of receiving a sentencing reduction in exchange for information. HT1-238.

The second question under *Messiah* is whether Beckcom sought out information from Prible as an agent of the State. Under Fifth Circuit law, Beckcom must have solicited information because he was "promised, reasonably led to believe, or actually received a benefit," and "acted

pursuant to instructions from the State, or otherwise submitted to the State's control." *United States v. Bates*, 850 F.3d 807, 810 (5th Cir. 2017) (quotation omitted); *see Thompson v. Davis*, 941 F.3d 813, 816 (5th Cir. 2019).

As Beckcom's testimony shows, he entered into an agency relationship with the State during that first conversation with Siegler. At the time of the initial meeting, Beckcom did not have any real information about Prible. HT1-236. Beckcom said that the purpose of his initial call with Siegler was to see whether he could arrange for a reduction in his sentence *even though he did not have any evidence at that time.*[24] At trial, Beckcom testified that Siegler told him that she would be interested only if he knew "[s]pecifics about the case." 26 RR 37; HT1-238. Beckcom left that meeting on a mission to secure information from Prible, knowing that he would receive a benefit if he obtained a confession and testified against Prible. Thus, at a minimum, Beckcom was "reasonably led to believe" that he would receive a Rule 35 letter in exchange for getting information from Prible, and then acted pursuant to instructions from Siegler to get details about the crime from Prible.

Beckcom's conversations and meetings with Siegler after the first phone call in October 2001 provide further evidence that Beckcom was acting based on promises of relief from Siegler. As described above, in her deposition, Siegler testified that she reached out to the Assistant U.S. Attorney working on Beckcom's federal criminal case to talk about a Rule 35 reduction before Beckcom even testified. Beckcom testified that he asked for assurances and wanted to make sure

[24] Respondent emphasizes that "Beckcom, the informant who testified at Prible's trial, also indicated that he was the one to reach out to the prosecutor with information, not the other way around." (Doc. No. 240, at 30). Whether Beckcom or Siegler initiated contact, however, is not the inquiry. Even if Beckcom initiated contact, he was subsequently led to believe that he would benefit in exchange for informing on Prible and acted pursuant to Siegler's instructions that he obtain specific incriminating information about Prible. The Court thus concludes that Beckcom was a state agent.

that Siegler was in contact with the AUSA. Beckcom said Siegler told him he would probably get out. And indeed, although Beckcom wanted a greater reduction, he did eventually receive a year off his sentence as a result of his testimony. All this evidence indicates that Beckcom was in an agency relationship with Siegler, which predated Beckcom's substantive conversations with Prible.

Finally, Prible has shown that Beckcom "deliberately elicited" incriminating statements while acting as the State's agent. Beckcom acknowledged that he talked about trying to get a confession from Prible with Foreman; accordingly, he was not merely a passive recipient of information. Even in his testimony at trial, he admitted to asking questions about the evidence in the case to gather the "specifics" Siegler requested. Beckcom acted deliberately in seeking out a confession from Prible, in hopes of obtaining a reduction to his own sentence. Thus, Prible has shown that the State violated *Massiah* when it used Beckcom to elicit incriminating statements from Prible.

Prejudice is not a close question. Beckcom's testimony was plainly the most compelling evidence that the jury heard at trial. Although the defense could and did impeach Beckcom's credibility as a jailhouse snitch, they did not have strong impeachment evidence about the actual substance of what he relayed to the jury about Prible's confession. Prible has made a strong case that there is more than a "reasonable probability" that exclusion of Beckcom's testimony would have altered the outcome of the trial.

3. Prible's *Massiah* Claim: Foreman (Claim 8)

Prible has also raised a *Massiah* claim based on Foreman's alleged work as a state agent. Prible argues that the State suppressed evidence that Foreman was a state agent before and during the time that he and Beckcom were trying to obtain a confession from Prible. Prible primarily

bases this claim on the meeting that Foreman had with Siegler and Bonds at FDC in August 2001. Although it is undisputed that the State did not disclose this meeting and that Foreman tried to inform on Prible, Foreman did not testify that Siegler gave him any instructions at that meeting or made any promises to him. Prible has not shown that there was any agency relationship or *quid pro quo* between Foreman and the State. Accordingly, Prible has not shown that the State violated *Massiah* in Siegler's dealings with Foreman.

4. Prible's *Massiah* Claim: Ineffective Assistance of Trial Counsel (Claim 7)

Prible also argues that trial counsel provided ineffective assistance for not raising a *Massiah* claim at trial. "An ineffective assistance claim has two components: A petitioner must show that counsel's performance was deficient, and that the deficiency prejudiced the defense." *Wiggins v. Smith*, 539 U.S. 510, 521 (2003). "To establish deficient performance, a petitioner must demonstrate that counsel's representation fell below an objective standard of reasonableness." *Id.* (quotation omitted). The Court must apply "a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance." *Strickland v. Washington*, 466 U.S. 668, 689 (1984). To establish prejudice, a petitioner must show that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.* at 694. *Martinez v. Ryan*, 566 U.S. 1 (2012), and *Trevino v. Thaler*, 569 U.S. 413 (2013), provide a limited exception to the procedural default rules when state habeas counsel was ineffective for failing to assert a substantial ineffective assistance of trial counsel claim in the petitioner's first state habeas petition. In order to successfully assert a *Strickland* claim for appellate counsel, Prible must also have a reasonable probability that he would have prevailed on appeal but for his counsel's deficient performance. *See Smith v. Robbins*, 528 U.S. 259, 285–86 (2000).

The root of this claim is that trial counsel knew that Beckcom tried to obtain a confession and information from Prible while both were in detention, starting in late October or early November 2001.[25] At this time, Prible's Sixth Amendment right to an attorney had already attached, and Beckcom had already spoken with the lead prosecutor. Despite having information about this timeline, Prible's trial counsel failed to object to Beckcom's testimony or to request a *Massiah* hearing. Prible argues that, had his counsel objected, the trial court would have excluded Beckcom's testimony. Since Beckcom's testimony was critical to the prosecution's case, Prible argues that it is "reasonably probable" that the outcome of the trial would have been different if Beckcom's testimony had been excluded. *Strickland*, 466 U.S. at 693–94. Similarly, state habeas counsel had the same information but failed to make an ineffective-assistance claim in the first state habeas application based on trial counsel's failure to make a *Massiah* objection. Respondent argues that Prible's trial counsel was not ineffective for failing to object to Beckcom's testimony at trial because there was no evidence that Beckcom was an agent of the state: "Counsel is not deficient for, nor can prejudice result from, the failure to raise a baseless objection." (Doc. No. 191, at 98).

While the record developed through Prible's state and federal habeas proceedings has enabled Prible to show successfully that Beckcom was an agent of the State, the information at trial was not so clear. At trial, Beckcom seemed to suggest that Prible confessed to him before he contacted Siegler. 26 RR 23–24; 36–37, 47. According to Beckcom, after Prible had made inculpatory statements, Beckcom then found out that Siegler would need specifics. *Id.* at 37.

[25] Respondent claims that Prible failed to raise this claim in a manner consistent with AEDPA's limitations period. As with Prible's *Brady* claims, the Court finds that this claim relates back to the earlier petitions and, at any rate, the circumstances discussed *supra* also prevented Prible from advancing this claim in a timely manner. *See supra* V.A.1.a.

Beckcom testified about the November 24, 2001, conversation in which Prible allegedly confessed as if Prible had voluntarily and without solicitation told Beckcom about the crime. *Id.* at 53–54. In fact, Beckcom also testified that he counseled Prible not to talk about his case. *Id.* at 70–71.

Much more information about the agency relationship emerged only during habeas proceedings. While trial counsel knew that Beckcom reached out to Siegler well before he had any substantive conversations with Prible, the full extent of Beckcom's efforts to secure a confession was not apparent to them at that time. While an attorney could have raised a *Massiah* objection, it does not appear that Beckcom would have been so forthcoming at trial to describe his efforts to communicate with Siegler and secure information from Prible. Further, even if Prible's state habeas counsel should have been aware of the potential *Massiah* issues, Prible has not shown that the state habeas court would have granted relief absent the full record developed in federal habeas proceedings. The Court finds that Prible is not entitled to relief on his ineffective assistance of counsel claim.

5. Conclusion of *Massiah* Claims

"[T]he prosecutor and police have an affirmative obligation not to act in a manner that circumvents and thereby dilutes the protection afforded by the right to counsel." *Maine v. Moulton*, 474 U.S. 159, 171 (1985). Prible's initial complaint was that Siegler orchestrated a trap wherein Prible would become entangled in a web of informers who, having gained his confidence, would extract from him a confession. Prible alleged that Siegler not only seeded this conspiracy with facts about the murder, but somehow caused the federal prison to place within his orbit the men

who would take advantage of him. Prible argued that Siegler then maintained regular contact with, and control of, the informers.

The evidence has not completely verified all of Prible's allegations. Still, the evidence sufficiently proves a *Massiah* claim in relation to Beckcom. Siegler promised Beckcom time off his sentence if he got information from Prible. Nothing suggests that Siegler instructed Beckcom to be a passive listener. *Cf. Kuhlmann v. Wilson*, 477 U.S. 436, 460 (1986) (finding no *Massiah* violation when the police instructed the inmate informant "only to listen to" the defendant). Siegler must have known that, by telling Beckcom she needed specifics, Beckcom "would take affirmative steps to secure incriminating information" and that "such propinquity [between the inmates] likely would lead to that result." *United States v. Henry*, 447 U.S. 264, 271 (1980). Siegler regularly communicated with Beckcom after their initial meeting and, when he claimed to have created a situation in which Prible confessed, again made promises to him. Beckcom acted as an agent of the State in taking Prible's uncounseled statements. The Court therefore grants relief on Claim 6.

D. Due Process (Claim 9)

In Claim 9, Prible argues that the trial court improperly admitted evidence at trial. The State only charged Prible with killing Herrera and Tirado. The trial court, however, allowed the State to introduce guilt/innocence phase evidence that their three children also died in the fire. On direct appeal, Prible argued that the evidence of the children's deaths was inadmissible under Texas Evidence Code § 404(b) and the due process clause. Under Texas law, evidence of other crimes is generally inadmissible, but exceptions exist to prove motive, provide context, or corroborate statements. The Court of Criminal Appeals provided two justifications for the admission of those deaths: (1) "the State used the evidence of the children's deaths to support the testimony of a jailhouse informant, Michael Beckcom . . . detailing the manner in which the crimes

were committed with information that Beckham [sic] could not have obtained except from [Prible] himself" and (2) "the evidence was admissible as same-transaction contextual evidence . . . [which was] so intertwined with the State's proof of the charged crime that avoiding reference to it would make the State's case incomplete or difficult to understand." *Prible*, 175 S.W.3d at 731, 732.

Federal habeas courts do not "sit to review the mere admissibility of evidence under state law." *Little v. Johnson*, 162 F.3d 855, 862 (5th Cir. 1998); *see also Derden v. McNeel*, 978 F.2d 1453, 1458 (5th Cir. 1992) ("[E]rrors of state law, including evidentiary errors, are not cognizable in habeas corpus . . . ."). The Court of Criminal Appeals found on direct appeal that evidence of the children's deaths was admissible under state law. The Supreme Court has "repeatedly held that a state court's interpretation of state law, including one announced on direct appeal of the challenged conviction, binds a federal court sitting in habeas corpus." *Bradshaw v. Richey*, 546 U.S. 74, 76 (2005). The Court's sole inquiry, then, is whether the admission of this evidence violated the Constitution, *see Estelle v. McGuire*, 502 U.S. 62, 68 (1991), which only provides relief from an evidentiary ruling that is "so unduly prejudicial that it render[ed] the trial fundamentally unfair," *Payne v. Tennessee*, 501 U.S. 808, 825 (1991); *see also Hafdahl v. Johnson*, 251 F.3d 528, 536 (5th Cir. 2001) ("If evidence of an extraneous offense is wrongly admitted, however, habeas corpus relief is proper only if the error is of such magnitude that it resulted in 'fundamental unfairness.'").

Here, Texas law allowed the prosecution to introduce the extraneous evidence as an exception to general evidentiary principles. Evidence of the deaths filled in gaps that would otherwise exist in the evidentiary picture for jurors:

> First, evidence of the children's deaths was part of the crime scene. That evidence was necessary to fully understand the situation as neighbors and firefighters found it. . . . Second, the children's deaths were a direct consequence of [Prible's] conduct of setting fire to Nilda. Thus, Steve and Nilda's murders are so intertwined with

> the deaths of their children that the State's case might well be incomplete without some mention of the children's presence in the home. Under these circumstances, testimony about the children's deaths fills in gaps of the interwoven events and consequences of a defendant's criminal conduct and thus helps the jury to understand the case in context.

Prible, 175 S.W.3d at 732. The state court reasonably found that any error was not a denial of "fundamental fairness" under the Due Process Clause. Prible has not shown that the state court's rejection of this claim was contrary to, or an unreasonable application of, federal law. *See* 28 U.S.C. § 2254(d)(1).

E. Ineffective Assistance of Counsel: DNA Claim (Claim 12)

In addition to his claims that the State violated *Brady* by suppressing DNA evidence regarding how long semen could remain in the victim's mouth and sponsoring false and misleading testimony about the DNA evidence, Prible contends that trial counsel provided ineffective representation by not effectively rebutting the testimony of the State's expert. Trial counsel secured expert assistance to refute Watson's testimony and strongly disputed Watson's conclusions in closing argument. It is true that counsel could have crafted Siegler's withheld note into a theory that the State had shopped experts until finding one who would agree with their timeline of the evidence. However, such information was not available to Prible's trial counsel at the time of trial. Prible has not shown that, given the information available to them, trial counsel was unreasonable in how they approached the evidence or deficient in their efforts.

F. Fair Cross-Section (Claim 13)

Prible claims that he was denied his right to a jury drawn from a fair cross-section of the community because Harris County systematically excludes Hispanics from jury service. In order to demonstrate a prima facie violation of the fair cross-section requirement for juries, a petitioner must show: "(1) that the group alleged to be excluded is a 'distinctive' group in the community;

(2) that the representation of this group in venires from which juries are selected is not fair and reasonable in relation to the number of such persons in the community; and (3) that this underrepresentation is due to systematic exclusion of the group in the jury-selection process." *Duren v. Missouri*, 439 U.S. 357, 364 (1979). Prible argues that Harris County's process of selecting jurors underrepresents Hispanics for various reasons, such as low jury pay and the use of stale address lists.

Prible raised this claim on state habeas review. The state habeas court found that Prible defaulted judicial consideration of this claim by failing to lodge a trial objection to the jury panel. Successive State Habeas Record at 465. The state habeas court relied on Texas's contemporaneous rule which requires "a party to preserve an issue for appellate review" by making "a timely objection with specific grounds for the desired ruling." *Livingston v. Johnson*, 107 F.3d 297, 311 (5th Cir. 1997). Texas's contemporaneous objection rule is an adequate and independent state law bar to federal review. *See Hughes v. Johnson*, 191 F.3d 607, 614 (5th Cir. 1999) (citing *Amos v. Scott*, 61 F.3d 333, 345 (5th Cir. 1995)). Because Prible has not shown cause or prejudice for the default of this claim, federal review is barred. *See Roberts v. Thaler*, 681 F.3d 597, 604–05 (5th Cir. 2012).

G. Actual Innocence (Claim 14)

Prible raises a stand-alone claim of actual innocence. "Actual innocence" is not an independent ground for habeas corpus relief. *See Herrera v. Collins*, 506 U.S. 390, 400 (1993); *In re Raby*, 925 F.3d 749, 755 (5th Cir. 2019); *Foster v. Quarterman*, 466 F.3d 359, 367 (5th Cir.

2006). Insofar as Prible argues that his actual innocence entitles him to relief separate from any other constitutional issue, he does not raise a cognizable habeas claim.

H. Final Claims (Claims 15 and 16)

Prible's fifteenth claim argues that the State sponsored false testimony in order to mislead the jury, bolster the argument that he had raped Tirado, and detract from Prible's alibi witnesses. Prible argues that the State knowingly presented false testimony about the period between oral sex and Tirado's death, crime scene evidence regarding burn patterns and sexual assault, his relationship with Tirado, Tirado's personal opinion of Prible, and phone calls made from the Herrera home. In his sixteenth claim, Prible faults trial counsel for not developing defensive efforts to counteract the false testimony he outlines in Claim 15.

Respondent observes that Prible raised these claims for the first time in his Fourth Amended Petition. On that basis, Respondent argues that the claims are procedurally unreviewable. The Court agrees and finds that Prible has not shown that he can overcome the procedural default. Claims 15 and 16 are thus procedurally unreviewable.

VI. CERTIFICATE OF APPEALABILITY

Respondent does not need permission to appeal from the grant of habeas relief. Under AEDPA, however, a prisoner cannot seek appellate review from a lower court's judgment without receiving a Certificate of Appealability ("COA"). *See* 28 U.S.C. § 2253(c). Prible has not yet requested that this Court grant him a COA on the denied claims; however, this Court "must issue or deny a certificate of appealability when it enters a final order adverse to the applicant." *See Soliz v. Davis*, 750 F. App'x 282, 287–89 (5th Cir. 2018). "The COA statute establishes procedural rules and requires a threshold inquiry into whether the circuit court may entertain an appeal." *Slack*

v. McDaniel, 529 U.S. 473, 482 (2000). A court may only issue a COA when "the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2).

The Fifth Circuit holds that the severity of an inmate's punishment, even a sentence of death, "does not, in and of itself, require the issuance of a COA." *Clark v. Johnson*, 202 F.3d 760, 764 (5th Cir. 2000). The Fifth Circuit, however, anticipates that a court will resolve any questions about a COA in the death-row inmate's favor. *See Hernandez v. Johnson*, 213 F.3d 243, 248 (5th Cir. 2000). The Supreme Court has explained the standard for evaluating the propriety of granting a COA on claims rejected on their merits as follows: "Where a district court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253(c) is straightforward: The petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack*, 529 U.S. at 484; *see also Miller-El v. Cockrell*, 537 U.S. 322, 336–38 (2003). On the other hand, a district court that has denied habeas relief on procedural grounds should issue a COA "when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack*, 529 U.S. at 484; *see also Miller-El*, 537 U.S. at 336–38. Unless the prisoner meets the COA standard, "no appeal would be warranted." *Slack*, 529 U.S. at 484.

Having considered the merits of the denied claims, and in light of AEDPA's standards and controlling precedent, this Court declines to grant a COA.

VII. CONCLUSION

Prible is entitled to federal habeas relief on claims two, three, four, five, six, and ten. The Court **DENIES** the State's Motion for Summary Judgment and **CONDITIONALLY GRANTS**

federal habeas relief as discussed above. It is therefore **ORDERED** that a writ of habeas corpus shall issue unless, within 180 days, the State of Texas either begins new proceedings against Prible or releases him from custody. The 180-day time period shall not start until the conclusion of any appeal from this Memorandum and Order, either by the exhaustion of appellate remedies or the expiration of the time period in which to file such appellate proceedings. The 180-day period may also be extended on further order of the Court. The Court **DENIES** a certificate of appealability for all claims.

The Clerk will deliver a copy of this Memorandum and Order to the parties.

SIGNED at Houston, Texas, on this 20th day of May, 2020.

HON. KEITH P. ELLISON

UNITED STATES DISTRICT JUDGE

Exhibit 2

Jesse Gonzalez 87641-079
Felix Gonzalez 83154-079
P.O. Box 26040
Beaumont, TX 77720-6040

Kelly Siegler
1201 Franklin, Ste. 600
Houston, TX 77002

Re: Pribble

Ms. Siegler,

I'm writing this letter on behalf of myself and my father, Felix Gonzalez. We both have spoken to you on two previous occasions regarding the Pribble case. As I told you on the phone, I know Pribble from Woodgate subdivision where we lived; he was a neighborhood friend of mine. He used to visit my house often and hang out with us.

I'm familiar enough with him that my ex-wife and I found him to be somewhat of a mooch, and a little weird. But since we lived in the same neighborhood, we ended up seeing and hanging out with one another often. My house was one street over from Jeff's. There were a couple of other friends, John and Chip, that were around us also at that time.

My father met Jeff at my house when he and my mother used to come visit. At first we didn't want to give information against Jeff because I did consider him a friend; I know his mom and we have some mutual friends. The thought of testifying while our friends and his parents are there watching was making me uncomfortable. But after seeing the photo of Steve, Nelda, and their children in the newspaper recently, it reminded me of what that crazy, sick son of a bitch did. I truly hope he rots in hell for it.

A while back when my father was originally telling me about Jeff, and that Jeff knew us, I was unable to place him until I saw him when he came from the low-security facility. Once I saw him I remembered him from the neighborhood. One afternoon Jeff and my father were walking the track talking, so inmate Walker and I approached them to see what was going on. Jeff was worried that inmates Martinez and Dominduez might want to retaliate for Steve and Nelda. Jeff started to explain that Steve had screwed him out of some money so he did what he had to do but he didn't know the kids were there, that part was an accident. Jeff said that if Steve would have paid him his money he wouln't have been there in the first place.

Walker and I went to talk with Martinez and Dominguez, and they stated that they just needed to have a word with Jeff to find out what really happened. We then called my dad and Jeff over to talk with us and we all listened as Jeff explained why he killed Steve. Once they heard what he said, they decided to let things alone, and Jeff began to hang out with all of us from Houston.

I have three little girls myself; Brittany is eleven, Ashley is seven, and Jessica is four. So I will do it for the little girls; Rachel, Valerie, and Jade. After Jeff began hanging around with us he started to tell us of a lot of crazy things he had done and gotten away with. My father and I are willing to testify to the things Jeff has told us. Please contact us if you need any additional information.

Sincerely,

Jesse Gonzalez 87641-079
P.O. BOx 26040
Beaumont, TX 77720-6040





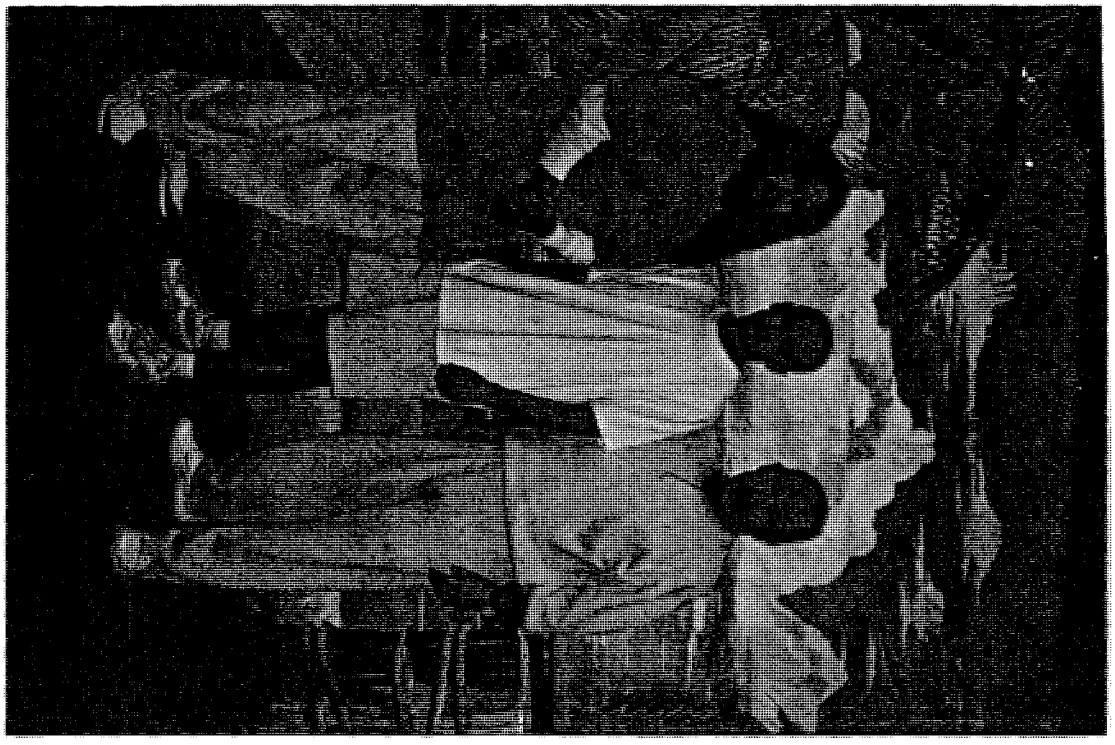
Rachel



Valerie



Jade



Jesse Gonzalez 87641-079
Federal Correctional Institution
P.O. Box 26040
Beaumont, Tx 77720-6040



HCDA-9.26.2016-000004

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BEAUMONT, TEXAS 77720

LEGAL MAIL

Kelly Siegler
Harris Co. District Attorney's Office
1201 Franklin, Ste. 600
Houston, TX. 77002

SLV

77002+1330 07

Exhibit 3

Carl Walker 04770-017
Federal Correctional Institution
P.O. Box 26040
Beaumont, Tx. 77720-6040

Kelly Siegler
1201 Franklin, Ste. 600
Houston, Tx. 77002

Re: Ronald J. Pribble

Ms. Siegler,

As you may, or may not, know from previous conversations with Nathan Foreman, myself, Mark Martinez, Jesse Gonzalez, his father Felix Gonzalez and Beckcom were all close friends of Pribble. We all hung around each other because we all are from Houston, and because some of us knew one another from home. That made it easier for us to trust one another. When Jeff came back to the Medium from the Low Security facility, he was hanging around my friends Jesse & Felix Gonzalez. That is when I first met him. At that time it was brought to my attention that there could be a problem between Pribble and Martinez and Dominguez because Pribble was indicted for killing Steve and his family; they were friends of Martinez.

I was present on many occasions when Jeff was telling his side of the story. This happened after he had relaxed and the tension had died down between him and Martinez and Dominguez. All of us began to hang around alot and at one time or another each of us would talk about things we had done. At first Jeff would only talk about the bank jobs he had pulled, but later he began to open up about the murders and how he did what he thought he had to do. It was business, not personal.

I'm more than willing to testify to these things in court. I'm currently serving a thirty year sentence for Possession w/Intent to Distribute. I will help you in any way I can and would appreciate any help you could give me.

Sincerely,

Carl Walker

Carl Walker 04770-017
P.O. Box 26040
Beaumont, TX. 77720-6040

Exhibit 4

Mark A. Martinez 94369-079
P.O. Box 26040
Beaumont, Tx 7772-06040

Kelly Siegler
Harris Co. Dist. Attorney's Office
1201 Franklin, Ste. 600
Houston, Tx 77002

Re: R.J. Pribble

Ms. Siegler,

As you know from our previous conversation, I am incarcerated at FCI Beaumont-Medium, and have information in regards to the murder of Steve Herrera and his family.

While here I met Jeff Pribble, who recognized me as being a friend of Steves'. My ex-girlfriend and I went to Steve's house on the night of April 23, 1999. We stopped by for a short time and saw Steve outside with another man who turned out to be Jeff Pribble. When I got out of the car I noticed that Steve and Pribble were having some sort of argument. When I asked Steve if everything was alright, he said, "Nah. this white boys' just trippin' over some money". So my girlfriend and I left. The next day we received a phone call from Herreras' family informing us that Steve, his wife, and three children had died in a house fire. Later that day we found out that they were murdered.

It wasn't until my arrival here at FCI-Beaumont in May of 2001 that I saw Pribble again. We had several of the same friends, and Pribble told me he didn't want any trouble over what happened to Steve and his family. He told me that it wasn't supposed to go down like that. Later on as we became somewhat of friends, Pribble confided in me of Steve owing him some money from the banks they were robbing together, and how he had gone back that night to get what belonged to him. Pribble told me that Steve should have respected their business. He admitted to me of Killing Steve and his wife. Pribble even admitted to raping her, but claimed that she really liked it. As we became more familiar with one another he would sometimes joke around and say things like, "You know what happens to people who don't pay!".

I am more than willing to testify to these things in court. I am currently serving a twenty year sentence for Possession w/Intent to Distribute. I am willing to help you and would appreciate if you could help me. I recently helped Agent

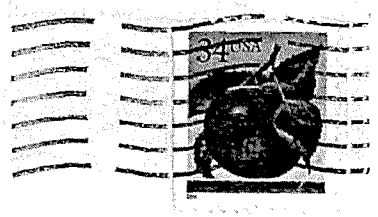
Lanier with a statement that helped him put together the murder of Rory JoonPatrick Erhart. I do not have an attorney at this time, but you can contact me through my Counsler J. Wilson at 409-721-0101.

Sincerely,

Mark A. Martinez #94369-079
Federal Correctional Institution
P.O. Box 26040
Beaumont, Tx 77720-6040

Mark A. Martinez 94369-079
Federal Correctional Institution
P.O. Box 26040
Beaumont, Tx 77720-6040

BEAUMONT TX 777
PM
30 APR
2002



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LEGAL MAIL

Kelly Siegler
Harris Co. District Attorney's Office
1201 Franklin, Ste. 600
Houston,Tx. 77002

770024133O 07

Exhibit 5

Nathan Freeman 8/8/01

@ Federal Detention Center

been here 2 days/ – ? why

on FAST for dope & thought cc w/ 5 yrs fed

+ 3 years sup/ after

out 2004

wife called me.

Jessie & me @ B Medium together

Prob

"disap" seg @ Med – "the Hole"

L: twisty ~ 6½ mos

P: unwrite

got assigned for mand/disap yrs

~ 8/2000

EXHIBIT
tabbies 108-2

HCDA Work Product 5.12.17 - 002

medium range

P put on leg for dirty urine

contact ~ 1/01 ⇒ P on 300-400 range ~ Dia leg

P w/ Bear + Chuy on leg.

P talked about dope
~ major concepts - dope.
beg vowed #.

P's family killed.

Ø remorse

P vocal / schizophrenic.

Beginning Medium 2001

talked ~ 2x.

Also present: AG W/M
Bubba W/M
Bear W/M } Dirty White Boys
Chuy W/M

2nd x ~ ? later

EXHIBIT
tabbies
108-3

HCDA Work Product 5.12.17 - 003

Re: Herrera

We were left – me
Dominguez
&
Jessi

who was "down" & who was switched

re: battle wounds

I got shot in hand.

I thought b.s.

A: guy owed me $

ran into club

wants drive off

carpet – in a van

dude who owed him $ was talking b.s.

somebody else left

I cut dudes throat, still alive & hammer

EXHIBIT
tabbies
108-4

grabbed from behind

CW: Alfred / Albert

rolled body up in carpet - ditch / dumpster?

I thought 5.5 - my

Jessie & I talked re: it.

Afraid to get stuck in Beaumont.

.45 semi-automatic. possible

↓ live 40 caliber rounds? Ø

↓ weapon @ CC for repair? not for repair - lie by Δ

⟹ shorts/shorts/towel results? not blood, flammable?? ☐
SEND TO FBI

pull old files: 9917797 / 811397 / 9719252

↓ can we prove bank robberies? (motive) Δ in jail pen for bank robbery - 5 yrs then
out 12/2003 (65 months)

Does Jamie Lyons id Pistol?
Yes. Grand Theft

√ Rec Dodge Ram PU LP# SF4 896? Nilda's dad

CC→ √ .357 SN# N549163 match? } murder weapon will be 9mm, revolver, .38 .357
√ .45 FC 19599E ? }

CC⇒ √ Sig Sauer (.357) Glocks (9mm) .38 - per Castro } both only in DA's line? } all possible

(10/20) √ What does (if) Susan Hadley know? Ø

√ semen ⇒ DNA results? Δ's DNA ⇒ anal
husband's DNA ⇒ anal/vaginal

Sex for the first time ⇒ + semen in 2 places?!

EXHIBIT 109-2 tabbies

√ Remember - shotgun @ Δ to.

√ USMC records on Δ - honorable discharge → Love records

TO DO √ Cell phone records of Cynthia Vargas - time? Curtis has list of all cell records

⟹ TO DO Talk to Δ's first 2 wives. Down in OK (Gotha area) w/ warrant out

⟹ √ HCSO application of Δ - Curtis has. Δ √ out ufn

early 2010, Δ arrested by feds.

befriended Shane McCoy ⟹ @ Luck, Texas
my friend

Δ in (Beaumont fed) ?

Δ thinks he's smarter than us.
Always wanted to be a cop.

flash-fire - lasted 15 minutes @ most
probably started w 5:00 AM

temp up to 1800°

EXHIBIT 109.3 tabbies

HCDA Work Product 5.12.17 - 008

Pam McInnis - semen lives up to 72 hrs

teeth clenched shut

swab from clit & gum =?
DNA would hold in mouth ??

Curtis believe forced Alex - gel
& then he shot at away.

Potential for frm wounds ?

Another run @ Δ ?

& SA parents ⇒ did Δ really come home that night?
& gf Charlotte Neff.
⇒ GT subpoena.

(R # HPD 854842W)

Δ does NOT know of DNA results.

EXHIBIT 109-1 tabbies

Pull

Montgomery County

1999

√ to pull of Eddie Lee

Hall

— was called

Chief Deputy

Robbie Locke — first qu 2 q

I warned

L. G. Bert Mullen

Law and Public to Mullen

D " deputy Mullen — I overheard

people at her

ACDA Work Product 5:12-CV-015

EXHIBIT 10-10

tabbies

Δ drunk – BB – rubber belt
Bally strap – 77 Stabs – teeth
saw cops – kill him
Jack ✓ (850) in pocket

laughs about it

2 boys M D ~ 7 months – L
get transfer to Lima

D BB to Medina to visit Δ folks
Come to see me
drunk in my cell saw Δ
prone

Δ gain 40 lbs & robbed bank
Steve not dope – you me cell
St. BB. L men 8 – 8
support wife & baby.
Steve probation for 4
Pty 1 BB – went to Allen
Steve paid me $

EXHIBIT 109-11 tabbies

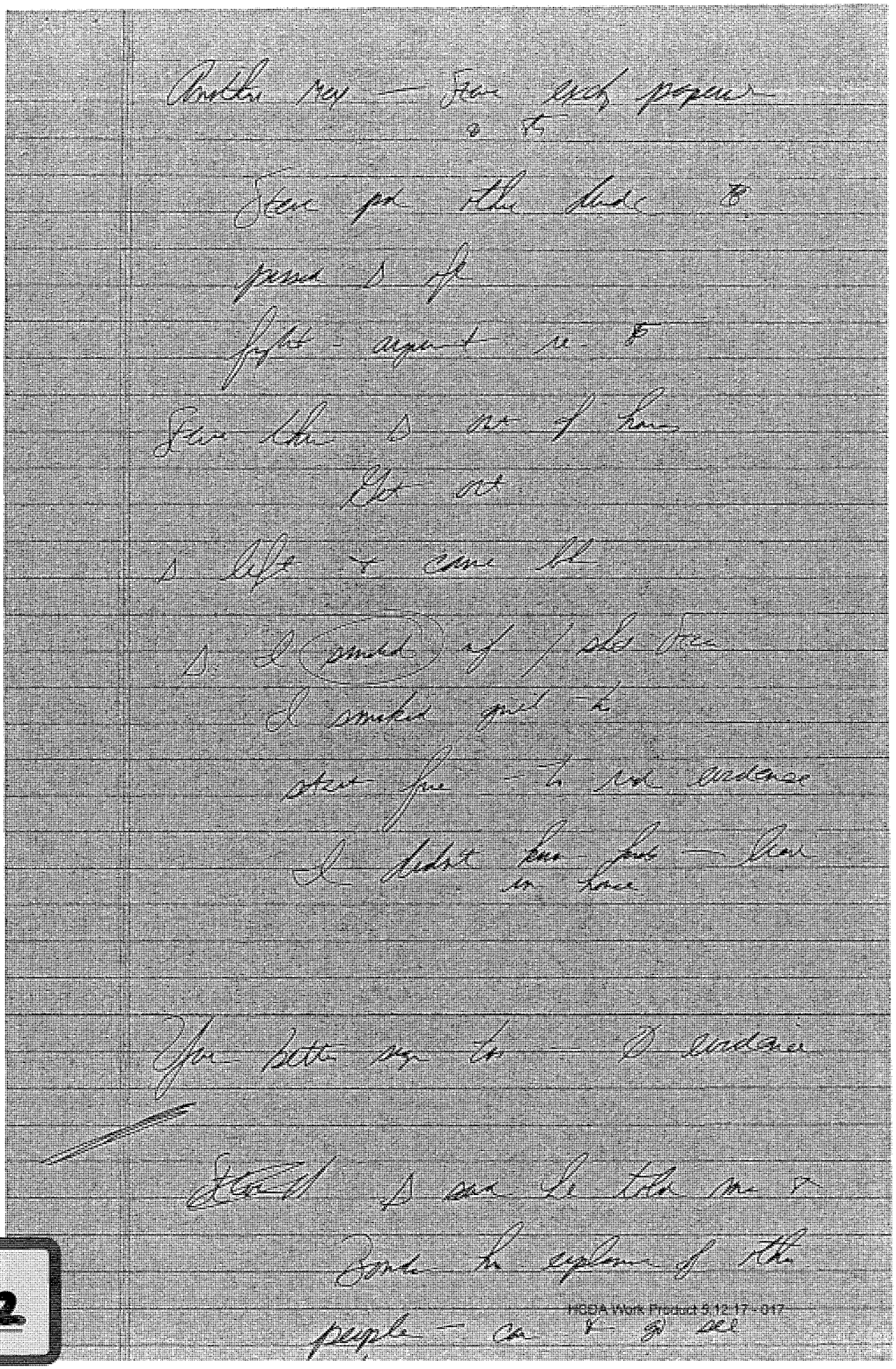


EXHIBIT
109-12

HSDA Work Product 5.12.17-017

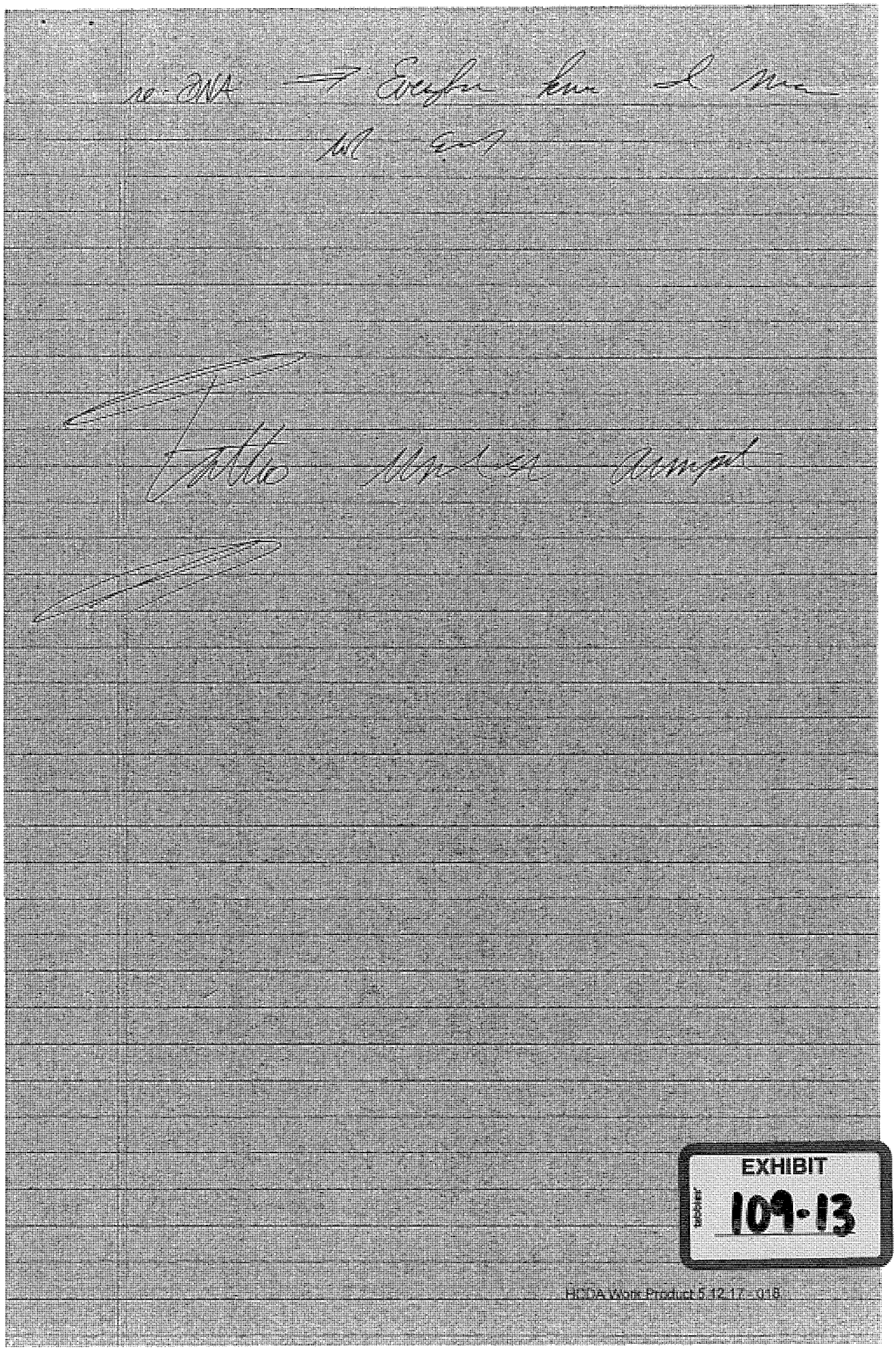


EXHIBIT
DOCKET 109-13

Exhibit 6

8-8-01 - Foreman - Fed Cor. Inst. Health.
DFT medication - Double-in hole w/ Foreman -
August 2000 set to dep. Exception - Trustee in Jan. 2001
Double cons. in latex - - dirty urine -
Con "Texas Only white Days"
Beaky Chevy - no late call from A.T.

Does 4 days not knows dog time fou - thought
I was dafe -

Found "hooked in his cell"

With sheet, 2 bases and fire.

Others present - A.T., Bubba, Beaky, Chevy -

Shaw Kay Foreman DM 10-11-65 MED
Probe # 0283078

11:00 AM - 409-721-0101. SIS office.

Lt. Robert A. Clark.
FAX 409-720-5003.

EXHIBIT
109-5

HODA Work Product 5.12.17 - 010

12-10-01 John Thomas Wayne Jefferson Lee.

Pebble - 7-25-01. Trees to mtd. 7:11 11-29-01.

99- Mark Conway Ce. Ta./ Together for 6 no-
said it's a handwork going into partnership, a club-
uplift business, Adding Lumber together.

Pebble's life practice girlfriend- Father get mad.

Tommy Dazzle - Knows Everything. Was older guy
Guy-

EXHIBIT
109-6

12-10-01 - Nathan Fortner - DOB 9-25-01 -

State of Alaska - 12 year old victim - sexual assault of minor - Charges brought against Nathan Fortner - Defense D.A. Gail Hibbard under Affidavit.

Bill of sale:

Shot Steve in garage, she had to call police, He closed door. Steve & Victim were against DOB for 25DC - Steve giving him the run around, wanted to take him for a ride. Victim left party & came back, drunk over. Face down She was face down, shot in head. Said she was partially dressed

Todd Nefolis - FBI. Victim found the money.

Mail Order Bride

Girlfriend - Shay Rick's Cabaret.

Aaron Boone - Ex-wife

DA Fortner 281-989-7631

EXHIBIT
109-7

5-25-07

12-10-01. Michael Deckom – Nathan Alden 440 mike about Kelly + Dorothy – Priest came to Deckom, knew He had been charged with Capt. murder –

* Service Record Book –

250K. Steve Fucked Him out of it. Supposed to buy stolen drugs – Argument – Steve loses money. (motive) –

Nelda shot back of head, face down, partially clothed.

Todd Depolis – FBI –

EXHIBIT
tabbies
109-8

1-30-02 USMC San Diego - Gerardi Hudson -
Chief Criminal Investigations. 619-524-4127.

Capt. Hamilton @ Camp Pendleton -

"SRB" Service Record Book.

2-14-90 — Khim, Regina. 281-891-3138.
Cy FAX - Custodian of Records.

538-2050.

Judy Stribling 538-(3974)

314-538-4141.

6313Z.

9700 Page Ave 63132

EXHIBIT
tabbies 109-9

Evangeline.

FAX - 409-963-2825.

HCDA Work Product 3.12.47-2.14

Kidnel - DPT

Steve. 014

6 Bank Robberies.

Trace Cocaine & Marijuana.

Ex Convicted FBI.

1-95 - displayed from M.C. 4 years.

Ex-wife Melanie—

HM - 40 - 50 yr old in bed extended (dead)
Cole pick-up - Steve's brothers—
know this guy.

Phillip Dodd - a little older.

$70K by dope from bank robberies to
buy gold dope sell to $200K to Steve
Steve coerced after a night club.

David Graham - HCSO.

Get FBI files.

Get military records

FBI - Ray McCoy

Re-interview Brothers & Steve.

Nilda - Trace Coke, Marijuana,
No Alcohol

Vol. sex wife - husband passed out.

EXHIBIT
tabbies 109-14

Hernandez

199 County Receipt Colt .45 Comm

200 Colt Paperwork

~~[illegible]~~

202 9mm Clip

203 Box 38 Sp Blazer

204 Box 45 ACP

205 Box 38 Blazer

206 "

207 Academy 9mm

201 CLS bowl receipt 1-31-99

Lanier

~~[illegible]~~

207 Sig Gun Case [remedy receipt]

208 Claims Ck

209 9(Cal from suncase

210 23- 40 cal bullets

Nosuing

Taur

146 Glock Case

45 mags trucks

Corsm

Colt 45 mag - black

Colt 45 mags

5- 45 ACP Rds

197 from mag

Flores

Box Blazer 40

146

Hernandez

Colt 45 mag 8 rds

m1911 Series 80

(Scn) FC 14599E

9mm Colt

S&W 357

model 5

(Scn) N 149163

108 Canteen County Records 2-45s

Same 9mm revolvers

EXHIBIT

tabbies

109-15

Type of Ammunition	Type of Weapon
~~38 Caliber~~	1. Browning
9 mm	2. Beretta
	3. SWD
	4. Intratech
	5. Walther
	6. Tanfoglio
	7. Llama
	8. S&W
	9. Tokarev
	10. Heckler & Koch
	11. German Lugan
	12. Rugan
	13. Astra
	14. Norinco
	15. CZ
	16. Kel-Tec

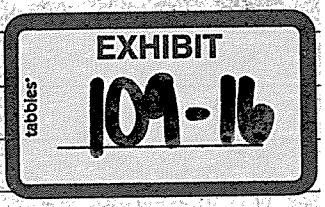


Exhibit 7

DECLARATION OF GREGORY FRANCISCO

I, Gregory Francisco, declare the following:

1. My name is Gregory Francisco. My address is [redacted]. My date of birth is [redacted].

2. In 1999 I lived at [redacted], directly across the street from Steve Herrera and Nilda Tirado. I testified at Jeff Prible's trial in 2002.

3. I was friends with Steve and Nilda. They would invite me and my wife over for get-togethers and barbecues. I used to shoot pool with Steve in his garage. My daughters were friends with their daughters and would play together. I'd say Steve was well-liked in the neighborhood.

4. I met Jeff Prible through Steve. I knew they were involved in drug dealing and both did cocaine, but I didn't know the details because I wasn't involved in any of that myself. Jeff seemed like an OK person to me.

5. I was at Steve's house the night before the fire. We played pool in the garage. I was there when Jeff arrived. I could tell Jeff and Steve had been snorting cocaine by the way they were acting. I can tell when people have done more than drink alcohol. I left Steve's house around 8 pm to go home and watch a movie my wife had rented from Blockbuster. I don't know what Steve and Jeff did after I left, and I don't know what happened leading up to the fire later that night. I was the one who discovered the smoke the following morning and got my wife to call 911.

6. I wasn't aware of any major problems between Steve and Nilda. They may have had typical couple problems. Steve never told me about anything between Jeff and Nilda, but I strongly believed Jeff and Nilda were in a relationship because of the way they looked at each other. She was a very beautiful woman. I remember telling my wife that I thought something was happening between Jeff and Nilda. I distinctly remember seeing Jeff walk into Steve's

GF

house when Steve was not home sometimes. I don't know whether Nilda was home then, but I know Steve wasn't.

7. I knew Nilda's parents, too. Her father had done some repairs for me. They were good people. I was the one who had to call them and tell them there was a fire at the house. After all this, they fixed the house and sold it. I'm pretty sure Nilda's mother went crazy and had to be medicated. I think they moved to Mexico.

8. I did not tell the police or the attorneys that I suspected Jeff and Nilda were having a relationship, or that I had seen Jeff go into their home when Steve wasn't there. They didn't ask me about it.

I declare, under penalty of perjury, as provided in the laws of the United States, and in the laws of the State of Texas, that the foregoing 2-page declaration is true and correct and based on my personal knowledge.

Subscribed to by me this 17 day of June 2026 in Harris County, Texas.

Gregory Francisco

Gregory Francisco

GF

Exhibit 8

HARRIS COUNTY SHERIFF'S DEPARTMENT
SUPPLEMENT REPORT

CASE NUMBER: 99-0424-0734 SUPPLEMENT #

ENTERED BY: Deputy Shelley Gonzalez, Youth Violent Offender Unit

APPROVED BY: [redacted] ST 5-5-99

DIVISION: Homicide

OFFENSE: Death Investigation

COMPLAINANT: Steven Herrera and Nelda Tirado

On Monday, April 26, 1999, myself and Deputy Don Bock, also of the Youth Violent Offender Unit, were instructed by Homicide Lieutenant A. Diaz to report to [redacted] in Houston, Harris County, Texas, where an arson and death investigation was taking place. We were to help the Fire Marshal's office search through the soot and debris for evidence.

At approximately 5:45 p.m., Deputy Bock and I arrived at the scene and were met by Sergeant T. Herndon, Youth Violent Offender Unit, and Fire/Arson Investigator M. J. Kramer of the Harris County Fire Marshal's office. Shortly after we arrived, Homicide Sergeant B. Black and Homicide Detectives P. Klim, B. Tonry and B. Lanier also arrived. Investigator Kramer informed us that they (him and two other investigators) were finished with their search for evidence. Investigator Kramer did, however, inform us that one spent slug was recovered from the livingroom area. Sergeant Herndon informed Investigator Kramer that a Crime Scene Unit was en route to take possession of any recovered evidence.

Detective Klim and I conducted a canvass of the neighborhood and ascertained the following information:

6:15 p.m. [redacted]
Edelmiro Garza
Did not hear anything

6:16 p.m. [redacted]
Anna Nolasco
Did not hear anything

6:20 p.m. [redacted]
No answer

6:22 p.m. [redacted]
Michael Dillon
Was at work. Didn't get home until 7:00 a.m.

6:24 p.m. [redacted]
David and Cassandra Estrella
Cassandra and Nelda (deceased) were friends. Cassandra's cousin, Cynthia Garcia, were also friends. David said he and Steven (deceased) were not friends because of a previous confrontation the two had at a party. Both said that Steven and Nelda were "party people."

6:35 p.m. [redacted]
Karen LeBlanc
Spoke with her while she was in her car. She had just left the victim's residence when Detective Klim and I spoke with her in the street. Ms. LeBlanc used to babysit one of the deceased daughter's (Rachel).

6:42 p.m. [redacted]
Manuel Carlo and Felicia Lauderbaugh
Also spoke with them in the street. They didn't see or hear anything. They informed us that Manuel's father and Nelda's father are best friends.

6:50 p.m. [redacted]
Rodolfo Munoz
Said he heard screams on Friday night between the hours of 11:00 p.m. and 12:30 a.m.

6:55 p.m. [redacted]
Ofelia Leija
Did not see or hear anything.

6:57 p.m. [redacted]
Laura Munoz
Mrs. Munoz said that her neighbors (the deceased) were always having parties and were very loud. On Friday, April 23, 1999, at approximately 10:30 p.m., Mrs. Munoz claims she heard loud masculine voices. She said the voices drew her attention because they appeared to be having some type of discussion, as if the two were disagreeing about something, but not arguing. She said that she heard the voices until about 3:30 a.m. or 4:00 a.m. and the later it got, the voices seemed to become more aggressive. At approximately 5:30 a.m. Mrs. Munoz then said she heard a female voice. The voice sounded anguished. Mrs. Munoz then fell asleep.

7:07 p.m. [redacted]
Ernesto and Hermelinda Zamorano
Did not see or hear anything. The only thing they noticed to be out of the ordinary was a red Dodge Ram truck parked in front of their home bearing Texas license plate # SF4 896.

After canvassing the neighborhood, I heard Sergeant Herndon over the radio asking for any available female (Detective or Deputy) to make his location. Lieutenant Diaz informed Sergeant Herndon that Detective Klim and myself would be making his location, the 11,200 block of Steubner Airline. At approximately 7:40 p.m. we arrived. Sergeant Herndon was with Deputy Bock and a white female, later identified as Susan Renee Whaley. (Ms. Whaley and the suspect were in Ms. Whaley's vehicle when a District I Patrol Deputy stopped Ms. Whaley on traffic and arrested the suspect.) Sergeant Herndon and Deputy Bock left the location in order to execute a search warrant at the suspect's home while Detective Klim and I kept Ms. Whaley at that location on an investigative hold.

At approximately 9:30 p.m., we released Ms. Whaley and went to the suspect's residence 2423 Woodwild, Houston, Harris County, Texas. Lieutenant Diaz, Sergeant Herndon, Sergeant Black, as well as several other Detectives, Patrol and Crime Scene/Identification Division Deputies were present. They had already begun a search of the house when we arrived. [Initially, Deputy Jones, of the Youth Violent Offender Unit, was to take the inventory of items collected. Due to sudden illness, I told Deputy Jones that I would take the inventory.] A list of items collected and given to Crime Scene/Identification Deputies is as follows:

MASTER BEDROOM - HERNANDEZ/BOCK

1 (one) .357 cal Smith & Wesson Model 28-2, Serial # N549163 in a brown holster

1 (one) Colt Stainless steel MKIV Series 80 .45 cal Combat Commander, Serial # FC 19599E

1 (one) stainless steel magazine with 9 rounds of .45 cal RP brand +P

1 (one) box of PMC El Dorado Starfire .38 Special +P 125 grain jacketed HP with 8 rounds (5 from gun), 5 rounds of Winchester .38 Special full jacketed, and also 4 rounds of Winchester .357 magnum HP (4), silver tip (1)

1 (one) page from checkbook register with stubs to checks, numbers 6917, 6918 and 6919

Receipts from Carter's Country. (One is invoice # 26801 and the other is Safety Tips in envelope)

1 (one) box CCI Blazer .38 Special, 158 grain LRN with 50 rounds

1 (one) box CCI Blazer .38 Special, 158 grain LRN with 50 rounds

1 (one) box CCI Blazer .38 Special, 158 grain LRN with 27 rounds, plus 5 miscellaneous rounds also in box. Miscellaneous rounds are:
1 (one) R-P .38 Special - lead

1 (one) WW Super .357 magnum - solid lead with copper

1 (one) Super VEL .357 magnum semi-jacketed HP
1 (one) Federal .38 Special LEAD
1 (one) Browning .357 semi-jacketed

1 (one) 15 round magazine, unknown caliber

1 (one) box of Winchester .45 auto, 230 grain FMJ - 5 rounds

Suspect's father's concealed handgun license # 09096947 was not taken into custody.

UPSTAIRS DEN - TONRY/SCHMIDT/FLORES

1 (one) Glock storage box, manual and cleaning rod and brush

UPSTAIRS DEN CLOSET - FLORES

1 (one) box of Blazer .40 caliber ammunition

SUSPECT'S ROOM - LANIER/THOMAS

1 (one) Sig Arms gun case
.45 caliber ammunition
.40 caliber ammunition
1 (one) two-tone green and beige baseball cap

GRANDSON'S ROOM - BROWN

nothing

OLDSMOBILE NINETY-EIGHT C26 WTX - NAGEL

nothing

WHITE CHEVY PICKUP TRUCK 1JH X95 - CARSON

1 (one) .45 caliber Colt magazine with 5 rounds found in the glove box

This supplement report is being submitted to Sergeant T. Herndon for approval and placement in the original case file.

CASE DISPOSITION:
The investigation continues.

EXHIBIT 9
UNDER SEAL

Exhibit 10

HARRIS COUNTY SHERIFF'S DEPARTMENT
VOLUNTARY STATEMENT

OF

Gilbert Trevino Jr.

STATE OF TEXAS §
COUNTY OF HARRIS §

CASE #: 9904240734

Before me the undersigned authority in and for the State of Texas, on this 04/29/99 AD, at 7:51 PM personally appeared Gilbert Trevino Jr., who after being duly sworn deposes and says:

My full name is Gilbert Trevino Jr. and I am a Hispanic Male, 29 years of age. My date of birth is [redacted]. My Social Security number is [redacted] and my Texas Driver's License number is [redacted]. I reside at [redacted] with my father Gilbert Trevino Sr. and my mother Hortence Trevino. My home telephone number is 281-931-5010. I am employed at only doing contract work, located at none. My business telephone number is none. I am a student at none in the none grade.

G.T

I have been informed that under the Penal Code of the State of Texas, Section 37.02; A person commits the offense of "Perjury" if, with the intent to deceive, and with the knowledge of a statements meaning, he makes a false statement under oath or swears to the truth of a false statement previously made, and the statement is required or authorized by law to be made under oath. G.T.

G.T. I have known Steven Herrera since the 8th grade. We went to Shotwell middle School together but did not really hang out together until about a year ago. I don't remember exactly how or when we really started talking and hanging out together but it has been about a year. I had been going over to Steven's house about twice a week to help him remodel his house, do tile work or even just to drink some beers and play pool together. Usually it was just me and him that would be there because we were working together, sometimes his family would come over to his house. Steven told me that Nelda who is Steven's wife always had her mother over at their house on a daily basis. G.T

G.T The last time I saw Steven Herrera was on Friday, April 23, 1999 at about 7 or 7:30 PM when it was getting dark. I had been sitting in my car in my driveway when Steven had drove up to my house to see what he was doing. Steven was with a guy who I also went to school with by the name of Jeff Pribble. I offered them ~~a beer~~ TO DRINK SOME BEERS G.T. but Steven told me that they had to get home to take a shower or wash up. After that they left together. I guess they were driving by and had seen me outside and decided to stop by my house, there was no real purpose that I know of for them coming by. G.T

G.T. I had gone to a nudie bar named Passion to have some drinks at about 8:00 PM or so. I was there until about 9 or 9:30 PM. G.T.

G.T. At about 9:30 PM or so, I arrived at home from Passion's and I got a telephone call from Steven Herrera who told me he was at home. Steven asked me what I was doing and I told him that I was going to bed and he told O.K. we then hung up. I then laid down and watched television for a while. After a while I went to bed. G.T.

G.T The next morning at about 9 or 9:30 AM, my dad awakened me. My dad told me that Vincent was on the telephone and wanted to talk to me. He told me that it was an emergency. I then reached over and grabbed the telephone after getting up. Vincent Flores is a friend of mine that I work with, he told me that somebody Steve's dead, somebody killed him and that the house was on fire. Vincent told me that he hadn't gone over there but that Cynthia his wife had told him about it. Cynthia is a good friend of Nelda's, Steven's wife. G.T.

GT I then went over there to Steven's house and saw a bunch of police cars and yellow tape around the street. I was there about 10 minutes, I didn't want anybody to see me cry so I got back in my dad's truck and moved to the side and stayed about another 10 minutes and then I went back home. G T

GT This is all I know about this case, I do not know who killed Steven or that would have had a reason to kill him. G T

G T I am able to read and write the English language and I have read this statement which I have made consisting of 2 typed page(s) and I find it to be true and correct to the best of my knowledge. GT

X Gilbert Trevino
Gilbert Trevino Jr.

Sworn and subscribed to before me the undersigned authority in and for the State of Texas on this 04/29/99 at 7:51 PM.

Ramon G. Hernandez
Notary Public for the State of Texas
My Commission expires:
January 31, 2001

NOTARY PUBLIC STATE OF TEXAS
RAMON G. HERNANDEZ
Notary Public, State of Texas
My Commission Expires
JANUARY 31, 2001.

Exhibit 11

HARRIS COUNTY SHERIFF'S DEPARTMENT
SUPPLEMENT REPORT

CASE NUMBER: 99-0424-0734 SUPPLEMENT # 4

ENTERED BY: Detective M.W. Reynolds

APPROVED BY: [signature] Sgt 5-7-99

DIVISION: Homicide

OFFENSE: Capital Murder

COMPLAINANT: Herrera, Esteban
Tirado, Neilda
Cumpean, Rachel
Herrera, Valarie
Herrera, Jade

SUPPLEMENT GENERATED: May 6, 1999

DETAILS OF INVESTIGATION:

On 05/04/99, I assisted in follow-up investigation for this case at the request of Deputy R. Hernandez. Deputy Hernandez advised me he had interviewed a witness in this case named Gilbert Trevino.

Information was received during the investigation that a male named Peter James Flores (AKA: "P.J.") is a close friend of complainant #1 and may be able to relate information about the complainant and his activities. Deputy Hernandez told me Gilbert Trevino had called him and said he has a couple of photographs of a person he knows as "Pete" who may be the same person as Peter Flores.

Detective C. Brown provided me with a possible location where Peter Flores could be located. The location was 1019 Francitas in the Fallbrook Subdivision. Detective Brown advised me the location had been pointed out to him by a brother of complainant #1 early in the investigation.

Deputy Hernandez advised me he had received a telephone call from the father of complainant #1 and told of a threatening letter received in the mail. Deputy Hernandez requested I meet the complainant's father (Esteban Herrera) at his home and take possession of the letter in question.

I departed the Homicide Division office and proceeded to the home of Gilbert Trevino, located at 1207 Cherry Springs. I arrived at the location at 6:00 p.m. and received two (2) photographs from him. Gilbert told me he doesn't know the last name of "Pete" and has never heard him referred to as "P.J.". He did say that he and complainant #1 had picked "Pete" up at his sister's house before and that she lives in the Woodgate Subdivision. Gilbert advised the two (2) photographs were taken 2 ½ - 3 years ago during a trip to Florida.

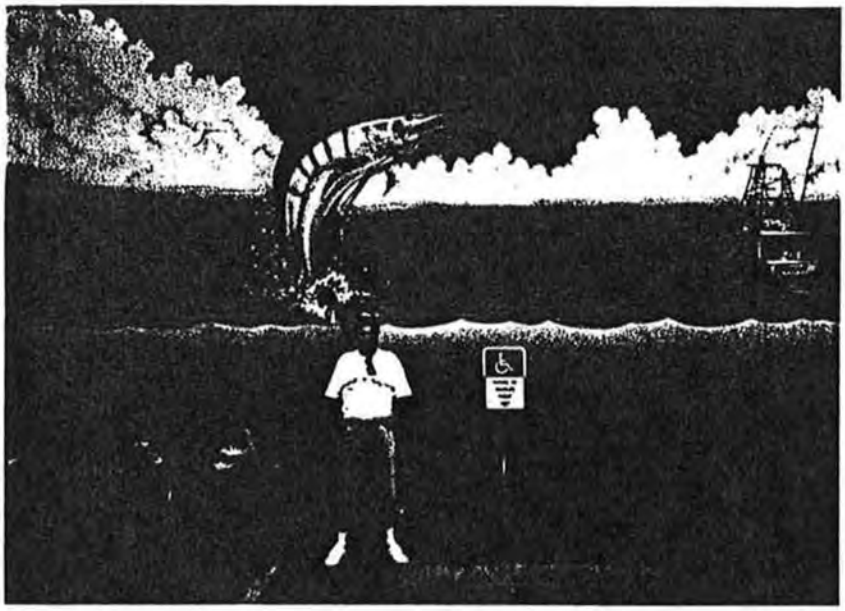
From 1207 Cherry Springs, I proceeded to 1019 Francitas in an attempt to contact Peter Flores. I arrived at 6:15 p.m. and knocked at the front door with negative results. A maroon Buick Regal, 4 door, bearing Texas License B88-WLB was parked in the driveway of the residence. As I was setting in my vehicle outside the residence, a White female emerged and asked if she could help me. I asked the female if "P.J." was home and she said no, she said he doesn't live at the residence anymore and has been gone for about 6 months. The female said "P.J.'s" mother (Viola Torres) lives at the residence but is not home at this time. I left a business card with the female and requested she have "P.J." or his mother contact me at my office telephone number.

From 1019 Francitas, I proceeded to 2339 Lemonwood to meet with the father of complainant #1. I arrived at 6:35 p.m. and was met by a male who introduced himself as Esteban Herrera. Mr. Herrera produced a white envelope from his shirt pocket, which contained a single page typed letter. Both the letter and envelope appeared to have been typed on a personal computer. I viewed the letter and found it to be hostile in nature, alleging that thieves and drug dealers live at 12718 Bauman, which is a property Mr. Herrera and his wife own. The letter listed 10 other property addresses, which Mr. Herrera admits he owns, and insinuates the properties could or will be burned if he doesn't so something about the activities at the Bauman property. Mr. Herrera told me the Bauman property and several of the others on the list are owned by him and leased through HUD as low-income rental properties. He said payments are received directly from HUD and he has no contact with the occupants of the properties, therefore, he has no knowledge of any illegal activities that may be taking place.

I took possession of the envelope and letter from Mr. Herrera and placed it in a legal size manila envelope for safe keeping and secured it in the trunk of my assigned county vehicle.

After departing the Lemonwood address, I made telephone contact with Detective Brown at the Homicide Division office and was told a male identifying himself as Peter Flores had called for me. The caller left a message with Detective Brown to let me know he had called but did not leave a method of contacting him.

DISPOSITION: Case Open / Investigation Continues





Esteban & Maria Herrera
2339 Lemonwood Ln.
Houston, Texas 77038-1740

OK **Fuckheads** this is not a cordial greeting,

We are tired of **thieves and drug dealers** living in 12718 Bauman. You do something about it or we will. You do something ***NOW !!!***. We are about to start checking the other properties you own, maybe the drugs being sold are yours ??? Maybe !!!. The DEA loves to seize property from drug dealers. Especially when HUD is supporting the houses. There might be several felonies here. Anyway you do something or we will. ***NOW !!!***

5142 Bataan Rd.
942 Fruitvale Dr.
208 Hamilton
8924 Ivy Spring
8343 Ponnel
8710 Rutherford
1438 Saddle Rock
13380 T.C. Jester
8235 Whitecastle
3358 Frick Rd.

We know who you are and what you have, we will go after it. When all of your houses burn at the same time do you think your insurance will pay 12 claims when we notify them you are drug dealers. At best can you afford the hassle of them being burned all at once. Go ahead call the police, let them investigate the bullshit going on around your properties.

This is your only warning !!!!

Exhibit 12

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

RONALD JEFFREY PRIBLE, JR., Plaintiff, *
VS. * C.A. NO. 4:09-cv-01896
LORIE DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, Defendant. *

****

ORAL AND VIDEOTAPED DEPOSITION OF JOHNNY BONDS

VOLUME 1

SEPTEMBER 19, 2017

****

ORAL AND VIDEOTAPED DEPOSITION of JOHNNY BONDS, produced as a witness at the instance of the Plaintiff, and duly sworn, was taken in the above-styled and numbered cause on September 19, 2017, from 8:53 a.m. to 2:54 p.m., before Carol Jenkins, CSR, RPR, CRR, in and for the State of Texas, reported by machine shorthand, at the offices of Hilder & Associates, 819 Lovett Boulevard, Houston, Texas 77006, pursuant to subpoena and the Federal Rules of Civil Procedure.

A P P E A R A N C E S:

FOR THE PLAINTIFF:
Ms. Gretchen Scardino
Reed Scardino
301 Congress, Suite 1250
Austin, Texas 78701
512.659.4470
gscardino@reedscardino.com
-AND-
Mr. James Rytting
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819 Lovett Boulevard
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713.655.9111
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FOR THE DEFENDANT:
Ms. Tina J. Miranda
Assistant Attorney General
Criminal Appeals Division
P.O. Box 12548
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512.936.1400
tina.miranda@oag.texas.gov

ALSO PRESENT:
The Videographer, Mr. Dwayne Smith of Esquire

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THE VIDEOGRAPHER: Today's date is September 19th, 2017. This is the beginning of file 1 in the deposition of Johnny Bonds. The time is 8:53 a.m. We're on the record.

Will the court reporter please swear in the witness.

JOHNNY BONDS,

having been first duly sworn, testified as follows:

EXAMINATION

BY MS. SCARDINO:

Q. Mr. Bonds, my name is Gretchen Scardinio. We just met.

A. Uh-huh.

Q. I'm an attorney along with James Rytting for Ronald Jeffrey Prible.

A. Uh-huh.

Q. I first wanted to ask you if you brought anything with you today responsive to your subpoena?

A. I have --

Q. Any documents?

A. No. The only thing I have are the e-mails that I've received from Tina, and there was an attachment with your petition, I think, was on it. But I didn't -- it was 300 and something some pages. I didn't read that.

Q. Okay. Okay. Do you think at a break we could print out the e-mails, the correspondence that you and Ms. Tina -- Ms. Miranda had?
A. Yeah.
Q. Okay.
A. Yeah, if I can get into my account.
Q. Okay.
A. It's a Gmail account, so...
Oh, she can get into hers.
MS. MIRANDA: Yeah.
A. Yeah.
MS. MIRANDA: I can --
A. Yeah.
MS. MIRANDA: I can give them to you.
Q. (By Ms. Scardino) Okay. So we can take care of that --
A. Yeah.
Q. -- at a break? Okay.
Mr. Bonds, I imagine you've testified in court under oath many times in your career?
A. Many times.
Q. Okay. Have you ever been deposed?
A. Not -- not in a criminal case, no.
Q. Okay. Have you ever been deposed in a civil case?

A. Yes.
Q. What was that civil matter?
A. A divorce, my divorce.
Q. Your divorce, okay.
Are there any other depositions that you've taken?
A. No.
Q. Did you do anything to prepare for this deposition today?
A. I read over -- I didn't read the whole 333 pages. I read some of it and -- well, I read enough to know that I didn't need to read it all.
Q. Okay. Did you review any of the trial transcripts?
A. No.
Q. Did you review any of your work product notes from this case?
A. I have none, and no, I did not.
Q. Okay. You didn't take any at the time that you were --
A. I probably -- there are probably notes in the trial folder that's in the office, the appellate section. That would be the only notes that I know of that would be existing.
Q. Okay. And one thing I'm going to caution you

about during the deposition since this is a process you're not very familiar with, let's try not to talk over each other. I'll try to finish a question before you answer.

A. Okay.

Q. And I'll try to let you finish before I ask the next question.

A. Okay.

Q. Okay? Occasionally, Ms. Miranda may object. If you could let her state her --

A. Okay.

Q. -- objection on the record, and then you can go ahead and answer the question.

A. All right.

Q. Okay? Okay. Did you contact the DA's office about getting a copy of this file to review before the deposition?

A. No.

Q. Okay. Do you know of any reason why they would have not let you reviewed it if you had called to ask?

A. No.

Q. Okay. Did you meet with any personal counsel before coming here today to depose --

A. No.

Q. -- to be deposed? Okay.

Did you review any other documents or correspondence other than Ms. Miranda's e-mails and the petition --

A. No.

Q. -- that she sent you? Okay.

Did you contact any witnesses in this case?

A. I talked to Kelly.

Q. Okay. And when did you speak with Ms. Siegler about the case?

A. When I first -- I got a call probably late July, early August from an investigator DA's office wanting my current address in Arkansas. He had my cellphone number. And he wanted to contact me the information. Told me it was in regards to this case, that the AG's office needed the information. And I'm like, what's up with that. And he said he didn't know, that they had contacted him, and he didn't know what it was about.

So I called Kelly to see if she knew what it was about, and she basically explained that it was part of the appeal, that you were doing a deposition. I'm like they do depositions? I mean, that's -- basically at that point, I had not read the petition. I had no idea what it was going to be about. And she

didn't -- she didn't know either, I don't think, at that point. She just knew it was something to do with this case.

Q. Okay.

A. I think she had already talked to Tina. Before I talked to Kelly, I think she had talked with Tina, but I'm not sure.

Q. Okay. Do you recall the name of that person at the DA's office who contacted you?

A. Don Kohn.

Q. How do you spell his name?

A. I think it's K-o-h-n.

Q. And did he call you on the telephone, or did he send you an e-mail or --

A. He called me. He called my cellphone.

Q. Do you have any written correspondence from him?

A. No.

Q. Okay. Did you speak with Vic Wisner prior to coming here today?

A. I have not.

Q. Okay. And again, let's try not to talk over each other.

A. Okay.

Q. I know it's difficult because it's different

from how we normally speak.

Okay. Can you give us your educational background?

A. I have over 100 -- I have a high school diploma and over 100 hours of college credit.

Q. Okay. And what about your work experience?

A. I joined the police department, Houston Police Department in 1967 as a 19-year-old. I turned 20 when I was in the academy. I worked as a patrolman for five years. Was promoted to detective in 1972, assigned to the homicide division. Worked there until 1980.

I was assigned then to internal affairs. Was there until late '81, almost 1982. And I went to the fugitive -- fugitive detail for two years, approximately two years. And then I was assigned to the SWAT detail for approximately three years before I retired. I retired in January, end of January 1988.

Q. And then after that, you didn't actually retire, you went at that time to work for the DA's office?

A. No. No, at that time, I went to work for Domino's Pizza as a security consultant for Domino's Pizza.

Q. Okay.

A. And lived in Colorado for about a year and a

half. Worked for Domino's for 13 months. They closed the Denver office. They wanted me to either move to California or Kansas City, Missouri; and I didn't want to move, so I quit.

I was part owner -- I bought half interest in a plumbing and remodeling company in Colorado for about six months, which was a total disaster. And I realized at that point that the thing I knew how to be was be a cop. And that's when I applied at the DA's office in August of -- they hired -- I applied in July, they hired me in August of '89.

Q. And what was your position at the DA's office?

A. Investigator.

Q. Okay. And did you work exclusively on homicides?

A. No. At first. I mean, everyone starts there starts in the misdemeanor division. I was there for three or four months, and then I was assigned to a court, to the 228th District Court as an investigator for that court.

Was there for several years, and then let's see, I went to the 232nd District Court. Was there for a couple of years. And then around 1999 or 2000, I was assigned to the special crimes.

Q. Okay. And at what point in time did you begin

working with Kelly Siegler at the DA's office?

A. I knew her. She was a misdemeanor prosecutor. I met her in '89 when I went to work in misdemeanor. I knew her in the -- we were both in Division C. She was in a different court, but I knew her. I didn't work with her.

I actually did not work with her until I went to special crimes until she -- I was in special crimes before she came up there, and then she came to special crimes.

Q. Okay. And that was approximately '98 or '99? Is that what you said?

A. I'm -- I'm not real sure. It would have been -- been around -- around that time.

Q. Okay.

A. I was in special crimes when we were in the old building. We moved into the new building in 2000. I think we were -- and then they had the flood. We hadn't been in there very long.

So I'm -- I'm guessing that I went into special crimes around '98 or '99. I don't think she came in until probably 2000, 2001.

Q. Okay. And then after you left the DA's office, you retired for a bit longer and then went to work with Ms. Siegler on her television show called Justice?

A. I retired in this -- nine years ago, in September of 2008. I'm trying to -- it's probably four or five years ago she asked if I'd be interested in doing that show, and I told her I would. And I did it for two seasons. I quit, and then they asked me to come back this season. I came back, so...

And I don't know if there's going to be another season, so I -- all in all, I probably have done a dozen episodes. I only did three this season.

Q. Okay. But you've been working pretty closely for many years with Ms. Siegler, right?

A. I've known her since 1989, yes.

Q. Uh-huh.

A. And then worked with her off and on for the last 17 years.

Q. And would you --

A. 16.

Q. -- describe your working relationship with her as really close? I've seen you've described as kind of like a brother/sister team.

A. Yeah, we've -- we're good friends and, I think, you know, we have a -- a very good working relationship.

Q. When you work a case with Ms. Siegler, do you-all keep one main file or do you each have separate files?

A. Well, there is one main file.
Q. Uh-huh.
A. I wouldn't -- anything that I did as a work product -- and you have to realize, I didn't work with just her.
Q. Uh-huh.
A. There were several other attorneys that I was their investigator, too.
Q. Right.
A. So any work product I had would go to their file on that case.
Q. Yes.
A. I rarely kept my own -- own files.
Q. And did you have access to the complete case file of the cases that you were working on when you were at the DA's office?
A. Pretty much, yes.
Q. Yeah. So, and you wouldn't keep any information learned during the course of your investigation from Ms. Siegler if you were working a case with her?
A. Oh, absolutely not.
Q. And she wouldn't keep any information that she learned from her investigation from you, vice versa?
A. I would hope not, you know, but, you know,

we -- if she did it, I was never aware of it.

Q. You wouldn't think that she --

A. No.

Q. -- would do that?

A. No.

Q. Okay. You shared your work product notes with each other?

A. Yes.

Q. All right. You interviewed witnesses together often, right?

A. Often, yes.

Q. Okay. And why did you interview -- what was the -- the reasoning behind interviewing witnesses together?

A. I think from different perspectives, you know, what did you get out of this. And, you know, and to be honest with you, we didn't always agree on things, so that -- I mean, we bounced things off each other on what you think happened.

So I think it was done more or less to -- to have a sounding board off each other. What do you think? Is that the truth or do you think he's lying? Basically, that's -- that would be the reason.

Q. Okay.

A. And experience. I think that I -- she

respected I had the experience to know the right questions and to spot things that needed to be asked, and -- and I think she respected my experience.

Q. Now, when you are working cold cases with Ms. Siegler, you-all have been, I guess, focusing exclusively on cold cases on this television show, correct?

A. Yes. The -- the one we did this year in West Virginia was the freshest one I've ever worked on.

Q. Okay. And likewise, you worked on lots of cold cases with Ms. Siegler at the DA's office, right?

A. Yes.

Q. She was the assistant DA who headed up the cold cases division?

A. Well, we didn't have -- when I was there, we didn't have a cold case division. It was special crimes. So it was major offenders was the unit I was assigned to. And we were more proactive than reactive, whereas most of the investigators don't get involved till the charges are filed, we actually work with the agencies on helping get to that point where they can file charges.

Q. And so when you were working on these cold cases, would it -- would it often be a matter of you knew who did it, you just needed to build that case so

you could file charges against that person?

A. I would say in most of them, there was a suspect, a viable suspect, yeah. I mean, the department -- departments didn't come to us with a case like we've got a case and we don't have a clue who did it. I mean, they -- they would come and say, hey, we don't have a clue, can you figure this out.

Q. Okay.

A. Normally, they would come to us. We'd work it up this far, we think so-and-so did it, but we -- we're not there.

Q. Okay.

A. What can -- what can we do?

Q. So your -- your job with Ms. Siegler was more building the case rather than solving it from scratch, in other words?

A. Right. We didn't make the scenes. I mean, it wasn't our jurisdiction, our responsibility to go out to the scene and clear it.

Q. Okay. I'm going to show you what I've marked as Exhibit 184.

(Exhibit 184 marked.)

Q. (By Ms. Scardino) And that's a Parade Magazine article. It's got a quote from Ms. Siegler on it if you can just take a moment to read it.

A. Okay. Okay.

Q. (By Ms. Scardino) And in that article, there's a quote from Ms. Siegler. It says, "It makes me crazy when people say, oh, you've just got a circumstantial case. I'm like, what? Circumstantial evidence is a good thing because the thing that solves cases isn't fancy technology. It isn't forensics or DNA coming back that shows who the killer is. Please, that doesn't happen. It's old-fashioned hard work done one piece at a time, reinterviewing every witness one statement at a time and one question at a time. Putting it all back together again like a good little anal-retentive, obsessive-compulsive perfectionist nerd. That's what solves cold cases."

Does that sound like Kelly to you?

A. She -- she's not afraid of a circumstantial case. You know, I think if you have DNA, it's a good thing. If you have fingerprints, it's a good thing. If you have eyewitnesses, it's a good thing. But a lot of cases don't have all that. So, yeah, it doesn't surprise me she'd say something like that, but...

Q. Does it -- does it sound like Kelly in the organizational sense that she's very meticulous about the organization of a case?

A. Absolutely.

Q. Now, I understand you're not an attorney, you don't have a law degree. But I under -- or I imagine when you went to the DA's office, you received some training on the Brady rule; is that true?

A. I'm familiar with Brady.

Q. Okay. Back in 2001 and 2002 when you were working on the Prible case, what was your understanding of the Brady rule?

A. On exclusion?

Q. On having to turn over Brady evidence.

A. Anything that -- that would tend to show that the person was innocent, you're supposed to turn it over.

Q. Okay. What about anything that tended to be favorable to that defendant?

A. Well, it would be falling in the same category. If you -- if it tended to show the innocence, which would be favorable, you're supposed to turn it over.

Q. Okay. But innocence would be a much higher standard than just something that was favorable, right?

A. I suppose.

Q. Okay. So when you were at the DA's office, you understood the standard to be something that shows innocence would need to be turned over?

A. Absolutely.

Q. Did you receive any training at the DA's office about dealing with informants?
A. No.
Q. Okay. Did you deal with informants a lot in your cases?
A. In most of my career.
Q. Okay.
A. Not just the DA's office, but when I was in homicide, fugitive detail.
Q. You've dealt with probably hundreds of criminal informants over the years?
A. Yes.
Q. Did the DA's office give you any policy manuals to follow during your time of employment there?
A. No. No.
Q. Back in 2001 and 2002, the DA's office had an open file policy; is that correct?
A. As far as turning over the files to the defense attorneys?
Q. Yes.
A. You know, to be honest with you, I don't know.
Q. Okay. Do you recall hearing that term open file?
A. Not so much earlier. More-so later after -- after I retired. I don't -- you know, I think that was

a big issue in 2008, 2009 in the elections at that time, but not so much before then.

Q. So you don't recall back when you were there in 2001 and 2002 the DA having an open file policy?

A. I know we turned files over. I'm -- I'm sure that there were some things in the files that weren't turned over.

Q. Okay. What was the procedure when turning over documents to defense attorneys? In other words, would they -- would the defense attorneys need to come in to the office to review the file?

A. The way I understood it, they would come in. They were given a place to sit down and take notes, and the file was given to them.

Q. Okay. Would you ever be present at a file review with a defense attorney?

A. Maybe when I'm -- you know, when they brought the file in and sat down. But as far as sitting there while they're taking notes, no.

Q. Would you ever make a note of what you were showing the defense attorneys at that time?

A. I would not, no.

Q. Would other attorneys in the office or would attorneys -- excuse me, attorneys in the office make a note of what they were showing to defense attorneys?

A. I have no idea.
Q. You had never seen that?
A. I don't -- I don't know. No.
Q. Okay. You don't know that that was the pro -- the practice of any prosecutors in that office?
A. No.
Q. And sorry, just to make that clear because I think it's a double negative. To your knowledge, that was not the practice of any prosecutors in the office?
A. To my knowledge, no, I don't know.
Q. Okay. Did the H -- or the Harris County District Attorney's Office have a policy about noting what evidence had been disclosed to defense counsel? In other words, if an attorney had wanted to write down what was disclosed to the defense counsel, presumably the DA would allow them to do that?
A. Well, I -- I guess. I have no idea.
Q. Okay. It would have been pretty easy to make a list of what was shown to defense counsel and have them sign it, right?
A. Have the defense counsel sign it?
Q. Uh-huh.
A. I don't have any idea. If that was the policy, I didn't know about it.
Q. Well, no, no. Taking aside whether it was or

was not policy, if an attorney came in, was reviewing the document, it wouldn't have been that difficult for you or a prosecutor to just make a note right there with the attorney of what they had actually reviewed so there was no question later down the road as to whether they had seen that document?

A. I guess if they wanted to do that, they could. I don't know anything that would prohibit it, but I'm not aware of that happening.

Q. Okay. Do you know if the defense attorneys were able to make copies of any information out of the file?

A. I would -- I would say if -- if they needed copies and asked to have them done, they probably would have been allowed to. But I don't know if that -- again, I had nothing to do with them sitting in there. I know they -- I have seen them doing exactly what this gentleman is doing, taking a lot of notes.

I don't -- I actually don't know the -- the policy on making copies. I know that -- that we did have a policy of not turning over offense reports because they were not our work product.

Q. Okay. And let's -- let's talk about that. You were a police detective for many years?

A. Yes.

Q. And then you worked with offense reports as a district attorney's investigator?

A. Yes.

Q. Is there one master offense report and then additional supplemental reports that are made by other investigating officers?

A. Well, you know, there's -- the officers that make the scene make the initial offense report, and then it's supplemented with additional information. So, yes, there are supplements.

Usually that agency's master file, HPD homicide called it the -- the blueback, the blue copy is what they sent over to the DA's office. They kept another copy in their office.

If there were additional supplements after they filed charges or after they sent it to us, they would send those supplements to us.

As -- normally, and that was always kind of a point of irritation with the DA's office, most agencies, once they filed charges, they were done with it. So if any further investigation was done, it was usually by us.

So, and our -- our supplements would not be on their report forms. Our supplements would be notes that we made, sometimes typed, sometimes

handwritten, that we would -- would put in the file.

Q. Okay. So were you privy -- as an investigator at the DA's office, were you and Ms. Siegler privy to all the supplemental reports that the sheriff's office was making on a case?

A. Yes.

Q. Okay. But it was the policy of the DA's office not to turn over those supplemental reports --

A. They -- not to copy.

Q. -- to defense counsel?

A. Not to copy.

Q. Not to copy?

A. Yes. They were allowed to read -- read the reports. But as far as making a actual Xerox copy of the offense report and giving it to them, it is my -- it is my recollection that we did not do that.

They were allowed to read everything in the file, but as far as Xeroxing or making a copy, we never -- we never -- to my knowledge, I don't recall ever copying a complete offense report and giving it to the defense attorney. They may have been allowed to copy one or two pages, but as far as the whole report, I don't think so.

Q. Now, I understand from Kelly's testimony in the Temple case that her practice was to produce only those

offense reports that were written by testifying officers. Is that your understanding?

A. I don't have a clue.

Q. Okay. Because a moment ago, you said that y'all at the DA's office would disclose all the supplemental reports, but just not let the attorneys necessarily make copies of them.

A. You know, when -- when -- to my knowledge, when we turned a file over to them, the offense reports were in that file. I don't know of any -- any redactions or pulling out supplements. I've never been a party to that. And if it happened, I don't know about it, so I don't know.

Q. Would that have been improper in your mind if -- if supplemental reports had been left out of the offense report given to the defense counsel?

A. You know, I don't know. I don't -- I don't personally think it should have been a problem, but I don't know. I can't say what -- what the attorneys think. I'm not, you know.

Q. What if the supplemental report contained Brady evidence, would that have to have been turned over to the defense attorney?

A. I would think so, yes.

Q. And ultimately you'd agree, I think, that the

prosecution team are the only individuals that have a complete knowledge of what is in that file -- their file at the DA's office, right?

A. I would think so, yes.

Q. Because an attorney -- a defense attorney could come in to review the file, but the only thing stopping someone from taking something out of that file would be that own DA's honesty or integrity, correct?

A. That would prevent the defense attorney from taking something?

Q. That would prevent the prosecutor from not -- from taking a document out. In other words, there's no way for the defense attorney who's coming in to view the file to know whether a defense -- or a prosecutor has taken anything out of that file?

A. Well, I think -- I think there probably would be. Seems like I recall there were times that there were some, I need to see this and, no, you're not allowed to see that.

And I can't be specific on this case or any other case, but I do recall now that there were times that there were some disagreement on what they were allowed to see.

Q. Okay. What if it --

A. So I'm not real sure exactly what it was, but

there were some -- some things they were not allowed to see or take copies of.

Q. What if a defense attorney came in to view the file and the defense attorney doesn't know, for example, that a witness has been spoken to at all or even that this witness exists and that witness -- information about that witness is removed from the file before the file is shown to the defense attorney, would that be improper in your mind?

A. It depends. I -- I can't answer that.

Q. Okay. Well, what if the information that was removed had Brady evidence in it?

A. Then probably that should have been shown.

Q. Was there any written policy at the district attorney's office about dealing with informants?

A. Not to my knowledge.

Q. Okay. And you didn't receive any training about dealing with informants?

A. No.

Q. Did you receive any training on when to tell if an informant might be telling the truth or not?

A. Did I see -- receive any training?

Q. Uh-huh.

A. No. Just on-the-job training.

Q. It's just gut?

A. Yeah.
Q. Gut instinct?
And there's one thing that every prisoner wants, right?
A. Yeah, out of jail.
Q. So whenever you work with an informant, you are starting off with a credibility issue, right?
A. Yeah, their motivation. I'm always like, you know -- you know, they'll tell a story, and I'm always like why are they telling me this. And it's very seldom they're doing it because they're good citizens. They want something.
Q. Right. So what were the things that you looked at when trying to determine whether an informant himself was credible or not?
A. Probably the primary thing would be the quality of the information. I mean, can we corroborate what he's saying? Does -- does the information he give us fit the crime? That would probably be the first thing that I'd look at is, you know, is it -- is it -- is what he's telling us what happened. And does -- will it work. And a lot of times it doesn't. It's very obvious real soon that they're lying. And I've had that happen a lot.
Q. Did it matter to you when you were looking at

whether an informant might be credible the crime that that informant was convicted of?

A. Sure.

Q. The worse the crime, the less credible the snitch?

A. Not -- not necessarily. I mean, I look at it from the standpoint is it worth it. From my -- this is my personal opinion. You know, are we trading off one killer for another one? And, you know, you know, some cases that I worked on, you know, a lot of times we had to do things that I really didn't like, but it was the only way to get where we needed to be. So -- so sometimes you have to in order to convict everybody, you have to give somebody a deal.

Q. Would you look at the informant's past history as a snitch?

A. Yeah, I have in some cases.

Q. Uh-huh. And if that informant had a long history of -- of snitching, that might indicate to you a knowledge of how to work the system?

A. Somewhat. But, again, I look at the motivation. I mean, and, you know, can I use an example?

Q. Sure.

A. A case I worked on back when I was in homicide

in the late '70s, early '80s, we had an informant in TDC in prison that had -- was on the defense witness list. And we had already talked to him, and he -- basically, he was going to say that we had another informant that was a co-defendant had told him that he's lying to the police, that this didn't happen, you know, that he's making this up so he could get a deal. And he had been subpoenaed by the defense witness as a defense witness.

So the weekend before we started testimony on a Monday morning, we get a call on Friday afternoon from the warden at the unit he's in saying this guy wants to talk to us. And I'm like, well, I've already talked to him. I know what he's going to say. And he said, no, he lied. He's telling me he lied to you. And I'm like God, you know, I don't have time.

So I went on Sunday before we start trial on Monday morning, and he tells me he'd lied, you know, that this -- that our -- our co-defendant witness never talked to him. That he said, you know, I'm not talking to anybody. The prosecutors told me not to talk to anybody, and I'm not. That he tried to get him to talk, and he wouldn't. And that the information he had about the case had come from another of the defendants, and he told me to say this, this, and this. And he says -- and he wrote it down. And he had the -- the script, the

transcript.

Q. "He" meaning the other --

A. The other defendant --

Q. -- defendant?

A. -- that we were prosecuting for capital murder. And we had the handwriting analysis done. It was his handwriting. He had his -- and the co-defendant's fingerprints were on the document, too, so it was true.

And I'm like why -- and this guy was a sexual offender in prison. And basically, the defendant that he was working with to discredit the other co-defendant had promised to give him money and also help with his appeal, pay for his attorney with his appeal. That was his motivation. And that's what he said because when he turned this over, the first thing I asked, why are you doing this? What do you want? Because he's already convicted. I can't help him.

This is a state case, he's in -- and I can't help him. He's already convicted. What am I going to do? You know, I can't give him anything. So what's your motivation to come forward to me?

And he -- he told me at the end that he was a -- you know, he was a sexual offender, but this in -- involved killing a baby, and that was the only thing worse than him in the prison hierarchy was a baby

killer.

You know, so I'm like, okay, but I didn't believe him.

Q. Uh-huh.

A. You know, because that's just -- he's not a -- you know, this guy doesn't have anything in him to do anything just for something good.

So at this point, I had left homicide, was in internal affairs. He testifies the night before that they got him in our trial, he's under, you know, other inmates, they've got to keep him in protective custody because he's been targeted as a snitch.

I get a call from -- he's out at Atascocita jail. They're holding him out there. He wants to talk to me about another case. I go out there. He tells me some information on a case that I was working in internal affairs. It was an excessive force case. He says this guy told me he made all this up. The cop didn't hit him. He's just making this up to try to beat his case. So he gives me an affidavit for that.

Then I find out he's talking to other people. He's -- he's informing on everybody. And I'm like this guy, has he got a death wish? I mean, he is -- everything he hears, he's telling the cops on everybody. And there's like eight or nine cases that he

ended up testifying in Harris County while he's here. He's picking up stuff from other people in jail, and he's just blowing.

Q. What was this individual's name?

A. The bottom line -- his name was Jerry Saul Eikenhorst. Bottom line, this is the late '70s, early '80s, TDC was a -- I mean, it's horrible. Overcrowding. He wanted to go to federal prison.

The case he was convicted on, he picked up a woman here in Houston, grabbed her at the bus station. He had just got out of T -- TDC. Comes to Houston, gets off the bus. He's here 2 hours. He grabs a woman getting off work, puts her in a car, takes her in a car, abducts her, takes her to Louisiana, rapes her, keeps her over there for two or three days. Well, he took her across the state line so it could be prosecuted as a federal offense.

So after all these cases he testifies in, he tell -- he tells -- he, you know, tells TDC y'all can't put me anywhere and keep me alive. They're going to kill me if I go back.

He has an attorney here that represented him, and they petition the federal court that he would plead guilty to the federal offense of taking her across state lines so that he could do his time in federal

prison. And that was his motivation.

So what I'm getting at is, all of them have their modification.

Q. That's right. And some of them are real smart about how to get --

A. And this guy was. This guy was.

Q. And then after --

A. And then it backfired on him because when they did away with federal parole, he was stuck there.

And that's another thing. This is for cops, for investigators, and this is a new deal. When they did away with federal parole, it was a whole new field of information.

And -- and, you know, because that's the only way -- and this -- to be honest with you, this is the first case, Prible's case was the first one I had ever been involved in where I found out that they could get their sentence reduced. I did not know that could happen.

Q. Okay. So --

A. And so it's opened up a whole new field. But again, you've got to -- you've got to be able to verify what these people tell you.

Q. That's right. And so the circumstances of how you came into contact with the snitch would also go to

their credibility, right?

A. Well, you know, normally, they come to us. So we don't go out there hunting down information. Early in my career, I found out that that was a problem. You can't go out there and just say, hey, we'll give away so much for information, because you get covered up with lies.

Q. Okay. So a single individual coming to you out of the blue and in secret is more credible than like a group of snitches discussing a case in the prison that come at you with different stories?

A. Well, each individual, I mean, I -- I would never talk to a group. I mean, that would be -- you'd never talk to a group of individuals. I mean, if I talked to any kind -- any kind of a informant, it would be one on one. I wouldn't talk to him about something with other inmates around.

Q. Okay. Would you ever talk to different informants about the same case? Maybe not in the same room, but is there ever a time when you might be talking to more than one informant about the same murder case?

A. Not -- not -- no. No, not like having them lined up out in the hall and bring them in one at a time. No, no, no, no, no.

Q. What if another prisoner that you've used in

the past as an informant instructs an inmate to call you, saying this guy got me a deal or this -- this prosecutor got me a deal in the past, you need to contact her, see if you can help her out in this case?

A. You know, --

Q. Would that raise a red flag?

A. Yeah, possibly. And I know where you're going with this, and I might be able to make this a lot clearer for everybody.

Q. Well, we'll -- we'll get --

A. Okay. Okay.

Q. I'll continue the questions.

A. All right.

Q. Okay. Okay. What were the things that you looked at when determining whether the actual confession that the informant was giving you actually happened?

A. Well, it wouldn't be a confession, it'd be information. I mean, if they're -- a confession means they committed the crime. So it would be information.

Again, what I look at is the stuff, you know, that they're repeating the information they're getting, does it actually fit the crime that happened. I mean, you know, so, yeah, he told me he did it. You know, say we walk in and said, yeah, yeah, so-and-so told me he did it. Did what? Well, he killed those

people. What people? You know, give me some details, you know. And if they can't do that, it's pretty obvious they don't know what they're talking about. They're just picking up on what somebody else said and, you know, let's jump on this bandwagon. And --

Q. And you talk about information versus confession. So it didn't -- as an investigator, as a prosecutor, it -- it doesn't matter to you-all so much that you get the confession as much as the information that this person is talking about this crime at the prison?

A. God, no. We'd always love to get a confession from every defendant. That'd be wonderful if they'd confess.

Q. Uh-huh.

A. But that's not -- that doesn't happen very often.

Q. So more often than not, it's just the -- the --

A. We have to build --

Q. -- prisoner --

A. -- a case.

Q. Okay. The pris -- it's more often than not it's the prisoner talking about the crime with other individuals in prison, not necessarily saying that they did it, coming outright and saying that they did it, but

just discussing the crime with other people at the prison?

A. That's -- that's -- I can't give a -- an exact answer to that statement. I don't, you know -- you know, and this is, again, what I've found, and I'll use an example. I've got friends that I worked with in the SWAT detail for three years. We get together about once a year and we tell stories and we talk about things we did.

My brother-in-law is a doctor. I know when I get with him, he talks about patients and stuff, you know. And people don't want to believe that -- that criminals sit there in prison and talk about their crimes, but they do. I mean, it's -- it's just like schoolteachers talk about kids and students, they talk crimes -- criminals talk about crimes and things they've done. And it happens all the time. And it's just -- now, I won't say this much, if you do it in federal prison, you're an idiot. Because with the new rules, that gives you, I mean, you're really not thinking.

Now, at the time this case happened, I don't think Prible understood that. I don't think he was that smart.

Q. Well, and another reason why it might not be that smart to confess to something in prison is because

like you mentioned earlier, there's a hierarchy of criminals in prisons, right?

A. That's what this inmate said.

Q. Okay.

A. Yeah.

Q. And in popular culture, I mean, we're kind of all familiar with a general hierarchy of -- of prisoners. The most popular are going to be the cop killers, right?

A. That's what everybody says, yes.

Q. And the least popular are going to be the ones that have killed children and that have committed sexual assault, right?

A. Or cops in prison.

Q. Yeah. Or, yeah, I guess you're right.

People who kill children, people who commit sexual assault, what sometimes happens to those people in prison at the hands of other prisoners?

A. Well, they could be abused or killed.

Q. Uh-huh. So if you're a child killer or a rapist, it's best to keep your mouth shut about what you did when you're in prison, right?

A. I would. You know, but on the other hand, what I found with people committing murder, and that's -- it always amazes me. Normally, somewhere down the line,

they will talk to somebody about doing it. They'll either brag about it or they'll cry about it. They either feel bad or they try to impress people with how bad they are because they brag about it.

You know, it's not unusual for inmates to brag about killing people just to impress other inmates about how bad they are.

Q. Let's go back to the credibility of snitches that we were talking about a minute ago. What if a snitch came to you and said he heard a confession from another prisoner, okay, and we'll call that snitch that came to you snitch No. 1, okay? And then later his cellmate reached out to you and he said he heard it, too, and he wanted in on the action. Okay, that's cellmate No. 2.

Would you be concerned that maybe the second snitch didn't actually hear it from the criminal's mouth, he heard it from his cellmate?

A. That's possible, yes.

Q. What if you asked that second snitch if he talked to his cellmate about the confession and he said, no, I didn't know the guy confessed to my cellmate, would you believe that?

A. Well, here again, one of the things you do is look at the -- you know, Nathan Foreman, that's --

that's exactly what you're talking about. And he contacts our office, I think, by a letter to Kelly, I'm not real sure. And we talked to him one time. And it didn't happen in Beaumont, it happened here in Houston.

You know, and that's -- and he goes -- he starts telling us basically he did it, you know, and he couldn't give us any details. That's one of the reasons I'm saying I could make this a whole lot shorter. And two minutes into his conversation, I'm like this guy is lying. He doesn't know anything about this case.

Then I asked him to describe Prible. He's like what? I said what does he look like? And he couldn't give me a physical description. And at that point, I don't think he -- at the time we talked to Nathan Foreman, I don't think he had ever met Prible. He may have talked to somebody else and knew -- and at the time we talked to Nathan Foreman, I think Beckcom had already come forward with his information. And I've never talked to Beckcom.

Q. Okay.

A. I've never talked to him. The only two people in this case that I've talked to are Nathan Foreman and Prible.

Q. You never talked to Beckcom?

A. I never talked to Beckcom. I never met him.

Q. Okay. Let's go to an exhibit -- one second, let me find the number here. Let's see.

MS. SCARDINO: Exhibit 109-5. James, can you get that, and give one to the witness?

MR. RYTTING: You bet.

(Discussion held off the record.)

(Exhibit 109 marked.)

Q. (By Ms. Scardino) I know the copy quality is not great. But first, I want to ask you: Is that your handwriting?

A. That is my handwriting.

Q. Okay. And if you could for the record, could you decipher or just read basically what you've written? And if there's an abbreviation, if you could just say the full word of the abbreviation.

A. It's August 8th, '01, Foreman, Federal Correction Institute, Houston. August -- all right. Beaumont meeting. Prible in hole with Foreman. August of 2000, sent to -- sent to disciplinary segregation, trustee, January 2001. Prible came in later.

And I can't -- it looks like dirty. I can't -- I can't read that. Dirty and something gag. Oh, gang. It must be gang. Yeah, Texas Dirty White Boys.

Q. And I think above that, does it say dirty

urine, maybe?

A. It could be. Gang, Texas Dirty White Boys. Bear and Chewy. Hole with them and A.J. I don't know who that is.

Didn't know what he was doing time for. Thought it was dope. Found hooch in his cell.

Wife shot, two babies in fire. Two others present, A.J., Bubba, Bear and Chewy.

Then I had, Nathan Ray Foreman, black male, 10/11/65, medium, inmate No. 07831078.

I've got a 409-727-0101 for S -- STS office.

Q. SIS office maybe?

A. Okay. SIS office. Lieutenant Robert Clark and a fax number, 409-720-5003.

And this looks -- I'm guessing this is the notes I made that I put in the file or gave it to Kelly for the time we went to see Foreman.

Q. Okay.

A. I'm guessing.

Q. And you said a moment ago you had only one face-to-face visit with Foreman; is that right?

A. That's it. That was this day.

Q. Okay. And that was the one you just described a moment ago, the fed -- and it was at the Federal

Detention Center here in Houston?

A. In Houston. I never saw him in Beaumont.

Q. Okay. And by then, you said Beckcom had come -- already come forward?

A. I'm pretty sure Beckcom, the information from Beckcom was already known to Kelly. I -- to my knowledge, I've never met or seen Beckcom. I don't even think I saw him in the courtroom because I didn't go in the courtroom to listen to his testimony.

Q. Okay.

A. But it was real obvious after talking to Foreman for a few minutes, he was just lying. And basically, we confronted him with it.

Q. And you determined that -- or what did you say when you confronted him with it?

A. You know, you know, you're wasting our time. You know, the bottom line is, we told him we don't need people lying to us, you know. If you have good information, that's fine. But don't come to us with a bunch of lies because we're not going to be able to use lies and --

Q. What --

A. -- and blew him off.

And I want to tell you something, he kind of -- I remember he kind of like, well, is it worth a

try. I mean, he was -- he was trying to get on the bandwagon, you know, get some of this good time. And it was obvious he knew that it wasn't working.

Q. Were there other people trying to get on this bandwagon?

A. I don't know of any others, no. I never talked to anybody except him and Prible, and that's it.

Q. Him and Prible. No other --

A. Inmates.

Q. -- prisoners --

A. No.

Q. -- about this case?

A. No.

Q. Okay.

A. You know, and his -- his reaction, I remember he kind of smirked. Well, didn't work.

Q. What lie did you catch Nathan Foreman in?

A. Well, he couldn't just give any details. He was kind of vague in information. It was real obvious that he had not talked to Prible. And, in fact, I was under the impression he hadn't even met him because he couldn't give me -- or if he'd met him, he couldn't describe him, you know.

And I want to tell you, you don't forget Prible. Have you met him or talked to him?

Q. Yes.

A. I mean, I always said he's like Charles Manson eyes. I mean, the guy reminded me of Charles Manson. It's just the impression I -- I remember leaving him and like, well, he's kind of spooky.

Q. So if you look at these notes that you took at that meeting with Foreman, it says, "Wife shot, two babies in fire."

I suppose that was maybe the infor -- what you were just saying that he wasn't telling the truth or it was obvious he hadn't talked to Prible?

A. He may have -- you know, that's just -- I don't know if I put that down as something that he didn't know or if that's all he knew because two babies isn't right, it was three.

Q. Right.

A. And, you know, it was -- anything he could have gotten, it wasn't anything that he couldn't have gotten from the newspaper or talking to somebody else that knew something.

Q. Yeah. And when you --

A. But I got the impression that he didn't actually have any information that he got directly from Prible.

Q. Okay. And when you take notes like this, are

you writing down everything the witness says, or is some of these notes things that you're thinking as the two of you are talking?

A. No. It would be what I'm thinking as we're talking.

Q. Okay.

A. If it was a quote, I'd put it in quotes. I'd put quotations around it.

Q. Okay. I want to take us back. This is -- we've jumped to 2001. But I want to take us back to 1999 when the murder occurred.

A. Uh-huh.

Q. The murder of Steve Herrera, Nilda Tirado and their three children was on April 23rd, '99?

A. Okay.

Q. Okay. And Detectives Curtis Brown and Ramon Hernandez interviewed Prible that very day?

A. Uh-huh.

Q. All right. And Brown later testified at trial that at all times Prible was cooperative?

A. Uh-huh.

Q. They got two statements from him. In one of those statements, he told the officers that he had had oral sex with Ms. Tirado. Does that sound familiar?

A. (Witness nods head.)

Q. That very day within hours of the murder, they photographed every inch of his body, right?
A. It seems like I remember seeing those pictures, yes.
Q. And there was no blood spatter anywhere, right?
A. I don't recall seeing any.
Q. There were no cutset burns. That was the accelerant used to light the house on fire?
A. Not to my knowledge, no.
Q. There was no singeing of Mr. Prible's skin anywhere?
A. I don't recall seeing or hearing anything like that, no.
Q. There was no soot anywhere on his body?
A. Not to my knowledge.
Q. There was no gunshot residue on his hands?
A. Again, I don't recall any of this information, no.
Q. Okay. And by not recalling any of it, you're saying you agree that none of -- nothing -- none of this was found?
A. I'll say this, if that had been found and that was evidence to prove his guilt, I think I would remember it. I don't remember exclusions, particularly in the report or anything that was in the offense report

information I said -- or I read. I don't remember anything that was an exclusion.

Q. Okay. Because --

A. I don't remember that they found any evidence that would tend to indicate that he was guilty, no.

Q. Okay. Because if they had, if any one of these things that I just mentioned had, in fact, been found, would that have been enough evidence of probable cause to arrest him immediately?

A. Maybe; maybe not. I can't say that.

Q. Okay. But it is significant in your mind if one of these had been found, that would have been significant?

A. It would have been significant, yes.

Q. Okay. Okay. And on that same day of the murder, Prible gave his clothes to the police officers so they could test for trace evidence as well?

Do you recall that?

A. I don't recall that. I'm not saying it didn't happen. I just don't recall it.

Q. Okay. Well, I'll represent to you that it was.

A. I believe it.

Q. And that no trace evidence was found on --

A. Okay.

Q. -- those as well.

He also gave his tennis shoes that day so they could test for trace evidence.

Do you have any reason to dispute that?

A. No, I don't have any -- no, I don't doubt it.

Q. And again, no blood, not cutset, no burns, no soot, no fibers of any kind connecting him to the murder scene?

A. I don't recall ever hearing that, no.

Q. Okay. And on that same day, Prible also signed a voluntary consent to search his house and his vehicle?

A. I don't recall.

Q. You don't recall?

Do you deny that that happened?

A. No.

Q. Okay. And during that search, guns and ammunition were located at the home but no murder weapon?

A. I remember that -- I remember there was ammo found that was similar to the ammo that was used in the murders. I do remember that.

Q. Okay. And that was found on April 23rd?

A. I don't know the date.

Q. Immediately after, okay.

A. I can't -- I can't verify the date.

Q. Okay. And not giving us a specific date, but

do you recall that that search and those ammunitions and guns were located in 1999 like right after the murder occurred?

A. Shortly after the murders, yes.

Q. Right. Okay. And Mr. Prible also voluntarily gave the police a DNA sample.

Do you remember that?

A. I don't recall.

Q. Okay. Well, he did, and I'll represent to you that he did.

A. Okay. I believe you.

Q. And a DNA match came back on June 4th, 1999, that showed his DNA was found in Ms. Tirado's mouth.

Do you remember that?

A. I -- I do recall that the DNA did come back positive for him with the semen. I don't recall the date.

Q. Okay. But it came back shortly after the crime. That was not something y'all learned a couple of years later, it happened in '99?

A. I don't remember. I don't remember. I can't -- I can't specify the date.

Q. Okay.

A. I know when -- I know at the time we questioned him, we knew that, the time I was involved in -- in

questioning him.

Q. I'm going to show you Exhibit 10.

(Exhibit 10 marked.)

Q. (By Ms. Scardino) Exhibit 10 is a chain of custody signed by William Watson on June -- I believe it's June 3rd or May 3rd, 1999, showing that the DNA was -- was given to him on that day.

And the reason I'm showing you this is I just wanted to see if this refreshed your memory as to whether the DNA testing was done immediately after the murders?

A. Well, you know, and I have -- I can't say that I've never noticed this before or looked at it before, but it's dated May the 3rd of '99.

Q. Okay.

A. So it looks like this was a form sent supplementing -- I mean, submitting the evidence to GeneScreen for testing.

Q. Okay. Okay. And you were involved in this case from the very beginning, right? As early as -- let's see, I'll show you Exhibit 6. Exhibit 6.

(Exhibit 6 marked.)

Q. (By Ms. Scardino) Exhibit 6 is a search warrant signed for Mr. Prible's home by Curtis Brown on April 26th, 1999?

A. Uh-huh.
Q. And it mentions that they had spoken to you before getting the search warrant.
A. Okay.
Q. So does that refresh your memory about when --
A. Let me read this, because I --
Q. Okay.
A. -- don't remember.
Q. Sure.
A. Okay.
Q. Do you see there on page 3 of the affidavit, it says --
A. Right. Where they talked to me?
Q. Yes.
A. Uh-huh.
Q. And so does this refresh your memory that you were involved in this case as early as April 26th, '99?
A. You know, I -- I don't remember this conversation. I don't deny that it happened.
Q. Okay.
A. I'm -- I'm guessing -- see, when we worked there, we had access to HPD records. We could pull up the reports on-line.
Q. Uh-huh.
A. Sheriff's office couldn't. We could pull up

the SO reports. We could pull -- anybody that had electronic reporting, we could pull it up there.

So I'm -- this is just my guess. I don't remember this conversation. I can see Curtis Brown calling me, him asking me to pull up a report and see what it said.

Q. Okay.

A. So I -- I'm -- that's my --

Q. And my question -- and all I really want to know from you is: Were you involved at the beginning in '99, or did you first come into this case in 2001? And it looks like you -- you were at least somewhat involved back in '99.

A. Well, according to this affidavit, which I have no doubt is correct, --

Q. Okay.

A. -- I apparently talked to Curtis Brown about -- about this other case. Is he the affiant here? Yes.

Q. Okay.

A. So, but I don't recall --

Q. Recall.

A. -- the conversation.

Q. Okay. Now, on April 27th, '99, Marshal Kramer and Detective Curtis Brown released ballistic evidence to Matthew Clements for forensic examination in this

case. And that is noted on Exhibit 13.

(Exhibit 13 marked.)

Q. (By Ms. Scardino) You see the date of that supplemental report?

A. Okay. 13?

Q. Yeah. And you see it says the results of that examination came back on April 28th, '99?

A. I'm -- I'm reading it, yeah. Okay.

Q. Okay. Does that refresh your memory about the dates of the forensic examination?

A. That's what it says here, yes.

Q. Okay.

A. I don't recall ever seeing these before.

Q. Okay. And Exhibit 9 here is a Harris County Sheriff's Department news release.

(Exhibit 9 marked.)

Q. (By Ms. Scardino) And it shows that as early as April 29th, '99, Prible was listed as a suspect?

A. Uh-huh.

Q. You see that? Okay. Okay.

MS. MIRANDA: Can I get copies of those?

MS. SCARDINO: Yes.

A. Just a second. Let me finish reading this one. Suspect, Ronald Jeffrey Prible.

MS. MIRANDA: What was the first one that

he was talking about?

THE WITNESS: This is a firearms lab report.

MS. SCARDINO: Exhibit 13.

MS. MIRANDA: Yeah, I don't have copies of those.

THE WITNESS: Dated 4/28/99.

MS. MIRANDA: Thank you. And then 9.

Q. (By Ms. Scardino) And my purpose in showing you all of this is because it appears that from the file that all of the investigation was really done and completed by 1999. All witness reports, all evidence was gathered, other than perhaps later when you spoke with the informants about the case, but all other evidence was gathered by 1999; is that correct?

A. As -- as far as I recall, I -- I knew about this case as far as the investigation. Prior to the time that I went with Kelly to talk to Prible in Beaumont, I had not been involved prior to that.

Q. Okay.

A. Except for maybe this where I talked to Curtis about the search warrant.

Q. Okay.

A. About this other --

Q. Okay. Do you know if Kelly was involved back

in '99?

A. I don't know, but I sincerely doubt it because I don't think she was in special crimes at that time.

Q. Okay. So charges were not accepted against Prible in '99, right?

A. Not to my knowledge, no.

Q. Okay. Do you know why that DNA match would not be enough to have charged him with the -- the murders?

A. It's my understanding that he came forward and said that yeah, yeah, that's my DNA because we had voluntary sexual relations. So that -- that was -- I think he said that right from the very beginning. You know, so if he had denied it, I think maybe they would have filed charges, but he -- he admitted it.

Q. Okay. And -- and he and the victim were not strangers, right? They had had a longstanding relation --

A. I don't --

Q. -- or friendship, at least acquaintance?

A. Well, but I don't know about -- I've since learned, and at the time I did not know it. I mean, I learned -- in '99, I had no idea.

Q. I asked, yeah, in '99.

A. I don't know what their relationship --

Q. Okay.

A. -- was. I know they were both at a Houston bank robbery.

Q. They weren't -- okay. But what I'm saying is, Nida -- you knew or everyone knew in '99 that Nilda and Jeff were not strangers.

So this was not a situation of a stranger's DNA being found inside a victim?

A. They knew each other. It seems like -- and I -- and I can't be specific that somewhere along the line, I was told that she did not like Prible.

Q. Okay.

A. Which meant --

MS. SCARDINO: Objection, nonresponsive.

A. Okay.

Q. (By Ms. Scardino) But my question at the time -- or the question just yes or no, they were not strangers at the time?

A. They would have known each other.

Q. Okay. And we'll get to that information later on.

A. Okay.

Q. Do you know if the case was presented to a Grand Jury for indictment in '99?

A. I have no idea.

Q. Okay. Were you ever involved in the Grand Jury

process while at the DA's office?

A. On this case?

Q. On any case?

A. Oh, yes, over the years.

Q. Okay.

A. Not just the DA's office. While I was at HPD, too.

Q. Okay. Did you ever testify in front of Grand Juries?

A. Yes.

Q. Okay. So in 1999, the evidence was so weak at that point that the DA's office determined they couldn't even present it to the Grand Jury, let alone get an indictment or convince a jury beyond a reasonable doubt, right?

A. I don't know if it was presented to the Grand Jury or not, so I don't know.

Q. Was it your practice when -- or your experience when you were at the DA's office that if there was probable cause, the case would be presented to the Grand Jury? It wouldn't just sit around going cold, right?

A. True.

Q. Okay. In 1999, were you -- was your personal conviction that Prible had done it?

A. In '99, I can't say that I knew enough about

this case to make a judgment.

Q. Okay. Do you know if they had any other suspects in 1999?

A. I don't know.

Q. Okay. So within 24 hours of the murder, it looks like the HP -- or the sheriff's office was convinced that Prible did it. He was their suspect, but there wasn't enough evidence to charge him, right? And, in fact, all the evidence they did have pointed away from him at that time?

A. No, I can't say that.

Q. You can't say that? Well, there was an alibi witness. Do you recall the alibi witness?

A. Not really.

Q. Okay. There was no history of acrimony between the victim and the -- the defendant or the accused, right?

A. I don't know.

Q. Okay. There was no money found, right? And money was the motive in this case?

A. Again, I don't know.

Q. Okay. There was no murder weapon found?

A. Not to my knowledge, no.

Q. Okay. So the case went cold. And we hear about that, you know, those of us who are just lay

people, we hear about a case going cold. What exactly does that mean?

A. You don't have anything else to work on. You run out of leads. You run out of information. You know, and a lot of times cases get set aside, and they get forgotten. So because if you get covered up with other -- other new cases. So that had been a problem for years until -- until they came up with cold case squads that actually go back and pick up these old cases.

Q. Okay. Okay. And you and Ms. Siegler were part of that cold case squad at the DA's office, right?

A. We didn't call it that then. We were --

Q. Special crimes?

A. -- special crimes. Now, HPD and the SO set up cold case squads while we were there.

Q. Okay.

A. And I think probably we were involved in helping getting that started.

Q. Okay. Okay. I might have said HCSO earlier James noted. And if I did, that stands for Harris County Sheriff's Office, okay?

So the case was put aside, and no more leads were developed. All the evidence, it sounded like they had it in 1999. But in 2001, the DA's office

started looking at it again, right?

Do you recall that?

A. Yes. And I -- I don't -- I can't say exactly why. I can assume that it was because Beckcom came forward. I don't know that, but I'm thinking that's why it was reactivated.

Q. Okay. And do you recall how Beckcom came forward? Was it by a phone call?

A. I don't know.

Q. A letter?

A. I don't know.

Q. You can't recall?

A. I know -- I know that federal inmates are allowed to make phone calls.

Q. Okay.

A. Which was surprising.

Q. Okay.

A. I'd known that several years before, but so I don't know if he wrote a letter or if he phoned, I don't know.

Q. Okay. And you said you find it surprising. Are you talking about phone calls that they make other than from the inmate phone, the usual inmate phones?

A. I don't know. I don't know. I know one time we took a confession from an inmate on a murder. It

happened in the '70s that I worked on. And he was in federal prison in Oklahoma, and we took the confession on the phone. And I was just shocked because I had never had anything like that happen before. I didn't know they allowed them to even actually use the phone that long and make a long distance call and be on -- be on the phone and do things like that.

Q. And so does it seem pretty loose down there at the federal prisons about --

A. It's -- it's different. It's different than -- than the state prisons, and -- and they change. They've been in flux for years. The state prisons used to be the worst place to be, and, you know, and the federal prisons were the nicer facilities. And I'm sure there's still, as far as the facility itself, they're still nicer. You know, different federal prisons have different rules. Super max is just unbelievable, you know.

Q. Yeah. Did you -- prior to working on the Prible case, had you dealt with informants in the FCI-Beaumont previously?

A. No, that was the first time I had ever been there.

Q. Okay. Did you know anyone who worked at FCI-Beaumont?

A. No, I did not.
Q. Okay. So everyone you came in contact or ended up knowing there, it was because of the Prible case?
A. Yes.
Q. Okay. So in working on this case, how would you communicate with those prisoners down at FCI-Beaumont? You could visit them in person, right?
A. That's -- that's the only thing I did there. I never talked to any of them on the phone.
Q. Okay. Do you know if Ms. Siegler ever talked to them on the phone?
A. I don't have any idea.
Q. Okay. But you were never on a phone call with Ms. Siegler while she spoke to them on the phone?
A. No.
Q. Okay. Okay. Do you know if any of the inmates ever -- ever did call Ms. Siegler on the phone from inmate phones?
A. I don't have any idea.
Q. You don't have any idea?
A. (Witness shakes head.)
Q. Do you know, was it your understanding that they could contact you from their counselors' phones?
A. I don't -- I don't know.
Q. Or from unit managers' phones?

A. I don't have any idea.
Q. Okay. So earlier when you were saying it was surprising to you that they were able to call for so long, do you recall saying that earlier?
A. Yeah. Yeah. And that was that one case I was talking about. It was, you know, we were sitting there listening to this guy's conversation. They had it on a speakerphone recording it.
Q. Uh-huh.
A. And -- and I was just, you know, and I -- we got the information he had done this murder, and I was shocked. And he basically sent word, yeah, I did it, and I'm going to tell you I did it. And they put him on the phone, and he confessed on the phone. And I was just like wow.
Q. And in --
A. It had never happened before.
Q. And when you say "they" put him on the phone, who put him on the phone?
A. Somebody at the federal prison in Oklahoma.
Q. Okay. When you spoke with Foreman, and -- and I believe you said -- did you also meet -- Foreman's the only informant in this case that you met with in Beaumont, right?
A. Correct. No, not in -- not Beaumont, Houston.

Q. In Houston?
A. Yeah.
Q. Okay. Okay.
A. And it was very short. We weren't with him for 10 minutes.
Q. Okay. So you never went to any meetings with any informants in FCI-Beaumont?
A. No.
Q. Okay.
MS. SCARDINO: Okay. I think we've been going for a while. We might be able to take a quick little bathroom break. This might be a good time.
THE VIDEOGRAPHER: The time is 10:09. We're off the record.
(Recess taken from 10:09 a.m. to 10:26 a.m.)
THE VIDEOGRAPHER: This is the beginning of file 2. The time is 10:26. We are on the record.
Q. (By Ms. Scardino) Mr. Bonds, when we left off, we were talking about how the case got picked up again by you and Ms. Siegler in 2001.
A. (Witness nods head.)
Q. And you -- you thought it might have picked up because you got a call from Beckcom?
A. Not me. I'm assuming that she got information.

I don't know whether it was a call or a letter. I don't know -- I don't know --

Q. Okay.

A. -- how.

Q. I'm going to show you Exhibit 46.

(Exhibit 46 marked.)

Q. (By Ms. Scardino) Exhibit 46 is a fax from William Watson to you dated March 1st, 2001. And he's transmitting the reports of that DNA testing that came in on June 4th, 1999.

A. Uh-huh.

Q. Do you see that?

A. Yes.

Q. Okay. So does this refresh your memory that at least as of March 1st, 2001, you were actively working on this case again?

A. I would say yes, I was.

Q. And I assume you're discussing the case with Kelly at the same time?

A. You know, I can't recall any specific conversations. I would have been one of the investigators that she might have asked would you call this guy and have him fax us the information.

Q. Okay.

A. So it might have been just calling and asking

him to fax this. And I would have given him my name and the fax number, so...

Q. Okay. And when you and Kelly picked this case back up in 2001, was this one of those cases where we talked about earlier, it wasn't an issue of solving the case from scratch, it was you had a suspect and it's a matter of building the case now so you could bring charges against that suspect?

A. Well, yeah. Yeah, basically, that's the way it would work.

Q. Okay. So while you and Kelly are looking back at this case, the Tirado/Herrera murders in 2001, you're trying to make this case against Mr. Prible, a prison informant that Ms. Siegler had used in a case a few years before reached out to her.

Do you remember this?

A. I don't have any knowledge of that.

Q. Okay. His name is Jesse Moreno.

A. I don't know anything about it.

Q. Okay. His name doesn't ring a bell?

A. Not at all.

Q. You never met him?

A. No. I saw it -- I saw it in your petition in the court, and I have no idea who he is. I've never talked to him. I have no idea.

Q. Okay. Okay. I'm going to show you Exhibit 52.

(Exhibit 52 marked.)

Q. (By Ms. Scardino) Exhibit 52 is a handwritten letter from Jesse Moreno to Ms. Siegler on April 4th, 2001. If you could take a look at that letter and let me know if you've ever seen it before.

MS. MIRANDA: Can I get a copy?

MS. SCARDINO: Oh, I'm sorry.

MS. MIRANDA: That's all right.

(Discussion held off the record.)

A. I don't recall ever seeing this before.

Q. (By Ms. Scardino) Okay. And in that letter, Mr. Moreno says he helped Ms. Siegler back in '97; and she told him if he ever needed help, to call her. And he says he has information on an unsolved murder, and he could help her if she could help him.

Do you see that?

A. Yeah.

Q. Okay. And he says to call up there and ask to speak with him because he's in the hole and can't make a phone call. And he's in the hole in FCI-Beaumont, right?

A. Hold on. And locked up for four years in the hole and only allowed to call every 30 days. Okay. Yeah, I see that.

Q. Okay. What was -- when you were working with Ms. Siegler, what was y'all's practice if you would get a letter from an informant like that? Would you call them or write them, go visit them?

A. You know, my -- my feeling, my personal experience was I go visit them in person. That would be my preference. I don't recall that there's any standard that we did, but I know if I had a choice, it was go talk to the person. That'd be what I'd want to do.

Q. And would you want to talk to him face-to-face before you spoke with him on the phone?

A. You know, I wouldn't have an objection to having a short conversation on the phone. But as far as getting down the details, I'd prefer to be face-to-face.

Q. Yeah. But maybe have a short phone call on the phone before you get in the car and waste your whole day getting over there and talking to him?

A. Yeah. Yeah, that's possible.

Q. You want to know that they have --

A. I don't recall that I ever did that. I've never done that, but I'm not saying that's not possible.

Q. Okay. I'm going to show you Exhibit 53.

(Exhibit 53 marked.)

Q. (By Ms. Scardino) Exhibit 53 is another handwritten letter dated April 10th, 2001; and this one

is from Celia Moreno to Ms. Siegler.

Can you take a look at that letter and let me know if you ever saw it?

A. I've never seen it before.

Q. And in that letter, Ms. Moreno is begging Kelly to help her son, right? It looks like he's in a bad spot?

A. Correct.

Q. Okay. Do you know if Ms. Siegler responded to either of these letters?

A. I have no idea.

Q. You have no idea. Okay.

I'm going to show you Exhibit 161.

(Exhibit 161 marked.)

Q. (By Ms. Scardino) This is an article dated April 15th, 2001, for the Houston -- from the Houston Chronicle about the Herrera -- Herrera/Tirado case. If you could take a -- a look at that article real quick.

A. Okay.

Q. Okay. So in that article, it talks about Investigator -- Detective Curtis Brown working on the case.

A. Uh-huh.

Q. At this point in time, were you working -- were you and Kelly working on the case with him?

A. I don't recall.
Q. You don't recall? Okay.
Y'all had picked it up, but you don't know if you were working in conjunction with him?
A. This is dated April 21st?
Q. April 15th.
A. 16th. 15th, 2001.
Q. 2001.
A. I don't know the exact date. I mean, somewhere around this time is when I became involved, but I don't know the date.
Q. Okay. So the earlier fax we sent you was March 1st from Mr. Watson?
A. Uh-huh.
Q. So, and now this is April 15th. So I was just wondering if you and Kelly would have been already in touch with -- with Curtis Brown about this article or anything else.
A. I've --
Q. Okay.
A. I've never -- this article has never been anything I've -- I don't remember reading it before. I don't know.
Q. Okay. And in the article, he says -- it says that, "Since the evidence is entirely circumstantial, at

this point authorities say they need more before they can make any arrests."

Did you see this in the -- in the article?

A. Yeah.

Q. Okay. And there's a quote from Brown, he says, "What they need is someone with knowledge of these killings to step forward. Someone who may have been told about them by someone involved."

Do you see that?

A. Yeah.

Q. Okay. So it looks like at the time this article appeared, there still was no new information since 1999.

A. Well, that's -- you know, the sheriff's department nor the DA's office is going to tell a reporter everything we have. So, yeah, I mean, you're always looking for witnesses, even if you got five witnesses. It doesn't hurt to have some more.

Q. Okay.

A. You know, so you're always asking if anybody has information, to please come forward.

Q. Okay. But at the time this was written, you might have already heard from Beckcom possibly or Foreman?

A. I don't know.

Q. No? Okay.
A. Well, obviously, not Foreman because I remember it was August -- in August before we talked to Foreman.
Q. Uh-huh. Okay. Now, in July 3rd, 2001, Ms. Siegler went to meet with Jesse Moreno in person.
A. I have no idea.
Q. You have no -- no knowledge of that meeting?
A. I wasn't part of that, no.
Q. Okay. And that meeting was recorded. You've never seen a recording of that meeting?
A. No, I had no idea.
Q. Okay. And she spoke with him primarily about the Hermilo Herrero case. Does that case ring a bell?
A. Not at all.
Q. You had nothing to do with that case?
A. No. I don't -- I don't know any details. It doesn't ring a bell.
Q. Okay.
A. The names don't. If you describe the crime, I might know something about it; but the names don't mean anything to me.
Q. Okay. Hermilo Herrero's case, he was convicted of killing a man named Albert Guajardo by slitting his throat and wrapping him in a carpet leaving him on the side of the road. Does this --

A. No.
Q. -- ring a bell at all? Okay.
A. Huh-uh.
Q. Now, do you know if at that July 3rd, 2001, meeting Ms. Moreno -- Mr. Moreno told Ms. Siegler about his friend, Nathan Foreman, who was in the hole with him at the time?
A. I have no idea.
Q. You can't recall that?
A. No.
Q. You don't recall ever hearing that from Ms. Siegler?
A. No.
Q. Okay. Do you recall how you-all first made contact with Mr. Foreman?
A. The only time I made contact with him was at the unit here in Houston, downtown Houston. But I don't know how he contacted our office. I don't know if it was by a phone call or a letter. I don't have any idea. It wasn't from me. I didn't have any direct contact with him until we went to talk to him.
Q. Okay. And you don't recall how that meeting came about, because you would have had to plan that meeting in advance?
A. Yes. Yes. I mean, you had to get permission

to go see him, so...

Q. Right.

A. Yeah. And I don't -- I don't recall if it was a letter or a phone call. I don't recall how that information came forward.

Q. Okay. How -- would you often need to give the prison a little heads-up before you went down there for a meeting?

A. Yeah. Usually you'd call, you know, we'd like to come talk to him next week. Can we come that day? And they'd yes or no or --

Q. Okay.

A. I mean, you didn't just show up and say I need to talk to somebody.

Q. Right. Right.

Okay. Now, at the time that he met with Ms. Siegler, Mr. Moreno was being housed in Liberty County; but she met with him in the marshal's office in Beaumont. And I know you weren't at that meeting. I know you weren't at the meeting on July 3rd, 2001, and you say you don't know anything about it. But was it -- was it common practice for y'all to meet with informants at the marshal's office?

A. I never have.

Q. Okay.

A. No, I don't know. Not for me, no.
Q. Okay.
A. I would if that would be a place to meet with him person to person. It wouldn't be unusual.
Q. Okay.
A. But I -- it's not uncommon. I wouldn't say -- you do it whatever is convenient.
Q. Okay. And do you request where the meeting is? Do you and the prosecutor request where the meeting takes place, or does someone at the prison have to decide where the meeting takes place?
A. Well, in this case, I would think it would be someone at the prison. They have jurisdiction. We have -- we're at their mercy. I mean, we can't tell them what to do.
Q. Okay. Now, is it your and Kelly's practice when you would interview witnesses to record those interviews?
A. You know, I can't say that we always did. Sometimes we did, you know. I don't even know if we recorded Prible. I don't know if we did or not. And again, I don't -- I don't recall if that was something they'd allow.
Q. Okay. And that -- that was my next question. The -- Kelly's interview with Mr. Moreno at the

marshal's office was recorded.

A. Uh-huh.

Q. I haven't seen recordings of any other meetings with informants in this case.

A. You know, again, I don't know if that's something they allow in the federal institution. I'm not -- I'm -- I don't recall. That might be the reason there's no recording because they wouldn't allow us to take any recording devices in there.

Q. Okay. Was there any other reasoning that you-all had beside -- behind deciding to record some interviews but not others?

A. No. I mean, it's -- if it's convenient, we would record them. I would think that most -- most of the time we would record if it was convenient.

Q. Now, before Foreman reached out to you and Kelly about -- or to Kelly, I guess, about Mr. Prible's case, had you-all ever worked with him previously in a case?

A. Foreman?

Q. Uh-huh.

A. I've never met him until -- the only time I ever talked to that guy was in August of 2001. I never talked to him before or since.

Q. Okay. Do you know if -- if Ms. Siegler had had

a previous relationship with him?

A. I don't think she had because -- I'm pretty sure she had not.

Q. Okay. And in that -- in the transcript, the July 3rd, 2001 meeting, which I can give you the entire thing to read at the break, if you want, but it's -- it's pretty thick.

But on page 12, she said Nathan -- sorry, Jesse Moreno says to Ms. Siegler, "Nathan Foreman, the one that I was asking you about."

And it sounds as if Ms. Siegler at that point had not known who Mr. Foreman was. Does that comport with your recollection?

A. You know, my recollection is is when we went to meet him at the federal prison here in Houston, that was the first time either one of us had ever met him.

Q. Okay. Okay. But you don't recall who told him to contact your office?

A. No, I have no idea.

Q. Okay. Because the inmates wouldn't just know who at the -- at the DA's office to contact. They would have to have an idea of who was working on a specific case, right?

A. Well, I'm -- I'm assuming that he knew that Kelly was working on this case. I don't know how he

knew.

Q. Okay. So you never listened, I guess, to the recording of this -- this meeting which she had with Moreno?

A. This July meeting, no. No.

Q. Okay.

A. No. I didn't even know about it until you just told me about it.

Q. Okay. I'm going to show you Exhibit 55.

MS. SCARDINO: 55, James.

(Exhibit 55 marked.)

Q. (By Ms. Scardino) This is a supplemental report entered in the Hermilo Herrero case that I was just telling you about. If you could read it to yourself, and we'll talk about it.

A. I'll tell you right upfront that's my -- this is my handwriting right here.

Q. Yes. Jonathan Wayne Jefferson?

A. Yeah.

Q. Okay.

A. But...

Okay. Okay.

Q. Okay. So in Exhibit 55, it says that, "On July 5th, 2001, Detectives Davis and Holtke were requested by Assistant Harris County District Attorney

Kelly Siegler to review an audiocassette tape from a confidential informant. According to Siegler, she and Harris County District Attorney Investigator Johnny Bonds traveled to a federal prison located in Beaumont, Texas and interviewed the male."

And this is referring to Jesse Moreno.

Does this refresh your memory as to whether or not you were at that meeting?

A. I see what it says, but I don't recall this at all.

Q. You weren't -- you weren't there?

A. No.

Q. Okay.

A. Now, I want to tell you something, I remember making a trip over to Beaumont talking -- we went to -- there's also a state unit there in Beaumont that's not very far from the federal unit, and I've been there twice. I've been to Beaumont twice. One to talk to Prible, and the other time I talked to somebody in -- in the state prison.

And I -- but we took another -- there were two -- there were -- I took another prosecutor, and they talked to somebody in the federal unit when I went to talk to somebody in the state unit. They were -- they were split up. We didn't all work together.

Now, I don't -- I don't recall the date, and I thought it was a good while after this.

Q. Okay.

A. Like maybe the next year or so, because I don't recall this at all.

Q. Okay.

A. I don't, you know.

Q. And when you say --

A. Do y'all have this tape?

Q. Yeah, we do.

A. Is my voice on there?

Q. It doesn't -- it doesn't -- well, I've seen the transcript.

A. Okay. But it --

Q. It doesn't appear that you're on it.

A. Well --

Q. And that's why I wanted to ask.

A. I don't sit -- if we're doing an interrogation, I don't sit there and shut up. I'm usually involved in the interrogation.

Q. In the interrogation.

A. And if I -- if I was there, you'd have heard my voice on there because I would have asked questions.

Q. Right. Okay.

A. So I don't recall this at all.

Q. Okay. And -- and you see in that Exhibit 55 that charges were accepted against Herrero that day based entirely on Jesse Moreno's word?

You see that?

A. Well, I see the charges were filed, yeah.

Q. Okay. And charges were also filed against Prible that very day. Did you know that?

A. No, I did not.

Q. On July 5th, 2001? Do you know why charges were all of a sudden accepted against Prible? What new evidence came to light?

A. Well, they do have some -- I'm assuming it was Beckcom. That -- that combined with the DNA evidence in view of the other circumstances. I mean, I think Beckcom was the icing on the cake.

Q. Okay. Is it possible that that July 3rd, '01 meeting with Moreno that Ms. Siegler discussed Prible's case with Moreno who was old friends with Nathan Foreman?

A. You know, I have no idea. I can't say.

Q. Okay.

A. I have no idea.

Q. You can't deny it?

A. No, but I -- I don't know.

Q. You don't know. Okay.

Going back to Exhibit 56, that was that July 5th, 2001 probable cause affidavit for Curtis Brown or by Curtis Brown that we showed you a moment ago. Was it Kelly's practice to write the probable cause affidavits for the HPD to sign?

A. Yes. Most of the time, the --

Q. Okay.

A. -- DAs did probable that -- did probable cause.

Q. Did the probable cause, okay.

And do you see any -- did you see anything new in that probable cause affidavit besides --

A. Wait a minute. I haven't seen this before.

Q. Sorry. Exhibit 56?

(Exhibit 56 marked.)

A. Yes. You haven't shown it.

Q. (By Ms. Scardino) Oh, I'm sorry, I thought we had shown that to you.

A. No, I hadn't -- I have not seen it.

Q. Okay. Go ahead and take a look.

A. Okay.

Q. Okay. So we talked about that newspaper article in April 15th, 2001, when Curtis Brown said someone needs to come forward with information about this before we can make any arrests and saying that they didn't have probable cause at that time to arrest. That

was April 15th, 2001.

By July 5th, 2001, they now have found probable cause to arrest Mr. Prible, right?

A. Apparently.

Q. Okay. What was that new information?

A. Well, it's not in -- I don't see it in here.

Q. I know.

A. I'm assuming it's Beckcom, but there's no mention of Beckcom in this --

Q. Okay.

A. -- in this probable cause.

Q. Because -- because there's nothing in that probable cause statement that was new from 1999?

A. No, but that doesn't surprise me.

Q. Okay.

A. You don't put your whole case on probable cause.

Q. Okay. On August 7th, 2001, you printed out a document about Nathan Foreman that is Exhibit 88. I want to -- I want to ask you what this document is. There's lots of them in the file. Is that the NCIC?

(Exhibit 88 marked.)

A. No, this is a criminal history.

Q. (By Ms. Scardino) Okay. And it looks like you printed that out on August 7th, 2001?

A. It would be the day before we went to talk to him.

Q. Uh-huh. And are those criminal histories, are they available to the general public or just law enforcement?

A. They are not. They're law enforcement. They're confidential.

Q. Okay. Why would you have printed one out for Foreman the day before you went to visit?

A. Because I wanted to see who he was.

Q. Uh-huh.

A. Find out about as much -- as much about him as I could.

Q. Okay.

A. You know?

Q. Okay. So if you would have had to request that visit with him in person, you did it sometime before August 7th, I guess?

A. You know, I -- I don't know. But I'm guessing that this Lieutenant Jones may be who I talked to. I don't know if that's the person that -- at --

Q. At FCI-Beaumont?

A. Yeah. No, here in Houston. See the area code, 713?

Q. Okay.

A. We can check and see if that's the phone number for them. But I'm assuming that after I looked at this, I called him to see if I could go in and see him.

Q. Okay. So that would have been someone here in Houston?

A. It would be the same day or be on the 7th.

Q. Okay. So, and that person in Houston, Lieutenant Jones I think you said?

A. Uh-huh.

Q. Which facility would that person have been in?

A. Well, if that's a 713 area code, it wouldn't have been Beaumont. I'm guessing it's here. I don't know.

Q. Okay.

A. I don't remember.

Q. Okay.

A. I don't remember the phone call. I know we had to call and make arrangements.

Q. Right. And would the person that you would normally call to make arrangements be the person -- a lieutenant with BOP here in Houston?

A. No, no. You'd call the unit where you're going.

Q. You would?

A. Yeah.

Q. Okay. Okay. Did you ever speak with a Lieutenant Clark down there in Houston?

A. In Houston?

Q. Does that name sound fami -- I'm sorry, in Beaumont?

A. You know, I can't say -- I don't remember who I talked to.

Q. Okay.

A. But I would have called someone to make arrangements, so...

Q. Okay. Okay. Do you recall when you -- when you met with Mr. Foreman on August 8th, 2001, where exactly that meeting was held?

A. It's in the unit down here. It was adjacent to something that looked like a gymnasium, a very large -- which I was surprised they had that big of an area that was vacant.

Q. Well, yeah.

A. And we were in a room off to the side of this large gym -- gym/auditorium looking room.

Q. Okay. And was Siegler with you at that meeting?

A. Yes.

Q. Okay. Was anyone else present at the meeting?

A. No.

Q. No one from the prison system or anything --
A. No.
Q. -- would have been there? Okay.
And that -- was that meeting recorded?
A. I don't think so, but I don't know. Again, I'm thinking that they would not allow us to bring recording devices into the prison.
Q. Okay. Earlier you mentioned that you had some involvement in Grand Jury process sometimes at the --
A. Over the years.
Q. -- over the years at the DA's office. Were you involved at all in the Grand Jury process for Mr. Prible's case?
A. Not that I recall, no.
Q. Okay.
A. I never testified.
Q. Okay. You didn't testify in it?
A. No, and I don't remember bringing witnesses there or getting Grand Jury subpoenas, no.
Q. That would be something that you would have done --
A. Yes.
Q. -- for Ms. Siegler? Okay.
And you weren't present for that Grand Jury proceeding? Like in other words, if you weren't

testifying, I guess you couldn't be in the room, right?
A. No, no. I would have had no reason to be.
Q. Okay. Okay. Do you recall working with Ms. Siegler to prepare a presentation --
A. No.
Q. -- for the Grand Jury? Okay.
Do you know how many Grand Juries heard any evidence on this case?
A. No.
Q. Or issued subpoenas or requested evidence on this case?
A. No.
Q. Okay. Do you know of anyone else testifying before the Grand Jury in Prible's case?
A. No, I don't.
Q. You don't think anyone else testified --
A. I don't --
Q. -- or anyone else?
A. I don't know.
Q. You don't know one way or other?
A. Huh-uh. I don't know if she just took it in or, you know, if she took one of the detectives in. I don't know.
Q. Okay. And how does that work if you just take it in? Like what does that mean?

A. Well, she presents it and asks for an indictment.

Q. Okay.

A. You know, so -- so, you know, sometimes they want to hear witnesses; sometimes they don't. It's up to the Grand Jury. So, you know, and again, if she thought they needed to hear witnesses, she'd say I have so-and-so available if you want to talk to him, but...

Q. Okay.

A. Or if you want any other information, let me know. So I don't know.

I wasn't privy to this case. I don't know how she presented it, if she just walked in or if she took a witness in, I don't know.

Q. Okay. Okay. Do you know if she told the Grand Jury that there was an informant that had come forward?

A. I have no idea.

Q. You don't know?

A. No.

Q. Okay. If you had a defendant that you were going to charge in a Harris County case, your -- your office, the DA's office here, and that defendant was already serving a sentence in a federal institution, how would you go about getting custody of that person so you could try him in your state case?

A. Well, that -- once we filed the -- filed it and the warrant was issued, it would go to the sheriff's department. And basically, that's their -- their deal. We don't have anything to do with it. Once we file it, the actual moving the inmates back to Harris County for trial, it's not our responsibility.

Q. Okay.

A. I have no idea how they do it.

Q. Okay. Was that request -- would you normally request that the defendant be moved immediately or would they wait?

A. I don't have any idea.

Q. Don't know?

A. No.

Q. Okay. You don't know what the case was in this -- in Mr. Prible's case?

A. No, I have no idea.

Q. Okay. In the Temple case, Ms. Siegler testified that her practice was to withhold witness statements from the defense until after the witness testified. And then the defense could -- would have to read them during a break in the trial.

Do you recall what the situation was in Mr. Prible's case if witness statements were provided to the defense?

A. I have no idea.
Q. Or when they were provided to the defense?
A. I don't know.
Q. Okay. So you don't -- you couldn't deny that they were withheld? You don't know if they were withheld either -- either way?
A. I don't -- I don't have any idea one --
Q. Okay.
A. -- way or the other.
Q. Do you recall this being her practice?
A. I know that Kelly didn't give up anything she didn't have to give up. I know she followed the law. I never saw her do anything that was -- was in violation of the rules, so...
Q. Okay.
A. But I know she never gave anything away. She made -- she made them -- she made the defense earn what they got.
Q. Okay. Do you know if the rules about disclosing witness statements changed depending on whether that was a testifying witness or not?
A. I know there were some changes after I retired. I'm not real sure what the changes are about disclosure. But I know there have been some changes.
Q. Like within the -- the policy at the DA's

office?
A. No, I'm talking about the state law.
Q. The state law?
A. Yeah.
Q. Right. Okay. So back in 2001, 2002, do you recall if it was prac -- if it was common practice to withhold statements unless the witness was testifying?
A. You know, I don't know the exact rule. I know that everything we did was in compliance with state law.
Q. Okay.
A. We didn't -- we didn't do anything that was in violation of state law.
Q. Okay. And I'm asking what your -- what the practice was.
A. I don't know what the practice was.
Q. What Ms. Siegler's practice was.
A. I think -- I think -- you know, actually, I think probably some -- some prosecutors had different -- different practices than others. So I don't know. But to my knowledge, nobody did anything they weren't supposed to do.
Q. Okay. Do you know if Ms. Siegler's practice was to withhold witness statements from witnesses who did not testify?
A. I don't know.

Q. So you can't deny that that was her practice, you just don't know?
A. I just don't know.
Q. Okay. Okay. You told us earlier what -- what this criminal history report was in Exhibit 88.
MS. SCARDINO: Actually, should we take a short break?
MS. MIRANDA: Yeah, we can.
THE WITNESS: Yes. I -- I need one.
MS. SCARDINO: Sorry. Okay. Go ahead.
THE VIDEOGRAPHER: The time is 11:07. We're off the record.
(Recess taken from 11:07 a.m. to 11:11 a.m.)
THE VIDEOGRAPHER: This is the beginning of file 3. The time is 11:11. We're on the record.
Q. (By Ms. Scardino) Okay. So earlier, Mr. Bonds, we looked at Exhibit 88. That's a criminal history report that you ran for Nathan Foreman?
A. Yes.
Q. Okay. And was it your practice to review or run these for any witnesses in a case?
A. Yes.
Q. Okay. For all witnesses or just certain witnesses?

A. No, usually for all witnesses. In fact, we actually had to do this for all jurors. I mean, it became a problem when they went to the driver's license school that we had people that were ex-convicts and illegal aliens that were coming to the jury panels.

Q. Wow. And was it your practice at the DA's office to disclose these reports to the defense attorneys?

A. Well, I would think -- I don't know if it was our practice. I think that we'd, you know, we'd disclose if there was -- if there was any problem with credibility, that we'd disclose it. I don't know that it was a -- we would not just say, here, here's his criminal history.

Q. I notice in the criminal history file for this case, there were several criminal histories. Two were for Michael Beckcom. Those are Exhibits 84 and 85.

A. Uh-huh.

Q. And we'll try to get through these quick, because they're all --

A. Okay.

Q. -- basically the same thing.

A. Okay.

(Exhibits 84 and 85 marked.)

Q. (By Ms. Scardino) You see 84 and 85 are

criminal histories?
A. I see 84, yeah, that's me. I ran this one on Beckcom on February the 6th of '01.
Q. Where's that?
A. 2/6/01.
Q. Oh, okay. I see. Okay.
A. Up here at the top.
Q. Okay. Oh, wait, here -- I think it's actually 12/6/01.
A. Okay.
Q. Is that date requested?
A. Yes, I'm sorry.
Q. 12/6/01?
A. It got cut off up here.
Q. Yeah. Yeah.
A. I'm glad you noticed it.
Q. Okay. And then Exhibit 92 is one for a witness named Vincent Flores?
(Exhibit 92 marked.)
A. Okay. I ran this one, and I don't even recall who he is.
Q. (By Ms. Scardino) Okay. That was my next question.
MS. MIRANDA: What exhibit numbers were those?

THE WITNESS: 84 for -- 84 for --
MS. SCARDINO: Beckcom.
THE WITNESS: -- Beckcom, and 92 for Flores.
MS. SCARDINO: And 85 for Beckcom as well. There were two of them.
THE WITNESS: Oh, okay.
MR. RYTTING: 84, 85.
THE WITNESS: I don't have 85 here.
MS. SCARDINO: Let me see. 85 is here.
THE WITNESS: Okay.
MR. RYTTING: 92?
MS. SCARDINO: Uh-huh. And you probably don't need to pass these out to Tina, right? You've these in the file?
MS. MIRANDA: Uh-huh.
MS. SCARDINO: Okay.
MS. MIRANDA: But if you have a -- I'll just kind of keep it.
THE WITNESS: I'm going to look at 85.
MR. RYTTING: You bet.

A. And this is Beckcom on -- 85 is Beckcom's criminal history. I read it on September the 16th of 2002.

Q. (By Ms. Scardino) Okay. And that would have

been right before Mr. Prible's trial?
A. I don't remember the -- the trial date.
MS. MIRANDA: I'll just kind of keep them.
MS. SCARDINO: Keep them, okay.
A. And this is Beckcom -- 85 is Beckcom's criminal history. I ran it on September the 16th of 2002.
Q. (By Ms. Scardino) Okay. And that would have been right before Mr. Prible's trial?
A. I don't remember the -- the trial date.
Q. His trial was in October of 2002?
A. So this would have been September.
Q. Now, why would you have rerun a report for Mr. Beckcom if he was in prison this whole time since your meetings with him for your trial?
A. You know, the only reason I can think of is -- is -- well, if there's movement, if he's been transferred to another unit, that will show up on his history. Then it will show a transfer would be one reason. The other reason would be just to have an extra copy.
Q. Okay.
A. Or not being able to put our hand on the original.
Q. The original one?
A. Yeah. Yeah.

Q. Okay.
A. Now, I mean, I didn't -- had he moved or do you know?
Q. I don't believe he moved.
A. Okay.
Q. If you look at Exhibit 93, that's another one that you printed off on September 13th, 2002, for Angela Serna.
A. Okay.
(Exhibit 93 marked.)
Q. (By Ms. Scardino) Does that look right?
A. That's September of 2002, that'd be just prior to the trial.
Q. Uh-huh.
A. I have no idea who this is, but I'm guessing she must have been a witness.
Q. Sure. And I just want you to identify that you ran it and the date that it was run.
A. It is my name, and I did run it.
Q. Okay. And if you could look at Exhibit 94, the criminal history for Edward Herrera.
(Exhibit 94 marked.)
A. That was on 2000, July 28th of 2000? No, I'm sorry, it was September -- I'm looking at arrest date. September 13th of 2002.

Q. (By Ms. Scardino) Okay.
A. And again, --
Q. It looks like you ran a lot of those that day.
A. Yeah.
Q. Yeah.
A. And I have no idea who he is either.
(Exhibit 95 marked.)
Q. (By Ms. Scardino) Okay. Exhibit 95 is a criminal history for Jaime Herrera.
A. September 13th, 2002. And again, I don't know who this is.
Q. Okay. Exhibit 96.
(Exhibit 96 marked.)
Q. (By Ms. Scardino) Criminal history report for Rafael Tirado.
A. Okay. September 18th, 2002.
Q. Exhibit 97, criminal history report for Ernest Carney.
(Exhibit 97 marked.)
A. September 13th, 2002, and I don't know who he is.
Q. (By Ms. Scardino) Exhibit 98 is a criminal history report for Gilbert Trevino.
(Exhibit 98 marked.)
A. Okay. September 13th, 2002. Again, I don't

know. Again, I'm assuming these were witnesses, but I have no idea.

Q. (By Ms. Scardino) Yes. And all I'm asking is for the date that you ran it and if, in fact, you ran it.

A. Yeah, and -- and I did. Yes, sure, and I ran it.

(Exhibit 99 marked.)

Q. (By Ms. Scardino) And Exhibit 99 is a criminal history report for Victor Martinez.

A. September the 13th, 2002, and I ran this one.

Q. Okay. Exhibit 100 is a criminal history report for Jamie Lyons.

(Exhibit 100 marked.)

A. September 13th, 2002.

Q. (By Ms. Scardino) Do you remember Ms. Lyons?

A. Hold on. Hold on. No, I don't remember. Hold on just a second. Yeah, I ran it. I don't remember.

Q. Okay. Exhibit 101?

(Exhibit 101 marked.)

A. Lisa Gaye Detmore?

Q. (By Ms. Scardino) Yes.

A. September the 9th, 2002. I ran it, and I don't have any idea who she is.

Q. Okay. I believe I've already shown you

Exhibit 89. That's the one for Nathan Foreman. The criminal history --

A. Yes.

Q. -- for Nathan Foreman.

A. That was early on.

Q. Okay.

A. It's not in this pile, but you did show it to me. It's 88. It's 88.

Q. Okay. Okay. Exhibit 86 is a -- is a little different from the others. This is a criminal history report for a man named James Martin.

(Exhibit 86 marked.)

A. Okay.

MS. MIRANDA: What number? I'm sorry.

THE WITNESS: 86.

MS. SCARDINO: 86.

A. I'm trying to see. I don't -- I'm looking for my name on here. I don't -- I have no idea who this person is.

Q. (By Ms. Scardino) Okay.

A. This is back in April of '99.

Q. Uh-huh. Does it show that you ran it or did someone else run it?

A. I don't see my name on here, no.

Q. Is this -- these criminal history reports, were

they also sometimes run when you're looking into alternative suspects?

A. Yeah. Yeah, definitely.

Q. Okay. And that one was run in April of 1999?

A. Yeah.

Q. Is it possible --

A. It's right after the murders.

Q. All right. Is it possible that Mr. Martin's might have been another suspect at that time?

A. I have no idea.

Q. Okay.

A. I don't know who he is, and I don't know who ran this.

Q. Okay.

A. It wasn't me.

Q. Okay.

A. I've never seen this before.

Q. There's two more. Exhibit 91 is a criminal history for someone named Philip Brody?

(Exhibit 91 marked.)

A. I ran this October the 1st, 2002. And again, I don't know who he is.

Q. (By Ms. Scardino) Okay. And I know it was a long time ago, but for some reason, these individuals that you ran these reports on must have been significant

for you have -- to -- at the time to have run a report on them, either as a witness or as an alternative suspect; is that correct?

A. I'm guessing since they're in this file, that they were witnesses in this case. But I -- with the dates of 2002, I don't think they would have been suspects.

Now, this James Martin that was run in '99 and shows attention, Allen Bentley Beall, I don't know who that is. Is he SO? You know?

Q. I don't know.

A. That's who -- that's who ran these. And I don't -- I don't even know who that is, and I don't know why it's in this file. I have no idea.

Q. Okay. But if -- if a -- if a criminal history report is found in the file, it's because at some point, for whatever reason, you were interested in looking into this person a little bit more?

A. We ran all of our witnesses. We checked criminal histories on all witnesses.

Q. Okay. And Exhibit 87 is a criminal history report for a man named William Wayne Jefferson -- or I'm sorry, Jonathan Wayne Jefferson?

(Exhibit 87 marked.)

A. Jonathan Wayne Jefferson. I ran this on

December the 6th, '01. Had a notation FCI-Low-Beaumont.

Q. (By Ms. Scardino) All right.

A. And an inmate number.

Q. Okay.

A. And that's my writing.

Q. Okay. And do you recall who this witness is?

A. Not really. I noticed in one of the other documents that you handed to me, I had written his name down. So apparently, he had some information in this case, but I don't remember what it was.

Q. Okay. And Exhibit 103 is also -- it's not a criminal history report, it's a --

A. It's HPD offense report.

(Exhibit 103 marked.)

Q. (By Ms. Scardino) Right. And that's involving a man named Doyle Jennings allegedly hitting a man over the head with a tire jack on June 26th, '02.

A. Okay.

Q. He was charged with aggravated assault with a deadly weapon.

A. Okay.

Q. Okay. And do you recognize Mr. Jennings' name from that probable cause affidavit that I had you read earlier?

A. Isn't he the one that's supposedly Prible and

his dad assaulted?

Q. Yes.

A. Okay.

Q. Yes. Okay.

A. In '90 -- in '99.

Q. Yes, that's correct.

A. Okay.

Q. And the alleged assault happened at Ernest Carney's house.

Do you recall that now?

A. In '99?

Q. At '99, uh-huh.

A. I don't -- I don't recall.

Q. Okay. And Ernest Carney testified at the punishment phase of Prible's trial that based on what he saw from that confrontation, he thought Prible was violent.

Does this ring a bell to you at all?

A. I'll have to take your word for it. I didn't hear it. I wasn't there.

Q. Okay. Do you know why you -- you-all would have had Carney testify instead of Doyle Jennings, the man who the aggregated assault was on?

A. Well, I don't know. You know, I'm looking at this -- when -- when was the trial? You said in October

'02.

Q. Yes.

A. And it looks like here that he's -- he's a suspect in an aggravated assault in June of '02. Was he -- was he in prison? Isn't -- this is a felony assault. Aggravated assault with a deadly weapon. So I don't know. Was he not available? I don't -- I don't know.

Q. I don't know. I don't know. And that's why I was asking if you-all would have thought that he'd make a poor witness because of that criminal offense report right there found in the file.

A. Well, I can't say that. I mean, Beckcom was put on as a witness, and he committed murder. So -- so this guy's kind of a minor league player compared to Beckcom, and she put him on.

Q. Uh-huh.

A. So I don't think this would have been a reason for not calling him.

Q. Okay. Now, is this --

A. And, in fact, I didn't know if she called him or not. You're telling me he was not called as a witness.

Q. Right. Right.

A. Okay. All right.

Q. Okay.
A. I didn't know that.
Q. Okay. All of these criminal history reports that we just went through and this --
A. Offense report.
Q. -- offense report, as a matter of course, would those have been disclosed to defense counsel or not?
A. I would think that if they were witnessed, yes, that they would have been.
Q. Okay.
A. I don't know.
Q. But not if they weren't witnesses?
A. Not if they're not witnesses.
Q. We talked earlier in the deposition about how ultimately it's the prosecution team that really knows everything that's in a -- in a particular case file. And it's up to them to show the defense counsel everything that defense counsel is entitled to under the law, right?
A. Under the present law, yes.
Q. Yeah, okay. And one way a prosecutor could conceal Brady evidence would be by taking it out of the file before the file is given to the defense attorney. That's one way that it could be done, right?
A. Well, I'm sure, yeah.

Q. Okay. Another way is by putting evidence in a file marked work product or privileged, right?
A. That's possible, yes.
Q. Okay. In Ms. Siegler's work file were the following documents. I'll go through it with you. And these were a work product file for the Prible case.
First is Exhibit 112. If you could read that to yourself.
(Exhibit 112 marked.)
A. Okay.
Q. (By Ms. Scardino) Okay. And we'll come back to discuss this more in detail later. But for now, I just want to ask if you recall ever seeing that letter?
A. No.
Q. You never saw that letter?
A. I don't recall ever seeing it.
Q. Okay. I'm going to show you another item that was found in Ms. Siegler's work product file, Exhibit 113.
(Exhibit 113 marked.)
Q. (By Ms. Scardino) That's a letter from Carl Walker to Ms. Siegler.
A. Okay.
Q. Did you ever see that letter?
A. No, I don't remember it.

Q. Okay. Exhibit 114 is a letter from Mark Martinez to Ms. Siegler dated April 30th, 2002.

(Exhibit 114 marked.)

A. Okay.

Q. (By Ms. Scardino) Did Ms. Siegler show you that letter?

A. I've never seen it before.

Q. Why do you think Ms. Siegler didn't show you these letters from the Prible case?

A. I have no idea. I mean, these are dated well past the times that we were working before the indictment. Did any of these people testify?

Q. They did not, no.

A. Okay. Well, I guess she decided she didn't need them or didn't believe them.

Q. And so if it was -- if she didn't believe a witness, was it -- was it her practice not to disclose that witness' statement to the other side?

A. I don't see anything exculpatory in these statements for the defendant. They're all saying he confessed to doing it, so I don't see where it would help him.

Q. Would it have been exculpatory if -- for the defense to have known that there was a web of informants auditioning for this role to testify against Mr. Prible?

A. No, they don't -- I don't -- I don't know -- you know, I can't say that. Again, doing away with federal parole just opened up a whole bag of worms in the federal prisons.

Q. Right.

A. I mean, they were all looking for an out. So I don't know, you know, that defense attorneys were aware of this in 2001. We were becoming aware of it, you know, the prosecution. It was somewhat of a new phenomenon for us because normally, you don't get that many convicted felons coming forward from a unit from a prison.

Q. So defense attorneys might not even be aware that this new phenomenon --

A. At the time, maybe, maybe not. I don't know.

Q. It was a pretty new phenomenon at that time?

A. Yeah, when they did away with the federal parole years before, I mean, I'm thinking '85, '90. It had been a while.

Q. Now, as an -- as an employee of the -- of the Harris County DA's Office, and I understand you're not an attorney, but as an employee of the DA's office, you had certain Brady obligations that you had to uphold as well, right?

A. Yeah. If I knew something was exculpatory, I'd

say it. I mean, I'd tell the prosecution. It wasn't my duty to go to the defense attorneys and tell them, but I felt it was my duty to tell the prosecutor --

Q. Okay.

A. -- that I found something that, you know, indicated there might be some question about guilt.

Q. Okay. And in that regard, would you have liked to have seen these letters when Ms. Siegler had them -- received them?

A. These letters?

Q. Yes.

A. To me, they don't -- there's nothing exculpatory about these letters. I don't see it.

Q. So you don't think these letters are Brady?

A. No.

Q. Let's take a look at Exhibit 163.

(Exhibit 163 marked.)

Q. (By Ms. Scardino) And Exhibit 163 is photographs -- various photographs with Jeff Prible with the informants that had written to Ms. Siegler.

A. Okay.

Q. And the informants -- the informant that eventually testified against Mr. Prible at trial.

Do those look familiar?

A. I -- I saw these in the paperwork you filed in

your documents. Prior to that, I had never seen these before.

Q. Okay. Was that Ms. Siegler's practice when working with informants, to have them take photographs with the defendant to show a close relationship?

A. I would say no. No.

Q. You don't -- it's not something you've --

A. No.

Q. -- ever seen a lot of defendant --

A. No. Discussing or ever hearing of, no.

Q. Okay.

A. No, absolutely not.

Q. Okay. Now, if it turns out that at least one of the informants in this photograph in Exhibit 163 is Nathan Foreman, --

A. Okay.

Q. Now, if it turned out, as it did, that Nathan Foreman was lying about a confession that he had gotten from Prible, --

A. Well, now, see, we talked to him in August of '01. These are dated November of '01. This would have been three months after, at least three months, yeah. November the 11th, '01.

We talked to him on August the 8th. I don't have any idea of where these were made. So they

were in separate units when we talked to him. They weren't even in the same facility.

Q. Okay. So when you -- when you first talked to Foreman, he hadn't even met Prible, he was in a separate facility?

A. He claimed he had met him.

Q. Okay.

A. After talking to him, I don't think he'd ever met him because he couldn't physically describe him; and -- and I don't think you could forget him.

Q. Okay.

A. You know.

Q. Do you think the identity of Nathan Foreman and that he had come forward with false information about this crime was in itself Brady information that should have been turned over to the defense?

A. You know, I've never thought about it, but, no, you've got somebody trying to say he confessed, that certainly doesn't help the defendants. So, no, I never considered it to be Brady.

Q. Okay. Even if he was later made cellmates with Michael Beckcom who was the person that ended up confessing -- or testifying?

A. See, I -- I don't know, I don't know that.

Q. You don't know that he was his cellmate?

A. No, I have no idea.
Q. You don't recall that he was his --
A. No.
Q. -- cellmate at all?
A. I don't.
Q. Okay.
A. And I've never heard that.
Q. Are you denying that he was his cellmate?
A. I don't know.
Q. You don't know? Okay.
A. Okay.
Q. If you heard that -- that Michael Beckcom was his cellmate, would that raise a red flag since he had been talking with Nathan --
A. Well, I --
Q. -- Foreman about the case since August?
A. You know, apparently, Foreman had some information from somebody that Prible was the suspect and that, you know, that he possibly could get some leverage by saying he confessed to me.
Q. Okay.
A. So he knew about Prible. I don't know how he knew about Prible. I don't know if he got it from Foreman or from -- I mean, from Beckcom or somebody. I don't know where he got the information. But he did

know about Prible.
Q. Okay.
A. So I have no idea how.
Q. Okay.
A. Do you know where these were made?
Q. At FCI-Beaumont.
A. Okay.
Q. Uh-huh.
A. So apparently, he ended up -- Foreman did end up in Beaumont.
Q. Yes.
A. I mean, there he is, okay, because when we talked to him, he was not in Beaumont.
Q. Right. Okay. In August 2001?
A. In August 2001.
Q. Okay. Exhibit 127, also found in Ms. Siegler's work product file. And this one is a typed letter from Ms. -- from Beckcom to Ms. Siegler. It's undated. If you would take a look at that and see if you've ever seen it.
(Exhibit 127 marked.)
A. I've never seen this before. No, never seen it.
Q. (By Ms. Scardino) Okay. As part of your obligations as an employee under -- you know, at the

DA's office, would you have wanted to see that?

A. Not necessarily.

Q. You don't believe it has any Brady evidence in it?

A. No, other than he's talking about -- you know, about his problems he has, and he's going to testify. He's also talking about he has some more information on somebody else, but no.

Q. Do you consider it a statement of a witness?

A. There's not any details other than he's going to testify.

Q. But it's a statement made by him, right?

A. Yes, apparently.

Q. Okay. Now, if you look at Exhibit 130, this is a handwritten letter from Beckcom to Ms. Siegler dated October 30th, 2002.

(Exhibit 130 marked.)

A. Okay. Is this after the trial?

Q. (By Ms. Scardino) This is right after the trial.

A. Okay. Okay.

Q. Have you ever seen that letter?

A. No, I don't recall it.

Q. Okay.

A. I was chuckling at what he said at the end.

Q. Uh-huh.
A. "I'm certainly glad I never met you from the other side of the fence."
Q. Uh-huh. What was your opinion, your personal opinion of Beckcom?
A. Well, you know, they all have a motive. I mean, he's a -- I knew that he had been convicted of murder, that he killed somebody. But, you know, you play the hand you're dealt. You know, not all of our witnesses are priests and nurses and schoolteachers, so we have to deal with what we have.
Q. Uh-huh.
A. My feeling is that he testified truthfully. I think he was telling the truth. I had no affection for him or, you know, I saw the letter that Kelly wrote, and it wasn't any grandeur, you know, this is the best witness ever or anything. She basically said that he testified and she thought it was truthful and he helped gain a conviction.
We -- I think we were both surprised at how much of his sentence was reduced. I don't think any of us thought that it'd get cut back as much as it was. I think didn't they basically cut it in half?
Q. I can't recall what the exact amount was. I --
A. I know that when we found out how much it was

reduced, we didn't anticipate that it'd be reduced that far because he was a murderer. He killed somebody.

Q. Do you know if any other benefits were given to Beckcom other than the federal sentence reduction?

A. Not to my knowledge. Now, I know this, and I know this from dealing with other inmates that were snitches like the one I described earlier. When they do that, they put theirself in a very, very dangerous situation. Now they're -- now they're at the very bottom of the -- they're worse than the child killers are snitches.

Q. Uh-huh.

A. So that becomes a problem for the institution protecting them. So that might be one reason his sentence was reduced as much as it was because he was a problem, a security problem.

Q. Okay. Do you know if any benefits were given to him in the form of helping him with his state parole?

A. I have no idea.

Q. You don't know?

A. I have no idea.

Q. You don't recall --

A. No.

Q. -- that? Okay.

A. The only -- the only letter I'm aware of is the

one she wrote, I think, to the federal judge.

Q. Earlier when I was talking to you about use of informants while working at the DA's office, it sounded like it was a fairly loose system and that there weren't any requirements of written records that needed to be made when working with an informant?

A. Well --

Q. Is that correct?

A. Not to my knowledge. I mean, I knew I couldn't make any promises, you know, that, hey, I'm going to do this, this and this for you.

Q. Okay.

A. And if you help me, I'll do what I can to help you basically is the best I could do.

Q. Right. Was an informant required to enter into a written contract with the DA's office?

A. Not -- no. No, I -- no.

Q. Okay. Did an informant have to go through any sort of vetting or approval process with the higher-ups before they could be used in a case?

A. You know, if -- I'm sure it would have been discussed, you know, with a -- you know, in this case, I don't think Kelly was the bureau chief at that time so she would have probably have discussed it with the bureau chief, probably Ted Wilson.

I'm -- I'm -- to my knowledge, there wasn't any -- any rules or set way of doing -- doing that, no.

Q. Did a record need to be kept of benefits given to each informant?

A. Not to my knowledge.

Q. Okay. So a benefit could be made and not -- it didn't have to be written down and kept in a certain file or anything like that?

A. No. No. It would -- if it would have been in -- if there was a letter written, I'm sure there's a letter that Kelly wrote that's in this file. But I'm not -- I'm not knowing that there's any other way of keeping -- keeping up with it.

Q. Okay.

A. You know, there's not an informant file that we kept all the informants in, no.

Q. It was a pretty loose system?

A. Yeah, it would have been -- every informant would have been associated with that case only. I don't know that they would have been -- there's no central records for informants.

Q. Right. Okay. And I suppose the DA's office didn't have different guidelines for working with informants that were in the federal system as opposed to

working with those that were in the state system?
A. No.
Q. Okay.
A. Most -- most of our informants came from the county jail post-conviction -- I mean prior to conviction. You know, most -- most of the time, we had informants there in jail waiting trial on something else, and that's where they wanted help on getting rid of that charge or getting it reduced or getting a plea bargain.
Q. Okay. Before they were actually convicted?
A. Before they were convicted. It was very, very rare that we had informants in TDC, the Texas Department of Corrections. It was very rare. And then prior to this time period, it was rare in the federal system, too. You didn't informants from the federal system either.
Q. Okay. Okay.
A. Post-conviction.
Q. So most of the benefits given to an informant would have done -- would have been like dropping a charge?
A. Earlier, yeah, before they convicted.
Q. Before the conviction?
A. Right.

Q. And would a record need to be made of why a charge was dropped or --

A. Well, you know, there might be a notation in that defendant's -- or the informant who would have been a defendant, in his individual file. You know, a prosecutor in this court approached me or some narcotics officer or some homicide detective saying this guy gave me information to help clear this case. Yeah. Yeah, there might be a notation there why they reduced the charges. But as far as any other place, I don't think so.

Q. Okay. There wouldn't need to be some formal --

A. No.

Q. -- record, then?

A. No, no.

Q. Okay. So I want to talk with you a little bit about how we went from using Foreman to using Beckcom instead as a witness.

So you -- you testified, I believe, that you had met or somehow communicated -- you and Kelly had communicated with Beckcom before July --

A. Not me.

Q. -- 5th, 2001?

A. No, I've never talked to Beckcom.

Q. Not you?

A. Yeah.
Q. Okay. But Kelly must have --
A. Apparently she had.
Q. -- communicated with him?
A. Yes. Yes.
Q. Okay. Because that was the information they needed -- they needed -- or that informant information was what was used to get the probable cause affidavit?
A. As far as I know, his information was very detailed. It fit the crime. He had information that only the -- the defendant would have known.
Q. Okay.
A. You know, it was very apparent that Foreman did not -- I mean, he -- he was just guessing.
Q. Okay. Are you familiar with a man at BOP or who worked at FCI-Beaumont named Gordon Hart? Does that name ring a bell?
A. You know, it doesn't. I saw that his name was written down somewhere, but I don't even remember who he is.
Q. Okay.
A. I don't have any idea.
Q. You don't ever recall speaking with any inmates over the phone in his office?
A. Not over the phone, no.

Q. Not over the telephone?
A. No.
Q. Okay. Do you recall ever going to his office to meet with him?
A. No. I may have, but I don't know.
Q. Okay. Okay. I'm going to show you Exhibit 77.
(Exhibit 77 marked.)
Q. (By Ms. Scardino) Exhibit 77 is a fax from you to Lieutenant Robert Clark at FCI Medium sent on November 20th, 2001. And you're asking to visit -- for you and Ms. Siegler to be able to visit Nathan Ray Foreman on December 10th, 2001. If you'll look at that for me.
A. Well, this is actually a letter from Tom Wil -- Ted Wilson who was the bureau chief.
Q. Uh-huh. I believe your name is on the fax.
A. Yeah, my name is on -- also on this letter.
Q. Uh-huh.
A. And this is -- this is my handwriting in here.
Q. Yes.
A. But I did not talk to Nathan Foreman other than that one time. He may have requested that we be allowed to, but I did not --
Q. Go to a separate -- a second meeting?
A. No. No. I've only talked to him one time.

Now, you remember me saying earlier that we went over there and there was several of us that did different things? Kelly may have talked to him again while I went to the state prison to talk to another inmate, but I did not talk to Nathan Foreman but one time. And I'm --

Q. And that was August 8th, 2001?

A. Yeah.

Q. I'm going to show you Exhibit 109-7.

A. Again, this is my handwriting. It's dated 12/10/01. Steve and Nilda, a 12-year-old witness saw them together night of murder. Christine bought it from them, but the fence BS. Gun hidden under asphalt. Bill of sale. Shot Steve in garage. She ran to call police. He chased her.

Steve and Prible were -- Steve and Prible were arguing over the 250K. Steve giving him the run around. Wanted to take him for a ride. Prible left party and came back, party over. She was facedown and shot in the head. She was partially dressed. Todd Debolis, FBI. Prible never found the money. Male cover on Prible. Girlfriend, Shay, Rick's Cabaret. Dawn Dover, ex-wife. Ora Foreman and a phone number, 281-989-7631.

Q. So it looks like you did, in fact, meet with

Mr. Foreman again in October or on December 10th, 2001.

A. Well, these -- these are notes, but I sure don't remember talking to him again. The only time I remember talking to him was in -- in here. I've got his name right here, and these are my notes.

Q. But way back in August when you spoke with him, you determined right away he was just not a --

A. He was lying.

Q. A liar?

A. Yeah.

Q. Okay.

A. I don't see -- in fact, I'm kind of at a loss of why we would want to talk to him again. This fax.

Q. Uh-huh.

A. I don't know why we'd want to talk to him again. These are my notes. Now, these -- these stars --

Q. Uh-huh.

A. -- by this stuff, this would be things I'm thinking that we could do. Put a male cover on Prible. Find his girlfriend from the Rick's Cabaret and find his ex-wife.

Q. Uh-huh.

A. Ora Foreman, I'm guessing that's some relative of Nathan's. I don't have any idea.

Q. Uh-huh. His wife, I believe. Does that sound right?
A. I don't know. I'm guessing it's some relative, but I don't know.
Q. Okay.
A. But...
Q. So I'm going to show you Exhibit 78. And a moment ago, I showed you Exhibit 77. That was the November 20th, 2001 fax from Ted Wilson to Lieutenant Clark --
A. Right.
Q. -- requesting a visit for you and Kelly --
A. Right.
Q. -- with Foreman on December 10th, '01. I'm going to show you Exhibit 78.
(Exhibit 78 marked.)
Q. (By Ms. Scardino) Exhibit 78 was a November 26th, 2001 letter from you to Lieutenant Clark. Again, you say that you will be at FCI-Beaumont on 12/10/01 to see Foreman, and you need to see Beckcom after Foreman. Here's Exhibit 78.
A. Yep, that's me. You know, the only thing I can tell you is I -- this is the time I told you I went over there a second time and I went to the state prison, I may have taken Kelly over there, and she went in by

herself or went with somebody else. But I don't recall talking to these guys.

Q. So you're saying you didn't go with Kelly to that -- to the meeting on December 10th, 2001, with Foreman and Beckcom?

A. I don't recall ever talking to Beckcom. And the only time I ever remember talking to Foreman was here in Houston, and I felt like he was lying.

Q. Uh-huh.

A. Now, I do recall going back over there, but I also recall that I went to the state prison, dropped somebody off at the federal prison, and I went to the state prison with another prosecutor to talk to somebody else. But I don't -- I'm trying to remember what case.

Q. Is it your practice when you're making notes to put the date up at the top left to signify the date that you were having this particular meeting?

A. It's the date that I wrote this information down.

Q. Uh-huh.

A. Yeah, so it would be the date that I actually wrote this information.

Q. Uh-huh. Okay.

Let me show you Exhibit 109-8. I think it's the next page of this one.

A. Okay.
Q. These look to be notes that you took about the meeting with Beckcom on December 10th, '01. If you could read those into the record, please.
MS. MIRANDA: I'm sorry, tell me what --
MS. SCARDINO: 109-8.
A. Michael Beckcom, Nathan never -- Nathan never told Mike about Kelly and Bonds. Prible came to Beckcom, knew he had been charged with capital murder.
Now, what's this up here, 5/25/07? Where did that come from?
Q. (By Ms. Scardino) I don't know. I was going to ask you what that was.
A. And that looks like my writing.
Q. Is that an '01 or is it a '7?
A. It looks like a '7 to me.
Q. Okay. If you could --
A. It could be --
Q. -- continue reading.
A. It could be an '02 maybe.
Q. Could you continue reading those notes?
A. I got a star by service record book. You know, I didn't talk to Beckcom. I'm thinking these may be notes after Kelly went and talked to him. She told me this stuff, and I was making -- the stars are things

when I think about let's -- let's find this, let's find that. You know, on the first one I said these stars were when I'm thinking about, you know, we need to put a male cover on him, find this girlfriend. She may have come back and told me what happened and said what can we do. And these may be my notations of what I thought we could do to verify stuff.

Q. Okay.

A. Because I -- I swear, I did not talk to Beckcom ever.

Q. What is this note -- well, actually, can you finish reading 109-8 into the record?

A. Yeah. I got -- I got a star by service record book, and I'm trying to -- I don't even know what that is. I got next line is 2,000 -- 250K. Steve fucked him out of it. Supposed to buy stolen drugs. Argument. Steve loses money, motive.

That would be the motive.

Nilda shot in back of head, facedown, partially clothed, Todd Debolis, FBI.

Q. That note, what do you mean when you say Nathan never told Mike about Kelly and Bonds?

A. I don't know.

Q. Was that something Mike told to Kelly?

A. That -- that would be something -- I mean,

Kelly might have said, you know, did Nathan ever talk to you about meeting us earlier. And he said no. So I -- that doesn't ring a bell with me unless she told me that because I didn't ask him that.

Nathan never told Mike about Kelly and Bonds. So I guess Kelly asked him did Nathan Foreman tell you he had talked to us. I don't know.

Q. Let's go back to the page before 109-7.

A. Uh-huh.

Q. I had a couple of questions about that. You already read it into the record. But it says, "Steve and Nilda, 12-year-old witness saw them together night of murder."

So as early as December 10th, 2001, y'all knew about an alibi witness, right?

A. Steve and Nilda, 12-year-old saw them together night of murder. Christine. I have that underlined, and I have the arrow pointing to bill of sale.

Q. Do you remember when you-all learned about the alibi witness?

A. You know, this -- other than this, no, I don't.

Q. Okay.

A. There was a girl that supposedly saw them outside.

Q. Uh-huh.

A. Yeah. No, I -- no, I don't remember any other mention of it.

Q. So was this alibi witness discussed with Nathan Foreman --

A. I don't know.

Q. -- on December 10th, 2001?

A. I don't know. I didn't -- I wasn't part of that conversation. I'm telling you, I never talked to this guy again.

Q. Okay. But you said earlier that when you made notes if you weren't at the meeting, --

A. This could be me --

Q. Wait one second.

A. Okay.

Q. Let me just finish the question so we're not talking over each other.

But this could be you telling you what -- what -- or writing down what Kelly told you she and Nathan had talked about?

A. It could be.

Q. Okay.

A. And to be honest with you, I'm kind of assuming that's what it is.

Q. Okay. I'm going to show you Exhibit 76.

(Exhibit 76 marked.)

Q. (By Ms. Scardino) This is an October 1, 2001 fax from you to Jackie Osborn at FCI-Low.

A. Okay. Okay.

Q. And do you recognize Mr. Jefferson's name from that document that you had handwritten his name on in the Herrera file?

A. I know I wrote it down, and I also saw -- I ran his criminal history, but I don't recall talking to this guy.

Q. Or anything about him?

A. No.

Q. Okay. And it says in that letter, Exhibit 76, "It is our understanding that Inmate Jefferson has information regarding a capital murder currently pending in Harris County, Texas."

You saw that?

A. Uh-huh.

Q. Okay. How did you-all find out that he had information about this murder?

A. I don't know. I don't have a clue.

Q. I'm going to show you Exhibit 109-6.

A. Again, these are my -- my notes dated 12/10/01, Jonathan Wayne Jefferson, low.

I have, Prible, 7/25/01. Trans to med -- that'd be transferred Mont -- to medical, I guess, till

11/29/01. '99, Montgomery County jail, together six months. Said he and partner going into partnership in a club and asphalt business robbing banks together.

I have a star by Prible.

Slaps partner's girlfriend. Partner got mad.

Has a star by Tommy Branch knows everything. White male, old guy. Gray guy.

Q. Okay. Do you recall meeting with Jonathan Wayne Jefferson on December 10th, 2001?

A. I don't recall it. No.

Q. Why would you have written down this first line, "Prible 7/25/01 transferred to medium till 11/29/01"?

A. That would be medium. Instead of medical, it's medium, yeah.

Q. Yeah.

A. Probably trying to verify which unit he was in.

Q. And the reason you would have wanted to verify is to make sure that Jefferson was actually in the same unit with him?

A. Yeah, yeah. If somebody says they're with somebody and talking to him, I want to make sure they're in the same unit together.

Q. Right.

A. You know.
Q. And that's exactly what you had -- what you had determined was not true about Nathan Foreman's --
A. You know, I don't recall whether we actually looked at his records and showed that they had never been together. My opinion on Foreman was, is this -- he wasn't able to even describe Prible.
Q. Yeah.
A. And that -- I based that on just when I asked him what he looked like, and he couldn't tell me. I said brown eyes, blue eyes? He said hmm. You know, he couldn't -- I didn't -- I don't think he had ever met Prible when we talked to him in August.
Q. You think he just heard about his case from somebody?
A. I think he heard about it, and he was just jumping on trying to get -- to get something to help him out.
Q. Yeah.
A. Now, obviously he ended back up in Beaumont, and they were together at some time. He had pictures of them together, so he may have gone after him. I don't know.
Q. Okay. And by going after him, do you mean he may have got the --

A. Trying to get information from him, yeah.
Q. Okay.
A. But I -- I -- he wasn't doing it at our request, I'll tell you that.
Q. Okay.
A. I blew him off completely.
Q. Do you know if Ms. Siegler asked him to get information?
A. I would doubt it. I wouldn't think she'd ask him to do it.
Q. Do you know if she asked Mr. Beckcom to try to get more information from Prible?
A. I wouldn't think that she would. You know, that's something we had to -- you know, when I've accused people before, I've told them not -- or if somebody says something to you, fine. But don't go ask them a bunch of questions.
Q. And is that because that's unethical?
A. Is unethical to be acting as a police agent.
Q. Right. It would be a violation of the 6th Amendment?
A. Yes. Yes.
Q. Okay.
MS. SCARDINO: What time -- what's the time?

MS. MIRANDA: 12:08.

MS. SCARDINO: Okay. Could we go off the record for a moment?

THE VIDEOGRAPHER: The time is 12:09. We're off the record.

(Lunch recess taken from 12:09 p.m. to 1:15 p.m.)

THE VIDEOGRAPHER: This is the beginning of file 4. The time is 1:15. We are on the record.

Q. (By Ms. Scardino) Mr. Bonds, you mentioned earlier you and Ms. Siegler went to visit Mr. Prible in prison in May 2001?

A. Well, it was in 2001. I'm not real sure of the date.

Q. Of the date. Okay.

A. Yeah.

Q. Do you recall that meeting?

A. Yeah. Yeah. He was amazingly cooperative.

Q. He was amazingly cooperative?

A. Yeah, yeah. Very talkative and didn't hesitate to answer questions.

Q. Uh-huh. Why did that surprise you?

A. Well, he's a suspect in a capital murder where five people were killed and he's the suspect and he's in prison, you know. I would think anybody that had any

sense would say I want a lawyer or I don't want to talk, and he didn't.

Q. Did you-all inform him at the time that you spoke with him that he was a suspect?

A. I'm sure we did, yeah. He knew he was a suspect. He had been a suspect since it happened.

Q. What was the purpose of that meeting?

A. I think to verify his status. If he told the same story he had told in '99 to see -- to see if he had changed it any.

Q. Okay.

A. See if there were any changes.

Q. And he hadn't changed it any, had he?

A. No, nothing. I don't remember anything significant.

Q. Okay. Do you know if at that time Mr. Prible was represented by an attorney?

A. I don't have any idea.

Q. When -- at the time -- at some point, I believe it was in -- well, I'm not sure exactly the dates. But at some point, some of these informants were in the SHU in FCI-Beaumont. Was there any different procedure that you had to go through to communicate with an inmate that was in the special housing unit?

A. No. You know, I don't know, was Prible in it

when we talked to him?

Q. I don't recall. He was in the --

A. No, I know we made arrangements to go, and they took us to a building that kind of surprised me. We actually had to walk through the yard. It was open to all the inmates. We had to walk through inmates to get to this building. And it was a room something similar to this. I mean, we could see it had outside windows. It was a room about this side -- size. And it wasn't -- it wasn't -- we didn't talk to him through a screen or he wasn't locked up. It was an open conference table kind of a situation.

Q. Okay. And you're talking about when you --

A. Prible.

Q. -- met with Prible?

A. Yes.

Q. Okay. What about if you had to interview a informant that was in the special housing unit?

A. I didn't --

Q. Did you have to jump through any other hoops --

A. I don't know.

Q. -- to do that? You don't recall?

A. Because I didn't. I never did.

Q. You never --

A. The only other one that would have even been

close to being an informant is when we talked to Nathan Foreman here in Houston. And that was next to this big auditorium/gym looking building. It was a little office off to the side of that big room.

Q. Okay. Earlier you were telling us about a case where a criminal was in -- or a prisoner was in FCI -- I'm sorry, I believe it was FCI-Beaumont, or it might have been another federal prison where he confessed to you over the phone?

A. Yeah. Yeah.

Q. Was that in a different federal prison?

A. That was in Oklahoma.

Q. Okay. And that was from the warden's office, I believe, you said?

A. I don't know what office. I wasn't -- I came in -- this guy -- this was a 1974 case of the killing of a deputy and his wife named McCabe. And we got information this guy did it. Tracked him down. He was in federal prison in Oklahoma.

Q. Uh-huh.

A. And --

Q. And really, and not to interrupt you because I'd love to hear it. But just all I really wanted to know is if that -- if you knew if that inmate phone call was recorded by the prison.

A. I think -- I'd have no idea.
Q. Okay. Did you record it on yours?
A. I think we recorded it on our end. But no, I don't know if it was recorded on that end. I don't have any idea.
Q. Okay. Do you know if regular or phone calls from the normal inmate phones from federal prison are recorded?
A. I don't have any idea.
Q. You don't have any idea?
A. No.
Q. Okay. Do you know if a prisoner is able to make a phone call unrecorded from an employee's line at the prison?
A. I would think the only time that they would have any right to that would be if they talked to their attorney.
Q. Okay.
A. So I don't know what the procedure is. I have no idea what their procedure is.
Q. Okay. And you never spoke to any of the inmates involved in Mr. Prible's case over the telephone, I believe you said earlier?
A. No.
Q. Okay. And in that -- in that phone call that

you talked about, the case in Oklahoma, I believe you said that you were contacted by a BOP employee who said this person wanted to confess. And then the BOP employee went and got that person on the telephone; is that correct?

A. I -- I don't know exactly how it came about that he -- he decided to do that. I think we were going to go up there and question him, and we were making arrangements. And all of a sudden, he just like you don't have to come up here. He has -- here's the deal. He had terminal cancer or something. He basically did not want to leave that facility and have to come to Texas and await a trial. He said I'll plead out to whatever you want to file with me. I've only got like seven months to live or eight months to live. He was -- he was probably 70 years old when this happened.

Q. Okay.

A. This was a case that happened in '74, and it was probably after 2000 when this -- this is like 25 years later he confesses.

Q. Okay. And so, and his -- his counselor, whoever, just called you with this information and then just put him on the phone?

A. Right.

Q. It's pretty informal really over there.

A. Right. Very informal. That's what shocked me. I mean, I couldn't believe he was just getting on the phone and give us the details. And he did it. There's no doubt.

Q. Yeah.

A. He gave details.

Q. Yeah. And so that's been your experience with federal prisons, that the -- the wardens or the lieutenants or the case managers are pretty loose with as far as -- not loose, but --

A. No. I'll say this. It seems like they have more privileges than the state inmates.

Q. Okay. And as far as like going to speak with someone in their counselor's office or --

A. Well, it seems relaxed.

Q. Okay.

A. You know, I've gone to TDC many times and talked to inmates. And most of the time, I'm in a facility that's not very comfortable. I've had to talk to them through the -- in the visitor's room where normal visitors are.

Q. Right.

A. Every once in a while I can get, you know, a warden or assistant warden to let me use an office. But a lot of times, I'll have to talk to him just like you

would if you would went there, you know, so...

Q. Yeah. And are you -- when you go to a state prison in Texas to interview an informant, are you able to record those calls?

A. I'm trying to remember. Now, I have, in other state facilities, actually videotaped them. I'm trying to remember if -- I don't recall ever taking an inmate in state prison here.

Q. Okay. Do you know if that's allowed?

A. Right now, I don't. I sure don't.

Q. Okay. Do you know if it was allowed back then when you were doing this work?

A. I don't. I have a suspicion that it wasn't, but I can't say for sure.

Q. Okay. Did you ever -- have you ever communicated with informants through their relatives who are on the outside?

A. No.

Q. No?

A. No.

Q. Do you know if that was Kelly's practice? We saw that letter from Jesse Moreno's mom to Kelly. Was that unusual for the --

A. Well --

Q. -- inmate to reach out to her through a

relative?
A. I would say no. Nothing -- I can't say that I ever have, but it wouldn't surprise me that it happens.
Q. Earlier you said you'd never met Michael Beckcom.
A. I don't remember ever seeing that guy.
Q. Ever seeing that guy.
And I want to show you an excerpt of his testimony at the trial. It's page 24 through 26, and I'll just have you read that to yourself --
A. Okay.
Q. -- first, then we'll talk about it.
MS. MIRANDA: Do you have the volume number?
MS. SCARDINO: Yes. Hold on.
MR. RYTTING: I believe it's 26.
MS. SCARDINO: 26.
Q. (By Ms. Scardino) And what I handed you is Kelly --
A. Questioning him?
Q. -- questioning Mr. Beckcom at trial.
A. Okay. I'm reading it, but I don't remember it.
Q. Do you think Mr. Beckcom is lying in this testimony?
A. I don't have a clue. You know, I don't

remember ever talking to him.

Q. It doesn't -- what he's describing here does not comport to what you remember?

A. No, it doesn't. I remember going there a couple of times, but I don't remember ever talking to him.

Q. Okay. Do you remember this handwritten letter that they refer to on page 25, line 11?

A. Is that the one that says my initials on it?

Q. Yes.

A. Yeah. No. Do you have it?

Q. Yes, I do. Does that ring a bell to you?

A. Not at all.

Q. Okay. This is Exhibit 174.

(Exhibit 174 marked.)

Q. (By Ms. Scardino) It's long, it's ten pages long.

A. Okay.

Q. It'll take you some time to -- to read it.

A. Okay.

Q. Do you remember ever seeing that statement before?

A. No, I don't. I see my initials up there, but I don't -- I don't recall reading this.

Q. What's your take on it reading it today?

A. You know, was it introduced as evidence?
Q. Well, I just am asking you what your -- what your take is.
A. Well, that's -- it's pretty detailed, I mean. And from what I'm reading, it fits the crime.
Q. Uh-huh.
A. So...
Q. Does it seem believable to you?
A. Yeah, pretty much. And I had said earlier they either cry about it or brag about it. He's bragging. He's trying to be a bad ass talking about his service records. And I don't have any idea if any of that's true or not.
Q. Uh-huh.
A. I sincerely doubt it.
Q. So before Mr. Beckcom wrote this letter, had Ms. Siegler asked him to elicit details from Prible about the case?
A. Not in my presence. I -- I don't know what she asked him because I wasn't privileged to any of those communications.
Q. Okay. So it's possible she did, you just don't know?
A. I don't know.
Q. Okay.

A. I would -- I would not think she would.
Q. Was that ever something she did do in your presence --
A. Never.
Q. -- in any other case?
A. Never.
Q. Okay. Was it her protocol, her normal operating procedure to have informants write her some sort of letter before she could determine whether they would be a testifying informant?
A. Not to my knowledge. I don't know.
Q. Okay. Because we've seen a lot of --
A. Yeah.
Q. -- informant letters.
A. Yeah. I have no idea.
Q. Okay. You don't know --
A. No.
Q. Yes or no?
A. No, I don't know if she ever did that.
Q. In those informant letters that I showed you earlier, those typewritten letters, --
A. Uh-huh.
Q. -- the inmates each said, "I spoke with you previously, and now I'm writing you this letter."
Does that sound to you like she had

instructed them to write the letter?

A. No. It just sounds like they decided to write a letter. I don't know. It didn't say as instructed I'm writing this letter.

Q. Okay.

A. That's not in those documents.

Q. Okay. And you insist that you were not at this meeting with Mr. Beckcom on December 10th, 2011?

A. I don't remember ever being in his presence, ever.

Q. Okay. Does this -- I mean, you're a detective, you've seen lots of written, you know, evidence. Is this ten-page sort of novel of a -- of a statement, you'd agree that it sort of reads like a novel?

A. It's very detailed, yes.

Q. Yeah. Yeah. Does it strike you as odd that this ten-page, handwritten statement, has only two very minor scratch-outs in it? Does it look more like a final draft of something?

A. It didn't occur to me, no.

Q. That didn't occur to you?

A. No.

Q. Okay. Earlier you spoke about a different capital case murder case where an informant told -- gave his buddy a script --

A. Yeah.
Q. -- to basically tell. Does this look like a script to you?
A. No, not like the one I've seen before. This was -- he had notes very important, you know, and he'd underwrite stuff that you need to say to this. I mean, it was the outline of what he wanted him to say.
Q. Uh-huh.
A. And he'd put out here very important, you need to say this. I mean, it was -- it was very obvious it was instructions on what to do.
Q. And did you witness Mr. Beckcom's testimony at Prible's trial?
A. No, I did not.
Q. Okay. Did you know that his testimony at trial went straight off of this letter as if it were a script?
A. No, I did not.
Q. Would that surprise you?
A. No. And I'll tell you why. When somebody tells the truth, they don't have to remember it. You have to remember a lie. You don't have to remember the truth.
Q. And you also wouldn't have to remember something if you had written it down, right?
A. Yeah.

Q. So if this -- if this informant had written down something, he wouldn't then have to remember this convoluted story; and instead, he could look at his written words and remember it, right?

A. If he thought it was necessary. I mean, did he have this to rehearse from? I don't know.

Q. Well, I'm just wondering why he gave this statement to you in this --

A. Well, if he gave the statement, --

Q. One second. Let me finish the question --

A. Okay.

Q. -- real quick.

I just want to know why he would have given this statement to you and Ms. Siegler on December 10th, 2001.

A. I don't know. I don't know. But here's -- here's something else. If he gave us this statement in December and he didn't testify till ten months later in October of 2002, he didn't have this to rehearse from, so he had to remember it.

Q. So you don't think Ms. -- Ms. Siegler had given him any copy of what he -- or let him keep a copy of his notes?

A. You know, she may have. I don't know.

Q. Okay.

A. She may have.

Q. Now, on the very first page of Exhibit 174, the second paragraph, it says, "Some months later around October or early November, Prible approached myself and Nathan Foreman while we were on the rec yard sitting on some bleachers."

A. Okay.

Q. Now, as we've -- you and I have discussed earlier, by this time, Nathan Foreman was Michael Beckcom's cellmate.

A. Okay. I didn't know that.

Q. And you're saying you did not know that till today?

A. I did not know that until you told me that, no.

Q. Okay. Okay. So is it -- do you find it somewhat suspicious that Mr. Beckcom is now coming to you as if he's gotten this confession out of the blue when, in fact, you-all had been speaking with his informant -- his cellmate about this case since four months previously? Does that throw up any red flags to you?

A. Well, it sounds like there might have -- they might have colluded to get more information. Yes, it does sound like they probably said, hey, let's see if we can milk him for some more information.

Best of my recollection, we knew about Beckcom before -- way before December of 2001. I'm not sure of the date, but I'm thinking we knew about him before we went and talked to Prible, but I'm not sure.

Q. Okay.

A. But I have no idea. Now, I see my date up here. I had no idea when this document was written. I see where I dated it and that is my initials and I did write that.

Q. All right.

A. I don't know why I did that or when I did it. Apparently, I did it on December the 10th, but I don't know why.

Q. Okay.

A. So -- so, and I don't remember reading this before.

Q. Okay. On the third paragraph on that first page of Exhibit 174, it says, at some -- "At one point, Prible said that he had a state case and that he had heard that I fought the same charge at one time. I asked him if he had a capital charge, and he said, 'I thought you knew.'"

A. Uh-huh.

Q. "I had heard something to the effect, but didn't really know who it was."

A. Okay.
Q. I don't understand that last sentence. Do you understand what he's saying there?
A. But didn't know who it was?
Q. Uh-huh. It sounds as if Mr. Beckcom had heard that there was someone coming to the prison with this charge, but didn't know who it was?
A. I don't -- you know, I don't know if he meant didn't know who the defendant -- I mean, who the victim was. I really don't know what he meant by that. I don't. I don't have a clue.
Q. And you've worked with prisons a lot over -- or in, you know, in the prison system not as an employee, but --
A. I've been there many times.
Q. You've been there many times.
A. (Witness nods head.)
Q. And it's important for the prison system to keep a tight lid on the movement of prisoners to various units --
A. That's --
Q. -- I would think.
A. That's, you know, I know the state is very, very good and proficient at doing that. Their documentation is excellent, and they make sure that the

wrong people aren't together.

I'm not so sure about the federal system. I don't know. At this point, I don't know how good they were about that.

Q. Okay. But at least as far as you know in the state system, that -- it would be unusual for an inmate to know that another inmate was about to come to his unit before he actually got there?

A. I would say yes, in the state system, it would be.

Q. Okay. Why do you think it would be different in the federal system, or do you know?

A. I don't know.

Q. Okay. On the second page, the second full paragraph, his letter says, "After this, it became a daily occurrence that Prible would wait for Foreman and myself to come outside so we could talk. He started to become very attached to us."

Now, does this throw up a red flag for you, again, like we talked earlier because Foreman has known about this case since four months previously?

A. Well, what throws up a red flag to me, if I remember right -- what was the date he was filed on for capital murder? It was in --

Q. July 5th, 2001.

A. So at this point in December, he knows he's filed on for capital murder.

Q. Uh-huh.

A. What throws up a red flag for me is I think this information -- and here again, I don't know if Foreman had been in that unit prior to the time we talked to him in August. I don't know where he was in June, July of 2001. I don't know if he had been there before.

But -- but my feeling on this information is that this -- this came out before he was indicted for the capital case because I'm pretty sure we knew about this before the indictment.

Q. You think this statement came out before the indictment?

A. I think -- I think this information -- and I'm -- again, I'm assuming because I don't have the documents and I don't recall seeing when the documents came in. I think Kelly knew about Beckcom's information prior to the time we went to talk to him.

Q. Okay. And do you think that because it would have been improper to obtain an indictment on a defendant knowing that you have informant in hand but never having spoken to that informant yet about what they knew, right? That would have been improper?

A. No. No. What I'm -- what I'm saying is, I don't think Prible would have talked like this after he was indicted. I think he's not really a brilliant person.

But I think when the case is pending, he knows he's indicted for capital murder and we're going to seek the death sentence, that he probably not -- would not at that point be talking about his crime to other inmates. I think prior to that, he probably would. But after he's indicted and knows this case is pending, I don't think he would talk to them.

Q. Okay. If you look at page 1, 2, 3, 4, the very bottom paragraph, halfway through, it says, "He said that he had admitted to being at Steve's house that day, but that Steve had driven him home and that he had a witness who saw him being dropped off. I later found out that this witness was a then 12- or 13-year-old neighbor who had gotten up to use the restroom."

A. Okay.

Q. Okay. He says he later found out. Did Kelly or you -- well, you never spoke with him you said.

A. No.

Q. Did Kelly tell him about this alibi witness?

A. I don't know. I don't have any idea.

Q. Okay. In your experience working with her, is

it something she might have told the informant?

A. Well, if there was a problem -- if there's a problem with the story, you know, like, you know, look, that won't work, you know, I -- people try to tell me stuff, and I'm like, that's not right.

Q. Uh-huh.

A. You know? So I don't know that she'd tell him what -- why it wasn't right. But, you know, if somebody is trying to tell you something and it just doesn't work, you don't go and say okay, okay.

Q. Uh-huh.

A. I mean, that's just not -- you know, that's not what happens.

Q. Okay.

A. So I don't know what -- I don't think she would have told him about this 12- or 13-year-old witness. You know, I wouldn't.

Q. Where do you think he got that information?

A. Well, I don't know. It seems like I read it in the newspaper. I knew about it. I remember something about a witness, a girl, a neighbor.

Q. Uh-huh.

A. I may have read it in your petition. I don't know.

Q. Okay.

A. But I don't -- actually, I don't remember it from back then.

Q. In the second paragraph on that same page, it says, "Foreman and I began to encourage Prible to be honest with us. If we were going to do business together, there couldn't be any lying to one another. I could tell he was struggling with opening up, but I could tell that he wanted to."

Now, it sounds there that Foreman and Beckcom are describing attempts to elicit incriminating statements from Mr. Prible.

A. It does.

Q. Yeah, it does.

And does it sound like they're doing that at Ms. Siegler's behest as -- as Mr. Beckcom testified to at trial?

A. Well, I don't know that they doing -- doing it because she asked them to. I think they're doing it because they wanted to improve their position.

Q. If they had done that after they had spoken with Ms. Siegler the first time about this case, about working as an informant in that case, would that throw up a red flag to you?

A. If she'd have asked them to go after him, that would have been improper, yeah.

Q. Now, do you think Beckcom wrote this statement and gave it to you-all on December 10th, 2001, to convince you that he had heard Jeff confess to these murders?

A. You know, I -- again, I don't think he wrote it then.

Q. You think he wrote it --

A. I think this is --

Q. -- way before that?

A. I don't know why that date's on there. That's my date and my initials. I'm not sure when this was written.

However, he mentions Foreman being privy to this, and I know Foreman was not there in August. So, but it -- I don't know if Foreman had been there prior to that. Foreman claims he had been there prior to that.

Q. Uh-huh.

A. But he couldn't describe Prible. We can look at his criminal history, and we can see where he was. It will show the dates that he was at certain units.

Q. Uh-huh. I'm going to show you Exhibit 109-14. We have -- let's see. Actually, I think, do you have another copy of that? And I'd like for you -- that's your handwriting on those notes as well, right?

A. Yes, at the top. I'm wondering who is this at the top right. Jimmy somebody.
Q. I thought it said Johnny Bonds.
A. No, that's not my writing.
Q. That's not yours?
A. No.
Q. Okay. Well, it's cut off.
A. That's -- that's long -- that's in script, and I never did anything in script.
Q. Okay.
A. I don't know who that is.
Q. Okay. Are the rest of the notes yours, your handwriting?
A. Yes.
Q. Okay. Can you read those to me, please?
A. It starts at the top, Prible, Beaumont. It says, six bank robberies. Steve .014 trace cocaine and marijuana. Efren Guiterrez, FBI or E-f-f Guiterrez, FBI. 1-95 discharged from MC, four years. Ex-wife Melanie.
HM-40, going balding. Red extended Chela cab pickup. Steve's brothers know this guy. Philip Brody, a little older. 70K dollars from dope, from bank robberies to buy dope -- buy some kind of dope -- and sell for 200K so Steve and Jeff could open a nightclub.

David Graham, HCSO. Get FBI files. Get military records. FBI, Shay McCoy, got a checkmark by it.

Reinterview brothers of Steve. Nilda trace coke, trace coke, marijuana, no alcohol.

It looks like vol sex wife, husband passed out.

Now this --

Q. Could that be voluntary sex wife?

A. Yeah.

Q. Do you know?

A. That's probably voluntary sex wife.

I want to tell you something.

Q. I'm going to give you this.

A. This is me -- I can tell you what this is.

Q. Okay.

A. This is me reading reports, and I'm making notes as I'm reading the report.

Q. Okay. What report are you reading?

A. I'm -- that would be me reading the SO's report.

Q. The SO, the sheriff's office report?

A. Yes, Harris County Sheriff's Office report. And I'm making notes about what I'm reading in the report.

Q. Okay. And if you look at the top right earlier where we were talking about how the name is cut off?
A. Uh-huh.
Q. Is it possible that that's Kelly Siegler's handwriting that says Johnny Bonds' notes of 12/10/01? To me, it looks like her handwriting.
A. That's not my handwriting in the top right corner.
Q. Okay.
A. I don't know. I don't -- I don't know.
Q. And you don't know what day you took these notes?
A. No. I would think this would be pretty early, prior to that. This -- this appears to be, I'm reading the report, and I'm making notes as I'm reading --
Q. Uh-huh.
A. -- the information, reading the report.
Q. Okay. So the 12/10/01 date, you're not sure why that's there?
A. No, I have no idea why that's there.
Q. Okay. So if you look down at the -- the bottom, it says, "Nilda, trace coke, marijuana, no alcohol."
A. Uh-huh.
Q. Do you see that?

A. It would be from an autopsy.
Q. Okay. So that would have been from her autopsy?
A. Yeah. Yeah.
Q. And voluntary sex wife, husband passed out, what does that mean?
A. That'd be from -- I'm thinking that's going to be from what Prible said from his interview.
Q. Now, when you and Kelly interviewed Foreman back in August 8th, '01, and you immediately found the guy to be just a liar, did Kelly agree with you?
A. Uh-huh. Absolutely.
Q. Okay. What did she say at that time?
A. Basically, you know, look, you're wasting our time. Don't be calling us if you don't know what you're talking about. You know, we know what you're trying to do, and it's not working.
Q. Uh-huh. If he had called you back later with information that was -- that he had gotten from Prible, would that have been a different story, or would you have automatically sort of --
A. I -- I -- you know, my feeling about him was his credibility was not -- he had no credibility.
Q. Was shot?
A. Yeah. So, you know, it's possible that he did

get new information. I'm not saying that didn't happen.
Q. Uh-huh.
A. And apparently, he did befriend him because they've got a picture together in November of '01.
Q. Uh-huh.
A. So he may have gone and got more information. I mean, we basically told him at that time don't come with us when you don't know anything.
Q. Well, Foreman was eventually moved to the very unit in medium where Prible --
A. Prible was?
Q. -- was moved.
A. Okay. Well, yeah, obviously.
Q. Now, do you think -- okay.
Now, do you think that was just a coincidence that they both ended up there?
A. You know, I have no idea. I know we didn't request that they be put together. I had -- I know that I did not request that they be put together. I think if that had happened, I would have been a party to it.
Q. Okay. Does that sometimes happen?
A. We do it in the county jail. I've -- I've seen times in the past where we want to keep people separate or let's put these people together and see what happens, you know. But never -- never in prison and never in a

federal -- never in a state jail or -- or a federal prison. Most of the time, it's keep them separate.

Q. Okay. But you have had times where you've put them together to see what would happen?

A. I've had times when I played one against the other with co-defendants, not so much informants. But I'd want to, you know, create some suspicion between co-defendants where I want them suspecting the other one is working, you know, with us when neither one of them were.

Q. Okay.

A. But plant the seed that maybe one of them was, you know.

Q. Okay. Okay. And do you know if Ms. Siegler did similar movement of informants in her practice? I mean, had you done that in other cases with her?

A. Not in -- not in putting them together.

Q. Not putting them together?

A. No. I've -- I've -- there have been many times when we've had people in jail that we wanted to keep separate.

Q. Okay.

MS. SCARDINO: One second. Can we take a short break?

THE VIDEOGRAPHER: The time is 1:59.

We're off the record.

(Recess taken from 1:59 p.m. to 2:00 p.m.)

THE VIDEOGRAPHER: This is the beginning of file. The time is 2:00 o'clock.

Q. (By Ms. Scardino) Mr. Bonds, in those cases where you did arrange for to two prisoners to be put together, --

A. Uh-huh.

Q. -- how would you go about making that request?

A. You know, I'm -- I'm thinking back, it's probably in the city jail when I was working HPD where we'd have two -- we'd have co-defendants together in custody.

Q. Uh-huh.

A. And we'd play them against each other, you know, like, hey, so-and-so is fixing to drop you in the grease. You just as well go ahead and give it up. Whoever talks first gets the best deal, you know.

So we'd -- we'd play them against each other like that in the city jail, which I did back in the '70s. That wasn't unusual to do that.

Q. Uh-huh.

A. I don't recall ever doing that at the DA's office asking that we put two of them together. Just the opposite, we'd ask to keep people separate so they

wouldn't be talking to each other.

Q. Was there anything stopping y'all from putting in -- putting in that request to the prison?

A. To the jail?

Q. Yeah.

A. No, I can't say that there was --

Q. Provision to stopping?

A. -- any prohibition, yeah.

Q. Yeah. Yeah. Okay. So it might have been done, you just can't --

A. Nah.

Q. -- remember anything specific?

A. Huh-uh.

Q. Okay. Now, earlier in the deposition, I asked if you ever had a case where you were talking to several informants about the same case at the same time, and you said -- I won't get the quote exactly right, but you said something like it's not as if we have them lined up in the hall bringing them in one at a time.

A. Uh-huh.

Q. Do you remember when you said that?

A. Uh-huh.

Q. Okay. So if you could look at Exhibit 109-6. Those are your notes from a December 10th, 2001 interview with Jefferson, right?

A. Uh-huh. Uh-huh.
Q. And then the following page, Exhibit 109-7, those are your notes from the meeting the same day with Foreman, right?
A. Except I didn't meet with him.
Q. Kelly met with him?
A. Okay.
Q. Right?
A. As far as I know, yeah.
Q. Okay. And the following -- the following page, 109-8, those are notes from that same day with -- from a meeting with Beckcom, right?
A. That's what it looks like, yeah.
Q. Okay. So in that case, that does look like they were lined up in the hall coming in one at a time?
A. It looks like they were talked to on the same day.
Q. Yeah.
A. Yeah, that's, you know --
Q. Does it look to you --
A. It's from the dates, yes.
Q. Did it look to you like these guys were all auditioning for the role of informant against Prible?
A. I have no idea. You know, if all three of them are at the same unit and we've got to drive 100 miles

over there to go talk to them, I can see trying to talk to them all in the same day rather than making three separate trips over a period of weeks.

So, yeah, it's entirely possible that all of them were questioned the same day.

Q. Uh-huh.

A. I see one of them is in low and the other two are medium?

Q. Uh-huh.

A. So they were in separate units there.

Q. Well, yes, Jefferson was in low; Prible, Beckcom and Foreman were in medium.

A. In medium, okay.

Q. Uh-huh. Uh-huh.

A. So those -- have you been to those units.

Q. I have, yeah.

A. They're separate buildings.

Q. Uh-huh.

A. They're across from each other.

Q. Right. Right. But it looks as if three different informants --

A. Were questioned on the same day.

Q. -- were interviewed on the same day back to back. Right?

A. Whoever is in the separate unit. Jefferson's

in low. He would not know that she talked to the other two people in medium.

Q. But the other -- the two people in medium would know?

A. Would know that -- would probably know, hey, --

Q. Yeah.

A. -- especially if they're cellmates, they'd know.

Q. Right.

A. Yeah. Yeah.

Q. So they're cellmates?

A. Yeah.

Q. Okay. So this audition ends with Fore -- or with Beckcom presenting Ms. Siegler with a script, the ten-page script, right?

A. I wouldn't -- I wouldn't call it an audition. I would say it was a questioning, an interrogation. And I don't know -- I don't know that -- that, again, I don't know this was written or when it was presented. I know I have my initials and date there. I didn't take this from Beckcom.

Q. Okay.

A. And I don't know when he wrote it.

Q. Okay. He says he presented -- at trial he said he presented it on the --

A. Okay.
Q. -- date of your notes.
A. Okay.
Q. Okay. Okay. I want to go back to Exhibit 112. That was the informant letter from Jesse Gonzalez. Actually, this was the father/son duo, I believe, of Jesse and Felix Gonzalez --
A. They're in prison together, right?
Q. -- to Ms. Siegler.
Yeah. Yeah. Do you recall them?
A. No, I don't. But I saw that, but I thought -- you know, I thought that was odd that they were there together.
Q. Right.
MS. SCARDINO: So Exhibit 112, James.
Q. (By Ms. Scardino) And you've already read this, so I won't make you read it again.
A. Okay.
Q. I'll just ask you some questions about it.
If you notice, attached to this letter is a picture that's in black and white. It's difficult to -- to see. But you'll see a picture of three inmates, the middle one being Jeff Prible?
A. I didn't know that's him. I remember seeing a color photograph that's a lot clearer.

Q. Right.
A. Yeah. Yeah.
Q. Okay.
A. Okay.
Q. And I'll represent to you that that's a picture of him with Felix and Oscar Gonzalez --
A. Okay. I didn't know who they were.
Q. -- who wrote this letter.
Okay. And above that are photographs --
A. Of the victims.
Q. -- of the victims in this case --
A. Right.
Q. -- that were included in the letter.
And in that letter, Exhibit 112, parts of it don't make sense. I noticed one -- one part, for example, in the first paragraph, it says, "I know Prible from Woodgate subdivision where we lived. He was a neighborhood friend of mine. He used to visit my house often and hang out with us."
And then in the second paragraph, it says, "But since we lived in the same neighborhood, we ended up seeing and hanging out with one another often."
Then in the third paragraph, he says he at first did not want to give information against Jeff because he considered him a friend.

And finally in the fourth paragraph, he says, "A while back when my father was originally telling me about Jeff and that Jeff knew us, I was unable to place him until I saw him when he came from the low security facility."

A. Uh-huh.

Q. Do you see that? Okay.

A. Yeah.

Q. Now, this last part tells me two things, okay? First, Mr. Gonzalez's story just doesn't make sense, would you agree?

A. Well, depending on how long ago they'd seen each other. You know, I don't know how -- how many years they're talking between the time he'd seen him and then he sees him again in prison.

Q. Well, in the beginning, he's talking about how they were friends.

A. Oh, yeah.

Q. You know.

A. You'd think he'd remember.

Q. You'd think he'd remember?

A. Yeah. You know, his eyes are just -- I don't know how you could forget them.

Q. And then the second part that is -- sticks out to me is that Mr. Gonzalez knew about Mr. Prible and his

case before Prible even got to the medium from the low.

A. Okay.

Q. Right? Because he says, you know, my father was originally telling me about him. Jeff knew us. I couldn't place him until I saw him when he came to --

A. Uh-huh.

Q. -- from the low.

A. Okay.

Q. Okay. Now, how would Gonzalez and his dad have known about Jeff's case before he came to the medium?

A. Well, if they were neighbors, knew he was a suspect in '99. I mean, if they -- he's a neighborhood kid and he killed somebody else in the neighborhood, they had visitation from family.

I don't know how he -- how long either one of these guys had been in prison. I don't know if they're in prison in '99 when it happened, or if they were out on the street. If they lived in the neighborhood and knew about it, they would have known he was a suspect.

Q. But the question is not how they would have known he was a suspect, but how they knew that he was coming to their particular unit of the prison --

A. I don't have a clue.

Q. -- before he got there?

A. I don't know.
Q. Someone would have had to have given that information, right?
A. If -- if that's true that they knew. You know, I don't know that they did.
Q. Uh-huh.
A. And then also, his motivation in here about why he's coming forward, I don't believe that either.
Q. Yeah. So if this was not believable, you would have just tossed this aside?
A. Well, no, the information -- some of the information may be right. But his motivation about why he's giving the information, I don't believe that.
Q. Yeah. Yeah.
A. He's wanting -- he's wanting to get out of jail early. I mean, that's what all of them are motivated by.
Q. Right. Now, going back to Exhibit 114, that's one of the other inmate letters. This one is from Mark Martinez. And you read this one earlier, so I won't make you read it again.
But I did want to point out this part of it where it says, "My ex-girlfriend and I went to Steve's house on the night of April 23rd, 1999. We stopped by for a short time and saw Steve outside with

another man who turned out to be Jeff Prible. When I got out of the car, I noticed that Steve and Prible were having some sort of argument. When I asked Steve if everything was all right, he said, 'Nah, this white boy's just tripping over some money,' so my girlfriend and I left.

"The next day we received a phone call from Herrera's family informing us that Steve, his wife, and three children had died in a house fire. Later that day, we found out that they were murdered."

Now, what do you make of this?

A. Well, that's -- it could be possible. It could be true.

Q. Okay. Now, what if I told you that nowhere in any of the offense reports is Mark Martinez mentioned?

A. Well, the point he wrote this letter, he probably hadn't mentioned it to anybody else. I don't know when this letter is -- is this letter dated?

Q. Yes. This letter is dated March -- or April -- let's see, hold on. It was sent April 30th, 2002.

A. Okay. Again, here's -- here's somebody that's in prison wanting a get out of -- get out of jail free card, so...

Q. Yeah.

A. I mean, he obviously some -- his -- his

interest isn't in being a good citizen. His interest is in getting out of prison. So he didn't come forward in '99. Whether he saw this or not, he didn't come forward then.

Q. Right. So you knew he must have been lying?

A. Well, no, I don't know that he's lying. I'm knowing that he wasn't motivated to come forward until he thought it could help him.

Q. Okay. Well, don't you think if he was telling the truth, that he probably would have been using this case because he was not only an informant who was claiming to have heard Prible and confess, but he was also someone who's claimed he was at the crime scene earlier that day?

A. He's someone that saw Prible at the house prior to the murders, which Prible admits.

Q. Right. But what I'm saying is if Ms. Siegler -- Ms. Siegler must have thought that this was an untruthful letter, a ridiculous letter not to have used him?

A. No, not necessarily. I think that Kelly is probably like, look, you know, I need -- I've got one really good witness. He's got a lot of details. I'm not going to write get out of jail letters for six or seven or eight inmates. I'm going to use what I -- my

best witness, and the rest of them I don't need them. I'm not going to put them on the stand.

Q. Okay. Is it apparent from reading these letters that inmates in Beaumont were talking about this case with each other pretty freely?

A. It seemed they were, yes.

Q. Yeah. Yeah.

A. From reading these letters.

Q. Yeah. Did you know at trial that Beckcom testified that he wasn't talking about Jeff's case with other inmates over at FCI-Beaumont?

A. I did not know that.

Q. Does that surprise you to hear that he's testified that way?

A. No, it didn't. You know, I mean, the -- you know, this -- these guys know that once they testify, everybody in prison is going to know they're a snitch.

Q. Uh-huh.

A. And so I could see him trying to be as low keyed about it as he possibly could at that point because he knows he's in danger once he goes back.

Q. So you can see him lying on the stand to protect himself later when he goes back?

A. Yeah, I could.

Q. Okay. And it seems pretty incredible that he

would not be talking to anyone about it when Nathan Foreman is his cellmate, right?

A. Well, I think they did talk about it. I think they did.

Q. Now, another thing I noticed about these informant letters, Exhibits 112 through 114 -- and you're the detective, so I want to get your take on this, but do you have 113 right there?

A. No.

Q. Let me get you 113.

A. I don't think I do. No.

Q. Let me get you 113 so you can look at them all together. Now, any detective could see right away that these look like they're all written by the same person.

A. It looks like they're typed on the same typewriter. The form is exactly the same.

Q. Right. The format?

A. Uh-huh.

Q. Uh-huh. Okay.

A. Maybe they had a secretary. It is a federal prison, you know.

MS. MIRANDA: Do you have 113?

THE WITNESS: 115?

MS. SCARDINO: Sorry, 114 or 13?

MS. MIRANDA: Oh, no, I have it. Never

mind. I'm sorry.

Q. (By Ms. Scardino) And if you had seen these letters at the time that they were sent, it would have popped out to you pretty quick these -- these guys were all right --

A. They -- they all looked identical.

Q. The same person was writing them?

A. Okay. Yeah.

Q. Yeah. Okay.

A. And you know, --

Q. And now that --

A. The signatures are different, but I'm guessing, you know, they may have had somebody else type these up for them.

Q. Okay. And so I want to now show you Exhibit 180.

MS. SCARDINO: James?

Q. (By Ms. Scardino) Another thing I want to notice while James is getting that or want to point out is see right here, this Exhibit 113, how they do the TX? It's a T -- big T, small x.

A. Over here it's capital.

Q. And over here it's a small one?

A. Right. Right.

Q. Which is somewhat unusual because usually it's

two capitals, right?

A. Uh-huh. It was -- yeah.

Q. Okay. Okay. So Exhibit --

A. And here they have a period behind it, over here they don't.

Q. Uh-huh. But other than that, everything looks similar?

A. Yes.

Q. Okay. And if you look at Exhibit 180.

(Exhibit 180 marked.)

A. It looks to be the same format.

Q. (By Ms. Scardino) Uh-huh. And Exhibit 180 was a letter from Michael Beckcom that was found in his case file in his Port Aransas case?

A. Okay.

Q. Okay. So now that you see all these together, it's pretty apparent that Michael Beckcom was the one that typed these letters up, right?

A. It's apparent to me that the -- that the same person typed these up. I don't know who it was.

Q. Right.

A. It's someone that's pretty proficient, I think, at typing. Much better than I am.

Q. Right. And --

A. So I don't know if they -- if he did it or they

had somebody else in the unit do it.

Q. Well, one of them was done in, yes, in Beckcom's state case. Another one was done with those, or about the -- I'm sorry, scratch that. Let me start over.

The one that Michael Beckcom wrote concerning his state case --

MR. RYTTING: Signed.

Q. (By Ms. Scardino) -- is signed, right?

A. Right. Right here. You're talking about 180?

Q. Right. And also, the one he wrote -- oh, wait. You don't have the one out that he wrote.

A. Huh-uh.

Q. Let's see. I'm sorry. Let me find that exhibit for you. Wait a second. I'm sorry.

A. Well, I'm guessing these were done on a Word processor or a computer --

Q. Yeah.

A. -- not on a typewriter.

Q. Well, and I'll -- I don't know where that other exhibit is. I'll have to find it.

But the point is, Mr. Beckcom wrote up this letter, Exhibit 180, and sent it in for a state case.

A. Okay.

Q. And now, obviously, the other informants involved in Prible's case would have had nothing to do with the state case.

A. No.

Q. So he must have written -- typed this up himself?

A. Right. Right.

Q. And then he -- and then the other three look exactly like this one. So it can be inferred that he typed all of the letters?

A. Well, I'll tell you another thing that's inferred to me that there is a form in their computer that they use to do this where you just -- it's already got the heading that you just fill it in, hit the bar, and it goes to the next -- tabs down to the next space.

I bet if you check, that they were using that computer that already had this already programmed in it. All they had to do is type it in, hit tab, go to the next space, type in what they need, tab and do it again.

Q. Now, do you have --

A. And it has spell correctors. No corrections, all this -- the grammar seems to be -- I don't see any misspelled words. So this is going to be on a computer that all --

Q. Other than Prible's name, P-r-i-b-b-l-e.
A. Well, that's a proper name that the computer wouldn't pick up.
Q. Right. Right.
A. So I'm thinking this is done on a computer, had spell correct. It had headings. It's just a fill in the blank form. You just fill it in. And I bet if you check, you're going to find there's 1,000 other letters from inmates that look exactly like this.
Q. Okay. But do you have any evidence of that sitting here today?
A. No, I don't.
Q. Okay. And do you know for sure that this was made on a Word processor rather than a typewriter?
A. No, I don't. But just from the way -- like I said, the lack of misspelled words.
Q. Uh-huh. But there is one particular word that's misspelled in the various letters and that's Prible, P-r-i-b-b-l-e?
A. Again, a proper name.
Q. Right. But it might show that the same person typed those letters and kept using the wrong spelling?
A. True.
Q. Okay. There is a typed letter in the file, let's see, Exhibit 79. Let me show it to you.

(Exhibit 79 marked.)

Q. (By Ms. Scardino) And this is a fax dated May 1st, 2002, to Robert Clark, Lieutenant Robert Clark at FCI-Medium. You mentioned earlier you don't remember Mr. Clark, right?

A. You know, I've talked to several people there, probably met a couple of them. Talked to them on the phone.

Q. Okay.

A. It would just be an arrange -- making arrangements. As far as dealing with them ever again, no.

Q. No? Okay.

And on this letter, Ted Wilson is respectfully requesting permission for Ms. Siegler and you to interview two inmates by the name of Michael Beckcom and Antone Davi on May 6th, 2002.

A. Okay.

Q. Okay. Does that meeting ring a bell --

A. No.

Q. -- to you?

A. No.

Q. Did it ever take place?

A. If it did, I don't remember it.

Q. Okay. Do you recall this person, Antone Davi?

A. I don't have a clue who he is.
Q. You don't have a clue what case this might be referencing?
A. No, no. And again, he would do this letter knowing that I'm probably going to be the person going with her. It may have been somebody else.
Q. Okay.
A. So, I mean, there were -- there were three investigators up there; and we had like six or seven lawyers that we worked with.
Q. Okay. Who were -- who were the other investigators that you worked with?
A. Gayle Hays was one. It changed from time to time on my side.
Q. How do you spell Hays? Is it with an E?
A. H-a-y -- H-a-y-s.
Q. H-a-y-s.
A. Yes.
Q. Okay.
A. She's retired.
Q. Okay.
A. And this wasn't -- I was in there for five or six years. Other people rotated in or out while I was there. I'm trying to remember some other people. I think Ron Knotts was there for a while, but I'm not --

but he got -- no, no, no. He may have been in there for a while. Ron Knotts, K-n-o-t-t-s.

Q. Uh-huh.

A. I think he went to the forensic computer people after. He was up there, but he may have been working in forensic computer stuff. Oh, gosh dog it. I can see him, I can't think of his name. He was our hit man. When we did solicitation cases, he's the guy that was always the killer when we did the solicitation of capital murder cases.

Q. Oh, okay. Okay.

A. I'm drawing a complete blank.

Q. Okay.

A. He was up there forever. And he was still there when I retired. I'll think of his name in a second. I'm blanking out.

Q. Okay.

MS. SCARDINO: I think if we can take a very short 5-minute break, I can figure out all my last questions, and then we can come back and be finished. Sound good?

THE WITNESS: Okay.

THE VIDEOGRAPHER: The time is 2:22. We're off the record.

(Recess taken from 2:22 p.m. to 2:36 p.m.)

THE VIDEOGRAPHER: This is the beginning of file 6. The time is 2:36. We are on the record.

Q. (By Ms. Scardino) Mr. Bonds, a few last questions about Mr. Beckcom, okay?

Mr. Beckcom, you'll recall, was convicted of capital murder for locking a friend in a toolbox, closing the door, putting a exhaust pipe from his car in there and turning it on for about 15 minutes and killing the guy.

Do you remember that?

A. I didn't know the details till later, but yes, I do remember he killed somebody. It was over a dope deal if I remember correctly.

Q. It was -- it was over actually a -- the person he killed was an informant against him and some friends in a scheme. I think it was an insurance fraud scheme.

A. Oh, okay. Okay.

Q. Does that sound familiar?

A. I didn't --

Q. Okay.

A. -- remember what it was, but I knew he killed somebody.

Q. Right. Right.

A. Yeah. And I remember the details. It was pretty -- pretty intentional.

Q. Pretty -- yeah. Yeah.

And were you aware that he -- he served as an informant in that very case against his co-defendants?

A. No, I did not.

Q. Okay. Did you know that he was found to have perjured himself by the federal judge at that trial?

A. No, I did not.

Q. Would these things have raised a red flag to you as to his credibility in testifying at Prible's trial?

A. Well, it's always going to be something. I mean, that's something -- and Kelly and I have had these discussions on other trials. Like you need to tell the jury this upfront. This guy is a convicted felon. He's come forward because he wants something out of this. You know, he's not an upstanding citizen. And tell them the criminal history and tell them what they did.

So unfortunately, again, sometimes we have to use people that we really don't like as witnesses, but they have information we need. And the only way to get to it is by working a deal with them.

Q. Okay. But that presupposes that you yourself believe what that witness is saying, right?

A. I believe he told the truth in the trial, yes.

Q. Okay. You believe he testified truthfully?
A. Yes, I do.
Q. You were at -- and you were not at that trial to watch him testify?
A. No, but I -- I know what he testified to. I had heard what he testified to. And basically, it fit -- it fit the facts of the crime, so I think he testified truthfully.
Q. Did you ever review the transcript of his trial testimony?
A. No.
Q. Okay. So siting here today, how can you say that he testified truthfully if you can't --
A. Just from what Kelly told me, and that he got up there, he told the truth, he told her everything that happened.
Q. From what Ms. Siegler says?
A. Yeah.
Q. Okay. Did you know that Mr. Beckcom did not show up for his deposition in this case? We're currently in proceedings to try to track him down --
A. No.
Q. -- to appear in a deposition?
A. I didn't know if he was subpoenaed. I have no idea --

Q. Okay.
A. -- where he's at or --
Q. Does it --
A. I've assumed that he had finished his sentence, but I didn't know if he had or not.
Q. Uh-huh.
A. And would not have been surprised if he was back in prison.
Q. Okay. He's out of prison.
A. Okay.
Q. Does it surprise you that he's ducking his deposition?
A. No, it doesn't.
Q. Why not?
A. Because he's a criminal. You know, that doesn't surprise me at all.

MS. SCARDINO: That's all the questions I have.

MS. MIRANDA: I have a couple.

MS. SCARDINO: Okay.

EXAMINATION

BY MS. MIRANDA:

Q. All right. I think I wanted to start with you answered a lot of questions today regarding a lot of documents. Specifically, let's start with the letters

marked as Exhibits 112, 113, 127. There's another handwritten letter, 130. And there's also others in the record that you've been asked questions about.

And I just want to make clear on the record: Were you present when these were written or typed up?

A. No, I was not.

Q. All right. So when you were answering questions about the motivation of the letters or what they were thinking or who was writing them, do you have any personal information with respect to who wrote them or what they were thinking?

A. No.

Q. And so when you were asked to speculate by counsel, that's just simply what you were doing based on --

A. On past experience. I mean, they all want something. They're not doing it because they're good citizens.

Q. Okay. And then you've also answered a lot of questions about specific instances that occurred in the investigation of this case leading up to trial. And what I'd like to do really quickly and briefly, because we have been here for a while, is to go back and talk about what you do remember as your role. So I know you

were presented with a lot of things, and you indicated that you didn't really have a recollection of that or you didn't remember that.

So would you just briefly tell us what you do remember and start with like what is the first thing that you remember? And I don't -- I'm not going to try to go --

MS. SCARDINO: Yeah, object. I would object to form, calling for a narrative.

Q. (By Ms. Miranda) Okay. All right. Tell me what the first recollection that you have regarding your involvement in this case.

A. Going to talk to Prible in -- in Beaumont in the prison.

Q. Okay. And do you recall when that was?

A. I didn't recall until I saw the documents today, and it looks like the summer of 2001. Like June of 2001. I don't remember the exact date.

Q. Okay. And so after going to talk to Prible, what else do you remember doing in this case?

A. I distinctly remember going to talk to Foreman at the unit here in Houston.

Q. Okay. And then after talking to Foreman, what is the next recollection of what your involvement was in this case?

A. I remember going back to Beaumont to the federal prison, and -- and I don't remember who I went with. But I know I went to the state prison there. And then whoever was with me went to the federal prison there. I went with another attorney to the state prison. And I, you know, I don't remember who it was. But I don't recall ever going back into the federal prison.

Q. Okay. How many times do you recollect going to the federal prison in FCI-Beaumont with respect to this case?

A. Only actual rounds, twice. In the -- in the facility, actually in the facility, it would be a medium once.

Q. Okay. Did you ever go there in another case that you recall?

A. No.

Q. What's the difference, can you tell us, in your role as a DA investigator working on a case versus as a homicide detective?

A. Well, the --

MS. SCARDINO: Objection, form. Go ahead. Go ahead.

A. You know, as a homicide investigator, we were responsible for that case. We got the call on it, we go

out and we see the dead bodies. We take the pictures. We start from day one. It's our case, we're responsible for finding out who did it.

The difference is a DA investigator normally in the courts, all you're doing is finding witnesses, finding documents, finding pin packs, things to help with the prosecution of the case.

And special crimes is a little bit different. We were -- we were more proactive than -- than reactive. I mean, we were actually working on trying to solve the cases in special crimes where I was. We -- we were there to assist the different police agencies on -- on them investigating their cases.

And then when we got to the point where we could file charges, we actually filed the charges for them. We actually helped them with getting the charges filed.

Q. (By Ms. Miranda) All right. Speaking of filing charges, what was your responsibility with respect to filing charges in this case?

A. In this case? None. Now, do you want me to clarify that a little bit?

Q. Sure.

A. We had -- there were several times like these solicitation capital murder cases, we get information

they want somebody killed. Somebody wanted their wife killed, husband killed or something. We've actually worked those cases up just like the police department would and we'd do the entire investigation normally and we'd file the charges. We'd make our own reports and do the whole thing.

That would -- that was about the only ones I ever worked there where we did everything, where we took over the whole case and did it all.

Most of the time, there was another police agency that was already involved in this case, in the murder cases or whatever case it was. And they were there and they -- the officers that were the investigating officers, the primary officers, we helped them. And then when we got to the point where they -- you know, we had enough, we let them file the case.

Q. So you didn't have any responsibility in drafting the complaint in this case?

A. No.

Q. Or the decision regarding seeking an indictment?

A. No.

Q. And I believe you also testified that you didn't have any involvement in the Grand Jury process in this case either.

A. No, I did not.
Q. You also testified about your understanding of the state's obligation under Brady. And what is your understanding with respect to impeachment evidence?
A. Well, it's -- that's like the statements. If you have a prior -- prior statement that's different than what they testified to, you can impeach a person with that statement. Like these letters, if Beckcom had got up there and testified to something entirely different than what was in that letter, he could be impeached with that letter.
You know, that's -- you know, a lot of -- a lot of people -- my feeling about taking witness statement is that at first when I first started doing this back in the '70s, I thought this was to help them remember. That's not even what it's for. It's -- it's if they get up there and tell a different story, then you bring out that statement. Well, back two years ago, you told the police this.
So it's, you know, if there's a prior inconsistent statement, that's what that's for. I mean, you can -- you can use it in court. I don't think it's so much to refresh their memory.
Q. Okay. So your understanding with respect to Brady goes beyond information that's relevant to the

innocence; is that correct?

A. Well, not -- I think my understanding of Brady is anything that's exculpatory, you're -- you're obligated to divulge excul -- exculpatory information.

Q. Though Brady, also, you just testified, includes impeachment evidence?

A. Right, right.

Q. Okay. Whose responsibility was it at the DA's office to provide defense counsel with discovery?

A. Well, I mean, if -- if they file discovery motions and, you know, the court rules in their favor, if they filed the motions, we have to comply. So it would be the prosecutor that handles that case. It would be the prosecutor's responsibility, not the investigator.

Q. I want to go back to the August 2001 meeting with Nathan Foreman. I believe you testified that that was in Houston, correct?

A. Correct.

Q. Do you recall who set that up?

A. No. I probably would have. It probably would have been me.

Q. Do you recall who asked you to set that up?

A. Probably Kelly.

Q. Okay. Do you recall why she would have asked

you to set that up?

A. I'm sure she either got a letter or a phone call saying that he had information.

Q. How long did that meeting last?

A. 10 minutes at the most. It was short.

Q. Okay. During that -- that 10 minutes, did you hear any discussion about the details of Prible's case?

A. Other than the informant saying, yeah, he told me he did it and some very, very vague descriptions of what he did, no.

Q. Did you give -- during that meeting, did you give Mr. Foreman any details about Prible's case?

A. No.

Q. Did Kelly Siegler give Foreman any details about the case?

A. No.

Q. Was there anyone else present at that meeting?

A. No, it was just the three of us.

Q. Is it unusual at the DA's office to get unsolicited letters or phone calls from inmates?

A. No.

Q. About how often does that happen, would you say?

A. Back then, I'd say once a month in our office. Now, for the whole office, I would say probably 10, 15,

20 times a month but just in our office.

Q. Okay. And based on -- on what you know or information that you were privy to, were those unsolicited letters or phone calls always answered or returned?

A. We usually investigate them, yes, in one way or another. We either -- we either went to talk to them in person or we, you know, talked to somebody in the unit. One of the first things we do is try to verify they actually had access to the -- to the person they were trying to give us the information on.

Most of them came from the county jail, which was very easy. We'd just walk across the street and go talk to them.

Q. Okay.

A. You know, it wasn't -- we didn't have to travel out of town very often to do that. It was usually in the county jail.

Q. Okay. Just give me one second.

MS. MIRANDA: I'm sorry. Just one moment, let me scroll through here.

MS. SCARDINO: Uh-huh.

Q. (By Ms. Miranda) Based on your experience with informants both as a detective and then as a DA investigator, was it unusual for inmates to set up other

inmates for information?

A. No. And I've -- I've had -- I can remember one or two cases where they just totally set up some young, dumb person. I remember a solicitation case where this -- they talked this kid into killing this other person and then came forward. They talked him into doing it, and then they informed on him. I mean, that's not unusual. They're all looking for an out, you know.

It's -- it's, you know, I feel sorry for young people going to jail and don't have a clue what they're getting into because they get taken advantage of there a lot, not just physically, but in many, many ways.

And I remember after we investigated that case, and it was real obvious this kid didn't intend to do anything, these guys talked him into doing something and then all informed on him. You know, I sat there and talked to him and told him you're an idiot, you know, quit talking to people in jail, you know, you're going to -- you're going to end up in trouble for something you didn't intend to do. You know, I got his attention, so...

No, no, they're all -- you know, everything you hear from an inmate, I take with a grain of salt. There's always ulterior motives. They're

always wanting to try to get something out of it. Nobody ever does it because they feel bad about what somebody did. You know, so that's -- I never fall for that.

Q. Okay.

MS. MIRANDA: I think that's all I have.

MS. SCARDINO: Okay. Just one follow-up question, Mr. Bonds.

FURTHER EXAMINATION

BY MS. SCARDINO:

Q. Is it your experience, also, that inmates, informants in prison don't necessarily care if the person they are setting up actually did what they say they did?

A. If they think they can get by with -- with, you know, getting something for theirselves, yeah, they'll -- they'll cut somebody else's throat in a heartbeat. They don't care.

MR. RYTTING: I have a couple of questions.

MS. SCARDINO: Okay.

EXAMINATION

BY MR. RYTTING:

Q. You said one of the first things you did was verify whether the -- if you were dealing with an

informant, whether it's in the state or federal system, was verify whether that informant actually had access to the person who he claims told him about the crime or gave him some information that would be useful to the DA's office.

A. I have -- I have done that, yes, in the past.

Q. And what type of doc -- would you get documents?

A. Those criminal histories.

Q. Would you get any other -- would you get housing records?

A. No, no. Usually I could tell from the criminal histories if they were in -- in a unit and what unit it was. Most of the criminal histories, even on a state level, are pretty accurate about what unit they're in and the dates they're in that unit.

Q. Did you get any documents in this case that you recall --

A. Other than --

Q. -- that you recall from the Bureau of Prisons?

A. No. Other than running criminal histories, no.

Q. Did you talk to anybody in the Bureau of Prisons about the housing arrangements of any of the witnesses involved?

A. In this case, no.

Q. Whether it was Beckcom or Foreman or Prible?

A. No. In fact, I did not know until today that Beckcom and Foreman were cellmates.

MR. RYTTING: I have no other questions.

MS. SCARDINO: Okay. Pass the witness.

MS. MIRANDA: No other questions.

THE VIDEOGRAPHER: The time is 2:54. We are off the record.

(Deposition concluded at 2:54 p.m.)

(Signature waived.)

COUNTY OF HARRIS

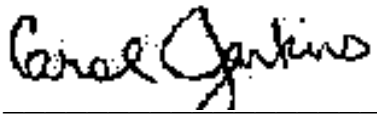
STATE OF TEXAS

REPORTER'S CERTIFICATE

I, CAROL JENKINS, Certified Shorthand Reporter in and for the State of Texas, hereby certify that this transcript is a true record of the testimony given by the witness named herein, after said witness was duly sworn by me. The witness was not requested to review the deposition. The total examination time by Ms. Gretchen Scardino was 4:04; Mr. James Rytting, 2 minutes; Ms. Tina Miranda, 13 minutes.

I further certify that I am neither attorney nor counsel for, related to, nor employed by any of the parties to the action in which this testimony was taken. Further, I am not a relative or employee of any attorney of record in this cause, nor do I have a financial interest in the action.

SUBSCRIBED AND SWORN TO by the undersigned on this the _____ day of _____, _____.



CAROL JENKINS, CSR, RPR, CRR
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Exhibit 13

In the Matter Of:

RONALD JEFFREY PRIBLE vs LORIE DAVIS

4:09-cv-01896

KELLY SIEGLER

October 17, 2017

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

RONALD JEFFREY PRIBLE, JR. Plaintiff	*	
VS.	*	CIVIL ACTION NO.
	*	4:09-cv-01896
LORIE DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIV. Defendants	*	

VIDEOTAPED DEPOSITION OF KELLY SIEGLER

Date — Edith A. Boggs, CSR

10-17-17 — HOUSTON, TEXAS

DEPOSITION OF KELLY SIEGLER

DEPOSITION AND ANSWERS of KELLY SIEGLER, taken before Edith A. Boggs, a certified shorthand reporter in Harris County for the State of Texas, taken at the law offices of Hilder & Associates, 819 Lovett Boulevard, Houston, Texas, on the 17th day of October, 2017, between the hours of 9:05 a.m. and 6:23 p.m.

A P P E A R A N C E S

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Mr. Dwayne Smith, Videographer

REPORTED BY:

Ms. Edith A. Boggs

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PROCEEDINGS

THE VIDEOGRAPHER: Going on the record. Today's date is October 17th, 2017. The time is 9:05 a.m.

This marks the beginning of file number 1 in the deposition of Kelly Siegler in the case of Ronald Prible versus Lorie Davis, Case No. 4:09-cv-01896 in the United States District Court for the Southern District of Texas, Houston Division.

The deposition is taking place at Hilder & Associates, 819 Lovett, Houston, Texas.

The videographer today is Dwayne Smith of Esquire Deposition Solutions. The court reporter is Edie Boggs.

Would all present counsel please voice identify yourselves and say who you represent.

MS. SCARDINO: Gretchen Scardino for petitioner, Ronald Jeffrey Prible.

MR. DOYLE: James Doyle for Kelly Siegler.

MR. RYTTING: James Rytting for petitioner, Ronald Jeffrey Prible.

MS. MIRANDA: Tina Miranda for the director.

MR. D'HEMECOURT: George d'Hemecourt for the director.

MS. WEAVER: Kelli Weaver for the director.

THE VIDEOGRAPHER: Would the court reporter please swear in the witness.

KELLY SIEGLER

was called as a witness and, being first duly sworn by the notary, testified as follows:

EXAMINATION

Q. (BY MS. SCARDINO) Ms. Siegler, my name is Gretchen Scardino. We haven't met before. I represent Mr. Prible in this matter. You've testified in a deposition previously, have you not?

A. I have not.

Q. You have not? Okay. Just in court, you've testified as a witness?

A. Yes.

Q. And most recently in Wisconsin, I believe?

A. Oh.

Q. Last week?

A. That was a deposition. Well, it was a hearing.

Q. A hearing. Okay. What was the name of that case?

A. I don't know the style of the case.

Q. Okay. What was the defendant's name?

A. It wasn't a defendant.

Q. Was it a civil matter?

A. It was a dispute between an employee and his boss, whatever you want to call that.

Q. And in what capacity were you testifying?

A. On behalf of the employee.

Q. Okay. Who -- what -- you don't recall the name of any of the parties to that matter?

A. The name of the employee is Steve Bowers, B O W E R S.

Q. Is that the only time you've testified as a witness in court?

A. No.

Q. What other cases have you testified in, if we could just list them?

A. In my capacity as a prosecutor.

Q. Uh-huh. Yes.

A. A long time ago in a competency hearing, on little matters having to do with various cases and in the David Temple case.

Q. And the David Temple, case you testified in 2015, correct, in the state habeas hearing?

A. '15 and '16, I think.

Q. Okay. And you testified truthfully in that case?

A. Yes.

Q. And the murder of Linda Temple occurred in

1999, correct?

A. Yes.

Q. And that was the same year as the murders that we are here about today, the Tirado/Herrera murders?

A. Yes.

Q. Okay. And Mr. Prible -- you tried Mr. Prible in 2002, and you indicted Mr. Temple in 2005, correct?

A. Yes.

Q. Okay.

MS. SCARDINO: I'm going to attach as an exhibit to Ms. Siegler's deposition certain excerpts from her testimony in the David Temple matter. Those will be Exhibits 140 through 144.

MR. DOYLE: Do you have a copy for me?

MS. SCARDINO: I do. I have copies for everyone. Here you go.

MR. DOYLE: As I understand, the parameters of this inquiry have to do with the Prible case, correct?

MR. RYTTING: Sir --

MS. SCARDINO: The -- the inquiry -- or the parameters of the deposition have to do with anything related to Prible, Herrero, the Hermilio Herrero case, and this goes -- the David Temple case goes to her credibility. So, for that reason, we're putting in --

MR. DOYLE: I'm -- my question is this has to do -- I think the judge indicated that it had to do with a ring of snitches, is that the point?

MS. SCARDINO: Yes, it is --

MR. DOYLE: Okay.

MS. SCARDINO: -- both of which were used in those two cases.

MR. DOYLE: What's that?

MS. SCARDINO: They were both used in the Prible and the Herrero cases.

MR. DOYLE: And then what does it have to do with the --

MR. RYTTING: Sir --

MR. DOYLE: -- Temple case?

MR. RYTTING: We need to call the Court.

MS. SCARDINO: It has everything. You'll see -- you'll see every --

MR. DOYLE: Well, if you could just tell me what the rel -- what the --

MS. SCARDINO: What the relevance is?

MR. DOYLE: Yeah.

MS. SCARDINO: Well, Ms. Siegler testified in the Temple case as to her understanding --

MR. RYTTING: You do not need to explain to him the relevance of that case.

And your position here is not to ask questions like that. If the --

MR. DOYLE: Ms. Scardino -- Ms. Scardino, if you --

MR. RYTTING: Off the record.

MR. DOYLE: -- if you could lead the case.

MR. RYTTING: Please go off the record.

MR. DOYLE: No, we're going to stay on the record.

MR. RYTTING: That is not your call.

MR. DOYLE: You cannot --

MS. SCARDINO: Wait. Wait one second. I want to stay -- I want to stay on the record, and I want to say I am deposing Ms. Siegler --

MR. DOYLE: And I --

MS. SCARDINO: -- that your questioning is improper.

MR. DOYLE: No, I --

MS. SCARDINO: If you need to go and look at the pleadings that we've pled in this case and you can see what exactly the parameters of this deposition are but we have a lot of latitude here. This is a discovery deposition.

MR. DOYLE: I understand. And what I asked you was what the relationship was and --

MS. SCARDINO: And I don't need to tell you what the relationship is but I will say that her credibility is always going to be at issue.

MR. DOYLE: So, you think that opens it up to any case that she's been involved with, is that the point?

MS. SCARDINO: James, do we need to call Judge Ellison?

MR. DOYLE: No, I'm just asking you.

MR. RYTTING: You're not allowed to ask her.

MS. SCARDINO: I'm going to continue with my --

MR. RYTTING: That's why we're -- that's why we're objecting. Do you understand? You are not allowed to ask. You are to sit there and make only objections based on --

MR. DOYLE: Ms. Scardino, would you please ask your co-counsel to restrain himself?

MR. RYTTING: Sir, you need to restrain yourself.

MS. SCARDINO: I'm going to continue.

Q. (BY MS. SCARDINO) Ms. Siegler, what did you do to prepare for your deposition today? Did you review the trial transcript in this case?

A. No.
Q. Did you review your work product notes?
A. No.
Q. You didn't look at your file at all?
A. No.
Q. Okay. You met with the Attorney General's office yesterday, correct?
A. Yes.
Q. How long was that meeting?
A. About two hours.
Q. And what was discussed at that meeting with the AG's office?
A. They told me what their function is in this proceeding and explained that to me.
Q. Over two hours, did you speak with them about the specifics of any of the prior depositions in this matter?
A. No.
Q. Have you looked at the deposition transcripts of Mr. Wisner?
A. No.
Q. Have you looked at the deposition transcript of Mr. Bonds?
A. I have not.
Q. Did you speak with the Attorney General's

office about the substance of the deposition of Mr. Bonds, Mr. Wisner or Michael Beckcom?

A. I have not.

Q. Okay. You were a prosecutor for the DA's office from 1989, is that when you began there?

A. I began as an intern in 1986.

Q. When you were still in law school?

A. Yes.

Q. And when did you begin working there as an attorney?

A. 1987.

Q. And when you began to work there as an attorney, I -- I suppose you were just an assistant district attorney at that time? Was that your title?

A. Yes.

Q. And through the years, you progressed until you eventually became head of Special Crimes; is that correct?

A. Yes.

Q. Okay. What was your role at the district attorney's office in 1999, your title?

A. It changed in '99. Which part of '99?

Q. April, 1999.

A. At that time, I think I was still assigned as the chief prosecutor in Ted Poe's court.

Q. And by the time you tried Mr. Prible in 2002, what was your title at the DA's office?

A. From '99 until 2002, it changed a couple of times. I'm not sure when you're talking about.

Q. Okay. Well, why don't you take me through the various changes. You started out in '99, you were the chief prosecutor in Ted Poe's court. From there, how did your title change?

A. After I was the chief prosecutor in Ted Poe's court, I then got transferred to major crimes in Special Crimes in -- toward the end of '99, I think.

And then at some point, I got made the division chief of major crimes in Special Crimes.

And then at some point, I got made the bureau chief of Special Crimes.

Q. And that was all between 1999 and 2002?

A. I don't remember.

Q. Okay. By 2002, were you, at that point, the division chief of major crimes in Special Crimes?

A. I was also a bureau chief of the misdemeanor division, I just remembered, too. I don't know where I was. I don't remember the timing of those.

Q. Okay. But at some point, you became the division chief of Special Crimes and those were the -- that was the division where you handled a lot of cold

cases; is that correct?
A. I was the division chief of major crimes in Special Crimes and then the bureau chief of Special Crimes.
Q. Okay. So, when you prosecuted Mr. Prible in 2002, you had been on the job for approximately 25 years; is that correct?
A. No.
Q. 15 years?
A. Yeah.
Q. I can't do my math. 15 years.
Okay. You met Mr. Bonds -- Mr. Johnny Bonds in 1989 when you were a new prosecutor, right?
A. He was new to the office. I wasn't new then.
Q. Okay. He came to the office in 199 -- '89?
A. Yes.
Q. Okay. And you -- you all worked closely together in Special Crimes, correct?
A. Correct.
Q. He was your primary investigator, right?
A. There were two, but yes.
Q. He was the main -- he was your main right-hand man?
A. There were two.
Q. Okay. Who was the other one?

A. Woody.
Q. Okay. What was Woody's last name?
A. Woodruff.
Q. Okay. And you all -- you and Mr. Bonds worked together at the DA's office until you left in 2008, or had he previously left?
A. I think I left first.
Q. You left first, he was still there?
A. I think so.
Q. Okay. So, from approximately 1989 to 2008, you worked very closely with Mr. Bonds on a lot of your cases?
A. It was off and on. He would be transferred around, and I would be transferred around. So, it wasn't consistently the whole time, no.
Q. Okay. When you did work on a case together, you would oftentimes accompany each other to witness interviews, correct?
A. Define often.
Q. Well, more often than not?
A. No.
Q. No? How often would he accompany you to a witness interview?
A. I did most of my witness interviews by myself.
Q. You did?

A. Yeah.
Q. And would you take notes when you did those witness interviews?
A. No. I didn't have time. I was talking.
Q. You didn't take any notes after you left the interview to remember what you had spoken with the witness about?
A. Maybe sometimes.
Q. But most of all -- most of the time, you just kept it up in your head?
A. I tried.
Q. And you took Mr. Bonds out of retirement a few years ago to work on your reality television show; is that right?
A. Yes.
Q. Okay. And what's his role on that show?
A. He's an investigator.
Q. Okay. Just like he was with you back in the DA's office, similar working relationship?
A. Correct.
Q. Okay. And you've described your work on that show as working miracles. What -- what is -- what do you mean by that?
A. We look at the hardest unsolved murder cases there are all across the country and try our best to

solve them.

Q. And almost always these cold cases that you work on are based on circumstantial evidence, right?

A. Yes.

Q. And you like cold cases. I've seen it written that you like working on cold cases. Why is that?

A. They're difficult. They're a challenge.

Q. What about your skill set makes you well suited to working on cold cases?

A. I don't think there's anything special about me. I just think that cold cases are a challenge and cases that ought to be worked on.

Q. Well, you're very detailed oriented, right?

A. I hope most lawyers are.

Q. And details matter in circumstantial cases a lot, right?

A. Yes.

Q. You have to be meticulous, thorough, organized to solve these cold cases, right?

A. I think any case you handle as a prosecutor requires the same things.

Q. So, is that a yes?

A. As I said, I think all cases we work on require the same things.

Q. Okay. Require you to be meticulous, thorough

and organized, right?

A. On any case.

Q. Okay. And in the Temple case, you testified that you won circumstantial -- circumstantial cases by paying attention to detail. That's a true statement, right?

A. Yes.

Q. Okay. I'm going to show you Exhibit 184. Exhibit 184 --

MR. DOYLE: Can I --

Q. (BY MS. SCARDINO) I'll give you an opportunity to read it. Yeah, Exhibit 184 is an article from Parade Magazine about your television show.

A. I'm going to have a hard time reading this or anything today. I just had eye surgery. I don't have my new glasses. It's going to take me a while --

Q. Okay.

A. -- because I can't see it.

Q. Okay. Well, we can go off the record and give you a chance to read it and then go back on.

A. Well, I'll try to read it but it's going to take longer than normal.

Q. Okay.

Okay. Have you finished reading it?

A. Yes.

Q. Okay. And so, in that case -- or in that article, the reader asked how does Cold Justice pick cases, and you say in there, "Living in the real world, we don't have those instruments and equipment and machines. It does not exist in most cases, especially local ones. You have to combat that, and it's very frustrating. It makes me crazy when people say, 'Oh, you've got a circumstantial case.' I'm like, 'What? Circumstantial evidence is a good thing because the thing that solves cases isn't fancy technology. It isn't forensics or DNA coming back that shows who the killer is. Please. That doesn't happen. It's old fashioned hard work done one piece at a time, reinterviewing every witness one statement at a time and one question at a time, putting it all back together again like a good little anal-retentive, obsessive-compulsive, perfectionist nerd. That's what solves cold cases.'" And so, you made that statement?

A. I did.

Q. Okay. Now, Exhibit 185 is a photograph. It's a still shot from your television show, correct?

MS. MIRANDA: Do you have another copy? Thanks.

A. Yes.

Q. (BY MS. SCARDINO) Okay. And that shows you

looking through your files in one of your cold cases?
A. No.
Q. What case -- what are you looking at in that picture?
A. Are you -- what are you pointing to? All these?
Q. All those files.
A. Those are props.
Q. So, that wasn't actually your file in a cold case, it's just a prop?
A. These right here?
Q. Uh-huh.
A. Those are props. I don't know what they are. I never look at them.
Q. Okay. Now, as a prosecutor, your duty was to seek justice, not just to get a conviction, right?
A. Yes, ma'am.
Q. And there are multiple duties or sources for the duty to seek justice, correct?
A. I'm sorry, ask that again.
Q. There are multiple sources for the duty to seek justice, one of those is the due process clause of the constitution, correct?
A. I don't understand the question.
MR. DOYLE: Objection.

Q. (BY MS. SCARDINO) Are there multiple sources for your duty to seek justice under the law?
A. I really still don't understand the question. My duty was to seek justice.
Q. Okay. And your duty is to follow the due process clause of the constitution, correct?
A. Yes.
Q. Okay. And you're also bound by the ethical rules set forth in the Texas Disciplinary Rules of Special -- of Conduct, correct?
A. Yes.
Q. Okay. Specifically, Rule 3.09D, which lays out the special responsibilities of a prosecutor?
A. Do you want to read it to me?
Q. Sure. Are you familiar with that rule?
A. By number, no, ma'am.
Q. And if you would like to read this, that's fine but I'm going to go off the record so we don't use our time up.
MR. DOYLE: She's going to read whatever documents you give to her.
MS. SCARDINO: That's fine.
Q. (BY MS. SCARDINO) So, I'll give you Exhibit 156, which is a copy of Rule 3.9 -- 09, but we're going to go off the record so you can take your time reading

it.

A. No, I don't want to go off the record --

MR. DOYLE: I'm not going to --

A. -- every time you give me something to read. You had a whole year to do this. You could have given me all these things to read ahead of time.

Q. (BY MS. SCARDINO) All of the -- Rule 3.09 isn't -- isn't something that you shouldn't be unfamiliar with.

A. I'm not saying it's not.

Q. Okay.

A. I just don't know which rule it is by number.

Q. Okay. Well, if we run out of time today, we're going to stay --

A. Why don't you just read it to me.

Q. Oh, I'm happy to. I thought you wanted to read it. I was giving you an opportunity to read it.

Exhibit 156 is Rule 3.09, the Special Responsibilities of a Prosecutor. "The prosecutor in a criminal case shall remain from prosecuting or threatening to prosecute a charge that the prosecutor knows is not supported by probable cause; should refrain from conducting or assisting in a custodial interrogation of an accused unless the prosecutor has made reasonable efforts to be assured that the accused

has been advised of any right to, and the procedure for obtaining, counsel and has been given reasonable opportunity to obtain counsel; shall not initiate or encourage efforts to obtain from an unrepresented accused a waiver of important pretrial, trial or post trial rights; shall make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal and, finally, shall exercise reasonable care to prevent persons employed or controlled by the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule 3.07."

Are you familiar with this rule?

MR. DOYLE: You put it in the -- can I have a copy, please?

MS. SCARDINO: Uh-huh.

Q. (BY MS. SCARDINO) Are you familiar with this rule?

A. Yes.

Q. You also have duties to the people you prosecuted; isn't that correct?
A. Yes.
Q. You had a duty to comply with the Brady rule?
A. Yes.
Q. You had the duty not to use false testimony to obtain a conviction?
A. Yes.
Q. Even if you personally believed that that was the correct result, right?
A. I don't understand that question.
Q. In other words, the ends didn't justify the means in a criminal prosecution, correct?
A. I don't understand that question.
Q. I'll restate it.
If you felt that a defendant was guilty, you still could not use false testimony to obtain a conviction against that defendant, right?
A. Right.
Q. Did you take any Brady training while you were at the district attorney's office?
A. Yes.
Q. And who gave that training?
A. It would have either been through the office -- interoffice -- intraoffice or from TDCAA.

Q. And who gave the training intraoffice?
A. It would have been different every year.
Q. Was it a formal workshop that the district attorneys had to sit through or was it just speaking with a supervisor on a case-to-case basis?
A. That changed over time.
Q. In 1999 through 2002, what was the policy then -- or the training then?
A. I don't remember. In the beginning when Johnny Holmes was the DA, we had official training once a year for a certain number of weeks, certain nights of the week, and that would include the ethics and Brady training, and then we quit doing that, and then it was different. It was more random but it was still, you know, every year but I don't remember when it changed or exactly how it changed.
Q. When did Mr. Holmes leave the DA's office? Was that prior to 1999?
A. It was right around then.
Q. Okay. And then Mr. Rosenthal became the DA, right?
A. Yes.
Q. Okay. Did you ever give Brady training at the DA's office?
A. Not that I remember.

Q. Okay. Mr. Wisner, at his deposition, mentioned the district attorney's operations manual that every prosecutor had a copy of. Do you recall this manual?

A. Yes.

Q. Okay. And that manual was hundreds of pages long, correct, and it addressed all kinds of issues that might arise in your practice as a prosecutor?

A. It did.

Q. And did you have any role in writing that manual?

A. No.

Q. Who wrote that manual?

A. I don't know.

Q. You don't know? Okay. And every prosecutor was required to follow the guidelines laid out in that manual, correct?

A. Yes.

Q. And would they be subject to termination if they didn't, if they willfully violated any of those guidelines?

A. I think that would depend on the circumstances.

Q. Okay. Did the DA's office have a policy -- and I'm going back to this time period 1999-2002 -- regarding the disclosure of offense reports?

A. Yes.

Q. Okay. And in the Temple case, you testified that inconsistent statements of material witnesses fell under Brady and a witness is material if he gets called to testify at trial. Do you recall that?

A. No.

Q. You don't recall making that statement?

A. No.

Q. Okay. We can come back to it then in a moment.

Okay. Going on to the offense reports, what was the policy about disclosing offense reports to the defense back in 1999-2002?

A. The office had an open file policy.

Q. And what does that mean?

A. For the most part, offense reports were open for the defense to read.

Q. Okay. So, let's break that down. For the most part, when were they not available for the offense to read -- the defense to read?

A. What does that have to do with the issue we're here for today having to do with the ring of snitches that you claim I manipulated?

MS. SCARDINO: Objection, nonresponsive.

Q. (BY MS. SCARDINO) I'd like to talk -- ask you again what did you mean for the most part these offense reports were available for the defense to read?

A. I'm not going to answer questions about every case I ever handled.
Q. Okay.
A. That's not what this deposition is about.
Q. So, are you refusing to answer my question?
A. Yes.
MR. DOYLE: What she wants to know is what the relationship is with the --
MS. SCARDINO: And --
MR. DOYLE: -- ring of snitches.
MS. SCARDINO: And I don't -- and I understand that but I'm not required --
MR. RYTTING: Let me --
MS. SCARDINO: James, I've got this.
I'm not required to -- to explain the reasoning.
MR. DOYLE: Well, I understand, Gretchen, and I know you want to get through the deposition. What -- what she's asked you is what is the relationship -- which I think is a fair question -- of that question to this issue that you're inquiring about.
MS. SCARDINO: And --
MR. DOYLE: Because it has to do with a different case.
MR. RYTTING: We've got to stop the

deposition right now.

MS. SCARDINO: And I --

MR. RYTTING: We need to go off the record right now and call the Court.

MS. SCARDINO: Well, let's -- let's actually stay on the record. Let's stay on the record right now.

MR. RYTTING: Okay. Let's stay on the record. Let me --

MS. SCARDINO: James --

MR. RYTTING: Let me lay out my position here.

MS. SCARDINO: James, hold on. I'll --

MR. RYTTING: No. I'm going to say it on the record right now.

MR. DOYLE: I object.

MR. RYTTING: I'm -- no. I'm sorry, I'm going to put it on the record right now.

We have before us -- your name again is Dale what?

MR. DOYLE: What?

MR. RYTTING: What's your last name?

MR. DOYLE: Doyle.

MR. RYTTING: -- Dale Doyle is representing --

MR. DOYLE: That -- that -- that -- Mr. Rytting, that is not my name.

MR. RYTTING: James Doyle. James Doyle.

I'm just going to put it on the record, Gretchen, and then you can continue.

-- James Doyle, who has come here to represent the witness, Kelly Siegler. He has informed us before this deposition started that he was going to enforce the rule that under the Federal Rules of Civil Procedure that the deposition must be conducted as in a trial.

Mr. Doyle does not represent -- represents a nonparty witness. Mr. Doyle knows very well that in any trial a representative of a nonparty witness does not get to ask questions of the prosecutor, of the defense attorney or of the Court except on a very limited basis that has to do with his client's privilege to testimony -- testify if they need to insert a Fifth Amendment right.

But he has repeatedly asked questions in this deposition that have nothing to do with privileges, that have nothing to do with anything that an attorney who represents a nonparty would be allowed to do in a deposition.

He is obstructing this deposition, and he's

doing it purposefully, and we will be seeking sanctions if it continues. Period.

MS. SCARDINO: I'd like to --

MR. DOYLE: Gretchen, if I could --

MS. SCARDINO: Continue on with my questioning.

MR. DOYLE: Gretchen, if I could, my purpose in -- in asking those questions is to determine whether or not this is within the parameters, as I understand, that Judge Ellison set up. He did set some parameters.

MR. RYTTING: Tell him it's not his business.

MS. SCARDINO: We --

James.

This is a -- this is a -- no, he did not -- he did not set specific parameters on the deposition. This is a discovery deposition that he's allowed us to take. Now, if we need to call the Court and discuss it with him so we can continue --

MR. DOYLE: Am I wrong?

MS. SCARDINO: -- let's go ahead and do that but --

MS. MIRANDA: I mean, I'll respond. Gretchen and I --

MS. SCARDINO: Okay.

MS. MIRANDA: -- discussed prior to the depositions about the scope and -- and we did agree that we would keep it within the scope of the claims, and I mean, there are Brady claims that have been raised in the allegations.

And so, I mean, I can't -- I mean, you're her client but as far as the director is concerned, questions regarding the Brady -- her Brady practices are within the scope.

MR. DOYLE: Okay. That's all I wanted to know.

THE WITNESS: But the question was about open policy offense report rules at the DA's office, which is not within the scope.

MS. SCARDINO: Okay. What I think would be best is to pause the deposition right now, let's call Judge Ellison so everyone is on the same -- same page --

MR. DOYLE: I mean, I'm --

MS. SCARDINO: -- as exactly what this is because this is -- there are no limits on this deposition but if we're going to continue to have to stop it every few minutes --

MR. DOYLE: I just asked a question and I got an answer, and I said go.

MS. SCARDINO: Okay.

MR. DOYLE: Do you understand all I'm trying to do is find out -- there are some parameters, you would have to agree with me. I just heard --

MS. SCARDINO: Parameters under the Federal Rules but there's no specific -- Judge Ellison did not put any specific parameters on this deposition such as you can't go into other cases, you can't go into the Herrero case.

THE WITNESS: That's not what I was told.

MS. MIRANDA: I --

MS. SCARDINO: Okay.

MS. MIRANDA: I think that -- our understanding is that there are parameters and this incident is limited to the case and to the allegations that have been raised.

I have not had -- personally had concerns, based on the questions that have been asked to date, that we have gone beyond those. I feel like if we go beyond those, then I probably will say something but to this point, I have not had any concerns.

MR. DOYLE: That's fine.

MS. SCARDINO: Well, in the interest of continuing and trying to get this over with, I want to keep going but if there's any more -- if any other

objection comes up, then at that point, we'll stop, we'll call the Court and figure it out.

MR. DOYLE: I want to -- I want to make sure that we stay within the parameters, as I understood them to be, that's all, and that's why I asked the question, Gretchen.

MS. SCARDINO: Okay.

Q. (BY MS. SCARDINO) Now, I'm going to ask this question about the offense reports, going back to it, you said, quote, "For the most part, the defense was able to see the offense reports." What did you mean "for the most part"?

A. It was an open file policy.

Q. Okay. But you said "for the most part," so, that means not all offense reports were given to them, correct?

A. Correct.

Q. Okay. If the witness -- if the investigator did not testify in the trial, were you obligated to turn those offense reports over to the defense?

A. I don't understand what that has to do with the Jeffrey Prible case and the ring of snitches that you all have alleged that I orchestrated.

MS. SCARDINO: Okay. Objection, non --

A. I'm not going to ask -- I'm not going to answer

questions about every case --

MR. DOYLE: Go ahead and just answer that question.

MS. SCARDINO: Objection, nonresponsive. I do think at this point it would be best to call the Court and just get everything --

MR. DOYLE: I just told her to go ahead and answer it. Go ahead. Ask the question.

Q. (BY MS. SCARDINO) I asked the question. Are you going to answer it or not?

A. What was the question?

Q. "For the most part" -- you said, "For the most part, the defense was able to see the offense reports." What did you mean "for the most part"? When were they not able to see the offense reports?

A. Well, the most obvious exception to seeing the offense report was if an examining trial was requested.

Q. Okay. And was an examining trial requested in this case?

A. In the Jeffrey Prible case?

Q. Right. Yes.

A. I don't think so.

Q. Okay. Were the offense reports in this matter of those investigators that did not testify at Mr. Prible's trial, were those offense reports given to

Mr. Prible's defense attorneys?

A. Yes.

Q. When?

A. Whenever they came to look at the file.

Q. And when an attorney did come and look at the file, were you in the room with them when they looked at the file?

A. Sometimes I was. Sometimes I wasn't.

Q. Okay. And you'll agree with me that when you say "open file," ultimately, the prosecutor is the only person that knows what is in the entire file, correct?

A. Correct.

Q. Okay. And if you had removed certain things from the file, there would be no way for the defense to know that unless you told them that, correct?

A. Correct.

Q. What was your policy regarding the production of -- or the disclosure of written witness statements to the defense?

A. In the Prible case?

Q. Yes, in the Prible case.

A. The defense got to see it.

Q. When did they see it?

A. Whenever they came to look at the file.

Q. So, this was a different situation than in the

Temple case where you didn't present the -- or offer -- or disclose the written witness statements until after the witness had testified; is that correct?

A. Yes.

Q. And it was different because the Temple case was an examining trial?

A. Yes.

Q. And so, you -- you had different rules that you went by if it was an examining trial versus just a normal trial?

A. According to the office policy, yes.

Q. And that's contained somewhere within the office policy manual?

A. Yes.

Q. What was the DA's policy regarding the disclosure of Brady evidence that came to light after a trial was over?

A. The same as it was before. If you heard about Brady information, you disclosed it.

Q. Even after the trial was over, you needed to make that disclosure to defense counsel?

A. Yes.

Q. And were you ever involved in the state habeas proceeding for Mr. Temple -- I mean for Mr. Prible?

A. Can you be more specific?

Q. Were you at the DA's office during the state habeas proceeding for Mr. Temple?
A. What years?
MR. DOYLE: Prible.
Q. (BY MS. SCARDINO) I'm sorry. Mr. Prible.
A. What were the years of that proceeding?
Q. I believe 2004, 2005.
A. I was still at the office. Was I involved in it, I was not in appellate.
Q. Okay. But you would have been consulted by the appellate group prior to them appearing at the state habeas hearing?
A. I never appeared at any state habeas hearing.
Q. I'm sorry. Let me -- that might have been confusing.
The people in the appellate group at the DA's office that were prepping for the state habeas hearing, they would have consulted you, as the trial attorney on that case, prior to that hearing, correct?
A. I would hope so.
Q. Right. I mean, that -- that would make sense that they would come to you since you had --
A. They didn't always.
Q. -- been the person that tried the case?
A. They didn't always.

Q. Did they in this case?
A. I don't remember.
Q. So, they might have, you just don't remember?
A. Correct.
Q. Exhibit 154 is excerpts from that policy manual. And I'll represent to you that this policy manual was produced by Brian Rose in response to a Public Information Act request to me as the manual that would have been in place in 2001 and 2002.
And if you go to Page 1 -- or Page 25, so, it's Exhibit 154-25 --
A. Not all of 2001 because the date is August, 2001. So, there could have been something different at some part -- point in 2001.
Q. So, do you disagree with Mr. Rose's representation that this is the policy manual that was in effect in 2001 and 2002?
A. Well, from the bottom of the page, it says this is effective August 16 of 2001. So, more than half of 2001, some of these things could have been different.
Q. Okay. And you tried Mr. Prible's case in 2002?
A. Yes.
Q. Okay. So, if you go to Page -- Exhibit 154-25 -- and I know that your eyesight is -- is recovering, so, I can read this to you. It says, quote,

"A prosecuting attorney should not impede defense counsel's access to witness but may accompany and assist witnesses in any interview with defense counsel." Now, if a prosecutor does not reveal the existence of a witness, that would be an impediment, right?

A. Not necessarily.

Q. Well, how would the defense attorney know about a witness if the prosecutor didn't disclose the identity of that witness?

A. I don't know who the witness is.

Q. Okay. How about a jailhouse informant that came to you to talk with you about a case, there's no way a defense attorney could have known that unless you had disclosed that, correct?

A. I think that answer is going to always depend on the circumstances of a given case.

Q. Okay. I just gave you the circumstances. What's your answer with those circumstances?

A. The same.

Q. So, you can't answer yes or no?

MR. DOYLE: I'm not sure I understood.

MR. RYTTING: That is not your -- please tell him to -- we're just going to have to stop if he does that again.

Q. (BY MS. SCARDINO) If a prosecutor --

MR. RYTTING: I'm really not going to put up with it.

Q. (BY MS. SCARDINO) If a prosecutor does not reveal the existence of a witness, that would be an impediment, that's my -- my premise that I'm asking you the question, and the -- the circumstances are if a jailhouse informant reached out to you, Kelly Siegler, to talk with you about a case, the defense attorney would have no way of knowing about that witness unless you disclosed the identity of that witness to them; isn't that correct?

A. What's your question?

Q. That was my question. Can you answer that question?

A. I cannot.

Q. You can't answer that?

A. I don't think that's necessarily always going to be an impediment.

Q. Okay.

MS. SCARDINO: Objection, nonresponsive.

Q. (BY MS. SCARDINO) If a -- if a jailhouse informant -- in this case, Nathan Foreman is one -- came to you and said he had information about Prible's case, the defense attorney would have no way of knowing that that witness came to you with that information unless

you disclosed that to the defense attorney, wouldn't you agree?

A. No, I don't agree with that statement.

Q. Okay. Moving on, also on Exhibit 154-25, it says, "A prosecuting attorney shall provide information known to the prosecuting attorney which is subject to a voluntary discovery agreement or Court order throughout the case." Now, this doesn't look like an open file policy to me.

A. What doesn't?

Q. This -- this statement saying that the prosecuting attorney shall provide information which is subject to a voluntary discovery agreement or a Court order. Is that different from an open file policy? Right?

A. I didn't write the office manual. I have no idea what they meant when they wrote it.

Q. Okay. But you'll agree that this statement does not describe an open file policy, right?

A. I don't agree with that. I don't know what they meant when they wrote this.

Q. Did you ever enter into a voluntary discovery agreement with defense counsel?

A. Orally voluntarily all the time.

Q. Okay. But nothing in writing?

A. I might have had a few.
Q. Okay. When a defense attorney would come and look at the file, would you take notes of what was shown to that defense attorney?
A. Sometimes.
Q. Did you in this case?
A. In the Prible case?
Q. Uh-huh.
A. No.
Q. Okay. Going back on Exhibit 154-25, it also says, "A prosecuting attorney shall participate in good faith in pretrial discovery. Absent voluntary discovery, the prosecuting attorney shall diligently and timely divulge matters as may be ordered by the Court," end quote. Now, again, there's no mention of an open file policy in that paragraph, right?
A. Not in this paragraph, no.
Q. What is a timely divulging of information, in your mind?
A. I don't know. I didn't write that paragraph.
Q. Okay. You -- let's -- let's talk about your understanding of the requirement that you timely disclose Brady -- Brady information. What is your understanding of the timely disclosure requirement?
A. To make good faith reasonable efforts to

disclose.

Q. And at what point are you required to disclose Brady information?

A. That depends on the circumstances.

Q. Okay. If you look at Exhibit 140, Page 147, this is your testimony in the Temple habeas proceeding, Page 147, line 3, and the question is, "Okay. What is your understanding -- or I should say" --

MR. DOYLE: Excuse me. She doesn't have --

MS. SCARDINO: Sorry. I was reading it to her because of her eyesight.

Q. (BY MS. SCARDINO) Here, I can give you a copy. Page 147.

MR. DOYLE: Again that reference?

MS. SCARDINO: Okay. 147, line 3.

MR. DOYLE: Do you have the page that precedes it?

MS. SCARDINO: Well, it's -- these are excerpts. Oh, yeah. Do I have the page that precedes it?

MR. DOYLE: Right.

MS. SCARDINO: Yes. We can go off the record and I can get it for you if you'd like to read it right now.

MR. DOYLE: Yeah, let her read this first.

MS. SCARDINO: Okay.

A. Okay.

Q. (BY MS. SCARDINO) Okay. So, Page 147, line 3 of the Temple case, the question is, "What is your understanding -- or I should say what was your understanding when you were at the district attorney's office about a prosecution's obligation to turn Brady evidence over to the defense? And when I say 'your obligation,' the timeliness of it. When -- at what point is a prosecutor obligated to turn Brady evidence over to the defense?"

And you answered, "As soon as you can."

And the question, "And when you say 'as soon as you can,' can you elaborate on that? I mean, do you have -- as soon as you can, as soon as you discover it? What?"

And you responded, "As soon as you discover it. As soon as possible."

And that was a truthful testimony on your part?

A. Yes.

Q. Going back to Exhibit 154, Page 25, it says, "A prosecuting attorney shall timely disclose to the defense the existence of evidence which tends to negate the guilt of the accused as to the offense charged."

Now, does this comport with your understanding of the Brady rule back in 2001 and 2002?

A. Yes.

Q. Okay. You only had to disclose evidence which tended to negate the guilt of the accused?

A. You put the word "only" in there.

Q. I'm asking you if that's your understanding?

A. No.

Q. What other evidence did you need to disclose?

A. Ask me the question again.

Q. What other evidence did you need to disclose under the Brady rule?

A. Under Brady?

Q. Uh-huh.

A. Evidence that is exculpatory, evidence that might mitigate punishment, evidence that would affect the credibility of a witness for impeachment purposes.

Q. And let's talk about the Prible -- or the Tirado/Herrera murders. The murder of that family occurred on April 23rd, 1999, correct?

A. I don't remember.

Q. Okay. I'll represent to you that was the date of the murder. And Detectives Curtis Brown and Ramon Hernandez interviewed Prible that very day. Do you remember that?

A. I do not.
Q. Okay. Do you remember Ramon Hernandez is the same detective that worked on the David Temple case?
A. I don't remember.
Q. You don't remember his name?
A. I don't think I ever met him.
Q. Okay. And at all times Mr. Prible was cooperative, according to Detective Brown. Do you recall that?
A. I don't remember the specific facts, no.
Q. Okay. And Mr. Prible gave two statements -- voluntary statements within hours of the murder. Do you recall those?
A. I do not.
Q. Okay. And he admitted in those statements that he had had consensual oral sex with Ms. Tirado, the victim. Do you recall that?
A. I don't. The trial was 17 years ago. I do not.
Q. Okay.
A. The trial was 17 years ago.
Q. Yes. Yes. I understand. Okay. And the detectives photographed every inch of Mr. Prible's body that day. Do you remember that?
A. I do not.

Q. Okay. They found no blood. Do you remember that?
A. I don't remember the facts.
Q. Okay.
A. The details of the facts.
Q. Okay. No -- no burns from -- caused by the accelerant that was used to start the fire. You don't remember that? And I understand, you can say you don't remember. I just need to go through it all.
A. The trial was in 2002.
Q. Uh-huh.
A. This is 2017. I have looked at, investigated, worked on, worked questions up for, tried, given advice on, talked about and gone over maybe 500 murder cases since this one.
Q. Okay.
A. That's a lot.
Q. And so, you didn't review any of your materials from this case in order to prepare yourself for this deposition today?
A. No. I don't have them.
Q. Okay. Well, was there anything preventing you from getting the work product file and the other -- the rest of the file from the DA's office prior to your deposition?

A. I don't have them. I don't work there any more.

Q. I'm asking -- I understand that. I'm asking you was there anything preventing you from asking the district attorney's office to allow you to see the file prior to your deposition today?

A. No one told me to do that.

Q. And --

MS. SCARDINO: Objection, nonresponsive.

Q. (BY MS. SCARDINO) My question was was there anything preventing you from making a phone call to the DA's office to ask if you could see this file prior to your deposition today?

A. No.

Q. Mr. Prible, I'll represent to you, he gave his clothes to the detectives that day so they could test for trace evidence, and there was no blood, no Kutzit -- that's the accelerant used to start the fire -- no hair, no burns, no soot, no fibers of any kind connecting him to the murder scene. You don't recall that?

A. Anything that you would represent to me, I can't agree to. I've read your petition. It's full of lies. So, whatever you might tell me you represent to me, I really need to see for myself. And I don't remember all the details of the case.

Q. Okay. As early -- as early as April 26th, 1999, the DA's office was involved in this case. I'll show you Exhibit 28. Exhibit 28 -- Exhibit 28 is an offense report -- or a supplemental report, and it states that Detectives Brown and Schmidt went to the Special Crimes division of the DA's office and got a search warrant for Prible's house, and it also states that the affiant spoke with Investigator Johnny Bonds of the Harris County district attorney's office. And this is dated April 26th, 1999. And my question to you is were you involved in this case at this time?

A. As I stated earlier, I didn't even go to Special Crimes until the end of 1999.

Q. Okay. So, does that mean you were not involved in this case at this time?

A. I was not.

Q. Okay. When did you get involved in this case?

A. 2001, maybe 2000. I don't remember.

Q. Okay. Do you remember the circumstances of you're getting -- or hearing about the case for the first time?

A. Yes.

Q. And what were those circumstances?

A. I was in major offenders, and Curtis Brown came by to talk about the case to present it to me to give it

to me to read.

Q. And what was your thought on the case after you read it?

A. That we needed to proceed with working the case.

Q. Okay. And this -- you think this might have been in 2000 or 2001?

A. It wasn't '99 because I didn't go to Special Crimes until the end of '99.

MR. DOYLE: I'm going to ask her not to speculate but if she's got a date for you --

A. 2000, 2001. I don't know any better than that.

Q. (BY MS. SCARDINO) You'll agree that right away, Mr. Prible was listed as a suspect, right?

A. Are you looking at something in particular on Exhibit 28?

Q. Well, I can show you -- no. I can show you Exhibit 9. Exhibit 9 is a news release from the Harris County sheriff's department, and it lists Mr. Prible as the suspect?

A. It lists Mr. Prible as the suspect on the top paragraph of this document. That doesn't necessarily mean that it had to do with the news release itself.

Q. Okay. Do you disagree that Mr. Prible was the only -- or the -- the suspect in this case from the very

beginning?

A. I do not.

Q. You do not disagree to that? Sorry, I -- I said a double negative. Do you agree -- let me restate it so it's clear.

Do you agree that Mr. Prible was the only suspect in this case since the murders were committed in 1999?

A. The only suspect I disagree with. The primary suspect I agree with.

Q. Okay. So, there were other suspects in this case?

A. I don't remember. There could have been. I don't remember. I wasn't involved initially.

Q. Okay.

A. I don't want to speak for what happened before I came on the case.

Q. So, the Harris County sheriff's office had interviewed all witnesses and submitted all of their reports in 1999 and the investigation was completed by 1999. Do you remember that?

A. I wasn't involved in 1999, and I disagree with that.

Q. You disagree with that?

A. Yes.

Q. Okay. What was done post 1999?
A. That's when I got the case.
Q. Yes. And what did you do when you started investigating the case?
A. Started from the beginning all over again.
Q. Did you interview witnesses?
A. Yes.
Q. Okay. But you didn't make any notes of those witnesses?
A. If I did, they're in the file.
Q. They would be in your work product file?
A. No. They would be in the file.
Q. How was the Herrera/Tirado case brought to the DA's attention?
A. Initially?
Q. Uh-huh.
A. I wasn't involved initially.
Q. Okay. Well, let's look at Exhibit 154, Page 18. This is the handbook again. And it says that a potential charge may be brought to the DA's attention one of three ways. First, through the intake division following a law enforcement investigation, second, through a citizen's complaint to the DA's office or, three, through charges filed by a special division of the DA's office, for example, Special Crimes, or an

information or felony complaint is filed directly or a matter is presented to the Grand Jury for indictment. Do you recall that? Those are the three ways that the charge could be brought to a DA's attention?

A. Yes.

Q. Okay. So, this is -- tell me if I'm correct, this is the order of events, the DA decides to accept charges and then you present the case to the Grand Jury for indictment, is that the correct order of events?

A. Say it again.

Q. The district attorney decides to accept charges and then the district attorney presents the case to the Grand Jury for indictment?

A. That's one way that it could happen, yes.

Q. Okay. What's another way that it could happen?

A. You take a case direct to the Grand Jury.

Q. Okay. Before you accept charges?

A. Correct.

Q. Okay. Okay. And the DA's office had guidelines about the acceptance of charges, and those are outlined also on 154-18. It says, "General guidelines for the acceptance of a criminal charge should include the following considerations."

A. Where you reading? This what paragraph?

Q. 154-18.

A. Halfway down?
Q. Yes.
A. Okay.
Q. "General guidelines for the acceptance of a criminal charge should include the following considerations: One, the mandatory considerations are: One, has the law been violated and, two, is there probable cause to believe the accused is guilty of that violation. If both do not exist, no charge should be accepted." Do you see that?
A. Yes.
Q. Okay. And you'll agree with that statement, I presume?
A. Yes.
Q. Okay. And if you go to 154-26, it says -- sorry. Tell me when you're ready.
A. Okay.
Q. Prosecutors have broad discretionary authority in pursuing criminal charges but this discretion is tempered. A prosecuting attorney shall initiate only those charges for which the prosecuting attorney reasonably -- reasonably believes probable cause exists. Do you see that?
A. No. I'm on Page 26. What did you say again?
Q. Let me see. Sorry. It says in paragraph 3.2,

"A prosecuting attorney: B, shall initiate only those charges for which the prosecuting attorney reasonably believes probable cause exists."

A. Okay.

Q. Do you see that?

A. Yes.

Q. And you'll agree with that statement?

A. Yes.

Q. Okay. What is your understanding of probable cause?

A. A good faith belief -- a good faith belief based on articulable facts that a crime has been committed.

Q. Okay. And you'll agree that the standard for probable cause is a much lower standard than beyond a reasonable doubt?

A. Yes.

Q. Okay. Now, charges were not accepted against Prible in 1999. You remember that, right?

A. I do not.

Q. Well --

A. That is not a correct statement.

Q. Were they -- were they accepted against Prible in 1999? I'm asking you. I -- I didn't see anything in the file.

A. I -- I was not involved. As far as I know, no one ever requested for charges to be accepted.
Q. Okay.
A. The investigation was just ongoing.
Q. Okay. So, someone in the DA's office was working on the case from the very beginning in April, 1999 but, for whatever reason, they did not ask to accept the charges at that time?
A. I don't know. I don't know who was working on it before me.
Q. You don't? Okay.
A. Johnny Bonds would have known maybe, if he remembered.
Q. Okay. And presumably, it's because the evidence didn't -- at that time didn't rise to the level of probable cause, otherwise, they would have accepted charges on a five-person murder, right?
MS. MIRANDA: Objection, form.
A. I disagree with that.
Q. (BY MS. SCARDINO) You do disagree with that?
A. I do.
Q. Okay. Was this case presented to the Grand Jury for indictment in 1999?
A. I didn't have the case in 1999.
Q. And -- and I understand that, although you did

have the file. And so, I'm asking you if you recall from your review of the file whether the case was presented to the Grand Jury for indictment in '99?

A. Not that I recall, no.

Q. Okay. Exhibit 154-11, it addresses cases that are declined for prosecution.

A. Okay.

Q. Okay.

MS. MIRANDA: I'm sorry, tell me again what page you're on.

MS. SCARDINO: Sorry. 154-11.

Q. (BY MS. SCARDINO) And it says, "Whenever a case is submitted through DIMS to the district attorney police intake section and is declined for prosecution, a record of that transaction must be made. After receiving an offense report, the prosecutor will complete the appropriate case decline form describing precisely why the charge was declined -- declined." Do you see that?

A. I do.

Q. Okay. So, what does decline the case for prosecution mean?

A. You need to go back to the second line where it says "through the intake section." To -- to now, you and I have been talking about through the Special Crimes

section. So, this is actually irrelevant to anything we've been talking about.

Q. Okay. Well, explain that to me. How -- what does this paragraph mean?

A. This paragraph has to do with when you're working intake, the more routine charges, if an officer comes in to present a case to you and you're the prosecutor behind the desk and you say, "I'm not going to take those charges," the cop can, if he wishes at that point, ask you for a declination, which is what this talks about.

Q. Okay. And the DA didn't decline this case, the Prible case, for prosecution back in 1999, right?

A. Well, as far as I know, no one ever went through intake, which is what Page 11 talks about.

Q. Right. So, it didn't even get that far to go through intake?

A. It's not that far, it's two different avenues.

Q. Okay.

A. Most murder cases -- capital murder cases, a lot of them didn't go through intake, they went through Special Crimes.

Q. Okay. And that was your division, Special Crimes?

A. Yes.

Q. Okay. So, the case went cold in -- in 1999 and there's nothing new in the file, I'll represent to you, until 2001, although you've seen the file. Do you -- would you agree with that statement?

MR. DOYLE: I don't -- I don't think she has seen --

A. That the case went cold, no.

MR. DOYLE: I'll object, the characterization that she had seen the file.

Q. (BY MS. SCARDINO) Okay. Let -- let me restate since it's been 17 years.

All of the investigate -- all of the investigative reports and the evidence in the file is dated through 1999 but then nothing else is new in the file until 2001. Do you recall that?

A. I don't recall that.

Q. Okay. I'm going to show you Exhibit 46. Exhibit 46 is a March 1st, 2001 fax from William Watson to Bonds -- to Johnny Bonds. Do you see that?

A. I do.

Q. Okay. And Dr. Watson was the state's DNA expert in this case. Do you recall?

A. He's the witness who testified, yes.

Q. Okay. So, it appears from the date of this fax that this case, the Prible case, is back on your and

Mr. Bonds' radar at least by March 1st, 2001, correct?

A. Yes.

MS. MIRANDA: Objection, form.

Q. (BY MS. SCARDINO) Okay. Now, why did you choose to pick the case back up at this time?

A. As I stated earlier, because Curtis Brown brought the case to me in major offenders to look over and read to see what I thought about it.

Q. Okay. So, it's on your radar in the spring of 2001, and on April 4th, 2001 --

MR. DOYLE: I'm a little confused, Gretchen --

MS. SCARDINO: Yes.

MR. DOYLE: -- as to whether she was in Special Crimes, as testified earlier, at this point.

MR. RYTTING: Object. This is -- that is not a proper objection. If you have an objection to the question, please state it. Do not --

MS. SCARDINO: My --

MR. RYTTING: -- engage in a dialogue, Mr. Doyle.

MS. SCARDINO: My understanding -- yes, I would agree with that. Please state the objection, and I'll re -- I'll rephrase if I need to.

MR. DOYLE: Well, I think it

mischaracterizes her earlier testimony.

MS. SCARDINO: Okay. Okay. And I --

MR. DOYLE: And I just wanted to bring it to your attention so you can get it right.

MS. SCARDINO: Okay. And I'd also --

MR. DOYLE: If I'm wrong --

MS. SCARDINO: And I'd also --

MR. DOYLE: If I'm wrong, you'll get it -- she'll tell you.

MS. SCARDINO: Okay. And I'd also ask, James, if you could please stick with form objections so that the witness doesn't --

MR. DOYLE: I'm going to do what I need to do but go ahead. I haven't interrupted you.

Q. (BY MS. SCARDINO) Okay. So, Exhibit 52 --

MS. SCARDINO: I'm sorry, you'll have to share the exhibit.

Do you have a copy of Exhibit 52?

MS. MIRANDA: Yes, I do.

MS. SCARDINO: Okay.

MR. DOYLE: You don't have another one for me?

MS. SCARDINO: Huh?

MR. DOYLE: Do you have one for me?

MS. SCARDINO: Can you take a look at that

one? Sorry about that. I didn't have as many of that one.

Q. (BY MS. SCARDINO) Exhibit 52 is an April 4th, 2001 letter from an inmate at FCI Beaumont named Jesse Moreno to you. Now, if you need some time to read this, we can go off the record.

MR. DOYLE: No, if she -- if she needs --

Q. (BY MS. SCARDINO) Or if you're ready to --

MR. DOYLE: I think if you're going to ask her about it, let her read it.

MS. SCARDINO: No, I absolutely will let her read it but I know -- because of her eye problem, I don't want to take up more time than usual on our --

MR. DOYLE: Well, she -- she's entitled to look at whatever you're going to ask her about, I think.

MS. SCARDINO: Absolutely, I agree. So, let's --

MR. DOYLE: But not -- and it's on the time -- it's your time, not hers.

Q. (BY MS. SCARDINO) Would you like to go off the record to review this?

A. No. I can look at it real quick.

Q. Okay.

MR. RYTTING: And I'm going to state one more time, James Doyle apparently does not know the

rules. You are not to make objections, especially not speaking objections or instructing the witness like this. That is not allowed in a trial. You know you'd never be able to do this in a trial and you continue to do it. You know that nonparty witnesses do not get to make these types of interjections.

MR. DOYLE: I object --

MR. RYTTING: So, it's purposefully.

MR. DOYLE: -- as to the double teaming, that it's inappropriate.

Gretchen, after this, do you want to take a quick break? We've been going about an hour and 15.

MS. SCARDINO: Uh-huh.

A. Okay.

MS. SCARDINO: After I finish this line of questioning, then I'll stop and break.

MR. DOYLE: That's fine.

Q. (BY MS. SCARDINO) Okay. So, on April 4th, 2001, you received this letter, Exhibit 52, from Jesse Moreno, and Mr. Moreno was --

A. Well, that's the date he wrote the letter.

Q. Okay. The date he wrote the letter. So, sometime after April 4th, 2001, probably within a couple of days, you received this letter from Mr. Moreno, correct?

A. Within a week, I would say, yes.
Q. Okay. And Mr. Moreno was a federal prison inmate that had testified for you in the murder trial of Jason Morales a few years prior. Do you remember that?
A. Yes.
Q. Okay. In exchange, you dismissed a charge of aggravated robbery against him in a home invasion case in which the victims were beaten with a hammer. Do you recall that?
A. I don't remember what happened with Jesse Moreno's case having to do with Jason Morales. I don't remember.
Q. With Jason Morales? You don't recall dismissing a charge of aggravated -- of aggravated robbery against him?
A. I do not.
Q. Okay.
A. I don't know what happened to his case. I can't remember.
Q. Okay. So, you might have done it but you just can't recall?
A. I do not remember.
Q. Okay. Do you recall that you also did not charge him in a capital murder case in which he was a suspect?

A. I don't remember that at all.
Q. You don't recall that at all?
A. No.
Q. Okay. I'm going to show you Exhibit 70. This is an excerpt of Dan Cogdell, Hermilio Herrero's attorney, questioning Mr. Moreno.
MS. MIRANDA: Do you have an extra copy?
MS. SCARDINO: I'm sorry.
Q. (BY MS. SCARDINO) And if you look at Page 57, line 23, the question is, "Let's talk about that crime you claim you didn't commit. That crime occurred back in October of 1996, right?"
Mr. Moreno answers, "I guess."
Question, "That crime involved a home invasion committed here in Houston?"
Answer, "I don't know. I had nothing to do with that. I know nothing about that case."
Question, "That crime involved a case where victims were beaten with a hammer."
And then there's some objections by you, and the Court rules, sustains the objection.
And Mr. Cogdell asks, question, "Isn't it a fact, Mr. Moreno, that in addition to the crime that you were charged with, which was later dismissed after you testified, you were a suspect in a capital murder case"?

Answer, "Yes."

Question, "So, in addition to the dismissal of the aggravated robbery that was filed, you were never charged with a capital murder case?"

Answer, "No."

Now, does this refresh your memory as to whether you dismissed a charge of aggravated robbery against Mr. Moreno and also did not charge him in a capital murder case in which he was a suspect --

MS. MIRANDA: Objection, form.

Q. (BY MS. SCARDINO) -- in exchange for his testimony in the Jason Morales trial?

A. Contrary to what your petition states, I did not handle that capital murder case. It was never mine. It was Mark Vincent's. I had nothing to do with that.

MS. SCARDINO: Okay. Objection, nonresponsive.

Q. (BY MS. SCARDINO) So, the answer is no, you did not dismiss a charge of aggravated robbery against Mr. Moreno?

A. That's not my answer.

Q. Okay. Then I don't understand your answer.

A. I don't remember what happened in the cases arising out of Jason Morales. I had nothing to do with the capital murder case. That was not my case, contrary

to what you've stated in your petition.

Q. Okay. Well, I'm -- I'm' not talking about the petition right now. I'm just asking you a question. So, you're saying that you had nothing to do with that capital murder case?

A. Correct.

Q. Okay. But you might have dismissed the charge of aggravated robbery but you don't recall?

A. I don't remember if he pled or it was dismissed. I cannot remember.

Q. Okay. So, if you look at Exhibit 52, which is Mr. Moreno's handwritten letter to you, he says he helped you back in '97 and you told him if he ever needed help to call you, right?

A. I don't think that's exactly the words I used. That's what he said.

Q. And that's what I'm asking you, is -- is that an accurate reflection of this letter, what I just stated?

A. That's the -- those are Jesse Moreno's words --

Q. Yes.

A. -- not mine.

Q. I understand that. And he says he has information on an unsolved murder and could help you if you helped him, and he asked you to call up there and

ask to speak with him because he's in the hole and can't make a phone call. That's what he's asking you in this letter, right?

A. That's what the letter says, yes.

Q. Okay. And so, when Moreno contacted you in this letter April 4th, 2001, he was being housed in the medium SHU in Beaumont, FCI Beaumont; isn't that right?

A. Medium or low, I don't remember.

Q. Okay. Somewhere in FCI Beaumont in the SHU?

A. What is the SHU?

Q. The SHU -- the special housing unit.

A. I didn't know that.

Q. Okay. That's just the segregation --

A. I didn't know that.

Q. The segregation unit. Okay. I'll refer to it as the SHU, S H U.

Okay. And when he contacted you, he was in the SHU with an old friend of his from the neighborhood named Jesse Foreman, wasn't he?

A. I don't know that.

MR. RYTTING: Nathan Foreman.

Q. (BY MS. SCARDINO) I'm sorry. Nathan Foreman.

A. I don't know who he was with.

Q. You don't recall that he told you he was in there with Nathan Foreman?

A. From this letter, no.
Q. No. I'm asking you aside from this letter, when he contacted you, at that time, he was in the SHU with Nathan Foreman, right?
A. I don't know who he was with.
Q. Okay. I'm going to show you Exhibit 49.
MR. DOYLE: Are we going to another?
MS. SCARDINO: I'm sorry. The same line of questioning and then I promise we'll go to the break. I forgot.
Q. (BY MS. SCARDINO) Now, Exhibit 49 is the inmate housing history for Jesse Moreno in FCI Beaumont. And if you look down at the bottom -- let's see, it's six lines from the bottom, it tells you where he was housed --
A. On the first page?
Q. On the first page. Sorry. It tells you where he was housed from 12-22-2000 through 5-3-01. Do you see that?
A. Where it says BMM and then --
Q. A-DES.
A. Yes.
Q. Yes. Do you see that?
A. Yes.
Q. Okay. Now, if you look at Exhibit 50, which

I'll show you, these are the housing -- BOP housing records -- and by that I mean Bureau of Prisons -- BOP --

MS. MIRANDA: I'm sorry, Gretchen, do you have one?

MS. SCARDINO: Yeah.

MS. MIRANDA: Thank you.

Q. (BY MS. SCARDINO) These are the BOP housing records for Nathan Foreman. And if you look on the second page, nine lines from the bottom, it says that between February 28th, 2000 and April 18th, 2001 that Foreman was housed in BMM A-DES, just like we saw with Mr. Moreno, correct?

A. They're not in the same place.

Q. Why are they not in the same -- why do you make that statement?

A. Because Jesse Moreno says in his letter he's in isolation. So, wherever they're housed, it doesn't matter, Jesse is in isolation.

Q. In the SHU, right?

A. I don't know what the SHU is. That's your word. I've never heard that before.

Q. Okay. Would you agree that the documents say what they say?

A. I would agree that Jesse says he's in

isolation, which means he's not living with anybody.
Q. Okay.
A. That's what the letter says. These documents are from the prison, which you must understand better than I can but that's not what Jesse says.
Q. Okay.
A. He's not with Nathan Foreman, according to his letter.
Q. Okay.
MS. SCARDINO: I'm going to take a break right here and we'll come back in -- how long do you need?
MR. DOYLE: Five minutes.
MS. SCARDINO: Five minutes.
THE VIDEOGRAPHER: The time is 10:24. We are off the record.
(Short recess.)
THE VIDEOGRAPHER: This is the beginning of file 2. The time is 10:37. We are on the record.
Q. (BY MS. SCARDINO) Ms. Siegler, did you respond to Jesse Moreno's 4-4-01 letter?
A. In writing?
Q. In any -- in any way.
A. Eventually, I talked to him.
Q. Okay. Well, you didn't respond in writing

then?

A. I don't think so, no.

Q. Okay. Eventually, you spoke with him approximately how long after you got that letter?

A. I don't remember.

Q. And did you contact him?

A. At some point, we talked, yes.

Q. So, you contacted him? Because he says in his letter you would have to contact -- call him, he's in the SHU, right?

A. I don't remember how we got in touch the next time but we did get in touch eventually.

Q. Okay. I'm going to show you Exhibit 53, and this is a handwritten letter from Jesse Moreno's mom, and this letter is dated April 10th, 2001. Do you see that?

A. Yes.

Q. And in this letter, she asks you to help her son, right?

A. Okay. What's your question?

Q. She asked you to help her -- help her son, Jesse, right?

A. Yes.

Q. And did you respond to this letter?

A. I don't think so, no.

Q. Okay. You don't recall ever speaking with Ms. Moreno on the telephone?

A. No.

Q. Okay. Did you ever have any other written correspondence with her?

A. I don't think so, no.

Q. Okay. Exhibit 161 is an April 15th, 2001 article in the HOUSTON CHRONICLE about the Tirado/Herrera murders. Detective Curtis Brown is quoted in that article. And he says what they need is someone with knowledge of these killings to step forward, someone who may have been told about them by someone involved. Now, at the time of this article, you were already working on the murder case again with Detective Brown, right?

A. Are we not talking about these letters any more?

Q. No. I've moved on.

A. So, we're off the letters?

Q. We're off the letters. I'm asking you about the article.

A. 0kay.

Q. So, April 15th, 2001, that article appears. And by this time, you're already speaking with Detective Brown about this case, right?

A. It could have been after this article appeared that I first started talking to Curtis about the case. I don't remember this article coming up while I worked on the case.

Q. And you recall earlier I showed you that March 1st, 2001 fax about this case, and so, we discussed that you were already working on the case at that time with Mr. Bonds?

MS. MIRANDA: Objection, form.

Q. (BY MS. SCARDINO) Was that not your testimony?

A. I don't think you ever asked me that specific question.

Q. Okay. I'll ask you now. Were you working on this case -- was the case on your radar again on April -- on March -- in March of '01 --

MS. MIRANDA: Objection, form.

Q. (BY MS. SCARDINO) -- when -- when --

MS. SCARDINO: Let me just finish it real quick.

MS. MIRANDA: Yeah. Sorry.

Q. (BY MS. SCARDINO) -- when that fax was sent to Mr. Bonds from Mr. -- from Dr. Watson?

A. I don't know for sure. I don't remember when I got on the case.

Q. Would Johnny Bonds have gotten in on it before

you got on it?

A. Yes.

Q. Okay. So, he -- he might have been --

A. He was in Special Crimes before me.

Q. No, but I mean, if you all were working on a case together, would the two of you approach it together or would he be working on a case separately from you working on it?

A. He could have been working separately.

Q. Okay. So, you don't -- you can't say whether or not this case, this Tirado/Herrera case was on your radar in March, 2001 at the date of that fax?

A. The date of this fax, the William Watson fax?

Q. Uh-huh.

A. I don't remember for sure when I started working on the Prible case.

Q. Okay. And so, you don't know for sure if you were already working with Detective Brown on this case at the time of this April 15th, 2001 HOUSTON CHRONICLE article?

A. I do not remember.

Q. Okay. You might have been, you just can't recall --

A. Yes.

Q. -- the date?

Okay. Now, on April 26, 2001, Moreno -- Jesse Moreno put your name on his phone list. I'll show you an exhibit --

A. What date did you say again?

Q. April 26, 2001. And I'll show you Exhibit 172, which is Mr. Moreno's phone list produced by --

MS. MIRANDA: May I have a copy?

Q. (BY MS. SCARDINO) -- the Board of Prisons.

MS. SCARDINO: I'm sorry.

Q. (BY MS. SCARDINO) Do you see on Page 1 right there it's dated April 26, 2001 and he writes your name down?

A. I see that.

Q. Okay. So, presumably, you talked to him before that date, you spoke with him about his April 4th letter, right, otherwise, he wouldn't have put your name on the phone list?

MS. MIRANDA: Objection, form.

A. Not necessarily.

Q. (BY MS. SCARDINO) Okay. Do you recall if you spoke with him between April 4th and April 26th, 2001?

A. I do not.

Q. Okay. You might have but you can't recall?

A. It's the wrong phone number to call me at if he put my number down.

Q. Okay. What is that phone number that he's listed?
A. That's the general number.
Q. Okay.
A. So, if he -- if he had my correct number, it wouldn't have been this one.
Q. Okay. What was your correct number?
A. 5845, 8339, 5865, not 5800.
Q. Okay. So, you don't recall if you spoke with Mr. Moreno before he put your phone number down on his phone list?
A. I do not.
Q. Okay. He also put his U.S. attorney that prosecuted him in a Louisiana criminal case, U.S. Attorney Todd Clemons. Do you see that?
A. I see that.
Q. Okay. Are you familiar with Mr. Clemons?
A. I remember his name.
Q. Okay. What do you remember -- do you -- did you ever meet with him?
A. I don't remember.
Q. You might have but you don't recall?
A. Correct.
Q. Okay. Do you ever recall going to Louisiana and speaking with him about Mr. Moreno's case?

A. I don't remember who I talked to.
Q. Okay. But you did do that, you just don't recall if you spoke with Mr. Clemons?
A. Correct.
Q. Okay. So, at this point, it looks like by April 26, 2001 that Mr. Moreno is already contemplating a sentence reduction, wouldn't you -- wouldn't you say? He put your name down and his U.S. attorney's number down.
MS. MIRANDA: Objection, form.
A. No.
Q. (BY MS. SCARDINO) You disagree with that?
A. Yes.
Q. Okay. You don't think it's on his mind -- Jesse Moreno's mind at this point, he's hoping to get some kind of sentence deduction for the information that he has to give you?
MS. MIRANDA: Objection, form.
MR. DOYLE: Asked and answered.
A. I think that's on every federal inmate's mind.
Q. (BY MS. SCARDINO) Okay. I would agree with you on that.
A. Uh-huh.
Q. Exhibit 47. Exhibit 47 is a fax dated May 15th, 2001, and it's from the Harris County district

attorney's office to FCC (sic) Beaumont low, requesting permission for you and Mr. Bonds to meet with Ronald Prible on May 17th, 2001. Do you see that?

A. I do.

Q. Okay. And you initiated this contact with Mr. Prible, right, he didn't initiate it with you?

A. Correct.

Q. Did you tell Mr. Prible in advance that you were coming?

A. Did I tell?

Q. Mr. Prible.

A. No.

Q. Okay. You just showed up?

A. Correct.

Q. Okay. Was he surprised to see you?

A. I don't know.

Q. And he was in custody at this time, right?

A. Correct.

Q. Okay. Did you advise him when you met with him that he was a suspect in the Tirado/Herrera case?

A. I don't remember.

Q. You don't recall if you --

A. I don't remember exactly how we started the conversation.

Q. Did you inform him that he had a right to

counsel?

A. No.

Q. And did you encourage him to speak with you about the Tirado and Herrera case?

A. That's not exactly how it went.

Q. Okay. How did it go?

A. It was a very short conversation.

Q. And what did the conversation consist of?

A. It was mostly Johnny talking. I don't think I talked much at all.

Q. Okay. So, Johnny was asking questions about the case?

A. No, not -- not a lot of questions.

Q. No? Well, you went over there -- you made the whole trip to Beaumont for a reason, right? So, there must have been some question that you all asked him?

A. Correct.

Q. Okay. But it was a short conversation?

A. It was.

Q. I'm going to go back to Exhibit 156. That's the Rule 3.09 of the Texas Disciplinary Rules of Professional Conduct. Do you have one?

A. That's the thick one?

Q. No, it's that one.

A. Oh.

Q. Rule 3.09B states, "A prosecutor shall refrain from conducting or assisting in a custodial interrogation of an accused unless the prosecutor has made reasonable efforts to be assured that the accused has been advised of any right to, and the procedure for obtaining, counsel and has been given reasonable opportunity to obtain counsel." Do you see that?

A. I do.

Q. That was not done for Mr. Prible at that May 15th, 2001 meeting, as you just testified, correct?

MR. DOYLE: Objection.

A. What was not done?

Q. (BY MS. SCARDINO) He was not informed that he had a right to counsel?

A. He was not.

Q. Now, a suspect's right to counsel is one of the most important rights afforded a criminal defendant under the constitution, would you agree?

A. Yes.

Q. Okay. If you look at Rule 3.09C, it says, "A prosecutor shall not initiate or encourage efforts to obtain from an unrepresented counsel -- or an unrepresented accused a waiver of important pretrial, trial or post trial rights." Do you see that?

A. I do.

Q. Okay. But on that day that you met with Mr. Prible on May 17th, 2001, you initiated that contact and you encouraged him to answer your questions, did you not?

A. That's not exactly how it went, no.

Q. That's not how it went?

A. No.

Q. Okay. On July 3rd, 2001, you met with Jesse Moreno at the Federal Detention Center in Beaumont. Do you recall that meeting?

A. Not by date specifically, no.

Q. Okay. Well, do you remember meeting with him there?

A. Beaumont medium or low, which one did you say?

Q. At FDC Beaumont, the Federal Detention Center in Beaumont.

A. In that medium or low? I don't know the difference.

Q. Well, where did you have this meeting with Mr. Moreno?

A. I don't remember. I don't remember which location it was.

Q. Was it somewhere in Beaumont?

A. Yes.

Q. Or was it in Liberty County at a federal

holding --

A. It was in Beaumont. I think it was in Beaumont.

Q. You believe the first meeting that you had with him was in Beaumont?

A. I think so.

Q. Okay. Did you meet with Mr. Moreno more than once?

A. No. I mean, I remember meeting him in the Harris County jail and in Beaumont in person one time.

Q. Now, in the Harris County jail, when was that meeting?

A. When he testified.

Q. At the Jason Morales case?

A. Hermilio Herrero.

Q. At Hermilio Herrero. So, you recall meeting with him in the Harris County jail just before that trial, the Herrero trial?

A. Correct.

Q. Okay. Do you ever recall meeting with him in Liberty County?

A. Not specifically.

Q. Okay. So, if you're meeting with a federal prison inmate, you can't just show up and ask to see them, right?

A. Correct.
Q. You have to give the prison advance notice, right?
A. Yes.
Q. You have to request to be able to see the -- the inmate?
A. It's a process.
Q. Right. And how long does that process usually take?
A. Weeks, minimum.
Q. Okay. Because they have to arrange for the prisoner to be available on that day?
A. Among a lot of other things.
Q. What else do they have to arrange for?
A. They had to have my Bar card. They had to have driver's licenses. They had to have a letter. They had to agree to when we wanted to come. It all had to be organized. You couldn't just show up.
Q. And did you organize these meetings via the SIS division at BOP Beaumont?
A. Johnny was in charge of that. I didn't really organize them. He did.
Q. Okay. When I say the word SIS, do you -- do you recall -- do you know what that means?
A. No.

Q. Okay. The special investigative services unit at the prison, does that ring a bell?
A. No. I know that there's a lady in charge of helping them take care of their end but I don't remember what the name was, the acronym.
Q. Okay. There was a lady in charge at FCI Beaumont?
A. Yes.
Q. Okay. Does her -- was her name Dee Roberts?
A. You would ask Johnny that. He would know better than I would.
Q. Okay. Do you recall any BOP employees over in FCI Beaumont?
A. Do I recall names?
Q. Do you recall the names of them?
A. No.
Q. Does the name Lieutenant Clark ring a bell?
A. No.
Q. What about Gordon Harp?
A. No.
Q. Okay. So, it takes -- it takes several weeks to -- to meet with an inmate. How did you request this meeting with -- with Jesse Moreno? Would that have been through Johnny Bonds?
A. I would have told Johnny to try and set it up.

Q. Okay. Sometime after this April 4th letter, I guess?
A. Yes.
Q. Okay. And you don't recall the location of the meeting with him on July 3rd, 2001?
A. If it was July the 3rd.
Q. Okay.
A. I don't know what day it was.
Q. Okay. You don't recall where you were when you met with him --
A. With Jesse?
Q. -- at that first meeting? Right.
A. I remember we went to the Beaumont federal prison. I don't remember which one or where exactly we met but I remember meeting with Jesse Moreno at least one time in Beaumont.
Q. Okay. Possibly more?
A. I think it's just one.
Q. Okay. Was anyone else in the room with you during this meeting?
A. With Jesse Moreno?
Q. Yes.
A. I don't think so.
Q. And you recorded part of that meeting, right?
A. I don't remember that.

Q. Okay. I have a transcript of your interview. It's Exhibit 54. Was it your practice to record interviews with witnesses?

A. It was not.

Q. This was an unusual situation?

A. I didn't record very many.

Q. Do you recall the BOP guidelines for recording visits?

A. No.

Q. Did you ever encounter any -- do you recall ever encountering any pushback from a prison official if you wanted to record an interview with an inmate?

A. No.

Q. Okay. Now, the transcript goes straight into the interview here. There's not much small talk. You'll see it says, "It's July 3rd. We're at the Marshal's office in Beaumont."

Now, at this meeting, Mr. Moreno told you about his friend, Nathan Foreman, right?

A. Who transcribed this?

MS. SCARDINO: Object --

A. You all or you all?

MS. SCARDINO: Objection, form.

Q. (BY MS. SCARDINO) This was produced in the discovery.

A. From whom?
Q. I believe from the DA's office. Okay. I'm not -- I'm not -- did --
MS. SCARDINO: Okay. So, you have the -- the recording?
MR. RYTTING: That's right.
Q. (BY MS. SCARDINO) Okay. So, Mr. Rytting informed me that the recording was produced and that Mr. Rytting's secretary or assistant at the time recorded this.
A. Okay.
Q. I mean, transcribed it.
A. Okay.
Q. Okay. So, the DA's office produced the --
A. Tape.
Q. -- recording, yes. Okay. So, did you know Nathan Foreman before you had this interview with Jesse Moreno?
A. Did I know his name, yes.
Q. Okay. And -- because Jesse had told you -- had mentioned him previously?
A. I don't remember how I first heard Nathan Foreman's name.
Q. Okay. Let's look at Page -- Exhibit 54, Page 18. On the bottom part of the page, it says "KS,"

that's you. It says, "And who was the other guy there? Nathan Foreman?"

Jesse Moreno: "Nathan Foreman. He" --

Kelly Siegler: "Is he from Houston?"

Moreno says, "Yeah, we're all from Houston."

And you say, "Beaumont medium, too?"

Okay. So, it looks like from this transcript that you didn't know Mr. Foreman previously, right?

A. Not necessarily.

Q. You might have known him before this?

A. I might have known him by name. I can't remember.

Q. Because Jesse might have told you his name previously?

A. No. I don't know how I found Nathan Foreman, how I got his name first.

Q. If you look at Page 12 -- I'm sorry, Page 13, the very top of the page, the second line, Jesse is talking to you. He says, "There was me, him, Dominguez, Ralph Dominguez and Nathan Foreman, the one I was asking you about." Do you see that?

A. Uh-huh. Yes, ma'am.

Q. Does that refresh your memory as to whether

Moreno made you aware of Nathan Foreman?

A. It does not.

Q. You still think you knew him previously for some reason beyond Jesse Moreno?

A. Yes.

Q. But you can't tell me why?

A. The Jason Morales trial.

Q. You think Foreman was involved in the Jason Morales trial?

A. I don't -- I don't know if he -- he didn't testify. I don't know if he was involved. I can't remember.

Q. Okay. Now, at this meeting, Jesse Moreno spoke with you about a murder confession he had heard from Hermilio Herrero. Do you remember that?

A. Yes.

Q. Okay. And he said that Herrero confessed to himself, Moreno, to Dominguez and to Nathan Foreman in 1999 when they were all incarcerated together in Beaumont. Do you remember that?

A. Yes.

Q. And two days after this meeting with Moreno on July 3rd, you asked Detectives Davis and Holtke to review the audiotape of that meeting. Do you remember that?

A. To review the audiotape that I took?
Q. Yes.
A. So --
Q. The audiotape that we just referenced, Exhibit 54.
A. Okay.
Q. And to refresh your memory, I have Exhibit 55, which is a supplemental report from the Harris County sheriff's department, and it mentions how you had asked Detectives Davis and Holtke to review the audiotape. Do you see that?
A. Okay.
Q. Okay. And you accepted charges against Herrero that day, right?
A. This day?
Q. Yes. I'm sorry. Yeah, you -- you accepted charges against Hermilio Herrero on this day, on July 5th, 2001, right? That's what it says here in this report?
A. Where does it say that?
Q. Let's see. At the very last line, "Assistant District Attorney Siegler then stated she would accept charges of the murder on Hermilio Herrero, Jr., date of birth 10-7-1969," right?
A. It says that I would accept the charges. It

doesn't say on what date.

Q. Okay. Well, it's talking about a conversation that you had with these detectives on July 5th, 2001. Do you see that on the very first line?

A. I do.

Q. And at the end of talking about that conversation you had with them, Detective Davis states, "I informed Siegler that the information the witness had provided was information that matched the details of what we knew them to be. Assistant District Attorney Siegler then stated she would accept charges of murder on Hermilio Herrero, Jr., date of birth 10-7-1969." Do you see that?

A. I do.

Q. Does that refresh your memory as to whether you accepted charges against Mr. Herrero on July 5th, 2001?

A. It doesn't mean that I accepted the charges on July 5th. It could have been the following day. It could have been the following week.

Q. Okay.

A. I did accept the charges.

Q. Okay. You also accepted charges against Mr. Prible that day, right?

A. What day?

MS. MIRANDA: Objection, form.

Q. (BY MS. SCARDINO) July 5th, 2001.
A. I don't remember.
Q. You don't recall when charges were accepted against Mr. Prible?
A. I do not.
Q. Now, before you charge -- accepted charges against Herrero, Hermilio Herrero, did you check to see if he was even incarcerated with Moreno, Dominguez and Foreman on the date he supposedly confessed to them?
A. I would have had Johnny Bonds check on that.
Q. And what did he find out?
A. I'm assuming that it was consistent with the information we got from Jesse Moreno.
Q. Because if it was inconsistent, it would have been improper to accept charges against Mr. Herrero based entirely on Jesse Moreno's conversation with you, right?
A. We would have needed to look into it further.
Q. And when you accepted charges -- I will -- I will represent to you that charges were accepted against Prible the same day they were accepted against Hermilio Herrero.
A. You need to show me something.
Q. Okay. Okay. Exhibit 57, the first page, at the top, it says date prepared July 5th, 2001, felony

charge capital murder against Mr. Prible. Do you see that?

A. Okay. Yes, I see that.

Q. Okay. So, you agree that charges were accepted against Mr. Prible on July 5th, 2001, this -- do you agree with that?

A. Yes.

Q. And at that July 3rd, 2001 meeting, you and Mr. Moreno discussed Nathan Foreman, you saw? Do you remember the testimony -- or the recording I just showed you where you discussed Nathan Foreman?

A. His name was mentioned.

Q. Yes.

A. Nathan Foreman's name was mentioned, yes.

Q. Okay. And at that July 3rd, '01 meeting, did Moreno tell you that Nathan Foreman had heard a confession by Ronald Prible?

A. Ask me that again.

Q. At that meeting that you had with Mr. Moreno, at some point during that meeting, did Mr. Moreno inform you that Mr. Foreman, Nathan Foreman had heard a confession by Mr. Prible?

A. I don't remember what the details were, what Jesse Moreno told me that day.

Q. So, he might have told you that but just can't

recall?

A. I cannot.

Q. Now, if you look at Exhibit 56, Exhibit 56 is a probable cause affidavit dated July 5th, 2001 for the arrest of Mr. Prible, and the affiant is Curtis Brown. And you testified in the Temple case that you would often type up the probable cause affidavit for the detectives to sign; is that right?

A. Correct.

Q. Is that -- was that the case here, did you type up this probable cause affidavit?

A. I don't know because it's signed by Marcy.

Q. Okay. So, you -- who is Marcy?

A. A fellow prosecutor that worked in Special Crimes the same time I did.

Q. Okay. So, you don't know if you typed up this probable cause affidavit?

A. I don't know for sure.

Q. Okay. Do you see anything new in that probable cause affidavit that you all didn't have against Mr. Prible in 1999?

A. I didn't know what they had in 1999. It wasn't my case then.

Q. Okay. So, you're not denying that there's nothing new in that probable cause affidavit?

A. I don't know what they had in '99. It wasn't my case then.

Q. Okay. Did you reach out to Mr. Foreman after your July 3rd, 2001 visit with Mr. Moreno?

A. Ask me again.

Q. Did you reach out to Mr. Foreman after your July 3rd, 2001 visit with Jesse Moreno?

A. No.

Q. You didn't?

A. I didn't reach out to him, no.

Q. Did he reach out to you?

A. Yes.

Q. Okay. In what form? How did he reach out to you? Did he call you?

A. He called. He might have written. I don't remember.

Q. If he had written to you, that would have been kept in your file, right?

A. Yes. We're talking about the Herrero file because you keep talking about all these letters like they belong to Prible, and they do not.

Q. Well, some of them were found in the Prible file, which we'll get to that in a little bit.

But -- okay. So, Foreman reached out to you, contacted you, you believe?

A. Yes.

Q. Okay. Might have written. Might have made a phone call.

Exhibit 88 is a criminal history report for Nathan Foreman printed out by Johnny Bonds. And all I'm interested in is -- is the date.

MS. SCARDINO: Do you have one?

MS. MIRANDA: I don't. I'm sorry.

Q. (BY MS. SCARDINO) The date you'll see at the top is August 7th, 2001, and if you go down a little more, it says that Johnny Bonds had printed it out. Do you see that?

A. I do.

Q. Okay. Now, this criminal history report, was this something that you all would typically run before you met with a potential witness or -- with a potential witness?

A. Or a potential suspect?

Q. Or a potential suspect.

A. Yes.

Q. That was my next question.

A. Yes.

Q. Okay. And so, this was typed -- this was searched on August 7th. And then on August 8th, the following day, you and Mr. Bonds and Foreman met in

person; isn't that right?
A. I don't remember the date.
Q. Okay. Do you recall this meeting? Do you recall meeting with Mr. Foreman at FCI Beaumont?
A. In Beaumont?
Q. Uh-huh, or just ever.
A. I remember meeting with Nathan Foreman at the Federal Detention Center in downtown Houston.
Q. Okay. I'm going to show you Exhibit 108-2, beginning at 108-2.
MR. DOYLE: Thanks.
MS. SCARDINO: Do you have that?
MS. MIRANDA: I don't. I feel like I should but I don't.
Q. (BY MS. SCARDINO) In this meeting -- and you see it's dated -- these are your notes, correct?
A. They are.
Q. Okay. And up at the top, it's dated August 8th, 2001?
A. Yes.
Q. So, you took the notes on this day, right?
A. Yes.
Q. Okay. And I'd like to have you first just read these notes into the record so we can have a correct interpretation of them since it's your handwriting.

A. Exhibit 108-2, "Nathan Foreman, August 8th, '01 at the Federal Detention Center. Been here two days? Why. On deferred adjudication for dope and thought CC with the 5 year fed, plus 3 years supervised" -- I don't know if that's "after" or "often." "Out 2004. Wife called me. Jesse and me at B" -- that's Beaumont -- "medium together. Prible" -- I think that's dis -- or "disciplinary seg at medium, also known as the hole. I was a trustee about six and a half months. Prible was an inmate. Got assigned for marijuana. Disciplinary years. Around August of 2000. Medium" -- I think that says "range" up at the top right-hand side. "Prible put in seg for dirty urine. Contact around January of '01. Prible on 300 to 400 range disciplinary seg. Prible with Bear and Chuy on seg. Prible talked about dope. Major connection with dope because owed money. Prible's family killed. No remorse. Prible weird. Schizophrenic."

Over to the right, squared off, it says, "Beaumont medium 2001. Talked about two times. Also present A. J., a white male, Bubba, a white male, Bear, a white male, Chuy, a white male. Dirty" something "boys. Two times? Later. Last saw Prible months ago in medium. Regarding Herrero, we were high, me, Dominguez, defendant, Jesse, who was down and who was

snitches. Regarding battle wounds. I got shot in the hand. I thought BS. Defendant guy owed me money. Ran into the club." "Woods" or "words." "Drove off. Carpet in a van. Dude who owed him money was talking BS. Somebody else left. I cut dude's throat, still alive and a hammer."

Fourth page, "Grabbed from behind. Complaining witness Alfred or Albert. Rolled dude up in the carpet, ditch. Dumpster? I thought BSing. Jesse and I talked regarding it. Afraid to get stuck in Beaumont."

Q. Okay. And this Jesse that Mr. Foreman is referencing in this interview with you is Jesse Moreno, right?

A. Yes.

Q. And during this August 8th, 2001 interview with you, Mr. Foreman discusses both the Prible and the Herrero cases, right?

A. He does.

Q. Okay. And he discusses various informants -- or various other inmates, himself, Rafael Dominguez, right, you saw that name?

A. I did.

Q. Okay. And Jesse Moreno, right?

A. Among others.

Q. Now, Mr. Bonds was at this meeting with you, right?
A. Yes.
Q. Okay. And what was your take on Mr. Foreman when you met with him?
A. I didn't believe him.
Q. Why didn't you believe him?
A. I didn't believe him.
Q. Okay.
A. Neither one of us did. We walked out there saying we didn't believe a word he had to say.
Q. And Mr. -- Mr. Bonds actually asked him what Prible looked like, right, and he couldn't describe him?
A. I don't remember that part. I'm not arguing with you but I don't remember that part.
Q. Okay. But you didn't remember anything that he said as far as Prible or Herrero were concerned, you thought he was a liar?
A. I -- I remember some of the things that Nathan Foreman said. I also thought he was lying.
Q. Okay. So, after you left that meeting or as you were leaving, did you tell Foreman, "Look, I don't believe anything you're saying. Get out of here. Get lost"?
A. I didn't tell him what I thought.

Q. You didn't? Did you tell him to contact you if he had further information?
A. I don't remember saying that.
Q. Okay. Would you have wanted him to contact you again with more information if you knew he was a liar?
A. No.
Q. That would have been improper to use a witness that you knew was lying, right?
A. I never used him as a witness, contrary to what your petition says.
Q. Now, Exhibit 152, this is a difficult exhibit to read. It was produced this way but these are different telephone memos from your file. One of them is dated August 13th. I mean, they're really difficult to read.
A. Yeah. You want to just point it to me?
Q. Yeah. I'd give you a better one if I had one but this is how they were produced. Let's see. We might -- actually, at a break, we might have to show you on the computer. It might be easier to read.
I'll -- I'll represent to you what -- the question that I'm going to ask about, and I'll show you -- I'm happy to show it to you --
A. Okay.
Q. -- on the screen. This was produced from your

file by the DA's office in August of 2016. And it's a -- there's a phone message on there showing Alan Percely -- Percely, who was Nathan Foreman's attorney. Do you -- do you recall Mr. Percely?

A. Now that you mentioned it, yes.

Q. I might be saying his name wrong. Okay.

A. He was as credible as Nathan.

Q. He was as credible as Nathan?

A. Uh-huh.

Q. Okay. And what do you mean by that?

A. Just what I said.

Q. Just a liar?

A. Yep.

Q. Okay. And he called you on August 13th, 2001 about testifying -- about having Nathan testify on the federal trial, right?

A. He might have. I don't remember.

Q. Okay. If -- if, in fact, this -- this phone message shows that, you wouldn't disagree with that, right?

A. No.

Q. Okay. Did you call Percely back and speak with him?

A. I don't remember.

Q. Okay. At some point, you must have spoken with

him if you knew that he was lying, right?

A. Which one?

Q. Percely.

A. To be nice maybe.

Q. How did you determine that he was a liar?

A. From years of working with him.

Q. So, you knew him before this case?

A. Alan Percely, yes.

Q. Yeah. Okay. Okay. Nine days after you speak with Mr. Foreman, the Prible indictments were prepared. That's Exhibit 60.

MS. SCARDINO: We'll take a break right after this.

Q. (BY MS. SCARDINO) You see the first page of this Exhibit 60, it says date prepared August 17th, 2001. So, after speaking with Foreman, did you believe you had probable cause to present the case to the grand jury for indictment?

A. My decision to decide what to do with the Prible case had no bearing and nothing to do with the conversation I had with Nathan Foreman.

Q. Okay. Why did you suddenly decide to charge Mr. Prible and indict him for capital murder if there was no new evidence since 1999 other than this conversation that you had had with Mr. Foreman?

A. One more time, I don't know what they had in 1999. It could have been completely sufficient in 1999 to move forward but I didn't have the case then. When I got the case, I wanted to be thorough, which included talking to Nathan Foreman, which I thought would be a waste of time and it turned out to be a waste of time. Irrespective of that, I made a decision to move forward on the case against Ronald Jeffrey Prible.

Q. Okay. Did you disclose to Mr. Prible's defense attorney that you had spoken with Mr. Foreman on August 8th, 2001?

A. Mr. Prible's attorney, Terry Gaiser?

Q. Uh-huh.

A. We talked about Nathan Foreman. I don't know exactly if I told him about that conversation but we did discuss Nathan Foreman.

Q. I'm asking you if you told Mr. Gaiser or Mr. Wentz if you -- about the substance of your meeting with Mr. Foreman on August 8th, 2001?

A. I think I did.

Q. And you would have -- did you show him your notes from that meeting?

A. They were in the file.

Q. But he wasn't allowed to see your work product notes, was he?

A. Those weren't -- that's not work product. My notes were in the file. Notes are notes. They're in the file.

Q. So, should they all be -- all your notes --

A. Yes.

Q. -- be viewable --

A. Yes.

Q. -- to the defense counsel?

A. Yes.

Q. Okay. So, you're saying that all of your -- any -- any of your notes that were contained in the file would have been disclosed to defense counsel?

A. My notes would have been in the open file.

Q. Okay. So, you didn't take any notes out saying -- claiming work product protection over them before the defense came to review the file?

A. Not that I remember, no.

Q. Okay.

MS. SCARDINO: Let's take a short break and go off the record.

THE VIDEOGRAPHER: The time is 11:23. We are off the record.

(Short recess.)

THE VIDEOGRAPHER: This is the beginning of file 3. The time is 11:43. We are on the record.

Q. (BY MS. SCARDINO) Ms. Siegler, if you'll take a look at Exhibit 154-7 again, the policy manual. The basic function of a Grand Jury is to determine whether there's sufficient evidence to warrant an indictment, right?

A. Yes.

Q. Would you agree? Okay. And if you look at Page 7 of Exhibit 154, it says on there, "More specifically, the Grand Jury should believe that there is probable cause that a particular individual is guilty of a particular crime from evidence that will be admissible in a court," right? And we talked a little while ago about probable cause.

A. Correct.

Q. Okay. Exhibit 154-7 also says that, "Although Texas law does not so require, the evidence should be of such a nature that there is a reasonable likelihood a jury would convict. It will be the policy of our office to recommend a true bill only if there is such a reasonable likelihood of conviction." Do you see that?

A. I do.

Q. Okay. So, we can presume, because this case wasn't presented to the Grand Jury in '99, that the DA's office did not believe, based on the evidence they had at that time, that there would have been a reasonable

likelihood of conviction, right?

MS. MIRANDA: Objection, form.

A. We cannot presume that.

Q. (BY MS. SCARDINO) You disagree with that statement?

A. I absolutely disagreement with that statement.

Q. Okay.

(Off the record.)

Q. (BY MS. SCARDINO) And continuing on Exhibit 154, Page 7, it says -- I'm sorry -- yeah, if the prosecution believes that the defendant is probably guilty, that there is sufficient legally admissible evidence to convict and there is a likelihood of conviction, the prosecutor should recommend a true bill. If those circumstances do not exist, the prosecutor should recommend a no bill.

And my question for you is why would a prosecutor present a case to the Grand Jury and recommend a no bill as opposed to presenting the case to -- or as opposed to not presenting the case to the Grand Jury at all?

MR. DOYLE: Objection.

A. Where did you read that? I couldn't find it fast enough.

Q. (BY MS. SCARDINO) Let me find it on the page

for you. Okay. The third paragraph, second half. Are you on -- yeah. Right there.

A. Okay.

Q. "If the prosecution believes," do you see that?

A. I do.

Q. "If the prosecution believes the defendant is probably guilty, that there is sufficient legally admissible evidence to convict and there is a likelihood of conviction, the prosecution should recommend a true bill. If those circumstances do not exist, the prosecutor should recommend a no bill." Do you see that?

A. I do.

Q. And my question to you is why would a prosecutor present a case to the Grand Jury and recommend a no bill as opposed to not presenting the case to the Grand Jury at all?

A. Because there were some cases, under office policy, that you always took them to a Grand Jury for a Grand Jury to decide, for example, cop shootings.

Q. Okay.

A. And at the end of that presentation, it would be the prosecutor's duty and obligation to make that recommendation.

Q. Okay. And where -- is that the general rule

for capital murders or just for cop shootings?

A. I know that you -- you had to take all cop shootings into the Grand Jury. You didn't have to take all murders.

Q. Okay. Looking at Page 154-12, the second to last paragraph, it says, "It's better to build a strong case or to dispose of a weak case by no bill than to be embarrassed at trial time."

A. Okay. Wait. Second to the last paragraph?

Q. Second to the last paragraph.

A. That starts with "discuss" here?

Q. Yes. The next sentence.

A. Okay. Go ahead.

Q. "It is better to build a strong case or to dispose of a weak case by a no bill than to be embarrassed at trial time. The Grand Jury is the proper forum to determine whether or not there is a reasonable possibility of success at trial." Do you see that?

A. I do.

Q. Okay. So, if there's not sufficient legally admissible evidence to convict and there's not a likelihood of conviction, even if the prosecutor herself believes that the defendant is guilty, the prosecutor should either recommend a no bill or not present the case to the Grand Jury in the first place, do you agree

with that statement?

A. That's a long question.

Q. Okay. Let's -- let's break it up.

If there's not sufficiently legal -- sufficient legally admissible evidence to convict and there is not a likelihood of conviction, I take this to read that even if the prosecutor herself believes that the defendant is guilty, the prosecutor should either recommend a no bill or not present the case to the Grand Jury in the first place. Do you agree?

A. I do.

Q. Now, in this case, with all of the evidence that law enforcement had in 1999, which you claim you don't recall what -- what evidence that was, but with all that evidence that they had in 1999, the DA must not have believed that there was sufficient legally admissible evidence to convict Prible of the five murders at that time, right?

MS. MIRANDA: Objection, form.

A. I do not agree with that statement.

Q. (BY MS. SCARDINO) You don't agree with that statement?

A. No, ma'am.

Q. Even though this was a case of an entire family being murdered, three young children, don't you think

the DA's office would have prosecuted that as soon as they had -- they had the evidence needed to do so?

A. Not --

MS. MIRANDA: Objection, form.

THE WITNESS: Sorry.

A. Not necessarily.

Q. (BY MS. SCARDINO) In fact, back in 1999, the DA's office didn't even present the case to the Grand Jury, did they?

A. I don't think they did, no.

Q. Okay.

THE WITNESS: Is that the same phone? Can you unplug it?

MS. SCARDINO: Let's go off the record real briefly to fix that.

THE VIDEOGRAPHER: The time is 11:50. We're off the record.

(Off the record.)

THE VIDEOGRAPHER: This is the beginning of file 4. The time is 11:52. We are on the record.

Q. (BY MS. SCARDINO) Okay. So, you just testified that you do not believe they presented it to the Grand Jury in 1999; is that right?

A. I don't think they did. That's correct.

Q. Okay. When did the DA's office finally present

this case to the Grand Jury?
A. When I did.
Q. You were the one that presented it?
A. Yes.
Q. And do you recall the date that you did so?
A. August, 2001.
Q. Okay. Do you recall the -- was it after you had met with Mr. Foreman August 8th?
A. Yes.
Q. It was after you met with him. Okay. And was there only one Grand Jury that heard this case?
A. Yes.
Q. Was that the only one?
A. Yes.
Q. All right. Did you prepare any sort of a witness list for the Grand Jury?
A. No.
Q. Did you present any witnesses to the Grand Jury?
A. No.
Q. And is that a common practice of yours to go into a Grand Jury without any witnesses?
A. Yes.
Q. Did you testify at the Grand Jury about your conversations with Foreman and Moreno?

A. I know I didn't about Foreman.
Q. But you spoke with the Grand Jury about your conversation with Moreno?
A. Having to do with the Prible case?
Q. Yes.
A. No.
Q. Did you present these two cases, Herrero and Prible, on the same day?
A. Yes.
Q. In the same -- I mean, was it like back to back? How does -- how does it work when you go into the Grand Jury?
A. You go in on your scheduled morning with all the cases that you have and present them, go outside while they vote, see if they have any questions and then do the next one.
Q. Okay. So, your -- your testimony is that you spoke with the Grandy Jury about Moreno --
A. No.
Q. -- with respect to the Herrero case?
A. I presented the Herrero case and I presented the Prible case.
Q. Okay.
A. And maybe others. I don't remember.
Q. Okay. And when you presented those two cases

to the Grand Jury, did you tell the Grand Jury that there were jailhouse informants in those cases that would testify as to a confession?

A. Can we divide up the cases and ask the question specifically?

Q. Sure. With respect to Prible.

A. Okay.

Q. Yes. Did you tell the Grand Jury that there was a jailhouse informant that would testify that Prible confessed to the crime?

A. No.

Q. With respect to Mr. Herrero, did you tell the Grand Jury that there was a jailhouse informant who would testify that Mr. Herrero confessed to the crime?

A. Yes.

Q. Was there a court reporter present at that Grand Jury meeting?

A. No. Sorry. No.

Q. You did not request that --

A. I don't think so, no.

Q. -- a court reporter be present?

A. I don't think so, no.

Q. Was that common practice in the DA's office to -- to not have a court reporter present to transcribe those proceedings?

A. Correct. You only had a court reporter present if you had a witness you were presenting.

Q. Okay. Now, you could have a court reporter present if you weren't having -- presenting a witness but you just didn't in this case?

A. I don't think we ever had a court reporter present if we weren't presenting a witness.

Q. Okay. Let -- sorry. Let me ask you a question so it's easier to follow.

Was there anything preventing you from asking a court reporter to be present in a Grand Jury proceeding in which you were not presenting any witnesses?

A. Yes.

Q. What was preventing you from doing that?

A. Grand Jury proceedings are secret, so, you don't want a record of what's going on when they vote, when they talk about things. You only have a court reporter present when there's a witness.

Q. Okay. But -- and I understand the Grand Jury proceedings are secret. There would never be a court reporter present to take down what you were telling the Grand Jury before they went into their secret deliberations?

A. I don't want to say never but not that I

remember.

Q. Okay. Was there anything preventing you from having a court reporter take down the testimony, for lack of a better word, the -- the statements that you were making to the Grand Jury about these cases before they went into their private deliberations?

A. Well, you would have to find the court reporter. They weren't there. They don't stay in the Grand Jury room.

Q. You would have to arrange for a court reporter to be present?

A. Correct.

Q. And those court reporters are -- that transcribe the -- the Grand Jury proceedings, those worked at the DA's office, right?

A. They worked in the Grand Jury division, yes.

Q. Right. Like Javier Leal, I believe was one?

A. Yes.

Q. Okay. So, what you would need to do is make arrangements for one of them to be present when you presented the case if you wanted the testimony transcribed?

A. Yes.

Q. Okay. But you did not do that in this case?

A. Which case?

Q. In the Prible case.
A. I did not.
Q. And you did not do that in the Herrero case?
A. I did not.
Q. So, there is no record whatsoever as to what you told the Grand Jury when you presented the Prible matter to that Grand Jury?
A. There is not.
Q. And there is no record whatsoever regarding what you told the Herrero Grand Jury about Herrero's case in that Grand Jury proceeding?
A. There is not.
Q. Now, a prosecutor has a duty to disclose all material defensive facts to the Grand Jury, correct?
A. Yes.
Q. Okay. Did you tell the Grand Jury in the Prible matter that you had spoken to Nathan Foreman about Mr. Prible's case?
A. No.
Q. Did you tell the Grand Jury that a jailhouse informant tried to come -- or came to you to try to set up Mr. Prible for this murder before Mr. -- before he had even met Mr. Prible?
MS. MIRANDA: Objection, form.
A. I don't understand that question.

Q. (BY MS. SCARDINO) Did you tell the Grand Jury that an inmate, Nathan Foreman, had come to you and tried to set up Mr. Prible, saying that he -- Mr. Prible had confessed to him but that you had determined that Mr. Foreman was lying about that?

A. I disagree with the assertion that Nathan -- Nathan Foreman tried to set him up. I agree with the statement I made earlier that I did not believe Nathan Foreman was being credible, and I agree with the statement I said earlier that Nathan Foreman's interview had nothing to do with the evidence that existed against Jeffrey Prible.

MS. SCARDINO: Okay. Objection, nonresponsive.

Q. (BY MS. SCARDINO) My question -- I'll restate it.

Did you -- when you were presenting the case against Mr. Prible to the Grand Jury, did you tell the Grand Jury about your meeting and the substance of that meeting with Nathan Foreman?

A. No.

Q. Now, if you had a defendant that you were going to charge in a Harris County case who was already serving a sentence in a federal institution, how would you go about getting custody of that person so you could

try them in your state case?

A. You have to follow the federal procedures.

Q. And that's the federal detainer rule?

A. Yes.

Q. Okay. Do you have to wait until their federal sentence is up to try them in the state case?

A. That depends.

Q. Okay. And what does it depends on?

A. All kinds of things. I never did understand when it didn't and when it did.

Q. Okay. In the Hermilio Herrero case, you didn't need to wait for his federal sentence to be up before you tried him in the state case, right?

A. I did not.

Q. And the same with Mr. Prible's case, you didn't have to wait until his federal sentence was up to try him in the state case, right?

A. Correct.

Q. Okay. If you look at Exhibit 154-2, it addresses how to obtain persons from other jurisdictions. Section -- actually, it's the next page, 154-3. Section C says, "If a prisoner in federal custody has been sentenced by the federal court, we may secure the custody of the prisoner by virtue of the interstate agreement on detainers, Article 51.14 of the

Texas Code of Criminal Procedure." And that's the detainer agreement that you were just mentioning?

A. Yes.

Q. Okay. And down at the bottom, Section D, it says, "An individual who has been indicted in Texas but is in custody and has been sentenced in a foreign state or under federal law has a detainer placed on him in the foreign state by virtue of the warrant issued by the State of Texas. It acts as notice to the custodial official of such pending warrant and when the prisoner has satisfied his time in the foreign state, the custodial official will notify the law enforcement agency which requested the detainer. In Harris County, that is the Harris County sheriff's office. The effect of the interstate agreement on detainers allows the custodial official to temporarily seek custody of the prisoner to allow prosecution of the offense giving rise to the detainer prior to the satisfaction of the prisoner's present sentence. The proceedings may be initiated by either the prisoner or by the prosecutor of the jurisdiction which requested the detainer on the prisoner."

Now, did you request that a detainer be placed on Mr. Prible so he could be returned to Harris County to face capital murder charges?

A. Yes.
Q. And when did you do that?
A. I don't remember.
Q. You don't? You didn't do it immediately, though, right?
A. Immediately meaning when?
Q. After he was charged in the capital murder.
A. No.
Q. Because first he was charged in -- July 5th, 2001, as we established, right?
A. Right.
Q. And after that, he was moved from the FCI Beaumont low to FCI Beaumont medium because his points went up, right?
A. I don't know anything about that.
Q. You don't know that he was moved from the low to the medium?
A. I didn't keep up with that. I don't remember when he was moved or why he was moved.
Q. Okay. But you don't disagree that he was moved from the low to the medium after he was charged in this case?
A. I don't know.
Q. Okay. Now, where in the operations manual did it say -- or does it say that it's -- the interstate

agreement on detainers is optional or that it can be done at a later time rather than immediately after the defendant is charged? Is there any -- is there any rule?

A. It says indicted, not charged.

Q. And -- after the person is indicted?

A. There's a big difference.

Q. Okay. Well, in this case --

A. And you know that.

Q. In this case, the indictment was August --

A. 29th.

Q. -- 2001?

A. Right.

Q. Okay. So, was it your practice to indict and then not have the defendant moved to Harris County until later?

A. No.

Q. That was unusual?

A. That was not my practice.

Q. Okay. With Mr. Herrero, did you have him moved immediately to Harris County after he was indicted?

A. I don't remember. I'd have to see the paperwork.

Q. Okay. Now, Curtis Brown was involved in the Hermilio Herrero case as well, right?

A. Yes.
Q. And the same informants were involved in the Herrero case as were involved in the Prible case, right?
A. No.
Q. Well, Nathan Foreman was involved in both cases, right?
A. No.
Q. Well --
A. You all say Nathan Foreman was involved in the Prible case. He was not.
Q. He spoke with you about the Prible case, right?
A. And he lied. He wasn't involved.
Q. And he spoke --
A. You want to make him involved. He wasn't involved.
Q. And he spoke also with you about the Herrero case, right?
A. Yes.
Q. And he ended up not testifying again -- with you -- or for you in that case, right?
A. That's right.
Q. Okay. But you, nevertheless, wrote him a Rule 35 letter to his prosecutor, right?
A. I did.
Q. Okay. Jesse Moreno talked with you about

Mr. Prible's case and Mr. Herrero's case, correct?

A. He did.

Q. Rafael Dominguez spoke with you about Mr. Herrero's case and his name was also listed -- he -- he -- his name came up in that conversation that you had in August 8th, 2011 with Mr. Foreman, right?

A. With Nathan Foreman. Ralph Dominguez was not involved in the Prible case.

Q. Okay. But he was mentioned in that conversation that you were having with Mr. Foreman on August 8th, 2001?

A. By Nathan Foreman, who was lying.

Q. Okay.

A. So, that doesn't make him involved.

Q. I understand.

MS. SCARDINO: I'm going to -- objection, nonresponsive.

Q. (BY MS. SCARDINO) My question is Rafael Dominguez was mentioned by Nathan Foreman during that conversation you had with him on August 8th, 2001, right?

A. That does not make him involved.

Q. Are you going to refuse to answer the question?

A. No.

Q. Okay. One more time. Mr. Dominguez's name was

mentioned by Nathan Foreman when he met with you on August 8th, 2001, correct?

A. It was.

Q. Now, Exhibit 66, if you look at Exhibit 66, it's dated September 4th, 2001, and it's a letter from Bert Graham at the Harris County DA's office including -- enclosing the forms for the interstate agreement on detainers for Hermilio Herrero. Do you see that?

A. I do.

Q. And your signature appears on those documents?

A. It does.

Q. Okay. And this was five days after the indictment of Mr. Herrero on August 29th? Five or six?

A. Yes.

Q. Okay. So, you immediately filled out the paperwork for Mr. Herrero after he was indicted, the interstate agreement to have him transferred to Houston?

A. I didn't fill out this paperwork.

Q. I'm sorry. You signed it?

A. Kim Bryant was in charge of filling out the paperwork. That's the initial KB after Bert Graham. She was a lady at our office that completely was in charge of all of the paperwork for all of the detainers for all of the defendants for all the years I was there.

Q. Okay. On Page 2 of this exhibit, you'll see where you signed this detainer paperwork?
A. I did.
Q. Okay. Now, why did you not end up using Mr. Foreman at Herrero's trial?
A. I didn't need him. I didn't believe him.
Q. Exhibit 71, that's a letter dated May 5th, 2002 from you to FCI medium, and you're asking the prison to keep Jesse Moreno, Rafael Dominguez, Nathan Foreman and Eddie Gomez safe from Herrero because he's put a hit on all them for testifying in his case, right?
A. What's your question?
Q. Is that -- that's what it reflects, right?
A. Not exactly.
Q. Okay. Well, will you agree that the letter says what it -- says what it says?
A. The letter is a request to try and keep them safe.
Q. Right. And you refer to four witnesses, one of whom is Herrero, right?
A. Yes.
Q. I mean -- I'm sorry. One of whom is Foreman, right?
A. Yes.
Q. Okay. But you just said that he lied and you

didn't believe -- you didn't believe him?

A. He didn't testify.

Q. That's not my question. You just said that he lied and you didn't believe him, right?

A. I just said that Nathan Foreman did not testify in the Hermilio Herrero trial.

Q. And you also found him to be a liar, right?

A. I did not believe him to be credible, no.

Q. And nevertheless, you gave him favors for his assistance in the Herrero case, didn't you?

A. I did not. I wrote him a letter.

Q. Well, you also asked for the prison to keep him safe based on his testimony in that case when he didn't testify, right?

A. I think I still have an obligation to keep a man from being killed, don't you? Even if I think he's a liar, I can't let him get killed.

Q. Let's look at Exhibit 72. Exhibit 72 is a May 1st, 2002 letter from you to U.S. Attorney Todd Clemons. We -- we mentioned his name earlier. And it says, quote, "Moreno told me initially of the possibility of other witnesses to admissions made by Herrero about his committing this murder in 1995." And those other witnesses we saw in that --

A. Okay. You just read -- which paragraph is

that?

Q. Let me see.

A. Oh, I see it.

Q. You see it?

A. Yes.

Q. Because I don't.

A. Yes.

Q. Where is it?

A. Bottom of the first page.

Q. Okay. Here we go. Okay. "Moreno told me initially of the possibility of other witnesses to admissions made by Herrero about his committing this murder in 1995. Moreno and the other three witnesses have all been cooperative. It was, however, Moreno who I presented to the jury as being the crux of the case, and it was almost entirely because of his testimony that the jury found Herrero guilty of murder," right? Right?

A. Yes.

Q. Okay. Now, the other three witnesses that you were referring to there were Foremen, Ralph Dominguez and Eddie Gomez, right?

A. I think so. I don't remember the last one.

Q. Okay. And by the time that you wrote this letter, you had determined that foreman was not with Moreno at the time Moreno claims he heard this testimony

from Mr. -- or this confession from Mr. Herrero, right?
A. I don't remember when I figured that out.
Q. Okay. At some point before Mr. Herrero's trial, you figured that out, right?
A. At some point before Mr. Herrero's trial, I did not believe that Nathan Foreman was being completely truthful.
Q. But regardless, you wrote this letter to the U.S. attorney for Mr. Moreno, saying that all three witnesses, including Foreman, had been cooperative?
A. That's correct.
Q. And Exhibit 73, even though by the time Mr. Herrero's trial you had found out that Moreno had been lying to you about Foreman being present, and you Mr. Foreman had also lied to you on August 8th, 2001, you, nevertheless, wrote a letter to Foreman's U.S. attorney asking for a sentence reduction for his assistance in the Herrero case; is that correct?
MS. MIRANDA: Do you have another copy of those last two letters?
A. Okay. What was your question?
Q. (BY MS. SCARDINO) By May 1st, 2002, Herrero's trial was over, right?
A. Yes.
Q. Prior to his trial, you had determined that --

not only that -- well, first, I'll break it down.

You had determined that Moreno's initial story to you about hearing the confession of Herrero in the presence of Nathan Foreman was false, correct?

A. I don't remember that -- making that determination, no.

Q. I thought you just were saying that at some point prior to trial, you determined that Mr. Foreman was not present during that confession?

A. No. I determined that Mr. Foreman was not being completely credible -- truthful.

Q. Did you not -- did you ever determine that Mr. Foreman was not present for the -- for Herrero's supposed confession to Moreno as Moreno had told you he was back in July of 2001?

A. I don't remember. I didn't going into a break it down determination of all the reasons why I thought Nathan Norman was lying. I just didn't believe him, so, I didn't use him.

Q. Okay. But you, nevertheless, wrote this letter to his U.S. attorney asking for a sentence reduction, right?

A. Not exactly. That's a lot different letter than the one I wrote for Jesse Moreno.

Q. Are you disagreeing that this Exhibit 73 is a

letter to Nathan Foreman's U.S. attorney asking her to consider his cooperation in the Herrero case?

A. I agree that I wrote this letter saying that Nathan Foreman was cooperative. I don't say nearly the parts about how truthful he was like I do with Jesse Moreno, and I do not specifically make a request for a downward departure like I do for Jesse Moreno. It's a different letter.

Q. Okay. And nowhere in this letter do you say, "Ms. Batson, I met with -- with Mr. Foreman. I think he's a complete liar"?

A. I do not say that.

Q. You do not say that?

A. No.

Q. And nothing was requiring you to write this letter, right? You didn't have to right this letter to Ms. Batson, right?

A. I did not.

Q. You chose to do that on Mr. Foreman's behalf?

A. I chose to write the letter.

Q. Now, Hermilio Herrero was convicted of murder in April, 2002, and he was sentenced to life in prison, right?

A. Yes.

Q. And Moreno and Dominguez testified him --

against him at that trial, correct?

A. Yes.

Q. Okay. And immediately after Herrero was convicted, you started working -- discussing with Moreno's U.S. attorney about getting his sentence reduced, right?

A. That's not how I would put it.

Q. Okay. How would you put it?

A. When I finish a trial -- when I finish a trial, I want to complete all of my to-dos and all of my paperwork to be done with the whole case to give the box to appellate.

I write the jury their thank you notes. I call all my witnesses to tell them what happened. I call all the cops to tell them what happened. And in this case, I needed to write the fed prosecutor letters, and I did that so I could be done with the case.

Q. Okay. I'm going to show you Exhibit 125. Now, Exhibit 125 is an undated letter from Jesse Moreno to you telling you exactly what to say to U.S. Attorney Clemons to get him transferred to another prison and to have his sentence reduced, right?

A. I don't know what this is.

Q. Okay. Have you never seen it before? It was found in your file.

A. I'm trying to recognize it. I don't remember seeing this.

Q. You've never seen that?

A. I'm not denying that it was in the file that you got from Brian Rose but I don't remember seeing this.

Q. Were you, in fact, able to persuade the unit team to transfer Moreno to the prison to keep him safe like we discussed earlier?

A. I don't know -- when are we talking about?

Q. Well, did you -- did you contact BOP in Beaumont and inform them that Moreno and these other witnesses -- these other three witnesses had testified -- or had cooperated in your case against Herrero and he needed to keep him safe?

A. I don't know what this says. I didn't read the whole thing. Is that what this is?

Q. No, I'm asking you after you got -- after you received this --

A. Are we done with this? I don't know if I received this. I do not recognize this.

Q. Okay. Were you able to persuade the unit team in BOP, the FCI Beaumont team to move Moreno and these other three witnesses to another area of the prison where they would be kept safe?

A. I don't remember. I hope so.
Q. Okay. So, that's something that you might have been able to do is all I'm -- is all I'm asking?
A. All I can do is make the request.
Q. Okay.
A. The federal prisons do what the federal prisons do.
Q. Okay. Now, Exhibit 123 -- Exhibit -- Exhibit 123 was also produced from your file by the DA's office, and it is a witness voucher for your testimony in an August 22nd, 2002 sentence reduction hearing for Jesse Moreno. Do you recognize this document?
A. I do.
Q. Okay. You filled it out, correct?
A. I didn't fill this out.
Q. You didn't fill it out?
A. No.
Q. Okay. Well, you -- you must have told someone how to fill it out so you could sign it and get reimbursed?
A. I don't know how it got filled out. It says signed by the assistant U.S. attorney.
Q. Okay. But you recall seeing this document, you recall making this -- submitting this fact witness voucher?

A. I remember seeing this.
Q. Okay. Now, this was never produced to Mr. Prible's defense team, was it?
MS. MIRANDA: Okay. I'm going to object at this point, and I know we're going to continue --
MS. SCARDINO: Well, hold on. Let me finish --
MS. MIRANDA: Okay.
MS. SCARDINO: -- my sentence.
MS. MIRANDA: Okay.
Q. (BY MS. SCARDINO) This was never produced to Mr. Prible's defense team, was it?
MR. DOYLE: Objection.
A. Why would it be?
Q. (BY MS. SCARDINO) I'm just asking you if it was ever produced to Mr. Prible's defense team?
A. This piece of paper having to do with Jesse Moreno, you're asking me why I didn't produce this to Jeffrey Prible's defense team?
Q. I'm asking if you did produce it to their defense team?
A. No.
Q. Okay. Now, the hearing for Mr. Moreno that this references was in Lafayette, Louisiana, right?
A. I was instructed that that hearing was

confidential and that I was never to talk about it or of it to anyone, by a federal judge.

Q. Okay.

MS. SCARDINO: Objection, nonresponsive.

MR. DOYLE: Wait a second. If -- if it's something that's under -- under the Court -- federal judge's order, what are we going to do?

MS. SCARDINO: Yes. Actually, I can take care of that. We have a protective order in this case. We were able to get that file from the Court in Lafayette. We have a protective order. It's under seal. It's not to be used outside of this.

MR. DOYLE: So, you have the information on that?

MS. SCARDINO: I do. I do.

MR. DOYLE: Okay.

MS. SCARDINO: Yeah.

MR. DOYLE: And so, would this portion of this record be sealed?

MS. SCARDINO: Yes.

MR. DOYLE: Okay.

MS. SCARDINO: I'm going to ask that it be sealed, and I'm going to ask that the document itself, the --

MR. DOYLE: That's fine.

MS. SCARDINO: -- hearing transcript be sealed. Now, this was in her file. This is not under the protective order.

MR. DOYLE: Okay.

MS. SCARDINO: 123. Okay? And when we go on break for lunch, I'll show you that protective order.

MR. DOYLE: Okay.

MS. MIRANDA: Can we take just a really super quick break? I just need to consult with them really quickly about something? Are we almost --

MS. SCARDINO: Okay.

MS. MIRANDA: -- done with this line of questions?

MS. SCARDINO: Yeah, we're almost done with this line of -- I mean --

MR. DOYLE: Well, she needs to get an answer to this, though, right? That's what your caucus is about?

MS. MIRANDA: Well, I'm a little concerned about --

MS. SCARDINO: Oh, about the protective order?

MS. MIRANDA: -- about the line of questioning, and so --

MS. SCARDINO: Well, we can -- okay. Well,

why don't you make your --

MR. RYTTING: Make your objection.

MS. SCARDINO: -- question to me on -- yeah, go ahead and make it on the record.

MR. RYTTING: Just object.

MS. MIRANDA: I'll just make my objection on the record.

MS. SCARDINO: Yeah. Yeah.

MS. MIRANDA: And then we'll just keeping going. All right. But I'm going to object at this point with the depth and detail into which we are going into the Herrero case because the Herrero case is only relevant to this proceeding to the extent that it informed her knowledge of the informants in the -- in the penitentiary.

And so, I'm going to object that we might be using this deposition as discovery in another case for a defendant that he's representing.

MS. SCARDINO: Okay. Tina, that's an improper objection under the Rules and it's coaching of the witness, and you know as well I do that there is no restriction on this deposition --

MR. DOYLE: You just --

MS. SCARDINO: -- to the matters between Prible versus matters regarding Herrero.

MS. MIRANDA: Okay. We are in a litigation about a client. The fact that you can depose this person with respect to Mr. Prible does not -- that -- there are restrictions. There's restrictions to the scope of this case. You can't depose her for discovery for every other case that he represents her in.

And I understand that the judge was upset about us coming to him but I -- that is something that I will go back to the judge on. You -- you don't get permission to depose a witness in a case about a thing and then you get to go into all that.

Now, I understand -- I'm saying that I understand there's some leeway with the Herrero case but I'm objecting because it appears that we're going into discovery matters for that case and not this case.

MR. RYTTING: Look --

MS. SCARDINO: Okay. Let's go ahead and go off the record and we're going to have call the judge again because this is related to Mr. Prible's matter -- case.

MS. MIRANDA: Okay.

MS. SCARDINO: The Herrero and Prible cases are interrelated. This is what our motion for the depositions and motion for discovery was about, which was granted by the Court.

MS. MIRANDA: Okay. And if you -- before we do that, if you could just give me a few minutes to consult with them, then maybe we can come to -- I can figure that out.

MS. SCARDINO: That's fine.

MS. MIRANDA: Okay.

THE VIDEOGRAPHER: The time is 12:25. We're off the record.

(Lunch recess.)

THE VIDEOGRAPHER: This is the beginning of file 5. The time is 1:20. We are on the record.

Q. (BY MS. SCARDINO) Okay. Ms. Siegler, earlier we were talking about the open file policy that you said the DA's office had during this time period that Mr. Prible was prosecuted, and in that -- when a defense attorney came in to view the file, would they be able to take notes of what they were reading?

A. Yes.

Q. But they would not be able to make copies of the documents in the file; is that right?

A. Correct.

Q. And you testified that you had no work product file that you kept as such, correct?

A. Not per se, not necessarily, no.

Q. Okay. And that is because all of your work

product would have been reviewable by the defense, right?

A. I'm trying to think of what work product might have come up in Prible early on. I can't think of what it would have been.

Q. Okay.

A. But my notes I wouldn't have considered work product.

Q. Okay. All notes -- any notes that you took working on this case would have been available to defense attorneys to see; is that right?

A. Yes.

Q. Okay. And how do you define work product? What's your understanding of that definition? The legal definition of work product.

A. We tried to keep most things not work product just because it was simpler.

Q. Okay. Do you -- do you know what the term "work product" -- how it's defined under the law?

A. Tell me.

Q. No, I'm asking you if you -- if you know?

A. No, I don't know the criminal definition of it.

THE VIDEOGRAPHER: I'm sorry, Ms. Scardino, can you put on the microphone.

MS. SCARDINO: I'm sorry.

Q. (BY MS. SCARDINO) Okay. There were other nontestifying informants that were involved in the Prible case; isn't that right?

A. I remember Michael Beckcom but Michael Beckcom testified.

Q. Okay. Do you remember discussing Mr. Prible's case with other inmates other than Mr. Foreman and Mr. Beckcom in FCI Beaumont?

A. I don't remember. I could have but I'm not sure if I did there or where or who it would have been.

Q. Okay. I'm going to show you Exhibit 112. And you see on the last page of this Exhibit 112 it says the letter was received by you on May 22nd, 2002? Do you see that?

A. Just a second.

Q. Okay.

A. Okay.

Q. Okay. And this letter to you is from Jesse Gonzalez and Felix Gonzalez. Do you see that at the top?

A. I do.

Q. Okay. Do you remember Mr. and Ms. -- or Mr. Jesse Gonzalez and Felix Gonzalez?

A. I never met them.

Q. Okay. Do you recall that they were -- I'm just

asking you if you -- if you remember them. Do you remember them?

A. I never met them. I remember getting this letter.

Q. Okay. Do you remember that they're a father/son duo that's incarcerated together in FCI Beaumont?

A. Only from this letter.

Q. Okay. But you did -- you remember receiving this letter in May of 2002?

A. Yes.

Q. Okay. And in this letter, Mr. Gonzalez said that he and his father have spoken to you twice on the phone about the Prible case, right?

A. That's what he says.

Q. Okay. And he -- do you recall speaking to him on the phone about the Prible case?

A. I do not.

Q. Do you -- do you just not remember or did you not -- let me ask that question more clearly.

Did you ever speak on the telephone with the Gonzalezes about Mr. Prible's case?

A. Not that I remember, no.

Q. Not that you recall, no?

A. (Witness indicated by shaking her head

negatively.)

Q. Okay. And you notice in this letter that the word "Prible" is misspelled, do you see that?

A. I do.

Q. With two Bs instead of one?

A. Correct.

Q. Okay. And Mr. Gonzalez, in this letter, also mentions a newspaper article that he had recently seen about the case while he was in prison, right?

A. He does.

Q. Okay. Now, was it your practice with informants if someone reached out to you with information about a case and you spoke with them on the phone to ask them to write you a letter detailing what they knew about the case?

A. No.

Q. That wasn't a practice that you had?

A. No.

Q. Did you ever ask any informant to put down what they knew in writing and send it to you?

A. I did not.

Q. Did you ever tell potential informants to take a prison photograph with the defendant that they were working to testify against?

A. I saw that in your petition where you said I

did that. That is a lie.

Q. I'm just asking you. So, you deny that you ever did that?

A. I did not.

Q. Okay. But you are aware of such informant photos, correct?

A. I saw the picture.

Q. Okay. When was the first time you saw that informant photo?

A. I don't know if I first saw it at Beaumont or when -- when Beckcom got back to Harris County right before the trial.

Q. But you saw the photos prior to the trial of this case?

A. Yes.

Q. Okay. And they were shown to you by Beckcom?

A. I think it was Beckcom.

Q. Okay.

A. But I'm not sure about that either.

Q. Okay. Now, parts of this letter from Mr. Gonzalez don't make sense, right?

A. They do not.

Q. Okay. And what was your take on this letter when you received it?

A. Mr. Gonzalez was trying to glom on and put

himself in the middle of a case to try and get himself a deal, like every other inmate in federal prison.

Q. Okay. And did you believe his story from this letter that he had heard Mr. Prible confess?

A. I did not believe his story for lots of reasons.

Q. Also, if you notice in this photo -- in this Exhibit 112, Mr. Gonzalez says that he knew about Jeff and Jeff's case before Jeff even got to the medium from the low. Did you see that?

A. I did see that.

Q. Okay. How might an inmate know that another inmate is going to be transferred to their unit of the prison?

MS. MIRANDA: Objection, form.

A. I have no idea. I didn't believe what this letter had to say.

Q. (BY MS. SCARDINO) And is that why you decided not to have Mr. Gonzalez testify against Prible in his case, because you determined that he was not credible?

A. Correct.

Q. Okay. Did you ever show Mr. Gaiser or Mr. Wentz this letter from Mr. Gonzalez?

A. It would have been in the file.

Q. Okay. So, your -- your testimony is yes, you

did show it to them?

A. I don't know if they looked at it or not. It would have been in the file.

Q. It would have been in the file that you gave them to review when they came into your office to review the file?

A. Correct.

Q. And do you have any written record of what was in that file that you gave them to review?

A. No.

Q. Okay. You never made any notes about specifics?

A. The file was an open file. I've known Terry Gaiser for years. Any time he wanted to read the file, he could come. I would even bring it to court for him to read during docket call. "Here it is, Terry. Knock -- knock yourself out."

Q. Now, Exhibit 113 -- Exhibit 113 is a letter from Carl Walker, another inmate in FCI Beaumont, to you about Mr. Prible's case. Do you recognize this letter?

A. I do, but this is the only letter I noticed you all talk about in your petition where you don't have the envelope attached with the date. I'd like to see the date, please.

Q. Well, I'd like to see it also but it wasn't

produced to us from your file.
A. That's odd.
Q. Do you think it should be in your file somewhere?
A. You should ask him that.
Q. Well, I'm asking you because you know what's in the file. Would you have kept that --
A. Yes.
Q. -- in your file?
A. Yes.
Q. Okay. So -- and it would be -- and in your mind, we should be able to review the entire file, right, that you had in this case?
A. No, I just want to know where the envelope is because you've attached the rest of the envelopes.
Q. Right. I've attached everything that was given -- I'll represent to you that was produced to us by the DA's office.
So, you've seen this letter before. Do you recognize it?
A. Okay.
Q. Okay. Now, why did you not use Carl Walker to testify against Mr. Prible?
A. I didn't believe him.
Q. Okay. Did you ever speak with him on the

phone?

A. I don't even remember the name of Carl Walker. Unlike the other inmates whose names I do recognize, I don't remember Carl Walker's name.

And I also notice in this letter that he talks as if Prible had already been indicted, unlike the others, which, again, makes me wonder where is the envelope that went with this letter.

MS. SCARDINO: Objection, nonresponsive.

Q. (BY MS. SCARDINO) And I would very much like to see that envelope also, I would represent to you. So --

Okay. So, you chose -- you decided not to use Mr. Walker because you thought he was not credible?

A. Based on what he's saying here --

Q. What he's saying here?

A. -- it doesn't make sense.

Q. Okay. But you're saying that you showed this letter to Mr. Prible's defense team?

A. I'm saying it was in the file.

Q. So, you can't say for certain that you showed this letter to Mr. Prible's defense team?

A. I don't know what they read. The file was open for them to read whatever they wanted.

Q. Let's look at Exhibit 114.

MR. DOYLE: Thank you.

Q. (BY MS. SCARDINO) Exhibit 114 is a letter from Mark Martinez, another inmate at FCI Beaumont, to you. And if you look on the third page, there's an envelope that's dated April 30th, 2002. Do you see that?

A. Just one second.

Q. Okay.

A. Okay.

Q. Okay. Now, why didn't you use Mr. Martinez in your case against Mr. Prible?

A. Because it's pretty obvious that he's just trying to jump on the bandwagon of what all they're all saying to each other out there. He's trying to say whatever he can to act like he knows something he doesn't know for a time cut, like every other inmate in federal prison. I didn't believe him either.

Q. And -- and when you say talking about things --

MS. SCARDINO: I'm sorry, if you could read back her statement on that just so I get right.

MR. DOYLE: Something about time cut.

MS. SCARDINO: Something about all the -- all the other inmates that were talking about the case.

A. That's what he said.

Q. (BY MS. SCARDINO) Right.

A. They were all talking about it.

Q. Okay. Okay. So, he said that all -- and you got this -- you received this letter from him about four months before Mr. Prible's trial -- six months -- about six months before Mr. Prible's trial?

A. Yes.

Q. Okay. So, it looks like you had several inmates in FCI Beaumont auditioning for this role of informant against Mr. Prible, right?

A. Federal inmates audition for any role they have on any case they can think of with any information they might hear to try and get a time cut. That's what federal inmates do all day long 24 hours a day every day of the year.

Q. Yeah. So, you knew that they were doing this before Mr. Prible's trial, right?

A. I'm not stupid.

Q. Okay. But your testimony is that you gave each of these informant letters to Mr. Defense -- or Mr. Prible's defense counsel prior to his trial, right?

A. My testimony is these letters were in the file.

Q. Okay. So, you can't say for sure whether you gave these to Mr. Gaiser and Mr. Wentz?

A. I don't know what he read. I didn't babysit his note taking and what he pulled out of the file to read.

Q. Now, if you look at these letters, if you line them up side by side, do they look to you like they might have been typed up by the same person?

A. They --

MS. MIRANDA: Objection, form.

A. They have similarities.

Q. (BY MS. SCARDINO) I'm going to show you Exhibit 127. And, again, we don't have the envelope for this letter that would show the date that it was mailed to you but it's from Michael Beckcom, another inmate at FCI Beaumont who eventually testified against Mr. Prible, correct?

A. Okay. What was your question?

Q. You remember receiving this letter?

A. Not this one.

Q. Okay. Well, I'll represent to you that it was produced by the DA's office from your file.

Okay. Now, does this letter have similarities to the other inmate letters? The similarities you just mentioned, aren't they --

A. The language in the body are nothing alike. I would think that they all had to use the same typewriter in whatever office they were allowed to use for their allotted time of day. So, the typewriter is probably going to be the same.

Q. Okay. And the formatting of all of these is the same, the indentions, the spacing, et cetera?

A. That is the same.

Q. Okay. Now let me show you Exhibit 180. This is a letter typed up by Michael Beckcom found in his Port Aransas -- or his Aransas County capital murder case, from that file. Do you see the same similarities in this -- the formatting of this letter as in these other informant letters?

A. I see that they look like they could be the same typewriter.

Q. Okay. Did it ever occur to you that these Exhibits 112 through 114, those informant letters could have been typed up by the same person?

A. They might have been. I don't know. I think the similarity is the typewriter.

Q. Did it raise a red flag to you when you received these letters that they all looked the same?

A. Yes.

Q. And did -- and that red flag to you was that they could have been typed up by the same person?

A. I don't know if I thought that.

Q. Okay. What was the red flag that you were referring to?

A. Well, the main red flag was between -- or in --

in comparing the two letters written by -- the Jesse and Felix Gonzalez letter compared to the Carl Walker letter. To me, those are the ones that raise -- and Mark Martinez, those raise the red flags.

Q. Okay. And it was obvious that these guys were talking about this case on the yard together?

A. Jesse Gonzalez, Felix Gonzalez, Carl Walker and Mark Martinez, yes.

Q. Okay. But it wasn't obvious to you that they were speaking about this case with Mr. Beckcom even though he had --

A. Not based on this letter. It has nothing to do with Prible.

Q. And not -- and not looking at the substance of the letter --

A. But that's what we're talking about.

Q. -- the for -- excuse me -- the formatting of the letter, did it appear to you that they were all typed up by the same person?

A. No.

Q. Okay. In looking at it still, you disagree that Mr. Beckcom had typed up all of those letters?

A. I would have no way of knowing that.

Q. Okay. And it didn't even cross your mind at the time that he could have been typing up those

letters?

A. No, ma'am.

MS. SCARDINO: I'm going to backtrack just a minute to -- James, to put on the record that agreement that we --

MR. DOYLE: Okay.

MS. SCARDINO: -- made earlier because I forgot to do that when we started.

(WHEREUPON, SEALED PROCEEDINGS HAVE BEEN REMOVED AND BOUND SEPARATELY.)

Q. (BY MS. SCARDINO) I'll show you Exhibit 176. It's an affidavit you filed in the state habeas hearing, Hermilio Herrero's habeas proceeding. I'm sorry. And you signed that affidavit on March 22nd, 2016; is that correct?

A. Okay.

Q. Okay. Nowhere in that affidavit do you say that you traveled to Louisiana and testified in Mr. Moreno's Rule 35 hearing, does it?

A. Why would it?

Q. I'm just asking you if it does. Does that appear anywhere in there?

A. It does not.

Q. Now, moving on, there was a criminal history report for Nathan Foreman that we talked about earlier.

Does the defense -- they don't have equal access to those reports, correct?

A. They do.

Q. They do?

A. Yes.

Q. How does a defense attorney go about running a criminal history report?

A. He opens the DA's file and looks at the criminal history.

Q. Okay. I understand that. Is there any way that the defense attorney would be able to see that criminal history report if he wasn't looking at it in a file at the DA's office?

A. Hire a private investigator and they get the criminal history for them.

Q. Okay. What was your policy regarding giving criminal history printouts that you had printed for witnesses and for alternate suspects, what was your policy about giving those over to the defense?

A. We gave them over to the defense.

Q. You gave all of the ones that you had run for all witnesses, you gave them to the defense?

A. What do you mean "all"? We're talking about which case?

Q. In -- in Mr. Prible's case.

A. Can you rephrase the question?
Q. Sure. Let's see. You -- let's see. I can show you each of these, if you'd like, if you feel like you need to see them, or I can just tell you the names.
A. I gave the defense the criminal histories of every witness that testified in the Prible case.
Q. Okay. If a witness did not testify, you didn't give them that criminal history, right?
A. Who are we calling a witness? I don't call Nathan Foreman a witness.
Q. You don't call him a witness?
A. Not in the Prible case.
Q. Okay. Was he a witness for you in the Herrero case?
A. He tried to be.
Q. Okay. Now, he had knowledge about Prible's case, right?
A. He was lying.
Q. Okay. But he was connected to Prible's case because he came to speak with you about it, correct?
A. He's still lying.
Q. Okay. So, you did not -- okay. So, you didn't give a criminal history report for Nathan Foreman to the defense to Prible's case?
A. He wasn't a witness.

Q. Okay. Did you give Exhibit 87 -- this is a criminal history report for a Beaumont -- FCI Beaumont inmate named Jonathan Jefferson that was found in your file. Mr. Jefferson did not testify in Mr. Prible's case. Did you give this Exhibit 87 to defense counsel?

A. I don't know who Jonathan Jefferson is, and I don't know what Terry Gaiser chose to take notes from in the file.

Q. Okay. But you just said that you only gave the criminal history reports for testifying witnesses, right?

A. I said that I know for sure I gave them criminal history reports for testifying witnesses. There could have been other ones in the file that Terry might have looked at. I don't know what he took notes from.

Q. You don't have -- you don't have any independent recollection of giving him this criminal history report of Jonathan Jefferson, do you?

A. I do not.

Q. Exhibit 86 is a criminal history report for a man named James Martin. Again, he did not testify in Mr. Prible's case, so, you would not have given this exhibit to Mr. Prible's defense counsel, correct?

A. I don't know who James Martin is.

Q. Was he an alternate suspect in this case?
A. I have no idea who he is.
Q. I'm going to show you Exhibit 106. It's part of that criminal history report with Mr. Martin with some notes down at the bottom.
MS. MIRANDA: I don't have a copy of that one.
MS. SCARDINO: I'm sorry.
MS. MIRANDA: Thanks.
Q. (BY MS. SCARDINO) Is that your handwriting?
A. It is.
Q. Okay.
A. This is Johnny Bonds' handwriting. The bottom is my handwriting.
Q. Yes, the bottom is your handwriting. Okay. And if you could read that handwriting into the record, your handwriting.
A. "Nothing has ever happened between this witness and defendant per Martin 9-10-02."
Q. And the next --
A. "Knew" --
Q. Sorry.
A. "Knew nothing regarding complainant and defendant's activities and no recall day of money in the bag."

Q. So, from these notes, it looks like you reached out to this James -- James Martin to follow up on a statement that someone had given you in this case?

A. I wouldn't say reached out. I would say I talked to him, whether it was on the phone or in person. These are my notes talking about that conversation.

Q. Okay. I'm going to show you Exhibit 43. This is a statement of Jamie Diane Lyons given on April 29th, 1999. And if you go to the second page, the first paragraph, it says, "I don't know of any enemies that Steve might have. The only friends of his that I met were James Martin, lives in Woodgate subdivision on Lemonwood, and a white guy who I've since learned to be Jeff Prible. About seven months ago, Steve, Crystal and I were at James' house on Lemonwood when Jeff came over with a baby shower bag full of money. The whole bag was full of cash." Do you see that?

A. I do.

Q. Okay. Did you contact Mr. Martin in order to check out whether Jamie Lyons' story was correct?

A. I don't remember but that would make sense.

Q. Okay. And he -- and from looking at your notes, it looked like he gave you a different story than Ms. Lyons gave in her statement; is that right?

A. It looks like he told me he didn't remember

anything about this baby bag full of money.

Q. That's right. And these notes of yours were never presented -- or disclosed to Mr. Prible's attorney before his trial, were they?

A. About Jamie Lyons and the baby bag full of money?

Q. No. Your notes on Exhibit 106 about your conversation with this witness, James Martin.

A. I don't know if they were or not. This statement was in the file of Jamie Lyons. The name of James Martin was in her statement for Terry Gaiser to follow through with himself. I don't know if Terry Gaiser took notes from this or not, No. 106.

Q. Do you think it was sufficient to give the defense attorneys the name of a witness to disclose -- or to -- let me -- let me restate that.

In order to fulfill your Brady obligations as a prosecutor, do you believe it was sufficient to simply give the name of a witness to defense counsel without giving the context of what that particular witness had spoken to you about?

A. That's not what I said.

Q. I'm asking you --

A. I do not.

Q. -- if that's your belief? You do not?

A. Not if I have exculpatory information, no.
Q. Okay. You're required to give --
A. The exculpatory information.
Q. -- the substance of that exculpatory information? Okay. But I believe you said that you gave the name of James Martin to Terry Gaiser and it was up to him to follow through on this?
A. I didn't say that.
Q. That's not your -- your testimony?
A. No. That's not what I said. I said this statement was in the file. The name of James Martin was in the statement, and these notes specifically were also in the file. Whether Terry Gaiser read it or not, I don't know. I don't know what Terry Gaiser read.
Q. Exhibit 154, if we can find that.
MR. DOYLE: What does it look like?
MS. SCARDINO: That's the --
THE WITNESS: Office manual.
MS. SCARDINO: -- office manual. Here's a copy if you need one.
MR. DOYLE: Thank you. I've got it, thanks.
Q. (BY MS. SCARDINO) And the office manual had --
MR. DOYLE: I'm going to give it back to you, Gretchen.

MS. SCARDINO: Okay.

Q. (BY MS. SCARDINO) The office manual had guidelines regarding the use of informants, correct?

A. I don't remember what all it had. It was -- it was this thick.

Q. Right. It was very thorough --

A. Yes.

Q. -- would you say?

A. Yes.

Q. And the reason it would have had guidelines about the use of informants is because as -- as we've just discussed, prison inmates are notoriously unreliable, right?

A. They lie.

Q. They lie. Everyone in jail wants a time cut?

A. Yes.

Q. Everyone wants out?

A. Yes.

Q. And so, the office needed to have guidelines regarding the vetting and the usage of informants and the benefits that were exchanged with informants for the purpose of transparency, right?

A. I didn't write the guideline. I don't know what their thinking was. This -- the -- the Harris County DA's office guidelines were written way before I

got there.

Q. Okay. But you were familiar with these guidelines as a prosecutor, right?

A. Yes.

Q. Okay. So, if you look at Page 15 of this exhibit, it contemplates two situations when informants might be used, right? And one such circumstance was where the defendant had a case pending and he and his attorney decided -- or sought to have him become an informant to work off the case. Do you see that?

A. I do.

Q. And if the trial bureau prosecutor had no objections to that arrangement, it would be referred to the Special Crimes Bureau for approval. The Special Crimes prosecutor enters into a contract with the defendant and his attorney and notifies the trial prosecutor when the contract is completed or not completed. Do you see that?

A. I do.

Q. Okay. And the second situation in -- in which informants might be used was where the defendant had a case pending, again, and a police officer who has used the defendant as an informant in the past requests special consideration in the form of a lenient sentence, and in that case, the trial bureau prosecutor would make

the determination of whether such consideration ought to be given and then must follow and it lists a procedure. Do you see that --

A. I do.

Q. -- that must be followed?

A. I do.

Q. Now -- so, the DA manual contemplates two situations when informants might be used, right?

A. No.

Q. And --

A. These are two specific unique situations, working off a contract and when a cop wants to work his own informant, completely separate than what we've been talking about all day.

Q. And -- and that -- that was my next question. Neither of these situations applied to this case, right?

A. Correct.

Q. Okay. If the second situation would have applied, the guidelines required several people to sign off on the use of an informant, right?

A. It's a whole different situation.

Q. Okay.

A. It's not anything like using an informant as a witness in another case.

Q. Okay.

MS. SCARDINO: Objection, nonresponsive.

Q. (BY MS. SCARDINO) Let's look at the section -- Section 2. It said if that section would have applied, "The requesting officer must produce his request in writing with approval of a supervisor of the grade of lieutenant or above attached thereto. The chief of Special Crimes or one of the members of the organized crime division must be notified to determine if the informant has good, bad or no past history with regards to information furnished. Both the chief prosecutor in the trial court and the first ADA must approve such special consideration in writing, which shall become part of the file. Additionally, Special Crimes shall log the special consideration information in a well-bound book kept for such purposes. It is the trial bureau prosecutor's responsibility to ensure that such information is communicated to Special Crimes." Do you see that?

A. I do.

Q. So, in these two -- in these two situations in which the use of informants might be contemplated, no fewer than, I believe, six people had to sign off -- or five people had to sign off on the use of that informant; is that right?

A. No. Do you want me to explain?

Q. No. I'm asking you in -- in what I just read, if the second situation would have applied, the guidelines required several people to sign off on the use of that informant, right?

A. It's the working off of contracts that's the issue here, not the use of the informant. We didn't want cops taking -- taking it upon themselves to work off dope cases or to work their informants and a cop's unilateral decision, a narc on the street making that call without going through us. It's the working off of the contract that's at issue here, not the use of the informant necessarily.

Q. Okay. So, if you were dealing with an -- an informant who was just trying to work off a drug case, like a narc case, then this would have applied?

A. This is -- this is -- this is to put an informant on the streets to work off a case the cop has on him by trying to sell more dope by hooking him up with the bigger guy up the chain. The goal was to get the bigger guy up the chain.

And our reason for this rule was to stop the cops from doing it out there willy-nilly without us knowing what was going on and making those deals.

Q. Okay.

A. Nothing to do with simply testifying as a

snitch in a case.

Q. Okay. And if -- and my question to you is if you did have a narc case like you just described, no less than five people would have had to sign off on that, right, according to this?

A. There were -- there were a lot. I was the boss of Special Crimes. There were a lot.

Q. Okay. And that was my next question. Were you Special Crimes -- you -- at this point, you were in Special Crimes. So, you would have had to have been one of the people that signed off on the use of the informant for that working off a contract type case?

A. The contract.

Q. Is that correct?

A. We didn't want -- we didn't want a cop working off 20 kilos of cocaine by having some street guy going and buying some marijuana and saying, "Oh, we're all good. Special Crimes, let his case go." It's the contract that was the problem. We wanted to know every deal going on with drug cases with contracts. We wanted to be aware of it.

Q. And the reason it was so important in that case to have so many people sign off on the use of an informant was so they could vet that informant's credibility, right?

A. It was really to watch the cops, to be honest with you.

Q. Okay.

A. We didn't want cops deciding all by themselves who they were going to work off. We wanted to decide.

Q. Okay. So, the reason it was important was transparency, you didn't want the cop to be able to do something that you all were unaware of, right?

A. We -- we didn't like the whole concept of working off dope cases -- of working off dope cases that way anyway but this was to watch the cops.

Q. Okay. Now, it refers -- the passage I read earlier refers to a well-bound book. What is that book and where can I find it?

A. It wasn't really a well-bound book. When I was involved with this, it was like a folder passed down forever with contracts in it. And the whole time I was in Special Crimes, I don't know if I ever even saw a contract. That's how rare they were because we didn't like them.

Q. Why didn't you like them?

A. We didn't want the cops doing it. If you had a dope case, you had a dope case. Take it to court. Take it to trial. Don't work it off on the streets because they never got the bigger guy.

Q. So, now when you --
A. They would just get more dope. It didn't solve any problems.
Q. So, when used an informant in another context to testify in a case against you, you wouldn't enter into a contract with that informant?
A. Like this?
Q. No, just -- I'm just asking would you enter into a written contract with that informant?
A. Not under circumstances like the Herrero or Prible case, no.
Q. What about other circumstances, would you ever enter into a contract with an informant?
A. On immunity agreements, which were as rare as contracts, it was written down.
Q. Okay. Nothing was stopping you from putting the agreement that you had with an informant into the form of a written contract, right?
A. It was pretty transparent because I told the jury what the deal was.
MS. SCARDINO: Objection, nonresponsive.
Q. (BY MS. SCARDINO) There was no one at the DA's office that said, "You can't put your deal with an informant in writing," right?
A. We didn't need to. We told the jury.

MS. SCARDINO: Objection, nonresponsive.

Q. (BY MS. SCARDINO) There was no one at the DA's office that said, "You can't put a deal with an informant in writing," was there?

A. There was no rule that said I couldn't do that. There was also no defense lawyer who ever required me to do that.

MS. SCARDINO: Objection, nonresponsive.

Q. (BY MS. SCARDINO) Okay. So, you -- at least with these smaller cases, these smaller drug cases that were contemplated in this section that I just read to you, you were the person that would have had to approve the use of those informants in writing, right?

A. Well, it depends on where I was in Special Crimes at the time and where I was in the chain. The whole time I was in Special Crimes, I wasn't the ultimate signer off. It would have been my supervisor or boss, wherever I was in that time.

And you said smaller drug cases, these were the big drug cases. That's why they were rare.

Q. I'm sorry, I'm comparing them to a capital murder case. You have a drug case versus a capital murder case, right?

A. People get killed in those drug cases. That's why we didn't like the street deals.

Q. Okay. Okay. But in a -- in a drug case in which a defendant was trying to, quote, work off the contract, you required -- the DA's office required that informant deal to be in writing, right?

A. Yes.

Q. But in the case of if you're using an already convicted capital murderer in a federal prison to testify against another one of your capital murder defendants in a state case, there needed to be no writing memorializing that at all?

A. It essentially was in writing.

MS. SCARDINO: Object --

A. The defense lawyer understood what was happening who represented that inmate/witness. It was told to the jury. It was told in opening statement. It was told on direct examination. It was told on cross examination. And it was told in final argument. It was all out there.

MS. SCARDINO: Objection --

A. This was no secret.

MS. SCARDINO: Objection, nonresponsive.

Q. (BY MS. SCARDINO) Did you have a written contract with Mr. Beckcom in Mr. Prible's case?

A. I did not.

Q. Did you have a written contract with

Mr. Foreman in Mr. Prible's case?

A. One more time, Mr. Foreman was not involved in Jeffrey Prible's case. I know you want him to be but he was not.

MS. SCARDINO: Objection, nonresponsive.

Q. (BY MS. SCARDINO) Did you have a written contract with Mr. Foreman for Mr. Prible's case?

MR. DOYLE: Objection, asked and answered.

A. Mr. Foreman was not involved in Mr. Prible's case.

Q. (BY MS. SCARDINO) Did you enter into a written contract with Mr. Moreno in the Herrero case?

A. No.

Q. Did you enter into a written contract with Mr. Foreman in the Herrero case?

A. No.

Q. Did you enter into a written contract with Mr. Dominguez in the Herrero case?

A. No.

Q. Did you enter into a written contract with Mr. Eddie Gomez in the Herrero case?

A. He did not testify, and I don't remember him for that reason, but the answer is there was no written contract for any of them.

Q. Okay. And you say that these informant

contracts were pretty rare, right? They didn't --

A. No, that's not what I said.

Q. Okay.

A. I said these contracts that you've talked about on Page 14 and tried to make appear to be the same kinds of testimony we've been discussing all day be relevant are very rare. That's what I said.

Q. I'm going to show you Exhibit 162. Exhibit 162 is an informant agreement made between the Harris County DA's office and Vincent Flores on July 23rd, 1996. Do you see that?

A. I do.

Q. And this document was produced by the DA's office in this case from your file. And this is an example of a contract that would be entered into by the DA's office with another -- with an informant, right?

A. I don't understand the relevance. Whatever this is, 162 has nothing to do with Prible or Herrero.

Q. And I'm not asking you if it has anything to do with --

A. Your question made it sound like -- you said it was produced as part of this file, as if it had something to do with Prible or Herrero, and that is not true.

Q. Okay. Do you know that Mr. Flores was -- was a

witness in Prible's case?

A. I don't remember him.

Q. Okay. This -- and I'm representing to you that this agreement was found in your Prible file and was produced to us by the DA's office. Do you deny that?

A. I don't remember him.

Q. Okay. You don't remember him?

A. I do not.

Q. Okay. Now, earlier when I was reading from Exhibit 154-5 and those two informant -- the contemplation of the use of an informant that we already discussed did not apply in this case but in those two situations, deviations from that policy could only be made in writing by the DA for good cause shown by the prosecutor urging such deviation, right?

A. If we're talking about Page 154-5 in the context of working off dope deals, contracts through Special Crimes, I don't know what the deviation might have been. I never dealt with the deviation where that would have arisen but if that's what the manual says, that's what the manual says.

Q. Okay. Is it your testimony that nothing in the policy manual addressed the situation when informants would be used in the matter that -- in the manner that you used them in the Prible case?

A. I have no idea what's in that manual. Like I said, it's this thick.

Q. Go back to Exhibit 154.

MR. DOYLE: You gave me an extra one.

MS. SCARDINO: Oh, I did.

MR. DOYLE: Yeah, a while ago.

MS. SCARDINO: Oh, yeah. I have it here.

Q. (BY MS. SCARDINO) If you go to Page 16, and it addresses agreements with cooperating individuals. Are you familiar with this paragraph of the manual?

A. Let me read it.

Q. Okay.

A. I haven't read the manual since about 1987.

Q. Okay. And I'll read it out loud --

A. Okay.

Q. -- along with you. So, Exhibit 154-16 says, "Agreements with cooperating individuals," and it says, "Approval of such requests" --

A. Where did you jump?

Q. I'm sorry. Oh, sorry. Six lines down.

A. Do you want to just read the whole thing?

Q. Sure. "It is the policy of the district attorney's office that officers who wish to use persons who are presently charged with an offense as informants or cooperating individuals shall contact an assistant

district attorney from the organized crime division, the major offender division or one of the other Special Crimes divisions with such request. Approval of such request must be obtained from the Special Crimes bureau chief or, in his absence, a Special Crimes division chief. The assistant shall review the circumstances of the case pending against the individual, his criminal record and what benefit is to be gained from using the individual and make a decision as to whether such agreement will be made. The -- the assistant will ensure that investigating officers from the pending case are contacted to allow their input in this decision making process. If the assistant agrees to offer some consideration on the pending case in exchange for the cooperating individual's assistance, this agreement will be reduced to writing and signed by the assistant, the requesting officer and his supervisor, the cooperating individual and his attorney. Any such writing shall contain the signature of the Special Crimes bureau chief or a division chief of the bureau signifying his or her approval of the agreement." Do you see that?

A. I heard what you just read, yes.

Q. Okay. And, again, you were the Special Crimes bureau chief, correct?

A. Yes.

Q. And you -- this is saying that in order for the district attorney's office to cut a deal with an informant, no less than six people had to sign off in writing; isn't that correct?

A. That's not what it says.

Q. That's not what it says? You disagree that that's what it says?

A. Read the first line again. "It is the policy of the DA's office that officers" -- police officers -- "who wish to use people presently charged." This is the same thing we were talking about earlier. This is to watch over cops wanting to make deals.

Q. Okay.

A. It's not what we've been talking about on the Herrero case or the Prible case.

Q. And I'm not asking about the Herrero case and the Prible case. I'm talking about the -- the Harris County DA's policy with respect to having informant agreements in writing.

A. These are cops working off cases with their informants, they need to be in writing.

Q. Okay. So, your understanding of the Harris County district attorney's policies was that no one needed to sign off on your use of informants in the Prible case; is that correct?

A. That's correct.

Q. Okay. You had the ultimate discretion whether to use an informant in Mr. Prible's case, right?

A. I did.

Q. And no one else needed to know about your use of that informant or your conversations leading up to your use of that informant in the case?

A. Well, it wasn't a secret. You made it sound like I was trying to keep a secret.

Q. Well, did you tell it -- did you tell -- did you share with Mr. Wisner and Mr. Bonds your communications with these various informants?

A. They knew what was going on. Vic didn't come to the Beaumont meeting with Johnny Bonds and me. Vic didn't go with me to talk to Michael Beckcom the day before he testified because Beckcom was my witness. We divided up the witnesses. He did his. I did mine.

Q. Looking at Page 154-16, talking about the use of informants in this paragraph 10 -- or D, agreements with cooperating individuals, and I understand you said it's a different situation than in the Prible case but in this case that they're referring to in this policy manual, no person who is on parole or probation would be used as an informant, correct, without the written approval of the parole board through its representative,

if on parole, right?

A. That's what it says, yes.

Q. Okay. But when you used informants in the Prible and Herrero case, it didn't matter that they were not only on parole but they -- not on parole but they were actually in prison, convicted for crimes at that time, right?

A. One more time, this was written for the situations where a cop, a narc wanted to work an informant on the streets and have him sell more dope or try to catch another bad guy, therefore, the requirement that that defendant who is on parole or probation at the time have to have his patrol officer or probation officer involved in the process of him working on the streets selling more dope was important. That is not what we're talking about in the Herrero case or the Prible case.

Q. Right.

MR. DOYLE: It might help if -- if you -- if you let her read what she pointed out to you, the first two -- two lines where it speaks of officers.

MS. SCARDINO: Okay. Well, let's keep -- let's keep our objections to -- to form.

MR. DOYLE: Okay. But you didn't -- you -- you -- okay.

MS. SCARDINO: Well, I already read -- I read that into the record but we'll move on to Exhibit 154 --

MR. DOYLE: Well, that was not read into the record, the first two lines.

Q. (BY MS. SCARDINO) Okay. Which lines are you referring to, Ms. Siegler?

A. "It is the policy of the DA's office that officers who use -- who wish to use persons who are presently charged with an offense," and it goes on, because this specifically deals with cops who want to work their informants for dope deals or higher-ups in the chain on the street, especially when those informants at that time on the streets might be on parole and might be on probation.

Q. Okay.

A. That is not the same as a testifying inmate.

Q. And that's -- that's my next question. So, is your testimony that it was the policy -- it was not the policy of the DA's office that prosecutors who needed -- who wished to use people that were incarcerated as informants needed to contact an assistant DA from the organized crime division, the major offender division or one of the Special Crimes divisions with such a request?

A. Are you reading from Page 154-16?

Q. Yes, I am. And I -- I just -- what I'm -- and -- and maybe we can make this easier if you just answer this question.

A. Okay.

Q. It looks like you go through a lot of hoops to use an informant in a case where you're trying to work off a charge?

A. It was to watch over the cops.

Q. Okay. And so, I think you'll agree that when you -- it sounds like when you used an informant that was already imprisoned in federal prison to testify against -- against Mr. Prible in his capital murder trial, that these requirements listed in the policy manual flew out the window, they didn't apply to that situation, correct?

A. Two different scenarios.

Q. Okay. So, the answer is yes, these guidelines did not apply to the situation in Mr. Prible's case?

A. Correct.

Q. Okay. And, likewise, moving on down that Page 154-16, it says, "No agreement for consideration on a pending case will be considered where the pending case involved any use of a deadly weapon, involved any act of violence to other persons, cooperating individual is a habitual criminal, cooperating individual has been

adjudged guilty on pending case, involves one person working off a case for another, vicarious contract, or the agency arresting the cooperating individual is not the agency seeking the contract, unless the arresting agency is aware of the contract and agrees to the terms in writing prior to any agreement with the cooperating individual."

So, is it your testimony that the passage I just read would not have applied to any of the informants that you used in the Prible or Herrero cases?

A. The passage that you just read applies to those defendants in the free world who a cop is asking to work off a dope case through a contract by selling more dope on the streets, and the passage here applies because if the pending case involved violence, weapons, serious victims and all that, those were the cases we were going to let a cop willy-nilly decide to work off a case through. To us, it was more important that the pending case matter than a copy deciding unilaterally to work off my case because he thought he had a good snitch that could get him more dope off the streets.

Q. Okay. So, let's go through these 1 through 6, and I'm going to take each informant from the Prible and Herrero cases and ask you a question.

First, Mr. Beckcom, Mr. Beckcom had already

been adjudged guilty on his pending case, right, he was in prison?

A. Well, it was -- it wasn't pending. It was resolved.

Q. I'm sorry. His resolved -- his case was resolved. He was in prison --

A. Yes.

Q. -- correct? He had been convicted of capital murder, correct?

A. Yes.

Q. He -- his deadly weapon of choice in that case was a metal toolbox that he had put his victim in and then threaded a garden hose from the exhaust pipe of his car and turned the car on, right?

A. Yes.

Q. Okay. So, it definitely involved an act of violence to another person?

A. It did.

Q. And he was a habitual criminal, correct?

A. I don't remember.

Q. You don't recall that he had been --

A. I don't want to argue with that but I don't remember.

Q. Okay. Okay. And then Foreman -- Nathan Foreman, his crime was assault causing bodily injury, do

you remember that?

A. Nathan Foreman never testified.

Q. That's not my question.

A. Well, which case are we talking about?

Q. I'm asking you if you recall that Nathan Foreman was convicted of assault causing bodily injury?

A. I don't remember what his conviction was for because I never used him.

Q. Okay. Do you remember that he was a violent criminal?

A. I never used him.

Q. Well, you spoke with him --

A. I don't know what --

Q. -- on August 8th, 2001, right?

A. I'm sorry?

Q. You spoke with him on August 8th, 2001, right?

A. I did.

Q. And did you ever speak with him again after that?

A. He probably tried to call me but I don't know what we talked about for very long because I knew he was a liar.

Q. Okay. But you never met with him in person again?

A. After the Beaumont -- after the --

Q. After the August the 8th, 2001.
A. -- downtown Houston day, no.
Q. Okay. Nathan Foreman was a habitual criminal, do you remember that?
A. I don't remember.
Q. Okay. Well, my question to you is these six requirements for an informant -- or for an agreement for consideration to be given to an informant in the type of case that we discussed earlier, the drug case on the street, if you had a different situation like the Prible case, it didn't matter if the informant was involved in a crime that had -- or committed a crime that involved the use of a deadly weapon, right, you could still use him?
A. Of course, it mattered.
Q. Well, you could still use him as an informant, it wouldn't preclude you from using him as an informant, right?
A. Not that alone, no.
Q. Okay. You could also use him if his crime involved an act of violence to another person?
A. I could.
Q. Okay. You could also use him if he was a habitual criminal?
A. I could.

Q. Okay. And you could also use him if he had been adjudged guilty on another case?

A. I could.

Q. Okay. So, these 1 through 6 requirements, they only applied if you were working with informants who were trying to work off a drug case on the street, right?

A. That's incorrect. These rules applied in writing because we were trying to watch over the cops, too, on Page 154-16, on those specific types of cases.

The factors that you've listed that you think are important, I agree they are important, and in any case, whether it's a murder or a DWI case, before I'm going to use a snitch or an inmate as a witness, I care about everything that's listed here. Of course, it's important. We don't just blow it off and use every inmate that comes walking around wanting to give information. That ought to be pretty obvious to you that I didn't use them all.

Q. Well, Mr. Beckcom, who testified in Mr. Prible's case --

A. Yes, ma'am.

Q. -- Mr. Moreno, who testified in Mr. Herrero's case, and Mr. Dominguez, who testified in Herrero's case, all of them were involved in crimes involving the

use a deadly weapon, an act of violence, they were all habitual criminals and they had all been adjudged guilty, right?

A. Those are typically the people that end up in federal prison that can be witnesses.

MS. SCARDINO: Object --

A. So, yes.

Q. (BY MS. SCARDINO) Thank you.

Now, the DA didn't have different guidelines for working -- for working with informants that were incarcerated in the federal system versus the state system, right?

A. No.

Q. Okay. Now, I mentioned earlier Jonathan Wayne Jefferson, and you said you didn't recall that name; is that right?

A. I do not.

Q. Okay. Do you remember that he was a trusted informant for the SIS and FCI Beaumont and he had been in the low unit of FCI Beaumont with Prible?

A. I don't remember his name.

Q. Okay. Do you remember if he reached out to you?

A. I don't remember him by name.

Q. Did you reach out to him?

A. I don't remember him. I mean, a lot of these names I do remember but I don't remember that one.

Q. Did you reach out to anyone in FCI Beaumont low about Mr. Prible's case?

A. The names we've talked about today I remember. If there are additional names, you can throw them at me but I can't come up with them off the top of my head.

Q. Do you recall -- and take the names aside.

A. Okay.

Q. Did you ever contact FCI Beaumont to ask to speak to an inmate?

A. You mean like generically or by name?

Q. By name.

A. Yes.

Q. Okay. You -- you could call FCI Beaumont and speak with a unit manager, I believe, and --

A. I would have Johnny Bonds do it --

Q. Okay.

A. -- because it was a pain and it took a lot of time. It was very inefficient.

Q. Okay. So, he could -- he could call FCI Beaumont and get an inmate that you needed to speak with on the telephone, right?

A. No, it was never that easy. Johnny would call and call and call and leave messages to try and get the

case manager or whatever they're called, and they only have certain hours of any day that they're allowed to talk to their case manager, and the case manager has lots of inmates. So, you had to get the case manager to call you back, to have a time slot on a certain day where the inmate would be there and we could be there at that time to ever hook up on the phone.

Q. Okay. And when you did finally hook up on the phone, the inmate would be in the unit manager's office speaking with you on the phone; is that right?

A. Yes. Yes.

Q. Okay. And that phone call would not be recorded, would it?

A. I don't know. That's a federal prison rule. I don't know what they're recording when they're calling from the case manager's office.

Q. Okay.

A. I don't know the rules.

Q. You do know that phone calls with inmates from the usual inmate phones, those would have been recorded, right?

A. I would assume so.

Q. Okay. I'm going to show you Exhibit 109.

MS. SCARDINO: How long have we been going since the beginning?

THE VIDEOGRAPHER: Total time?
MS. SCARDINO: Uh-huh.
THE VIDEOGRAPHER: 3 hours, 53 minutes.
MS. SCARDINO: Okay.
MS. MIRANDA: Did you say 109?
MS. SCARDINO: Uh-huh. Do you all have that? I don't know if I passed it out.
THE WITNESS: What is it?
MS. SCARDINO: One second.

Q. (BY MS. SCARDINO) Actually, let's start with 109, Page 5.

MS. MIRANDA: Do you have another one?
MS. SCARDINO: Yes.

Q. (BY MS. SCARDINO) See 109-5, do you recognize that handwriting as that of Johnny Bonds'?

A. I do.

Q. Okay. Turn to the next page. If you could just go to the next page for me, please.

A. Okay.

Q. 109-6, it's dated December 10th, 2001 and -- and that's Johnny Bonds' handwriting again, right?

A. Yes.

Q. Okay. Were you at this meeting with Mr. Jefferson with Mr. Bonds?

MS. MIRANDA: Objection, form.

A. I don't know that this was a meeting.
Q. (BY MS. SCARDINO) You don't recall any sort of meeting on December 10th, 2001 with Mr. Jefferson at the low unit in Beaumont?
A. I don't remember Jefferson at all.
Q. Okay. So, I guess nothing came of this meeting, right?
MS. MIRANDA: Objection, form.
A. I don't know if it was a meeting.
Q. (BY MS. SCARDINO) If it was -- if it was a meeting.
A. Yeah, I really don't remember that name.
Q. Okay. And so, you wouldn't have disclosed this -- this -- any sort of information that you and Mr. Bonds had with Jefferson on December 10th, 2001 to defense counsel, right?
MR. DOYLE: Objection, mischaracterizes what she said. She didn't say she had testimony with -- met with him. She didn't know.
MS. SCARDINO: And that's fine.
Q. (BY MS. SCARDINO) And so, I -- I suppose it wouldn't have been disclosed to defense counsel if you didn't know that it happened, right?
A. I don't know.
Q. Okay.

MS. SCARDINO: You know what, why don't we take a short break. Go off the record.

THE VIDEOGRAPHER: The time is 2:29. We're off the record.

(Short recess.)

THE VIDEOGRAPHER: This is the beginning of file 6. The time is 2:44. We are on the record.

Q. (BY MS. SCARDINO) I'm going to show you Exhibit 170, Ms. Siegler. This is the inmate phone list for Michael Beckcom dated December 19th, 2001. And you see that he added your name to his phone list on that day?

A. I see that.

Q. Okay. That was your direct line at the DA's office?

A. It wasn't my direct line but it was to major offenders.

Q. Okay. And if you go to Page 4 of that Exhibit 170, you see your name is written down there as well? It's about seven up from the bottom.

A. This is the printout, yes, I see that.

Q. Yes. Saying that he added you on February 5th, 2002?

MR. DOYLE: The one that says Page 30?

A. Yes.

MS. SCARDINO: Yes. I'm sorry.

Q. (BY MS. SCARDINO) Okay. And then if you go up a few more from that, it says, "Lilian Thorn, friend." Do you see that?

A. I see her name, yes.

Q. Do you know Lilian Thorn?

A. I've heard that name before but I don't know why.

Q. Do you remember that she's Foreman's mom?

A. No, I wasn't thinking of that. I was thinking of a white lady, so, no.

Q. Okay. Did you ever speak with Ms. Thorn?

A. No.

Q. So, you'll agree that every time you're -- oh, if you go to the follow -- the next page, this is his printout of his phone calls in 2002 from the inmate phones.

A. Okay.

Q. And we understand those are different from the unit managers' phones.

A. Okay.

Q. Okay. And so, every time that number 6178 appears, that phone call was made to you, right?

A. No. As I said, 6178 went to major offenders. You have Special Crimes. It has four divisions, each

with their own number. One of those was major offenders. It wasn't my direct line.

Q. Okay. Would he have been speaking with anyone else at the DA's office?

A. There were five -- five or six other prosecutors, two or three investigators.

Q. Do you know if he was speaking to any other investigators or prosecutors during the time that you were working with him on the Prible case?

A. You said this is the inmate phone.

Q. Right. This is Mr. Beckcom's phone records from 2002 --

A. So, he had his own phone?

Q. -- of phone calls he made from the inmate phones.

A. He had his own phone?

Q. No. This is from the inmate phones at FCI Beaumont.

A. Well, how do you know they're from Michael Beckcom?

Q. Because if you go to the top, it says, "Inmate name Michael Beckcom," and these were produced to us by the Board of Prisons. And so, my question to you is when that number -- the 6178 number appears on his phone list, that phone call was going to the Harris County

DA's office, right?

A. That is correct.

Q. Okay. But you're saying he might have been talking to other people in the office at the same time as he was talking with you, so, you didn't necessarily speak with him at those -- on those phone calls?

A. I'm saying that if he called 6178, the -- the major offenders number, depending on how long the call went or if he was placed on hold, he might not have ever connected with me. He could have called just to try and talk with me. I might not have been there. I might not have taken the call. So, just because there's a call made to 6178 doesn't mean he necessarily ever even connected with we.

Q. Okay. It was an attempt by him to call you at least?

A. Yes.

Q. Okay. And you'll see on Exhibit 170 that he called that 6178 number that he had put on his phone list as belonging to you, he called it on April 4th, 2002?

A. Can you show me? Otherwise, it will take us a while.

Q. I'll tell you what, they're highlighted.

A. They are?

Q. Yep. So, if you go to -- they go in descending order.
A. Okay.
Q. So, if you go to Page 64 down there, at the Bates label 64.
A. Where is the page?
MR. DOYLE: Right here, the Bates.
Q. (BY MS. SCARDINO) Bates label 64 down there. Do you see highlighted at the top?
MR. DOYLE: Do you see down here 64?
A. I can't read it, though. Tell me which one.
MR. DOYLE: But I don't see the highlighting.
Q. (BY MS. SCARDINO) Okay. So, it's that -- it's that -- maybe yours didn't -- it didn't show up. Sorry. So, let's -- let's look at April 4th, 2002. Can you see the dates of this -- of these calls?
A. So, I go to April 4th, 2002?
Q. Uh-huh. And there's a phone call to that 6178 number for 6 minutes. Do you see that?
A. Not yet.
MR. DOYLE: This is on 64?
MS. SCARDINO: Yes.
THE WITNESS: Do you see it?
MR. DOYLE: What time was it? Do you know?

MS. SCARDINO: 11:08 a.m.

MR. DOYLE: April 4th. Okay.

Q. (BY MS. SCARDINO) Would it be quicker if I check it for you?

A. Yes, it would.

MR. DOYLE: This one right here, Kelly.

Q. (BY MS. SCARDINO) Here.

A. Okay.

Q. Look at this. Look at this. This one is highlighted. Okay.

A. Is this the first one?

Q. Well, go to Page 64. Is that 64? Yeah. Okay. So, the one that's highlighted, he called you on April 4th, 2002, right?

A. I see that.

Q. Okay. He called you again on --

A. Wait. Wait. Wait. It's for only how many minutes?

Q. 6 minutes.

A. And what time is the call?

MR. DOYLE: 11:08. Is that right?

A. 6 minutes doesn't mean he got in touch with me. He could have been put on hold and I never picked up the call.

Q. (BY MS. SCARDINO) Do you recall 16 years -- or

15 years ago that that happened?
A. Oh, I recall that I was so busy, they would be calling, "Kelly Siegler, line whatever," and I could never get all the calls. Yes, it happened all the time.
Q. Okay. So, you deny speaking with him on April 4th, 2002?
A. No. I don't remember, but just because it says he called 6178 and the call lasted 6 minutes doesn't mean that we actually spoke. That's what I'll say.
Q. Okay. Now, going to April 17th, 2002 --
A. The next page?
Q. So, it's the next page back.
A. Back?
Q. Well, yeah, we're going in reverse order here.
A. Okay.
MR. DOYLE: Page 63.
Q. (BY MS. SCARDINO) 4-17-02.
A. Okay.
Q. He called your line for 2 minutes. Do you see that?
A. Yes.
Q. And on April 24th, 2002 --
A. I'm pretty sure that wasn't a connected call to me for only 2 minutes. The next one?
MS. SCARDINO: Objection, nonresponsive.

Q. (BY MS. SCARDINO) Do you have any evidence that that wasn't a connected -- connected call or are you just speculating?

A. I don't believe that I talked to him on a phone call that lasted only 2 minutes.

Q. So, you're denying that you spoke with him on that date?

A. I don't remember that call, no.

Q. You're denying that you spoke with him on that date or you just don't remember?

A. I don't remember. I don't remember.

Q. You don't remember?

A. It doesn't make any sense that the call would last 2 minutes.

Q. If you look at -- going up to April 24th, 2002, another phone call to your office?

A. Again for 2 minutes.

Q. Okay. And on May 15th, 2002.

A. I see May 14th. Is that right?

Q. I'm sorry. May 14th, 2002.

MR. DOYLE: What page?

MS. SCARDINO: 62. Sorry.

MR. DOYLE: 62.

Q. (BY MS. SCARDINO) Another phone call to your number?

A. For 3 minutes.
Q. Uh-huh. And July 12th, 2002, at the top there, it's a phone call for 1 minute?
A. For 1 minute, I see that.
Q. And on July 16th, 2002, there's a couple of phone numbers -- phone calls?
A. I see those.
Q. Do you see that?
A. For 2 minutes and for 1 minute.
Q. Uh-huh. And then there's 3 times -- 3 phone calls on October -- I mean, on August 2nd, 2002. Do you see that?
A. So, 3 calls on the same date, which means that he, obviously, didn't get ahold of me for the 1 minute call or the 3 minute call because there's a 9 minute call, too.
Q. Okay. So, whenever he would call you and leave a -- he would leave a message, I suppose, with your office?
A. He would call 755-6178 and get the main receptionist, who would then put him through to my secretary, Esmeralda, and then she would try to find me or take a message, which is probably why were there's so 2 minute, 1 minute and 3 minute calls, and they never did get ahold of me.

Q. And you would then return his phone call by calling his unit manager to have the conversation on that phone?

A. No. I got a lot of calls that I didn't return.

Q. So, you're saying that he kept calling you over and over, he was your witness in -- in Prible's case and you never returned his phone call, is that your testimony?

A. I did return some of the phone calls. I said that I don't remember returning all of these individual phone calls.

Q. Okay. But some of those phone calls that you returned, you would have called the unit manager, would have put Mr. Beckcom on the telephone, right --

A. Yes.

Q. -- like we discussed earlier?

A. Yes.

Q. On Exhibit 171 --

A. This is a different color, so, that goes back to you, right?

Q. Yeah. Thanks.

Exhibit 171 is telephone records for Nathan Foreman produced by the Board of Prisons. And you see on the first page of that that Mr. Foreman added you to his phone record -- or his phone list on October 3rd,

2001, right?

A. I see that. I also notice that now he has the right number.

Q. Right, he has the correct number. And this is almost two months after you spoke with him in August 8th, 2001 and determined he was lying about Mr. Prible's case, right?

A. That's what the date says, yes.

Q. Okay. And there are no phone calls to you, if you look at Mr. Foreman's list, in 2002. Do you see that?

A. Does this cover the whole year?

Q. Yeah. Well, yeah. I'm just asking you -- it looks like it covers from January to October, 2002. And no where -- I'll represent to you that no where in that list is a phone call to that 6178 number.

A. Okay.

Q. But you were speaking with Mr. Foreman during this time, correct?

A. No.

Q. You weren't speaking with him?

A. Not that I remember.

Q. Is it your testimony that you never spoke with him again after August 8th, 2001?

A. That was the day of the downtown fed facility?

Q. Uh-huh.
A. I never talked to him again.
Q. You never talked to him again?
A. Not that I remember.
Q. Now, if you -- looking at Exhibit 172, these are the phone records for Jesse Moreno. This is dated April 26, 2001. You see that he puts your name down on his phone list. And this is the one we had discussed earlier, right? It was a different number, the 5800 number?
A. Yes.
Q. Okay. And, again -- and you were speaking -- you did speak with Mr. Moreno on the phone leading up to Mr. Herrero's trial, right?
A. I know I got the letter, the letter that we talked about. I know that I went to see him at some point. Whether or not there was a phone call in between before I went to see him, I don't remember.
Q. Okay.
A. I would think there was but I don't remember for sure.
Q. Right. You would think there would be some communication before the testimony at trial, before --
A. Well, no, I went to see him.
Q. Uh-huh.

A. Your question was was there a phone call.
Q. Okay. You think there might have been a phone call in between that initial visit and when you went to see him before trial?
A. No.
Q. I'm sorry.
A. He writes me -- he writes me a letter. He writes me a letter. His mom writes the letter.
Q. Uh-huh.
A. There might have been a phone call.
Q. Okay.
A. I don't remember. I did go see him.
Q. Okay. And that phone call that there might have been, would that have been on the unit manager's telephone?
A. It had to be.
Q. Okay.
MR. DOYLE: Don't keep me guessing. Is his number in here?
MS. SCARDINO: I'm sorry?
MR. DOYLE: Is there -- are there any calls in here?
MS. SCARDINO: No.
MR. DOYLE: Okay.
MS. SCARDINO: No. No.

MR. DOYLE: I just didn't want --

MS. SCARDINO: No. Sorry.

Q. (BY MS. SCARDINO) Okay. And sometimes BOP employees would call you about cases that you were working on with these inmates, would they not?

A. No.

Q. Never?

A. Not that I remember. They were too busy.

Q. Did you know anyone that worked at FCI Beaumont before you worked on Mr. Prible and Mr. Herrero's case?

A. An employee?

Q. Yes.

A. I don't think so.

Q. Had you ever dealt with informants in FCI Beaumont before?

A. Had I ever been there ever before, maybe, but I don't remember for sure.

Q. You don't remember having a preexisting relationship --

A. No.

Q. -- with any BOP employees at FCI Beaumont?

A. No.

Q. Okay. And, again, here we're going to Exhibit 152, and I was supposed to show you all that legible copy on -- and I promise I'll do that when we get on a

break.

A. These are the pink slips, right? That's why they're so dark?

Q. These are the pink slips, yeah. And I don't have the originals but you might be able to see them on the screen at a break.

But I'll -- I'll represent to you that one of these pink slips in Exhibit 152 that was produced by the DA's office in this case, it shows Lieutenant Robert Clark from FCI Beaumont called Kelly re Herrero. So, does that refresh your memory as to whether any BOP employees ever called you to discuss the Herrero case?

A. No.

MR. DOYLE: Do you know what date?

MS. SCARDINO: I do believe it's dated.

MR. DOYLE: I thought you might have it in your notes.

MS. SCARDINO: Let's see. I know I did, too. I don't see it dated on here. I think there is a date. I'm happy to -- I'll put it out so I remember to look at it at the break.

MS. MIRANDA: Which one is it?

MS. SCARDINO: I'll have to do that, too.

MS. MIRANDA: Okay.

MS. SCARDINO: I mean, these are really bad

copies. Sorry.

Q. (BY MS. SCARDINO) Okay. Now, you said a moment ago, I believe, that you did not speak with Mr. Foreman again after that August 8th, 2001 meeting with him in --

A. Not that I remember.

Q. Okay. Let me show you Exhibit 111. Actually, we're going to come back to 111 because I don't see it right here.

Oh, here it is.

Okay. Exhibit 111 is a letter from Alan Percely, Mr. Foreman's attorney, to you on November 12th, 2001, if you want to take a moment to read it.

A. Okay.

Q. And he says, "As you are already aware, I am Mr. Foreman's attorney on federal and state criminal matters," right?

A. That's what he said.

Q. So, had you already been talking with Mr. Percely about Mr. Foreman?

A. Actually, I think what happened was he came up to me one day in court and said that he represented Nathan Foreman, and I thought to myself, "Of course, you do," and that was it.

Q. Okay. And then he reaches out to you on this

November 12th, 2001 letter, right?

A. Yes.

Q. Okay. But you didn't speak with him another time previously to this on the telephone or anything else?

A. No.

Q. Okay. And in his letter, he said that Nathan Foreman told him that he has information that will lead you to the weapon that was used in the murder case that you are preparing to go to trial on in the near future. Do you see that?

A. I see that.

Q. Okay. How did Mr. Foreman know that the murder weapon in Mr. Prible's case had never been found?

A. I don't evening think they're talking about Prible. I think it's Alan Percely talking bull with Nathan Foreman, who is talking bull, and I don't know what they're talking about, which proves the point.

Q. So, you don't --

A. They were both full of it.

Q. Okay. So, you don't know what case he's referring to in this letter, whether it's the Prible case or the Herrero case?

A. I tried a lot of cases in '02. It could have been one of the other ones that I tried. It doesn't

mean it's Prible --

Q. Okay.

A. -- or Herrero.

Q. And Mr. Percely proposes a deal in exchange for whatever information Mr. Foreman has, right?

A. He tries to, yes.

Q. Okay. And instead of telling Percely -- or ignoring this letter or telling him to get lost or telling Foreman to get lost, instead, you set up a face-to-face visit with Mr. Foreman to discuss this new information he had, didn't you?

A. The letter is dated November 12th of '01 and the meeting with Foreman was August of '02?

Q. August 8th, 2001 was the initial meeting with Foreman.

A. Okay. So, ask me the question again. So, the letter came after the meeting?

Q. Yes, the letter came after the meeting. And I'm asking you after you got this letter of November 12th, 2001, you could have told Percely to get lost, right?

A. I could have.

Q. You could have told Foreman, "I never want to talk to you again. You're a liar," right?

A. I could have.

Q. Okay. You could have ignored them, right?
A. I did.
Q. But, instead, after you received this letter, you arrange for another face-to-face meeting with Mr. Foreman at FCI Beaumont, didn't you?
A. Not that I remember.
Q. I'm going to show you Exhibit 77.
MS. SCARDINO: Do you have it?
MS. MIRANDA: I'm looking.
MS. SCARDINO: Okay.
MS. MIRANDA: I'm looking.
Yes, I have it.
Q. (BY MS. SCARDINO) Now, Exhibit 77 is a letter dated November 20th, 2001 from Johnny Bonds to Lieutenant Clark, requesting that he -- you and he be allowed to visit with Nathan Foreman on December 10th, 2001. Do you see this?
A. I see that.
Q. And this letter was written eight days after Mr. Percely's letter to you was written, right, on November 12th, 2001?
A. Yes.
Q. And earlier you said the letters might have been -- taken about a week to get to you. So, that would make your receipt of that letter about November

12th -- 19th, 2001?

MS. MIRANDA: Objection, form.

A. Let's see. You've got me confused.

Q. (BY MS. SCARDINO) Okay.

A. Say that again.

Q. Earlier, I forget which letter we were referring to but you said it might have taken a week for the letter to -- it was one of the informant letters -- to get to --

A. From the inmates, not from Alan Percely.

Q. Okay. So, when do you think you would have received this November 12th, 2001 letter from Alan Percely?

A. Well, I would hope the next day.

Q. Within a couple of days?

A. (Witness indicated by nodding her head affirmatively.)

Q. Okay. And so, pretty soon after receiving this letter, you have Johnny Bonds request another meeting with Mr. Foreman at FCI Beaumont, right?

A. This is Ted requesting it for Johnny and me.

Q. I'm sorry.

A. But yes.

Q. Yes. So, you, obviously, asked Mr. Wilson to request this meeting, right?

A. Right.

Q. Okay. So, even though he lied to you back in November -- or in August, a few months earlier, maybe now he's got some good information for you, right?

A. I don't remember why we would have asked to go see him again because Johnny and I both believed when we walked away from the meeting with Nathan Foreman at the downtown Houston facility that he was not being truthful.

Q. I'm going to show you Exhibit 78. Exhibit 78 is a November 26, 2001 letter from Ted Wilson to Lieutenant Robert Clark again at FCI Beaumont medium. And he says, "I'm respectfully requesting that you permit Assistant District Attorney Kelly Siegler and Harris County District Attorney's Investigator Johnny Bonds in your facility to interview an inmate by the name of Michael Beckcom on December 10th, 2001." Do you see that?

A. I do.

Q. Okay. And that's the same date that you were going to interview Mr. Foreman, right?

A. Well, the letter is the same date. Did we ask for the same date? Oh, yes. December 10th, yes.

Q. Yeah. The letters are different dates --

A. December 10th.

Q. -- but the date of the meeting requested is the same?

A. Yes.

Q. So, you requested to meet with both of those inmates back to back on that date, right?

A. Yes.

Q. And on that date, December 10th, 2001, did you also meet with Jonathan Jefferson at FCI Beaumont?

A. I still don't remember that name.

MS. MIRANDA: Objection, form.

Q. (BY MS. SCARDINO) When you went to Beaumont to interview these inmates on December 10th, 2001, was Mr. Bonds with you?

A. I remember for sure that the time we went to Beaumont to interview Michael Beckcom -- I don't even know if Johnny was there for that. I went to see Michael Beckcom one time in person in Beaumont. I don't remember the date.

Q. Would you have driven to Beaumont to meet with these inmates with Mr. Bonds but once you got there split up from Mr. Bonds for any reason?

A. He didn't have to babysit me. I could interview by myself. It wasn't like I was scared. And I might have gone by myself, too.

Q. Okay. But -- and I know that you're -- he's

not babysitting you but it doesn't seem to make sense if both of you were going and asking for these meetings that you would have been -- wouldn't have attended all of those meetings on October 10th, 2001 together --

A. Agreed.

Q. -- if you were both in Beaumont?

A. Agreed.

Q. Okay. Exhibit 87 is a criminal history report for Mr. Jefferson. It's printed out by Mr. Bonds on December 6th, 2001, just prior to that December 10th requested meeting. Do you see that?

A. I do.

Q. Okay. And, again, that was standard procedure whenever you and Mr. Bonds were going to interview a witness or a potential suspect, you would run a criminal history report on them?

A. Yes.

Q. I'm going to show you Exhibit 109-6. If you can turn, it's on the second page of that. Exhibit 109-6 is Johnny Bonds' handwriting, correct?

A. It is.

Q. Okay. And it looks as if he had a -- a conversation with Jonathan Wayne Jefferson on December 10th, 2001?

MS. MIRANDA: Objection, form.

Q. (BY MS. SCARDINO) And I'm asking you if you were present at any such meeting between Mr. Bonds and Mr. Jefferson on that date?

MS. MIRANDA: Objection.

A. I just don't remember Jonathan Jefferson, the name or a face. I don't remember that name.

Q. (BY MS. SCARDINO) Okay. So, you wouldn't have told defense counsel about this meeting that you had with him --

MS. MIRANDA: Objection, form.

Q. (BY MS. SCARDINO) -- if he wasn't important to the case?

A. It was 15 years ago. I might have met him. I don't know. I just don't remember today.

Q. You can't recall? Okay. Now, if you -- if -- if you had been at this meeting, would you have taken notes like you did in that August 8th, 2001 meeting with Foreman?

A. Not necessarily.

Q. Not necessarily?

A. (Witness indicated by shaking her head negatively.)

Q. If you turn to Page 109-7 -- Exhibit 109-7, and these, again, are notes in Johnny Bonds' handwriting, right?

A. Yes.

Q. And you see it looks like there he's memorializing a meeting with Nathan Foreman on December 10th, 2001, which would have -- which corresponds to the letter that I showed you earlier requesting a meeting with Mr. Foreman on that date?

MS. MIRANDA: Objection, form.

A. It does.

Q. (BY MS. SCARDINO) Do you see that? Were you present at this meeting with Mr. Bonds and Mr. Foreman?

A. If -- if Johnny would have been interviewing Nathan Foreman, I would have been there.

Q. Okay. Would you have taken notes on that meeting?

A. Not necessarily.

Q. If you had taken notes, where would they be?

A. They would be in the file but I probably didn't take any.

Q. You wouldn't have destroyed notes about that meeting or any other meeting, would you?

A. No. I didn't take a lot of notes.

Q. Let's look at Exhibit 78. Exhibit 78. Okay. Exhibit 78 I showed you earlier, so, you should have a copy of it, and it's that November 26th, 2001 fax from Johnny Bonds to Lieutenant Clark.

A. 0kay.

Q. And on the fax, if you look at the front cover sheet, it says, "Another visitation request letter. We are supposed to be at your unit around 11:00 a.m. on December 10th, 2001 to see Inmate Foreman. We also need to see Inmate Beckcom after we talk to Foreman. See attached letter. If there's a problem, please call me. Thanks." Do you see that?

A. I do.

Q. Okay. And on that day when you met with Mr. Beckcom -- you recall meeting with Mr. Beckcom that day, right?

A. Yes.

Q. And did you meet with him in the lieutenant's office?

A. I don't remember where we met.

Q. I'll -- I'll represent to you that was his testimony at trial that you met in a lieutenant's office.

A. That's what Beckcom said at trial?

Q. Yes.

A. It's in the transcript?

Q. That -- that you met at a lieutenant's office, yes.

A. 0kay.

Q. Okay. Do you recall the name of that lieutenant?
A. I do not.
Q. Okay. Do you -- and you knew at this time that Mr. Foreman and Mr. Beckcom were cellmates at FCI Beaumont, right?
A. I don't know if I knew that back then.
Q. When did you learn that?
A. I don't know that I've ever learned that. I've seen that in your petition.
Q. You never knew at any time during your prosecution of Mr. Prible's case that Foreman and Beckcom were cellmates at FCI medium?
A. I don't remember if I knew that. I knew that they all -- they all hung out together on the yard working out outside. I knew that but who was whose cellmate, I don't know if I ever knew that.
Q. And you don't -- you remember meeting with Beckcom on December 10th, 2001 but not with Foreman; is that correct?
A. I remember the Beckcom meeting. We -- it looks like from your paperwork we met with Beckcom that same day, too. If Johnny told you that we met with Foreman the same day, then we did, and I just don't remember it. If Johnny remembers it, then that's what happened.

Q. And that meeting would have been in the same office presumably if you're --

A. You would think so.

Q. You would think so. So, one would be coming in and one would be leaving?

A. Unless they were in separate areas and it was easier for them to move us than them.

Q. Do you have any recollection of that being the case?

A. We moved around a lot there. We went wherever they told us.

Q. Okay. I'm asking you specifically on December 10th, 2001 when you asked to meet with Beckcom immediately after Foreman, do you have a specific recollection of them moving you to a different part of the prison to meet with these two individuals?

A. I don't -- no, I don't remember where in the prison we met with either one of them.

Q. Do you know if Beckcom and Foreman passed each other coming and going that day to the meeting?

A. I have no idea.

Q. Presumably they're cellmates, so, they're talking about this case together, right?

MS. MIRANDA: Objection, form.

A. I didn't know they were cellmates.

Q. (BY MS. SCARDINO) Let me show you Exhibit 109-8. Do you have it, 109-8? Sorry, I thought I already gave it to you.

A. 109-8?

Q. 8.

MR. DOYLE: Yes.

A. I have your yellow one, too, so --

Q. (BY MS. SCARDINO) That's the other one actually. That's the -- oh, it is on there. Here, let me --

A. Trade?

Q. No. That's fine. I didn't know that you had the complete -- the complete thing.

Okay. 109-8, again, this is Mr. Bonds' handwriting, right?

A. Yes.

Q. And it looks to be a conversation or a memorialization of the meeting that he had with Mr. Beckcom on December 10th, 2001 in which you were also present, right?

MS. MIRANDA: Objection, form.

A. I see the name Michael Beckcom on the first line. I can't read the rest of it, if you want to read it to me.

Q. (BY MS. SCARDINO) Okay. It says, "12-10-01,

Michael Beckcom. Nathan never told Mike about Kelly and Bonds." And Nathan there is referring to Nathan Foreman, right?

A. It would be Nathan Foreman.

Q. So, at this conversation -- or this meeting that you and Mr. Bonds had with Beckcom, you all were discussing Nathan Foreman and his role in this case, right?

A. Not necessarily.

Q. Well, why else would Nathan Foreman's name appear on these notes?

A. We would ask Michael Beckcom where all he had information about Prible, and Johnny could have just made a note, "It wasn't from Nathan." Johnny could have just made that note.

Q. He could have just made a note, "It wasn't from Nathan," just out of the blue, "It wasn't from Nathan"?

A. If we had just interviewed Nathan Foreman right before Beckcom like you're saying the paperwork shows. I mean, you should ask Johnny Bonds that question, not me.

Q. I have asked Johnny Bonds that question but you were also at the -- that meeting, right?

A. Yes, but these aren't my notes.

Q. Okay. But if you had asked Mr. Beckcom where

he got information, would he have said to you in response to that, "Well, I didn't get it from Nathan Foreman"?

A. No, but you need to keep in mind that Johnny and I already didn't have a very good view of Nathan Foreman's credibility, so, we wanted to make sure Michael Beckcom wasn't getting it from Nathan Foreman --

Q. So, did --

A. -- since we already thought he was a liar.

Q. And so, did you tell Michael Beckcom, "Don't talk to Nathan Foreman. He's a liar"?

A. I doubt it.

Q. Did you bring Nathan Foreman's name up in this conversation with Michael Beckcom?

A. Well, his -- his name is mentioned in Johnny Bonds' notes, so, his name might have come up.

Q. I'm going to show you Exhibit 174. Exhibit 174, do you recognize this as the 10-page handwritten statement that Mr. Beckcom gave to you and Mr. Bonds at that December 10th, 2001 meeting?

A. I don't remember that he gave this to us that day. Johnny wrote down "12-10-01" and his initials on that day.

Q. And had you met with Mr. Beckcom previously?

A. In person, no.

Q. Had you spoken with him on the phone?
A. Yes.
Q. Okay. Is it -- and you say you didn't know if he had given it to you on these day -- on this day of December 10th, 2001. When else might have -- he have given it to you?
A. I thought he gave me this 10-page letter when he came to the Harris County jail right before the trial. That was what my memory was until just now.
Q. Okay. Had you asked Mr. Beckcom to take notes of his communication -- his conversations with Mr. Prible?
A. I did not.
Q. You did not?
A. No.
Q. Did you ask him to present you with a written statement --
A. No.
Q. -- about Mr. Prible's -- what he had learned about Mr. Prible's case?
A. No.
Q. Okay. Did you use this statement that Mr. Beckcom gave to you at that December 10th, 2001 meeting as a script for Mr. Beckcom's testimony at trial?

A. As a script, no. I'm sure I -- I referred to it, I used it, I looked it over to make sure I had it all right in my head, but as a script, no.

Q. Did you give -- or did Mr. Beckcom keep a copy or make a copy of this statement for himself? In other words, did he give you his only copy or do you recall if he made a copy of the statement himself?

A. I'm sure he would keep a copy for himself but I'm just assuming.

Q. Did you ever --

MR. DOYLE: Don't assume.

THE WITNESS: I know.

Q. (BY MS. SCARDINO) Did you -- did you ever --

MS. SCARDINO: Objection to the coaching.

MR. DOYLE: Well, I just don't want her speculating.

MR. RYTTING: You can't instruct the witness.

Q. (BY MS. SCARDINO) Did you -- did you disclose to Mr. Gaiser or Mr. Wentz that you met with Mr. Jefferson, Mr. Foreman and Mr. Beckcom back to back at FCI Beaumont on December 10th, 2001 to discuss Mr. Prible's case?

A. I don't --

MS. MIRANDA: Objection, form.

A. I don't remember.

Q. (BY MS. SCARDINO) Now, you were talking -- you began talking with the assistant U.S. attorney for Michael Beckcom's case in California months before Prible's trial, right?

A. Months before Prible's trial?

Q. Uh-huh. You were already in talks with the U.S. attorney about a possible sentence reduction for Beckcom in this case?

A. I think I might have called to introduce myself to make sure I had the right prosecutor. I don't think we could talk much beyond that because nothing had happened yet.

Q. Why would you have called him to introduce yourself as the prosecutor?

A. To find out if he's the right prosecutor.

Q. Okay. But why would you have done that before the trial -- before Mr. Prible's trial?

A. Just to find out if he's the right prosecutor, to find out about Michael Beckcom, to find out about the situation.

Q. The situation meaning what? Mr. Beckcom's sentence?

A. Mr. Beckcom's sentence, Mr. Beckcom's crime, what his fed -- fed prosecutor thought about him and the

whole process.

Q. I'm going to show you Exhibit 181. Exhibit 181 is a March 4th, 2002 letter from Mark Cullers to you and it says, "Enclosed please find the federal trial testimony of Mike Beckcom." And he -- he goes on to say, "I will forward a printout of his docket sheet so you can see exactly his sentence in federal court," right?

A. That's what the letter says, yes.

Q. Okay. And so, when you called -- you reached out to Mr. Cullers, and you told him that Mr. Beckcom was a potential informant for you in this Prible case and that you were interested in seeing what his sentence was, correct?

A. Among other things, yes.

Q. What else did you talk with him about?

A. The crime Beckcom was in jail for and what this fed prosecutor thought about Beckcom.

Q. Okay. Did you discuss the possibility of a Rule 35 reduction for Mr. Beckcom if he testified in your case?

A. If he testified truthfully and completely in my case, yes.

Q. But you did discuss that --

A. Yes.

Q. -- with Mr. Cullers?

And I'm going to show you Exhibit 126. Exhibit 126 is a March 5th, 2002 letter from Mr. Cullers to you enclosing the initial Texas Rangers report regarding the murder of Nick Brueggen, who was Mr. Beckcom's victim, right?

A. I don't remember the name but I remember this.

Q. Okay. It says, "Thought you might find it helpful. Mike Beckcom was sentenced to 135 months," right?

A. That's what this says, yes.

Q. Yes. And so, this shows that you all had discussed Mr. Beckcom's sentence, correct?

A. Yes.

Q. And there would have been no reason for you to discuss Mr. Beckcom's sentence with Mr. Cullers if not in the context of a potential Rule 35 motion down the road, right?

A. Well, most likely that was the reason but I would still want to know what his sentence was and what he did.

Q. And Mr. Beckcom knew that you were in talks with Cullers leading up to Mr. Prible's trial, right?

A. Yes.

Q. Okay. And he knew about these conversations

because you wanted to reassure him that if he testified truthfully in Mr. Prible's case that a Rule 35 motion might be had, right?

A. Who is "he"?

Q. Mr. Beckcom.

A. Say the question again.

Q. You said that Mr. Beckcom was aware that you were speaking with Mr. Cullers leading up to Mr. Prible's case, and I'm asking you if the reason you told Mr. Beckcom that you were communicating with Mr. Cullers was so Mr. Beckcom would be reassured that a Rule 35 motion would be forthcoming in his case if he testified truthfully; is that correct?

A. Yes.

Q. And if you look at Exhibit 127 --

MS. SCARDINO: I have one copy. So, let me let her read it and then I'll --

MR. DOYLE: Read it and then I'll look at it.

A. Isn't this the one you already showed me?

Q. (BY MS. SCARDINO) Maybe I have.

MS. MIRANDA: What number is that?

MS. SCARDINO: 127. Maybe that's why I don't have another copy.

MS. MIRANDA: I have it right here.

A. I think you showed me this already.
Q. (BY MS. SCARDINO) Okay.
A. Yes.
Q. Okay. Now, this is undated, right, this letter? There's no date on this?
A. Correct.
Q. Okay. And Mr. Beckcom is asking you for reassurance and -- and you mentioned that you did give him reassurance at some point by --
A. This letter is different. It's not really reassurance. He's asking for other things, different things.
Q. And in addition, he's also asking you, first of all, if you could -- if there was anything you could do to help him correct some of the mistakes the feds made in his case?
A. He wants me to help him file nunc pro tunc and do all kinds of things, which have nothing to do with the Prible case.
Q. Okay. Did you help him prepare a nunc pro tunc in his state case?
A. No.
Q. Do you know if he prepared a nunc pro tunc in that case?
A. You showed me something earlier where it looked

like he had --

Q. Uh-huh.

A. -- because the clerk answered him back that the judgment spoke for itself and he couldn't get a nunc pro tunc but that was between him and the clerk in that county.

Q. So, you had nothing to do with him filing a motion for nunc pro tunc?

A. Not that I remember, no.

Q. Did you have any communications at any time with the prosecutor in the state case about his conviction or sentence in that case?

A. No.

Q. He also says in this Exhibit 127, "I've currently filed for a name change to the name that I was supposed to keep while in the fed's custody but I keep meeting resistance with the clerk in Beaumont. Can you give me any advice on this?"

A. Yeah, I don't remember anything about that.

Q. You don't remember giving -- you didn't give him any advice on the name change?

A. No.

Q. Okay. He also says, "Can you give me any reassurance that the feds are going to do the right thing on this case?"

A. Well, they all ask that.
Q. And you gave him some reassurance, right?
A. I'm sure I told him the same thing I tell all of them.
Q. Which is what?
A. "Testify truthfully and completely about the facts of the case, and if you do, when you do, I'll tell your fed prosecutor, and they take it from there."
Q. And you also reassured him by telling him that you were already in communication with that prosecutor?
A. Yes.
Q. He also says in that letter, Exhibit 127, "I may have a solution to these problems if you can assist me in making contact with the DEA and an FBI agent. Another inmate, Anthony Davi, and I have come onto a couple of situations that would interest both of these agencies."

Now, did you contact -- or -- or -- contact Mr. Beckcom to discuss with him this information that he claimed he and Anthony Davi had?
A. No.
Q. You never --
A. I don't remember.
Q. -- spoke with him about that?
A. I don't remember that. I don't know what that

is.

Q. Okay. It does not ring a bell, you never reached out to him about that?

A. I don't remember any of that.

MR. DOYLE: How are we doing, Gretchen?

MS. SCARDINO: We can -- let's see. Let me get through this line of questioning and we can take a quick break. How long have we been going?

MR. DOYLE: About 45 minutes.

MS. SCARDINO: Okay. Is that okay?

MR. DOYLE: I just need to make a call shortly.

MS. SCARDINO: Okay. We can --

MR. DOYLE: If you give me five minutes, that's all.

MS. SCARDINO: Yeah, that's fine. We can -- we can do that. I'd just ask that you didn't -- wouldn't talk to the witness because we have a question pending, that's all.

MR. DOYLE: I'm sorry. Go ahead with your question.

MS. SCARDINO: No, it's all right if you --

MR. DOYLE: Go ahead. Go ahead.

MS. SCARDINO: Okay.

Q. (BY MS. SCARDINO) So, Exhibit 81 is a letter

from Ted Wilson from the DA's office to Lieutenant Clark at FCI medium, and it's asking -- he's respectfully requesting permission for you and Mr. Bonds to interview two inmates by the name of Michael Beckcom and Antone Davi on May 6, 2002. Do you see that?

A. I see that.

Q. Okay. So, you did reach out to Mr. Beckcom and take him up on this offer to discuss this other case with him?

A. I -- I don't remember Antone Davi at all.

Q. Okay. Do you deny that you sent -- that this letter was sent from your office to arrange a meeting to discuss --

A. No. I see that.

Q. -- this with Mr. Beckcom and Mr. Davi?

A. I see that.

Q. Did you ever disclose to Mr. Prible's defense counsel that you had set up this meeting with Mr. -- Mr. Beckcom to discuss this information that he claimed to have with Mr. Davi?

A. I don't remember anything about Antone Davi or any information, if there was any.

Q. Do you know if you only met with Mr. Beckcom and Mr. Davi once on this May 6th, 2002 date?

MS. MIRANDA: Objection, form.

A. I don't remember ever meeting with Antone Davi. I don't remember that name at all.

MS. SCARDINO: Okay. Let's go ahead and stop right here.

MR. DOYLE: Take about five minutes.

THE VIDEOGRAPHER: The time is 3:33. We're off the record.

(Short recess.)

THE VIDEOGRAPHER: This is the beginning of file 7. The time is 3:50. We are on the record.

Q. (BY MS. SCARDINO) Ms. Siegler, Beckcom testified at Mr. Prible's trial that he had gotten your name from Mr. Foreman. Do you remember that testimony?

A. I don't remember that part, no.

Q. Okay. Do you deny that that was the testimony?

A. You can show me the transcript.

Q. Okay. On Page 23 of Mr. Beckcom's testimony, which is Volume 26, I believe, of the trial transcript, you say -- you say, question, "Who was the person who gave you my name?"

And he answers, "Nathan Foreman."

Next question, "And how did you know Nathan Foreman?"

Answer, "He was -- he lived in my unit at the prison and then ultimately became my cellmate.'

A. Can I see that?
Q. Let me get you a different copy because this one has my notes on it.
A. Okay.
Q. Do you -- are you disagreeing that that's what I'm reading you? I understand I've been trying to give you copies of everything but --
A. Well, I just would like to read --
Q. -- I do also want to keep --
A. -- the page before and the page after and be real careful.
Q. Okay.
MS. SCARDINO: Let's go off the record. I'll print you a clean copy real quick of the pages.
THE VIDEOGRAPHER: The time is 3:53. We're off the record.
(Off the record.)
THE VIDEOGRAPHER: This is the beginning of file 8. The time is 3:55. We are on the record.
Q. (BY MS. SCARDINO) Ms. Siegler, at the -- on the break, we were -- let you read the pages previous to this testimony by Mr. Beckcom on Page 23 of the Prible trial transcript, right? You've read that?
A. Correct.
Q. And does that refresh your recollection that it

was Nathan Foreman who gave Mr. Beckcom your name to call you about Mr. Prible's case?

A. Yes.

Q. Okay. Exhibit 129 is a letter from you to Mark Cullers, Beckcom's U.S. attorney out in California, dated October 29th, 2002. And this was right after Mr. Prible's trial, and you were informing him of Mr. Beckcom's cooperation in that trial. Do you see that?

A. Okay.

Q. Okay. And in that letter, Exhibit 129, you tell Mr. Cullers that, "Michael Beckcom first came to my attention when he made me aware that he had information that would be helpful to my case." Do you see that?

A. I do.

Q. Okay. And there's nothing in this letter to Mr. Cullers about how Mr. Foreman had given Mr. Beckcom your name to call you about this case, right?

A. No.

Q. Mr. Foreman's name is not mentioned in this letter at all?

A. It is not.

Q. Okay. And in the letter, you also state, quote, "At that time, Beckcom was incarcerated at Beaumont medium FCI with my trial defendant, Prible, and

that is where and how Prible came into contact with Beckcom and confided details of his capital murder offense to Beckcom." Do you see that?

A. Where? Which paragraph?

Q. The second paragraph, second line.

A. Okay.

Q. In here, there's still no mention of Mr. Foreman or this larger informant network, is there, in this letter?

A. To Beckcom's fed prosecutor, no.

Q. That's right?

A. There is not.

Q. So, you never revealed to Mr. Cullers that actually Beckcom's cellmate had come to you on August 8th, 2001, before he had even met Mr. Prible, to try to set Mr. Prible up in this case and you determined that he was a liar, right?

MS. MIRANDA: Objection, form.

MR. DOYLE: Objection.

A. That's incorrect.

Q. (BY MS. SCARDINO) You revealed all of that to Mr. Cullers?

A. Mr. Cullers is Michael Beckcom's fed prosecutor.

Q. I understand that.

MS. SCARDINO: Objection, nonresponsive.

Q. (BY MS. SCARDINO) Did you reveal to Mr. Cullers that you had met with Nathan Foreman about Mr. Prible's case on August 8th, 2001 and determined that he was lying?

A. No.

Q. Okay. You never mentioned Mr. Foreman at all to Mr. Cullers, right?

A. I did not.

Q. Also in this letter to Mr. Cullers you write, "I am not too familiar with how this process works. So, please forgive me if I have omitted some information you need." And by "process" here, you're referring to this Rule 35 sentence reduction process, right?

A. Yes.

Q. But, in fact, you were very familiar with that process by this time, right, because two months earlier, you had testified in Moreno's hearing?

A. Yes.

Q. I'm going to show you Exhibit 130. Exhibit 130 is a handwritten thank you note from Michael Beckcom to you dated October 30th, 2002. Do you see that?

A. I see it.

Q. Okay. Do you recall receiving this note from Mr. Beckcom?

A. Now that I've read it, I remember getting it.
Q. And he says in that letter, "I also appreciate any further contact you may have with Mark Cullers that might urge him to expediently file his motion on my behalf." Do you see that?
A. I do.
Q. Okay. So, by "further contact," he knows that you've already been in discussions with Mr. Cullers, as we discussed previously, right?
A. Yes.
Q. Okay. And it sounds here like this motion is a foregone conclusion, wouldn't you agree?
MS. MIRANDA: Objection, form.
Q. (BY MS. SCARDINO) He's -- he's not asking Mr. Cullers -- or not appreciating any further contact you have -- may have with Mr. Cullers that might convince him to file a motion on my behalf, right?
A. That's not what the letter says, no.
Q. That's not what the letter says, right. What it says was, "I appreciate any further contact you may have with Mark Cullers that might urge him to expediently file his motion on my behalf," right?
A. That's what it says.
Q. So, Mr. Beckcom knows as of October 30th, 2002 -- or believed as of October 30th, 2002 that

Mr. Cullers was going to write that motion, right?

MS. MIRANDA: Objection, form.

A. Mr. Beckcom knew that I had told him after he testified truthfully and completely that I would let Mark Cullers, his AUSA, know that he had testified truthfully and completely. Mr. Beckcom understood, just like the jury was told, none of us had any control over what his AUSA, Mark Cullers, or his federal judge would do, if anything.

Q. (BY MS. SCARDINO) I'm going to show you Exhibit 131. Exhibit 131 is a November 4th, 2002 letters -- letter from AUSA Cullers to you saying that the U.S. did not have jurisdiction to confer any benefit on Beckcom for his cooperation with the State of Texas. Do you see that?

A. Let me read it.

I see it.

Q. Okay. Now, you could have left it at that, right? You could have left it at that, your dealings with Mr. Cullers concerning Mr. Beckcom's sentence?

A. Right.

Q. Because at this point, you've done what you told the jury that you would do, right, you would write a letter to Mr. Cullers, which you did, right?

A. There was, obviously, some confusion because

Mr. Cullers never told me this part that's -- that's addressed in the letter dated November 4th of '02. He never told me that before, and I don't know that Michael Beckcom knew that either.

Q. And so, you were under the assumption or under the understanding going into that trial that he had jurisdiction to do this Rule 35 agreement, right?

A. "He" being?

Q. Mr. Cullers.

A. I was.

Q. Okay. And you had conveyed that to Mr. Beckcom as well, right?

A. I think Mr. Beckcom thought the same thing, right.

Q. And he would -- only would have heard that from you, right? He didn't have --

A. Oh, no. Mr. Beckcom knew what the law was. He was well aware of all this.

Q. If you could just let me finish my -- my question so we're not talking over each other.

But Mr. Beckcom would not have had independent communications with Mr. Cullers now, would he have?

A. He could have.

Q. You think that Mr. Beckcom might have been

communicating with his federal prosecutor while he was in prison?

A. He can write letters.

Q. So, it's your testimony that all the information that Mr. Beckcom was getting regarding the sentence -- the possible sentence reduction, he didn't get it all from you?

A. You should ask Mr. Beckcom that.

Q. Let me show you Exhibit 132. Exhibit 132 is a November 7th, 2002 fax from U.S. Attorney Mark McIntyre, who was at the U.S. attorney's office here in the Southern District of Texas. Do you see that?

A. I do.

Q. Do you know Mr. Mark McIntyre?

A. I do.

Q. And he was forwarding a Rule 35 motion that he had filed in another case, right?

A. Yes.

Q. Okay. And he says, "Call me if you want me to talk to the AUSA in Fresno." Do you see that?

A. I do.

Q. And by the AUSA in Fresno, he's referring to Mark Cullers, right?

A. Is that where Cullers is? Yes.

Q. Yes. Okay. Did he reach out to Mr. Cullers

for you?

A. I don't think so.

Q. He might have but you don't recall?

A. I don't think he did. This -- I just needed a go-by, and Mark McIntyre used to work at the Harris County DA's office and now he's with the feds still, and I just needed a go-by, and that's why I asked him.

Q. And so, you consulted him to give you -- to send you a go-by so you could help Mr. Cullers prepare this Rule 35 motion?

A. Not Mr. Cullers, no. Mr. Cullers knows what he's doing. I just didn't know the process.

Q. Well, why would you have needed a go-by if you weren't preparing the Rule 35 motion?

A. I wanted to read the -- the rule on the considerations and guidelines that a federal judge looks into and his AUSA looks into before they ever move forward to see if I'm answering their questions.

Q. And on November 12th, 2002, you left Mr. Cullers a phone message, Exhibit 133. Do you see it -- it -- you reference a phone call that you made to him on November 12th?

A. I see that.

Q. Okay. And what did you tell Mr. Cullers in that phone call?

A. Well, can I read the letter first?
Q. Sure.
A. Okay.
Q. Okay. Do you recall what you said to Mr. -- Mr. Cullers in that phone message on November 12th, 2002?
A. No.
Q. Mr. Cullers called you back and left a message for you on November 12th, 2002. Do you recall that message? Probably not. It's been 15 years.
A. I thought it was the other way around.
Q. It was. You called -- it looks like you called him from that letter and now he called you and left you a message, which was produced by the DA's office.
A. Okay.
Q. Okay. And I'll play that message for you now. This is just an audio recording.
(Audio recording played.)
Q. (BY MS. SCARDINO) Do you recall receiving that message from Mr. Cullers?
A. Vaguely.
Q. Okay. It sounded like there was a misunderstanding between the two of you. Do you agree?
A. Yes.
Q. And he says in that -- in that message -- and

he was responding to your message on November 12th, 2002, right?

A. Yes.

Q. And he says in the beginning of that message, "If Mike testified in your case with the expectation of some deal from us, that would probably have to be disclosed -- disclosed to the defense in your case," end quote. You heard that?

A. I heard that.

Q. Okay. Did you tell Mr. Cullers in that November 12th, 2002 message that you left for him that Mike had testified in this case with the expectation of some deal?

A. No.

Q. Okay. I'm going to show you Exhibit 133.

MS. MIRANDA: I think you have that one right in front of us.

MS. SCARDINO: Oh, we do?

MS. MIRANDA: Yeah. That's the one we were just looking at, right?

MS. SCARDINO: Yes. Oh, sorry.

Q. (BY MS. SCARDINO) Okay. And in that letter, Exhibit 133, you beg Mr. Cullers to reconsider based on the, quote, vital role that Beckcom played in obtaining a conviction of Prible, right?

A. I disagree with the word "beg," and the letter speaks for itself.

Q. Okay. Do you agree that Mr. Beckcom was the star witness in your case against Mr. Prible?

A. No.

Q. But he did play a vital role?

A. No. He played a role.

Q. So, you disagree with the statement "a vital role" that you said in this -- in this letter that you wrote to Mr. Cullers?

A. Michael Beckcom played a role.

Q. I'm going to show you Exhibit 135. This is a November 15th, 2002 E-mail from you to Mr. Cullers regarding Beckcom's attorney. Do you see that?

A. I do.

Q. And you're giving -- you're providing Mr. Cullers with Beckcom's attorney's name and contact information, right?

A. Yes.

Q. Okay. And eventually, Mr. Cullers did decide to -- to write that Rule 35 motion for Mr. Beckcom, right?

A. I don't remember.

Q. You don't recall if Mr. Beckcom got any time off --

A. I do not. What is the end of the story? I don't know.
Q. Well, I'm ask --
A. I don't know.
Q. I mean, I'm asking you because you were at the story.
A. And I don't remember.
Q. So, you -- you're saying after you -- this last correspondence that I showed you with Mr. Cullers, you didn't have any follow up with him about what the sentence reduction would be?
A. I don't remember if I did because I don't know if there was a sentence reduction.
Q. Other than this correspondence that you had with Mr. Cullers regarding that Rule 35 motion for Mr. Beckcom, did you do any other favors for Mr. Beckcom?
MR. DOYLE: Objection.
A. Well, I wouldn't characterize that as a favor either.
Q. (BY MS. SCARDINO) Did you give Mr. Beckcom any benefits other than corresponding with Mr. Cullers about his testimony in Mr. Prible's case?
MR. DOYLE: Objection.
A. I don't understand the word "benefits."

Q. (BY MS. SCARDINO) Okay. Well, I'll show you Exhibit 128 -- oh, Exhibit 136. Exhibit 136 is a printout from the case summary of Beckcom's state case, the capital murder case.

MS. MIRANDA: Do you have another copy?

MS. SCARDINO: Yeah.

MS. MIRANDA: Thanks.

Q. (BY MS. SCARDINO) And if you look on Page 2, it says July 20th, 2000, the third entry?

A. July 20th, 2000?

Q. 2000. The third entry.

A. Okay.

Q. And it says that he's being sentenced for murder, intentionally causing death and that that sentence was to run consecutive with his prior sentence. Do you see that?

A. I see that.

Q. Okay. And then if you look at Mr. Beckcom's trial testimony on Page 9 --

MS. SCARDINO: Tina, do you have a copy of Mr. Beckcom's trial testimony?

MS. MIRANDA: Oh, I'm sorry.

MS. SCARDINO: No, that's okay.

Q. (BY MS. SCARDINO) If you start on Page 9, line 2, you're questioning Mr. Beckcom in Mr. Prible's trial,

and your question is, "What did you receive as part of your plea bargain agreement on the state case, the state murder case out of Aransas County?"

Answer, "Five years."

Question, "And a thousand dollar fine?"

Answer, "Correct."

Question, "And how about out of the federal case?"

Answer, "135 months."

Question, "Which is the equivalent of about how many years?"

Answer, "11 years, 3 months."

Question, "And is that what you're currently incarcerated for?"

Answer, "Yes, it is."

Question, "So, tell the jury how long you've been in prison for that federal offense now."

Answer, "Going on five years now."

Question, "And when is your expected release date?"

Answer, "The earliest is around the end of 2006."

Question, "So, you have about how many years left?"

Answer, "Four."

Question, "As it stands right now?"

Answer, "Correct."

Question, "How did your sentence run? Did they run concurrently or consecutively, your state 5 years and your federal 135 months?"

The answer, "State is running concurrent with the federal."

And -- do you see that?

A. I do.

Q. And so, my question to you is do you know how Mr. Beckcom's sentence went from running consecutively with his federal case to running concurrently with his federal case?

A. I would need to see his judgment and sentence from federal court.

Q. Well, I'm just asking you if you had any role --

A. Oh, no.

Q. -- in having that sentence changed to run concurrently?

A. No.

Q. Okay. I'm going to show you Exhibit 170, which we've looked at before. It's Michael Beckcom's phone records, and I'll tell you exactly where to go. If you go to Bates label number 63 down at the bottom.

THE WITNESS: Which one is that?
Q. (BY MS. SCARDINO) Are you on 63?
A. Okay.
Q. Okay. If you go to date April 17th, 2002 --
A. Okay.
Q. -- you'll see that Beckcom called the DA's office Special Crimes phone number on that date?
A. I see that.
Q. Okay. So, that was April 17th, 2002 he's trying to reach out to you?
A. Not necessarily.
Q. Not necessarily? Might he have been reaching out to someone else in the DA's office for some reason?
A. You should ask him that.
Q. Well, I'll ask you did you -- were you aware of any other prosecutor that he was working on cases with at this time in the DA's office?
A. I wasn't.
Q. You weren't. Okay. Exhibit 137. Exhibit 137 is Beckcom's parole application, and it's dated April 19th, 2002. Do you see that?
A. Should I have seen this before?
Q. I'm asking you -- well, I'm asking you if you see this -- obviously --
A. I've never seen this before.

Q. You've never seen this before?
A. I don't think so.
Q. So, you didn't fill this out for Mr. Beckcom?
A. What?
Q. I'm asking you did you fill it out for Mr. Beckcom?
A. What is it?
Q. It's his application for parole in the state case.
A. You're asking me if I filled this out?
Q. I am. I'm just asking if you filled it out for him?
A. No.
Q. Okay. Did you have any role in assisting him in applying for parole in his state case in April of 2002?
A. No.
Q. If you go back to Page 170 -- or Exhibit 170, the same page we were looking at, 63.
A. Same page?
Q. Uh-huh. On April 24th, 2002, Beckcom again reaches -- or calls the Special Crimes unit. Do you see that?
A. Not yet. What day?
Q. April 24th, 2002.

A. Okay.
Q. And then Exhibit 186 --
A. That was a 2 minute call.
Q. Yes, I see that. And my question to you --
A. That doesn't mean he talked to anybody.
Q. My question to you was he called the phone number at the DA's Special Crimes unit on that date, right?
A. He did.
Q. Okay. So, on April 17th, 2002, he called that number, correct?
A. That's the one we did a while ago?
Q. Yes.
A. Yes.
Q. And on April 19th, he signed -- or filled out a parole application or someone filled out a parole application and dated it April 19th, 2002, right?
A. I have no idea who did that.
Q. Well, you'll agree that that Exhibit 137 is dated 2000 -- April --
A. I don't know where --
Q. -- 19th, 2002?
A. I don't know where you got that from. I've never seen that before. You can ask someone who has information about that to verify it. I can't.

Q. Okay. I'm just asking if the date on that is April 19th, 2002. Do you see that at the bottom?

A. I don't know anything about that. I'm not going to answer anything about it.

Q. Okay. And in Exhibit 170, we see that Beckcom again called that number at Special Crimes a few days later on April 24th, 2002, right?

A. And it looks like he again didn't speak to anybody. It's a 2 minute call.

Q. You have no recollection, sitting here 15 years later, as to whether or not he spoke with anyone on that date, do you?

A. I have enough sense to know that not much could get done in a 2 minute phone call after he went through 2 receptions, if not 3.

Q. Right. So, if he had spoken with you, it would have been because you had called him on a unit manager's phone to return his call, right?

A. No. No, not at all.

Q. I'm going to show you Exhibit 186. It's not 186. One second.

MR. RYTTING: Ask how much time we've got left.

MS. SCARDINO: Yeah. How much time have we been going?

THE VIDEOGRAPHER: We've been going for 5 hours and 19 minutes.

MS. SCARDINO: Okay.

Q. (BY MS. SCARDINO) We're going to have to go back to that exhibit.

Do you know if Mr. Beckcom was, in fact, granted parole in his state case in 2002?

A. I do not know.

Q. Okay. Aside from writing that letter to Mr. Foreman's prosecutor for the Herrero case --

A. Mr. Foreman?

Q. Mr. Foreman's prosecutor, right. We discussed that earlier.

A. Okay.

Q. The letter to Ms. Batson. Did you do anything else in the way of a benefit for Mr. Foreman as a result of his assistance in either the Prible or the Herrero cases?

A. The letter having to do with getting them all separated.

Q. Okay. Did you have any charges against him dropped?

A. Not that I remember.

Q. That would have been -- needed to have been revealed, right?

A. Yes -- no, he didn't testify for anybody ever.
Q. So -- so, because he didn't testify, in -- in your mind, you didn't need to reveal the fact that you had written a letter for him?
A. Not in the Prible case, no. He had nothing to do with the Prible case, Nathan Foreman.
Q. I'll show Exhibit 116. Exhibit 116 was the Brady motion filed by Prible's counsel pretrial. Do you see that?
A. Yes.
Q. Okay. Now, the defense wasn't required to file this motion, right? All this information -- Brady information should have been revealed by this time, right?
A. Correct.
Q. Okay. It's the state's burden to produce that information, right?
A. Correct.
Q. Okay. On Section 2, 1B, and I know it's difficult to read because of your notes, but you'll see it says one of the things they asked you to reveal -- to disclose was the date, place and manner of the state's contacts with this witness, meaning Michael Beckcom, including a statement of how contact was first initiated and with whom it was made. Do you see that?

A. I see that.
Q. And did you tell defense counsel that contact was actually first made with Nathan Foreman, Beckcom's cellmate?
A. I don't believe that was the case.
Q. You don't believe that you spoke with Mr. Foreman before you spoke with Mr. Beckcom?
A. That's not what you asked me.
Q. I believe it is what I asked you but I'll -- I'll rephrase it.
Did you tell the defense that contact was actually first made with Nathan Foreman, Beckcom's cellmate?
A. I read this to be contact that Beckcom first made with me.
Q. That's right. So, did you -- okay. Did you reveal to the defense that you had spoken with Mr. Foreman back in August 8th, 2001, he was -- he was Mr. Beckcom's cellmate?
A. He wasn't his cellmate. He wasn't his cellmate then.
Q. When did he become his cellmate?
A. I don't know.
Q. How did you --
A. Because in the transcript you just showed me,

Beckcom told you he became his cellmate later, another misstatement in your petition. He wasn't his cellmate then.

Q. Okay. I thought you said earlier you didn't know that they were ever cellmates?

A. I didn't. I just read it a while ago when I looked at Tina's transcript from Beckcom's testimony, and that reminded me of what Beckcom said back then.

Q. Okay. But eventually, he became Beckcom's cellmate prior to this trial, right?

A. No, I don't know if it was prior to the trial. I don't know when it happened.

Q. Okay. Number 1C in that exhibit, it asks for a list of all cases in which Beckcom has appeared as a witness, been listed as a witness or volunteered to appear as a witness. Did you disclose any other cases in which Mr. Beckcom was a witness for you in response to this motion?

A. A witness for me?

Q. Yes.

A. There was only the one.

Q. He wasn't a witness for you in any other case that you prosecuted?

A. No.

Q. I'm going to show you Exhibit 145. This is a

probable cause affidavit in the case of Danny Bible. That was a case you prosecuted, right?

A. It was.

Q. And if you look at the next -- actually, the third page of this printout, under active parties, it says, "Michael Beckcom, connection, previous bench warrant, witness for the prosecution." Do you see that?

A. Where is it? No. Show me. I can't -- I just can't read it.

Q. Third -- third line down, "Beckcom, Michael, connection to Mr. Bible's case" --

A. Okay.

Q. -- "previous bench warrant, witness for the prosecution."

A. What's your question?

Q. So, he was a witness for you in Mr. Bible's case --

A. He was not.

Q. -- as well?

A. He was not.

Q. He wasn't a testifying witness maybe but you had spoken with Mr. Bible's case?

A. No, ma'am. He -- he was bench warranted and connected to that case when he was brought back so Jeffrey Prible wouldn't know that he was brought back

for Jeffrey Prible's case.

Q. So, you put a different name on the bench warrant?

A. That could be the explanation for it.

Q. Okay. Now, going back through that Exhibit 170, I believe it was, the motion. When E says to disclose agreements made with Beckcom concerning benefits he would receive in exchange for testimony --

A. Wait. Are you on 170 or --

Q. I'm sorry. I believe it's 170.

A. 116 you mean?

Q. Hold on. I'm sorry. Is it 1 -- yes, 116. 1E.

A. 1E?

Q. Uh-huh. They are asking you to disclose agreements made with Beckcom concerning benefits he would receive in exchange for testimony, including --

A. Just a minute. You have to show me. I can't find it fast enough.

Q. Here.

A. Okay.

Q. Section E, "Agreements made with Beckcom concerning benefits he would receive in exchange for testimony, including oral agreements." Do you see that?

A. Yes.

Q. Now, in response to that motion, did you reveal

to defense -- the defense counsel for Mr. Prible that you had arranged a meeting with Mr. Beckcom and Mr. Davi at Mr. Beckcom's request?

A. No. That's not what happened.

Q. That's not what happened?

A. No. I don't remember arranging a meeting with Mr. Davi. I don't remember Mr. Davi.

Q. Okay. Ms. Siegler, in the Temple trial, you testified that you deleted all your E-mails while at the DA's office; is that correct?

A. I think I testified that when I was done working on a given E-mail and the to-dos were done, I deleted it.

Q. And you also deleted -- did you also delete all the E-mails a second time from your trash folder?

A. Yes.

Q. Okay. And you also deleted all E-mails that you sent from your account, right?

A. Well, I don't know about that. I just didn't want them in my in box where I had to look at them.

Q. I'm going to show you Exhibit 154. Do you have Exhibit 154-1 still? That's the manual.

A. 154-1, back to the manual?

Q. Uh-huh.

A. Here's yours back.

Q. Thank you.
A. Okay. Here it is.
Q. Okay. Exhibit 154-1, Section 2.61, and it states, "Computer hardware and software is provided to staff members to carry out the duties of the office. The Attorney General of Texas has held that electronic mail is public information under the Texas Open Records Act." Do you see that?
A. Is that the first paragraph?
Q. Paragraph 2.61.
A. The first paragraph?
Q. If I can see it. Yes. It begins with the first paragraph.
A. I don't see it in the first paragraph, what you just read.
Q. Okay.
MS. MIRANDA: I think it's the first and the fourth.
Q. (BY MS. SCARDINO) And the fourth. Okay. So, "Computer hardware and software is provided to staff members to carry out the duties of the office." Do you see first sentence of Section 2.61?
A. I see that, yes.
Q. Okay. And then if you go down to the fourth paragraph.

MS. MIRANDA: Fourth paragraph.

Q. (BY MS. SCARDINO) And it says, "The Attorney General of Texas has held that electronic mail is public information under the Texas Open Records Act." Do you see that?

A. I do.

Q. So, you had a duty to preserve your E-mails on your DA account, didn't you?

A. I assumed the office was doing that.

Q. So, you assumed even though you personally were deleting them, that the office was saving them?

A. Yeah. They had everybody's E-mails.

Q. And where -- and they would be somewhere at the DA's office?

A. On the server.

Q. I'll show you Exhibit 110. This is a privilege log from the DA's office to me dated September 21st, 2016. And it's, obviously, very lengthy, so, I won't make you read it, but I'll represent to you that we subpoenaed your E-mails and that a search for E-mails related to this case, in all of the results that came up, I believe there's only one from your account.

MS. MIRANDA: Do you have one more copy of that?

MS. SCARDINO: Yeah.

Q. (BY MS. SCARDINO) So, my question to you is if they do have them at the DA's office, how do we find those E-mails? Because the DA's office could not find them. So, I'm asking you where were they stored, to your knowledge?

A. Well, first of all, I don't know that there would be any more. I don't know why I would have E-mails specifically dealing with Prible. I'm trying to think of why I would. Because back then, we did not E-mail lawyers like they do today. We didn't.

Q. In 2001?

A. Yeah.

Q. Well, in the Temple case, there were E-mails but you testified that you deleted your E-mails, right? There are other E-mails from others, right?

A. Right.

Q. And in this case, there are a lot of E-mails from other people but none from you, right? So, other lawyers in the office were using E-mail at that time?

A. I meant defense lawyers, sorry, between prosecutors and defense lawyers.

Q. I'm talking any E-mails that you sent or received about this case --

A. Okay.

Q. -- where would they be located if you deleted

them? Where could we find them?

A. The DA's office would have them. If there were any more, they would have them. They would be here. There must not be any more. That doesn't surprise me.

MS. SCARDINO: How much time do we have?

THE VIDEOGRAPHER: We have 5 hours and 35 minutes.

MS. SCARDINO: Okay. If we can take a 5-minute break, I think I can finish -- get exactly what I need to do and then hand it over to James.

THE VIDEOGRAPHER: The time is 4:41. We're off the record.

(Short recess.)

THE VIDEOGRAPHER: This is the beginning of file 9. The time is 4:51. We are on the record.

Q. (BY MS. SCARDINO) Ms. Siegler, at Mr. Prible's trial, your coincidental contact theory between Mr. Beckcom and Mr. -- Mr. Prible was very important to your case, would you agree?

MS. MIRANDA: Objection, form.

A. Say that again.

Q. (BY MS. SCARDINO) Your theory at trial was that Mr. Beckcom and Mr. Prible came into contact coincidentally at FCI Beaumont, right?

MR. DOYLE: Objection.

A. I don't remember exactly what I said about that.

Q. (BY MS. SCARDINO) Okay.

THE VIDEOGRAPHER: Ms. Scardino, microphone.

MS. SCARDINO: I'm sorry?

THE VIDEOGRAPHER: Microphone.

MR. RYTTING: Your mic.

MS. SCARDINO: Sorry. Yes.

Q. (BY MS. SCARDINO) I'm going to show you your opening statement.

A. Okay.

Q. An excerpt that's Exhibit 195. Page 78, line 21, and it said -- and -- and you say, "You're also going to hear testimony from a man named Michael Glen Beckcom. Michael Beckcom is a federal inmate at the Beaumont medium federal penitentiary. He's going to tell you about how he came to meet and know Jeff Prible." Do you see that?

A. I do.

Q. Okay. So, it was important at trial to portray the meeting of Mr. Prible and Mr. Beckcom as coincidental, right?

A. Not really.

Q. Okay.

A. I didn't say that anywhere.
Q. Okay. So, you'll disagree that that was your theory at trial?
A. That's not what you just read to me that I said anything about contact.
Q. Well, in your opening statement, you tell the jury that Michael Beckcom is going to tell them how he came in contact with Mr. Prible, right?
A. Yes.
Q. And so, because you put that in your opening statement, that initial contact is pretty important, right?
MR. DOYLE: Objection.
A. Not necessarily.
Q. (BY MS. SCARDINO) Okay. And Mr. Beckcom testified at trial that the confession that he received -- that he heard from Mr. Prible was heard in the presence of Nathan Foreman as well. Do you remember that at the trial?
A. I do not remember the specifics of the trial.
Q. Okay.
A. It was 15 years ago.
Q. Okay. I'm going to show you your -- an excerpt from your closing statement, and I'll -- I'll read it and then I'll give it to you if that's okay. Page 75,

line 11, this is from your closing argument, "Is there any evidence in this trial that Michael Beckcom got any facts about what happened anywhere except out of the mouth of this defendant? All of Mr. Gaiser and Mr. Wentz's questions and hypotheticals and hopes and desires in the whole wide world do not amount to a hill of beans because there ain't no evidence that Michael Beckcom ever had anybody anywhere, any paper, any newspaper, any cop, any TV show tell him anything about the facts of this case for Jeff Prible." Do you remember saying that?

A. I do.

Q. Okay. So, not only was the theory at trial that Mr. Beckcom met Mr. Prible coincidentally at FCI Beaumont but it was also --

MR. DOYLE: Object -- objection, mischaracterizes.

Q. (BY MS. SCARDINO) -- but it was also --

MS. SCARDINO: If you could just let me finish the question first and then state your objection.

MR. DOYLE: Okay. But I mean, you've already done it once.

MS. SCARDINO: Okay.

MR. DOYLE: Come on.

Q. (BY MS. SCARDINO) And then your -- your

theory -- you also had another theory, which was that everything that Mr. Beckcom learned about Mr. Prible's case, he learned from the mouth of -- mouth of Mr. Prible, right?

A. That was two questions.

Q. Okay. Let me restate.

Your theory of the case was that everything Mr. Beckcom learned from Mr. -- about Mr. Prible's case, he learned from the mouth of Mr. Prible, right?

A. Yes.

Q. Okay. That was your theory. Okay. You never mentioned this August 8th, 2001 initial contact that you had had with Mr. Foreman about Mr. Prible's case to this jury, did you?

A. That was out of the mouth of Nathan Foreman, who wasn't credible.

Q. Okay.

MS. SCARDINO: Objection, nonresponsive.

Q. (BY MS. SCARDINO) This is a yes or no question. Did you tell the jury in your argument that you had initially met with Mr. Foreman on August 8th, 2001 to discuss Mr. Prible's case? Did you?

A. In my opening statement, I did not.

Q. At any time during trial?

A. No.

Q. Okay. Let me show you Exhibit 109-4. Actually, I want to get you actually to read Exhibits 109-2, 109-3 and 109-4 into the record because they're your work product notes, I believe.

A. Whoa.

MS. MIRANDA: Can I have a copy?

MS. SCARDINO: Yeah.

A. Where is the first page?

MR. DOYLE: Is that an extra one or did you already --

Q. (BY MS. SCARDINO) The first page of what?

A. What is this?

Q. This was produced by order of the Court after the Court's in camera review of your work product in this case.

A. But this just starts with something. What is the -- what does this go to?

Q. I wish I knew. I would like to know that as well but I don't. This was what was produced.

A. From the Prible file?

Q. Yes. And if you could read it into the record.

A. Okay.

Q. Appreciate it.

A. The first line on 109-2 -- that's a 109, right?

Q. Uh-huh.

A. -- says, "45 semiautomatic? Possible," and then it is X'd out. The next says a check mark in front of "Live 40 caliber rounds?" That -- that note usually means "no" or "done with" when I write it like that.

Q. Okay.

A. The next line is a check mark in front of, "Weapon at CC for repair question?" CC? I don't know what that is. "Not for repair. Lie by defendant."

The next line has an arrow pointing to, "Shorts/shorts/towel results? Not blood, flammable?" And there's a box there that I didn't answer. "Send to FBI."

The next line says, "Pull old files," and there's a cause number "9917797." There's a cause number "811397." And there's a cause number "9719252."

The next line is a question mark, "Can we prove bank robberies? (Motive)" Underneath that it says, "Out December, 2000" -- I can't tell if that's "2003" or "2023." "Defendant in fed pen for bank robbery, 5 of them." "65 months," circled.

The next line says, "Does Jamie Lyons ID Prible?" And underneath that, in somebody else's writing, it says, "Preg girlfriend." That's not my writing.

The next line says question mark, either

"re" or "red Dodge Ram pickup, license plate number SF4896? Nilda's dad."

Q. And then if -- if I can -- if I can stop you right there --

A. Okay.

Q. -- and move on to the next page.

A. Okay.

Q. And I want to bring your attention to the middle of that page, a little -- and it says, "Defendant in Beaumont pen." Do you see that?

A. I see a defendant -- yes, "Defendant in Beaumont pen."

Q. And so, this -- these notes look like they were taken before Mr. Prible was charged, do you agree?

A. Yes, these look like some initial to-dos or random thoughts I had.

Q. Okay. And if you look at the following page, if you look in the middle of the paragraph, it says, "Potential federal prison roommate." Do you see that?

A. I do.

Q. Okay. So, before you were -- you had accepted charges against Mr. Prible, you were already contemplating setting him up with a federal prison roommate; is that correct?

A. No. That's not what that means.

Q. The jury wouldn't have believed that coincidental contact theory if they had known that you had thought about putting him with a federal prison roommate before you even charged him, right?

MR. DOYLE: Objection.

A. That's not what that means. Do you want to know what it means?

Q. (BY MS. SCARDINO) Another theory that you had at the trial was this theory that DNA disappears immediately once it's in an oral cavity; is that correct? Do you remember that?

A. I don't remember exactly what we said, no.

Q. Okay. Well, the reason this -- this theory was important was because the most damning piece of evidence against Mr. Prible was the DNA -- his DNA found in the victim's mouth. Do you remember that?

A. I do.

Q. Okay. And so, it was crucial that the prosecution refute Mr. Prible's story of consensual sex, which is what he told -- volunteered to the detectives within hours of the murders, right?

A. I don't remember what he said initially.

Q. Okay. Okay. But you agree that this theory about the semen disappear -- or DNA disappearing immediately was something that was important to the

trial?

MR. DOYLE: Object.

A. I don't know that we ever used the word "disappear immediately."

Q. (BY MS. SCARDINO) Okay. I'm going to show you your opening statement again, Page (sic) 195. Do you have it in front of you?

A. Yes.

Q. Okay.

A. It's the yellow one. Do you need it?

Q. No. I think those are all -- thank you. Look at Page 82, line 18.

A. Okay.

Q. Okay. And I'll read it for you while you're reading along. "The evidence will tell you -- the compelling evidence will tell you that the reason for that is that found -- after the autopsies were done, especially the autopsy on Nilda Tirado, found in her mouth was the semen, the DNA of Ronald Prible. And the DNA expert will tell you what the odds are, what that means exactly statistically the fact that his DNA is found in her mouth. But the most compelling thing he's going to tell you is that you know what, when semen is in somebody's mouth, in a lady's mouth, it goes away in minutes. It goes away with a small swallow. That's

what the evidence is about in this case, and you're going to know from the testimony all about what kind of man could ejaculate in a woman's mouth after he executed her husband minutes before he executed her, minutes before he could find gasoline to set her on fire and what kind of a man could have walked out of the house with it smoking and burning knowing three little babies were asleep in their bed. That's this kind of man, and he's guilty of capital murder."

Now, does this refresh your memory about the theory of the prosecution being that DNA disappears immediately once it is in a woman -- is in a victim's mouth?

A. I did not use the words "disappear immediately."

Q. Okay. "It goes away in minutes" is the words you stated, right?

A. That's what I said.

Q. Okay. And that was also the testimony that you elicited from the DNA expert in this case, Mr. Watson, correct, that DNA -- the fact that he found any DNA in Ms. -- in the victim's mouth -- or the fact that any DNA was found in her mouth meant that the victim had been executed immediately after the assailant had ejaculated; is that correct?

A. I don't think that he could testify to that exactly but you'd have to show me his testimony.

Q. Okay. I'll show you Dr. Watson's testimony. If you'll let me read it real quickly into the record and then I'll show it to you.

Okay. Page 101 of Dr. Watson's -- Watson's testimony, line 9, and this is Mr. Wisner --

A. Directing him.

Q. -- questioning Mr. -- yes. I believe I said it was you earlier but this is Mr. Wisner.

He says, "And you haven't ever found one partial male sperm cell on any of these swabs?" Talking about oral swabs.

And Mr. Watson -- Dr. Watson says, "Well, you know, I don't know if there were sperm cells there. There was insufficient sperm to generate a profile."

Question, "Not even one?"

Answer, "Not that I can recall, no."

Question, "Yet in this case, we have a full and complete male profile; is that right?"

Answer, "That's correct."

Question, "Based on your testing, could we say that based on your experience and training, because we have a full and complete male profile, that would be inconsistent -- let me repeat -- inconsistent with the

semen in this case being deposited in Nilda's mouth as long as an hour before she was killed?"

Mr. Gaiser lodges an objection, which is overruled.

Answer, "I would say that it is. I would say that it's inconsistent."

Does that refresh your memory as to whether testimony regarding the amount of time that semen could remain in the victim's mouth was elicited from Dr. Watson?

A. You used the phrase "disappeared immediately." What I heard there was an hour.

Q. Okay. So, at the very least, you're saying that the -- that it would have disappeared in an hour?

A. I don't know. Vic did the direct. I didn't.

Q. Okay.

A. It's been 15 years. The transcript speaks for itself, and Vic is the one you should be asking that question to.

Q. Well, the -- the transcript does speak for itself, I agree, and earlier in your opening statement, we -- we said that -- we showed where you said -- told the jury that it disappeared within minutes, right?

A. I already don't remember. I'm sorry. Do you want me to look again?

Q. Okay. If you can look at Exhibit 109-4, at the very top there in your handwriting, it says, "Pam McInnis, semen lives up to 72 hours." Do you see that?

A. I do.

Q. Now, who is Pam McInnis?

A. She is a DNA analyst and was the head of the crime lab for Pasadena --

Q. Okay.

A. -- and Harris County. She was connected to both.

Q. And so, you consulted her about this question as to how long semen could live in the oral cavity, right?

A. I at least started with her, yes.

Q. Did you reveal to the defense counsel in Mr. Prible's case that you spoke with Ms. McInnis and that she told you that semen could live up to 72 hours?

A. I think that was part of the trial. 72 hours is in the trial.

Q. My question to --

MS. SCARDINO: Objection, nonresponsive.

Q. (BY MS. SCARDINO) My question to you is did you ever reveal to Mr. Prible's counsel that you had spoken with Pam McInnis and she had told you that semen lives up to 72 hours?

A. I don't remember.
Q. Okay.
MS. SCARDINO: I think that is all I have at this moment, if I could pass it on to James.
EXAMINATION
Q. (BY MR. RYTTING) Ms. Siegler, you mentioned that you found Nathan Foreman not to be credible, that's correct?
A. I did.
Q. And, in fact, you called him several times during this deposition a liar?
A. I did. Can you talk a little louder?
Q. In fact, you called him -- several times during this deposition, you referred to him as a liar?
A. I did.
Q. And on December 10th of 2001, you interviewed Nathan Foreman, along with Johnny Bonds, at least that's what the record indicates based on Johnny Bonds' notes?
MS. MIRANDA: Objection, form.
A. I don't remember that specifically but I'm not going to argue with that.
Q. (BY MR. RYTTING) All right. Did you determine Nathan Foreman was not credible because -- did that have -- did that have anything to do with his race?
A. No.

Q. Did it have anything to do with his appearance?
A. With his what?
Q. With his appearance.
A. No.
Q. Was it because his story just didn't hang together or didn't fit the facts?
A. That was a lot of it.
Q. And that's why you didn't use him in -- and we're talking about at any time, you can't recall at least, that Nathan Foreman gave you a good account, something that fit the facts?
A. You asked me two questions there.
Q. Yes. Well -- and so -- and I'm talking about at any point you -- well strike the question. I don't need it.

You mentioned you had Michael Beckcom bench warranted in the Bible -- in the Danny Bible case?
A. No. I mentioned that Michael Beckcom was bench warranted and attached to the Danny Paul Bible case.
Q. Okay. And how do you do that? What type of documents do you have to file to do that?
A. The court -- court coordinators are in charge of bench warrants.
Q. But you instruct the court coordinator why they're being bench warranted --

A. Yes.
Q. -- correct?
A. Yes.
Q. And then they file some sort of document with the court?
A. I don't really know what they do. That's a court coordinator function.
Q. But it comes out as a court order to move somebody from one place to the courtroom or to the -- to the jail, right?
A. It does.
Q. Okay. And you knew at the time that he was not going to be a witness in the Danny Bible case?
A. That's correct.
Q. So, it was a false misrepresentation to the Court and to the court coordinator?
A. No.
MR. DOYLE: Objection.
Q. (BY MR. RYTTING) What was true about that?
A. That we needed Michael Beckcom brought to Harris County, and we needed to make sure that Jeffrey Prible and Michael Beckcom did not run into each other for lots of reasons, to protect the integrity of the case and also for the safety purposes for both of them.
Q. Okay. And isn't there other means to do that

without having bench warrants somebody as -- and attach them as a witness to the case?

A. No. If I would have attached Michael Beckcom to the Jeffrey Prible case, they would have been brought together on the chain each and every time they were brought up. That would have been really a stupid thing to have happen.

Q. You can't have them bench warranted at different times?

A. I did have them bench warranted at different times. That's why it's connected to Danny Paul Bible.

Q. No, but in the Prible case.

A. No. They get -- it gets all messed up. The jail can't keep it straight.

Q. So, this is a necessity that you attach them to cases to which they're not involved, that a witness is not involved?

MR. DOYLE: Objection. I'm not sure I heard what you said, James.

Q. (BY MR. RYTTING) Okay. So -- well, strike that.

And is this a common practice by Harris County Texas district attorneys?

A. Yes.

Q. And so, the result is that when say someone

gets a post conviction case and has to investigate it, they're -- they look at cases and find -- and they cannot be sure if a witness is attached for one reason or another to a case because of the Harris County district attorney's policy?

A. That would be a complication, yes.

Q. Let's see. And did you tell Mr. Wentz and Mr. Gaiser about your -- the results of your interview with Nathan Foreman?

MR. DOYLE: Objection, asked and answered.

A. I don't believe so, no.

Q. (BY MR. RYTTING) And Nathan Foreman, obviously, didn't give you the same information as Michael Beckcom did?

MS. MIRANDA: Objection, form.

A. You told the federal judge that the division of duties were you were handling Mr. Herrero.

Q. (BY MR. RYTTING) I asked you a question, Ms. Siegler.

A. Well, did you misrepresent that to the federal judge? Because I thought you were doing Herrero and she was doing Prible, and so far you haven't had a single Herrero question.

Q. Look, you're not allowed to ask questions. Just answer them.

A. Just making a point. What's your question?

Q. And the question was -- well, strike that. Strike the question. We'll move -- move on to some matters about the -- to different matters.

What is your understanding of the role of a -- and these are going to be -- going to concern with the -- specifically the Herrero case. What is your understanding -- what is your understanding of the role of a prosecutor in opening -- opening argument? What -- what are the limits?

A. Ask me that again.

Q. What is the purpose -- what is the purpose of an opening argument?

A. To give the jury a picture and an idea of what we hope the evidence to be.

Q. And you have to have a good faith belief that the evidence that you're going to present and will be admitted in the case is evidence that you have based your opening argument on and that you've told the jury that you're going to show them; isn't that correct?

MR. DOYLE: Objection.

A. If you're asking me if I have to have a good faith belief that the evidence will be admissible before I talk about an opening statement, if that's your question, then the answer is yes.

MS. SCARDINO: Do you want to take a 2-minute break and run up and get --

MR. RYTTING: Yes.

MS. SCARDINO: Okay. Let's go off the record real quickly for 2 minutes.

THE VIDEOGRAPHER: The time is 5:19. We're off the record.

(Short recess.)

THE VIDEOGRAPHER: This is the beginning of file 10. The time is 5:21. We are on the record.

MR. RYTTING: I'm not sure what exhibit we're up to. Would it be safe to start at 300?

MS. SCARDINO: Yes. That's fine.

Q. (BY MR. RYTTING) I'm handing you --

MR. RYTTING: Here you go.

MR. DOYLE: Thank you.

Q. (BY MR. RYTTING) -- opening argument --

MR. RYTTING: Do you need a copy?

Q. (BY MR. RYTTING) -- opening argument in the -- in the Herrero case.

A. Okay.

Q. Okay. And on Page 4, you refer to Mr. Herrero --

A. Page 4 but number 8?

Q. I mean Page 7. Page 7. On Page 7 of what's

been marked as Exhibit 300, you refer to -- if you read down, you refer to Mr. Herrero as much like a Godfather, a John Ghatti type person.

A. What line are you talking about?

Q. The last line on Page 7, so, it would be line 25.

A. Ask me the question again.

Q. I'm just saying if you -- if you read here, you -- you -- you state before the jury in your opening argument that Mr. Herrero is the leader of the All Houston Group, he's very proud, he wants people to look up to him, he's sort of like a Godfather, a John Ghatti type person, correct?

A. Yes.

MS. MIRANDA: Objection, scope.

Q. (BY MR. RYTTING) And you mentioned that you had nothing to do with the Jason Morales case?

A. Are we still on this?

Q. No. I'm just asking a question.

A. Okay. What's the question?

Q. You said that you didn't prosecute Jason Morales, that was someone else's case?

A. That's not what I said.

Q. What did you say?

A. I said I didn't prosecute the Cuellar case.

Q. Cuellar?
A. Yes.
Q. But you did prosecute Jason Morales?
A. I did.
Q. Okay. And, in fact, Jesse Moreno was a witness in that case?
A. He was.
Q. All right. Let me see here. All right. Okay. And, again, like you said, you're supposed to have a good faith basis in what you're informing the jury that the evidence is going to show when you make an opening remark, correct?
A. Yes.
Q. And if we look at Page 8, if we read -- at the -- at the second full paragraph, I'll just read it for the record starting on line 14.

"So, Jesse Moreno showed his papers to this defendant. At first they were all in the All Houston. Everything was going along fine until this defendant discovered that Jesse Moreno had before, in fact, testified for the authorities on two different occasions. And when that happened, Jesse Moreno is going to tell you what happened was he was put in what's called the hole in the Beaumont prison where they protect you even in prison from other inmates."

And the -- your theory and the evidence in the case showed, did it not, that -- or the testimony from Mr. Moreno, that it was threats from Mr. Herrero that drove Mr. -- that required protection for Mr. Moreno; isn't that correct?

MS. MIRANDA: Objection, scope.

A. You asked me two different questions there.

Q. (BY MR. RYTTING) And -- and I'm just saying this indicates -- that that -- this -- this paragraph indicates that it was threats from Mr. Herrero that was -- that was the reason why Jesse Moreno had to be put into segregation?

A. And what's your question?

Q. Is that -- that was the -- that was your theory, correct, in this case?

A. I'm still confused.

Q. I understand. Well, isn't it a coincidence that -- you're not saying it's just a coincidence that Jesse Moreno -- that the defendant discovered that Jesse Moreno had before, in fact, testified for the authorities and that what happened was that Jesse Moreno was -- was -- was put in what's called the hole in the Beaumont prison?

MS. MIRANDA: Objection, scope.

A. What's your question?

Q. (BY MR. RYTTING) Are you saying that it's just coincidence or are you saying that there was a -- that -- are -- are you telling the jury in your opening argument that Jesse Moreno was put in the -- in the hole because of threats from Mr. Herrero?

A. No.

Q. You're not? What does this mean?

A. Just what it says.

Q. Okay. So, it is just a -- just two random unconnected events, one -- one event that Jesse -- that -- that Mr. Herrero learned about Mr. Moreno's testimony from the authorities on two different occasions, and the second is an unconnected event, completely unconnected with that, is that what you're telling me?

A. No.

Q. So, they are connected?

A. Yes.

Q. How?

MS. MIRANDA: Objection, scope. If I can just really quickly -- no, I -- we talked about this earlier --

MR. RYTTING: You make your objections.

MS. MIRANDA: I don't want to -- I don't want to keep interrupting you, so, I just want to say

for the record that I'm objecting to all things outside of the scope so that I don't have to constantly keep saying that.

MR. RYTTING: Oh, thanks.

MS. MIRANDA: I don't want to do that. So, if I just --

MR. RYTTING: Thanks.

MR. DOYLE: Is that an agreement you all have?

MS. MIRANDA: We -- we didn't make an agreement but we -- we discussed what my objections were, and I don't -- and --

MR. RYTTING: Nor is it any of your business.

MS. MIRANDA: -- they -- they -- they asked me to simply --

THE WITNESS: It's my business.

MS. MIRANDA: -- object when they asked a question but --

MR. DOYLE: I think it has to do with my witness, James. That's all I'm --

Q. (BY MR. RYTTING) So, these statements are connected? What happened to Jesse Moreno is connected to what the defendant discovered -- the defendants discovered, that he had testified for the authorities,

that's what you -- that's what this argument states, correct?

A. It speaks for itself.

Q. Okay. And is that -- but tell me what -- is that what the -- is that how it speaks for itself? Is that a correct interpretation of what it says?

A. I don't know what you think it says.

Q. Okay.

A. I just believe it speaks for itself.

Q. I told you what I think it says. I think the implication here is that the fact that Jesse Moreno -- that -- that Mr. Herrero discovered that Jesse Moreno had, in fact, testified for the authorities resulted or was the reason why Jesse Moreno was put in what's called the hole. Is that a fair inference from this paragraph?

A. That's what it says.

Q. Okay. Thank you.

And he was put in the hole in something like 2000?

A. When?

Q. In -- in July of 2000.

A. I don't remember that.

Q. You don't know?

A. (Witness indicated by shaking her head negatively.)

Q. But he was put in the hole before he contacted you about this case; isn't that correct?
A. Yes.
Q. And, in fact, you told -- you said that one of the reasons that Jesse Moreno came forward wasn't just that he wanted a reward but out of desperation because of threats from Mr. Herrero, right?
A. Did you say "reward"?
Q. A reward or assistance from you in getting a Rule 35.
A. Do you want to reask the question and leave out "reward"?
Q. Yeah. Sure. Sure. And you also tried to inform -- told the jury that one of the reasons that Jesse Moreno came -- came forward -- one of the reasons that Jesse Moreno contacted you to offer to testify against Mr. Herrero was out of fear and for protection. Do you recall that?
A. I do.
Q. Okay. And it was from -- and it was protection from whom?
A. Hermilio Herrero.
Q. And, in fact, you argued to the jury at least that Mr. Herrero was risking his life by coming forward?
A. I did.

Q. And that was one of the reasons that may make him credible was he was willing to take that risk?
A. Yes.
Q. And risk his life, and the risk was the risk that Mr. Herrero would use his power within the prison system or outside to harm Mr. Moreno; isn't that correct?
A. And/or his family.
Q. And/or his family. And you have read the pleadings in this case, haven't you --
A. Say that again.
Q. -- that we have filed? Have you read the -- the habeas pleadings in this case and the exhibits?
A. Your petition?
Q. Yes, in the -- in the Herrero case.
A. When I first got it from Tina.
Q. Okay. All right.
MS. MIRANDA: Wait. I -- I'm sorry.
Q. (BY MR. RYTTING) All right. And did you ask the BOP for any documents?
A. Did I?
Q. Yes.
A. No.
Q. Did you ask Mr. Moreno why he was -- when you -- did you prepare Mr. Moreno for his testimony?

A. In?
Q. In the Herrero case.
A. I did.
Q. Okay. And did you ask him why he was put in what's called the -- what you're referring to as the hole?
A. Yes.
Q. Okay. And he told you that it was because of threats from Mr. Herrero; is that correct?
A. Yes.
Q. And do you know now that that's false?
A. I do not.
Q. And if the BOP record showed that Mr. Herrero was put in the hole because he was -- partly because he was running drugs into the prison for the Texas syndicate, were you aware of that?
A. I heard that at some point through the appellate process.
Q. Okay. And that Mr. Herrero was transferred to Liberty County to keep him safe from other inmates because he was assisting BOP investigating drug running into the prison?
A. That's not what I understood or was told.
Q. So, you were -- you were not told that?
A. No.

Q. You were never aware of that?
A. No.
Q. And -- and the basis for these BOP documents -- the source of this information from the BOP documents is -- are interviews of Mr. Moreno, you're not aware of that either, are you?
A. No.
Q. Okay. And, in fact, you're not aware either that he mentioned Mr. Herrero in one of the documents --
A. Who is "he"?
Q. Sorry. Mr. Moreno mentioned Mr. Herrero in one of the documents -- in one of the interviews that BOP memorialized but did not say that Mr. Herrero was threatening him?
A. How would I know that?
Q. Okay. You did not know that, right?
A. (Witness indicated by shaking her head negatively.)
Q. And if all that is true, you realize that your attorney -- I mean, your -- your witness not only provided you false information but led you to make a false representation to the jury?
MS. MIRANDA: Objection, form.
MR. DOYLE: Objection.
A. If that is true.

Q. (BY MR. RYTTING) Thank you.
A. I thought we were here today on Prible.
Q. You're here to answer questions.
A. My subpoena says Ronald Jeffrey Prible.
Q. Yeah. You're here to answer questions in the case, and I -- I mean, you realize -- you have read both those petitions, correct?
A. No. What do you mean both petitions?
Q. One -- the -- the application, Herrero application, have you read that?
A. No.
MR. DOYLE: No. As a matter of fact, I understood that was not --
MS. MIRANDA: And that's what I was going to clear up but I didn't want to interrupt. Sorry.
MR. DOYLE: This is -- this is --
MR. RYTTING: Please --
THE WITNESS: My subpoena says Prible.
MR. RYTTING: We have -- we have an hour to go or so. Let's get it done.
MR. DOYLE: I'm sorry?
MR. RYTTING: Just make simple objections. You can say, "Beyond the scope of" --
MR. DOYLE: Well, here -- here's -- here's the problem, James, is that if it relates to the gang

of -- or whatever you call it -- the circle of snitches, that's one thing, but you're talking about a completely -- another habeas case that -- that was not the subject of the subpoena.

MR. RYTTING: All right. Then you have a -- then you have a relevancy objection, and that's about it, but they're not permissible. So --

MR. DOYLE: Well, no. I think that we -- we have an objection to, you know, going forward on this stuff.

MR. RYTTING: No. No. I mean, what is the objection?

MR. DOYLE: This is not the subject matter in which she was subpoenaed to be here.

MR. RYTTING: Okay. Then you're not saying -- then you're saying it's not relevant and we'll move on.

MR. DOYLE: No, it's not -- it's not relevant to the subject matter of the subpoena.

MR. RYTTING: You don't get to make that call.

MR. DOYLE: Well, I get to --

MR. RYTTING: So --

MR. DOYLE: I get to protect my client.

MR. RYTTING: From harassing --

MR. DOYLE: So, what --
MR. RYTTING: From harassing -- from harassing questions.
MR. DOYLE: That's exactly what's --
MR. RYTTING: But these aren't.
MR. DOYLE: Thank you, James.
MR. RYTTING: These aren't.
MR. DOYLE: Yeah, it is.
MR. RYTTING: They're just questions about the case.
MR. DOYLE: About a different case.
MR. RYTTING: Okay. Let me -- let me explain this. We have a theory in both cases. Our theory is that -- as you know, we've raised Giglio claims in both -- in both cases. Those are claims that the prosecutors sponsored false testimony in both cases. We have an allegation in the Prible matter. Do you understand this, that there is a -- that we believe there is a pattern and practice of doing so that's illustrated by both of these cases? Those are the allegations in the --
MR. DOYLE: We -- we've -- she's never seen the -- she doesn't know what you're talking about.
MR. RYTTING: Okay. Then -- then you -- and neither have you, and you shouldn't be objecting to

scope, and I would like to -- we can do this off the record.

MS. SCARDINO: If we -- we can -- we can keep it on the record. Let's decide right now if we're going to allow the questioning to continue or if we need to contact Judge Ellison.

MR. RYTTING: We're not --

MS. SCARDINO: Because this -- this information has been briefed extensively in our request for these depositions.

MR. DOYLE: So --

MS. SCARDINO: And it's entirely within the scope is my understanding.

MS. MIRANDA: We're objecting to that but that's why we just said it straight out and then we'll take that up later. I mean, we -- we put our objection on the record and then what the Court does with it -- I mean, I --

MS. SCARDINO: Well, are we going to be allowed to continue with the questioning --

MR. RYTTING: Yes, we are.

MS. SCARDINO: -- or are we going to need to get the Court on the -- on the phone one more time?

MR. DOYLE: We're not going to get the Court on the phone at 5:30 in the afternoon. I'm sorry.

MR. RYTTING: Let's finish up the deposition.

MS. SCARDINO: Let's continue.

MR. RYTTING: There's very little time left.

MR. DOYLE: Let's keep it to what you say the connection was.

MR. RYTTING: There's very little time. There's very little time.

Q. (BY MR. RYTTING) And as in the Ronald Prible case, you were given a photograph in this case of -- of Mr. -- for use at trial, correct, that showed Mr. Herrero with Mr. Moreno and Mr. Dominguez and several other -- several other prison inmates, correct?

A. I remember the photograph from the Prible trial.

Q. Okay. You also got the same -- a similar photograph in the Moreno (sic) trial?

A. I don't remember that one.

Q. I'm showing you Exhibit -- and if you look at -- at Exhibit 164, do you -- do you recognize the person in the center of that photograph?

A. The first page of 164?

Q. Yes, the first page of 164. Yes, the first page of 164.

A. I can't really see the person in the center of it, and I don't remember this photo.

Q. But you can't speak that it was -- that's Hermilio Herrero?

A. I can't see.

Q. Oh, I see.

MR. DOYLE: Can we explain on the record she had surgery a week ago, and so, she -- it's getting worse all day.

MR. RYTTING: We may have to --

MR. DOYLE: She's called the doctor while we had a break.

MR. RYTTING: All right. We may have to continue the deposition since I can't show exhibits to her.

THE WITNESS: I've been reading all day, sir.

Q. (BY MR. RYTTING) Now, in your closing remark, you refer to these people as members of All Houston. Do you remember that?

A. I don't know if I was talking about these people in this picture.

Q. But these -- these were part of the All Houston Group?

A. I don't know who these people are in this

picture. I don't remember this picture.

Q. You don't remember that it was introduced at -- in the trial?

A. I don't. If you want to show me the exhibit with my writing on it with the State's exhibit number, then --

Q. Okay. Did you have any information that Mr. Herrero, that you can recall, was a member of any other prison organization other than what was called the All Houston Group at trial?

A. Yes.

Q. You did have other information?

A. I remember another name, yes. I don't remember what it was.

Q. It was some other group.

A. There was another name that they used. I don't remember the name.

Q. But at trial, you didn't introduce any evidence about any other organization that Mr. Herrero was a member of other than All Houston Group, correct?

A. I remember them talking about another name. I don't know if they meant it was the same group with a different name or a different group.

Q. And --

A. There was another name discussed.

Q. In other words -- and, in fact, you -- if you read your opening argument, it was -- it indicates that as a member -- as the leader -- and he was the leader for a while of All Houston Group -- that that is how he exercised his control and power over other inmates, is that -- does that sound familiar, that he was a leader of this group and could command, if necessary, use of force?

A. Yes.

Q. Okay. That sounds -- okay. All right.

And you realize that we deposed Rafael Dominguez in this case?

A. I don't know who all you deposed.

Q. As Tina can confirm we did. And the testimony of -- I can have you read the testimony of Rafael Dominguez but if he testified that Mr. Herrero's role as the -- as the leader of the All Houston Group was essentially to be a mediator between conflicting groups in prison, would that change your picture --

A. Not necessarily.

Q. -- of All Houston?

A. No.

Q. And if he said that Mr. -- he didn't consider Mr. -- he -- he was -- actually claimed Mr. Herrero threatened him and made him show him his PSI at trial.

A. Who is "he"?
Q. Rafael Dominguez. Do you recall that testimony?
A. Say the question again.
Q. Do you recall that Rafael Dominguez testified at trial that he had to show Mr. Herrero his PSI?
A. I remember that.
Q. Okay. And the reason -- and he had to do it -- and he had to doctor his PSI, just like Jesse Moreno claimed that the had to doctor his PSI. Do you remember that?
A. Not specifically, no.
Q. They had to excise evidence that they cooperated with the government. Do you remember testimonies along those lines?
A. I don't remember the details of the case.
Q. Okay. One of the things that you impressed upon the jury, I believe, was that Mr. Moreno's and Mr. Dominguez's testimony was consistent with the physical evidence; isn't that correct?
A. Yes.
Q. And that is how they could be assured that it was -- one way that they could be assured that it is accurate; isn't that correct?
A. Yes.

Q. And among the -- some of the evidence that you claim showed that they were testifying accurately was blood evidence, for example, correct?

A. I don't remember all the evidence.

Q. You don't remember? You don't remember having Curtis Brown testify about the blood evidence that flowed down from the gaping wound in Guajardo's neck?

A. I haven't seen the transcript, and the trial was 15 years ago.

Q. Did you review the -- in preparation for this deposition or at any time, did you review the affidavit that Tommy Brown, former -- an ME -- a former ME in Harris County, filed in this case?

A. No.

Q. You have not? All right. Let's see.

And I believe Gretchen asked you early on about testimony in the Herrero case that the victim was beaten by a hammer?

A. I don't remember her asking me that.

Q. Okay. Do you recall that that was part of the testimony?

A. I do.

Q. And the claim was that Herrero slit the man's throat and then dragged him to the back of the van and, because he was still alive, beat him in the face with a

hammer?

A. I don't know that that's the exact order of everything. I don't remember.

Q. All right. And having prosecuted the Jason Morales case, you know that Moreno was involved in a robbery in which a victim was a beaten with a hammer, correct?

A. I don't remember how the victim was killed in Jason Morales. I don't remember the facts of that case.

Q. Okay. But in the file in that case, in your file, we have police reports that indicate that Mr. Moreno was part of what was called The Little Red Gang. Do you remember that?

A. I do not remember that.

Q. You don't remember that? And you don't remember that Mr. Moreno was actually taped en route to a -- and this Little Red Gang -- Gang was conducting home envisions and home robberies. Do you remember that?

A. Do you want to show it to me? Because I don't remember Jason Morales and the specifics. That was 20 years ago.

Q. Yeah. I think given your eyesight, this is going to be a problem.

A. I can read better than I can see those pictures

and the pink message slips.

Q. This is not -- it will be useless to do it since it's not tabbed.

But at -- at -- at trial, Dan Cogdell tried to cross examine Mr. -- Mr. Moreno on his involvement in a home invasion in which a hammer was used, and there were objections made. Do you recall that?

A. I do not.

Q. Okay. And one of the reasons that -- and -- and the Court excluded -- excluded or prevented Dan Cogdell from going into the -- into the robbery in which a hammer was used, the robbery that was conducted by The Little Red Gang, according to the police report, based on Mr. Moreno's representation he had nothing to do with it. Do you remember -- you probably don't recall that either?

A. There are so many questions in that and assumptions in that question, I don't even know where to start.

Q. You don't even recall -- do you recall that at all?

A. What?

Q. Whether Dan Cogdell attempted to introduce evidence into the trial about The Little Red Gang and its involvement in a home invasion in which a hammer was

used to beat victims but could not?

A. I do not remember. The trial transcript will speak for itself, and the trial was 20 years ago.

Q. Okay. And one of the reasons why he was not then -- I can show you Page 57 and what's been marked as Exhibit 70, Page -- there you go.

MS. SCARDINO: My notes are on that one, I think. I believe my notes are on that one.

MR. DOYLE: I don't see any notes.

MS. SCARDINO: It's on the second page. No. It's just -- it's just highlights.

MR. DOYLE: I'll -- I'll ignore them.

MS. SCARDINO: It's just highlights. Sure.

Q. (BY MR. RYTTING) Are you finished reading?

A. Oh, yes. I'm sorry. I was waiting on you.

Q. Okay.

A. We can barely hear you, and now the chair is in the way, so, you're going to need to talk louder.

Q. Yes. Sorry about that.

So, does that refresh your memory that he was -- that there was this issue at trial about whether Dan Cogdell could introduce evidence about a robbery or a crime in which a hammer was -- that Mr. Moreno -- that he claimed Mr. Moreno knew about in which a hammer was used?

A. I've read the transcript. It doesn't refresh my memory about the specifics of what they're talking about, no, sir.

Q. I guess the transcripts will speak for themselves, that if they say that -- that you -- the Court ruled on the basis of Mr. Moreno's allegation that he knew nothing about the robbery in which a hammer was used, that he knew nothing about it, you can't dispute that?

MR. DOYLE: Objection.

MR. RYTTING: Sure.

A. The transcript speaks for itself.

Q. (BY MR. RYTTING) Okay. And police did discover that he was actually taped -- the evidence will show, I think, that the police taped Jesse Moreno --

A. Who are we talking about?

Q. Police, HPD taped Jesse -- Jesse Moreno, using an informant, en route to the robbery in which a hammer was used to beat the victim.

A. I don't know what you're talking about.

Q. You don't? You haven't heard that?

A. You're confusing cases or I'm confused.

Q. You didn't -- that's a case that you're not familiar with?

A. You said HPD.

Q. So, it's investigated by Harris County?
A. The ones that I know about were.
Q. Let me see. I guess we can mark this.
So, you didn't know that H -- that HPD was investigating Jesse Moreno's activities -- I mean -- yeah, Jesse Moreno's activities as part of The Little Red Gang?
A. That's an assumption that I don't know enough about to answer.
Q. You don't know. Okay. You don't know. All right. You don't recall if that was the case.
MR. RYTTING: I'll just introduce this. Do we have a sticker here? I'm almost finished. We're up to 300. This will be 301.
Q. (BY MR. RYTTING) And this was produced by Brian Rose, I'll represent.
MR. DOYLE: If you've got a -- if you've got an extra one, I'll mark it, James. You don't have to do it.
MR. RYTTING: I'll do it.
MR. DOYLE: Thanks.
MS. MIRANDA: And I'll take one as well.
MR. RYTTING: All right.
Q. (BY MR. RYTTING) That is an HPD report, correct?

A. This is an HPD report, yes.
Q. And I'll represent that was produced when we -- from an open records request --
A. For?
Q. -- from Harris County in the Jason Morales case for the file.
A. In the Jason Morales case?
Q. Yes, in the Jason Morales case as part of the file.
A. Okay.
Q. I'll mark this as 302, and this is going to be the statement of Tommy Brown. Exhibit 302 is the statement of Tommy Brown. Have you read -- you say you haven't read that?
A. I have not.
Q. Take your time and look through it.
MS. MIRANDA: James, could I have one? And while she's looking at that, can I ask where are we at with time?
THE VIDEOGRAPHER: 20 minutes.
MR. RYTTING: 20 minutes. We'll finish.
A. Okay.
Q. (BY MR. RYTTING) Have you finished reading the whole thing?
A. No, I didn't read the whole thing.

Q. Okay. Let's get down to -- if you'll turn to --

A. Get down to what?

Q. If you'll turn to -- let's see -- paragraph 16. And you realize that Tommy Brown did the autopsy in this case, that he actually did the autopsy?

A. Yes, sir.

Q. Okay. And it says, "Based on review of the autopsy report and autopsy photos and crime scene photos, it is my forensic opinion that Guajardo received numerous blunt trauma injuries before the cutting wound to the neck was administered. Testimony that Guajardo was only choked before he had his throat slit and that the lacerating injuries seen on his scalp were inflicted after this mortal injury cannot account for the significant -- significant trauma to the back and front of Guajardo's torso seen in autopsy photos, nor is it consistent with premortem lacerating injuries to Guajardo's lip, with abrasions to his shoulder, bruising to his face and neck or what appears to be a stab wound to his -- to his neck. The lack of blood evidence on lower garments, including the white belt, pants and white socks, is inconsistent with testimony that Guajardo had his throat slashed in the confines of a van."

And your -- you realize that your witness is simply testifying that there was an argument, that Herrero grabbed the victim --

A. Who are you calling my witness?

Q. Moreno and -- and Dominguez both testified that --

A. Are we still talking about this?

Q. No. I'm talking about their testimony. This is a -- this is -- I'll just ask you a question.

This directly conflicts with the testimony of Mr. Moreno and Dominguez, does it not?

A. I would refer -- I would refer you back to paragraph 15 in this same document where it says, by Tommy Brown, "I have been asked to comment on the trial testimony as related to me by Herrero's attorney," and since that -- that is you and you're the one that related whatever facts you may have to Dr. Tommy Brown, I don't really care what he had to say after he talked to you because I know how you relate facts.

Q. Okay. Okay. So, the facts that I related to Mr. Brown was that the testimony at trial was that there was an argument, that Herrero grabbed Mr. -- in a van, in a moving van --

A. Does it really matter what you told Tommy Brown? Because I can't comment on what he said. I

wasn't there. And I don't -- I wouldn't believe what you told me you told him anyway.

Q. Okay. Well, does the -- do you recall the testimony at trial?

A. I do not. The trial transcript can speak for itself.

Q. Okay. So, if the trial transcript says that both Dominguez and Moreno testified that the way -- the manner and means in which Mr. Herrero (sic) was killed was that he was first grabbed from behind and choked and then Herrero took a knife out of his pocket and slit his throat, then afterwards he then dragged him to the back of a van and beat him over the head with a hammer to make sure he was dead, that -- you don't recall that as being the gist of these -- these two defendants' testimony?

A. That is not exactly what they said, as I recall.

Q. Okay. What else do you recall?

A. Well, you said he pulled a knife out after he slit the throat, so, that couldn't happen.

Q. No. He pulled a knife out and then -- and then slit his throat.

A. Well, that's not what you just said.

Q. Okay. All right.

A. You just said that they testified in such a way that's impossible for it to have happened.

Q. So --

A. Once again, your rendition of the facts isn't quite accurate.

Q. Sure. So, pulled the knife out and then slit his throat, the knife out of their pocket. So, we'll make that correction. Do you -- does that sound like the gist of their testimony?

A. The gist of it but not necessarily in that order.

Q. They didn't mention -- they didn't -- they didn't tell you that Herrero was beaten -- I mean, that Mr. Guajardo was beaten badly, that he was beaten all over his torso?

A. I don't remember what they said about a beating. I don't remember if there was a beating.

Q. They didn't say any -- they didn't say anything at all about it?

A. I don't remember anything -- I don't remember what happened with the beating.

Q. But the autopsy evidence shows that there was a severe beating and, according to Dr. Brown, the severe beating preceded the wound --

A. The trial --

Q. -- wound to the throat; isn't that correct?
A. The trial transcript will speak for itself.
Q. But -- but that would conflict with the trial transcripts in which there's no mention of any beating, there's no mention of bruises all over the torsos, there's no mention of lacerations on the shoulder, on -- on the -- on ears, all over the scalp, would it -- would it -- would it not?
A. I can't argue about what the trial transcript says when I don't know what it said and the trial was 15 years ago.
Q. And you -- do you recall that Dr. Wolf was an ME in this case?
A. I didn't remember that.
Q. And that he testified?
A. I don't -- I didn't remember that either. I'm not going to argue with you. I just didn't remember.
Q. You don't? Okay. So, you don't recall. And, in fact, you didn't have -- did you -- did you prepare Dr. Wolf for his testimony?
A. I would have met with him ahead of time, yes.
Q. Would you have asked him about --
MR. RYTTING: Can I have this marked as 304, I think -- no. 303.
Q. (BY MR. RYTTING) Here's 303. If you would,

just quickly go through the autopsy. These are autopsy photos from the Morales -- from the Guajardo murder. Here you go.

A. These are not the ones I offered into evidence. They're not because my stickies would have been on the front of the pictures, not the back.

Q. No, they're not the ones that you offered in. They're copies -- they're copies of evidence in the -- they're copies of evidence in the -- in the file that was produced to us. Whether they were all introduced, I don't know. These were --

MR. DOYLE: Do you have an extra --

Q. (BY MR. RYTTING) -- copies from your file.

MR. DOYLE: James, do you have an extra? Thank you.

Q. (BY MR. RYTTING) They're from your file in this case. They were produced by your former office.

And if you turn to the -- let's see -- to some of the pictures of the -- of the chest, for example, this would be -- hold on. I don't know how many pages back in this -- in this document. 1, 2, 3, 4, 5, 6, 7. I think it's the 8th or 9th page. That one.

A. Okay.

Q. And it shows -- did you ask Dr. Brown about

these injuries or these insults to this -- do you recall --

A. I thought you said Dr. Wolf testified.

Q. I mean, Dr. Wolf. Dr. -- did you have him address any of these photographs and explain their significance?

A. I'm -- I'm confused.

Q. Do you remember -- do you remember at all talking to Dr. Wolf about any of these photographs?

A. You're asking me if I remember in my pretrial interview with Dr. Wolf --

Q. Yes.

A. -- from 15 years ago --

Q. I know.

A. -- questions about photographs that I didn't offer into evidence.

Q. Okay. Let's -- let's make this very simple. I mean, if it's no, it's no. I don't blame you for not remembering.

A. I don't remember.

Q. I just asked you.

A. I don't remember.

Q. Would you -- was it part of your practice to ask the ME about the significance of autopsy photographs and what they mean?

A. Yes.

Q. Okay. And would there be any reason not to have them address our explain injuries seen elsewhere on the body besides the head and neck of this victim?

A. Ask the question again.

Q. Would there be any reason not to have him address or explain to you the significance of injuries seen on the torso, on the back, on the shoulders of this victim?

A. If I don't remember what he testified to, how can I answer in the negative?

Q. I just wondered would you have -- would you go over the entire -- all the injuries that this individual received -- received?

A. That would have been my practice, yes.

Q. That would have been your practice. Okay. And you see in these -- in these photographs, for example, let me show you -- make it easier -- a picture of a torso and a -- and his back.

A. Okay.

Q. And your -- your witnesses did not testify that the man was beaten and stomped in the back or hit in the torso or received any injury that would have bruised his body.

A. I don't remember the specifics of what they

said happened with the injuries.

Q. Okay. But you would have asked Dr. Wolf perhaps something about a photograph like this, correct?

A. I don't remember if I did.

Q. And if you read that -- again, if you read doctor -- one of the things, he didn't just testify on -- didn't just make statements based -- let's make it clear -- based on my representation about what the testimony was at trial, he also reviews the autopsy report and reviewed the photographic evidence in this case.

A. Was he given the trial transcript?

Q. No, he wasn't given the trial transcript.

A. Why not?

Q. He was -- he was -- but -- I don't know why not. That's --

A. Well, you're the one that interviewed him. Why didn't you give him the trial transcript, too?

Q. That's a question for you when you depose me, not a question for this deposition. Okay? Okay?

So -- and if you -- based on the autopsy photos, if you read his -- his -- his affidavit and based on his autopsy report, he came to the conclusion that the man was -- died in a completely different way than testified at trial.

A. I don't understand the question, my conclusion.
Q. Okay. I'll -- I'll strike that one.
Just to end up, just because I'm curious, you mentioned that there are a number of lies in the -- in the application -- or in the petition -- Prible's petition, that there are some lies.
A. I did.
Q. Okay. And that means there's -- there must be some faults in that petition that you think are false, correct?
A. I do.
Q. Okay. And can you name one or two of them that you think are false?
A. There's not much truth in it.
Q. Okay. Can you name one that stands out as being false?
A. Well, the overarching lie is that I orchestrated a ring of informants from the Beaumont federal prison system. That is a lie --
Q. Okay. All right. I'm just --
A. -- that you made up --
Q. No. No.
A. -- and you theorized and you pieced together and you represented to a federal judge and defamed my reputation, and it's completely wrong and unethical and

false and --

Q. What is the basis for you thinking -- for your belief that we've been -- we don't believe that?

A. You have no evidence to support that. That is a lie. You have not one shred of evidence to support it from anybody.

Q. Okay.

A. It didn't happen.

Q. Did you not -- did you not read the transcript of the interview with Carl Walker?

A. I don't even know Carl Walker is, and he's a bigger liar than Nathan Foreman.

Q. Okay.

A. Your own investigative interview of Carl Walker was a joke --

Q. Okay. So --

A. -- if you analyze the interview itself.

Q. So --

A. Read it carefully.

Q. I'm just saying --

A. He didn't even know my name. He wasn't even sure I was a female.

Q. Okay.

A. And you want to pretend like Carl Walker is the crux of your conspiracy of informants that I

masterminded and orchestrated --

Q. Did you --

A. -- in federal prison?

Q. Did you read -- did you read his -- the transcript of his interview?

A. I read -- it was about 6 pages long.

Q. No, it was about 30 pages long.

A. Maybe I read 30. I don't remember. It was the one where he was interviewed by --

Q. I just asked -- Ms. Siegler, I just asked you a question.

MR. DOYLE: Let her -- let her finish.

Q. (BY MR. RYTTING) Did you read it?

A. I think I did, yes.

Q. Okay. And you've also read the affidavit of Nathan Foreman?

A. I don't know if I read an affidavit. How long is that one?

Q. That's about four pages in the Prible case --

A. I think I read that. I think I read that.

Q. -- and three pages in the Herrero case, and you commented on that in your own affidavit.

A. Say that again.

Q. And you commented on his affidavit in the -- in the Herrero case.

A. Okay. That's the affidavit you're talking about, right?

Q. So, I have -- so, there is evidence. You -- you disagree with the credibility of that evidence, don't you?

A. No, I disagree with your making a false impression to a federal judge in a case this important and making up lies and saying that I orchestrated a ring of informants in a federal prison system and that I told them what to say and caused them to lie in not just one or two or three but four different cases. That is a lie.

Q. No. There was -- there was -- the claim was that you did -- that you were aware of a ring of informants and that --

A. And I told them what to say and I told them to lie --

Q. That you were aware of a ring of informants. Wasn't --

A. -- and I fed them information.

Q. Wasn't that -- wasn't that the petition?

A. It was a whole lot more than that and you know it.

Q. And that -- that some of the key facts were learned from you by -- according to our witnesses and

our affidavits and our taped statements?

A. Your witnesses' affidavits were lies.

Q. Okay. You can take that position, and it contradicts what you -- in both cases, it contradicts precisely what you claim the State's -- the real truth is and what the State's -- what the State has argued; isn't that correct?

A. You have not one shred or iota or piece of credible evidence from a credible witness that supports any of these allegations.

Q. And these are the type of witnesses that you used to put people on death row?

A. I'm calling you a liar, sir.

Q. And I'm calling you one.

A. I didn't go to a federal court --

Q. You used -- you used Michael Beckcom to put Jeffrey Prible on death row.

A. That's not the only thing that put Jeffrey Prible on death row, and you know it.

Q. You used Moreno, who we now know lied to you.

A. For Prible?

Q. No. In the -- in the Herrero case, who we now know lied to you.

A. He did not lie.

Q. If the evidence showed that he was put in the

hole not because of Herrero but because he was running drugs for the Texas syndicate and was transferred to Liberty County not for Herrero -- because of Herrero but because he was involved in an investigation for BOP and needed protection because of that, then he lied to you?

A. I disagree.

Q. Do you know what a lie means?

A. Yeah.

Q. Okay.

MR. RYTTING: I'll pass the witness.

MS. SCARDINO: I -- I simply have two housekeeping measures. I wanted Ms. Siegler to read these last work product notes that were produced in camera -- or -- I'm sorry -- ordered produced by the Court in camera. So we don't put words into her mouth, I just want to know what these --

MR. DOYLE: If we have time.

MS. SCARDINO: Okay. What's the time?

THE VIDEOGRAPHER: Two minutes.

MS. SCARDINO: Okay.

THE WITNESS: What does that mean, ordered produced by the Court in camera?

MS. SCARDINO: The -- the Court reviewed them in camera, the work product and then ordered these to be produced.

FURTHER EXAMINATION

Q. (BY MS. SCARDINO) So, if you could start with that first page.

A. At the top it says, "Prible," circled, "Montgomery County." I can't read that word. "To see if Eddie" --

Q. Is that "Gomez"?

A. I think that's "Gomez."

I can't read the line under it. "Made -- called," underneath the line, "Charged with five bank robberies and" -- or "six" -- I can't tell -- "banks." I don't know what that says after it. I don't know what that says.

Next line, "Here comes Prible." I can't read that. "Defendant dropped. Murder-no evidence. People" -- I don't know if that says "cut" or "out him." I can't read the rest.

Q. Do you recall when you took these notes?

A. No. I don't know where this is from. I don't know where this is from.

Q. Okay.

MS. SCARDINO: Due -- due to the witness' eyesight today, perhaps it would be best if we allowed you to look at these work product notes --

A. It's not the eyesight.

MS. SCARDINO: -- and write --

A. It's the copy. It's not the eyesight. I can't read my own writing.

Q. (BY MS. SCARDINO) Okay. So, you need a more legible copy than the one that --

A. No. It won't matter. It's my scratchy handwriting is the problem.

Q. So, your testimony is you can't read your own handwriting?

A. It happens a lot because I write so fast, trying to take notes, and I can't do a good job, which is why I end up not taking notes, because it doesn't do me any good.

Q. Okay.

MR. DOYLE: I think we're at the time.

MS. SCARDINO: That's -- we'll pass the witness.

MS. MIRANDA: Can we just have 2 minutes to decide if we even want to ask questions?

MR. DOYLE: Uh-huh.

THE VIDEOGRAPHER: The time is 6:18. We're off the record.

(Short recess.)

THE VIDEOGRAPHER: This is the beginning of file 11. The time is 6:21. We're on the record.

EXAMINATION

Q. (BY MS. MIRANDA) Ms. Siegler, I just wanted to clear up one thing really quickly. I believe earlier in response to a question, you testified that you reviewed the petition in the Herrero case for this deposition and -- is that correct?

A. I don't know what I reviewed. All I've ever seen are what you sent me. That's all I have.

Q. Okay. And do you recall what I sent you?

A. No.

Q. Okay. If I were to represent to you that I sent you the petition in the Prible case, would you have any reason to disagree with that?

A. Isn't that what I said?

Q. Yes.

A. Petition in the Prible case.

Q. No. You said the petition in the Herrero case.

A. Oh, no. No. No. I meant Prible. I'm sorry.

Q. Okay. That was the only thing I wanted to clear up because I knew that was a misstatement. So --

A. Yes. I said it wrong.

MS. SCARDINO: Okay. That's the only thing you wanted to clear up?

MS. MIRANDA: Yes.

FURTHER EXAMINATION

Q. (BY MS. SCARDINO) Okay. And we haven't asked you if you brought documents responsive to the subpoena that was served on this case, which would have included any correspondence that you had with Ms. Miranda. Did you bring any documents?

A. I did not.

Q. Okay. Do you have any documents in your possession?

A. No.

Q. You didn't -- well, you just said you received some information from --

A. It's her E-mail, whatever she E-mailed me.

Q. Okay. So, beyond that, you don't have anything else that would have been responsive to that subpoena?

A. I do not.

Q. Okay.

MS. SCARDINO: So, Tina, if I could get from you a copy --

MS. MIRANDA: I'll give you the E-mails that I have.

MS. SCARDINO: -- of that E-mail.

MS. MIRANDA: Yeah.

MS. SCARDINO: Thank you very much.

MS. MIRANDA: Uh-huh.

MS. SCARDINO: Okay.

MR. DOYLE: I didn't ever get a subpoena. I don't know that she did but --

THE WITNESS: I got one.

MR. DOYLE: Okay.

MS. SCARDINO: Okay.

THE VIDEOGRAPHER: The time is 6:23. We're off the record.

(Whereupon, at 6:23 p.m.
the deposition was concluded.)

CHANGES AND SIGNATURE

WITNESS NAME: KELLY SIEGLER

DATE OF DEPOSITION: 10-17-17

PAGE	LINE	CHANGE	REASON

I, KELLY SIEGLER, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.

_____
KELLY SIEGLER

THE STATE OF _____)
COUNTY OF _____)

Before me, _____, on this day personally appeared KELLY SIEGLER, known to me (or proved to me under oath or through _____) (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this _____ day of _____, _____.

_____
NOTARY PUBLIC IN AND FOR
THE STATE OF _____

My commission expires: _____

____No Changes Made _____Amendment Sheet(s)

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

RONALD JEFFREY PRIBLE, JR. *
Plaintiff *
*
VS. * CIVIL ACTION NO.
* 4:09-cv-01896
LORIE DAVIS, DIRECTOR, *
TEXAS DEPARTMENT OF *
CRIMINAL JUSTICE, *
INSTITUTIONAL DIV. *
Defendants *

REPORTER'S CERTIFICATION OF THE ORAL
DEPOSITION OF KELLY SIEGLER
10-17-17

I, Edith A. Boggs, a Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following:

That the witness, KELLY SIEGLER, was duly sworn by the officer and that the transcript of the oral deposition is a true record of the testimony given by the witness;

That the original deposition was delivered to James Rytting, Esquire;

That a copy of this certificate was served on all parties and/or the witness shown herein on _____.

I further certify that pursuant to FRCP Rule 30(e)(2) that the signature of the deponent:
__X__ was requested by the deponent or a party before the completion of the deposition and that the signature is to be before any notary public and returned within 30 days from date of receipt of the transcript. If returned, the attached Changes and Signature Page contains any changes and the reasons therefore:
_____ was not requested by the deponent or a party before the completion of the deposition.

I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken, and further that I am not financially or

otherwise interested in the outcome of the action.

Certified to by me on this, the 27th day of October, 2017.



Edith A. Boggs, CSR No. 3022
Firm Registration No. 03
Expiration Date: 12-31-2017
1001 McKinney, Suite 560
Houston, Texas 77002
Ph. No.: (713) 524-4600

COUNTY OF HARRIS)

STATE OF TEXAS)

I hereby certify that the witness was notified on _____ that the witness has 30 days or (_____ days per agreement of counsel) after being notified by the officer that the transcript is available for review by the witness and if there are any changes in the form or substance to be made, then the witness shall sign a statement reciting such changes and the reasons given by the witness for making them;

That the witness' signature was/was not returned as of _____.

Subscribed and sworn to on this, the 27th day of October, 2017.

_____

Edith A. Boggs, CSR No. 3022
Firm Registration No. 03
Expiration Date: 12-31-2017
1001 McKinney, Suite 560
Houston, Texas 77002
Ph. No.: (713) 524-4600

Reference No.: 659784

Case: RONALD JEFFREY PRIBLE vs LORIE DAVIS

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read the entire transcript of my Deposition taken in the captioned matter or the same has been read to me, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.

_____

KELLY SIEGLER

NOTARIZATION OF CHANGES
(If Required)

Subscribed and sworn to on the _____ day of

_____, 20____ before me,

(Notary Sign)_____

(Print Name) Notary Public,

in and for the State of _____

Reference No.: 659784

Case: RONALD JEFFREY PRIBLE vs LORIE DAVIS

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KELLY SIEGLER

Reference No.: 659784

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KELLY SIEGLER

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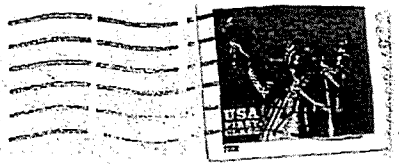
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117:25

Exhibit 14

Jessi [illegible]
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BEAUMONT TX 777
PM
5 APR
2001



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Dist Atty

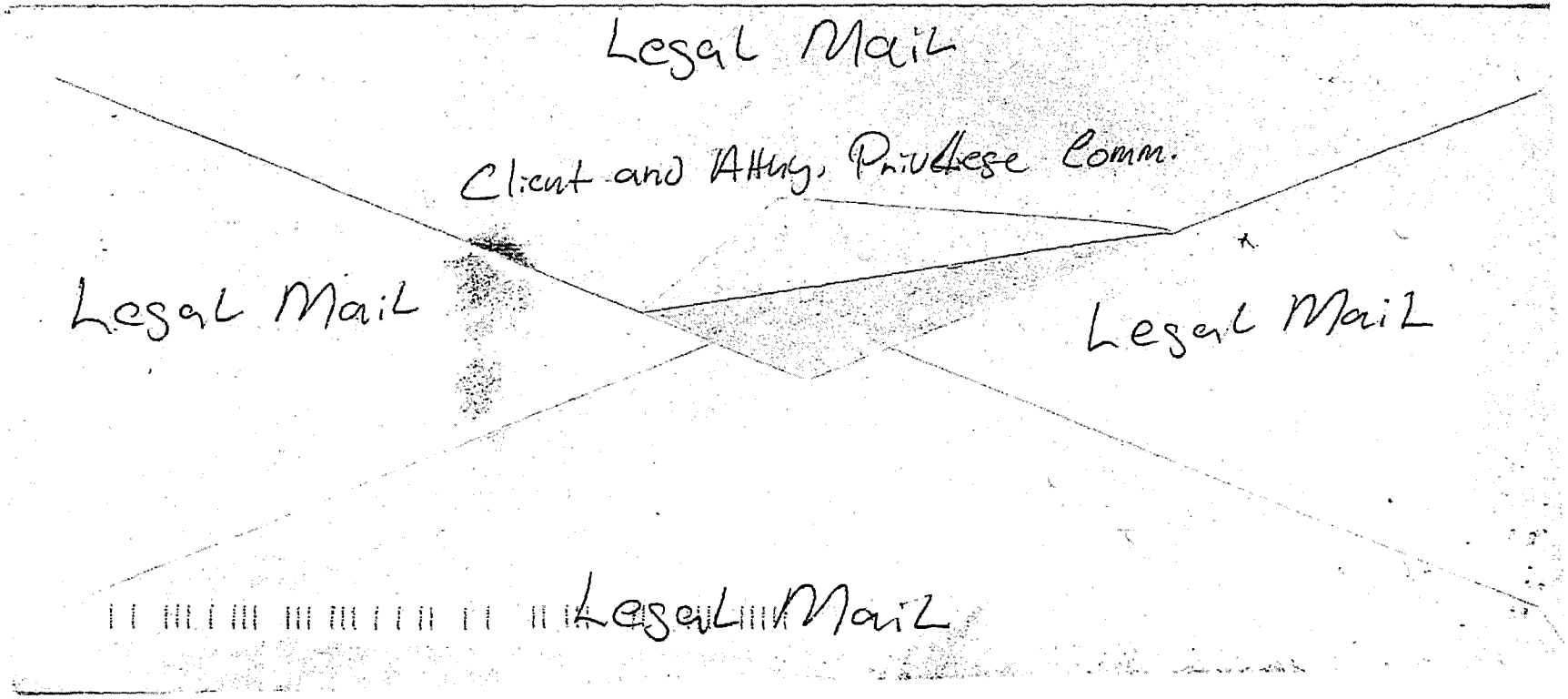
Kelly Singler
1201 Franklin st
Suite 600
Houston, Tx. 77002

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HCDA-08.12.2016-00621



HCDA-08.12.2016-00622

April 4, 01

Mr. Dingler

Well first of how are you?
Well Mr. Dingler i don't know if you remeber me but my name is Jesse Moreno.
We met in "97" you had a case concerning a Jason Morales.
Well my attorny at the time was Mr. Lloyd Oliver actually he still is my attny.
The reason for this letter is because i got some info that can be helpful for you on a unsolved case. You already know if you remeber me that i am willing to help you out but all i need is if you can help me out.
The last time i helped you out i was given no credit so i need to make sure i get alittle credit this time. I have already been locked-up for four years already going on 5.
I remeber you telling me if i needed any help you would help me so i decide to write you with this info besides i feel comfortable & trust you then anybody else.
So if possible can you arrange to met me or a phone call. I can not call you because i am in the hole & we are only allowed a call every 30 days.
So if some how you can call over here & ask them to allow me to call or if you come over here to visit me.
Mr. Dingler i really need your help & i

HCDA-08.12.2016-00623

am willing to help you also.
Like i said i got some info on a unsolved case & i am sure you would want to know.
You can call over here & ask to speak to S.I.S they are in charge of all investigations
You can ask to speak to Mr. Wilson he knows who i am & wants going on.
Well Mrs, Swigler i will wait to hear from you. My address & info is in front of Env.

Thank You

Sincerly

Jesse Moore

Attny. Lloyd Oliver
(713) 237-9389

Exhibit 15

Celia Moreno
5302 Cochran
Houston TX 77009

HOUSTON TX

U.S. POSTAGE
= 0,34
METER
F 8202734

Kelly Sinsler
1201 Franklin
Suit 600
Houston TX 77002

77002X1500 07

HCDA-08.12.2016-00625

Tuesday
april 10, 2001

Miss Singleton I'm writing to you about my son Jesse G. Moreno JR. who's in the Federal Correctional Institute in the Medium in Beaumont Tx. This yes he'll be there 5 years in Carcaled. Mr. Oliver his Lawyer Realy didnt help him. He put his life in line for the goverment and they just threw the other way which was not Right. I understand he help you in one of your Cases, and he was never given credit for that, Mr. Oliver never Realy finish his work, But that's out of your hands. I would apreate it if anything possible you could help my son if any. I understand he was able to talk to you of all the other People Lawyers your the only one Realy that has been a Hard proffesional Person that responses to what ever calls there.

HCDA-08.12.2016-00627

Aquí a hoy you'll be able to help him. I thank you for taking time to listen to my son.

Jesse's Mother
Celia Moreno

his address
Jesse G. Moreno JR
72731079
F.C.I. MEDIUM
P.O. Box 26040
Beaumont Tx 77720640

Exhibit 16

Newspapers by ancestry
https://www.newspapers.com/image/1213675176/

The Houston Chronicle (Houston, Texas) · Sun, Apr 15, 2001 · Page 13
Downloaded on Aug 17, 2026

Survivors await break in family's 1999 killing

Daughter, fiance slain along with 3 children

By PEGGY O'HARE
Houston Chronicle

Something terrible, something evil, took place inside Nilda Tirado's northwest Houston home almost two years ago, a wave of destruction so vicious that it left her, her boyfriend and three children dead in its wake.

What happened was deliberate, wanton and starkly evident.

On April 24, 1999, after spending an evening with friends and relatives, Tirado was shot in the back of the neck, doused with gasoline and set afire. Esteban "Steve" Herrera Jr., her fiance, also was shot in the back of the neck. The three children died when their lungs filled with the acrid smoke that burned the interior of the house.

Two years later, though, the questions of who committed the killings, and why, are still as perplexing to Tirado's family and the police as they were that tragic morning.

"Today is like that same morning," said Tirado's mother, Rachel Tirado, for whom the unsolved case is an obsession. "We don't know anything. We don't know why this happened."

At the time of her death, Nilda Tirado's life appeared to be reaching a point of sweetness. She was 24, about to be married to Herrera. She had two beautiful girls and a loving future stepdaughter she considered her own. And she had just landed her dream job with a real estate agency.

Herrera, whom she had been with for five years, did tile work and brought her flowers every week. Early on in their relationship, Tirado had told him she never wanted the vase empty, and he obliged.

But things were far from perfect. Herrera didn't like to work, and Tirado told friends she wished he would get a real job. Herrera also had a friend, a convicted bank robber, who would stay at their house for hours on end, and who family members believe may have had something to do with the five deaths.

The night they were last seen alive, Tirado and Herrera had friends and relatives over to their house. The men enjoyed themselves, drinking and playing pool out in the garage. Herrera then went to a nightclub with his brother-in-law and a friend. Tirado stayed home with the children.

At 6:30 the next morning, Tirado's parents were awakened by a phone call. Their daughter's home on Lakebrook Street — the same house where she grew up — was on fire.

No flames were visible and the structural damage to the exterior appeared to be minor.

However, smoke was pouring from the ventilators on the roof. The deadly

See TIRADO on Page 39A.

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Aug 17, 2026

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Newspapers by ancestry
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Tirado

Continued from Page 33A.

fire was confined to the interior of the house.

Inside, firefighters found a house of horrors.

Nilda Tirado was face down on a couch in the living room that had been set ablaze. A gasoline can was found discarded nearby.

She was dead before she was set on fire. A bullet had been fired into the back of her neck.

In a bedroom with Spice Girls posters on the wall and a rocking horse on the floor were the bodies of two 7-year-old girls, Nilda Tirado's daughter from a previous relationship, Rachel Elizabeth Cumpian, and Herrera's daughter, Valerie.

Neither girl lived there. Valerie was visiting her father that weekend. Rachel Elizabeth, who normally lived with her grandparents, was there so she could see Valerie.

The girls had apparently staggered from their beds and collapsed after intense heat and smoke spread through the house. Soot marred their faces and smudged their nostrils.

In the master bedroom, on the floor next to the bed, was Nilda Tirado's and Herrera's baby, Jade Amber Herrera, a 22-month-old girl with deep blue eyes.

In the garage, Herrera, 29, was lying face down on the floor, shot in the back of the neck. About $900 to $1,000 in cash was found in his pocket, reeking of smoke.



Ben DeSoto / Chronicle

Two years after the murder of their daughter, her fiance and their three children, Rafael and Rachel Tirado are still no closer to seeing the person responsible brought to justice than they were the morning of the tragedy. In the picture are, from left, Steve Herrera, 29, Valerie Herrera, 7, Jade Amber Herrera, 22 months, Rachel Elizabeth Cumpian, 7, and Nilda Tirado, 24.

There were no signs of forced entry to the home, suggesting to investigators that the killer was no stranger.

Within a month of the deaths, investigators focused on a 27-year-old Houston man, a friend of Herrera's from their junior high school days who is now serving a five-year sentence in state prison for bank robbery.

He was among the guests at the couple's home the night before the fire. He also accompanied Herrera and Herrera's brother-in-law to the nightclub that night, family members said.

The friend has never been charged in the deaths. He has always denied involvement in the slayings. He even wrote a letter to Herrera's parents proclaiming his innocence.

Harris County sheriff's detectives won't say much about their investigation, but they confirm that they recovered DNA from the scene that they would not discuss.

Detectives will say only that the fire might have been set to cover up evidence.

Family members say police told them that evidence was found on Nilda Tirado's body indicating that someone besides Herrera had sex with her. Her family believes she was raped.

Herrera's friend, who was visiting the house the night of the fire, told police that he was having an affair with her, something Tirado's friends and family find hard to believe.

"My daughter was raped on top of being shot and burned. That's what makes it so hard," Rachel Tirado said.

While police remain tight-lipped over suspects, Tirado's family and friends are convinced that the convicted bank robber is somehow connected to the killings.

Cynthia Garcia, 27, a lifelong friend of Nilda Tirado, said Tirado didn't like him hanging around their house.

"She had told me he was always there," Garcia said. "She couldn't stand him being there. She didn't say why, and I didn't ask — but I knew she didn't like him."

Tirado's parents say their daughter never gave any signs or left any clues that she feared for her family's safety.

"You know how we, as women, write things down?" Rachel Tirado said. "Well, I went through everything of Nilda's, everything, and (there's) nothing like, 'Mom, I'm afraid,' or 'Forgive us because we've done something bad,' or 'I'm really scared of this friend of Steve's.' Nothing. Nothing. There's not a clue."

Resolving the case remains a top priority not only for arson investigators, but also for Harris County Sheriff's Department homicide detective Curtis Brown.

But since the evidence is entirely circumstantial, at this point authorities say they need more before they can make any arrests.

What they need, Brown said, is someone with knowledge of these killings to step forward — someone who may have been told about them by someone involved.

Authorities were hopeful when a $21,000 reward was announced last October for information leading to an arrest in the case. But to their amazement, they received no tips — not even dead-end leads.

Meanwhile, the house where the family died was remodeled and placed on the market. It sold within 10 days.

Not far away, the Tirado family still lives in northeast Houston, where a large hand-painted family portrait of Nilda Tirado, Herrera and the three children dominates their living room wall. Photos of Nilda Tirado's babies cover the walls throughout the home.

The Tirados remain grateful for the time they had with their loved ones. They are comforted that the family died as they lived — together.

"(There are) some people who died when their kids died. I'm . . . fortunate, I know God is the one guiding me," Rachel Tirado says. "I don't feel hatred to where I can't live. I thank God I don't have that to where I can't go on with my life."

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michael_heath
Aug 17, 2026

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In the Matter Of:

PRIBLE vs DAVIS

H-09-CV-1896

MICHAEL BECKCOM

October 10, 2017

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CASE NO. H-09-CV-1896

RONALD JEFFREY PRIBLE,

Petitioner,

vs.

LORIE DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent,

_____/

VIDEOTAPED DEPOSITION OF MICHAEL BECKCOM

TUESDAY, OCTOBER 10th, 2017
515 EAST LAS OLAS BOULEVARD, SUITE 1300
FORT LAUDERDALE, FLORIDA
9:00 a.m. - 2:34 p.m.

STENOGRAPHICALLY REPORTED BY:
VALERIE LEHTO, REGISTERED PROFESSIONAL REPORTER
NOTARY PUBLIC, STATE OF FLORIDA
ESQUIRE DEPOSITION SERVICES
FORT LAUDERDALE OFFICE

APPEARANCES:

APPEARING ON BEHALF OF THE PETITIONER:

HILDER & ASSOCIATES, P.C.
BY: GRETCHEN SCARDINO, ESQUIRE.
BY: JAMES G. RYTTING, ESQUIRE.
819 LOVETT BOULEVARD
HOUSTON, TEXAS 77006-3905
(713) 655-9111

APPEARING ON BEHALF OF THE RESPONDENT:

OFFICE OF THE ATTORNEY GENERAL OF TEXAS
ATTORNEY GENERAL KEN PAXTON
BY: TINA J. MIRANDA, ESQUIRE
ASSISTANT ATTORNEY GENERAL
BY: GEORGE A. d'HEMECOURT, ESQUIRE
ASSISTANT ATTORNEY GENERAL
300 WEST 15TH STREET, ELEVENTH FLOOR
P.O. BOX 12548
AUSTIN, TEXAS 78701
(512) 936-1400

ALSO PRESENT: DON SAVOY/VIDEOGRAPHER.

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Videotaped Deposition of MICHAEL BECKCOM, taken before VALERIE LEHTO, Court Reporter/Registered Professional Reporter and Notary Public in and for the State of Florida at Large, in the above cause.

- - - - - - - - - -

THE VIDEOGRAPHER: We are now on the video record.

Today is Tuesday, the 10th day of October, 2017. The time 9:00 a.m.

We're here at 515 East Las Olas Boulevard, Suite 1300, Fort Lauderdale, Florida for the purpose of taking the videotaped deposition of Michael Beckcom. The case is Ronald Jeffrey Prible versus Lorie Davis, Director of Texas Department of Criminal Justice, Correctional Institution Division.

The court reporter is Valerie Lehto and the videographer is Don Savoy, both from Esquire Deposition Solutions.

Would counsel please announce their appearances for the record.

MS. SCARDINO: Gretchen Scardino for Ronald Jeffrey Prible.

MR. RYTTING: James Rytting for Ronald Jeffrey Prible.

MS. MIRANDA: Tina Miranda for the Director.

MR. D'HEMCOURT: George d'Hemecourt for the Director.

Thereupon,

MICHAEL BECKCOM

having been first duly sworn or affirmed, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. SCARDINO:

Q. Mr. Beckcom, my name is Gretchen Scardino. We just met for the first time; is that right?

A. That's correct.

Q. Okay, have you ever given a deposition before?

A. No, I haven't.

Q. Okay, but you've testified in court many times, correct?

A. Yeah. A couple of times.

Q. Okay, now the - the process is similar in a deposition. You're under oath, you're subject to the penalties of perjury just like you would be in - in a

courtroom. Do you understand that?

A. Yes.

Q. Okay, and there's a couple of other rules of a deposition.

I want you to let me finish asking my question before you respond and I will finish - let you finish responding before I speak and that way we don't talk over each other and make it difficult for the court reporter, okay?

A. Okay.

Q. Okay, and one other request is that you say yes or no rather than nodding your head or --

A. Okay.

Q. -- saying uh-huh, and I'll try to remind you if I notice you doing that.

A. Okay.

Q. Okay, are you under the influence of anything today that would cause you to impair your memory?

A. No.

Q. Okay.

A. Just age.

Q. Okay, did you do anything to prepare for this deposition today?

A. No.

Q. Did you consult with a lawyer or anything?

A. My wife has an attorney. I asked him basically the - what a deposition, you know, the confines of what a deposition is. He gave me a rough draft of what to expect and said that's pretty much it, go in, tell the truth and you'll be fine.

Q. Okay, and you testified in Mr. Prible's trial back in October of 2002, right?

A. Yeah. I don't remember dates, but --

Q. Okay, it was a long time ago.

A. -- it's been -- Yeah.

Q. It's about fifteen years ago.

A. Yeah. It's a long time ago.

Q. Okay. Okay, let's go through your criminal history.

Can you start at the beginning. I believe in 1986 you were arrested for theft, I believe?

A. Theft by receiving.

Q. Yes, and I can show you your PSI report if that would help us go through it all.

A. Ma'am, you've --

Q. Do you recall?

A. -- got the facts there. I'll remember them the best I can.

Q. Okay.

(Whereupon, Exhibit Number One was marked

for Identification).

BY MS. SCARDINO:

Q. Okay, this is Exhibit One, it's your PSI report and if you turn to page nine it lists your criminal history.

A. Okay.

Q. So let's just quickly go through these together.

So in 1986 you were convicted of felony theft by receiving. You received ten years probation; is that correct?

A. Yes.

Q. Okay, in June, 1989 you were convicted of conspiracy to possess with intent to distribute a controlled substance and in that case did you plead guilty or did you go to trial?

A. Pled out.

Q. Okay, and you got forty-two months --

A. Correct.

Q. -- in that case with three years of supervised release?

A. That's correct.

Q. Okay, in 1996 -- I want to talk with you about this. This was a murder case and the procedural history

was a bit complicated. You were charged in both State and Federal Court.

A. That's correct.

Q. What was the charge in State Court?

A. Capital murder.

Q. And it was eventually dropped to a lower murder charge?

A. Yeah.

Q. Okay, and why - why was that?

A. I cooperated with the Feds. They rolled it all into one.

I mean I don't know how deep you want to get into that. I didn't know that's what this was about, but we'll go as deep as you want to.

Q. Okay, yeah. I just need to understand a little bit about how those two cases worked together as far as your --

A. Okay.

Q. -- ultimate sentence was concerned.

A. A business partner of mine had a feud with the gentleman, was murdered, so me and another guy were in the warehouse when the murder took place. Thirty days later I was arrested. One of the other two went and confessed, implicated me and the third party, the other guy, Crawford took off on the run, so that left me, so I

was catching the brunt of everything.

As time went on things started lessening on me because of no physical evidence and the testimony of that guy was shaky on the stand, so it started - the State case started dwindling.

At some point the deceased had spoken to someone in California with the Feds because he was being indicted on something completely unrelated to me, so at that point it took a turn, they considered him a Federal witness so they came in to kind of save the day for the State case was falling apart and kind of squeezed me in, so it was either take a plea or face life in trial, so I agreed to cooperate and I took the plea.

Q. Okay, and the plea that you took in Federal Court was what?

A. The charge itself?

Q. The -- Sorry. The charge --

A. The time?

Q. -- and the time.

A. Oh. It was retaliation against a Federal witness by murder, I think, and aiding and abetting and it was eleven to fourteen.

Q. Okay, eleven to fourteen years, and any probation after that?

A. Five years supervised --

Q. Five --
A. -- release.
Q. Five years supervised release?
A. Correct.
Q. Okay, and at the same time you also pled guilty to something in State Court, right?
A. Yeah. I - I don't remember specifically what the charge was. I think it -- Man, that's a good question. I really don't remember exactly what it was.
Q. It was some sort of murder charge?
A. Yeah.
Q. In State Court?
A. And just ran with it. I mean it pretty much expired.
Q. Okay, and that's - that's a --
A. I received parole on it while I was in the Feds.
Q. Okay, and I want to talk with you about that --
A. Yeah.
Q. -- a little bit because I saw in the DA's file your parole application. It looks like it was made in April of 2002, and I can show you --
A. My memory --
Q. -- the document that I'm talking about.

A. -- isn't what it used to, so these documents will.
Q. Okay.
A. It's not here though, is it?
Q. No. It's not in --
A. Okay.
Q. -- Exhibit One.
I'm going to show you Exhibit Sixteen.
A. Okay.

(Whereupon, Exhibit Number Sixteen was marked for Identification).

THE WITNESS: I don't know that I've ever seen the application, or did I make the application?
It must have been my attorney, right?
BY MS. SCARDINO:
Q. Well, no. I was going to ask you did you make this application?
A. I don't recall making this.
Let me look it over.
This is State, right, so it's second degree they've got. They reduced it to run with -- It's got my signature on it. I don't remember how the thing got processed, but obviously I signed it.

Q. Do you know if anyone in the DA's office had filled this out for you?

A. State?

Q. The Harris County DA's office? It was found in Miss Siegler's file which is why I'm asking.

A. No. I -- No. I don't have any recollection of how this got processed.

Q. Okay. Well, I can continue asking you some questions --

A. Okay.

Q. -- and we can come back to it.

A. Yeah, I remember getting a - like a parole certificate while I was in which God knows where that is, hopefully in the garbage for years, but I don't remember the actual application process, when and where.

Q. If your - if your two sentences were being served concurrently --

A. Right.

Q. -- why would you have needed to apply for parole in the State case?

A. Well, yeah, I don't know why we need to because it was going to expire anyway, so I don't know if this was something my lawyer processed just out of routine. I don't know.

Q. Would you have been able to --

A. Who was the other person that signed this?
Q. Would you have been able to receive certain benefits and - or more privileges in Federal prison if you had been paroled in your State case?
A. Oh, absolutely. It reduces points. It takes it -- If you have another case running with it until you're done with it you have a detainer on you which raises your point level which puts -- Listen, I started at United States Penitentiary in Beaumont, so if this got lifted while I'm there I automatically go to the Medium --
Q. Okay.
A. -- and so if you're at a Medium -- I mean the detainer I think in the Feds carries like nine, six to nine points. Don't quote me on that. I'm just --
Q. Okay.
A. If I can recall correctly which changes your whole level instantly, so the - that may be why this got done. I may have done it there.
Q. Okay.
A. I may have done it at USP Beaumont or USP Medium possibly.
Q. Do you recall if Kelly --
A. I mean FCI Medium.
Q. Did Kelly Siegler help you with that process

at all?

A. No. I don't see why I would need Kelly Siegler to help me through this. I don't know.

Q. Okay.

A. These applications are all over prisons.

Q. Okay.

A. The law library.

Q. But you agree that if you were reduced, if your points were reduced because you were - the detainer was taken off of you that you would have more privileges because your points would be lower; is that correct?

A. Well, I would go to a lower level I mean.

Q. Right.

A. Define --

Q. And so that would be a benefit to you?

A. Yeah. Define privilege being in prison, you know, is still being in prison.

Q. Sure, but it's easier to do time in medium as opposed to the USP, right?

A. That one, yeah.

Q. Okay, and it's easier to do time in the low as opposed to a medium?

A. Sure. A little less stress I guess --

Q. Okay.

A. -- you could say.

Q. Okay.

So how many years of your life total have been spent in prison?

A. Too many. Oh, what? Twelve. Eleven, twelve.

Q. Okay, do you consider yourself somewhat of an expert on prison culture?

A. God. I hope not.

Q. Just by the virtue of you doing so much time?

A. I'm not an expert.

Q. Yeah.

A. I don't know what you mean by expert really.

Q. Yeah.

A. When you do time you make do the best you can and try to find ways to whittle the clock down --

Q. Yeah.

A. -- and keep yourself busy.

Q. Did you become somewhat of an expert on criminal law while you were in the penitentiary?

A. No. I learned more about Texas law than anything really while I was fighting my murder case.

Q. You learned a lot about Rule 35 motions though, right?

A. Rule 35? What's that? A reduction?

Q. Yeah. A motion for a sentence reduction.

A. Okay, common knowledge in a Federal prison.

Q. Okay, what do you mean by that?
A. People spend time in the law library trying to figure out ways to get out --
Q. Yeah.
A. -- so --
Q. Everyone in prison wants the same thing, right?
A. They want to get out. Sure, man.
Q. Okay.
A. Everybody in there's innocent, right?
Q. Right.
So what about a 5K1 motion? Did you ever file any of those?
A. I don't - I don't recall, no.
Q. You don't remember what a 5K1 motion is?
A. No.
Q. Okay, what about a 6(b)6 motion? Do you recall filing that in your California Federal case?
A. No.
What is 6(b)6?
Q. Well, I'm asking you if you remember filing one?
A. No, ma'am.
Q. At trial you testified that there was one pending, currently pending when you were testifying in

the Prible case. Do you have any --
A. A 6 --
Q. -- memory of that?
A. No. A 6(b)6?
Q. A 6(b)6.
A. I'm quoted as saying I said those words, 6(b)6?
Q. Yes.
Here. I'll show you your --
A. Okay.
Q. -- trial testimony.
A. I'll take your word for that.
Q. Okay. I know it's been a long time, so I will show it to you.
A. Yeah. Unfortunately times of duress and stress you like to move away from and put them far behind you as you can. I do anyway. I haven't thought about these things in fifteen years --
Q. Okay.
A. -- until the investigator showed up.
Q. Okay, I'm going to show you page eighteen of your trial testimony. If you can read lines three through -- Actually the rest of the page.
A. Okay.
Q. You can read it to yourself.

A. Okay.

What is that Judge's name? Len Hughes? Is that him?

Q. There is a Judge Hughes in Houston.

A. Wrong state.

I don't remember a 6(b)6.

Sentence modification based on extraordinary circumstances.

Did I quote what the circumstances were I put on the 6(b)6?

Q. I don't believe so, no.

So you don't recall filing a 6(b)6 in the California case?

A. No, I don't.

Q. Did Siegler help you with anything in regards to this 6(b)6 motion?

A. I don't -- Siegler didn't really help me on anything.

Q. What do you mean by that?

A. Well, when this whole thing got started and I set myself in motion to testify in State Court she said she was going to call my prosecutor in California. She said this probably will get you out of prison.

Q. She said - she said that to you, this will get you out of prison?

A. Yeah, so I think she bullshitted me at that point because once it was said and done as I'm getting off the stand they go in the back and she's got this grim look on her face and I'm like what now? Well, they're only going to give you twelve months, so at that point I felt like I knew she had lied to me in the beginning that I was going to get walked out, you know, for my testimony.

Q. So let's - let's talk a little bit about the timeline. Before you testified at Mr. Prible's trial she guaranteed that you'd get out of prison?

A. No. She didn't really say those words I guarantee. I don't think she hung her ass out like that, but --

Q. Did she lead you to believe that you would be getting out of prison?

A. Yeah.

Q. Did she tell you that you needed to tell the jury only that she was going to write you a letter?

A. No, she didn't -- She - she never steered me like that because really once - once I put myself to the task it was me. I just -- I felt - like at that point I felt like she knew I wasn't going to get out and I was probably -- She may not have known I was even going to get any time off. I don't know what the conversation

with the US Attorney in California and her was, but I don't know. At that point I felt like, wow, you know, I really put myself in a fricking bind and this is the thanks I get, you know, so I felt like at that point she knew I wasn't really going to get out, but she never put herself in a position to make that known that I would know, you know? It's just - it just seemed evident to me that this was information she had.

Q. Okay, so you felt like she wasn't straight with you when she had said if you testify you're going to get out?

A. Yeah. I mean this is not like a deal we made pre anything. As things progressed and Prible confided information to me I wrote things down and sent it to her, you know. I said, you know, what are they going to do for me for this?

Q. And when you say you wrote things down and sent it to her, did you take notes and mail them to her?

A. I don't remember how I got them to her.

Prible told me a bunch of shit and I just wrote it all down. I wrote it all down and got it to her. I don't remember the method of transportation to her, to be honest with you.

Q. Okay, you don't know if you mailed it to her, you don't know -- But you took notes as you and Prible

would talk?

A. Not as we'd talk.

He pretty much confided everything to me, if I recall correctly, on the yard and I wrote down from knowledge the best I could everything he told me and I got it -- I don't remember how I conveyed it to her. I don't remember how I got the -- I may have -- I must have mailed it the best I know. I might have gone through my case manager. I don't recall.

Q. Who was your case manager?

A. It was a Black lady. I was at the Medium in Beaumont.

Q. Was her name Lacey?

A. I don't remember. I want to say her last name may have been Johnson, I don't know, and then --

Q. Was his name -- Was it a man named Gordon Harpe?

A. Mr. Harpe? He was the unit manager.

Q. Was he your unit manager?

A. Yeah. Yeah, he was --

Q. Okay.

A. -- the unit manager I think for like two - two units that backed into each other.

Q. And was he the unit manager for you the whole time you were in FCI Beaumont in Medium?

A. Yeah.
Q. Because those managers switched around a lot, right?
A. The case managers switched around. The unit managers -- Well, yeah, they're moving up from case manager to unit manager.
I don't remember if he was there the whole time or not.
Q. Okay, what do you remember about Mr. Harpe?
A. Nice guy. He let me use the phone sometimes.
Q. Okay, and how does that work? How could you use his phone?
A. He would give you a call. Once in awhile if you wanted to call family or something he would dial it out for you and let - let you have a - a call and talk to your family if you want to, you know.
Q. Okay.
A. He was a pretty good guy.
Q. And would those phone calls be recorded or not recorded?
A. I'm not sure about that.
Q. Okay.
A. Yeah.
Q. You know the ones out in the - the --
A. Are recorded.

Q. -- usual inmate phones are recorded, right?
A. Correct.
Q. Okay.
A. Yeah.
Q. You don't know if the ones from his office phone were recorded?
A. I don't know why they wouldn't be, but I don't - I don't know that for certain.
Q. Okay, and he also let you call Siegler from those phones, from his phone?
A. I think I did call her from there.
Q. Did she --
A. I mean he's - he's in the room with you, so --
Q. Okay, did she ever call you on Harpe's phone and have him go out and find you?
A. No. I don't recall ever being called, no.
Q. Do you recall her or do you recall ever being called in to a unit manager or counselor's office because you had a phone call from Miss Siegler?
A. No. I don't remember that. I don't know if that happened.
Q. But you can't deny that it happened?
A. I have no recollection of it, so I can't deny it. I don't know. I don't know.
Q. You don't know one way or the other?

A. I don't remember. No. I don't remember. No.
Q. Do you ever recall being in -- Did you ever speak with Miss Siegler on a unit manager or a counselor's phone while other inmates were in the room with you?
A. No.
Q. You never spoke with her on the phone while Nathan Foreman was in the room with you?
A. No. There wouldn't be anybody else in the room.
Q. It would just be you --
A. Me and the unit manager.
Q. -- and the unit manager?
A. Correct.
Q. Okay, so, Mr. Beckcom, you've got a history of serving as an informant, we spoke a little bit earlier about your Federal case and the only way to get your sentence reduced in Federal Court is to serve as an informant; is that correct?
A. Typically.
Q. Yeah, and there's a process that you have to go through to sort of enure yourself to the prosecutor so that the prosecutor finds you to be credible? Would you agree?
A. Define that.

Q. Okay. Well, a prosecutor's not going to use you --

A. Well, they're going to vet you. Is that what you're saying?

Q. That's -- Yes. They're going to vet you. You go through a vetting process.

A. I guess they would.

Q. Okay.

A. Wouldn't you?

Q. And so you served as an informant in numerous cases, one time in Aransas County, right?

A. Same case.

Q. Yeah. Twice in their county? Same case?

A. Same case.

Q. It was moved to their County?

A. Right. Right.

Q. Several times in the California Federal case? This is all stemming from the same --

A. All the same case.

Q. Okay, and then you also testified as an informant in Prible's case?

A. Correct.

Q. Did you work on - as an informant on the Danny Bible case?

A. Danny Bible?

Q. Does that name ring a bell?
A. No.
Q. Okay, did you serve as an informant or work with the prosecution on the Jermont Hairston case?
A. I don't know who these people are.
Q. It doesn't ring a bell?
A. No.
Q. What about working with Antone Davi, another inmate on a case --
A. I remember --
Q. -- for Siegler?
A. -- Tony.
No. I never did anything with Tony.
Q. Okay, tell me who is -- Tony is Antone Davi?
A. Davi, yeah. He was at Medium Beaumont.
Q. Okay.
A. A guy we met, Italian. Italians kind of hung together. I think he was from Vegas.
Q. And you never --
A. His dad was in too, I believe.
Q. And you never reached out to Siegler saying that you and Davi had information about a case that you wanted to talk with her about?
A. Damn. I don't remember. I don't recall.
Q. You don't recall any of this?

A. No. It's my -- You look at me like my memory is getting bad. It must be.

I'm telling you, listen, this was not a good time in my life, so I put it fifteen years in the past, so some of this is going to be tough to recall.

Q. And when you're testifying as an informant credibility is the most important thing, right, because you're a convicted felon, right, okay, and you need detailed information to give the prosecutor so you'll seem more credible? Do you agree?

A. Yeah.

Q. Okay, and credibility is particularly tough for you because you had a prior finding of perjury in your Federal case, right? Do you recall that?

A. No.

Q. You don't recall being called out for perjury in the Federal case in the Brueggen murder?

A. No.

Q. Okay.

A. Show me that.

Q. I'm going to show you Exhibit Thirty-nine.

(Whereupon, Exhibit Number Thirty-nine was marked for Identification).

BY MS. SCARDINO:

Q. If you could read --

A. Is it highlighted or anything? No.
Q. No. Just read lines sixteen through twenty-four to yourself.
A. It doesn't continue from there. Okay.
Okay.
Q. Exhibit -- Are you finished reading?
A. Yeah.
Q. Sorry.
Exhibit Thirty-nine starting on the first page, line sixteen it says, "And since you were arrested you've given a lot of inconsistent statements?" And you responded, "I have several, yes."
"You have given inconsistent statements to law enforcement officers, correct?"
"Yes."
"You have given inconsistent statements under oath in prior proceedings, correct?"
"Correct."
Does this refresh your memory as to whether you were called out for perjury in the Brueggan case?
A. No. I mean I don't -- It's obviously in print. I don't remember it. I see where it led in from since - from my arrest June 3rd of that year.
Typical behavior.
Q. What do you mean by that?

A. If somebody gets arrested they're trying to lessen anything they can off of them, so --

Q. And it's also important when serving as an informant to make it look like the defendant trusted you enough to confess to you? Isn't that correct?

A. Repeat that.

Q. So when you're testifying or when you're working as an informant it's important to make it appear to the jury and to the prosecutor that the defendant trusted you enough to confide in you?

A. Well, based on the information you give them they - they have to make that judgment.

Q. Based on the information who gives you?

A. Whoever you're working.

Q. No, but what I'm saying is it's important for you to have - to have a relationship with that defendant that you can then go to the prosecutor and show them I have this tight relationship with this defendant and he confessed to me because of that relationship, correct?

A. I guess.

Q. That's the picture that was painted at the Prible trial, correct?

A. No. We hung out together.

Q. Yeah.

A. Well, yeah. We saw each other everyday.

Q. Yeah, and you took photos together?
A. Right.
Q. Okay.
A. Groups of guys from Houston.
Q. Okay, and there are certain rules that prosecutors have to follow when working with informants that you're probably familiar with, are you not?
A. Certain rules that prosecutors have to work with?
Q. Uh-huh. Have to follow.
A. I don't know what those are.
Q. For instance, it would be improper for a prosecutor to feed you information about a crime?
A. I could see that, yeah.
Q. Yeah.
Okay, in your experience working as an informant did you ever encounter any prosecutors that didn't follow the rules?
A. No.
Q. They all followed the rules?
A. Yeah.
Q. Okay, none of them supplied you with details about a crime?
A. No.
Q. They didn't reach out to you about a

particular inmate? You reached out to them?

A. Kelly Siegler is the only one I reached out to.

Q. Okay, so you made contact with her first? She did not make contact with you first?

A. Correct.

Q. Okay, and how did you hear about Kelly Siegler's connection to Prible's case?

A. It had to be Foreman.

Q. Okay, and who was Nathan Foreman?

A. He was an inmate at Beaumont FCI Medium.

Q. And he was your cellmate at one point, right?

A. Correct.

Q. Okay, so you were originally in USP in Beaumont and then around October, 2000 you were moved to the Medium? Does that sound right?

A. Yes.

Q. Okay, at what point did you meet Nathan Foreman?

A. I met him on the yard, the recreation yard at some point. I don't remember specifically when.

Q. Okay, do you remember if it was soon after you were transferred to Medium in October, 2000?

A. No. I don't - I don't remember when.

Q. Okay, did you know him before you became his

cellmate?

A. What do you mean by know? On the yard?

Q. Yeah.

A. We met. Yeah. Yeah.

Q. Yeah, you were familiar with him?

A. Yeah.

Q. Okay, how often --

A. We exercised together, ran - ran the track together.

Q. Okay.

A. Yeah.

Q. How often do you change cellmates in Federal prison?

A. That's just dependent on a lot of factors. Typically not that often, you know, somebody leaves, somebody moves in. I think my cellie had left and he moved in or he got transferred to a drug program at another prison somewhere.

Q. Okay, and he moved in and you don't have any say? You can't request a cellmate, can you?

A. Yeah. You can if you want.

Q. You can?

A. Yeah.

Q. Okay.

A. I mean they like to keep the peace in there,

so if you and a buddy, you know, and you can get it worked out with the officer on duty they typically try to put people together who want to be together, you know, friends.

Q. Okay, and do you know how it came to be that you became cellmates with Nathan Foreman?

A. Not - not specifically, no.

Q. Do you - do you --

A. I remember - I know -- I'm still in touch with the guy that left, Cashio, he was my cellie and I can't remember where he left to go to. I think it was a drug program.

Q. Okay, but you already knew Foreman when you became cellmates with him?

A. Yeah. We had become friends, you know.

Q. Yeah, you had a relation -- You had some - a friendly relationship?

A. Right.

Q. Okay.

A. He had lost a lot of weight, so we ran track together. I hate running, so he kind of coaxed me into it.

Q. Okay.

Let's talk about the inmate telephone system at FCI Beaumont. I'm going to show you Exhibit Four.

(Whereupon, Exhibit Number Four was marked marked for Identification).

BY MS. SCARDINO:

Q. Exhibit Four is your account telephone number list.

A. Okay.

Q. And do you see how it lists the names of people that you had listed to call as well as their numbers?

A. Yep.

Q. Okay, now what was the purpose of this list?

A. It has to be approved. You only get -- You're only allowed to have a certain number of people on your - your phone list.

Q. At any given time?

A. Yeah.

Q. Okay, and then in order - if the person is approved you can call these people on the approved list from the inmate phones?

A. Yes.

Q. Okay, and how do you do that? Do you put a personal pin before you dial the number?

A. Yeah, I don't remember. I don't remember what the method was, but we had accounts where you loaded

money off of your commissary account or people would put money on your books and you - it was like a prepaid account for the phone.

I don't remember how we dialed into it or how they logged into it. I don't remember if we used our - our reg number. A lot of times we had a sign-up list. When the phones really got out of hand people were bickering over them and the cops made a sign-up list so you got specific timeframes you could use the phone. Like maybe I had 5:00 to 5:15, you know. They were like fifteen minute calls at a time, but I think there it was a little more lax, so I had a little more access to the phone, but I don't remember how - how it knew it was me when I got on.

Q. Okay.

A. Do you know what I mean? I don't remember what we did.

Q. Okay, let's look at page two --

A. Okay.

Q. -- of Exhibit Four and do you see there listed Lilian Thorn as a friend? Do you see that?

A. Yeah.

Q. Do you recall who Lilian Thorn is?

A. I think that was Foreman's mom, wasn't it?

Q. Yeah, it was.

Why would you have her on your list?

A. The hell if I know. I don't remember why we put her on my list.

We might have put her on my list because he had too many on his and I had space on mine. I don't remember.

Q. So he could use your number to call his mom?

A. No. No.

Q. Or you could call his mom and put him on the phone?

A. Fuck. I don't remember that.

Sorry. Language.

Q. Okay, you notice in the fourth space there it lists Kelly Siegler --

A. I don't know why --

Q. -- as an attorney?

A. I don't know why I put her on my phone list.

Q. Well, you were in contact with her, right?

A. Yeah.

Q. But you usually didn't need to use the inmate phones because you could talk with her --

A. Yeah.

Q. -- from a unit manager phone?

A. Yeah. I don't remember - I don't remember her being on my list.

Q. Okay.
A. Oh, well. It's right here. It's my handwriting.
Q. Okay, did most of your phone calls with her take place on a - on a BOP employee's phone rather than this public inmate phone?
A. No. I mean if I had her on my list then I used my - my account to call her.
Q. But you also --
A. I remember making a couple of calls from Mr. Harpe's office, but it wasn't a - a routine thing.
Q. How often did you speak with her? Pretty often leading up to trial?
A. Shit. I don't have a record of that. I don't remember. I don't remember how many times I actually called her.
This is the -- This is my phone list.
Q. Do you remember the name of your unit manager -- or I'm sorry -- The lieutenant in FCI Medium?
A. No, ma'am.
Q. Does Lieutenant Clarke ring a bell?
A. I don't remember his name.
Q. You don't remember the name of any SIS lieutenant that you worked with over there?
A. No. Sorry.

Q. Do you know what SIS is?
A. I remember the acronym like Special Investigation or something.
Q. Do you know what their - what was their role in the prison?
A. I don't remember their specific role.
Q. Didn't you go through them to communicate with Miss Siegler?
A. I think they're the ones who initially called me out to the lieutenant's office the first time I met her. It probably was SIS.
Q. Okay, so you didn't know that she was coming in advance?
A. I don't remember if I had a warning or not. I think that's the day I went to the security housing unit because it looks pretty bad. There's only two reasons you go to the lieutenant's office. You're either talking to somebody or you're - you're getting in trouble --
Q. Okay.
A. -- so I think they probably walked me out of the lieutenant's office that day into - into the SHU. If I -- I may be wrong, but I think that's pretty much the way it went down.
Q. And one of the worst things in prison to be

known as is a snitch, right?

A. Yeah. It's not the greatest thing, yeah.

Q. So it's - you wouldn't be wanting to have - to be speaking with Siegler on the public inmate phones because people would hear what you were talking about, right?

A. Well, nobody creeps around you that tight, but nobody really eavesdrops, but you've got a little - you've got a little bit of elbow room, you know.

Q. Yeah?

Safer to call her from a private room, right?

A. If you have the opportunity.

Q. Which you did in this case, right?

A. You're still being listened to by personnel, so --

Q. Right, but not by other inmates?

A. Yeah.

Q. And it's not being recorded, right?

A. That I do not know. Yeah, I don't know about his office.

Q. What was the role of the lieutenant in the unit?

A. Well, the lieutenant's not in a specific unit. He's over the whole place.

Q. He's over the whole Medium?

A. Yeah. Security.
Q. Okay.
A. Usually you have more shift lieutenants, more than one.
Q. Okay, and is he - is there a lieutenant that's separate from the SIS lieutenant?
A. Yeah. Your normal officer lieutenant who walks - kind of like walks the beat through the units over -- A lot of them spend a lot of time on gang relations because the gangs are really prevalent in Texas, the Spanish gangs, so they have a lot of specialized staff that are like gang oriented specifically, but your lieutenants, you know, they're obviously over security in the running of the everyday functioning of a prison.
Q. Okay, so there's different - the SIS lieutenants are more of the law enforcement liaison, for lack of a better word, for the prison?
A. I guess you could say so.
Q. Okay.
A. I don't know their specific detail functions, but they're -- I believe they're over your regular lieutenants, if I'm not mistaken.
Q. Okay, so tell me about you being called into the lieutenant's office to speak with Miss Siegler.

What was -- When did that occur?
A. You're asking me a time?
Q. Yeah.
A. A month --
Q. I'm asking you is - was this the first time you ever met with her face-to-face?
A. Yeah.
Q. Okay, but you had spoken with her on the phone many times leading up to this?
A. I don't know -- I don't know if it was many times, but I had spoken with her.
Q. More than once?
A. I could only assume at that point. I don't know. I don't know how many times I actually spoke to her.

There was no need to speak over and over. I mean once Prible confided in me and I had information I gave it to her, so - and that was a matter of the wheels were in motion.

Q. And you say Foreman gave you her name. Was that after you had already become cellmates or before?
A. Good question.

I would say after.

Q. So Foreman was her original informant in this case, right?

A. I don't know what the relationship -- I thought he was doing something else for her.

Q. So you and Foreman never discussed Prible's case together?

A. Well, we - we talked to Prible together. I mean this was like a group of guys from Houston which after this whole thing got set in motion it kind of became evident to me that this whole group of like fricking ten guys were trying to get information and somehow I ended up with the information.

Q. So they - this wasn't a situation of him confessing to the group and everyone then wanting a piece of the action?

A. No.

Q. They were actually trying to elicit details from him so they could be part of the action?

A. The details Jeff Prible gave me he gave completely and explicitly to me and Nathan Foreman one night. He just rolled it out.

Q. All in one night, and that was the night that a photograph was taken?

A. I don't know. I don't know if it was that night we took photographs.

Q. Well, at trial you testified that it was. Would that --

A. Okay.
Q. -- refresh your memory?
I'll show you that photograph.
Exhibit 8A.

(Whereupon, Exhibit Numbers 8A through 8H consecutively were marked for Identification).

THE WITNESS: That's the visiting room.
BY MS. SCARDINO:
Q. Right.
A. Yeah. That's the rec department.
Q. So tell me what Exhibit 8A shows.
A. Jeff, his mother, me and my mother and Nathan and his mother and father.
Q. Okay, and do you see the date down on the bottom right-hand corner, it's a little blurried, it says November 24th and the year is cut off and I'll represent to you it's '01. Does that sound correct?
A. Probably around there sometime, yeah.
Q. Okay.
A. '01 or -- Yeah. It had to be, I guess.
Q. And why was --
A. Okay.
Q. -- this picture taken?

A. We were all in the visiting room together.
Q. That's the only reason? You just happened to be in the visiting room together so you took a photograph together?
A. Yeah. We -- Yeah.
Q. It wasn't to be used later at trial as an exhibit?
A. Not that I know of. I mean these -- I think Nathan asked me to take a picture, it could have been Jeff. I don't remember who said let's take a photo together.
Q. Did Miss Siegler ask you to take a photo together?
A. I don't recall her asking me to take any pictures with them. I don't know.
Q. Okay, let's look at the following page, the following picture, Exhibit 8B.
A. Okay. November, 'O1.
Q. November 11th, 'O1, so this is thirteen days before this supposed confession on the yard, right?
A. Okay.
Q. And who's in this picture? If you can do the bottom row first left to right.
A. I can't.
Q. Okay.

A. Jeff's in front of me, Nathan's to my left. I don't remember all these guys' names.
Q. Okay, does the name Oscar Gonzalez ring a bell?
A. I remember the name Oscar.
Q. And his father Felix Gonzalez was in prison, also?
A. Is that the long-haired cat?
Q. Down in the bottom left.
A. Yeah.
Q. Yeah.
A. Okay.
Q. Is Oscar Gonzalez.
A. Okay.
Q. You remember him?
A. I remember the face. I don't remember his name, but I remember his dad was there, too.
Q. Okay.
A. I don't who - I don't remember these guys.
Q. Do you recognize the - the man standing to your left in the photo with the mustache?
A. No. I don't remember his name.
Q. Does Cat Dominguez sound familiar?
A. Cat. I remember the name Cat.
Q. Rafael Dominguez?

A. That's Cat.
Q. Okay, and you're all surrounding Jeff in this picture. Do you see that?
A. Well, we're in two rows. If you want to call it surrounding, okay.
Q. Okay, what was the purpose of this photograph?
A. Again these are all Houston guys wanting to take a group photo.
Q. They were also all Houston guys that were trying to set up Mr. Prible, right?
A. Well, I didn't know that at the time, but I kind of surmised that later on. That was a feeling I got.
Q. And why did you get that feeling?
A. I don't know. It seems like everybody was kind of hanging around all the time. I guess you get a little hyper alert sometimes in prison.
Q. And the next page, Exhibit 8C?
A. That's Oscar. That's his dad, isn't it?
Q. Are you looking -- What page are you on?
A. Oh, I'm sorry. I flipped one too many.
C.
Q. 8C?
A. Okay.
Q. That's a picture of Prible and Nathan Foreman,

right?
A. Correct.
Q. That's November 9th, 2001?
A. That's correct.
Q. And so during this time Nathan was trying to get a confession from Mr. Prible also, right, during this time period?
A. Yeah. I guess so. I would assume he was.
Q. Well, you all were cellmates, right? Weren't you all talking about it together?
A. Yeah. I'm sure we talked about it plenty.
Q. The next page, Exhibit 8D, who are those men with Mr. Prible?
A. Okay, that's the same guy. That's Oscar.
That's his dad, isn't it? I think so.
Q. So Oscar and Felix Gonzalez?
A. Yeah.
Q. Okay, and they were trying to get a piece of the action as well, right?
A. His dad was? I don't remember that.
Q. Do you remember Oscar was?
A. I didn't know specifics, but I kind of -- Bo, I know him as Bo, Nathan. He never really came right out with it. That was just a feeling I got from him or he may have. I don't remember how I got the intuition

or if he told me.

Q. And Prible was a pretty easy target for this kind of thing, right? He talked a lot, right?

A. No, not necessarily, ma'am. He was -- It was like he wanted to talk but he was falling back on some military shit.

Q. If you turn to Exhibit 8F do you recognize the man in the middle of that photograph?

A. I remember the face, not the name.

Q. Does Hermilio Herrero sound familiar?

A. Yes.

Q. What do you remember about Hermilio Herrero?

A. Man, I want to say I remember something coming up about a case with him. I don't remember the specifics. Him and Cat, wasn't it?

Q. You remember he and Cat?

A. I remember -- I don't remember what the case was, who. Damn. Man, you're - you're trying to knock the cobwebs out of my brain.

Q. Do you recognize anyone else in this photograph, Exhibit 8F?

A. Man, just faces. They were all gang bangers.

Q. So standing right behind Mr. Herrero in this, who's that?

A. That's -- Is that Cat?

Q. Dominguez?
A. Uh-huh. (Affirmative response).
Q. Okay, what about the man in the bottom left of the photograph with an arrow pointed towards him? Does he look familiar?
A. The face sort of.
Q. Okay.
A. Man, I don't remember these guys' names.
Q. Does the name Jesse Moreno ring a bell?
A. Jesse Moreno. Moreno.
Q. Moreno was a friend of Foreman's from the neighborhood. Does that sound familiar to you?
A. Man, I don't remember that.
Q. He had worked with Miss Siegler on other cases?
A. Moreno did?
Q. Moreno had.
A. I mean this could have been information I got back then. I don't remember, but I didn't know these guys, you know. You know these guys but you don't know these guys. You know you see them everyday in passing, but these guys were a clique. They were - they were one of the Mexican gangs. I don't know if they were EME or Syndicato.
Q. Did you hear that or did you know that Moreno

had given Foreman's name to Miss Siegler? Does that sound familiar to you?

A. No.

Q. So you arrived in - in the Medium in October, 2000 we established earlier, and who was your cellmate right when you got there? Was this the man you -- Cashio?

A. No. I was - I was downstairs celling with an old - celling with an older man who was the old health -- God. I'd never remember his name.

Q. Okay, and after him --

A. After him Cashio and I got bunked together.

Q. Okay, and what was Cashio's full name?

A. Richard Cashio.

Q. C-a-s-i-o?

A. C -- C-a-s-h-i-o.

Q. And then after he was released Foreman moved in?

A. Yes.

Q. Is that right?

A. Yes.

Q. And you were in Unit KB? Does that sound familiar?

A. Was it KB? Yeah.

Q. How many units were there in Medium?

A. That building KB, LB, there was two upstairs, so it was three buildings, four units and a building, but then they had - then they had a major fricking meltdown riot with the Mexicans, so the building kind of went this way, KB was down here, LB was down here and they locked up so many people. They moved everybody out of LB, scattered them out in the rest of the prison and they locked LB down. They had that many people they had to lock down, so that shook up the whole place. We were on lock-down for awhile.

Q. So about how many prisoners did the Medium house in total?

A. Wow. A bunch.

Q. More than a thousand?

A. Yeah. I think so.

Q. More than two thousand?

A. Yeah. Might have been two - two and change, I believe. I don't remember the number. There was quite a few.

Let me see. Each unit probably held -- There's two floors on each unit. Yeah, I could easily see two hundred in a unit.

Q. And prisons are really segregated, aren't they? Like you said earlier they try to keep the peace, so the Whites are often housed with the Whites, the

Blacks with the Blacks and the Hispanics with the Hispanics?

A. Yeah. It was a little different there, you know?

Q. Why was that?

A. I don't know. At the USP, yeah.

Q. Because you were housed with Foreman and he was a Black guy?

A. Yeah.

Q. Is that unusual in your experience?

A. Coming from where I had I was open to a little bit of change. It was pretty tense. That's the most violent USP in Beaumont where I was. I mean it was the first one with a gun tower in the middle of a yard, so while I was there there was several killings.

Q. But - but your placement with Foreman as far as you understood was random?

A. What do you mean by random?

Q. Like you were randomly placed in a cell with Foreman?

A. No. I - I think he asked me if he could move in.

Q. Okay.

A. Yeah, so - so I said sure.

Q. And so then you all - you would just need to

go to the unit manager and ask them about it?

A. Yeah, I don't even know if we needed to go to Harpe or not. I don't remember if you had to go that far. Sometimes the officer on duty would do it or he may check with the unit manager and see if there was an objection or something.

Q. Okay.

A. I don't remember the exact procedure, but typically.

Q. Easy to do?

A. Yeah. I mean guys move all the time.

Q. Okay.

So when you were at FCI Beaumont you hung out with Nathan Foreman. We've already talked about Nathan Foreman. What about a guy named Bobby Williams? Do you remember Bobby Williams?

A. A White guy?

Q. Uh-huh.

A. I think I used to work out with him, Bobby, if that's the same Bobby.

Q. Yeah.

And did he introduce you to Prible?

A. I don't remember. Bobby was a strange bird.

Q. You testified at trial you knew Prible was coming to meet him before he got there, right?

A. Coming to meet who?
Q. Coming to the Medium. Sorry. Before he actually --
A. That Prible was?
Q. -- got to the Medium? You had heard about his case and that he was coming, right?
A. Yeah. I don't remember the specifics of that.
Q. Yeah.
How would you have known that he was coming before he got there?
A. I don't know.
Q. Is that an unusual thing for you to have known? Aren't those things kept under wraps usually?
A. Not necessarily, no, if they're coming from another prison or -- There's a little communication that goes on in the system. There's a lot of inmates, but it can be a small system.
Q. So how would you be able to find that information out?
A. I don't know how I would have known he was coming. I don't remember that.
Q. So --
A. I don't remember that incident.
Q. Okay, someone would have had to tell you that he was coming, right?

A. Yeah. I would assume so. I don't know.
I said I knew he was coming?
Q. I'm asking you did you testify --
A. Oh. I thought you said that's what I said.
Q. Yeah. At trial you testified that you knew - that you heard about this case and that he was coming to the Medium.
A. Okay.
Q. You don't remember that?
A. No. No.
Q. So is it your testimony that you didn't know Prible until he actually got to the yard?
A. Yes. I mean I met him there.
Q. When was the first time you met him? Do you recall meeting him?
A. It had to have been on the rec yard. That's the only place you're going to interact with somebody, rec yard, chow hall. If you don't live in the same unit with them the only other place you're going - you're going to see them is on the rec yard and that's the only free movement.
Q. And before you spoke with him that first time did you know that he had been charged with these murders?
A. Somebody probably told me, I'm sure.

Q. And so then you went up to him and - and met him knowing what he was being charged with?

A. I'm assuming. I don't remember the - the sequence of events.

Q. It wasn't as if you befriended him and then it came out later that he was charged with this? This was an intentional on your part introducing yourself to him and trying to elicit information from him, right?

A. I'm sure it probably played out that way. I don't remember the sequence of events though.

Q. Okay, had you already been in touch with Miss Siegler or anyone at the DA's office before you met Mr. Prible face-to-face?

A. No.

Q. Okay.

At FCI Beaumont were you all able to watch television?

A. Yeah.

Q. Okay, were you able to watch the Nightly News?

A. Yes.

Q. Okay, were you able to read newspapers?

A. Sure.

Q. Okay, did they deliver the newspaper there?

A. No. If you had a subscription. Somebody had to subscribe for you.

Q. Okay, so you could subscribe --
A. So all --
Q. -- to the Houston Chronicle?
A. All magazines, periodicals were subscriptions someone got, bought for you.
Q. Okay. Okay, so the Houston Chronicle was probably a pretty common newspaper there?
A. Yeah.
Q. Okay.
A. I mean I didn't get it, but I was an avid reader and taught classes, so I had four investment newspapers a day.
Q. Okay.
Did you read any articles about Prible's case while you were in the prison?
A. I could have. I may have. I don't remember that, but it's possible.
Q. Okay, and there are certain crimes that prisoners find particularly reprehensible, right?
A. Yeah.
Q. Yeah. And those would be rape, right?
A. And children.
Q. Children, both of which came into play in - in Mr. Prible's case, correct?
A. Unfortunately.

Q. Yes.

And if you're charged with these things you're not going to be going around prison and telling everyone from the rooftops that you did it, would you? You'd be an idiot, right?

A. Yeah, what was he there for? He was there on a bank deal, wasn't he?

Q. Jeff was there on a bank robbery. Right.

A. Yeah. I remember now.

Q. Now if you're innocent and you're charged with these things you're not going to be telling everyone on the yard you're innocent of it?

A. Yeah.

Q. Yeah.

A. Or you might be telling everybody that to survive.

Q. But you'd be an idiot to tell people that - that you were guilty because it --

A. To blurt it out --

Q. -- could put you at risk?

A. -- to everyone, yeah.

Q. Yeah. Yeah.

And even you when you testified in Prible's trial you said that your own capital murder case was not something you cared to relive?

A. No.
Q. Right?
Okay, and that's one of the reasons why when you get to a new prison one of the - one of the first things prisoners do is show their PSIs to other inmates; is that right?
A. They used to.
Q. Okay, and what was the purpose of that?
A. See if you cooperated.
Q. Okay, and you could also see what you were in for, right?
A. Well, yeah.
Q. Okay, did you ever know anyone to amend their PSIs before they showed other prisoners?
A. I could see - I could see somebody wanting to.
I don't know. I don't remember seeing anybody do it.
Q. Okay, how would you go about that if you did want to do that?
A. Man, I don't know how. You'd have to be pretty fricking slick in there because you don't have the same tools you do outside, you know.
Q. Do you have a typewriter there?
A. Well, yeah, in the law library, but what's the odds of that typewriter matching the font on, you know,

that?

Q. Right. So you don't have access to a word processor?

A. Absolutely not.

Q. You have access to one typewriter?

A. With a ribbon.

Q. It's the old fashioned kind?

A. Yeah. Punch and go, yeah. It's --

Q. Okay.

A. They may be different now, but --

Q. Okay, but back then?

A. Yeah. From what I remember it was inky ribbons --

Q. Okay.

A. -- the basics, you know.

Q. Yeah.

A. One step above stone and chisel.

Q. So if you wanted to type a letter you were doing the whole format, you were doing - you were typing everything yourself?

A. And you know -- Yeah. Back when I was there. I mean it's evolved some, I think. They let guys E-mail now.

Q. Well, and I'm just curious about when you were there.

A. Yeah.
Q. And - and you didn't have a secretary at the prison that could type things for you, right?
A. No, so I don't know how you would -- Somebody else would have to do it for you.
Q. Okay, someone on the outside?
A. Yeah.
Q. Okay. Okay, but that's not outside the realm of - of possibility in your mind that someone would want to potentially amend their PSI?
A. Amend their PSI? No.
Q. Okay.
A. Yeah, that's --
Q. Okay.
Was there talk on the yard before Prible got there about checking him in once he got there?
A. I don't recall having those conversations.
Q. You don't recall discussing --
A. No.
Q. -- his impending arrival with anyone before he got there?
A. I don't -- Ma'am, I'm not trying to be an ass, but I really don't remember.
Q. Okay, so you're not denying that it happened?
A. I can't. I don't remember it.

Q. Okay, you can't deny it?
A. No.
Q. Okay, and people on the yard really believed that he killed these - these girls, right, that he killed these people?
A. I think they believed it.
MR. RYTTING: Why don't we take a break.
MS. SCARDINO: Okay.
THE VIDEOGRAPHER: We are going off the video record 10:02 a.m.

(Whereupon, there was a brief recess observed by all parties present, after which the deposition resumed).

THE VIDEOGRAPHER: We are back on the video record 10:16 a.m.
BY MS. SCARDINO:
Q. Okay, Mr. Beckcom, on August 8th, 2001 Siegler and her investigator, Johnny Bonds met with Foreman in person to talk about Prible's case. Did you know about this meeting? Did Foreman ever tell you about it?
A. I remember the name Johnny Bonds. He might have been there when I met her.
Q. Okay, can you describe what he looks like?

A. No. No.
Q. Like a bigger fellow, an investigator that worked with her?
A. I remember the name. No. Describing would be impossible for me right now.
Q. But she came with someone to meet with you?
A. She came with someone, yeah. It had to have been him. I remember that name. In what context I'm at a loss for. It had to be when I met them in the lieutenant's office.
Q. Okay, did Foreman tell you that he had met with Siegler face-to-face?
A. I don't recall having that conversation with him. I may have, but I don't recall having the conversation with him.
Q. Because you're cellmates, the two of you are cellmates, you're both working on the same case?
A. I understand.
Q. All right? So presumably you would have been discussing the case amongst each other, right?
A. And you're right. Presumably we would.
Q. Okay.
A. But you're asking me to recall conversations from fifteen years ago that I haven't thought about in fifteen years --

Q. Okay.
A. -- so just recalling details --
Q. Okay, do you have any -- Do you know why Siegler decided not to use Foreman but to use you instead?
A. No, I don't.
Q. Okay, do you know if she gave any benefits to Foreman even for Prible's case even though she didn't end up using him at trial?
A. No, I don't. I'd be upset to know.
Q. Did that create any friction between you and Foreman, that she ended up using you and you ended up getting the time cut and not Foreman?
A. I really didn't get that much of a time cut.
Q. But did that create any friction between you and Foreman?
A. No. No.
Q. Okay.
A. He was -- How would I describe Bo? He was measured in what he said, everything sounded calculated, so you knew there was other things going on in there, you know? So he said, you know, just enough.
Q. Okay, do you recall the first phone call you ever had with Miss Siegler, how it came about? You got her number from Foreman, right?

A. Yeah.
Q. And you called her and what did you tell her?
A. The context of the conversation I must have told her I had information about Prible.
Q. And did you tell her that you were Foreman's roommate?
A. I don't know if that came up or not. I don't -- I don't recall.
Q. Okay, you don't know if she was aware that you were Foreman's cellmate at any time?
A. No. I - I mean she may have been, but I don't know.
Q. Okay, so you called her and you said you had information about a case?
A. Yeah.
Q. And did you give her any details at that time?
A. I must have said something to her. I must have given her something in order for her to make a drive from Houston.
Q. Okay.
A. Yeah.
Q. So did you speak with her again before that face-to-face meeting you had in the lieutenant's office?
A. It's possible. I don't know.
Q. Did you have any correspondence with her

before you met with her in that --

A. Like mail or anything?

Q. Uh-huh.

A. That too is possible, but I mean chronologically remembering all these things it's not working.

Q. But you just remember that you reached out to her and --

A. Made contact with her. The wheels got set in motion.

Q. Okay, and you mentioned that several times the wheels got set in motion, and what do you mean by that?

A. I had information for her, she came, we talked then I guess from that point on it was to see if I, you know, had anymore information I would give it to her.

Q. Okay, and did she tell you anything about Prible's case? Did she tell you anything about the evidence they had against Prible?

A. No. She was more interested in what I had --

Q. Okay.

A. -- you know, what - what can you tell me. You tell me. I remember that fricking line. Well, you tell me.

Q. And what exactly was she interested in? Details about what you all had discussed?

A. I guess to see if the valid - you know, the validity of my information matched whatever she had, you know? She would know whether or not I was really talking to the guy if he was really telling me anything pertinent.

Q. Okay, and was she interested in whether or not he was actually confessing that he did these things that he was charged with?

A. Say again.

Q. Was she interested in --

A. In whether or not he was confessing?

Q. -- in confessing?

A. Well, I'm sure that was the reason we were talking.

Q. Or was she just - was she also interested in just details he was saying about his case?

A. Everything really, I guess. She never -- I don't recall her saying anything more specific than another because if he told me something I would relay it to her.

Q. Okay, did she tell you specific information that you needed to get from Mr. Prible?

A. No. I don't - I don't recall her telling me that.

Q. Okay, so on this first phone call what did she

tell you as far as what the - what you needed for her to come see you?

A. Man, fifteen year old phone call. I don't -- Yeah, I'm sorry.

Q. Was Miss Siegler well known on the compound at FCI Beaumont?

A. That was the first I'd ever heard of her, you know?

Q. Well --

A. Since I've seen her a lot more on TV and, you know, and such.

Q. What was her reputation on the compound?

A. Oh, I don't know. That was my first encounter hearing of her and I didn't really get any other feedback from anybody else.

Q. When Prible arrived on the compound and you met with him you testified at trial that he started asking you about your own case? Do you recall that?

A. He probably did. We probably both talked about things on the yard.

Q. I'm going to show you -- I'm going to show you Exhibit Fifty-six.

(Whereupon, Exhibit Number Fifty-six was marked for Identification).

BY MS. SCARDINO:

Q. Here. I'll give you this one.

Sorry.

Exhibit Fifty-six is the probable cause affidavit in Mr. Prible's case. If you can take a minute and just read that to yourself.

A. Do you want me to read --

Q. Just read it to yourself, yeah.

A. Okay.

Q. Okay, now you've seen this probable cause affidavit before, right?

A. I don't know.

Q. Didn't Prible show this to you on the yard -- Or in the - in prison?

A. Yeah, he may have. I don't know if he showed me this or not. I'm not - I'm not sure if he showed me the paperwork.

Q. He might have? You can't remember?

A. I don't remember him giving me any documents. He wouldn't walk around with this.

Q. Why not?

A. It's pretty - pretty confidential stuff. I don't know. I don't recall him showing me this there, but I remember - remember the name Tirado, the girl.

Q. Okay, you don't recall him showing it - you

this, but you can't deny that he showed you this; is that correct?

A. No. I can't deny it. I don't remember if he did or not.

Q. Okay, in your discussions with Miss Siegler about this case did she ever tell you anything about the DNA evidence in this case?

A. No.

Q. Did she ever tell you that Mr. Prible's semen was found in the victim's mouth?

A. No.

Q. Okay, did you know that - that that was the case?

A. I think - I think Jeff led me to believe.

Whatever he told me I wrote down and gave to her. I can't remember word for word conversations we had --

Q. Okay.

A. -- but he spit quite a bit of information out to me.

Q. Did Miss Siegler talk with you about any problems that they had with the case against Mr. Prible, for - for example, the alibi witness? Did she talk with you about the alibi witness?

A. No. I don't think so.

Q. Did she talk with you about the fact that there was no physical evidence linking Mr. Prible to the murder?
A. No. I don't recall that.
Q. Did she talk to you about the fact that there wasn't a motive?
A. No.
Q. Did she talk to you about the fact that the money had never been found?
A. Not to the best of my knowledge. No, ma'am.
Q. Okay, did she tell you that the murder weapon had never been found?
A. No.
Q. So you never discussed these issues with Miss Siegler?
A. I don't recall. No.
Q. Okay.
A. I mean he was just giving me information and I was giving it to her.
Q. And I'm interested in what you talked with Miss Siegler about.
A. And again you're asking me to recall conversations I've tried to forget for fifteen years and I - I don't remember these conversations, ma'am.
Q. Okay, so you might have had these

conversations but sitting here today you can't recall?

A. To the best of my knowledge, no. I can't remember them.

Q. Okay.

In all how many times do you think you spoke with Miss Siegler on the phone leading up to the trial? Was it a pretty regular communication?

A. No. There was no point in really a regular communication. Once I made contact and I was onboard and I had information I pretty much wrote it down, I believe, and got it to her or I may have called maybe three or four times. I don't remember.

Q. Okay.

A. I mean that's a guesstimate.

Q. Okay.

I'm going to show you Exhibit Seven.

(Whereupon, Exhibit Number Seven was marked for Identification).

BY MS. SCARDINO:

Q. Exhibit Seven is your true phone records, the telephone account statement from the prison.

A. Okay, so it was more than three or four then.

Q. So -- And I'll represent to you that on the

first page the two numbers that are highlighted, the (713)686-6199, that's Foreman's mother's number. Do you recall speaking with -- Did you - did you ever call Foreman's mom from your phone? Like what reason would you have had to call her?

A. I don't know. I don't remember --

Q. Okay.

A. -- unless Bo asked me to call her for something. I don't know. Maybe he was out of minutes. We got allotted a certain amount of minutes and they were short --

Q. Okay.

A. -- two minutes, four minutes. Maybe I was calling her for him.

That's her? 6199?

Q. That's Bo's mom, 6199.

A. Okay.

Q. Now the 6178 number I'll represent to you is Miss Siegler's office phone number.

A. Okay.

Q. So -- And this is the records from 2002, so can you count up how many times you spoke with Miss Siegler on the inmate phone in 2002.

A. 6178, right?

Q. Uh-huh.

A. Three, five. Oh, crap.
Ten times, and there's some more back here.
Q. Okay, no. I think it's ten times. That's what I counted as well.
A. Okay.
Q. And these are just the phone calls that you spoke with her on the inmate line, right? You also spoke with her from the counselor's office?
A. Yeah. A couple of times.
Q. A couple of times. Okay.
A. Yeah.
Q. How many face-to-face meetings did you have with Miss Siegler?
A. I think it was just one if - one when I was at the Medium.
Q. Now was that the one in the lieutenant's office?
A. Yes. Yeah.
I don't think they came back.
Q. Okay.
A. What's his name may have come back. I don't remember. What's --
Q. Bonds?
A. Bonds. That name sticks in my head.
I want to say I kind of remember a figure, but

I don't know if it's him or not, you know, kind of heavy, tall rotund guy --

Q. Okay.

A. -- big belly. I don't know if that's him or not.

Q. Okay.

A. I'm getting there.

Q. I'm going to show you Exhibit Nine.

(Whereupon, Exhibit Number Nine was marked for Identification).

THE WITNESS: Okay.

Lieutenant Clarke.

BY MS. SCARDINO:

Q. This is a fax dated November 26th, 2001 from Johnny Bonds to Lieutenant Robert Clarke at FCI Medium. It's a visitation request letter. He says, "We are supposed to be at your unit around 11:00 a.m. on 12/10/O1 to see inmate Foreman. We also need to see inmate Beckcom after we talk to Foreman."

Go ahead and take a minute to read it to yourself.

Okay?

A. Okay.

Q. So this letter's dated November 26th, 2001. That's two days after the photograph was taken with your mothers in this which was November 24th, 2001 and that was the date that you said at trial that the confession came out. Do you recall that? Are you with me?

A. I'm here. I'm with you.

Q. Okay, so she respected this - she requested this visit on November 26th. Had you contacted her after that November 24th conversation with Prible and Foreman --

A. I --

Q. -- and told her that you needed to see her?

A. I must have. I don't know.

Q. Okay.

A. Did I? It should be in here.

Q. I'm asking you if you recall.

A. Well, I don't remember.

Q. Okay.

A. So this would be evidence if - of it.

Q. Well, if - but if you had called her on the --

A. It's difficult from --

Q. -- unit manager's phone then it would be --

A. -- the unit manager's, so that - that is a possibility.

Q. Okay, and you and - you and Foreman are still

cellmates at this time, right?

A. Yeah, we're cellie's till from the time I guess we both left the yard.

Q. Okay, so you had requested this visit with Siegler, and did you know that he was meeting with her on the same day, Foreman?

A. I may have.

Q. It seems probable, right?

A. Probable, yeah.

Q. You lived together?

A. Yeah. Yeah.

Q. You'd be talking about this.

Okay, so you knew that he was going in before you and then you were going to follow him in.

Do you recall like when you walked into the lieutenant's office was he walking out?

A. No, and then again this was Foreman. I may or may not have known about this because we're on the yard and without ever saying anything to me about it he suddenly went one day to the lieutenant's office and checked in and went to the SHU, so I don't even know what prompted that, so that's what I mean by he would tell you what he wanted to tell you and he kept other things close to the vest, so he had something else going on that he felt he needed to get off the yard for so,

you know, everything's shaded in these places.

Q. So even though you all were roommates, cellmates, you didn't know that you all were going to have these back-to-back meetings that day with this prosecutor about the same case?

A. I'm not saying I didn't know, but I don't remember specifically that event of knowing. I mean one day my cellie people are asking me why did Bo check in and I'm like what? He didn't tell me anything about a need to get off the yard.

Q. But this was a case that you all were working on together, right? You were talking, it's the same case, same prosecutor, you all were --

A. Yes.

Q. -- discussing it among yourselves?

A. Yeah. Obviously I'm sure we were.

Q. Okay, so on December 10th, 2001 was the date of your meeting in person with Siegler and Bonds and I'll show you Exhibit -- I'm going to show you Exhibit Ten.

(Whereupon, Exhibit Number Ten was marked for Identification).

THE WITNESS: Excuse me.

BY MS. SCARDINO:

Q. Do you remember this statement that you had written?

This is your handwriting, right?

A. Yeah.

Q. Okay.

A. You want me to read this whole thing?

Q. No. No. No. No. No. You don't need to read it, the whole thing. I just wanted you to see it, and do you see up at the top left it says 12.10.01, JLB?

A. That - that must be when I gave it to Bonds. No?

Q. Okay. Well, that's what I'm asking you. Is that - is that what - your memory that you gave this to Miss Siegler and Bonds at that meeting and you signed it?

A. Yeah. That would be the most evident thing that took place.

Q. Okay, and when you gave this to Siegler did you have a copy of it that you kept for yourself as well? Like did you make notes or a copy of this statement that you were giving so she had one and you had one?

A. I don't think so. I think I just gave it to her.

Q. And you think you never saw it again?

And the reason I ask is because this - this statement tracks very closely your testimony at trial as if it were almost a script. Does that sound -- Is that your memory?

A. I'm pretty sure it was fresh at the time.

Q. What do you mean by that?

A. Well, all this took place, all this kind of evolved, so it would -- As I learned it I wrote it down and passed it on and then the trial took place, correct?

Q. Well, the trial took place almost a year after you wrote - you gave this statement to Bonds.

A. Maybe I had it.

Q. Ten months.

A. Maybe I had it in my legal folder or something. Maybe -- I may have kept a copy. I don't -- I don't remember --

Q. Okay.

A. -- but it's possible.

Q. And was this -- You said as Prible would tell you things he would - you would make notes of it, right? As you and Prible talked you would make notes after --

A. Yeah.

Q. -- not --

A. Okay.

Q. -- in front of him?

A. Okay.
Q. You would make notes of it after, right?
A. To clarify, yes, ma'am.
Q. And then did you condense all those notes into this --
A. Yes.
Q. -- final draft?
A. The diatribe, yeah.
Q. Yeah.
Okay, and what did you do with all those other notes that you had taken?
A. Whereabouts unknown. I don't know.
Q. Do you know if you gave them to Siegler?
A. No. Not if she had this.
Q. Do you think you tossed them maybe --
A. Yeah.
Q. -- and just gave her this?
A. Yeah. There would be no - no need for my notes.
Q. I'm going to show you Exhibit 109-8.
MR. RYTTING: 109-8.
MS. SCARDINO: I don't have a copy for you. Sorry.

(Whereupon, Exhibit Number 109-8 was marked

for Identification).

BY MS. SCARDINO:

Q. These are Johnny Bonds' notes about that meeting on December 10th, 2001 you say he was present for.

A. Okay.

Q. And do you see it says, "Nathan never told Mike about Kelly and Bonds"? Did you all talk about that at the meeting?

A. Who? Me and Bonds?

Q. You and Bonds and Kelly, did you talk about Foreman's involvement in the case at the meeting?

I'm just wondering why he would have written that down if you hadn't discussed Foreman's involvement.

A. I don't know. I don't recall what we talked about at that meeting. Obviously about what I was learning from Prible. The exact conversation I --

Q. Okay.

A. -- don't know.

Q. Did Siegler tell you in advance of that December 10th, 2001 meeting that she needed a written statement from you?

A. I don't know if she told me that or not. I may have told her I wrote everything down. You know, it

could have gone either way. I don't recall.

Q. All right, was this statement written before -- Was it completed before you walked into that meeting or did you write --

A. Add to it later?

Q. No. No. No. Write - work on it during that meeting together?

A. No. No.

Q. The draft was completed before you walked into that meeting on December 10th?

A. Yeah.

I wasn't doing any writing in the lieutenant's office.

Q. Now you testified at trial that you had a second meeting with her in May, 2002 in Beaumont. Do you remember that meeting?

A. I must have been in lock-down by then. May, 2002.

Q. And this was right after the Hermilio Herrero trial. Do you recall that trial?

A. I remember hearing about him going on trial.

Q. Okay.

A. I think some of the guys in that group testified against him.

Q. That's right.

A. I don't remember which ones.
Q. And Foreman - Foreman was involved in that case as well, right?
A. I think so. I'm not sure.
Q. I'm going to show you Exhibit Twenty.

(Whereupon, Exhibit Numbers 20A through 20D consecutively were marked for Identification).

THE WITNESS: They never really talked to me about Herrero.
BY MS. SCARDINO:
Q. Okay, I'm going to show you Exhibit Twenty. There's four letters in Exhibit Twenty.
A. Okay.
Q. They're all dated May 1st, 2002 --
A. All right.
Q. -- and they're all essentially the same, just with different --
A. Different --
Q. -- two different US Attorneys.
Exhibit 20A --
A. Who are they from?
Q. They're from Miss Siegler.
Exhibit 20A is a letter to Jesse Moreno's

USA -- AUSA advising him of his cooperation in the Herrero case. Exhibit 20B is her letter, a similar letter for Eddie Gomez to his AUSA.

A. Eddie. I remember that name.

Q. You do?

A. I remember the name Gomez, but there's a bunch of Gomezes in there.

Q. It's a Cuban guy. Does that sound familiar?

A. Gomez. Gomez.

Does he have a nickname? No?

Q. Don't know.

A. Don't know? Everybody goes by one in there.

Q. Yeah?

What's the purpose of that?

A. Spanish guys got handles, you know.

Q. Yeah. Yeah.

Exhibit 20C is a letter advising Rafael Dominguez's AUSA about his cooperation in the Herrero case and Exhibit 20D is a letter to Foreman's AUSA.

Now at that meeting with Miss Siegler, that face-to-face meeting in May, 2002 did she show you these letters, what she had done for these other guys in the Herrero case?

A. I don't think so.

Q. To give you some assurance that she would do

the same in your case?
A. I don't think so. I don't remember seeing these before.
Q. Did you ever ask her for any sort of assurance before you went up and testified and put yourself at risk that it would be worthwhile?
A. I'm sure I probably did, but I don't remember how that conversation would have ended because I never got anything.
Q. Well, you ended - you got a year off?
A. Yeah.
Q. Is that right?
Okay.
A. Yeah.
Q. But you thought you would be walking out the door after?
A. For a house full of bodies, yeah. Children. Sure.
Q. I'm going to show you Exhibit Twenty-two --

(Whereupon, Exhibit Number Twenty-two was marked for Identification).

BY MS. SCARDINO:
Q. -- and go - go ahead and read it.

I guess you are reading it to yourself.
A. Yeah.
Q. Let me know when you're finished.
A. There's Tony. So Tony must have told me something to make contact with her.
I wonder how -- Okay.
Q. Okay?
Okay, this letter's not dated but it's obviously before Prible's trial, right?
A. Yeah. I was still in the yard and that's that --
Q. Right.
A. -- law library typewriter.
Q. This is the law library typewriter --
A. Yeah.
Q. -- we were talking about earlier?
A. Can't you tell it's crooked on the page?
Q. Okay.
A. Old school font.
Q. Okay, and so in this - in this letter you're talking to Miss Siegler about your case in California and you say in that first paragraph, "Neither Judge Wanger nor Mr. Cullers lived up to their end of the bargain in regards to this situation, so you can imagine that I'm a little apprehensive about our current

situation especially when it comes to my having to rely on these two men again in order to be granted a reduction in my time based on a recommendation you make in exchange for my testimony on the Prible case."

Now the first sentence you say that the Judge and Mr. Cullers who was your AUSA in California, right?

A. Uh-huh. (Affirmative response).

Q. Sorry. Yes or no just so the record's --

A. Yes.

Q. -- clear.

A. I'm sorry.

Q. That's okay.

A. Yeah.

Q. You say that they didn't live up to their end of the bargain. What does that mean? What were you referring to?

A. Our case in the Feds was considered an OC case, organized crime. They styled this the Texas Crime Family.

While I was on bond for that case, the State portion of it, I was on electronic monitor. I couldn't leave the county without my Judge's permission.

One day I get a call from the court liaison officer telling me to pack a bag and get the "fuck out of the house." I'm like I'm not going anywhere. Why?

She said get out of your house right now. I said I can't leave without the Judge's permission. Have my lawyer call me right now.

My lawyer calls me and tells me to pack a bag, get the hell out, just go, call me from the road.

A member of either the Texas Syndicate or Mexican Mafia had been a cellmate with Mark Crawford and he paid the guy to come hit me, but the guy fortunately for me chose to get high on heroin before and he got picked up by the cops, so he gave up that information to get out of the trouble he was in, so they wanted me out of town, so when I went into Federal custody in California they housed me under a pseudonym and in sentencing my lawyer requested they continue to house me under a pseudonym based on the Federal transcript and the Judge acknowledging there was a contract taken out on my life and threats made against my mother and my twelve year old daughter and they said I will take care of it and I hit the system under my real name with a documentary of our case playing on A&E. It hit the TV at the USP.

Needless to say, I left the yard that day.

Q. And your real name, just so we're clear, is Michael Beckcom?

A. Yeah.

Q. Okay, but your alias, you had a different pseudonym that you were living under or that you wanted to be known under in Federal prison?

A. I was housed under when I went into the Fed custody --

Q. Okay.

A. -- pre - pretrial.

Q. Okay. Okay, and so - and if you go down to the second paragraph of this - of this letter it says, "What I'm asking is is there anything you can do to help me correct some of the mistakes the Feds made" and you're referring then to the pseudonym issue, right?

A. Correct.

Q. Okay, "I've currently filed for a name change to the name that I was supposed to keep while in the Fed's custody, but I keep meeting resistance with the Clerk in Beaumont. Can you give me any advice on this?"

And did Miss Siegler give you any advice on this?

A. Not that I know of. It never happened, so obviously not.

Q. You never - you never were able to get that name change?

A. No.

Q. Okay.

A. No.
Q. And then you say, "Also, can you give me any reassurance that the Feds are going to do the right thing on this case?" And what are you referring to there?
A. The Prible case.
Q. The Prible case, so you're wanting reassurance from her that the Feds were actually going to give you a time cut for the Prible case?
A. Yeah.
Q. Okay, and did she give you any reassurance on that end?
A. I never got anything in writing. I mean --
Q. Not in writing but just in --
A. I think the best - as I shared earlier I think the best she did was they're going to play ball might have been her words. I've talked to them and they're in, something to that effect.
Q. Okay.
A. No specifics though.
Q. Okay.
A. But again like I said earlier, my feeling is I think she knew I wasn't going to get more than a year.
Q. Okay, but she was playing you --
A. But she knows -- Yeah. Listen, man. I've

been pissed about this since, putting me in a trip bag.

Q. Okay, and then the last paragraph it says, "I may have a solution to these problems if you can assist me in making contact with the DEA and an FBI agent. Another inmate, Anthony Davi and I have come on to a couple situations that would interest both of those agencies" and did -- And she did, in fact, meet with you about the Davi case, right?

I'll show you a - a letter.

A. That would be why she came back for Tony.

I don't remember what information he had.

Q. That would be why she came back in May, 2002?

A. Yeah.

I don't know that his situation ever went anywhere. I left the yard.

Q. Okay, I'm going to show you Exhibit Thirty-four.

(Whereupon, Exhibit Number Thirty-four was marked for Identification).

BY MS. SCARDINO:

Q. In this letter -- This is a letter from Ted Wilson requesting permission for Siegler and Bonds to interview you and Antone Davi on May 6th, 2002, correct?

A. Correct.
Q. Okay, so you think that this typewritten undated letter from you which mentions Davi --
A. Obviously it would be prior to this, yeah.
Q. This would have been in response to that?
A. Yeah.
Q. Exhibit Thirty-four would have been in response. Okay, and you recall her coming to meet you but you don't remember what eventually happened with that case?
A. With Tony, no, I don't remember what he and I even talked about. My head was swimming with information back then.
Q. About other people's cases?
A. I guess once I had all this from Prible it's like suddenly people came out of the woodwork, were trying to get out, people I didn't -- I'm like how the fuck do you know what - that I talked to somebody?
Q. Oh, so people were coming asking for advice?
A. Like him. Like him. You know, I'm like he was the last person I would expect, you know?
Q. Yeah.
A. I think his dad was a mob guy or something in Vegas.
Q. Okay, so people were coming to you maybe --

A. I'm not saying --
Q. -- for some advice?
A. -- people, but that's - that's an example of it.
Q. Okay.
Let's see. You have that typewritten letter out, Exhibit Twenty-two?
A. Yes.
Q. Okay, good. Let's keep that out.
Okay.
A. Excuse me.

(Whereupon, Exhibit Numbers 18A through 18C consecutively were marked for Identification).

BY MS. SCARDINO:
Q. I'm going to show you Exhibit Eighteen which has three separate letters to Siegler from the father, son duo of Jesse and Felix Gonzalez. One is from Mark Martinez. Do you recall that name?
A. Felix? Or Mark Martinez?
Q. Mark Martinez, yeah. Do you recall him?
A. I mean Martinez is pretty common.
Q. Okay, Carl Walker?
A. That's a Black guy.

Q. Yeah. Do you remember Carl Walker?
A. I remember Carl.
Q. He used to come and hang out with you and Foreman and yourself sometimes? Do you remember that?
A. I know he visited.
Was he in our unit? I can't remember if he lived in our unit or not. Jesse and Felix.
Q. Have you seen these letters before?
A. I don't remember seeing these. I don't know. It's possible.
Q. Now again these look like they were typed on that typewriter at the library, right?
A. Yeah. That's all we had access to.
Q. And all the indentations are the same, right? The formating is the same on all three letters, right?
A. Yes.
Q. Okay, and it's also the same formating as in Exhibit Twenty-two, your letter that you wrote to Siegler, right?
A. Correct.
Q. That looked like they were typed by the same person, don't they?
A. I don't know.
Q. You don't know?
A. The same type of typewriter. It's all we had,

five or ten of them.

Q. Yes, and the same formating as we just discussed, and Prible is misspelled in each of them, P-r-i-b-b-l-e. Do you see that?

A. Uh-huh. (Affirmative response).

Oh, that's not his spelling?

Q. Huh?

A. How do you spell his name? P-r-i-b-l-e?

Q. Did you think you spelled it P-r-i-b-b-l-e?

A. I really don't know.

Q. Did you type up these letters for these men?

A. I don't know.

Q. You can't remember?

A. I don't recall typing all this stuff.

Q. Were these Jesse Gonzalez, Felix Gonzalez, Mark Martinez and Carl Walker, were these some of the people that came to you for advice on how to get a time cut?

A. No. Not to the best of my knowledge. I thought they were working shit already.

Who's this? Mark Martinez and Carl Walker.

Q. So eventually when Prible did go to trial you were the only witness, the only informant that Miss Siegler used, right?

A. I think so. I don't know who else was

involved.
Q. Do you have any idea why she didn't use anyone else, any of these other inmates that were --
A. No.
Q. -- vying to testify against Mr. Prible?
A. No.
Q. Okay, but you knew that they were all working this case, right?
A. I think Bo kind of said something to that effect at some point.
Q. Okay, before the trial? Before his trial, right?
A. Yeah.
Q. Is that -- If you look at Exhibit Nineteen.

(Whereupon, Exhibit Number Nineteen was marked for Identification).

THE WITNESS: Terrence Gaiser. Fucking -- Do you need me to read this?
BY MS. SCARDINO:
Q. So I'm just interested in the second paragraph of Exhibit Nineteen.
MS. MIRANDA: Do you have a copy of that?
MS. SCARDINO: Oh. I'm sorry.

BY MS. SCARDINO:

Q. I'm sorry. What did you say about a second ago? I didn't - I don't know if the court reporter --

A. Terrence Gaiser, I just said his name aloud.

Q. Okay, if you look at the second paragraph it says, "Inmate Beckcom is considered the prosecution's star witness." Did Miss Siegler tell you - call you her star witness?

A. I don't think she ever said that to my face.

Q. Okay, what led you to believe that you were the star witness?

A. I don't see those as being my words.

Q. Okay, so you don't think that you are the star witness?

A. No. I don't think I referred to myself as a star.

Q. Okay. Good enough. Just wondering where that came from.

MS. SCARDINO: I think if we take a five minute break I can just get my notes together, clean up these depositions a little bit and we can start up again.

Okay.

THE VIDEOGRAPHER: We are going off the video record 11:08 a.m.

(Whereupon, there was a brief recess observed by all parties present, after which the deposition resumed).

THE VIDEOGRAPHER: We are back on the video record 11:31 a.m.

BY MS. SCARDINO:

Q. Mr. Beckcom, earlier I was asking you about your attempts to get the State parole back in April of 2002. Do you remember that I had showed you Exhibit Sixteen?

A. The application?

Q. Uh-huh. The application.

And do you see at the last page of Exhibit Sixteen at the bottom the application is signed by you and it's dated April 19th, 2002?

A. Okay.

Q. Do you see that?

A. Yeah.

Q. Okay, now if you look at your Trufone records, Exhibit Seven.

A. The illusive Seven. We were looking for that one a minute ago.

Q. Oh.

A. I scrambled mine up. I'm sorry.

Q. I know. That's the -- Okay, so if you look at page five and do you see it looks like you called Miss Siegler on April 17th, 2002 and again on April 24th, 2002? Do you see that?

This is page five.

A. I'm on page five. I've got April 24th, April 17th, yes.

Q. Okay.

A. Okay.

Q. Do you see that you -- Okay, and so this was during the same time that you were signing this application, it was that same week --

A. Okay.

Q. -- that you were doing the application, right?

A. Okay.

Q. And then if you look on your PSI which is Exhibit One.

You still have Exhibit One?

A. I'm sure -- Well, maybe not.

Q. Here. I'll give it to you.

A. No.

It's in here?

If she says it's here, it's here.

Q. Okay.

A. Hang on one second.

Q. Here. I can give it to you. I have it right - one right here.

If you look at Exhibit One, page ten you'll see some notes there with the Corpus Christi number (361) 364-

A. Yeah.

Q. -- 6220?

A. Right.

Q. And it says, "Spoke to DA on 4/30/02, Pat Flanagan." Who's Pat Flanagan?

A. Patricia Flanagan. That was the court liaison officer I told you called me and wanted - to go out, get out of town.

Spoke to DA, Pat Flanagan. Well, the --

Q. Okay, does this - does this --

A. I probably spoke to the DA on the case was Anita O'Rourke.

Q. Okay, and so my question is does looking at your - the date of your parole application, the dates of these phone calls with Miss Siegler and these notes of Miss Siegler saying that she spoke with the DA on April 30th, '02, does this refresh your memory as to whether Siegler was involved with this parole application?

A. No, because this would lead me to believe they

spoke to the DA on that case which was Anita O'Rourke and, if anything, it was in an effort to find out when that case - when I could apply for this to get the detainer off of me because that was going to expire much before I got out of Federal prison.

Q. Okay, so explain that to me because I'm a little confused.

A. About?

Q. About what you - what you just said. This -- It's -- You said --

A. No. You're saying DA --

Q. Right.

A. -- automatically assuming it's Kelly Siegler.

Q. No. No. No. No. No. I'm -- What I believe is that these are Siegler's notes saying that she spoke to the DA in Port Aransas. I'm asking you if you knew whether she spoke to the DA in Port Aransas --

A. No.

Q. -- about your State case for you?

A. No. That note says - it says Pat Flanagan. She worked for the DA that was on this State case, so that would be the correlation I would make, but that's just me but, no, I don't know of -- I wouldn't have needed her to.

Q. You wouldn't have needed her to write a letter

to the Parole Board for you --

A. Why?

Q. -- for your parole application?

A. It was expiring the case anyway.

Q. Then why were you applying for parole?

A. Because that's standard procedure. You apply for it, so you get your certificate so you can show it to the prison officials and get your detainer removed. They don't just automatically send it to you, not - not that I know of anyway.

Q. Okay, so you think that's some process that you have to go through? It's not --

A. Yeah. That -- Yeah.

Q. Okay.

A. You're in Federal custody, you've got a State case running concurrent with it, if you reach an eligibility - there are certain days when you reach an eligibility to get parole, so if I was still going to be in custody, why wouldn't they? You know what I mean? Instead of making you do the whole term you become eligible for parole from the State institution.

Q. Right.

A. So if I reach a date of eligibility why wouldn't they give it to me the first shot if I'm still going to be in custody anyway when --

Q. They don't have to give it to you, right?
A. They don't have to, no.
Q. Right, but they can --
A. But they know - they know I'm going to be incarcerated anyway, so --
Q. Right, but they could decide not to give it to you and then you wouldn't - you would still keep that detainer and your points wouldn't go down, right?
A. Yeah.
Q. Okay.
A. Yeah.
I - I don't remember Kelly Siegler having any hand to do with my State case at all.
John --
Q. Now --
A. John Gilmore was my attorney in Corpus Christi and Doug Tinker, so it might be something they could answer.
And on these letters, no, I don't think I typed these letters.
Q. Objection, nonresponsive because there's not a question on the - on the table.
A. Okay.
Q. Okay.
A. Sure.

(Whereupon, Exhibit Number Thirty was marked for Identification).

BY MS. SCARDINO:

Q. So I'm going to show you Exhibit Thirty. See if you remember Exhibit Thirty. This is an October 30th, 2002 handwritten letter from you to Miss Siegler. If you could just read it to yourself.

A. Okay.

Q. Okay, do you remember writing this letter?

A. No.

Q. No?

A. But I obviously did.

Q. Okay, in the first paragraph it says, "I trusted you completely and you did exactly what you said you would." What had she said she would do?

A. Good question.

I don't remember the letter I'm referring to.

What was this letter for?

Q. Did you later determine after, sometime after you wrote this letter that she actually hadn't done what you thought she was going to do?

A. Obviously.

Q. Okay.

A. What letter? Now I'm intrigued.

We don't - we don't have a letter? No?

MS. SCARDINO: Tina, I have no further questions, but James has some follow-up, okay?

James, do you want to switch spots or are you --

MR. RYTTING: I think I can do it from here --

THE WITNESS: Excuse me.

MR. RYTTING: -- if that's all right with everyone else in the room.

Okay.

We can go off the record while I get a little bit organized here.

THE VIDEOGRAPHER: We are going off the video record 11:39 a.m.

(Whereupon, there was a lunch recess observed by all parties present, after which the deposition resumed).

THE VIDEOGRAPHER: We are back on the video record 12:56 p.m.

DIRECT EXAMINATION

BY MR. RYTTING:

Q. Mr. Beckcom, my name is James Rytting, one of the attorneys for Mr. Prible and I have a few - a few questions to follow-up on what Gretchen did.

Let me get my papers together.

You were contacted about a dep - about this deposition before. It was scheduled for a date earlier than today, correct?

A. Yes.

Q. All right, and you didn't show at that deposition; is that correct?

A. Yeah. I apologize for that. I don't know what happened. Personal issues.

Q. All right, but you did meet with our investigator, JJ Gradoni? Isn't that correct?

Okay.

A. That's correct.

Q. That's correct.

And, in fact, you gave an affidavit to JJ Gradoni, a handwritten affidavit?

A. Yes.

Q. Yes.

All right, and several other individuals that are involved in this case -- Well, let me back up.

You said that Foreman played things, you know, fairly close to the vest, that he didn't talk much? Is

that a fair appraisal of your testimony?

A. Well, I mean he didn't make me privy to all his thoughts. We'll put it that way.

Q. Okay, and - but he also has given an affidavit in this case. Are you aware of that? Did Mr. Gradoni tell you that?

A. No.

Q. No.

And did he - did Mr. Gradoni tell you that Carl Walker also gave a statement in this case?

A. No, sir.

Q. A lengthy - a lengthy taped statement. Lengthy taped statement. My apologies.

And I know it's been a long time, so memories aren't all that - that fresh and so I'm going to ask you maybe to read parts of your - your testimony that you gave back in 2002 when I hand -- Since it's fairly lengthy I'll hand you selections of your testimony.

A. Okay.

Q. If you think it needs to be in more context, feel free to ask for more pages so that it's - you can understand what you were talking about exactly. Is that fair? Understood?

A. Sure.

Q. Okay.

Now it's my understanding from reading your testimony that before you contacted Mr. - Miss Siegler you did not have much information about the actual crime, that you and Mr. Prible and Foreman were together talking about other subjects like his asphalt business. Now let me show you, I think, testimony that - that bears that out.

A. I remember talking to him about asphalt.

Q. And that was --

A. Bits and pieces.

Q. Bits and pieces about it, correct? Just to make sure that you're - you're clear about what we're talking about --

A. Yes, sir.

Q. -- I'll refer - refer you to the record and it's Volume 26 and it's page 37.

I'm sorry. Let me -- I have to back up. It's page - starting with page 34. All right, so we can go back to page 33. Let's start with page 33. Here you go.

A. Okay.

Q. And go ahead and take your time and read - read through that.

A. How far do you want me to go?

Q. What - just -- Maybe if you go a couple pages

into that, maybe the first two - two or three pages --
A. Okay.
Q. -- so you can get an idea.
A. Oh, here we get to the asphalt. Okay.
Q. Okay?
A. Yeah.
Q. Just so we don't get too disorganized let's put these right here. If you need to look at them again, please let me know.
MR. RYTTING: And again I showed him pages 33 through --
MS. MIRANDA: Yes.
MR. RYTTING: -- I think 38.
THE WITNESS: I stopped at 36.
BY MR. RYTTING:
Q. 36? All right, and -- Well, this will actually help. We'll go back one more page. Here's - here's 32 and just as to context about your first conversations I believe with Mr. Prible.
Are you finished then?
Okay. Okay, does that refresh your memory about the nature of your conversations with Mr. Prible at the beginning?
A. Yes. It refreshes somewhat.
Q. Okay, so they were not particularly about the

crime but about other matters? Is that fair to say?
A. Yeah. I tend to gravitate towards commonalities, I guess.
Q. So if it -- And again if you can answer a question yes or no like, yeah, it was about something else besides the --
A. Okay.
Q. -- crime, please do.
Of course if you say I need to - if you need to clarify you can say yes, I'd like to add or however it goes.
All right, and - and so during the first series of conversations you didn't have much at all to tell Miss Siegler about the - the crime, did you?
A. That's correct.
Q. That's correct?
Okay, so and, in fact, in early October is when you - the record reflects that you contacted Mrs. Siegler.
I'll show you a couple pages of your testimony that documents that.
MR. RYTTING: I'm showing him pages 24 and 25.
BY MR. RYTTING:
Q. You finished reading that?
A. Yes, sir.

Q. And is it a fair appraisal of your testimony to say that the first telephone call was not to provide Miss Siegler with information about the case?

A. According to that, yes.

Q. And do you believe that your testimony back then was correct?

A. Absolutely.

Q. All right, the purpose of that telephone - that telephone conversation is it fair to say was to arrange a deal with this prosecutor for your testimony?

A. Or to let her know I had information.

Q. But did you have - but you didn't impart any information during this conversation --

A. No.

Q. -- did you?

A. No, I didn't.

Q. And as the other -- And later though you began to develop information, develop information through that prosecutor, correct?

A. As Prible told me information I relayed it to the prosecutor.

Q. Sure, and on the - when you had the conversation on - in October you did discuss -- She made clear to you what she needed in order for her to get you a Rule 35?

A. I don't know --
Q. Is that correct?
A. I don't know that she outlined details of what she needed specifically. I mean she needed obviously information that is credible and I just relayed exactly what he told me.
Q. All right, but you had no other reason to develop evidence against Mr. Prible other than the fact that you may be - might be given a Rule 35?
A. Correct.
Q. Okay, that was the motivation and the sole motivation?
A. Correct.
Q. For providing testimony for Kelly Siegler?
A. Correct.
Q. And you knew about -- You've been in the Federal system for some time and you're aware of Rule 35s correct?
A. Yeah. I mean not in detail, but sure.
Q. But that basically is about the only mechanism by which you can get your sentence reduced in the Federal system, correct?
A. Pretty much.
Q. Yes.
So is it fair to say that that was an issue

that was at least discussed or opened up on the October conversation with Kelly Siegler?

A. I don't - I don't remember talking about Rule 35. I can't say it wasn't.

Q. Would there be any reason that you would not discuss the Rule 35?

A. Specifically I don't know.

Q. Let me see if I have this.

And again I'll show you Rule - page 37 because you said you stopped at page 36.

A. Okay.

Q. Okay, and so page 37 is referring back if I may - am I not right, to that initial phone call, your initial phone call?

A. Correct.

Q. And page 37 of the record makes clear that the purpose of that phone call was to discuss the possibility of you arranging for a reduction in your sentence?

A. Correct.

Q. Okay, and that means by Rule 35 - a Rule 35 reduction? Is that fair to say?

A. It's fair to say.

Q. This increases the likelihood, to say the least, that a Rule 35 reduction what that meant how she

could help you was discussed in that conversation?
A. Okay.
Q. Is that correct?
A. I agree.
Q. You agree?
And Miss Siegler made clear during that conversation according to the record that you were supposed to get specifics about the case?
A. That's what the transcript says, yes, sir.
Q. And do you have any other recollection of - of that conversation?
A. No.
Q. Okay.
Now you approached Mr. - you approached Mr. Prible for information as well, correct, both you and Foreman?
A. Yes.
Q. Okay. Fine.
A. Initially we met each other on the rec yard.
Q. If you would when you --
A. Sure.
Q. That's another rule of depositions. If there's a question before you feel free to answer it. If not there's no - I will have to intervene if you just volunteer information without a question.

I'll show you a copy of the -- I'm going to show you a copy of the statement that you gave.

MR. RYTTING: Tina, you don't have this?

BY MR. RYTTING:

Q. And is that your handwriting?

A. No.

Q. Is that Mr. JJ Gradoni's handwriting?

A. Yeah. Uh-huh. (Affirmative response).

Q. And did you read this before you signed it?

A. Yes, I did.

Q. Okay, and is it an accurate -- And you realize it's a statement under oath under penalty of perjury, correct?

A. Yeah.

Q. Okay, and it's signed by --

A. Me.

Q. -- you? That is your signature on page two?

A. Uh-huh. (Affirmative response).

Q. And dated 4/19/2017 and it states that you started taking notes about what Mr. Prible was telling you about his case in effect to have the information that Kelly Siegler asked me to get, correct? That's the first sentence.

A. Okay.

Q. And that's -- And again this is an accurate

statement, correct?
A. Yes.
Q. And you also repeat that Nathan Foreman was present when Prible talked about his case, correct?
A. Correct.
Q. Okay, and that mirrors your testimony at trial? In fact, at trial you said too that Nathan Foreman was present on every occasion, so --
MS. SCARDINO: Excuse me, Mr. Beckcom. If you could --
THE WITNESS: Yes.
MS. SCARDINO: -- say yes --
THE WITNESS: Yes.
MS. SCARDINO: -- or no for the record.
THE WITNESS: Yes. I gotcha.
My apologies.
MS. SCARDINO: What was your answer?
THE WITNESS: Yes.
BY MR. RYTTING:
Q. And, in fact, you and Mr. Nathan Foreman took steps to befriend Mr. Prible? Isn't that - isn't that right?
A. In the beginning we all met on the rec yard. I don't remember who approached who initially. I think he kind of wandered up in an area we were and that was

pretty much the initial introduction.

Yeah. That's basically how it started --

Q. Okay.

A. -- on the rec yard.

Q. And you - you also -- Miss Scardino has already showed you what is marked as -- It hadn't been marked for the purpose of this deposition, but maybe we should do so.

Oh, sorry. It has been marked as - as Exhibit Number Ten.

I'm going to ask you to take a look at Exhibit Number Ten, if you will.

A. Yeah. I thought I had it here. I do somewhere here.

Excuse me.

Q. And it's not - the pages aren't numbered, so if we go counting from the back which has just one - the last page only has one sentence on it and we go back three pages.

A. Starting with the second from the last?

Q. Yeah. From the - it would be the second from the last. Right.

Well, it would be the third from the last, actually. Third from the last.

A. The beginning is classified?

Q. We can - if you --
A. Skip that?
Q. If you need to you can skip that and just if you would read into the record what happened, what you wrote down there.
Do you recall writing that?
A. Not specifically, but I obviously wrote it.
Q. Okay.
A. Not the specific event.
Q. And this was written down proximate to the date of the - the date that's on this document, 12/10/O1?
A. Yeah. I don't know if it was right before that date, but it was an accumulation of conversations.
Q. Okay.
A. Obviously this was one - this pertains to one specific evening.
Q. So this would have been close to the - the time of - of the event? You're actually keeping sort of a diary of what was going on with Mr. - what you were hearing from Mr. Prible? Is that fair to say?
A. I don't know if I kept what you would call a diary. I just obviously wrote things down, but then I put it altogether.
Q. Okay, and so this would be the most, if

anything, most accurate account since it's proximate in time to the - to the event that you're talking about which is the alleged confession that Mr. Prible made; is that correct?

A. That's correct.

Q. All right, but at trial -- And it says right here that you - that he - that you - that you walked out to the football field and sat down.

A. Okay.

Q. And the purpose was to get away from everyone?

A. Yeah. There was probably no one on the field at that point.

Q. And you actually sat down on the ground?

A. Okay. Yes.

Q. Meaning just cross-legged in a circle just talking to each other?

A. Just sat in the grass.

Q. Just sat in the grass.

Okay, in the middle of the field? Do you recall where you were exactly?

A. No. Not specifically.

Q. But at trial it was not what you testified to, or do you remember - or did you testify to that at trial?

A. I don't remember, sir.

Q. No? Okay, but this is - would be a piece of information that seems to be, you know, where this confession took place and the setting and it should stick in someone's mind? Isn't that correct?
A. Where I was specifically sitting --
Q. Yes.
A. -- on the rec yard?
Q. Yes.
A. If you say so.
Q. I'm not saying so. I'm asking you.
A. I don't know if that's of grave importance exactly where my butt was when somebody confessed to killing a family. No, I don't.
Q. But you did actually take steps to get away from everybody and - and go out onto the football field and sit down and talk, correct?
A. At Prible's request, correct.
Q. Okay, so he requested that you get away from everybody and you went out in isolation and sat down somewhere in - in the yard?
A. I wouldn't call it isolation. There's hundreds of guys on - on a prison rec yard.
Q. Okay.
A. Out of earshot, I guess, maybe.
Q. Okay, out of earshot. Correct.

And also at the unit do you recall where the - they have, you know, tables where people sit and congregate, correct?

A. Yeah. They kind of scatter them around various places.

Q. Do you recall where they were located?

A. Typically closer to awnings, the buildings.

Q. So a good distance away from the football field?

A. No. They have some out by the handballs, so you have the gate, a couple of buildings, you have some tables there, further out you have some handball walls, track. You've got tables here and there. I don't remember specifically where they were all located.

Q. Miss Scardino also showed you a photograph that was taken of you and Mr. Prible --

A. Yes.

Q. -- your mother, Mr. Prible's mother and Mr. Foreman's parents and you stated that that was just a -- Do you recall what you testified to here about why that - that photograph was taken?

A. No. I don't specifically know why it was taken.

Q. You don't remember?

A. No.

Q. Okay, I'd like to show you a - another couple pages of the record starting with pages 82 and 83.

A. Okay.

Okay.

Q. And you notice that in your trial testimony you referred to this photograph as corroborating evidence?

A. Yeah. I did. I see that.

Q. And it was to be used to corroborate the - the alleged confession, the confession that you claim to have gotten from Mr. Prible, correct?

A. I don't know that I made that intention. It was awkward.

Q. So I mean again I'll show you page 83 and if you read down starting at line 19 --

A. Yes.

So if it was going to be. I don't know that it wasn't - anyone went with specific intentions. I don't know that I did or not. I don't remember.

Q. Do you know does this - does your testimony indicate --

A. My testimony indicates --

Q. -- that the purpose of the - of taking that photo was to have evidence for the criminal case against - a criminal case against Mr. Prible? Is that

fair to say?
A. That's fair to say.
Q. Okay, and you know that visiting hours at the -- What are the visiting hours at BOP, if you know?
A. On weekends maybe some evenings later in the week, but I don't remember the specific hours.
Q. Was it usually before 5:00; is that correct?
A. We have a 4:00 p.m. count, so it's before that.
Q. Before that?
A. Yeah.
Q. Okay.
A. Some mornings till early afternoon.
Q. Correct.
And so that photograph was taken before?
A. Before what?
Q. Before Mr. Prible talked to you and Foreman on the yard? Isn't that correct?
A. On -- Yeah. On any particular day, correct.
Q. It was taken though the same day as you claim that he confessed?
A. Oh, yes.
Q. Okay.
A. So it would be before.
Q. Beforehand?

A. It would be beforehand, correct.
Q. Right. Right. So -- And it was on the 24th that you claim that everything came out?
A. Yes.
Q. Okay, and so you took evidence -- You took the photograph with the intention of corroborating a confession that you didn't have yet?
A. I didn't know he was going to say what he said.
Q. But you were anticipating that he was going to confess?
A. Never knew.
Q. But you claim that this is corroborating evidence.
A. I agreed with the question, yes.
Q. And you had nothing to corroborate yet?
A. No.
Q. Now in your statement you mentioned the Herrero case.
MR. RYTTING: I don't know if I've - this has been introduced as an exhibit or not. I don't believe I have.
Did we have this marked?
I don't believe -- Has this been marked as an exhibit, the statement of Michael Beckcom?

Perhaps we should.

MS. SCARDINO: No, it hasn't.

We're a little out of order on exhibits, so I'm going to say 200 because I know we don't have a 200 in this case.

200 is the statement of Michael Glynn Beckcom signed April 19th, 2017.

I'll just write Exhibit 200 on it.

MR. RYTTING: Yeah. No problem.

(Whereupon, Exhibit Number 200 was marked for for Identification).

BY MR. RYTTING:

Q. Let me ask a few questions beforehand. I know that Gretchen has covered some of them, but you mentioned Foreman may have asked to have been your - be your roommate, correct?

A. Yeah. I don't remember exactly what led up to us --

Q. But you had some sort of relationship beforehand? He wasn't just a stranger to you, correct?

A. I knew him from the yard. We exercised together.

Q. And so you got along?

A. True.
Q. You didn't object to Mr. Foreman being your roommate, correct?
A. No.
Q. Even though he was Black, you were White?
A. Yeah.
Q. And that you at least had some association with a gang called the Dirty White Boys, correct?
A. Well, I had a band in there and my base player was a member of them.
Q. Correct. Right. So --
A. If that's considered an association, sure.
Q. Sure. All right, and that was an actual - a -- The name reflects what? What does that name mean? What type of group was this?
A. White guys.
Q. White guys only?
A. Yeah.
Q. And they -- So it was organized on racial lines, correct?
A. Sure.
Q. So -- But nonetheless given your association with this group even though it was through your base player you agreed to have Nathan Foreman as your roommate?

A. I'm not a member of their group.
Q. And you mentioned in your testimony, I haven't shown it to you, but I'll make the representation that you knew that Foreman was - had been involved providing informants to Miss Siegler in other cases?
A. In what context? I don't remember speaking with him about it. I don't remember details, but I kind of got the indication as we talked about previously that that group were all trying to do something.
Q. And, in fact there -- And, in fact, you knew that they were attempting to testify against Mr. Prible?
A. Or others.
Q. And you knew about the stories that they had - or the stories that they were trying to --
A. I never -- Okay.
Q. And you knew about what they - the information that they had on Mr. Prible?
A. I never had individual conversations with them as to what they knew specifically that I recall.
Q. But you were able to comment about -- You understood whether or not they had credible information or not? Isn't that correct?
A. Well, I don't know what would be considered credible. I don't know what they specifically knew. I don't remember.

MR. RYTTING: Can we have the BOP doc, or do I have it? It's dated September 21st.

THE WITNESS: Which number is it?

BY MR. RYTTING:

Q. This will be -- I believe you have it. Exhibit Nineteen.

A. Yeah.

Q. It's already been introduced.

A. I've got a stack of stuff here.

Q. If you go to the second page of this document --

A. I know it's here somewhere.

Q. Here it is. Take a look.

I'll show you an excerpt.

If you go to the second page of this document, the first paragraph it says starting in the middle of that paragraph, I'll just read it. It might make it easier for the record. "Upon receiving this information, a second interview was conducted with inmate Beckcom. Inmate Beckcom stated Liedtke's attorney allowed him to view a list of witnesses which was discussed with the White Supremacists. When asked if other inmates at this facility appeared on the list he replied the father and son Gonzalezes, Mark Martinez" and then he gives Mark Martinez's regulation number,

"And former FCIM inmate Nathan Foreman. However, these inmates did not have enough credible information to testify. Inmate Beckcom stated he was the only one with enough credible information to provide the AUSA with a conviction."

A. Okay.

Q. So it indicates that you did know that these people were involved trying to testify against Mr. Prible?

A. That's what it indicates.

Q. And they were all in the photograph with you on - dated I believe October 11th, the group photograph? Yeah. The group photograph dated 11/11.

A. Yes, sir.

Q. Every single one of the individuals mentioned in these - in this BOP document?

A. That's correct.

Q. Okay, they were all there surrounding Mr. Prible with you?

A. Yes, sir.

Q. And so it can't just be a coincidence, can it, that one, two, three, four, five, six, seven people who were angling to testify against Mr. Prible all took a picture together?

A. No.

Q. Okay, and the purpose of this, this picture could be used just like the photograph of you and the Prible family?
A. It could.
Q. Did you send this photograph to Miss Siegler?
A. I don't recall sending her that photograph.
Q. Do you --
A. I don't know if I did or not.
Q. But you -- Okay.
Is it safe to say it was either you or someone --
A. Obviously in the group.
Q. -- in the - in the group?
A. Other than Mr. Prible.
Q. And in order for you to be able to make a statement like none of these inmates had enough credible information to testify, you had to know something about what those inmates intended to tell Mrs. Siegler and the jury, correct?
A. That would presume that, yes.
Who wrote this?
Q. If you would like to ask who wrote it? The - this is a - the Captain. It's an internal memorandum.
Do you have any reason to think that Captain Scott Fauver would erroneously represent what you were

telling him in this paragraph?

A. No.

Q. Okay.

A. I just don't - I just don't remember this document.

Q. Well, it's not going to be a document you saw. This is an internal BOP memorandum --

A. Oh, okay.

Q. -- of which we have several.

A. Okay.

Q. Now what gave you the impression -- Well, let me back up.

You state in - you say in your statement that you believe that the witnesses in the Herrero case were not truthful and that you do not believe that Herrero ever confessed to anyone, correct?

A. Yeah, I may have been a little hasty in signing that. I don't remember what I based that on. I just did this.

Q. But you realize that George - that Nathan Foreman, your roommate, was listed as a witness in the Herrero case?

A. In the Herrero case? I don't know if I learned that or if I did I don't remember when.

Q. Okay, he's your roommate. You and Foreman are

interested in getting benefits for testifying against Mr. Prible, correct?

A. Okay.

Q. Okay, he gives you the phone number of this prosecutor, correct?

A. Okay.

Q. He gave you the phone number to call. He's there every step of the way when you're testifying when you're getting information from Mr. Prible, correct?

A. I believe so.

Q. Yes. As was your testimony at trial.

A. Okay.

Q. And he didn't explain to you that he was also - that -- When he gave you that number for Siegler did he not explain to you that the reason you should call this woman is that she is willing to go - to use her influence to seek Rule 35 reductions for inmates that she's the one you go to?

A. I don't know that he explained in such detail as you're describing right now, no. I don't recall that conversation.

Obviously he said enough for me to pick up the phone and make a phone call.

Q. Okay, but you did know about -- I mean you did know about Herrero enough - case enough to make you --

In fact, let me back up.

You not - you not only made this statement to Mr. Gradoni in this conversation but you had several other conversations with Mr. Gradoni, too. You met him on several other occasions? Isn't that correct?

A. Once or twice. Once in --

Q. Yeah.

A. -- Houston. I forgot --

Q. Was it twice in Houston or once?

A. It could have been twice.

Q. Yeah, and on one of those occasions you also told him that you thought that the folks that were testifying against Herrero were liars, that they were lying?

A. I may have.

Q. And was there any particular person that you were talking about who you believe was making - making up information about --

A. I don't --

Q. -- Herrero?

A. -- remember -- I don't remember what I so strongly based that assertion on, but obviously at that time that's the way I felt.

MR. RYTTING: Do you have the Foreman affidavit?

BY MR. RYTTING:

Q. I want to show you what's been marked as -- Let me ask you a few other questions before.

As I mentioned before, we have an affidavit from Nathan Foreman and another affidavit from Oscar Gonzalez and we have a statement from Carl Walker.

A. Okay.

Q. Were you aware that on the night that Prible allegedly confessed to you that he was, you know, drinking alcohol?

A. I don't remember that.

Q. At that time in FCI Beaumont was it easy to manufacture and - and even take out to the yard alcohol?

A. I don't know if I'd call it easy.

Q. But it could be done?

A. Oh, any -- A lot of things are done in prison you wouldn't believe are done, but --

Q. And that was done? People could make their own - their own --

A. People do.

Q. -- hooch as they call it, right?

A. Yeah.

Q. Or - or --

A. Rot gut.

Q. Rot gut? Rot gut.

A. Hooch.
Q. And one of them - and one of the persons that did was Oscar Gonzalez?
A. I don't know.
Q. You don't recall him being known as a rather accomplished wine maker in the Federal system?
A. No. Not really.
Q. Not really? Okay.
A. We're not in the same unit. I mean that's kind of - kind of an inner unit thing. We weren't in the same unit.
Q. Okay, and was Mr. Prible inebriated on the 24th when you claim that he confessed?
A. I don't remember. I don't recall him being -- I mean you make it sound like somebody was staggering drunk. I don't remember that.
Q. Okay, I'm going to show you the affidavit of - of Nathan Foreman.
MR. RYTTING: Do you got this?
MS. MIRANDA: Yes. I'll take it.

(Whereupon, Exhibit Number Thirty-five was marked for Identification).

BY MR. RYTTING:

Q. And this has been marked as Exhibit Thirty-five.
A. Wow. That's --
Q. Please don't comment until you have a question before --
A. Sure.
Q. -- before you, Mr. Beckcom.
Let's just go to page two of page three of this document, of these - of this three page document, and if you go down to the - the fourth full paragraph it says, "Beckcom wanted to get information about Prible so he could get his sentence reduced. That is the only reason that Beckcom had for talking to Prible that I know of. Beckcom did not talk to me about going into business with Prible after prison." Any reason -- Is that correct?
A. No.
Q. What's false about that statement?
A. This whole thing's false.
Q. I didn't ask you about the whole thing. I asked you about that paragraph. Tell me what statement is false.
A. We did talk about going into business with Prible after prison.
Q. Okay, so you and Nathan Foreman were going to

go into this asphalt business with Mr. Prible? That was your belief, correct?

A. That was the pretense.

Q. Okay, it was a pretense for what?

A. Information.

Q. Okay, a pretense to get Mr. Prible to come forth with information about his case, correct?

A. Correct.

Q. Okay, and it was also a pretense about - for Mr. Foreman, correct?

A. What do you mean?

Q. Well, let me - let me back up.

Mr. Foreman says he did not have any experience with asphalt or any other type of --

A. Neither did I.

Q. -- pavement business and neither did you?

A. No. I mean I'm aware of an industry but that's about it.

Q. And so you weren't generally -- Yeah, okay, fine. So you weren't generally interested in that - going into that business? That wasn't going to be your plan for post - post release?

A. I had some interest in it.

Q. Okay.

A. It was a conversation starter as well.

Q. All right.

Let's go up to the first full paragraph. Now it says, "Other FCI inmates heard about Prible's case and talked about his case with each other. Rafael Dominguez did, so did Michael Beckcom and a couple of the other Mexican or Hispanic inmates. People talked about Prible's case and even joked about setting Prible up would get time cuts, how Prible was going to be a ticket out of jail. Michael Beckcom was part of these conversations and plans to set Prible up" and you dispute this paragraph or any part of it?

A. I don't remember having group conversations with these people. My conversations were mostly with Foreman.

Q. Okay, but you understand that's what - that there were people in that system that viewed Prible that way as a ticket out of jail?

A. Yeah. I see that.

Q. Is that -- Do you dispute what Mr. Foreman says in that paragraph?

A. No. I can't dispute it. I didn't --

Q. Were you aware of it?

A. I didn't hear these conversations.

Q. But nonetheless you have a photograph with you and the individuals that Mr. Foreman has taken of that

all surrounding Prible --

A. That's correct.

Q. -- taken on November 11th thirteen days before he supposedly confessed to you, correct?

A. That's correct.

Q. Now you claim that Mr. Prible told you that in your trial testimony and I believe in your written statement too you - that he searched the house for money and both in your statement and in your trial testimony you claim that - that Prible told you that Herrero was trying to screw him out of a quarter of a million dollars?

A. Yeah. I read that in my testimony. Yes.

Q. Okay, and in your - in your written statement as well tracks that - that? Is that your understanding?

A. Yes. I wrote down what - what he told me.

Q. And so that is a large amount of money?

A. Absolutely.

Q. Right?

And someone in that - if someone thought that was in a house, what would they do to that house?

A. Ransack it, I suppose.

Q. Correct.

In fact, if you thought that type of money was in a house you would turn over every bloody mattress,

every drawer, correct?

A. You would think so.

Q. And you understand that that house was undisturbed other than fire damage?

A. Other than set on fire?

Q. Yes.

So that indicates that Mr. Prible did not search that house, don't you think?

A. That would indicate that.

Q. And then there's another issue, too. You mentioned that you - you subscribed to at least four investment journals, periodicals?

A. Correct.

Q. And - and why was that?

A. Well, I like to read.

Q. And you're also teaching a course?

A. I was teaching guys how to chart stocks.

Q. Okay, and what did that involve?

A. What? The class?

Q. Yes.

A. Just market indicators, guys looking at volume of trades.

Q. Would you prepare anything like lecture notes or anything like that, write some - jot some things down to talk about?

A. Yeah. I made copies of graphs and charts and -- Sure.

Q. And you said you didn't have a subscription to the Chronicle?

A. No.

Q. But those were available?

A. Yeah. Guys had them.

Q. Did you read the Chronicle?

A. They usually got passed around.

I don't remember if I read it that often or not. Seriously, you know, I've spent a lot of time in the stock charts.

Q. Well, they also have an investment section and a business page, correct?

A. Houston Journal?

Q. Houston Chronicle, yes.

A. Sure. They've got a business section.

Q. Okay, so local business, you're talking to the guys that are going to be released in the Houston area, you know, that's something naturally that you would go read I would think if that's what you are going to be teaching about, the business section, the stock charts in the Houston Chronicle?

A. No, I wasn't teaching from the Houston Chronicle. I was teaching from the Investors Business

Daily.

Q. Okay.

A. Okay.

Q. But it was - I mean you also had an interest I take it yourself independently in stocks and business --

A. Sure.

Q. -- and so forth?

Okay, at least it makes sense that you read at least those portions of the paper? Isn't that right?

A. Some paper.

Q. And that would be the local paper that would surround most commonly?

A. The local --

Q. Most commonly?

A. The local paper where I was was the Beaumont Enterprise.

Q. Sure, and was that --

A. Okay?

Q. Was that a focus of your - your reading attention?

A. No. I didn't read the Beaumont Enterprise.

Q. Okay. In fact --

A. You do.

Q. In fact --

MS. SCARDINO: Neither did I.

BY MR. RYTTING:
Q. -- the Port Arthur paper, Port Arthur -- Right. The Port Arthur or whatever it is you didn't --
A. I forgot what it is.
Q. -- you didn't - you didn't get subscriptions to that?
A. No, sir. I had the Investors Business Daily, IBD, USA Today, Wall Street Journal.
Q. But you realize that Mr. Prible's case was reported in the newspaper widely?
A. If you say so. I mean --
Q. You didn't know that?
A. I don't recall whether I did or not.
Q. You don't? Okay, but you may have?
A. Quite possible.
Q. Okay, one of the things that Kelly Siegler testified -- Not testified -- sorry -- Argued in closing was, at least one of the things is that you had information that only Mr. Prible would know. Do you recall what that information was?
A. The whole fricking thing. I don't know.
Q. Okay.
A. I don't know what section.
Q. Well, you understand that there were police reports in this case made, right?

A. Well, sure. I'm sure there were.
Q. And there was a family that was killed, correct?
A. Correct.
Q. And they had relatives?
A. Okay. Yes.
Q. Sort of an extended family?
A. I don't know who.
Q. You don't know, but they did have relatives?
A. I'm sure.
Q. All right, and it happened in the neighborhood that Prible lived in and that Mr. Herrero lived in?
A. Okay.
Q. Were you aware that the house was - the fire was first detected by neighbors and that they went into the house?
A. I don't recall that I knew that. I may have. I don't know.
Q. So is it fair to say that lots of people would have information about what happened to that family in that house, where the bodies were found?
A. I could only assume. I couldn't say for any - with any fact.
Q. Let me be reasonable to think that the family would find that all three grandkids were found in the

bedroom, they were found in - they were found asphyxiated, my daughter was found shot in the head, they would know that eventually?

A. I'm sure eventually they would know that.

Q. In fact, pretty close to the crime that the police and the prosecutors would talk to the family about what happened?

A. Okay.

Q. So there was -- So again, so there's lots of information it's reasonable to believe, not the whole thing, but reasonable to believe that other people also knew where - how the people - how the victims died, where they were found?

A. Are they aware where I was?

Q. Yeah. That there was a fire lit and so on.

A. Okay.

Q. And these facts were also reported in the newspapers before the trial, correct?

A. If you say so.

Q. Well, we have -- We have an article and we'll just have it read to you. You can read it.

MR. RYTTING: You don't have it?

MS. SCARDINO: Yeah. I can find it.

MR. RYTTING: This is dated April 25th, 1999.

(Whereupon, Exhibit Numbers 28A through 28G

consecutively were marked for Identification).

THE WITNESS: Okay, so you're asking --

BY MR. RYTTING:

Q. There's many pages to this, but it's one exhibit. There's just several copies of it together, I think.

A. In '99 I was in solitary confinement in California.

Q. Okay, but I'm just -- When you read this a lot of the information that you testified to at trial, you know, Herrero was in the garage, Tirado was in the living room, no sign of forced entry, there was a fire and small kids dying of smoke inhalation, that's all public, correct, right there in the Chronicle?

A. In 1999?

Q. Yeah. That's correct.

So you claim that the whole thing that you were told was information that only the perpetrator would know, but there was lots of information that you were told that everybody knew. There were lots of people? Isn't that correct?

A. There's lots written here.

Q. And if you look at the - Exhibit 28D in the first paragraph it says, "A man arrested for robbery in

Houston bank is questioned in the deaths," so it was -- And then it says he was arrested and charged in the April 21st robbery of United Bank of Texas, so again public of information that he was robbing banks, right? Correct?

A. According to this, yes.

Q. Now I know that you didn't say that you - that you had information. You didn't testify I only have information that I could have gotten that only the perpetrator would know? That was Kelly Siegler's argument in closing?

A. I wasn't there for the closing.

Q. Yes, but I'm just saying --

A. Okay.

Q. -- I know that you did not testify I have the only information that the perpetrator could have? You didn't make that representation?

A. That was her argument.

Q. That was her argument, not yours, hers, and so I was just wondering what information you gave her that could possibly qualify as that given what we're reading in the Chronicle?

A. I guess it would be in some of the stuff I wrote.

Q. Maybe we can take a look and - specifically

about the event.

I'll just -- Strike that. Strike that.

I just want -- There's another article, it's 28F, another Houston Chronicle article dated July 7th.

MS. MIRANDA: That has your writing on it.

MR. RYTTING: I don't think so.

Oh, her writing, yes.

MS. MIRANDA: James, do you have another copy?

BY MR. RYTTING:

Q. Are you finished?

And that was dated July 7th and since you have a pretty good recall of it it seems of where you were, where were you on July 7th, 2001?

A. 2001 I was sentenced - I got sentenced in Fresno in 2000, so then you go in transit. I don't remember what month. I guess I was at the US -- Probably USP in Beaumont.

MR. RYTTING: Let me have his records.

THE WITNESS: April.

(Whereupon, Exhibit Number Fifty-one was marked for Identification).

BY MR. RYTTING:

Q. I'm going to show you what we'll - what's been

marked as Exhibit Fifty-one, and before I do that I'm going to introduce - hand to the court reporter 28F, and here. Here's a copy of Exhibit Fifty-one.

MR. RYTTING: Exhibit Fifty-one, the one you just handed me, do you have other copies of it?

Maybe it's still in here.

MS. MIRANDA: Is it the one from the last time?

MR. RYTTING: Yes.

BY MR. RYTTING:

Q. And this shows that you were at - at Beaumont Medium by this time, correct?

A. Yeah. I see it.

Q. And you were there starting March the 26th and you were in the Medium until you were -- Oh. Until 2002, correct?

A. Yeah.

Q. Can you give the span of dates there from March.

A. Yeah. I see that.

Q. And what are those dates?

A. March 26th, '01 to September 11th, '02.

Q. So you were in the Medium when this article came out?

A. Yeah. I got moved over that day, I guess.

Q. All right, and do you recall whether any of the inmates or prisoners in this photo were on the yard with you at that time or in the system?

A. I don't know.

Q. You don't know? Okay.

But again we have an article that lays out significant facts in the case, correct, when I'm talking about Exhibit 28F?

A. Okay, 28F. Let me get back there again.

Yep. It mentions all the deceased.

Q. The deceased, the DNA evidence, the amount of money that was found in the victim's pocket?

A. That's correct.

Q. So -- And it mentioned the victims still have a course - a close interest in this case and what happened at least according to the article, correct, at the top?

A. Okay. Yeah.

Q. So by this time is there anything in your testimony that you can recall that wasn't in these articles in your testimony?

A. I don't know specifically. No, not that I recall. I'm reading in its entirety and comparing it and cross referencing it with this article. All I know is my testimony is based on what came out of Jeff

Prible's mouth and I wrote down. I mean if you're asking me to recant what I said, I didn't lie.

Q. I did not ask you to recant what you said, though I believe you should, but that's an aside.

All right, let's see.

MR. RYTTING: Anything else that we want to go over here?

MS. SCARDINO: I have one if I can do one follow-up question real quick.

DIRECT EXAMINATION CONTINUED

BY MS. SCARDINO:

Q. Mr. Beckcom, Gretchen Scardino again.

So you just saw the July 7th, 'O1 article in the Houston Chronicle --

A. Yes.

Q. -- that he showed you?

A. That's correct.

Q. And at that time we determined from looking at your housing and transfer records that you were in the Medium at that time?

A. That's correct.

Q. Okay, and Mr. Prible was in the Low at that time; is that correct? Do you recall?

A. I don't recall where it came from, but it - it makes sense.
Q. It makes sense?
A. Yeah.
Q. Okay, and on -- Do you have your testimony in front of you?
A. Yes.
MS. SCARDINO: All right, James, can you give him page 22 --
THE WITNESS: No. Wait.
MR. RYTTING: -- of your testimony.
THE WITNESS: No. Hang on.
No, I don't have that.
BY MS. SCARDINO:
Q. Okay, if you could look at page 22, line 15 when James finds it and follow along with me.
On line 15 Miss Siegler asks, "What month was it that you first heard about this case and learned my name?" And you respond, "I didn't learn about your name until later, probably the end of September, early October of 2001. Prior to that I had heard of the case just briefly, something about a guy coming from the Low charged with murder. I didn't really get too much information on it."
Now do you think looking -- Now that you've

seen this July 7th, 2001 article that that might have been the reason you knew that Mr. Prible was coming from - was going to be transferred from the Low?

A. No. I would take that as being yard talk.

Q. Just someone on the yard knew?

A. Inmate rumor mill.

Q. Okay, someone on the yard knew that he was coming?

A. Yeah.

Q. And you all were talking about it?

A. Yeah.

Q. But he wasn't quite there yet?

A. No. Obviously not.

Q. Okay, in that inmate yard talking did it also - was it also said during those conversations about this guy's about to come over to Low - or to the Medium, was it in the context of and Siegler is his prosecutor? Like did you put Siegler --

A. No.

Q. -- and him together at that time?

A. No, ma'am.

Q. Okay.

MS. SCARDINO: James, any further questions?

DIRECT EXAMINATION CONTINUED

BY MR. RYTTING:

Q. Now you read the Foreman affidavit and he stated that Jeff Prible did not confess in his presence?

A. Yeah. I read that.

Q. So -- And - but you claimed at trial that Foreman was right there?

A. That's right.

Q. Correct? You -- And again --

A. One of the guys even said he was trying to gather information, so why would he be doing that if -- I mean it makes no sense. Why would he be trying to gather information and then say I didn't get that information, no, that's not true? He either heard these things or he didn't hear them, so he can't have it both ways.

Q. So -- That's correct, and he states he didn't hear them.

A. Okay.

Q. And not only did Mr. Foreman say he didn't hear Jeff confess, neither did any of the other inmates that were -- Neither did Carl Walker?

A. No, he did didn't.

Q. He claimed that Prible -- I'll make the representation to you that he never - that he considered Herrero his friend, that they were - they didn't have

any -- And that was the only representation he ever heard Mr. Prible claim about it, but you claim --

A. Okay.

Q. -- but you claim in your testimony - testimony that they had a sudden falling out.

A. I'm basing it on what I was told by a man.

Well, I mean what do you want me to say? You want me to unhear what I heard?

Q. No. No. I'm just --

MR. RYTTING: I think we'll leave with --

MS. SCARDINO: Pass the witness?

MR. RYTTING: We'll pass the witness. You bet.

MS. MIRANDA: Okay, can we take a short break before we start?

THE VIDEOGRAPHER: We are going off the video record 2:15 p.m.

(Whereupon, there was a brief recess observed by all parties present, after which the deposition resumed).

THE VIDEOGRAPHER: We are back on the video record 2:20 p.m.

CROSS EXAMINATION

BY MS. MIRANDA:

Q. Mr. Beckcom --

A. Yes, ma'am.

Q. -- my name is Tina Miranda with the Texas Attorney General's Office.

We've never met before today, have we?

A. No, ma'am.

Q. All right, I'm just going to ask a couple of clarifying questions, so it may seem that I'm jumping around a bit, but we're just going to clarify a couple of things from your testimony earlier.

First I want to ask you about the first time that you heard about Prible, and do you recall who you heard about Mr. Prible from?

A. No. I mean it was either Bo or Bobby. One of the two.

Q. Okay, I'm going to ask you to look at Exhibit Ten from earlier and just read that first short paragraph and see if that refreshes your recollection of how you first learned about Prible. Okay.

A. I worked out with Bobby.

Q. I want to talk really briefly also about your - the conversations that you and Mr. Foreman had regarding Mr. Prible.

Did Nathan Foreman tell you that he met with

Kelly Siegler and Bonds in August? Did he tell you about that meeting?

A. I don't recall having that conversation with him.

Q. Okay, did Foreman ever ask you to go get information from Mr. Prible?

A. I don't remember any terms like that being used. I - I don't remember the conversation.

Q. Okay, did Foreman ever tell you any information about Mr. Prible's case, specifics about his case?

A. No. Not that I recall.

Q. Now earlier you were shown Exhibit Thirty-five which is Mr. Foreman's affidavit.

A. Yes.

Q. And you were asked about the truthfulness of some of the statements in that affidavit.

If you look on the first page and going on into the second page he's denying the fact that Mr. Prible - that he heard Mr. Prible confess. Do you know whether that's a true or false statement?

MS. SCARDINO: Objection, form.

BY MS. MIRANDA:

Q. You can go ahead and answer.

A. I'm trying - I'm trying to find the section

you're talking about here.

Q. That's okay. Let me rephrase. There's a better way to ask that.

When Mr. Prible confessed to you was Nathan Foreman present?

A. Yes, he was.

Q. And again just to clarify from earlier, were you ever present during other conversations with Mr. Gonzalez or Rafael Dominguez or Mr. Walker about attempts to set Mr. Prible up to confess?

MS. SCARDINO: Objection, form.

Go ahead.

THE WITNESS: I don't recall having those specific conversations. I more remember them being a little more hushed around me.

BY MS. MIRANDA:

Q. Okay, did you participate in any conversations with them --

A. Not that I --

Q. -- about Mr. Prible's case?

A. Not that I remember. No. Kind of me and Bo.

Q. Now I believe you testified earlier that your first conversation with Miss Siegler was in October; is that correct?

A. I believe that's what the records showed me.

Q. Okay, do you have any independent recollection today of that conversation?
A. Of the specifics of the -- No, ma'am.
Q. Okay, would your testimony on the record be the best reflection of that conversation?
A. Yes, it would.
Q. Now when you first spoke with Miss Siegler in early October, the conversation that was recorded in the record, did you have information about Mr. Prible at the time you contacted her?
A. I don't remember.
Q. About how long after -- Well, let me back up.
Do you recall when Mr. Foreman first told you about Kelly Siegler?
A. No. I don't remember what time of the year it was.
Q. Do you recall approximately how long after you learned about Miss Siegler that you contacted her?
A. No, ma'am, I don't.
Q. Did Miss Siegler ever contact you by telephone?
A. Not that I have any recollection of.
Q. Do you have Exhibit Eighteen in front of you?
A. I don't think so. I've got Nineteen, Sixteen, Eighteen. There it is. I've got two of these.

Q. Okay, I know you've looked at a lot of documents, so I'll just give you a quick second to glance over that to recall what it is and then ask you do you know who wrote these or who typed these up?

A. No, I don't, and may I say something?

Q. Yes.

MS. SCARDINO: Objection, form.

BY MS. MIRANDA:

Q. What - what can you tell me about these letters?

MS. SCARDINO: Objection, form.

BY MS. MIRANDA:

Q. It's fine. Go ahead and answer.

A. Nothing really.

She mentioned the spelling of Prible's name, but the spelling of Prible's name is correct in my handwriting, so that would lead me to believe I had nothing to do with these.

Q. Okay, but your testimony today is that you did not type these up?

A. No. I have no recollection of typing any letters for anyone.

Q. All right, earlier Mr. Rytting was asking you questions about who might know information about the crime and I believe he mentioned victims and neighbors

and police reports. Did you talk to any of the victims of the crime in this case?

A. No.

Q. Did you talk to any neighbors in this case?

A. No, ma'am.

Q. Did you read any police reports in this case?

A. No, ma'am.

Q. Did you read any of the newspaper articles that were shown to you today in this case?

A. Never seen them.

Q. I believe you were also asked about a meeting with Miss Siegler in May of 2002. Let me find that document real quickly. I'm not sure what the number is. Referencing Tony Davi in the -- I think Exhibit Thirty-four is what they showed you about the meeting.

A. Yeah. I remember that document.

Q. Do you recall that meeting with Miss Siegler in May of 2002?

A. I really don't, ma'am. I'm sorry.

Q. Any recollection whatsoever of the substance or the content of that meeting?

A. No. I don't remember what Tony and I discussed.

Q. Do you know whether, in fact, it was about what you and Mr. Davi discussed or whether it was about

something else entirely?

A. No, I don't.

Q. Okay.

Is it accurate to say that it's difficult recalling events from fifteen years ago in your testimony today?

MS. SCARDINO: Objection, form.

THE WITNESS: Yes.

BY MS. MIRANDA:

Q. Okay, would you say that your recollection of the events were better when you testified in 2002 than it is today?

MS. SCARDINO: Objection, form.

THE WITNESS: Do I answer?

BY MS. MIRANDA:

Q. Yes.

A. Absolutely.

MS. MIRANDA: I'll pass the witness.

REDIRECT EXAMINATION

BY MR. RYTTING:

Q. Just a couple of questions about the Antone, Tony Davi issues.

So what other reason do you think Miss Siegler

may have come down to visit you for when she did in May, approximately May 6th of 2002 other than at your request because you had information about other cases?

A. I don't know. I don't remember what the substance of that meeting was. I don't even remember the meeting.

Q. Well, you said in that letter, as I recall, that you had information on other cases that would be of interest to the government, correct?

A. It was something apparently Tony Davi had told me.

Q. So you both had information, you and Tony about another case and, in fact, you mentioned several cases as I recall in that - as you may recall in that exhibit, correct?

A. That's what I stated, yes.

Q. And these were cases that were going to be - that you wanted to contact the government about because they were Federal cases, correct?

A. That's what I stated.

Q. They weren't State cases that Kelly Siegler would be prosecuting or any other State prosecutor, correct?

A. Not if I mentioned Fed acronyms.

Q. Okay, so she got nothing out of this meeting?

It wasn't to help her with the case, it was -- Was it?

A. I -- I don't recall the conversation.

Q. Well, she doesn't prosecute Federal crimes, does she?

A. No.

Q. Okay, and so this was going to be a -- And as you recall from that letter you said that there was - you had - you wanted to solve a problem, correct?

A. That's what --

Q. This would be a solution to a problem and that was - and that problem that you were talking about was your concern that - that your AUSA in California was not pursuing or would not pursue a Rule 35 with vigor, correct?

A. I would be speculating to say that's what the problem was. I don't remember what --

Q. What else would you think the problem would be that you needed a solution by contacting Miss Siegler about?

A. I wish I could remember to tell you.

Q. Do you think it's likely that it was because you were concerned about your Rule 35 and whether they would actually go through?

A. I don't know specifically, no.

Q. Did you meet with an AUSA --

A. Did I?
Q. -- after you talked with Miss Siegler or did an AUSA contact you in any fashion --
A. No.
Q. -- about the information that you claimed to have with Mr. - you and Mr. Davi had?
A. No, sir.
Q. Do you know if they contacted Mr. Davi?
A. I do not.
Q. Are you certain that you don't know or do you not remember?
A. Nobody contacted me.
Q. Do you know if Miss -- Did -- Do you know if Miss Siegler after she talked to you did she say that she was going to contact the government?
A. I don't - I don't remember --
Q. You don't --
A. -- the conversation.
Q. You don't remember that conversation?
A. No.
MR. RYTTING: No further questions.
MS. MIRANDA: Nothing further.
THE VIDEOGRAPHER: We are going off the video record 2:34 p.m.
THE COURT REPORTER: Read or waive?

MS. SCARDINO: Waive.
MS. MIRANDA: That's fine with me.
THE COURT REPORTER: Is the transcript ordered?
MS. SCARDINO: I don't believe so.
Yeah, we can talk about that.
We need to sync that.
THE VIDEOGRAPHER: We can't do that without ordering the transcript.
MS. SCARDINO: Yes, we're going to order the transcript. Yes. Yes.
THE COURT REPORTER: Do you want to order a copy?
MS. MIRANDA: Yes.
Thank you.

(Whereupon, signature and formalities having been waived, the deposition concluded at 2:34 o'clock p.m.).

CERTIFICATE OF OATH

STATE OF FLORIDA

COUNTY OF BROWARD

I, VALERIE LEHTO, the undersigned authority, certify that MICHAEL BECKCOM personally appeared before me and was duly sworn.

Dated this 19th day of October, 2017.

Valerie Lehto

VALERIE LEHTO, RPR
NOTARY PUBLIC - STATE OF FLORIDA
My Commission Expires: 8/22/2018
My Commission No.: FF 141764

CERTIFICATE

STATE OF FLORIDA

COUNTY OF BROWARD

I, VALERIE LEHTO, Registered Professional Reporter, do hereby certify that I was authorized to and did stenographically report the foregoing deposition as hereinabove shown, and the testimony of said witness was reduced to computer transcription under my personal supervision and direction and that the record is a true record of the testimony given by the witness and that said witness has not requested a review of the transcript pursuant to Rule 30(e)(2).

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

Dated this 19th day of October, 2017.



VALERIE LEHTO
Registered Professional Reporter
COMMISSION NO. FF 141764
MY COMMISSION EXPIRES 8/22/2018

Exhibits

669952 Videotaped. Deposition of Michael Beckcom. EXHIBIT1

669952 Videotaped. Deposition of Michael Beckcom. EXHIBIT2

669952 Videotaped. Deposition of Michael Beckcom. EXHIBIT3

669952 Videotaped. Deposition of Michael Beckcom. EXHIBIT4

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Exhibit 17

In the Matter Of:

PRIBLE vs DAVIS

H-09-CV-1896

MICHAEL BECKCOM

October 10, 2017

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CASE NO. H-09-CV-1896

RONALD JEFFREY PRIBLE,

Petitioner,

vs.

LORIE DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent,

_____/

VIDEOTAPED DEPOSITION OF MICHAEL BECKCOM

TUESDAY, OCTOBER 10th, 2017
515 EAST LAS OLAS BOULEVARD, SUITE 1300
FORT LAUDERDALE, FLORIDA
9:00 a.m. - 2:34 p.m.

STENOGRAPHICALLY REPORTED BY:
VALERIE LEHTO, REGISTERED PROFESSIONAL REPORTER
NOTARY PUBLIC, STATE OF FLORIDA
ESQUIRE DEPOSITION SERVICES
FORT LAUDERDALE OFFICE

APPEARANCES:

APPEARING ON BEHALF OF THE PETITIONER:

HILDER & ASSOCIATES, P.C.
BY: GRETCHEN SCARDINO, ESQUIRE.
BY: JAMES G. RYTTING, ESQUIRE.
819 LOVETT BOULEVARD
HOUSTON, TEXAS 77006-3905
(713) 655-9111

APPEARING ON BEHALF OF THE RESPONDENT:

OFFICE OF THE ATTORNEY GENERAL OF TEXAS
ATTORNEY GENERAL KEN PAXTON
BY: TINA J. MIRANDA, ESQUIRE
ASSISTANT ATTORNEY GENERAL
BY: GEORGE A. d'HEMECOURT, ESQUIRE
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ALSO PRESENT: DON SAVOY/VIDEOGRAPHER.

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Videotaped Deposition of MICHAEL BECKCOM, taken before VALERIE LEHTO, Court Reporter/Registered Professional Reporter and Notary Public in and for the State of Florida at Large, in the above cause.

- - - - - - - - - -

THE VIDEOGRAPHER: We are now on the video record.

Today is Tuesday, the 10th day of October, 2017. The time 9:00 a.m.

We're here at 515 East Las Olas Boulevard, Suite 1300, Fort Lauderdale, Florida for the purpose of taking the videotaped deposition of Michael Beckcom. The case is Ronald Jeffrey Prible versus Lorie Davis, Director of Texas Department of Criminal Justice, Correctional Institution Division.

The court reporter is Valerie Lehto and the videographer is Don Savoy, both from Esquire Deposition Solutions.

Would counsel please announce their appearances for the record.

MS. SCARDINO: Gretchen Scardino for Ronald Jeffrey Prible.

MR. RYTTING: James Rytting for Ronald Jeffrey Prible.

MS. MIRANDA: Tina Miranda for the Director.

MR. D'HEMCOURT: George d'Hemecourt for the Director.

Thereupon,

MICHAEL BECKCOM

having been first duly sworn or affirmed, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. SCARDINO:

Q. Mr. Beckcom, my name is Gretchen Scardino. We just met for the first time; is that right?

A. That's correct.

Q. Okay, have you ever given a deposition before?

A. No, I haven't.

Q. Okay, but you've testified in court many times, correct?

A. Yeah. A couple of times.

Q. Okay, now the - the process is similar in a deposition. You're under oath, you're subject to the penalties of perjury just like you would be in - in a

courtroom. Do you understand that?

A. Yes.

Q. Okay, and there's a couple of other rules of a deposition.

I want you to let me finish asking my question before you respond and I will finish - let you finish responding before I speak and that way we don't talk over each other and make it difficult for the court reporter, okay?

A. Okay.

Q. Okay, and one other request is that you say yes or no rather than nodding your head or --

A. Okay.

Q. -- saying uh-huh, and I'll try to remind you if I notice you doing that.

A. Okay.

Q. Okay, are you under the influence of anything today that would cause you to impair your memory?

A. No.

Q. Okay.

A. Just age.

Q. Okay, did you do anything to prepare for this deposition today?

A. No.

Q. Did you consult with a lawyer or anything?

A. My wife has an attorney. I asked him basically the - what a deposition, you know, the confines of what a deposition is. He gave me a rough draft of what to expect and said that's pretty much it, go in, tell the truth and you'll be fine.

Q. Okay, and you testified in Mr. Prible's trial back in October of 2002, right?

A. Yeah. I don't remember dates, but --

Q. Okay, it was a long time ago.

A. -- it's been -- Yeah.

Q. It's about fifteen years ago.

A. Yeah. It's a long time ago.

Q. Okay. Okay, let's go through your criminal history.

Can you start at the beginning. I believe in 1986 you were arrested for theft, I believe?

A. Theft by receiving.

Q. Yes, and I can show you your PSI report if that would help us go through it all.

A. Ma'am, you've --

Q. Do you recall?

A. -- got the facts there. I'll remember them the best I can.

Q. Okay.

(Whereupon, Exhibit Number One was marked

for Identification).

BY MS. SCARDINO:

Q. Okay, this is Exhibit One, it's your PSI report and if you turn to page nine it lists your criminal history.

A. Okay.

Q. So let's just quickly go through these together.

So in 1986 you were convicted of felony theft by receiving. You received ten years probation; is that correct?

A. Yes.

Q. Okay, in June, 1989 you were convicted of conspiracy to possess with intent to distribute a controlled substance and in that case did you plead guilty or did you go to trial?

A. Pled out.

Q. Okay, and you got forty-two months --

A. Correct.

Q. -- in that case with three years of supervised release?

A. That's correct.

Q. Okay, in 1996 -- I want to talk with you about this. This was a murder case and the procedural history

was a bit complicated. You were charged in both State and Federal Court.

A. That's correct.

Q. What was the charge in State Court?

A. Capital murder.

Q. And it was eventually dropped to a lower murder charge?

A. Yeah.

Q. Okay, and why - why was that?

A. I cooperated with the Feds. They rolled it all into one.

I mean I don't know how deep you want to get into that. I didn't know that's what this was about, but we'll go as deep as you want to.

Q. Okay, yeah. I just need to understand a little bit about how those two cases worked together as far as your --

A. Okay.

Q. -- ultimate sentence was concerned.

A. A business partner of mine had a feud with the gentleman, was murdered, so me and another guy were in the warehouse when the murder took place. Thirty days later I was arrested. One of the other two went and confessed, implicated me and the third party, the other guy, Crawford took off on the run, so that left me, so I

was catching the brunt of everything.

As time went on things started lessening on me because of no physical evidence and the testimony of that guy was shaky on the stand, so it started - the State case started dwindling.

At some point the deceased had spoken to someone in California with the Feds because he was being indicted on something completely unrelated to me, so at that point it took a turn, they considered him a Federal witness so they came in to kind of save the day for the State case was falling apart and kind of squeezed me in, so it was either take a plea or face life in trial, so I agreed to cooperate and I took the plea.

Q. Okay, and the plea that you took in Federal Court was what?

A. The charge itself?

Q. The -- Sorry. The charge --

A. The time?

Q. -- and the time.

A. Oh. It was retaliation against a Federal witness by murder, I think, and aiding and abetting and it was eleven to fourteen.

Q. Okay, eleven to fourteen years, and any probation after that?

A. Five years supervised --

Q. Five --
A. -- release.
Q. Five years supervised release?
A. Correct.
Q. Okay, and at the same time you also pled guilty to something in State Court, right?
A. Yeah. I - I don't remember specifically what the charge was. I think it -- Man, that's a good question. I really don't remember exactly what it was.
Q. It was some sort of murder charge?
A. Yeah.
Q. In State Court?
A. And just ran with it. I mean it pretty much expired.
Q. Okay, and that's - that's a --
A. I received parole on it while I was in the Feds.
Q. Okay, and I want to talk with you about that --
A. Yeah.
Q. -- a little bit because I saw in the DA's file your parole application. It looks like it was made in April of 2002, and I can show you --
A. My memory --
Q. -- the document that I'm talking about.

A. -- isn't what it used to, so these documents will.
Q. Okay.
A. It's not here though, is it?
Q. No. It's not in --
A. Okay.
Q. -- Exhibit One.
I'm going to show you Exhibit Sixteen.
A. Okay.

(Whereupon, Exhibit Number Sixteen was marked for Identification).

THE WITNESS: I don't know that I've ever seen the application, or did I make the application?
It must have been my attorney, right?
BY MS. SCARDINO:
Q. Well, no. I was going to ask you did you make this application?
A. I don't recall making this.
Let me look it over.
This is State, right, so it's second degree they've got. They reduced it to run with -- It's got my signature on it. I don't remember how the thing got processed, but obviously I signed it.

Q. Do you know if anyone in the DA's office had filled this out for you?

A. State?

Q. The Harris County DA's office? It was found in Miss Siegler's file which is why I'm asking.

A. No. I -- No. I don't have any recollection of how this got processed.

Q. Okay. Well, I can continue asking you some questions --

A. Okay.

Q. -- and we can come back to it.

A. Yeah, I remember getting a - like a parole certificate while I was in which God knows where that is, hopefully in the garbage for years, but I don't remember the actual application process, when and where.

Q. If your - if your two sentences were being served concurrently --

A. Right.

Q. -- why would you have needed to apply for parole in the State case?

A. Well, yeah, I don't know why we need to because it was going to expire anyway, so I don't know if this was something my lawyer processed just out of routine. I don't know.

Q. Would you have been able to --

A. Who was the other person that signed this?
Q. Would you have been able to receive certain benefits and - or more privileges in Federal prison if you had been paroled in your State case?
A. Oh, absolutely. It reduces points. It takes it -- If you have another case running with it until you're done with it you have a detainer on you which raises your point level which puts -- Listen, I started at United States Penitentiary in Beaumont, so if this got lifted while I'm there I automatically go to the Medium --
Q. Okay.
A. -- and so if you're at a Medium -- I mean the detainer I think in the Feds carries like nine, six to nine points. Don't quote me on that. I'm just --
Q. Okay.
A. If I can recall correctly which changes your whole level instantly, so the - that may be why this got done. I may have done it there.
Q. Okay.
A. I may have done it at USP Beaumont or USP Medium possibly.
Q. Do you recall if Kelly --
A. I mean FCI Medium.
Q. Did Kelly Siegler help you with that process

at all?

A. No. I don't see why I would need Kelly Siegler to help me through this. I don't know.

Q. Okay.

A. These applications are all over prisons.

Q. Okay.

A. The law library.

Q. But you agree that if you were reduced, if your points were reduced because you were - the detainer was taken off of you that you would have more privileges because your points would be lower; is that correct?

A. Well, I would go to a lower level I mean.

Q. Right.

A. Define --

Q. And so that would be a benefit to you?

A. Yeah. Define privilege being in prison, you know, is still being in prison.

Q. Sure, but it's easier to do time in medium as opposed to the USP, right?

A. That one, yeah.

Q. Okay, and it's easier to do time in the low as opposed to a medium?

A. Sure. A little less stress I guess --

Q. Okay.

A. -- you could say.

Q. Okay.

So how many years of your life total have been spent in prison?

A. Too many. Oh, what? Twelve. Eleven, twelve.

Q. Okay, do you consider yourself somewhat of an expert on prison culture?

A. God. I hope not.

Q. Just by the virtue of you doing so much time?

A. I'm not an expert.

Q. Yeah.

A. I don't know what you mean by expert really.

Q. Yeah.

A. When you do time you make do the best you can and try to find ways to whittle the clock down --

Q. Yeah.

A. -- and keep yourself busy.

Q. Did you become somewhat of an expert on criminal law while you were in the penitentiary?

A. No. I learned more about Texas law than anything really while I was fighting my murder case.

Q. You learned a lot about Rule 35 motions though, right?

A. Rule 35? What's that? A reduction?

Q. Yeah. A motion for a sentence reduction.

A. Okay, common knowledge in a Federal prison.

Q. Okay, what do you mean by that?
A. People spend time in the law library trying to figure out ways to get out --
Q. Yeah.
A. -- so --
Q. Everyone in prison wants the same thing, right?
A. They want to get out. Sure, man.
Q. Okay.
A. Everybody in there's innocent, right?
Q. Right.
So what about a 5K1 motion? Did you ever file any of those?
A. I don't - I don't recall, no.
Q. You don't remember what a 5K1 motion is?
A. No.
Q. Okay, what about a 6(b)6 motion? Do you recall filing that in your California Federal case?
A. No.
What is 6(b)6?
Q. Well, I'm asking you if you remember filing one?
A. No, ma'am.
Q. At trial you testified that there was one pending, currently pending when you were testifying in

the Prible case. Do you have any --
A. A 6 --
Q. -- memory of that?
A. No. A 6(b)6?
Q. A 6(b)6.
A. I'm quoted as saying I said those words, 6(b)6?
Q. Yes.
Here. I'll show you your --
A. Okay.
Q. -- trial testimony.
A. I'll take your word for that.
Q. Okay. I know it's been a long time, so I will show it to you.
A. Yeah. Unfortunately times of duress and stress you like to move away from and put them far behind you as you can. I do anyway. I haven't thought about these things in fifteen years --
Q. Okay.
A. -- until the investigator showed up.
Q. Okay, I'm going to show you page eighteen of your trial testimony. If you can read lines three through -- Actually the rest of the page.
A. Okay.
Q. You can read it to yourself.

A. Okay.

What is that Judge's name? Len Hughes? Is that him?

Q. There is a Judge Hughes in Houston.

A. Wrong state.

I don't remember a 6(b)6.

Sentence modification based on extraordinary circumstances.

Did I quote what the circumstances were I put on the 6(b)6?

Q. I don't believe so, no.

So you don't recall filing a 6(b)6 in the California case?

A. No, I don't.

Q. Did Siegler help you with anything in regards to this 6(b)6 motion?

A. I don't -- Siegler didn't really help me on anything.

Q. What do you mean by that?

A. Well, when this whole thing got started and I set myself in motion to testify in State Court she said she was going to call my prosecutor in California. She said this probably will get you out of prison.

Q. She said - she said that to you, this will get you out of prison?

A. Yeah, so I think she bullshitted me at that point because once it was said and done as I'm getting off the stand they go in the back and she's got this grim look on her face and I'm like what now? Well, they're only going to give you twelve months, so at that point I felt like I knew she had lied to me in the beginning that I was going to get walked out, you know, for my testimony.

Q. So let's - let's talk a little bit about the timeline. Before you testified at Mr. Prible's trial she guaranteed that you'd get out of prison?

A. No. She didn't really say those words I guarantee. I don't think she hung her ass out like that, but --

Q. Did she lead you to believe that you would be getting out of prison?

A. Yeah.

Q. Did she tell you that you needed to tell the jury only that she was going to write you a letter?

A. No, she didn't -- She - she never steered me like that because really once - once I put myself to the task it was me. I just -- I felt - like at that point I felt like she knew I wasn't going to get out and I was probably -- She may not have known I was even going to get any time off. I don't know what the conversation

with the US Attorney in California and her was, but I don't know. At that point I felt like, wow, you know, I really put myself in a fricking bind and this is the thanks I get, you know, so I felt like at that point she knew I wasn't really going to get out, but she never put herself in a position to make that known that I would know, you know? It's just - it just seemed evident to me that this was information she had.

Q. Okay, so you felt like she wasn't straight with you when she had said if you testify you're going to get out?

A. Yeah. I mean this is not like a deal we made pre anything. As things progressed and Prible confided information to me I wrote things down and sent it to her, you know. I said, you know, what are they going to do for me for this?

Q. And when you say you wrote things down and sent it to her, did you take notes and mail them to her?

A. I don't remember how I got them to her.

Prible told me a bunch of shit and I just wrote it all down. I wrote it all down and got it to her. I don't remember the method of transportation to her, to be honest with you.

Q. Okay, you don't know if you mailed it to her, you don't know -- But you took notes as you and Prible

would talk?

A. Not as we'd talk.

He pretty much confided everything to me, if I recall correctly, on the yard and I wrote down from knowledge the best I could everything he told me and I got it -- I don't remember how I conveyed it to her. I don't remember how I got the -- I may have -- I must have mailed it the best I know. I might have gone through my case manager. I don't recall.

Q. Who was your case manager?

A. It was a Black lady. I was at the Medium in Beaumont.

Q. Was her name Lacey?

A. I don't remember. I want to say her last name may have been Johnson, I don't know, and then --

Q. Was his name -- Was it a man named Gordon Harpe?

A. Mr. Harpe? He was the unit manager.

Q. Was he your unit manager?

A. Yeah. Yeah, he was --

Q. Okay.

A. -- the unit manager I think for like two - two units that backed into each other.

Q. And was he the unit manager for you the whole time you were in FCI Beaumont in Medium?

A. Yeah.
Q. Because those managers switched around a lot, right?
A. The case managers switched around. The unit managers -- Well, yeah, they're moving up from case manager to unit manager.
I don't remember if he was there the whole time or not.
Q. Okay, what do you remember about Mr. Harpe?
A. Nice guy. He let me use the phone sometimes.
Q. Okay, and how does that work? How could you use his phone?
A. He would give you a call. Once in awhile if you wanted to call family or something he would dial it out for you and let - let you have a - a call and talk to your family if you want to, you know.
Q. Okay.
A. He was a pretty good guy.
Q. And would those phone calls be recorded or not recorded?
A. I'm not sure about that.
Q. Okay.
A. Yeah.
Q. You know the ones out in the - the --
A. Are recorded.

Q. -- usual inmate phones are recorded, right?
A. Correct.
Q. Okay.
A. Yeah.
Q. You don't know if the ones from his office phone were recorded?
A. I don't know why they wouldn't be, but I don't - I don't know that for certain.
Q. Okay, and he also let you call Siegler from those phones, from his phone?
A. I think I did call her from there.
Q. Did she --
A. I mean he's - he's in the room with you, so --
Q. Okay, did she ever call you on Harpe's phone and have him go out and find you?
A. No. I don't recall ever being called, no.
Q. Do you recall her or do you recall ever being called in to a unit manager or counselor's office because you had a phone call from Miss Siegler?
A. No. I don't remember that. I don't know if that happened.
Q. But you can't deny that it happened?
A. I have no recollection of it, so I can't deny it. I don't know. I don't know.
Q. You don't know one way or the other?

A. I don't remember. No. I don't remember. No.
Q. Do you ever recall being in -- Did you ever speak with Miss Siegler on a unit manager or a counselor's phone while other inmates were in the room with you?
A. No.
Q. You never spoke with her on the phone while Nathan Foreman was in the room with you?
A. No. There wouldn't be anybody else in the room.
Q. It would just be you --
A. Me and the unit manager.
Q. -- and the unit manager?
A. Correct.
Q. Okay, so, Mr. Beckcom, you've got a history of serving as an informant, we spoke a little bit earlier about your Federal case and the only way to get your sentence reduced in Federal Court is to serve as an informant; is that correct?
A. Typically.
Q. Yeah, and there's a process that you have to go through to sort of enure yourself to the prosecutor so that the prosecutor finds you to be credible? Would you agree?
A. Define that.

Q. Okay. Well, a prosecutor's not going to use you --

A. Well, they're going to vet you. Is that what you're saying?

Q. That's -- Yes. They're going to vet you. You go through a vetting process.

A. I guess they would.

Q. Okay.

A. Wouldn't you?

Q. And so you served as an informant in numerous cases, one time in Aransas County, right?

A. Same case.

Q. Yeah. Twice in their county? Same case?

A. Same case.

Q. It was moved to their County?

A. Right. Right.

Q. Several times in the California Federal case? This is all stemming from the same --

A. All the same case.

Q. Okay, and then you also testified as an informant in Prible's case?

A. Correct.

Q. Did you work on - as an informant on the Danny Bible case?

A. Danny Bible?

Q. Does that name ring a bell?
A. No.
Q. Okay, did you serve as an informant or work with the prosecution on the Jermont Hairston case?
A. I don't know who these people are.
Q. It doesn't ring a bell?
A. No.
Q. What about working with Antone Davi, another inmate on a case --
A. I remember --
Q. -- for Siegler?
A. -- Tony.
No. I never did anything with Tony.
Q. Okay, tell me who is -- Tony is Antone Davi?
A. Davi, yeah. He was at Medium Beaumont.
Q. Okay.
A. A guy we met, Italian. Italians kind of hung together. I think he was from Vegas.
Q. And you never --
A. His dad was in too, I believe.
Q. And you never reached out to Siegler saying that you and Davi had information about a case that you wanted to talk with her about?
A. Damn. I don't remember. I don't recall.
Q. You don't recall any of this?

A. No. It's my -- You look at me like my memory is getting bad. It must be.

I'm telling you, listen, this was not a good time in my life, so I put it fifteen years in the past, so some of this is going to be tough to recall.

Q. And when you're testifying as an informant credibility is the most important thing, right, because you're a convicted felon, right, okay, and you need detailed information to give the prosecutor so you'll seem more credible? Do you agree?

A. Yeah.

Q. Okay, and credibility is particularly tough for you because you had a prior finding of perjury in your Federal case, right? Do you recall that?

A. No.

Q. You don't recall being called out for perjury in the Federal case in the Brueggen murder?

A. No.

Q. Okay.

A. Show me that.

Q. I'm going to show you Exhibit Thirty-nine.

(Whereupon, Exhibit Number Thirty-nine was marked for Identification).

BY MS. SCARDINO:

Q. If you could read --

A. Is it highlighted or anything? No.
Q. No. Just read lines sixteen through twenty-four to yourself.
A. It doesn't continue from there. Okay.
Okay.
Q. Exhibit -- Are you finished reading?
A. Yeah.
Q. Sorry.
Exhibit Thirty-nine starting on the first page, line sixteen it says, "And since you were arrested you've given a lot of inconsistent statements?" And you responded, "I have several, yes."
"You have given inconsistent statements to law enforcement officers, correct?"
"Yes."
"You have given inconsistent statements under oath in prior proceedings, correct?"
"Correct."
Does this refresh your memory as to whether you were called out for perjury in the Brueggan case?
A. No. I mean I don't -- It's obviously in print. I don't remember it. I see where it led in from since - from my arrest June 3rd of that year.
Typical behavior.
Q. What do you mean by that?

A. If somebody gets arrested they're trying to lessen anything they can off of them, so --

Q. And it's also important when serving as an informant to make it look like the defendant trusted you enough to confess to you? Isn't that correct?

A. Repeat that.

Q. So when you're testifying or when you're working as an informant it's important to make it appear to the jury and to the prosecutor that the defendant trusted you enough to confide in you?

A. Well, based on the information you give them they - they have to make that judgment.

Q. Based on the information who gives you?

A. Whoever you're working.

Q. No, but what I'm saying is it's important for you to have - to have a relationship with that defendant that you can then go to the prosecutor and show them I have this tight relationship with this defendant and he confessed to me because of that relationship, correct?

A. I guess.

Q. That's the picture that was painted at the Prible trial, correct?

A. No. We hung out together.

Q. Yeah.

A. Well, yeah. We saw each other everyday.

Q. Yeah, and you took photos together?
A. Right.
Q. Okay.
A. Groups of guys from Houston.
Q. Okay, and there are certain rules that prosecutors have to follow when working with informants that you're probably familiar with, are you not?
A. Certain rules that prosecutors have to work with?
Q. Uh-huh. Have to follow.
A. I don't know what those are.
Q. For instance, it would be improper for a prosecutor to feed you information about a crime?
A. I could see that, yeah.
Q. Yeah.
Okay, in your experience working as an informant did you ever encounter any prosecutors that didn't follow the rules?
A. No.
Q. They all followed the rules?
A. Yeah.
Q. Okay, none of them supplied you with details about a crime?
A. No.
Q. They didn't reach out to you about a

particular inmate? You reached out to them?

A. Kelly Siegler is the only one I reached out to.

Q. Okay, so you made contact with her first? She did not make contact with you first?

A. Correct.

Q. Okay, and how did you hear about Kelly Siegler's connection to Prible's case?

A. It had to be Foreman.

Q. Okay, and who was Nathan Foreman?

A. He was an inmate at Beaumont FCI Medium.

Q. And he was your cellmate at one point, right?

A. Correct.

Q. Okay, so you were originally in USP in Beaumont and then around October, 2000 you were moved to the Medium? Does that sound right?

A. Yes.

Q. Okay, at what point did you meet Nathan Foreman?

A. I met him on the yard, the recreation yard at some point. I don't remember specifically when.

Q. Okay, do you remember if it was soon after you were transferred to Medium in October, 2000?

A. No. I don't - I don't remember when.

Q. Okay, did you know him before you became his

cellmate?

A. What do you mean by know? On the yard?

Q. Yeah.

A. We met. Yeah. Yeah.

Q. Yeah, you were familiar with him?

A. Yeah.

Q. Okay, how often --

A. We exercised together, ran - ran the track together.

Q. Okay.

A. Yeah.

Q. How often do you change cellmates in Federal prison?

A. That's just dependent on a lot of factors. Typically not that often, you know, somebody leaves, somebody moves in. I think my cellie had left and he moved in or he got transferred to a drug program at another prison somewhere.

Q. Okay, and he moved in and you don't have any say? You can't request a cellmate, can you?

A. Yeah. You can if you want.

Q. You can?

A. Yeah.

Q. Okay.

A. I mean they like to keep the peace in there,

so if you and a buddy, you know, and you can get it worked out with the officer on duty they typically try to put people together who want to be together, you know, friends.

Q. Okay, and do you know how it came to be that you became cellmates with Nathan Foreman?

A. Not - not specifically, no.

Q. Do you - do you --

A. I remember - I know -- I'm still in touch with the guy that left, Cashio, he was my cellie and I can't remember where he left to go to. I think it was a drug program.

Q. Okay, but you already knew Foreman when you became cellmates with him?

A. Yeah. We had become friends, you know.

Q. Yeah, you had a relation -- You had some - a friendly relationship?

A. Right.

Q. Okay.

A. He had lost a lot of weight, so we ran track together. I hate running, so he kind of coaxed me into it.

Q. Okay.

Let's talk about the inmate telephone system at FCI Beaumont. I'm going to show you Exhibit Four.

(Whereupon, Exhibit Number Four was marked marked for Identification).

BY MS. SCARDINO:

Q. Exhibit Four is your account telephone number list.

A. Okay.

Q. And do you see how it lists the names of people that you had listed to call as well as their numbers?

A. Yep.

Q. Okay, now what was the purpose of this list?

A. It has to be approved. You only get -- You're only allowed to have a certain number of people on your - your phone list.

Q. At any given time?

A. Yeah.

Q. Okay, and then in order - if the person is approved you can call these people on the approved list from the inmate phones?

A. Yes.

Q. Okay, and how do you do that? Do you put a personal pin before you dial the number?

A. Yeah, I don't remember. I don't remember what the method was, but we had accounts where you loaded

money off of your commissary account or people would put money on your books and you - it was like a prepaid account for the phone.

I don't remember how we dialed into it or how they logged into it. I don't remember if we used our - our reg number. A lot of times we had a sign-up list. When the phones really got out of hand people were bickering over them and the cops made a sign-up list so you got specific timeframes you could use the phone. Like maybe I had 5:00 to 5:15, you know. They were like fifteen minute calls at a time, but I think there it was a little more lax, so I had a little more access to the phone, but I don't remember how - how it knew it was me when I got on.

Q. Okay.

A. Do you know what I mean? I don't remember what we did.

Q. Okay, let's look at page two --

A. Okay.

Q. -- of Exhibit Four and do you see there listed Lilian Thorn as a friend? Do you see that?

A. Yeah.

Q. Do you recall who Lilian Thorn is?

A. I think that was Foreman's mom, wasn't it?

Q. Yeah, it was.

Why would you have her on your list?

A. The hell if I know. I don't remember why we put her on my list.

We might have put her on my list because he had too many on his and I had space on mine. I don't remember.

Q. So he could use your number to call his mom?

A. No. No.

Q. Or you could call his mom and put him on the phone?

A. Fuck. I don't remember that.

Sorry. Language.

Q. Okay, you notice in the fourth space there it lists Kelly Siegler --

A. I don't know why --

Q. -- as an attorney?

A. I don't know why I put her on my phone list.

Q. Well, you were in contact with her, right?

A. Yeah.

Q. But you usually didn't need to use the inmate phones because you could talk with her --

A. Yeah.

Q. -- from a unit manager phone?

A. Yeah. I don't remember - I don't remember her being on my list.

Q. Okay.
A. Oh, well. It's right here. It's my handwriting.
Q. Okay, did most of your phone calls with her take place on a - on a BOP employee's phone rather than this public inmate phone?
A. No. I mean if I had her on my list then I used my - my account to call her.
Q. But you also --
A. I remember making a couple of calls from Mr. Harpe's office, but it wasn't a - a routine thing.
Q. How often did you speak with her? Pretty often leading up to trial?
A. Shit. I don't have a record of that. I don't remember. I don't remember how many times I actually called her.
This is the -- This is my phone list.
Q. Do you remember the name of your unit manager -- or I'm sorry -- The lieutenant in FCI Medium?
A. No, ma'am.
Q. Does Lieutenant Clarke ring a bell?
A. I don't remember his name.
Q. You don't remember the name of any SIS lieutenant that you worked with over there?
A. No. Sorry.

Q. Do you know what SIS is?
A. I remember the acronym like Special Investigation or something.
Q. Do you know what their - what was their role in the prison?
A. I don't remember their specific role.
Q. Didn't you go through them to communicate with Miss Siegler?
A. I think they're the ones who initially called me out to the lieutenant's office the first time I met her. It probably was SIS.
Q. Okay, so you didn't know that she was coming in advance?
A. I don't remember if I had a warning or not. I think that's the day I went to the security housing unit because it looks pretty bad. There's only two reasons you go to the lieutenant's office. You're either talking to somebody or you're - you're getting in trouble --
Q. Okay.
A. -- so I think they probably walked me out of the lieutenant's office that day into - into the SHU. If I -- I may be wrong, but I think that's pretty much the way it went down.
Q. And one of the worst things in prison to be

known as is a snitch, right?

A. Yeah. It's not the greatest thing, yeah.

Q. So it's - you wouldn't be wanting to have - to be speaking with Siegler on the public inmate phones because people would hear what you were talking about, right?

A. Well, nobody creeps around you that tight, but nobody really eavesdrops, but you've got a little - you've got a little bit of elbow room, you know.

Q. Yeah?

Safer to call her from a private room, right?

A. If you have the opportunity.

Q. Which you did in this case, right?

A. You're still being listened to by personnel, so --

Q. Right, but not by other inmates?

A. Yeah.

Q. And it's not being recorded, right?

A. That I do not know. Yeah, I don't know about his office.

Q. What was the role of the lieutenant in the unit?

A. Well, the lieutenant's not in a specific unit. He's over the whole place.

Q. He's over the whole Medium?

A. Yeah. Security.
Q. Okay.
A. Usually you have more shift lieutenants, more than one.
Q. Okay, and is he - is there a lieutenant that's separate from the SIS lieutenant?
A. Yeah. Your normal officer lieutenant who walks - kind of like walks the beat through the units over -- A lot of them spend a lot of time on gang relations because the gangs are really prevalent in Texas, the Spanish gangs, so they have a lot of specialized staff that are like gang oriented specifically, but your lieutenants, you know, they're obviously over security in the running of the everyday functioning of a prison.
Q. Okay, so there's different - the SIS lieutenants are more of the law enforcement liaison, for lack of a better word, for the prison?
A. I guess you could say so.
Q. Okay.
A. I don't know their specific detail functions, but they're -- I believe they're over your regular lieutenants, if I'm not mistaken.
Q. Okay, so tell me about you being called into the lieutenant's office to speak with Miss Siegler.

What was -- When did that occur?
A. You're asking me a time?
Q. Yeah.
A. A month --
Q. I'm asking you is - was this the first time you ever met with her face-to-face?
A. Yeah.
Q. Okay, but you had spoken with her on the phone many times leading up to this?
A. I don't know -- I don't know if it was many times, but I had spoken with her.
Q. More than once?
A. I could only assume at that point. I don't know. I don't know how many times I actually spoke to her.

There was no need to speak over and over. I mean once Prible confided in me and I had information I gave it to her, so - and that was a matter of the wheels were in motion.

Q. And you say Foreman gave you her name. Was that after you had already become cellmates or before?
A. Good question.

I would say after.

Q. So Foreman was her original informant in this case, right?

A. I don't know what the relationship -- I thought he was doing something else for her.

Q. So you and Foreman never discussed Prible's case together?

A. Well, we - we talked to Prible together. I mean this was like a group of guys from Houston which after this whole thing got set in motion it kind of became evident to me that this whole group of like fricking ten guys were trying to get information and somehow I ended up with the information.

Q. So they - this wasn't a situation of him confessing to the group and everyone then wanting a piece of the action?

A. No.

Q. They were actually trying to elicit details from him so they could be part of the action?

A. The details Jeff Prible gave me he gave completely and explicitly to me and Nathan Foreman one night. He just rolled it out.

Q. All in one night, and that was the night that a photograph was taken?

A. I don't know. I don't know if it was that night we took photographs.

Q. Well, at trial you testified that it was. Would that --

A. Okay.
Q. -- refresh your memory?
I'll show you that photograph.
Exhibit 8A.

(Whereupon, Exhibit Numbers 8A through 8H consecutively were marked for Identification).

THE WITNESS: That's the visiting room.
BY MS. SCARDINO:
Q. Right.
A. Yeah. That's the rec department.
Q. So tell me what Exhibit 8A shows.
A. Jeff, his mother, me and my mother and Nathan and his mother and father.
Q. Okay, and do you see the date down on the bottom right-hand corner, it's a little blurried, it says November 24th and the year is cut off and I'll represent to you it's '01. Does that sound correct?
A. Probably around there sometime, yeah.
Q. Okay.
A. '01 or -- Yeah. It had to be, I guess.
Q. And why was --
A. Okay.
Q. -- this picture taken?

A. We were all in the visiting room together.
Q. That's the only reason? You just happened to be in the visiting room together so you took a photograph together?
A. Yeah. We -- Yeah.
Q. It wasn't to be used later at trial as an exhibit?
A. Not that I know of. I mean these -- I think Nathan asked me to take a picture, it could have been Jeff. I don't remember who said let's take a photo together.
Q. Did Miss Siegler ask you to take a photo together?
A. I don't recall her asking me to take any pictures with them. I don't know.
Q. Okay, let's look at the following page, the following picture, Exhibit 8B.
A. Okay. November, 'O1.
Q. November 11th, 'O1, so this is thirteen days before this supposed confession on the yard, right?
A. Okay.
Q. And who's in this picture? If you can do the bottom row first left to right.
A. I can't.
Q. Okay.

A. Jeff's in front of me, Nathan's to my left. I don't remember all these guys' names.
Q. Okay, does the name Oscar Gonzalez ring a bell?
A. I remember the name Oscar.
Q. And his father Felix Gonzalez was in prison, also?
A. Is that the long-haired cat?
Q. Down in the bottom left.
A. Yeah.
Q. Yeah.
A. Okay.
Q. Is Oscar Gonzalez.
A. Okay.
Q. You remember him?
A. I remember the face. I don't remember his name, but I remember his dad was there, too.
Q. Okay.
A. I don't who - I don't remember these guys.
Q. Do you recognize the - the man standing to your left in the photo with the mustache?
A. No. I don't remember his name.
Q. Does Cat Dominguez sound familiar?
A. Cat. I remember the name Cat.
Q. Rafael Dominguez?

A. That's Cat.
Q. Okay, and you're all surrounding Jeff in this picture. Do you see that?
A. Well, we're in two rows. If you want to call it surrounding, okay.
Q. Okay, what was the purpose of this photograph?
A. Again these are all Houston guys wanting to take a group photo.
Q. They were also all Houston guys that were trying to set up Mr. Prible, right?
A. Well, I didn't know that at the time, but I kind of surmised that later on. That was a feeling I got.
Q. And why did you get that feeling?
A. I don't know. It seems like everybody was kind of hanging around all the time. I guess you get a little hyper alert sometimes in prison.
Q. And the next page, Exhibit 8C?
A. That's Oscar. That's his dad, isn't it?
Q. Are you looking -- What page are you on?
A. Oh, I'm sorry. I flipped one too many.
C.
Q. 8C?
A. Okay.
Q. That's a picture of Prible and Nathan Foreman,

right?
A. Correct.
Q. That's November 9th, 2001?
A. That's correct.
Q. And so during this time Nathan was trying to get a confession from Mr. Prible also, right, during this time period?
A. Yeah. I guess so. I would assume he was.
Q. Well, you all were cellmates, right? Weren't you all talking about it together?
A. Yeah. I'm sure we talked about it plenty.
Q. The next page, Exhibit 8D, who are those men with Mr. Prible?
A. Okay, that's the same guy. That's Oscar.
That's his dad, isn't it? I think so.
Q. So Oscar and Felix Gonzalez?
A. Yeah.
Q. Okay, and they were trying to get a piece of the action as well, right?
A. His dad was? I don't remember that.
Q. Do you remember Oscar was?
A. I didn't know specifics, but I kind of -- Bo, I know him as Bo, Nathan. He never really came right out with it. That was just a feeling I got from him or he may have. I don't remember how I got the intuition

or if he told me.

Q. And Prible was a pretty easy target for this kind of thing, right? He talked a lot, right?

A. No, not necessarily, ma'am. He was -- It was like he wanted to talk but he was falling back on some military shit.

Q. If you turn to Exhibit 8F do you recognize the man in the middle of that photograph?

A. I remember the face, not the name.

Q. Does Hermilio Herrero sound familiar?

A. Yes.

Q. What do you remember about Hermilio Herrero?

A. Man, I want to say I remember something coming up about a case with him. I don't remember the specifics. Him and Cat, wasn't it?

Q. You remember he and Cat?

A. I remember -- I don't remember what the case was, who. Damn. Man, you're - you're trying to knock the cobwebs out of my brain.

Q. Do you recognize anyone else in this photograph, Exhibit 8F?

A. Man, just faces. They were all gang bangers.

Q. So standing right behind Mr. Herrero in this, who's that?

A. That's -- Is that Cat?

Q. Dominguez?
A. Uh-huh. (Affirmative response).
Q. Okay, what about the man in the bottom left of the photograph with an arrow pointed towards him? Does he look familiar?
A. The face sort of.
Q. Okay.
A. Man, I don't remember these guys' names.
Q. Does the name Jesse Moreno ring a bell?
A. Jesse Moreno. Moreno.
Q. Moreno was a friend of Foreman's from the neighborhood. Does that sound familiar to you?
A. Man, I don't remember that.
Q. He had worked with Miss Siegler on other cases?
A. Moreno did?
Q. Moreno had.
A. I mean this could have been information I got back then. I don't remember, but I didn't know these guys, you know. You know these guys but you don't know these guys. You know you see them everyday in passing, but these guys were a clique. They were - they were one of the Mexican gangs. I don't know if they were EME or Syndicato.
Q. Did you hear that or did you know that Moreno

had given Foreman's name to Miss Siegler? Does that sound familiar to you?

A. No.

Q. So you arrived in - in the Medium in October, 2000 we established earlier, and who was your cellmate right when you got there? Was this the man you -- Cashio?

A. No. I was - I was downstairs celling with an old - celling with an older man who was the old health -- God. I'd never remember his name.

Q. Okay, and after him --

A. After him Cashio and I got bunked together.

Q. Okay, and what was Cashio's full name?

A. Richard Cashio.

Q. C-a-s-i-o?

A. C -- C-a-s-h-i-o.

Q. And then after he was released Foreman moved in?

A. Yes.

Q. Is that right?

A. Yes.

Q. And you were in Unit KB? Does that sound familiar?

A. Was it KB? Yeah.

Q. How many units were there in Medium?

A. That building KB, LB, there was two upstairs, so it was three buildings, four units and a building, but then they had - then they had a major fricking meltdown riot with the Mexicans, so the building kind of went this way, KB was down here, LB was down here and they locked up so many people. They moved everybody out of LB, scattered them out in the rest of the prison and they locked LB down. They had that many people they had to lock down, so that shook up the whole place. We were on lock-down for awhile.

Q. So about how many prisoners did the Medium house in total?

A. Wow. A bunch.

Q. More than a thousand?

A. Yeah. I think so.

Q. More than two thousand?

A. Yeah. Might have been two - two and change, I believe. I don't remember the number. There was quite a few.

Let me see. Each unit probably held -- There's two floors on each unit. Yeah, I could easily see two hundred in a unit.

Q. And prisons are really segregated, aren't they? Like you said earlier they try to keep the peace, so the Whites are often housed with the Whites, the

Blacks with the Blacks and the Hispanics with the Hispanics?

A. Yeah. It was a little different there, you know?

Q. Why was that?

A. I don't know. At the USP, yeah.

Q. Because you were housed with Foreman and he was a Black guy?

A. Yeah.

Q. Is that unusual in your experience?

A. Coming from where I had I was open to a little bit of change. It was pretty tense. That's the most violent USP in Beaumont where I was. I mean it was the first one with a gun tower in the middle of a yard, so while I was there there was several killings.

Q. But - but your placement with Foreman as far as you understood was random?

A. What do you mean by random?

Q. Like you were randomly placed in a cell with Foreman?

A. No. I - I think he asked me if he could move in.

Q. Okay.

A. Yeah, so - so I said sure.

Q. And so then you all - you would just need to

go to the unit manager and ask them about it?

A. Yeah, I don't even know if we needed to go to Harpe or not. I don't remember if you had to go that far. Sometimes the officer on duty would do it or he may check with the unit manager and see if there was an objection or something.

Q. Okay.

A. I don't remember the exact procedure, but typically.

Q. Easy to do?

A. Yeah. I mean guys move all the time.

Q. Okay.

So when you were at FCI Beaumont you hung out with Nathan Foreman. We've already talked about Nathan Foreman. What about a guy named Bobby Williams? Do you remember Bobby Williams?

A. A White guy?

Q. Uh-huh.

A. I think I used to work out with him, Bobby, if that's the same Bobby.

Q. Yeah.

And did he introduce you to Prible?

A. I don't remember. Bobby was a strange bird.

Q. You testified at trial you knew Prible was coming to meet him before he got there, right?

A. Coming to meet who?
Q. Coming to the Medium. Sorry. Before he actually --
A. That Prible was?
Q. -- got to the Medium? You had heard about his case and that he was coming, right?
A. Yeah. I don't remember the specifics of that.
Q. Yeah.
How would you have known that he was coming before he got there?
A. I don't know.
Q. Is that an unusual thing for you to have known? Aren't those things kept under wraps usually?
A. Not necessarily, no, if they're coming from another prison or -- There's a little communication that goes on in the system. There's a lot of inmates, but it can be a small system.
Q. So how would you be able to find that information out?
A. I don't know how I would have known he was coming. I don't remember that.
Q. So --
A. I don't remember that incident.
Q. Okay, someone would have had to tell you that he was coming, right?

A. Yeah. I would assume so. I don't know.
I said I knew he was coming?
Q. I'm asking you did you testify --
A. Oh. I thought you said that's what I said.
Q. Yeah. At trial you testified that you knew - that you heard about this case and that he was coming to the Medium.
A. Okay.
Q. You don't remember that?
A. No. No.
Q. So is it your testimony that you didn't know Prible until he actually got to the yard?
A. Yes. I mean I met him there.
Q. When was the first time you met him? Do you recall meeting him?
A. It had to have been on the rec yard. That's the only place you're going to interact with somebody, rec yard, chow hall. If you don't live in the same unit with them the only other place you're going - you're going to see them is on the rec yard and that's the only free movement.
Q. And before you spoke with him that first time did you know that he had been charged with these murders?
A. Somebody probably told me, I'm sure.

Q. And so then you went up to him and - and met him knowing what he was being charged with?

A. I'm assuming. I don't remember the - the sequence of events.

Q. It wasn't as if you befriended him and then it came out later that he was charged with this? This was an intentional on your part introducing yourself to him and trying to elicit information from him, right?

A. I'm sure it probably played out that way. I don't remember the sequence of events though.

Q. Okay, had you already been in touch with Miss Siegler or anyone at the DA's office before you met Mr. Prible face-to-face?

A. No.

Q. Okay.

At FCI Beaumont were you all able to watch television?

A. Yeah.

Q. Okay, were you able to watch the Nightly News?

A. Yes.

Q. Okay, were you able to read newspapers?

A. Sure.

Q. Okay, did they deliver the newspaper there?

A. No. If you had a subscription. Somebody had to subscribe for you.

Q. Okay, so you could subscribe --
A. So all --
Q. -- to the Houston Chronicle?
A. All magazines, periodicals were subscriptions someone got, bought for you.
Q. Okay. Okay, so the Houston Chronicle was probably a pretty common newspaper there?
A. Yeah.
Q. Okay.
A. I mean I didn't get it, but I was an avid reader and taught classes, so I had four investment newspapers a day.
Q. Okay.
Did you read any articles about Prible's case while you were in the prison?
A. I could have. I may have. I don't remember that, but it's possible.
Q. Okay, and there are certain crimes that prisoners find particularly reprehensible, right?
A. Yeah.
Q. Yeah. And those would be rape, right?
A. And children.
Q. Children, both of which came into play in - in Mr. Prible's case, correct?
A. Unfortunately.

Q. Yes.

And if you're charged with these things you're not going to be going around prison and telling everyone from the rooftops that you did it, would you? You'd be an idiot, right?

A. Yeah, what was he there for? He was there on a bank deal, wasn't he?

Q. Jeff was there on a bank robbery. Right.

A. Yeah. I remember now.

Q. Now if you're innocent and you're charged with these things you're not going to be telling everyone on the yard you're innocent of it?

A. Yeah.

Q. Yeah.

A. Or you might be telling everybody that to survive.

Q. But you'd be an idiot to tell people that - that you were guilty because it --

A. To blurt it out --

Q. -- could put you at risk?

A. -- to everyone, yeah.

Q. Yeah. Yeah.

And even you when you testified in Prible's trial you said that your own capital murder case was not something you cared to relive?

A. No.
Q. Right?
Okay, and that's one of the reasons why when you get to a new prison one of the - one of the first things prisoners do is show their PSIs to other inmates; is that right?
A. They used to.
Q. Okay, and what was the purpose of that?
A. See if you cooperated.
Q. Okay, and you could also see what you were in for, right?
A. Well, yeah.
Q. Okay, did you ever know anyone to amend their PSIs before they showed other prisoners?
A. I could see - I could see somebody wanting to.
I don't know. I don't remember seeing anybody do it.
Q. Okay, how would you go about that if you did want to do that?
A. Man, I don't know how. You'd have to be pretty fricking slick in there because you don't have the same tools you do outside, you know.
Q. Do you have a typewriter there?
A. Well, yeah, in the law library, but what's the odds of that typewriter matching the font on, you know,

that?

Q. Right. So you don't have access to a word processor?

A. Absolutely not.

Q. You have access to one typewriter?

A. With a ribbon.

Q. It's the old fashioned kind?

A. Yeah. Punch and go, yeah. It's --

Q. Okay.

A. They may be different now, but --

Q. Okay, but back then?

A. Yeah. From what I remember it was inky ribbons --

Q. Okay.

A. -- the basics, you know.

Q. Yeah.

A. One step above stone and chisel.

Q. So if you wanted to type a letter you were doing the whole format, you were doing - you were typing everything yourself?

A. And you know -- Yeah. Back when I was there. I mean it's evolved some, I think. They let guys E-mail now.

Q. Well, and I'm just curious about when you were there.

A. Yeah.
Q. And - and you didn't have a secretary at the prison that could type things for you, right?
A. No, so I don't know how you would -- Somebody else would have to do it for you.
Q. Okay, someone on the outside?
A. Yeah.
Q. Okay. Okay, but that's not outside the realm of - of possibility in your mind that someone would want to potentially amend their PSI?
A. Amend their PSI? No.
Q. Okay.
A. Yeah, that's --
Q. Okay.
Was there talk on the yard before Prible got there about checking him in once he got there?
A. I don't recall having those conversations.
Q. You don't recall discussing --
A. No.
Q. -- his impending arrival with anyone before he got there?
A. I don't -- Ma'am, I'm not trying to be an ass, but I really don't remember.
Q. Okay, so you're not denying that it happened?
A. I can't. I don't remember it.

Q. Okay, you can't deny it?
A. No.
Q. Okay, and people on the yard really believed that he killed these - these girls, right, that he killed these people?
A. I think they believed it.
MR. RYTTING: Why don't we take a break.
MS. SCARDINO: Okay.
THE VIDEOGRAPHER: We are going off the video record 10:02 a.m.

(Whereupon, there was a brief recess observed by all parties present, after which the deposition resumed).

THE VIDEOGRAPHER: We are back on the video record 10:16 a.m.
BY MS. SCARDINO:
Q. Okay, Mr. Beckcom, on August 8th, 2001 Siegler and her investigator, Johnny Bonds met with Foreman in person to talk about Prible's case. Did you know about this meeting? Did Foreman ever tell you about it?
A. I remember the name Johnny Bonds. He might have been there when I met her.
Q. Okay, can you describe what he looks like?

A. No. No.
Q. Like a bigger fellow, an investigator that worked with her?
A. I remember the name. No. Describing would be impossible for me right now.
Q. But she came with someone to meet with you?
A. She came with someone, yeah. It had to have been him. I remember that name. In what context I'm at a loss for. It had to be when I met them in the lieutenant's office.
Q. Okay, did Foreman tell you that he had met with Siegler face-to-face?
A. I don't recall having that conversation with him. I may have, but I don't recall having the conversation with him.
Q. Because you're cellmates, the two of you are cellmates, you're both working on the same case?
A. I understand.
Q. All right? So presumably you would have been discussing the case amongst each other, right?
A. And you're right. Presumably we would.
Q. Okay.
A. But you're asking me to recall conversations from fifteen years ago that I haven't thought about in fifteen years --

Q. Okay.
A. -- so just recalling details --
Q. Okay, do you have any -- Do you know why Siegler decided not to use Foreman but to use you instead?
A. No, I don't.
Q. Okay, do you know if she gave any benefits to Foreman even for Prible's case even though she didn't end up using him at trial?
A. No, I don't. I'd be upset to know.
Q. Did that create any friction between you and Foreman, that she ended up using you and you ended up getting the time cut and not Foreman?
A. I really didn't get that much of a time cut.
Q. But did that create any friction between you and Foreman?
A. No. No.
Q. Okay.
A. He was -- How would I describe Bo? He was measured in what he said, everything sounded calculated, so you knew there was other things going on in there, you know? So he said, you know, just enough.
Q. Okay, do you recall the first phone call you ever had with Miss Siegler, how it came about? You got her number from Foreman, right?

A. Yeah.
Q. And you called her and what did you tell her?
A. The context of the conversation I must have told her I had information about Prible.
Q. And did you tell her that you were Foreman's roommate?
A. I don't know if that came up or not. I don't -- I don't recall.
Q. Okay, you don't know if she was aware that you were Foreman's cellmate at any time?
A. No. I - I mean she may have been, but I don't know.
Q. Okay, so you called her and you said you had information about a case?
A. Yeah.
Q. And did you give her any details at that time?
A. I must have said something to her. I must have given her something in order for her to make a drive from Houston.
Q. Okay.
A. Yeah.
Q. So did you speak with her again before that face-to-face meeting you had in the lieutenant's office?
A. It's possible. I don't know.
Q. Did you have any correspondence with her

before you met with her in that --

A. Like mail or anything?

Q. Uh-huh.

A. That too is possible, but I mean chronologically remembering all these things it's not working.

Q. But you just remember that you reached out to her and --

A. Made contact with her. The wheels got set in motion.

Q. Okay, and you mentioned that several times the wheels got set in motion, and what do you mean by that?

A. I had information for her, she came, we talked then I guess from that point on it was to see if I, you know, had anymore information I would give it to her.

Q. Okay, and did she tell you anything about Prible's case? Did she tell you anything about the evidence they had against Prible?

A. No. She was more interested in what I had --

Q. Okay.

A. -- you know, what - what can you tell me. You tell me. I remember that fricking line. Well, you tell me.

Q. And what exactly was she interested in? Details about what you all had discussed?

A. I guess to see if the valid - you know, the validity of my information matched whatever she had, you know? She would know whether or not I was really talking to the guy if he was really telling me anything pertinent.

Q. Okay, and was she interested in whether or not he was actually confessing that he did these things that he was charged with?

A. Say again.

Q. Was she interested in --

A. In whether or not he was confessing?

Q. -- in confessing?

A. Well, I'm sure that was the reason we were talking.

Q. Or was she just - was she also interested in just details he was saying about his case?

A. Everything really, I guess. She never -- I don't recall her saying anything more specific than another because if he told me something I would relay it to her.

Q. Okay, did she tell you specific information that you needed to get from Mr. Prible?

A. No. I don't - I don't recall her telling me that.

Q. Okay, so on this first phone call what did she

tell you as far as what the - what you needed for her to come see you?

A. Man, fifteen year old phone call. I don't -- Yeah, I'm sorry.

Q. Was Miss Siegler well known on the compound at FCI Beaumont?

A. That was the first I'd ever heard of her, you know?

Q. Well --

A. Since I've seen her a lot more on TV and, you know, and such.

Q. What was her reputation on the compound?

A. Oh, I don't know. That was my first encounter hearing of her and I didn't really get any other feedback from anybody else.

Q. When Prible arrived on the compound and you met with him you testified at trial that he started asking you about your own case? Do you recall that?

A. He probably did. We probably both talked about things on the yard.

Q. I'm going to show you -- I'm going to show you Exhibit Fifty-six.

(Whereupon, Exhibit Number Fifty-six was marked for Identification).

BY MS. SCARDINO:

Q. Here. I'll give you this one.

Sorry.

Exhibit Fifty-six is the probable cause affidavit in Mr. Prible's case. If you can take a minute and just read that to yourself.

A. Do you want me to read --

Q. Just read it to yourself, yeah.

A. Okay.

Q. Okay, now you've seen this probable cause affidavit before, right?

A. I don't know.

Q. Didn't Prible show this to you on the yard -- Or in the - in prison?

A. Yeah, he may have. I don't know if he showed me this or not. I'm not - I'm not sure if he showed me the paperwork.

Q. He might have? You can't remember?

A. I don't remember him giving me any documents. He wouldn't walk around with this.

Q. Why not?

A. It's pretty - pretty confidential stuff. I don't know. I don't recall him showing me this there, but I remember - remember the name Tirado, the girl.

Q. Okay, you don't recall him showing it - you

this, but you can't deny that he showed you this; is that correct?

A. No. I can't deny it. I don't remember if he did or not.

Q. Okay, in your discussions with Miss Siegler about this case did she ever tell you anything about the DNA evidence in this case?

A. No.

Q. Did she ever tell you that Mr. Prible's semen was found in the victim's mouth?

A. No.

Q. Okay, did you know that - that that was the case?

A. I think - I think Jeff led me to believe.

Whatever he told me I wrote down and gave to her. I can't remember word for word conversations we had --

Q. Okay.

A. -- but he spit quite a bit of information out to me.

Q. Did Miss Siegler talk with you about any problems that they had with the case against Mr. Prible, for - for example, the alibi witness? Did she talk with you about the alibi witness?

A. No. I don't think so.

Q. Did she talk with you about the fact that there was no physical evidence linking Mr. Prible to the murder?
A. No. I don't recall that.
Q. Did she talk to you about the fact that there wasn't a motive?
A. No.
Q. Did she talk to you about the fact that the money had never been found?
A. Not to the best of my knowledge. No, ma'am.
Q. Okay, did she tell you that the murder weapon had never been found?
A. No.
Q. So you never discussed these issues with Miss Siegler?
A. I don't recall. No.
Q. Okay.
A. I mean he was just giving me information and I was giving it to her.
Q. And I'm interested in what you talked with Miss Siegler about.
A. And again you're asking me to recall conversations I've tried to forget for fifteen years and I - I don't remember these conversations, ma'am.
Q. Okay, so you might have had these

conversations but sitting here today you can't recall?

A. To the best of my knowledge, no. I can't remember them.

Q. Okay.

In all how many times do you think you spoke with Miss Siegler on the phone leading up to the trial? Was it a pretty regular communication?

A. No. There was no point in really a regular communication. Once I made contact and I was onboard and I had information I pretty much wrote it down, I believe, and got it to her or I may have called maybe three or four times. I don't remember.

Q. Okay.

A. I mean that's a guesstimate.

Q. Okay.

I'm going to show you Exhibit Seven.

(Whereupon, Exhibit Number Seven was marked for Identification).

BY MS. SCARDINO:

Q. Exhibit Seven is your true phone records, the telephone account statement from the prison.

A. Okay, so it was more than three or four then.

Q. So -- And I'll represent to you that on the

first page the two numbers that are highlighted, the (713)686-6199, that's Foreman's mother's number. Do you recall speaking with -- Did you - did you ever call Foreman's mom from your phone? Like what reason would you have had to call her?

A. I don't know. I don't remember --

Q. Okay.

A. -- unless Bo asked me to call her for something. I don't know. Maybe he was out of minutes. We got allotted a certain amount of minutes and they were short --

Q. Okay.

A. -- two minutes, four minutes. Maybe I was calling her for him.

That's her? 6199?

Q. That's Bo's mom, 6199.

A. Okay.

Q. Now the 6178 number I'll represent to you is Miss Siegler's office phone number.

A. Okay.

Q. So -- And this is the records from 2002, so can you count up how many times you spoke with Miss Siegler on the inmate phone in 2002.

A. 6178, right?

Q. Uh-huh.

A. Three, five. Oh, crap.
Ten times, and there's some more back here.
Q. Okay, no. I think it's ten times. That's what I counted as well.
A. Okay.
Q. And these are just the phone calls that you spoke with her on the inmate line, right? You also spoke with her from the counselor's office?
A. Yeah. A couple of times.
Q. A couple of times. Okay.
A. Yeah.
Q. How many face-to-face meetings did you have with Miss Siegler?
A. I think it was just one if - one when I was at the Medium.
Q. Now was that the one in the lieutenant's office?
A. Yes. Yeah.
I don't think they came back.
Q. Okay.
A. What's his name may have come back. I don't remember. What's --
Q. Bonds?
A. Bonds. That name sticks in my head.
I want to say I kind of remember a figure, but

I don't know if it's him or not, you know, kind of heavy, tall rotund guy --

Q. Okay.

A. -- big belly. I don't know if that's him or not.

Q. Okay.

A. I'm getting there.

Q. I'm going to show you Exhibit Nine.

(Whereupon, Exhibit Number Nine was marked for Identification).

THE WITNESS: Okay.

Lieutenant Clarke.

BY MS. SCARDINO:

Q. This is a fax dated November 26th, 2001 from Johnny Bonds to Lieutenant Robert Clarke at FCI Medium. It's a visitation request letter. He says, "We are supposed to be at your unit around 11:00 a.m. on 12/10/O1 to see inmate Foreman. We also need to see inmate Beckcom after we talk to Foreman."

Go ahead and take a minute to read it to yourself.

Okay?

A. Okay.

Q. So this letter's dated November 26th, 2001. That's two days after the photograph was taken with your mothers in this which was November 24th, 2001 and that was the date that you said at trial that the confession came out. Do you recall that? Are you with me?

A. I'm here. I'm with you.

Q. Okay, so she respected this - she requested this visit on November 26th. Had you contacted her after that November 24th conversation with Prible and Foreman --

A. I --

Q. -- and told her that you needed to see her?

A. I must have. I don't know.

Q. Okay.

A. Did I? It should be in here.

Q. I'm asking you if you recall.

A. Well, I don't remember.

Q. Okay.

A. So this would be evidence if - of it.

Q. Well, if - but if you had called her on the --

A. It's difficult from --

Q. -- unit manager's phone then it would be --

A. -- the unit manager's, so that - that is a possibility.

Q. Okay, and you and - you and Foreman are still

cellmates at this time, right?

A. Yeah, we're cellie's till from the time I guess we both left the yard.

Q. Okay, so you had requested this visit with Siegler, and did you know that he was meeting with her on the same day, Foreman?

A. I may have.

Q. It seems probable, right?

A. Probable, yeah.

Q. You lived together?

A. Yeah. Yeah.

Q. You'd be talking about this.

Okay, so you knew that he was going in before you and then you were going to follow him in.

Do you recall like when you walked into the lieutenant's office was he walking out?

A. No, and then again this was Foreman. I may or may not have known about this because we're on the yard and without ever saying anything to me about it he suddenly went one day to the lieutenant's office and checked in and went to the SHU, so I don't even know what prompted that, so that's what I mean by he would tell you what he wanted to tell you and he kept other things close to the vest, so he had something else going on that he felt he needed to get off the yard for so,

you know, everything's shaded in these places.

Q. So even though you all were roommates, cellmates, you didn't know that you all were going to have these back-to-back meetings that day with this prosecutor about the same case?

A. I'm not saying I didn't know, but I don't remember specifically that event of knowing. I mean one day my cellie people are asking me why did Bo check in and I'm like what? He didn't tell me anything about a need to get off the yard.

Q. But this was a case that you all were working on together, right? You were talking, it's the same case, same prosecutor, you all were --

A. Yes.

Q. -- discussing it among yourselves?

A. Yeah. Obviously I'm sure we were.

Q. Okay, so on December 10th, 2001 was the date of your meeting in person with Siegler and Bonds and I'll show you Exhibit -- I'm going to show you Exhibit Ten.

(Whereupon, Exhibit Number Ten was marked for Identification).

THE WITNESS: Excuse me.

BY MS. SCARDINO:

Q. Do you remember this statement that you had written?

This is your handwriting, right?

A. Yeah.

Q. Okay.

A. You want me to read this whole thing?

Q. No. No. No. No. No. You don't need to read it, the whole thing. I just wanted you to see it, and do you see up at the top left it says 12.10.01, JLB?

A. That - that must be when I gave it to Bonds. No?

Q. Okay. Well, that's what I'm asking you. Is that - is that what - your memory that you gave this to Miss Siegler and Bonds at that meeting and you signed it?

A. Yeah. That would be the most evident thing that took place.

Q. Okay, and when you gave this to Siegler did you have a copy of it that you kept for yourself as well? Like did you make notes or a copy of this statement that you were giving so she had one and you had one?

A. I don't think so. I think I just gave it to her.

Q. And you think you never saw it again?

And the reason I ask is because this - this statement tracks very closely your testimony at trial as if it were almost a script. Does that sound -- Is that your memory?

A. I'm pretty sure it was fresh at the time.

Q. What do you mean by that?

A. Well, all this took place, all this kind of evolved, so it would -- As I learned it I wrote it down and passed it on and then the trial took place, correct?

Q. Well, the trial took place almost a year after you wrote - you gave this statement to Bonds.

A. Maybe I had it.

Q. Ten months.

A. Maybe I had it in my legal folder or something. Maybe -- I may have kept a copy. I don't -- I don't remember --

Q. Okay.

A. -- but it's possible.

Q. And was this -- You said as Prible would tell you things he would - you would make notes of it, right? As you and Prible talked you would make notes after --

A. Yeah.

Q. -- not --

A. Okay.

Q. -- in front of him?

A. Okay.
Q. You would make notes of it after, right?
A. To clarify, yes, ma'am.
Q. And then did you condense all those notes into this --
A. Yes.
Q. -- final draft?
A. The diatribe, yeah.
Q. Yeah.
Okay, and what did you do with all those other notes that you had taken?
A. Whereabouts unknown. I don't know.
Q. Do you know if you gave them to Siegler?
A. No. Not if she had this.
Q. Do you think you tossed them maybe --
A. Yeah.
Q. -- and just gave her this?
A. Yeah. There would be no - no need for my notes.
Q. I'm going to show you Exhibit 109-8.
MR. RYTTING: 109-8.
MS. SCARDINO: I don't have a copy for you. Sorry.

(Whereupon, Exhibit Number 109-8 was marked

for Identification).

BY MS. SCARDINO:

Q. These are Johnny Bonds' notes about that meeting on December 10th, 2001 you say he was present for.

A. Okay.

Q. And do you see it says, "Nathan never told Mike about Kelly and Bonds"? Did you all talk about that at the meeting?

A. Who? Me and Bonds?

Q. You and Bonds and Kelly, did you talk about Foreman's involvement in the case at the meeting?

I'm just wondering why he would have written that down if you hadn't discussed Foreman's involvement.

A. I don't know. I don't recall what we talked about at that meeting. Obviously about what I was learning from Prible. The exact conversation I --

Q. Okay.

A. -- don't know.

Q. Did Siegler tell you in advance of that December 10th, 2001 meeting that she needed a written statement from you?

A. I don't know if she told me that or not. I may have told her I wrote everything down. You know, it

could have gone either way. I don't recall.

Q. All right, was this statement written before -- Was it completed before you walked into that meeting or did you write --

A. Add to it later?

Q. No. No. No. Write - work on it during that meeting together?

A. No. No.

Q. The draft was completed before you walked into that meeting on December 10th?

A. Yeah.

I wasn't doing any writing in the lieutenant's office.

Q. Now you testified at trial that you had a second meeting with her in May, 2002 in Beaumont. Do you remember that meeting?

A. I must have been in lock-down by then. May, 2002.

Q. And this was right after the Hermilio Herrero trial. Do you recall that trial?

A. I remember hearing about him going on trial.

Q. Okay.

A. I think some of the guys in that group testified against him.

Q. That's right.

A. I don't remember which ones.
Q. And Foreman - Foreman was involved in that case as well, right?
A. I think so. I'm not sure.
Q. I'm going to show you Exhibit Twenty.

(Whereupon, Exhibit Numbers 20A through 20D consecutively were marked for Identification).

THE WITNESS: They never really talked to me about Herrero.
BY MS. SCARDINO:
Q. Okay, I'm going to show you Exhibit Twenty. There's four letters in Exhibit Twenty.
A. Okay.
Q. They're all dated May 1st, 2002 --
A. All right.
Q. -- and they're all essentially the same, just with different --
A. Different --
Q. -- two different US Attorneys.
Exhibit 20A --
A. Who are they from?
Q. They're from Miss Siegler.
Exhibit 20A is a letter to Jesse Moreno's

USA -- AUSA advising him of his cooperation in the Herrero case. Exhibit 20B is her letter, a similar letter for Eddie Gomez to his AUSA.

A. Eddie. I remember that name.

Q. You do?

A. I remember the name Gomez, but there's a bunch of Gomezes in there.

Q. It's a Cuban guy. Does that sound familiar?

A. Gomez. Gomez.

Does he have a nickname? No?

Q. Don't know.

A. Don't know? Everybody goes by one in there.

Q. Yeah?

What's the purpose of that?

A. Spanish guys got handles, you know.

Q. Yeah. Yeah.

Exhibit 20C is a letter advising Rafael Dominguez's AUSA about his cooperation in the Herrero case and Exhibit 20D is a letter to Foreman's AUSA.

Now at that meeting with Miss Siegler, that face-to-face meeting in May, 2002 did she show you these letters, what she had done for these other guys in the Herrero case?

A. I don't think so.

Q. To give you some assurance that she would do

the same in your case?
A. I don't think so. I don't remember seeing these before.
Q. Did you ever ask her for any sort of assurance before you went up and testified and put yourself at risk that it would be worthwhile?
A. I'm sure I probably did, but I don't remember how that conversation would have ended because I never got anything.
Q. Well, you ended - you got a year off?
A. Yeah.
Q. Is that right?
Okay.
A. Yeah.
Q. But you thought you would be walking out the door after?
A. For a house full of bodies, yeah. Children. Sure.
Q. I'm going to show you Exhibit Twenty-two --

(Whereupon, Exhibit Number Twenty-two was marked for Identification).

BY MS. SCARDINO:
Q. -- and go - go ahead and read it.

I guess you are reading it to yourself.
A. Yeah.
Q. Let me know when you're finished.
A. There's Tony. So Tony must have told me something to make contact with her.
I wonder how -- Okay.
Q. Okay?
Okay, this letter's not dated but it's obviously before Prible's trial, right?
A. Yeah. I was still in the yard and that's that --
Q. Right.
A. -- law library typewriter.
Q. This is the law library typewriter --
A. Yeah.
Q. -- we were talking about earlier?
A. Can't you tell it's crooked on the page?
Q. Okay.
A. Old school font.
Q. Okay, and so in this - in this letter you're talking to Miss Siegler about your case in California and you say in that first paragraph, "Neither Judge Wanger nor Mr. Cullers lived up to their end of the bargain in regards to this situation, so you can imagine that I'm a little apprehensive about our current

situation especially when it comes to my having to rely on these two men again in order to be granted a reduction in my time based on a recommendation you make in exchange for my testimony on the Prible case."

Now the first sentence you say that the Judge and Mr. Cullers who was your AUSA in California, right?

A. Uh-huh. (Affirmative response).

Q. Sorry. Yes or no just so the record's --

A. Yes.

Q. -- clear.

A. I'm sorry.

Q. That's okay.

A. Yeah.

Q. You say that they didn't live up to their end of the bargain. What does that mean? What were you referring to?

A. Our case in the Feds was considered an OC case, organized crime. They styled this the Texas Crime Family.

While I was on bond for that case, the State portion of it, I was on electronic monitor. I couldn't leave the county without my Judge's permission.

One day I get a call from the court liaison officer telling me to pack a bag and get the "fuck out of the house." I'm like I'm not going anywhere. Why?

She said get out of your house right now. I said I can't leave without the Judge's permission. Have my lawyer call me right now.

My lawyer calls me and tells me to pack a bag, get the hell out, just go, call me from the road.

A member of either the Texas Syndicate or Mexican Mafia had been a cellmate with Mark Crawford and he paid the guy to come hit me, but the guy fortunately for me chose to get high on heroin before and he got picked up by the cops, so he gave up that information to get out of the trouble he was in, so they wanted me out of town, so when I went into Federal custody in California they housed me under a pseudonym and in sentencing my lawyer requested they continue to house me under a pseudonym based on the Federal transcript and the Judge acknowledging there was a contract taken out on my life and threats made against my mother and my twelve year old daughter and they said I will take care of it and I hit the system under my real name with a documentary of our case playing on A&E. It hit the TV at the USP.

Needless to say, I left the yard that day.

Q. And your real name, just so we're clear, is Michael Beckcom?

A. Yeah.

Q. Okay, but your alias, you had a different pseudonym that you were living under or that you wanted to be known under in Federal prison?

A. I was housed under when I went into the Fed custody --

Q. Okay.

A. -- pre - pretrial.

Q. Okay. Okay, and so - and if you go down to the second paragraph of this - of this letter it says, "What I'm asking is is there anything you can do to help me correct some of the mistakes the Feds made" and you're referring then to the pseudonym issue, right?

A. Correct.

Q. Okay, "I've currently filed for a name change to the name that I was supposed to keep while in the Fed's custody, but I keep meeting resistance with the Clerk in Beaumont. Can you give me any advice on this?"

And did Miss Siegler give you any advice on this?

A. Not that I know of. It never happened, so obviously not.

Q. You never - you never were able to get that name change?

A. No.

Q. Okay.

A. No.
Q. And then you say, "Also, can you give me any reassurance that the Feds are going to do the right thing on this case?" And what are you referring to there?
A. The Prible case.
Q. The Prible case, so you're wanting reassurance from her that the Feds were actually going to give you a time cut for the Prible case?
A. Yeah.
Q. Okay, and did she give you any reassurance on that end?
A. I never got anything in writing. I mean --
Q. Not in writing but just in --
A. I think the best - as I shared earlier I think the best she did was they're going to play ball might have been her words. I've talked to them and they're in, something to that effect.
Q. Okay.
A. No specifics though.
Q. Okay.
A. But again like I said earlier, my feeling is I think she knew I wasn't going to get more than a year.
Q. Okay, but she was playing you --
A. But she knows -- Yeah. Listen, man. I've

been pissed about this since, putting me in a trip bag.

Q. Okay, and then the last paragraph it says, "I may have a solution to these problems if you can assist me in making contact with the DEA and an FBI agent. Another inmate, Anthony Davi and I have come on to a couple situations that would interest both of those agencies" and did -- And she did, in fact, meet with you about the Davi case, right?

I'll show you a - a letter.

A. That would be why she came back for Tony.

I don't remember what information he had.

Q. That would be why she came back in May, 2002?

A. Yeah.

I don't know that his situation ever went anywhere. I left the yard.

Q. Okay, I'm going to show you Exhibit Thirty-four.

(Whereupon, Exhibit Number Thirty-four was marked for Identification).

BY MS. SCARDINO:

Q. In this letter -- This is a letter from Ted Wilson requesting permission for Siegler and Bonds to interview you and Antone Davi on May 6th, 2002, correct?

A. Correct.
Q. Okay, so you think that this typewritten undated letter from you which mentions Davi --
A. Obviously it would be prior to this, yeah.
Q. This would have been in response to that?
A. Yeah.
Q. Exhibit Thirty-four would have been in response. Okay, and you recall her coming to meet you but you don't remember what eventually happened with that case?
A. With Tony, no, I don't remember what he and I even talked about. My head was swimming with information back then.
Q. About other people's cases?
A. I guess once I had all this from Prible it's like suddenly people came out of the woodwork, were trying to get out, people I didn't -- I'm like how the fuck do you know what - that I talked to somebody?
Q. Oh, so people were coming asking for advice?
A. Like him. Like him. You know, I'm like he was the last person I would expect, you know?
Q. Yeah.
A. I think his dad was a mob guy or something in Vegas.
Q. Okay, so people were coming to you maybe --

A. I'm not saying --
Q. -- for some advice?
A. -- people, but that's - that's an example of it.
Q. Okay.
Let's see. You have that typewritten letter out, Exhibit Twenty-two?
A. Yes.
Q. Okay, good. Let's keep that out.
Okay.
A. Excuse me.

(Whereupon, Exhibit Numbers 18A through 18C consecutively were marked for Identification).

BY MS. SCARDINO:
Q. I'm going to show you Exhibit Eighteen which has three separate letters to Siegler from the father, son duo of Jesse and Felix Gonzalez. One is from Mark Martinez. Do you recall that name?
A. Felix? Or Mark Martinez?
Q. Mark Martinez, yeah. Do you recall him?
A. I mean Martinez is pretty common.
Q. Okay, Carl Walker?
A. That's a Black guy.

Q. Yeah. Do you remember Carl Walker?
A. I remember Carl.
Q. He used to come and hang out with you and Foreman and yourself sometimes? Do you remember that?
A. I know he visited.
Was he in our unit? I can't remember if he lived in our unit or not. Jesse and Felix.
Q. Have you seen these letters before?
A. I don't remember seeing these. I don't know. It's possible.
Q. Now again these look like they were typed on that typewriter at the library, right?
A. Yeah. That's all we had access to.
Q. And all the indentations are the same, right? The formating is the same on all three letters, right?
A. Yes.
Q. Okay, and it's also the same formating as in Exhibit Twenty-two, your letter that you wrote to Siegler, right?
A. Correct.
Q. That looked like they were typed by the same person, don't they?
A. I don't know.
Q. You don't know?
A. The same type of typewriter. It's all we had,

five or ten of them.

Q. Yes, and the same formating as we just discussed, and Prible is misspelled in each of them, P-r-i-b-b-l-e. Do you see that?

A. Uh-huh. (Affirmative response).

Oh, that's not his spelling?

Q. Huh?

A. How do you spell his name? P-r-i-b-l-e?

Q. Did you think you spelled it P-r-i-b-b-l-e?

A. I really don't know.

Q. Did you type up these letters for these men?

A. I don't know.

Q. You can't remember?

A. I don't recall typing all this stuff.

Q. Were these Jesse Gonzalez, Felix Gonzalez, Mark Martinez and Carl Walker, were these some of the people that came to you for advice on how to get a time cut?

A. No. Not to the best of my knowledge. I thought they were working shit already.

Who's this? Mark Martinez and Carl Walker.

Q. So eventually when Prible did go to trial you were the only witness, the only informant that Miss Siegler used, right?

A. I think so. I don't know who else was

involved.
Q. Do you have any idea why she didn't use anyone else, any of these other inmates that were --
A. No.
Q. -- vying to testify against Mr. Prible?
A. No.
Q. Okay, but you knew that they were all working this case, right?
A. I think Bo kind of said something to that effect at some point.
Q. Okay, before the trial? Before his trial, right?
A. Yeah.
Q. Is that -- If you look at Exhibit Nineteen.

(Whereupon, Exhibit Number Nineteen was marked for Identification).

THE WITNESS: Terrence Gaiser. Fucking -- Do you need me to read this?
BY MS. SCARDINO:
Q. So I'm just interested in the second paragraph of Exhibit Nineteen.
MS. MIRANDA: Do you have a copy of that?
MS. SCARDINO: Oh. I'm sorry.

BY MS. SCARDINO:

Q. I'm sorry. What did you say about a second ago? I didn't - I don't know if the court reporter --

A. Terrence Gaiser, I just said his name aloud.

Q. Okay, if you look at the second paragraph it says, "Inmate Beckcom is considered the prosecution's star witness." Did Miss Siegler tell you - call you her star witness?

A. I don't think she ever said that to my face.

Q. Okay, what led you to believe that you were the star witness?

A. I don't see those as being my words.

Q. Okay, so you don't think that you are the star witness?

A. No. I don't think I referred to myself as a star.

Q. Okay. Good enough. Just wondering where that came from.

MS. SCARDINO: I think if we take a five minute break I can just get my notes together, clean up these depositions a little bit and we can start up again.

Okay.

THE VIDEOGRAPHER: We are going off the video record 11:08 a.m.

(Whereupon, there was a brief recess observed by all parties present, after which the deposition resumed).

THE VIDEOGRAPHER: We are back on the video record 11:31 a.m.

BY MS. SCARDINO:

Q. Mr. Beckcom, earlier I was asking you about your attempts to get the State parole back in April of 2002. Do you remember that I had showed you Exhibit Sixteen?

A. The application?

Q. Uh-huh. The application.

And do you see at the last page of Exhibit Sixteen at the bottom the application is signed by you and it's dated April 19th, 2002?

A. Okay.

Q. Do you see that?

A. Yeah.

Q. Okay, now if you look at your Trufone records, Exhibit Seven.

A. The illusive Seven. We were looking for that one a minute ago.

Q. Oh.

A. I scrambled mine up. I'm sorry.

Q. I know. That's the -- Okay, so if you look at page five and do you see it looks like you called Miss Siegler on April 17th, 2002 and again on April 24th, 2002? Do you see that?

This is page five.

A. I'm on page five. I've got April 24th, April 17th, yes.

Q. Okay.

A. Okay.

Q. Do you see that you -- Okay, and so this was during the same time that you were signing this application, it was that same week --

A. Okay.

Q. -- that you were doing the application, right?

A. Okay.

Q. And then if you look on your PSI which is Exhibit One.

You still have Exhibit One?

A. I'm sure -- Well, maybe not.

Q. Here. I'll give it to you.

A. No.

It's in here?

If she says it's here, it's here.

Q. Okay.

A. Hang on one second.

Q. Here. I can give it to you. I have it right - one right here.

If you look at Exhibit One, page ten you'll see some notes there with the Corpus Christi number (361) 364-

A. Yeah.

Q. -- 6220?

A. Right.

Q. And it says, "Spoke to DA on 4/30/02, Pat Flanagan." Who's Pat Flanagan?

A. Patricia Flanagan. That was the court liaison officer I told you called me and wanted - to go out, get out of town.

Spoke to DA, Pat Flanagan. Well, the --

Q. Okay, does this - does this --

A. I probably spoke to the DA on the case was Anita O'Rourke.

Q. Okay, and so my question is does looking at your - the date of your parole application, the dates of these phone calls with Miss Siegler and these notes of Miss Siegler saying that she spoke with the DA on April 30th, '02, does this refresh your memory as to whether Siegler was involved with this parole application?

A. No, because this would lead me to believe they

spoke to the DA on that case which was Anita O'Rourke and, if anything, it was in an effort to find out when that case - when I could apply for this to get the detainer off of me because that was going to expire much before I got out of Federal prison.

Q. Okay, so explain that to me because I'm a little confused.

A. About?

Q. About what you - what you just said. This -- It's -- You said --

A. No. You're saying DA --

Q. Right.

A. -- automatically assuming it's Kelly Siegler.

Q. No. No. No. No. No. I'm -- What I believe is that these are Siegler's notes saying that she spoke to the DA in Port Aransas. I'm asking you if you knew whether she spoke to the DA in Port Aransas --

A. No.

Q. -- about your State case for you?

A. No. That note says - it says Pat Flanagan. She worked for the DA that was on this State case, so that would be the correlation I would make, but that's just me but, no, I don't know of -- I wouldn't have needed her to.

Q. You wouldn't have needed her to write a letter

to the Parole Board for you --

A. Why?

Q. -- for your parole application?

A. It was expiring the case anyway.

Q. Then why were you applying for parole?

A. Because that's standard procedure. You apply for it, so you get your certificate so you can show it to the prison officials and get your detainer removed. They don't just automatically send it to you, not - not that I know of anyway.

Q. Okay, so you think that's some process that you have to go through? It's not --

A. Yeah. That -- Yeah.

Q. Okay.

A. You're in Federal custody, you've got a State case running concurrent with it, if you reach an eligibility - there are certain days when you reach an eligibility to get parole, so if I was still going to be in custody, why wouldn't they? You know what I mean? Instead of making you do the whole term you become eligible for parole from the State institution.

Q. Right.

A. So if I reach a date of eligibility why wouldn't they give it to me the first shot if I'm still going to be in custody anyway when --

Q. They don't have to give it to you, right?
A. They don't have to, no.
Q. Right, but they can --
A. But they know - they know I'm going to be incarcerated anyway, so --
Q. Right, but they could decide not to give it to you and then you wouldn't - you would still keep that detainer and your points wouldn't go down, right?
A. Yeah.
Q. Okay.
A. Yeah.
I - I don't remember Kelly Siegler having any hand to do with my State case at all.
John --
Q. Now --
A. John Gilmore was my attorney in Corpus Christi and Doug Tinker, so it might be something they could answer.
And on these letters, no, I don't think I typed these letters.
Q. Objection, nonresponsive because there's not a question on the - on the table.
A. Okay.
Q. Okay.
A. Sure.

(Whereupon, Exhibit Number Thirty was marked for Identification).

BY MS. SCARDINO:

Q. So I'm going to show you Exhibit Thirty. See if you remember Exhibit Thirty. This is an October 30th, 2002 handwritten letter from you to Miss Siegler. If you could just read it to yourself.

A. Okay.

Q. Okay, do you remember writing this letter?

A. No.

Q. No?

A. But I obviously did.

Q. Okay, in the first paragraph it says, "I trusted you completely and you did exactly what you said you would." What had she said she would do?

A. Good question.

I don't remember the letter I'm referring to.

What was this letter for?

Q. Did you later determine after, sometime after you wrote this letter that she actually hadn't done what you thought she was going to do?

A. Obviously.

Q. Okay.

A. What letter? Now I'm intrigued.

We don't - we don't have a letter? No?

MS. SCARDINO: Tina, I have no further questions, but James has some follow-up, okay?

James, do you want to switch spots or are you --

MR. RYTTING: I think I can do it from here --

THE WITNESS: Excuse me.

MR. RYTTING: -- if that's all right with everyone else in the room.

Okay.

We can go off the record while I get a little bit organized here.

THE VIDEOGRAPHER: We are going off the video record 11:39 a.m.

(Whereupon, there was a lunch recess observed by all parties present, after which the deposition resumed).

THE VIDEOGRAPHER: We are back on the video record 12:56 p.m.

DIRECT EXAMINATION

BY MR. RYTTING:

Q. Mr. Beckcom, my name is James Rytting, one of the attorneys for Mr. Prible and I have a few - a few questions to follow-up on what Gretchen did.

Let me get my papers together.

You were contacted about a dep - about this deposition before. It was scheduled for a date earlier than today, correct?

A. Yes.

Q. All right, and you didn't show at that deposition; is that correct?

A. Yeah. I apologize for that. I don't know what happened. Personal issues.

Q. All right, but you did meet with our investigator, JJ Gradoni? Isn't that correct?

Okay.

A. That's correct.

Q. That's correct.

And, in fact, you gave an affidavit to JJ Gradoni, a handwritten affidavit?

A. Yes.

Q. Yes.

All right, and several other individuals that are involved in this case -- Well, let me back up.

You said that Foreman played things, you know, fairly close to the vest, that he didn't talk much? Is

that a fair appraisal of your testimony?

A. Well, I mean he didn't make me privy to all his thoughts. We'll put it that way.

Q. Okay, and - but he also has given an affidavit in this case. Are you aware of that? Did Mr. Gradoni tell you that?

A. No.

Q. No.

And did he - did Mr. Gradoni tell you that Carl Walker also gave a statement in this case?

A. No, sir.

Q. A lengthy - a lengthy taped statement. Lengthy taped statement. My apologies.

And I know it's been a long time, so memories aren't all that - that fresh and so I'm going to ask you maybe to read parts of your - your testimony that you gave back in 2002 when I hand -- Since it's fairly lengthy I'll hand you selections of your testimony.

A. Okay.

Q. If you think it needs to be in more context, feel free to ask for more pages so that it's - you can understand what you were talking about exactly. Is that fair? Understood?

A. Sure.

Q. Okay.

Now it's my understanding from reading your testimony that before you contacted Mr. - Miss Siegler you did not have much information about the actual crime, that you and Mr. Prible and Foreman were together talking about other subjects like his asphalt business. Now let me show you, I think, testimony that - that bears that out.

A. I remember talking to him about asphalt.

Q. And that was --

A. Bits and pieces.

Q. Bits and pieces about it, correct? Just to make sure that you're - you're clear about what we're talking about --

A. Yes, sir.

Q. -- I'll refer - refer you to the record and it's Volume 26 and it's page 37.

I'm sorry. Let me -- I have to back up. It's page - starting with page 34. All right, so we can go back to page 33. Let's start with page 33. Here you go.

A. Okay.

Q. And go ahead and take your time and read - read through that.

A. How far do you want me to go?

Q. What - just -- Maybe if you go a couple pages

into that, maybe the first two - two or three pages --
A. Okay.
Q. -- so you can get an idea.
A. Oh, here we get to the asphalt. Okay.
Q. Okay?
A. Yeah.
Q. Just so we don't get too disorganized let's put these right here. If you need to look at them again, please let me know.
MR. RYTTING: And again I showed him pages 33 through --
MS. MIRANDA: Yes.
MR. RYTTING: -- I think 38.
THE WITNESS: I stopped at 36.
BY MR. RYTTING:
Q. 36? All right, and -- Well, this will actually help. We'll go back one more page. Here's - here's 32 and just as to context about your first conversations I believe with Mr. Prible.
Are you finished then?
Okay. Okay, does that refresh your memory about the nature of your conversations with Mr. Prible at the beginning?
A. Yes. It refreshes somewhat.
Q. Okay, so they were not particularly about the

crime but about other matters? Is that fair to say?
A. Yeah. I tend to gravitate towards commonalities, I guess.
Q. So if it -- And again if you can answer a question yes or no like, yeah, it was about something else besides the --
A. Okay.
Q. -- crime, please do.
Of course if you say I need to - if you need to clarify you can say yes, I'd like to add or however it goes.
All right, and - and so during the first series of conversations you didn't have much at all to tell Miss Siegler about the - the crime, did you?
A. That's correct.
Q. That's correct?
Okay, so and, in fact, in early October is when you - the record reflects that you contacted Mrs. Siegler.
I'll show you a couple pages of your testimony that documents that.
MR. RYTTING: I'm showing him pages 24 and 25.
BY MR. RYTTING:
Q. You finished reading that?
A. Yes, sir.

Q. And is it a fair appraisal of your testimony to say that the first telephone call was not to provide Miss Siegler with information about the case?

A. According to that, yes.

Q. And do you believe that your testimony back then was correct?

A. Absolutely.

Q. All right, the purpose of that telephone - that telephone conversation is it fair to say was to arrange a deal with this prosecutor for your testimony?

A. Or to let her know I had information.

Q. But did you have - but you didn't impart any information during this conversation --

A. No.

Q. -- did you?

A. No, I didn't.

Q. And as the other -- And later though you began to develop information, develop information through that prosecutor, correct?

A. As Prible told me information I relayed it to the prosecutor.

Q. Sure, and on the - when you had the conversation on - in October you did discuss -- She made clear to you what she needed in order for her to get you a Rule 35?

A. I don't know --
Q. Is that correct?
A. I don't know that she outlined details of what she needed specifically. I mean she needed obviously information that is credible and I just relayed exactly what he told me.
Q. All right, but you had no other reason to develop evidence against Mr. Prible other than the fact that you may be - might be given a Rule 35?
A. Correct.
Q. Okay, that was the motivation and the sole motivation?
A. Correct.
Q. For providing testimony for Kelly Siegler?
A. Correct.
Q. And you knew about -- You've been in the Federal system for some time and you're aware of Rule 35s correct?
A. Yeah. I mean not in detail, but sure.
Q. But that basically is about the only mechanism by which you can get your sentence reduced in the Federal system, correct?
A. Pretty much.
Q. Yes.
So is it fair to say that that was an issue

that was at least discussed or opened up on the October conversation with Kelly Siegler?

A. I don't - I don't remember talking about Rule 35. I can't say it wasn't.

Q. Would there be any reason that you would not discuss the Rule 35?

A. Specifically I don't know.

Q. Let me see if I have this.

And again I'll show you Rule - page 37 because you said you stopped at page 36.

A. Okay.

Q. Okay, and so page 37 is referring back if I may - am I not right, to that initial phone call, your initial phone call?

A. Correct.

Q. And page 37 of the record makes clear that the purpose of that phone call was to discuss the possibility of you arranging for a reduction in your sentence?

A. Correct.

Q. Okay, and that means by Rule 35 - a Rule 35 reduction? Is that fair to say?

A. It's fair to say.

Q. This increases the likelihood, to say the least, that a Rule 35 reduction what that meant how she

could help you was discussed in that conversation?
A. Okay.
Q. Is that correct?
A. I agree.
Q. You agree?
And Miss Siegler made clear during that conversation according to the record that you were supposed to get specifics about the case?
A. That's what the transcript says, yes, sir.
Q. And do you have any other recollection of - of that conversation?
A. No.
Q. Okay.
Now you approached Mr. - you approached Mr. Prible for information as well, correct, both you and Foreman?
A. Yes.
Q. Okay. Fine.
A. Initially we met each other on the rec yard.
Q. If you would when you --
A. Sure.
Q. That's another rule of depositions. If there's a question before you feel free to answer it. If not there's no - I will have to intervene if you just volunteer information without a question.

I'll show you a copy of the -- I'm going to show you a copy of the statement that you gave.

MR. RYTTING: Tina, you don't have this?

BY MR. RYTTING:

Q. And is that your handwriting?

A. No.

Q. Is that Mr. JJ Gradoni's handwriting?

A. Yeah. Uh-huh. (Affirmative response).

Q. And did you read this before you signed it?

A. Yes, I did.

Q. Okay, and is it an accurate -- And you realize it's a statement under oath under penalty of perjury, correct?

A. Yeah.

Q. Okay, and it's signed by --

A. Me.

Q. -- you? That is your signature on page two?

A. Uh-huh. (Affirmative response).

Q. And dated 4/19/2017 and it states that you started taking notes about what Mr. Prible was telling you about his case in effect to have the information that Kelly Siegler asked me to get, correct? That's the first sentence.

A. Okay.

Q. And that's -- And again this is an accurate

statement, correct?
A. Yes.
Q. And you also repeat that Nathan Foreman was present when Prible talked about his case, correct?
A. Correct.
Q. Okay, and that mirrors your testimony at trial? In fact, at trial you said too that Nathan Foreman was present on every occasion, so --
MS. SCARDINO: Excuse me, Mr. Beckcom. If you could --
THE WITNESS: Yes.
MS. SCARDINO: -- say yes --
THE WITNESS: Yes.
MS. SCARDINO: -- or no for the record.
THE WITNESS: Yes. I gotcha.
My apologies.
MS. SCARDINO: What was your answer?
THE WITNESS: Yes.
BY MR. RYTTING:
Q. And, in fact, you and Mr. Nathan Foreman took steps to befriend Mr. Prible? Isn't that - isn't that right?
A. In the beginning we all met on the rec yard. I don't remember who approached who initially. I think he kind of wandered up in an area we were and that was

pretty much the initial introduction.

Yeah. That's basically how it started --

Q. Okay.

A. -- on the rec yard.

Q. And you - you also -- Miss Scardino has already showed you what is marked as -- It hadn't been marked for the purpose of this deposition, but maybe we should do so.

Oh, sorry. It has been marked as - as Exhibit Number Ten.

I'm going to ask you to take a look at Exhibit Number Ten, if you will.

A. Yeah. I thought I had it here. I do somewhere here.

Excuse me.

Q. And it's not - the pages aren't numbered, so if we go counting from the back which has just one - the last page only has one sentence on it and we go back three pages.

A. Starting with the second from the last?

Q. Yeah. From the - it would be the second from the last. Right.

Well, it would be the third from the last, actually. Third from the last.

A. The beginning is classified?

Q. We can - if you --
A. Skip that?
Q. If you need to you can skip that and just if you would read into the record what happened, what you wrote down there.
Do you recall writing that?
A. Not specifically, but I obviously wrote it.
Q. Okay.
A. Not the specific event.
Q. And this was written down proximate to the date of the - the date that's on this document, 12/10/O1?
A. Yeah. I don't know if it was right before that date, but it was an accumulation of conversations.
Q. Okay.
A. Obviously this was one - this pertains to one specific evening.
Q. So this would have been close to the - the time of - of the event? You're actually keeping sort of a diary of what was going on with Mr. - what you were hearing from Mr. Prible? Is that fair to say?
A. I don't know if I kept what you would call a diary. I just obviously wrote things down, but then I put it altogether.
Q. Okay, and so this would be the most, if

anything, most accurate account since it's proximate in time to the - to the event that you're talking about which is the alleged confession that Mr. Prible made; is that correct?

A. That's correct.

Q. All right, but at trial -- And it says right here that you - that he - that you - that you walked out to the football field and sat down.

A. Okay.

Q. And the purpose was to get away from everyone?

A. Yeah. There was probably no one on the field at that point.

Q. And you actually sat down on the ground?

A. Okay. Yes.

Q. Meaning just cross-legged in a circle just talking to each other?

A. Just sat in the grass.

Q. Just sat in the grass.

Okay, in the middle of the field? Do you recall where you were exactly?

A. No. Not specifically.

Q. But at trial it was not what you testified to, or do you remember - or did you testify to that at trial?

A. I don't remember, sir.

Q. No? Okay, but this is - would be a piece of information that seems to be, you know, where this confession took place and the setting and it should stick in someone's mind? Isn't that correct?
A. Where I was specifically sitting --
Q. Yes.
A. -- on the rec yard?
Q. Yes.
A. If you say so.
Q. I'm not saying so. I'm asking you.
A. I don't know if that's of grave importance exactly where my butt was when somebody confessed to killing a family. No, I don't.
Q. But you did actually take steps to get away from everybody and - and go out onto the football field and sit down and talk, correct?
A. At Prible's request, correct.
Q. Okay, so he requested that you get away from everybody and you went out in isolation and sat down somewhere in - in the yard?
A. I wouldn't call it isolation. There's hundreds of guys on - on a prison rec yard.
Q. Okay.
A. Out of earshot, I guess, maybe.
Q. Okay, out of earshot. Correct.

And also at the unit do you recall where the - they have, you know, tables where people sit and congregate, correct?

A. Yeah. They kind of scatter them around various places.

Q. Do you recall where they were located?

A. Typically closer to awnings, the buildings.

Q. So a good distance away from the football field?

A. No. They have some out by the handballs, so you have the gate, a couple of buildings, you have some tables there, further out you have some handball walls, track. You've got tables here and there. I don't remember specifically where they were all located.

Q. Miss Scardino also showed you a photograph that was taken of you and Mr. Prible --

A. Yes.

Q. -- your mother, Mr. Prible's mother and Mr. Foreman's parents and you stated that that was just a -- Do you recall what you testified to here about why that - that photograph was taken?

A. No. I don't specifically know why it was taken.

Q. You don't remember?

A. No.

Q. Okay, I'd like to show you a - another couple pages of the record starting with pages 82 and 83.

A. Okay.

Okay.

Q. And you notice that in your trial testimony you referred to this photograph as corroborating evidence?

A. Yeah. I did. I see that.

Q. And it was to be used to corroborate the - the alleged confession, the confession that you claim to have gotten from Mr. Prible, correct?

A. I don't know that I made that intention. It was awkward.

Q. So I mean again I'll show you page 83 and if you read down starting at line 19 --

A. Yes.

So if it was going to be. I don't know that it wasn't - anyone went with specific intentions. I don't know that I did or not. I don't remember.

Q. Do you know does this - does your testimony indicate --

A. My testimony indicates --

Q. -- that the purpose of the - of taking that photo was to have evidence for the criminal case against - a criminal case against Mr. Prible? Is that

fair to say?
A. That's fair to say.
Q. Okay, and you know that visiting hours at the -- What are the visiting hours at BOP, if you know?
A. On weekends maybe some evenings later in the week, but I don't remember the specific hours.
Q. Was it usually before 5:00; is that correct?
A. We have a 4:00 p.m. count, so it's before that.
Q. Before that?
A. Yeah.
Q. Okay.
A. Some mornings till early afternoon.
Q. Correct.
And so that photograph was taken before?
A. Before what?
Q. Before Mr. Prible talked to you and Foreman on the yard? Isn't that correct?
A. On -- Yeah. On any particular day, correct.
Q. It was taken though the same day as you claim that he confessed?
A. Oh, yes.
Q. Okay.
A. So it would be before.
Q. Beforehand?

A. It would be beforehand, correct.
Q. Right. Right. So -- And it was on the 24th that you claim that everything came out?
A. Yes.
Q. Okay, and so you took evidence -- You took the photograph with the intention of corroborating a confession that you didn't have yet?
A. I didn't know he was going to say what he said.
Q. But you were anticipating that he was going to confess?
A. Never knew.
Q. But you claim that this is corroborating evidence.
A. I agreed with the question, yes.
Q. And you had nothing to corroborate yet?
A. No.
Q. Now in your statement you mentioned the Herrero case.
MR. RYTTING: I don't know if I've - this has been introduced as an exhibit or not. I don't believe I have.
Did we have this marked?
I don't believe -- Has this been marked as an exhibit, the statement of Michael Beckcom?

Perhaps we should.

MS. SCARDINO: No, it hasn't.

We're a little out of order on exhibits, so I'm going to say 200 because I know we don't have a 200 in this case.

200 is the statement of Michael Glynn Beckcom signed April 19th, 2017.

I'll just write Exhibit 200 on it.

MR. RYTTING: Yeah. No problem.

(Whereupon, Exhibit Number 200 was marked for for Identification).

BY MR. RYTTING:

Q. Let me ask a few questions beforehand. I know that Gretchen has covered some of them, but you mentioned Foreman may have asked to have been your - be your roommate, correct?

A. Yeah. I don't remember exactly what led up to us --

Q. But you had some sort of relationship beforehand? He wasn't just a stranger to you, correct?

A. I knew him from the yard. We exercised together.

Q. And so you got along?

A. True.
Q. You didn't object to Mr. Foreman being your roommate, correct?
A. No.
Q. Even though he was Black, you were White?
A. Yeah.
Q. And that you at least had some association with a gang called the Dirty White Boys, correct?
A. Well, I had a band in there and my base player was a member of them.
Q. Correct. Right. So --
A. If that's considered an association, sure.
Q. Sure. All right, and that was an actual - a -- The name reflects what? What does that name mean? What type of group was this?
A. White guys.
Q. White guys only?
A. Yeah.
Q. And they -- So it was organized on racial lines, correct?
A. Sure.
Q. So -- But nonetheless given your association with this group even though it was through your base player you agreed to have Nathan Foreman as your roommate?

A. I'm not a member of their group.
Q. And you mentioned in your testimony, I haven't shown it to you, but I'll make the representation that you knew that Foreman was - had been involved providing informants to Miss Siegler in other cases?
A. In what context? I don't remember speaking with him about it. I don't remember details, but I kind of got the indication as we talked about previously that that group were all trying to do something.
Q. And, in fact there -- And, in fact, you knew that they were attempting to testify against Mr. Prible?
A. Or others.
Q. And you knew about the stories that they had - or the stories that they were trying to --
A. I never -- Okay.
Q. And you knew about what they - the information that they had on Mr. Prible?
A. I never had individual conversations with them as to what they knew specifically that I recall.
Q. But you were able to comment about -- You understood whether or not they had credible information or not? Isn't that correct?
A. Well, I don't know what would be considered credible. I don't know what they specifically knew. I don't remember.

MR. RYTTING: Can we have the BOP doc, or do I have it? It's dated September 21st.

THE WITNESS: Which number is it?

BY MR. RYTTING:

Q. This will be -- I believe you have it. Exhibit Nineteen.

A. Yeah.

Q. It's already been introduced.

A. I've got a stack of stuff here.

Q. If you go to the second page of this document --

A. I know it's here somewhere.

Q. Here it is. Take a look.

I'll show you an excerpt.

If you go to the second page of this document, the first paragraph it says starting in the middle of that paragraph, I'll just read it. It might make it easier for the record. "Upon receiving this information, a second interview was conducted with inmate Beckcom. Inmate Beckcom stated Liedtke's attorney allowed him to view a list of witnesses which was discussed with the White Supremacists. When asked if other inmates at this facility appeared on the list he replied the father and son Gonzalezes, Mark Martinez" and then he gives Mark Martinez's regulation number,

"And former FCIM inmate Nathan Foreman. However, these inmates did not have enough credible information to testify. Inmate Beckcom stated he was the only one with enough credible information to provide the AUSA with a conviction."

A. Okay.

Q. So it indicates that you did know that these people were involved trying to testify against Mr. Prible?

A. That's what it indicates.

Q. And they were all in the photograph with you on - dated I believe October 11th, the group photograph? Yeah. The group photograph dated 11/11.

A. Yes, sir.

Q. Every single one of the individuals mentioned in these - in this BOP document?

A. That's correct.

Q. Okay, they were all there surrounding Mr. Prible with you?

A. Yes, sir.

Q. And so it can't just be a coincidence, can it, that one, two, three, four, five, six, seven people who were angling to testify against Mr. Prible all took a picture together?

A. No.

Q. Okay, and the purpose of this, this picture could be used just like the photograph of you and the Prible family?
A. It could.
Q. Did you send this photograph to Miss Siegler?
A. I don't recall sending her that photograph.
Q. Do you --
A. I don't know if I did or not.
Q. But you -- Okay.
Is it safe to say it was either you or someone --
A. Obviously in the group.
Q. -- in the - in the group?
A. Other than Mr. Prible.
Q. And in order for you to be able to make a statement like none of these inmates had enough credible information to testify, you had to know something about what those inmates intended to tell Mrs. Siegler and the jury, correct?
A. That would presume that, yes.
Who wrote this?
Q. If you would like to ask who wrote it? The - this is a - the Captain. It's an internal memorandum.
Do you have any reason to think that Captain Scott Fauver would erroneously represent what you were

telling him in this paragraph?

A. No.

Q. Okay.

A. I just don't - I just don't remember this document.

Q. Well, it's not going to be a document you saw. This is an internal BOP memorandum --

A. Oh, okay.

Q. -- of which we have several.

A. Okay.

Q. Now what gave you the impression -- Well, let me back up.

You state in - you say in your statement that you believe that the witnesses in the Herrero case were not truthful and that you do not believe that Herrero ever confessed to anyone, correct?

A. Yeah, I may have been a little hasty in signing that. I don't remember what I based that on. I just did this.

Q. But you realize that George - that Nathan Foreman, your roommate, was listed as a witness in the Herrero case?

A. In the Herrero case? I don't know if I learned that or if I did I don't remember when.

Q. Okay, he's your roommate. You and Foreman are

interested in getting benefits for testifying against Mr. Prible, correct?

A. Okay.

Q. Okay, he gives you the phone number of this prosecutor, correct?

A. Okay.

Q. He gave you the phone number to call. He's there every step of the way when you're testifying when you're getting information from Mr. Prible, correct?

A. I believe so.

Q. Yes. As was your testimony at trial.

A. Okay.

Q. And he didn't explain to you that he was also - that -- When he gave you that number for Siegler did he not explain to you that the reason you should call this woman is that she is willing to go - to use her influence to seek Rule 35 reductions for inmates that she's the one you go to?

A. I don't know that he explained in such detail as you're describing right now, no. I don't recall that conversation.

Obviously he said enough for me to pick up the phone and make a phone call.

Q. Okay, but you did know about -- I mean you did know about Herrero enough - case enough to make you --

In fact, let me back up.

You not - you not only made this statement to Mr. Gradoni in this conversation but you had several other conversations with Mr. Gradoni, too. You met him on several other occasions? Isn't that correct?

A. Once or twice. Once in --

Q. Yeah.

A. -- Houston. I forgot --

Q. Was it twice in Houston or once?

A. It could have been twice.

Q. Yeah, and on one of those occasions you also told him that you thought that the folks that were testifying against Herrero were liars, that they were lying?

A. I may have.

Q. And was there any particular person that you were talking about who you believe was making - making up information about --

A. I don't --

Q. -- Herrero?

A. -- remember -- I don't remember what I so strongly based that assertion on, but obviously at that time that's the way I felt.

MR. RYTTING: Do you have the Foreman affidavit?

BY MR. RYTTING:

Q. I want to show you what's been marked as -- Let me ask you a few other questions before.

As I mentioned before, we have an affidavit from Nathan Foreman and another affidavit from Oscar Gonzalez and we have a statement from Carl Walker.

A. Okay.

Q. Were you aware that on the night that Prible allegedly confessed to you that he was, you know, drinking alcohol?

A. I don't remember that.

Q. At that time in FCI Beaumont was it easy to manufacture and - and even take out to the yard alcohol?

A. I don't know if I'd call it easy.

Q. But it could be done?

A. Oh, any -- A lot of things are done in prison you wouldn't believe are done, but --

Q. And that was done? People could make their own - their own --

A. People do.

Q. -- hooch as they call it, right?

A. Yeah.

Q. Or - or --

A. Rot gut.

Q. Rot gut? Rot gut.

A. Hooch.
Q. And one of them - and one of the persons that did was Oscar Gonzalez?
A. I don't know.
Q. You don't recall him being known as a rather accomplished wine maker in the Federal system?
A. No. Not really.
Q. Not really? Okay.
A. We're not in the same unit. I mean that's kind of - kind of an inner unit thing. We weren't in the same unit.
Q. Okay, and was Mr. Prible inebriated on the 24th when you claim that he confessed?
A. I don't remember. I don't recall him being -- I mean you make it sound like somebody was staggering drunk. I don't remember that.
Q. Okay, I'm going to show you the affidavit of - of Nathan Foreman.
MR. RYTTING: Do you got this?
MS. MIRANDA: Yes. I'll take it.

(Whereupon, Exhibit Number Thirty-five was marked for Identification).

BY MR. RYTTING:

Q. And this has been marked as Exhibit Thirty-five.
A. Wow. That's --
Q. Please don't comment until you have a question before --
A. Sure.
Q. -- before you, Mr. Beckcom.
Let's just go to page two of page three of this document, of these - of this three page document, and if you go down to the - the fourth full paragraph it says, "Beckcom wanted to get information about Prible so he could get his sentence reduced. That is the only reason that Beckcom had for talking to Prible that I know of. Beckcom did not talk to me about going into business with Prible after prison." Any reason -- Is that correct?
A. No.
Q. What's false about that statement?
A. This whole thing's false.
Q. I didn't ask you about the whole thing. I asked you about that paragraph. Tell me what statement is false.
A. We did talk about going into business with Prible after prison.
Q. Okay, so you and Nathan Foreman were going to

go into this asphalt business with Mr. Prible? That was your belief, correct?

A. That was the pretense.

Q. Okay, it was a pretense for what?

A. Information.

Q. Okay, a pretense to get Mr. Prible to come forth with information about his case, correct?

A. Correct.

Q. Okay, and it was also a pretense about - for Mr. Foreman, correct?

A. What do you mean?

Q. Well, let me - let me back up.

Mr. Foreman says he did not have any experience with asphalt or any other type of --

A. Neither did I.

Q. -- pavement business and neither did you?

A. No. I mean I'm aware of an industry but that's about it.

Q. And so you weren't generally -- Yeah, okay, fine. So you weren't generally interested in that - going into that business? That wasn't going to be your plan for post - post release?

A. I had some interest in it.

Q. Okay.

A. It was a conversation starter as well.

Q. All right.

Let's go up to the first full paragraph. Now it says, "Other FCI inmates heard about Prible's case and talked about his case with each other. Rafael Dominguez did, so did Michael Beckcom and a couple of the other Mexican or Hispanic inmates. People talked about Prible's case and even joked about setting Prible up would get time cuts, how Prible was going to be a ticket out of jail. Michael Beckcom was part of these conversations and plans to set Prible up" and you dispute this paragraph or any part of it?

A. I don't remember having group conversations with these people. My conversations were mostly with Foreman.

Q. Okay, but you understand that's what - that there were people in that system that viewed Prible that way as a ticket out of jail?

A. Yeah. I see that.

Q. Is that -- Do you dispute what Mr. Foreman says in that paragraph?

A. No. I can't dispute it. I didn't --

Q. Were you aware of it?

A. I didn't hear these conversations.

Q. But nonetheless you have a photograph with you and the individuals that Mr. Foreman has taken of that

all surrounding Prible --

A. That's correct.

Q. -- taken on November 11th thirteen days before he supposedly confessed to you, correct?

A. That's correct.

Q. Now you claim that Mr. Prible told you that in your trial testimony and I believe in your written statement too you - that he searched the house for money and both in your statement and in your trial testimony you claim that - that Prible told you that Herrero was trying to screw him out of a quarter of a million dollars?

A. Yeah. I read that in my testimony. Yes.

Q. Okay, and in your - in your written statement as well tracks that - that? Is that your understanding?

A. Yes. I wrote down what - what he told me.

Q. And so that is a large amount of money?

A. Absolutely.

Q. Right?

And someone in that - if someone thought that was in a house, what would they do to that house?

A. Ransack it, I suppose.

Q. Correct.

In fact, if you thought that type of money was in a house you would turn over every bloody mattress,

every drawer, correct?

A. You would think so.

Q. And you understand that that house was undisturbed other than fire damage?

A. Other than set on fire?

Q. Yes.

So that indicates that Mr. Prible did not search that house, don't you think?

A. That would indicate that.

Q. And then there's another issue, too. You mentioned that you - you subscribed to at least four investment journals, periodicals?

A. Correct.

Q. And - and why was that?

A. Well, I like to read.

Q. And you're also teaching a course?

A. I was teaching guys how to chart stocks.

Q. Okay, and what did that involve?

A. What? The class?

Q. Yes.

A. Just market indicators, guys looking at volume of trades.

Q. Would you prepare anything like lecture notes or anything like that, write some - jot some things down to talk about?

A. Yeah. I made copies of graphs and charts and -- Sure.

Q. And you said you didn't have a subscription to the Chronicle?

A. No.

Q. But those were available?

A. Yeah. Guys had them.

Q. Did you read the Chronicle?

A. They usually got passed around.

I don't remember if I read it that often or not. Seriously, you know, I've spent a lot of time in the stock charts.

Q. Well, they also have an investment section and a business page, correct?

A. Houston Journal?

Q. Houston Chronicle, yes.

A. Sure. They've got a business section.

Q. Okay, so local business, you're talking to the guys that are going to be released in the Houston area, you know, that's something naturally that you would go read I would think if that's what you are going to be teaching about, the business section, the stock charts in the Houston Chronicle?

A. No, I wasn't teaching from the Houston Chronicle. I was teaching from the Investors Business

Daily.

Q. Okay.

A. Okay.

Q. But it was - I mean you also had an interest I take it yourself independently in stocks and business --

A. Sure.

Q. -- and so forth?

Okay, at least it makes sense that you read at least those portions of the paper? Isn't that right?

A. Some paper.

Q. And that would be the local paper that would surround most commonly?

A. The local --

Q. Most commonly?

A. The local paper where I was was the Beaumont Enterprise.

Q. Sure, and was that --

A. Okay?

Q. Was that a focus of your - your reading attention?

A. No. I didn't read the Beaumont Enterprise.

Q. Okay. In fact --

A. You do.

Q. In fact --

MS. SCARDINO: Neither did I.

BY MR. RYTTING:
Q. -- the Port Arthur paper, Port Arthur -- Right. The Port Arthur or whatever it is you didn't --
A. I forgot what it is.
Q. -- you didn't - you didn't get subscriptions to that?
A. No, sir. I had the Investors Business Daily, IBD, USA Today, Wall Street Journal.
Q. But you realize that Mr. Prible's case was reported in the newspaper widely?
A. If you say so. I mean --
Q. You didn't know that?
A. I don't recall whether I did or not.
Q. You don't? Okay, but you may have?
A. Quite possible.
Q. Okay, one of the things that Kelly Siegler testified -- Not testified -- sorry -- Argued in closing was, at least one of the things is that you had information that only Mr. Prible would know. Do you recall what that information was?
A. The whole fricking thing. I don't know.
Q. Okay.
A. I don't know what section.
Q. Well, you understand that there were police reports in this case made, right?

A. Well, sure. I'm sure there were.
Q. And there was a family that was killed, correct?
A. Correct.
Q. And they had relatives?
A. Okay. Yes.
Q. Sort of an extended family?
A. I don't know who.
Q. You don't know, but they did have relatives?
A. I'm sure.
Q. All right, and it happened in the neighborhood that Prible lived in and that Mr. Herrero lived in?
A. Okay.
Q. Were you aware that the house was - the fire was first detected by neighbors and that they went into the house?
A. I don't recall that I knew that. I may have. I don't know.
Q. So is it fair to say that lots of people would have information about what happened to that family in that house, where the bodies were found?
A. I could only assume. I couldn't say for any - with any fact.
Q. Let me be reasonable to think that the family would find that all three grandkids were found in the

bedroom, they were found in - they were found asphyxiated, my daughter was found shot in the head, they would know that eventually?

A. I'm sure eventually they would know that.

Q. In fact, pretty close to the crime that the police and the prosecutors would talk to the family about what happened?

A. Okay.

Q. So there was -- So again, so there's lots of information it's reasonable to believe, not the whole thing, but reasonable to believe that other people also knew where - how the people - how the victims died, where they were found?

A. Are they aware where I was?

Q. Yeah. That there was a fire lit and so on.

A. Okay.

Q. And these facts were also reported in the newspapers before the trial, correct?

A. If you say so.

Q. Well, we have -- We have an article and we'll just have it read to you. You can read it.

MR. RYTTING: You don't have it?

MS. SCARDINO: Yeah. I can find it.

MR. RYTTING: This is dated April 25th, 1999.

(Whereupon, Exhibit Numbers 28A through 28G

consecutively were marked for Identification).

THE WITNESS: Okay, so you're asking --

BY MR. RYTTING:

Q. There's many pages to this, but it's one exhibit. There's just several copies of it together, I think.

A. In '99 I was in solitary confinement in California.

Q. Okay, but I'm just -- When you read this a lot of the information that you testified to at trial, you know, Herrero was in the garage, Tirado was in the living room, no sign of forced entry, there was a fire and small kids dying of smoke inhalation, that's all public, correct, right there in the Chronicle?

A. In 1999?

Q. Yeah. That's correct.

So you claim that the whole thing that you were told was information that only the perpetrator would know, but there was lots of information that you were told that everybody knew. There were lots of people? Isn't that correct?

A. There's lots written here.

Q. And if you look at the - Exhibit 28D in the first paragraph it says, "A man arrested for robbery in

Houston bank is questioned in the deaths," so it was -- And then it says he was arrested and charged in the April 21st robbery of United Bank of Texas, so again public of information that he was robbing banks, right? Correct?

A. According to this, yes.

Q. Now I know that you didn't say that you - that you had information. You didn't testify I only have information that I could have gotten that only the perpetrator would know? That was Kelly Siegler's argument in closing?

A. I wasn't there for the closing.

Q. Yes, but I'm just saying --

A. Okay.

Q. -- I know that you did not testify I have the only information that the perpetrator could have? You didn't make that representation?

A. That was her argument.

Q. That was her argument, not yours, hers, and so I was just wondering what information you gave her that could possibly qualify as that given what we're reading in the Chronicle?

A. I guess it would be in some of the stuff I wrote.

Q. Maybe we can take a look and - specifically

about the event.

I'll just -- Strike that. Strike that.

I just want -- There's another article, it's 28F, another Houston Chronicle article dated July 7th.

MS. MIRANDA: That has your writing on it.

MR. RYTTING: I don't think so.

Oh, her writing, yes.

MS. MIRANDA: James, do you have another copy?

BY MR. RYTTING:

Q. Are you finished?

And that was dated July 7th and since you have a pretty good recall of it it seems of where you were, where were you on July 7th, 2001?

A. 2001 I was sentenced - I got sentenced in Fresno in 2000, so then you go in transit. I don't remember what month. I guess I was at the US -- Probably USP in Beaumont.

MR. RYTTING: Let me have his records.

THE WITNESS: April.

(Whereupon, Exhibit Number Fifty-one was marked for Identification).

BY MR. RYTTING:

Q. I'm going to show you what we'll - what's been

marked as Exhibit Fifty-one, and before I do that I'm going to introduce - hand to the court reporter 28F, and here. Here's a copy of Exhibit Fifty-one.

MR. RYTTING: Exhibit Fifty-one, the one you just handed me, do you have other copies of it?

Maybe it's still in here.

MS. MIRANDA: Is it the one from the last time?

MR. RYTTING: Yes.

BY MR. RYTTING:

Q. And this shows that you were at - at Beaumont Medium by this time, correct?

A. Yeah. I see it.

Q. And you were there starting March the 26th and you were in the Medium until you were -- Oh. Until 2002, correct?

A. Yeah.

Q. Can you give the span of dates there from March.

A. Yeah. I see that.

Q. And what are those dates?

A. March 26th, '01 to September 11th, '02.

Q. So you were in the Medium when this article came out?

A. Yeah. I got moved over that day, I guess.

Q. All right, and do you recall whether any of the inmates or prisoners in this photo were on the yard with you at that time or in the system?

A. I don't know.

Q. You don't know? Okay.

But again we have an article that lays out significant facts in the case, correct, when I'm talking about Exhibit 28F?

A. Okay, 28F. Let me get back there again.

Yep. It mentions all the deceased.

Q. The deceased, the DNA evidence, the amount of money that was found in the victim's pocket?

A. That's correct.

Q. So -- And it mentioned the victims still have a course - a close interest in this case and what happened at least according to the article, correct, at the top?

A. Okay. Yeah.

Q. So by this time is there anything in your testimony that you can recall that wasn't in these articles in your testimony?

A. I don't know specifically. No, not that I recall. I'm reading in its entirety and comparing it and cross referencing it with this article. All I know is my testimony is based on what came out of Jeff

Prible's mouth and I wrote down. I mean if you're asking me to recant what I said, I didn't lie.

Q. I did not ask you to recant what you said, though I believe you should, but that's an aside.

All right, let's see.

MR. RYTTING: Anything else that we want to go over here?

MS. SCARDINO: I have one if I can do one follow-up question real quick.

DIRECT EXAMINATION CONTINUED

BY MS. SCARDINO:

Q. Mr. Beckcom, Gretchen Scardino again.

So you just saw the July 7th, 'O1 article in the Houston Chronicle --

A. Yes.

Q. -- that he showed you?

A. That's correct.

Q. And at that time we determined from looking at your housing and transfer records that you were in the Medium at that time?

A. That's correct.

Q. Okay, and Mr. Prible was in the Low at that time; is that correct? Do you recall?

A. I don't recall where it came from, but it - it makes sense.
Q. It makes sense?
A. Yeah.
Q. Okay, and on -- Do you have your testimony in front of you?
A. Yes.
MS. SCARDINO: All right, James, can you give him page 22 --
THE WITNESS: No. Wait.
MR. RYTTING: -- of your testimony.
THE WITNESS: No. Hang on.
No, I don't have that.
BY MS. SCARDINO:
Q. Okay, if you could look at page 22, line 15 when James finds it and follow along with me.
On line 15 Miss Siegler asks, "What month was it that you first heard about this case and learned my name?" And you respond, "I didn't learn about your name until later, probably the end of September, early October of 2001. Prior to that I had heard of the case just briefly, something about a guy coming from the Low charged with murder. I didn't really get too much information on it."
Now do you think looking -- Now that you've

seen this July 7th, 2001 article that that might have been the reason you knew that Mr. Prible was coming from - was going to be transferred from the Low?

A. No. I would take that as being yard talk.

Q. Just someone on the yard knew?

A. Inmate rumor mill.

Q. Okay, someone on the yard knew that he was coming?

A. Yeah.

Q. And you all were talking about it?

A. Yeah.

Q. But he wasn't quite there yet?

A. No. Obviously not.

Q. Okay, in that inmate yard talking did it also - was it also said during those conversations about this guy's about to come over to Low - or to the Medium, was it in the context of and Siegler is his prosecutor? Like did you put Siegler --

A. No.

Q. -- and him together at that time?

A. No, ma'am.

Q. Okay.

MS. SCARDINO: James, any further questions?

DIRECT EXAMINATION CONTINUED

BY MR. RYTTING:

Q. Now you read the Foreman affidavit and he stated that Jeff Prible did not confess in his presence?

A. Yeah. I read that.

Q. So -- And - but you claimed at trial that Foreman was right there?

A. That's right.

Q. Correct? You -- And again --

A. One of the guys even said he was trying to gather information, so why would he be doing that if -- I mean it makes no sense. Why would he be trying to gather information and then say I didn't get that information, no, that's not true? He either heard these things or he didn't hear them, so he can't have it both ways.

Q. So -- That's correct, and he states he didn't hear them.

A. Okay.

Q. And not only did Mr. Foreman say he didn't hear Jeff confess, neither did any of the other inmates that were -- Neither did Carl Walker?

A. No, he did didn't.

Q. He claimed that Prible -- I'll make the representation to you that he never - that he considered Herrero his friend, that they were - they didn't have

any -- And that was the only representation he ever heard Mr. Prible claim about it, but you claim --

A. Okay.

Q. -- but you claim in your testimony - testimony that they had a sudden falling out.

A. I'm basing it on what I was told by a man.

Well, I mean what do you want me to say? You want me to unhear what I heard?

Q. No. No. I'm just --

MR. RYTTING: I think we'll leave with --

MS. SCARDINO: Pass the witness?

MR. RYTTING: We'll pass the witness. You bet.

MS. MIRANDA: Okay, can we take a short break before we start?

THE VIDEOGRAPHER: We are going off the video record 2:15 p.m.

(Whereupon, there was a brief recess observed by all parties present, after which the deposition resumed).

THE VIDEOGRAPHER: We are back on the video record 2:20 p.m.

CROSS EXAMINATION

BY MS. MIRANDA:

Q. Mr. Beckcom --

A. Yes, ma'am.

Q. -- my name is Tina Miranda with the Texas Attorney General's Office.

We've never met before today, have we?

A. No, ma'am.

Q. All right, I'm just going to ask a couple of clarifying questions, so it may seem that I'm jumping around a bit, but we're just going to clarify a couple of things from your testimony earlier.

First I want to ask you about the first time that you heard about Prible, and do you recall who you heard about Mr. Prible from?

A. No. I mean it was either Bo or Bobby. One of the two.

Q. Okay, I'm going to ask you to look at Exhibit Ten from earlier and just read that first short paragraph and see if that refreshes your recollection of how you first learned about Prible. Okay.

A. I worked out with Bobby.

Q. I want to talk really briefly also about your - the conversations that you and Mr. Foreman had regarding Mr. Prible.

Did Nathan Foreman tell you that he met with

Kelly Siegler and Bonds in August? Did he tell you about that meeting?

A. I don't recall having that conversation with him.

Q. Okay, did Foreman ever ask you to go get information from Mr. Prible?

A. I don't remember any terms like that being used. I - I don't remember the conversation.

Q. Okay, did Foreman ever tell you any information about Mr. Prible's case, specifics about his case?

A. No. Not that I recall.

Q. Now earlier you were shown Exhibit Thirty-five which is Mr. Foreman's affidavit.

A. Yes.

Q. And you were asked about the truthfulness of some of the statements in that affidavit.

If you look on the first page and going on into the second page he's denying the fact that Mr. Prible - that he heard Mr. Prible confess. Do you know whether that's a true or false statement?

MS. SCARDINO: Objection, form.

BY MS. MIRANDA:

Q. You can go ahead and answer.

A. I'm trying - I'm trying to find the section

you're talking about here.

Q. That's okay. Let me rephrase. There's a better way to ask that.

When Mr. Prible confessed to you was Nathan Foreman present?

A. Yes, he was.

Q. And again just to clarify from earlier, were you ever present during other conversations with Mr. Gonzalez or Rafael Dominguez or Mr. Walker about attempts to set Mr. Prible up to confess?

MS. SCARDINO: Objection, form.

Go ahead.

THE WITNESS: I don't recall having those specific conversations. I more remember them being a little more hushed around me.

BY MS. MIRANDA:

Q. Okay, did you participate in any conversations with them --

A. Not that I --

Q. -- about Mr. Prible's case?

A. Not that I remember. No. Kind of me and Bo.

Q. Now I believe you testified earlier that your first conversation with Miss Siegler was in October; is that correct?

A. I believe that's what the records showed me.

Q. Okay, do you have any independent recollection today of that conversation?
A. Of the specifics of the -- No, ma'am.
Q. Okay, would your testimony on the record be the best reflection of that conversation?
A. Yes, it would.
Q. Now when you first spoke with Miss Siegler in early October, the conversation that was recorded in the record, did you have information about Mr. Prible at the time you contacted her?
A. I don't remember.
Q. About how long after -- Well, let me back up.
Do you recall when Mr. Foreman first told you about Kelly Siegler?
A. No. I don't remember what time of the year it was.
Q. Do you recall approximately how long after you learned about Miss Siegler that you contacted her?
A. No, ma'am, I don't.
Q. Did Miss Siegler ever contact you by telephone?
A. Not that I have any recollection of.
Q. Do you have Exhibit Eighteen in front of you?
A. I don't think so. I've got Nineteen, Sixteen, Eighteen. There it is. I've got two of these.

Q. Okay, I know you've looked at a lot of documents, so I'll just give you a quick second to glance over that to recall what it is and then ask you do you know who wrote these or who typed these up?

A. No, I don't, and may I say something?

Q. Yes.

MS. SCARDINO: Objection, form.

BY MS. MIRANDA:

Q. What - what can you tell me about these letters?

MS. SCARDINO: Objection, form.

BY MS. MIRANDA:

Q. It's fine. Go ahead and answer.

A. Nothing really.

She mentioned the spelling of Prible's name, but the spelling of Prible's name is correct in my handwriting, so that would lead me to believe I had nothing to do with these.

Q. Okay, but your testimony today is that you did not type these up?

A. No. I have no recollection of typing any letters for anyone.

Q. All right, earlier Mr. Rytting was asking you questions about who might know information about the crime and I believe he mentioned victims and neighbors

and police reports. Did you talk to any of the victims of the crime in this case?

A. No.

Q. Did you talk to any neighbors in this case?

A. No, ma'am.

Q. Did you read any police reports in this case?

A. No, ma'am.

Q. Did you read any of the newspaper articles that were shown to you today in this case?

A. Never seen them.

Q. I believe you were also asked about a meeting with Miss Siegler in May of 2002. Let me find that document real quickly. I'm not sure what the number is. Referencing Tony Davi in the -- I think Exhibit Thirty-four is what they showed you about the meeting.

A. Yeah. I remember that document.

Q. Do you recall that meeting with Miss Siegler in May of 2002?

A. I really don't, ma'am. I'm sorry.

Q. Any recollection whatsoever of the substance or the content of that meeting?

A. No. I don't remember what Tony and I discussed.

Q. Do you know whether, in fact, it was about what you and Mr. Davi discussed or whether it was about

something else entirely?

A. No, I don't.

Q. Okay.

Is it accurate to say that it's difficult recalling events from fifteen years ago in your testimony today?

MS. SCARDINO: Objection, form.

THE WITNESS: Yes.

BY MS. MIRANDA:

Q. Okay, would you say that your recollection of the events were better when you testified in 2002 than it is today?

MS. SCARDINO: Objection, form.

THE WITNESS: Do I answer?

BY MS. MIRANDA:

Q. Yes.

A. Absolutely.

MS. MIRANDA: I'll pass the witness.

REDIRECT EXAMINATION

BY MR. RYTTING:

Q. Just a couple of questions about the Antone, Tony Davi issues.

So what other reason do you think Miss Siegler

may have come down to visit you for when she did in May, approximately May 6th of 2002 other than at your request because you had information about other cases?

A. I don't know. I don't remember what the substance of that meeting was. I don't even remember the meeting.

Q. Well, you said in that letter, as I recall, that you had information on other cases that would be of interest to the government, correct?

A. It was something apparently Tony Davi had told me.

Q. So you both had information, you and Tony about another case and, in fact, you mentioned several cases as I recall in that - as you may recall in that exhibit, correct?

A. That's what I stated, yes.

Q. And these were cases that were going to be - that you wanted to contact the government about because they were Federal cases, correct?

A. That's what I stated.

Q. They weren't State cases that Kelly Siegler would be prosecuting or any other State prosecutor, correct?

A. Not if I mentioned Fed acronyms.

Q. Okay, so she got nothing out of this meeting?

It wasn't to help her with the case, it was -- Was it?

A. I -- I don't recall the conversation.

Q. Well, she doesn't prosecute Federal crimes, does she?

A. No.

Q. Okay, and so this was going to be a -- And as you recall from that letter you said that there was - you had - you wanted to solve a problem, correct?

A. That's what --

Q. This would be a solution to a problem and that was - and that problem that you were talking about was your concern that - that your AUSA in California was not pursuing or would not pursue a Rule 35 with vigor, correct?

A. I would be speculating to say that's what the problem was. I don't remember what --

Q. What else would you think the problem would be that you needed a solution by contacting Miss Siegler about?

A. I wish I could remember to tell you.

Q. Do you think it's likely that it was because you were concerned about your Rule 35 and whether they would actually go through?

A. I don't know specifically, no.

Q. Did you meet with an AUSA --

A. Did I?
Q. -- after you talked with Miss Siegler or did an AUSA contact you in any fashion --
A. No.
Q. -- about the information that you claimed to have with Mr. - you and Mr. Davi had?
A. No, sir.
Q. Do you know if they contacted Mr. Davi?
A. I do not.
Q. Are you certain that you don't know or do you not remember?
A. Nobody contacted me.
Q. Do you know if Miss -- Did -- Do you know if Miss Siegler after she talked to you did she say that she was going to contact the government?
A. I don't - I don't remember --
Q. You don't --
A. -- the conversation.
Q. You don't remember that conversation?
A. No.
MR. RYTTING: No further questions.
MS. MIRANDA: Nothing further.
THE VIDEOGRAPHER: We are going off the video record 2:34 p.m.
THE COURT REPORTER: Read or waive?

MS. SCARDINO: Waive.
MS. MIRANDA: That's fine with me.
THE COURT REPORTER: Is the transcript ordered?
MS. SCARDINO: I don't believe so.
Yeah, we can talk about that.
We need to sync that.
THE VIDEOGRAPHER: We can't do that without ordering the transcript.
MS. SCARDINO: Yes, we're going to order the transcript. Yes. Yes.
THE COURT REPORTER: Do you want to order a copy?
MS. MIRANDA: Yes.
Thank you.

(Whereupon, signature and formalities having been waived, the deposition concluded at 2:34 o'clock p.m.).

CERTIFICATE OF OATH

STATE OF FLORIDA

COUNTY OF BROWARD

I, VALERIE LEHTO, the undersigned authority, certify that MICHAEL BECKCOM personally appeared before me and was duly sworn.

Dated this 19th day of October, 2017.

Valerie Lehto

VALERIE LEHTO, RPR
NOTARY PUBLIC - STATE OF FLORIDA
My Commission Expires: 8/22/2018
My Commission No.: FF 141764

CERTIFICATE

STATE OF FLORIDA

COUNTY OF BROWARD

I, VALERIE LEHTO, Registered Professional Reporter, do hereby certify that I was authorized to and did stenographically report the foregoing deposition as hereinabove shown, and the testimony of said witness was reduced to computer transcription under my personal supervision and direction and that the record is a true record of the testimony given by the witness and that said witness has not requested a review of the transcript pursuant to Rule 30(e)(2).

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

Dated this 19th day of October, 2017.



VALERIE LEHTO
Registered Professional Reporter
COMMISSION NO. FF 141764
MY COMMISSION EXPIRES 8/22/2018

Exhibits

669952 Videotaped. Deposition of Michael Beckcom. EXHIBIT1

669952 Videotaped. Deposition of Michael Beckcom. EXHIBIT2

669952 Videotaped. Deposition of Michael Beckcom. EXHIBIT3

669952 Videotaped. Deposition of Michael Beckcom. EXHIBIT4

669952 Videotaped. Deposition of Michael Beckcom. EXHIBIT5

669952 Videotaped. Deposition of Michael Beckcom. EXHIBIT6

669952 Videotaped. Deposition of Michael Beckcom. EXHIBIT7

669952 Videotaped. Deposition of Michael Beckcom. EXHIBIT8

669952 Videotaped. Deposition of Michael Beckcom. EXHIBIT9

669952 Videotaped. Deposition of Michael Beckcom. EXHIBIT10

669952 Videotaped. Deposition of Michael Beckcom. EXHIBIT11

669952 Videotaped. Deposition of Michael Beckcom. EXHIBIT12

669952 Videotaped. Deposition of Michael Beckcom. EXHIBIT13

669952 Videotaped. Deposition of Michael Beckcom. EXHIBIT14

669952 Videotaped. Deposition of Michael Beckcom. EXHIBIT15

669952 Videotaped. Deposition of Michael Beckcom. EXHIBIT16

669952 Videotaped. Deposition of Michael Beckcom. EXHIBIT17

669952 Videotaped. Deposition of Michael Beckcom. EXHIBIT18

669952 Videotaped. Deposition of Michael Beckcom. EXHIBIT19

669952 Videotaped. Deposition of Michael Beckcom. EXHIBIT20

669952 Videotaped. Deposition of Michael Beckcom. EXHIBIT21

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Exhibit 18

Transcript of interview between Kelly Siegler (KS) and Jesse Moreno (JM)

July 3, 2001 (length: 32 min. 35 sec.)

KS: Okay. It's July 3, 10 o'clock in the morning. We are at the Marshal's Office in Beaumont, Texas. This is Kelly Siegler and I am here talking with Jesse Moreno. Umm, Jesse, what is your whole name? *(00:11)*

JM: Jesse George Moreno.

KS: How old are you?

JM: 30.

KS: What is your birthday?

JM: 10/25/70.

KS: Okay. And, and say for the, for the recording of what your sentence is and what you're in for right now.

JM: I'm in for possession with intent to distribute cocaine. I got 12 ½ years.

KS: Who was your lawyer, by the way?

JM: Lloyd Oliver. *(00:31)*

KS: Okay, and I talked to Mr. Oliver one day in the courthouse and he knows that I'm coming down here to see you and said for me to find out what it is you have to say and good luck. Is that pretty much your understanding?

JM: Yes.

KS: You told him you were going to be talking with me?

JM: Yes.

KS: And he is cool with that?

JM: Yes.

KS: Okay. Um, why don't we start with, for now, how it is you first came into contact with, um, Hermilo Herrero. *(00:55)*

JM: I've known him since about '84-'85. We went to school together. Junior [illegible] known him a long, long time.

KS: Okay. Is he your age?

JM: He's about a year or two older than me.

KS: When you say went to school together, what school?

JM: We went to Jackson Middle School.

KS: And how well did you know each other?

JM: We were in the same class together. Sixth grade together. I've known him pretty good.

KS: Okay. What else did you do together? *(01:21)*

JM: We hung out for a little while till like 7th grade. Then he dropped out. Then, we got older, by 18, 19, we hung out on the streets. I know him and his wife. We all went, we were all in the same class. Him, my wife, we were all together.

KS: Okay. What about any drug connection on the streets? *(01:40)*

JM: Why, I never, all did drugs. But, I never directly got it from him, I got through a friend. Cuz I didn't know at the time he was selling drugs.

KS: Okay.

JM: I went through a friend of his.

KS: Did you every sell him any?

JM: Ah, na, I always just bought from him.

KS: Are we talking about cocaine?

JM: No, marijuana.

KS: Did you ever, ever smoke any marijuana with him?

JM: No, we never smoked marijuana.

KS: Never kinda partied or hung out together?

***JM:** Yeah, we drank but I never, you know, smoked *(02:05)*

KS: Okay. And that would have been what year?

JM: It had to be like '92, '93.

KS: What were you doing then?

JM: Meaning what?

KS: Um, did you have a job, were you in school? What was going on in your life '92, '93?

JM: No, I was selling drugs.

KS: Okay. How about him?

JM: He had a job and was selling drugs on the side.

KS: Um, and then when was the next contact you had with him after that? *(02:32)*

***JM:** Again, I seen him in '90, well, I guess every time I seen him, he was with a friend of his. My, it was our friend actually. Last time I seen Herrero really, was like in beginning of '94. I was getting some drugs from a friend of mine who was getting for him cuz he had a good weed connection, Herrero.

KS: Okay.

***JM:** But he really didn't want to get involved so he went through a friend, you know, he always sat in the back.

KS: Okay.

JM: But he was a good guy, we knew who he was, you know. That's the last time I seen him.

KS: So no more closer contact than just kinda seeing him around, ah, dealing in drugs, you didn't hang out with him, party with him or anything like that in '94? *(03:11)*

JM: In '94.

KS: Okay.

JM: Just, that, during the junior high school we hung around for about a whole year, and after that in '92, '93. Like I said, we were just hi and bye, what's up, you know.

KS: Okay. And that was in '94?

JM: Yeah.

KS: And you got your sentence on this federal case you are serving now, when?

JM: Ah, I got busted in '96.

KS: Okay.

JM: In February.

KS: And got sentenced?

JM: September '97.

KS: Alright. Um, and when was the next time after '94 then that you saw Herrero. *(03:42)*

JM: In prison. Right here in Beaumont Medium.

KS: In what year?

JM: '99. March, March '99.

KS: Okay. To make sure I have it right then you last saw him hanging around Houston on the streets in '94, didn't run into him again at all until you saw him here in Beaumont in the federal prison in '99? *(04:02)*

JM: Yeah.

KS: So that was about two years ago?

JM: Mm, yeah.

KS: Okay.

JM: Two years ago.

KS: Um, Beaumont Medium, is that what you called it?

JM: Beaumont Medium, yeah.

KS: Beaumont. And you were in there for the same case?

JM: For the same case, yeah.

KS: You had just gotten sent there? *(04:15)*

JM: Yeah, I was, I was at, ah, at the High, right across the street. I'm at the Medium. **[UI]** you get a High, Medium and Low.

KS: Yeah, I had just found that out. What's the difference?

JM: Its higher security.

KS: And how did you get from high to medium? What changed?

JM: Ah, my point **[UI]**.

KS: Okay.

JM: My good time, and I got that detainer on that other murder charge.

KS: Mine?

JM: **[UI]**.

KS: Where you were a witness?

JM: Yeah, I got it dropped off, I got it dropped.

KS: From High to Medium?

JM: Yeah. So, they dropped me.

KS: Okay. Um, did you, did you meet back with Herrero before or after you testified for me in that other case?

JM: Um, no, like I said, from '98, I got transferred to the Medium. '99. *(04:55)*

KS: Okay.

JM: I seen him there.

KS: Okay. Um, and what happened in regards to this, and for the record I am here and, and I have this case with me today, case no. 95-01091302, a Harris County case, um, and tell me, tell, tell, tell me for the record how you came in contact with me, and how did you get in touch with me?

JM: Well, me and Herrero, we got kinda tight in prison, we just, you know, got real close and **[UI]** and, ah, like I said, ah, we shared a lot of things together, but, you know, what we did on the streets or whatever, and, ah, he started talking about this friend of mine we both had named Albert Vargas and, ah, I had knew got killed, you know, but we didn't know who did it or whatever, you know,

KS: You mean that Albert got killed?

JM: Yeah, I spoke to Albert.

KS: Okay.

JM: We smoked some dope together. But, ah, you know, he would always tell me I **[UI]** tell, you know, **[UI]**, tell you this, tell you that, you know,

KS: Who would say that?

JM: Mr. Herrero.

KS: Okay.

JM: You know, when I got there, he was actually, you know, have you, they got this thing they call **[UI]** PSI. You show them your PSI and they see if you testified or cooperated with the Government in any kind of way, you know. I told them, ah, I ain't never cooperated, you know. They knows it will come up. *(06:22)*

KS: Right.

JM: You know, so, **[UI]** I did for a whole year, like **[UI]** 2000, **[UI]** right at 2000 it was all straight. **[UI]** cooperate, cooperate, you know. He showed me his PSI and everything was straight. And he told me, yeah, well you know, he never liked Albert. Cuz, I used to, I was a little bit closer to Albert than I was to him. And he would tell me, Albert would always tell me, I don't like that dude, you know. I'm getting dope from this friend of mine who is getting it from another guy. *(06:50)*

KS: Who was, um, who was getting the dope?

JM: Albert was getting dope from Freddy Hernandez.

KS: Okay.

JM: Freddy was getting it from Herrero, and, ah, Albert would tell Herrero, I mean tell Freddy, I don't, don't really like Herrero, man. We know him by Melis. *(07:08)*

KS: By what?

JM: We know Herrero by Melis. His name

KS: Melis?

JM: His name. Melis.

KS: Like, M e l l i e? Or is that a Spanish word?

JM: No, instead of Hermilo, its, its short.

KS: Okay.

JM: Millis. And he would tell me, I don't, I don't like Melis, you know. You know. He would tell, ah, Freddy, why don't you just cut him off and get his connection. Cuz, Her... Hermilo had a good weed connection. And, ah, Albert was buying all, all the weed from, from, from Hernandez. Hernandez was getting it from Hermilo. Well, Albert told Hernandez, you know what, just cut him off. He said, no, I can't cut him off cuz he's people, you know. Well, Hernandez told Herrero, Albert don't like you. *(07:53)*

KS: Albert wants you to, wants me to cut you off.

JM: Yeah, he says you ain't worth, you know, what, blasé, blasé. You need to get cut off, you know. He don't really like you. And, ah, he started getting a little bit slow on paying. *(08:04)*

KS: Who's he?

JM: Albert. The one, Albert, paying Hernandez a little slow on the weed, you know. So, ah, Hernandez tells Hermilo, well look, I'm going to introduce you to the guy that I've been giving the weed to. Because, I don't owe you money, he owes you money. So, that's where Freddy, Freddy Hernandez steps back and he introduced to Albert. And Hermilo never did like Albert cuz Albert used to brag a lot. He's, he was a good dude, he was a good guy, but he used to brag a lot. He was this, he had that. And it was a bunch of shit. It was just lie, lie. So they met each other. *(08:39)*

KS: Who is they?

JM: Hermilo and Albert.

KS: Okay.

JM: But they really **[UI]** liked each other. He had no choice but to talk to him cuz Albert owed Hermilo some money for some weed. And Albert in the streets told me he wasn't going to pay him. He went to everybody. He ain't going to pay Hermilo. You know, he ain't going to pay him, he ain't going to pay him.

KS: How much money we talking about?

JM: Ten, fifteen thousand. *(09:01)*

KS: Okay.

JM: And, ah, Hermilo got in debt over some marijuana. I'm talking about 4 or 500 pounds of weed. He got in debt ...

KS: How much is that worth?

JM: Shit. 50, 60,000 man …

KS: Okay.

JM: you know.

KS: To somebody else.

JM: To his people in Mexico.

KS: Okay.

JM: So, he already didn't like Albert and he had to get his money from Albert and Albert didn't like him, he didn't want to pay him. So, it went like that **[UI]** to where **[UI]** Hermilo would page Albert and tell him "Hey, what's **[UI]** my money?" Well, Albert would say "I lost it, I lost the weed; give me time to pay you back for it." He said, "Okay, okay." Well, that shit went on for months before he just, um, disappeared. You know. Disappeared. And I would see Albert on the streets and he would say "I ain't gonna pay him. Fuck him; I ain't gonna pay him."

KS: Was he running from him or hiding from him?

JM: Not really. He was just

KS: Pretty blatant about it?

JM: **[UI]** He just didn't give a shit. You know.

KS: Stupid.

JM: He said he didn't care, you know.

KS: Yeah.

JM: And, ah, like I said, I talked to Freddy **[UI]** you know. Hernandez. He asked me if I had seen Albert. I said I ain't seen Albert, you know. I did but I ain't gonna get involved, you know. *(10:09)*

KS: Okay, so right now, you're talking about stuff that you knew back when it happened from talking to Freddy.

JM: Yeah.

KS: So, this is separate from what you heard from Hermilo in prison. *(10:19)*

JM: Yeah. I'm telling you everything. That way you know where …

KS: Right. But I didn't realize that you knew some of this before you ever ran into Hermilo in prison.

JM: Yeah. Yeah. But I didn't know, we didn't know who killed …

KS: Okay. But you knew about all the dope problems

JM: Oh, yeah.

KS: and not paying way back when it was going on.

JM: Yeah. I used to work

KS: Okay.

JM: with Albert.

KS: Okay.

JM: And, ah, you know. They would try, they would go to different people to try to get Albert, "Where is he, where is he, where is he." I never thought it was going to work to a killing, you know, I didn't think **[UI]** you know 50 or 60,000 is a lot of money, but if you're in the dope business, it really ain't,

KS: Okay.

JM: you know. So, ah, I'm going to tell you how everything happened and then I will tell you what he told me or whatever, okay? So, somewhere down the line, ah, he didn't find Albert. **[UI]** or whatever.

KS: Hermilo?

JM: Yeah, Hermilo finding him. I know he wanted him, cuz, you know, Freddy had said he owed some money and Albert told me, you know, I owe that dude some money, but I'm not gonna pay him. Fuck him, I ain't gonna pay him." And he had the money to pay him because I gave Albert dope. *(11:21)*

KS: Okay.

JM: And he would give me dope. I mean 10, 20 **[UI – either keys or kilos]** of cocaine.

KS: Why wouldn't he pay him? Because he just thought he was a punk and he wouldn't do anything?

JM: Yeah, he thought he was … But he said he was a piece of shit, I don't like the dude.

KS: And he paid everybody else he owed.

JM: Yeah, well, he owed here and there, you know

KS: Okay.

JM: a few people, you know, so. Albert, he was a good dude, he just, his head was too blown up; he just thought he fuckin ain't gonna pay nobody.

KS: Okay.

JM: He would claim different things, that he was with different organizations, just a lot of shit, so, you know, after a while, I had gave Albert some dope back in 90, November, October, October of '94, you know, I gained a nice piece of sh... dope, he went and sold it and he came back with my money. You know, and everything was cool. And, I had heard one of the people that they had a hit on him, but I didn't know for what, you know. Then he comes dead in '90, in the end of '94. **[UI]** I had just gave him, I had just bought a Mercedes, that's how I know it was '94, because I bought the, my Mercedes in '94 and I lent it to him.

KS: Uh huh.

JM: He went to Dallas with it and got back. So we heard he got killed, you know, and, ah, we didn't know who it was. I mean, like I said, I **[UI]** was he got killed, and, ah, I heard how he got killed but we weren't too sure, so '99, when I meet Herrero in prison, we get real close, we are talking ...

KS: Okay, before you get to Hermilo in prison, um, what did you hear on the streets that you already knew about how Albert got killed? *(12:52)*

JM: Only thing I knew that he got killed, they threw 'em in, in a rug.

KS: In a rug?

JM: Wrapped him in a rug.

KS: Did you know where or how **[UI – both speaking at once]** ?

JM: Uh uh. That's all I knew. Was, you know, they found him wrapped him in a rug.

KS: And when you heard it back on the streets, did you think right away that it was Herrero?

JM: Naw, I never thought it was.

KS: You didn't, you just didn't think he'd do that?

JM: It never crossed my mind.

KS: Okay.

JM: Not, not for the money he owed him; I don't even think it was 50 grand to be honest with you.

KS: Okay.

JM: Cuz he was probably getting it cheaper, you know, the weed.

KS: When was the last time before Albert got killed, that you saw Albert?

JM: I see, like I said, it was October, November. I seen him at the club where I, where actually I gave him some, some cocaine.

KS: Okay.

JM: I gave him like 20 keys. He went to Dallas, sold it, and came back with my money and I had just bought a, a Mercedes convertible and he, he said, I remember because November I bought it before, before Christmas, and he said, ah, why don't you let me borrow it for the weekend, and I said well, go get, go sell this and come back. I'll let you.

KS: So you let him take the Mercedes to Dallas?

JM: Yeah. He took it for a weekend.

KS: With the 20 keys?

JM: No, no, he took the 20 keys first. Came back with my money. And then I lent him the Mercedes for the weekend.

KS: How much was 20 keys worth back then?

JM: About $300,000 or something.

KS: Okay. And you bought the Mercedes?

JM: Yeah. The Mercedes, I bought it.

KS: What did you pay for the Mercedes? *(14:11)*

JM: Like $110,000.

KS: So you let him take it to Dallas?

JM: Uh huh.

KS: Okay.

JM: Yeah.

KS: And that was the last time you saw him, when I guess when he brought your car back.

JM: Yeah. At the end of November, somewhere around there, the end of November.

KS: Okay. And when was it you heard, um, that he was dead?

JM: Like right after he brought it back, like a few weeks later, a month later, I heard he, he got killed, but I wasn't sure it was him.

KS: Okay.

JM: And then they said it was Albert, cuz, ah, he had lent me, he had a maroon step-side truck he had lent me and, ah, I asked **[UI]** I know he got killed. They said well, he had a little problem. He owed a little money here, a little there. They found him in a rug. And that's what I knew. And I was like, well, fuck. Hey, I couldn't even find the funeral, cuz I didn't remember his last name. *(14:52)*

KS: Okay.

JM: So, that went like that. So, when I get to the meeting, in Beaumont, me, like I said, me and **[UI]** were getting real close, he knew I knew Albert. Cuz, when I first, like my second month at the meeting, he's telling me, yeah, you know, check each other out, I think we're straight. Its like, yeah, ...

KS: What does that mean, straight?

JM: I mean, you know, he's seeing, checking to see if I've cooperated with somebody. He checked, wherever he checked with, he didn't find nothing on me.

KS: Okay.

JM: Cuz my PSI don't say I cooperated. You know. So I checked with, I checked his PSI and he is straight too, so, I mean, we got real tight in prison. And he would told me, you know what, we don't want no snitches here. We do, you know, check 'em in, check 'em in, and send 'em to the hole. You know, beat 'em up, stab 'em, whatever, send 'em to the hole. I'm like, no, you know, it's cool, you know. I'll help you, whatever; I just gotta cover myself, you know. So, we got to be real tight, that we just say you know what, I trust you and, ah, you know that little motherfucker Albert, you know, he would always talk about Albert, I don't like him, you know, all that, yeah, well, he's cool you know. And I would tell him, man, he's a good dude, you know, I just gave him dope. No he is a piece of shit. But that is as far as we would go. Well, right before, about, we had the riot

in '99 of December at the Medium, so like the beginning of December, there was three of us there. There was me, him, ah, Dominguez, Ralph Dominguez, and, ah, ah, Nathan Foreman, the one that I was asking you about, were sitting in the middle of the compound, talking, you know, and all the guys from Houston in prison, you know, Houston **[UI]** ...

KS: Really? *(16:30)*

JM: so we are all confiding in each other and, cuz there was a riot about to happen, so we were just touching bases if something happens, you know, we look, we look after each other **[UI]**. He said "Well, you know what, I got something to tell ya; I'm gonna trust you, you know. He goes Moreno knows what I'm talking about. Alright. He's like, ah, he said, ah, well, you know, I'm the..., you know I'm down". You know, he was trying to, in other words, with the riot happening, he knows he would **[UI]** ...

KS: What does that mean?

JM: In other words, he got my back if something happened **[UI]** . If he had to go do, hurt somebody, he'd do it. I mean, if there was a riot, **[UI]** we'd have to take care of each other. He said you all think I'm down, ask Moreno, he knows the dude I killed." **[UI]** "Damn, who'd you kill?" you know. I trust you, I'll tell you, you know. He said, ah, "I killed Albert." "Damn, you killed Albert, what the fuck you kill Albert for?" He said, "Well, you know, he owed me some money, right? I said, "Yeah, he owed you some money." "He was talking shit about me, you know. I said, "Yeah, but, ... He said, "Yeah, well, I never did like him anyway, and, ah, he tried to play me like a punk and owed a lot of fucking money. That's why he's in prison now. He owes so much money that he had to go rob somebody."

KS: Okay. *(17:41)*

JM: And he got busted on a fed charge to pay what he owed.

KS: Cuz he was desperate.

JM: Yeah, he was desperate in debt.

And he said, ah, you know, ah, fuck it; he owed a couple of other people, so they weren't going to know who did it. He said I got picked up for it. Took me downtown. They ...

KS: Wait. You just said he owed a couple of other people so ...

JM: That Alf.., Alfred owed, I mean Albert, Albert owed

KS: Hermilo.

JM: No, he owed Hermilo, but Al..., Hermilo told, said he owed a few people so they ain't going to know whoever

KS: Right.

JM: did it, you know.

KS: Okay. Albert owed a bunch of other people.

JM: That's what he says,

KS: A few other people.

JM: yeah.

KS: Okay. *(18:17)*

JM: So I say, what's up, you know. I really didn't want to ask him, but he kept on wanting to tell me. He said, look, this is what happened. He said, ah, see, at the time he was laying, like I said, he had a side job, he used to lay carpet.

KS: Who had a side job?

JM: Herrero.

KS: Okay.

JM: Herrero. He used to work for, ah, I think Fred's uncles and dad. Do you know who Fred Hernandez is?

KS: No.

JM: **[UI]** No? Okay, well, I'll get to that.

KS: Okay.

JM: He used to work for them, lay carpet. He said one, one night him and, he didn't tell me the guy's name, they went out to a club, El Dorado Ranch, used to be out behind Almeda Mall.

KS: Okay.

JM: It's not there no more. They went out and that, ah, he ran into Albert. Albert and ah, I don't know who the other, Albert and, might have been Freddy. Albert might have been with Freddy. They went out. He seen them. He went up to the bar. We all know each other, Albert, Freddy, we all know each other.

KS: Say that again.

JM: I said, Albert, Freddy, Herrero, we all know each other.

KS: Okay.

JM: Okay. Herrero shows up in a work van with a friend of his to the club. They go out to the club. He sees Albert, he goes up to Albert and starts talking to him.

KS: They didn't plan to meet. He just ran into him?

JM: Just ran into him. He said, ah, Albert didn't know that he knew that he was talking shit about him, you know what I'm saying, that he wasn't going to pay him. So he talked to Albert, told Albert you know, blasé, blasé, ah, if you want I'll just give you some more dope to make up the money you owe me. Hermilo told Albert. *(19:42)*

KS: Okay.

JM: So like he said, he said yeah. You know, Motherfucked **[UI]** gives more dope, so, so he went for it. We stayed up till about 2 o'clock getting drunk. So he told Albert, ah, check out this party, you know, let's go out to the club, go to some girl's house, he's like, ah, alright, let me see if my homebo wants to go. So whoever it was, I think it might have been Freddy, he said, ah, nah, I don't want to go.

KS: Freddy didn't want to go.

JM: Yeah, so he, Albert told him go ahead and take my truck home, I'm going to ride with Milis, which is Herrero. So he said alright, yeah, yeah, yeah, yeah. Like he told me, he said, ah, well, shit I seen him, I had the motherfucker was drunk, and I'd been wanting to get his ass, so fuck it, I was gonna get him. So he told him, come on, you all ride with me. So, it was Herrero, the driver, I don't know who, he never told me who the driver was.

KS: Who do you think it was?

JM: I don't know, I don't know who he hangs with.

KS: Okay.

JM: You know what I'm saying, so, I know it wasn't Freddy cuz, he told me, yeah, that fucking Freddy didn't want to go, scarry motherfucker. That's what he said.

KS: Okay.

JM: I said, what do you mean? He goes, I wanted Freddy to see me kill this mother fucker, but he didn't wanna go with me. So, alright, so, anyway, ah, Herrero, Albert and the driver went back to the van. Herrero said he gave the keys to the driver and he said, drive man, I'm too drunk to drive. And he told Albert, go on, get in front man, we'll get in the back, man, we've got some beer and everything, you know. He said alright, cool. We'll get in the back. So Albert jumped in the front seat, passenger seat, the driver jumped in, Herrero in the back, and, ah, he says he was just talking, you know, yeah, wah, wah, wah, I'm gonna give you some dope. He says Albert was fucking drunk. He was just drunk already, you know, so, but he told the driver we're going over here, to which is it, girl's apartment, you know, go this way, go that way, whatever, well fuck, you just, he says they got on, got on the freeway, they got off somewhere. And they told

him, yeah, go this way and that, ah, he was talking to Albert and Albert was like, you know, like, like nothing, like he didn't owe him shit, you know. Just talking. Yeah, yeah, yeah, I bought me this, I bought me that. Yeah, yeah. Yeah, I heard you had some dope. Yeah, yeah, I mean, you know, **[UI]** whatever. He said, well, finally, he just got tired of this shit. He always carried a knife with him, Herrero.

KS: **[UI]**

JM: Pocket knife or something, I don't know what kind of knife it was, anyway. He said he grabbed Albert from the back, he was in the passenger seat during the van, the work van, they had all the tools any everything in it, he grabbed Albert from the back, you know, from the back like that and he started choking him, and telling him, Hey, motherfucker, where's my fucking money; I heard you weren't gonna pay me you know. And he said the dude never had a chance. He said I grabbed him and started choking him. And Herrero's kinda, you know, he's kinda, not really big, but you know, he's kinda, if he gets you by your back, you ain't going nowhere.

KS: And how about Albert? How big is he? *(22:20)*

JM: Albert was tall, he was kinda tall, you know, but like I said, he was sitting down; he couldn't do nothing. And that he, ah, grabbed the dude and that the driver, the driver didn't know what was up. He was just like, hmm, the fuck going on?

KS: So the driver didn't know what was going on?

JM: Yeah. He said that the driver didn't know. **[UI]** He said, "Man, I, I seen opportunity to get his ass and I'm gonna get his ass," you know, so, ah, he said they were driving somewhere and he told the driver, look, pull over there, pull over there. And they pulled somewhere, and wherever they pulled there was a dumpster. **[UI]** the driver **[UI]** he's telling him, "what's up", cuz he, I remember he's telling me he's laughing, and he's like yeah, the fucking driver was panicking and screaming, and I just grabbed him and fuck, I just pulled out my knife, and slit his throat. **[UI]** that right. So when the driver pulled over, there was a dumpster or something **[UI]** so he said the driver just fucking, he said fucking just took off and left me there, he just took off running from the van. Left the van, you know, **[UI]**. He said fuck **[UI]** he had to pull Albert back, he was pulling Albert to the back of the van. He was gonna put him in some carpet, right? Well, see, when he laid him down, he laid him down in the van, you know, and then he had to go close the door, where the driver's was open and close that, and he noticed that Albert still breathing, he was still alive. So he told me he reached in, got a hammer and hit him with it. Put him in a rug, rolled him in it, right, and I don't remember if he said he threw him in the dumpster or beside the dumpster, cuz Albert was a big dude. He's, he's, he's pretty tall.

KS: How tall are you?

JM: I'm 5'5". He's, he's taller than me.

KS: Okay.

JM: And, ah, you know, and I said, like, damn.

KS: And he pulled him out of the van by himself?

JM: He pulled him out of the van by himself

KS: Okay.

JM: and he threw him by the dumpster.

KS: Did he say where? *(24:02)*

JM: He, he, he didn't

TALKING OVER ONE ANOTHER

JM: Nah, I really didn't want to hear it, you know. I mean, but, you know, he, he said you know, I'm down, if I got to kill somebody, I'll do it, you know, cuz you're my witness and I mean you're freaking me out, cuz, Albert, Albert got killed **[UI].**

KS: And you, and you had no idea that he was the one did it

JM: Nah,

KS: until you brought **[UI]**.

JM: nah.

KS: Who was there when he said that to you that day, the first time you heard it?

JM: Ah, Dominguez and, and Nathan Foreman.

KS: Okay. What is Dominguez's whole name?

JM: Raphael Dominguez.

KS: And he's here, he was in Beaumont Medium too, at the time?

JM: Yeah.

KS: Where is he now?

JM: He's still in Beaumont. See, when I was in the hole, he went, he got in the hole first and charged something, right, so **[UI]** so he goes in the hole and tells me

KS: Dominguez?

JM: Yeah, Dominguez. **[UI]** we went to school together, too. We are all from the neighborhood.

KS: Okay.

JM: He said, man, you know what? That dude killed that dude. Man, he's going to kill you, man. Cuz, supposedly he wants to kill me, you know.

KS: Why did he want to kill you, then? *(25:05)*

JM: Because we were real close, and then he found out that I testified **[UI]**

KS: Even though you didn't testify on him?

JM: Yeah, he's, he's, he's not all there, man, I'll be honest with you. He's the kind of person he takes everything to heart, and he …

KS: Well, why wouldn't Dominguez be freaking out if he heard you testified?

JM: Who? Because he's **[UI] [laughs]** he's trying **[UI]** some too.

KS: Alright. Um, tell me Dominguez's. Raphael Dominguez?

JM: Yeah, yeah, uh huh. Dominguez.

KS: About how old is he?

JM: 30's. About 27, 26.

KS: And he is in Beaumont Medium now.

JM: Yeah.

KS: Alright, and he heard Hermilo say all this stuff that you were just telling me about.

JM: Yeah, yeah.

KS: And who was the other guy there? Nathan Foremen?

JM: Nathan Foremen. He ….

KS: Is he from Houston?

JM: Yeah. We are all from Houston.

KS: Beaumont Medium, too?

JM: Yeah. He's in the hole, and, ah, Raphael Dominguez is on the compound.

KS: Okay, so in the hole, does that mean in Liberty, too?

JM: No, he's, no, they are both, they are both in Beaumont.

KS/JM: Beaumont Medium.

JM: Yeah.

KS: Okay. How do you spell Foreman's last, last name?

JM: Foreman.

KS: F o r e m a n?

JM: Yeah.

KS: White guy?

JM: Black guy.

KS: Black guy. How old is he?

JM: 35.

KS: Okay. And he heard all this same stuff too the same time you did?

JM: Uh huh.

KS: Alright, now tell me, Jesse, what were you thinking when you heard, ah, Hermilo say all this?

JM: Man, it shocked me. I ...

KS: You didn't know?

JM: I didn't know he did that. I knew, we knew Albert got killed, but I didn't know he was, you know ...

KS: Okay. How did you react to his face when he told you? *(26:31)*

JM: Man, I was just **[UI]** surprised, you know. I was like, God damn, you know. I know Herrero from back in the days and he was cap.... he was a bully and always beating people up at school and stuff but I knew, you know, I heard he used to do little jobs for people, collect money and stuff but, I didn't .... It messed me up, you know.

KS: Okay.

JM: It messed me up.

KS: Do you think when he told you when he saw your face, he thought, Oh, I shouldn't have told him, he looks freaked out about it?

JM: No. Cuz he was trying to more or less im, impress us, trying to tell us, you know, I'm down, he's capable

KS: Okay.

JM: of doing it. I mean, he said he'd either do it with a hammer and, I mean, I was like damn. You know, I really didn't know how Albert got killed. I knew he got killed.

KS: The carpet was there.

JM: Yeah. But I don't remember, I didn't, I didn't investigate, you know,

KS: Okay.

JM: **[UI]**

KS: Are you in any kind of gang in prison

JM: No, no

KS: or before you got to prison?

JM: No, no.

KS: None at all?

JM: Not at all.

KS: What about Herrero?

JM: Well, he had, they said he might, he hangs around with a certain gang, I don't know what gang it is, and like I said, either where, either where I go, if he is, I'm, I'm hit wherever I go.

KS: Okay. What about Foreman or Dominguez? Are they in any

JM: No, no, no.

KS: gang? So none of this, none of you all's, um, when this riots about to happen and you all have each other's back, it's not because of a gang thing?

JM: No, no, no. It was just

KS: Because you all are all from Houston.

JM: Yeah. We just make sure we take care of ourselves.

KS: Okay.

JM: No gang or **[UI]**. It's just that, man, if he's capable of doing that, and you know, like I said, he, he, he went over, sent a letter to my house and threatened my family, and, you know. If he gonna kill me, I take my chances on the street; I ain't got no chance in jail.

KS: Okay.

JM: You know what I'm saying.

KS: And, and explain to me how all that's made you decide to tell all this today, because you learned all this when, '90, '99?

JM: '99.

KS: '99.

JM: '99 of, ah November.

KS: And this is going on a year and a half later

JM: Yeah.

KS: when you first tell us about it. So explain what made you decide to tell.

JM: Cuz I didn't have a problem with him at first and when he found out I testified,

KS: Before.

JM: yeah, before, when he told me this, he didn't find out I testified until July of 2000.

KS: So that's how many months later?

JM: Yeah, that's, ah, from November to July, or whatever.

KS: Okay.

JM: And, ah, I mean, he **[UI]**, I wouldn't have said nothing if he wouldn't have, you know, dug in my business,

KS: Okay.

JM: you know, but then he **[UI]** , I mean, I couldn't go nowhere, I couldn't even go ..., everyone in prison wanted to beat me up or stab me or something cuz of what he said. Oh, he's a snitch, ooh.

KS: So he is passing the word.

JM: Everybody. People that just come into prison, didn't even know me, knew about me. You know, Oh, you got a hit.

KS: Okay. Let me, let me change the subject for a minute. When, umm, in all the times that Herrero talked about killing Albert, he had to call the guy who was driving by a name.

JM: Nah, he didn't say anything. He just said, he just said 'my home boy'. I mean, like I said, when he was telling me, I was like, actually I was like, I was going to tell him, man, you want to tell me this by yourself? You know what I'm saying?

KS: Oh, yeah.

JM: Why do you want to talk to me in front of these guys? But **[UI]** the thing was, everybody thought that he wouldn't **[UI]** he didn't have nobody's back, he's real quite.

KS: Okay.

JM: You know, like man, he ain't going to do nothing. You know, he's

KS: Did you'all think that?

JM: At the time, yeah. I mean, I knew him from the streets, and I told him I knew him from the streets, you know, I heard, you know, ...

KS: Because you'all talk. *(29:53)*

JM: No, no. He, he did **[UI]** jobs up there, picked up people that owed him money, and, **[UI]** whup a few dudes, or whatever, but, man, he just **[UI].** And he told me that the cops went and raided his house, picked him up for that murder. And, ah, he **[UI]** told me "I had a bunch of guns, they didn't even find my guns under the bed, and, ah, they took me downtown, they wanted them to say that **[UI]**, they wanted him to say that Freddy sent a hit. Freddy killed him. Freddy **[UI]** Hernandez. So I didn't say shit. He said, Freddy's locked up right now. *(30:26)*

KS: Okay. Tell me the connection with Freddy. Why did you think .... Should I know Freddy? I mean it's a common name.

JM: Yeah, well I figured cuz it was being in a report because but they wanted him to say that Freddy did it.

KS: Yeah. He's in the, he's in the report.

JM: Yeah. They wanted Freddy, the cops wanted him, Herrera to say, look, we know you didn't do it, tell us Freddy did it.

KS: Okay.

JM: Because his family sells a lot of drugs **[UI]** a lot **[UI].**

KS: Does Freddy know anything about it, do you think?

JM: I don't know. I don't know, man, we never, I ain't even know, you know, I don't where the fuck they got Freddy from.

KS: Okay. *(30:57)*

JM: **[UI]** they were tight. Freddy's doing 18 in the State right now.

KS: Here? In the Beaumont state jail?

JM: No. He's in the somewhere in the system.

KS: In the State system.

JM: Stiles prison, yeah. *(31:04)*

KS: Oh, Stiles. TDCJ.

JM: Yeah, TDCJ.

KS: Okay. But as far as you know, from what all Herrero told you, Freddy didn't have anything to do with it.

JM: Yeah, he said he didn't want to go with them.

KS: Okay.

JM: **[UI]** He said he really didn't want to go with them.

KS: Okay, because back to the driver again, you understand that the driver happened the way you said, he's not, he hasn't done anything wrong. He's just another

JM: Yeah, yeah.

KS: **[UI]** that I could use.

JM: Oh, yeah, yeah, I understand that. No, I would have tell you. I, I ain't hiding nothing back from you.

KS: So, you can't think of who it would be?

JM: **[UI]**

KS: He would make a damn good witness.

JM: I didn't even hang with him on the streets,

KS: Okay.

JM: you know. Like he told me, he said, 'nobody knows about this, just the driver, you know, my homie, and you, you know, you'all. And I'm trusting you'all' **[UI]** you know, and like I said, if he, if he is capable of doing that, you know, I've got 4 children out there, you know, and I will take my chances **[UI]** then them getting killed, you know.

KS: Okay.

JM: I mean.

KS: Let me, umm, its, its 10:35 now, I'm going to stop the tape.

Exhibit 19

HARRIS COUNTY SHERIFF'S DEPARTMENT
SUPPLEMENT REPORT

CASE NUMBER:95-0109-1302 SUPPLEMENT # 1

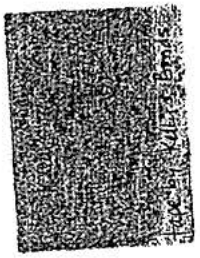
ENTERED BY: Detective L. A. Davis

APPROVED BY:

DIVISION: Homicide

OFFENSE: Murder

COMPLAINANT: Albert Guajardo Johnathan Wayne Jefferson. AM 1-12-62. ID# 60116079.



INTRODUCTION: 07-05-2001

On 7-5-2001, Detectives Davis and Holtke were requested by Assistant Harris County District Attorney Kelly Siegler to review an audiocassette tape from a confidential informant. According to Siegler she and Harris County District Attorney Investigator Johnny Bonds traveled to a Federal Prison located in Beaumont Texas and interviewed the male. Siegler stated in her interview, which she taped the male advised he had heard the suspect in this case, Hermilo Herrero Jr. confess to him and two other inmates at the prison he had killed the complainant in this case. Siegler requested I listen to the tape for the purpose of this investigation.

The tape began with Siegler introducing her, the date that was 7-3-2001, and the time that was 10:00 a.m. The male, Jessie George Moreno introduced himself and stated in was in prison for Possession of a controlled substance with the intent to deliver. Siegler had the witness provide background information on the relationship between he and the suspect in this case. The witness advised he had known the suspect since Middle School and they had sold and did drugs together. The last time the witness had seen the suspect was in 1999, when the suspect was incarcerated in the same prison in Beaumont with him. It was at this time the suspect told the witness, a male identified as Rafel Dominquez and Nathan Foreman that he had killed the complainant in this case. According to the witness, during 1999 a riot situation was occurring in the prison unit, at which time Herrero advised the three males, that he would back them up if a riot did occur. To prove he was able to "cover their back", Herrero told him that he had killed the complainant. The suspect went into detail how the complainant had owed him money for dope and did not like the complainant much anyway. The suspect and the complainant, a male identified by the witness as Freddie Hernandez and an another unknown male had met at

CO 800353, TX 040 44137. FBI 466090 IA8.

HARRIS COUNTY SHERIFF'S DEPARTMENT
SUPPLEMENT REPORT

CASE NUMBER: 95-0109-1302 PAGE #2

a club. All the males stayed at the club and were drinking. The complainant was unaware the suspect knew he had been telling people he was not going to pay the suspect back for a debt he owed on a previous drug deal. The complainant had made it clear and told many people he was not going to pay the suspect. The suspect after the club closed invited the complainant to a party with unknown females.

The complainant, suspect, and the unknown male, who eventually was driving, got into a van that was used as a work van for installing carpet by Fred Hernandez. As the unknown male was driving, the suspect started choking the complainant. The driver became scared and was asking the suspect "what was going on?" At this point the suspect told the witness he pulled his knife out and slit the complainant's throat. The driver then stopped the vehicle and fled the scene. The suspect informed the witness to the rear of the van and noticed he was still alive. At that point, the suspect told the witness he got a hammer and struck the complainant in the head. The suspect then told the witness he disposed of the complainant's body next to a trash Dumpster. The interview was then terminated at 10:35 a.m. on the same date.

In reviewing the offense report, the complainant's body was actually discarded in a ditch. In reviewing the autopsy report, it was determined the complainant died of a cutting wound to the neck. The complainant's head had numerous contusions. This information to our knowledge had never been made public.

I informed Siegler that the information the witness had provided was information that matched the details that we knew them to be. Assistant District Attorney Siegler then stated she would accept charges of Murder on Hermilo Herrero Jr., Date of Birth [redacted]

CASE DISPOSITION: CHARGES PENDING...

Exhibit 20

CHARLES A. ROSENTHAL, JR.
DISTRICT ATTORNEY
HARRIS COUNTY, TEXAS

May 1, 2002

Mr. Todd Clemons
Assistant United States Attorney
United States Attorney's Office
800 Lafayette Street
Ste. 2200
Lafayette, LA 70501

Dear Mr. Clemons:

The purpose of this letter is to advise you of the cooperation of Jesse Moreno in the case styled State of Texas vs. Hermilio Herrero, Jr. for the offense of Murder, Cause No. 903122, which was prosecuted by me in the 179th District Court of Harris County.
The trial against Herrero concluded on April 30, 2002 with Herrero being found guilty by a jury of Murder and Judge Mike Wilkinson sentencing him to a Life sentence and a $10,000 fine, which is the maximum.

Let me start from the beginning briefly. This case was a cold case; one of many pending with the Harris County Sheriff's Department Cold Case Squad. It involved the killing of Albert Guajardo in a drug dispute that occurred in 1995. The defendant sliced the complainant's throat and then beat him viciously in the head with a hammer before rolling him up in a rug and throwing his body on the side of the road. When no leads developed in 1995, the case became inactive. The evidence in the trial consisted of admissions made by Herrero to Moreno and others he was imprisoned with about committing this murder.

In the summer of 2001, Jesse Moreno contacted me and asked me to come see him and he would tell me details that would clear a murder. I did so by visiting him in July 2001. From the first discussion I had with Moreno, I felt that he was being truthful and his testimony alone would be enough to file charges on Herrero and prosecute him. Charges were filed against Herrero soon after that visit. You should know that Moreno contacted me in regards to this case because he had been a previous witness for me in another murder case that I tried in 1997 against a defendant named Jason Morales. Morales also received a life sentence, largely because of the testimony provided to that jury by Moreno.

Eventually, Herrero learned that Moreno had informed us on him and made a threat against Moreno's life while they were still imprisoned at Beaumont FCI Medium.
Those threats have escalated and currently, Moreno is incarcerated at the Harris County Jail in the administrative segregation section to best keep him safe from the reach of Herrero. Moreno told me initially of the possibility of other witnesses to admissions made by Herrero about his committing this murder in 1995. Moreno and the other three witnesses have all been cooperative. It was however, Moreno whom I presented to the jury as being the "crux" of the case and it was almost entirely because of his testimony that the jury found Herrero guilty of Murder.

I wish to make known to you the fact that not only was Moreno always cooperative and in my opinion, truthful, but more importantly, the fact that this murder would have remained unsolved. It was his coming forward in the first place with this information that lead to the successful conviction of a murderer. I believe that he should receive a downward departure reflecting his very substantial assistance in the prosecution of this case. I have advised Moreno that I would write this letter to you making this recommendation and I have also advised him that it will be your decision whether to file the Motion and that even if the Motion is filed, it will be up to the Judge to determine an appropriate sentence.

If I can be of any further assistance, please feel free to call me.

Sincerely,

Kelly Siegler
Assistant District Attorney
Special Crimes, Major Offenders
Harris County, Texas
713-755-6178

Exhibit 21

THE STATE OF TEXAS
VS.

RONALD JEFFERY PRIBLE JR.
[redacted]

SPN: [redacted]
DOB: WM [redacted]
DATE PREPARED: **7/5/01**

D.A. LOG NUMBER:**696477**
CJIS TRACKING NO.:
BY: **DH** DA NO: **060533450**
AGENCY:**HCSO**
O/R NO: **9904251578**
ARREST DATE: **TOBE**

NCIC CODE: **0907 10**

RELATED CASES: **THREE OTHER CHARGES**

FELONY CHARGE: **CAPITAL MURDER**
CAUSE NO: **0861365**
HARRIS COUNTY DISTRICT COURT NO: **351**
FIRST SETTING DATE:

BAIL: $**NO BOND**
PRIOR CAUSE NO:

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

Comes now the undersigned Assistant District Attorney of Harris County, Texas, in behalf of the State of Texas, and presents in and to the District Court of Harris County, Texas, that in Harris County, Texas, **RONALD JEFFERY PRIBLE JR.**, hereafter styled the Defendant, heretofore on or about **APRIL 24, 1999,** did then and there unlawfully, while in the course of committing and attempting to commit the ARSON OF A BUILDING OWNED BY of NEILDA TIRADO, intentionally cause the death of ESTEBAN HERRERA by SHOOTING ESTEBAN HERRERA WITH A DEADLY WEAPON, NAMELY, A FIREARM.

AGAINST THE PEACE AND DIGNITY OF THE STATE.

ASSISTANT DISTRICT ATTORNEY
OF HARRIS COUNTY, TEXAS

BAR CARD NO.

INFORMATION

THE STATE OF TEXAS
VS.

RONALD JEFFERY PRIBLE JR.
[redacted]

SPN: [redacted]
DOB: WM[redacted]
DATE PREPARED: **7/5/01**

D.A. LOG NUMBER:**696477**
CJIS TRACKING NO.:
BY: **DH** DA NO: **060533450**
AGENCY:**HCSO**
O/R NO: **9904251578**
ARREST DATE: **TOBE**

NCIC CODE: **0907 10**

RELATED CASES: **THREE OTHER CHARGES**

FELONY CHARGE: **CAPITAL MURDER**
CAUSE NO: **0861365**
HARRIS COUNTY DISTRICT COURT NO: **351**
FIRST SETTING DATE:

BAIL: $**NO BOND**
PRIOR CAUSE NO:

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

The duly organized Grand Jury of Harris County, Texas, presents in the District Court of Harris County, Texas, that in Harris County, Texas, **RONALD JEFFERY PRIBLE JR.**, hereafter styled the Defendant, heretofore on or about **APRIL 24, 1999,** did then and there unlawfully, while in the course of committing and attempting to commit the ARSON OF A BUILDING OWNED BY of NEILDA TIRADO, intentionally cause the death of ESTEBAN HERRERA by SHOOTING ESTEBAN HERRERA WITH A DEADLY WEAPON, NAMELY, A FIREARM.

AGAINST THE PEACE AND DIGNITY OF THE STATE.

FOREMAN OF THE GRAND JURY

INDICTMENT (STATE'S COPY)

THE STATE OF TEXAS
VS.

RONALD JEFFERY PRIBLE JR.
[redacted]

SPN: [redacted]
DOB: WM [redacted]
DATE PREPARED: **7/5/01**

D.A. LOG NUMBER:**696477**
CJIS TRACKING NO.:
BY: **DH** DA NO: **060533450**
AGENCY:**HCSO**
O/R NO: **9904251578**
ARREST DATE: **TOBE**

NCIC CODE: **0907 10**

RELATED CASES: **THREE OTHER CHARGES**

FELONY CHARGE: **CAPITAL MURDER**
CAUSE NO: **0881365**
HARRIS COUNTY DISTRICT COURT NO: **351**
FIRST SETTING DATE:

BAIL: $**NO BOND**
PRIOR CAUSE NO:

WAIVER OF CONSTITUTIONAL RIGHTS, AGREEMENT TO STIPULATE, AND JUDICIAL CONFESSION

In open court and prior to entering my plea, I waive the right of trial by jury. I also waive the appearance, confrontation, and cross-examination of witnesses, and my right against self-incrimination. The charges against me allege that in Harris County, Texas, **RONALD JEFFERY PRIBLE JR.**, hereafter styled the Defendant, heretofore on or about **APRIL 24, 1999**, did then and there unlawfully, while in the course of committing and attempting to commit the ARSON OF A BUILDING OWNED BY of NEILDA TIRADO, intentionally cause the death of ESTEBAN HERRERA by SHOOTING ESTEBAN HERRERA WITH A DEADLY WEAPON, NAMELY, A FIREARM.

AGAINST THE PEACE AND DIGNITY OF THE STATE.

HCDA-08.12.2016-00057

THE STATE OF TEXAS
VS.

RONALD JEFFERY PRIBLE JR.
[redacted]

SPN:
DOB: [redacted]
DATE PREPARED: **7/5/01**

D.A. LOG NUMBER:**696477**
CJIS TRACKING NO.:
BY: **DH** DA NO: **060533450**
AGENCY:**HCSO**
O/R NO: **9904251578**
ARREST DATE: **TOBE**

NCIC CODE: **0901 14**

RELATED CASES: **THREE OTHER CHARGES**

FELONY CHARGE: **CAPITAL MURDER**
CAUSE NO:
HARRIS COUNTY DISTRICT COURT NO: **351**
FIRST SETTING DATE:

BAIL: **$NO BOND**
PRIOR CAUSE NO:

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

Comes now the undersigned Assistant District Attorney of Harris County, Texas, in behalf of the State of Texas, and presents in and to the District Court of Harris County, Texas, that in Harris County, Texas, **RONALD JEFFERY PRIBLE JR.**, hereafter styled the Defendant, heretofore on or about **APRIL 24, 1999,** did then and there unlawfully, during the same criminal transaction, intentionally and knowingly cause the death of JADE HERRERA by COMMITTING ARSON OF A HABITATION KNOWING AT THE TIME THAT JADE HERRERA WAS IN THE HABITATION, and intentionally and knowingly cause the death of RACHEL CUMPEAN by COMMITTING ARSON OF A HABITATION KNOWING AT THE TIME RACHEL CUMPEAN WAS IN THE HABITATION.

AGAINST THE PEACE AND DIGNITY OF THE STATE.

ASSISTANT DISTRICT ATTORNEY
OF HARRIS COUNTY, TEXAS

BAR CARD NO.

INFORMATION

HCDA-08.12.2016-00056

THE STATE OF TEXAS
VS.

RONALD JEFFERY PRIBLE JR.
[redacted]

SPN: [redacted]
DOB: [redacted]
DATE PREPARED: 7/5/01

D.A. LOG NUMBER:**696477**
CJIS TRACKING NO.:
BY: **DH** DA NO: **060533450**
AGENCY:**HCSO**
O/R NO: **9904251578**
ARREST DATE: **TOBE**

NCIC CODE: **0901 14**

RELATED CASES: **THREE OTHER CHARGES**

FELONY CHARGE: **CAPITAL MURDER**
CAUSE NO: **0881367**
HARRIS COUNTY DISTRICT COURT NO: **351**
FIRST SETTING DATE:

BAIL: **$NO BOND**
PRIOR CAUSE NO:

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

The duly organized Grand Jury of Harris County, Texas, presents in the District Court of Harris County, Texas, that in Harris County, Texas, **RONALD JEFFERY PRIBLE JR.**, hereafter styled the Defendant, heretofore on or about **APRIL 24, 1999,** did then and there unlawfully, during the same criminal transaction, intentionally and knowingly cause the death of JADE HERRERA by COMMITTING ARSON OF A HABITATION KNOWING AT THE TIME THAT JADE HERRERA WAS IN THE HABITATION, and intentionally and knowingly cause the death of RACHEL CUMPEAN by COMMITTING ARSON OF A HABITATION KNOWING AT THE TIME RACHEL CUMPEAN WAS IN THE HABITATION.

AGAINST THE PEACE AND DIGNITY OF THE STATE.

FOREMAN 177th

Robert L Kitzman

FOREMAN OF THE GRAND JURY

INDICTMENT (STATE'S COPY)

HCDA-08.12.2016-00058

THE STATE OF TEXAS
VS.

RONALD JEFFERY PRIBLE JR.
[redacted]

SPN:
DOB: WM [redacted]57
DATE PREPARED: **7/5/01**

D.A. LOG NUMBER:**696477**
CJIS TRACKING NO.:
BY: **DH** DA NO: **060533450**
AGENCY:**HCSO**
O/R NO: **9904251578**
ARREST DATE: **TOBE**

NCIC CODE: **0901 14**

RELATED CASES: **THREE OTHER CHARGES**

FELONY CHARGE: **CAPITAL MURDER**
CAUSE NO:
HARRIS COUNTY DISTRICT COURT NO: **351**
FIRST SETTING DATE:

BAIL: $**NO BOND**
PRIOR CAUSE NO:

WAIVER OF CONSTITUTIONAL RIGHTS, AGREEMENT TO STIPULATE, AND JUDICIAL CONFESSION

In open court and prior to entering my plea, I waive the right of trial by jury. I also waive the appearance, confrontation, and cross-examination of witnesses, and my right against self-incrimination. The charges against me allege that in Harris County, Texas, **RONALD JEFFERY PRIBLE JR.**, hereafter styled the Defendant, heretofore on or about **APRIL 24, 1999**, did then and there unlawfully, during the same criminal transaction, intentionally and knowingly cause the death of JADE HERRERA by COMMITTING ARSON OF A HABITATION KNOWING AT THE TIME THAT JADE HERRERA WAS IN THE HABITATION, and intentionally and knowingly cause the death of RACHEL CUMPEAN by COMMITTING ARSON OF A HABITATION KNOWING AT THE TIME RACHEL CUMPEAN WAS IN THE HABITATION.

AGAINST THE PEACE AND DIGNITY OF THE STATE.

HCDA-08.12.2016-00059

THE STATE OF TEXAS
VS.

RONALD JEFFERY PRIBLE JR.
[redacted]

SPN: [redacted]
DOB: [redacted]
DATE PREPARED: **7/5/01**

D.A. LOG NUMBER:**696477**
CJIS TRACKING NO.:
BY: **DH** DA NO: **060533450**
AGENCY:**HCSO**
O/R NO: **9904251578**
ARREST DATE: **TOBE**

NCIC CODE: **0901 14**

RELATED CASES: **THREE OTHER CHARGES**

FELONY CHARGE: **CAPITAL MURDER**
CAUSE NO: **0891367**
HARRIS COUNTY DISTRICT COURT NO: **351**
FIRST SETTING DATE:

BAIL: **$NO BOND**
PRIOR CAUSE NO:

WAIVER OF PRESERVATION OF EVIDENCE

On this the _____ day of _____, 2_____, I have been advised by the judge of the above named court of the requirements under TEX. CODE CRIM. PROC., art. 38.39 [2001] that any evidence in possession of the attorney representing the state or a clerk or any other officer which is known to contain biological material, which if subjected to scientific testing would more likely than not establish the identity of the person committing the offense for which I am presently charged in the above captioned and numbered cause or which would exclude a person from a group of persons who could have committed the offense for which I am presently charged in the above captioned and numbered cause, shall be preserved. I further have been advised that such evidence may not be destroyed by the attorney representing the state or a clerk or any other officer possessing said evidence if either my attorney, the above named court, or I object within ninety-one (91) days after having received notice of the planned destruction of that evidence.

Further, having been advised by my attorney of my rights, and fully understanding those rights to 1) the preservation of the above described evidence, 2) notice of any planned destruction of the above described evidence, and 3) an objection to any destruction of the above described evidence, I knowingly and voluntarily waive these rights and do not object to the destruction of that evidence at such time as either the attorney for the state or a clerk or any officer currently in possession of that evidence shall deem proper. I also represent to the judge of the above named court that this Waiver of the Preservation of Evidence is not the result or a part of any plea bargain agreement with the attorney representing the state.

_____
DEFENDANT

Sworn to and Subscribed before me on_____

_____
HARRIS COUNTY DEPUTY DISTRICT CLERK

_____
DEFENDANT'S ATTORNEY (PRINT)

_____
SIGNATURE OF DEFENDANT'S ATTORNEY

_____
JUDGE PRESIDING

WAIVER OF PRESERVATION OF EVIDENCE

I understand the above allegations and I confess that they are true and that the acts alleged above were committed on

_____

_____

In open court I consent to the oral and written stipulation of evidence in this case and to the introduction of affidavits, written statements, of witnesses, and other documentary evidence. I am satisfied that the attorney representing me today in court has properly represented me and I have fully discussed this case with him.

I intend to enter a plea of guilty and the prosecutor will recommend that my punishment should be set at _____

_____

_____

_____

_____

and I agree to that recommendation. I waive any further time to prepare for trial to which I or my attorney may be entitled. Further, I waive any right of appeal which I may have should the court accept the foregoing plea bargain agreement between myself and the prosecutor.

_____

DEFENDANT

Sworn to and Subscribed before me on_____

_____

HARRIS COUNTY DEPUTY DISTRICT CLERK

I represent the defendant in this case and I believe that this document was executed by him knowingly and voluntarily and after I fully discussed it and its consequences with him. I believe that he is competent to stand trial. I agree to the prosecutors recommendation as to punishment. I waive any further time to prepare for trial to which I or the defendant may be entitled.

_____ _____

DEFENDANT'S ATTORNEY (PRINT) SIGNATURE OF DEFENDANT'S ATTORNEY

I consent to and approve the above waiver of trial by jury and stipulation of evidence

_____

ASSISTANT DISTRICT ATTORNEY
OF HARRIS COUNTY, TEXAS

This document was executed by the defendant, his attorney, and the attorney representing the State, and then filed with the papers of the case. The defendant then came before me and I approved the above and the defendant entered a plea of guilty. After I admonished the defendant of the consequences of his plea, I ascertained that he entered it knowingly and voluntarily after discussing the case with his attorney. It appears that the defendant is mentally competent and the plea is free and voluntary. I find that the defendant's attorney is competent and has effectively represented the defendant in this case. I informed the defendant that I would not exceed the agreed recommendation as to punishment.

_____

JUDGE PRESIDING

PLEA OF GUILTY

Exhibit 22

THE STATE OF TEXAS
VS
RONALD JEFFERY PRIBLE JR
[redacted]

SPN [redacted]
DOB WM [redacted]
DATE PREPARED 7/5/01

DA LOG NUMBER 696477
CJIS TRACKING NO
BY DH DA NO 060533450
AGENCY HCSO
O/R NO 9904251578
ARREST DATE TOBE

NCIC CODE 0907 10

RELATED CASES THREE OTHER CHARGES

FELONY CHARGE CAPITAL MURDER
CAUSE NO 0881365
HARRIS COUNTY DISTRICT COURT NO 351
FIRST SETTING DATE

BAIL $NO BOND
PRIOR CAUSE NO

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS

Before me, the undersigned Assistant District Attorney of Harris County, Texas, this day appeared the undersigned affiant, who under oath says that he has good reason to believe and does believe that in Harris County, Texas, RONALD JEFFERY PRIBLE JR hereafter styled the Defendant, heretofore on or about APRIL 24, 1999, did then and there unlawfully while in the course of committing and attempting to commit the ARSON OF A BUILDING BY of NEILDA TIRADO, intentionally the death of ESTEBAN HERRERA by SHOOTING ESTABAN HERRERA WITH A DEADLY WEAPON, NAMELY, A FIREARM

PROBABLE CAUSE

Your affiant, Detective Curtis Brown, who is employed by the Harris County Sheriff's Department and currently assigned to the Homicide Division, states that he believes that the defendant, Ronald Jeffery Prible, Jr committed the offense of Capital Murder in Harris County, Texas on or about April 24, 1999.
Your affiant states that he personally responded to the scene at 10559 Lakebrook, Harris County, Texas on April 24, 1999 and observed a residence which had been on fire and observed dead inside of the residence five people Esteban Herrera, age 29; Neilda TIRADO, age 24, Rachael Cumpean, age 7, Valerie Herrera, age 7 and Jade Herrera, age 1
Your affiant spoke to Harris County Chief Medical Examiner Dr Joye Carter who performed all five of the autopsies on the complainants. Dr. Carter states that in her opinion based on the autopsies she performed and her experience, complainants Jade Herrera, Valerie Herrera and Rachael Cumpean each died as a result of Inhalation of soot and carbonaceous material with carbon monoxide toxicity, homicide Dr Carter also states that in her opinion based on the autopsies she performed and her experience, complainants Esteban Herrera and Neilda Tirado each died as a result of a gunshot would to the neck, homicide
Your affiant states that he personally observed Esteban Herrera to have been found dead on the floor of the garage where it appeared that he had been shot before falling to the floor and it appears that his body had been burned. Your affiant states that he personally observed Neilda Tirado lying on the couch in the living room half on the couch and half off, dressed only in a t-shirt and she appeared to have been sexually assaulted prior to having been shot, based on the position her body was in. Your affiant states that he spoke to and reviewed the reports prepared by Arson Investigator Marshall Kramer as part of this investigation. Kramer told you affiant that in his opinion some sort of flammable liquid had been poured around the body of Neilda Tirado and he observed a melted, red, plastic gas-type can and a five-gallon metal container in the living room close to Neilda Tirado's body. Kramer also states that in his opinion, the body of the complainant and the area surrounding her body appeared to be the area in which the fire started and appeared to be most intense. Your affiant states that he observed in one of the bedrooms of the house, complainants Rachel Cumpean, who died on the bed and Valerie Herrera, who was found on the floor beside the same bed. Your affiant states that in another bedroom, he observed the baby, Jade Herrera, dead on the floor next to a bed. Your affiant states that all three of the children had black mucus around their mouth and nose areas, with no other signs of injury.
Your affiant during the course of his investigation learned from talking to the defendant that the defendant was the last person to have left the residence before the complainants were discovered. Your affiant reviewed two written statements given by the defendant to Deputy Hernandez and Detective W.A. Taber subsequently on April 24, 1999 and April 25, 1999 voluntarily. The defendant admits in the first statement that he had been out drinking with Esteban Herrera that night and Herrera drove him home at about 4:00 a.m. on April 24, 1999 and the defendant was the last person to leave the complainants' home that early morning. In his subsequent statement, the defendant states "that he did not tell the entire story about last night, everything was true except I did not say anything about me messing around with Neilda, Steve's wife." This defendant then goes on to explain

that he and Neilda "had sex over at Steve's house early in the morning after we came back from the club" when Steve was in he garage playing pool. The defendant states that they went into the bathroom and he bent her over the sink and started having sex with her, that Neilda began sucking his dick and then jacking him off and he did not remember if he came or not. The defendant then goes on to state that that was the first time that he and Neilda had ever had sex with each other.

Your affiant states that he spoke to Forensic Scientist, William Watson, who is employed by the GeneScreen Laboratory in Dallas, Texas and learned the following based on the results of the evidence submitted to their lab by the Sheriff's Department. According to GeneScreen, based on the results of their testing, the profile obtained from the male fraction of the oral swap from Neilda Tirado is consistent with the profile generated from the defendant at all genetic loci tested with the combined frequency of this profile in the Caucasian North American population being 1 in 26,1100,000,000. Your affiant states that swabs were taken from the body of Neilda Tirado by Dr. Joye Carter anally, vaginally and orally and all were submitted for comparison with the defendant's voluntary submitted samples of blood, hair and saliva.
Your affiant states that he spoke to Detective Shane McCoy, who is employed by the Harris County Sheriff's Department and currently assigned to a bank robbery task force. McCoy interviewed the defendant in regards to six bank robberies that occurred in the months preceding this offense and the defendant admitted he had committed each of those bank robberies. The defendant also told McCoy that he committed the bank robberies because he needed the money to go into business with Esteban Herrera

because they planned to open up some bars with the money. The defendant told McCoy that it was initially Esteban Herrera's idea for the defendant to get his share of the money by committing the bank robberies while Herrera would get his share by dealing in drugs. According to McCoy, approximately $45,000 was stolen by the defendant in the six bank robberies.
Your affiant states that he has recovered numerous weapon's from the defendant's property based on search warrants executed during the course of this and other investigations. Your affiant states that in comparing paperwork recovered relating to purchases of weapons made by the defendant to the actual weapons recovered by the defendant, there is a .38 Taurus Co which has yet to be found among the defendant's possessions. Your affiant states that according to paperwork from Carter County, the defendant purchased this .38 weapon on Apr 11, 1998. Your affiant states that he has submitted a projectile recovered from the scene in the living room next to where Neilda Tirado was found, to the Firearms Lab for comparison and learned from Mathew Clements Harris County Firearms Examiner, that the projectile is consistent with a 38 caliber.
Your affiant states that he reviewed a statement given by the neighbor of the complainants', Gregory Francisco, which states that he first noticed that the complainants' house was on fire about 6:30 a.m. and had not heard anything unusual coming from the direction of the house since he awoke that morning at approximately 5:30 a.m.
Your affiant state that he also spoke to a friend of Neilda Tirado, Angela Serna, who described her relationship with Neilda as being very close and confidential and she recalled Neilda Tirado telling her that [Neilda] considered the defendant "creepy" and does not believe the complaint was having any sort of affair with the defendant based on what she thought about him.

AGAINST THE PEACE AND DIGNITY OF THE STATE.

Sworn to and subscribed before me on July 5, 2001

/s/ C L Brown	/s/ Marcy McCorvey	13842100
Affiant	Assistant District Attorney of Harris County, Texas	BAR NO

COMPLAINT

THE STATE OF TEXAS
VS
RONALD JEFFERY PRIBLE JR
[redacted]

SPN [redacted]
DOB WM [redacted]
DATE PREPARED 7/5/01

DA LOG NUMBER 696477
CJIS TRACKING NO
BY DH DA NO 060533450
AGENCY HCSO
O/R NO 9904251578
ARREST DATE TOBE

NCIC CODE 0907 10

RELATED CASES THREE OTHER CHARGES

FELONY CHARGE CAPITAL MURDER
CAUSE NO 0881366
HARRIS COUNTY DISTRICT COURT NO 351
FIRST SETTING DATE

BAIL $NO BOND
PRIOR CAUSE NO

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS

Before me, the undersigned Assistant District Attorney of Harris County, Texas, this day appeared the undersigned affiant, who under oath says that he has good reason to believe and does believe that in Harris County, Texas, RONALD JEFFERY PRIBLE JR hereafter styled the Defendant, heretofore on or about APRIL 24, 1999, did then and there unlawfully while in the course of committing and attempting to commit the ARSON OF A BUILDING BY of NEILDA TIRADO, intentionally the death of ESTEBAN HERRERA by SHOOTING ESTABAN HERRERA WITH A DEADLY WEAPON, NAMELY, A FIREARM

PROBABLE CAUSE

Your affiant, Detective Curtis Brown, who is employed by the Harris County Sheriff's Department and currently assigned to the Homicide Division, states that he believes that the defendant, Ronald Jeffery Prible, Jr committed the offense of Capital Murder in Harris County, Texas on or about April 24, 1999.
Your affiant states that he personally responded to the scene at 10559 Lakebrook, Harris County, Texas on April 24, 1999 and observed a residence which had been on fire and observed dead inside of the residence five people Esteban Herrera, age 29; Neilda TIRADO, age 24, Rachael Cumpean, age 7, Valerie Herrera, age 7 and Jade Herrera, age 1
Your affiant spoke to Harris County Chief Medical Examiner Dr Joye Carter who performed all five of the autopsies on the complainants. Dr. Carter states that in her opinion based on the autopsies she performed and her experience, complainants Jade Herrera, Valerie Herrera and Rachael Cumpean each died as a result of Inhalation of soot and carbonaceous material with carbon monoxide toxicity, homicide Dr Carter also states that in her opinion based on the autopsies she performed and her experience, complainants Esteban Herrera and Neilda Tirado each died as a result of a gunshot would to the neck, homicide
Your affiant states that he personally observed Esteban Herrera to have been found dead on the floor of the garage where it appeared that he had been shot before falling to the floor and it appears that his body had been burned. Your affiant states that he personally observed Neilda Tirado lying on the couch in the living room half on the couch and half off, dressed only in a t-shirt and she appeared to have been sexually assaulted prior to having been shot, based on the position her body was in. Your affiant states that he spoke to and reviewed the reports prepared by Arson Investigator Marshall Kramer as part of this investigation. Kramer told you affiant that in his opinion some sort of flammable liquid had been poured around the body of Neilda Tirado and he observed a melted, red, plastic gas-type can and a five-gallon metal container in the living room close to Neilda Tirado's body. Kramer also states that in his opinion, the body of the complainant and the area surrounding her body appeared to be the area in which the fire started and appeared to be most intense. Your affiant states that he observed in one of the bedrooms of the house, complainants Rachel Cumpean, who died on the bed and Valerie Herrera, who was found on the floor beside the same bed. Your affiant states that in another bedroom, he observed the baby, Jade Herrera, dead on the floor next to a bed. Your affiant states that all three of the children had black mucus around their mouth and nose areas, with no other signs of injury.
Your affiant during the course of his investigation learned from talking to the defendant that the defendant was the last person to have left the residence before the complainants were discovered. Your affiant reviewed two written statements given by the defendant to Deputy Hernandez and Detective W.A. Taber subsequently on April 24, 1999 and April 25, 1999 voluntarily. The defendant admits in the first statement that he had been out drinking with Esteban Herrera that night and Herrera drove him home at about 4:00 a.m. on April 24, 1999 and the defendant was the last person to leave the complainants' home that early morning. In his subsequent statement, the defendant states "that he did not tell the entire story about last night, everything was true except I did not say anything about me messing around with Neilda, Steve's wife." This defendant then goes on to explain

that he and Neilda "had sex over at Steve's house early in the morning after we came back from the club" when Steve was in he garage playing pool. The defendant states that they went into the bathroom and he bent her over the sink and started having sex with her, that Neilda began sucking his dick and then jacking him off and he did not remember if he came or not. The defendant then goes on to state that that was the first time that he and Neilda had ever had sex with each other.

Your affiant states that he spoke to Forensic Scientist, William Watson, who is employed by the GeneScreen Laboratory in Dallas, Texas and learned the following based on the results of the evidence submitted to their lab by the Sheriff's Department. According to GeneScreen, based on the results of their testing, the profile obtained from the male fraction of the oral swap from Neilda Tirado is consistent with the profile generated from the defendant at all genetic loci tested with the combined frequency of this profile in the Caucasian North American population being 1 in 26,1100,000,000. Your affiant states that swabs were taken from the body of Neilda Tirado by Dr. Joye Carter anally, vaginally and orally and all were submitted for comparison with the defendant's voluntary submitted samples of blood, hair and saliva.
Your affiant states that he spoke to Detective Shane McCoy, who is employed by the Harris County Sheriff's Department and currently assigned to a bank robbery task force. McCoy interviewed the defendant in regards to six bank robberies that occurred in the months preceding this offense and the defendant admitted he had committed each of those bank robberies. The defendant also told McCoy that he committed the bank robberies because he needed the money to go into business with Esteban Herrera

because they planned to open up some bars with the money. The defendant told McCoy that it was initially Esteban Herrera's idea for the defendant to get his share of the money by committing the bank robberies while Herrera would get his share by dealing in drugs. According to McCoy, approximately $45,000 was stolen by the defendant in the six bank robberies.
Your affiant states that he has recovered numerous weapon's from the defendant's property based on search warrants executed during the course of this and other investigations. Your affiant states that in comparing paperwork recovered relating to purchases of weapons made by the defendant to the actual weapons recovered by the defendant, there is a .38 Taurus Co which has yet to be found among the defendant's possessions. Your affiant states that according to paperwork from Carter County, the defendant purchased this .38 weapon on Apr 11, 1998. Your affiant states that he has submitted a projectile recovered from the scene in the living room next to where Neilda Tirado was found, to the Firearms Lab for comparison and learned from Mathew Clements Harris County Firearms Examiner, that the projectile is consistent with a 38 caliber.
Your affiant states that he reviewed a statement given by the neighbor of the complainants', Gregory Francisco, which states that he first noticed that the complainants' house was on fire about 6:30 a.m. and had not heard anything unusual coming from the direction of the house since he awoke that morning at approximately 5:30 a.m.
Your affiant state that he also spoke to a friend of Neilda Tirado, Angela Serna, who described her relationship with Neilda as being very close and confidential and she recalled Neilda Tirado telling her that [Neilda] considered the defendant "creepy" and does not believe the complaint was having any sort of affair with the defendant based on what she thought about him.

AGAINST THE PEACE AND DIGNITY OF THE STATE.

Sworn to and subscribed before me on July 5, 2001

/s/ C L Brown	/s/ Marcy McCorvey	13842100
Affiant	Assistant District Attorney of Harris County, Texas	BAR NO

COMPLAINT

Exhibit 23

CHARLES A. ROSENTHAL, JR.
DISTRICT ATTORNEY
HARRIS COUNTY, TEXAS

September 4, 2001

M. B. Thaler, Administrator
Uniform Detainer Act
P. O. Box 99
Huntsville, Texas 77342-0099

Attention: Judy Mancil, Detainer Coordinator

Re: Interstate Agreement on
Hermilio Herrero, Jr.
Inmate No. 70135-079

Dear Mr. Thaler:

Enclosed please find properly prepared Forms V, VI and VII for the return of the above referenced defendant in accordance with the provisions of the Interstate Agreement on Detainers. Also enclosed please find a copy of the Prosecutor's Certification as required by the Federal Bureau of Prisons.

Thank you for your assistance in this matter and should you have any questions, please call me at (713) 755-5814.

Sincerely,

BERT GRAHAM
First Assistant District Attorney
Harris County, Texas

BG:kb
Enclosure

AGREEMENT ON DETAINERS: FORM VI

IN QUADRUPLICATE. All copies, signed by the prosecutor and the agent should be sent to the Administrator of their own state. After signing all copies, the administrator should retain one for his files, and send one to the warden of the institution in which the prisoner is located and return two copies to the prosecutor who will give one to the agent for use in establishing his authority and place one in his files.

EVIDENCE OF AGENT'S AUTHORITY TO ACT FOR RECEIVING STATE

TO: M. B. Thaler, Uniform Detainer Act, P.O.Box 99, Huntsville, TX 77349
Administrator of the Agreement on Detainers

Hermilio Herrero, Jr., Inmate No. 70135-079
(inmate)
is confined in

Federal Correctional Institution (MED) P. O. Box 26045 Beaumont, Texas 77720-6045
(institution)

will be taken into custody at the institution on _____

for return to this jurisdiction for trial on or about December 3, 2001

in accordance with Article V(b), I have designated W. Hall (Sgt.)

C. Calvit, Detective (agent)

L. Reindl, Detective (agent)

R. Cejka, Detective (agent)

L. Jeanne Johnson, Det. (agent)

L. J. Wojasinski, Detective (agent)

C. W. Clifton, Detective (agent)

T. J. Carr, Detective (agent)

D.A. Schmidt (Sgt.)

whose signature(s) appear(s) above as agent(s) to return the prisoner.

(prosecuting official)
Assistant District Attorney
179th D.C.
Harris County, TX

TO: WARDEN

In accordance with the above representation and the provisions of the Agreement on Detainers, one of the above agents is hereby designated as agent for this state to return Hermilio Herrero, Jr., Inmate No. 70135-079 for trial.
(inmate)

Administrator

HCDA-08.12.2016-00569

AGREEMENT ON DETAINERS: FORM V

Five Copies. Signed copies must be sent to the prisoner and to the official who has the prisoner in custody. A copy should be sent to the Agreement Administrator of the state which has the prisoner incarcerated. Copies should be retained by the person filing the request and the judge who signs the request.

REQUEST FOR TEMPORARY CUSTODY

TO: Jonathan Dobre, Warden Federal Correctional Institution (MED)
(Warden, Superintendent, Director) (Institution)

P. O. Box 26045, Beaumont, Texas, 77720-6045
(address)

Please be advised that Hermilio Herrero, Jr., Inmate No. 70135-079 who is presently an inmate of your institution, is charged by indictment in the 179th D.C., Harris Co., TX (jurisdiction)
of which I am the Assistant District Attorney. Said inmate is therein
(title of prosecuting officer)
charged with the offense enumerated below:

Offense

Cause No. 881444; Murder

I propose to bring this person to trial on this indictment within the time specified in Article IV(c) of the Agreement.

In order that proceedings in this matter may be properly had, I hereby request temporary custody of such person pursuant to Article IV(a) of the Agreement on Detainers.

I hereby agree that immediately after trial is completed in this jurisdiction I will return the prisoner directly to you or allow any jurisdiction you have designated to take temporary custody. I agree also to complete Form IX, the Notice of Disposition of a Detainer, immediately after trial.

Signed _____
Title Assistant District Attorney
179th D.C.
Harris County, Texas

I hereby certify that the person whose signature appears above is an appropriate officer within the meaning of Article IV(a) and that the facts recited in this request for temporary custody are correct and that having duly recorded said request I hereby transmit it for action in accordance with its terms and the provisions of the Agreement of Detainers.

DATED: 8-3-01 SIGNED: _____
(Judge)
179th D.C.
Harris County, Texas

AGREEMENT ON DETAINERS: FORM VII

IMPORTANT: This form should only be used when an offer of temporary custody has been received as the result of a prisoner's request for disposition of a detainer. If the offer has been received because another prosecutor in your state has initiated the request, use Form VIII. Copies of Form VII should be sent to the warden, the prisoner, the other jurisdictions in your state listed in the offer of temporary custody, and the Agreement Administrator of the state which has the prisoner incarcerated. Copies should be retained by the person filing the acceptance and the judge who signs it.

PROSECUTOR'S ACCEPTANCE OF TEMPORARY CUSTODY OFFERED IN CONNECTION WITH A PRISONER'S REQUEST FOR DISPOSITION OF A DETAINER

TO: Jonathan Dobre, Warden (Warden, Superintendent, Director) Federal Correctional Institution (MED) (Institution)

P. O. Box 26045, Beamont, Texas; 77720-6045 (address)

In response to the defendant's request of _____ and offer of temporary custody regarding Hermilio Herrero, Inmate No. 70135-079 who is presently under an indictment in the 179th D.C., Harris County, Texas of which I am an Assistant District Attorney, please be advised that I accept temporary custody and that I propose to bring this person to trial named in the offer within the time specified in Article III(a) of the Agreement on Detainers.

I hereby agree that immediately after the trial is completed in this jurisdiction, I will return the prisoner directly to you or allow any jurisdiction you have designated to take temporary custody. I agree also to complete Form IX, Notice of Disposition of a Detainer, immediately after trial.

COMMENTS: (If your jurisdiction is the only one named in the offer of temporary custody use the space below to indicate when you would like to send your agents to conduct the prisoner to your jurisdiction. If the offer of temporary custody has been sent to other jurisdictions in your state, use the space below to make inquiry as to the order in which you will receive custody, or to indicate any arrangements you have made with other jurisdictions in your state in this regard.)

Signed: _____
Title: Assistant District Attorney

I hereby certify that the person whose signature appears above is an appropriate officer within the meaning of Article IV(a) and that the facts recited in this request for temporary custody are correct and that having duly recorded said request I hereby transmit it for action in accordance with its terms and the provisions of the Agreement on Detainers.

Signed: _____ (Judge)

DATED: 8-3-01

179th D.C.
Harris County, Texas
(Court)

U.S. DEPARTMENT OF JUSTICE
Federal Bureau of Prisons

PROSECUTOR'S CERTIFICATION

This is to certify that I, **BERT GRAHAM**, Title, **FIRST ASSISTANT DISTRICT ATTORNEY**, do hereby agree to the following conditions in connection with this request for custody of **HERMILIO HERRERO, JR.**
INMATE'S NAME

CERTIFICATIONS

a. Agree to provide inmate with the level of security required by Bureau of Prison's policy.
b. Agree to report to the Bureau of Prisons, any problems associated with said inmate, to include disciplinary problems, medical emergencies, suicide attempt, escape or attempted escape or any other problem arising during his/her confinement.
c. Agree not to release said inmate on bail or bond or to commit him to an institution for service of any sentence imposed in connection with our prosecution.
d. Agree to return said inmate to the federal institution from which he/she was obtained.
e. Agree to notify the local jail authority of the responsibility to return the inmate to federal custody.

As the Prosecuting Official for the state of Texas, I **BERT GRAHAM**, Title **FIRST ASSISTANT DISTRICT ATTORNEY**, hereby submit the following information in connection with my request for temporary custody of **HERMILIO HERRERO, JR.**, **70135-079**.
INMATE'S NAME
FEDERAL REGISTER NO.

INFORMATION

1. Name of jail facility where inmate will be confined during legal proceedings.
HARRIS COUNTY JAIL

2. Name and phone number of the jail administrator.
SHERIFF TOMMY THOMAS 713-755-6060

3. Scheduled date for trial.
DECEMBER 3, 2001

4. Projected date of return of the prisoner to federal custody
JANUARY 14, 2002

5. Name and phone number of the state agency and the specific name of agent(s) who will transport the inmate to your jurisdiction.
Harris Cty Jail/Sgt. W. Hall; C. Calvit; L. Peterson; L. J. Wojasinski; C. W. Clifton; T. J. Carr; Sgt. D. A. Schmidt; L. Reindle; R. Cejka
713-755-6060

6. Signature and Title of Prosecutor.
Bert Graham **FIRST ASSISTANT DISTRICT ATTORNEY**

Date
9/4/2001

Subscribed and sworn to before me this 4th day and month of September, 2001.

Signature of Notary Public

KIMBERLY DAWN BRYANT
Notary Public, State of Texas
My Commission Expires
FEBRUARY 23, 2002.

Date
9/4/01

Original – J & C File
Yellow – Central File

USP LVN

January 1989

EXHIBIT 24
UNDER SEAL

EXHIBIT 25
UNDER SEAL

Exhibit 26

THE STATE OF TEXAS
COUNTY OF HARRIS

A F F I D A V I T

BEFORE ME, the undersigned authority, personally appeared Brian L. Rose, who upon being duly sworn, deposed and stated as follows:

My name is Brian L. Rose, I am an attorney licensed to practice law in the State of Texas and I am currently employed as an Assistant District Attorney in Harris County, Texas.

I am writing this affidavit in response to a subpoena originally issued on December 16, 2013, by Mr. James Rytting, counsel for petitioner in *Ronald Jeffrey Prible v. William Stephens*, Civil Action No. 4:09-cv-1896, Southern District Of Texas. The subpoena requested the following information:

> All information related to any and all proceedings of the Harris County Grand Jury concerning the capital murder case against Ronald Jeffrey Prible and against Hermilo Herrero, including, but not limited to, information from Grand Jury proceedings in *State v. Prible*, cause number 921126, *Steve v. Prible* cause number 881365, *State v. Prible*, cause number 881366, *State v. Prible*, cause number 881367, and *State v. Herrero*, cause number 903122. This request encompasses but is not limited to information in State trial files, such as Grand Jury witness lists, summaries of testimony, whether handwritten, typed or stored electronically.

The subpoena was re-submitted to the District Attorney on August 25, 2015. In response to this subpoena, I contacted Harris County District Attorney's Office employee Javier Leal, who is employed as a court reporter. Mr. Leal has extensive experience in the Grand Jury Division and direct personal knowledge of the record retention practices and procedures of the Grand Jury Division. Mr. Leal checked all available logs of Grand Jury: (1) witnesses; (2) audiotapes; and (3) videotapes. He also reviewed the computer files of the court reporters and cross-referenced them with the logs. His review was a very detailed and extensive review of the Grand Jury records. Mr. Leal and

I discussed in extreme detail all his efforts and analyzed the records and the records search to ensure that all possible avenues for locating responsive information were fully investigated. No responsive information was discovered.

I have also personally reviewed the District Attorney files in question and did not locate any grand jury material. I have no knowledge of the existence of responsive grand jury material and do not believe any responsive material exists.

Brian L. Rose

SWORN TO AND SUBSCRIBED before me on this the 5th Day of December, 2016.

MARY E. MARTINEZ
Notary Public
STATE OF TEXAS
Commission Exp. DEC. 20, 2018

NOTARY PUBLIC
in and for Harris County, Texas

Exhibit 27

ALAN S. PERCELY
ATTORNEY AT LAW
1201 SOUTH SHEPHERD
HOUSTON, TEXAS 77019
(713) 526-6006
(713) 630-0553 FAX

November 12, 2001

Ms. Kelly Siegler
Assistant District Attorney
201 Fannin Street
Houston, Texas 77002

Re: NATHAN RAY FOREMAN

Dear Ms. Seigler,

As you are already aware, I am Mr. Nathan Foreman's attorney on federal and state criminal matters.

On Friday, November 9, 2001 I went to FCI Beaumont Middle and spoke in person with Mr. Foreman.

He told me that he has information that will lead you to the weapon that was used in the murder case that you are preparing to go to trial on in the near future. He tells me that he has other information relating to this case that will be of assistance to you.

Mr. Foreman has several matters that concern him. He wants the U.S. Attorney's office in Beaumont to aid him in getting out of prison soon. He wants to make sure that when he is released that the TDC will not come and get him because his 2 year sentence which is running concurrently with his federal sentence will be completed and therefore he would be entitled to a discharge. He also would like assurances of assistance from retaliation from the murderer, his family and friends.

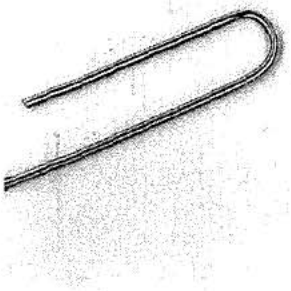
Miss Tracey Batson, Assistant U.S. Attorney in Beaumont, has previously indicated to me that she <u>does not</u> want Mr. Foreman to have to go to TDC after the federal authorities decide that it is time for him to be released.

I feel that the three of us can reach our respective goals so that all concerned will benefit and everyone will be satisfied with the outcome.

Please contact me at my office at your earliest convenience.

Very truly yours,

Alan S. Percely



Ms. Kelly Siegler
Assistant District Attorney
201 Fannin Street
Houston, TExas 77002

ALAN S. PERCELY
ATTORNEY AT LAW
1201 South Shepherd
Houston, Texas 77019

****
CH INQUIRY - ORIGINAL INQUIRY NOT SAVED**
++++++++++

ESPONSE IS THE RESULT OF YOUR
VIDUAL'S RECORD WILL BE
ED FROM THE FOLLOWING SOURCES:

ROM FILES WITHIN YOUR STATE.

****
****
CH INQUIRY - ORIGINAL INQUIRY NOT SAVED**
++++++++++

Med. BPT
Pc# 07831078

MBER IN YOUR REQUEST-466090JA8.
ADE AT ANY TIME, A NEW COPY
SEQUENT USE.
ON RECORD -

TION IS NEEDED, COMMUNICATE
THE DATA TO THE FBI.

BI NO.	DATE REQUESTED
66090JA8	2001/12/06

EYES	HAIR	BIRTH PLACE
BRO	BLK	TEXAS

	CITIZENSHIP
LS WU LS	UNITED STATES

LA0400000)

CLE
R 500

AL0470000)
MAN,NATHAN R

L0470000)

NOLLE PROSSED

ARRESTED OR RECEIVED 1999/01/20
AGENCY-DEA BEAUMONT (TXDEA2000)

****
** ***** ORIGINAL INQUIRY :-**CCH INQUIRY - ORIGINAL INQUIRY NOT SAVED**
++++++++++
++10:21:19+++++ REPLY :
12/06/01 10:21:53
FL01AUH 2W32
TX101015A
THIS INTERSTATE IDENTIFICATION INDEX RESPONSE IS THE RESULT OF YOUR
RECORD REQUEST FOR FBI/466090JA8. INDIVIDUAL'S RECORD WILL BE
COMPLETE WHEN ALL RESPONSES ARE RECEIVED FROM THE FOLLOWING SOURCES:
FBI - FBI/466090JA8

AN ADDITIONAL RECORD MAY BE OBTAINED FROM FILES WITHIN YOUR STATE.
END
****
****
** ***** ORIGINAL INQUIRY :-**CCH INQUIRY - ORIGINAL INQUIRY NOT SAVED**
++++++++++
++10:21:24+++++ REPLY :
12/06/01 10:21:55
4L01AUH 2W32
TX101015A
ATN/BONDS, JOHN L

FCI- Med. BPT
inmate # 07831078

THIS RECORD IS BASED ONLY ON THE FBI NUMBER IN YOUR REQUEST-466090JA8.
BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY
SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.
- FBI IDENTIFICATION RECORD -

WHEN EXPLANATION OF A CHARGE OR DISPOSITION IS NEEDED, COMMUNICATE
DIRECTLY WITH THE AGENCY THAT FURNISHED THE DATA TO THE FBI.

NAME	FBI NO.	DATE REQUESTED
FOREMAN,NATHAN RAY	[redacted]	2001/12/06

SEX	RACE	BIRTH DATE	HEIGHT	WEIGHT	EYES	HAIR	BIRTH PLACE
M	B	[redacted]	509	210	BRO	BLK	TEXAS

FINGERPRINT CLASS	PATTERN CLASS	CITIZENSHIP
07 69 13 18 12	RS LS RS RS RS AU RS LS WU LS	UNITED STATES
AA 67 13 CI 14	WU WU	

1-ARRESTED OR RECEIVED 1989/02/12
AGENCY-SHERIFF'S OFFICE ALEXANDRIA (LA0400000)
AGENCY CASE-4962
CHARGE 1-1CT FRAUD IN RENTING VEHICLE
CHARGE 2-1CT P0SS ST0LEN G00DS 0VER 500
CHARGE 3-1CT RESISTING AN 0FFICER

2-ARRESTED OR RECEIVED 1992/10/30
AGENCY-SHERIFF'S OFFICE HUNTSVILLE (AL0470000)
AGENCY CASE-14-3735 NAME USED-FOREMAN,NATHAN R
CHARGE 1-TRAFFICKING COCAINE

COURT-SHERIFF'S OFFICE HUNTSVILLE (AL0470000)
CHARGE-COCAINE SELL-TRAFFICKING
SENTENCE-
NOLLE PROSSED

3-ARRESTED OR RECEIVED 1999/01/20
AGENCY-DEA BEAUMONT (TXDEA2000)

CHARGE 1-POSS W/INTENT TO DIST A C/S

COURT-
CHARGE-DISTRIBUTION COCAINE
SENTENCE-
1/13/00 CONVICTED, 60 MONTHS PRISON, 36 MONTHS SPECIAL PAROLE

4-ARRESTED OR RECEIVED 1999/01/25
AGENCY-USM BEAUMONT (TXUSM0400)
CHARGE 1-COCAINE CNSP/PWID COCAINE,MARIJ,F/ARM DRG

5-ARRESTED OR RECEIVED 2000/02/28
AGENCY-FED CORR INST BEAUMONT (TX123057C)
AGENCY CASE-07831078
CHARGE 1-18:1952(A)31 TRAVEL IN INTERSTATE COMMERCE TO FURTHER
UNLAWFUL ACTIVITY DISTRIBUTION OF COCAINE

COURT-
CHARGE-18:1952(A)31 TRAVEL IN INTERSTATE COMMERCE TO FURTHER
UNLAWFUL ACTIVITY DISTRIBUTION OF COCAINE
SENTENCE-
60 MONTHS 3 YEARS SRT

ALL ARREST ENTRIES CONTAINED IN THIS FBI RECORD ARE BASED ON
FINGERPRINT COMPARISONS AND PERTAIN TO THE SAME INDIVIDUAL.

THE USE OF THIS RECORD IS REGULATED BY LAW. IT IS PROVIDED FOR
OFFICIAL USE ONLY AND MAY BE USED ONLY FOR THE PURPOSE REQUESTED.

END OF RECORD
****
****
** ***** ORIGINAL INQUIRY :-**CCH INQUIRY - ORIGINAL INQUIRY NOT SAVED**
++
++10:21:29+++++ REPLY :
12/06/01 10:21:52 NL01AUH 2W32.QR.TX101015A
PUR/C
ATN/BONDS, JOHN L
PART 1
THE FOLLOWING RECORD PERTAINS TO
FBI/[redacted]
SID/[redacted]

BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY
SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

WHEN EXPLANATION OF A CHARGE OR DISPOSITION IS NEEDED, COMMUNICATE
DIRECTLY WITH THE AGENCY THAT CONTRIBUTED THE FINGERPRINTS.

TEXAS DEPARTMENT OF PUBLIC SAFETY CRIMINAL HISTORY RECORD
ADDITIONAL INFORMATION AVAILABLE FROM CORRECTION TRACKING SYSTEM (CTS)

NAME	SID NO	FBI NO	SOC
FOREMAN,NATHAN RAY	[redacted]	[redacted]	[redacted]

DOB	SEX	RACE	SKN	POB	CITZ	HGT	WGT	EYE	HAIR
[redacted]	M	B	LBR	TX	US	5-10	250	HAZ	BLK

DL NO [redacted] STATE TX ID NO III M/S

NCIC FINGERPRINT
07 68 13 19 13
AA 68 15 CI 16

HENRY FINGERPRINT
7 1 R OOO 13 LML
A 2 R OOI LLC

AFIS FINGERPRINT

IDENTIFICATION COMMENTS

ADDITIONAL IDENTIFIERS

AKA	DOB	MNU	SOC	SMT
			[redacted]	SC RF ARM
				SC FHD
				TAT CHEST
				TAT ABDOM
				TAT RF ARM
				TAT LF ARM

DATE OF REPORT 12/06/2001 DATE OF ORIGINATION 07/29/1988 DATE OF LAST UPDATE 04/28/2000

TRACKING INCIDENT NO: ARREST DATE: 04-26-1988 A
ARREST NAME:

** ARREST **
AGENCY: TXHPD0000 HOUSTON PD
AGENCY CASE NO: AGENCY ARREST NO: 536272
*TRS: *001 LEVEL:
CHARGE:
CARRYING PROHIBITED-(SPECIFY WEAPON)
DESCRIPTOR: CARRYING A WEAPON
DISPOSITION: DISPOSITION DATE:

TRACKING INCIDENT NO: ARREST DATE: 05-15-1988 A
ARREST NAME:

** ARREST **
AGENCY: TXHPD0000 HOUSTON PD
AGENCY CASE NO: AGENCY ARREST NO: 536272
*TRS: *001 LEVEL:
CHARGE:
CARRYING PROHIBITED-(SPECIFY WEAPON)
DESCRIPTOR: PROHIBITED WEAPON
DISPOSITION: DISPOSITION DATE:

TRACKING INCIDENT NO: 9000438551 ARREST DATE: 07-01-1993 A
ARREST NAME: FOREMAN,NATHAN RAY

** ARREST **
AGENCY: TXHPD0000 HOUSTON PD
AGENCY CASE NO: 69185193G AGENCY ARREST NO: 536272
*TRS: A001 LEVEL: FELONY 3
CHARGE:
MAN/DEL SIM CS REPRESENT SUB TO BE A CS 482.002(a)(1) HSC
DESCRIPTOR:
DISPOSITION: TOT COUNTY DISPOSITION DATE: 07-04-1993
REFERRED TO: TX101015A HOUSTON DA

** JUDICIAL **
*TRS: A001 LEVEL: FELONY 3 PROSECUTOR ACTION: ACCEPTED THE CHARGE
*PROS TX101015A HOUSTON DA
CHARGE:
MAN/DEL SIM CS REPRESENT SUB TO BE A CS 482.002(a)(1) HSC
DESCRIPTOR:
*COURT: TX101195J 177TH DISTRICT COURT PLEA: GUILTY
CHARGE:
MAN/DEL SIM CS REPRESENT SUB TO BE A CS 482.002(a)(1) HSC
DESCRIPTOR: LEVEL: FELONY 3
CAUSE: 066835401010 DISPOSITION: DEFERRED DISPOSITION
DISPOSITION DATE: 03-01-1994 SENTENCE DATE: 03-01-1994
SENTENCE CONF: PROB: 10Y SUSP TIME:
FINE: $1000 SUSP FINE: CT COST:
COURT PROVISION: DEFERRED ADJUDICATION

AGENCY RECEIVING CUSTODY: APO
DATE OF APPEAL: APPEAL DISPOSITION:
RESULT OF APPEAL:
** JUDICIAL **
*TRS: A001
*COURT: TX101195J 177TH DISTRICT COURT PLEA:
CHARGE:
MAN/DEL SIM CS REPRESENT SUB TO BE A CS 482.002(a)(1) HSC
DESCRIPTOR: LEVEL: FELONY 3
CAUSE: 066835401010 DISPOSITION: CONVICTED
DISPOSITION DATE: 01-14-2000 SENTENCE DATE: 01-14-2000 CONCURRENT
SENTENCE CONF: 2Y PROB: SUSP TIME:
FINE: $1000 SUSP FINE: CT COST:
COURT PROVISION: APPEAL

AGENCY RECEIVING CUSTODY: TX236065C
DATE OF APPEAL: 01-14-2000 APPEAL DISPOSITION: BAIL/RELEASED ON OWN RECOGN
RESULT OF APPEAL:
** JUDICIAL **
*TRS: A001
*COURT: TX101195J 177TH DISTRICT COURT PLEA:
CHARGE:
MAN/DEL SIM CS REPRESENT SUB TO BE A CS 482.002(a)(1) HSC
DESCRIPTOR: LEVEL: FELONY 3
CAUSE: 066835401010 DISPOSITION: CONVICTED
DISPOSITION DATE: 01-14-2000 SENTENCE DATE: 04-27-2000 CONCURRENT
SENTENCE CONF: 2Y PROB: SUSP TIME:
FINE: $1000 SUSP FINE: CT COST:
COURT PROVISION: APPEAL

AGENCY RECEIVING CUSTODY: TX236065C
DATE OF APPEAL: 01-14-2000 APPEAL DISPOSITION: DISPOSITION UNKNOWN
RESULT OF APPEAL:

TRACKING INCIDENT NO: 9002012454 ARREST DATE: 09-11-1995 A
ARREST NAME: FOREMAN,NATHAN RAY

** ARREST **
AGENCY: TX1010000 HOUSTON SO HARRIS CO
AGENCY CASE NO: 9509111466 AGENCY ARREST NO:
*TRS: A001 LEVEL: MSDMNR A
CHARGE:
ASSLT CAUSES BODILY INJ 22.01(a)(1) PC
DESCRIPTOR:

DISPOSITION: BAIL/ROR DISPOSITION DATE: 09-12-1995
REFERRED TO: TX101015A HOUSTON DA
** JUDICIAL **
*TRS: A001 LEVEL: MSDMNR A PROSECUTOR ACTION: ACCEPTED THE CHARGE
*PROS TX101015A HOUSTON DA
CHARGE:
ASSLT CAUSES BODILY INJ 22.01(a)(1) PC
DESCRIPTOR:
*COURT: TX101373J HARRIS CO CRIM CRT #7 PLEA: GUILTY
CHARGE:
ASSLT CAUSES BODILY INJ 22.01(a)(1) PC
DESCRIPTOR: LEVEL: MSDMNR A
CAUSE: 953885001010 DISPOSITION: CONVICTED
DISPOSITION DATE: 11-21-1995 SENTENCE DATE: 11-21-1995 CONCURRENT
SENTENCE CONF: 4D PROB: SUSP TIME:
FINE: SUSP FINE: CT COST: $202
COURT PROVISION:

AGENCY RECEIVING CUSTODY: TX1010000
DATE OF APPEAL: APPEAL DISPOSITION:
RESULT OF APPEAL:

TRACKING INCIDENT NO: 9010948064 ARREST DATE: 01-20-1999 A
ARREST NAME: FOREMAN,NATHAN RAY

** ARREST **
AGENCY: TX1230000 BEAUMONT SO JEFFERSON CO
AGENCY CASE NO: B99424 AGENCY ARREST NO: 00116072
*TRS: A001 LEVEL: FELONY 2
CHARGE:
POSS MARIJ <= 2,000LBS > 50LBS 481.121(b)(5) HSC
DESCRIPTOR:
DISPOSITION: HELD DISPOSITION DATE: 01-21-1999
REFERRED TO: TX123015A BEAUMONT DA

UNAUTHORIZED USE OR DISCLOSURE OF THE INFORMATION CONTAINED IN THIS RECORD
MAY RESULT IN SEVERE CRIMINAL PENALTIES.
SEE SECTION 411.085, TEXAS GOVERNMENT CODE.
END OF PART 1

CRIME RECORDS SERVICE DPS AUSTIN TX 12/06/2001
END OF RECORD

****

```
**********************************************************************
**10:17:28***** ORIGINAL INQUIRY :-TIC.RQW-X.TX101015A.NAM/FOREMAN, NATHAN RAY.
RAC/B.SEX/M.DOB/101165
++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++
++10:17:32+++++ REPLY :
12/06/01   10:18:06  NL01AUH 0397.NO RECORD TCIC
NAM/FOREMAN,N
**********************************************************************
 =N  00800353                                              **NQY3(LNQY)** PG 1
 LINE              NAME                PTY RAC SEX DOB   JAIL W/W CIN     SPN & CLS
      FOREMAN, NATHAN RAY                D   B   M [redacted]  H   Y       [redacted]
      FOREMAN, NATHAN RAY                D   B   M [redacted]  H   Y       [redacted]
      FOREMAN, NATHAN RAY                D   B   M [redacted]  H   Y       [redacted]
      FOREMAN, NATHAN RAY                D   B   M [redacted]  H   Y       [redacted]
      FOREMAN, NATHAN RAY                D   B   M [redacted]  H   Y       [redacted]
 TO SEE MORE ALIAS NAMES USE THE ALIAS NAME INQUIRY
 LAST ADDRESS: [redacted]                                          PHONE: [redacted]
 HT: 511 WT: 240 EYE: BRO HAI: BLK SKN: MBR BLD: HEV SMT: TT/CHEST  SON: 0447822

 *****                          CASE INFORMATION                          *****
 LN  CDI  CASE NUMBER  CRT CON FIL-DT OFFENSE    NXT-ST S CST  INS DISPOSITION
 01  002 953885001010 007 DEF 091195 ASSAULT    112195 D  C   MIN DISP-112195
 02  001 JC1100786451 011 DEF 020394 OTHER MISD        N  A   WAR
 03  003 057071501010 177 PIP 072890 AUTO THEFT 042294 D  C   MAJ DISP-042294
 04  003 066835301010 177 PIP 070193 DRUG S/M   042294 D  C   FID DISP-042294
 05  003 066835501010 177 PIP 070193 DRUG S/M   061394 D  D   FID DISM-061394
 06  003 066835601010 177 PIP 070193 DRUG S/M   052094 D  D   FID DISM-052094
 07  003 066835401010 177 DEF 070193 DRUG S/M   011400 B  C   APP DISP-011400
 08  003 058946901010 180 DEF 021991 OTHER FEL  060892 D  D   FID DISM-012792
 TO SEE NEXT PAGE PRESS ENTER. CLEAR TO TERMINATE.                PF5-97=WIQS
 PF6=LBKI PF9=LPER PF11=LAPI **LINE NO => ENTER=LQY6 PF1=BFS70 PF2=AP01 PF4=LDIS
 PF5=LCDP PF7=LQY8 PF8=LQY9 PF10=LATT PF5-99=PTSM (LN + X PF5=CSR30 OR PF8=LDSP)
**********************************************************************
**10:17:28***** ORIGINAL INQUIRY :-TIC.RQW-X.TX101015A.NAM/FOREMAN, NATHAN RAY.
RAC/B.SEX/M.DOB/101165
++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++
++10:17:33+++++ REPLY :
12/06/01   10:18:08  1L01AUH 0397
TX101015A

NO NCIC WANT NAM/FOREMAN, NATHAN RAY DOB/[redacted] RAC/B SEX/M
**********************************************************************
 =N  00800353                                              **NQY3(LNQY)** PG 2
 LINE              NAME                PTY RAC SEX DOB   JAIL W/W CIN     SPN & CLS
      FOREMAN, NATHAN RAY                D   B   M [redacted]  H   Y       00800353994
 *****                          CASE INFORMATION                          *****
 LN  CDI  CASE NUMBER  CRT CON FIL-DT OFFENSE    NXT-ST S CST  INS DISPOSITION
 01  001 JC1100536854 011 DEF 110486 TRAFFIC           D  C   WAR AUTO-081093
 02  001 JC4200646996 042 DEF 113088 TRAFFIC           D  C   WAR AUTO-081093
 03  001 JC4200693925 042 DEF 060690 TRAFFIC           D  C   WAR AUTO-081093
 04  001 JC4200697198 042 DEF 060609 TRAFFIC           D  C   WAR AUTO-081093
 05  001 JC4200693926 042 DEF 060690 TRAFFIC           D  C   WAR AUTO-081093
 06  001 JC4200697199 042 DEF 060690 TRAFFIC           D  C   WAR AUTO-081093
 07  001 JC4200643545 042 DEF 113088 TRAFFIC           D  C   TRF AUTO-081093
 08  001 JC4200643546 042 DEF 113088 TRAFFIC           D  C   TRF AUTO-081093
 09  001 JC4200643547 042 DEF 113088 TRAFFIC           D  C   TRF AUTO-081093
 10  001 JC4200646994 042 DEF 113088 TRAFFIC           D  C   TRF AUTO-081093
 11  001 JC4200646995 042 DEF 113088 TRAFFIC           N  A   TRF
 12  003 050141101010 228 DEF 051588 OTHER FEL  062388 D  D   FID DISM-062388
 13  002 881511001010 007 DEF 042788 OTHER MISD 081988 D  C   MIN DISP-081988
```

```
14  001 JC3100193404 031 DEF 072586 TRAFFIC          D  C   TRF AUTO-081093
15  001 JC3100193405 031 DEF 072586 TRAFFIC          D  C   TRF AUTO-081093
16  001 JC3100194587 031 DEF 072586 TRAFFIC          D  C   TRF AUTO-081093
TO SEE NEXT PAGE PRESS ENTER. CLEAR TO TERMINATE.                PF5-97=WIQS
PF6=LBKI PF9=LPER PF11=LAPI **LINE NO => ENTER=LQY6 PF1=BFS70 PF2=AP01 PF4=LDIS
PF5=LCDP PF7=LQY8 PF8=LQY9 PF10=LATT PF5-99=PTSM (LN + X PF5=CSR30 OR PF8=LDSP)
=N  00800353                                          **NQY3(LNQY)** PG 3
LINE              NAME              PTY RAC SEX DOB  JAIL W/W CIN    SPN & CLS
     FOREMAN, NATHAN RAY             D   B   M 101165  H   Y       00800353994
*****                          CASE INFORMATION                          *****
LN  CDI  CASE NUMBER CRT CON FIL-DT OFFENSE    NXT-ST S CST  INS DISPOSITION
01  001 JC3100193256 031 DEF 071886 TRAFFIC          D  C   TRF AUTO-081093
02  001 JC3100193257 031 DEF 071886 TRAFFIC          D  C   TRF AUTO-081093
03  001 JC3100194069 031 DEF 071886 TRAFFIC          D  C   TRF AUTO-081093
```

```
 -END OF DISPLAY-  HIT CLEAR TO TERMINATE.                       PF5-97=WIQS
 PF6=LBKI PF9=LPER PF11=LAPI **LINE NO => ENTER=LQY6 PF1=BFS70 PF2=AP01 PF4=LDIS
 PF5=LCDP PF7=LQY8 PF8=LQY9 PF10=LATT PF5-99=PTSM (LN + X PF5=CSR30 OR PF8=LDSP)
**********************************************************************
**      ***** ORIGINAL INQUIRY :-**CCH INQUIRY - ORIGINAL INQUIRY NOT SAVED**
++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++++
++10:17:43+++++ REPLY :
12/06/01   10:18:14  NL01AUH 2W32.QH.TX101015A
NAM/FOREMAN, NATHAN RAY.SEX/M.RAC/B.DOB/1[redacted]
PUR/C
REQ/BONDS, JOHN L.OPR/BONDS, JOHN L

**TEXAS ID SUMMARY**

TEXAS DEPARTMENT OF PUBLIC SAFETY COMPUTERIZED CRIMINAL HISTORY SUMMARY

ADDITIONAL INFORMATION AVAILABLE FROM CORRECTION TRACKING SYSTEM(CTS)
SID/[redacted]
FBI/[redacted]
NAM/FOREMAN,NATHAN RAY
SOC/[redacted] DOB/1[redacted] SEX/M RACE/B ETH/  SKN/LBR POB/TX CITZ/US
HGT/510 WGT/250 EYE/HAZ HAIR/BLK DL/[redacted]  DL STATE/TX
ID/                          ID STATE/   III/M/S
NCIC 0768131913 HENRY  7    1 R    OOO 13  LML              AFIS
FPC/ AA6815CI16 FPC/     A  2 R    OOI     LLC              FPC/
IDENTIFICATION COMMENTS -

** ADDITIONAL IDENTIFIERS **
                                                SOC/[redacted] SMT/SC RF ARM
                                                   SMT/SC FHD
                                                   SMT/TAT CHEST
                                                   SMT/TAT ABDOM
                                                   SMT/TAT RF ARM
```

SMT/TAT LF ARM

DATE OF REPORT/12-06-2001

** ARREST SUMMARY **
TOTAL ARRESTS/ 5

CHARGES	CONVICTIONS OR COURT ORDERED PROBATIONS	OFFENSE CATEGORY
1	1	ASSAULT
2	2	DANGEROUS DRUGS
2	0	WEAPON OFFENSES

LAST ARREST STATUS (INCLUDED ABOVE)
01-20-1999 TX1230000 BEAUMONT SO JEFFERSON CO
DANGEROUS DRUGS

** LAST CUSTODY SUMMARY (DOES NOT NECESSARILY REFLECT CUSTODY OF LAST ARREST.)
AGENCY/ NO/
CO. OF COMMIT/ START/ EXPIRE/
STATUS DESCRIPTOR/

RECEIVING AGENCY/ UNTIL DATE/

** THIS IS SUMMARY DATA ONLY. FOR COMPLETE HISTORY, REQUEST A FULL RAP (QR)

END

CRIME RECORDS SERVICE DPS AUSTIN TX 12/06/2001
****

****
** ***** ORIGINAL INQUIRY :-**CCH INQUIRY - ORIGINAL INQUIRY NOT SAVED**
++++++++++
++10:18:02+++++ REPLY :
12/06/01 10:18:37
7L01AUH 2W32
TX101015A
THIS NCIC INTERSTATE IDENTIFICATION INDEX RESPONSE IS THE RESULT OF YOUR
INQUIRY ON NAM/FOREMAN,NATHAN RAY SEX/M RAC/B DOB/[redacted] PUR/C

NAME	FBI NO.	INQUIRY DATE
FOREMAN,NATHAN RAY	[redacted]	2001/12/06

SEX	RACE	BIRTH DATE	HEIGHT	WEIGHT	EYES	HAIR	BIRTH PLACE	PHOTO
M	B	[redacted]	509	210	BRO	BLK	TEXAS	N

FINGERPRINT CLASS	PATTERN CLASS
07 69 13 18 12	RS LS RS RS RS AU RS LS WU LS
AA 67 13 CI 14	WU WU

ALIAS NAMES
FOREMAN,BO FOREMAN,NATHAN R

SCARS-MARKS-
TATTOOS SOCIAL SECURITY
SC FHD [redacted]
SC R ARM
SC RF ARM
TAT ABDOM
TAT BACK
TAT CHEST
TAT L ARM
TAT LF ARM
TAT R ARM
TAT RF ARM

IDENTIFICATION DATA UPDATED 2001/07/23

THE CRIMINAL HISTORY RECORD IS MAINTAINED AND AVAILABLE FROM THE
FOLLOWING:
TEXAS - STATE ID/[redacted]
FBI - FBI/[redacted]

THE RECORD(S) CAN BE OBTAINED THROUGH THE INTERSTATE IDENTIFICATION
INDEX BY USING THE APPROPRIATE NCIC TRANSACTION.

END
****

****
** ***** ORIGINAL INQUIRY :-**CCH INQUIRY - ORIGINAL INQUIRY NOT SAVED**
++++++++++
++10:19:07+++++ REPLY :
12/06/01 10:19:42 NL01AUH 2W32.NO RECORD TCIC
QR.TX101015A.FBI,[redacted]8.PUR/C.ATN/BONDS, JOHN L
****
****
** ***** ORIGINAL INQUIRY :-**CCH INQUIRY - ORIGINAL INQUIRY NOT SAVED**
++++++++++
++10:19:08+++++ REPLY :
12/06/01 10:19:42
JL01AUH 2W32
TX101015A
REJECT QR.FBI/446090JA8.PUR/C.ATN/BONDS, JOHN L.
FOR THE FOLLOWING REASON(S)
FIELD ERROR FBI
END
****

Exhibit 28

CHARLES A. ROSENTHAL, JR.
DISTRICT ATTORNEY
HARRIS COUNTY, TEXAS
1201 Franklin, Suite 600, Houston, TX 77002

FAX COVER SHEET

TO: F.C.I. MEDIUM

ATTENTION: LT. ROBERT L. CLARK

FAX NUMBER: 1-409-720-5003

FROM: JOHNNY BONDS

TELEPHONE: 1-713-755-6178

FAX NUMBER: 1-713-755-8818

NUMBER OF PAGES (including cover sheet): 2

Date and Time Sent: November 20, 2001 12:05 PM

Remarks:

VISITATION REQUEST LETTER, PLEASE CALL ME IF THERE ARE ANY CHANGES. THANKS.

CONFIDENTIALITY NOTICE

If you have received this facsimile transmission in error, please note these documents may contain confidential information that cannot be disclosed without violating the criminal provisions of the Texas Open Records Act or Texas Penal Code 39.03. If you have received these documents in error, please call the sender at the number listed below to arrange for the return of the documents.

If you have requested this office to issue a grand jury subpoena, please note the following:

We have prepared the subpoena and sent it to the person/company that you needed records from. This is a copy of the subpoena for your records.

It is a violation of Art. 20.02 of the Texas Code of Criminal Procedure to divulge to any person, other than the prosecuting attorney, the grand jury, or another law enforcement agency that is assisting in this investigation, the content of any records or information that is gathered from this subpoena. Any persons violating this stature are subject to being held in contempt of court.

If there are any problems receiving this transmission please call: 1-713-755-6178

CHARLES A. ROSENTHAL, JR.
DISTRICT ATTORNEY
HARRIS COUNTY, TEXAS

November 20, 2001

Lt. Robert Clark
FCC Beaumont
Medium Security Institution

Dear Lt. Clark:

I am respectfully requesting that you permit Assistant District Attorney Kelly Siegler and Harris County District Attorney's Investigator Johnny Bonds to your facility to interview an inmate by the name of Nathan Ray Foreman on December 10, 2001. His identifiers are as follows: black male, born October 11, 1965 with inmate number 7831078. It is our understanding that inmate Foreman has information regarding a Capital Murder currently pending in Harris County, Texas. Thank you for your time and assistance. Please feel free to call me if you have any questions.

Respectfully,

Ted Wilson
Assistant District Attorney
Chief, Special Crimes
Harris County, Texas

FDI-# [redacted]
SID# [redacted]
SPN# [redacted]

****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	3622
CONNECTION TEL	3p14097205003p206360
SUBADDRESS	
CONNECTION ID	
ST. TIME	11/20 12:09
USAGE T	02'19
PGS. SENT	2
RESULT	OK

Exhibit 29

CHARLES A. ROSENTHAL, JR.
DISTRICT ATTORNEY
HARRIS COUNTY, TEXAS
1201 Franklin, Suite 600, Houston, TX 77002

FAX COVER SHEET

TO: F. C. I. MEDIUM

ATTENTION: LT. ROBERT L. CLARK

FAX NUMBER: 1-409-720-5003

FROM: JOHNNY BONDS

TELEPHONE: 1-713-755-6178

FAX NUMBER: 1-713-755-8818

NUMBER OF PAGES (including cover sheet): 2

Date and Time Sent: November 26, 2001 1:32 PM

Remarks:

ANOTHER VISITATION REQUEST LETTER, WE ARE SUPPOSED TO BE AT YOUR UNIT AROUND 11 AM ON 12-10-01 TO SEE INMATE FOREMAN, WE ALSO NEED TO SEE INMATE BECKOM AFTER WE TALK TO FOREMAN, SEE ATTACHED LETTER. IF THERE IS A PROBLEM, PLEASE CALL ME. THANKS.

CONFIDENTIALITY NOTICE

If you have received this facsimile transmission in error, please note these documents may contain confidential information that cannot be disclosed without violating the criminal provisions of the Texas Open Records Act or Texas Penal Code 39.03. If you have received these documents in error, please call the sender at the number listed below to arrange for the return of the documents.

If you have requested this office to issue a grand jury subpoena, please note the following:

We have prepared the subpoena and sent it to the person/company that you needed records from. This is a copy of the subpoena for your records.

It is a violation of Art. 20.02 of the Texas Code of Criminal Procedure to divulge to any person, other than the prosecuting attorney, the grand jury, or another law enforcement agency that is assisting in this investigation, the content of any records or information that is gathered from this subpoena. Any persons violating this stature are subject to being held in contempt of court.

If there are any problems receiving this transmission please call: 1-713-755-6178

CHARLES A. ROSENTHAL, JR.
DISTRICT ATTORNEY
HARRIS COUNTY, TEXAS

November 26, 2001

Lt. Robert Clark
FCC Beaumont
Medium Security Institution

Dear Lt. Clark:

I am respectfully requesting that you permit Assistant District Attorney Kelly Siegler and Harris County District Attorney's Investigator Johnny Bonds to ~~your facility to interview~~ an inmate by the name of Michael Beckom on December 10, 2001. His identifiers are as follows: white male, born October ~~5, 1961 with inmate~~ number 49349-079. It is our understanding that inmate Beckom has information regarding a Capital Murder currently pending in Harris County, Texas. Thank you for your time and assistance. Please feel free to call me if you have any questions.

Respectfully,

Ted Wilson
Assistant District Attorney
Chief, Special Crimes
Harris County, Texas

FBI #
[redacted]
SID - TX0 [redacted]

1201 Franklin Street, Suite 600, Houston, Texas 77002-1923

HCDA-08.12.2016-01723

****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	3657
CONNECTION TEL	3p14097205003p206360
SUBADDRESS	
CONNECTION ID	
ST. TIME	11/26 16:47
USAGE T	00'46
PGS. SENT	2
RESULT	OK

Exhibit 30

12-10-01.
JLB.

I had learned of Pible through my exercise partner Bobby Williams, Pible would approach us during our workout occasionally and pull Bobby off to the side.

Some months later around late Oct. or early Nov., Pible approached myself and Nathan Foreman while we were on the rec. yard sitting on some bleachers. Pible and I began talking casually and then realized that we both worked in the same industry at competing businesses. I ran Gold's Gym, he ran a World's Gym. We both knew some of the same people from that industry and traveled in some of the same circles.

At one point Pible said that he had a state case and that he had heard that I fought the same charge at one time. I asked him if he had a Capital charge and he said, "I thought you knew". I had heard something to the effect, but didn't really know who it was. He then starts to ask me some questions about the things I went through during my capital case. I asked him what evidence they had on him and he said, "nothing". Then he said the only thing they have on him is some DNA from the girl, but that everyone knew he was messing around with her. He said that the police were looking for a .38 that he had, that they believe is the murder weapon, but that gun he had sold and his father had already gotten the gun back from the girl he sold it to, and

that it was clean.

We moved off the subject of the murder at one point and went back to general conversation. He told me about how he knew Bobby Williams. Pribble told me that he had been married to Melanie Garrison and once divorced from her, she then married Bobby. He told me about a custody battle over his son with Bobby and Melanie, and at one point said, "Bobby doesn't know how close he came to getting whacked several times over my son"! He told me he was a "bad actor" and that Bobby was a pretty big guy, so he thought he would have to handle it.

After this, it became a daily occurence that Pribble would wait for Foreman and myself to come outside so we could talk. He started to become very attached to us. We began to talk about a business he had been involved in, the asphalt business. I knew a little about this industry, so we started to make some plans to go into business together on the outside. He told us about all the money he had made, all cash money. About taking this topless dancer, Shay, to Vegas and blowing $100,000.

I asked him what he was in the Feds. for, he told me bank robbery. At one point he told us about a bank he hit on the Northwest Frwy. He said that he was on his way to an appointment at a dental

NO

clinic, 77-SMILES, and that just before the dentist office there was a bank. He decided, "fuck it", so he pulls in to the bank, goes in and robs it, then he just drives around to the otherside of the center or parking lot, changes shirts and goes in to the dentist. The way he's telling us this story is comical, so were laughing along with him. Since he and I were in Sales, he says, "Rock, this guy was a salesman"! He said the dentist had pitched him a new set of teeth, possibly implants, for about $2,000. He said, "Man I was going for it, I had the money in my pocket from the bank". But then his cell phone rang and his friend talked him out of it because they were going out clubbing that night, and he told Pribble his teeth would look all fucked up. So Pribble told the dentist to hold off and he left. He said later that an investigator Brown was pressing him to cop-out to that bank saying he knew that Pribble did it, and that he had escaped through the trees that bordered the bank. He had us laughing because he was in the dentist chair right next door.

NO

Our conversations went back and forth between the asphalt business and the murder case. He began making a list of equipment we would need for the business, some of the advertisement ideas he had, how much money we were going to make. He told us

NO

a story about doing a job at the club
told Bills on Kuykendahl for the then club
manager Michael Barnes, a black guy. I
realized that I knew who Barnes was, I
had met him years ago through a friend of
mine. He was explaining how he would
approach a potential customer and sell them
on some paving for their parking lot. Once
Barnes saw how good it looked, he told
Pribble to do the lot, not realizing how fast
the dollars add up at a rate per sq. foot.
Once finished, Pribble told Barnes that the
bill came to some $35,000 and that Barnes
almost shit. Barnes said he wasn't authorized
to spend that kind of money. Pribble kept
pressing him for his money, and at one
point Barnes went into the club and
locked himself in.

NO

Pribble left that day, but returned another
day with his gun to either get his money
or kill Barnes, but upon arriving at the
club, either the police or some security told
him he would have to leave the property.

At first, when talking about the murder
case, Pribble was taking a position of innocence.
He said that Steve Herrera was his best
friend. He said that he had been screwing
Nelda, that she and Steve had an open
relationship. He said that he had admitted
to being at Steve's house that day, but
that Steve had driven him home, and that
he had a witness who saw him being
dropped off. I later found out that this

witness was a then 12 or 13yr. old neighbor who had gotten up to use the restroom. But then a question came to my mind: "If Steve took Pible home from his house that night, when did he have time to have sex with Nelda?" that's when I began to realize that he was guilty and from then on began to press him about the murder.

Foreman and I began to encourage Pible to be honest with us, if we were going to do business together there couldn't be any lying to one another. I could tell he was struggling with opening up, but I could tell that he wanted to. We told him that we had to be sure that we could trust him, that he was down with us. He would then tell us about some of his military training, that he knows things that nobody knows.

Once when I was walking the track with him, he said," Rock, I'm not a sane man. Your deepest darkest reaches of your worst nightmare doesn't come close to me, to what I'm capable of. He then said," If you tell me, Jeff, I've got a problem with this person, or these people, by 10:00 o'clock tomorrow night you can be having dinner with your family at a restaurant and your problem is solved, it will go away.

He asked me on several occasions what I thought the prosecution was going to do, how long I thought this would take to play out.

I told him his biggest problem was the DNA. He would just say that everybody knew he and Melda were messing around, but with less and less conviction in his voice. So I began to pry a little more. I told him that alot depended on the perception of the crime scene when the police arrived. I said that if they were found tied up and shot in the same room that it would look like a hit, or a robbery. But that if they were in different rooms and there wasn't any forced entry, it would be obvious that it was someone they knew. At this point I quit speaking to him in terms of his innocence. I plainly said where did you leave them, where were they found. He said that Steve was shot in the pool room in the garage and that Melda was face down on the couch, shot in the back of the head, and that she was partially clothed. I asked how the kids died, he said from smoke inhalation. I didn't press any further at this point, but now I knew that he would reveal more in the days to come.

Over the next few weeks, Foreman and I didn't bring up the murder case, or mention it unless Pribble made mention of it. During this time Pribble told us that he loved us as brothers and trusted us. He said that he has told us things that only he & God know. So I asked how he got in & out without being seen or

heard. At this time all he said was it was, "A high-intensity, low drag maneuver". I asked him if he was sure that they didn't have any other evidence and he said, "Trust me". He told Foreman and me that he was trusting us with his life. He did mention at one point that a detective was telling him that they found blood on his shoe but that it turned out to be ketchup. He said that Steve screwed him out of some money and that he went and handled his business. He and Steve argued in the pool room in the garage, he then shot Steve. Nelda had run into the other room to call the police during this. He shot her on the couch. The only thing he didn't say, and seemed afraid to say to us for fear of us losing respect for him, was whether he has sex with her before or after he shot her. He then set fire to the house. I asked him again how he got in and out without notice and he said, "Anybody that can go in a house, take out a whole family and get out clean, is a bad muthafucker. I'm that kind of muthafucker".

Pribble did say that one thing the prosecution is using against him is his Service Record Book, he called it his SRB. He's really into his military training. I asked what was in his SRB and he said, "You could only imagine". He gave me the impression that it contained highly secret

and sensitive information such as secret operations and kills. He said, "You know those things that you suspect the government could be into, I've done those things for them".

Nov. 24th. I've made note of this date because he finally came out with the rest of the story.

Todd Depolis came up again. He had mentioned him ~~that~~ previously as an FBI friend of his, as well as a man named Efram Gutierrez, who he said was DEA, but has been fired. Pibb and I were sitting outside and he asked me if I know what Black Ops were, I said yes. He said, "I trust you Rick".

He then told me that he had done many secret missions for the government. He said, "I've gone to other countries and maimed, killed, and mutilated people to look like some other cartel had done it. I did this for my country. things we're not supposed to know about".

He told me about a time when he did Depolis a favor of giving him three grid co-ordinates to the location of a couple thousand marijuana plants. He says the field was then extracted, he received $20,000 cash from Depolis and purchased his first pick-up truck in Houston. He mentioned his SRB again. So I asked him again what was in this book and he said, "everything". "But some of it

is classified, so I'm not sure what they have". I asked him why the military would even keep a written record of such things if they didn't want anyone to know of them. He said they keep everything.

Pribble then took Foreman and me for a walk to get away from everyone, we walked out to the football field and sat down on the ground. At this point he was stressing his loyalty to us, and the issue of trust. He seemed to change suddenly, to get very edgy & intense, he was thinking back to the night of the murders. He said, "there isn't anything I wouldn't do for you". He said either his personal, or his units cadence was;

"Your honor, don't convict me,
I learned to murder in the USMC"!

He said that he loves us, and would do anything for us, anything! He then pulled us very close and looked around to be sure no one was within earshot and said, "Steve fucked me, I gave him $250,000 of my hard earned money to buy some jacked drugs so we could make a lot more money. Then he wants to come off with a story that things didn't go down like they were supposed to, and that we could make it up tomorrow". Pribble was getting very agitated now, almost spitting as he spoke. He said that Steve then wanted to take Pribble for a ride. He said, "this muthafucker stole my money, now he thinks

he's gonna take me for a ride and kill me! Fuck him, that was my money". So I asked him if he got the money back, he said no. I asked him if he looked for it in the house, he said, "yes, but it wasn't there".

Pribble said, "Only you and God know this. You two are the only one's who could convict me, and I know your my brothers, I love you. I will do anything for you. If you call me and say "Jeff I have a problem with this guy", I'll take care of it; no one will ever know. Steve fucked me, I knew he was going to kill me". I was wondering why he thought Steve would kill him, so I asked him if Steve had ever killed before, he said yes. He said that he had killed for Steve before, that he was loyal to Steve. So he knew Steve was planning to kill him.

He then said again that he loves us, that he believes in us, and that if we turned on him we'd have to live with that. It would disappoint him, but he was prepared to die.

To push him on a little further, I told him that he was a sneaky motherfucker. I asked how the hell he got over there, and in and out without any witnesses. He said his mom's house was a couple of miles from there, that's what he was trained for. High-speed, low drag; in and

out. He said, "I'm a ghost".

Exhibit 31

AO 88A (Rev. 02/14) Subpoena to Testify at a Deposition in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Texas

RONALD JEFFREY PRIBLE, JR., *Plaintiff*	)	
v.	)	Civil Action No. 4:09-cv-01896
LORIE DAVIS, DIRECTOR, TEXAS DEPT. OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION, *Defendant*	)	

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Michael Beckcom

(Name of person to whom this subpoena is directed)

☑ *Testimony:* **YOU ARE COMMANDED** to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

D+A Reporting Inc

Place:	Date and Time:
Anova Business Center, 2900 University Drive, 2nd Floor, Coral Springs, FL 33065 (954) 340-6100	04/25/2017 9:00 am

The deposition will be recorded by this method: stenographically and videographically

☐ *Production:* You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 04/05/2017

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Gretchen N. Scardino

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* Petitioner Ronald Jeffrey Prible, Jr., who issues or requests this subpoena, are:

Gretchen Scardino, Reed Scardino LLP, 301 Congress Ave., Ste. 1250, Austin, TX 78701; (512) 659-4470; gscardino@reedscardino.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 4:09-cv-01896

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* Michael Beckcom

on *(date)* _____ .

☒ I served the subpoena by delivering a copy to the named individual as follows: _____

Served 4/19/2017 to Michael Beckcom in Bexar at Starbucks Lyons Ave Coconut Creek Florida on *(date)* 4/19/17 ; or

☐ I returned the subpoena unexecuted because: _____

_____ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of

$ 40.00 .

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: 4/19/2017

J Gradoni
Server's signature

J Gradoni, Private Investigator
Printed name and title

2611 Cypress Creek Parkway
Suite C100
Server's address
Houston Texas 77068

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) ***For a Trial, Hearing, or Deposition.*** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

(A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or

(B) within the state where the person resides, is employed, or regularly transacts business in person, if the person

(i) is a party or a party's officer; or

(ii) is commanded to attend a trial and would not incur substantial expense.

(2) ***For Other Discovery.*** A subpoena may command:

(A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and

(B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) ***Avoiding Undue Burden or Expense; Sanctions.*** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) ***Command to Produce Materials or Permit Inspection.***

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) ***Quashing or Modifying a Subpoena.***

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) ***Producing Documents or Electronically Stored Information.*** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) ***Claiming Privilege or Protection.***

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

For access to subpoena materials, see Fed. R. Civ. P. 45(a) Committee Note (2013).

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

RONALD JEFFREY PRIBLE,	'	
	'	
Petitioner,	'	
	'	
VS	'	**4:09-cv-01896**
	'	
LORIE DAVIS, DIRECTOR,	'	
TEXAS DEPARTMENT OF CRIMINAL	'	
JUSTICE, INSTITUTIONAL DIVISION,	'	
	'	
Respondent.	'	

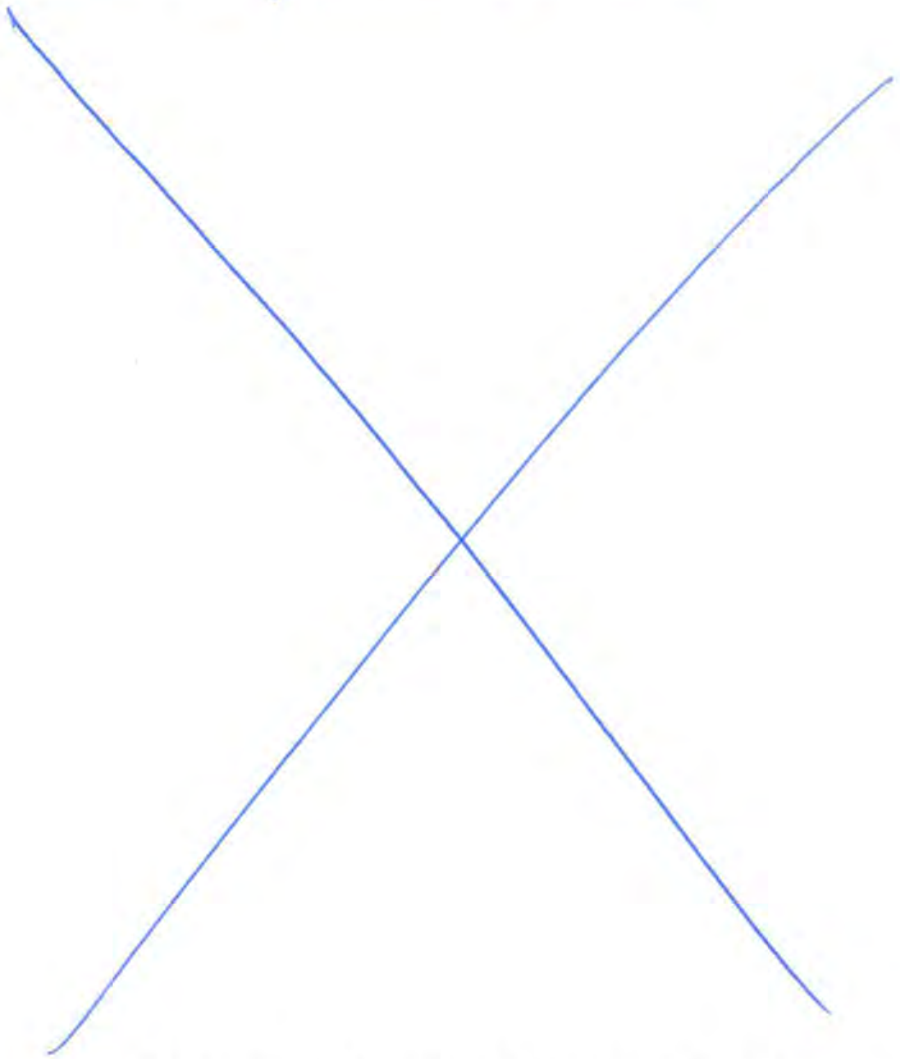
STATEMENT OF MICHAEL GLYNN BECKCOM

My name is Michael Beckcom. I am over 18 years of age and competent to make this affidavit. The following statements are true and correct:

I started Taking Notes About What Pribble Told me Regarding His Case in an effort to Have the Information Kelly Seisler asked me to get So She Could Prosecute Him. I used the Notes to Prepare my Written Statement.

Nathan Foreman was present when Pribble Talked About His Case to me in the Yard Especially the Night He gave it all up.

I Believe the witnesses in the Herera case were not truthful and I Do Not Believe Herera ever confessed to Arson.



If called as a witness, I would testify to the foregoing in a court of law. I hereby swear, affirm and state that the foregoing is true and correct under penalty of perjury pursuant to Title 18 U.S.C. § 1746.

FURTHER AFFIANT SAYETH NOT.

MBeckcom

MICHAEL GLYNN BECKCOM

DATE: 4/19/2017

Exhibit 32

U.S. Department of Justice

United States Attorney
Eastern District of California

Federal Building, Room 3654
United States Courthouse
1130 O Street
Fresno, California 93721

559/498-7272
Fax 559/498-7432

March 4, 2002

Ms. Kelly Siegler
Deputy District Attorney
Harris County District Attorney's Office
1201 Franklin
Suite 600
Houston, Texas 77002

Re: Mike Beckcom

Dear Ms. Siegler:

Enclosed please find the federal trial testimony of Mike Beckcom. I trust that you have located his state trial testimony, if not, let me know and I will attempt to get our files out of archives. I will forward a printout of his docket sheet so you can see exactly his sentence in federal court.

Should you have any questions, please feel free to call.

Very truly yours,

JOHN K. VINCENT
United States Attorney

By
MARK E. CULLERS
Assistant U.S. Attorney

MEC:dh
Enclosures

HCDA-08.12.2016-01727

Exhibit 33

U.S. Department of Justice

United States Attorney
Eastern District of California

Federal Building, Room 3654
United States Courthouse
1130 O Street
Fresno, California 93721

559/498-7272
Fax 559/498-7432

March 5, 2002

Ms. Kelly Siegler
Deputy District Attorney
Harris County District Attorney's Office
1201 Franklin
Suite 600
Houston, Texas 77002

Re: Mike Beckcom

Dear Ms. Siegler:

Enclosed please find the initial Texas Rangers report regarding the murder of Nick Brueggen. Thought you might find it helpful.

Mike Beckcom was sentenced to 135 months.

Should you have any questions, please feel free to call.

Very truly yours,

JOHN K. VINCENT
United States Attorney

By
MARK E. CULLERS
Assistant U.S. Attorney

MEC:dh
Enclosures

HCDA-08.12.2016-01243

TEXAS DEPARTMENT OF PUBLIC SAFETY
TEXAS RANGER DIVISION

REPORT OF INVESTIGATION — Date: 06-03-96

FILE TITLE

1 Capital Murder, - F1 - 1900
2 Aransas County, 00
3 GEORGE N. BRUEGGEN
4 05-06-96

THIS REPORT IS THE PROPERTY OF TEXAS DPS-TEXAS RANGER DIVISION. NEITHER IT NOR ITS CONTENTS MAY BE DISSEMINATED OUTSIDE THE AGENCY TO WHICH LOANED.

ACTIVE: XX INACTIVE: _____ CLOSED: _____ RESTRICTED: _____
STATIONED: Sinton
SUBMITTING INVESTIGATOR
INV-ID-NR: 4585 BY: OSCAR RIVERA, Sergeant
SUP-ID-NR: 3079 BY: RAY CANO, Lt.
CPT-ID-NR: BY:
SEC-ID-NR: DATE: 06-10-96

FILE NR	TYPE	PROGRAM
RD096228		Criminal
DISSEMINATION		CX RELATED FILES
D1		F1
D2		F2
D3		F3
D4		F4
D5		F5

RPT-RE: Offense Repor

SYNOPSIS

On 06-01-96, this writer received a call from Texas Ranger ROBERTO GARZA asking that Port Arthur Police 'estigator RODNEY HARRISON be contacted about a murder near the Aransas Pass area. This writer spoke n Investigator HARRISON and information was developed that led to the recovery of a body in Aransas County and Capital Murder charges filed on multiple suspects.

DETAILS

1. On 06-01-96, Texas Ranger ROBERTO GARZA received a call from Texas Ranger L. C. WILSON from the Beaumont area reporting a possible murder in the Aransas Pass area. Ranger WILSON had received a call form Port Arthur Police Department Investigator RODNEY HARRISON regarding a statement he received from a co-defendant.

2. This writer returned HARRISON's call that evening and learned that KIRK JOHNSON had appeared at their office in Port Arthur and gave a written voluntary statement about a murder near Aransas Pass, Texas. This writer had Investigator HARRISON fax a copy of the statement made by JOHNSON to better understand the circumstances on the case.

3. In his statement, KIRK JOHNSON stated that around 03-14-96, he was at his residence at Nederland, Texas. MIKE BECKCOM, who JOHNSON has known for about eight years, came to see him at his residence. JOHNSON had not called on BECKCOM and did not know why he showed up at his house. BECKCOM had a man with him who BECKCOM introduced as MARK CAMPBELL. JOHNSON expressed his concern to BECKCOM about MARK because JOHNSON did not know MARK. BECKCOM told JOHNSON that he had some Marijuana for him and came into JOHNSON's home with a duffel bag containing about thirty pounds of Marijuana. JOHNSON told BECKCOM that he could not move thirty pounds of weed. BECKCOM wanted $650 a pound and told JOHNSON that he could sell it for $850 a pound. BECKCOM left five pounds of Marijuana with JOHNSON then BECKCOM and MARK departed. JOHNSON added that he had not seen BECKCOM in a while since he used to buy steroids and other drugs several years ago. MIKE BECKCOM wanted to set up shop with JOHNSON and told him that

TITLE	FILE NO.	TYPE	PROGRAM CODE
Capital Murder, - F1 - 1900 Aransas County, 004 GEORGE N. BRUEGGEN 05-06-96	RD096228	O	CRIMINAL
	ACTIVE_XX_INACTIVE___CLOSED___RESTRICT___		
	BY: OSCAR RIVERA, Sergeant #4585		

once the business was going that he would keep him supplied. BECKCOM was driving a red Ford Explorer at the time.

4. BECKCOM called JOHNSON a week later and told JOHNSON that he would be dropping by a week later to see his (BECKCOM's) daughter who lives in Nederland. BECKCOM wanted to pick up some money from the Marijuana sell while he was down.

5. Around the first week of May, 1996, BECKCOM came by again for the rest of the money and told JOHNSON that he had a job for him in Corpus Christi. BECKCOM wanted JOHNSON to come down to Corpus Christi and sit on a guy who owed a guy named FRANK and BECKCOM several hundred thousand dollars. The plan was for JOHNSON to sit on the guy in Corpus Christi while BECKCOM and MARK cleaned out the guy's account. BECKCOM told JOHNSON to bring his artillery (gun) when he came down. BECKCOM told JOHNSON that he would get with him later.

6. A few days later, BECKCOM called JOHNSON and told him to meet him in Houston at a club. JOHNSON had problems finding BECKCOM but finally made contact with him at a gas station at 4:00 A.M. The two went to BECKCOM's home in Houston then they departed to Corpus Christi about 8:00 A.M. JOHNSON rode with BECKCOM in the red Ford Explorer. JOHNSON added that BECKCOM drove at a high rate of speed because they were late. They arrived in Corpus Christi where BECKCOM works. JOHNSON learned then that BECKCOM worked for MARK as a manager for this place of business. JOHNSON stated that they drove into a spiral driveway and went inside the office where he was introduced to the staff. JOHNSON stayed in the lobby and was then asked to go inside BECKCOM's office. BECKCOM told JOHNSON that they needed to go to the airport and pick up a guy name NICK. NICK was the guy JOHNSON was to sit on while MARK and BECKCOM drained his account.

7. JOHNSON added that he and BECKCOM when to the Corpus Christi Airport to get NICK. NICK was suppose to arrive on a Southwest Airline flight at 11:30 A.M. BECKCOM got his boots polished at the airport while they waited for NICK. NICK arrived on schedule and met BECKCOM by the restroom. BECKCOM introduced NICK BRUEGGEN to JOHNSON. BRUEGGEN was suppose to conduct some type of audit for MARK. The three got into the red Ford Explorer and drove towards Aransas Pass. BRUEGGEN expressed some concern why they were going to Aransas Pass but BECKCOM told NICK that MARK was going to meet them at the shop on Jacoby Lane.

8. JOHNSON stated that they traveled to near Aransas Pass on Texas 35 and made a right turn on Jacoby Lane. They then traveled about 3/4 of the way down Jacoby Lane to a building constructed with a stucco exterior painted white. He added that the building was square and that their was a garage door on the right side as one looked towards the building. The garage had a driveway that extended about 8 feet but the rest of the garage was made of dirt. The building had pieces of logs sticking out about two feet spaced about every three feet along the top edge of the roof.

9. BECKCOM, JOHNSON, and BRUEGGEN drove to the shop on Jacoby Lane to meet MARK. When they arrived, MARK was already there in his red Mercedes with a black rag top. BRUEGGEN went

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Capital Murder, - F1 - 1900 Aransas County, 004 GEORGE N. BRUEGGEN 05-06-96	RD096228	O	CRIMINAL
	ACTIVE_XX_INACTIVE___CLOSED___RESTRICT___		
	BY: OSCAR RIVERA, Sergeant #4585		

inside the building while BECKCOM and JOHNSON walked outside the building. BECKCOM told JOHNSON to get his gun ready because once they went inside, they were suppose to draw down on BRUEGGEN. JOHNSON stated that he inserted his magazine into the pistol but did not chamber a round into the barrel.

10. BECKCOM and JOHNSON walked into the building where BRUEGGEN was having a conversation with MARK. BECKCOM pointed his gun on BRUEGGEN and JOHNSON pulled out his gun also. BRUEGGEN asked what was going on and MARK told him that he had fucked with him for the last time. MARK had a pair of handcuffs and used them on BRUEGGEN. BECKCOM started placing ceiling tiles around the windows so no one could see into the building.

11. MARK had a homemade silencer that he was trying to put on his 22 caliber pistol. BRUEGGEN was trying to walk around talking to MARK that they were friends and that he had given MARK $300,000 when no one else would. MARK yelled at BRUEGGEN that he stole from him and some guy named FRANK. BECKCOM also yelled at BRUEGGEN about calling him a nigger.

MARK told BRUEGGEN that he had to leave and speak with FRANK and had BRUEGGEN empty out his pockets and stack the items into a box including his trouser belt. MARK told BRUEGGEN that he would stay with JOHNSON until they returned. MARK told BRUEGGEN to get into a large tan tool box which was about five feet long by four feet wide by three and one half feet high. BRUEGGEN told MARK that it would not be necessary for them to go through all of that but MARK told BRUEGGEN that they would talk later. BRUEGGEN got into the tool box but the lid was left open. BRUEGGEN was still handcuffed to his back. JOHNSON remained at the building watching over BRUEGGEN while MARK and BECKCOM left.

13. MARK and BRUEGGEN returned a few minutes later with a new lawn chair still wrapped in plastic, some food, a new cooler with drinks, and a new fan in a box. BECKCOM held a gun on BRUEGGEN while JOHNSON removed the handcuffs from the rear and repositioned them to the front. MARK and BECKCOM again left with JOHNSON guarding over BRUEGGEN. JOHNSON stated that he allowed BRUEGGEN to sit in the chair and gave him a Coke and a candy bar. BRUEGGEN told BECKCOM that his brother was a doctor and that it was his son's birthday. BRUEGGEN had a cellular telephone with him and the phone rang while they waited for MARK and BECKCOM. JOHNSON allowed BRUEGGEN to answer the telephone and speak to someone about a breast implant.

14. MARK and BECKCOM returned and became upset with JOHNSON because he had allowed BRUEGGEN to get out of the box. MARK told BRUEGGEN to get back into the box. BECKCOM and JOHNSON walked outside for a short while. When the two went back into the building, JOHNSON noticed that MARK had secured the tool box with two pad locks.

15. MARK and BECKCOM left again but returned about thirty minutes. Another man pulled up at the same time. JOHNSON described this man as an older man in about his sixties. The man walked with the aid of a walking cane, brownish hair, 5'8 and weight about 200 pounds. JOHNSON stated that both MARK and BECKCOM walked up to the man who they called FRANK and kissed both cheeks then took turns exchanging hugs. FRANK told JOHNSON he was going to get him something to eat because JOHNSON would have to sit on BRUEGGEN for a while.

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	RD096228	O	CRIMINAL
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16. JOHNSON went back into the building and heard BRUEGGEN in the box yelling that he could not breath. JOHNSON took a piece of metal and pried the lid open a little because he had no keys to the pad locks. JOHNSON added that he gave BRUEGGEN some peanuts and ice through the small opening. He also placed the fan in front of the box to allow more air into the box.

17. MARK and BECKCOM returned about an hour later and again became upset at JOHNSON for trying to pry the box open. MARK and BECKCOM started to cover the box with a blanket of insulation from the building because BRUEGGEN was making to much noise. BECKCOM told JOHNSON to get in his Ford Explorer and all three men drove to a Walmart. BECKCOM told JOHNSON not to get stupid as BECKCOM placed his gun in his pants. All three walked into Walmart so that BECKCOM and MARK could purchase a garden hose and duct tape. The three went back to the building on Jacoby Lane. MARK directed JOHNSON to help him tape the metal box. BECKCOM backed the Ford Explorer into the garage while JOHNSON and MARK taped the openings on the tool box with BRUEGGEN still in it. JOHNSON stated he walked out to get himself together. When he walked back inside the building, he heard the Explorer start and BECKCOM was in the driver's side. JOHNSON saw a hose connected from the Explorer to the brown tool box. The three men walked outside for about ten minutes. The Explorer's engine was running with the exhaust fumes directed into the metal box with BRUEGGEN in it. After the men walked inside, JOHNSON pulled the garden hose from the tailpipe. He noticed that the end on the hose had melted and the duct tape around the tailpipe was melted around the tail pipe. MARK opened the lid to the tool box and BRUEGGEN was dead. BECKCOM did not want to touch BRUEGGEN but wanted his rings. JOHNSON stated he took BRUEGGEN's rings and told BECKCOM, "Here you sick fucker, here's the fucking rings."

18. MARK, BECKCOM and JOHNSON departed from the building leaving BRUEGGEN in the metal tool box. BECKCOM told JOHNSON that the building belonged to MARK and that MARK would take care of the body. The three went to Ingleside to a store owned by MARK. They then went to MARK's house to deliver the fan, the ice chest and the lawn chair used in the building. BECKCOM and JOHNSON went to Corpus Christi and had supper with one of BECKCOM's girlfriend. JOHNSON and BECKCOM then returned to Houston. Around 05-25-96, JOHNSON received a call from BECKCOM to see how he was doing. BECKCOM put MARK CRAWFORD on the phone and CRAWFORD told him, "Welcome to the family."

19. Port Arthur Police Investigator ROBERT CARTWRIGHT learned that JOHNSON was seeing a lady identified as SUSAN BAILEY. CARTWRIGHT interviewed BAILEY and learned that BAILEY knew both MARK and BECKCOM because she had dated both of them before. BAILEY told Investigator CARTWRIGHT that MARK's true name was MARK CRAWFORD and she once dated CRAWFORD AND MICHAEL BECKCOM. She added that she often worked out with them at the Gold Gym in Houston where they originally met. BAILEY was also familiar with CRAWFORD and BECKCOM's operations in Corpus Christi and Houston. BAILEY also knew NICK BRUEGGEN from the Gym and identified him as GEORGE N. BRUEGGEN.

20. On 06-02-96, this writer contacted the 36th Judicial District Attorney Investigator RANDY CRIDER and informed him of the investigation. Investigator CRIDER agreed to meet this writer at the Aransas Pass Police Department and travel to the location described by JOHNSON in his statement. This writer followed the direction outlined by JOHNSON and discovered that only one structure on Jacoby Lane met the description provided by JOHNSON. Investigator CRIDER learned that the building belonged to

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JOHN PAUL GALVAN and the building was shared with MARK CRAWFORD. The investigation also indicated that the United States Internal Revenue Service had seized some antique cars from MARK CRAWFORD from the same building a few weeks prior.

21. This writer took several photographs of the building at 561 Jacoby Lane and had them developed to aid in the identification of the building.

22. On 06-02-96, Port Arthur Investigator ROBERT CARTWRIGHT interviewed SUSAN BOHNING BRUEGGEN who was married to GEORGE NICK BRUEGGEN but now divorced. SUSAN BRUEGGEN stated that she received a call from her ex-husband on 05-06-96 stating that he was enroute to Corpus Christi to conduct an audit and would return on a later flight back to Houston. SUSAN added that NICK BRUEGGEN would routinely pick up their child at least every three days and she has not heard from NICK since his last call. SUSAN BRUEGGEN stated that she would file a missing person report with Houston Police Department on 06-03-96. SUSAN's description of her ex-husband is the same description provided by KIRK JOHNSON.

On 06-02-96, this writer faxed a picture of the building to Investigator HARRISON in Port Arthur, Texas. Investigator HARRISON showed the photograph of the building to KIRK JOHNSON who confirmed that the building depicted on the photograph was the same building in which the murder took place. This writer contacted the Texas Rangers Headquarters on 06-03-96 to have them fax a drivers license photo of MARK CRAWFORD, GEORGE NICK BRUEGGEN and MICHAEL BECKCOM to Investigator HARRISON in Port Arthur. This writer asked HARRISON to have JOHNSON confirm the identity of the suspects and victim.

24. On 06-02-96, this writer drafted a search warrant based on the information obtained from KIRK JOHNSON. The search warrant was drafted to search for the dead body of GEORGE NICK BRUEGGEN, forensic and trace evidence. This writer received a call from ROBERT CARTWRIGHT stating that MICHAEL BECKCOM was scheduled to be in court somewhere near the Corpus Christi area.

25. On 06-03-96, this writer was scheduled to testify in the 36th Judicial District Court in Sinton. This writer learned that MICHAEL BECKCOM was in the courtroom testifying in a civil case involving MARK CRAWFORD and MICHAEL BECKCOM as plaintiffs. Four previous employees for CRAWFORD and BECKCOM had opened their own business. The former employees were receiving threats from BECKCOM and were concerned about the threats. One of the victims, CRAIG THEROIT, did not appear in court because he was found dead in a motor vehicle accident near Corpus Christi.

26. This writer asked Investigator CRIDER to check outside the courthouse to see if the red Ford Explorer KIRK JOHNSON described was in the parking lot. A red Ford Explorer was parked across the south side of the San Patricio County Court House along Sinton Street in Sinton. The Explorer displayed Texas plates HLZ14B. Investigator CRIDER and this writer went to the Explorer and notice that the tailpipe protruding on the right rear side of the Explorer showed signs of the square fibers normally seen with duct tape. The square strands were melted around the outside of the tailpipe. This writer took numerous photographs of the Ford Explorer and the melted fibers around the tailpipe while the Explorer was parked in a public parking area.

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27. This writer learned that BECKCOM was in court regarding threats made to former employees who had opened a similar business to CRAWFORD's. After BECKCOM left the courtroom, this writer observed BECKCOM get into the Ford Explorer and driver East on Sinton Street.

28. The search warrant was reviewed by District Attorney TOM BRIDGES in Portland on the afternoon of 06-03-96. This writer traveled to Rockport and met with District Judge JOEL JOHNSON and presented the search warrant affidavit to him for approval. Judge JOHNSON issued the search warrant to search the premises on Jacoby Lane.

29. The Texas Department of Public Safety Crime Laboratory supervisor, PATRICIA GRAHAM to meet the Investigators on Jacoby Lane in Aransas Pass. GRAHAM brought her laboratory staff, HUY NGUYEN and CATHERINE CABALLERO to assist her.

30. The front of the building at 561 Jacoby Lane faced north with two windows, two garage doors and a steel door. The building had a rear steel door and no other windows. The building was locked and no one was around. A pair of bolt cutters were used to cut the metal mesh around the window on the left side of the front steel door. The glass window was covered with a piece of white ceiling tile on the inside as JOHNSON had reported. The wire mash was removed by this writer and the window was opened. DPS Laboratory Forensic Scientist, HUY NGUYEN went into the building and raised the overhead door on the front of the building next to the entry window.

31. A large brown tool box was visible at the back side in the building along with duct tape rolls and used duct tape on the floor. A set of tire tracks leading to the brown tool box was also visible. The lid to the tool box was up but no body was found in the box. A cardboard box with a picture of a fan was also visible on the floor to the right of the metal tool box A brown trouser belt was also noted in front of the metal tool box. The melted end metal piece of a garden hose was visible on the floor by the tire tracks. The metal tool box was empty with the exception of some nuts and shells on its floor. Signs of duct tape marking and gray duct tape were visible around the metal tool box. The box contained a locking hasp at each end. Two pad locks were hanging on the hasps.

32. This writer requested that the DPS Crime Lab personnel collect the forensic and trace evidence at the crime scene. The members of the Crime Lab went into the building and began collecting evidence. The Crime Lab and this writer photographed the building and the premises.

33. The DPS Crime Lab personnel located a spot behind the building that appeared to have soft sand. NGUYEN asked for a shovel to dig around in the sand. This writer called the Aransas Pass Police Department and requested some shovels. Aransas Pass Police Officer JOE DEASES delivered the shovels to this writer. The Crime Lab team located pieces of gray duct tape in the sand while digging and began to detect an odor of a corpse. The Lab team was able to find the remains of a body in the shallow grave that evening on 06-03-96.

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34. This writer contacted Aransas County Sheriff's Investigator STAN BYNUM and requested a Justice of the Peace to hold the inquest on the remains. Justice of the Peace MARTIN DELEON and Investigators STAN BYNUM and DAVID BICKFORD responded to the scene on Jacoby Lane from Rockport.

35. The Aransas Pass Police Department was called to arrange for lighting and a backhoe for later use. Fire Chief GILBERT RITZ, RICK KILORE, and TREY SHEFFIELD with the Aransas Pass Fire Department responded to assist with lighting. The Aransas Pass Director of Public Works, GARTH FREEZE and his assistant JIMMY DURHAM assisted with the use of their backhoe for excavation of the body.

36. Justice of the Peace MARTIN DELEON arrived at the scene along with the Aransas County investigators. District Attorney TOM BRIDGES arrived at the scene and requested that the Nueces County Medical Examiner LLOYD WHITE, who handles the autopsy examinations for the area, come to the crime scene. This writer spoke with Doctor WHITE and requested his presence.

37. FREEZE and DURHAM began the excavation under the direction of the DPS Crime team. The body was not disturbed until Doctor LLOYD WHITE arrived at the scene to study its position. The body was faced down and covered in a yellowish canvass car cover. The victim was wearing dark low top shoes, light brown denim pants, light colored shirt, and a light colored vest.

38. Marshall's Funeral Home of Aransas Pass was called to transport the remains to Doctor WHITE's office in Corpus Christ for a post mortem examination. MANUEL BUENTELLO, JUAN SALDIVAR and JOSE ESCOBAR responded for the funeral home and recovered the remains. The men transported the body to the Nueces County Medical Examiners office.

39. This writer signed a murder complaint affidavit before Justice of the Peace MARTIN DELEON. Justice of the Peace MARTIN DELEON issued a felony warrant number 96-3075-1A for the arrest of MARK EDARD CRAWFORD W/M 07-22-55 for murder. DELEON issued felony warrant 96-3075-1B for the arrest of MICHAEL GLYNN BECKCOM W/M 10-05-61 for murder.

40. The DPS Crime Laboratory continued their investigation and evidence collection. The brown metal tool box was transported to Rockport under the direction of Investigator STAN BYNUM. The tool box was moved to a storage location in Rockport for further analysis by the Lab. The DPS Crime Lab collected the following items:

    1. The dead body of GEORGE NICK BRUEGGEN.

    2. Empty drink cans and empty plastic bottles (trash).

    3. Plastic Walmart bags (trash).

    4. Paper tag of purchased products, padlock, garden hose.

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5. Silver duct tape rolls.

6. Used pieces of silver duct tape.

7. Empty fan box for a Lasko fan.

8. Melted piece of garden hose.

9. End piece of a garden hose.

10. Foil from outside - debris.

11. Foil from Brueggen's hand.

41. The crime scene at 561 Jacoby Lane was cleared at 11:54 P.M. on 06-03-96. This writer took custody of one item at 561 Jacoby Lane. This writer recovered a wood handle shovel found in the building. The shovel was subsequently submitted to the DPS Crime Laboratory for analysis.

42. FBI Agents ABEL PENA and BILL CASSIDY traveled to Port Aransas in attempts to located MARK CRAWFORD at his home. CRAWFORD's wife told the agents that CRAWFORD had left the state on business.

43. This writer traveled to the Aransas County Sheriff's office in Rockport to enter CRAWFORD and BECKCOM in the National Crime Information Center computer as wanted fugitives. Investigator HARRISON and CARTWRIGHT were contacted about the findings.

44. After departing Rockport, this writer overheard radio traffic in Ingleside regarding an attempted break in at a residence on Ingleside on the Bay in San Patricio County. Ingleside on the Bay is the location of one of MARK CRAWFORD's residence. This writer contacted San Patricio County Sheriff's Deputy Sergeant CLAUDIE PERKINS to check on the traffic on the bay. Sergeant PERKINS stated that two black men attempted to break in to the A.D. POLITIS residence at Ingleside on the Bay and that the suspect left a sawed off shotgun and a stun gun baton by a house. PERKINS added that he came across two black men in a Nissan pickup who stopped him (PERKINS) and asked for directions to MARK CRAWFORD's home. The Deputy told the two black men to go by the Ingleside Police Department to get his address. Deputy PERKINS was not aware that CRAWFORD was a murder suspect.

45. San Patricio County Deputy RICK HERNANDEZ went to the BOBBIE SQUYRES residence on Ingleside on the Bay where he recovered the sawed off shotgun and stun gun baton.

Ingleside Police Officers DANIEL LOPEZ and CHRIS JANSSEN located the Nissan pickup in Ingleside and identified the two black males. WILLIAM NOEL was driving the pickup and ROBERT WAYNE WALTON JR. B/M 02-12-74 was his passenger. NOEL gave the officers consent to search his vehicle.

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NOEL was in possession of a black attaché case with identification cards belonging to GEORGE NICK BRUEGGEN, the suspected deceased person on Jacoby Lane. This writer subsequently took the black attaché case into evidence.

47. WILLIAM NOEL subsequently gave an oral statement and later a written statement outlining why he had BRUEGGEN's attaché case. NOEL stated the following:

A. He was hired by RICH WILLIS who worked for MARK CRAWFORD in Corpus Christi to make deliveries and as a hit man to beat up people. He stated that he used a carpenter hammer to beat people and earned the name of "Hammer".

B. One of the first jobs he did was to beat up someone in Houston for NICK BRUEGGEN. He knows BRUEGGEN, CRAWFORD, and BECKCOM.

C. He was in a conversation with CRAWFORD and BECKCOM about two months ago when the three talked about killing NICK BRUEGGEN because BRUEGGEN owed CRAWFORD money. He offered to do the job for CRAWFORD because he (NOEL) needed the money but CRAWFORD said it was personal and he (CRAWFORD) would do it himself.

D. He knows FRANK BOCHICCHIO and describes the man about 60 year old Caucasian male who was part of CRAWFORD's operation.

E. He went to get money from CRAWFORD at the TNT Store in Ingleside and BECKCOM and CRAWFORD were there. BECKCOM told NOEL that he (BECKCOM) took care of BRUEGGEN. NOEL added that CRAWFORD gave him a black attaché case that belonged to BRUEGGEN and told him to use BRUEGGEN's three credit cards on his next travel. NOEL received the black attaché case at CRAWFORD's house on the bay. NOEL was suppose to dispose of the black attaché case at CRAWFORD's old house on Ingleside on the Bay after he returned from his trip.

F. He used BRUEGGEN's credit cards during the month of May during his travel. NOEL used the attaché case and kept his receipts in BRUEGGEN's attaché case. The attaché case contained BRUEGGEN's passport, drivers license, credit cards and wallet.

G. He transported Marijuana for CRAWFORD to different places and at one time was arrested for possession of 3 pounds of Marijuana that he was delivering for CRAWFORD.

F. He met BECKCOM and JEREME at Motel 6 on Lantana Street in Corpus Christi at room 238. He received a map from JEREME to direct NOEL to an old man's house at Ingleside on the Bay because he owed CRAWFORD some money. NOEL hired a black guy named ROBERT WALTON known as KILO so that he could beat up on the old man. NOEL was to steal a watch from the old man to prove that he had done the job.

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G. He is on parole for arm robbing an H.E.B. Store in Corpus Christi.

48. This writer took WILLIAM NOEL by Ingleside on the Bay so that he could point out the residence he was ordered to hit and steal the watch. NOEL directed this writer south on FM1069 from Ingleside then a right (west) turn on Woodhaven to its dead end intersection at North Sand Piper. NOEL stated they made a left (south) turn on North Sand Piper up to its intersection with Woodcrest. At Woodcrest, they made a right (west) turn to its dead end intersection at Bayshore. He then made a right (north) turn on Bayshore Street. The residence was the first two story water front unit after making a right (north) turn from Woodcrest at 402 Bayshore. NOEL was not told who lived at that residence.

49. On 06-04-96, RYAN MAUCH went by 561 Jacoby Lane and noticed the crime scene tape and the KZTV television reporter at the building. MAUCH stopped to asked the reporter what was going on at the building. The reporter told him that a body had been discovered buried behind the building. MAUCH told the reporter that he dug a hole behind the building on 05-06-96 for MARK CRAWFORD. The reporter told him to notify the Aransas County Sheriff's office. MAUCH contacted Aransas County Investigator STAN BYNUM and gave him a statement about the conversation with CRAWFORD.

50. MAUCH stated that on or about 05-06-96, a Monday he thought, MARK CRAWFORD came to MAUCH in Ingleside and asked for an estimate to dig a hole behind the building on Jacoby Lane. MAUCH stated he knew the location on Jacoby Lane because CRAWFORD had allowed him to paint a friend's car at the same building. MAUCH added that CRAWFORD drew a sketch on a piece of paper where he wanted the hole dug and the dimensions for the hole. MAUCH still had the sketch CRAWFORD drew. He gave Investigator BYNUM the sketch for evidence. CRAWFORD told MAUCH he wanted the hole four feet deep, five feet long and two feet wide. MAUCH recalled asking CRAWFORD, "What are you going to do, bury somebody." CRAWFORD told MAUCH that he was going to use the hole to erect a microwave dish. MAUCH had seen the microwave dish in the back yard and did not think anymore on it. MAUCH told CRAWFORD he would handle the job for $100. CRAWFORD paid MAUCH with a $100 bill and told him that he (MAUCH) could do the job himself or hire someone but he needed it done.

51. MAUCH stated that he went to the location sometime around 12:00 noon and completed the job about 1:00 P.M. His girlfriend, KATHY HESTER, went with him to keep him company. After MAUCH completed the job, he met CRAWFORD at his residence on Main Street in Ingleside and told him the job was complete.

52. On 06-04-96, Port Aransas Police Department located the red Ford Explorer at CRAWFORD's home at 425 East Roberts Street in Port Aransas. Port Aransas Police Chief DON PERKINS took custody of MICHAEL BECKCOM. This writer received a call from Aransas County Investigator BICKFORD that he was enroute to meet with Chief PERKINS. This writer informed BICKFORD that a search warrant would be drafted for the Ford Explorer driven by BECKCOM.

53. Ranger GARZA was contacted by this writer after the search warrant was drafted. Ranger GARZA contacted Nueces County District Attorney CARLOS VALDEZ to help him locate a District Judge in

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Nueces County. The two men located 94th District Judge JOHN HUNTER who approved the affidavit and issued a search warrant for the 1992 Ford Explorer displaying Texas plates HLZ14B on 06-04-96 at 6:10 P.M.

54. This writer faxed the signed search warrant to Port Aransas so that Aransas County Investigator BICKFORD could execute the search warrant for the Explorer. BICKFORD executed the search warrant immediately and took custody of MICHAEL BECKCOM. BECKCOM and the Ford Explorer were transported to the Aransas County Sheriff's office in Rockport.

55. On 06-05-96, Justice of the Peace MARTIN DELEON set a $10 million dollar bond on BECKCOM. BECKCOM was remanded to the Aransas County Jail in lieu of bond.

56. On 06-05-96, this writer traveled to Rockport to interview MICHAEL BECKCOM. BECKCOM requested a polygraph examination to prove his innocence. An examination was arranged at the DPS office in Corpus Christi. BECKCOM was transported from Aransas County Sheriff's Office in Rockport to Corpus Christi by this writer for the examination. Polygraph examiner MELLONEY MYERS conducted the examination on BECKCOM. BECKCOM's examination indicated deception regarding knowledge and participation in the murder.

57. After deception was noted, BECKCOM requested to speak with the Ranger. This writer went into the interview and informed BECKCOM of his rights. Ranger GARZA recorded the interview with his tape recorder. BECKCOM stated the following:

A. He knows NICK BRUEGGEN and KIRK JOHNSON and that MARK CRAWFORD called him and told him to pick up BRUEGGEN at the Airport in Corpus and bring NICK to MARK to the building on Jacoby Lane.

B. MARK was already waiting for them at the building. He didn't know what MARK was going to do. MARK told him that NICK needed to sign some documents for him and he believed him.

C. MARK was upset because NICK sold some bad insurance summing up to a lot of money and ran it through MARK's account making it look like MARK was receiving the funds.

D. MARK didn't ask him to participate or hurt anybody nor did he tell him about hurting anybody. He stayed outside most of the time while MARK and NICK talked business in the building. He knew NICK and MARK were having a heated conversation.

E. He was scared of MARK and he didn't know what he was suppose to do, the next think he knew, NICK was in the box. MARK organized this and obviously didn't give him details. He drives the red Ford Explorer but the truck belongs to the Corporation and is as much MARK's as it's his.

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F. FRANK BOCHICCHIO drove up to the building but he stayed outside. FRANK drove up in his silver car, the Oldsmobile and he walks with a cane.

G. MARK had a .22 caliber gun with some make shit looking thing on the end of it made of PVC pipe to make it look like a silencer. KIRK JOHNSON had a gun but he never pointed the gun at anyone and he (BECKCOM) does not have a gun and he (BECKCOM) did point a gun at NICK. NICK could not leave the building. At that point he (BECKCOM) doesn't know what's happening and there is no way out. He wanted to run to the fucking woods because he didn't know what to do. He went outside not knowing what to do at that point. He don't care to hurt anybody, he has never done anything like that before in his life. NICK was a good man, he always helped him out.

H. He went to Walmart with MARK and KIRK but either MARK or KIRK grabbed a garden hose, not him. One of them grabbed the duct tape because he didn't. He didn't pay attention what MARK was putting in the cart.

I. Whatever property NICK had, MARK took it. MARK took NICK's attaché case. NICK's airline tickets were it the attaché case and his wallet. NICK flew in Southwest Airlines. MARK took NICK's money.

J. He walked behind the building and he saw an old car, a upside down boat, a satellite dish thrown in the yard, he did not see a hole in the back yard. He was not there when the hole was dug and he did not bury the body. MARK told him that he was going to scare NICK in signing some papers.

K. He heard MARK tell NICK, "I need you to get in the box", but he (BECKCOM) didn't see NICK get in the box, some offshore looking brown box. The garage doors were closed at the time. The Explorer was not in the building yet. Obviously CRAWFORD hooked the hose to his (BECKCOM's) truck because he (CRAWFORD) is the one running.

L. When MARK opened the box he didn't think NICK was dead. He heard the Explorer running but he does not know how long the truck was running. He knows WILLIAM NOEL, a black guy, but NOEL works for CRAWFORD. He knows CRAIG THEROIT and heard THEROIT was killed in an auto accident. He did not threaten THEROIT but did tell him "I will prosecute you to the fullest extent of the law."

58. BECKCOM was transported back to the Aransas County Jail in Rockport after the interview. On the same day, 06-05-96, BECKCOM's Explorer was processed for evidence in Rockport. This writer asked Sheriff DAVID PETRAUSAITIS to have the tailpipe section with the strands of duct tape on the Explorer cut for evidence. Sheriff PETRAUSAITIS took the vehicle to Sam's Auto Repair in Rockport to have them cut the tailpipe section off. The Sheriff gave this writer the tailpipe section for evidence. This writer photographed the Explorer again along with the rear tires for comparison with those in the building on Jacoby Lane. Additionally, the rear tires were inked and rolled over some brown paper to obtain ink impressions of the rear tires for further analysis. The items removed from the front section of the Explorer's interior were retained by this writer. All other items from the Explorer were removed by

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Investigator BYNUM for evidence. BYNUM also released a gold colored ring with a foreign symbol on it worn by BECKCOM. The Aransas County Sheriff's Office maintained custody of the Ford Explorer.

59. On 06-05-96, this writer asked Ranger ROBERTO GARZA to interview one of CRAWFORD's employee's JEREME BARNES regarding his knowledge about BRUEGGEN's death. Ranger GARZA and Investigator RANDY CRIDER handled the interview.

60. On 06-06-96, this writer received a call from Texas Department of Public Safety Trooper GARY CORNETT who stated that GENEVA GARZA called the office to report that MARK CRAWFORD had called her twice. This writer contacted GENEVA GARZA at her office in Corpus Christi. GARZA was interviewed by phone regarding the calls she had received from CRAWFORD. GARZA stated she once dated CRAWFORD seriously and that CRAWFORD was trying to get her to hide him at her home in Portland, Texas. She added that her last physical contact with CRAWFORD was on about 04-26-96. GARZA agreed to be interview on the next date at her office at South Texas Cleaning at 1301 Navigation Blvd in Corpus Christi.

On 06-07-96, Ranger GARZA and this writer went to Navigation Blvd. and interviewed GARZA. CRAWFORD had already called GARZA and left a message on her recorder when the Rangers came by. CRAWFORD told her that he would have JOE FLOOD contact her at a later date. JOE FLOOD owns a store that sells spy equipment called Spy Masters in Corpus Christi. GARZA stated that she was on probation for possession of Cocaine and did not want any trouble with the law. She added that she had seen many mood changes in CRAWFORD in the past year. She stated that CRAWFORD had even threaten a former boyfriend when she quit seeing CRAWFORD.

62. GENEVA GARZA stated that CRAWFORD had designed a ring that he issued to certain friends who earned his loyalty. GARZA stated that the rings were made by a former jeweler from Aransas Pass who made them from his home in Aransas Pass. The ring was made of gold with a Chinese symbol that meant "Family". GARZA did not own a ring but stated that MICHAEL BECKCOM had one. GARZA added that MARK CRAWFORD and BECKCOM told her two or three weeks ago that NICK BRUEGGEN was missing and they thought BRUEGGEN had gone to Ireland. CRAWFORD later told her that BRUEGGEN had returned and left his car at the airport and that CRAWFORD was going to the airport in Houston to get BRUEGGEN's car.

63. This writer notified Portland Police Chief RANDY WRIGHT about GENEVA GARZA's concerns that CRAWFORD would come to her residence in Portland. GARZA released an extra key to her residence in case CRAWFORD came to her house. The key was given to Chief WRIGHT for safe keeping. GARZA was given the Ranger's pager numbers to notify them of any further communications with CRAWFORD.

On 06-07-96, Ranger GARZA and this writer met with CASEY THEROIT, CRAIG THEROIT's brother. Ranger GARZA had reviewed the traffic accident death that took the life of CRAIG THEROIT. CRAIG had failed to report to a district civil court hearing on 06-03-96. THEROIT had recorded a threat made by MICHAEL BECKCOM after THEROIT and other former employees had opened their own business.

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CASEY THEROIT delivered a gold ring with a foreign symbol given to his brother CRAIG by MARK CRAWFORD when CRAIG worked for CRAWFORD and BECKCOM. The ring had the same symbol as the one BECKCOM was wearing when he was arrested. This writer took the ring into custody for evidence.

65. On 06-07-96, this writer learned that the red Mercedes driven by CRAWFORD had been stored by the New Orleans, Louisiana Police Department. The Aransas County Sheriff's Office had received a call from a Deputy Sheriff from a Parish near New Orleans who stated that CRAWFORD's vehicle had been impounded. Ranger GARZA called the New Orleans Police Department and learned that Officer JAMES BATES had impounded CRAWFORD's vehicle after receiving a complaint from the owner of a car wash. BATES stated that on 06-05-96 an unidentified male drove the Texas registered Mercedes to a car wash at 8346 Chef Menteur Highway in New Orleans, Louisiana. The driver of the Mercedes told the attendant that he wanted his car washed and would return in one hour but he never came back. On 06-05-96, BATES was summoned to the car wash by the owner KEELAN STAMPLEY who reported that no one came for the Mercedes. BATES ran a check on the license plates and learned that the car was involved in a homicide in Texas and therefore had the vehicle impounded.

66. On 06-07-96, this writer signed a third murder complaint affidavit before Justice of the Peace MARTIN DELEON. Justice of the Peace MARTIN DELEON issued a felony warrant number 96-2420-1 for the arrest of KIRK JOHNSON W/M 05-24-64 for murder. Port Arthur Police Investigator ROBERT CARTWRIGHT was contacted to arrest JOHNSON. JOHNSON was taken into custody in Port Arthur and booked in the Jefferson County Jail. JOHNSON was released in lieu of a $25,000 bond set by Judge JOHN W. KNOWLES, Justice of the Peace, Precinct 2 in Jefferson County. JOHNSON was released on a $25,000 surety bond.

67. On 06-09-96, 36th Judicial District Attorney Investigator RANDY CRIDER and this writer interviewed RICHARD SQUYRES regarding the attempted break in of his home on Ingleside on the Bay by WILLIAM NOEL. SQUYRES stated that his daughter had adopted a dog from the neighborhood. The dog was barking furiously outside the back yard. His daughter went out to check on the dog and discovered a red duffel bag under an old boat trailer. SQUYRES added that he was not in town when the incident happened. This writer asked SQUYRES if he knew who lived at the targeted residence at 402 Bayshore. SQUYRES stated that ALEX and his wife GLORIA POLITIS lived at that residence. SQUYRES knew MARK CRAWFORD and had bad dealings with him while CRAWFORD was Mayor of Ingleside, Texas.

68. On 06-12-96, Texas Ranger ROBERTO GARZA and this writer drove to the Aransas County Airport to meet with Port Arthur Police Officers CARTWRIGHT, BERRY and HARRISON. The officers brought KIRK JOHNSON with them so that this writer could clear some details on the murder. Ranger GARZA took the officers to the Aransas County Court House to interview MICHAEL BECKCOM on an unrelated matter. RANDY CRIDER and this writer took JOHNSON to Corpus Christi to go over the route taken during the murder of GEORGE BRUEGGEN.

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69. FBI Agent ABEL PENA joined the investigators in Corpus Christi. JOHNSON was taken to the Furman Building in Corpus Christi where CRAWFORD and BECKCOM operated their business. JOHNSON did not recognized the building but recalled the spiral garage. We traveled up the spiral garage and JOHNSON pointed out the entrance door from the garage that he and BECKCOM came in and out from. JOHNSON was not familiar with the route to the Corpus Christi Airport but recalled that BECKCOM had his boots shined at a shoe shine stand next to the front door to the bathroom at the Airport. JOHNSON also purchased a magazine titled "Quick Throttle" at the Airport from the concession store on 05-06-96.

70. JOHNSON stated that after he and BECKCOM picked up BRUEGGEN at the airport, they got into BECKCOM's red Ford Explorer. BRUEGGEN was carrying a black attaché case with papers, passport, credit cards, and other items. JOHNSON stated that they traveled for several miles on a road to Aransas Pass never having to turn off the main road then turned right on Jacoby Lane. The investigators traveled on Texas 35 towards Aransas Pass from the Harbor Bridge in Corpus Christi then made a right turn on Jacoby Lane. The investigators kept quiet to see if JOHNSON could identify the building they went to. JOHNSON pointed out the building and the house across the street where he saw a couple of police cars going in and out of the residence. The residence JOHNSON was referring is that of JOHN WEAKLEY who is a gunsmith who works out of his house.

71. After JOHNSON identified the building, the investigators took him to the Aransas Pass Walmart Store to see if JOHNSON could identify the store. JOHNSON stated he was not sure if that was the Walmart Store but it was one close to the building on Jacoby Lane. JOHNSON stated that after BRUEGGEN was dead, he and BECKCOM then went to a store owned by CRAWFORD in Ingleside then went to CRAWFORD's home down the road to unload the ice chest, fan and folding chair. This writer went to Ingleside and asked JOHNSON to point out the store he and BECKCOM met with CRAWFORD and the house where the items were delivered. JOHNSON pointed out the TNT Store on FM1069 (Main Street) Ingleside and the house along the bay at 1489 Main Street. This writer was not familiar with the CRAWFORD's house on Main Street nor the TNT Store in Ingleside until it was pointed out by JOHNSON.

72. JOHNSON was then taken to the Ingleside Police Department. FBI Agent ABEL PENA and this writer took a video taped voluntary statement from JOHNSON. JOHNSON relayed the story again as he did in his written voluntary statement made in Port Arthur to Investigator RODNEY HARRISON and ROBERT CARTWRIGHT. JOHNSON identified a photograph of a large "Jobox" brown tool box as the one BRUEGGEN was placed in by CRAWFORD. JOHNSON also identified a photo of the building at 561 Jacoby Lane as the one he and BECKCOM took BRUEGGEN to on 05-06-96.

73. ROBERT CARTWRIGHT gave this writer KIRK JOHNSON's original voluntary statements taken by HARRISON and CARTWRIGHT. CARTWRIGHT also released JOHNSON's 9 mm pistol Beretta pistol that JOHNSON brought to 561 Jacoby Lane. The magazine JOHNSON purchased from the airport concession store was also released to this writer for evidence. CARTWRIGHT also released a gold ring with a foreign symbol belonging to JOHNSON. JOHNSON stated that he received the ring from

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CRAWFORD through BECKCOM making him a "family" member or CRAWFORD's team. The ring was the same one recovered from BECKCOM and THEROIT.

74. On 06-12-96, this writer met with Nueces County Medical Examiner, Doctor LLOYD WHITE to collect BRUEGGEN's belongings stored after the autopsy. Doctor WHITE stated that he was able to make immediate positive identification of the remains after speaking to BRUEGGEN's dentist because BRUEGGEN had recent dental work done by his dentist. The items were delivered to the DPS Crime Laboratory for further analysis. The items included the following:

1. Dark brown low top shoes with steel shanks.
2. Light calf-length socks.
3. Light brown Calvin Klein denim pants.
4. Light knit vest.
5. Guess brand watch with black band.
6. Light yellow canvass car cover.
7. Sample of BRUEGGEN's hair.

75. After learning from KIRK JOHNSON that he and BECKCOM delivered the fan, folding chair and ice chest at CRAWFORD home, this writer prepared a search warrant affidavit on 06-13-96. This writer traveled to Beeville to present the affidavit to District Judge JOEL JOHNSON. JOHNSON signed the search warrant for the items indicated above along with any forensic and trace evidence at CRAWFORD's residence at 1489 Main (FM1069) in Ingleside. Ranger GARZA, DPS Crime Laboratory personnel PATRICIA GRAHAM, HUY NGUYEN and CATHERINE CABALLERO, Aransas County Investigator STAN BYNUM and Ingleside Investigator RUSSELL KIRK assisted in the search warrant execution in Ingleside.

76. The investigators went to the residence by the bay and found it unlocked and under construction. A maroon colored 1994 Lexus 2 door displaying Texas plates PBM29B was found locked next to the garage. The car belonged to Teale and Company, the same leasing company for BECKCOM's Ford Explorer and CRAWFORD's Mercedes. The Lexus was reported as BRUEGGEN's car. MARCUS CRAWFORD, MARK CRAWFORD's son had been seen driving BRUEGGEN's car around Ingleside shortly after BRUEGGEN's disappearance.

A green Coleman Ice Chest with a white lid was found in a room on the south side of the house nearest the garage. The ice chest had two lids, one larger than the other as reported by JOHNSON. The ice chest was photographed and recovered as evidence. A gray colored Lasko fan was found in a bedroom located on the south side of the second story. The fan was the same brand and model as the empty box

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recovered in the initial search warrant at 561 Jacoby Lane near Aransas Pass. A lawn chair with white and blue webbing was found outside at the north east corner of the house. The chair still had clear plastic pieces on the rivets along the handles.

78. The following items were taken into custody in this search warrant at 1489 Main in Ingleside.

1. Fan - A Lasko Wind Machine 2 model 3521 fan with a plastic grill.
2. Ice Chest - Coleman, green with two white lids, one smaller that the other, the smaller one part of the larger lid.
3. Lawn Chair - Sunbeam, plastic arm rest folding type with white and blue webbing.
4. Cellular card board box and a box of books for Forensic and Trace Evidence.
5. Box with 38 spy type books.

79. On 06-14-96, this writer submitted the search warrant return to District Judge JOEL JOHNSON in Sinton. This writer then traveled to Rockport to file a murder affidavit for the arrest of a fourth suspect on this case. Judge MARTIN DELEON issued warrant number 96-2463-1 for the arrest of FRANK BOCHICCHIO for murder. Ranger GARZA and this writer were unsuccessful in locating BOCHICCHIO in Corpus Christi.

80. On 06-17-96, this writer contacted RANDY BARRETT with the Tri-County Task Force to assist in locating FRANK BOCHICCHIO. BARRETT located BOCHICCHIO and arrested him at 1818 Roddfield Road Apartment number G5 in Corpus Christi. BOCHICCHIO was transported to the Nueces County Sheriff's Office and later transferred to the Aransas County Jail in Rockport. BOCHICCHIO was wearing a gold ring with the same foreign symbol as BECKCOM, THEROIT and JOHNSON. The ring was subsequently taken into custody by this writer.

81. On 06-18-96, this writer traveled to Rockport and interviewed FRANK BOCHICCHIO at the Aransas County Court House. BOCHICCHIO was in custody in lieu of $500,000 bond. BOCHICCHIO gave this writer a voluntary video taped statement. The final portion of the interview was done on audio because the video camera failed. BOCHICCHIO stated the following:

A. He knows MARK CRAWFORD and MICHAEL BECKCOM and WILLIAM NOEL.

B. CRAWFORD owed him some money and on 05-06-96, he received a call from CRAWFORD telling him that he had his money and to meet him at the Dairy Queen in Ingleside.

C. He arrived at the Dairy Queen that afternoon then CRAWFORD and BECKCOM showed up in CRAWFORD's Mercedes. The three walked into the Dairy Queen and ordered something to drink.

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D. He knows that BECKCOM drives some type of red Ford utility vehicle.

E. CRAWFORD invited him to check out a building. He followed CRAWFORD and BECKCOM to a white building of the highway that goes to Corpus Christi. When he got there, he met a man in the building who he had not seen before. He did not go into the building but did speak with the man in the building.

F. He knows NICK BRUEGGEN and he did not know that BRUEGGEN was locked in the tool box.

G. He did not receive a kiss on the cheek from CRAWFORD or BECKCOM. He did offer KIRK JOHNSON something to eat.

H. He has been in Houston before with CRAWFORD, BECKCOM and BRUEGGEN but does not know what type of business the three did.

I. He did speak with WILLIAM NOEL and did tell him that everyone was on their own.

82. On 06-27-96 this writer met with Port Aransas, Texas Chief of Police DON PERKINS who stated that he received a map from the Post Master at the Port Aransas Post Office. The single piece of paper with a map was dropped in the indoor mail receptacle by someone. The map indicated that a second body was located in a box two blocks north and one half block southeast of CRAWFORD's house. A definite location could not be established because of the vague information.

83. On 07-05-96, an examining trial was held in Aransas County for MICHAEL BECKCOM. KIRK JOHNSON provided testimony at the trial. Judge MARTIN DELEON found that probable cause existed for BECKCOM's arrest but reduced BECKCOM's bond to $500,000.

84. On 07-08-96, this writer interviewed RYAN MAUCH and JEREME BARNES at the Ingleside Police Department. MAUCH's original statement about digging the hole behind the building on Jacoby Lane was discussed. MAUCH stated that after he (MAUCH) completed the job, he met CRAWFORD at his residence on Main Street and told him the job was completed. CRAWFORD was driving his red Mercedes convertible according to MAUCH.

85. MAUCH stated that he has done contract work for CRAWFORD and knows him well. He was doing some remodeling work for CRAWFORD at the residence on Main Street in Ingleside. He recalled that his driver's license were suspended for not having insurance so he used the $100 plus an additional $200 he borrowed from a friend to get insurance. MAUCH recalled that on Wednesday, 05-08-96, he and his girlfriend drove to Austin to renew his Texas driver's license. MAUCH returned the next date and went to work at CRAWFORD's house. MAUCH recalled that CRAWFORD was at the house on Main Street and CRAWFORD told him (MAUCH) that there were some cold drinks in the ice chest. MAUCH stated that CRAWFORD had a new ice chest with cold drinks in it. He described the ice chest as either blue or

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green but the lid was white and it had a smaller lid built on the larger lid. MAUCH was asked about a fan and he recalled that the house did not have a floor in some sections and the CRAWFORD had a new gray fan in the house to help keep it cool.

86. On 07-06-96 at approximately 1:55 A.M., FBI Agents and Biloxi, Mississippi Police arrested MARK CRAWFORD at Starlite Mobile Park on 2280 Pass Road, Lot 17 in Biloxi, Mississippi. CRAWFORD was transported to the Harrison County Jail in Gulfport, Mississippi where he was held without bond.

87. This investigation continues.

CUSTODY OF EVIDENCE

E1. Wood handle shovel found in the building on 06-03-96 by Ranger RIVERA. Submitted to DPS Crime Laboratory in Corpus Christi on 06-08-96.

2. Black attaché case belonging to GEORGE NICK BRUEGGEN with BRUEGGEN's credit cards, passport, Southwest Airline tickets and assorted paperwork. Taken from WILLIAM NOEL at the Ingleside Police Department on 06-04-96 by Ranger RIVERA. In custody at the San Patricio County Sheriff's Evidence Locker in Sinton.

E3. Gold ring with foreign symbol taken from MICHAEL BECKCOM's property at the Aransas County Jail by Investigator STAN BYNUM on 06-04-96. Released by STAN BYNUM to Ranger RIVERA on 06-18-96. In custody at the San Patricio County Sheriff's Evidence Locker in Sinton.

E4. Tailpipe piece from BECKCOM's Ford Explorer displaying Texas plates HLZ14B cut off by Sam's Auto Repairs at the request of Sheriff DAVID PETRAUSAITIS for Ranger RIVERA on 06-05-96. Taken into custody by STAN BYNUM from Sheriff PETRAUSAITIS on 06-05-96 and released by BYNUM to Ranger RIVERA on 06-18-96. In custody at the San Patricio County Sheriff's Evidence Locker in Sinton.

E5. Ink rolled tire print from left tire of BECKCOM's Ford Explorer displaying Texas plates HLZ14B. Prints taken by Ranger RIVERA on 06-05-96 and submitted to DPS Crime Laboratory in Corpus Christi on 07-03-96.

E6. Ink rolled tire print from right tire of BECKCOM's Ford Explorer displaying Texas plates HLZ14B. Prints taken by Ranger RIVERA on 06-05-96 and submitted to DPS Crime Laboratory in Corpus Christi on 07-03-96.

7. Gold ring with foreign symbol delivered to Ranger RIVERA by CRAIG THEROIT's brother CASEY THEROIT on 06-07-96. CRAIG THEROIT died in a traffic accident. In custody at the San Patricio County Sheriff's Evidence Locker in Sinton.

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E8. Beretta 9 mm pistol serial number BER317771Z received by ROBERT CARTWRIGHT on 06-01-96 from KIRK JOHNSON. Received by Ranger RIVERA on 06-11-96 from CARTWRIGHT. In custody at the San Patricio County Sheriff's Evidence Locker in Sinton.

E9. Quick Throttle magazine, July 1996, purchased by KIRK JOHNSON at the Corpus Christi International Airport on 05-06-96 while waiting for NICK BRUEGGEN. Received by ROBERT CARTWRIGHT on 06-01-96 from KIRK JOHNSON. Received by Ranger RIVERA on 06-11-96 from CARTWRIGHT. In custody at the San Patricio County Sheriff's Evidence Locker in Sinton.

E10. Gold ring with foreign symbol given to KIRK JOHNSON by MICHAEL BECKCOM after the murder of NICK BRUEGGEN. Received by ROBERT CARTWRIGHT on 06-01-96 from KIRK JOHNSON. Received by Ranger RIVERA on 06-11-96 from CARTWRIGHT. In custody at the San Patricio County Sheriff's Evidence Locker in Sinton.

E11. Lasko Wind Machine 2 model 3521 fan with a plastic grill collected from MARK CRAWFORD's home at 1489 Main Street in Ingleside on 06-13-96 by Ranger RIVERA. In custody at the San Patricio County Sheriff's Evidence Locker in Sinton.

E12. Coleman ice chest, green with two white lids, one smaller that the other, the smaller one part of the larger lid, collected from MARK CRAWFORD's home at 1489 Main Street in Ingleside on 06-13-96 by Ranger RIVERA. In custody at the San Patricio County Sheriff's Evidence Locker in Sinton.

E13. Box with 38 spy type books, collected from MARK CRAWFORD's home at 1489 Main Street in Ingleside on 06-13-96 by Ranger RIVERA. In custody at the San Patricio County Sheriff's Evidence Locker in Sinton.

E14. Red Hazardous Material bag with NICK BRUEGGEN's personal items collected by Doctor LLOYD WHITE during the autopsy on 06-04-96. Received by Ranger RIVERA from Doctor WHITE on 06-12-96 and delivered on 06-12-96 to the DPS Crime Laboratory in Corpus Christi to HUY NGUYEN.

E15. Sketch drawing given to RYAN MAUCH on 05-06-96 by MARK CRAWFORD with the dimensions to the hole he wanted dug behind the building at 561 Jacoby Lane near Aransas Pass. Delivered to Investigator STAN BYNUM by MAUCH on 06-04-96. Received by Ranger RIVERA on 06-05-96 by STAN BYNUM. Submitted to the Corpus Christi Police Department Crime Laboratory for finger prints analysis on 07-03-96.

E16. Gold ring with foreign symbol taken from FRANK BOCHICCHIO's property at the Aransas County Jail by Investigator STAN BYNUM on 06-17-96. Released by STAN BYNUM to Ranger RIVERA on 06-18-96. In custody at the San Patricio County Sheriff's Evidence Locker in Sinton.

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E17. Sketch drawing received by the United States Post Master in Port Aransas, Texas and delivered to Port Aransas Chief of Police DON PERKINS on 06-04-96. Received by Ranger RIVERA by Chief PERKINS on 06-27-96. Submitted to the Corpus Christi Police Department Crime Laboratory for fingerprint analysis on 07-03-96.

E18. Bag with items recovered from the front section of MICHAEL BECKCOM's Ford Explorer recovered on 06-05-96 at the Aransas County Sheriff's Office by Ranger RIVERA. In custody at the San Patricio County Sheriff's Evidence Locker in Sinton.

PHYSICAL DESCRIPTION

1. MICHAEL GLYNN BECKCOM W/M DOB: 10-05-61
5'8; 212 lbs; Brn hair, Brn eyes,
TDL: 09041237
SSN: 451-37-4513
DPS: TX04198936
FBI: 674536KA0
1911 Westmead #2912B
Houston, Texas 77077

2. MARK EDARD CRAWFORD W/M 07-22-55
5'9"; 150 lbs; Blk hair; Brn eyes
TDL: 15028408
SSN:
1411 Main Street
Ingleside, Texas 78362

3. KIRK ALAN JOHNSON W/M 05-24-64
5'11; 190 lbs; Brn hair; Blue eyes;
TDL: 04270358
SSN: 460-37-4845
DPS: TX05624706
1444 Avenue F
Nederland, Texas 77627

4. FRANK BOCHICCHIO W/M DOB: 03-27-32
5'8"; 240 lbs; Gray hair; Brn eyes;
TDL: 12289296
SSN: 114-24-0409
FBI: 636995N1
1818 Rodd Field Road # G5

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P.O. Box 270722
Corpus Christi, Texas 78427
512-991-9452

WITNESSES and INVESTIGATORS

1. SUSAN LYNN BAILEY DOB: 01-16-59
TDL: 08035407
301 Wilcrest #3405
Houston, Texas 77042
713-974-0221

2. SUSAN BOHNING BRUEGGEN DOB: 02-18-57
TDL: 03971705
12118 Gladwick Drive
Houston, Texas 77077
713-870-0090
713-680-4864 (W)

3. AMBER MELISSA MILLER DOB: 04-01-76
TDL: 10282733
13235 Cape Province
Houston, Texas
713-568-0871
713-906-4299 (M)

4. MISSIE ANN BECKCOM DOB: 07-14-61
4343 Main Ave.
Groves, Texas
409-962-8922

5. GENEVA GARZA DOB: 09-29-66
South Texas Cleaning
TDL: 11089431
SSN: 462-41-1575
106 E. Janin Circle
Portland, Texas 78374
512-~~882-70~~31
289-6738

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6. R. ARRINGTON, Patrol
Aransas Pass Police Department
338 South Arch
Aransas Pass, Texas 78362
512-758-5241

7. JOE DEASES, Patrol
Aransas Pass Police Department
338 South Arch
Aransas Pass, Texas 78362
512-758-5241

8. GARTH FREEZE, Director
Public Works
City of Aransas Pass
235 East Wilson
P.O. Box 2000
Aransas Pass, Texas 78362
512-758-7301

9. JIMMY DURHAM, Superintendent
Public Works
City of Aransas Pass
235 East Wilson
P.O. Box 2000
Aransas Pass, Texas 78362
512-758-7301

10. RICK KILGORE, Fireman
City of Aransas Pass Fire Department
338 South Arch
Aransas Pass, Texas 78362
512-758-2086

11. TREY SHEFFIELD, Fireman
City of Aransas Pass Fire Department
338 South Arch
Aransas Pass, Texas 78362
512-758-2086

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12. GILBERT RITZ, Fire Chief
City of Aransas Pass Fire Department
338 South Arch
Aransas Pass, Texas 78362
512-758-2086

13. MANUEL BUENTELLO DOB: 10-13-62
TDL: 09542983
Marshall Funeral Home
559 S. Commercial
Aransas Pass, Texas 78336
512-758-3221

14. JUAN SALDIVAR DOB: 08-08-74
TDL: 15196395
Marshall Funeral Home
559 S. Commercial
Aransas Pass, Texas 78336
512-758-3221

15. JOSE O. ESCOBAR DOB: 03-01-74
TDL: 00176084
Marshall Funeral Home
559 S. Commercial
Aransas Pass, Texas 78336
512-758-3221

16. WILLIAM NOEL B/M DOB: 08-16-54
TDL: 16495079
SSN: 456-29-4075
2929 Lawton
Corpus Christi, Texas 78405
512-883-4433

17. ROBERT WAYNE WALTON JR. DOB: 02-12-74
TDL: 15477040
1403 N. Alameda Apt A
Corpus Christi, Texas 78404

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18. RYAN WAYNE MAUCH DOB: 08-05-73
TDL: 04805763
SSN: 466-53-1475
Rt 1 Box 404
Ingleside, Texas 78362
512-758-7539

19. JEREME DAVID BARNES DOB: 01-25-74
TDL: 14871691
SSN: 458-93-1582
RT 1 Box 401
Ingleside, Texas 78362

20. RICHARD CARL WILLIS DOB: 02-26-71
TDL: 17064492
SSN: 444-88-9612
1053 Saratoga
Corpus Christi, Texas 78415

21. RICHARD THOMAS SQUYRES DOB: 07-21-34
TDL: 02631827
114 Bayshore Court
P.O. Drawer AA
Ingleside, Texas 78362
512-776-2373
800-999-6710 / 994-0426 (P)

22. ALEX and GLORIA POLIDIAS
402 Bayshore
Ingleside on the Bay, Texas
512-776-2374

23. MARTIN DELEON, Justice of the Peace
Aransas County Pct 1
301 North Live Oak
Rockport, Texas 78332
512-790-0130

E TITLE	FILE NO.	TYPE	PROGRAM CODE
Capital Murder, - F1 - 1900 Aransas County, 004 GEORGE N. BRUEGGEN 05-06-96	RD096228	O	CRIMINAL

ACTIVE_XX_INACTIVE___CLOSED___RESTRICT___

BY: OSCAR RIVERA, Sergeant #4585

24. RODNEY HARRISON, Investigator
Port Arthur Police Department
P.O. Box 1089
645 4th Street
Port Arthur, Texas 77641
409-983-8639

25. ROBERT CARTWRIGHT, Investigator
Port Arthur Police Narcotics Task Force
P.O. Box 1089
Port Arthur, Texas 77641
409-983-8600

26. ABEL PENA, Agent
Federal Bureau of Investigation
802 N. Carancahua, Suite 1950
Corpus Christi, Texas 78470
512-883-8671

1 Shoreline Plaza (Omni) Ten Cultural Bldg 11th

27. BILL CASSIDY, Agent
Federal Bureau of Investigation
802 N. Carancahua, Suite 1950
Corpus Christi, Texas 78470
512-883-8671

28. ROBERT GARZA, Sergeant
Texas Ranger
Texas Department of Public Safety
P.O. Box 5224
Corpus Christi, Texas 78465
512-854-2681

29. RANDY CRIDER, Investigator
36th Judicial District Attorney's Office
P.O. Box 1393
Sinton, Texas 78387
512-364-6220

E TITLE	FILE NO.	TYPE	PROGRAM CODE
Capital Murder, - F1 - 1900 Aransas County, 004 GEORGE N. BRUEGGEN 05-06-96	RD096228	O	CRIMINAL

ACTIVE_XX_INACTIVE___CLOSED___RESTRICT__

BY: OSCAR RIVERA, Sergeant #4585

30. DAVID PETRAUSAITIS, Sheriff
Aransas County Sheriff's Office
301 North Live Oak
Rockport, Texas 78382
512-729-2222

31. STAN BYNUM, Investigator
Aransas County Sheriff's Department
301 North Live Oak
Rockport, Texas 78332
512-729-2222

32. DAVID BICKFORD, Investigator
Aransas County Sheriff's Department
301 North Live Oak
Rockport, Texas 78332
512-729-2222

33. PATRICIA GRAHAM, Supervising Criminalist II
Crime Laboratory
Texas Department of Public Safety
P.O. Box 5224
Corpus Christi, Texas 78465
512-854-2681

34. HUY NGUYEN, Forensic Scientist
Texas Department of Public Safety
P.O. Box 5224
Corpus Christi, Texas 78465
512-854-2681

35. CATHERINE MARIE CABALLERO, Forensic Scientist
Texas Department of Public Safety
P.O. Box 5224
Corpus Christi, Texas 78465
512-854-2681

36. LLOYD WHITE, Pathologist
Nueces County Medical Examiner
2435 Morgan Ave
Corpus Christi, Texas 78405
512-884-4994

_E TITLE	FILE NO.	TYPE	PROGRAM CODE
	RD096228	O	CRIMINAL
Capital Murder, - F1 - 1900 Aransas County, 004 GEORGE N. BRUEGGEN 05-06-96	ACTIVE_XX_INACTIVE___CLOSED___RESTRICT___ BY: OSCAR RIVERA, Sergeant #4585		

37. CLAUDIE PERKINS, Sergeant
San Patricio County Sheriff's Department
300 North Rachal Street
Sinton, Texas 78387
512-364-2251

38 RICK HERNANDEZ, Deputy
San Patricio County Sheriff's Department
300 North Rachal Street
Sinton, Texas 78387
512-364-2251

39. DANIEL LOPEZ, Patrol
Ingleside Police Department
2619 Humble Street
Ingleside, Texas 78336
512-776-2531

40. CHRIS JANSSEN, Patrol
Ingleside Police Department
2619 Humble Street
Ingleside, Texas 78336
512-776-2531

41. DONALD R. PERKINS, Chief of Police
Port Aransas Police Department
P.O. Box 698
Port Aransas, Texas 78373
512-749-6241

FILE TITLE	FILE NO.	TYPE	PROGRAM CODE
	RD096228	O	Criminal
. Capital Murder - FC - 1900 2 Aransas County, 024 3 GEORGE N. BRUEGGEN, WM, Age 48 4 05-06-96	ACTIVE_XX_INACTIVE___CLOSED___RESTRICT__		
	BY: OSCAR RIVERA, Sgt 4585		

SYNOPSIS

The Capital Murder investigation into the death of GEORGE NICK BRUEGGEN continues. Several witnesses have been interviewed and various subpoenas have been issued for telephone and bank records.

DETAILS

88. On 07-14-96, this writer contacted Aransas Pass Walmart Store manager YOKO MCRAD. MCRAD was asked to search their records for two transactions on 05-06-96 for specific purchases. The items in question were the purchase of an ice chest, lawn chair, fan, soft drinks, ice and some snacks . The next purchase in question was that of a garden hose and duct tape purchased on the same date a few hours later. On 07-15-96, YOKO MCRAD contacted this writer with the information. Arrangements were made to meet on the following date to review the transaction records.

89. This writer met with MCRAD at the Walmart Store at 1920 W. Wheeler in Aransas Pass on 07-16-96. The store is only a short distance from Jacoby Lane. MCRAD produced transaction number 1662 from register 3 at 12:26 P.M dated 05-06-96. The sales slip indicated that clerk number 43, MARIA VIDUDUC was signed on as the register operator. The total purchase price was $79.08 and was paid for with $80 in cash. The identification bar code numbers on the transaction tape indicated that following items were purchased:

A. Two six packs of Sam's soft drinks # 7874222613

B. Three bags of Sam's pistachios # 7874243023

C. Two Milky Way candy bars # 4000000401

D. Two Gatorade drinks # 5200033830

E. An air conditioner extension cord, # 7869370045

F. Coleman Ice Chest combo # 7650132329

G. Cheese Nips # 4400004786

H. Web Chair # 4698768170

I. Wind Machine Lasko fan model 3521 # 4601352501

J. Nuts # 2900007650

K. Tumbler # 7308807947

L. Animal Crackers # 7232091022

M. Ice # 7416934520

90. The second transaction, number 3443 from register 2 was handled by clerk number 291, CINDY FREASIER at 4:47 P.M on 05-06-96. The total purchase price was $36.90 and was paid for with $40 in cash. The identification bar code numbers on the transaction tape indicated that following items were purchased:

A. Duck brand duct tape # 7535303033

B. Bolt cutters # 7874226644

C. Water hose, 75' 5/8" # 7862720583

This writer purchased the Duck brand duct tape, Better Home garden hose and a pistachios bag using the bar code numbers indicated on the sales slips from the purchased items on 05-06-96. The items were purchased to use for comparison with the items found in the building on Jacoby Lane on 06-03-96 during the search warrant execution. JOHNSON has indicated that CRAWFORD and BECKCOM had purchased the snacks, plus a fan, ice chest and a lawn chair from Walmart while he (JOHNSON) watched over BRUEGGEN. JOHNSON also stated that BECKCOM, CRAWFORD and he went to a Walmart Store near Jacoby Lane and purchased a roll of duct tape and a garden hose which was used to kill BRUEGGEN.

92. This writer interviewed MARIA VIDUDUC at the Walmart Store in Aransas Pass. VIDUDUC stated she knew MARK CRAWFORD because his wife TERESA CRAWFORD was the Courtesy Desk Manager at Walmart. VIDUDUC added that she had not seen MARK CRAWFORD in several months and if he (CRAWFORD) would have come to her register, she would remember it. VIDUDUC did not recall the transaction on 05-06-96, however she added that it is not uncommon, especially during the lunch hour, to log in on a register and have someone else check out a customer using the existing log in number. The second clerk, CINDY FREASIER is no longer employed at Walmart.

93. This writer reviewed each item on the first receipt and compared the bar code number with evidence found both at the Jacoby Lane location and at MARK CRAWFORD'S home in Ingleside. The first item, the six pack of Cola, was identified as Sam's Choice Cola in a red can. The same type of soft drinks were found at the location on Jacoby Lane. The next items on the first receipt were three bags of pistachios. Pistachios were found in the brown tool box and on a counter at the building on Jacoby Lane. The Wind Machine listed on the receipt was a Lasko brand model 3521 fan boxed in the identical box found in the building on Jacoby Lane. The fan in the box was identical to the one found at

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CRAWFORD'S home. The web chair listed on the receipt was identical to the one found at CRAWFORD'S home.

94. The cooler combo listed on the first receipt was not available at the Aransas Pass Walmart. MCRAD stated that the cooler combo was a Coleman brand ice chest that sold out. MCRAD was able to locate the same item at the Walmart Store in Rockport, identified by the same bar code number as the one on the receipt.

95. This writer traveled to the DPS Laboratory in Corpus Christi and met with PATRICIA GRAHAM. The items purchased at Walmart were compared with photographs taken by this writer and her photographs. The red end piece on the purchased garden hose was similar to the red melted piece found in the building on Jacoby Lane. The advertisement card board on the purchased garden hose was identical to the one found in the trash bag in front of the building. The Duck brand duct tape was also the identical brand of duct tape found in the building.

96. On 07-17-96, Aransas County Sheriff DAVID PETRUSAITIS and this writer flew to Gulfport, Mississippi to transport MARK CRAWFORD back to the Aransas County Jail. CRAWFORD had waived extradition and was ready to return to Texas. A Department of Public Safety aircraft was used to fly to Mississippi. Deputies from the Harrison County Sheriff's Department brought CRAWFORD to the airport in Gulfport. CRAWFORD was escorted to the DPS aircraft and transported to Rockport, Texas.

97. During the flight, CRAWFORD began an unsolicited conversation about the murder. CRAWFORD stated that he was innocent and a man in Houston could confirm that he was not in town on the day of the murder. He added that he and RICARDO BARRIOS from Houston were working on a deal from Venezuela. This writer informed CRAWFORD that KIRK JOHNSON, MIKE BECKCOM and FRANK BOCHICCHIO did not agree. CRAWFORD added that FRANK was innocent and had nothing to do with this. CRAWFORD was told that if he was not present, how did he know FRANK BOCHICCHIO was or was not there at the building on Jacoby Lane.

98. This writer asked CRAWFORD what happened to his Mercedes car. CRAWFORD stated that he went to a car wash in New Orleans, Louisiana to use the pay phone. The man at the car wash offered to wash his car for $10 so he agreed to have his car washed while he made some calls. CRAWFORD added that while he was on the telephone, a police car came by the car wash and the officer was looking at the Mercedes. He added that by this time he was aware that he was wanted and figured that the car was "hot." CRAWFORD stated he left the car there with all of his belongings and started to hitch hike. CRAWFORD was asked if he was picked up by a man in a pickup truck. CRAWFORD stated that he was. CRAWFORD was then asked if the driver of the pickup was his father. CRAWFORD lowered his head and answered, "I can't tell you that".

99. CRAWFORD was delivered to the Aransas County Jail at approximately 2:10 P.M. on 07-17-96. Corpus Christi Laboratory Technician EDWARD MCKINSTRY came to the Aransas County Jail to finger print CRAWFORD for comparison and analysis. CRAWFORD was then taken before Judge MARTIN

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BY: OSCAR RIVERA, Sgt 4585

DELEON, Justice of the Peace for arraignment. Judge DELEON set a two million dollar bond on CRAWFORD. CRAWFORD remained in jail in lieu of bond.

100. On 07-18-96, this writer met with FBI Agent ABEL PENA at his office in Corpus Christi, Texas. Agent PENA had received the items left behind in CRAWFORD'S Mercedes in Louisiana. Agent PENA called in GENEVA GARZA to interview her about telephone calls made to her by CRAWFORD during BRUEGGEN'S murder. After the interview, this writer flew to the Ingleside and Aransas Pass areas to take aerial photographs.

101. On 07-19-96, this writer met with Aransas County Investigator STAN BYNUM to inventory the items collected by the FBI in Louisiana and shipped to Agent PENA. Investigator BYNUM and this writer went to the Walmart Store in Rockport. The purpose of the visit was to locate the Coleman Combo Cooler set as indicated on the bar code from the Aransas Pass Walmart receipt. The Coleman ice chest was located and the bar code numbers were matched. The Coleman ice chest was identical to the one found at CRAWFORD'S house during the search warrant execution. Additionally, the bar code numbers for the Lasko fan, the Sam's Choice Colas, the folding web chair, and the ice were located and photographed for reference.

102. Investigator BYNUM and this writer traveled to Corpus Christi to interview WILLIAM NOEL at the Nueces County Jail in Corpus Christi, Texas. NOEL was interviewed about his relationship with MARK CRAWFORD, FRANK BOCHICCHIO, NICK BRUEGGEN and MIKE BECKCOM. NOEL gave a recorded audio statement about his relationship with CRAWFORD'S operations. NOEL'S statement was transcribed and is labeled "Attachment A". NOEL stated the following:

A. On 06-04-96, he was in Ingleside and he stopped a Deputy Sheriff and asked him for directions to MARK CRAWFORD'S residence while in his royal blue 1995 Nissan, extended cab pickup.

B. At the time he had a black briefcase that he assumed belonged to NICK BRUEGGEN. The briefcase contained a passport, driver's license, credit cards, and business papers.

C. The day that he received the black briefcase from MARK CRAWFORD, he met CRAWFORD at a store in Ingleside. The store looks like a small convenience store with a washateria and has two gas pumps, and you can rent videos out. The store belongs to MARK CRAWFORD'S wife THERESA. He has met CRAWFORD'S kids and his wife several times at that store.

D. He had his sister WANDA SMITH with him and they followed CRAWFORD to his house near the water in Ingleside. He recalled that it was about 12:00 or 1:00 P.M. on the same date he took his sister to get her car. His sister had purchased a car from Keetch Motors on Staples Street and he took her to get her car that day. [DAN KEETCH confirmed that WANDA SMITH purchased a car from him on 05-24-96.

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E. The reason CRAWFORD gave him the briefcase was because he was placed on stand by to make a trip and he could use the credit cards to make his trip. He used the credit cards in BRUEGGEN'S briefcase in Corpus Christi at Walmart, Exxon and Circle K. He purchased a rod and reel with the credit card at Walmart. [Credit card receipts for Exxon and Walmart were located in Brueggen's brief case when NOEL was arrested].

F. He knows NICK BRUEGGEN and knew was NICK was dead because CRAWFORD told him that he fixed NICK. CRAWFORD and NOEL had talked about killing BRUEGGEN before.

G. MIKE BECKCOM owned a 45 and 380 automatic pistols but he never saw CRAWFORD with a gun. He gave MIKE BECKCOM a book on how to make silencers. [A book on silencers was found in BECKCOM'S Ford Explorer].

H. On April 1996, MARK CRAWFORD first talked about taking out NICK BRUEGGEN. BRUEGGEN was not killed because BRUEGGEN was suppose to take care of FRANK BOCHICCHIO. Later PAUL GALVAN and RICH WILLIS came to Houston while NOEL was there with CRAWFORD and BECKCOM at a coffee shop. GALVAN and CRAWFORD went outside to talk and then GALVAN and WILLIS left. After the two left, CRAWFORD, BECKCOM and NOEL left the coffee shop in BECKCOM'S Explorer and CRAWFORD stated, "NICK'S a dead man."

I. CRAWFORD stated to them that NICK was snitching in California about a pending criminal case involving CRAWFORD and BRUEGGEN. NOEL volunteered to kill BRUEGGEN for CRAWFORD to show his loyalty to CRAWFORD. CRAWFORD told NOEL that he would tell him when to do it.

J. He was disappointed that he was not given the chance to prove himself in CRAWFORD'S organization.

K. He has delivered dope for CRAWFORD to New York and Austin.

103. On 07-22-96, this writer traveled to Houston to locate RICARDO BARRIOS and SUSAN BAILEY regarding their relationship with the suspects on this murder case.

104. RICARDO JOSE BARRIOS was located at his residence at 21411 Meadowhill Drive in Spring, Texas. BARRIOS first insisted that he did not know MARK CRAWFORD or MIKE BECKCOM. BARRIOS later stated that he heard MIKE mention MARK but he did not know MARK CRAWFORD. BARRIOS thought he may have met CRAWFORD once but never had a relationship with him. BARRIOS added that he and MIKE BECKCOM went out a few times in his red Explorer. He did not know NICK BRUEGGEN. BARRIOS was asked if he remembered being with CRAWFORD on Monday, 05-06-96 as indicated by CRAWFORD. BARRIOS was unsure of when he met CRAWFORD but recalled that CRAWFORD and BECKCOM were together. BARRIOS denied making a narcotics transaction stating he was in an export - import oil field business from Venezuela and not in the narcotic business.

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BY: OSCAR RIVERA, Sgt 4585

105. On 07-23-96, this writer contacted SUSAN BAILEY by phone. BAILEY refused to speak with this writer because she did not want to see her boyfriend go to prison for life over her testimony.

106. On 07-26-96, FBI Agents ABEL PENA and DAN SMITH conducted a video interview with GENEVA GARZA regarding her knowledge and relationship with MARK CRAWFORD. The interview was conducted at the Texas Department of Public Safety Office in Corpus Christi, Texas. GARZA'S statement was transcribed and is labeled "Attachment B". GARZA stated in her statement the following information.

A. She first met MARK CRAWFORD when she worked for his company Superior Staff Management in January 1994 in Corpus Christi on Lantana Street.

B. She has met CRAWFORD'S children, AZTECA MARCO AND CHRISTIAN CRAWFORD.

C. She has an active relationship going with MARK CRAWFORD and knows his habits and ways. Her relationship started in January 1994 until the present day. Their physical relationship has stopped but they still communicate.

D. She noticed a change in CRAWFORD, "He was a strong business man; very caring, a real good man in 1994 when she met him. She respected him in a lot of ways, but towards the end of 1995, a lot came down on CRAWFORD'S shoulders and he changed. CRAWFORD became emotionally depressed and if he wasn't depressed, he was happy or angry, and his moods just kind of back, it was like riding a roller coaster".

E. She has met CRAWFORD'S associates including MIKE BECKCOM, NICK BRUEGGEN, FRANK BOCHICCHIO, RICH WILLIS, JEREMY BARNES, and others.

F. Her sister NATALIE GARZA works for MARK CRAWFORD in Mississippi at Carpet Mart.

G. In 1996, she noticed a change in MARK. "He kept a lot of secrets from me, maybe he was protecting me by not wanting me to know everything, but, he got really secretive and every time I'd ask him questions, he told me it was none of my business, and I didn't want to continue living that way and had to put up with the mental and verbal abuse, it was getting really bad. He did say that whoever fucked with him or his family was gonna pay for what they'd done":

H. She is aware of an organizational ring. " It was a gold nugget ring and it had a symbol on there, CRAWFORD told me it stood for family". People that CRAWFORD thought had earned his loyalty received a family ring. She did not own one. NICK BRUEGGEN, MIKE BECKCOM, CRAIG THEROIT, RICH WILLIS, JOHN CRAWFORD and FRANK BOCHICCHIO wore family rings.

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I. She stated that on 05-06-96, she talked to CRAWFORD. "He told me that, he was gonna come and see me that day and he kept calling me and rescheduling that he'd come in the morning that he said he couldn't make it or he'd come that afternoon at lunch, so he couldn't make it at lunch, he'd come that evening and that evening he called me. I didn't wait around because I went to the hair salon, Shear Fx in Corpus Christi, Texas."

J. CRAWFORD'S cellular and pager were in her name. CRAWFORD'S pager number was 512-902-5807 and his mobile number was 512-960-9214 or 9216.

K. CRAWFORD told her that he was using BRUEGGEN'S cellular phone when she talked to him on 05-06-96. CRAWFORD told her that BRUEGGEN left it in his car at the airport in Houston.

L. On or around the end of April, CRAWFORD told her about a lunch date that they had in Houston with BRUEGGEN, BECKCOM and CRAWFORD about some stuff going on in Fresno, California.

M. "CRAWFORD was very angry with NICK because NICK was setting CRAWFORD up. MARK CRAWFORD told me that NICK BRUEGGEN was using MARK'S name, falsifying on bank accounts and insurance companies.

N. CRAWFORD told her that he, BRUEGGEN and BECKCOM met in Houston, Texas, and had dinner. BECKCOM and CRAWFORD wanted to see if BRUEGGEN was snitching on them on the California case. The attorneys on the case in California had given some kind of information to CRAWFORD'S attorney and CRAWFORD told this piece of information to BRUEGGEN to see if BRUEGGEN would do anything or tell anybody about it. BRUEGGEN must have turned around and told his attorney, and his attorney called the D.A. in Fresno, California, and the D.A. got really upset and at that point, and notified CRAWFORD'S attorney and CRAWFORD'S attorney told CRAWFORD so CRAWFORD knew that BRUEGGEN was talking. CRAWFORD told her that anybody that fucked with him or his family was gonna pay for what they did.

O. She knows that MIKE BECKCOM drove a red Ford Explorer and MARK CRAWFORD drove a red Mercedes convertible.

P. She saw MARCO CRAWFORD driving NICK BRUEGGEN'S car around Ingleside after 05-06-96, around mid May.

107. On 08-05-96, this writer prepared nine grand jury subpoenas for the following records:

A. United States Cellular, 6047 Weber Road, Corpus Christi, 78412. This subpoena was for the cell phone records on 512-946-7267.

B. Southwestern Bell Mobile Systems, 615 North Upper Broadway Suite 1800, Corpus Christi, Texas 78477. This subpoena was for the cell phone records on 512-215-7165.

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C. Capital One Bank, 11013 West Broad Street, Glen Allen, Virginia 23060. This subpoena was for the credit card transactions belonging to GEORGE N. BRUEGGEN.

D. Savings of America, 14565 Memorial Drive, Houston, Texas 77079. This subpoena was for bank accounts belonging to GEORGE N. BRUEGGEN.

E. Bank One, 1200 Harbor Blvd, Weehawken, New Jersey, 07087. This subpoena was for credit cards transactions under M. R. DASS.

F. GTE Mobile Net, 100 Glenborough, Houston, Texas 77067. This subpoena was for cell phone records for 713-819-5858.

G. Kleberg National Bank, P.O. Box 911, Kingsville, Texas 78363. This subpoena was for bank records.

H. A+ Paging, 1112 Adeline, Sinton, Texas 78387. This subpoena was for paging records on 512-902-5857 and 512-902-5704.

I. Norwest Bank, P.O. Box 1237, Rockport, Texas 78381. This subpoena was for bank records.

108. On 08-06-96, this writer met with 36th Judicial Assistant District Attorney ANITA O'ROURKE to get the subpoena affidavit signed. District Judge JOEL JOHNSON approved the subpoenas and signed the affidavit.

109. On 08-21-96, this writer traveled to Rockport for an examination and bond reduction hearing for MARK CRAWFORD. Judge MARTIN DELEON heard the evidence and reduced CRAWFORD'S bond to one million dollars.

110. GTE Mobile Net provided several pages of telephone calls made on GEORGE BRUEGGEN'S cellular phone after his death. Some of the numbers listed on the toll records were from the Ingleside area. On 08-26-96, this writer traveled to Ingleside to meet with Ingleside Police Investigator CHARLIE JENKINS to follow up on some telephone calls made in Ingleside on BRUEGGEN'S cellular phone on 05-06-96.

111. The GTE records on BRUEGGEN'S cellular phone indicated that on 05-06-96, BRUEGGEN'S phone received two calls on 05-06-96 at 12:27 P.M. and at 12:30 P.M. while roaming the Corpus Christi cellular area. Additionally, eight calls were made from that phone on 05-06-96 while roaming the Corpus Christi area. GTE Mobile Net provided a map to indicate the Corpus Christi roaming area on the GTE service. Listed below are the eight calls made from BRUEGGEN'S cellular phone on 05-06-96 while roaming in the Corpus Christi area.

FILE TITLE

1 Capital Murder - FC - 1900
2 Aransas County, 024
3 GEORGE N. BRUEGGEN, WM, Age 48
4 05-06-96

FILE NO. RD096228 | TYPE O | PROGRAM CODE Criminal

ACTIVE XX INACTIVE ___ CLOSED ___ RESTRICT ___

BY: OSCAR RIVERA, Sgt 4585

1.	05-06-96	16:10 PM	512-776-7614	T N T Store in Ingleside, Texas
2.	05-06-96	16:11 PM	512-776-7614	T N T Store in Ingleside, Texas
3.	05-06-96	16:12 PM	512-815-3714	DAVID FRANCO, CPA, Corpus Christi, Texas.
4.	05-06-96	18:26 PM	512-994-8867	GENEVA GARZA, Corpus Christi, Texas.
5.	05-06-96	20:27 PM	512-643-6404	GENEVA GARZA, Portland, Texas.
6.	05-06-96	20:28 PM	512-902-5704	GENEVA GARZA'S Pager, Corpus Christi, Texas.
7.	05-06-96	21:10 PM	512-776-2517	Ingleside City Hall, Ingleside, Texas.
8.	05-06-96	21:10 PM	512-776-2532	Ingleside Police, Ingleside, Texas.

112. During the video tape recording of KIRK JOHNSON'S voluntary statement taken on 06-11-96, JOHNSON stated BRUEGGEN received a call on his cellular phone while in the building on 05-06-96 from a female. He recalled that the conversation between BRUEGGEN and the female was about a breast reduction.

113. On 08-26-96, this writer located CINDY FREAISER who worked for Walmart on 05-06-96 during the second transaction at 4:47 P.M. when the duct tape and garden hose were purchased. FREASIER stated that she saw MARK CRAWFORD and his wife come by the store and knew CRAWFORD'S wife because she worked there. She added that she did not recall that specify transaction on 05-06-96 and would probably not recognize MARK CRAWFORD if he came into the Walmart Store without his wife.

114. On 08-26-96, this writer interviewed JOHN PAUL GALVAN at the Texas Department of Public Safety Office in Corpus Christi, Texas. GALVAN stated the following:

A. GALVAN came across the building on Jacoby Lane and he wanted to buy it because it was a great deal with owner finance for $15,000. He had several cars he was working on at his shop and he needed a place like the one on Jacoby Lane to work on his cars instead of the shop in Aransas Pass.

B. Over a conversation, MARK CRAWFORD found out that GALVAN was trying to buy the building on Jacoby Lane. MARK told GALVAN he wanted the building too. MARK CRAWFORD and JEREMY BARNES bought the building. BARNES left and moved to Austin and BARNES and CRAWFORD had not made any payments on the building except for the down payment.

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C. All the equipment in the building belonged to GALVAN, so one day he had one of his guys go to the building on Jacoby Lane and his employee came back and told him that someone was changing the locks. The employee told the man changing the locks at the building, that the building belonged to MARK CRAWFORD, but the man at the building said that he did not know a MARK CRAWFORD and that the building belonged to JEREMY BARNES. After learning about the lock change, GALVAN called on R. L. BOONE who owned the building to start with. BOONE told GALVAN that he had already foreclosed on the building and that the building now belonged to BOONE. GALVAN offered to pay for the fees owed to BOONE in order to get his equipment back from the building. When GALVAN met with BOONE with the money, the man offered to sell the building to GALVAN. BOONE told GALVAN to go to Aransas Pass and have the title changed on the building. The building would be his as long as he continued to make the $250 a month payment.

D. GALVAN continued to make the payments on the building and MARK CRAWFORD got with GALVAN and offered to help him with the payments. MARK told GALVAN that he had a nephew that wanted to convert the garage into a house and live in it. GALVAN didn't want to give MARK's nephew the payment book because GALVAN did not want the same thing to happen again. JEREMY BARNES, MARK CRAWFORD and some of the guys who worked on MARK's cars had keys to the building on Jacoby Lane.

E. The reddish brown tool box in the building on Jacoby Lane was brought there by GALVAN'S men and it was used to store hunting clothes and gun cases. The tool box actually belonged to GALVAN Construction which they used for off shore work, but it was really not made to be picked up by a crane. The box was marked with JPG initial and the shipping sticker on it like "MU762" and "Oxy" stickers.

F. Ray Rivera took the box to the building on Jacoby about four months ago, April 1996. GALVAN had the box moved to the building. GALVAN did not recall any pad locks on the box. He knew of some pad locks on the overhead doors. The box was not locked while he had it in the building.

G. MARK CRAWFORD had asked him if he had a box to lock up some paper work and I told him that there was a box already there.

H. GALVAN knows Mike Beckcom through MARK CRAWFORD. GALVAN used to work for MARK at Superior on South Padre Island Drive in Corpus Christi. GALVAN knows RICH WILLIS and WILLIS used to work for CRAWFORD and GALVAN as an employee leasing to Staff Pro. The telephone at Staff Pro is 883-9251. He knows JEREMY BARNES and RYAN MAUCH through CRAWFORD.

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I. J.P. GALVAN Construction was opened by MARK CRAWFORD and GALVAN. The business had its ups and downs. CRAWFORD got him some good jobs and he actually helped GALVAN get the company started.

J. He knew FRANK BOCHICCHIO through Frank's Stereo Shop. GALVAN last talked to FRANK around April. GALVAN knew him through MARK CRAWFORD. THERIOT also worked for GALVAN at his shop. GALVAN knew that CRAIG and some of MARK's employees quit and opened their own business. The employees were tired of getting calls all the time from the banks like Kleberg Bank over the company's accounts.

K. GALVAN identified photo number E-9 from the Photo Log as a family ring that MARK CRAWFORD gave him at one time but he gave it back to CRAWFORD because CRAWFORD needed a ring for someone else. CRAWFORD told GALVAN to order another ring but he never did. He knows JOHN CRAWFORD, MARK's accountant, DAVID FRANCO, and CRAIG THERIOT.

L. WILLIAM NOEL gave a statement that GALVAN and RICH WILLIS came to Houston to meet with CRAWFORD. GALVAN was asked about the trip he made with RICH WILLIS to Houston and remembers NOEL. GALVAN did not like NOEL because he and MARK and RICH also had secrets going on. GALVAN stated the IRS was harassing him over one of CRAWFORD business deals. It started when CRAWFORD asked GALVAN to go with him to Brownsville to buy an insurance policy. CRAWFORD told GALVAN that he could not put the insurance in his name because he could only have one. CRAWFORD told him that he needed a higher coverage insurance for his employment business. GALVAN went with CRAWFORD to Brownsville and he thought that CRAWFORD had already arranged for the insurance. GALVAN learned that once he and CRAWFORD arrived in Brownsville, CRAWFORD went to the telephone book to look for a workers compensation insurance company. They came back and met with Carol Tishner who prepared the paper work for CRAWFORD and GALVAN. GALVAN learned that the 941 income tax money had not been paid by CRAWFORD during the time the employees were being leased out. GALVAN really didn't have any interest on the company other than having signed for the workers compensation insurance. IRS came down on GALVAN and seized an antique car of his and levied on his accounts. GALVAN stated that MARK CRAWFORD owed IRS $500,000 for back taxes on the business opened in GALVAN'S name by CRAWFORD. CRAWFORD owed for the 941 taxes (employment income tax) that had not been paid to IRS. GALVAN and RICH WILLIS went to Victoria on business in a new Pathfinder truck that belonged to Willis. They decided to go to Houston and meet with MARK CRAWFORD. GALVAN wanted to discuss with MARK what he was going to do to clear him with the IRS and how he was going to pay back the IRS. IRS wanted $80,000 and GALVAN went to Houston to ask MARK if he could come up with the money. RICH WILLIS wanted to buy and did buy a motor bike while they were in Houston.

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M. GALVAN knows NICK BRUEGGEN. He received a call once from BRUEGGEN after they had met. BRUEGGEN called GALVAN asking him to drop the criminal charges on DAVID FRANCO, the accountant for MARK CRAWFORD. DAVID FRANCO was stealing money from GALVAN'S accounts and GALVAN had filed charges in Nueces County on Franco. BRUEGGEN offered to pay GALVAN back for what Franco had taken.

N. One of GALVAN'S employees, CARMELO ALMENDAREZ was working at CRAWFORD house on FM1069 in Ingleside. GALVAN has been at the house before. GALVAN verified the house by a photograph from one of the photos listed in the Photo Log. MARK CRAWFORD took him there and showed him the house. GALVAN knew that the house was in poor shape. GALVAN felt embarrassed that CRAWFORD would elect to live in a house in need of much repairs. GALVAN added that CRAWFORD continued to drive nice cars like the red Mercedes convertible. GALVAN was helping CRAWFORD out by lending him CARMELO to help with the remodeling job.

O. MARK CRAWFORD has called GALVAN from Jail and wanted GALVAN to find out who had turned him in. CRAWFORD told GALVAN that he thought GENEVA GARZA had turned him in.

P. GALVAN has been at CRAWFORD's house on FM1069 in Ingleside about four times. He saw NICK BRUEGGEN'S car parked at CRAWFORD's house. After the body was found, GALVAN pulled his backhoe tractor from CRAWFORD's house.

Q. There were about three car covers kept in the building on Jacoby Lane. The covers were used to cover some of the cars in the building.

R. The title for the building at 561 Jacoby Lane near Aransas Pass, Texas was in JUAN P GALVAN'S name as was the electrical bill.

115. On 08-27-96, this writer traveled to Corpus Christ to meet with RICH WILLIS. WILLIS was interviewed and provided the following information.

A. He knows MIKE BECKCOM, MARK CRAWFORD, FRANK BOCHICCHIO and knew NICK BRUEGGEN. He does not know KIRK JOHNSON.

B. He know PAUL GALVAN. They have made trips together. He made a trip to Houston with GALVAN and met with MARK CRAWFORD, MIKE BECKCOM, and WILLIE NOEL. They met at a coffee shop in Houston. It was the same day he bought a mountain dirt bike in Houston. MARK CRAWFORD and PAUL GALVAN walked off and talked that afternoon. PAUL did not tell him what the conversation was about. GALVAN did not hang out with CRAWFORD.

C. He just got out of the Navy in Ingleside in 1994 and met these people after he started seeing GENEVA GARZA'S younger sister ANITA GARZA.

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D. A note was intercepted made to RICH by CRAWFORD while CRAWFORD was a fugitive. The note asked that RICH contact the CRAWFORD kids and have them locate a pay phone in Port Aransas that could receive calls. RICH was also told to find MIKE BECKCOM a good attorney and to take MIKE some cigarettes. RICH stated he did not receive the message.

E. MIKE BECKCOM had been in contact with him from the Aransas County Jail, but he has not received any calls from MARK CRAWFORD.

F. The only reason he knew CRAWFORD was because they were dating sisters, GENEVA and ANITA GARZA.

G. He admitted that he and WILLIAM NOEL were hired by MARK CRAWFORD to deliver a message to someone in Houston. He drove NOEL to Houston in his Datsun vehicle and NOEL assaulted a person in Houston. NOEL stated that WILLIS was carrying a gun at the assault. WILLIS admitted that he always carried a gun with him. (WILLIS admitted to FBI agent ABEL PENA and to this writer that he participated in the assault for CRAWFORD.)

H. JOHN CRAWFORD called him asking that he cash the bonds belonging to MARK CRAWFORD in WILLIS' name.

I. He was been to the building on Jacoby Lane twice, once with JOHN GALVAN and once with MARK CRAWFORD.

J. He wore a family ring given to him by MARK CRAWFORD.

116. On 08-28-96, this writer returned to Ingleside to continue checking on the telephone numbers called in Ingleside on BRUEGGEN'S cellular telephone. This writer interviewed CHARLES PETERSON who is employed by the City of Ingleside. PETERSON oversees the issuance of building permits for the City of Ingleside, Texas. PETERSON stated the following:

A. His first contact with the CRAWFORDS was around the first part of May, 1996 when he observed construction at 1489 Main Street in Ingleside. He drove into the yard because he knew that a building permit had not been issued for that location. He found no one around so he returned the following day and spoke with the building foreman. PETERSON learned that the owners of the house was MARK and THERESA CRAWFORD. PETERSON told the foreman that no permit had been issued for remodeling so any work on the house was to stop until a permit was issued.

B. The first contact PETERSON had with MARK CRAWFORD was at the City Hall in Ingleside on the evening of 05-04-96 while the city election count was in progress. PETERSON met with MARK CRAWFORD and told him that he needed to have his contractor come by and meet with

him about the remodeling at 1489 Main before he issued the permit. CRAWFORD was present with his wife and a muscular male who PETERSON later identified as MIKE BECKCOM from the newspapers and television photos of BECKCOM.

C. MIKE BECKCOM told PETERSON that he would provide a list of his remodeling plans. CRAWFORD came to the Ingleside City Hall on 05-07-96 and delivered the written plans to MARILYN BENTON.

D. ANDRES GARCIA came by on 05-09-96, met with PETERSON and paid the required fee for the building permit. Permit number 0001118 was issued for the remodeling at 1489 Main Street.

117. MARILYN RUTH BENTON provided a written statement stating that she received a call from MARK CRAWFORD on 05-06-96 stating he would be in the next day to arrange for a building permit for his house at 1489 Main in Ingleside. CRAWFORD told BENTON that he was on the road in a southern state but she could not remember which state he mentioned. She added that she has known CRAWFORD for ten years and recognized his voice on the phone. BENTON stated that she was present at the Planning and Zoning Commission at the City Hall in Ingleside on 05-06-96 at 7:00 P.M. and remained there until 9:30 P.M. She did not recall receiving a phone call that night but verified that the phones were on automatic answering. BENTON concluded that MARK CRAWFORD came by her office on 05-07-96 and brought by a written document prepared on a steno note pad with a list of repairs to be made on his home on FM1069.

118. The steno note pad with the notes CRAWFORD gave BENTON was the same type, color, and number of holes at the top bar as the note RAYAN MAUCH received from CRAWFORD around 05-06-96. On 06-04-96, MAUCH provided a sketch on a piece of paper where CRAWFORD wanted the hole dug and the dimensions for the hole.

119. CRAWFORD indicated on his steno note to BENTON, " Thank you and if you have any questions please call 776-7614". The telephone number CRAWFORD indicated on his note is the same number called on BRUEGGEN'S cellular phone on 05-06-96 at 16:10 PM and at 16:11 P.M which belongs to the T N T Store in Ingleside, owned by the CRAWFORD'S.

120. On 08-28-96, this writer checked on the two calls made from BRUEGGEN'S cellular phone at 21:10 P.M. in Ingleside. The first call, 512-776-2517 was traced back to the Ingleside City Hall. The Planning and Zoning Commission in Ingleside met on the evening of 05-06-96, but telephones were routed to the automatic voice machine which would have answered the incoming call at that hour. No information could be confirmed on that call. The second call at 21:10 P.M., was to the Ingleside Police Department at 512-776-2532. Police Department records indicate that MARK CRAWFORD called the Police Department at 21:12 P.M by their clock reporting a truck in his driveway at 1489 Main on FM1069. Ingleside dispatcher DEE YARDLEY dispatched Officers J.D. NELSON and ALPHONZO

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STEELE to CRAWFORD'S residence. The Officers arrived at 21:19 P.M. and found JOHN P (GIZMO) JOHNSON at MARK CRAWFORD'S residence.

121. JOHN (GIZMO) JOHNSON was interviewed on 08-26-96 about the call. JOHNSON stated the following:

A. On 05-06-96, he went to check on PETE BARNES' home located next door to MARK CRAWFORD'S home on FM1069 in Ingleside, Texas. BARNES lives in Houston and he checks on BARNES property regularly.

B. On this particular date, it was just getting dark around 21:00 - 21:30 P.M. He saw an unfamiliar car at the house next door. JOHNSON heard that MARK CRAWFORD purchased the house next to BARNES but had not seen anyone there before. JOHNSON knows CRAWFORD.

C. JOHNSON was looking at the CRAWFORD house through some binoculars and he could see a red vehicle in front of the garage. He saw no lights on in the house but could see a person walking around without a shirt. JOHNSON found this very suspicious and was departing to call the Police. Two Ingleside Police Officers met him at the entrance gate on FM1069. The officer told JOHNSON that MARK CRAWFORD had reported a suspicious vehicle at his property. MARK CRAWFORD walked to the gate and spoke to the Ingleside Police Officers and to GIZMO JOHNSON. CRAWFORD was relieved that it was JOHNSON and not someone else. Both of them exchanged apologies and they departed.

122. Ingleside Police Officers J. D. NELSON and ALPHONZO STEELE recalled the conversation the evening on 05-06-96 with MARK CRAWFORD and JOHN JOHNSON. Both officers provided written statements about the incident.

123. Ingleside Police Department records indicated that on 05-05-96 at 5:12 P.M., MARK CRAWFORD received a traffic citation number 015622. CRAWFORD was cited for "No proof of financial responsibility" and warned for "Failure to display front license plate on vehicle". The citation indicated that CRAWFORD was driving a red 1991 Mercedes 2 door displaying Texas TFJ53W.

124. 08-30-96, this writer met with NATALIE GARZA in San Antonio to take statement on the capital murder case. GARZA stated the following information:

A. She has known MARK CRAWFORD for about two years and she met him through her sister, GENEVA GARZA.

B. She worked for MARK CRAWFORD at his Carpet Mart Store in Gulfport Mississippi as a manager. The telephone numbers there were 601-868-3900 and 601-497-2004.

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C. She ran the store for CRAWFORD, plus two of his partners, PAUL ELLIS and TOM SCHWARTZ.

D. She met NICK BRUEGGEN once at a Select Services CRAWFORD owned in Mississippi. Last year in 1995. She also met FRANK BOCHICCHIO and MIKE BECKCOM at the same place. She has never met KIRK JOHNSON.

E. She saw a Lexis automobile at the Carpet Mart in Mississippi. She learned from CRAWFORD that the car belonged to NICK BRUEGGEN. CRAWFORD told her that he had received a call from NICK BRUEGGEN and that BRUEGGEN was in some kind of trouble and was leaving the country. According to CRAWFORD, BRUEGGEN wanted CRAWFORD to please pick up the BRUEGGEN'S Lexis. CRAWFORD issued the car to one of the store room employees at Carpet Mart. "Everyone at work kind of ragged on him, (the employee) because who was he to be driving that car."

F. She was aware that CRAWFORD was making a trip to New York. CRAWFORD'S father worked at the store she managed. CRAWFORD was always calling to the store and asking her if she could spare his father for one thing or another.

G. She and CRAWFORD had dinner on 05-03-96 and CRAWFORD was going back to Texas on that day.

H. She saw CRAWFORD on 05-30-96. CRAWFORD told her she could have the weekend off. She wanted to go back home to Ingleside, Texas and he offered her a ride back to Ingleside. They traveled from Mississippi in his red Mercedes.

I. CRAWFORD talked a lot about BRUEGGEN during their ten hour trip down to Ingleside. CRAWFORD told her again that NICK had called him and told him that he was in some kind of trouble and wanted CRAWFORD to take care of his boy and pick up his car. CRAWFORD mentioned that BRUEGGEN wanted CRAWFORD to get BRUEGGEN television from BRUEGGEN'S home. A guy she knows as WILLIE NOEL (Hammer) called CRAWFORD on his cellular phone while she and CRAWFORD traveled to Ingleside. HAMMER and CRAWFORD talked about a trip to Mexico and that the deal was still on.

J. On 06-03-96, she received a call from CRAWFORD and he stated that he was on his way to New York.

K. As far as she knew, FRANK BOCHICCHIO owned the Select Services in Mississippi.

L. As part of the deal with CRAWFORD for working at the store in Mississippi, CRAWFORD told her that he would put shares in stock under her name.

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125. On 09-11-96, this writer obtained the log sheets from Aransas Pass Police Department. In FRANK BOCHICCHIO and KIRK JOHNSON'S statement, they reported that a police car drove into the yard across the street from the building on Jacoby Lane. The records were used to determined which officer may have checked out at the residence across the street on Jacoby Lane. Police records indicated that Aransas Pass Chief MELVIN SHEDD, Investigators MIKE THOMPSON and DARRELL JONES and Officers JOE ANTHONY GONZALES, ISRAEL PERALEZ and CARL HARDEMAN were the officers on duty on 05-06-96. SHARON ARRINGTON was the day communications operator.

126. Radio Logs indicated that Officer TONY GONZALES made frequent stops at the ROBERT WEEKLY residence at 550 Jacboy Lane at the north city limits of Aransas Pass. GONZALES and WEEKLEY were good friends and the officer visited WEEKLEY at least once a day on Jacoby Lane.

127. On 09-11-96, this writer was on Jacoby Lane attempting to locate neighbors on Jacoby Lane. Officer JOE ANTHONY (TONY) GONZALES arrived at ROBERT WEEKLEY'S residence to site a rifle. This writer interviewed GONZALES about a trip he may have made to the WEEKLEY'S residence on 05-06-96. GONZALES agreed to be interviewed at the Aransas Pass Police Department so that he could review his logs and activity summary. This writer took a written statement from JOE ANTHONY GONZALES that evening at the Police Department.

128. GONZALES reviewed the radio log and other records and determined that he was on patrol on 05-06-96 for the Aransas Pass Police Department. GONZALES offered the following information:

A. GONZALES determined by the radio log that on 05-06-96 he came to work at 4:35 P.M. and was driving unit number 6, a marked Aransas Pass Police unit with a light bar.

B. What was distinctive to him about that day was that Chief of Police MELVIN SHEDD made a traffic stop on the alley at the 300 block of South Commercial Street in Aransas Pass. What was rare was that Chief SHEDD seldom makes traffic stops. The Chief had stopped a female employee of the Old Town Grill for disregarding a stop sign and no insurance. He had just come to work and Chief SHEDD asked for him to come to his location.

C. He verified the traffic stop by citation number 50941 issued to SHIRLEY ANN CHILDS by him on 05-06-96.

D. After completing the citation, he traveled to 550 Jacoby Lane to visit with ROBERT WEEKLEY. He recalled seeing a truck backed up to the white building across the street. He recalls that the garage doors faces north and the door on the left (east) door was opened. The truck was backed to the door on the east.

E. He recalled that a mechanic was working on VIDA'S GMC truck. VIDA lives on WEEKLEY'S property. He visited with WEEKLEY for a short while and left. The door to the garage was still open as he drove off.

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129. On 09-12-96, Rockport Police Investigator MARK GILLIAM, met JOE ANTHONY GONZALES for the first time. GUILLEN met with GONZALES to perform a Hypnosis interview. GUILLEN attempted to place GONZALES under hypnosis for enhancement of memory recall for the events on 05-06-96. GONZALES was able to recall details of the traffic stop where he assisted Chief SHEDD, but the events leaving the WEEKLEY'S residence was not clear. No further information was developed through the interview.

130. After the Hypnosis interview was completed, this writer interviewed ROBERT WEEKLEY at his residence. Photographs were taken from the WEEKLEY'S residence looking to the building on Jacoby Lane. WEEKLEY agreed to come by the Aransas Pass Police Department to provide a written statement.

131. ROBERT WEEKLEY came by the Aransas Pass Police Department and provided the following information.

A. He lives across the street from the building at 561 Jacoby Lane at 550 Jacoby Lane. He owns a gun shop and works out of his house.

B. He graduated from college on 05-10-96 and he recalls that about a week or two before that, he recalls seeing some guys unloading a large metal toolbox. He recalls this because of all the noise the men were making in unloading the box.

C. That is the same tool box he saw the Police remove from the building.

D. He recalled that sometime in April, a young man, that cuts the yard, brought a satellite dish to the building.

E. He remembers a red Explorer and a white Oldsmobile in front of the building at 561 Jacoby Lane. The Ford Explorer was parked at an angle and the Oldsmobile was parked next to it at an angle also. He remembers a man wearing a white shirt going into the building using the regular door.

F. He remembers that possibly on the same day, he saw a man leaving with a trash bag and placed the trash bag into a Volkswagen driven by a girl. The man appeared to have light hair and weighed about 200 pounds.

132. This writer interviewed CLIFFORD SHEDD who lives next door to ROBERT WEEKLEY at 540 Jacoby Lane in Aransas Pass. SHEDD lives across the street and east of the white building at 561 Jacoby Lane where the body was interred. SHEDD remembered seeing a truck backed up to the building unloading a brown tool box. He thought that the truck may have been a van. He stated that sometime in May, he was working on his pickup in front of his house. He stated that he was replacing the front shock absorbers to his Toyota pickup around that time and there were people at the building. SHEDD

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tried to locate the receipt for the shock absorbers to verify the date he installed the shocks but could not locate it.

133. This writer learned from some items received from Mississippi, that MARK CRAWFORD claimed to have purchased two airline tickets on 05-06-96, but did not use them because he drove to Houston instead. A subpoena was issued to LISA STEWART with Southwest Airlines in Dallas. The records were obtained and the tickets were in fact purchased at the Corpus Christi International Airport on 05-06-96. The reservations were made by "MIKE" listing MIKE BECKCOM and MARK CRAWFORD as the passengers. The itinerary was from the International Airport in Corpus Christi to the Houston Hobby Airport, (One Way). The reservation was for 05-06-96 departing Corpus Christi at 4:30 P.M. The flight tickets were purchased at the Corpus Christi Airport with cash on 05-06-96, however the time of purchase was not available. The fight tickets were not used.

134. Southwest Airlines also provided information on the ticket purchased with cash by NICK BREUGGEN in Houston. The flight information indicated that the ticket was purchased by BRUEGGEN on 05-06-96 for a round trip flight from Houston to Corpus Christi returning the same date. The coupon for the fight from Houston to Corpus Christi was used on 05-06-96, but the return flight coupon was not used. The flight coupon from Southwest Airline from Corpus Christi to Houston was discovered in BRUEGGEN'S brief case.

135. On 09-03-96, Aransas County Investigator DAVID BIGFORD interviewed GEORGE MARVIN BEXLEY of Aransas Pass, Texas. BEXLEY is a jeweler and works at Jewelry by Lenay. BEXLEY gave a written statement to Investigator BIGFORD. BEXLEY stated that he was contacted by a man he knew only "Captain". The man was about 70 years old and was retired. His father knew the man well, but BEXLEY did not know the man. The older man approached BEXLEY about making some rings for MARK CRAWFORD. The Captain came in with a design drawn by a felt tip pen on a piece of paper. The design was some type of Japanese symbol. He was told that the symbol meant "family". Later, a man named Dusty came to BEXLEY to negotiate the design and took the design with him to show it to MARK CRAWFORD. DUSTY contacted BEXLEY again and told him that they did not like the design and BEXLEY redesigned the ring symbol again for them. BEXLEY later received the approval from DUSTY to make ten rings. DUSTY brought him the names of ten men and their ring sizes. BEXLEY told DUSTY that he normally used 10 kt gold on his rings. DUSTY told him that they wanted 14 kt new gold to be used on the rings. BEXLEY ordered the gold on his credit card and made five rings first. On 12-21-94, DUSTY picked up the first five rings. BEXLEY billed CRAWFORD'S Superior Staff for the rings.

136. Investigator BIGFORD took custody of the mold from BEXLEY and subsequently released the ring mold to this writer.

137. On 09-18-96, the Aransas County Grand Jury indicted MARK CRAWFORD, MICHAEL BECKCOM, and KIRK JOHNSON.

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138. This investigation continues.

CUSTODY OF EVIDENCE

None

PHYSICAL DESCRIPTION

None

WITNESSES AND INVESTIGATORS

44. YOKO MCRAD, Store Manager
Walmart Store #0458
1920 West Wheeler
Aransas Pass, Texas 78336
512-758-8518

45. MARIA VIDUDUC, Department Manager
Walmart Store #0458
1920 West Wheeler
Aransas Pass, Texas 78336
512-758-8518

46. CINDY FREASIER, (11-11-69)
1035 Tenth Street
Aransas Pass, Texas 78336
512-758-6265

47. RICARDO JOSE BARRIOS (06-03-61)
TDL# 10466290
21411 Meadowhill Drive
Spring, Texas 77388
713-350-3450

FILE TITLE	FILE NO.	TYPE	PROGRAM CODE
1 Capital Murder - FC - 1900 2 Aransas County, 024 3 GEORGE N. BRUEGGEN, WM, Age 48 4 05-06-96	RD096228	O	Criminal

ACTIVE XX INACTIVE___CLOSED___RESTRICT___

BY: OSCAR RIVERA, Sgt 4585

48. CHARLIE JENKINS, Investigator
Ingleside Police Department
2619 Humble Street
Ingleside, Texas 78336
512-776-2531

49. STEVE CHARLES PETERSON (04-03-63)
Building Official, City of Ingleside
1859 Pace Ave
Ingleside, Texas 78336
512-776-2517

50. MARILYN RUTH BENTON (06-06-34)
Inspection Clerk, City of Ingleside
Rt 1 Box 395
Ingleside, Texas 78336
512-776-2517

51. JOHN P. (GIZMO) JOHNSON (11-24-47)
RT 1 Box 678
Ingleside, Texas 78336
512-776-3823

52. J. D. NELSON, Patrol
Ingleside Police Department
2619 Humble Street
Ingleside, Texas 78336
512-776-2531

53. ALPHONZO STEELE, Patrol
Ingleside Police Department
2619 Humble Street
Ingleside, Texas 78336
512-776-2531

54. JUAN PABLO GALVAN 12-14-63
TDL 09805764
SSN: 450-45-6061
6918 Willow
Corpus Christi, Texas 78413
512-857-6237, Home
512-902-8650, Pager

FILE TITLE	FILE NO.	TYPE	PROGRAM CODE
1 Capital Murder - FC - 1900 2 Aransas County, 024 3 GEORGE N. BRUEGGEN, WM, Age 48 4 05-06-96	RD096228	O	Criminal
	ACTIVE_XX_INACTIVE___CLOSED___RESTRICT___		
	BY: OSCAR RIVERA, Sgt 4585		

55. RICHARD CARL WILLIS DOB: 02-26-71
TDL: 17064492
SSN: 444-88-9612
1053 Saratoga
Corpus Christi, Texas 78415
512-814-8481
512-857-5203 (pager)

56. NATALIE GARZA 08-24-62
TDL: 09423289
SSN: 461-21-0003
418 Shannon Lee
San Antonio, Texas 78216
210-341-2001 (work)
210-805-0145 (home)

ROBERT LYNN WEEKLEY, II 08-18-54
Robert's Gun Sales and Service
TDL# 11036784
550 Jacoby Lane
Aransas Pass, Texas 78336
512-758-3943

58. JOE ANTHONY GONZALES, Patrol (09-21-69)
Aransas Pass Police Department
338 South Arch
Aransas Pass, Texas 78362
512-758-5241

59. MARK GILLIAM, Investigator
Rockport Police Department
P.O. Box 1059
Rockport, Texas 78332
512-729-1111

60. CLIFFORD SHEDD 10-14-38
TDL# 04474957
540 Jacoby Lane
Aransas Pass, Texas 78336
512-758-2164

FILE TITLE	FILE NO.	TYPE	PROGRAM CODE
1 Capital Murder - FC - 1900 2 Aransas County, 024 3 GEORGE N. BRUEGGEN, WM, Age 48 4 05-06-96	RD096228	O	Criminal

ACTIVE_XX_INACTIVE___CLOSED___RESTRICT___

BY: OSCAR RIVERA, Sgt 4585

61. GEORGE MARVIN BEXLEY 06-29-45
Jewelry by Lenay, owner
TDL# 04974518
204 South Eight
Aransas Pass, Texas 78336
512-758-2502

FILE TITLE	FILE NO.	TYPE	PROGRAM CODE
	RD096228	O	Criminal
1 Capital Murder - FC - 1900 2 Aransas County, 024 3 GEORGE N. BRUEGGEN, WM, Age 48 4 05-06-96	ACTIVE XX INACTIVE CLOSED RESTRICT		
	BY: OSCAR RIVERA, Sgt 4585		

SYNOPSIS

The Capital Murder investigation into the death of GEORGE NICK BRUEGGEN continues. Several witnesses have been interviewed and various subpoenas have been issued for bank records.

DETAILS

139. Two receipts from the First State Bank of Austin were found in BRUEGGEN'S black brief case. The first receipt, 84520167, was dated 05-06-96 for $54,195.11. The second receipt, 84520159, was dated 05-06-96 for $1000.00. This writer learned that the deposits were made at the First State Bank of Rosenburg, Texas. DORIS REESE who works at the bank, stated that she knew NICK BREUGGEN and that she made those deposits for him after their posting time of 2:00 P.M. on Friday, 05-03-96. She added that the account belongs to FRANK BOCHICCHIO and not BRUEGGEN. BRUEGGEN was allowed to make withdrawals but required BOCHICCHIO'S approval. A subpoena was prepared to obtain those records from their main bank in Austin.

140. REESE added that BOCHICCHIO provided a rubber stamp for BRUEGGEN to use on the accounts, however, BRUEGGEN was not allowed to make withdrawals without BOCHICCHIO'S authority. (BOCHICCHIO'S signature rubber stamp was found in BRUEGGEN'S black brief case.)

141. A subpoena was issued by the Aransas County District Clerk for the bank records at the First State Bank of Austin. Bank records indicated that account number 84520167 belonged to FRANK BOCHICCHIO D.B.A. Peoples / BHW Inc. of 10878 Westheimer Street Ste 303 in Houston, Texas. The account shows that a deposit was made on 05-06-96 for $64,195.11. The account was operating in "Not Sufficient Funds" status prior to the deposit. The account shows that a wire transfer was made on 05-13-96 for $9,114.00. The bank records on account number 84520159 also belonged to FRANK BOCHICCHIO D.B.A. Infinity Operations Inc. at the same address listed above. The account also reflects the $10,000 deposit made on 05-06-96 and shows a $10,000 transfer to Peoples /BHW account. Transactions of both accounts continued after BRUEGGEN'S death through the subpoena service date in September.

CUSTODY OF EVIDENCE

None

PHYSICAL DESCRIPTION

None

FILE TITLE	FILE NO.	TYPE	PROGRAM CODE
1 Capital Murder - FC - 1900 2 Aransas County, 024 3 GEORGE N. BRUEGGEN, WM, Age 48 4 05-06-96	RD096228	O	Criminal

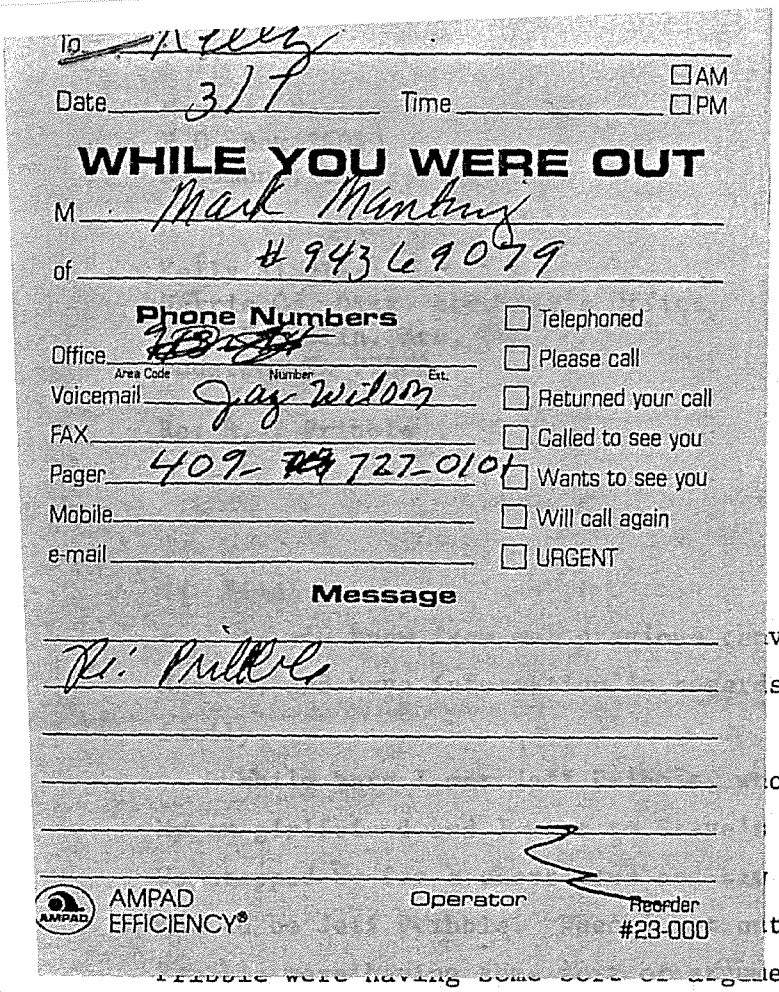
ACTIVE_XX_INACTIVE___CLOSED___RESTRICT___

BY: OSCAR RIVERA, Sgt 4585

WITNESSES AND INVESTIGATORS

62. DORIS REESE,
First State Bank of Austin
5330 FM1640
Richmond, Texas 77469
281-344-0166

Exhibit 34



To Attn

Date 3/7 Time ☐AM ☐PM

WHILE YOU WERE OUT

M Mark Martinez

of #94364079

Phone Numbers

Office [redacted] Area Code Number Ext.

Voicemail Jay Wilson

FAX

Pager 409-[redacted]727-0104

Mobile

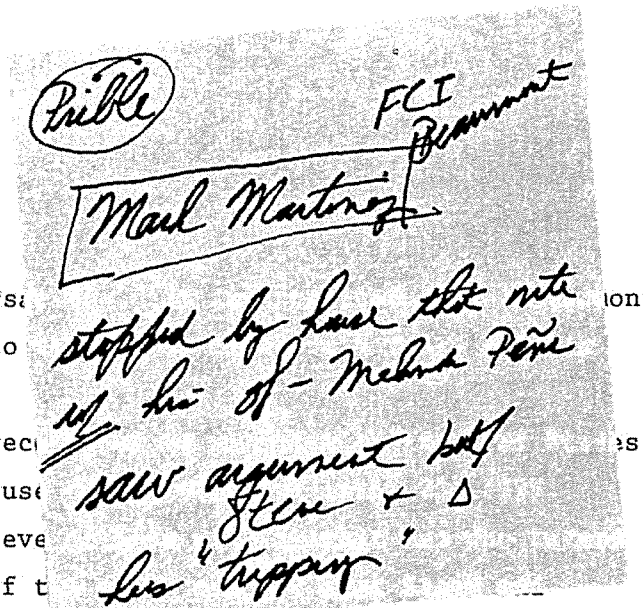
e-mail

☐ Telephoned
☐ Please call
☐ Returned your call
☐ Called to see you
☐ Wants to see you
☐ Will call again
☐ URGENT

Message

Re: Pribble

AMPAD EFFICIENCY® Operator Reorder #23-000



Pribble FCI Beaumont

Mark Martinez

stopped by [illegible] the site

w/ his GF - Melissa Peña

saw argument between

Steve + Δ

[illegible] "trippin"

...versa... ...ont-

...s to ...

...o rec... ...es'.

...house...

...Steve...

...t of t...

...ent. When I asked Steve if everything was alright, he said, "Nah. this white boys' just trippin' over some money". So my girlfriend and I left. The next day we received a phone call from Herreras' family informing us that Steve, his wife, and three children had died in a house fire. Later that day we found out that they were murdered.

It wasn't until my arrival here at FCI-Beaumont in May of 2001 that I saw Pribble again. We had several of the same friends, and Pribble told me he didn't want any trouble over what happened to Steve and his family. He told me that it wasn't supposed to go down like that. Later on as we became somewhat of friends, Pribble confided in me of Steve owing him some money from the banks they were robbing together, and how he had gone back that night to get what belonged to him. Pribble told me that Steve should have respected their business. He admitted to me of Killing Steve and his wife. Pribble even admitted to raping her, but claimed that she really liked it. As we became more familiar with one another he would sometimes joke around and say things like, "You know what happens to people who don't pay!".

I am more than willing to testify to these things in court. I am currently serving a twenty year sentence for Possession w/Intent to Distribute. I am willing to help you and would appreciate if you could help me. I recently helped Agent

Exhibit 35

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

RONALD JEFFREY PRIBLE,	'	
Petitioner,	'	
	'	
VS.	'	**4:09-cv-01896**
	'	
WILLIAM STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,	'	
Respondent.	'	

AFFIDAVIT OF NATHAN FOREMAN

My name is Nathan Foreman. I am over 18 years of age and competent to make this affidavit. The following statements are true and correct:

I arrived at FCI Beaumont Medium around February 28, 2000. While in FCI Beaumont, I met an inmate named Jeff Prible. I did not know who Prible was before I got to FCI Beaumont.

I am aware that Prible was convicted and sentenced to death for shooting two people, a man and a woman, who I was told were named Nilda Tirado and Steve Herrera. I also heard that this man and woman's three children died because of a fire that was set in their home after the shooting.

I have heard that at Prible's trial, the State claimed that when Prible was in FCI Beaumont, he confessed to murdering the man and the woman and confessed to setting the house on fire, and that I was present when Prible confessed. However, that is not true.

I did not hear Prible confess to shooting these two people and I did not hear Prible confess to setting their house on fire. Prible did not brag in my presence about killing an entire family. Prible did not tell me that he was the kind of man who can go in a house and take out a whole family and come out clean or say that he was a bad mother fucker who would do that.

Prible did not say to me that he and Steve were arguing in the garage before he shot him, and Prible did not say in my presence that the reason he shot Steve was that Steve stole money from Prible. And I did not hear Prible say that when he was in the Marines he learned how to get into a house, kill people, and get out without being seen. Prible did not make any statements like

Nathan Foreman

those to me. In fact, I never heard Prible say anything bad about the victims. When he talked about Herrera, he talked about him like he was friend he had lost. As I recall, he felt the same way about the woman that got shot.

Other FCI inmates heard about Prible's case and talked about his case with each other. Rafael Dominguez did, so did Michael Beckcom, and a couple of other Mexican or Hispanic inmates. People talked about Prible's case, and even joked about how setting Prible up would get time cuts, how Prible was going to be a ticket out of jail. Michael Beckcom was part of these conversations and plans to set Prible up.

I was Beckcom's cellmate for a couple months, after I got out of the SHU (which is also called "the hole') in August of 2001. I've been told BOP records say Beckcom and I were cellies beginning about October 6, 2001, and that fits with what I remember.

Beckcom wanted to get information about Prible's so he could get his sentence reduced. That is the only reason Beckcom had for talking to Prible that I know of. Beckcom did not talk to me about going into business with Prible after prison.

I've been told that there was testimony I wanted to invest in Prible's business. Prible talked about his work with asphalt or concrete and making lots of money in that business. I am sure I listened, but I didn't have any experience in that line of work. Prible was serving time for robbing banks, as I recall. So he did not have a business to invest in, and if it was so good, why was he robbing banks?

Prible talked about his case with all of us. But I learned information about his case from Kelly Siegler, too. One of the things that still sticks in my mind was hearing from her that Prible's semen was found in the lady victim's mouth. I also remember meeting with Siegler face-to-face and talking about Prible's case. I think it was around the time I got out of the hole in August of 2001, and I believe it was in the FDC in Houston. I think it was before I even met Prible.

I would have wanted a time cut in exchange for information that Prible killed Tirado and Herrero and suffocated the three little girls. But I did not have a confession. The information that I thought made him look guilty was the semen in the lady's mouth, and I got that from Ms. Siegler.

I have been told that the jury heard that on November 24, 2001, Prible made statements in my presence that proved he killed Steve and Nilda and set their house with the three children in it on fire. I've been informed that the State claimed it had evidence that the following events occurred on November 24, 2001, after a photograph was taken with Prible and his mother, me and my mother and her husband, and Beckcom and his mother together at FCI Beaumont:

> Prible met me in the rec yard in the late afternoon or evening and that we walked out onto the football field and sat down on the field. While Prible and I were sitting on the football field, Prible told me

Nathan Foreman

that Steve had taken $250,000 dollars from him. Prible told me that Steve was planning to kill him. Prible got very agitated or excited and told me that he loved me, called me his brother and said I knew facts that could convict him, but he was prepared to die.

I remember my parents visiting and having that photo taken, but that is not what happened afterwards. I was with Prible and we were on the rec yard after the photo, but he did not break down, or get all excited and confess to killing anybody. In fact, what I remember, and this is one reason why I remember, besides the photograph and my mother's visit, was that Prible drank so much homemade wine that night he couldn't walk on his own. Prible got so drunk I had help him back to his cell so guards wouldn't find out he was drunk and send him to the hole.

Kelly Siegler knew that FCI inmates wanted to testify against Prible in return for help getting their federal sentence reduced for cooperating. She contacted prisoners who wanted to testify through case managers and the unit manager. I remembered my unit manager's name sounded like "heart" or "harp." I have been shown a document that shows my unit manager's name was Gordon Harpe. That is the person that let us talk to Siegler on his office phone at FCI Beaumont. I was called to Harpe's office several times to talk to Siegler. That is how I learned that Prible's semen was found in Nilda's mouth. It was through one of these phone calls on Harpe's office phone.

If called as a witness, I would testify to the foregoing in a court of law. I hereby swear, affirm and state that the foregoing is true and correct under penalty of perjury pursuant to Title 18 U.S.C. § 1746.

Nathan Foreman

Nathan Foreman, Affiant

Dated: 1-11-16

Exhibit 36

CHARLES A. ROSENTHAL, JR.
DISTRICT ATTORNEY
HARRIS COUNTY, TEXAS

May 1, 2002

Mr. Todd Clemons
Assistant United States Attorney
United States Attorney's Office
800 Lafayette Street
Ste. 2200
Lafayette, LA 70501

Dear Mr. Clemons:

The purpose of this letter is to advise you of the cooperation of Jesse Moreno in the case styled State of Texas vs. Hermilio Herrero, Jr. for the offense of Murder, Cause No. 903122, which was prosecuted by me in the 179th District Court of Harris County.
The trial against Herrero concluded on April 30, 2002 with Herrero being found guilty by a jury of Murder and Judge Mike Wilkinson sentencing him to a Life sentence and a $10,000 fine, which is the maximum.

Let me start from the beginning briefly. This case was a cold case; one of many pending with the Harris County Sheriff's Department Cold Case Squad. It involved the killing of Albert Guajardo in a drug dispute that occurred in 1995. The defendant sliced the complainant's throat and then beat him viciously in the head with a hammer before rolling him up in a rug and throwing his body on the side of the road. When no leads developed in 1995, the case became inactive. The evidence in the trial consisted of admissions made by Herrero to Moreno and others he was imprisoned with about committing this murder.

In the summer of 2001, Jesse Moreno contacted me and asked me to come see him and he would tell me details that would clear a murder. I did so by visiting him in July 2001. From the first discussion I had with Moreno, I felt that he was being truthful and his testimony alone would be enough to file charges on Herrero and prosecute him. Charges were filed against Herrero soon after that visit. You should know that Moreno contacted me in regards to this case because he had been a previous witness for me in another murder case that I tried in 1997 against a defendant named Jason Morales. Morales also received a life sentence, largely because of the testimony provided to that jury by Moreno.

Eventually, Herrero learned that Moreno had informed us on him and made a threat against Moreno's life while they were still imprisoned at Beaumont FCI Medium.
Those threats have escalated and currently, Moreno is incarcerated at the Harris County Jail in the administrative segregation section to best keep him safe from the reach of Herrero. Moreno told me initially of the possibility of other witnesses to admissions made by Herrero about his committing this murder in 1995. Moreno and the other three witnesses have all been cooperative. It was however, Moreno whom I presented to the jury as being the "crux" of the case and it was almost entirely because of his testimony that the jury found Herrero guilty of Murder.

I wish to make known to you the fact that not only was Moreno always cooperative and in my opinion, truthful, but more importantly, the fact that this murder would have remained unsolved. It was his coming forward in the first place with this information that lead to the successful conviction of a murderer. I believe that he should receive a downward departure reflecting his very substantial assistance in the prosecution of this case. I have advised Moreno that I would write this letter to you making this recommendation and I have also advised him that it will be your decision whether to file the Motion and that even if the Motion is filed, it will be up to the Judge to determine an appropriate sentence.

If I can be of any further assistance, please feel free to call me.

Sincerely,

Kelly Siegler
Assistant District Attorney
Special Crimes, Major Offenders
Harris County, Texas
713-755-6178

Exhibit 37

CHARLES A. ROSENTHAL, JR.
DISTRICT ATTORNEY
HARRIS COUNTY, TEXAS

May 1, 2002

Mr. Sam Lewis
Assistant United States Attorney
United States Attorney's Office
910 Travis
Ste. 1500
P.O. Box 61129
Houston, TX 77208

Dear Mr. Lewis:

The purpose of this letter is to advise you of the cooperation of Rafael Dominguez in the case styled State of Texas vs. Hermilio Herrero, Jr. for the offense of Murder, Cause No. 903122, which was prosecuted by me in the 179th District Court of Harris County. The trial against Herrero concluded on April 30, 2002 with Herrero being found guilty by a jury of Murder and Judge Mike Wilkinson sentencing him to a Life sentence and a $10,000 fine, which is the maximum.

Let me start from the beginning briefly. This case was a cold case; one of many pending with the Harris County Sheriff's Department Cold Case Squad. It involved the killing of Albert Guajardo in a drug dispute that occurred in 1995. The defendant sliced the complainant's throat and then beat him viciously in the head with a hammer before rolling him up in a rug and throwing his body on the side of the road. When no leads developed in 1995, the case became inactive. The evidence in the trial consisted of admissions made by Herrero about committing the murder to Dominguez and others while he was imprisoned at Beaumont FCI Middle.

From my first contact with Dominguez when I interviewed him regarding his knowledge of the facts of this case, I found him to be cooperative, forthcoming and truthful. The evidence presented to the jury consisted solely of testimony from Dominguez and one other inmate, Jesse Moreno, as to the admissions made to them by Herrero. Based on that evidence alone, the jury convicted Herrero.

You should also be aware of the fact that when the defendant first suspected that Dominguez was involved in cooperating with us, Herrero made threats against Dominguez' life. Those threats escalated to the point where it was necessary to put Dominguez in administrative segregation while he was imprisoned in Beaumont and in the Harris County Jail. Now that Herrero has personally witnessed the detailed testimony Dominguez has provided against him, Dominguez' life is even more in danger.

I believe that he should receive a downward departure reflecting his substantial assistance in the prosecution of this case. I have advised Dominguez that I would write this letter to you making this recommendation and I have also advised him that it will be your decision whether to file the Motion and that even if the Motion is filed, it will be up to the Judge to determine an appropriate sentence.

If I can be of any further assistance, please feel free to call me.

Sincerely,

Kelly Siegler
Assistant District Attorney
Special Crimes, Major Offenders
Harris County, Texas
713-755-6178

Exhibit 38

CHARLES A. ROSENTHAL, JR.
DISTRICT ATTORNEY
HARRIS COUNTY, TEXAS

May 1, 2002

Ms. Tracy Batson
Assistant United States Attorney
United States Attorney's Office
350 Magnolia Avenue
Ste. 150
Beaumont, TX 77701

Dear Ms. Batson:

The purpose of this letter is to advise you of the cooperation of Nathan Foreman in the case styled State of Texas vs. Hermilio Herrero, Jr. for the offense of Murder, Cause No. 903122, which was prosecuted by me in the 179th District Court of Harris County. The trial against Herrero concluded on April 30, 2002 with Herrero being found guilty by a jury of Murder and Judge Mike Wilkinson sentencing him to a Life sentence and a $10,000 fine, which is the maximum.

Let me start from the beginning briefly. This case was a cold case; one of many pending with the Harris County Sheriff's Department Cold Case Squad. It involved the killing of Albert Guajardo in a drug dispute that occurred in 1995. The defendant sliced the complainant's throat and then beat him viciously in the head with a hammer before rolling him up in a rug and throwing his body on the side of the road. When no leads developed in 1995, the case became inactive. The evidence in the trial consisted of admissions made by Herrero about committing the murder to other inmates, including Foreman, while he was imprisoned at Beaumont FCI Middle.

When I interviewed Foreman regarding his knowledge of the facts of this case, I found him to be cooperative. I chose, however, not to use him as a witness at the trial because his knowledge was repetitious of another witness who did testify.

You should also be aware of the fact that when the defendant first suspected that Foreman was involved in cooperating with us, Herrero made threats against his life. Those threats escalated to the point where it was

necessary to put Foreman in administrative segregation while he was imprisoned in Beaumont and in the Harris County Jail.

I leave in your hands whether Foreman should receive a downward departure reflecting his assistance in the prosecution of this case. I have advised Foreman that I would write this letter to you making this recommendation and I have also advised him that it will be your decision whether to file the Motion and that even if the Motion is filed, it will be up to the Judge to determine an appropriate sentence.

If I can be of any further assistance, please feel free to call me.

Sincerely,

Kelly Siegler
Assistant District Attorney
Special Crimes, Major Offenders
Harris County, Texas
713-755-6178

Exhibit 39

CHARLES A. ROSENTHAL, JR.
DISTRICT ATTORNEY
HARRIS COUNTY, TEXAS

May 1, 2002

Mr. Sam Lewis
Assistant United States Attorney
United States Attorney's Office
910 Travis
Ste. 1500
P.O. Box 61129
Houston, TX 77208

Dear Mr. Lewis:

The purpose of this letter is to advise you of the cooperation of Eddie Gomez in the case styled State of Texas vs. Hermilio Herrero, Jr. for the offense of Murder, Cause No. 903122, which was prosecuted by me in the 179th District Court of Harris County. The trial against Herrero concluded on April 30, 2002 with Herrero being found guilty by a jury of Murder and Judge Mike Wilkinson sentencing him to a Life sentence and a $10,000 fine, which is the maximum.

Let me start from the beginning briefly. This case was a cold case; one of many pending with the Harris County Sheriff's Department Cold Case Squad. It involved the killing of Albert Guajardo in a drug dispute that occurred in 1995. The defendant sliced the complainant's throat and then beat him viciously in the head with a hammer before rolling him up in a rug and throwing his body on the side of the road. When no leads developed in 1995, the case became inactive. The evidence in the trial consisted of admissions made by Herrero about committing the murder to other inmates, including Gomez, while he was imprisoned at Beaumont FCI Middle.

From my first contact with Gomez when I interviewed him regarding his knowledge of the facts of this case, I found him to be cooperative, forthcoming and truthful. I chose, however, not to use him as a witness at the trial because his knowledge was repetitious of another witness who did testify.

You should also be aware of the fact that when the defendant first suspected that Gomez was involved in cooperating with us, Herrero made

threats against Gomez' life. Those threats escalated to the point where it was necessary to put Gomez in administrative segregation while he was imprisoned in Beaumont and in the Harris County Jail.

I leave in your hands whether Gomez should receive a downward departure reflecting his assistance in the prosecution of this case. I have advised Gomez that I would write this letter to you making this recommendation and I have also advised him that it will be your decision whether to file the Motion and that even if the Motion is filed, it will be up to the Judge to determine an appropriate sentence.

If I can be of any further assistance, please feel free to call me.

Sincerely,

Kelly Siegler
Assistant District Attorney
Special Crimes, Major Offenders
Harris County, Texas
713-755-6178

EXHIBIT 40
UNDER SEAL

EXHIBIT 41
UNDER SEAL

Exhibit 42

CHARLES A. ROSENTHAL, JR.
DISTRICT ATTORNEY
HARRIS COUNTY, TEXAS

October 29, 2002

Mark E. Cullers
Assistant U.S. Attorney
Eastern District of California
Federal Building, Room 3654
United States Courthouse
1130 O Street
Fresno, California 93721

Dear Mr. Cullers:

I am writing to inform you of the cooperation and testimony I have received on the part of Michael Glynn Beckcom, #49349-079 in the trial styled State of Texas vs. Ronald Jeffery Prible, Jr. in Harris County, Texas. The trial concluded on October 25, 2002 and resulted in the defendant being sentenced by a jury to death.

Michael Beckcom first came to my attention when he made me aware that he had information that would be helpful to my case. At that time Beckcom was incarcerated at Beaumont Medium FCI with my trial defendant, Prible and that is where and how Prible came into contact with Beckcom and confided details of his capital murder offense to Beckcom. From my first meeting with Beckcom, I was impressed with his cooperation, articulateness and recall; all characteristics with which I am sure you also are familiar. As I prepared for this trial, he was always consistently helpful. His testimony before the jury was the same, truthful and articulate. In my opinion, the jury probably had no warm feelings for Beckcom but appreciated the fact that he could not have known the facts he testified to unless the facts had been told to him by the killer, Prible.

You should also be aware that the inmate population at Beaumont FCI Medium and Low is aware that Beckcom has cooperated and testified on behalf of the prosecution. Another inmate told of this fact and specifically made sure that the Aryan Brotherhood knew of it. That situation has made it impossible for Beckcom to return to Beaumont and has also put him in danger. It is my understanding that his case officer and the warden I have

been speaking to about this problem realize this and have made arrangements for Beckcom to be incarcerated elsewhere, at least until and unless he is brought to California should you decide to file a motion on his behalf.

It is important for you to know that Beckcom's assistance and testimony were crucial to the conviction of a defendant who executed a man and a woman, by shooting them in the back of the neck, sexually assaulting the woman, setting her body on fire, causing the house to burn which lead to three little girls dying of smoke inhalation. The little girls were ages 7, 7 and 1 and the manner in which they died was horrible.

Please do not hesitate to call me if you have any questions or need my assistance in this regard. I am not too familiar with how this "process" works, so please forgive me if I have omitted some information you need.

Sincerely yours,



Kelly Siegler
Assistant District Attorney
Major Offenders, Special Crimes
713-755-6178

Exhibit 43

U.S. Department of Justice

United States Attorney
Eastern District of California

Federal Building, Room 3654
United States Courthouse
1130 O Street
Fresno, California 93721

559/498-7272
Fax 559/498-7432

November 4, 2002

Ms. Kelly Siegler
Assistant District Attorney
Major Offenders, Special Crimes
Office of the District Attorney
1201 Franklin Street
Suite 600
Houston, TX 77002-1923

Re: Michael Glynn Beckcom

Dear Ms. Siegler:

Thank you for your letter dated October 29, 2002, regarding Mr. Beckcom. Upon receiving your letter, I checked Mr. Beckcom's plea agreement with the United States. Mr. Beckcom's plea agreement with the United States includes a cooperation clause with regard to the Brueggen murder only, and does not confer upon him any right or avenue to request that the United States reduce his sentence for his cooperation in any other case, including your case.

I am glad you found Mr. Beckcom credible and that he was of great help in your case. However, the United States has no jurisdiction to confer any benefit upon Mr. Beckcom for his cooperation with the State of Texas.

Should you have any questions, please feel free to call.

Very truly yours,

JOHN K. VINCENT
United States Attorney

By
MARK E. CULLERS
Assistant U.S. Attorney

MEC:dh

HCDA-08.12.2016-02299

Exhibit 44

Audio Recording of Mark Cullers phone message to Kelly Siegler, 11-12-02

Hey Kelly, It's uh Mark Cullers, I got your message. My understanding was that before trial, um, you know, we had made no promises and we just said that we'd look at the matter and I told you to write me again and let me know *after* the trial. And I'll take a look at the plea agreement, etc., to see whether we could do that or not. Uh, that was my understanding, that there was nothing, I didn't *guarantee*, I guess, before you guys went to trial that I could do something.

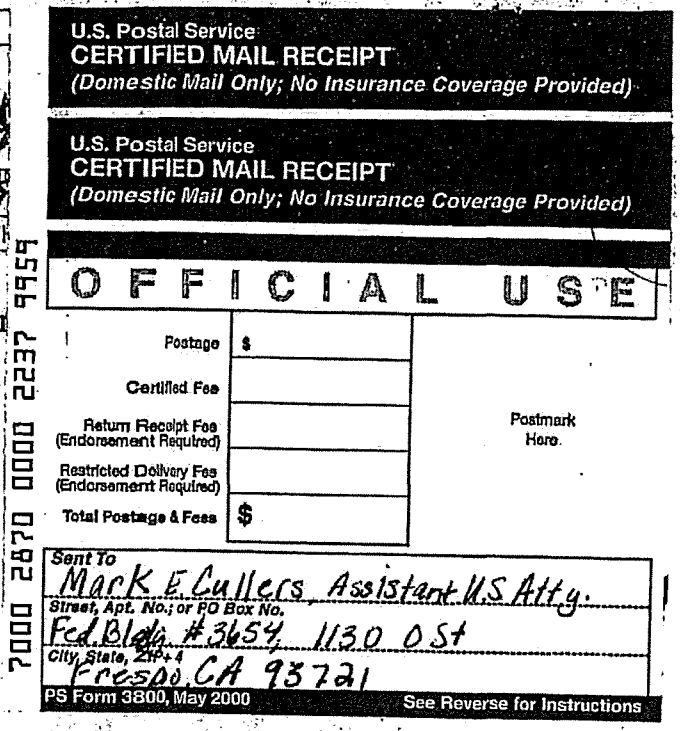
Secondly, the letter I sent you is in error that we can't - we do, we do have jurisdiction to do it, um, but, however, uh, I talked to our chief of the office and uh, we're inclined not to do it, simply because we have to think of the murder victim in the Brueggan case, and Mike was directly involved in that murder. And we feel 10 years is, uh, is a great deal. Um, also, if Mike testified in your case with the expectation of some uh deal from us, that would probably have to be disclosed to the defense in your case. Uh, because of the fact that maybe it would have – I guess the defense might have wanted to know that - it's sort of Brady information. But that's kind of an aside. But anyway, um, that was our decision here, and I hope I didn't mislead you in any way. Uh, basically we had to weigh a bunch of competing factors, and it came down to basically the kind of deal he got in our case plus the victims – uh, the victim in our case.

So, uh, if you have any questions or you want to talk to me more about it, [redacted]

Exhibit 45

CHARLES A. R
DISTRICT
HARRIS COUNTY

November


U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage $
Certified Fee
Return Receipt Fee (Endorsement Required)
Restricted Delivery Fee (Endorsement Required)
Total Postage & Fees $

Postmark Here

7000 2870 0000 2237 9959

Sent To
Mark E Cullers Assistant US Atty.
Street, Apt. No.; or PO Box No.
Fed Bldg #3654 1130 O St
City, State, ZIP+4
Fresno CA 93721

PS Form 3800, May 2000 See Reverse for Instructions

Mark E. Cullers
Assistant U.S. Attorney
Eastern District of California
Federal Building, Room 3654
United States Courthouse
1130 O Street
Fresno, California 93721

Dear Mr. Cullers,

I have received your later dated November 4, 2002 regarding the matter involving Michael Beckcom. I also got your message yesterday by telephone as to your response to my phone call on November 12. I am writing this letter to make clear the positions between the two of us.

Please rest assured that the understanding each of us had as to whether Beckcom would receive any consideration from your office initially is as you stated in your telephone message. That understanding was that after Beckcom testified completely and truthfully and cooperated fully with me in the capital murder trial which recently concluded here in Harris County, I would then notify you and it would be up to you and your office as to whether you chose to proceed in the filing of any Motion for a Reduction. IF you decided to file such a Motion, then it would obviously be up to his federal Judge as to whether, or even IF, any reduction would occur. To make it perfectly clear to you, THIS statement of our understanding and of Beckcom's was stated exactly this way to our jury AD NAUSEUM, so please don't worry for a second that there was any failure on my part to provide such information either to our jury or to the defense in my trial. Everybody is completely clear on the understanding that you and I and Beckcom had.

The confusion begins here. In your letter dated November 4, 2002, you stated that you believed that you did not have jurisdiction to file any such Motion. That is when I called and left a phone message with you in which I told you that we did have a problem because that was never my understanding and obviously, if you had NO jurisdiction, then Beckcom would have never agreed to testify because what possible reason would he have to do so? More importantly, if you had no jurisdiction at all, it would have sounded as if I had mislead Beckcom to get him to testify in my trial. That is why I wrote you and why I followed that up with a phone call.

Your phone message to me stated that your letter "was in error" and you did in fact have jurisdiction to file a Motion for a Reduction. As I understand the message, your position is that based on the facts and circumstances of the murder Beckcom was directly involved in and taking into consideration the victim in that case, Bruggeman, your "current" position was that you were not inclined to file such a Motion on Beckcom's behalf. Mark, I have read the offense report and transcripts you provided me regarding Beckcom's involvement in that murder and understand completely what you mean when you talk of the extent of Beckcom's involvement in that murder. Please know that.

The reason I am still "bothering" you is because I don't understand why, when Motion for Reductions seem to be filed for much more "unimportant" cooperation, in this VERY important case, such a Motion would not be filed. And why cannot a federal Judge, who also knowing ALL of the facts surrounding Beckcom's situation, and who originally sentenced him, not make the ultimate call as to whether he is deserving of a reduction in his sentence. To reiterate for a second, Beckcom testified in a Capital Murder jury trial in which a death penalty verdict was rendered. He cooperated fully and completely and played a vital role in obtaining a conviction. The facts involved the vicious murder of FIVE people. The facts involved the murder of three, little girls. After testifying, his situation in federal prison has become even more dangerous because the word is now out that he has testified; he will have to be incarcerated somewhere else for the duration of his sentence. In fact, my trial defendant, Prible, HIMSELF, received a time reduction in his sentence for

providing information to the FBI by telling them that a cellmate of his could help them out on some meth in the state of California. So, my trial defendant, got his time cut IN HALF, simply for saying in effect, "Hey, FBI, I know somebody who knows something," and that was it. Mike Beckcom did MUCH MORE than that in this death penalty trial. Keeping in mind how often Motions ARE filed for defendants who provide much less information that results in much less true help to law enforcement in much less important cases is where it seems to me to be confusing.

All I would ask is that ALL of the factors involved in this matter be considered truly and fairly and if a federal Judge believes after hearing all of those facts that Beckcom is not worthy of a sentence reduction, so be it.

Thank you for your time.

Sincerely,

Kelly Siegler
Assistant District Attorney
713-755-6178

cc: John K. Vincent, United States Attorney

HCDA-08.12.2016-02308

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mark E. Cullers
Assistant U. S. Attorney
Eastern District of California
Federal Building #3654,US Courthouse
1130 O Street
Fresno, CA 93721

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery
NOV 15 2002

C. Signature
X Paula Y. Pickering ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Copy from service label)
7000 2810 0000 2231 9959

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

John K. Vincent
Assistant U. S. Attorney
Eastern District of California
Federal Building #3654,US Courthouse
1130 O Street
Fresno, CA 93721

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery
NOV 15 2002

C. Signature
X Paula Y. Pickering ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Copy from service label)
7000 2810 0000 2237 9966

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

EXHIBIT 46
UNDER SEAL

EXHIBIT 47
UNDER SEAL

Exhibit 48

Michael Beckcom 49349-079
Federal Correctional Institution
P.O. Box 26040
Beaumont, Tx 77720-6040

Kelly Siegler
1201 Franklin, Ste. 600
Houston, Tx 77002

Ms. Siegler,

Enclosed you will find a copy of my sentencing transcripts that we spoke about on the phone. If you'll look at the highlighted areas on pgs. 19 & 21 you will see that a federal judge has recognized a threat to my life , as well as a threat to the safety of my family. Neither judge Wanger nor Mr. Cullers lived up to their end of the bargain in regards to this situation. So you can imagine that I'm a little apprehensive about our current situation, especially when it comes to my having to rely on these two men again in order to be granted a reduction in my time based on a recommendation you make in exchange for my testimony on the Pribble case.

Don't get me wrong, I'm going to do what I told you I would in regards to this case. What I'm asking is, is there anything you can do to help me correct some of the mistakes the fed's made? I've currently filed for a name change to the name that I was supposed to keep while in the Fed's custody, but I keep meeting resistance with the clerk in Beaumont. Can you give me any advice on this? Also, can you give me any reassurance that the Fed's are going to do the right thing on this case? I know that's a tough question to answer, but I've been screwed the whole way with these guys.

I may have a solution to these problems if you can assist me in making contact with a DEA and a FBI agent. Another inmate, Anthony Davi, and I have come on to a couple of situations that would interest both of those agencies. By the time you receive this letter I hope to have spoken to you on the phone, but I can't say much on these phones. I know your going to need to know more specifics about the information we have, so let me know how we need to handle this.

Sincerely,

Michael Beckcom

HCDA08.12.2016-02300

Exhibit 49

FAX COVER SHEET

DATE: 5/1/02

TO: COMPANY NAME: FCC Beaumont

ATTENTION: Lt. Robert Clark

TEL NUMBER:

FAX NUMBER: 409-720-5003

FROM: HARRIS COUNTY DISTRICT ATTORNEY'S OFFICE
1201 FRANKLIN, STE. 600
HOUSTON, TEXAS 77002

SPECIAL CRIMES BUREAU:
Tel: (713) 755-5840
Fax: (713) 755-5915

Number of pages (including cover): 2

If there are any problems receiving this transmission please call:
(713) 755-5840

CHARLES A. ROSENTHAL, JR.
DISTRICT ATTORNEY
HARRIS COUNTY, TEXAS

May 1, 2002

Lt. Robert Clark
FCC Beaumont
Medium Security Institution

Dear Lt. Clark:

I am respectfully requesting that you permit Assistant District Attorney Kelly Siegler and Harris County District Attorney's Investigator Johnny Bonds to your facility to interview two inmates by the name of Michael Beckom and Antone Davi on May 6, 2002. Their identifiers are as follows: Michael Beckom, white male, with inmate number 49349-079; Antone Davi, white male, with inmate number 32121-048. It is our understanding that both inmates have information regarding crimes committed in Harris County, Texas. Thank you for your time and assistance. Please feel free to call me if you have any questions.

Respectfully,

Ted Wilson
Assistant District Attorney
Chief, Special Crimes
Harris County, Texas

1201 Franklin Street, Suite 600, Houston, Texas 77002-1923

HCDA-08.12.2016-01492

****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	2868
CONNECTION TEL	3p14097205003p522284
SUBADDRESS	
CONNECTION ID	
ST. TIME	05/01 08:13
USAGE T	00'47
PGS. SENT	2
RESULT	OK

Exhibit 50

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

RONALD JEFFREY PRIBLE,		
Petitioner,		
VS.		**4:09-cv-01896**
WILLIAM STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,		
Respondent.		

AFFIDAVIT OF NATHAN FOREMAN

My name is Nathan Foreman. I am over 18 years of age and competent to make this affidavit. The following statements are true and correct:

I arrived at FCI Beaumont Medium around February 28, 2000. In 2002, I was listed as a witness in a case the State brought against another FCI Inmate named Hermilio Herrero for the murder of a man who I understand was named Alberto Guajardo. However, I was not called to testify against Mr. Herrero.

I had never heard of Herrero outside prison. I only recall seeing Herrero maybe one time in FCI Beaumont. I do not recall Herrero being on my Unit. I can't remember ever speaking to the man, not even once. There was no reason for me to talk to him or for him to talk to me.

I've heard that one witness against Mr. Herrero told the prosecutor that Herrero confessed to me and some other FCI Beaumont prisoners in November or December of 1999. I was not even at FCI Beaumont until February 28, 2000, so that's impossible. I also heard that someone testified at Herrero's trial that Herrero confessed to me in March of 2000. That did not happen either.

I was only in general population for about a month after I got to FCI Beaumont. After that, I was put in the SHU, what prisoners call "the hole". I stayed in the SHU for over a year, until August 2001. I did not hear anything about the Guajardo murder until I got to the SHU. Herrero was not in the SHU.

Nathan Ray Foreman

Nathan Foreman, Affiant

I've heard that the State put on evidence that Herrero was the head of a prison gang or prison organization called "All Houston" or the "All Houston Group," and that he confessed to show he could be counted on in case there was a riot. Not to my knowledge, he didn't. I never heard of an organization or group going by those names at FCI Beaumont. Herrero wasn't the head of anything, as far as I knew. And, to my knowledge, no riot was about to happen.

The reason I found bout the Guajardo murder was because Jesse Moreno was in the hole at the same time. Jesse did not tell me Herrero threatened him or was the head of some group that was threatening him. As I remember, Jesse was in the hole for the same reason I was, which was contraband.

Jesse and I were from the same neighborhood, and he was tight with Herrero's prosecutor, Kelly Siegler. I believe Jesse told me that he had even been over to Siegler's house. Jesse knew about the Guajardo murder, and told me how the man got killed, but Jesse did not tell me that Herero confessed to him. I only had three years to do. Jesse faced a lot of time, unless he found a way to shorten his sentence.

My BOP records show I got out of the SHU in August of 2001. I've seen a BOP memorandum that says I was put back into the SHU in February of 2002. That time frame fits with what I remember. I don't think I got out of the SHU again until I was transferred out of FCI Beaumont.

The Memorandum said that I was in danger from Herrero. But I did not ask to be put in the SHU, I did not report any threats against me from Herrero, and as far as I know, Herrero did not have any power in prison or out. I plain did not know the man or anything about him, except that he was been set up for the Guajardo murder.

If called as a witness, I would testify to the foregoing in a court of law. I hereby swear, affirm and state that the foregoing is true and correct under penalty of perjury pursuant to Title 18 U.S.C. § 1746.

Nathan Foreman, Affiant

Dated: 1-11-16