

IN THE COURT OF QUEEN'S BENCH FOR SASKATCHEWAN
JUDICIAL CENTRE OF BATTLEFORD

BETWEEN

HER MAJESTY THE QUEEN

and

GERALD STANLEY

Accused

TRIAL
Volume 1
(Pages T1 - T200)

January 29, 30, 31, 2018
February 1, 2, 5, 6, 8, and 9, 2018
Battleford, Saskatchewan

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1 Proceedings taken in the Alex Dillabough Centre, Battleford, Saskatchewan

2

3

4 January 29, 2018

Morning Session

5

6 The Honourable Chief Justice

The Court of Queen's Bench

7 M. Popescul

for Saskatchewan

8

9 W. Burge, QC

For the Crown

10 C. Browne

For the Crown

11 S. Spencer

For the Accused

12 D. Gillanders

For the Accused

13 K. Christopherson

Court Clerk

14

15

16 **Discussion**

17

18 THE COURT:

Good morning, everyone. Madam Clerk,

19 you can proceed to call the roll.

20

21 Members of the jury, please respond by saying "here" in a nice, loud voice when
22 your number is called.

23

24 So you can proceed.

25

26 THE COURT CLERK:

All jurors, as your number is called,

27 answer "present" and save your fines.

28

29 Juror number 2.

30

31 JUROR NO. 2:

Here.

32

33 THE COURT CLERK:

Juror number 4.

34

35 JUROR NO. 4:

Here.

36

37 THE COURT CLERK:

Number 9.

38

39 JUROR NO. 9:

Here.

40

41 THE COURT CLERK:

Number 10.

1
2 JUROR NO. 10: Here.
3
4 THE COURT CLERK: Number 14.
5
6 JUROR NO. 14: Here.
7
8 THE COURT CLERK: Number 15.
9
10 JUROR NO. 15: Here.
11
12 THE COURT CLERK: Number 26.
13
14 JUROR NO. 26: Here.
15
16 THE COURT CLERK: Number 27.
17
18 JUROR NO. 27: Here.
19
20 THE COURT CLERK: Number 28.
21
22 JUROR NO. 28: Here.
23
24 THE COURT CLERK: Number 33.
25
26 JUROR NO. 33: Here.
27
28 THE COURT CLERK: Number 37. Number 37? Number 38.
29
30 JUROR NO. 38: Here.
31
32 THE COURT CLERK: Number 45. Number 45? Number 49.
33
34 JUROR NO. 49: Here.
35
36 THE COURT CLERK: Number 50.
37
38 JUROR NO. 50: Here.
39
40 THE COURT CLERK: Number 51.
41

1 JUROR NO. 51: Here.
2
3 THE COURT CLERK: Number 53. Number 53? Number 54.
4
5 JUROR NO. 54: Here.
6
7 THE COURT CLERK: Number 55.
8
9 JUROR NO. 55: Here.
10
11 THE COURT CLERK: Number 58. Number 58? Number 59.
12
13 JUROR NO. 59: Here.
14
15 THE COURT CLERK: Number 60.
16
17 JUROR NO. 60: Here.
18
19 THE COURT CLERK: 61. Number 61? Number 68.
20
21 JUROR NO. 68: Here.
22
23 THE COURT CLERK: Number 71.
24
25 JUROR NO. 71: Here.
26
27 THE COURT CLERK: Number 73.
28
29 JUROR NO. 73: Here.
30
31 THE COURT CLERK: Number 74.
32
33 JUROR NO. 74: Here.
34
35 THE COURT CLERK: Number 77. Number 77? Number 80.
36 Number 80? Number 85.
37
38 JUROR NO. 85: Here.
39
40 THE COURT CLERK: Number 91.
41

1 JUROR NO. 91: Here.
2
3 THE COURT CLERK: Number 98.
4
5 JUROR NO. 98: Here.
6
7 THE COURT CLERK: Number 99. Number 99? Number 113.
8
9 JUROR NO. 113: Here.
10
11 THE COURT CLERK: Number 114.
12
13 JUROR NO. 114: Here.
14
15 THE COURT CLERK: Number 116.
16
17 JUROR NO. 116: Here.
18
19 THE COURT CLERK: Number 117. Number 1-1-7? 123.
20
21 JUROR NO. 123: Here.
22
23 THE COURT CLERK: 126.
24
25 JUROR NO. 126: Here.
26
27 THE COURT CLERK: 127.
28
29 JUROR NO. 127: Here.
30
31 THE COURT CLERK: 130.
32
33 JUROR NO. 130: Here.
34
35 THE COURT CLERK: 131.
36
37 JUROR NO. 131: Here.
38
39 THE COURT CLERK: 133.
40
41 JUROR NO. 133: Here.

1
2 THE COURT CLERK: Number 135.
3
4 JUROR NO. 135: Here.
5
6 THE COURT CLERK: Number 136.
7
8 JUROR NO. 136: Here.
9
10 THE COURT CLERK: Number 139.
11
12 JUROR NO. 139: Here.
13
14 THE COURT CLERK: Number 141.
15
16 JUROR NO. 141: Here.
17
18 THE COURT CLERK: Number 143. Number 143? Number 149.
19 Number 149? Number 163.
20
21 JUROR NO. 163: Here.
22
23 THE COURT CLERK: Number 172.
24
25 JUROR NO. 172: Here.
26
27 THE COURT CLERK: Number 174.
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29 JUROR NO. 174: Here.
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31 THE COURT CLERK: Number 178.
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33 JUROR NO. 178: Here.
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35 THE COURT CLERK: Number 179.
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37 JUROR NO. 179: Here.
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39 THE COURT CLERK: 181.
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41 JUROR NO. 181: Here.

1
2 THE COURT CLERK: 182.
3
4 JUROR NO. 182: Here.
5
6 THE COURT CLERK: Number 186.
7
8 JUROR NO. 186: Here.
9
10 THE COURT CLERK: 191.
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12 JUROR NO. 191: Here.
13
14 THE COURT CLERK: Number 196.
15
16 JUROR NO. 196: Here.
17
18 THE COURT CLERK: 207.
19
20 JUROR NO. 207: Here.
21
22 THE COURT CLERK: 208. Number 2-0-8? 211.
23
24 JUROR NO. 211: Here.
25
26 THE COURT CLERK: 212.
27
28 JUROR NO. 212: Here.
29
30 THE COURT CLERK: Number 216.
31
32 JUROR NO. 216: Here.
33
34 THE COURT CLERK: 222.
35
36 JUROR NO. 222: Here.
37
38 THE COURT CLERK: 225.
39
40 JUROR NO. 225: Here.
41

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| 1 | THE COURT CLERK: | 227. |
| 2 | | |
| 3 | JUROR NO. 227: | Here. |
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| 5 | THE COURT CLERK: | 228. |
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| 7 | JUROR NO. 228: | Here. |
| 8 | | |
| 9 | THE COURT CLERK: | 229. |
| 10 | | |
| 11 | JUROR NO. 229: | Here. |
| 12 | | |
| 13 | THE COURT CLERK: | 236. |
| 14 | | |
| 15 | JUROR NO. 236: | Here. |
| 16 | | |
| 17 | THE COURT CLERK: | 237. |
| 18 | | |
| 19 | JUROR NO. 237: | Here. |
| 20 | | |
| 21 | THE COURT CLERK: | 238. |
| 22 | | |
| 23 | JUROR NO. 238: | Here. |
| 24 | | |
| 25 | THE COURT CLERK: | 239. |
| 26 | | |
| 27 | JUROR NO. 239: | Here. |
| 28 | | |
| 29 | THE COURT CLERK: | 242. |
| 30 | | |
| 31 | JUROR NO. 242: | Here. |
| 32 | | |
| 33 | THE COURT CLERK: | 245. Number 245? 246. |
| 34 | | |
| 35 | JUROR NO. 246: | Here. |
| 36 | | |
| 37 | THE COURT CLERK: | 253. |
| 38 | | |
| 39 | JUROR NO. 253: | Here. |
| 40 | | |
| 41 | THE COURT CLERK: | 269. |

1
2 JUROR NO. 269: Here.
3
4 THE COURT CLERK: Number 270.
5
6 JUROR NO. 270: Here.
7
8 THE COURT CLERK: 271.
9
10 JUROR NO. 271: Here.
11
12 THE COURT CLERK: 287. Number 287? 288.
13
14 JUROR NO. 288: Here.
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16 THE COURT CLERK: 289.
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18 JUROR NO. 289: Here.
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20 THE COURT CLERK: 290.
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22 JUROR NO. 290: Here.
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24 THE COURT CLERK: 291.
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26 JUROR NO. 291: Here.
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28 THE COURT CLERK: 295.
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30 JUROR NO. 295: Here.
31
32 THE COURT CLERK: 296.
33
34 JUROR NO. 296: Here.
35
36 THE COURT CLERK: 300.
37
38 JUROR NO. 300: Here.
39
40 THE COURT CLERK: 301.
41

1 JUROR NO. 301: Here.
2
3 THE COURT CLERK: 305.
4
5 JUROR NO. 305: Here.
6
7 THE COURT CLERK: 306. Number 306? 317.
8
9 JUROR NO. 317: Here.
10
11 THE COURT CLERK: 318. Number 318? 329.
12
13 JUROR NO. 329: Here.
14
15 THE COURT CLERK: 335.
16
17 JUROR NO. 335: Here.
18
19 THE COURT CLERK: 3-4-0.
20
21 JUROR NO. 340: Here.
22
23 THE COURT CLERK: 346.
24
25 JUROR NO. 346: (INDISCERNIBLE).
26
27 THE COURT CLERK: Sorry? 346?
28
29 JUROR NO. 346: Here.
30
31 THE COURT CLERK: 347.
32
33 JUROR NO. 347: Here.
34
35 THE COURT CLERK: 353.
36
37 JUROR NO. 353: Here.
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39 THE COURT CLERK: 358.
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41 JUROR NO. 358: Here.

1
2 THE COURT CLERK: 366.
3
4 JUROR NO. 366: Here.
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6 THE COURT CLERK: 368.
7
8 JUROR NO. 368: Here.
9
10 THE COURT CLERK: 3-7-0.
11
12 JUROR NO. 370: Here.
13
14 THE COURT CLERK: 373.
15
16 JUROR NO. 373: Here.
17
18 THE COURT CLERK: Number 376.
19
20 JUROR NO. 376: Here.
21
22 THE COURT CLERK: 381.
23
24 JUROR NO. 381: Here.
25
26 THE COURT CLERK: 393.
27
28 JUROR NO. 393: Present.
29
30 THE COURT CLERK: 397.
31
32 JUROR NO. 397: Here.
33
34 THE COURT CLERK: 399.
35
36 JUROR NO. 399: Here.
37
38 THE COURT CLERK: 400.
39
40 JUROR NO. 400: Here.
41

1 THE COURT CLERK: 4-0-4.
2
3 JUROR NO. 404: Here.
4
5 THE COURT CLERK: 4-0-8.
6
7 JUROR NO. 408: Here.
8
9 THE COURT CLERK: 419.
10
11 JUROR NO. 419: Here.
12
13 THE COURT CLERK: 422.
14
15 JUROR NO. 422: Here.
16
17 THE COURT CLERK: 425. Number 425? 427.
18
19 JUROR NO. 427: Here.
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21 THE COURT CLERK: 429.
22
23 JUROR NO. 429: Here.
24
25 THE COURT CLERK: 437.
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27 JUROR NO. 437: Here.
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29 THE COURT CLERK: 438.
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31 JUROR NO. 438: Here.
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33 THE COURT CLERK: 443.
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35 JUROR NO. 443: Here.
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37 THE COURT CLERK: 455.
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39 JUROR NO. 455: Here.
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41 THE COURT CLERK: 459.

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2 JUROR NO. 459: Here.
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4 THE COURT CLERK: 464.
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6 JUROR NO. 464: Here.
7
8 THE COURT CLERK: 474. Number 474? 475. Number 475?
9 479.
10
11 JUROR NO. 479: Here.
12
13 THE COURT CLERK: 484.
14
15 JUROR NO. 484: Here.
16
17 THE COURT CLERK: 4-9-0.
18
19 JUROR NO. 490: Here.
20
21 THE COURT CLERK: 499. Number 499? 5-0-3.
22
23 JUROR NO. 503: Here.
24
25 THE COURT CLERK: 5-0-5.
26
27 JUROR NO. 505: Here.
28
29 THE COURT CLERK: 5-0-8.
30
31 JUROR NO. 508: Here.
32
33 THE COURT CLERK: Sorry? 5-0-8?
34
35 JUROR NO. 508: Here.
36
37 THE COURT CLERK: 511.
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39 JUROR NO. 511: Here.
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41 THE COURT CLERK: 512.

1
2 JUROR NO. 512: Here.
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4 THE COURT CLERK: 521.
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6 JUROR NO. 521: Here.
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8 THE COURT CLERK: 523.
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10 JUROR NO. 523: Here.
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12 THE COURT CLERK: 525.
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14 JUROR NO. 525: Here.
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16 THE COURT CLERK: 526.
17
18 JUROR NO. 526: Here.
19
20 THE COURT CLERK: 527.
21
22 JUROR NO. 527: Here.
23
24 THE COURT CLERK: 529.
25
26 JUROR NO. 529: I'm here.
27
28 THE COURT CLERK: 534.
29
30 JUROR NO. 534: Here.
31
32 THE COURT CLERK: 550. Number 5-5-0? 553.
33
34 JUROR NO. 553: Here.
35
36 THE COURT CLERK: 5-6-0.
37
38 JUROR NO. 560: Here.
39
40 THE COURT CLERK: 561.
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1 JUROR NO. 561: Here.
2
3 THE COURT CLERK: 567.
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5 JUROR NO. 567: Here.
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7 THE COURT CLERK: 569.
8
9 JUROR NO. 569: Here.
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11 THE COURT CLERK: 571.
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13 JUROR NO. 571: Here.
14
15 THE COURT CLERK: 572. Number 5-7-2? 582.
16
17 JUROR NO. 582: Here.
18
19 THE COURT CLERK: 584.
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21 JUROR NO. 584: Here.
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23 THE COURT CLERK: 592.
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25 JUROR NO. 592: Here.
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27 THE COURT CLERK: 593.
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29 JUROR NO. 593: Here.
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31 THE COURT CLERK: 594.
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33 JUROR NO. 594: Here.
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35 THE COURT CLERK: 596.
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37 JUROR NO. 596: Here.
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39 THE COURT CLERK: 597.
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41 JUROR NO. 597: Here.

1
2 THE COURT CLERK: Number 598.
3
4 JUROR NO. 598: Here.
5
6 THE COURT CLERK: 599.
7
8 JUROR NO. 599: Here.
9
10 THE COURT CLERK: 6-0-4.
11
12 JUROR NO. 604: Here.
13
14 THE COURT CLERK: 6-0-5.
15
16 JUROR NO. 605: Here.
17
18 THE COURT CLERK: 613.
19
20 JUROR NO. 613: Here.
21
22 THE COURT CLERK: 617.
23
24 JUROR NO. 617: Here.
25
26 THE COURT CLERK: 618. Number 6-1-8? 620.
27
28 JUROR NO. 620: Here.
29
30 THE COURT CLERK: 621. Number 6-2-1? 623. 623?
31
32 JUROR NO. 623: Here.
33
34 (UNREPORTABLE SOUND).
35
36 THE COURT CLERK: Okay. I'm just going to call that again
37 because I had a hard time hearing. 623?
38
39 JUROR NO. 623: Here. I'm here.
40
41 THE COURT CLERK: 628.

1
2 JUROR NO. 628: Here.
3
4 THE COURT CLERK: 630.
5
6 JUROR NO. 630: Here.
7
8 THE COURT CLERK: 637.
9
10 JUROR NO. 637: Here.
11
12 THE COURT CLERK: 647.
13
14 JUROR NO. 647: Here.
15
16 THE COURT CLERK: 651.
17
18 JUROR NO. 651: Here.
19
20 THE COURT CLERK: 653.
21
22 JUROR NO. 653: Here.
23
24 THE COURT CLERK: 654.
25
26 JUROR NO. 654: Here.
27
28 THE COURT CLERK: 660.
29
30 JUROR NO. 660: Here.
31
32 THE COURT CLERK: 664.
33
34 JUROR NO. 664: Here.
35
36 THE COURT CLERK: 665.
37
38 JUROR NO. 665: Here.
39
40 THE COURT CLERK: 671.
41

1 JUROR NO. 671: Here.
2
3 THE COURT CLERK: 674.
4
5 JUROR NO. 674: Here.
6
7 THE COURT CLERK: 680.
8
9 JUROR NO. 680: Here.
10
11 THE COURT CLERK: 681.
12
13 JUROR NO. 681: Here.
14
15 THE COURT CLERK: 686.
16
17 JUROR NO. 686: Here.
18
19 THE COURT CLERK: 688.
20
21 JUROR NO. 688: Here.
22
23 THE COURT CLERK: Number 694.
24
25 JUROR NO. 694: Yeah.
26
27 THE COURT CLERK: 696.
28
29 JUROR NO. 696: Here.
30
31 THE COURT CLERK: 699.
32
33 JUROR NO. 699: Here.
34
35 THE COURT CLERK: 704.
36
37 JUROR NO. 704: Here.
38
39 THE COURT CLERK: 706.
40
41 JUROR NO. 706: Here.

1
2 THE COURT CLERK: 707.
3
4 JUROR NO. 707: Here.
5
6 THE COURT CLERK: 713. Number 7-1-3?
7
8 JUROR NO. 713: Here.
9
10 THE COURT CLERK: 7-1-5.
11
12 JUROR NO. 715: Here.
13
14 THE COURT CLERK: 7-1-6.
15
16 JUROR NO. 716: Here.
17
18 THE COURT CLERK: 7-1-9.
19
20 JUROR NO. 719: Here.
21
22 THE COURT CLERK: 725.
23
24 JUROR NO. 725: Here.
25
26 THE COURT CLERK: 727.
27
28 JUROR NO. 727: Here.
29
30 THE COURT CLERK: 737.
31
32 JUROR NO. 737: Here.
33
34 THE COURT CLERK: 738.
35
36 JUROR NO. 738: Here.
37
38 THE COURT CLERK: 748. 7-4-8?
39
40 JUROR NO. 748: Here.
41

1 THE COURT CLERK: 749.
2
3 JUROR NO. 749: Here.
4
5 THE COURT CLERK: 750.
6
7 JUROR NO. 750: Here.
8
9 THE COURT: Okay. Madam Clerk, what I'd like you to
10 do is go through and call once again the numbers of those who have not
11 responded. There have been some people that have come in at the last minute, so it
12 might be that they are here.
13
14 THE COURT CLERK: Number 37.
15
16 JUROR NO. 37: Here.
17
18 THE COURT CLERK: Number 45. Number 45? Number 53. 5-
19 3? Number 58. Number 58? Number 61. 61? Number 77. Number 77? Number 80.
20 Number 80? Number 99. Number 99? Number 117. 1-1-7? Number 143. 1-4-3?
21 Number 149. 1-4-9? Number 2-0-8. 2-0-8? Number 245. 2-4-5? Number 287. 2-8-
22 7? Number 3-0-6. 3-0-6? 318. Number 318? Number 425. 4-2-5? Number 474. 4-
23 7-4? Number 475. 4-7-5? Number 499. 4-9-9? Number 550. 5-5-0? 572. 5-7-2?
24 Number 618. 6-1-8? Number 621. 6-2-1?
25
26 That's it, My Lord.
27
28 THE COURT: Okay. Thank you. Is there anyone in
29 attendance here today who has received a summons to be here this morning and
30 whose number has not been called? If there is, I would like you to come forward.
31 So nobody here? Are there some -- are these some potential jurors indicating yes?
32 What is the number?
33
34 UNIDENTIFIED SPEAKER: 53, My Lord.
35
36 THE COURT: Number 53. Okay.
37
38 UNIDENTIFIED SPEAKER: And 37 (INDISCERNIBLE).
39
40 THE COURT: Okay.
41

1 THE COURT CLERK: I got 37.

2

3 THE COURT: So you have got that, counsel? 37 and 53
4 have arrived.

5

6 Okay. I am not going to ask you to call the names out again because there's
7 nowhere else anyone will be.

8

9 Deputy sheriff, I would ask you to investigate the non-attendance of the persons
10 who did not attend today. Anyone who does not have a reasonable excuse for their
11 non-attendance today may be charged under *The Jury Act*, and I would like you to
12 report back to me so that a determination can be made as to what further steps
13 need be done.

14

15 THE SHERIFF: Yes, My Lord.

16

17 THE COURT: Members of the jury panel, since this is
18 the first time that you have been summoned for jury duty or may be the first time, I
19 want to, at the outset, acknowledge that all of us who are involved in the
20 administration of justice are well aware of the inconvenience that jury duty causes
21 you. However, one of your responsibilities as a citizen of Canada is to participate
22 in our system of justice by acting as jurors from time to time in both criminal and
23 civil cases. Both society and the law benefit from your contribution. In return, I
24 hope that you will find it to be an interesting and rewarding experience.

25

26 A criminal jury trial is composed of 12 or in some cases 13 or 14 people. Jury
27 trials are held in the Court of Queen's Bench for indictable and serious matters.
28 *The Jury Act* and the jury regulations set forth by the Province of Saskatchewan
29 govern how the jury process works, and the *Criminal Code*. When a jury is
30 required, the Ministry of Health randomly selects, by computer, a number of
31 names from its health records for people who live in the area where the trial is
32 going to be held. Health records are considered to be the fairest database available
33 for this purpose because every person in Saskatchewan has a health services
34 number.

35

36 Once the sheriff has received the names and addresses of potential jurors from the
37 Ministry of Health, the sheriff prepares and mails out jury notices to those
38 individuals. Everyone who has received a notice must attend court, unless they
39 have contacted the sheriff in advance and have been excused from attending.

40

41 Generally, any Saskatchewan resident over the age of 18 who is a Canadian citizen

1 may be a juror. However, the law prevents some people from being jurors because
2 of their legal status or occupation. These include current or past judges, justices of
3 the peace, coroners, lawyers, or police officers, provincial or Federal Ministry of
4 Justice employees, people who have worked in the administration of justice,
5 elected officials include reeves, councillors, mayors, MLAs, or MPs, or any
6 member of the Senate, a member of a board of education or a board of trustees of a
7 school district -- but this does not include teachers, who are eligible to sit as jurors
8 -- a spouse of anyone who I've already mentioned, people who are legally
9 confined to an institution or are certified incompetent, and people who are unable
10 to understand the language in which the trial will be conducted, which in this case
11 will be English. A person may, and I underscore the word may, be excused from
12 jury duty if they are 65 years of age or older or if they have served on a jury within
13 the last two years if they ask to be excused.

14

15 So let us begin. This is the case of Her Majesty the Queen v. Gerald Stanley.
16 Mr. Burge and Mr. Browne, you appear on behalf of the Crown; is that correct?

17

18 MR. BURGE: Yes, My Lord.

19

20 MR. BROWNE: Yes, My Lord.

21

22 THE COURT: And you are ready to proceed?

23

24 MR. BURGE: Yes, we are.

25

26 THE COURT: Mr. Spencer and Mr. Gillanders, you
27 appear on behalf of Mr. Stanley; is that correct?

28

29 MR. SPENCER: Yes, My Lord.

30

31 THE COURT: And are you prepared to proceed?

32

33 MR. GILLANDERS: We are prepared to proceed.

34

35 THE COURT: Are there any preliminary objections to
36 the indictment that we need to deal with at this time? I suspect not, but I am just
37 asking.

38

39 With that, Madam Clerk, you may now arraign Mr. Stanley.

40

41 THE COURT CLERK: Oh, that's why it was there. Please.

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Opening Arraignment

THE COURT CLERK: Gerald Stanley of Biggar District in the Province of Saskatchewan, you stand charged as follows, that:

On or about the 9th day of August, 2016, at or near Biggar in the Province of Saskatchewan, unlawfully caused the death of Colten Boushie and thereby committed second degree murder, contrary to Section 235 (1) of the *Criminal Code*.

Do you understand the charge as it has been read to you?

THE ACCUSED: Yes.

THE COURT CLERK: And how say you to the charge, guilty or not guilty?

Plea

THE ACCUSED: Not guilty.

THE COURT CLERK: Plea of not guilty to the count, My Lord.

THE COURT: Okay. Thank you. Mr. Stanley, you can have a seat.

Counsel, are there any preliminary matters that need to be addressed at this time?

MR. BURGE: I don't believe so, My Lord.

MR. GILLANDERS: No, My Lord.

Jury Panel Selection

THE COURT: Before we go further, I'd like to confirm with both counsel that we have agreed that it is appropriate to proceed using the alternate jury provisions of the *Criminal Code*, but not the additional provisions. Is that your understanding?

1 MR. BURGE: Yes, My Lord.

2

3 MR. GILLANDERS: Yes, My Lord.

4

5 THE COURT: The effect of that, of course, will be that
6 the Crown and defence will be entitled to 14 peremptory challenges. Is that also
7 your understanding?

8

9 MR. BURGE: Yes.

10

11 MR. SPENCER Yes.

12

13 THE COURT: At this time, I would also like to remind
14 everyone about the effect of Section 648 (1) of the *Criminal Code* that states that:
15 (As read)

16

17 No information regarding any portion of the trial at which
18 the jury is not present shall be published in any document
19 or broadcast in any way before the jury retires to consider
20 its verdict.

21

22 I think it is also appropriate for me at this point, as the trial judge, to let everyone
23 know what my expectations are respecting the conduct of everyone during these
24 court proceedings. The Court endorses the open court principle and welcomes and
25 encourages everyone to attend court to observe the proceedings. The Court
26 reminds all members of the public that observers may not conduct themselves in
27 any way that could affect the court proceedings. This would include acting in any
28 way that is disruptive or could directly or indirectly influence the court
29 proceedings and would include wearing articles of clothing that in any way refers
30 to the proceedings and/or bearing or holding signs of any nature whatsoever. Any
31 person violating the sanctity of the proceedings will be asked to stop, failing which
32 they will be removed from the courthouse.

33

34 With that, I am going to provide a few opening remarks to the jury panel. I start by
35 saying again, good morning. Thank you, ladies and gentlemen, for being here. It's
36 customary for the presiding judge to make a few opening remarks to the jury panel
37 before we get started. Again, I am going to repeat that all of us involved in the
38 administration of justice are well aware of the toll that it takes on you to attend
39 proceedings such as this, but one of your responsibilities as a citizen is to
40 participate in our system of justice. And as I mentioned earlier, both society and
41 the law benefits for your contribution. And experience tells me that most people

1 that do participate find it to be a rewarding and interesting experience.

2
3 The lawyers estimate that the trial will take approximately 14 days to complete,
4 and that would be court days. So that would be from today, Monday, January 29th,
5 2018, until Thursday, February 15th, 2018, with the weekends off. Now, this is
6 only an estimate. The trial could take a little bit more time or less time than the
7 lawyers estimate.

8
9 In a few moments, we will choose 12 of you as jurors whose duty will be to
10 consider the evidence and, in the end, decide whether Gerald Stanley is guilty or
11 not guilty. We will also choose two alternate jurors in this case, in case one or
12 more of the original 12 is unable to continue when the trial starts tomorrow.

13
14 The clerk has just read out the charge, and Gerald Stanley has pled not guilty. I
15 will read it out again. The indictment charges the accused as follows: Gerald
16 Stanley of Biggar District in the Province of Saskatchewan stands charged that he,
17 the said Gerald Stanley:

18
19 On or about the 9th day of August, 2016, at or near
20 Biggar, in the Province of Saskatchewan, unlawfully
21 caused the death of Colten Boushie and thereby
22 committed second degree murder, contrary to Section 235
23 (1) of the *Criminal Code*.

24
25 Before we begin jury selection, I want to make sure that each of you are eligible to
26 sit as a member of the jury for this particular case. I do not mean that you are not
27 eligible to have been called for the jury panel because the sheriff would have
28 followed the standard procedures to select you. However, there may be a reason
29 why it may not be appropriate for you to sit on this particular jury. I will read out
30 certain circumstances which I would ask that you consider and decide whether
31 these circumstances might apply to you. If you think that they might apply, please
32 come forward when I ask you to and tell me, and I will decide if I think that those
33 circumstances apply to you.

34
35 Every juror must be impartial, which means that every juror must approach the
36 trial with an open mind and without preconceived ideas. He or she must decide the
37 case solely on the basis of the evidence presented at trial and the instructions that I
38 provide to you.

39
40 A person who has or has ever had an association with anyone involved in this case
41 might not be able to approach this case with impartiality, that is, with an open

1 mind. So if you have or ever have had such an association with anyone involved in
2 this case, for example, the accused, Mr. Stanley, Crown counsel William Burge or
3 Christopher Browne or defence counsel Scott Spencer or Dustin Gillanders, the
4 witnesses, the investigating officers, or for that matter, even me, the trial judge, or
5 you have any doubt about it, come forward when I ask you to. The witnesses who
6 may potentially be called are listed on a witness list that have been provided to me
7 by the Crown. And the witnesses that they have told me that they are going to call
8 are as follows: Corporal Terry Heroux, Sergeant Jennifer Barnes, Constable
9 Andrew Park, Sheldon Stanley, Eric Meechance, Cassidy Cross, Kiora Wuttunee,
10 Belinda Jackson, Greg Williams, and Constable Aaron Gellacre.

11

12 THE COURT CLERK: Right.

13

14 THE COURT: There. Crown counsel, are there any
15 other witnesses of which you are aware, other than the ones that I have mentioned
16 today?

17

18 MR. BURGE: No, My Lord.

19

20 THE COURT: The case involves an allegation that on
21 or about the 9th day of August, 2016, at or near Biggar, Saskatchewan, Gerald
22 Stanley unlawfully caused the death of Colten Boushie and thereby committed
23 second degree murder. If anyone has personal knowledge of the circumstances of
24 this case, please come forward when I ask you to.

25

26 The offence involves the charge of second degree murder. A person who has been
27 accused of any such offence or an offence of this nature or who has been close to a
28 victim of such an offence or has otherwise been involved in a similar offence or
29 experience may not be able to approach this case impartially, that is, with an open
30 mind and without preconceived ideas. We do not wish to embarrass anyone by
31 asking questions about personal matters. At the same time, we need to know if
32 there is any personal matter that might make it too difficult for you to perform jury
33 duty in this case. If this applies to you, come forward when I ask you to.

34

35 All jurors must be Canadian citizens. If you are not a Canadian citizen, please
36 come forward when I ask you to.

37

38 All jurors must be able to hear what is said in the courtroom. If you have any
39 difficulty hearing, please come forward when I ask you to.

40

41 All jurors must be able to read and understand the language that will be used at

1 this trial. In this case, witnesses will testify and others involved in the case will
2 speak English. Documents will be written in English and may be exhibits to these
3 proceedings. If you have difficulty reading or understanding English, please come
4 forward when I ask you to.

5
6 As I've already mentioned, the lawyers estimate the trial will last about 14 court
7 days, but in reality, nobody knows for sure. It depends on many things. As a
8 general rule, jurors sit each day from Monday to Friday, from 10 o'clock AM until
9 5 o'clock PM with a morning, lunch, and afternoon break. There may be a need to
10 vary this schedule, depending upon how the trial unfolds.

11
12 Some of you might have health problems that require medical or other treatment.
13 This might make it difficult for you to serve as a juror. Again, although we do not
14 wish to embarrass anyone by asking about personal matters, if you have a health
15 problem or if you are in treatment or a therapy program that might prevent you
16 from serving as a juror, please come forward when I ask you to.

17
18 As I've already mentioned a couple times, jury service is the most important role
19 that citizens can play in the administration of justice in Canada, and it is a duty of
20 citizens to serve as jurors from time to time. Most people chosen as jurors find the
21 jury duty a valuable experience, one that gives them the opportunity to play a
22 direct part in the administration of justice in their community. If you are selected,
23 jury service may require changes to your daily routine of work, family, religion,
24 education, or leisure activities. In some cases, jury service might cause exceptional
25 personal, financial, or other hardship, and I stress the word "exceptional." If this
26 applies to you, please come forward when I ask you to.

27
28 Now, I invite any of you who fall into the category that I have listed above to now
29 come forward over here and tell me the reason why it is that you think that it may
30 not be appropriate for you to sit on this jury. No one wishes to embarrass you, so if
31 you are uncomfortable to give the reasons out loud, you may pass a note to me
32 detailing the problem. This note, however, will be shared with counsel. If based
33 upon the reasons you have given, you may be excused from consideration as a
34 possible member of the jury, or if I think otherwise, you may not be. So now is the
35 time to come up if any of those things that I have mentioned might apply to you.

36
37 THE COURT CLERK: (INDISCERNIBLE)?

38
39 THE COURT: Yes, they can just line up there. You can
40 line them up a little closer up to here.

41

1 THE COURT CLERK: Okay.
2
3 THE COURT CLERK: I need the juror number.
4
5 THE COURT: Okay. Sir, your number?
6
7 JUROR NO. 620: 620.
8
9 THE COURT: 620?
10
11 JUROR NO. 620: Yeah.
12
13 THE COURT: And your reason?
14
15 JUROR NO. 620: Hearing.
16
17 THE COURT: You can't hear very well?
18
19 JUROR NO. 620: Well, some mornings, it takes until about
20 11 before my ears pop.
21
22 THE COURT: Okay. Were you able to hear me --
23
24 JUROR NO. 620: My --
25
26 THE COURT: -- fairly well today?
27
28 JUROR NO. 620: I was. I was sitting right in the front row.
29
30 THE COURT: Okay. Counsel, any comment?
31
32 So you're hard-of-hearing but certainly not deaf?
33
34 JUROR NO. 620: No. No, I'm not deaf.
35
36 THE COURT: Can you -- you say your hearing is --
37
38 JUROR NO. 620: Well, after my Caribbean trip, my ears,
39 like I said, they're plugged in the morning when I get up, and sometimes it's, like,
40 10 o'clock in the morning before they pop and sometimes 11.
41

1 THE COURT: But for the most part, you can hear
2 reasonably well?
3

4 JUROR NO. 620: Yeah, I can hear, like, today right now
5 because everything's good.
6

7 THE COURT: Okay. Well, we will make a note of that.
8 I think that we will keep you as part of the -- the panel, and hopefully your hearing
9 will clear up as time goes on, if it's just a temporary thing.
10

11 JUROR NO. 620: (INDISCERNIBLE) going about six
12 months, so -- but --
13

14 THE COURT: It's been like that for six months?
15

16 JUROR NO. 620: Yeah.
17

18 THE COURT: Counsel, do you have any comment?.
19

20 MR. SPENCER: My Lord, generally we won't be
21 commenting on personal circumstances. On this one, I leave it to the Court.
22

23 THE COURT: Okay. Mr. Burge, any comment?
24

25 MR. BURGE: Perhaps he could remain until we -- we
26 can look at this again, My Lord. We could --
27

28 THE COURT: Okay. What I will do is if -- if your
29 number is called, we will re-visit this, and I may do a stand-aside. Okay. So I am
30 going to keep you in the panel, and if you -- if you are called, when you -- we will
31 -- I may stand you aside.
32

33 JUROR NO. 620: Sure.
34

35 THE COURT: Okay. So thank you.
36

37 Yes, sir.
38

39 THE COURT CLERK: Your number?
40

41 JUROR NO. 596: 596.

1
2 THE COURT: Yes, sir.
3
4 JUROR NO. 596: I've got a medical condition.
5
6 THE COURT: And are you able to tell me what that is,
7 or do you want to write it down for me?
8
9 JUROR NO. 596: It's a heart condition. I've got to get -- to
10 have my blood work done once a week.
11
12 THE COURT: Okay. You have to have blood work
13 done once a week?
14
15 JUROR NO. 596: Yeah.
16
17 THE COURT: Okay. You are excused.
18
19 JUROR NO. 596: Okay.
20
21 THE COURT: And that was number 5 --
22
23 THE COURT CLERK: 596.
24
25 THE COURT: Okay. You are excused, sir.
26
27 JUROR NO. 596: Thank you.
28
29 THE COURT CLERK: 2-8-8.
30
31 THE COURT: Yes, sir.
32
33 JUROR NO. 288: Yeah, I have a note there.
34
35 THE COURT: Okay. You have a note there? Okay. If
36 you would show that to counsel? It's 2-8-8. You are excused, sir. Thank you very
37 much.
38
39 The letter can stay on file.
40
41 THE COURT CLERK: And 329.

1
2 THE COURT: Yes, sir.
3
4 JUROR NO. 329: I have a medical condition. I have
5 epilepsy that's stress-induced.
6
7 THE COURT: Okay. Well, this is probably not a
8 suitable thing for your epilepsy, I would say. So you are excused, sir.
9
10 JUROR NO. 329: Thank you very much.
11
12 THE COURT CLERK: 4-4-3.
13
14 THE COURT: Yes, sir.
15
16 JUROR NO. 443: I served in the Wiltshire police before I
17 came to Canada.
18
19 THE COURT: You served at --
20
21 JUROR NO. 443: I was a policeman.
22
23 THE COURT: In where?
24
25 JUROR NO. 443: In -- in England, in Wiltshire.
26
27 THE COURT: Any comment on that, counsel? He was a
28 police officer in England. I don't know if *The Jury Act* puts a fine -- as fine a point
29 on that.
30
31 MR. SPENCER: Well, by coincidence, I think in a recent
32 jury selection, the same issue arose. And I think the -- the sense was that that isn't
33 necessarily a disqualifying criteria on its face, but certainly it's up to the Court
34 whether you feel that would --
35
36 MR. BURGE: I believe --
37
38 THE COURT: Any comment?
39
40 MR. BURGE: I would have thought he might be,
41 frankly, captured by *The Jury Act*, My Lord.

1
2 THE COURT: Okay. I think probably better to be safe
3 than sorry. So I am going to excuse you, sir. Thank you very much.
4
5 THE COURT CLERK: 3-8-1.
6
7 THE COURT: Yes, ma'am.
8
9 JUROR NO. 381: I'm hard-of-hearing, and at random, my
10 ears block off, and I can't hear anything for possibly four to six hours.
11
12 THE COURT: Okay. And it's a fairly significant
13 condition?
14
15 JUROR NO. 381: It is.
16
17 THE COURT: Okay. I am going to excuse you.
18
19 JUROR NO. 381: Thank you.
20
21 THE COURT CLERK: 2-0-7.
22
23 THE COURT: I'm not sure. Okay. It strikes me that the
24 first reason would not be sufficient, but the second reason is. So I am going to -- I
25 am going to excuse you, sir. Thank you.
26
27 That was 2-0-7?
28
29 THE COURT CLERK: Yes.
30
31 THE COURT CLERK: Yes. 4-8-4.
32
33 THE COURT: Brad? Perhaps you could organize the
34 line at the back there. There seems like there's two streams.
35
36 UNIDENTIFIED SPEAKER: Do you want it all in one, My Lord?
37
38 THE COURT: Well, yes, we could work it out so
39 however -- you zipper merge them or whatever you'd like to do.
40
41 Madam, thank you very much. You are excused.

1
2 THE COURT CLERK: 7-3-7.
3
4 THE COURT: Yes, sir.
5
6 JUROR NO. 737: Three years ago, my cousin was
7 murdered, and I have -- I'm afraid it might affect my (INDISCERNIBLE) of this
8 case (INDISCERNIBLE).
9
10 THE COURT: Okay. I think that that's a valid reason,
11 and you are excused. Thank you very much.
12
13 THE COURT CLERK: 4-3-8.
14
15 THE COURT: Yes, sir.
16
17 JUROR NO. 438: I'm a friend of Suzanne Reid, the Crown
18 prosecutor, and my son is going on holidays with her quickly here. I deposited
19 money into her bank account this (INDISCERNIBLE).
20
21 THE COURT: Okay. So you are -- you are friends with
22 a Crown prosecutor, but not these prosecutors?
23
24 JUROR NO. 438: No, not these prosecutors.
25
26 THE COURT: Okay. I think -- thank you very much for
27 letting us know that, but I think I am going to -- that is not sufficient for excusing.
28
29 JUROR NO. 438: Okay.
30
31 THE COURT: But thank you for coming forward.
32
33 JUROR NO. 438: Okay.
34
35 THE COURT CLERK: 2-2-5.
36
37 THE COURT: Yes, sir.
38
39 JUROR NO. 225: I'm self-employed and the sole
40 breadwinner for my family. So it would create quite a financial hardship
41 (INDISCERNIBLE).

1
2 THE COURT: Where do you work, sir?
3
4 JUROR NO. 225: Spirit River. I'm an electrician.
5
6 THE COURT: What I am going to do is I am going to
7 make a note of that, and we will see if you get chosen. And if you do get chosen,
8 you -- you can revisit this situation, and I have another opportunity to perhaps
9 stand you aside at that point. So you are not excused.
10
11 JUROR NO. 225: Okay.
12
13 THE COURT: Thank you.
14
15 UNIDENTIFIED SPEAKER: My Lord?
16
17 THE COURT: Yes?
18
19 UNIDENTIFIED SPEAKER: May I approach?
20
21 THE COURT: Yes.
22
23 UNIDENTIFIED SPEAKER: The jurors that are being excused
24 (INDISCERNIBLE) if they can actually leave the building? They're not doing it at
25 this point.
26
27 THE COURT: Yes. The -- the jurors that have been
28 excused, you are free to leave. You are free to stay and watch what goes on, or you
29 are free to leave if you wish. So just a clarification. Those that I have not excused
30 and/or I have said that we might revisit whether or not you should be a member,
31 you will have to stay.
32
33 THE COURT CLERK: 5-6-1.
34
35 THE COURT: Yes, ma'am.
36
37 JUROR NO. 561: I just have two reasons. One of them is I
38 have booked a vacation (INDISCERNIBLE). I'm also -- I have a letter from my
39 employer. (INDISCERNIBLE).
40
41 THE COURT: So when is -- when does your holiday

1 start?
2
3 JUROR NO. 561: The 15th.
4
5 THE COURT: The 15th?
6
7 JUROR NO. 561: (INDISCERNIBLE).
8
9 THE COURT: The first reason from your employer, that
10 you are valuable -- I am sure you are, but that's not good enough. But your holiday
11 is, so you are excused.
12
13 THE COURT CLERK: 59.
14
15 THE COURT: Yes, ma'am.
16
17 JUROR NO. 59: I live 20 miles north of Biggar for 25
18 years of my life. As well as Gerry did some agricultural contract work for me
19 (INDISCERNIBLE).
20
21 THE COURT: So you had -- you had direct contact with
22 Mr. Stanley?
23
24 JUROR NO. 59: I have.
25
26 THE COURT: Okay. I think that that is a justifiable
27 reason to be excused, and thank you very much for coming forward. You are
28 excused.
29
30 JUROR NO. 59: (INDISCERNIBLE).
31
32 THE COURT: Pardon me?
33
34 MR. GILLANDERS: I didn't catch the number, My Lord.
35 Sorry.
36
37 THE COURT CLERK: 59.
38
39 THE COURT: 59.
40
41 MR. GILLANDERS: Thank you.

1
2 THE COURT CLERK: Number 60.
3
4 THE COURT: Yes.
5
6 JUROR NO. 60: I cannot approach this case with an open
7 mind. I would have (INDISCERNIBLE) inhibiting my ability
8 (INDISCERNIBLE).
9
10 THE COURT: Okay. This is really not the -- that does
11 not really fall into the category. I don't want to hear which side you are not open
12 to. But we are -- this is a preliminary screening dealing with personal hardships,
13 whether you know anybody. So you don't really fall into one of those categories,
14 but you feel that you may be biased. And I do want to hear why it is you feel that.
15
16 JUROR NO. 60: That, and I also have to go back to work
17 on Tuesday, but my -- my biased opinion is the biggest factor.
18
19 THE COURT: Counsel, do you have any comment on
20 this?
21
22 MR. SPENCER: I leave it to Your Lordship.
23
24 MR. BURGE: If he doesn't fit, My Lord, there's a way
25 that we can handle this.
26
27 THE COURT: All right. What number are you again?
28
29 JUROR NO. 60: 6-0, My Lord.
30
31 THE COURT: Pardon?
32
33 JUROR NO. 60: 6-0.
34
35 THE COURT: 6-0? I think that at this stage, we're
36 doing preliminary screening based upon certain criteria, and that doesn't fit the
37 criteria. So if you are selected, your name is drawn out, there is other opportunities
38 for you to be removed from contention. So for the time being, you are going to
39 remain in -- in the panel.
40
41 JUROR NO. 60: And I've been -- including the fact that I

1 go to work for the next seven months (INDISCERNIBLE).
2
3 THE COURT: You are going away for seven months?
4
5 JUROR NO. 60: I will be working away from my current
6 residence for, I think, seven months.
7
8 THE COURT: So where do you work?
9
10 JUROR NO. 60: I work in Regina seven days a week, 15
11 hours a day, and I come home two days a month, tops.
12
13 THE COURT: Well, I think I have heard your concerns,
14 and you are still going to remain in the -- in the pool.
15
16 THE COURT CLERK: Number 3-4-6.
17
18 THE COURT: Yes, sir.
19
20 JUROR NO. 346: I have (INDISCERNIBLE) from the 9th
21 and the 1st of February for a -- they found that I have cancer in my lungs here, and
22 they want me to (INDISCERNIBLE).
23
24 THE COURT: Well, I think that that qualifies as a good
25 excuse. Thank you very much, sir. You are excused from jury duty because of
26 your medical condition.
27
28 THE COURT CLERK: 6-5-1.
29
30 THE COURT: Okay. If you would show that to
31 counsel? I think that that's a sufficient reason. So thank you very much. You are
32 free to go. You are excused.
33
34 THE COURT CLERK: 2-1-1.
35
36 THE COURT: Yes, ma'am.
37
38 JUROR NO. 211: My husband is the deputy mayor.
39
40 THE COURT: Okay. That would put you in the
41 category of somebody that should not be sitting on the jury, so thank you very

1 JUROR NO. 174: Okay.
2
3 THE COURT CLERK: 2-9-5.
4
5 THE COURT: Yes, sir.
6
7 JUROR NO. 295: I have a trip booked out of the country
8 from the 2nd of February until the 11th (INDISCERNIBLE).
9
10 THE COURT: And where are you going?
11
12 JUROR NO. 295: Just a vacation that I booked in early
13 December.
14
15 THE COURT: So you've got tickets booked and --
16
17 JUROR NO. 295: Yes.
18
19 THE COURT: And where are you going?
20
21 JUROR NO. 295: (INDISCERNIBLE).
22
23 THE COURT: Okay. So you're going to Mexico?
24
25 JUROR NO. 295: Yes.
26
27 THE COURT: And the -- and the tickets are -- are
28 booked?
29
30 JUROR NO. 295: Yes.
31
32 THE COURT: Okay. I think that that's an acceptable
33 excuse. Thank you very much. You are free to go.
34
35 I am sorry. What number was that, again?
36
37 THE COURT CLERK: 2-9-5.
38
39 THE COURT: Thank you.
40
41 THE COURT CLERK: Number 26.

1
2 THE COURT: Yes, sir.
3
4 JUROR NO. 26: My wife has severe Crohn's, and I'm her
5 sole caregiver, and financial (INDISCERNIBLE). We live on the farm out of
6 town. We only have one vehicle, and she just can't take care of the farm animals
7 and take care of everyone. It prolongs (INDISCERNIBLE) --
8
9 THE COURT: So you can't be away for five days in a
10 row?
11
12 JUROR NO. 26: (INDISCERNIBLE).
13
14 THE COURT: Is there anyone else to look after the
15 cattle or whatever livestock you have?
16
17 JUROR NO. 26: (INDISCERNIBLE) lives in town, but
18 she cares for two younger foster kids, and can't (INDISCERNIBLE) out of town.
19 (INDISCERNIBLE) My family lives in (INDISCERNIBLE) but they're 40 miles
20 away, and --
21
22 THE COURT: What I'm going to do is take a note of
23 that. And should you be selected and your name is drawn out of the box, you can
24 remind me of that again, and I may stand you aside if -- okay?
25
26 THE COURT CLERK: 4-2-9.
27
28 THE COURT: Yes, sir.
29
30 JUROR NO. 429: Just due to a heavy workload schedule
31 and being short staffed, we can't really let more people go. I have a letter from my
32 supervisor saying he's requesting relief of jury duty.
33
34 THE COURT: You have the letter there?
35
36 JUROR NO. 429: You, you bet you.
37
38 THE COURT: Okay. I think there's probably lots of
39 valuable employees in here, and I'm going to make a note of that. And possibly if
40 you are called again, if your name is selected, you can remind me about this and
41 we will re-visit it at that time, but you are not excused at this point.

1
2 THE COURT CLERK: Number 10.
3
4 THE COURT: Yes, ma'am.
5
6 JUROR NO. 10: I have two small children at home, one
7 and four, and I don't have (INDISCERNIBLE) child care for. My husband works
8 out of town (INDISCERNIBLE).
9
10 THE COURT: So you have no one to look after the
11 children?
12
13 JUROR NO. 10: No.
14
15 THE COURT: Okay. You are excused. What number
16 was that?
17
18 THE COURT CLERK: 10.
19
20 THE COURT: 10. Thank you.
21
22 MR. SPENCER: Sorry, I missed --
23
24 THE COURT CLERK: Number 10.
25
26 MR. SPENCER: Thank you.
27
28 THE COURT CLERK: 5-0-5.
29
30 JUROR NO. 505: I've done business -- business with
31 Mr. Stanley through my family farm.
32
33 THE COURT: Okay. You are excused. Thank you.
34
35 THE COURT CLERK: Number 113.
36
37 THE COURT: Okay. Will you show that to counsel?
38 There's a lot of reasons in there, but the ones dealing with the medical aspect I
39 think are sufficient to justify her being excused.
40
41 You are excused, ma'am. Thank you very much.

1
2 THE COURT CLERK: Number 1-3-5.
3
4 THE COURT: M-hm. Three to four weeks. Show that to
5 counsel. Okay. That's sufficient excuse. Thank you very much, sir.
6
7 That was 1-3-5?
8
9 THE COURT CLERK: 1-3-5, yes.
10
11 THE COURT CLERK: 98.
12
13 THE COURT: Yes, sir.
14
15 JUROR NO. 98: I broke my ankle and all that after I
16 received the letter from -- for jury selection, and I --
17
18 THE COURT: Okay. Can you get around all right?
19
20 JUROR NO. 98: No. Right now, it's -- if I have it down
21 any specific length of time, it swells up.
22
23 THE COURT: Okay. Well, that's not going to work, is
24 it? You are excused. Thank you very much for coming to court today, sir. I
25 appreciate it very much, especially the effort that you had to make.
26
27 That was 98?
28
29 THE COURT CLERK: Yes. 98.
30
31 THE COURT CLERK: Number 54.
32
33 THE COURT: Yes, sir.
34
35 JUROR NO. 54: I was raised on a farm just outside of --
36 sorry. Raised on a farm just outside of town here. I have issues
37 (INDISCERNIBLE) honest about my opinion.
38
39 THE COURT: Okay. So you are -- you are disclosing
40 that you might have biases, but you don't necessarily fit into any of the categories
41 that I've mentioned?

1
2 JUROR NO. 54: Bias, yes.
3
4 THE COURT: Counsel, I think this is not something
5 that I deal with at this stage in the preliminary screening, and I will make a note of
6 that. I am sure counsel will, as well. And thank you very much for letting us know,
7 but you are going to remain in the panel.
8
9 THE COURT CLERK: Number 6-9-9.
10
11 JUROR NO. 699: I had a heart valve replaced at the end of
12 July.
13
14 THE COURT: Okay. Will you show that to counsel,
15 please? You are excused, sir. Thank you very much.
16
17 THE COURT CLERK: Number 28.
18
19 THE COURT: Yes, sir.
20
21 JUROR NO. 28: I'm a farmer from south of Melfort. I
22 believe I have recent activity in the area, so to speak, of theft and such and it
23 seems to be always ending up somewhere else.
24
25 THE COURT: Okay.
26
27 JUROR NO. 28: And -- and I'm a farmer, too.
28
29 THE COURT: Okay. So you have some -- had
30 difficulties with theft, although, of course, we're going to be looking at the
31 evidence as to what happened here, not what happened anywhere else. I am going
32 to make note of that, and I am going to thank you for letting us know that and
33 make -- we will deal with that, should you be selected.
34
35 JUROR NO. 28: Okay.
36
37 THE COURT CLERK: Number 28.
38
39 MR. BURGE: Was that 28?
40
41 THE COURT CLERK: The -- the gentleman that just left was

1 number 28.
2
3 MR. BURGE: Yes. Thank you.
4
5 THE COURT: Yes, sir.
6
7 JUROR NO. 605: I'm a single father with a mortgage, and
8 financial --
9
10 THE COURT CLERK: 6-0-5 --
11
12 JUROR NO. 605: -- financially it just wouldn't be able to
13 work at this point.
14
15 THE COURT CLERK: 6-0-5.
16
17 MR. SPENCER: Thank you.
18
19 THE COURT: Where do you work, sir?
20
21 JUROR NO. 605: Lloydminster, Saskatchewan.
22
23 THE COURT: And what do you do there?
24
25 JUROR NO. 605: I work at (INDISCERNIBLE) oil field
26 construction. I work in the plants around there.
27
28 THE COURT: Okay. I will make a note of the fact that
29 it's going to cause you some hardship, and should you be selected, you can let me
30 know at that time, and we'll deal with it then.
31
32 JUROR NO. 605: Thank you very much.
33
34 THE COURT: Thank you.
35
36 Yes, sir.
37
38 JUROR NO. 370: (INDISCERNIBLE) issue, I guess.
39
40 THE COURT CLERK: Number?
41

1 THE COURT: What's your number?
2
3 JUROR NO. 370: (INDISCERNIBLE).
4
5 THE COURT: Number first?
6
7 JUROR NO. 370: 370.
8
9 THE COURT CLERK: 3-7-0.
10
11 THE COURT: Okay.
12
13 JUROR NO. 370: (INDISCERNIBLE).
14
15 THE COURT: And where -- where do you work?
16
17 JUROR NO. 370: Parkland Energy out of Lloydminster.
18
19 THE COURT: Where?
20
21 JUROR NO. 370: Parkland Energy out of Lloydminster.
22
23 THE COURT: Okay. I am going to make a note of that
24 and possibly stand you aside should you be called again.
25
26 THE COURT CLERK: Number 5-2-3.
27
28 THE COURT: Yes, sir. Or yes, madam. I am sorry.
29
30 JUROR NO. 523: I don't have sustainable child care for the
31 duration of the trial.
32
33 THE COURT: How many children do you have?
34
35 JUROR NO. 523: Two.
36
37 THE COURT: And where are they?
38
39 JUROR NO. 523: In Lloydminster.
40
41 THE COURT: Lloydminster?

1
2 JUROR NO. 523: Yeah.
3
4 THE COURT: And you -- do you have a spouse?
5
6 JUROR NO. 523: I do, but he works for 15, 16 hours a day.
7 He leaves at 5 and gets home at 10. And my parents are leaving for Mexico on
8 Wednesday.
9
10 THE COURT: Okay. And you are a stay at home mom?
11
12 JUROR NO. 523: No, I work, as well (INDISCERNIBLE).
13
14 THE COURT: Okay. You will be excused.
15
16 JUROR NO. 523: Thank you.
17
18 THE COURT CLERK: 2-9-6.
19
20 THE COURT: Yes, sir.
21
22 JUROR NO. 296: My wife's on maternity leave
23 (INDISCERNIBLE).
24
25 THE COURT: And where do you work?
26
27 JUROR NO. 296: (INDISCERNIBLE).
28
29 THE COURT: Okay. I am not going to excuse on you
30 that basis, but I will make a note to see if you are selected. And thank you very
31 much for coming forward.
32
33 THE COURT CLERK: Number 2-6-9.
34
35 THE COURT: Yes.
36
37 JUROR NO. 269: I've been diagnosed with depression. I
38 take medication daily and I see a psychiatrist.
39
40 THE COURT: Okay. You are excused. Thank you very
41 much for coming.

1
2 THE COURT CLERK: 715.
3
4 THE COURT: Okay. You can show that to counsel.
5 Thank you very much for coming. That is a -- certainly a legitimate excuse, and all
6 the best. Thank you.
7
8 THE COURT CLERK: Number 5-3-4.
9
10 THE COURT: Yes, sir.
11
12 JUROR NO. 534: One of my brother -- my brother-in-law
13 is involved in the -- in the investigation.
14
15 THE COURT: In the what?
16
17 JUROR NO. 534: In the investigation. He's an RCMP
18 officer.
19
20 THE COURT: Okay. I think that that would put you a
21 little too close. So thank you very much for letting us know. You are excused.
22
23 THE COURT CLERK: Number 4-3-7.
24
25 THE COURT: Yes, sir.
26
27 JUROR NO. 437: I'm registered to be in classes for my
28 apprenticeship starting February 20th (INDISCERNIBLE).
29
30 THE COURT: Okay. I think we should be done by
31 February 20th.
32
33 JUROR NO. 437: Okay.
34
35 THE COURT: Thank you very much.
36
37 THE COURT CLERK: Number 400.
38
39 THE COURT: Yes, sir.
40
41 JUROR NO. 400: I'm a single parent of three. I'm from

1 (INDISCERNIBLE).
2
3 THE COURT: And where do you live?
4
5 JUROR NO. 400: By Green Lake --
6
7 THE COURT: Green --
8
9 JUROR NO. 400: -- (INDISCERNIBLE).
10
11 THE COURT: Okay. And --
12
13 JUROR NO. 400: And my sister Angela had to stay home
14 from school to do this.
15
16 THE COURT: Is there any other way that you can look
17 -- have somebody look after the children for you?
18
19 JUROR NO. 400: No, my family works
20 (INDISCERNIBLE).
21
22 THE COURT: There's no -- there's no day care
23 available to you or anything like that?
24
25 JUROR NO. 400: They've got school, but
26 (INDISCERNIBLE).
27
28 THE COURT: Okay. You are excused. Thank you.
29
30 JUROR NO. 400: Thank you.
31
32 THE COURT: What number was that?
33
34 THE COURT CLERK: 400.
35
36 THE COURT: Okay, thank you.
37
38 THE COURT CLERK: Number 400.
39
40 THE COURT CLERK: 7-3-7.
41

1 THE COURT: Okay. If you'd show that to counsel?
2 Thank you very much. You are excused.
3
4 THE COURT CLERK: Number 51.
5
6 THE COURT: Okay. Thank you. Show it to counsel,
7 please. I think this qualifies as something that was in the preliminary matters that I
8 discussed, so you are free to go. Thank you very much. You are excused.
9
10 THE COURT CLERK: Number 4-5-5.
11
12 THE COURT: Okay. Ma'am, you are excused. Thank
13 you very much.
14
15 THE COURT CLERK: Number 5-0-3.
16
17 JUROR NO. 503: (INDISCERNIBLE) but at work right
18 now we're short staffed. And we're calving out cows right now, too. And then I
19 have to drive my kids 20 minutes of school every day. And if my husband's
20 calving, then I can't -- then I have to go pick them. He can't go get them, as well.
21 And then I have to take my daughter to counselling every week for depression, so
22 (INDISCERNIBLE).
23
24 THE COURT: Okay. So the -- well, there's lots of
25 reasons there. The last one is the one that I think justifies you being excused.
26
27 JUROR NO. 503: Okay.
28
29 THE COURT: So thank you very much.
30
31 JUROR NO. 503: Thank you.
32
33 THE COURT CLERK: Number 50.
34
35 JUROR NO. 50: My sister's daughter passed away
36 Saturday, so I'll be (INDISCERNIBLE) all week for the wake and stuff
37 (INDISCERNIBLE) for my cousin. And I'm -- I'm related to Colten, and I'm
38 familiar with all the ones that were involved.
39
40 THE COURT: Okay. Well, I think that that's a variety
41 of very good reasons why you should not sit on this jury.

1
2 JUROR NO. 50: I've got my son here, too. But I guess
3 he'll talk for himself.
4
5 THE COURT: Okay.
6
7 JUROR NO. 50: Okay.
8
9 THE COURT: Thank you very much. You are excused.
10
11 THE COURT CLERK: Number 4-7-9.
12
13 THE COURT: Yes.
14
15 JUROR NO. 479: Hi. My husband is an ex-RCMP, and he
16 is now (INDISCERNIBLE).
17
18 THE COURT: And that's your -- your husband?
19
20 JUROR NO. 479: Yeah. Yeah.
21
22 THE COURT: Okay. I think that that justifies excusing
23 you. Thank you very much.
24
25 THE COURT CLERK: 5-0-8.
26
27 THE COURT: Okay. You are excused, sir. Thank you.
28
29 THE COURT CLERK: Number 490.
30
31 THE COURT: Yes.
32
33 JUROR NO. 490: Hi. I'm (INDISCERNIBLE) my auntie.
34 Colten is my cousin.
35
36 THE COURT: Okay. Thank you very much. You are
37 excused.
38
39 JUROR NO. 490: Thank you.
40
41 THE COURT CLERK: 1-9-1.

1
2 JUROR NO. 191: I have a pretty serious reading
3 impairment. (INDISCERNIBLE) to go with it, so I never really learned to read
4 handwriting. I mean, if you look at my ID, I can only write my first name, and the
5 last name, I have to print it.
6
7 THE COURT: Okay. Thank you very much, sir.
8
9 JUROR NO. 191: Thank you.
10
11 THE COURT: I appreciate you coming forward.
12
13 THE COURT CLERK: 191.
14
15 THE COURT CLERK: 2-5-3.
16
17 THE COURT: Yes, sir. Okay.
18
19 THE COURT CLERK: (INDISCERNIBLE).
20
21 THE COURT: Okay. Okay. I am going to excuse you.
22 Thank you.
23
24 THE COURT CLERK: Number 49.
25
26 THE COURT: Sorry. What was the last one that I just
27 excused?
28
29 THE COURT CLERK: 2-5-3.
30
31 THE COURT: This is 49?
32
33 THE COURT CLERK: 49.
34
35 THE COURT CLERK: Yes.
36
37 THE COURT: Yes.
38
39 JUROR NO. 49: As you heard from my mom, I'm a little
40 bit --
41

1 THE COURT: Okay.
2
3 JUROR NO. 49: -- I had a family member die, and
4 (INDISCERNIBLE).
5
6 THE COURT: Thank you very much for coming
7 forward.
8
9 JUROR NO. 49: Okay.
10
11 THE COURT: You are excused. Do you want to -- can
12 we finish off the excuseds?
13
14 THE COURT CLERK: Can we finish before the break?
15
16 THE COURT CLERK: Yes.
17
18 THE COURT: Okay.
19
20 UNIDENTIFIED SPEAKER: Thank you.
21
22 THE COURT CLERK: Number 5-9-7.
23
24 THE COURT: Yes.
25
26 JUROR NO. 597: Your Honour, I have two concerns. The
27 first is that I suffer from migraine headaches, and I never know when they're
28 coming on or not (INDISCERNIBLE). Another issue is I do have an issue with
29 hearing. I can hear you fine (INDISCERNIBLE).
30
31 THE COURT: How often do you get the migraines?
32
33 JUROR NO. 597: Sometimes I get two to three a week, and
34 sometimes I go a couple weeks. So it's -- it's really (INDISCERNIBLE) and I
35 haven't figured out why.
36
37 THE COURT: Okay. I am going to excuse you. Thank
38 you very much for coming forward.
39
40 JUROR NO. 597: Thank you.
41

1 THE COURT CLERK: Number 38.
2
3 THE COURT: Okay. Could I see that note again? Thank
4 you.
5
6 You are free to go. Thank you very much. You are excused.
7
8 THE COURT CLERK: Okay. Number 713.
9
10 THE COURT: Yes, sir.
11
12 JUROR NO. 713: I'm really -- I'm hearing-impaired.
13
14 THE COURT: Okay. You are hearing-impaired? Thank
15 you very much, sir. You are free to go.
16
17 THE COURT CLERK: 1-3-3.
18
19 THE COURT: And you live in -- you live in Hafford?
20
21 JUROR NO. 133: Yes.
22
23 THE COURT: Okay. Thank you. Show it to counsel. I
24 find that to be a justifiable excuse, and you are free to leave, and you are excused.
25
26 JUROR NO. 133: Thanks.
27
28 THE COURT: Thank you.
29
30 THE COURT CLERK: 7-0-7.
31
32 MR. BURGE: This -- what number?
33
34 THE COURT: Yes, sir.
35
36 THE COURT CLERK: 707.
37
38 MR. BURGE: Thank you.
39
40 JUROR NO. 707: Financially I can't afford being away
41 from work that long, and I have two young kids at home. And my wife is

1 (INDISCERNIBLE).
2
3 THE COURT: Where do you work?
4
5 JUROR NO. 707: In Unity. It's a (INDISCERNIBLE).
6
7 THE COURT: And you live -- you live in Unity?
8
9 JUROR NO. 707: Yeah.
10
11 THE COURT: And you work in Unity?
12
13 JUROR NO. 707: Yeah.
14
15 THE COURT: And what do you do there?
16
17 JUROR NO. 707: Plumber.
18
19 THE COURT: Okay. I am going to make a note of that,
20 and if you should be chosen in the initial selection process, you can make that note
21 again, and I will deal with it at that time.
22
23 JUROR NO. 707: Okay. Thank you.
24
25 THE COURT CLERK: 5-2-9.
26
27 THE COURT: Yes, ma'am.
28
29 JUROR NO. 529: I booked a holiday to the United
30 Kingdom. (INDISCERNIBLE) and I leave on the -- February 14th in the morning.
31
32 THE COURT: Okay. So we're supposed to go until the
33 15th, so I think that that falls within the category of me justifying excusing you.
34 Thank you.
35
36 THE COURT CLERK: Number 2-3-6.
37
38 THE COURT CLERK: Oh, that's his number as well? It happens
39 to be the number on the sheet.
40
41 THE COURT CLERK: Oh.

1
2 THE COURT CLERK: That's really weird.
3
4 THE COURT: Thank you. If you'd show that to
5 counsel? Okay. You are excused, sir. Thank you very much.
6
7 THE COURT CLERK: Number 6-5-4.
8
9 THE COURT: Yes, ma'am. Oh, I have got something
10 here. Okay. You can show that to counsel. Do you need that copy back? Okay. No.
11 You are excused, ma'am. Thank you very much.
12
13 THE COURT CLERK: 2-9-0.
14
15 THE COURT: Okay. I am going to excuse you. You can
16 show it to counsel, but you are excused. Thank you very much.
17
18 Yes, sir.
19
20 THE COURT CLERK: 3-0-1.
21
22 THE COURT: Thank you. Okay. Sir, you are excused.
23 Thank you very much for attending court today.
24
25 THE COURT CLERK: 1-7-8.
26
27 THE COURT: Yes, sir.
28
29 JUROR NO. 178: I've got a cow farm from Marshall. I'm
30 just unable to get (INDISCERNIBLE) for help (INDISCERNIBLE).
31
32 THE COURT: Is there -- sorry. You are a cattle --
33
34 JUROR NO. 178: It's -- sorry.
35
36 THE COURT: I was -- you are a cattle farmer by
37 yourself? You can't --
38
39 JUROR NO. 178: I help my father, and I -- but a two-man
40 job (INDISCERNIBLE) unfortunately, we have the numbers that we have.
41

1 THE COURT: So what type of a -- how many cattle do
2 you have?
3
4 JUROR NO. 178: We have about 200 head.
5
6 THE COURT: And you would have to deal with them
7 on a regular basis from Monday to Friday?
8
9 JUROR NO. 178: We're getting ready
10 (INDISCERNIBLE). It's past the court date for when we start to calve.
11
12 THE COURT: Right.
13
14 JUROR NO. 178: But it's too -- him and I
15 (INDISCERNIBLE).
16
17 THE COURT: Okay. I am going to excuse you on that
18 basis. Thank you.
19
20 JUROR NO. 178: Thank you.
21
22 THE COURT CLERK: 4-2-2.
23
24 THE COURT: Yes.
25
26 JUROR NO. 422: I'm a single mother of two kids. I'm the
27 sole provider for them. I don't have a spouse, and the closest family I have is six
28 hours away, so I don't have (INDISCERNIBLE).
29
30 THE COURT: Okay. You are excused. Thank you.
31
32 JUROR NO. 422: Thank you.
33
34 THE COURT CLERK: 3-9-9.
35
36 THE COURT: Yes.
37
38 JUROR NO. 399: I have a trip planned on February 15th. I
39 leave to Kelvington for a week (INDISCERNIBLE).
40
41 THE COURT: So that's just to Kelvington. Could you

1 not go on the -- the 16th?
2
3 JUROR NO. 399: It's already booked.
4
5 THE COURT: We are talking about Kelvington,
6 Saskatchewan, right?
7
8 JUROR NO. 399: Correct.
9
10 THE COURT: So do you not just drive there?
11
12 JUROR NO. 399: Yes. And it's --
13
14 THE COURT: Can you go a day late if it turns out that
15 we need you for an extra day?
16
17 JUROR NO. 399: It's all paid for already for the 15th.
18
19 THE COURT: I am going to ask you to remain, and you
20 can remind me of that, should you be picked, and we'll re-visit it at that time. So ...
21
22 THE COURT CLERK: 2-3-7.
23
24 THE COURT: Yes, sir.
25
26 JUROR NO. 237: Actually, I've got a newborn son, and
27 I'm actually the only one working right now, and I can't physically afford to make
28 the drive back and forth.
29
30 THE COURT: So where -- where do you live?
31
32 JUROR NO. 237: Meadow Lake, Saskatchewan.
33
34 THE COURT: How old is your son?
35
36 JUROR NO. 237: About three weeks now, or two weeks.
37
38 THE COURT: Okay. You are excused. Thank you.
39
40 JUROR NO. 237: Thank you, Sir.
41

1 THE COURT CLERK: 6-7-4.
2
3 JUROR NO. 674: Can I be excused? Like, just due for
4 (INDISCERNIBLE) hardship. I live in Cochin, and I'm just thinking of the long
5 run. And my spouse is currently on EI. It's -- it'll be financially a difficulty --
6
7 THE COURT: Okay.
8
9 JUROR NO. 674: -- for transportation and gas
10 (INDISCERNIBLE).
11
12 THE COURT: Well, the -- if you are selected, the jury
13 -- the sheriff's office or the Ministry will pay for your mileage and all -- all that
14 stuff. So that shouldn't be a problem.
15
16 JUROR NO. 674: And I have six children.
17
18 THE COURT: But your husband is on EI, so he should
19 be able to look after them, shouldn't he?
20
21 JUROR NO. 674: Yeah, but it'll get chaotic.
22
23 THE COURT: What I am going to do is I am going to
24 put you down as a -- as somebody who is not excused, but we will re-visit this
25 should you be selected. Okay. Thank you.
26
27 JUROR NO. 674: All right. Thank you.
28
29 THE COURT CLERK: 5-2-7.
30
31 THE COURT: Yes, ma'am.
32
33 JUROR NO. 527: I have a hearing loss.
34 (INDISCERNIBLE) hardship. (INDISCERNIBLE) conversations if there's any
35 kind of noise in the background. And also I'm a caterer, and I have three bookings
36 between now and the 15th.
37
38 THE COURT: Okay. I am going to excuse you on the
39 basis of your -- your hard-of-hearing.
40
41 JUROR NO. 527: Okay.

1
2 THE COURT: Okay. Thank you.
3
4 THE COURT CLERK: Number 300.
5
6 THE COURT: Yes, sir.
7
8 JUROR NO. 300: My wife is a stay at home mom, and with
9 me being away for two weeks, we wouldn't be able to afford our bills.
10
11 THE COURT: Where do you work?
12
13 JUROR NO. 300: Maxon Construction (phonetic).
14
15 THE COURT: I am going to put you down as somebody
16 who I am not going to excuse, but we will see if you get selected, and we will deal
17 with you at that time. Thank you.
18
19 THE COURT CLERK: 227.
20
21 JUROR NO. 227: I have two kids at home, and I also have
22 my sister looking after her kids as well. And she can't deal with my kids that long.
23
24 THE COURT: How old are the kids?
25
26 JUROR NO. 227: My kids are six and three.
27
28 THE COURT: And do you work outside the home?
29
30 JUROR NO. 227: Yes, I do. (INDISCERNIBLE) two jobs.
31 My husband works (INDISCERNIBLE).
32
33 THE COURT: Okay. I think that I am going to make
34 note that you have some potential hardship, and we will re-visit that, should you be
35 selected. So I am not excusing you at this time.
36
37 THE COURT CLERK: Number 6-6-0.
38
39 THE COURT: Yes, ma'am.
40
41 JUROR NO. 660: I'm dealing with a medical problem that

1 -- internally, some of my ribs may be fractured, and I'm -- I can't sit for more than
2 two or three hours at a time.

3

4 THE COURT: Okay. You are excused. Thank you.

5

6 So at this point, I would normally go into some further comments, but before I do
7 that, I understand that some of the people involved in this process need to have a
8 short break. So what I'm going to do is adjourn for 10 minutes. And they are going
9 to be a sharp 10 minutes, so I don't want to -- it's not a 15-minute, 21. It'll be 10
10 minutes so that we can accommodate those that need to have the break. And then
11 we will resume where we left off and continue on. In the meantime, I want
12 everyone to remain here and be back in 10 minutes.

13

14 (ADJOURNMENT)

15

16 **Jury Selection**

17

18 THE COURT: Thank you for your patience. The next
19 step in the process is the selection of the 12 jurors and the two alternate jurors who
20 will participate in this case. As I have already said, a jury trial normally begins
21 with 12 jurors. But in this case, I, along with counsel, have decided that we will
22 also choose two alternate jurors in case one or more of the original 12 are unable
23 to start the trial when it starts tomorrow. If those two alternate jurors are not
24 needed, they will be discharged tomorrow just prior to the commencement of the
25 presentation of the evidence.

26

27 Our law provides a detailed procedure for choosing juries. Both the Crown and
28 defence participate in this process. To start the jury selection, the court clerk will
29 call at random the jury numbers of 24 members of the panel. If your number is
30 called, please come up to the front of the courtroom and stand where the sheriff is
31 in the order in which you have been called. Once we have selected the initial 24
32 and you have lined up in the front of the courtroom, each number will be read out
33 again in the order in which they were originally selected. As each number is read
34 out, each lawyer will say "content" or "challenge" without saying why. If any
35 lawyer says "challenge" when your number is called, you will not be a person who
36 sits on this jury. If both lawyers say "content", you will become a juror in this
37 case.

38

39 We will repeat the procedure until we have chosen the 12 jurors and the two
40 alternate jurors. In this case, the Crown and the accused each have the right to
41 challenge up to 12 potential jurors without any reason. In addition, after

1 consultation with counsel, the Court has decided that it is advisable and in the
2 interests of justice to select two alternate jurors this morning who will be required
3 to remain until the evidence commences. As a result of the two alternate jurors
4 being selected this morning, both the Crown and the defence are entitled to an
5 additional two challenges for a total of 14 potential challenges each.

6
7 If a member of the jury panel is so challenged, he or she will return to the seat of
8 the body of the courtroom. If not challenged, the juror will then be sworn or
9 affirmed and will take his or her seat in the -- off to the right -- I was going to say
10 jury box, but that -- that will happen tomorrow.

11
12 I want to stress to you that in exercising a right of challenge, the Crown and the
13 accused are in no way casting any reflection upon the individual concerned, and
14 such individual ought not feel embarrassed. Counsel know the nature of the case to
15 be tried and from experience decide the type of person who would be best suited to
16 be a juror in this case. A juror in one type of case may, for any number of reasons,
17 be more suited for one type of case and less suited for another. This is why our
18 *Criminal Code* provides for this procedure. If necessary, additional members of
19 the panel will continue to be called forward after the original 24 are brought up
20 until jurors have been sworn or affirmed.

21
22 Again, when the Crown and defence use their rights that our law gives them to
23 challenge jurors, they do not mean to offend anyone. Do not feel embarrassed if
24 you are not selected. Do not take it personally. It is a normal part of these types of
25 trials.

26
27 After the 14 of you have been selected, the registrar will once again repeat your
28 numbers and ask you to state whether you have been sworn or affirmed. Once we
29 finish selecting the jury, there will be a short adjournment, that is, a break.
30 Depending on the time, it could be our lunch break or our midmorning break. My
31 preference would be is to go right through and finish the whole process this
32 morning. We'll see what happens. For those of you who are selected as jurors, this
33 will be an opportunity for you to have a short break. You may want to contact
34 friends or family and advise them that you are going to be busy for a few weeks.
35 The remainder of you who have not been selected would be free to go because
36 there are no other juries to be selected from this panel.

37
38 Again, I once again thank everyone, those who will be selected and those who will
39 not be selected but nonetheless participated in this process, for everything that you
40 have done today. This is a large part of how our system works.

1 Before we commence the jury selection, I hereby make an order pursuant to
2 Section 631 (2.1) of the *Criminal Code*, that two alternate jurors shall be chosen
3 during the selection process.
4

5 Madam Clerk. Please put the impanelling charge to the accused.
6

7 THE COURT CLERK: These good men and women who we
8 shall now hear called are those that are to pass between the parties. If therefore you
9 will challenge them as they come to the book to be sworn, and before they are
10 sworn, you shall be heard.
11

12 As juror numbers are called, please come to the front through the side of the
13 courtroom, keeping the order in which you are called.
14

15 Juror number 4-0-8. Juror number 4-3-8. Number 7-0-4. Number 91.
16

17 Number 2-1-2. Number 4-6-4. 6-8-8. 6-9-4. 5-6-0. 3-4-7. 2-7-1. 7-1-6. 33. 5-1-1.
18 7-3-8. 6-6-5. 2-8-9. 7-0-6. 7-0-6?
19

20 THE COURT: Just stay there.
21

22 UNIDENTIFIED SPEAKER: (INDISCERNIBLE)
23

24 THE COURT CLERK: (INDISCERNIBLE).
25

26 THE COURT CLERK: They're there? Okay. Oh, he must have
27 been pretty close. Okay.
28

29 THE COURT CLERK: (INDISCERNIBLE).
30

31 THE COURT CLERK: 7-2-5. Number 2. 2-9-6.
32

33 UNIDENTIFIED SPEAKER: Sorry, Madam Clerk. Sorry, My Lord, to
34 interrupt. Did you call 3-9-6?
35

36 THE COURT CLERK: 2-9-6.
37

38 UNIDENTIFIED SPEAKER: I didn't -- I didn't see anybody get up.
39

40 THE COURT CLERK: 7-4-9. 6-8-6. Number 9.
41

1 That's 24, My Lord.
2
3 THE COURT: Okay. So the process will be the accused
4 will declare their intentions first, followed by the Crown, and then we alternate.
5
6 THE COURT CLERK: Juror number 4-0-8, look at the accused.
7 The accused, look at the juror.
8
9 THE COURT: Defence?
10
11 MR. GILLANDERS: Content, My Lord.
12
13 MR. BURGE: Content.
14
15 THE COURT CLERK: Do you swear that you shall well and
16 truly try and true deliverance make between our Sovereign Lady the Queen and
17 the accused at the bar whom you shall have in charge, and a true verdict give
18 according to the evidence, so help you God?
19
20 JUROR NO. 408: (NO AUDIBLE RESPONSE)
21
22 THE COURT CLERK: Juror number 438. Look at the accused.
23 Accused, look at the juror.
24
25 MR. BURGE: Challenge.
26
27 THE COURT: You can -- you have been challenged, so
28 you can return to your seat, sir.
29
30 THE COURT CLERK: Juror number 7-0-4, look at the accused.
31 Accused, look at the juror.
32
33 THE COURT: Defence?
34
35 MR. GILLANDERS: Content, My Lord.
36
37 MR. BURGE: Content.
38
39 THE COURT CLERK: Do you swear that you shall well and
40 truly try and true deliverance make between our Sovereign Lady the Queen and
41 the accused at the bar whom you shall have in charge, and a true verdict give

1 according to the evidence, so help you God?
2
3 JUROR NO. 704: (NO AUDIBLE RESPONSE)
4
5 THE COURT CLERK: Juror number 91, look at the accused.
6 Accused, look at the juror.
7
8 MR. BURGE: Content.
9
10 MR. GILLANDERS: Content.
11
12 THE COURT CLERK: Do you swear that you shall well and
13 truly try and true deliverance make between our Sovereign Lady the Queen and
14 the accused at the bar whom you shall have in charge, and a true verdict give
15 according to the evidence, so help you God?
16
17 JUROR NO. 91: I do.
18
19 THE COURT CLERK: Juror number 2-1-2, please look at the
20 accused. Accused, look at the juror.
21
22 THE COURT: Defence?
23
24 THE COURT CLERK: 2-1-2.
25
26 MR. GILLANDERS: Content.
27
28 MR. BURGE: Content.
29
30 THE COURT CLERK: Do you swear that you shall well and
31 truly try and true deliverance make between our Sovereign Lady the Queen and
32 the accused at the bar whom you shall have in charge, and a true verdict give
33 according to the evidence, so help you God?
34
35 JUROR NO. 212: (NO AUDIBLE RESPONSE)
36
37 THE COURT CLERK: Juror number 464, look at the accused.
38 Accused, look at the juror.
39
40 MR. BURGE: Content.
41

1 MR. GILLANDERS: Content.
2

3 THE COURT CLERK: Do you swear that you shall well and
4 truly try and true deliverance make between our Sovereign Lady the Queen and
5 the accused at the bar whom you shall have in charge, and a true verdict give
6 according to the evidence, so help you God?
7

8 JUROR NO. 464: (NO AUDIBLE RESPONSE)
9

10 THE COURT CLERK: Number 688, look at the accused.
11 Accused, look at the juror.
12

13 THE COURT: Defence?
14

15 MR. GILLANDERS: Content.
16

17 MR. BURGE: Challenge.
18

19 THE COURT: You can go back to your seat, sir.
20

21 THE COURT CLERK: Juror 694, look at the accused. Accused,
22 look at the juror.
23

24 MR. BURGE: Content.
25

26 MR. GILLANDERS: Content.
27

28 THE COURT CLERK: Do you swear that you shall well and
29 truly try and true deliverance make between our Sovereign Lady the Queen and
30 the accused at the bar whom you shall have in charge, and the verdict give
31 according to the evidence, so help you God?
32

33 JUROR NO. 694: Yes.
34

35 UNIDENTIFIED SPEAKER: (INDISCERNIBLE). My Lord, can I
36 approach?
37

38 THE COURT: Yes.
39

40 UNIDENTIFIED SPEAKER: Juror number 5 has been sworn
41 (INDISCERNIBLE) that she'd like to address with you in regard --

1
2 THE COURT: And has not been sworn?
3
4 UNIDENTIFIED SPEAKER: She has been sworn , number 5.
5
6 THE COURT CLERK: 464.
7
8 THE COURT: Okay. Okay. Well, let's get -- juror
9 number 5 has something that you wish to say to me. Okay. Just come forward.
10
11 JUROR NO. 464: I'm a part-time student at Lakeland
12 College, and I'm also a full-time delivery driver in (INDISCERNIBLE). I'm the
13 only full-time driver, so yeah.
14
15 THE COURT: And what -- what do you deliver?
16
17 JUROR NO. 464: Everything for the oil field, like pipe,
18 tongs, brake parts, all --
19
20 THE COURT: Is there somebody else that can take your
21 place in the meantime?
22
23 JUROR NO. 464: (INDISCERNIBLE).
24
25 THE COURT: Okay. The juror has been sworn. I -- I
26 think that -- unless I have consent of counsel, she -- consent of both counsel, then I
27 think she has to stay.
28
29 MR. SPENCER: Well, certainly you have our consent to
30 use your discretion as you see fit. So if that's -- that's the way you want to go, you
31 have our consent to replace.
32
33 MR. BURGE: My Lord, she might have qualified to be
34 a standby person had she spoken up in time.
35
36 THE COURT: Right. But she didn't.
37
38 MR. BURGE: But she hasn't. And --
39
40 THE COURT: If you consent, I don't think that there's
41 any -- any procedural difficulties that we run into.

1
2 MR. BURGE: We have -- I'll -- I'll consent, My Lord.
3
4 THE COURT: Thank you.
5
6 Okay. I am going to excuse you. Thank you for coming forward at this point. So
7 juror number 6 will become juror number 5, and you are free to go.
8
9 JUROR NO. 464: Okay. Thank you, then.
10
11 THE COURT: Thank you.
12
13 MR. SPENCER: And that was 4-6-4?
14
15 THE COURT CLERK: Yes.
16
17 THE COURT: That was 4-6-4.
18
19 THE COURT CLERK: That was 4-6-4.
20
21 MR. SPENCER: Thank you.
22
23 THE COURT CLERK: Juror number 5-6-0, look at the accused.
24 Accused, look at the juror.
25
26 MR. SPENCER: (INDISCERNIBLE).
27
28 MR. GILLANDERS: Content.
29
30 MR. BURGE: Content.
31
32 THE COURT CLERK: 5-6-0.
33
34 JUROR NO. 560: My wife does have travel booked this
35 whole weekend, and it would be an --
36
37 THE COURT: Okay. Well, we are -- yes. What you just
38 saw doesn't happen very often where somebody comes out, so thank you. And --
39
40 THE COURT CLERK: Okay. Do you swear that you shall well
41 and truly try and true deliverance make between our Sovereign Lady the Queen

1 and the accused at the bar whom you shall have in charge, and a true verdict give
2 according to the evidence, so help you God?
3
4 JUROR NO. 560: (NO AUDIBLE RESPONSE)
5
6 THE COURT CLERK: Number 3-4-7. Look at the accused.
7 Accused, look at the juror.
8
9 MR. BURGE: Content.
10
11 MR. GILLANDERS: Challenge.
12
13 THE COURT: Okay. You are free to go back to your
14 seat. Thank you.
15
16 THE COURT CLERK: Number 271, look at the accused.
17 Accused, look at the juror.
18
19 MR. GILLANDERS: Content.
20
21 MR. BURGE: Challenge.
22
23 THE COURT: Okay. You are free to go back to your
24 seat. Thank you.
25
26 THE COURT CLERK: Okay. Juror number 7-1-6, look at the
27 accused. Accused, look at the juror.
28
29 THE COURT: Crown?
30
31 MR. BURGE: Content.
32
33 MR. GILLANDERS: Challenge.
34
35 THE COURT CLERK: Juror number 33, look at the accused.
36 Accused, look at the juror.
37
38 THE COURT: Defence?
39
40 MR. GILLANDERS: Challenge.
41

1 THE COURT CLERK: Juror number 511, look at the accused.
2 Accused, look at the juror.
3
4 MR. BURGE: Content.
5
6 MR. GILLANDERS: Content.
7
8 THE COURT CLERK: Do you swear that you shall well and
9 truly try and true deliverance make between our Sovereign Lady the Queen and
10 the accused at the bar whom you shall have in charge, and a true verdict give
11 according to the evidence, so help you God?
12
13 JUROR NO. 511: (INDISCERNIBLE).
14
15 THE COURT CLERK: Juror number 738, look at the accused.
16 Accused, look at the juror.
17
18 THE COURT: Defence?
19
20 MR. GILLANDERS: Challenge.
21
22 THE COURT CLERK: Juror number 6-6-5, look at the accused.
23 Accused, look at the juror.
24
25 MR. BURGE: Content.
26
27 MR. GILLANDERS: Challenge.
28
29 THE COURT CLERK: Juror number 289, look at the accused.
30 Accused, look at the juror.
31
32 MR. GILLANDERS: Content.
33
34 MR. BURGE: Content.
35
36 THE COURT CLERK: Do you swear that you shall well and
37 truly try and true deliverance make between our Sovereign Lady the Queen and
38 the accused at the bar whom you shall have in charge, and a true verdict give
39 according to the evidence, so help you God?
40
41 JUROR NO. 289: (No audible response)

1
2 THE COURT CLERK: Juror number 7-0-6, look at the accused.
3 Accused, look at the juror.
4
5 MR. GILLANDERS: Challenge.
6
7 THE COURT CLERK: Juror number 7-2-5, look at the accused.
8 Accused, look at the juror.
9
10 MR. BURGE: Content.
11
12 MR. GILLANDERS: Content.
13
14 THE COURT CLERK: Do you swear that you shall well and
15 truly try and true deliverance make between our Sovereign Lady the Queen and
16 the accused at the bar whom you shall have in charge, and a true verdict give
17 according to the evidence, so help you God?
18
19 JUROR NO. 725: (NO AUDIBLE RESPONSE)
20
21 THE COURT: Madam Clerk, I am going to ask you to
22 call ten more.
23
24 THE COURT CLERK: Number 584. Number 172. Number 28.
25 Number 238. 671. 613. 681. 592. 6-6-4.
26
27 THE COURT: And one more.
28
29 THE COURT CLERK: 3-6-8.
30
31 MR. GILLANDERS: My Lord, just to double-check, we have
32 nine seated right now. Is that -- is that right?
33
34 THE COURT CLERK: Yes.
35
36 MR. GILLANDERS: Yes. Thank you.
37
38 THE COURT: What's that?
39
40 THE COURT CLERK: We have nine.
41

1 THE COURT: That's right.
2
3 MR. GILLANDERS: Thank you.
4
5 THE COURT CLERK: Juror number 2, look at the accused.
6 Accused, look at the juror.
7
8 MR. BURGE: Content.
9
10 MR. GILLANDERS: Challenge.
11
12 THE COURT CLERK: Juror number 296, look at the accused.
13 Accused, look at the juror.
14
15 THE COURT: Defence?
16
17 MR. GILLANDERS: Content.
18
19 MR. BURGE: This was one, My Lord, where you had
20 suggested would stand by if called.
21
22 THE COURT: What was your situation, sir?
23
24 JUROR NO. 296: My -- my (INDISCERNIBLE).
25
26 THE COURT: Okay. What I'm going to do is stand you
27 by, and that is we'll see if we need you in the end result. So what I'm going to do
28 is ask you to go over to the other side of the wall and just stand there and wait to
29 see how we make out. There's another sheriff there. You can just go stand by him.
30
31 Thanks for reminding me.
32
33 THE COURT CLERK: Number 749, look at the accused.
34 Accused, look at the juror.
35
36 THE COURT: Crown?
37
38 MR. BURGE: Content.
39
40 MR. GILLANDERS: Content.
41

1 THE COURT CLERK: Do you swear that you shall well and
2 truly try and true deliverance make between our Sovereign Lady the Queen and
3 the accused at the bar whom you shall have in charge, and a true verdict give
4 according to the evidence, so help you God?
5

6 JUROR NO. 749: (NO AUDIBLE RESPONSE)
7

8 THE COURT CLERK: Juror number 686, look at the accused.
9 Accused, look at the juror.
10

11 THE COURT: Defence?
12

13 MR. GILLANDERS: Challenge.
14

15 THE COURT CLERK: Juror number 9, look at the accused.
16 Accused, look at the juror.
17

18 MR. BURGE: Content.
19

20 MR. GILLANDERS: Challenge.
21

22 THE COURT CLERK: Juror number 584, look at the accused.
23 Accused, look at the juror.
24

25 THE COURT: Defence?
26

27 MR. GILLANDERS: Content.
28

29 MR. BURGE: Content.
30

31 THE COURT CLERK: Whoops. Do you swear that you shall
32 well and truly try and true deliverance make between our Sovereign Lady the
33 Queen and the accused at the bar whom you shall have in charge, and a true
34 verdict give according to the evidence, so help you God?
35

36 JUROR NO. 584: (NO AUDIBLE RESPONSE)
37

38 THE COURT CLERK: Juror number 172, look at the accused.
39 Accused, look at the juror.
40

41 MR. BURGE: Content.

1
2 MR. GILLANDERS: Challenge.
3
4 THE COURT CLERK: Juror number 28, look at the accused.
5 Accused, look at the juror.
6
7 THE COURT: Sir, you had approached me about a
8 hardship situation initially?
9
10 JUROR NO. 28: Yes. (INDISCERNIBLE).
11
12 THE COURT: And -- okay. I am going to stand you
13 aside for the time being, so you can go stand by that other gentleman.
14
15 THE COURT CLERK: Juror number 238, look at the accused.
16 Accused, look at the juror.
17
18 MR. GILLANDERS: Content.
19
20 MR. BURGE: Content.
21
22 THE COURT CLERK: Do you swear that you shall well and
23 truly try and true deliverance make between our Sovereign Lady the Queen and
24 the accused at the bar whom you shall have in charge, and a true verdict give
25 according to the evidence, so help you God?
26
27 JUROR NO. 238: (NO AUDIBLE RESPONSE)
28
29 THE COURT: Okay. That's our 12, but we're going to
30 pick the two alternates, and we will continue on with the process.
31
32 THE COURT CLERK: Juror number -- juror number 671, look
33 at the accused. Accused, look at the juror.
34
35 THE COURT: Defence?
36
37 MR. GILLANDERS: Challenge.
38
39 THE COURT CLERK: Juror number 613, look at the accused.
40 Accused, look at the juror.
41

1 THE COURT: Crown?
2
3 THE COURT CLERK: Okay.
4
5 MR. BURGE: Content.
6
7 MR. GILLANDERS: Challenge.
8
9 THE COURT CLERK: Juror number 681, look at the accused.
10 Accused, look at the juror.
11
12 MR. GILLANDERS: Content.
13
14 MR. BURGE: Content.
15
16 THE COURT CLERK: Do you swear that you shall well and
17 truly try and true deliverance make between our Sovereign Lady the Queen and
18 the accused at the bar whom you shall have in charge, and a true verdict give
19 according to the evidence, so help you God?
20
21 JUROR NO. 681: (NO AUDIBLE RESPONSE)
22
23 THE COURT: Maybe I would like you to call five
24 more.
25
26 THE COURT CLERK: Number 6-2-0. Number 15. Number 1-6-
27 3. Number 2-1-6. 2-1-6? Number 5-6-9.
28
29 Juror number 5-9-2, look at the accused. Accused, look at the juror.
30
31 MR. BURGE: Challenge.
32
33 THE COURT: Challenge? Okay.
34
35 THE COURT CLERK: Juror number 6-6-4, look at the accused.
36 Accused, look at the juror.
37
38 MR. GILLANDERS: Challenge.
39
40 THE COURT CLERK: Juror number 6 -- sorry. 3-6-8, look at
41 the accused. Accused, look at the juror.

1
2 THE COURT: Crown?
3
4 THE COURT CLERK: 3-6-8.
5
6 MR. BURGE: Content.
7
8 MR. GILLANDERS: Content.
9
10 THE COURT CLERK: Do you swear that you shall well and
11 truly try and true deliverance make between our Sovereign Lady the Queen and
12 the accused at the bar whom you shall have in charge, and a true verdict give
13 according to the evidence, so help you God?
14
15 JUROR NO. 368: (NO AUDIBLE RESPONSE)
16
17 THE COURT CLERK: That's 14, My Lord.
18
19 THE COURT: Yes. Thank you. Okay. Those of you that
20 have been called up, you can go back into the body of the courtroom, the
21 gymnasium, whatever we wish to call it today.
22
23 Ladies and gentlemen of the panel -- or jury, before I place the accused in your
24 charge, I wish to once again give you one last opportunity to indicate to me if you
25 believe that you are unable to serve on this jury because of any reasons that I
26 mentioned this morning, either personal hardship, knowledge of the facts of this
27 case or any of the individuals involved, or whether serving as a juror will cause
28 you undue hardship. So if there is anything of that nature, please let me know now
29 before I release the rest of the people here.
30
31 JUROR NO. 560: My wife has travel booked for this
32 weekend, so I could be at home with my children and watch after them to make it
33 easier for her. And then she does have a -- a concert booked on February 15th in
34 Edmonton. Her and my (INDISCERNIBLE) business (INDISCERNIBLE)
35 business for February 15th and 16th.
36
37 THE COURT: Okay. So the -- it is no doubt that it is an
38 inconvenience for you, but whether it's an undue inconvenience, that's the part
39 that I'm wrestling with.
40
41 Do counsel have anything to say?

1
2 MR. BURGE: I know we've booked 15 court days. I
3 think -- I think -- I don't think that will be a problem for this juror.
4
5 THE COURT: All right. So the -- both lawyers have
6 been telling me, although sometimes they are wrong, dealing with the estimates,
7 that we should be done by the 15th. So if that's your major concern, I don't think
8 you should have a problem there.
9
10 JUROR NO. 560: Oh, that and -- and this weekend for my
11 wife.
12
13 THE COURT: Well, you will have the weekend off.
14
15 JUROR NO. 560: Well, she goes on Thursdays. She leaves
16 (INDISCERNIBLE) Thursday, Friday, and then Saturday, Sunday
17 (INDISCERNIBLE).
18
19 THE COURT: Again, counsel, I look for your
20 assistance.
21
22 MR. SPENCER: Well, on the one hand, I -- I agree with
23 my friend. At the risk of being embarrassed, I -- I don't think that's going to be an
24 issue subject to unforeseen circumstances, and otherwise I leave it in your hands. I
25 -- I unfortunately have some sympathy, but, you know, that's the nature of -- of the
26 circumstance.
27
28 THE COURT: Okay. What I'm going to do is we do
29 have lots of potential other panel members we can bring back in. But you are
30 certainly on the borderline as to somebody that I should excuse. So I am going to
31 excuse you, and we will -- and then one of the alternate jurors will have to take
32 your -- your spot, and everything will just move down the line.
33
34 So what juror was this now?
35
36 THE COURT CLERK: Number -- juror number 6 -- sorry.
37 Number is 5-6-0, sworn in as juror number 6.
38
39 THE COURT: Okay. You will be excused. And just to
40 keep things straight, you can go back into the body of the courtroom.
41

1 JUROR NO. 560: Thank you.
2
3 THE COURT: He was juror number 6. So I wonder if --
4 we have two more people that want to speak, but before I hear them -- we will just
5 leave the chair vacant for now.
6
7 You would like to say something, ma'am?
8
9 UNIDENTIFIED SPEAKER: Yes. I don't drive. I have -- I was the
10 lady (INDISCERNIBLE).
11
12 THE COURT: And where do you live?
13
14 UNIDENTIFIED SPEAKER: (INDISCERNIBLE).
15
16 THE COURT: And how long a drive is that?
17
18 UNIDENTIFIED SPEAKER: About 45 minutes.
19
20 THE COURT: Are you able to hire somebody to bring
21 you back and forth?
22
23 UNIDENTIFIED SPEAKER: Well, it just depends
24 (INDISCERNIBLE).
25
26 THE COURT: Mr. Sheriff, we should be able to arrange
27 somebody to -- a cab or something to pick her up and back and forth?
28
29 THE SHERIFF: I'm sure that we could find something
30 appropriate, My Lord.
31
32 THE COURT: Okay. So that should be no problem.
33 We'll -- you will be able to hire somebody or we will get you arranged, okay?
34
35 UNIDENTIFIED SPEAKER: Okay.
36
37 THE COURT: Yes, ma'am?
38
39 UNIDENTIFIED SPEAKER: Actually, right now I'm living at a cabin
40 at the lake, and I heat with -- with a wood stove all the time. So -- and it's really
41 cold. I mean, by the time I got home at night, it would be quite cold in there.

1
2 THE COURT: Are you able to get somebody to
3 arrange?
4
5 UNIDENTIFIED SPEAKER: They'd have to come every couple of
6 hours to start the fire. It's just a weird situation (INDISCERNIBLE). I mean, in the
7 summer, it wouldn't be bad.
8
9 THE COURT: Counsel?
10
11 MR. SPENCER: I leave -- leave it to Your Lordship. It's
12 --
13
14 THE COURT: Okay.
15
16 MR. BURGE: I guess, My Lord, we need her to have
17 her mind on what's here today. I -- I'm not going to object.
18
19 THE COURT: Okay. Okay. I am going to excuse you,
20 as well.
21
22 So, Mr. Sheriff, I wonder if we can --
23
24 THE COURT CLERK: That's juror number 1.
25 THE COURT: Oh, we have got somebody else standing
26 up. Now, I don't want this to go too far. Yes, sir.
27
28 UNIDENTIFIED SPEAKER: I've got to admit, I have somewhat of a
29 hearing impairment. I have no problem when the PA system is going, but you --
30 with you speaking here, I have somewhat of a problem listening.
31
32 THE COURT: Well, the Court is going to convene in a
33 courtroom tomorrow, and the -- everything will be a lot closer, and everyone will
34 be a lot closer. And unless you are very hard-of-hearing, which you do not appear
35 to be --
36
37 UNIDENTIFIED SPEAKER: No.
38
39 THE COURT: -- we will make sure that we speak loud
40 enough, so that should not be a problem.
41

1 UNIDENTIFIED SPEAKER: Okay.
2
3 THE COURT: Okay. So what I am going to ask you to
4 do is to have everyone move down the -- the requisite spots, and then alternate
5 jurors 13 and 14 will take their spots, as well.
6
7 THE COURT CLERK: Well, they should still be in the same
8 order.
9
10 THE COURT: So the people in the panel that we had
11 brought up are going to have to -- whose numbers have been chosen and I told
12 them that they would go back, they will have to come back up, because we need to
13 pick two alternate jurors. So that will be 569, 216, 163, 15, and 620. So number
14 620 would be first.
15
16 Is that what you have, Madam Clerk?
17
18 THE COURT CLERK: Yeah. Yes, I do. 620.
19
20 THE COURT: And number 15 would be next?
21
22 THE COURT CLERK: Yes.
23
24 THE COURT: 163 would be next? 216 would be next,
25 and 269. So, sir, you had already appealed to me as having some -- some
26 difficulties, and I said I would consider standing you aside. So I am going to stand
27 you aside and have you go stand over by those people over there. And, Madam
28 Clerk, what I will do is I will ask you to call four more people up. So you can just
29 go stand over there.
30
31 THE COURT CLERK: Number 229. 229? Number 54. Number
32 750. Number 300.
33
34 Juror number 15, look at the accused. Accused, look at the juror.
35
36 MR. BURGE: Content.
37
38 MR. GILLANDERS: Challenge.
39
40 THE COURT CLERK: Juror number 163, look at the accused.
41 Accused, look at the juror.

1
2 THE COURT: Crown?
3
4 MR. BURGE: Content.
5
6 MR. GILLANDERS: Content.
7
8 THE COURT CLERK: So this is now 13. Sorry. I put my card
9 away.
10
11 Do you swear that you shall well and truly try and true deliverance make between
12 our Sovereign Lady the Queen and the accused at the bar whom you shall have in
13 charge, and a true verdict give according to the evidence, so help you God?
14
15 JUROR NO. 163: (NO AUDIBLE RESPONSE)
16
17 THE COURT CLERK: Juror number 216, look at the accused.
18 Accused, look at the juror.
19
20 MR. GILLANDERS: Content.
21
22 MR. BURGE: Content.
23
24 THE COURT CLERK: Do you swear that you shall well and
25 truly try and true deliverance make between our Sovereign Lady the Queen and
26 the accused at the bar whom you shall have in charge, and a true verdict give
27 according to the evidence, so help you God?
28
29 JUROR NO. 216: (NO AUDIBLE RESPONSE)
30
31 THE COURT: Okay. The rest of you can go back into
32 the panel of the -- the body of the -- the room. And I am reluctant to -- to say this
33 again, but ladies and gentlemen, before I place you -- Mr. Stanley into your
34 charge, I once again wish to give you one last opportunity if there's anything that
35 is realistic, undue hardship, you know anybody. And if not, we are going to release
36 the rest of the -- the panel here today.
37
38 JUROR NO. 584: I just have one question. Is it going to be
39 okay to have communication with the outside? I'm a business owner. With my
40 partners, before and after --
41

1 THE COURT: Well, yes. The jury is not going to be
2 sequestered. So in other words, you will be able to go home at the end of every
3 day. There will be a period of time when the jury is put -- making a decision when
4 you are deliberating. During that period of time, there is no communication. But
5 for the rest of us, your life can carry on. You are going to be busy during the day,
6 but at night, you -- you will be --
7

8 JUROR NO. 584: I'm just wondering if I have to
9 (INDISCERNIBLE) business because there's (INDISCERNIBLE).
10

11 THE COURT: Okay. Well --
12

13 JUROR NO. 584: (INDISCERNIBLE) do it before and
14 after.
15

16 THE COURT: There should -- there should not be any
17 problems.
18

19 JUROR NO. 584: (INDISCERNIBLE).
20

21 THE COURT: Between 10 and 12, you are going to be
22 busy, and between 1:30 and/or 2 and 5, you will be busy. Okay.
23

24 Madam Clerk.
25

26 **Jury Roll**
27

28 THE COURT CLERK: Members of the jury, as I call your juror
29 number, answer "sworn" or "affirmed" if you have been sworn or affirmed.
30

31 Juror number 7-0-4.
32

33 JUROR NO. 704: Sworn.
34

35 THE COURT CLERK: Number 91.
36

37 JUROR NO. 91: Sworn.
38

39 THE COURT CLERK: Number 2-1-2.
40

41 JUROR NO. 212: Sworn.

1
2 THE COURT CLERK: Number 6-9-4.
3
4 JUROR NO. 694: Sworn.
5
6 THE COURT CLERK: Number 511. Oh, you didn't move the
7 seats, then.
8
9 JUROR NO. 511: (INDISCERNIBLE) no.
10
11 THE SHERIFF: I -- there wasn't a break with --
12
13 THE COURT CLERK: Okay.
14
15 THE SHERIFF: We need to correct that, then.
16
17 THE COURT CLERK: Okay.
18
19 THE COURT: We'll continue on.
20
21 THE COURT CLERK: We'll correct that after? Okay.
22
23 Number 289.
24
25 JUROR NO. 289: Sworn.
26
27 THE COURT CLERK: Number 725.
28
29 JUROR NO. 725: Sworn.
30
31 THE COURT CLERK: Number 749.
32
33 JUROR NO. 749: Sworn.
34
35 THE COURT CLERK: Number 584.
36
37 JUROR NO. 584: Sworn.
38
39 THE COURT CLERK: Number 238.
40
41 JUROR NO. 238: Sworn.

1
2 THE COURT CLERK: Number 681.
3
4 JUROR NO. 681: Sworn.
5
6 THE COURT CLERK: Number 368.
7
8 JUROR NO. 368: (NO AUDIBLE RESPONSE)
9
10 THE COURT CLERK: Number 163.
11
12 JUROR NO. 163: (NO AUDIBLE RESPONSE)
13
14 THE COURT CLERK: Number 216.
15
16 JUROR NO. 216: Sworn.
17
18 THE COURT: Everyone has been sworn appropriately?
19
20 THE COURT CLERK: Yes, My Lord.
21
22 **Accused put in Jury Charge**
23
24 THE COURT: And, Mr. Stanley, I now place you in the
25 jury's charge.
26
27 **Discussion**
28
29 THE COURT: Members of the jury panel, we are going
30 to take about a 15-minute break in a few moments. And we will convene at
31 approximately 1 o'clock. And when we come back -- at the break, you are going to
32 have to remain, that being the -- the jury that has been selected. And at the break,
33 when we adjourn here in a few moments, all the rest of the panel is entitled to
34 leave.
35
36 When the jury comes back, I will give you some further information and
37 instructions about the permitted use of cell phones during the trial, and you will
38 not be able to have your cell phones or BlackBerrys or iPhones in the courtroom at
39 any time during the trial. When you return from our break, I will have some
40 opening instructions for you. And then after the opening instructions are
41 concluded, we're going to adjourn until tomorrow at 10 o'clock AM at the

1 Battleford courthouse, Queen's Bench, just a few blocks away from here. And we
2 will not be conducting any further business today, other than the opening remarks
3 that I am going to make for you.

4

5 So to recap, we will take a break in a few moments, then we will all get together,
6 that being the -- the lawyers and Mr. Stanley and the jury, and I will tell you a few
7 things about some preliminary remarks. Then we will be done for the day, and we
8 will commence tomorrow at 10 o'clock in the morning.

9

10 So I realize we're nudging up on the lunch hour, and I am going to ask you if you
11 can -- if we can just stick with it so that we can complete everything we need to
12 deal with today rather than take a lunch break because I -- I have to tell you a few
13 things before I release you into the world. And that will take maybe about 20
14 minutes to do. So we'll have our 20-minute break, and then we'll come back, and
15 I'm tell you a few things, and then we're done until tomorrow.

16

17 As far as the rest of you who have not been selected to sit on this jury, I am
18 advised by the sheriff's office that there are no other jury trials set to be presided
19 over during this jury sitting, and therefore, you are excused from any further
20 requirement to attend court for jury duty. When court adjourns in just a few
21 moments, you will be free to leave the courtroom, and there is no further
22 requirement that you attend at any future date for jury duty.

23

24 On behalf of the Court and the administration of justice in general, I thank you all
25 very much for attending today and for participating in the process. Even though
26 you have not been selected and even though maybe your name has not been called,
27 your presence in the -- in this process is absolutely important. So I thank you.

28

29 So, jury members, I think that they have a room for you to go into; is that correct?
30 And if you could take the jury members into that room.

31

32 THE COURT CLERK: (INDISCERNIBLE)?

33

34 THE COURT: We will wait for the jury to leave first.

35

36 THE COURT CLERK: (INDISCERNIBLE).

37

38 THE COURT: So we are adjourned until 1:05.

39

40 (ADJOURNMENT)

41

1 **Opening Instructions**

2

3 THE COURT: Ladies and gentlemen of the jury, let me
4 just let you know that normally, we take a lunch break now, and then people
5 would leave, and then we'd come back, and we'd continue on with the trial. But
6 because we are going to finish off today in this building and resume tomorrow, I
7 want to just tell you a few things and then release you for the rest of the day, and
8 then we will start tomorrow at 10 o'clock. So I realize we're kind of eating beyond
9 the lunch hour, but I'll try to be as brief as I can, but there's a few things that I
10 must tell you at this point.

11

12 So with that in mind, I'm going to provide to you some instructions to you. So,
13 members of the jury, you have been chosen to hear this case. The oath or
14 affirmation that you have taken requires you to listen closely to the evidence that
15 will be presented and to decide this case solely on the evidence that you hear and
16 the instructions that I provide to you. I'm now going to describe your duties as
17 jurors and the procedures that we will follow during the trial.

18

19 I also will explain to you some of the rules of law that apply in this case. During
20 and at the end of the trial, I will give you specific and detailed instructions about
21 the rules of law that apply to this case. You must listen carefully to all of those
22 instructions.

23

24 You are the sole judges of the facts. You must decide this case only on the
25 evidence presented in the courtroom. I am the sole judge of the law, and it is your
26 duty to accept the law as I explain it to you. You must not use your own ideas
27 about the way the law is or should be, and you must not rely on any information
28 about the law from any other source than me.

29

30 You must consider only the evidence presented in the courtroom. Evidence is the
31 testimony of witnesses and things entered as exhibits. It may also consist of
32 admissions. The evidence includes what each witness says in response to the
33 questions asked. The questions are not evidence unless the witness agrees that
34 what is asked is correct. Only the answers are evidence. The Crown and defence
35 may also agree about certain facts. When this happens, no evidence is required.
36 Whatever they agree about is a fact in the case. This is called an admission.

37

38 There are also some things that are not evidence. You must not consider or rely
39 upon them to decide the case. If I instruct you to disregard any evidence, it is your
40 duty to do so. In particular, the charge in the indictment that you heard read out
41 when we started this proceeding this morning is not evidence. What the lawyers

1 and I say when we speak to you during the trial is not evidence. What you hear
2 outside the courtroom about this case or about any of the persons involved in this
3 case is not evidence. What you hear or may have heard on the radio or have seen
4 or may see on television, in a newspaper, or on the Internet or what you may have
5 heard from any other person is not evidence. You must ignore it completely. You
6 must avoid all media coverage of this case. You must not do your own research.

7
8 It's probably fair to say that this case has attracted some considerable attention in
9 the media. But again, I stress, anything that you have heard or seen in the media or
10 anyone is not evidence, and you must disregard it completely. You must consider
11 only the evidence presented to you in the courtroom.

12
13 Sometimes certain evidence can only be used for a specific purpose. If that
14 happens here, I will tell you how you may use the particular evidence in deciding
15 the case. You must consider the evidence only for the purpose that I describe, and
16 you must not use it for any other purpose.

17
18 I am going to explain to you briefly about direct evidence and circumstantial
19 evidence. This will probably make more sense to you when the trial unfolds.
20 Suppose the question is whether it is raining outside. A witness testifies that he or
21 she saw it raining. That is direct evidence of the fact that it was raining. Contrast
22 this with a witness who testifies that he saw someone enter the courthouse wearing
23 a raincoat and carrying an umbrella, both dripping wet. You might infer from the
24 testimony that it was raining outside. This is circumstantial evidence of the fact
25 that it is raining outside. Exhibits may also provide direct or circumstantial
26 evidence.

27
28 In making your decision, you can take both kinds of evidence into account. Your
29 job is to decide what conclusions you will reach based upon the evidence as a
30 whole, both direct and circumstantial.

31
32 Keep an open mind as the evidence is presented. Do not be influenced by
33 sympathy for or prejudice against anyone.

34
35 During the trial, you may discuss the case amongst yourselves, but only when all
36 of you are together in the jury room. You must not, however, come to any
37 conclusions about the case until you have heard all of the evidence, listened to the
38 lawyers on both sides, and received my instructions on the law. So keep an open
39 mind.

40
41 Some of your family, friends, fellow workers, or others may ask you about jury

1 duty. You must not talk to them about this case. Nor should you discuss the case
2 with anyone involved in it, including Mr. Stanley, either of the defence lawyers,
3 the Crown lawyers, their friends, family, witnesses, investigating officers, or
4 anyone else. You may, of course, if you bump into somebody in the hallway, say
5 “hello” and move on by. But do not talk to anybody about the case except your
6 fellow jurors. If anyone approaches you to discuss any part of the case, please tell
7 that person to stop. Tell them that you cannot discuss it. If the person does not
8 stop, please tell me about it, and I will deal with it.

9
10 When you arrive at the courthouse each morning and return to it after lunch in the
11 afternoon, please go straight to the jury room. When you leave at lunch or at the
12 end of the day for your duties, please leave directly from the jury room. Please do
13 not linger around the halls or other places in or around the buildings before or after
14 our sitting.

15
16 Finally, you are not lawyers or investigators. You must not investigate, seek out
17 information, or do any research on this case, the persons involved in it, or the law
18 that applies to it, including looking on the Internet. Do not consult other people or
19 other sources of information, printed or electronic. Do not use the Internet or any
20 electronic device in connection with this case in any way. This includes chat
21 rooms, face times, My Space, Twitter, apps, or other electronic or social media.
22 Do not read or post anything about the trial. Do not engage in tweeting or texting
23 about this trial. Do not discuss or read anything about this trial on a blog. Do not
24 discuss this case on email. You must decide this case solely on the evidence that
25 you hear in the courtroom.

26
27 I am going to talk to you about trial procedure. This is how we are going to
28 conduct the trial. Crown counsel are Mr. Bill Burge and Mr. Christopher Browne.
29 They are the Crown prosecutors, and they prosecute the case. The defence lawyers
30 are Mr. Scott Spencer and Dustin Gillanders. Together, they represent Mr. Stanley,
31 who is on trial here.

32
33 The Crown will present its evidence first because it has the burden of proving the
34 charge. Before presenting evidence, the Crown may make an opening address.
35 After the opening address, the Crown will call witnesses to the witness box.
36 Various things may also be filled [sic] in evidence as exhibits. Facts that are
37 admitted by the defence may also form part of the Crown’s evidence. All persons
38 charged with an offence are presumed to be innocent under our law. This means
39 that they do not have to prove their innocence. They do not have to testify or
40 present evidence. The law requires the Crown to prove the charge beyond a
41 reasonable doubt. If the defence does choose to present evidence, it may also make

1 an opening statement.

2

3 In making their opening statements, the lawyers may summarize the evidence that
4 they intend to present, and they may refer to some principles of law. What they say
5 about the evidence, however, is not in itself evidence for you to consider in
6 deciding this case. What they say about the law is only meant to help you
7 understand the issues and make the evidence relatable. I will explain to you which
8 principles of law you are to apply in coming to your decision, and it is your duty to
9 follow my instructions on the law.

10

11 When lawyers ask witnesses questions, they have to follow certain rules. One set
12 of rules applies when they are asking questions of witnesses that they have called.
13 These questions are called examination-in-chief. Another set of rules applies when
14 lawyers are questioning witnesses that the other side have called. These questions
15 are called cross-examination. Examination-in-chief always comes first, then the
16 lawyer from the other side has the opportunity to cross-examine the same witness.
17 After a witness has been cross-examined, the lawyer who first called that witness
18 may be permitted to ask additional questions to clarify or explain matters that have
19 come up in cross-examination. That is called re-examination.

20

21 We depend on the memory and the judgment of all jurors to decide this case. If
22 you want to take notes during the trial to help you remember what a witness said,
23 you may do so. You may find it difficult, however, to take detailed, accurate notes
24 and at the same time pay close attention to what witnesses are saying and how they
25 are saying it. If you do take notes, do not be distracted from your duty to observe
26 the witnesses. You may always ask to hear a tape of a witness's testimony played
27 back to you, but you only have the one chance to observe the appearance and
28 behaviour of the witness when they testify. To protect the secrecy of your work,
29 you must not take your notes with you at the end of each sitting day. We will make
30 arrangements to keep them in a secure place and return them to you when you
31 come back to the courthouse the next day. If you decide not to take notes, which is
32 fine, you must still listen to the evidence very carefully.

33

34 It is not the role of jurors to conduct the trial. It is your duty to consider the
35 evidence that is presented, not to decide what questions the witnesses should be
36 asked or how they should be asked. Sometimes you might wish to ask a witness a
37 question. It is usually best to listen to the rest of the witness's testimony in the case
38 because your question will likely be answered. It may even be answered by
39 another witness. This is why it is generally best to simply be patient and listen
40 closely to all the evidence. However, if there is an important point that you believe
41 needs to be clarified, put up your hand and indicate that you have a question. Put

1 that question in writing, and the question can be provided to me. I'll talk to the
2 lawyers, and we will determine how we would handle that question. That doesn't
3 happen too often.

4

5 From time to time during the trial, you will be asked to go to the jury room while
6 counsel and I discuss a legal matter. This is normal and should not concern you. I
7 ask you to be patient if and when this happens. I assure you that if at any time you
8 are excluded, it is because it is necessary to do so.

9

10 When all the evidence has been presented, the Crown and defence will address
11 you. They will tell you their positions and refer to some of the evidence that they
12 say you should rely on to reach the conclusion that they suggest. They may also
13 refer to some rules of law to help you understand their positions better. But it is for
14 me as the trial judge to tell you what rules of law apply and what that means. You
15 must follow my instructions on the law. If there is any difference between what I
16 say and what counsel say about the law, you must follow my instructions.

17

18 My final instructions will also include a review of some of the evidence given
19 during the trial. You should always remember, however, that it is only your
20 memory and understanding of the evidence that counts in this case, not mine, and
21 not that of the lawyers.

22

23 Next, I wish to speak to you about assessing a witness's testimony. It will be up to
24 you to decide how much or how little of the testimony of any witness you will
25 believe or rely upon. You may believe some, none, or all of the evidence given by
26 a witness. You must ask yourself whether the witness is truthful and whether the
27 witness is reliable.

28

29 Here are a few questions to consider during your deliberations and discussions.
30 Did the witness have a good opportunity to observe the event that he or she
31 described? How long was the witness watching or listening? Did anything
32 interfere with the witness's ability to observe? Was there anything else happening
33 at the time that might have distracted the witness? Did the witness have a good
34 memory? Keep in mind the length of time that has passed since the date of the
35 alleged offence. Was there something specific that helped that witness remember
36 the details of the event that he or she described? Was there something unusual or
37 memorable about the event so that you would expect the witness to remember the
38 details or was the event relatively unimportant at the time, so the witness might
39 easily have forgotten or been mistaken about some of the details. Was any inability
40 or difficulty that the witness had in remembering events genuine or was the
41 witness's memory selective in order to avoid answering questions?

1

2 Was the witness able to communicate clearly and accurately? What was the
3 witness's manner when he or she testified? But here, don't jump to conclusions
4 based entirely on the way a witness looks or their manner. Looks can be deceiving.
5 Giving evidence in a trial is not a common experience for many people. People
6 react and appear differently. Witnesses come from all different backgrounds. They
7 have different intellects, abilities, values, and life experiences. There are simply
8 too many variables to make the manner in which a witness has testified the only or
9 the most important factor in your decision.

10

11 Was the witness forthright and responsive to questions or was the witness evasive,
12 hesitant, and argumentative? Did the witness give his or her testimony fairly or
13 was it tainted by self-interest or bias? Does the evidence disclose any reason why
14 the witness might tend to favour the Crown or the defence? Was the witness's
15 testimony consistent with the testimony of other witnesses? As you know, people
16 hear and see things differently. This means we should not be surprised to find
17 discrepancies in their testimony. Minor discrepancies are often unimportant, but
18 you may attach greater importance to more significant discrepancies. Are there any
19 inconsistencies in the witness's own testimony? If so, do these inconsistencies
20 make the testimony more or less believable and reliable? Are the inconsistencies
21 about something important or minor details? Could they be honest mistakes?
22 Could they be deliberate lies? Are there explanations for them? Do the
23 explanations make sense? Those are all things for you to think about as you're
24 hearing the evidence come out.

25

26 You must not decide an issue simply by counting which side has the most
27 witnesses. You may decide that the testimony of fewer witnesses is more reliable
28 than the evidence of a larger number of witnesses. It is the force of the evidence
29 that counts, not the number of witnesses.

30

31 Consider these questions in the context of the evidence as a whole. Your common
32 sense to decide how much weight or importance you wish to give to the testimony
33 of witnesses is important.

34

35 I now want to talk to you about some fundamental principles that apply in all
36 criminal cases in this country. Those principles are the presumption of innocence,
37 burden of proof, and reasonable doubt. The first and most important principle of
38 law applicable to every criminal case is the presumption of innocence. Gerald
39 Stanley enters these proceedings presumed to be innocent, and the presumption of
40 innocence remains throughout the case unless the Crown, on the evidence put
41 before you, satisfies you beyond a reasonable doubt that he is guilty. Two rules

1 flow from the presumption of innocence. One is that the Crown bears the burden
2 of proving guilt. The other is that guilt must be proved beyond a reasonable doubt.
3 These rules are inextricably linked with the presumption of innocence to ensure
4 that no innocent person is convicted.

5

6 The burden of proof rests with the Crown and never shifts. There is no burden on
7 Mr. Stanley to prove that he is innocent. He does not have to prove anything.

8

9 Now, what does the expression “beyond a reasonable doubt“ mean? A reasonable
10 doubt is not an imaginary or frivolous doubt. It is not based on sympathy for or
11 prejudice against anyone involved in these proceedings. Rather, it is based on
12 reason and common sense. It is a doubt that arises logically from the evidence or
13 from an absence of the evidence.

14

15 It is virtually impossible to prove anything to an absolute certainty, and the Crown
16 is not required to do so. Such a standard would be impossibly high. However, the
17 standard of proof beyond a reasonable doubt falls much closer to absolute certainty
18 than to probable guilt. You must find -- correction. You must not find Mr. Stanley
19 guilty unless you are sure he is guilty. Even if you believe that Mr. Stanley is
20 probably guilty or likely guilty, that is not sufficient. In those circumstances, you
21 must give the benefit of the doubt to Mr. Stanley and find him not guilty because
22 the Crown has failed to satisfy you of his guilt beyond a reasonable doubt.

23

24 Later I will explain to you the essential elements that the Crown must prove
25 beyond a reasonable doubt to establish Mr. Stanley’s guilt. For the moment, the
26 important point for you to understand is that the requirement of proof beyond a
27 reasonable doubt applies to each of those elements. It does not apply to individual
28 items of evidence. You must decide looking at the evidence as a whole rather than
29 the Crown -- whether the Crown has proved Mr. Stanley guilty beyond a
30 reasonable doubt. If you have a reasonable doubt about Mr. Stanley’s guilt arising
31 from the evidence, the absence of the evidence, or the credibility or the reliability
32 of one or more of the witnesses, then you must find him not guilty.

33

34 In short, and this is to recap, the presumption of innocence applies to the beginning
35 and continues through the trial unless you are satisfied after considering the whole
36 of the evidence that the Crown has displaced the presumption of innocence by
37 proof of guilt beyond a reasonable doubt. If, based upon the evidence, you are sure
38 that Mr. Stanley is guilty of the offence with which he is charged, you must
39 convict him of that offence since that demonstrates that you are satisfied of his
40 guilt beyond a reasonable doubt. If you have a reasonable doubt whether
41 Mr. Stanley is guilty of the offence with which he is charged, you must give him

1 the benefit of that doubt and find him not guilty.

2

3 At some point over the next week or so, I am going to suggest that you choose one
4 juror to act as your foreperson. The foreperson will chair your discussions and
5 announce your verdict in the courtroom at the end of the case. You do not have to
6 choose the foreperson immediately. As the trial continues, however, please think
7 about which one of you would be best-suited to perform the role. Get to know each
8 other a little bit before you choose your foreperson.

9

10 All jury deliberations are secret except for telling me about any problems. You
11 must not tell anyone anything about your discussions unless that information was
12 disclosed in open court. To do so would be a criminal offence. You should feel
13 confident that what happens in the jury room will always be private. This is to
14 encourage full and frank discussion with your fellow jurors. In other words, you
15 need not worry that something you say in the jury room will ever be repeated
16 anywhere else.

17

18 If something happens during the course of the trial that may affect your ability to
19 do your duty as a juror, please write it down, put it in a sealed envelope, and
20 deliver it to the sheriff, who will give it to me.

21

22 If at any time you have any trouble seeing or hearing any part of these
23 proceedings, let me know. Put your hand up and tell me.

24

25 We will start each day at 10 o'clock AM and continue until around 5 PM with a
26 15-minute break around 11:15. The precise time may vary a few minutes one way
27 or the other. We're not going to have a marathon like we did today. In the
28 afternoon, we will start at 2 PM and continue until 5 PM with a 15-minute break.
29 And we will have a lunch break from around 12:30 to around 2 o'clock. It may be
30 that on some days, we will finish somewhat earlier or later than is scheduled. It is
31 difficult to predict precisely how long each witness will take to give his or her
32 evidence. The lawyers do their best to ensure that each day is filled up, but it
33 doesn't always work out that way.

34

35 From time to time, a juror may not be able to avoid having to do something that he
36 would normally do while sitting. We will do our best to help you out. You should
37 remember, however, that we have to try this case in a timely and fair way, and if
38 something of this nature does happen, please let me know and write it down and
39 give it to me, and I will deal with it.

40

41 It is your duty to watch and listen to all the proceedings, including the addresses,

1 the evidence, and my instructions. You must listen to and observe these trial
2 proceedings without prejudice, bias, or sympathy. At the end of sitting each day,
3 you are free to go. You do not have to stay together.
4

5 When all the evidence has been presented, counsel have addressed you, and I have
6 told you about the legal principles that apply to your discussions, you will go to
7 the jury room, and you will be asked to decide the case. At that point, you will be
8 sequestered, which means that you must stay together until you have reached your
9 verdict. Meals and overnight accommodations, if required, will be arranged.
10

11 Thank you for your attention to these preliminary instructions. We're going to
12 adjourn until 10 o'clock AM tomorrow morning at Battleford Court of Queen's
13 Bench, 291-23rd Street West, here in Battleford, Saskatchewan, at which time the
14 Crown prosecutor will give his opening address, and we will start with the calling
15 of evidence.
16

17 So I am going to invite the jury to leave now, and then I am going to see if counsel
18 have anything further that we need to address before we adjourn for the day. Does
19 that make sense? Or is there anything for us to address?
20

21 MR. SPENCER: I don't think so, My Lord.
22

23 MR. BURGE: No, My Lord.
24

25 THE COURT: Okay. Well, what we will do, then, is we
26 will adjourn until tomorrow at 10 o'clock. Thank you very much.
27

28
29 PROCEEDINGS ADJOURNED UNTIL 10:00 AM, JANUARY 30, 2018
30
31
32

1 Proceedings taken in the Court of Queen's Bench, Battleford, Saskatchewan

2

3

4 January 30, 2018

Morning Session

5

6 The Honourable Chief Justice

The Court of Queen's Bench

7 M. Popescul

for Saskatchewan

8

9 W. Burge, QC

For the Crown

10 C. Browne

For the Crown

11 S. Spencer

For the Accused

12 D. Gillanders

For the Accused

13 K. Christopherson

Court Clerk

14

15

16 **Discussion**

17

18 THE COURT:

Good morning.

19

20 MR. GILLANDERS:

Good morning, My Lord.

21

22 MR. BURGE:

Good morning, My Lord.

23

24 MR. SPENCER:

Good morning, My Lord.

25

26 THE COURT:

Well, before we get started, there might

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be a few housekeeping matters that we might need to deal with. The housekeeping matters are this. First of all, one of the jurors, Juror 704 -- she was the first one sworn -- is from Marshall, Saskatchewan. She attempted to get here today, and the Registrar advises me that she found that the roads were impassable. She turned around and has gone home. So what that means to me is that she is not going to be here, and we need to make a decision as to whether or not we use one of the alternate jurors or whether we delay the entire process until Juror Number 704 is able to attend. So that's the -- the first issue.

The second issue is Juror Number 584 has been relating to the Registrar on more than one occasion how difficult this whole process is, and that he wants to address the Court about being excused because he is from a considerable distance away. He's the fellow that wanted to use his cell phone at different times during the day, and to my eyes, he was visibly uncomfortable being part of this process. So one of -- we do have the two alternates here. So of the 14 jurors that were supposed to be

1 here today, 13 are, in fact, here.

2

3 So what we could do is -- I will hear counsel on this, but if we were to excuse
4 Juror Number 704, that is, the one that couldn't make it, and excuse Juror Number
5 584, the juror that doesn't want to be here, and we put the alternates in, we would
6 have a jury of 12 that we could continue on with and start the trial.

7

8 I'm in your hands, counsel, as to what you think we should do, given the
9 circumstances. And for the record, the roads are horrific, and I know that there's a
10 lot of people that had difficulty driving in from whenever they -- they have been.
11 According to the weather forecast I heard, there's a circle almost around
12 Battleford-Lloydminster area that is travel not recommended, and beyond that, it
13 seems like it's reasonable winter driving conditions.

14

15 So, Mr. Burge.

16

17 MR. BURGE: Thank you, My Lord. If we have 13
18 jurors here, one of them that is reluctant to be here, I would be happy to proceed
19 with 12 jurors who are prepared to -- to listen to the evidence and do their duty. So
20 if that means excusing Jurors 704 and 584, I would be satisfied with that.

21

22 THE COURT: Okay. Mr. --

23

24 MR. SPENCER: My Lord, with Juror 584, this one is
25 maybe from a civics perspective -- certainly we have to have jurors that are
26 committed to the process, and I think he's demonstrated that he has reservations.
27 And I don't think that's good for what we have to do. With respect to Juror 704,
28 my -- again, my thinking is that we should wait for that juror. I think that juror is
29 ready and willing to participate in the process, as far as I'm aware. I think we are,
30 you know, run -- running through its course. And so my -- my thinking is that we
31 should wait for that juror.

32

33 THE COURT: Okay. That juror is in Marshall,
34 Saskatchewan; is that right? And that's approximately -- I know it's close to
35 Lloydminster, about two hours?

36

37 THE COURT CLERK: An hour and 20.

38

39 THE COURT: An hour and 20 minutes away.

40

41 MR. SPENCER: Okay.

1
2 THE COURT: So the provisions with respect to
3 alternate jurors -- and remind me what it says as far as when we get to this point?
4
5 THE COURT CLERK: I can just advise for the Court, as well.
6 She has indicated she will not travel at all today. Just so the record is clear.
7
8 THE COURT: Okay.
9
10 THE COURT CLERK: She will not travel today.
11
12 THE COURT: So, Madam Clerk, you are indicating that
13 you have spoken with Juror 704, and she has indicated that she is not prepared to
14 travel at all today?
15
16 THE COURT CLERK: Correct.
17
18 THE COURT: Does that make a difference to your
19 position?
20
21 MR. SPENCER: In -- in light of that, I think I have to
22 accommodate the Court and everyone here, and I'll -- I'll agree to proceed with
23 the alternates.
24
25 THE COURT: Now, with respect to -- thank you very
26 much, Mr. Spencer. I think that that's a very fair and reasonable position to take.
27 With respect to Juror Number 584, do counsel wish me to bring him in and he can
28 advise what his situation is, just so that we have that on the record?
29
30 MR. SPENCER: It's unnecessary for the defence
31 purposes, but certainly I would appreciate from the Court's perspective you may
32 want to proceed that way. It's not necessary, from our perspective.
33
34 THE COURT: Okay. Mr. Burge.
35
36 MR. BURGE: I -- I would suggest we bring him in, and
37 maybe we should -- before he's excused, make sure we have at least 12 to start
38 with, unless something else happens.
39
40 THE COURT: We do have 13 in the room.
41

- 1 MR. BURGE: Yes, I -- yes.
2
- 3 THE COURT: Okay. If you could bring Juror 584 in,
4 please?
5
- 6 THE COURT: Just come over here, sir. If you could just
7 approach the bench a little bit? That's good. Now, I understand from speaking
8 with the Registrar that you have expressed on more than one occasion the hardship
9 that this trial is going to have on your personal life; is that correct?
10
- 11 JUROR 584: Well, it's just -- under the weather
12 conditions, I need to at least make it home every -- you know, I can't stay. I've got
13 three little kids and a nanny from the Philippines and a wife stuck 25 minutes in
14 the middle of nowhere that I can't really leave them there. And then I've got a
15 business with employees that I've got to keep running, and if I don't -- like, last
16 night I was in the shop until 11 o'clock at night getting things going for today, and
17 then wake up in the morning and it's like this. And I -- I don't want to let people
18 down in the middle of the court case, but there was a count of eight vehicles in the
19 ditch on my way here today that -- it's just what is going to happen, and I need to
20 make that commute, right? I have no really other options.
21
- 22 THE COURT: Okay. So you're not able to stay
23 overnight for any periods of time?
24
- 25 JUROR 584: Not -- no, not really.
26
- 27 THE COURT: So if the weather gets bad. I think --
28
- 29 JUROR 584: That's --
30
- 31 THE COURT: -- what we're going to do is I've -- with
32 the consent of both Crown and defence, we're going to release you and excuse you
33 from further jury duty on this. So I would like to thank you for the efforts that
34 you've put --
35
- 36 JUROR 584: Well, I -- I apologize. I don't want to
37 cause any inconvenience by it, but --
38
- 39 THE COURT: Well, that's why we pick a couple extra
40 alternate jurors just in case something like this happens.
41

1 JUROR 584: I could foresee it being trouble in the
2 winter in lovely Saskatchewan winters, so ...
3

4 THE COURT: Okay, sir. You are excused.
5

6 JUROR 584: Thank you.
7

8 THE COURT: And again, for the record, with consent
9 of counsel, Juror Number 704 is excused. So that means we have a total of 12
10 jurors to start the trial.
11

12 THE COURT CLERK: By Juror 584, My Lord?
13

14 THE COURT: Well, 584, but also 704.
15

16 THE COURT CLERK: Oh. Oh, sorry.
17

18 THE COURT: So 584 and 704 have both been excused.
19 Are there any other preliminary matters that we need to address before we call the
20 jury in?
21

22 MR. BURGE: My Lord, the first -- after my opening,
23 the first witness will be Corporal Heroux, who is the identification officer. And he
24 has come with photo books. He also has -- we already equipped if -- if the Court
25 wishes, that we could present the identical -- there are -- there are flash drives that
26 are identical to the photo books that could be played. And I understand they are set
27 up so that they can be viewed here in the courtroom and in the remote locations in
28 this building if My Lordship -- if you -- My Lord, if you choose to go that way.
29

30 THE COURT: Well, I think that that makes sense.
31

32 MR. BURGE: Okay.
33

34 THE COURT: So what you would do is where we in the
35 courtroom are looking at the physical photo books, you're going to be able to
36 project to the remote locations the photographs that he's looking at?
37

38 MR. BURGE: It would also be on the screens in this
39 room, as well.
40

41 THE COURT: That would be fine.

1

2 MR. BURGE: And -- and so, My Lord, if -- if we do
3 that, so the photo book would be the exhibit, and so should the flash drive be, say,
4 like Exhibit 1A or something? Or do we even need to make it an exhibit?

5

6 THE COURT: Well, I think we can make it 1A just in
7 the off-chance that there's any -- some suggestion that the two don't match.

8

9 MR. BURGE: Thank you.

10

11 THE COURT: Okay. So with that in mind, can we bring
12 the jury in?

13

14 MR. BURGE: Yes.

15

16 MR. SPENCER: And my --

17

18 THE COURT: And Madam Clerk --

19

20 MR. SPENCER: -- My Lord, if I -- if I may simply
21 address that while it's on the table? On photos, we've worked through that
22 reasonably well, and all photos -- we have an additional dozen or so -- 13 photos,
23 and those will be entered by agreement. We'll also have the appropriate witness
24 refer to them as we go, but we have an agreement on those. So you don't need to
25 be concerned about whether one of them won't be proven. Those will be all
26 admitted at the end of the trial.

27

28 MR. BURGE: That's correct, My Lord.

29

30 THE COURT: Okay. Thank you.

31

32 Madam Clerk, you can move those two chairs out of the way, and then you can
33 bring the jury in?

34

35 THE COURT CLERK: Would you like me to just keep the jurors
36 in the order they're in with the alternates or do you want the alternates to fill in the
37 place of the two that were replaced?

38

39 THE COURT: The alternates would turn into Jurors 11
40 and 12.

41

1 THE COURT CLERK: Okay. So just bring them in in order.

2

3 THE COURT: Right.

4

5 THE COURT CLERK: I'll check them again.

6

7 THE COURT: Do you want to help them just line them
8 up as well? Or you've got that?

9

10 (JURY ENTERS)

11

12 THE COURT: Good morning, ladies and gentlemen.

13 And I usually say thank you for being here this morning, but given the weather
14 that's out there, I am going to say extra-special thank you for being here. I know it
15 was awful, and some of you really had your work cut out for you to be here today.
16 So that's the first thing I'd like to say.

17

18 The second thing I'd like to say is yesterday we picked two alternate jurors, two
19 extra jurors, in case two of the other ones could not be here at the start of the trial.
20 As it so happens, I was -- it was necessary for me to excuse two of those jurors. So
21 the alternate jurors have now become the jurors themselves. So you are -- the two
22 of you who were alternate jurors are now jurors on this trial.

23

24 So with that in mind, I gave you my preliminary instructions yesterday, and I
25 wanted to do that early on so that you were aware of some of the things that you
26 should and shouldn't do. The should and shouldn't dos included watching
27 television coverage or radio coverage or reading things in the newspaper and those
28 types of things. And I know that in today's day and age where we all have cell
29 phones and smartphones and are on Facebook -- which I'm not, no, but many
30 people are. And apparently on Facebook, you can look at all sorts of things. And I
31 think it's crucially important in this case, especially, that you ignore all of those
32 things because the only things that you should be considering is what happens
33 right here and right now in this courtroom.

34

35 So with that, we're going to start the trial. And as I mentioned yesterday, the
36 process starts by the judge providing preliminary remarks, and I did that yesterday.
37 And then Mr. Burge on behalf of the Crown is now going to provide his opening
38 address to you.

39

40 So with that, Mr. Burge, I would invite you to present your opening address.

41

1 MR. BURGE: Thank you, My Lord.

2

3 **Opening by Mr. Burge**

4

5 THE COURT CLERK: Mr. Burge, you may need to move the
6 microphone.

7

8 MR. BURGE: Is it in a proper place?

9

10 THE COURT CLERK: I can turn you up.

11

12 MR. BURGE: Thank you.

13

14 Ladies and gentlemen, as His Lordship told you yesterday, my name is Bill Burge.
15 This is Chris Browne. We have been assigned to prosecute this matter. My friends,
16 Scott Spencer and Dustin Gillander [sic], are representing Mr. Stanley.

17

18 And, ladies and gentlemen, we do thank you for being here today. You have an
19 important duty to undertake, and -- and, of course, today presented some trying
20 conditions, I'm sure, for many of you, and -- and we thank you very much and --
21 and we all appreciate that you're here to do what you -- what is a very important
22 civic duty.

23

24 Now, ladies and gentlemen, this is my opening statement, and the purpose of this
25 statement is so that I can outline to you the evidence that the Crown will be
26 presenting for you so that you can make your proper determination at the end of
27 the case. We will be calling a variety of kinds of evidence. First of all, we're going
28 to start with three police officers who will describe attending to the scene, what
29 they saw. They will describe the physical setup at the Stanley residence where this
30 incident occurred. They -- you will hear about an examination, a very fine, detailed
31 examination, of -- of that property. Colten Boushie was in a vehicle when he --
32 when he was shot. You will hear that he died of a gunshot wound. There was a
33 careful examination of the vehicle in -- at the residence or at the location, plus at
34 the police service bay where they went through this vehicle in very great detail.
35 You will also be hearing from a bloodstain pattern analyst who will give you her
36 opinion of what she can determine from the scene, and she'll tell you what she
37 can't determine from the scene.

38

39 We will then be calling -- those are the witnesses that I expect to be calling today.
40 Hopefully we'll get through them all today. Tomorrow we will be calling some
41 civilian evidence. And just so you know, we have sent subpoenas -- we have

1 served subpoenas on everyone who can be compelled to come to court with a
2 subpoena who was there and who has something to say about what happened.

3
4 And just -- just so you know, there may well be some serious contradictions
5 between what people saw. You will be in a very good position to determine what
6 you feel the facts are, what has been proved to you. His Lordship gave you some
7 preliminary instructions yesterday, and at the end of the trial, he will, I am sure,
8 give you further instructions as to how to deal with -- with evidence and how you
9 may come to a unanimous conclusion.

10
11 Ladies and gentlemen, you will hear that Gerald Stanley resided in the Biggar
12 area. He had a farm there where he raised cattle. He also did, as I understand,
13 mechanical work for people in the area. He would fix vehicles. They would bring
14 them to him, leave them in his yard, and he would work on those vehicles.

15
16 The first witness from the civilian side that you will hear from is Sheldon Stanley,
17 and he is Gerald Stanley's son. He will tell you that he was at his parents' home --
18 he doesn't live there anymore, but he was at his parents' home on the 9th of
19 August of 2016, that he and his father were working on a fence. They were
20 building a gate for a fence when they heard a rather loud vehicle come into their
21 yard, and that he saw this vehicle stop by a truck that had been left to be repaired.
22 And someone got out of the vehicle and went into the truck, which he just assumed
23 was maybe the owner dropping off a part because that's -- that seemed to be a
24 typical thing that happened when -- when Mr. Stanley repaired people's vehicles.

25
26 But then this vehicle went further into the -- into the yard, towards the shop, and
27 someone got out and started -- tried to start a quad that was in the Stanleys' yard. I
28 believe it was the Stanley -- belonged to the Stanleys. This caused a reaction.
29 Sheldon Stanley will tell you that he ran towards where the quad was. His father
30 came with him. There were several people in this car that had entered the yard.
31 They were -- he was yelling at them, that the -- the people who were out of the --
32 out of this vehicle got back in. The vehicle backed up. Sheldon Stanley will tell
33 you that he -- as he was building a fence, he had a tool belt on, and he had his
34 hammer with him. He struck the windshield of this car with a hammer.

35
36 The car then headed towards the driveway that would lead to the grid road. As the
37 car was going in that direction, it collided with another vehicle in their yard.
38 Sheldon Stanley says he was running to his house to get his car keys, thinking he
39 would be following this vehicle. As he was running into the house, he heard two
40 gunshots.

41

1 When he came out of the house with his -- with his car keys, he heard another
2 gunshot. He looked. He saw his father standing by the driver's door of this vehicle
3 with a gun and a clip in his hand. That when Sheldon Stanley approached the
4 vehicle, he saw Colten Boushie in the driver's seat, slumped towards the right with
5 the steering wheel of the vehicle. There were two females in the back seat. Two
6 other males in the vehicle had got out and ran away after the vehicle collided with
7 the other vehicle.

8
9 Ladies and gentlemen, this case, it might be a shorter case than a lot of murder
10 trials. It's partly because there's -- it's based on eyewitnesses. In addition to that,
11 ladies and gentlemen, my friend has been very -- my friend, Mr. Spencer, has been
12 very professional in his handling of this matter. He has agreed to admit many facts
13 that would be easy for the Crown to prove, but it would take -- it takes time. It
14 becomes cumbersome. And so we have been able to just get down to what is
15 important in this case.

16
17 And by agreeing to certain facts, we have been able to eliminate a lot of witnesses.
18 That includes -- we will be filing reports of experts. There is a report from Mr. --
19 Dr. Claude Dalpe. He's a trace evidence expert, and his report will indicate that --
20 Gerald Stanley was arrested after this incident, ladies and gentlemen. He was
21 examined by the police for what -- they use what's called a gunshot residue kit
22 where they check his hands and his face to see if he was in proximity to a firearm.
23 And -- and there were positive results, which means that either Mr. Stanley fired a
24 firearm, he was in close proximity to a firearm when it was fired, or he handled a
25 firearm that had been fired. And that will be in a report from Dr. Dalpe that will be
26 filed as evidence by consent.

27
28 We have reports from Gillian Sayers. She's a specialist at the -- with the RCMP
29 forensic lab. So was Dr. Dalpe with the forensic lab of the RCMP. Gillian Sayers
30 reports -- she -- she's a DNA specialist, and she has examined certain items,
31 including swabs of blood from the driver's seat of this vehicle and from the floor
32 of the driver's compartment of the vehicle, and she's determined to her satisfaction
33 that this is the blood of Colten Boushie. You'll see her -- her reports will be in
34 evidence, and -- and the number she uses is that -- she says it's his blood, and the
35 chance of this being someone else's blood is one in a quintillion, which is --
36 wasn't a number that I'm familiar with, but it's a one followed by 18 zeros. So
37 she's fairly confident as to whose blood this was.

38
39 The police, when they did their examination of the scene, found a number of
40 expended cartridges from a firearm. There were three in particular that looked to
41 be very fresh. Two of them were in the middle of the yard. You may conclude it

1 was from where Gerald Stanley was when the first two shots were fired. The third
2 was found inside of the vehicle where Colten Boushie was, and it was found on the
3 dash in the -- in front of the passenger's seat of the vehicle. And in the Gerald
4 Stanley residence, the police located a handgun that had -- that was -- it was a
5 pistol that -- that had a magazine, which is what contains the cartridges for the
6 ammunition for the gun. That was found in the house. The -- a firearms expert has
7 determined that the expended cartridges that were found were fired in that
8 handgun from the house. The gun is called a Tokarev. It's a Russian-made gun.
9 When the DNA experts looked at this gun, they found Colten Boushie's DNA on
10 the trigger guard and trigger and hammer area of the gun. And again, they -- they
11 were satisfied to the same, about one in a quintillion, that this was Colten
12 Boushie's DNA on -- on this gun.

13

14 Colten Boushie, his body was -- there was an autopsy performed on the body. And
15 my friends have agreed that instead of calling the pathologist, who's a highly-
16 trained doctor who specializes in -- in examining bodies to determine cause of
17 death, instead of calling that doctor, we -- they have agreed that we will simply
18 tender his report in evidence. And that report will indicate that Colten Boushie, the
19 only significant injury on him -- there was only one significant injury on his body,
20 and that was a gunshot wound to the head that entered just behind the left ear and
21 exited on -- through the right -- his right neck, and that that was the cause of death
22 of Colten Boushie.

23

24 Ladies and gentlemen, what I expect will likely be the last witness that we call is a
25 firearms expert. He is -- his name is Greg Williams, and he examined the -- the
26 Tokarev handgun. He examined the cartridges and concluded that they were fired
27 -- that these cartridges were fired in the Tokarev, and that was part of our agreed
28 statement of fact.

29

30 In addition, he will testify that -- that he did find -- the expended cartridge that was
31 found inside the vehicle, there was -- it was -- it had an unusual bulge, and he can't
32 tell you exactly why it had a bulge. He'll offer some possibilities, and you might
33 find his evidence to be very helpful to you. You might find that it is too
34 speculative to be of much use as to what caused the bulge. But it is very important
35 evidence, ladies and gentlemen, and when you -- when he is called, you -- I urge
36 you to pay very close attention to what he says.

37

38 And, ladies and gentlemen, that is a summary of the evidence that we will be
39 presenting in an effort to have you hold Mr. Stanley accountable for this death.

40

41 So, My Lord, those are my opening statements.

1
2 THE COURT: Thank you very much, Mr. Burge. Are
3 you prepared to call your first witness?
4
5 MR. BURGE: Yes, I am.
6
7 THE COURT: You may do so.
8
9 MR. BURGE: The first witness will be Corporal Terry
10 Heroux.
11
12 THE COURT: Thank you.
13
14 THE COURT CLERK: How do you take an oath, sir? Will you
15 swear on the Bible?
16
17 CORPORAL HEROUX: On the Bible, yes.
18
19 THE COURT CLERK: Take the Bible in your right hand. State
20 your full name.
21
22 CORPORAL HEROUX: Corporal Terry Heroux.
23
24 THE COURT CLERK: Spell your first and last name for the
25 record.
26
27 CORPORAL HEROUX: T-E-R-R-Y H-E-R-O-U-X.
28
29 **TERRY HEROUX, Sworn, Examined by Mr. Burge**
30
31 THE COURT CLERK: Do you wish to stand or sit?
32
33 A I'll stand.
34
35 THE COURT CLERK: Thank you.
36
37 Q MR. BURGE: All right. Corporal Heroux, you're a
38 member of the Royal Canadian Mounted Police?
39 A That's correct.
40
41 Q And how long have you been so employed?

1 A I've been employed with the Mounted Police since 2003.

2

3 Q And I understand you -- your current duties -- you're a Forensic Identification
4 Specialist?

5 A Yes. I've been a Forensic Identification Specialist since 2013.

6

7 Q Okay. And what is a Forensic Identification Specialist?

8 A Sorry. I should clarify. I've been in the Forensic Identification discipline since
9 2013.

10

11 Q Okay.

12 A And a Forensic Identification Specialist is tasked with collecting, analyzing,
13 documenting evidence for court purposes.

14

15 Q Okay. Corporal, I understand that you received a call on the 9th of August,
16 2016, that results in you coming to court today?

17 A Yes, that's correct.

18

19 Q So if you could please tell us what you -- what happened as a result of getting
20 that call.

21

22 THE COURT: Just before you go further, are you
23 asking that this witness be qualified as an expert?

24

25 MR. BURGE: No.

26

27 THE COURT: Okay. Thank you.

28

29 A If I may, I'd like to refer to my notes from time to time just to keep things in --
30 in line and perspective? I've also prepared a PowerPoint presentation, along
31 with these booklets, that are the same photographs as in the PowerPoint. And
32 I'd like to use these to illustrate the scene and what I documented on that day.

33

34 THE COURT: I take it there's no objection from the
35 defence?

36

37 MR. SPENCER: Obviously, we'd generally prefer that he
38 testify -- that any witness testify without notes, but if this witness feels that that
39 will assist him in being more accurate, then I'm not going to object to that.

40

41 THE COURT: Thank you very much, Mr. Spencer.

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You may refer to your notes whenever you need to, sir.

A Thank you, My Lord. I'm just going to start -- open up my laptop here.

THE COURT: Yes. You go ahead.

While he's doing that, I'll just say that we're going to sit until about 11:15. Around 11:15, we'll take a 15-minute break. So just so you know how long you're going to have to be sitting there.

THE COURT CLERK: Just the -- the TV must shut off after a while.

A Are those televisions on?

THE COURT CLERK: I just turned -- that should turn both of them on, shouldn't it? Yeah. But this one's the red. Oh, maybe (INDISCERNIBLE).

UNIDENTIFIED SPEAKER: (INDISCERNIBLE).

THE COURT CLERK: Do I have to point it at it?

UNIDENTIFIED SPEAKER: Oh, there it comes.

THE COURT CLERK: Oh, okay.

THE COURT: There we go. We're up and running.

A Okay. Thank you, My Lord, for your patience. So I was notified on 2016 August the 9th of a homicide which had occurred in the Biggar detachment area. I was notified by Corporal Mark Ryttersgaard of the Yorkton RCMP Forensic Identification Section, and he too attended with me to the Biggar RCMP detachment. And this is where we began coming up with a game plan as to how to tackle this particular event.

Whenever we start doing any sort of forensic work, we always start with a photo index card. I go through several different days of photographs. So in this case, I've included two different photograph -- or two different photo index cards to -- to show which days we were processing on.

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The call was -- I got the call approximately around 7:30 at night on the 9th of August, and I attended to the Biggar RCMP detachment area. I got there about 11:30 that night. I -- myself and Corporal Ryttersgaard decided that I would attend to the Stanley farm, which was located at SE-4-40-14 in the RM of Glendale or Glenside in the Province of Saskatchewan, and that I would deal with this farmyard. This large poster board here is an aerial photograph of that farmyard, and I'll refer to it from time to time, so that's why I put this one up permanently. And Corporal Mark Ryttersgaard was tasked with dealing with the accused, who was in RCMP cells at the Biggar detachment.

So this -- this is the first image. This is image number 1, and image number 1 shows the date and time which I arrived there. And so when I did get out to the Stanley farm, it was just after midnight. It was 11:30 -- or sorry, 12:30 in the morning. Actually, it ended up being the 10th of August, 2016.

Q MR. BURGE: Okay. If I could stop you there, Corporal? I understand that you prepared a photograph -- a photograph book for this proceeding; is that correct?

A Yes, that's correct.

Q And how many parts are there in this photograph book?

A So there's two parts to the photograph booklet. There's a tab, and there's a -- the scene processing, which I'll go through first, and then the second, there's a tab in there, and then there's a vehicle processing, as well. And they're all included in that photo booklet.

Q Okay. And you have a copy on you; is that correct?

A Yes, I do. Yes.

Q And you have made identical copies of that book?

A Yes.

Q And you've given -- you've given one to His Lordship?

A Yes.

Q And there are six copies set out for the jury?

A Yes.

Q And -- and so that they can share these and go through the photos as you go through them, if two jurors choose to share?

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MR. BURGE: So, ladies and gentlemen, if you --

A So the reality is is that the photos in the booklets are going to be identical and in identical order to the photos that I'm going to be showing on the television screens.

Q Okay. Thank you. So --

THE COURT: And should we mark one of the books as an original exhibit?

MR. BURGE: Well, perhaps the one that the -- that Corporal Heroux has should be the exhibit, and if that could be Exhibit P 1 --

THE COURT: P 1? So --

MR. BURGE: -- entered.

THE COURT: -- what we'll do is we'll mark the booklet of photographs to which the officer is referring as Exhibit P 1 in these proceedings.

I presume you have no objection, Mr. Spencer?

MR. SPENCER: No. No objection to that. No, that's --

THE COURT: Thank you very much. That will be Exhibit P 1.

EXHIBIT P-1- Booklet of Photographs

Q MR. BURGE: And -- and Corporal, you indicated that there's a flash drive in this computer that we're using right now?

A This computer that we're using, this is -- I've -- because the flash drive isn't as fast, so I've dragged it to the desktop. So this is desktop images. They're the same images as in the book, though.

Q Okay. But it -- but it's based on the flash drive that's --

A Yes, that's been provided to the Court.

1 MR. BURGE: Okay. Could that be marked as perhaps
2 Exhibit P 1A, My Lord?

3

4 THE COURT: Yes. The flash drive will be marked as
5 Exhibit P 1A.

6

7 **EXHIBIT P-1A - Flash Drive of Exhibit P 1, Booklet of Photographs**

8

9 Q MR. BURGE: Thank you, Corporal. If you can please
10 take us through your evidence. And -- and if by referring to the photographs, if
11 that makes it more efficient, please -- please do so.

12 A Thank you.

13

14 THE COURT CLERK: I don't think this is very stable. Sorry.
15 I'm just trying to move it so they can see it downstairs.

16

17 UNIDENTIFIED SPEAKER: I'll just move this (INDISCERNIBLE).

18

19 THE COURT CLERK: Whoa.

20

21 A We're okay?

22

23 Q MR. BURGE: Corporal, you were just doing something
24 with the -- a large photograph that's to your left. If you -- can you tell us what
25 that is?

26 A Yeah. So this is an aerial view of the Stanley farm located at SE-4-40-14 in the
27 RM of Glenside in the Province of Saskatchewan. And as I had mentioned
28 briefly before, the reason I want to leave this up here is because there's going
29 to be times when I'm going to need to refer to this particular image, and it'll
30 help orientate you to the scene.

31

32 Q Okay. Is this -- is this image seen in our photo book, as well?

33 A Yes.

34

35 Q What number is that?

36 A I think it's 3, but I'd have to confirm. It's 5.

37

38 Q Do you have the --

39

40 THE COURT: Here is a booklet right here, sir.

41

1 A Yeah. It's 6. Image number 6.

2

3 Q MR. BURGE: Okay. And -- and the -- the blown-up
4 photo, was that -- was that a copy of image 6?

5 A That's a copy of image 6, yes.

6

7 MR. BURGE: Perhaps that could be P 2, My Lord.

8

9 THE COURT: The large photo?

10

11 MR. BURGE: Yes.

12

13 THE COURT: The large photo will be Exhibit P 2.
14 Large panoramic photograph.

15

16 **EXHIBIT P-2- Aerial Photograph of Stanley Farm, Image 6 from Photo Booklet**

17

18 Q MR. BURGE: And with that, Corporal, if you can
19 please tell us about your attendance to the scene and if -- and if going through
20 the photos is of assistance, please do so.

21 A Thank you.

22

23 Q And -- and, Corporal, if you are referring to the photos that are on the screen
24 and if you change the photos, each time, could you please tell us which photo
25 number we are looking at?

26 A Okay.

27

28 Q Thank you.

29 A So as I mentioned, these are photo index cards. It kind of relates back to the old
30 days of film, so basically where we know where we're starting. On -- on this
31 photo index card, it shows that we were there on 2016 August the 10th. And
32 the police file number was 2004-1714 -- or sorry, 2016-104-17-14. And there
33 was two days that we searched the property. So some of the images you're
34 going to see are going to be when we first arrived, and some are when we
35 arrived the next day. So the next day was 2008 [sic] August the 11th, and this
36 was a day search with the same file number, 2016-104-17-14.

37

38 So our office has an unmanned aerial vehicle which we take aerial photographs
39 with. This is -- this is an aerial photograph of the farmyard looking to the -- to
40 the northeast.

41

1 Q Corporal, please tell us which photo --

2 A And this is image --

3

4 Q -- number where -- when you move, please.

5 A Yeah. And this is image number 3. So image number 4 is looking back. The --
6 the yard is on a little bit of an angle. The main road leads to the -- or runs east
7 and west. And at image number 4, we're seeing the property looking to the
8 southwest.

9

10 Q Okay.

11 A Image number 5 shows a fairly high altitude photograph, which includes the
12 road that runs east and -- or that runs east and west. And then you can see how
13 the driveway comes in on a little bit of an angle. And then the main yard. So --

14

15 Q We see some white vehicles in that photograph, sir, that are -- is that the main
16 -- is that --

17 A That's the main -- that's the main grid.

18

19 Q Okay.

20 A And those are police vehicles on the road --

21

22 Q Okay.

23 A -- there.

24

25 Q Thank you.

26 A So the -- our investigation primarily involved the main yard or -- or this -- this
27 centre section of the property. There's -- the yard is basically a long -- there's a
28 long gravel driveway into the yard with trees on the left and with some bushes
29 and fence line on the right. And it comes -- when it comes up to where the
30 house is, the house is on the left, and that would be on the northwest corner or
31 northwest approximate side of the property. Then there's a two-car garage on
32 the right or on the -- the southern part of the property. There's a garden area.

33

34 And the yard somewhat narrows, as you can see, in this image that I'm
35 referring to as P 2. You can see the -- the yard narrows a little bit. And there's
36 a power pole in that yard and the garden area. And then it widens again into a
37 larger area. And this was more of the -- the working side of the farm, I would
38 assume, and there's a metal shed there. There's a few vehicles, a pickup truck.
39 And then up into the north corner of P 2, you can see the -- there's a few
40 vehicles and some fencing supplies laying on the ground and -- in -- in the
41 north -- I guess that's approximately the northeast side of this image.

1

2 THE COURT: And, Officer, just so that I can make sure
3 that I have it straight, where is north? Is it the top of the photograph?

4

5 A Well, and that's the trouble, My Lord, is it's not 100 percent north because the
6 yard is on a little bit of an angle. But it -- it -- the top of the photo would be
7 probably more north -- or northeast than straight directly north.

8

9 THE COURT: Okay. So would the corner be north,
10 more or less? Top right-hand corner?

11

12 A I can show you the image prior to that. The road -- on image number 5, you
13 can see the road is --

14

15 THE COURT: Yes?

16

17 A -- is north -- is east and west.

18

19 THE COURT: So east to the left?

20

21 A East to the right.

22

23 THE COURT: East to the right? And west to the left?

24

25 A Yes.

26

27 THE COURT: Okay. Thank you very much.

28

29 Q MR. BURGE: Corporal, can you -- is there -- is that a --
30 can you maybe X out of -- I guess it's disappearing.

31 A Oh, sorry.

32

33 Q We had a notification on the screen.

34 A Oh, okay. So image number 6 -- like I say, image number 6 is the same as this
35 panoramic large-scale poster that I'm going to leave up for the remainder of
36 my testimony.

37

38 So image number 7 is looking down the driveway. And this is the scene of
39 what it looked like when I first got there on August the 10th, just after 12:00 at
40 night -- 12:30 in the -- in the morning.

41

1 Q Where are you standing when this photo was taken?

2 A This -- I'm standing right on the edge of the -- of the main grid that runs east
3 and west, looking down the driveway. So because there's not much point in
4 showing just black photographs, I included what it would look like in the
5 daytime, as well. And this is the same view in image number 8, standing in that
6 -- relatively the same spot, looking down the road, as you can see the yard.

7
8 In image number 9, this is again what the scene looked like when I arrived that
9 night. Image number 9 shows the row of pine trees on the left and the two-car
10 garage up and to the right. And you can see the yard light in the distance, the
11 power pole in the distance with the yard light on it. And you can also see a
12 vehicle near the yard light.

13

14 Q How did you manage to take that photograph at night?

15 A So the -- there's several techniques that we use in -- in photographing night
16 scenes. In this particular one, we -- we set the aperture on the camera to remain
17 open, and we do a technique that's called painting with light. And essentially,
18 we -- when the aperture is left open -- like, this -- this scene would be
19 relatively pitch-black other than when I -- when we paint with light when the
20 aperture is left open on the camera, and then we use a flashlight to brighten up
21 the area, and it'll -- and it provides these types of results.

22

23 Q Okay.

24 A So this is that same direction in the daylight, and you can see a little more
25 detail in the --

26

27 Q This photograph 10 you're referring to?

28 A -- daytime. Yeah, in photograph 10.

29

30 So I will maybe mention at this point, there's -- obviously this is a homicide
31 investigation, so there are going to be some images that are -- that might be
32 disturbing to some. But this is image number 11. And image number 11 shows
33 looking into the yard. And I'll indicate on P 3 here on the -- on the far left,
34 there's a grey Ford Escape. And -- which is a fairly significant area. And this is
35 image number 11 as I found it on the scene. The body is there, just outside of
36 the car door. And there's also another -- a tarped area. Members that had
37 arrived on scene had covered two items -- or covered the body and covered
38 another item of interest, which I'll explain later, with safety blankets to protect
39 them from rain.

40

41 Q When you were taking these nighttime photos, what was your authority to be

1 on the premises to -- to do that part of your investigation?

2 A So when we begin processing it, first we operate under *The Coroners Act*. And
3 *The Coroners Act* allows us to operate up and to the point of when the body is
4 removed. Once the body is removed, then we -- we back out, and then we
5 would wait for a general warrant to be written and executed. And then we
6 would operate under the general warrant.

7

8 Q So this is pursuant to the *Criminal Code*?

9 A Yes.

10

11 Q Okay. And the -- the photos that are taken at night, when were they taken? And
12 the photos taken in the daytime, when were they taken?

13 A Yeah. So originally on scene on the -- on the 10th of August, we were
14 operating under *The Coroners Act* from the time when I arrived at 12:30 to
15 approximately 6 AM that morning.

16

17 Q Okay.

18 A So image number 12 is the -- is the same area where I mentioned with the grey
19 Ford Escape on the left side of the panoramic image, just as the driveway
20 opens up. And this is obviously in the daylight, and it shows a little more
21 details.

22

23 Q When was this photo taken?

24 A This photo would have been taken on the 11th of August.

25

26 Q Okay.

27

28 THE COURT: And just to be clear, you're saying that
29 Exhibit P 2 is the same as P 6?

30

31 A Yes, that's correct.

32

33 THE COURT: Although I notice that they're -- they're
34 actually flipped around.

35

36 A Oh, yeah. That image is actually upside down. The -- that photo should be --
37 the other way around in the picture. Thank you for catching that, My Lord.

38

39 THE COURT: Okay.

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41 A The printer accidentally reversed that photo.

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THE COURT: Okay. So --

A We just can't seem to win with these -- these panoramic photos. But they -- but that's what happened. It's --

THE COURT: So which one is the correct one? P-2 or P-6?

A This -- this will orientate the viewer the best.

THE COURT: Okay.

Q MR. BURGE: That's P-2?

A P-2, yes, sorry.

THE COURT: And photo 6 is actually just a --

A It's just upside down.

THE COURT: -- a reversal? Okay.

A Yeah. So the first night that we were there, again, this is the scene from the ground looking back towards the house, towards the grey Escape, looking down the driveway -- or looking through the yard. I'm basically standing right in front of the silver shed, and I'm indicating on P-2 where the silver shed is on the far right side of the screen. I'm standing -- you can see the -- the quad -- the quad runner in image number 13, you can see the quad runner on P-2 near the silver shed.

Q MR. BURGE: Corporal, do you have a pointer?

A Yes, I do. So this is the quad runner here that's indicated in the photos in -- in number 13. This again is the same technique with painting with light. This would have been totally obscured if it hadn't been for that technique. And one thing I'd like to direct your attention to are these groove marks that are in the gravel road. These groove marks in P-13 and again in P-14, this is just a grazing of the light technique which shows the -- these groove marks a little more. These are important and I'll explain why in the future, but this is where I first noticed these -- these groove marks in the -- in the gravel yard.

Q So that's in photos 13 and photos 14?

1 A Yes. So again, in photo -- in photograph 15, this again shows grooves in the
2 yard. And these grooves are -- you see where this -- this trailer is in P-2? The
3 trailer is, I guess, on the -- on the south -- southeast side of the yard near this
4 semi-truck, and these grooves are in this area here that I'm photographing in
5 numbers 15. And this again is a -- is a lighting technique to create a little more
6 contrast or just to try to get these images to -- or to try to get these -- these
7 groove marks to pop a little better or to show up a little better. And that's a
8 grazing with light technique.

9
10 So not to complicate things -- anything further, but there was actually two Ford
11 Escapes on this scene. The first one, the grey one which I had showed earlier
12 where the victim was in, was a 2003 Ford Escape. It was grey, and the license
13 plate number was 048-Juliet -- Juliet Uniform Yankee -- and -- or Juliet-Victor
14 Yankee, sorry. And this one was a 2012 Ford Escape, and this license plate
15 number was 944-GDZ. And so these two -- these two Ford Escapes were close
16 to one another in the yard. And I'll indicate these on -- on -- again, on the
17 panoramic image. This is the -- the newer Ford Escape, the blue Ford Escape,
18 which is just southeast of the house. And this is the grey Ford Escape, the 2003
19 Ford Escape, which is basically directly south of the house, closer to the house.

20
21 So --

22
23 THE COURT: What years were those vehicles, again?

24
25 A The grey Ford Escape was a 2003.

26
27 THE COURT: Thank you, because I think you said '13,
28 but I could be mistaken.

29
30 A No, the -- the newer one is a -- or did I say '13? No, I meant --

31
32 THE COURT: I thought you did, but --

33
34 A -- yeah, 2003. And the newer one was -- I'll just confirm with my notes here. I
35 don't want to make a mistake. 2012 Ford Escape is the -- and that's the blue
36 one. That's the newer one. So one was a 2003, the grey one, and the newer one
37 was a 2012.

38
39 THE COURT: Okay. I have got it. Thank you.

40
41 A And as I had mentioned before about the groove marks in the yard, these

1 groove marks were also noted near this grey Ford Escape -- or this blue Ford
2 Escape, the newer blue Ford Escape, in image number 17.

3

4 So on image number 18, this is a daytime photo of image number -- of -- of the
5 same general area. You can see the blue Ford Escape. And we're looking back
6 towards the silver shed, and this is -- this is again in the yard. I would be
7 standing approximately in this area here, just by this double-car garage, just
8 north of the double-car garage, looking back towards that silver shed.

9

10 So this is at -- this is the night that we arrived. And I'm standing near the
11 garden area right here and looking back towards these vehicles, near the blue
12 Ford Escape, and looking towards -- you can see in the distance the grey Ford
13 Escape, and that's in image number 19.

14

15 This picture is the same angle in the daytime, and this is image number 20.
16 And you can still see those -- those grooves that I had mentioned before, you
17 can see the grooves in the -- in the gravel near that blue Ford Escape.

18

19 Q MR. BURGE: And that's in photo 20?

20 A In photo 20. So this was the scene at -- at -- when we got there the first night in
21 image number 21. And this shows what we call an overall view of the -- of the
22 area around the victim and -- and the vehicle, in image number 21.

23

24 Image number 22. In this image I've removed the safety blankets which were
25 covering the victim, and now exposed is the -- is a rifle -- or part of a rifle that
26 was underneath one of the yellow safety blankets. That's image number 22.

27

28 Image number 23 is an overall view of item number 1. When I -- I deal with
29 anything, make any sort of exhibits, they're always marked with a placard.
30 And this -- in this case, this is how it's going to go through all my evidence, a
31 placard of what the exhibit is and -- and a photograph -- photographs that
32 correspond with what this is. The problem is, though, is that these numbers get
33 changed because I have my photo numbers and my placard numbers at the
34 scene. But when all these exhibits get sent to the detachment, then they put
35 them in our system, and these numbers are different -- they're different
36 numbers. And then if an item gets sent to the lab, then numbers can be changed
37 again because the lab has their own set of numbers. So it does get confusing.
38 But for my purposes and my evidence, the placard numbers that I show in my
39 photos will correspond with my notes and my exhibits.

40

41 Q Okay. And I take it you'll also be able to else which exhibit number was

1 assigned to these exhibits --

2 A Yes.

3

4 Q -- once it's in your system?

5 A Yes. But just to be aware that if you see an item and it has a different number
6 than you -- than it had originally, that could potentially be why. So number 1,
7 again, is a -- is a model -- is part of a model 600 Cooney .22 tubular barrel rifle.

8

9 Q Okay. We're looking at photo 24?

10 A Yeah, sorry. Photo number 24. This is how I found it. There was a -- there was
11 a bullet loaded in the chamber. And the end of the action where the -- where
12 the bolt-action slides was bent, and this -- I could photograph this because it
13 was bent, and it was pulled back a little ways. And that's image 25.

14

15 So image number 26, this is when I had the rifle back at my lab at -- under
16 controlled conditions. And so -- so this is an overall view of it, again, image
17 number 26.

18

19 Image number 27 shows the ammunition that I removed from this particular
20 firearm. There was five bullets found in the tubular magazine, and there was
21 one bullet in the chamber. And in this photo 2, you can see how the action, this
22 area here, and I'm indicating the bottom of the photograph of the approximate
23 centre of image number 27. You can see where there is a bend in the -- in the
24 rifle at that point.

25

26 So image number 28 is where we're at the scene again the night that I arrived
27 on scene. And image number 28 shows an overall view of the victim and how
28 -- how I found them once the -- once the blankets were removed

29

30 Q If I can ask you to go back to photo 27? Did you have -- you said there was a
31 bullet in the chamber?

32 A Yes.

33

34 Q And what -- did you have to do anything to get the bullet out of the chamber?

35 A I removed -- I slid the -- the bolt back, and then I could -- I could access it. I
36 used those tweezers that are actually in the photograph to pull them out.

37

38 Q The blue tweezers that we see in the photograph?

39 A Yes.

40

41 Q Okay. And why did you use the blue tweezers?

1 A Because I didn't want to -- because those tweezers are -- are -- they're not,
2 like, a hard metal that could damage or change or alter the -- the side of the
3 bullet casing. They're a soft plastic so that they -- and they were effective to
4 pull the bullet out of the -- out of the casing.
5

6 Q So is that how -- is that what you do to remove a bullet from a --

7 A In this case, it would -- it was better than trying to use a metal object to pry it
8 out.
9

10 Q Why would you use a metal object?

11 A Well, I wouldn't want to -- I wouldn't use a metal object because I wouldn't
12 want to damage it.
13

14 Q Okay. Why would you have to use an object to get the bullet out? Would the
15 bullet come out by operating the -- just the action?

16 A No, it didn't because the action was bent.
17

18 Q Okay.

19 A So, sorry, we're moving forward now into image number 28. And as I
20 mentioned before, this is an overall view of where the -- the victim was found
21 and how the scene looked after the blankets were removed. Image number 29
22 is an image of the victim. And this is how I -- I found him.
23

24 Image number 30 is showing a bloodstain -- sorry, a red substance consistent
25 with blood inside the vehicle and on the door panel. And that's image number
26 30. Image number 31 is a midrange view of the driver's seat, the carpet, and
27 the doorsill that had a red substance consistent with blood. Image number 32 is
28 an overall view of the driver's door and a red substance consistent with blood.
29

30 And this again is another image, a little closer image, number 33, of this red --
31 this red substance consistent with blood on the driver's door panel. So this is
32 after the body has been removed. This is the following day on the 11th. This is
33 during the day search. This is when we're back operating under the -- under the
34 warrant.
35

36 Q So photograph 33, was that a nighttime photograph?

37 A Yes.
38

39 Q Okay.

40 A That was the night that we arrived. I'll just flip back to 33. So image number
41 34 is -- like I say, this is an overall view of the vehicle, how I -- how we came

1 to it after it had sat for a day while the warrant was being written.

2

3 Q Okay. And what happened then?

4 A So there's an obvious change. I had looked over Environment Canada's
5 weather report for this time period. Between the -- between the 8th of August
6 and the 11th of August when we had arrived, approximately 44 millimetres of
7 rain had fallen, and it was very obvious it had washed away a lot of the red
8 substance consistent with blood from the door panel and on the ground.

9

10 Image number 35 is the view of the grey Ford Escape from the rear passenger's
11 side. It's important to note that although the body was removed, nothing on the
12 vehicle had been touched, and it was exactly how the scene was on the night
13 scene. These doors were open. They were left open the exact same way
14 because we operated under *The Coroners Act*. Once the body was removed, we
15 had to back away and wait for the warrant to be written.

16

17 Q Okay. When you had to back away and wait for the warrant to be written so
18 that you could re-enter pursuant to the *Criminal Code*, was anything done to
19 protect the scene?

20 A No. And regrettably, it wasn't. I was under the impression that the warrant was
21 -- was forthwith, that it was on its way, and I had totally anticipated being back
22 to the scene within a couple hours. It ended up not being the case. It ended up
23 not being completed until much later that night, and it was decided that we
24 would process it on the 11th, first thing in the morning.

25

26 Q Was anything done to protect access to the scene?

27 A The scene was secured by members, and scene access was -- so there was
28 nobody that entered the scene.

29

30 Q Okay.

31 A Image number 36 is the same grey Ford Escape from the image of the driver's
32 front. And this is the driver's side front area. And something that's interesting
33 to note is the -- the rim on -- on the driver's front. It had -- it had no tire left
34 and only remnants of the bead left on the tire but -- or on the rim. But I'll
35 explain that in more detail.

36

37 Image number 37 is the passenger front. This is an overall view. So image
38 number 38 --

39

40 THE COURT:

41 no convenient time, but I see it is 11:16 and it's probably time for us to stretch our

1 legs.

2

3 So the process, when the jury comes in and out, generally speaking what I'll do is
4 I'll invite you to leave, and then once you're gone, I'll adjourn court, and I'll
5 leave. And then on the reverse, I'll come in first, tell the clerk -- the sheriff that I
6 would like you back, and you will come in after that. So that's the way the process
7 will work.

8

9 So at this point, we will take about a 20-minute break this morning. So you can
10 line up and leave, and I think they have some coffee in there for you.

11

12 (JURY RETIRES)

13

14 THE COURT: We will adjourn for 20 minutes.

15

16 (WITNESS STANDS DOWN)

17

18 (ADJOURNMENT)

19

20 THE COURT: Is there anything we need to do before
21 we bring the jury back in?

22

23 MR. BURGE: My Lord, Madam Clerk indicated that
24 there was a request by the media for some exhibits, and we're trying to access the
25 -- I believe we received an order that the Court had made or at least some
26 communication from Madam Registrar, and we're just trying to find that before
27 we -- we'll be looking at that, likely, over the lunch hour, but --

28

29 THE COURT: Okay. So what I have done is I have
30 prepared a request that media can fill out in order to request exhibits. And the
31 protocol that I'd like to follow is that once the media has filled out the request,
32 they will be given to Crown and defence, and you can advise me as to what your
33 position is. And then after I've determined what your position is, I will make the
34 call.

35

36 MR. BURGE: Okay.

37

38 THE COURT: So I'd prefer to operate by consent, but
39 sometimes I have to do what I think I have to do regardless of what the lawyers
40 have to say. So you're telling me, Mr. Burge, that you haven't had a chance to
41 assess the request and ramifications of it at this point?

1

2 MR. BURGE: Yes, Sir.

3

4 THE COURT: Okay. Thank you. You can bring the jury
5 back in. And you will do so as soon as you're able?

6

7 MR. BURGE: Yes, Sir.

8

9 MR. SPENCER: And then the plan would be he provide it
10 to me, and then I'd assess it or -- because I don't know. I haven't seen it yet. We
11 haven't seen it.

12

13 THE COURT CLERK: No.

14

15 THE COURT: It would go to Crown and defence.

16

17 MR. SPENCER: Okay. So yeah. Yeah, good.

18

19 (JURY ENTERS)

20

21 THE COURT: Okay. Officer, you are still under oath,
22 and, Mr. Burge, you may continue where you left off.

23

24 MR. BURGE: Thank you.

25

26 (WITNESS RE-TAKES THE STAND)

27

28 Q MR. BURGE: Had you just moved to photograph 37
29 when we broke?

30 A I think we were just wrapping up with photograph 37, so I'll move to
31 photograph 38 now. Image number 38 is a midrange view of the driver's front
32 rim. So if you recall, I'd mentioned before about the marks in the gravel
33 driveway. This is where I'm going to get into a little bit more detail about these
34 marks. So this rim, obviously, doesn't have a tire on it. And you can see just
35 the backside of the rim, there are some marks in the water -- or there's marks
36 and water in a trough there just behind. This is another view of that same rim
37 from behind. And with an oblique lighting technique, you can see these
38 grooves track right to that driver's front rim.

39

40 These groove marks -- this is image number 40 -- these groove marks were
41 noted through the yard. And as I had mentioned before, there was 44

1 millimetres of rain that had fallen from the night that we first arrived to the
2 next day when I was processing these, but they're still visible, even though that
3 much rain had fallen.

4
5 Image number 41 is showing the front of the silver shed and the tracks as they
6 tracked through the yard. The thing about these rim -- these rim marks is that
7 it's possible to determine the directionality because you can tell which -- or
8 which mark crossed overtop of the other one. And you can see that basically in
9 the middle of this photograph how there's a marked crossing overtop of and it
10 obliterates the mark below it.

11
12 This is where the -- that mark ended, near this quad runner in image number
13 42. I marked that -- or that mark, that rim mark, RT-2, and the placard is
14 indicating that.

15
16 So this photograph, image number 44, might be a little difficult to see in your
17 photo books. It's a little easier on the screen. But what I've done is I've
18 outlined in red the track that was leading into the yard, and then outlined in
19 blue the track leading out of the yard. The track leading into the yard started to
20 show up near the power pole. And the power pole is a little difficult to see in
21 the aerial photo, but it's actually right -- it's right near the middle of the yard,
22 near the blue Ford Escape. So roughly in that area is where I first picked up
23 this groove mark in the road leading into the yard, and it stopped at the quad
24 runner near the silver shed. Then it reversed, backed up overtop of itself,
25 creating a V in the middle of the yard. And in the middle of the yard is -- just a
26 little bit north of the -- of this long trailer, which is -- would be approximately
27 right there. You can see it in photograph number 44. And then turning and
28 going past the blue Ford Escape. And it appeared as though it struck the blue
29 Ford Escape on the passenger side quarter panel. There was marks on the
30 passenger side quarter panel of the blue Ford Escape, and there was marks on
31 the passenger side front fender of the grey Ford Escape. And I'll show
32 photographs of those later on.

33
34 The Major Crimes Section had indicated to me that during this time when the
35 vehicle entered the yard, a witness was -- could have potentially been at -- in
36 this area where there were some fencing operations going on. The area that I'm
37 indicating is at the top of the panoramic picture number 2 where there's a blue
38 Dodge truck, blue-green Dodge truck, and another small, little tractor side by
39 side. And there's some fencing materials on the ground. So what I wanted to
40 do is I wanted to capture a potential view of -- if there was a witness, what it
41 would have looked like from their vantage point. So in image number 42 is

1 looking into the yard.

2

3 Q Which image is that?

4 A 42. Or sorry, 45. Image number 46 is looking towards the silver shed from that
5 same vantage point near that area where the fencing operations appear to have
6 been conducted. You see there's a slight rise in the -- it's a bit of a low spot
7 where these vehicles were.

8

9 So image number 47 is looking back from the main yard in the middle of the
10 yard, and I'll show that here. There's a brown Ford F-250 pickup truck, and
11 I'm standing just in front of that brown Ford pickup truck, looking back
12 towards these vehicles where the fencing supply is, to the north. It was in this
13 area here that after an extensive search, we located a bullet casing. The bullet
14 casing had the markings on the back of BXN and the number 43 -- or sorry, 53.
15 I marked this first bullet casing that we located as number 3, and number 3 was
16 approximately 18 metres from the power pole. And if you remember, the
17 power pole in the yard is roughly here. You can just see it just in front of the
18 blue Ford Escape, and 18 metres would put it out -- would put it out in front of
19 this brown Ford F-250.

20

21 This is looking back towards the -- towards the house and the two Escapes, and
22 you can see number 3 in the photograph, but also off in the distance, you can
23 see placard number 4. And placard number 4 also indicates another bullet
24 casing with the same markings on it, BXN and the number 53. This is a
25 midrange view of the bullet casing marked at number 3. This is image number
26 49. And this is an image of the primer area in image number 50.

27

28 So just to orientate you again, now we're looking at number 3, the location of
29 that, and number 4 off in the distance near the garden. This is an overall view
30 of number 4 as we found it.

31

32 Q That's 52? Photo 52?

33 A Image number 52. And that's the image of the primer of Exhibit Number 4.

34

35 Q That's photo 53?

36 A In image number 53. So image number 54 again shows these groove marks in
37 the road and how they pass by the blue Ford Escape. And if you -- if you look
38 towards the blue -- or the grey Ford Escape, you can also see another stain on
39 the road. That's actually oil, and I'll explain where that came from. It's oil and
40 -- and -- and a drag mark.

41

1 MR. SPENCER: Sorry, which photo were you referring
2 to?

3

4 A 54.

5

6 MR. SPENCER: Thank you.

7

8 A Image number 55 is the driver's side view of the grey Ford Escape.

9

10 Image number 56 shows the interior and the dash area of the grey Ford Escape.
11 And as you can see, in image number 56, there's a placard number 11. Number
12 11 was another bullet casing that we located that was balancing on the top of
13 the -- of the defroster vent. Image number 57 shows a midrange view of it.

14

15 And image number 58, unfortunately, this image is also upside down in your
16 photo books. It should look like the one on the screen at image 58. And that's
17 how we located Exhibit Number 11, balancing in the heater vent.

18

19 59 is a view of the primer. And this bullet, too, also was -- had the markings
20 BXN and the number 53 on it.

21

22 Q MR. BURGE: Perhaps you could explain what -- when
23 you say primer, what do you mean?

24 A So I'm not a firearms expert and I don't pretend to be, but I understand the
25 primer to be the -- the firing mechanism of the bullet, the centre of the bullet.
26 The bullet casing, pardon me. Not the bullet, the bullet casing.

27

28 Q So do you mean that different-coloured --

29 A Yeah, this -- this area --

30

31 Q -- part in the middle?

32 A Right in the middle of the --

33

34 Q Okay. Thank you.

35 A So image number 60, in this photo, I'm showing the passenger's side window.
36 And the passenger's side window, we found it to be broken. It was rolled down
37 at the time that it was broken, though, because it does have the machined edge
38 along this -- the top edge of -- of the glass. That's image number 60. And there
39 it is again in image number 61, just a straight-on view.

40

41 Q At some point, Corporal, did you find some broken glass or will you get to

1 that?

2 A No. I can speak to it now.

3

4 Q Okay.

5 A The theory was, and witness statements had put us -- had provided to us -- had
6 -- had the directionality of the bullet coming from the driver's side. And having
7 this -- this broken window on the passenger's side supported that theory. It also
8 -- the trouble with the -- with glass is that although many times it will act a
9 certain way, when a high velocity projectile goes through it, it can often hang
10 there for a moment or two before it breaks or before it falls down. So in this
11 case, it didn't -- there was very little glass on the outside or on the ground.
12 Most of the glass was on the inside.

13

14 Q Okay.

15 A So because that -- the theory started to develop that it could potentially be --
16 have gone outside the vehicle, the bullet could have potentially gone outside
17 the vehicle, broke the glass, it might have ended up in this area here, near the
18 house.

19

20 Q That's in photograph 62?

21 A In photograph number 62. So the police conducted an extensive search of this
22 area with metal detectors, and it should be noted that the whole yard -- that's
23 how we located the other casings, was shoulder to shoulder searches. There
24 was metal detecting techniques used. Hands and knees technique to locate all
25 these bullet casings. And this area was no different. In image number 62 near
26 the house, we were looking for the potential bullet that had been fired from the
27 driver's side. So as you can see, there's a number of placards laid out here.
28 These -- all of these are indicating bullet casings. Some of them -- two of them
29 had the same bullet casing markings as the other ones found in the yard, as
30 BXN and the number 53 on them. And some of them had -- they were .22
31 casings. They were all expended. They'd all been fired. And the difference
32 with these ones, though, is that they appeared to us to be corroded, and I'll
33 show you why because I do have photos of all of them. So these were the ones
34 that we located. There's a doghouse here in the background and --

35

36 Q Okay. We're looking at photograph 63?

37 A -- and the deck -- in image number 63. So as you can see, placard number 5
38 shows one of these cartridges, and it's -- or one of these casings, and it's
39 marked with BXN and the number 53, but you can see it's corroded. And the
40 same thing with 65. This is indicating Exhibit Number 6. Image number 66 is
41 indicating image number 7 -- or item number 7. Image number 67 is indicating

1 number 8. This is a .22 shell, a spent .22 shell casing.

2

3 Image number 68, again, this is number 9. It shows a corroded area and
4 another casing that was similar to the ones found in the yard. However, the
5 difference was that these ones appeared to be corroded. And 10, again, is a .22
6 shell.

7

8 Q So, Corporal, the -- the bullet casings that you found at placard 3 and placard 4
9 and placard 11, did they show any signs of corrosion?

10 A No.

11

12 Q Okay. Thank you.

13 A We did a thorough search of the side of the house, as well, and the area
14 underneath the deck, we located some more bullet casings on the right side of
15 the stairs leading up to the deck. These again were -- there was a few .22 shell
16 casings. This is number 12. There was another casing that was similar to the
17 ones in the yard with the similar markings as BXN and the number 53;
18 however, you can see this one was corroded, as well. And then another .22
19 casing, image number 73 and item number 14.

20

21 So getting back to those tracks that we located in the yard, this is what the blue
22 Ford Escape looked like on the night that we arrived. You can see the tracks
23 are fairly prevalent in this photograph. On the right side of the image in image
24 number 74 shows the groove marks in the gravel, and image -- and on -- just to
25 the left of that, there's kind of a drag, a scratch mark. And it's difficult to see
26 here, but there was some oil on the dirt. You can also see on the side of the
27 blue Ford Escape, there's some white markings over the passenger's side rear
28 wheel rear quarter area.

29

30 So this is an overall view of that damage on the side of the blue Ford Escape
31 and some measurements we took.

32

33 Q That's photo 75?

34 A And this is photo 75. We took measurements of -- of this area. This is just an
35 area that was -- that paint -- that there was suspected paint transfer, so this area
36 was collected.

37

38 Q And that's photo 76?

39 A In seven -- in image number 76, and this is item 15. This is the passenger's
40 side, again, of the grey Ford Escape. And this is damage that we had noted on
41 the grey Ford Escape on the passenger fender.

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Q And this is photo 78?

A Photo 78. And you can also notice that the wheel on this side or the tire on this side is shoved back in the wheel well, and it's -- it's binding -- it's near binding the -- the fender. And these were measurements taken of that damage in image number 79.

This -- this image is showing a garden tractor which witness statements had provided that could be of -- of interest, that a family member had been cutting grass at the time. So this image number 80 shows the location of that garden tractor. And if you want to look at this large panoramic view, you can see it near the -- near the bush line on the left of this image. And this is the garden tractor right there, in relation to the grey Ford Escape. And that is the tractor again.

Q Okay. Photo -- what photo are you looking at?

A In photo number 81. So in photo number 81, you can see, too -- photo number 81 and in photo number 82, you can see that the -- the grass was cut to the point where the vehicle -- or the lawn tractor had stopped.

Image number 83 shows the front of that silver shed again. And what I'm trying to do is just orientate everybody so that you know what we're looking at. This is the front door of that silver shed in number 84.

Number 85, these are the inside of that shop. The shop was -- was split into two parts. The front, like a workshop area, was in the front, and then in the back, there was a riding arena and a small office just off to the side of the riding arena. So this is the doorway into the riding -- the riding arena.

And if you look to the right of image number -- or 87, you'll see this plywood wall. And there was a sliding door on that plywood wall. This is the door once it's slid open, in image number 88.

Image number 89, this is the small office area. And I'll draw attention to the left side, to this desk area, which appeared to be, for lack of a better word, a loading station where -- it's been my experience that if people are loading ammunition, this is the type of -- of things that they would have close by.

MR. SPENCER:

Which one was that?

A That's image number 89. Image number 90 shows the overall view of that --

1 that desk and the drawers. As part of our -- of our search, the buildings, the
2 house, the vehicles, were all searched, and this area was no different. In the
3 bottom drawer of this desk was a white grocery bag -- I'm still referring to
4 image number 90.

5

6 Q MR. BURGE: So that's the bottom right drawer?

7 A The bottom right drawer of the desk. And in that desk was a -- was a bag of
8 ammunition which I marked in -- in image number 91, it shows the -- the
9 ammunition bag marked with number 17. Well, number 17 shows the
10 ammunition that was located in that bag. There were some cartridges that were
11 spent, and there was live ammunition in there, as well. This ammunition had
12 the same markings as the -- as the casings that were found in the yard with
13 BNX [sic] and the number 53 on the casings. That's image number 92.

14

15 Q Okay. If you look at image 92 --

16 A Sorry.

17

18 Q -- at the bottom, it looks like there's live ammunition with -- with bullets at the
19 top?

20 A Yes.

21

22 Q And then -- and then just above it, there's -- there's -- it looks like -- is that
23 four expended cartridges?

24 A Yeah, it would appear so. Yes.

25

26 Q And what -- and what are those four expended cartridges -- they look like
27 they're sitting in something.

28 A Yeah, these -- I've never seen anything like this before. And like I said before,
29 I'm not a firearms expert. But these bullets sat in little rails, and -- yeah, this is,
30 I guess, how they come. I'm not sure.

31

32 Q Okay. Thank you.

33 A Image number 93, this is just a close-up view of one of the bullets with the --
34 with the markings BXN and the number 53 on it.

35

36 Q Okay. That's one of the live cartridges that you found?

37 A That's a live cartridge, yes. And you can --

38

39 Q And is that the --

40 A The -- in this case, you can note the primer. And this is the centre section that
41 I'd mentioned before? Thank you. That the primer is in the middle. It's very

1 visible.

2

3 Q And did that have the same markings as the bullets at placard 3, 4, and 11?

4 A Yes.

5

6 Q Thank you.

7 A So as part of the -- the search, we located several firearms -- several other
8 firearms. And in this shop area, there was a dart gun that was located. This was
9 marked in image number 95. 94 and 95 show where it was in the -- in the shop
10 area. It was actually a dart gun. Image number 96 shows an overview of -- of
11 this rifle.

12

13 So image number 97 shows the house. The house was also searched. It was
14 part of the Search Warrant. This is the deck leading up to the house in image
15 number 98. Image number 99 shows the doorway and the deck. Image 100
16 shows the view from the deck of the grey Ford Escape and the surrounding
17 yard. Image number 101 is entry into the house from the deck. Image number
18 102 is standing inside the kitchen, looking back towards that open doorway.
19 Image number 103, you can see the doorway on the right side, and you -- and
20 to the left, there's a closet and a bathroom.

21

22 Image number 104, this is the interior of the closet, and there was a black case
23 found in the closet. In image number 105, it's indicating that I marked that
24 black case with placard number 19. Image number 106 is that black -- same
25 black case that now is back at my lab under controlled conditions. And image
26 number 107 shows once the case has been opened. We found two pistols inside
27 there. One was -- one was a pistol-style -- sorry. Two handguns inside this
28 case. One was a pistol-style handgun, a semi-automatic pistol, and one was a
29 revolver-style handgun.

30

31 This is a -- basically everything in -- image number 108, this is everything
32 removed from that case, just an overall photograph

33

34 Q In, say, image 108 --

35 A Sorry.

36

37 Q -- can you tell us which is the pistol and which is the revolver?

38 A Yeah, I can. So what happens when I get into situations like this where I have a
39 large exhibit with several things inside it, I denote -- I give letters to everything
40 that I've removed. So in this case, if I removed a firearm, it would be indicated
41 that the first firearm was letter A, the second firearm was 19B, if there --

1 whatever, that's how we go through -- if there was bullets inside of something,
2 it would be bullets from 19A, and then I would give that another letter. So
3 that's how -- that's how that works.

4

5 So these -- this is an overview, and in image number 109, an overview of both
6 firearms.

7

8 Image number 110 shows -- shows a Tokarev TT 33 semi-automatic pistol
9 with serial number BN2903, 1947. So because this pistol became its own
10 exhibit, as you can see, I've labelled it 19A. And this is in image number 11.

11

12 Q Number 111?

13 A Sorry, 111.

14

15 Q Okay.

16 A And image number 112 is a Ruger revolver-style handgun, and this was also in
17 a brown leather case. This one was -- this one in image number 113 shows the
18 Ruger-style handgun in -- marked as 19B. That's image number 113.

19

20 Now, back at the home, in image number 114, standing in the kitchen, looking
21 back towards the back door. Image number 115 is just an overall of the
22 kitchen. Image number 116 is an overview of the hallway leading to the
23 bedrooms. Image number 117 is a -- is a bedroom in the back corner of the
24 house in the approximate northwest -- or southwest corner. This is an overall of
25 the bedroom in 118.

26

27 Number 119, there was two firearms located along the bed against the wall in
28 this bedroom. Image number 120 and image number 122 show overall photos
29 of those two firearms.

30

31 This is the backdoor area, again, in image number 122, and this is the stairway
32 in -- in image number 123 leading down to the basement. If you look to the left
33 in image number 124, you can see the staircase coming down, and straight on
34 is a small office. This is image number 124. Inside that office, this looking into
35 the doorway in image number 125 of that office.

36

37 Number 126, there were several firearms hanging on the wall and leaning up
38 against the wall in this room, and image number 126 shows that. Image
39 number 127 shows placard numbers that I labelled each firearm with. In this
40 room, there was five firearms. There was also a couple pellet -- there was pellet
41 guns, too. Sorry, there were seven firearms in this area. So these are -- these

1 are images. Image number 128 and the preceding images are going to show the
2 difference -- or the different firearms, just overall views. So image number 128
3 is showing firearm number 22. Image number 129 is showing 23 and 24.
4 Image number 130 shows 25 and 26. Image number 130 is showing firearm
5 number 7 -- or sorry, 27. Image number 132 is showing firearm marked with
6 number 28.

7
8 So that completed our search of the home. Upon -- just at the entry of the -- of
9 the yard, searchers also located two shoes, two canvas shoes, two different --
10 two different sizes, but both the same foot. And this is in image number 33.
11 And this is the -- looking down into -- down into the yard. The reason I have
12 this towards the end is because searchers didn't locate these shoes until very
13 late in the day. Image number 34 [sic] shows these shoes again. They are
14 marked number 29. And image number 135 is just an overall view of those two
15 shoes marked number 29.

16
17 Q Okay. Corporal, I know there's -- there's a next portion that we're going to go
18 through.

19 A Yes.

20
21 Q Before we leave this -- this area of your investigation, can you please tell us --
22 you've told us about the placards that you used to identify certain items that
23 you found, and I understand that they might have received different exhibit
24 numbers.

25 A Yes.

26
27 Q Perhaps we could cover that off.

28 A Sure. So I -- number 3 was a casing located in the yard near the brown Ford
29 pickup. I marked it as number 3, but it was marked as number 35 as police
30 evidence. Number 4, placard number 4, was also another casing. That was
31 marked number 36.

32
33 Now, I should clarify. The police use the entire file number -- or the
34 detachment uses the entire fire number -- or the entire -- entire file number.
35 And then they put their number on it. So it would read: 2016-1041714, and
36 then PE, standing for property exhibit, and then the number 36. So for all of
37 these, that's how they would be listed out --

38
39 Q Okay.

40 A -- as -- that number. So for PE number 3, it was PROS35. For PE number 4, it
41 was PROS36. And for PE number 11, which I think is these -- in my right --

1 these are the ones you're interested in knowing --

2

3 Q Yeah. When you say PROS, is that a PROS -- is that a PROS number?

4 A Yeah.

5

6 Q Okay.

7 A It's a -- it's -- that's the police file number.

8

9 Q Okay.

10 A That will --

11

12 Q And would it be called a PROS or would it be just called, like, PE35 and
13 PE36?

14 A It would be 2016-1041714-PE35.

15

16 Q Okay.

17 A PE36.

18

19 Q So 35 was from placard 3?

20 A Yes.

21

22 Q PE36 was from placard 4?

23 A Yes.

24

25 Q What happened with placard 11?

26 A Placard 11 was PE number 43.

27

28 Q And that was the expended casing found on the dash --

29 A On the dash, yeah.

30

31 Q -- in the vehicle?

32 A And then the black gun box that was located in the closet, that was PE -- or that
33 was 19, placard 19, for PE number 50. And then the Tokarev TT 33 that was
34 located inside that gun box was 19A in my photos or 87 on PROS.

35

36 Q So PE87?

37 A PE87, yes.

38

39 Q The Cooley .22?

40 A So that was number 1. And number 1 corresponds with PE Number 60.

41

1 THE COURT: I'm sorry. I may have lost you just on
2 this last exhibit. Placard number --
3
4 A One.
5
6 Q MR. BURGE: That's -- that refers to the portion of the
7 Cooey .22?
8 A That was found -- that was found --
9
10 THE COURT: Okay. What photograph?
11
12 A -- on the ground outside the victim.
13
14 THE COURT: Oh, I see. Okay. Yes.
15
16 A Just -- it was --
17
18 THE COURT: Got it.
19
20 A -- very early on, yeah.
21
22 Q MR. BURGE: And there was a box of ammunition that
23 you found inside the --
24
25 THE COURT: I'm sorry. In placard number 1, the
26 PROS number is?
27
28 A PROS -- PROS number 60.
29
30 THE COURT: Thank you.
31
32 A Thank you, My Lord. That was number 17 in my photos. That was number --
33 just bear with me here a moment.
34
35 Q MR. BURGE: It was placard 17?
36 A It was placard 17, yeah. I might have to come back to that one. I --
37
38 Q Well, I think we'll be back here after lunch, so --
39 A Yeah, if you would -- instead of flipping through here, I can get it for you.
40
41 THE COURT: All right.

1

2 MR. BURGE: So, My Lord, apart from finishing with
3 this question, we'll be moving on to another area. So it's up to you if this is a time
4 to break or not.

5

6 THE COURT: Well, we might as well go for another 10
7 minutes --

8

9 MR. BURGE: Okay.

10

11 THE COURT: -- and see what we can accomplish.

12

13 Q MR. BURGE: Please carry on, Corporal.

14 A So as I mentioned before, when -- when we start another processing day or
15 another scene, we start with our photo index card, and this is no different. This
16 is the -- this is the processing of the vehicle. And when I refer to the vehicle,
17 I'm referring to the 2003 grey Ford Escape. The grey Ford Escape was
18 transported to our Forensic Ident Unit, our FIS unit in Saskatoon, and secured
19 there. It rained 44 millimetres and it was sopping wet, so it had to dry out for a
20 day before we could do anything with it.

21

22 So on 2016 August the 13th was the day that I began processing the vehicle.
23 This is an overall of the 2003 Ford Escape when it was sitting in our secure
24 bay, and this is image number 2. And if you're referring to your booklets, it's
25 just after the tab. There will be a -- there will be a table of contents, and then
26 the images will start.

27

28 Image number 3 is showing the driver's side rear of the 2003 Ford Escape.
29 Image number 4 is the passenger's side rear of the grey Ford Escape. Image
30 number 5 is the front passenger side of the grey Ford Escape. Image number 6
31 is the open driver's door of the grey Ford Escape. And in this image, you can
32 see -- you can still see, even though it had rained, you can still see remnants of
33 a red substance consistent with blood.

34

35 Before I get too far, I think it's important to mention a few condition issues
36 with respect to the vehicle. And as the photos show, looking back onto image
37 number 5, just for an overview of it, the outside was muddy and dusty, and the
38 inside had a strong odour of mildew. On the left-front tire, only the rim
39 remained with just fragments and shreds of the beads of the tire. The front grill
40 was missing. The front bumper cover was loose and hanging down. The hood
41 was dented, and the windshield was broken on the left side. And when I refer

1 to left and right, I'm referring to as if you're sitting in the vehicle, looking
2 forward.

3
4 The right-front headlight, and the right-front fender was scratched and dented
5 and pushed backwards into the right-front door. The right-front door wouldn't
6 open unless I relieved the pressure on it. It was binding up against the fender
7 and wouldn't open on its own. The right-front tire was pushed back and
8 rubbing on the inside of the fender skirt. The right-front drive axle was pulled
9 apart at the transmission constant velocity joint, and this is the drive axle which
10 drives that front wheel. The catalytic converter was twisted backwards and
11 wrapped up around the rear suspension and dragging by the muffler hanger.
12 The right-front door glass was broken, as I've showed you previously. The
13 right-rear quarter glass was broken, but had been taped over. The right -- sorry.
14 The oil was low, but present on the dipstick. The engine oil was low, but
15 present on the dipstick. The antifreeze was low, but it was still present in the
16 expansion tank. The transmission oil was present on the stick. The vehicle
17 would start and run when it was boosted. And the mileage is 194,963
18 kilometres. And I'd also found that the vehicle was still in drive, and that the
19 gas gauge was on empty.

20
21 So in image number 6, I'm showing the inside of the driver's door. And like I
22 mentioned, with red staining consistent with blood still present. Image number
23 7 is showing an indicated area where I'd swabbed this red substance, and
24 there's a black arrow in a -- in the centre of image number 7 which is
25 indicating the area I swabbed. And this swab was marked as number 35. This
26 area was swabbed and collected and made -- and the swab was made an
27 exhibit, 35. That's image number 8.

28
29 Image number 9 shows an overall view of the driver's compartment and the
30 red substance consistent with blood that was wet on the seat, the carpet, and the
31 doorsill. And then image number 10, this is an overall view, showing that area
32 again.

33
34 Image number 11 is showing an arrow on the edge of the seat, which is an area
35 that I swabbed. This area was marked number 36, and a swab of this area was
36 taken in, and the swab was made an exhibit, number 36. And that's image
37 number 12.

38
39 Image number 13 shows -- is indicating several areas where I located .22
40 calibre ammunition. In image number 14, you can see the -- they were -- there
41 wasn't just individual -- individual casings. There was some live. There was

1 some spent casings mixed together. And so I kept -- if they were all in one
2 area, I kept those exhibits together. So image number 38 -- sorry. Image
3 number -- or placard number 37, placard number 38, and 39 in image number
4 14 are casings which I located, casings and live ammunition.

5

6 Image number 15 shows a rear passenger -- or rear driver's door. And image
7 number 16 shows the interior of the passenger -- or the backseat from the
8 passenger -- or from the driver's side in image number 16.

9

10 Image number 17 shows the items that were collected inside the vehicle. And I
11 should have mentioned this earlier, but when -- when we complete our
12 processing, we follow a set pattern, a set -- there's a set plan of processing.
13 And in this case, it was no different. Whether -- we always start the same way,
14 with overall photographs, and then we -- with aerial photographs and video.
15 And then we'll start finding exhibits and marking them. And when we get into
16 vehicles, there's always the same -- there's the same style of processing. The
17 vehicle is -- my -- my preference is to split the vehicle into quadrants, and in
18 this case, this is what I did. There was the driver's seat area. There was the
19 driver's seat rear area. And then there was the passenger front area, and then
20 the passenger rear area, and then the trunk area.

21

22 And in these cases, first, all the seats are taped for fibres, and the fibres are
23 collected off the seats. And then a white light exam is conducted, and a white
24 light exam is -- is a strong white light source that is used to -- to assist the
25 investigator in locating potential evidence. And that was done in this case.

26

27 And then after the white light exam is completed and items of interest are
28 marked and located and photographed, then everything is removed that can be
29 removed out of these quadrants, laid out on brown paper, and photographed.
30 And so the first image of the -- with the bullet casings from the driver's area,
31 that was the first quadrant. Everything out of that driver's area was removed
32 and photographed. And now, in image number 17, this is the rear seat area
33 where everything's been removed out of the rear seat area and photographed.

34

35 Q So that's the rear of the -- the rear driver's side?

36 A The rear driver's seat area. And image number 18, this is a canvas shoe that
37 was located in the driver's rear seat area.

38

39 Image number 19 shows the passenger's side door, the inside of the
40 passenger's side door. Image number 20 shows the passenger compartment on
41 the front passenger's side. Image number 21 is showing items number 41, 42,

1 43, and 44. 41, 42, 43 were bullet casings and live ammunition, and number 44
2 was an empty box of .22 shell ammunition. And this is when everything's been
3 removed from that area and laid out on brown paper from the passenger front
4 seat area and photographed.

5

6 Q That's photograph 22?

7 A Photograph 22. And under the driver's -- or under the passenger seat area was
8 number 45, which was another canvas shoe.

9

10 Image number 23, in this area, I'm trying to show the console area. Image
11 number 24 were items located in the console. And in image number 25, that
12 shows everything removed out of the console area. And items number 46, 47,
13 and 48 were .22 shells and -- live .22 shells. And image number 49 was a pink
14 cell phone.

15

16 Image number 26 shows the rear passenger door, and image number 27 shows
17 the view looking in from the rear passenger's side. And there was a couple
18 more bullets located, .22 bullets, located in image number 28. And these are
19 indicated by placards number 50 and 51. And there they are again, on brown
20 paper. And that's everything removed from the back seat in image number 29.

21

22 Image number 30 shows the rear cargo compartment, and image number 31
23 shows items located from the rear -- rear trunk area. And image number 32 is
24 an extension of the items from the rear trunk area. Image number 33 is again
25 from the rear trunk area. These are all items located in the trunk. Image number
26 34, again, is more items located from inside the trunk. Image number 35 is still
27 stuff that was located in the trunk, just a different view. Image number 36 is
28 from the trunk, as well.

29

30 Image number 37 is just an overall view of the driver's side of the vehicle. And
31 image number 38 shows the rim, and this rim was marked Exhibit Number 52.
32 That's image number 38. And image number 39 shows Exhibit Number 52
33 once it's off the vehicle.

34

35 Image number 40 is the damage to the passenger's side and how the wheel is
36 shoved back into the fender and the fender skirt. And image number 41 shows
37 that again. And image number 42 shows the constant velocity joint or the drive
38 axle that's been pulled away. That's image number 42.

39

40 Q So where should that drive axle be attached?

41 A It should be up inside the -- and connected to the transaxle --

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30

Q Okay.

A -- or the transmission. And this is -- if you recall, when I was talking about the farmyard where there was behind the -- the Escape, there was an oil mark on the road. This is where I suspect it came from. And this is the dash in image number 53, showing the gas gauge on empty, and the vehicle still in drive.

THE COURT: Okay. I -- I suspect you have more questions of the witness.

MR. BURGE: Yes.

THE COURT: But we've finished the photographs or at least a quick overview of them. And it's now 1:34. I think it's -- or 12:34, I'm sorry. It's an appropriate time to take a break.

So what we're going to do, ladies and gentlemen, is we will adjourn until 2 o'clock. I think the Registrar has arranged to have lunch for you there. Thank you. So you can take your leave, and the Court will adjourn until 2 o'clock.

(WITNESS STANDS DOWN)

(JURY RETIRES)

PROCEEDINGS ADJOURNED UNTIL 2:00 PM

| | | |
|----|------------------------------|----------------------------|
| 1 | January 30, 2018 | Afternoon Session |
| 2 | | |
| 3 | The Honourable Chief Justice | The Court of Queen's Bench |
| 4 | M. Popescul | for Saskatchewan |
| 5 | | |
| 6 | W. Burge, QC | For the Crown |
| 7 | C. Browne | For the Crown |
| 8 | S. Spencer | For the Accused |
| 9 | D. Gillanders | For the Accused |
| 10 | K. Christopherson | Court Clerk |

11

12

13 **Discussion**

14

15 THE COURT: Good afternoon. Good afternoon.

16

17 MR. BURGE: Good afternoon, My Lord.

18

19 MR. SPENCER: Good afternoon, My Lord.

20

21 MR. BROWNE: Good afternoon, My Lord.

22

23 MR. GILLANDERS: Good afternoon, My Lord.

24

25 THE COURT: Proceed when you are ready, Mr. Burge.

26

27 MR. BURGE: Yes, we're ready. Thank you.

28

29 THE COURT: Oh. I guess we need the jury, don't we?

30

31 (JURY ENTERS)

32

33 THE COURT: Good afternoon. Now, Mr. Burge, you

34 may proceed when you are ready.

35

36 MR. BURGE: Thank you, My Lord.

37

38 TERRY HEROUX, Previously Sworn, Examined by Mr. Burge

39

40 Q MR. BURGE: Corporal, just to deal with some of the

41 exhibits that we had -- or some of the items that you found that day that you

1 had put the placards beside, and I understand exhibit numbers were assigned to
2 them by the -- your -- by the local detachment, if you could refer to the -- to the
3 ammunition that was found in the desk drawer?

4 A Yeah, so the ammunition that is marked as number 17 in my photographs was
5 number 33.

6
7 Q So PE33?

8 A P-E-3-3.

9
10 Q Okay. You had us -- you had taken swabs of -- off of the --

11 A The driver's door and --

12
13 Q The driver's door and driver's seat?

14 A That's correct. So the driver's door swab, I had marked it with placard number
15 35. And 35 corresponds with PE67. And the swab off of the driver's seat was
16 indicated in my photos as number 36, and that was PE number 68.

17
18 Q Okay. Okay. Corporal, I'd like to talk to you about your examination of the
19 vehicle, especially when you were back at -- at your -- at the secure bay. Did
20 you attempt to locate, when you were examining the vehicle, the expended
21 bullet?

22 A Yes, I did.

23
24 Q And maybe if you can make sure you differentiate between what the bullet
25 means as opposed to the ammunition or cartridge or what?

26 A So when I refer to the bullet, I refer to the -- the projectile that comes out of the
27 casing. And so we did an extensive search, if you'll recall, of the scene around
28 the doghouse, against that -- like, the house and the deck and that area, and we
29 never did find the bullet that came out of that casing.

30
31 And then once I had the vehicle back at our office in the secure bay, I
32 conducted a white light search. And the white light search, the best way to
33 describe a white light search is it's a -- it's like an extremely powerful
34 spotlight. If you compare it to, like, the lights in your house, like incandescent
35 lights in your house, they will give off, like, a yellowy glow. But a white light
36 search is a pure white light, and it's very effective in searching for things. Like,
37 it just brightens up the area in which you're searching. And it -- it's a nice pure
38 light. So it's ideal for -- for search techniques. It's a -- it's a technique we use
39 often. And so I searched the interior of the vehicle with this white light source
40 and -- for blood and for the bullet that -- the projectile that had come from the
41 -- from the bullet. And I never found it in the vehicle, either

1

2 Q Okay. What -- if -- if a bullet became embedded in a vehicle, how would you
3 expect to see that? What -- what indications of that would you -- might --
4 might you find?

5 A Well, I'm -- I'm not a firearms expert, but it's been my experience that bullets
6 can do -- can change when they travel through things, in this case the victim.
7 Bullets can fragment. Bullets can sometimes ricochet off of different things.
8 And a lot of times you expect to see, like, a projectile. That's not always the
9 case. If it fragments into several different pieces, you might only find slivers of
10 it.

11

12 Q Okay. And were you looking to see if slivers were --

13 A Yeah.

14

15 Q -- were present?

16 A Yeah. Yes, I searched the interior of the vehicle for -- for that possibility, as
17 well.

18

19 Q You were -- you used the word "ricochet." What does that mean to you?

20 A To me, it would just be an impact strike from a projectile that would show that
21 it had struck a -- an object.

22

23 Q Have you seen this in the past?

24 A Yes.

25

26 Q Did you notice anything in or on this vehicle that suggested there might have
27 been a ricochet at any point in the path of the bullet?

28 A No.

29

30 Q When you were using the white light, you said it would also assist you in
31 looking for evidence of blood in the vehicle?

32 A Yes.

33

34 Q Where did you look for blood in the vehicle?

35 A I looked for the -- I looked -- well, the entire vehicle was searched for blood.
36 The only area that I located blood was in the area of the driver's compartment,
37 and most notably on the driver's seat, the front part of the seat, and on the
38 carpet, and on the sill in between the door and the driver's seat, and the carpet
39 on the floor between the sill and the seat, and then on the driver's door panel,
40 the interior door panel.

41

1 Q Okay. Did you -- are you ever able to locate fine bits of spray indicating blood?

2 A Yes.

3

4 Q And did you notice anything of that nature in this vehicle?

5 A No. It's been my experience in past investigations such as this that sometimes
6 when a bullet is transferred through clothing, especially heavier clothing, that
7 the impact or the blood can -- is absorbed by the clothing. And so it doesn't
8 spray all over anything. And in this case, I didn't find any other blood other
9 than the blood that I had noted previously.

10

11 Q Did you notice anything about the clothing that was on Colten Boushie?

12 A I did. I noticed that there was a hat nearby, a black hat that had a -- a hole in it,
13 that there was a -- that there was the -- the hoodie that he was wearing or the
14 jacket he was wearing was saturated with blood, as well, around the back of his
15 -- where it would -- positioning would be the left -- left-rear side of his head

16

17 Q Okay. I understand at some point you contacted a bloodstain analyst?

18 A Yes, I did.

19

20 Q And who was that?

21 A That was Sergeant Jen Barnes from Bloodstain out of Alberta.

22

23 Q Okay. And I take it that was to get -- was that to get some advice or was that --
24 what was the purpose of that?

25 A The thing about bloodstain is -- or blood spatter pattern analysis is it's
26 generally used in circumstances where you have -- you have a -- perhaps you
27 have a victim that has been -- you know, there was an assault that happened,
28 and there was lots of movement and there was transfer patterns or spatter
29 patterns or projected patterns in different areas or drag marks and things of that
30 nature. In this case, I didn't have any of those issues. I had -- I had an area
31 which was wetted with blood that was consistent with the blood being in that
32 one area, which was the driver's compartment, the driver's seat. But further to
33 my conversation with Sergeant Barnes --

34

35 Q Okay. I'm not sure we need to go too much into your conversation. I take it as
36 a result of your conversation, she didn't come?

37 A She didn't attend, as well.

38

39 MR. BURGE: Okay. Corporal, thank you for answering
40 my questions. Please answer any questions that my friend might ask you.

41

1 THE COURT: Cross-examination.

2

3 MR. SPENCER: Thank you, My Lord.

4

5 Mr. Spencer Cross-examines the Witness

6

7 Q MR. SPENCER: Corporal Heroux -- Corporal?

8 A Corporal, yes.

9

10 Q Yeah. Do you know what the weather was like on August 9th, 2016?

11 A It was a -- it was a cool day, overcast. Cloudy.

12

13 Q Can you check your notes? Do you have your notes with you?

14 A Yeah. I don't think I made note of the weather.

15

16 Q I think you did.

17 A Did I?

18

19 Q Why don't you check your notes?

20 A Oh, yeah. There we go. It's weather was plus 25, humid, sun, and cloud.

21

22 Q Okay. Can you help me with why you'd say cool and overcast when your notes
23 are very clear that it was a hot humid day?

24 A Well, that was the crazy part about that day is that when the sun would come
25 out, it got really hot and really humid. It was one of those cycle days where it
26 was blistering hot when the sun was out, and then it clouded over, and it would
27 pour rain. It was very -- it was very temperamental that day.

28

29 Q Okay. You didn't make any note about all that other stuff, just that it was 25
30 degrees and humid?

31 A Yeah. Well, that's what it was like when I got there.

32

33 Q Okay. That's what it was when you got there?

34 A Yes.

35

36 Q Yeah. Okay. Okay. We've talked about the gold truck. Do you know what I'm
37 -- do you have your pointer there?

38 A The -- the brown Ford pickup?

39

40 Q I call it the gold truck.

41 A Okay. Sure.

1

2 Q But let's just make sure we're talking about the same one.

3 A Is that this one here?

4

5 Q Yeah, that's -- that's what I'm talking there.

6 A Okay.

7

8 Q So were you aware that vehicle would have evidence in it?

9 A We did process it for fingerprints.

10

11 Q Okay. Did you see any evidence of it having been rummaged through or
12 searched through?

13 A No.

14

15 Q Did you take any pictures of it?

16 A I had directed my -- a member that was helping me to process that truck, and I
17 don't believe he took any photos of the inside of it.

18

19 Q You never took any pictures of that truck at all?

20 A No.

21

22 Q Okay. But you knew that some of the visitors were supposed -- or allegedly
23 been -- were in that vehicle?

24 A Yeah. Yeah, you're correct.

25

26 Q Okay. Okay. And you couldn't find any photo -- or any fingerprints on that
27 vehicle at all?

28 A No.

29

30 Q Okay. Did you see any --

31 A Like I say, I didn't process it. Another member did.

32

33 Q Okay. But your other --

34 A But he didn't, so --

35

36 Q But you were the lead?

37 A That's correct, yes.

38

39 Q Yeah. Okay. Did you see any evidence of the grey Escape stopping near that
40 vehicle?

41 A No, nothing -- nothing notable.

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Q Okay. Did you follow the tracks?

A Yes.

Q And you didn't see any evidence that it had stopped by there?

A No, it didn't --

Q Okay. Did you look for that?

A Yeah. You can see it in the -- in the images, now that you -- now that you're directing my attention to it. There was no point that changed in that grooved tire impression that would appear as though it stopped, to me.

Q You say it doesn't appear it stopped?

A It didn't appear that it stopped, no.

Q Okay. There's no skidding right there?

A I didn't notice anything right at that truck, no.

Q Did you take any particular photos beside there? Again, you knew there was evidence of that vehicle having stopped beside the gold truck?

A Yeah. No, I took --

Q Did you do that?

A -- photos of the -- of the marks in the gravel. And like I say, I didn't notice anything unusual. It was a fairly consistent mark through the yard.

Q Okay. But you -- but you're saying you did task one of the other members to look for fingerprints in that vehicle?

A Yes.

Q Okay. Okay. The vehicles at the Fouhy farm -- do you know what I'm talking about when I say the Fouhy farm?

A I know the name. But I didn't have anything to do with anything that -- any processes that went on at the Fouhy farm.

Q Okay. So you didn't -- you were never sent over there?

A No.

Q Okay. Were any members ever sent over to fingerprint any of the vehicles there?

A I worked with members out of North Battleford, the Forensic Identification

1 Section out of North Battleford, and one of those members went to the Fouhy
2 farm and --

3

4 Q Okay. Which -- which member is that?

5 A Her name was Corporal Karen Sarson (phonetic).

6

7 Q Okay. And do you know if she attempted to fingerprint any of the vehicles
8 over there?

9 A I -- I don't know what she did there.

10

11 Q Okay. Okay. So as far as the -- the vehicles on the Fouhy farm, a white Chev
12 truck, you don't know anything about that? Red Dodge truck?

13 A I don't know anything --

14

15 Q Suzuki? Jeep?

16 A -- about those.

17

18 Q Lexus? None of those?

19 A I --

20

21 Q Okay. And no reports came back, as far as you're aware, of those having been
22 --

23 A I didn't -- I didn't read or see any reports --

24

25 Q Okay.

26 A -- to do with anything with the Fouhy farm.

27

28 Q Okay. The blue Escape, 2012?

29 A Yes.

30

31 Q That's on -- on the photo there, P-2, that we've been talking about. Were the
32 keys in it?

33 A I don't recall.

34

35 Q Did you not look for that?

36 A I -- like I say, I don't remember if they were in it or not.

37

38 Q Okay. Do you know if it had a spare tire?

39 A I -- I would have to refer to my photographs of that vehicle.

40

41 Q Okay. If -- if you can have a look at your notes or that to see if you know if

1

2 Q Okay. So can you help me with that? It has a rubber seat, does it?

3 A Quad --

4

5 Q A plastic, rubber seat?

6 A The thing about quads is they're inherent -- they are that -- they're plastic --
7 like, rough plastic surfaces, especially when they sit out and they get
8 weathered. And it's just very difficult to get any kind of fingerprints off of it. I
9 don't think I've ever gotten a fingerprint off of a quad in my years.

10

11 Q Okay. But -- but you don't fingerprint quads. You fingerprint surfaces, right?

12 A Yeah. Well -- and I mean, these are the types of surfaces that are on a quad.
13 Like --

14

15 Q Okay.

16 A -- the plastic fenders, the --

17

18 Q The --

19 A -- the vinyl seat, the -- you know, maybe the hand grips, the rubber hand grips,
20 things of that nature. But these are unsuitable surfaces for fingerprints.

21

22 Q Okay. Do you have any pictures of -- of the quad, close-up pictures, which
23 would give me some idea of -- of these surfaces you're describing?

24 A Yeah, I think I have some in the --

25

26 Q The gas tank, wouldn't -- if somebody got on the quad and touched the gas
27 tank, that wouldn't leave a fingerprint?

28 A They're -- they're plastic. They're poor surfaces. And the problem, too, is that
29 there was a significant amount of rain. But not that that would have made a
30 difference on the surface of a quad. They're not very good surfaces. Yeah, like,
31 you can see the -- the rubber fenders and the vinyl seat in this image number
32 43. And just that weathered nature of that type of surface is -- just doesn't hold
33 a fingerprint well.

34

35 Q Okay. That's the best picture you've got of it?

36 A I'd have to look. These are the ones I prepared today for the collection. I likely
37 have others, but I'd have to look through -- I can look for one of these while --
38 when I look for the other ones, too, if you like.

39

40 Q Sure. Sure. Let's do that. So then the -- the grey Escape, did you fingerprint it?

41 A Yes.

1

2 Q Okay. And what did you find there?

3 A No fingerprints. To be honest with you, I didn't find any identifiable
4 fingerprints on anything for the entire case.

5

6 Q Okay. But -- but inside the -- the grey Escape, that wouldn't be -- have been
7 exposed to rain or anything?

8 A No.

9

10 Q So are you telling me that the average vehicle parked out front would have no
11 fingerprints in it?12 A Well, some don't. And partially the reason is is fingerprints will transfer,
13 because they -- the oils that are on your finger are what makes us the print on
14 the surface. And if the surface is dusty or dirty, a lot of times what'll happen is
15 when a finger is deposited on a surface, it'll just collect that dust, and it
16 actually -- and the dust absorbs up into the fingerprint, and it doesn't leave the
17 finger mark or the fingerprint behind. So when you're dealing with dirty
18 surfaces and dusty surfaces, oftentimes when I -- I've processed hundreds of
19 stolen vehicles, and when you deal with vehicles like construction trucks or
20 vehicles that have been out in rural areas where there's a lot of dust on the
21 roads and stuff, a lot of times you won't get fingerprints. It's not unusual.

22

23 Q Okay. So did you attempt to get fingerprints off the steering column and the
24 steering wheel?25 A Yeah. Those two, again, those surfaces are either leather or vinyl-wrapped, and
26 they didn't -- they didn't yield any fingerprints.

27

28 Q Okay.

29 A These areas were checked, though.

30

31 Q Okay. So you -- you attempted to get fingerprints, couldn't get any?

32 A Yes.

33

34 Q Okay. So on -- on August 12th, I've got a note here from Constable Boogaard
35 (phonetic), and he indicates he's speaking with Terry. So would -- you would
36 have been in regular contact with --

37 A Oh, yes.

38

39 Q -- with Constable Boogaard? And do you have notes of a conversation with
40 him for August 12th?

41 A I'd have to check, but I may. It doesn't look like I have anything for that

1 specific day --

2

3 Q Okay.

4 A -- with Constable Boogaard. The thing was, I was in contact with him often
5 during this matter.

6

7 Q Okay. Well, I'm just going to put to you what his note has, and you can see if
8 that jogs your memory. The indication in -- in -- is it Constable Boogaard?
9 Constable Boogaard's notes is "will not attempt for prints in vehicle nor on
10 bottles because all persons have been identified." So that looks to me like he's
11 in charge of the scene.

12 A No, I was in charge of the scene.

13

14 Q Okay. But he's the overall investigator, though?

15 A Well, yes. Okay.

16

17 Q Right? And you're doing the Ident. stuff?

18 A Correct, yes.

19

20 Q Is that -- I made sure I used the right terms there. So that sounds to me like he's
21 instructing you not to attempt to get prints. Did he instruct you not to get -- to
22 bother with any prints?

23 A No. There was a conversation, though, now that you jogged my memory, early
24 on how far to process this vehicle. And if that's -- I don't -- I can't say what
25 he's referring to. I can tell you that I did fingerprint the vehicle, and I know, in
26 fact, that because there was -- a lot of times what you're trying to do is figure
27 out who's in these vehicles in these situations, and that might have been why
28 we had that conversation back and forth, are you going to fingerprint it, are we
29 going to go through all the work of fingerprinting it. But -- and looking back, I
30 -- I know that we did. We did the full, complete examination of the vehicle
31 right from fingerprinting to taping all the seats for fibres, for the white light
32 forensic exam that I would have done, and -- and the photographing of all of
33 these throughout the process. So it's --

34

35 Q And where do I see in your notes -- where do I see the evidence of you having
36 done all that?

37 A Of fingerprinting?

38

39 Q Yeah.

40 A It's in my notes that I fingerprinted the vehicle.

41

- 1 Q So just -- but that's all it is? A note, "attempted to get fingerprints"?
- 2 A Yeah.
- 3
- 4 Q Okay. And no -- no close-up photos in that vehicle at all?
- 5 A Just of the exhibits, yeah.
- 6
- 7 Q Okay. So were -- were you aware that I had requested access to the site?
- 8 A No.
- 9
- 10 Q Okay. Nobody told you that?
- 11 A No.
- 12
- 13 Q Okay. Before you cleared the site, nobody told you that?
- 14 A No.
- 15
- 16 Q Okay. So you completed your on-site investigation, and then you towed the
- 17 vehicle, the grey Escape?
- 18 A Yes. The grey Escape was towed to our secure bay.
- 19
- 20 Q Okay. And this is an RCMP facility?
- 21 A Yes.
- 22
- 23 Q And that's for further processing, obviously?
- 24 A Yes.
- 25
- 26 Q So just -- well, probably not of much significance, but can I get you to look at
- 27 your photo 37?
- 28 A This is the vehicle photos you're talking about?
- 29
- 30 Q The first set, the ones on-site.
- 31 A This one?
- 32
- 33 Q Yeah. Okay. So two things there. Firstly, would you agree with me that you
- 34 could -- in that vehicle, you could see perfectly to the right?
- 35 A Yes.
- 36
- 37 Q Okay. So there's an impact spot on the left, pretty --
- 38 A Yes.
- 39
- 40 Q -- pretty close to the -- and that would perhaps be an issue right in front of you,
- 41 but to the right, you could see fine?

1 A Yes.
2
3 Q Okay. And then the second thing there is you look at -- you see the hood there
4 of the vehicle?
5 A Yes.
6
7 Q Can you now flip to the second set of photos, number 5? It's a small thing. It's
8 just been bothering me a little bit. And then you'll see there markings on the
9 hood.
10 A Oh, the drag marks, yeah.
11
12 Q What -- what are those from?
13 A I -- I don't know. I don't know what --
14
15 THE COURT: I am sorry. What photo was that?
16
17 A This would be image number 5, My Lord, sorry. I don't know.
18
19 MR. SPENCER: That's all right. And I'll let everybody
20 catch up. It's five --
21
22 THE COURT: Page number --
23
24 MR. SPENCER: -- after the second -- after the second tab.
25 It's photo number 5.
26
27 THE COURT: Oh, I see. I'm sorry. I got you.
28
29 MR. SPENCER: Yeah, sorry. I have the --
30
31 THE COURT: Five after the second tab. I am with you.
32
33 MR. SPENCER: I was moving too quickly there. I
34 apologize.
35
36 Q MR. SPENCER: What were those from?
37 A I don't know.
38
39 Q Okay. Okay. So as far as the actual condition of the grey Escape, it was in
40 pretty rough shape?
41 A Yes.

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Q Fair? Any problems with the radiator?

A There was antifreeze in the expansion tank.

Q Okay. So the radiator hadn't exploded or -- or anything of that nature?

A I didn't see any signs of that.

Q Okay. And you would have been testing this when it was cool back at the --

A I didn't test the radiator. I checked the level.

Q But -- yeah, but it --

A Yeah.

Q -- would have been cool at that time?

A That's correct.

Q And you would agree with me that when the engine heats up, more comes into the overflow tank?

A Yes.

Q So from your perspective -- no problem with the radiator from your inspection?

A It didn't appear to be, no.

Q Okay. And the vehicle was in park -- or sorry, in drive, my mistake --

A Yes.

Q -- the shifter was in drive when you encountered it on the Stanley farm?

A Yes.

Q And then it was towed back and still in drive when you went to do your more detailed inspection?

A Yes, because the vehicle was -- it was put on a cradle so it -- nothing was touched.

Q Okay. So the battery was dead?

A The battery was dead, but one thing I should mention about the battery. When I arrived the first night at the Stanley farm, the door chime was going off. And this door chime continued to chime the entire time that we dealt with it that night, because I wasn't about to go messing with the vehicle until we were ready to. So the chime just went off all that night. Then once the body was removed and we left the scene, the chime continued to chime. So when I put

- 1 power to the vehicle again with a booster pack, as soon as I put the battery
2 charger on it, the chime started up again right away.
3
- 4 Q Okay. So likely the battery was fine, but it just died because the doors were
5 open?
6 A I -- I don't know if it was fine before or not. But it had enough power to run the
7 chime.
8
- 9 Q Okay. Fair enough. And then when you're back at the shop, you put a booster
10 pack on it?
11 A Yes.
12
- 13 Q And the vehicle started up?
14 A And it started, yes.
15
- 16 Q Yeah. Okay. Without any apparent problem?
17 A No, relatively easily.
18
- 19 Q Okay. So I'm assuming you took it out of drive, put it in park?
20 A Yes.
21
- 22 Q Fired it up?
23 A Yes.
24
- 25 Q Okay. Did you put it back in drive to see if it would move?
26 A No, I didn't.
27
- 28 Q Okay.
29 A Yeah, I -- I didn't, no.
30
- 31 Q So you have no idea whether it would -- whether it was functional at that
32 point?
33 A No, I don't.
34
- 35 Q Okay. That would have been helpful?
36 A Yeah, it -- it's -- that's an admitted oversight, yeah.
37
- 38 Q Okay.
39 A I -- I should have tried that.
40
- 41 Q Okay. Any reason to believe it wouldn't have moved if you'd have put it in

1 drive?

2 A Well, that's a tough comment because the constant velocity joint was out of the
3 transaxle. And I know that it had leaked some fluid out of there. However, it
4 was a four-wheel drive SUV, so potentially it could have moved. But I don't
5 know if it -- I'd hate to say one way or another whether it did -- it could or not.

6

7 Q Don't know?

8 A Don't know.

9

10 Q Yeah. Now, the -- the CV -- is that what you call the CV joint?

11 A Yes.

12

13 Q Yeah. So on the one side, we see it dangling down?

14 A Yes.

15

16 Q That probably -- you could have revved it as high as you wanted, and it
17 probably wouldn't have turned that wheel?

18 A Yes.

19

20 Q That's the right wheel?

21 A Yeah. It wouldn't -- it wouldn't have worked that wheel, for sure.

22

23 Q So do you have any reason to believe that it wouldn't have driven the other
24 wheels?

25 A Well, and this is the problem in these types of vehicles. When power is put to
26 one wheel -- you know, when you get stuck in the snow and only one wheel
27 will spin when there's no friction on that one side. So this could happen in this
28 situation, too, where that -- that stub that was left where the constant velocity
29 joint broke out might spin freely on that side, and it might not move at all. But
30 being that it's four-wheel drive, the -- the rear end still could potentially move
31 it.

32

33 Q Okay. We just don't know?

34 A We just don't know.

35

36 Q Okay. Okay. Let's talk, then, about the tracks. And in this case, I guess it's a
37 little bit of a luxury because even -- notwithstanding that it rained, we still have
38 a pretty good way of figuring out exactly where that grey Escape went?

39 A Yes.

40

41 Q You would agree with me?

1 A Yes.

2

3 Q Okay. And would you agree with me that the tracks go off the Stanley farm
4 and down the road?

5 A I don't know.

6

7 Q Okay.

8 A I didn't follow the tracks in the yard.

9

10 Q You didn't follow those?

11 A They were out of the yard.

12

13 Q Okay. Within the RCMP, was there any discussion of following those tracks?

14 A That is one of the reasons why Corporal Sarson was called, because there had
15 been indications to me, but -- see, I'm not -- I wasn't there, so I don't know,
16 but I know there was talk of possible tracks that looked a lot like these at --

17

18 Q Okay. So -- so some other members --

19 A Yes.

20

21 Q -- followed the tracks?

22 A Yes.

23

24 Q Okay. And did you have any information as to how far they followed them?

25 A I don't know.

26

27 MR. BURGE:

My Lord, that might be going a bit too

28 far, My Lord.

29

30 THE COURT:

I think that's getting into hearsay.

31

32 A Yeah.

33

34 MR. SPENCER:

Okay. And certainly, if it's not a crucial

35 point, My Lord, I -- I appreciate that, but just for speed, it's sometimes easier.

36 But I appreciate the directions.

37

38 Q MR. SPENCER:

Okay. So then let's talk about the rifle

39 barrel. You saw that?

40 A This is Exhibit Number 1 you're referring to, the one near the -- what -- the

41 victim?

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Q Yeah, number one, yeah.

A Okay. Yeah.

Q Yeah. So when -- when you came on scene, there was a rifle barrel laying right beside the -- the deceased and the -- the grey Escape?

A Yes.

Q Okay. And I think you've testified that it had a cartridge, and I make sure I use the right terminology here -- cartridge, live -- live cartridge in the chamber?

A Yes.

Q And then it also had five cartridges in the built-in magazine?

A Yes.

Q Is that right? Okay. So it was loaded and chambered?

A Yes.

Q Okay. Were you able to determine where it came from?

A No.

Q Okay. So all you know it was laying there?

A Yes.

Q Okay. Now, you also testified that there was a box of .22 -- and it's a .22 calibre --

A Yes.

Q -- rifle barrel?

A Yes.

Q It had a trigger attached to it?

A Yes.

Q Bolt in place?

A No, the action was bent.

Q Oh, yeah. but the bolt was in place, but it was damaged?

A The bolt -- it was damaged, yes.

Q Right.

- 1 A But it was --
- 2
- 3 Q But otherwise, all the parts were there?
- 4 A The parts were there.
- 5
- 6 Q Okay.
- 7 A Except the stock.
- 8
- 9 Q Right. Were you ever able to determine where the stock for that rifle was?
- 10 A Constable Andrew Park provided it to me, and it was another item that I dealt
- 11 with, photographed, and processed for fingerprints.
- 12
- 13 Q Okay. Constable Park, I think he's still going to testify today, with any luck. So
- 14 you -- you found the stock that you believe went with that barrel?
- 15 A I can't say for sure that that came from that barrel, although I've seen firearms
- 16 like that in the past, and it was consistent with one that I had seen that would fit
- 17 that.
- 18
- 19 Q Okay.
- 20
- 21 MR. SPENCER: If -- if I may approach?
- 22
- 23 Q I'm just going to show you a picture, and we'll just mark it for identification. It
- 24 will ultimately go to the photo book.
- 25
- 26 THE COURT CLERK: You need to stand up for the mike,
- 27 please.
- 28
- 29 MR. SPENCER: This one? Okay.
- 30
- 31 Q MR. SPENCER: I'm going to show you a picture of a
- 32 stock, see if you recognize it from your investigation.
- 33 A I -- I believe that this is the -- there's no markings or anything, but I believe
- 34 that this is the pieces of a stock that Constable Park provided to me.
- 35
- 36 Q Yeah, and that was from a -- a relate -- a property that was related to the
- 37 investigation?
- 38 A Yes. I don't know which or where it came from, but --
- 39
- 40 Q Okay. And there's a trigger guard on that picture?
- 41 A Yes.

1
2 MR. SPENCER: Okay. Get to a microphone. My Lord, as
3 I -- as I indicated, we will eventually be filing all of these. I don't know if you
4 want it marked for identification --
5
6 THE COURT: It's got to be marked now --
7
8 MR. SPENCER: -- at this point.
9
10 THE COURT: -- that the witness has referred to it.
11
12 MR. SPENCER: Has referred to it. So it is tab number 10
13 of a photo booklet that we will be ultimately tendering the entire photo booklet.
14
15 THE COURT: So how many photos are in the booklet?
16
17 MR. SPENCER: There are 12.
18
19 THE COURT: Are you familiar with what 12 photos are
20 in there?
21
22 MR. BURGE: We -- we have a copy, My Lord, and --
23
24 THE COURT: Is there going to be any objection?
25
26 MR. BURGE: No, there's -- no, there's no issue. It'll --
27 it'll become a full exhibit at some point.
28
29 THE COURT: Okay.
30
31 MR. SPENCER: So --
32
33 THE COURT: We'll mark the photo booklet as Exhibit
34 D-1 for identification at this point.
35
36 MR. SPENCER: Yeah. and perhaps even with my friend's
37 concession, we can go the next step, is to make it a full exhibit if there's no -- no
38 issue with it. He's -- he's had access to it.
39
40 MR. BURGE: My Lord, I'm -- I'm fine with that,
41 because I -- I know where it came from, and I have had discussions with my friend

1 about these photos being full exhibits, so I'm fine.

2

3 THE COURT: Okay.

4

5 MR. SPENCER: Okay.

6

7 THE COURT: So we will mark the photo booklet as
8 Exhibit D-1, full exhibit, by consent. And the photo that you referred to was tab --

9

10 THE COURT CLERK: 10.

11

12 THE COURT: -- 10?

13

14 MR. SPENCER: It is tab 10, yes.

15

16 THE COURT: Okay.

17

18 **EXHIBIT D-1 - Booklet of Photographs**

19

20 THE COURT CLERK: Do you want me to --
21 (UNREPORTABLE SOUND) --

22

23 THE COURT: So, ladies and gentlemen of the jury,
24 you'll be given a copy of this. I'll ask you to not go too far because all we're
25 dealing with is tab 10 so far. So we've got to take it one step at a time. So you can
26 look at tab 10, and then we'll know exactly what Mr. Spencer has shown this
27 witness.

28

29 THE COURT CLERK: Oh, I'm short one. Thank you.

30

31 Q MR. SPENCER: Okay. So when I got to the rifle barrel,
32 I'm -- if I can refer you to -- to the first tab in your photo book, number 24.
33 That's a picture -- you can throw that up for us. Thank you.

34 A Sorry, what -- what image number?

35

36 Q I think it's picture 24. And those -- those are from your photos?

37 A Yes.

38

39 Q That's the -- the rifle barrel on the Stanley farm?

40 A Yes.

41

1 Q And then the stock we've been speaking about is tab 10 in the photo book, just
2 submitted -- that you have in front of you?

3 A Yes.

4

5 Q Okay. So then, dealing with that, in the blue -- or in the grey Escape, you found
6 a box of -- a box for cartridges, for .22 cartridges?

7 A Yes. Well, it was empty, but --

8

9 Q It was empty?

10 A -- yeah.

11

12 Q Yeah. And that's -- if we've got .22 rifle on the ground, we have a box for -- of
13 cartridges in the grey Escape?

14 A Yes.

15

16 Q And then you found live cartridges in the Escape?

17 A Yes. There was 17 live rounds in the Escape, and 11 spent cartridges.

18

19 Q Casings?

20 A Casings.

21

22 Q Okay. And a casing would be one that was fired?

23 A Yes.

24

25 Q Okay.

26

27 THE COURT: So that was 17 live rounds and how
28 many casings?

29

30 A 11.

31

32 THE COURT: Thank you.

33

34 Q MR. SPENCER: So the grey Escape had bullets and
35 casings almost in all -- although you talked about the four quadrants --

36 A Quadrants, yes.

37

38 Q -- I think there was one or the other in -- in all of them?

39 A Yes.

40

41 Q Okay. So did you -- did you -- firstly, did you match the stock to the rifle

1 barrel?

2 A No.

3

4 Q Did you -- did you put it together -- was there any effort to put the stock back
5 together?

6 A No.

7

8 Q Was there any effort to see if -- when it -- to -- if it could be matched to the
9 barrel to say, yes, these are the same weapon?

10 A No. It's kind of the problem with this type of exhibit, the one in -- this is tab
11 10, sorry?

12

13 Q M-hm.

14 A So with this type of exhibit, if I had had a portion of the stock and then I had
15 the exhibit that was collected by Constable Park, I could potentially do a
16 physical match to see if those two pieces lined up. But in this case, I didn't
17 have that. I had something that could potentially be bolted to something else,
18 but it wasn't. There was nothing left of this stock on the barrel. I can say that
19 I've had that experience with these types of .22s before. And what -- when I
20 first saw it, I recognized it as something that would come from a rifle like that.
21 But that's all I can say. I recognized it that it could come from something like
22 that.

23

24 Q But practically, you could have glued that stock together and then matched it to
25 that barrel to see if the -- the pressure points, the attachment points, would
26 match?

27 A That's something that the Firearms Section would deal with more than I would.

28

29 Q Okay.

30 A Just given the nature of the exhibit.

31

32 Q Okay. So let's deal with what you had in -- in your hands. Were the bullets --
33 was the bullet that was in the chamber, did it match the other bullets that were
34 in the vehicle?

35 A They were the same style, yes.

36

37 Q Yeah. And then the casings, were they casings from those same types of
38 bullets?

39 A Yes.

40

41 Q Yes.

1 A Yes.

2

3 Q So were the casings, were those cartridges fired in that barrel?

4 A Were they -- oh, I can't say they were or they weren't. They were the same --

5

6 MR. BURGE: I'm going to --

7

8 A -- they -- they would -- they would have fit a gun like that because they were
9 the same calibre.

10

11 Q MR. SPENCER: Okay. So was that -- do you know if that
12 was sent to make that confirmation?

13 A I don't know if Firearms ever looked at that, if Firearms Section ever looked at
14 that or not.

15

16 Q Okay. Okay. The -- the Tokarev.

17 A Yes.

18

19 Q Was it licensed? Did you find the licence for it?

20 A There was a lot of documentation in the exhibit marked number -- the gun box
21 that I found in the closet. There was documentation that indicated that it was or
22 had been licensed at some point in Gerald Stanley's name.

23

24 Q Okay. But that was current?

25 A Yeah, it -- it could be, yeah.

26

27 Q Okay.

28 A I -- I don't recall.

29

30 Q Okay. But there was no issue that way was -- when you found the gun -- and
31 you -- did Sheldon tell you where the gun was?

32 A No, he --

33

34 Q Where that gun box was?

35 A -- not me directly. I -- I was notified by Major Crimes that it could be in -- in
36 this bathroom closet.

37

38 Q Okay. So somebody told you where it could be found?

39 A Yes.

40

41 Q All right. Okay. Fair enough. And so as far as you're aware, it was properly

1 licensed? It was -- it had a case for it? There was no ammunition stored with it?

2 A Yeah, that would be accurate.

3

4 Q Yeah. Okay. So that would all be legal? No problem there?

5 A Yeah. As I'd been off the street for a while, as far as the gun laws go, I'd hate
6 to say exactly what's legal with firearms and what isn't.

7

8 Q Okay.

9 A As far as I know it is, but it's --

10

11 Q Yeah, and that's --

12 A -- been a while since I've had a gun charge, though.

13

14 Q Yeah. That's -- that's fair enough. Okay. And just -- just to finish one thing.

15 The shell casings that were in the grey Escape, those looked relatively fresh?

16 They weren't corroded or --

17 A No, they looked fresh.

18

19 Q Okay.

20 A They -- yeah. They -- but they were also inside a vehicle.

21

22 Q Right. Right. But they didn't look like -- from your perspective, they didn't
23 look like they'd been there that long from --

24 A I'd hate to try to put a age determination on that.

25

26 Q Okay. Now, the glass. You talked about the -- the glass being mostly in the
27 vehicle, and I'm talking about the broken passenger window.

28 A Yes.

29

30 Q Do you want to put up the picture of that for us, just for discussion?

31 A This is image number 60.

32

33 Q Okay. Now --

34

35 UNIDENTIFIED SPEAKER: (INDISCERNIBLE). 60.

36

37 Q MR. SPENCER: Now, you indicate most of the glass was
38 inside the vehicle?

39 A Yeah. Most of the glass appeared to land on the passenger's seat or go down
40 into the door.

41

- 1 Q Okay. So why would you think that would be that the glass would go down
2 inside the vehicle, if it had been hit by a projectile? A bullet?
- 3 A Well, as I'd mentioned earlier, when a bullet [sic] is struck with a high velocity
4 projectile, it can sometimes can go right through it, and then the glass can hang
5 there for an instant. Different types of glass reacts in different ways. This is
6 what's known as safety glass where, when it breaks, it shatters into tiny little
7 cubes so it doesn't cut you. But if it was plate glass, it might behave
8 differently. But in this case -- I don't know which way the glass was broken,
9 but I can tell you that it was broken, and that most of the glass ended up on the
10 seat. To say that it came from one way or another, I can't do that in this case.
11
- 12 Q Right. And I guess that's what -- what I'm struggling with a little bit is did you
13 see any glass outside the vehicle when it was -- when you first came across it?
- 14 A It was -- no, I didn't.
- 15
- 16 Q Okay.
- 17 A I didn't note any.
- 18
- 19 Q Because I looked at a lot of pictures, and I didn't see --
- 20 A Yeah.
- 21
- 22 Q -- any glass outside.
- 23 A Yeah. I didn't -- I don't recall any, either.
- 24
- 25 Q Okay. And I think you maybe would agree with me now, whether that was
26 broke by a projectile, a bullet, or in the crash that had occurred just before that,
27 you have no way of knowing?
- 28 A I don't know.
- 29
- 30 Q Okay. Fair enough. Okay.
- 31
- 32 MR. SPENCER: My Lord, now might be a good time for
33 the witness to -- to check on those couple points that we were working on, and for
34 me to reorganize my -- my notes and get ready to -- to push through. I think we're
35 probably looking at about 15 or 20 minutes after a short break?
- 36
- 37 THE COURT: Okay. I would have preferred to have
38 gone on until around 3:15, but if you need the time, I'm not going to deny you the
39 opportunity. So you are asking for an early break, then?
- 40
- 41 MR. SPENCER: Well, I can -- I can keep going if -- if --

1
2 THE COURT: Well, let's keep -- we started at around 2.
3 I'd like to go until around 3:15 or so.
4
5 MR. SPENCER: Okay. Fair enough.
6
7 THE COURT: But if you need a break now, I'll --
8
9 MR. SPENCER: Yeah, I can keep going. I just --
10
11 THE COURT: Okay.
12
13 MR. SPENCER: -- thought we could clean up those other
14 -- other items. But that's fair enough. But we can keep going. I don't know if I'll
15 make it right to 3:15 before I'll ask again, but --
16
17 THE COURT: Okay.
18
19 MR. SPENCER: -- we certainly can deal with a couple of
20 issues.
21
22 Q MR. SPENCER: Okay. So with the vehicle, the grey
23 Escape, did you look for GSR patterns or GSR concentrations anywhere in that
24 vehicle?
25 A You're talking about gunshot residue?
26
27 Q Yeah.
28 A Yeah. No, I didn't.
29
30 Q Okay. And you didn't take many pictures inside that -- the cabin of that
31 vehicle?
32 A I -- I documented it as --
33
34 Q Okay. But you didn't photo --
35 A -- like, we didn't --
36
37 Q -- the -- the roof or the headrests or any of that? You didn't take photos of any
38 of those?
39 A Oh, I see. Well, they were -- they're in overall photos, but yeah.
40
41 Q Yeah. But you didn't take any close-ups?

- 1 A No close-ups of them, no.
2
- 3 Q Okay. So wouldn't that be something you would do is look for a point where
4 there's more gunshot residue to see if that would give you some idea of the
5 direction of the projectile?
6 A I can -- I guess that's an interesting concept. I've never seen it done. I'm not
7 saying that it couldn't have been done. I guess that's a possibility. It wasn't
8 done in this case.
9
- 10 Q Okay. Now, you said you knew which direction the projectile went.
11 A Well, no, I said there was -- that we had a theory --
12
- 13 Q Right.
14 A -- that the projectile had come from the driver's side.
15
- 16 Q Right. And that -- that's what I was getting at is -- so -- and that theory was
17 then -- so if it did do that, it might have hit the window?
18 A Right.
19
- 20 Q But you can't really take two possibilities and -- and learn much from those,
21 right?
22 A Well, no. This is -- this is why you do that is to collect those bits and pieces of
23 the puzzle and --
24
- 25 Q Okay.
26 A -- hopefully with that, and then with -- with witness statements and autopsy
27 reports, you can put the pieces together.
28
- 29 Q Right. But we need all the pieces, right?
30 A Yes.
31
- 32 Q Yeah. So -- so you didn't know with any degree of certainty which direction
33 the bullet or the projectile even went through the vehicle?
34 A Well, and that's -- I did have opportunity to speak with Major Crimes, and I
35 know that they had witness statements putting -- putting the accused at the
36 driver's side window shortly after a gunshot was heard. So the driver's side
37 was certainly a possibility.
38
- 39 Q Okay. And were you aware there was a witness saying the exact opposite?
40 A No.
41

1 Q Okay. And had -- had you consulted with the -- the coroner? Dr. Ladham, the
2 coroner.

3

4 MR. BRUCE: Pathologist.

5

6 Q MR. SPENCER: Pathologist. Did you consult with the
7 pathologist at all based on the results of the autopsy?

8 A Yes. Yeah, I --

9

10 Q Okay.

11 A -- did know some of the results of the autopsy, yes.

12

13 Q Okay. So you would have appreciated that that would -- or that did establish a
14 portion of the trajectory of that projectile?

15 A Yes.

16

17 Q Okay. And would you agree with me that roughly it was a downward 42
18 degree angle?

19 A Yeah. The -- the angle, I don't know. Like, I wouldn't say 42 degree angle. It
20 was a -- if the victim was -- head was straight up and down, it was on a
21 downward angle, but if it was 42 degrees, I don't know.

22

23 Q Okay. But you're trying to find the bullet, right?

24 A Yes.

25

26 Q So that's the part -- that's one thing you know. You have a portion of the -- the
27 trajectory of that bullet, and you have an angle?

28 A The problem with that being is that the victim could have had his head tilted on
29 an angle or tilted back or -- or hunched over. And so this angle could change to
30 this, could change -- so it's a little subjective as to what direction it was going,
31 even though the -- you know, you have this portion of that angle.

32

33 Q Right. Yeah -- no, and I get that.

34 A Yeah.

35

36 Q So that's why it would seem to me it would be very valuable to know where
37 the blood spatter coming out of the exit wound, its direction, right? That would
38 be very valuable, because now you'd get the third point.

39 A Yeah. Well, it would show some directionality, for sure.

40

41 Q Right.

- 1 A The problem in this case is that the clothing captured a lot of the blood spatter,
2 and there wasn't any blood spatter that I noted anywhere else in the vehicle,
3 other than on the areas I've mentioned in the driver's seat.
4
- 5 Q Right. But if the theory was correct that the shot came from -- or that the bullet
6 came from the driver's side and went through the passenger's side, there's no
7 -- the exit wound would have then been on the right side?
8 A Yes.
9
- 10 Q Okay.
11 A If that theory holds, yes.
12
- 13 Q Right. Yeah. And so it's -- any blood spatter would come from the exit wound,
14 correct?
15 A Yes.
16
- 17 Q Not the entrance, of course, right?
18 A No.
19
- 20 Q Yeah. Okay.
21 A Well, it can go both -- it can blow back, too. So --
22
- 23 Q Okay. Fair enough. Fair enough.
24 A Yeah.
25
- 26 Q And I guess what I'm looking at -- and maybe it's a jargon thing, but I'm
27 looking -- I'm thinking of blood spatter coming from the actual contact as
28 opposed to, you know, bleeding and, you know --
29 A Okay.
30
- 31 Q -- the dripping that would occur. So the blood pooling -- and, again, I may not
32 be using the right terminology at all -- that was all in the driver's
33 compartment?
34 A Yeah, like the driver's compartment was wet with blood in those areas, yeah.
35
- 36 Q Yeah. So then leading you to conclude that that's where the deceased was?
37 A Yes.
38
- 39 Q Okay. Now, the exit wound, what clothing was there on the exit wound?
40 A I don't know what clothing was on the exit wound at the time, but I know that
41 he was wearing a jacket. And he had a hoodie on and those types of things. I --

1 where the clothing was positioned at the point right at the time when the bullet
2 exited, I don't know.

3

4 Q Right. But -- but that's my problem is you're testifying that the clothing would
5 have captured the blood spatter from the exit wound, and that's what I'm
6 asking you. What clothing?

7 A Well, his clothing was all saturated around that area, just below his head, and
8 like I say, the jacket and hoodie that he was wearing.

9

10 Q But there was no -- there was no damage to the hoodie on the exit -- on the
11 right side?

12 A I don't know. I never saw the clothing on that side after, but --

13

14 Q Well, but see, that's my problem is you've got an exit wound. There's no
15 clothing, but you're saying I didn't bother looking for blood spatter because
16 the clothing probably captured it.

17 A If I was unclear with that, I apologize, because I did look for blood spatter in
18 the vehicle.

19

20 Q Okay. And did you use --

21 A And --

22

23 Q -- Luminol and all the ways of looking for it?

24 A No. I used the -- the white light.

25

26 Q Okay. And the white light is nothing more than a really bright light?

27 A It's, yeah, a pure white light.

28

29 Q So that's not necessarily going to show you minute -- the type of blood spatter
30 you -- we'd be looking for, little tiny droplets coming from a high velocity
31 projectile?

32 A Yeah. You're -- you're correct. It wouldn't.

33

34 Q Okay. And if we were able to find those high velocity blood spatter somewhere
35 in the passenger compartment, if we'd have been able to find those, then that
36 would have allowed us to link up the point of the trajectory that we knew,
37 correct?

38

39 MR. BURGE: My Lord, I don't really want to interrupt
40 my friend's -- but this isn't a blood spatter expert. And it seems to me this kind of
41 questioning requires that kind of expertise, and that is the witness who's coming

1 next.

2

3 THE COURT: Do you want to save some of your
4 thunder for the next witness?

5

6 MR. SPENCER: Oh, I certainly want to -- to address some
7 of those issues with the expert. That makes sense. But the difficulty is that that
8 question wasn't an expert question. That was a pretty basic one. That's the
9 investigator on scene, and I'm asking him if we had that additional information,
10 we could then have a lot more solid theory of what happened that day. So --

11

12 THE COURT: Well, I think that you are best to leave
13 that line of questioning for the next witness. You've -- you've established from
14 this witness that he didn't do those tests. He explained to you why in his opinion
15 they were -- he didn't do them. And I think you can move on from there.

16

17 MR. SPENCER: Okay. So -- and I know this. We have the
18 -- the expert is on the witness list.

19

20 Q MR. SPENCER: Did you contact a blood spatter expert?

21 A Yes, I did. I contacted Sergeant Jen Barnes, just -- excuse me.

22

23 Q Okay. This is an RCMP expert. That's what they do?

24 A Yes.

25

26 Q Okay. And did they attend either at the RCMP compound or at the scene?

27 A No.

28

29 Q Okay. And for something like blood spatter, either would have been fine?

30 A If you're focussed on the vehicle, yes.

31

32 Q Yeah. Okay. So did you request a blood spatter expert?

33 A No, I consulted with them. But I wasn't necessarily requesting their -- their
34 attendance.

35

36 Q Okay. Did you decide -- or did you determine you didn't need one?

37 A Well, that was part of the consultation process. I spoke with her. I personally
38 didn't see the need, but -- and neither did she.

39

40 Q Right. But these are experts that the RCMP has for this very purpose is to
41 gather information in serious cases so that we know the facts, right?

1 A Yeah. Like I talked about briefly before, when blood -- the homicides I've
2 been involved in where blood spatter pattern analysis is required, it's generally
3 complicated scenes with different types of castoff and different impact zones,
4 and people have been dragged around or footprints through blood, things of
5 that nature. So this wasn't that. This was a localized area of bloodletting.

6

7 Q Well, that's all you paid attention to, but there actually was the additional
8 potential evidence in that vehicle of the actual blood spatter -- blood spatter
9 created from the projectile?

10 A Yes.

11

12 Q And we never really looked for that?

13 A I did with the white light source. I felt that that was a sufficient test. That's
14 how it's done in the past. But yes.

15

16 Q And that's -- even though you didn't know which direction the bullet was
17 going for sure?

18 A Yes.

19

20 Q And that's even though you didn't really know what the angle was?

21 A Yes.

22

23 Q Okay. So what happened to the vehicle?

24 A At what point?

25

26 Q Well, you tell me. Just --

27

28 MR. BURGE: Well, perhaps he could ask -- the witness
29 is asking for some direction in the question, My Lord.

30

31 THE COURT: I think it's -- you might want to clarify a
32 little bit more "what happened to the vehicle". After he was done using it? Is that
33 what your question is?

34

35 MR. SPENCER: Sure. Yeah. Yeah, I thought that was --

36

37 A Sorry.

38

39 MR. SPENCER: -- kind of built into it. I'm not trying to
40 be difficult. Sorry. If I --

41

- 1 A Me neither.
- 2
- 3 Q MR. SPENCER: Yeah. Fair enough. Fair enough. So you
4 finished your testing?
- 5 A Yes.
- 6
- 7 Q You determined that you didn't need a blood spatter expert, and so that's --
8 we've been through that. You've given me your -- your evidence on that. What
9 happened to the vehicle after that?
- 10 A I notified Major Crimes that my processing was complete with it, and -- and it
11 was towed away.
- 12
- 13 Q Okay. Towed away where?
- 14 A I -- Astro Towing came and picked it up, but I don't know where they took it
15 after that.
- 16
- 17 Q Okay. You're the Ident. expert. That vehicle had lots of evidence in it.
- 18 A Yes.
- 19
- 20 Q Why would it not be maintained so that additional evidence could be gained
21 from it and so that it could be provided to the defence so that we could
22 examine it?
- 23 A Those are questions that are really not -- that I can't answer. I deal with --
24 whether it be in a situation like this where I deal with a vehicle and we process
25 it, we follow all of our processes. And once that's complete, the vehicle is
26 released. It's no different than if the homicide had occurred in a house or a
27 trailer or a school. Once the processing is complete, the processing is complete.
28 These things aren't held indefinitely.
- 29
- 30 Q Okay. But we're not talking about a house. We're talking about a vehicle,
31 which can actually very easily be towed around and stored, right?
- 32 A It's been my experience with homicide scenes or scenes like this, once we're
33 finished processing it, they've always been released.
- 34
- 35 Q Okay. Are you -- are you --
- 36 A And that's my -- my portion is done. I'm -- it's released. And it's up to people
37 farther up the chain than me in the Mounted Police to make that determination
38 if it's held or not.
- 39
- 40 Q Okay. But you're the Ident. expert. Do you understand -- do you know what
41 the policy of the RCMP is for maintaining what they call biological exhibits,

1 exhibits with biological evidence?

2 A Well, and that's -- that's why we collect swabs on certain things, so we are
3 collecting those biological exhibits, and then they are -- they can be
4 maintained.

5

6 Q Okay. Do you know what the requirement is for maintaining biological
7 exhibits?

8 A Off the top of my head, I don't.

9

10 Q No? If I suggested to you that the policy is that they be maintained
11 indefinitely?

12 A Yeah. I -- I don't know if that's true or not. On something like this, it seems
13 that samples would be taken of a large item like this and then secured in the
14 database.

15

16 Q Okay. Are you unaware of the obligation to provide the defence with the
17 evidence so that we can do independent testing?

18 A Yeah. That's -- that's something I don't -- we do our processes, like I say, and
19 then it's passed off to the lead investigator in the Major Crimes Section, and
20 then they decide where it goes from there. My processes are complete.

21

22 Q Are you -- are you seriously suggesting you're the Ident. guy, the expert that
23 does the examination of the actual evidence, and then you take a swab, and
24 then you -- you don't care what happens?

25 A Yeah. That's -- that's the process. And I know it -- the way you made it sound
26 sounds very simple, but that is how it goes. We collect our evidence. We
27 document and photograph, and then we take and collect the swabs, and then
28 it's -- then the exhibits are released.

29

30 Q Okay. Don't you think that the defence should have a chance to see if we can
31 find the bullet, whether we can find the blood spatter, whether we can gather
32 the evidence if you haven't?

33 A That's not for me to say.

34

35 Q Okay.

36

37 MR. GILLANDERS: My Lord, I didn't quite make it to 3:15,
38 but I do think it's a good time for me to check my notes and to -- to adjust here.

39

40 THE COURT: Okay. What we'll do is we'll take a 20-
41 minute break at this point.

1

2 Officer, you're currently under cross-examination, so you are going to be able to
3 step down, but I direct that you do not discuss your testimony with anyone until
4 after your testimony is completed.

5

6 A Yes, My Lord.

7

8 THE COURT: Okay. Thank you.

9

10 (WITNESS STANDS DOWN)

11

12 (JURY RETIRES)

13

14 (ADJOURNMENT)

15

16 THE COURT: Is there anything we need to do before
17 we bring the jury back?

18

19 MR. BURGE: I don't think so. Thank you.

20

21 (JURY ENTERS)

22

23 THE COURT: Okay. Just before we get going, the clerk
24 has indicated to me that the flash drive that we had marked as Exhibit P-1A, that
25 there's actually two flash drives?

26

27 MR. BURGE: Yes, there's -- yes.

28

29 THE COURT: So what I'm going to suggest is we've
30 got P-1, which is the photograph booklet. We'll mark one of the flash drives as
31 P-1A and the other one as P-1B.

32

33 MR. BURGE: Thank you.

34

35 **EXHIBIT P-1B - Second Flash Drive of Exhibit P-1, Booklet of Photographs**

36

37 THE COURT: Thank you. Mr. Spencer, proceed.

38

39 MR. SPENCER: Thank you.

40

41 (WITNESS RE-TAKES THE STAND)

- 1
2 Q MR. SPENCER: So I'd asked you to -- to double-check
3 your photos on a couple points. One, I believe, was any better photos of the
4 quad.
5 A So in regards to the quad, the photos that I have were -- were -- that was
6 probably the best picture that I have that was in my presentation.
7
8 Q Fair enough. And then on the -- the blue Ford Escape, the 2012, you were
9 going to look because you thought you might have a picture of the key?
10 A Yeah, and I don't have a picture of the ignition. I have photos from the other
11 side, the interior, but not from the passenger's side.
12
13 Q So nothing to help us with that --
14 A No.
15
16 Q -- at all? So -- and were -- was that your recollection of the ones that I had
17 asked you and --
18 A As far as I recall, yes.
19
20 Q Okay. That was -- that was mine, too. So okay. Just a couple points to clean up,
21 and I -- I will be done fairly shortly. I believe you said the right fender had
22 come back and forced the right-front passenger door to be closed or to be
23 jammed shut?
24 A Yes. It was -- the fender was jammed against the door, and it wouldn't open.
25
26 Q Okay. So right passenger front, couldn't open?
27 A Right.
28
29 Q Okay. And you saw it both on scene and, of course, when you got it back to
30 the ...
31 A Yeah.
32
33 Q Yeah. Okay.
34 A That's correct.
35
36 Q Yeah. Okay. One thing. In -- in your notes, and have you got them --
37 A Yeah.
38
39 Q -- as disclosed there? It looks like it's -- on the top of the page is 113.
40 A Yes.
41

1 Q You've got that? Okay.

2 A Yes.

3

4 Q The second-last entry there, what is that?

5 A "Weed."

6

7 Q At the risk of embarrassing myself, what's weed?

8 A No, it was just, like, a -- a weed.

9

10 Q An actual -- okay.

11 A A weed. It was an actual weed.

12

13 Q I was wondering if it was dope or if it was --

14 A No, no, no.

15

16 Q Okay. It's an actual --

17 A No, nothing like --

18

19 Q -- dandelion or something.

20 A Yeah, it was a weed.

21

22 Q Okay. Okay. That's why I was curious. Things that say "weed."

23 A Yeah.

24

25 Q Yes. Okay. Fair enough.

26 A No, a plant.

27

28 Q Good. And in the tracks, you -- you followed the tracks both at the -- in the
29 evening when it was -- you could see a little bit better with the lighting that you
30 used, and you saw them again in the daytime?

31 A Yes.

32

33 Q Did it appear to you that the grey SUV turned in to the blue SUV?

34 A The -- the vehicle track was relatively straight. There was enough room
35 between the blue Ford Escape and I guess the garden or the grassy area that it
36 likely could have passed by without striking it, but it did.

37

38 Q Okay. I'm going to refer you to picture 17 of yours. If you could throw that up?

39 A You'll have to -- sorry.

40

41 THE COURT CLERK:

Are you -- oh. I just switched the camera.

1 Hang on.

2

3 A Okay. 17?

4

5 Q MR. SPENCER: 17, yeah.

6 A Image 17, yes. It'll -- it should come up here in a second.

7

8 THE COURT CLERK: (INDISCERNIBLE).

9

10 A There it is.

11

12 Q MR. SPENCER: Okay. So you see the tracks are coming
13 relatively straight and would head out of the yard? Is that what you're seeing
14 there? You took that photo?

15 A So I've -- perhaps I misunderstood you. Were you talking, like, before it struck
16 the vehicle or potentially made contact or --

17

18 Q Well -- but it struck the vehicle because it turned in to it?

19 A Yeah. I -- I'd -- I'd have to -- I could pull up a couple other photos that might
20 help me illustrate this a little better. Let's just have a look here. There -- the
21 track definitely turns around -- turns towards that vehicle. Whether it was a
22 turn as a result of it being struck and then it cranked over, or it was going
23 straight and then -- then it hit. I could -- I could find it in the photos, if you --

24

25 Q Well, certainly, if you can help us out.

26 A Yeah. Let me just see what I've got here. So in the -- in image number 44, the
27 -- the track that's indicated in the blue arrows, you can see it's relatively --
28 well, it does -- it does turn towards the vehicle there. You can see how the --
29 the blue arrows, they do start to lean towards the vehicle. And then at the -- at
30 the blue Ford Escape, and then once they're at the blue Ford Escape, they
31 certainly take a sharper angle.

32

33 Q Okay. So you witnessed the tracks and the two vehicles in -- where they sat.
34 Did it appear to you that the grey Escape turned in to the blue Escape?

35 A Yes.

36

37 Q Okay.

38 A Yeah, I'd agree with that.

39

40 Q Okay.

41 A I just don't want to say something I can't be a hundred percent sure of. It

1 would appear as it did, though.

2

3 Q Sure. Yeah. I was just looking at your prelim transcript, and that's --

4 A Yeah.

5

6 Q Yeah. Okay. That's -- that's fair enough. Now, the grey Escape definitely hit
7 the blue Escape?

8 A Yes.

9

10 Q And moved it how far?

11 A Approximately one to two metres.

12

13 Q Okay. So the blue Escape, as far as you're aware, all indications were that it
14 was stationary, parked?

15 A It indicated it was, yes.

16

17 Q Got hit by the grey Escape moving?

18 A Yes.

19

20 Q Okay. How much force -- how much speed would the grey Escape -- how fast
21 would the grey Escape have to be going to throw a stationary vehicle over a
22 metre or two?

23 A I don't know.

24

25 Q Okay. You didn't have an accident reconstruction give an opinion on how
26 much --

27 A No, I didn't.

28

29 Q Oh. Okay. When was the grey Escape -- when was it released to Astro
30 Towing?

31 A I would have to check my notes for sure.

32

33 Q If you could.

34 A So it was after 8:21 AM on August the 14th, I believe.

35

36 Q Okay. And are you aware of RCMP -- other RCMP officers going back and
37 getting more information from the grey SUV after that?

38 A No.

39

40 Q Okay. You're not aware of that?

41 A No.

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Q Okay. Okay. Now, did you prepare a Forensic Identification Detailed Physical Evidence Report?

A No. Physical evidence comparison report? Is that what you said?

Q Forensic Identification Detailed Physical Evidence Report.

A I -- do you have it there?

Q I do, yeah.

A If I look at it, it might jog my memory. I'm not a hundred percent sure.

Q Okay. I assumed that was one -- one of your working documents.

A Oh, okay. This is -- what this form is used for, it's -- it's a check sheet that when we're on scene, you can go through and just gives you guidance as far as using different techniques, different -- yeah, but I did prepare this form, yeah.

Q Okay. I don't have copies. I thought you'd be familiar with it.

A If you'd bear with me, I can pull out my copy. I do have it, yeah.

Q If you could, that would be ...

A Perhaps we could work off yours. I -- I probably have it in here. It would just take me a moment to find it.

Q Okay. If --

A So I guess -- it depends what your questions are.

MR. SPENCER: My Lord, probably quickest is if I approach the witness. I don't think he's shy.

THE COURT: However you want to get it done, as long as it's fair, it doesn't matter to me.

MR. SPENCER: Thank you, My Lord.

Q MR. SPENCER: So in this checklist, we've got the firearm portion. And it indicates, bullets accounted for, checked "yes."

A This is -- it's not necessarily indicating that the bullets are accounted for. It's that I've considered accounting for bullets. I've thought about all these different processes. This isn't saying that this is a -- this is what I did. This is just, okay, are we thinking about this, making sure that we're talking about gunshot residue, make sure we're talking about checking for bullets, making

1 THE COURT CLERK: Is the laptop coming off?
2
3 UNIDENTIFIED SPEAKER: Yeah, I'll take it.
4
5 MR. BURGE: Is the --
6
7 THE COURT CLERK: Yes (INDISCERNIBLE).
8
9 THE COURT: Good afternoon, Sergeant.
10
11 SERGEANT BARNES: Good afternoon, My Lord. Thank you.
12
13 THE COURT CLERK: How do you take an oath? Do you swear
14 on the Bible?
15
16 SERGEANT BARNES: Yes. Yes, I do.
17
18 THE COURT CLERK: Put the Bible in your right hand. State
19 your full name.
20
21 SERGEANT BARNES: Jennifer Lynn Barnes.
22
23 THE COURT CLERK: Spell your first and last name for the
24 record.
25
26 SERGEANT BARNES: Jennifer, J-E-N-N-I-F-E-R, Barnes, B-A-
27 R-N-E-S.
28
29 THE COURT CLERK: Do you wish to stand or sit?
30
31 SERGEANT BARNES: I'll stand. Thank you.
32
33 THE COURT: Before you get started, are you tendering
34 this witness as an expert?
35
36 MR. BURGE: Yes, My Lord. I'm tendering this witness
37 as an expert in -- I'll tell you about her area, and just -- I'll also inform you that my
38 friend is -- is admitting her qualifications.
39
40 THE COURT: Okay.
41

1 MR. SPENCER: That's right.

2

3 THE COURT: And what -- well, I'll -- you know what
4 you are doing. I will let you just get through. But at the end, I need to know
5 precisely the expertise that you wish to have her qualified as, but I will let you
6 handle it as you see fit.

7

8 MR. BURGE: Thank you, My Lord.

9

10 **JENNIFER BARNES, Sworn, Examined by Mr. Burge (Qualification)**

11

12 Q MR. BURGE: Sergeant Barnes, I understand that you
13 are -- work in a specialized field at this time; is that correct?

14 A Yes, that's correct.

15

16 Q And what is that field?

17 A I am a bloodstain pattern analyst with the RCMP.

18

19 Q And I understand, Sergeant, that as a bloodstain pattern analyst, you're
20 involved in the examination and analysis of the size, shape, location, and
21 distribution of bloodstains and bloodstain patterns in order to provide an
22 interpretation of the events that caused those stains?

23 A Yes, that's correct.

24

25 Q And is that the area in which you -- you offer an opinion to the Court this
26 afternoon?

27 A Yes. Yes, that's correct.

28

29 THE COURT: And I want you to give that to me slower
30 so I can write it down, please.

31

32 MR. BURGE: Okay.

33

34 THE COURT: Examination?

35

36 MR. BURGE: Examination and analysis of the size,
37 shape, location, and distribution of bloodstains and bloodstain patterns in order to
38 provide an interpretation of the events --

39

40 THE COURT: Okay.

41

- 1 MR. BURGE: -- that caused --
2
- 3 THE COURT: In order to provide an interpretation.
4
- 5 MR. BURGE: Of the events that caused the stains and
6 patterns?
7
- 8 A Yes, that's correct.
9
- 10 THE COURT: Thank you, Mr. Burge.
11
- 12 Q MR. BURGE: Sergeant, I understand you have brought
13 a series of documents with you that might be of assistance to us?
14
- 14 A Yes, that's correct.
15
- 16 THE COURT: Okay. Well, you -- did you want to go
17 through her qualifications a little bit --
18
- 19 MR. BURGE: Okay.
20
- 21 THE COURT: -- before I qualify her as an expert?
22
- 23 MR. BURGE: Okay. Thank you.
24
- 25 Q MR. BURGE: You've been a member of the RCMP for
26 how long?
27
- 27 A Since March of 2000.
28
- 29 Q And I understand you would have been in -- on general duty for some period of
30 time?
31
- 31 A Yes. I was on general duty until 2004.
32
- 33 Q And then from there, you --
34
- 34 A From there, I was accepted into the Forensic Identification Section in Dauphin,
35 Manitoba. And in 2007, I transferred to Red Deer, Alberta, in the Forensic
36 Identification Section. And in 2013, I was accepted into the Bloodstain Pattern
37 Analysis Section in Edmonton, Alberta, which is where I'm currently posted.
38
- 39 Q Okay. Once you were accepted into that section, was there some kind of an
40 understudy program?
41
- 41 A Yes. To be accepted into the Bloodstain Pattern Analysis Section, one first has

1 to be a Forensic Identification Specialist certified under RCMP standards. And
2 then once you are accepted into the section, you are required to undergo
3 another understudy program. And the understudy program lasts at least for a
4 year, and you're required to complete textbook readings in bloodstain pattern
5 analysis research, conduct experiments in bloodstain pattern analysis, attend
6 crime scenes, and do exhibit examinations, first with a mentor or a supervisor
7 who is a certified bloodstain analyst, and then on your own. And also provide a
8 -- sorry. Complete a written exam, as well as at the end of the understudy
9 period, you're required to present in a mock trial setting an actual case file that
10 you've done a bloodstain pattern analysis on in front of a panel of three
11 certified analysts and present the evidence and your results, as well as answer a
12 number of questions relating to bloodstain pattern analysis. And once you
13 complete all of these qualifications, then you are certified under RCMP policy
14 as a bloodstain pattern analyst.

15

16 Q And when did you become certified?

17 A I was certified in December 2014.

18

19 Q And since December of 2014, what you have been doing?

20 A As a certified bloodstain pattern analyst, I continue to attend crime scenes and
21 do exhibit examinations for the interpretation of bloodstains and bloodstain
22 patterns. I'm also required to train new understudies. I provide education to
23 other police members, to other police sections, as well as members of the
24 public in certain circumstances of what bloodstain pattern analysis is. I teach
25 occasionally on the bloodstain pattern course at the Canadian Police College in
26 Ottawa. And I'm also required to attend court and present my analysis and
27 findings at all levels of court in the various provinces.

28

29 Q Okay. Sergeant, I'm showing to you a CV that you have prepared; is that --

30 A Yes. This was prepared by me.

31

32 Q And does that pretty much contain what you have advised the Court as to your
33 qualifications as a bloodstain pattern analyst?

34 A Yes, it's accurate.

35

36 Q And that's -- that's up to date as to when?

37 A It's up to date as of September 19th, 2017.

38

39 MR. BURGE: Okay. Perhaps that could be marked?

40

41 THE COURT: Exhibit P-3.

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MR. BURGE: Thank you.

EXHIBIT P-3 - Curriculum Vitae of Sergeant Jennifer Barnes

THE COURT: Thank you. Okay.

MR. BURGE: I can ask further questions, My Lord, if you wish.

THE COURT: I don't need any. And you are consenting to her expertise?

MR. SPENCER: We -- we accept Sergeant Barnes as an expert in --

THE COURT: Okay.

MR. SPENCER: -- in the area.

Ruling (Qualification)

THE COURT: What I'm going to do, then, based upon the evidence I have heard thus far and the curriculum vitae which I have seen, I intend to qualify Sergeant Barnes as an expert in the area of examination and analysis of the size, shape, location, and distribution of bloodstains and bloodstain patterns in order to provide an interpretation of the events that caused the stains and patterns.

MR. BURGE: Thank you.

THE COURT: And, ladies and gentlemen of the jury, what this means -- and I'll go into more detail what an expert testimony is -- but generally speaking, people who testify are not able to provide their opinions. They have to just tell us what they saw or did. But if somebody is qualified to be an expert, which Sergeant Barnes has now done, she is entitled to provide her opinion evidence. And I'll talk more in detail about what that means at a later date. Okay.

Go ahead, Mr. Burge.

MR. BURGE: Thank you. Thank you, My Lord.

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JENNIFER BARNES, Previously Sworn, Examined by Mr. Burge

A Thank you, My Lord.

Q MR. BURGE: Sergeant Barnes, I understand you have brought with you something that you -- a document that you prepared that describes what -- what bloodstain pattern analysis is; is that correct?

A Yes, that's correct.

Q And do you have that with you? Do you have it -- or do I have all the copies in my hand?

A You have all the copies.

Q Okay. And you also have, I understand, prepared a booklet of photos that you have received from Corporal Terry Heroux?

A The booklet contains some photos that I received from Corporal Heroux, as well as some that I took during my examination of the exhibit.

Q And I -- and I understand that this would be of assistance to the jury for you to go through this; is that correct?

A Yes, that's correct.

THE COURT: And I take it, Mr. Spencer, you have no objection to the booklet?

MR. SPENCER: No. Just getting it now, so I may be a little bit -- a little while to sort through it, but no objection. No concern there.

THE COURT: Okay. So it can be marked as Exhibit P-4?

MR. SPENCER: Absolutely, yeah.

THE COURT: Okay. That will be Exhibit P-4.

MR. BROWNE: And, My Lord, I have copies for the jury.

THE COURT: Thank you. Go ahead.

MR. BURGE: My Lord, there's a -- there's a document

1 entitled Bloodstain Pattern Analysis that I'd like to show to the witness. And --
2 and a second one, which is a booklet of photos. So that -- perhaps that should be
3 P-5.

4

5 THE COURT: Okay. So the -- P-4 -- what is the
6 document entitled? Is it bloodstain pattern analyst booklet will be P-4, and the
7 photographs referred to by Mr. Burge is Exhibit P-5.

8

9 **EXHIBIT P-4 - Booklet on Bloodstain Pattern Analysis**

10

11 **EXHIBIT P-5 - Booklet of Photographs from Sergeant Jennifer Barnes**

12

13 A Photographs, yeah.

14

15 MR. BURGE: I do have extra copies, My Lord, for you.

16

17 THE COURT: Thank you.

18

19 THE COURT CLERK: Can I just mark (INDISCERNIBLE) --

20

21 A Oh, by all means. P-4, I think. Whoops. Sorry.

22

23 Q MR. BURGE: Sergeant, I -- I would like to ask you to
24 describe to the jury what bloodstain pattern analysis entails. And I expect that
25 by going through Exhibit P-4, that that will help the jury to understand your --
26 your specialty.

27 A Yes, that's correct.

28

29 Q Please go ahead.

30 A So if you open the booklet to page 2, it gives a general definition of what
31 bloodstain pattern analysis is, which we did go over already. The examination
32 of size, shape, location, and distribution patterns of bloodstain -- and
33 distribution of bloodstain and bloodstain patterns in order for an interpretation
34 of the events that caused them.

35

36 So I've prepared a bloodstain pattern analysis booklet just to give you a little
37 bit more information on what bloodstain pattern analysis is, what we can offer
38 in terms of information at scenes, and a little bit of background on the
39 terminology that I use in my report, just so we're all familiar with what I mean
40 when I'm talking about the bloodstain terminology.

41

1 So on page 3, I've outlined some abilities of bloodstain pattern analysis. These
2 are what -- pieces of information that we may be able to offer as a result of an
3 analysis. It's not a hundred percent all the time. Sometimes we can offer
4 portions of them, and sometimes we can't offer any additional information to
5 the investigation. But it's listed on page 3. They include the distance between
6 the target surface and the blood source, an area of origin, which in -- if I have
7 an impact pattern, it -- I can sometimes figure out in a three-dimensional space
8 where the blood source was located when that impact occurred. There's the
9 mechanism used. Possibly, sometimes, we can determine what caused the
10 blood spatter, if there's a specific tool or weapon or what type of injury.
11 Movement of persons during or after the bloodletting. So if there was
12 movement around, sometimes we can figure out if there was movement of the
13 blood source. The position of the victim or the assailant during the
14 bloodletting. The minimal number of blows. So if there was an impact, how
15 many impacts. We can usually do a minimum number of impacts. And
16 sometimes we can confirm or refute witness or accused's statements using the
17 blood patterns as an indication of what may or may not have happened.
18 Sometimes it corroborates what was told to the investigative team, and
19 sometimes it differs.

20

21 So on the next page, the -- the important premises of bloodstain pattern
22 analysis is that bloodstains are predictable and reproducible. So if I have a
23 mechanism that created a specific pattern, I should be able to go back into my
24 lab and perform an experiment and get a very similar pattern using the same
25 mechanism. And that's how we can determine and provide an interpretation as
26 to what may have caused the pattern. Some patterns are very specific in how
27 they appear and what caused them. So I can provide an educated opinion as to
28 what might have caused it. And the fact that I can use photographs for
29 examples in my booklet that come from experiments to use -- to illustrate the
30 different types of bloodstains and bloodstain patterns, indicates that I can
31 reproduce the patterns in a lab setting.

32

33 So it's based on mathematics, physics, fluid dynamics, the science of
34 projectiles in motion. So blood behaves the same regardless of the age of the
35 person, the sex of the person, the race of the person, the blood behaves the
36 same, and it adheres to the laws of physics. So we can figure out a lot of
37 information, sometimes, from looking at the bloodstains and patterns.

38

39 So the next page, it is another key concept which is blood droplets are
40 spherical when they're in flight. So they form -- the surface tension is -- holds
41 the molecules together, and it forms a -- the smallest area exposed, which is a

1 sphere in a liquid. So the blood drops, when they're in flight through the air,
2 they're spherical.

3
4 The next page deals a little bit with more with surface tension. And you can see
5 that this is actually the edge of a tool, and the blood is collecting, and it's
6 slowly forming this slightly spherical shape, but it's still holding on. Due to
7 surface tension, it's -- hasn't been overcome by gravity yet. Once this blood
8 droplet accumulates enough volume to overcome and the gravity pulling down
9 overcomes this tension, this is going to break off and become a blood droplet.
10 So that's what happens when the gravity -- with gravity-produced drops. And
11 you can see it looks like a teardrop, but then when it breaks off, it actually
12 becomes a sphere when it's in motion.

13
14 Now, for spatter to occur, which is a topic I'm going to touch on a little bit in a
15 bit, a force has to be applied to this. This is -- this is just gravity forming blood
16 droplets, but to get actual spatter, what we call spatter, a force has to be applied
17 to this blood to cause it to be dispersed through the air. And we'll talk a little
18 bit more about what types of energy and forces that we can -- we can produce
19 spatter.

20
21 So the next page just touches on the physics of blood in flight. For me to figure
22 out an angle of impact or what angle the blood droplet struck a surface, we use
23 trigonometry as a calculation. And that assumes that the blood droplet is
24 travelling in a straight line. Once it gets dispersed from the blood source --
25 with our calculations, we have to assume that it travels in a straight line in
26 order to be able to do a trigonometric -- a trigonometry calculation, if anybody
27 remembers math class, the triangles with the right-angle triangle. But actually,
28 there are two factors that always act on blood when -- as soon as it's dispersed
29 from the source. One is gravity, and the other is air resistance. So instead of
30 travelling in a -- in a direct straight line, it actually travels in this curved line,
31 which is what we call a parabolic arc. So what that translates to is when we do
32 an area of origin for an impact, because we are assuming the blood travels in a
33 straight line for our calculations, we always express it at a maximum height or
34 lower because it will always be higher than the actual parabolic curve. So
35 that's the physics background for the bloodstain, very quickly.

36
37 Now, the shape of blood spatter is also very important. And what I've outlined
38 here is the angle at which the blood droplet strikes the surface has an effect on
39 the shape of the resulting stain. So if you see, starting from the right side, it's
40 90 degrees. That means it's a circular stain, pretty circular. That means the
41 blood droplet has come into the target and struck it at a 90-degree angle, so

1 straight on. As the angle changes, the shape of the droplet changes. So you can
2 see through the 65 degrees, it's starting to get slightly elongated, and as the
3 angle gets sharper, the bloodstain becomes longer and thinner, more of an
4 elliptical shape. So this is true when the blood droplet strikes a flat surface at
5 an angle or if the blood is coming straight down and the surface is angled. So if
6 it's coming down and the surface is angled, it's going to produce a longer
7 elliptical shape, as well.

8
9 So these are just indications of angles that, if you see a long elliptical
10 bloodstain, if the surface isn't angled, then it struck the surface at a sharper
11 angle than -- than a circular stain.

12
13 The next page, page 9, deals with a little bit of surface effects. What type of
14 surface the blood strikes also has an impact on the resulting appearance of the
15 stain. If you'll notice, the carpet on the left side is distinctly different in
16 appearance than the glass on the far right. But the blood droplets were dropped
17 from the same distance. So you can see the different effects that the surface has
18 when it breaks up the blood droplet, how much of it is absorbed into the
19 surface and the resulting stains around the central stain, which we call the
20 parent stain. It's affected by the surface.

21
22 So on page 10, I -- we start into the terminology. And a group called
23 SWGSTAIN created bloodstain terminology that was accepted by the RCMP
24 bloodstain pattern analysts as a general terminology. So all of us in the RCMP
25 use the same bloodstain terminology in our reports.

26
27 So the next page just defines a couple of terms that I use in my report. A
28 bloodstain, of course, which is a deposit of blood on a surface. A bloodstain
29 pattern, which is a grouping of bloodstains that indicate through regular or
30 repetitive arrangement how they were deposited or the manner in which they
31 were deposited. The target, when I refer to a target, it's just the surface on
32 which the blood was deposited.

33
34 The next page, I also talk about a term called directionality. And when you see
35 an elliptical-shaped bloodstain like this and there's -- at the bottom, there's the
36 main body of the bloodstain. And then on the top, you'll see what we call a
37 tail. And that points in the direction that the blood was travelling when it hit
38 the surface. So it strikes the surface and then continues to travel. And in your
39 photo, it will be from the bottom to the top because the tail points in that
40 direction. So when I say directionality, that's the direction that the bloodstain
41 was moving when it was deposited on the surface.

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The next page also shows a directionality and how the tail is formed on the bloodstains. So you'll see the directionality in the next page is from top to bottom because the tail is pointing downward. And this series of photos just shows how the -- the -- where it starts and then how the progression ends up with the tail. And then the smaller stain on the bottom is not quite as sharp an angle, but you can see still along the bottom there's more of a scalloped edge, and that indicates direction. It's not as obvious as the one in the series of photos, but there is some directionality to that. So when I say directionality, that's what I'm referring to.

The next page, 14, indicates three broad categories of bloodstain that we use: gravity-produced, transfer, and spatter. So page 15 is a list of the gravity-produced bloodstains. These are all of the bloodstains. I don't use the drip trail or splash pattern in my report, but these are all the types of gravity-produced bloodstains.

So page 16 is the formation of a drip stain. If you'll remember the previous photo we had about the surface tension and the blood droplet forming, this is the same principle. It's forming due to gravity. Eventually the volume of the bloodstain -- the blood in the droplet and it overcomes the surface tension and falls off the object in a spherical blood droplet, again. And at the photo at the very bottom is the resulting stain when it hits the surface. You'll notice it's quite round. So it's struck the surface likely at a 90 degree or close to 90 degree angle, because it's a rounder stain.

Page 17 is what we call a drip pattern, and that's produced when a liquid drips into another liquid, one of which is blood. And it creates this, what we call, satellite spatter. So all of the smaller stains surrounding the central stain is what we call satellite stains. So this whole pattern would be a drip pattern.

The next page is the -- it further shows you how the -- the drip patterns are formed. So the droplet enters the main pool. It displaces the blood, and you'll see -- in a crater-like shape, and you'll see that the blood starts to spread out and form these little fingers. And then as you move left to right through the photos, the fingers will break up, and into the little smaller satellite stains. And there -- you'll see them in the final photo, dispersed around the main stain. So these are satellite stains around, and that's how they're formed in the drip pattern.

Nineteen is an explanation of the satellite stains that I just touched on. The

1 central stain is what we call the parent stain, and then all the satellite stains
2 around are -- are formed as a result of liquid dripping into the central parent
3 stain.

4

5 A flow pattern is a down -- is a flow, typically from gravity or it could be
6 movement of the surface. So if the blood is sitting on a surface, and it gets
7 moved, then it will flow according to gravity and the direction that the surface
8 has moved. So you see these -- what we call flow patterns coming out of stains.

9

10 The next page, a pool is just an accumulation of blood on a surface.

11

12 The next page is the second category of bloodstains that I touched on, the
13 transfer bloodstains. So we have four different ones. All of them are used in
14 my report.

15

16 So the next page, 23. So a transfer stain results from contact between a blood-
17 bearing object and a non-blood-bearing object. Sometimes you can tell what
18 the object was, like in these photos, the handprint or the shoe impression, and
19 sometimes it's just a generalized transfer of blood.

20

21 Page 24 is a saturation stain. It's an accumulation of blood in an absorbent
22 material. So very similar to a pool, except there is -- it's been absorbed into a --
23 a material.

24

25 The next page, 25, is a swipe pattern, which is a blood-bearing object coming
26 into contact with a non-blood-bearing object, very similar to transfer, but now
27 there's movement, so it's a swipe pattern. So something has contacted a
28 surface and moved along it, and that's where the swipe pattern is produced.

29

30 And the next page is a wipe pattern. So the blood was already on the surface,
31 and something has actually wiped through it. So there's blood droplets or
32 bloodstains on a surface, and then something's come along and displaced the
33 blood. And you can see the movement -- the original stains, and the resulting
34 movement of the -- of the object through them.

35

36 Twenty-seven is the third category, and these are spatter bloodstains. These are
37 where some sort of force has been applied to a blood source, and it causes the
38 blood to be dispersed through the air. Now, when I say force, that doesn't
39 necessarily mean that somebody hit somebody. A force can be a number of
40 things, different mechanisms.

41

1 And I've outlined all of the different types of spatter bloodstains. Back spatter
2 is the backwards -- or the -- when you have a projectile travelling through
3 something and it's the blood spatter that's travelling in the opposite direction
4 of the projectile. Castoff is -- is it's being cast off through the motion of an
5 object. Cessation castoff is the stopping of the motion and the resulting
6 bloodstains. Expiration is from an airflow through a wound or your nose or
7 your mouth. If blood is coming out, you get an expiration pattern. Forward
8 spatter, again, with the projectile, except it's travelling in the same direction as
9 the projectile. Impact pattern, that's where you have a strike or a blow to a
10 blood source and it causes the dispersed bloodstains. And projected is from a
11 breached blood vessel or a blood vessel that's under pressure and the blood is
12 released.

13

14 So -- now, these patterns are specific. And if I'm doing an analysis and I can't
15 definitively say what specific pattern they are, then I categorize the stains as
16 just spatter stains because I know there's been a force applied to that stain to
17 make it disperse through and land on the object, but I might not be able to tell
18 exactly what mechanism caused that. So that's where I'll call them just spatter
19 stains. I know that something's happened, but I can't say for sure what, or
20 there's a number of different combinations that could happen, so we go with
21 spatter.

22

23 So the next page, 28, is an illustration of how the spatter is formed. This is
24 from an impact, but your object starting from the left to the right, it strikes the
25 liquid blood source and then causes the blood to be forced out in all directions.
26 And it's forced out in sheets and then the fingers, and then they break up into
27 the small stains that we call spatter stains. And you can see them dispersed
28 onto the paper around the blood source, and you can see them up on the wall
29 behind, and even some along the bottom of the -- of the tool.

30

31 So that's how spatter stains are formed from an impact or a force applied.
32 That's what happens. They break up.

33

34 And 29 just shows again the elliptical shape of the spatter stains that have
35 struck your target at less than 90 degrees. So these have come in at an angle
36 because they're elongated and they have the tails that I spoke about before.
37 And you can see which direction the blood was travelling by which direction
38 the tail is pointing.

39

40 And page 30 is just a title page for the miscellaneous bloodstains. I also use a
41 term called a void, which is on page 31. And that's an absence of blood in an

1 otherwise continuous pattern. So something has blocked these stains, and you
2 can see an outline of an object. Something's been there and blocked the stains
3 from being deposited on your target.

4

5 So that's a general overview of bloodstain pattern analysis and the terms that
6 I'm going to touch on in my report.

7

8 Q Thank you. Sergeant, I understand that you were asked to do a couple of
9 different analyses in this particular case; is that correct?

10 A In this particular case, yes. I analyzed an exhibit, a firearm exhibit, and I also
11 analyzed some photos that were taken at the scene by the Ident. member,
12 Corporal Heroux.

13

14 Q And in your report, which is P-5, do you take us through those two separate
15 analyses?

16 A Yes, that's correct.

17

18 Q And would it be appropriate for you to just walk us through this report?

19 A Yes. I can do that. For the report, do you want to produce the copies, as well,
20 or do you just want me to --

21

22 Q Do you have the report with you?

23 A Just -- I have the report with me.

24

25 Q That would be fine. I think we've distributed those.

26 A No, we just did the photo booklets.

27

28 Q Oh, okay. Let's talk about the photo booklet. If you can take us through P-5,
29 the photo booklet? And would it -- would it be of assistance to go through your
30 report at the same time?

31 A It -- it would make it probably a lot simpler and easier to -- if you could look at
32 the photos as well as the report at the same time.

33

34 Q I'll show you a forensic lab report dated -- it looks like the 5th of April, 2017,
35 authored by yourself, and it's report number 1. If we could -- is this -- is this
36 your report?

37 A Yes, it is.

38

39 Q And that references the examination that you did of photos of -- of this
40 particular crime scene, as well as your examination of the .22 Cooney rifle or at
41 least a portion of it?

1 A Yes, that's correct.

2

3 MR. BURGE: My Lord, if that could be the next
4 exhibit? I believe we're at P-6.

5

6 THE COURT: Mr. Spencer, do you have any objection?

7

8 MR. SPENCER: No, My Lord.

9

10 THE COURT: Okay. That will be Exhibit P-6.

11

12 **EXHIBIT P-6- Forensic Lab Report #1 dated April 5, 2017**

13

14 MR. BROWNE: And, My Lord, I do have copies for the
15 jury.

16

17 THE COURT: Okay. If you can distribute them, that
18 would be appreciated.

19

20 UNIDENTIFIED SPEAKER: (INDISCERNIBLE).

21

22 A Oh.

23

24 THE COURT CLERK: They're all copies that you have made?

25

26 MR. BROWNE: That's correct.

27

28 THE COURT CLERK: (INDISCERNIBLE).

29

30 THE COURT: Thank you.

31

32 A Thank you. 2017, April the 5th.

33

34 THE COURT CLERK: April 5?

35

36 A Yes. So if you refer to the report and the photo booklet, I've taken the same
37 photos that I've used in my report and included them in the photo booklet. And
38 the photo number is at -- noted at the bottom of each photograph. The ones that
39 are designated TRH were not taken by me. They were given to me by the
40 Ident. member, Corporal Heroux.

41

1 Q MR. BURGE: Thank you.

2 A And the photos that have JLB underneath were taken by myself.

3

4 So page 2 shows the overall of the vehicle on the rural property in the R.M. of
5 Glenside, Saskatchewan. Photo number 3 is of the driver's compartment, the
6 seat, the floor, and the door frame. From the photos I observed saturation
7 stains, transfer stains, and bloodstains, as well as a blood pool in -- on the
8 driver's floor portion. There were overlapping saturation and drip stains on the
9 driver's seat, and some have flow patterns toward the ground. And these stains
10 were concentrated along the front and the left side of the seat, left -- if you
11 were sitting in the seat, it's the left side. The plastic seat frame underneath, it
12 shows red staining, which is multiple overlapping drip stains, again with flow
13 patterns toward the ground. A drip pattern is visible on there, as well as there's
14 transfer stains and satellite stains and/or spatter. So again, we go back to this
15 spatter stains and satellite stains.

16

17 The driver's door frame that is directly adjacent to the plastic seat frame has a
18 blood pool, satellite, and spatter stains, as well as drip stains, some of them
19 having flow patterns towards the ground.

20

21 If you'll turn to the next page, it's a closer-up. And you'll see on the corner of
22 the seat, there's a white sticker with a black arrow on it. This is from the Ident.
23 member, and it was marked FIS Number 36. This is where I understood the
24 swab to have been taken by the Ident. member. And my result of the analysis is
25 that this saturation stain was consistent with being created by a blood source
26 with a DNA profile matched to Colten Boushie accumulating in that seat
27 material.

28

29 If you turn to page number 5 in the photo booklet, this is a closer-up of the
30 same area of the photo. And this saturation stain, again, is consistent with
31 being created by Colten Boushie bleeding onto this seat for an indeterminate
32 time period. When I say "indeterminate", it means I can't exactly say how long
33 the blood source was in contact with that seat.

34

35 So page number 6 shows the inner side of the driver's side door. There are
36 saturation stains on the fabric beside the door handle. There's multiple drip
37 stains with flow patterns toward the ground. There's a drip pattern along the
38 bottom storage compartment, and there's also swipe and wipe patterns visible
39 on the door, as well as a blood pool accumulating in the handle compartment.

40

41 On page 7, that's the outer side of the driver's side door. There was a minimum

1 of five bloodstains, some with flow patterns with directionality toward
2 ground again. And these bloodstains appear to have been diluted or altered
3 with a clear liquid. So you'll notice that they're not as visible in the photos as
4 the other stains.

5
6 Page 8, we're moving to my examination of the partial firearm. It -- and I say
7 partial because it had a missing stock. And this is an overall photograph of the
8 -- of the firearm. There were a number of transfer stains and bloodstains
9 located on the trigger, on the bolt, and on the barrel of the firearm. Also a
10 minimum of 150 spatter and/or satellite stains around the housing, around the
11 chamber, and on the barrel and the magazine, which was underneath the barrel.

12
13 And if you turn to page 9, it's a close-up, it's -- you'll see a scale on there
14 marked BPA11-01. That was where I obtained my swab from the trigger. And
15 the next page shows a close-up of the other angle of the trigger. And my result
16 of my analysis was that the bloodstains at BPA11-01, they were consistent
17 with being created by blood with the DNA profile matched to Colten Boushie
18 being deposited onto the trigger.

19
20 And the next page, page 11, is a closer view of the barrel and the magazine.
21 And you'll see a number of white circles. And I've circled the bloodstains, just
22 for photographic purposes, to make it easier to see the distribution of the stains
23 along the barrel and the magazine.

24
25 And page 12 is a close-up, and you'll notice a scale that says BPA11-02. And
26 these spatter and/or satellite stains, BPA11-02, are consistent with being
27 created while the firearm was in proximity to the driver's compartment with
28 the DNA profile matched to Colten Boushie.

29
30 Q Sergeant, starting with -- with the -- the last page of this booklet, page 12, and
31 you've described spatter and satellite stains on -- on the barrel of this -- this
32 rifle. Are you able to associate these stains with any of the areas where there
33 was an accumulation of blood in the vehicle?

34 A As part of my analysis, I've indicated that they are spatter and/or satellite
35 stains, meaning that the barrel of the firearm had to be in the area of the
36 driver's compartment of the vehicle where the blood was deposited, but I also
37 indicate that it could be satellite stains, if you'll recall from the drip patterns
38 that we saw along the side of the -- when it drips into the pool and it creates the
39 satellite stains, or it could be caused by blood spatter, the force that was
40 applied to the blood causing it to spatter onto the barrel of the firearm. And
41 I've indicated that it's in proximity to the driver's compartment because the

1 blood has to have been able to travel onto the firearm in a direct line with --
2 when it's deposited in the -- in the driver's compartment, the firearm has to be
3 in a direct line to -- for the blood to be able to be deposited on it. It can't be in
4 a different location somewhere. It's not possible to get that -- the blood
5 deposited on it. It has to be somewhere within how -- exactly where it was, I
6 can't say. And before when I indicated we indicate that it's just spatter, I can't
7 assign a particular mechanism to what caused it. Or it could be a combination
8 of the two. That's why I've indicated that it's satellite and/or spatter stains.

9

10 Q So if -- if it's a satellite stain or a combination of the two, if we look at the
11 satellite stain aspect, would the firearm need to be somewhere in the proximity
12 of an area where blood has accumulated so that when more blood drops onto
13 that larger blood accumulation, there's then a -- a splash that creates the
14 satellite stain?

15 A Yes. It has to be in the vicinity so when the blood drops into the other liquid,
16 which is blood -- apparently blood in this case, when the stains are formed,
17 when the blood comes up and breaks off into the little stains, the firearm has to
18 be in the vicinity for those stains to actually land on the barrel. But --

19

20 Q And would they -- and would the -- would the blood, in your opinion, be
21 coming from above the -- the accumulation of blood? Is that -- would the
22 source of the bloodletting have to be above where the blood is accumulating?

23 A For a drip pattern and the resulting satellite stains, the blood source has to fall
24 into the pool, the original pool, so it has to come from above. If it's dispersed
25 through another means, then it's a different mechanism that causes it.

26

27

28

29 EXAMINATION-IN-CHIEF CONTINUES AT VOLUME 2, PAGE T201

30