

STATE OF WISCONSIN : CIRCUIT COURT : MANITOWOC COUNTY
BRANCH 1

STATE OF WISCONSIN,

PLAINTIFF,

JURY TRIAL

TRIAL - DAY 1

vs.

Case No. 05 CF 381

STEVEN A. AVERY,

DEFENDANT.

DATE: FEBRUARY 12, 2007

BEFORE: Hon. Patrick L. Willis
Circuit Court Judge

APPEARANCES: KENNETH R. KRATZ
Special Prosecutor
On behalf of the State of Wisconsin.

THOMAS J. FALLON
Special Prosecutor
On behalf of the State of Wisconsin.

NORMAN A. GAHN
Special Prosecutor
On behalf of the State of Wisconsin.

DEAN A. STRANG
Attorney at Law
On behalf of the Defendant.

JEROME F. BUTING
Attorney at Law
On behalf of the Defendant.

STEVEN A. AVERY
Defendant
Appeared in person.

TRANSCRIPT OF PROCEEDINGS

Reported by Diane Tesheneck, RPR

Official Court Reporter

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1 THE COURT: At this time the Court calls
2 State of Wisconsin vs. Steven Avery, Case No. 05 CF
3 381. Will the parties state their appearances for
4 the record, please.

5 ATTORNEY KRATZ: Good morning, Judge. The
6 State of Wisconsin appears by Calumet County
7 District Attorney Ken Kratz, lead counsel and
8 appearing as special prosecutor in this case.
9 Appearing with me include Tom Fallon, an Assistant
10 Attorney General from the Department of Justice and
11 Norm Gahn, an Assistant District Attorney, from
12 Milwaukee County, Wisconsin, also appearing as
13 special prosecutor.

14 ATTORNEY STRANG: And good morning. Steven
15 Avery appears in person. He's represented by Jerome
16 Buting, immediately to my left, and I am Dean
17 Strang.

18 THE COURT: All right. We're here this
19 morning, before we bring the jurors out, first of
20 all, to discuss any comments the parties have on the
21 opening instructions that have been provided by the
22 Court. Before we get to that, are there any other
23 issues that either party feels should be addressed
24 before the jurors are brought in?

25 ATTORNEY KRATZ: The one logistical issue I

1 had was during the opening statements and the
2 closing arguments the Clerk, Ms Bonin, has a switch
3 near her which is called public seating or something
4 of that nature. I'm going to ask that that switch,
5 and I got the approval of the sheriff for that --

6 Quite frankly, Judge, with PowerPoint or
7 other presentations in this area, the gallery and
8 other spectators find it much easier to see those
9 without that one bank of lights, the public
10 seating lights. If Ms Bonin would like to try
11 that at this point so the Court can see, I would
12 appreciate that.

13 THE COURT: Go ahead.

14 ATTORNEY KRATZ: I think Mr. Buting
15 indicated he had no objection. It just provides
16 less glare and an opportunity for those in the
17 public to observe what it is that we're talking
18 about. Again, I suggest that just for openings and
19 closings.

20 THE COURT: All right. Any objection?

21 ATTORNEY STRANG: There is not.

22 THE COURT: Anything else to take up before
23 we address the opening instructions?

24 ATTORNEY STRANG: My thought is that we
25 might take Mr. Avery's personal statement on

1 waiving -- or not waiving, but stipulating to the
2 second element of Count 3 of the second Amended
3 Information.

4 THE COURT: Very well. For the record, I
5 will note the Court has previously been informed
6 that the defendant intended to stipulate to the
7 second element of the possession of a firearm
8 charge; that is, the defendant's status as having
9 been convicted of a felony before November 5 of
10 2005.

11 Before I notify the jury that the
12 defendant is making that stipulation, the Court
13 has to make sure that the defendant is doing so
14 knowingly and voluntarily. So, Mr. Avery, I'm
15 going to be addressing these questions to you.

16 Before the Court accepts your
17 stipulation to one of the elements of the felon
18 in possession of a firearm charge, I'm going to
19 be asking you a few questions. If you have any
20 trouble understanding any question that I ask,
21 let me know and I will let you speak with your
22 attorneys.

23 Mr. Avery, do you understand that you
24 have the right to a jury trial in this case and
25 that includes the right to require the State to

1 prove every element of each offense charged,
2 beyond a reasonable doubt, to all members of the
3 jury? Do you understand that?

4 THE DEFENDANT: Yes, I do.

5 THE COURT: You understand that in the case
6 of the felon in possession of a firearm charge, this
7 means that you can, if you wish, require the State
8 to prove, beyond a reasonable doubt, that you were
9 convicted of a felony before November 5 of 2005? Do
10 you understand that?

11 THE DEFENDANT: Yes, I do.

12 THE COURT: Do you further understand that,
13 if you wish, you can stipulate; that is, you can
14 agree that you were convicted of a felony before
15 November 5 of 2005 and make further evidence on that
16 issue irrelevant; do you understand that?

17 THE DEFENDANT: Yes, I do.

18 THE COURT: Do you wish to waive your right
19 to a jury trial on that element; that is, agree that
20 you were convicted of a felony before November 5 of
21 2005?

22 THE DEFENDANT: Yes, I do.

23 THE COURT: Have you had adequate
24 opportunity to discuss your decision with your
25 attorneys?

1 THE DEFENDANT: Yes.

2 THE COURT: And have your attorneys
3 explained to you your right to a jury trial on this
4 element?

5 THE DEFENDANT: Yes.

6 THE COURT: Has anyone made any promises or
7 threats to you to give up your right to a jury trial
8 on this element of the firearms charge?

9 THE DEFENDANT: No.

10 THE COURT: Do you understand each of the
11 questions that I have asked you and what your
12 attorneys have told you about this matter?

13 THE DEFENDANT: Yes.

14 THE COURT: Mr. Strang, have you had
15 adequate opportunity to discuss this matter with
16 your client?

17 ATTORNEY STRANG: Yes.

18 THE COURT: And do you believe that
19 Mr. Avery is knowingly and voluntarily giving up his
20 right to a jury trial on this particular element of
21 the possession of a firearm charge?

22 ATTORNEY STRANG: On that element, yes, I
23 do.

24 THE COURT: Very well, the Court does find
25 that the defendant has knowingly and voluntarily

1 waived his right to a jury trial on the second
2 element of the felon in possession of a firearm
3 charge and the Court will accept the defendant's
4 stipulation on that element.

5 ATTORNEY KRATZ: For the record, Judge, the
6 State also acquiesces and accepts the stipulation.

7 THE COURT: Thank you. As I indicated
8 previously, I have provided the parties with a copy
9 of the Court's proposed opening instructions. And
10 it's the Court's understanding that those proposed
11 instructions are acceptable to each of the parties
12 with the exception of some language involving the
13 elements of the crime on the two counts that are
14 charged as a party to the crime. First, counsel, am
15 I correct in that understanding?

16 ATTORNEY KRATZ: Yes, Judge. Although the
17 State, as Mr. Gahn and Mr. Fallon and I have spoken,
18 and after our brief conversation in chambers, we are
19 asking the Court adopt a very similar series of
20 language that the Court has proposed in its last
21 submission. I will be happy to put our ideas on the
22 record, but you are correct, Judge, there is one
23 change that we're requesting.

24 THE COURT: All right. And Mr. Strang.

25 ATTORNEY STRANG: We were satisfied with

1 the whole of the Court's final proposed instructions
2 to be given preliminarily and we object to the
3 modification that the State has offered.

4 THE COURT: All right. I will hear from
5 the State first, then, on the proposed modification.

6 ATTORNEY KRATZ: Thank you, Judge. The
7 substantive change that we are asking is that
8 towards the bottom of page six of the preliminary
9 instructions, when the Court reads the element of
10 the offense for first degree intentional homicide,
11 as a party to the crime, the Court submit the
12 following language:

13 That Steven Avery caused the death of
14 Teresa Halbach or aided and abetted Brendan
15 Dassey in causing the death of Teresa Halbach.

16 As we have indicated throughout the jury
17 selection process and, in fact, in motions before
18 trial, whether Mr. Dassey testifies in this case
19 at all or whether Brendan Dassey is to be
20 referred to at all in this trial is still very
21 much at issue.

22 To highlight or alert the jury that
23 Brendan Dassey is the individual from which
24 Mr. Avery acted in concert, we believe to be
25 inappropriate and would, as some of the jurors

1 quite candidly indicated in jury selection,
2 suggest that the State should, for whatever
3 reason, be calling Mr. Dassey as a witness, not
4 withstanding his Fifth Amendment rights not to do
5 so, or against self-incrimination.

6 We're, therefore, Judge, asking that the
7 elements read that Steven Avery caused the death
8 of Teresa Halbach or aided and abetted another in
9 causing the death of Teresa Halbach. Similar
10 language would be inserted into the second
11 element, again, removing the words Brendan Dassey
12 and inserting the words another.

13 That provides no prejudice to the
14 defense. It is an accurate statement of the law
15 and, again, removes the suggestion that the State
16 in some way has a burden, or obligation, or even
17 practically speaking should call Mr. Dassey or
18 insert Mr. Dassey into this case.

19 Lastly, Judge, if the Court adopts that
20 change, then the statement or comment as to
21 unanimous agreement not being required, further
22 up on the page, on page No. 6, is in fact
23 appropriate, is required, and we would ask -- I
24 think that's joined by Mr. Strang -- that that
25 instruction be reinserted and added in the

1 preliminary instructions.

2 THE COURT: Mr. Strang? Well, just --
3 before I get to Mr. Strang, Mr. Kratz, what is the
4 language, I'm looking at page 6, element one, what
5 language exactly is the State proposing?

6 ATTORNEY KRATZ: Just instead of the name
7 Brendan Dassey, you are just exchanging that with
8 the word another.

9 THE COURT: Just a second.

10 ATTORNEY KRATZ: Aided and abetted another
11 in the commission of the crime. I think that's a
12 correct statement of the law and as I mentioned,
13 Judge, removes the suggestion that the State have an
14 obligation to set forth its theory of the
15 prosecution when it may very well be that Mr. Dassey
16 not testify in this case.

17 THE COURT: So, you are proposing to read
18 Steven Avery caused the death of Teresa Halbach or
19 aided and abetted another in causing the death?

20 ATTORNEY KRATZ: That's right.

21 THE COURT: And with respect to the other
22 references to Mr. Dassey in this count and the other
23 count, you are proposing that in each case it be
24 replaced with another.

25 ATTORNEY KRATZ: Yes, Judge.

1 THE COURT: Mr. Strang.

2 ATTORNEY STRANG: How I wish that on
3 March 2, 2006, the State had thought it as
4 inappropriate to pair Brendan Dassey and Steven
5 Avery in the commission of these crimes as it thinks
6 it today. And the 11 months of prejudicial
7 publicity that we have had, perhaps we would have
8 been spared, if the State thought then that it was
9 inappropriate to link these two together as
10 co-actors, accomplices in the death of Teresa
11 Halbach.

12 Today is too late to do that. To now
13 insert the ambiguous term "another", which
14 potentially includes the whole world, is to
15 invite the very speculation about who an
16 accomplice may have been or who a third party
17 culprit may have been, that the State
18 successfully opposed when we made a fairly
19 elaborate proffer on possible third party actors.

20 Up through that motion, it was the
21 State's position that Brendan Dassey, and Brendan
22 Dassey only, was the possible third party or
23 accomplice in this crime. And now, on no showing
24 at all of the potential culpability of another,
25 the State proposes to throw open the field of

1 possible accomplice liability to the entire
2 world.

3 That's not fair. It's not consistent
4 with the positions the State has taken to date
5 and it leaves Mr. Avery, on the one hand, unable
6 to suggest directly the liability of a third
7 person; and yet, on the other hand, defending a
8 potentially shifting or unstated theory on who
9 his accomplice or accessory may have been.

10 The State's choices on this case and on
11 the history of it before seem to me pretty clear.
12 Either stick with Brendan Dassey as the man you
13 think is the accomplice and prove it, or drop the
14 party to a crime allegation in Count 1 and Count
15 2 altogether and prove that Steven Avery
16 committed this crime without allowing him to run
17 the risk of accessory as a liability to a
18 phantom.

19 Those seem to me the two legitimate
20 choices. That's why we accepted and agreed with
21 and thought accurate the Court's final draft of
22 the preliminary jury instructions. We equally
23 would accept a redraft that struck the party to a
24 crime theory altogether, but that's the State's
25 choice to make.

1 It's allowed to decide on what theory of
2 liability it will proceed. It is not allowed on
3 the morning of opening statements to back away
4 from the man it has roped to Steven Avery for 11
5 months and say, could have been anybody. Just
6 another. Just not fair.

7 And I would ask the Court to leave the
8 instructions as they are, unless the State wishes
9 to drop the party to the crime theory of
10 liability in which case the instructions would be
11 confined to Steven Avery alone.

12 As to unanimous agreement, I don't know
13 that I have talked with the State about this at
14 all and, in fact, I don't think that unanimous
15 agreement requirement should be added back. The
16 Court had struck it; it should remain stricken.
17 And the reason is really very straight forward.

18 Understanding that there is Wisconsin
19 law to the contrary, my view of the due process
20 requirement in the 14th Amendment and the right
21 to a unanimous verdict that it embraces is that
22 the jury, all 12, must be unanimous on whether
23 the defendant is the principal, the defendant
24 directly committed the crime, or whether he was
25 an accessory, that is, an aider and abettor.

1 Now, I agree, for purposes of discussion
2 in the abstract, that which of two means of
3 aiding and abetting that Wisconsin law
4 recognizes, those, let's assume for the sake of
5 argument, jurors need not agree on unanimously.
6 Once they have decided unanimously, that it is as
7 a party to the crime rather than as the principal
8 that the defendant has been proven guilty.

9 But this instruction allows jurors to
10 differ and to return a verdict that is not
11 unanimous on the fundamental question of whether
12 one is a principal, or liable as an accessory, an
13 aider abettor, or a party to the crime.

14 Unanimity instruction, therefore, ought
15 not be given at all at this point. By final
16 instructions, I'm confident that the parties and
17 the Court, in the end, can draft an instruction
18 that treats unanimity properly.

19 THE COURT: All right. There appear to be
20 two points that separate the parties. And I'm going
21 to rule as follows: First of all, before I indicate
22 the Court's decision, I think it's important to note
23 that what we're talking about here are not the
24 closing instructions that the jury is going to get
25 when it's time to deliberate on the verdict, but

1 rather opening instructions, the purpose of which is
2 simply to make it easier for the jurors to follow
3 the evidence and understand what it is the State has
4 to prove in order to justify a guilty verdict.

5 With that thought in mind, I think it's
6 best to steer clear of controverted issues that
7 may be clarified as the evidence comes in. The
8 instructions the Court gives in the opening are
9 not necessarily the instructions that will be
10 given in the closing. It's easier to be more
11 specific at that time once the Court knows what
12 the evidence is.

13 For those reasons, I'm going to --
14 Actually, I previously changed the elements of
15 the crime language on the two party to the crime
16 charges based on a format submitted by the
17 defense. I'm going to continue to use the
18 defense format, but I will substitute another for
19 Brendan Dassey.

20 I agree that it's not a good idea at the
21 start of the trial to focus attention on
22 Mr. Dassey; although, I understand that's the
23 basis of the State's party to the crime theory.
24 When the closing instructions are given,
25 depending on how the evidence comes in, the

1 request being made by the defense may well be
2 appropriate. But for purposes of the opening
3 instructions, which are simply to outline the
4 elements that the State must prove, I don't think
5 that level of specificity is required.

6 With respect to the unanimity language,
7 as I indicated to the parties in prior
8 correspondence, while the comment to the party to
9 the crime instruction would suggest that the
10 unanimity requirement is appropriate, the Court
11 has not had a chance to fully address the defense
12 arguments and there are arguments to the contrary
13 that I believe must be addressed before the Court
14 is in a position to make a final decision.

15 It's not necessary during the opening
16 instructions to tell the jury whether or not they
17 have to be unanimous. The instructions are
18 intended to help them follow the evidence.
19 Therefore, I am not going to include the
20 unanimity language in the opening instructions.

21 I did previously reword the opening
22 language to the substantive instructions to
23 notify the jurors that the Court is going to be
24 reading portions of the specific jury
25 instructions. So certainly the possibility is

1 left open that the unanimity language can be
2 inserted in the closing instructions.

3 I believe that addresses the parties
4 comments with respect to the opening
5 instructions. Is there anything else either
6 party feels should be addressed before we bring
7 in the jurors and swear the jury?

8 ATTORNEY KRATZ: Judge, one housekeeping
9 matter, I don't know if you have reminded the jurors
10 or perhaps -- excuse me -- the public as they were
11 brought in, but without an interest in having a Mike
12 Sherman moment, perhaps all cell phones should be
13 turned off. I don't know if that was something --

14 THE COURT: Actually, the Court has ordered
15 that no cell phones be permitted in the courtroom
16 and I trust that the folks guarding the entrance to
17 the door have enforced that requirement.

18 ATTORNEY KRATZ: And the attorneys as well,
19 Judge, at least the State has taken care of that and
20 that's the only other comment we have. Thank you.

21 THE COURT: Anything else from the defense?

22 ATTORNEY STRANG: Nothing here, your Honor.

23 THE COURT: If not, we can have the jury
24 brought in.

25 (Jury panel present.)

1 THE COURT: Good morning, jurors, you can
2 be seated for a brief period of time. The Court has
3 already called this morning the case of State of
4 Wisconsin vs. Steven Avery, Case No. 05 CF 381. In
5 a minute I'm going to read to you some opening
6 instructions in this case, but before we do that,
7 the Clerk will swear you in. So at this time I will
8 ask you to all please rise.

9 THE CLERK: If you all would raise your
10 right hand.

11 (Jury panel sworn.)

12 THE CLERK: Please be seated.

13 THE COURT: Members of the jury, before the
14 trial begins, there are certain instructions you
15 should have to better understand your functions as a
16 juror and how you should conduct yourself during the
17 trial. Your duty is to decide the case based only
18 on the evidence presented and the law given to you
19 by the Court.

20 Do not let any personal feelings of bias
21 or prejudice about such things as race, religion,
22 national origin, sex, or age affect your
23 deliberations.

24 Do not begin your deliberations and
25 discussion of the case until all the evidence is

1 presented and I have instructed you on the law.

2 Do not discuss this case among
3 yourselves or with anyone else until your final
4 deliberations in the jury room.

5 We'll stop or recess from time to time
6 during the trial. You may be excused from the
7 courtroom when it is necessary for me to hear
8 legal arguments from the lawyers.

9 If you come into contact with any of the
10 parties, lawyers or witnesses, do not speak with
11 them. For their part, the parties, lawyers and
12 witnesses will not contact or speak with the
13 jurors.

14 As the Court has previously informed
15 you, the jury will not be sequestered during this
16 trial. That decision is dependent on the jurors
17 not listening to, watching, or reading any news
18 accounts of the case during the trial, nor
19 discussing it with anyone, including members of
20 your family, or other jurors.

21 For these reasons it is vital that you
22 do not listen to any conversation about the case.
23 Do not read any newspaper or internet reports or
24 listen to any news reports on radio or television
25 about this trial.

1 To assure that you are not exposed to
2 improper media coverage, the Court is ordering
3 that, for the duration of the trial, you do not
4 watch the local news on television; do not listen
5 to the local news on the radio; and do not read
6 the newspaper, unless you first have someone
7 remove any articles about this case.

8 In addition, do not visit any internet
9 websites or web logs which may include any
10 information about the case. Should you be
11 exposed to any reports or communications from any
12 source concerning the case during the trial, you
13 should report that information to the jury
14 bailiff.

15 Do not investigate this case on your own
16 or visit the scene. Do not engage in any
17 experimentation or research relating to any
18 issues, facts, or persons involved in the case.

19 Do not consult dictionaries, computers,
20 websites, or other reference materials for any
21 additional information.

22 The Court is aware that many of you have
23 been exposed to publicity concerning this case
24 before you were selected to serve as a juror.
25 Each of you has committed to base your verdict

1 only on the evidence introduced during the trial.
2 It is of vital importance to the parties and to
3 the sanctity of the court process that you remain
4 true to this commitment.

5 Anything you may see or hear outside the
6 courtroom is not evidence. You are to decide the
7 case solely on the evidence that is offered and
8 received at trial.

9 Evidence is defined as, first, the sworn
10 testimony of witnesses both on direct and
11 cross-examination, regardless of who called the
12 witness.

13 Second, the exhibits the Court has
14 received.

15 And, third, any facts to which the
16 lawyers have agreed or stipulated or which the
17 Court has directed you to find.

18 Attorneys for each side have the right
19 and the duty to object to what they consider are
20 improper questions asked of witnesses and to the
21 admission of other evidence which they believe is
22 not properly admissible. You should not draw any
23 conclusions from the fact an objection was made.
24 By allowing testimony or other evidence to be
25 received over the objection of counsel, the Court

1 is not indicating any opinion about the evidence.
2 You jurors are the judges of the credibility of
3 the witnesses and the weight of the evidence.

4 You are not required to, but you may
5 take notes during this trial except during the
6 opening statements and the closing arguments.
7 The Court will provide you with materials for
8 this purpose. In taking notes, you must be
9 careful that it does not distract you from
10 carefully listening to and observing the
11 witnesses.

12 You may rely on your notes to refresh
13 your memory during your deliberations, otherwise
14 keep them confidential. Your notes will be
15 collected by the jury bailiff after each day's
16 session and kept in a secure place until the next
17 day of trial. After the trial, the notes will be
18 collected and destroyed.

19 You will not have a copy of the written
20 transcript of the trial testimony available for
21 use during your deliberations. You may ask to
22 have specific portions of the testimony read to
23 you. You should pay careful attention to all the
24 testimony because you must rely primarily on your
25 memory of the evidence and the testimony

1 introduced during the trial.

2 It is the duty of the jury to scrutinize
3 and to weigh the testimony of witnesses and
4 determine the effect of the evidence as a whole.
5 You are the sole judges of the credibility; that
6 is, the believability of the witnesses and of the
7 weight to be given to their testimony.

8 In determining the credibility of each
9 witness and the weight you give to the testimony
10 of each witness, consider these factors:

11 Whether the witness has an interest or
12 lack of interest in the result of the trial.

13 The witness' conduct, appearance and
14 demeanor on the witness stand.

15 The clearness or lack of clearness of
16 the witness' recollections.

17 The opportunity the witness had for
18 observing and knowing the matters the witness
19 testified about.

20 The reasonableness of the witness'
21 testimony.

22 The apparent intelligence of the
23 witness.

24 Bias or prejudice, if any has been
25 shown.

1 Possible motives for falsifying
2 testimony.

3 And all other factors -- excuse me --
4 all other facts and circumstances during the
5 trial which tend either to support or to
6 discredit the testimony.

7 Then give to the testimony of each
8 witness the weight you believe it should receive.
9 There is no magic way for you to evaluate the
10 testimony. Instead, you should use your common
11 sense and experience. In everyday life you
12 determine for yourselves the reliability of
13 things people say to you; you should do the same
14 thing here.

15 To assist you in evaluating the
16 evidence, I will now read to you portions of the
17 specific jury instructions for the offenses with
18 which the defendant is charged. I will read them
19 to you in their entirety at the close of the
20 evidence.

21 Count 1 of the Information charges the
22 defendant with first degree intentional homicide
23 as a party to the crime. Section 939 of the
24 Criminal Code of Wisconsin provides that whoever
25 is concerned in the commission of a crime as a

1 party to that crime and may be convicted of that
2 crime although that person did not directly
3 commit it.

4 The State contends that the defendant
5 was concerned in the commission of the crime of
6 first degree intentional homicide by either
7 directly committing it or by intentionally aiding
8 and abetting the person who directly committed
9 it.

10 If a person intentionally aids and abets
11 the commission of a crime, then that person is
12 guilty of the crime as well as the person who
13 directly committed it. A person intentionally
14 aids and abets the commission of a crime when,
15 acting with acknowledge or belief that another
16 person is committing or intends to commit a
17 crime, he knowingly either assists the person who
18 commits the crime or is ready and willing to
19 assist and the person who commits the crime knows
20 of the willingness to assist.

21 To intentionally aid and abet the crime
22 of first degree intentional homicide, the
23 defendant must know that another person is
24 committing or intends to commit the crime of
25 first degree intentional homicide and have the

1 purpose to assist in the commission of that
2 crime.

3 Before you may find the defendant guilty
4 of first degree intentional homicide as a party
5 to the crime, the State must prove, by evidence
6 which satisfies you, beyond a reasonable doubt,
7 that the defendant directly committed the crime
8 or intentionally aided and abetted the commission
9 of the crime.

10 First degree intentional homicide as
11 defined in Section 940.01 of the Criminal Code of
12 Wisconsin is committed by one who causes the
13 death of another human being with intent to kill
14 that person or another. Before you may find the
15 defendant guilty of first degree intentional
16 homicide, the State must prove, by evidence which
17 satisfies you, beyond a reasonable doubt, that
18 the following two elements were present:

19 One, Steven Avery caused the death of
20 Teresa Halbach or aided and abetted another in
21 causing the death of Teresa Halbach. Cause means
22 that the defendant's act was a substantial factor
23 in producing the death.

24 Two, Steven Avery acted with the intent
25 to kill Teresa Halbach whether he did so directly

1 or aided and abetted another.

2 Intent to kill means that the defendant
3 had the mental purpose to take the life of
4 another human being or was aware that his conduct
5 was practically certain to cause the death of
6 another human being. While the law requires that
7 the defendant acted with intent to kill, it does
8 not require that the intent exists for any
9 particular length of time before the act is
10 committed.

11 The act need not be brooded over,
12 considered, or reflected upon for a week, a day,
13 an hour, or even for a minute. There need not be
14 any appreciable time between the formation of the
15 intent and the act. The intent to kill may be
16 formed at any time before the act, including the
17 instant before the act and must continue to exist
18 at the time of the act.

19 You cannot look into a person's mind to
20 find intent. Intent to kill must be found, if
21 found at all, from the defendant's acts, words,
22 and statements, if any, and from all the facts
23 and circumstances in this case bearing upon
24 intent.

25 Intent should not be confused with

1 motive. While proof of intent is necessary to a
2 conviction, proof of motive is not. Motive
3 refers to a person's reason for doing something.

4 While motive may be shown as a
5 circumstance to aid in establishing the guilt of
6 the defendant, the State is not required to prove
7 motive on the part of a defendant in order to
8 convict. Evidence of motive does not, by itself,
9 establish guilt. You should give it the weight
10 you believe it deserves, under all the
11 circumstances.

12 If you are satisfied, beyond a
13 reasonable doubt, at the conclusion of the trial,
14 that the defendant directly committed both
15 elements of first degree intentional homicide,
16 you should find the defendant guilty. If you are
17 not so satisfied, you must find the defendant not
18 guilty.

19 Count 2 charges the defendant with
20 mutilating a corpse, also as a party to the
21 crime. The State contends that the defendant was
22 concerned in the commission of the crime of
23 mutilating a corpse by either directly committing
24 it or by intentionally aiding and abetting the
25 person who committed it.

1 Before you may find the defendant guilty
2 of mutilating a corpse as a party to the crime,
3 the State must prove, by evidence which satisfies
4 you, beyond a reasonable doubt, that the
5 defendant committed the -- directly committed the
6 crime of mutilating a corpse or intentionally
7 aided and abetted the commission of that crime.

8 Mutilating a corpse as defined in
9 Section 940.11 (1) of the Criminal Code of
10 Wisconsin is violated by one who mutilates a
11 corpse with intent to conceal a crime or avoid
12 apprehension, prosecution, or conviction for a
13 crime. Before you may find the defendant guilty
14 of this offense, the State must prove, by
15 evidence which satisfies you, beyond a reasonable
16 doubt, that the following two elements were
17 present:

18 One, Steven Avery mutilated the corpse
19 of Teresa Halbach or aided and abetted another in
20 mutilating the corpse of Teresa Halbach.

21 Two, in mutilating the corpse of Teresa
22 Halbach or in aiding and abetting another in
23 mutilating her corpse, Steven Avery acted with
24 the intent to conceal a crime. This requires
25 that the defendant acted with the purpose to

1 conceal a crime.

2 If you are satisfied, beyond a
3 reasonable doubt, at the conclusion of the trial,
4 that Steven Avery directly committed both
5 elements of this offense, you should find the
6 defendant guilty. If you are not so satisfied,
7 you must find the defendant not guilty.

8 Count 3 charges the defendant with felon
9 in possession of a firearm. Section 941.29 of
10 the Criminal Code of Wisconsin is violated by a
11 person who possesses a firearm, if that person
12 has been convicted of a felony.

13 Before you may find the defendant guilty
14 of this offense, the State must prove, by
15 evidence which satisfies you, beyond a reasonable
16 doubt, that the following two elements were
17 present:

18 One, the defendant possessed a firearm.
19 Firearm means a weapon which acts by the force of
20 gunpowder. It is not necessary that the firearm
21 was loaded or capable of being fired.

22 Possess means that the defendant
23 knowingly had actual physical control of a
24 firearm. An item is in a person's possession if
25 it is in an area over which the person has

1 control and the person intends to exercise
2 control over the item.

3 Two, the second element, is that the
4 defendant had been convicted of a felony before
5 November 5, 2005. The parties in this case have
6 agreed that Steven Avery was convicted of a
7 felony before November 5, 2005 and you must
8 accept this as conclusively proved.

9 If you are satisfied, beyond a
10 reasonable doubt, at the conclusion of the trial,
11 that both elements of this offense have been
12 proved, you should find the defendant guilty. If
13 you are not so satisfied, you must find the
14 defendant not guilty.

15 The final count charges the defendant
16 with false imprisonment. False imprisonment as
17 defined in Section 940.30 of the Criminal Code of
18 Wisconsin is committed by one who intentionally
19 confines or restrains another without the
20 person's consent and with knowledge that he has
21 no lawful authority to do so.

22 Before you may find the defendant guilty
23 of this offense the State must prove, by evidence
24 which satisfies you, beyond a reasonable doubt,
25 that the following five elements were present:

1 One, the defendant confined or
2 restrained Teresa Halbach during her lifetime.

3 Two, the defendant confined or
4 restrained Teresa Halbach intentionally. This
5 requires that the defendant have the mental
6 purpose to confine or restrain Teresa Halbach.

7 Three, Teresa Halbach was confined or
8 restrained without her consent.

9 Four, the defendant had no lawful
10 authority to confine or restrain Teresa Halbach.

11 Five, the defendant knew that Teresa
12 Halbach did not consent and knew that he did not
13 have lawful authority to confine or restrain
14 Teresa Halbach.

15 Although this requires genuine restraint
16 or confinement, it does not require that it be in
17 a jail or prison. If the defendant deprived
18 Teresa Halbach of freedom of movement or
19 compelled her to remain where she did not wish to
20 remain, then Teresa Halbach was confined or
21 restrained.

22 The use of physical force is not
23 required. One may be confined or restrained by
24 acts, or words, or both.

25 You cannot look into a person's mind to

1 find out intent or knowledge. Intent and
2 knowledge must be found, if at all, from the
3 defendant's acts, words, and statements, if any,
4 and from all the facts and circumstances in this
5 case bearing upon intent and knowledge.

6 If you are satisfied, beyond a
7 reasonable doubt, at the conclusion of the trial,
8 that all five elements of this offense have been
9 proproved -- excuse me -- have been proved, you
10 should find the defendant guilty. If you are not
11 so satisfied, you must find the defendant not
12 guilty.

13 In reaching your verdict examine the
14 evidence with care and caution. Act with
15 judgment, reason and prudence. Defendants are
16 not required to prove their innocence, the law
17 presumes that every person charged with the
18 commission of an offense is innocent. This
19 presumption requires a finding of not guilty,
20 unless in your deliberations you find it is
21 overcome by evidence which satisfies you, beyond
22 a reasonable doubt, that the defendant is guilty.

23 The burden of establishing every fact
24 necessary to constitute guilt is upon the State.
25 Before you can return a verdict of guilty, the

1 evidence must satisfy you, beyond a reasonable
2 doubt, that the defendant is guilty. If you can
3 reconcile the evidence, upon any reasonable
4 hypothesis consistent with the defendant's
5 innocence, you should do so and return a verdict
6 of not guilty.

7 The term reasonable doubt means a doubt
8 based upon reason and common sense. It is a
9 doubt for which a reason can be given, arising
10 from a fair and rational consideration of the
11 evidence or lack of evidence. It means such a
12 doubt as would cause a person of ordinary
13 prudence to pause or hesitate when called upon to
14 act in the most important affairs of life.

15 A reasonable doubt is not a doubt which
16 is based on mere guesswork or speculation. A
17 doubt which arises merely from sympathy or from
18 fear to return a verdict of guilt is not a
19 reasonable doubt.

20 A reasonable doubt is not a doubt such
21 as may be used to escape the responsibility of a
22 decision. While it is your duty to give the
23 defendant the benefit of every reasonable doubt,
24 you are not to search for doubt, you are to
25 search for the truth.

1 As you know, although this is a
2 Manitowoc County case with a Manitowoc County
3 jury, the case is being tried at the Calumet
4 County Courthouse. You will learn that when
5 Steven Avery became a suspect in this case, the
6 Manitowoc County District Attorney turned control
7 of the case over to the Calumet County District
8 Attorney because Mr. Avery had a lawsuit pending
9 against Manitowoc County at the time.

10 For logistical reasons, the parties
11 jointly requested that the trial be held in
12 Calumet County and the Court granted that
13 request. You should draw no inference for or
14 against either party to this case because of the
15 location of the trial, or the fact that it is not
16 being prosecuted by the Manitowoc County District
17 Attorney.

18 In a few minutes the lawyers will make
19 opening statements. The purpose of an opening
20 statement is to give the lawyers an opportunity
21 to tell you what they expect the evidence will
22 show, so that you will better understand the
23 evidence as it is introduced during the trial. I
24 must caution you, however, that the opening
25 statements are not evidence.

1 At this time we're going to take a very
2 short break so that the State may get its
3 equipment ready to present the opening statement.
4 We'll be back in just a few minutes.

5 (Jury not present.)

6 THE COURT: Five minutes, counsel.

7 ATTORNEY KRATZ: That's fine.

8 (Recess taken.)

9 (Jury present.)

10 THE COURT: You may be seated. Members of
11 the jury, at this time we're going to hear the
12 opening statement from the State. Mr. Kratz, you
13 may begin.

14 ATTORNEY KRATZ: Thank you, Judge. May it
15 please the Court, ladies and gentlemen of the jury,
16 Mr. Strang, Mr. Buting, Mr. Avery, good morning.

17 MR. AVERY: Good morning.

18 ATTORNEY KRATZ: We're all a little nervous
19 this morning. And I think that if we admit that,
20 we, being the lawyers, and the jurors asked to
21 decide this important matter, I think we're all
22 going to be better off.

23 And on behalf of the State, let me first
24 start by thanking you, thanking you for your jury
25 service, thanking you for your attention that you

1 are about to give in this case, and thanking you
2 in detail for what in jury selection we talked
3 about may perhaps be the most important decision
4 that you will ever make, at least for the rest of
5 your lives.

6 You will note, and we have already
7 introduced, that there are three attorneys on
8 this case, myself, Ken Kratz, the Calumet County
9 District Attorney. This is my courthouse. And
10 I'm joined by Mr. Fallon who is seated directly
11 to my right. Mr. Fallon is an Assistant Attorney
12 General with the Department of Justice. And
13 joining us also is Mr. Norm Gahn.

14 ATTORNEY GAHN: Good morning.

15 ATTORNEY KRATZ: Mr. Gahn is an Assistant
16 District Attorney in Milwaukee County, Wisconsin.
17 You will learn that each of us are special
18 prosecutors in this case. But what's so special
19 about a special prosecutor? Why would some small
20 town lawyer from Chilton be in charge of this entire
21 prosecution, this big of a case? Why would Ken
22 Kratz be asked to lead up this prosecution?

23 We'll talk about how this case was
24 assigned over, but just understand, at least for
25 this person, that although we are all experienced

1 prosecutors, we're doing a favor for Manitowoc
2 County. It's a rather big favor for Manitowoc
3 County, but it's a favor nonetheless. It is
4 helping the Manitowoc County District Attorney's
5 Office in presenting this case.

6 Mr. Rohrer, your District Attorney,
7 asked me to take over the case early on. You
8 will learn about when that happened. But it is
9 still something that we were simply asked to and
10 we did, in fact, perform.

11 There's two investigators in this case.
12 Now, you are going to hear that there were
13 hundreds of law enforcement officers involved in
14 this investigation, but these kinds of cases
15 require direction. They require leadership by
16 law enforcement officials that have experience.

17 The first lead investigator in the case
18 who is seated in the courtroom is Mark Wiegert.

19 MR. WIEGERT: Good morning.

20 ATTORNEY KRATZ: Mr Wiegert is an
21 investigator with the Calumet County Sheriff's
22 Department.

23 The other lead investigator in this case
24 is Tom Fassbender. Mr. Fassbender works for the
25 Department of Justice. He works for a law

1 enforcement branch of the Department of Justice
2 which is called the Division of Criminal
3 Investigation.

4 And, again, knowing who we are, knowing
5 who the five of us are, the prosecution team, we
6 hope may help in determining what's important in
7 these cases.

8 The Judge has told you, at least in
9 brief terms, what an opening statement is. But
10 often times evidence comes in in bits and pieces,
11 especially in a six week trial. That isn't
12 something that you will expect all of the
13 evidence to come at you at once. And so if we
14 can provide a road map or an overview of what the
15 evidence is going to show, that should be helpful
16 for you.

17 Some juries that I have spoken to, it's
18 been helpful to describe this process as the
19 provision of the cover of a jigsaw puzzle box.
20 All right. You think of evidence as pieces in a
21 jigsaw puzzle. You wouldn't tell, if you were
22 handed one piece of a jigsaw puzzle, where that's
23 going to go. But if you got the box and if you
24 have the box, some of the pieces are obvious
25 where they go; some are not so obvious, but at

1 least it's a guide. It's a help for you as to
2 where these pieces all fit.

3 Now, before I go any further, I want to
4 talk to you about something that I know some of
5 you, in your specific questions, expressed as
6 some concern and that's the nature of the
7 evidence that's going to be presented. This is a
8 very, very serious crime and potentially has
9 very, very graphic kinds of details that may be
10 involved or may be presented.

11 But there is some uncertainty about how
12 much evidence is going to be presented. And I
13 wanted to assure you, as the lead prosecutor, as
14 the person responsible for the presentation of
15 the case a couple of things.

16 Number one, and perhaps most importantly
17 for you, as the jury, I'm only going to present
18 those pieces of evidence that are necessary;
19 those pieces that are necessary to tell you the
20 entire story. My job is not to present gruesome,
21 or overly graphic information for you.

22 And I think as we go through this
23 process, you are going to find that the evidence
24 is pretty straight forward. It is not
25 necessarily gruesome or graphic, isn't something

1 that you should fear at this early stage. All
2 right.

3 I understand the sensitivities not only
4 of you, but of most of the people seated on the
5 left hand side of the courtroom. And I --
6 actually, I want you to look over to the left
7 side of the courtroom. That's the Halbach
8 family.

9 You are going to see them throughout the
10 case, friends and family. And I want to assure
11 you that before the first piece of evidence is
12 ever introduced in this case, everyone of those
13 people: The mother, the father, the brothers,
14 the sisters, the friends, and any other family
15 members that wanted to, have already seen all of
16 this evidence. All right.

17 I sat down with them and as sensitively
18 as I possibly could, allowed them an opportunity
19 to review the evidence. That's just something
20 that a prosecutor should do and that's all been
21 done. So as you see photographs being presented,
22 as you see physical evidence being brought into
23 the courtroom; I want to assure you that the
24 Halbach family already has seen it.

25 They have already known the kinds of

1 evidence that are going to be presented. And I
2 think that that was necessary for you to hear and
3 necessary for you to understand that this family
4 does have that information.

5 The Judge has told you that there's four
6 charges. I'm very, very briefly going to talk
7 about those four, because I don't want to
8 reiterate what the Judge did. But there are four
9 separate charges that the defendant is charged
10 with: First degree intentional homicide,
11 mutilation of a corpse, felon in possession of a
12 firearm and false imprisonment.

13 Now, the Judge instructed you and my job
14 today in opening statement, again, this isn't
15 evidence, but it is a help for you; it's the
16 cover if you will; it's the road map; it's the
17 overview, to talk about the first legal concept
18 that you as a jury has to understand. And that's
19 the concept called being a party to the crime.

20 The Judge has told you that that can be
21 satisfied either if the defendant committed an
22 offense himself or if the defendant aided and
23 abetted another in the commission of the offense.
24 Now, the first two counts, the homicide and the
25 mutilation of a corpse are charged as a party to

1 the crime.

2 And so you will learn, at the conclusion
3 of the case, six weeks from now, if you fast
4 forward six weeks from now, that the jury
5 instructions will tell you that if the defendant
6 committed any of those elements himself, or if
7 the defendant aided in another -- another --
8 excuse me -- aided and abetted another in the
9 commission of those offenses, that you can and
10 should find him guilty.

11 Now, I can't stand up here and predict
12 what the defense is going to bring into this
13 case, what cross-examination they may encounter,
14 or if they even choose to present any kind of
15 defense, nor should I. That isn't my job.

16 My job, as the prosecutor, is to present
17 our case, to present the physical evidence that
18 we have developed, to present the witnesses that
19 we have developed to prove our case. But just
20 understand, and just remember this concept when
21 it comes time to deciding whether or not the
22 defendant is guilty.

23 The Judge also told you about something
24 called elements of the offense. The State has
25 the burden of proof here. The defense has

1 absolutely no burden. And our burden is to prove
2 the case, beyond a reasonable doubt.

3 The Judge explained to you already that
4 beyond a reasonable doubt means a doubt for which
5 a reason can be given when considering all the
6 evidence. Let me tell you what it is not,
7 though. Beyond a reasonable doubt is not beyond
8 all doubt. It's not 100 percent. And when we
9 are dealing with a human justice system, you
10 can't expect beyond all doubt, or beyond a shadow
11 of a doubt, or comments sometimes that we have
12 heard about that.

13 It's beyond a reasonable doubt. A doubt
14 for which a reason can be given. And I'm
15 standing before you, members of the jury, telling
16 you that I accept that burden. I will prove this
17 case, beyond a reasonable doubt. But we didn't
18 want you going into this case expecting one
19 hundred percent, or beyond all doubt, because
20 there are human factors or dynamics that go into
21 these cases.

22 Each charge, the Judge told you, has
23 elements of those offense, we're going to go
24 through those in just a minute. But, also, each
25 of the four charges should be considered

1 separately. You shouldn't group them together
2 and decide if he is guilty of all four or none.
3 Each of the four counts are to be considered
4 separately. And, in fact, there is separate
5 evidence for all four of those counts.

6 And, finally, the defendant is presumed
7 innocent. As Mr. Avery sits here today, because
8 you have heard no evidence in this case, he is
9 presumed by you, or should be presumed by you, to
10 be innocent. However, and this is a big however,
11 that presumption disappears at that very moment
12 when the evidence in this case satisfies you,
13 beyond a reasonable doubt, that he is guilty of
14 that offense. That presumption disappears at the
15 moment that the evidence proves that he is
16 guilty.

17 Count 1, the Judge instructed you, has
18 two elements. And why I'm telling you this and
19 why I'm showing them on the screen or on a
20 PowerPoint presentation is because these are
21 serious, serious crimes; in fact, the most
22 serious crimes that we have in the State of
23 Wisconsin.

24 The legal concepts aren't all that
25 complex. We are talking about two things that we

1 have to prove, caused the death of somebody and
2 did it intentionally. Nothing magic about that,
3 nothing complex about that and all of you should
4 be able to understand that.

5 The same thing with mutilation of a
6 corpse, just the two elements; that he mutilated
7 a corpse and that he did so to conceal a crime
8 that had been committed. You will hear evidence
9 in this case about what that crime was that he
10 was trying to conceal. The crime, as you may
11 have already guessed, is the first degree
12 intentional homicide.

13 Mr. Avery is also charged with felon in
14 possession of a firearm; again, two elements, the
15 felon in possession. First, that he possessed
16 the firearm, that seems obvious. And, number 2,
17 that some time before November of 2005, he had
18 been convicted of a felony.

19 Now, the Judge has told you that that
20 second element is stipulated. Stipulation means
21 that the facts are agreed to by the parties; that
22 you can take that as already having been proved,
23 beyond a reasonable doubt, that Mr. Avery has
24 that felony conviction. And so it's just the
25 first element of that offense that the State has

1 to prove. Do you all understand that? All
2 right.

3 Now, false imprisonment has five
4 separate elements to the offense. Those five
5 elements are that he confined or restrained, note
6 that that's in the disjunctive; he either
7 confined or restrained Teresa Halbach,
8 intentionally, without her consent. He didn't
9 have authority and he knew that he didn't have
10 authority to confine or restrain Ms Halbach.

11 All right. Enough of the civics lesson.
12 Let's talk about what the evidence is going to
13 show. On Monday, October 31st, 2005, beginning
14 at approximately 2:45 p.m., the State intends to
15 prove to you that the defendant restrained,
16 murdered, and mutilated a 25 year old
17 photographer named Teresa Halbach.

18 We're going to prove to you what
19 happened. We're going to prove to you who
20 committed this crime. We're going to prove to
21 you where it happened. We're going to prove to
22 you when, specifically, it happened. And those
23 will prove all of the elements of the offense.

24 What we're not going to prove to you,
25 what the Judge has already told you we don't have

1 to and, in fact, can't prove to you, is why. We
2 can't prove the why in a case like this. That's
3 called motive, the reason behind the killing;
4 what was in Mr. Avery's mind when he decided to
5 kill this lovely young woman.

6 I'm going to introduce you to somebody.
7 This remarkable young woman was 25 years of age;
8 she was single; she was a freelance photographer.
9 She had her own photography business that was,
10 although in its infancy, was doing quite well.

11 This woman, and I will remind you
12 several times in this opening and throughout the
13 trial, I will remind you that we're talking about
14 a real person. We're talking about somebody's
15 daughter, somebody's sister, a lot of people's
16 friend. Teresa Halbach had her whole life in
17 front of her and the evidence is going to show
18 that on Halloween of 2005, that all ended, that
19 ended in the hands of the defendant, Steven
20 Avery.

21 It's such a big case, with such a big
22 job that we have to try to present all of this
23 investigation. I'm going to start from the
24 beginning and I'm going to start talking about
25 the investigation itself.

1 Ms Halbach was reported missing on the
2 third of November, 2005. Ms Halbach worked for
3 a -- at least part of her photography business
4 was that she worked for a publication called *Auto*
5 *Trader Magazine*. You are going to learn through
6 the case and you are going to hear from several
7 witnesses from *Auto Trader* that it is a magazine
8 that, basically, is responsible for selling
9 automobiles, some other things, trailers and the
10 like, but mostly automobiles. And it's a
11 publication that Teresa supplemented her income
12 with.

13 Teresa was mostly responsible or mostly
14 enjoyed taking photographs of weddings and was
15 already developing quite a niche and quite a
16 specialty taking pictures of little kids, of
17 babies and young children. But to supplement her
18 young business, she worked for *Auto Trader*
19 *Magazine*. So to understand how this case
20 transforms from a missing person investigation
21 into what became one of the largest criminal
22 investigations in Wisconsin history, starting
23 from the beginning, we're starting from the
24 investigation, is important for you to
25 understand.

1 The investigation determined that Teresa
2 Halbach took three pictures or at least had three
3 business stops on the 31st of October. Now, one
4 of those were a person by the name of
5 Mr. Schmitz; one of those was a person by the
6 name of Mr. Zipperer. And the third and the last
7 stop that she made late in the afternoon on the
8 31st was at the Steven Avery Salvage Property.

9 The investigation early on determined
10 that this man, Steven Avery, called *Auto Trader*
11 *Magazine* at 8:12 that morning, on that very day,
12 on the 31st of October. And Mr. Avery asked,
13 specifically, that the same woman who has been
14 out here before, the same woman who on at least
15 six and perhaps more occasions had come out to
16 take pictures. Mr. Avery wanted her out there
17 the afternoon of the 31st.

18 Now, two very critical findings very
19 early on in this investigation came to light:
20 Number 1, that Steven Avery was the one who lured
21 Ms Halbach out to the property on the 31st. But
22 number 2, and perhaps as importantly, Steven
23 Avery was the last person to see Teresa Halbach
24 alive.

25 Who is this man? The Judge told you

1 that there was a lawsuit which was filed against
2 Manitowoc County and many of you, in fact,
3 virtually all of you, knew something about Steven
4 Avery before serving on this particular jury.
5 Mr. Avery achieved some degree of notoriety back
6 in 2003 when he was exonerated for a 1985 sexual
7 assault conviction.

8 You should know that that exoneration
9 was based upon DNA evidence. You should know
10 that that DNA evidence was performed by the
11 Wisconsin State Crime Laboratory and it was
12 performed by an analyst, the head of the DNA unit
13 in Madison, a woman by the name of Sherry
14 Culhane. I want you to remember that name
15 because you are going to hear that name later on
16 in this case.

17 Mr. Avery, as you already heard, later
18 filed a civil lawsuit against Manitowoc County
19 seeking compensation, seeking money for the --
20 excuse me -- for the time that -- that he was
21 wrongfully convicted. And it's that degree of
22 notoriety, that's how Mr. Avery comes to you in
23 this case. That may or may not have some things
24 to do with this case.

25 Now, we understand and the evidence is

1 going to be clear, that Mr. Avery never should
2 have been convicted in 1985 based upon
3 eyewitness -- or mistaken eyewitness testimony;
4 that there wasn't any DNA evidence, at least the
5 DNA analysis wasn't to the level or to the point
6 that it is now and certainly isn't anything like
7 you are going to hear about in this case; and, in
8 fact, should have been exonerated and was in
9 2003.

10 We'll also tell you and at the close of
11 this case I'm going to point to everyone of you
12 presenting jurors and say that that has
13 absolutely nothing to do with this case. When
14 deciding who is accountable for the death of 25
15 year old Teresa Halbach, Mr. Avery's past and his
16 past exoneration have nothing to do with this
17 case.

18 Ms Halbach, as you have heard, or she
19 comes in this case as the -- part of a missing
20 persons investigation. Now, Calumet County, and
21 Mr. Wiegert, as a matter of fact, was in charge
22 of that missing persons investigation early on.
23 That's through the 3rd and the 5th. Those parts
24 of the missing persons investigation that
25 happened in Calumet County are Calumet County law

1 enforcement's responsibility. Those parts of the
2 missing persons investigation that happened in
3 Manitowoc County necessarily and appropriately
4 are Manitowoc County's responsibility.

5 When looking for a 25 year old freelance
6 photographer, there is nothing improper about
7 Manitowoc County being involved in that case.
8 You are going to learn, however, that on the 5th,
9 on the 5th of November, at about 2:00 in the
10 afternoon, Judge Jerome Fox, another judge from
11 Manitowoc County, one of the three sitting judges
12 in Manitowoc County, assigned me to be
13 responsible for the prosecution and to assist in
14 the investigation of this particular case.

15 You have already heard that the reason
16 for that was something called a perceived
17 conflict, an apparent conflict; that is, it may
18 look bad if Manitowoc County remained involved.
19 You are going to hear evidence from many law
20 enforcement officers; in fact, the lead
21 investigators in this case, that there was no
22 actual conflict.

23 There was nothing that prohibited, or
24 precluded, or legally made it impossible for
25 Manitowoc County to keep performing or keep

1 assisting in this case. But we all felt it
2 better; myself, Mr. Rohrer, the two district
3 attorneys, Sheriff Pagel and the law enforcement
4 officials for Manitowoc, that the case be
5 transferred over to Calumet County and to DCI,
6 the Division of Criminal Investigation, with the
7 State to lead up the investigation.

8 Now, you are going to hear that
9 Manitowoc County officials remained involved in
10 the case. They remained involved in the
11 investigation that when manpower, and we are
12 going to be talking about how many police
13 officers were necessary, that they remain in a
14 helping or a support role, but the case is, in
15 fact, turned over to Calumet County.

16 This particular photograph, I want you
17 to look at for quite a bit of time as I'm
18 talking. This is the Avery Salvage Yard, located
19 in the Town of Gibson. This is a photo that you
20 are going to see a lot during the course of this
21 case. And this is, for the next six weeks, a
22 property that you are going to come to know very,
23 very well.

24 And so as Mr. Fallon and Mr. Gahn and I
25 were talking about this opening statement, we

1 thought it appropriate that we introduce you to
2 the Avery salvage property. First of all, it's a
3 40 acre property. The entire square here is 40
4 acres.

5 What you also need to understand is that
6 all of these, appear to be little dots, are cars.
7 These are all junked vehicles in the Avery
8 salvage property. And a number that you are
9 going to hear is that there are about 4,000
10 junked vehicles on the Avery Salvage property.

11 There's four residences, four places
12 where people live on the Avery salvage property.
13 The first, in the lower left hand corner, which
14 is the northwest corner of the property, is
15 Steven Avery's trailer. That's where Steven
16 Avery lived on the 31st of October.

17 Living next to Steven was his sister,
18 Barb Janda. Barb had four sons that were living
19 with her at the time. But when you kind of look
20 at this property it's important to know where
21 Barb Janda's trailer is.

22 Steven's parents, Allen and Delores
23 Avery, also had a trailer, had a residence on the
24 property. And that was up closer to what you
25 will find out are some business buildings, the

1 salvage business itself was kind of up in this
2 quadrant, or this corner of the yard.

3 And, finally, Steven's brother, Charles
4 Avery, Chuck, also had a trailer on the property.
5 All right.

6 Now, you are going to hear that
7 surrounding this property on three sides was an
8 active, working gravel quarry. And so we're
9 going to have some larger aerial photos that
10 we're going to show you in just a minute, but
11 just to give you an idea of what's around this
12 property, not just the 40 acres of search area,
13 but hundreds of acres that surrounded that that
14 were also included in the search.

15 Members of the jury, the evidence is
16 going to show and you are going to hear from
17 officers, when they talk about the search efforts
18 in this case, that a search area this size is
19 nothing short of overwhelming. All right. All
20 of the places that the officers can look is
21 absolutely overwhelming.

22 If you know anything about the case you
23 will understand this event. But on Saturday, the
24 5th of November, Pam and Nikole Sturm, two
25 citizens, two citizen searchers, were given

1 permission and did search the Avery salvage
2 property.

3 Pam and Nikole found the needle in the
4 haystack. Pam and Nikole Sturm found the one
5 vehicle on the property that all of the citizen
6 searchers that you are going to hear about were
7 looking for.

8 Now, there are several things that the
9 evidence is going to show. And as you look at
10 this photograph, several things about the
11 attempts at whoever placed this vehicle here, to
12 disguise it, to hide it, attempts to obscure its
13 detection, you are going to learn, members of the
14 jury, through this evidence in the case, that the
15 vehicle was locked, that the four doors on this
16 vehicle were locked when Pam and Nikole came upon
17 it.

18 You are going to learn that the license
19 plates were both removed, both the front and back
20 license plates were removed from the vehicle.
21 You are going to learn the battery was
22 disconnected and you are also going to learn that
23 the vehicle identification number was necessary
24 to, in fact, identify this as Teresa Halbach's
25 vehicle.

1 Now, the evidence is also going to show
2 you where on the property Teresa Halbach's
3 vehicle was found. It was found in -- not
4 accidentally -- the furthest point from the
5 defendant's trailer. Again, you are going to
6 find that it was intentionally obscured, that it
7 had immediate access to something called a car
8 crusher on the property.

9 And, again, just to orient you, Steven
10 Avery's trailer is in the lower left hand portion
11 of this particular photograph. Where it was
12 found was not an accident. We'll also tell you,
13 during the course of the introduction of the
14 testimony, that it's important where it wasn't
15 found. It wasn't found on a roadway. Wasn't
16 found in some mall parking lot. It was found on
17 the Avery salvage property, the family business
18 property.

19 I talked about the car crusher; you will
20 hear a little bit about that piece of equipment
21 that was near or right next to Teresa Halbach's
22 vehicle. You are going to learn and you are
23 going to hear evidence sometime through this six
24 weeks how this piece of equipment works, how a
25 regular looking vehicle, car, SUV, truck, starts

1 out looking like a regular vehicle and ends up
2 flattened or smashed.

3 You are going to learn why it's
4 important that Teresa's vehicle was next to the
5 car crusher and you are going to learn the
6 numbers of crushed vehicles and how easily Teresa
7 Halbach's vehicle could never have been found in
8 this case. Could have been slipped in between,
9 if you will, one of those other cars.

10 You will hear about a lot of
11 professionals that were asked to perform
12 assistance in this case. You are going to hear
13 about law enforcement professionals; you are
14 going to hear about Crime Lab analysts; you are
15 going to hear about some very, very, well
16 qualified expert witnesses.

17 And all of those professionals have two
18 legs. One of them, though, has four. It's a
19 Belgian Shepherd named Brutus. Brutus is a
20 search and rescue -- or search and recovery dog
21 that is insensitively called a "cadaver dog".

22 What Brutus does is one thing. Brutus
23 is highly trained. And you are going to hear
24 testimony from Brutus' handler, Julie Cramer.
25 Brutus does one thing and that's find where a

1 deceased person has been.

2 The first official, first professional,
3 to approach this vehicle after it's found, after
4 law enforcement secures that area so nobody else
5 can get around there, the first professional was
6 a four legged variety. It was Brutus. It was a
7 canine.

8 And Brutus, you are going to hear, was
9 asked -- not directed towards this vehicle, but
10 asked to just search around this particular
11 location. You are going to hear evidence that
12 late in the afternoon on the 5th, after the
13 vehicle was found, after a search warrant was
14 already obtained in this case, that Brutus, when
15 approaching Teresa Halbach's vehicle, alerted.

16 It's called hitting on the vehicle. It
17 was quite a dramatic alert. And you are going to
18 hear from Ms Cramer about that. Sadly and
19 unfortunately, that meant one thing to the
20 handler and that meant one thing to the lead
21 investigators in the case. Early on, they
22 suspected, because of Brutus, because of this
23 search and rescue dog, because of this cadaver
24 dog, that a deceased individual either was in the
25 back of this SUV, or at some point had been in

1 the back of that SUV.

2 Now, importantly, you are also going to
3 hear that the police decided not to touch the
4 vehicle at that time. The police decided not to
5 process it even when the Crime Lab was on the
6 scene.

7 You are going to hear that the Crime Lab
8 loaded this vehicle onto an enclosed trailer,
9 trucked the enclosed and intact SUV all the way
10 to Madison, where on a Sunday, for a very brief
11 amount of time, but mostly on Monday, that
12 vehicle was processed by the experts. Processed
13 by those state agents, by those State Crime Lab
14 expert employees, analysts, when they made some
15 very dramatic and very important findings in the
16 case.

17 I don't want to get ahead of myself.
18 Because on November 5th, on that first night, on
19 that first afternoon, there were places to look,
20 as you can imagine. After Teresa Halbach's
21 vehicle was found on the Avery salvage property,
22 Mr. Wiegert, Mr. Fassbender, directing many law
23 enforcement officials, had a job to do.

24 Now, you saw the size of the Avery
25 salvage property. You are going to hear

1 testimony from Mr. Fassbender. He's going to
2 provide you with an idea about the methodology,
3 about the plan, the search plan in this case.

4 You are going to hear Agent Fassbender
5 talk about missing persons investigations and
6 when they go from missing persons to criminal
7 investigations, how their thought process
8 changes. But at that early stage, when they find
9 the vehicle, when they don't know that there is
10 any blood in the back of the vehicle, when they
11 don't know if a body is involved in this case,
12 that Agent Fassbender and every other law
13 enforcement officer, you will hear, at that
14 scene, had one thing in mind and that was to find
15 Teresa. The job of the police at the time was to
16 find Karen Halbach's daughter.

17 And you are going to hear the evidence
18 that the officers made very, very quick work of
19 searching all of the residences on the Avery
20 salvage property, all of the four residences, all
21 of the outbuildings. They are searching for
22 Teresa Halbach and the search plan, again, is to
23 find the victim, find the victim's body.

24 But a secondary obligation of theirs is
25 also to look for obvious signs of evidence,

1 right? You don't have to watch CSI to know that.
2 At least a first kind of sweep, or a first kind
3 of look through, or a first kind of search of all
4 of these residences are to try to find obvious
5 signs of a crime if, in fact, a crime did occur,
6 or something that is going to help law
7 enforcement find Teresa Halbach. Why I say all
8 that is because Steven Avery -- With search
9 warrant in hand, Steven Avery's residence was
10 searched on the 5th.

11 Now, again, we're looking for Teresa's
12 body, hopefully alive, but if not, it is
13 important to find if she's on that property.
14 Steven Avery's garage is searched, other
15 residences, all of the other buildings on the
16 residence are searched, the salvage business
17 itself. But the 4,000 vehicles, in what you will
18 hear was a torrential downpour, were also
19 examined for the first time on the evening of the
20 5th.

21 Now, law enforcement officers were
22 involved in that, but Brutus' friends were also
23 involved in that, other canines, the rest of the
24 team, the other search and rescue animals, the
25 canines, were taken in a downpour, in the pitch

1 dark, out on a 40 acre property. And everyone of
2 these cars was encircled by one of those dogs
3 trying to find Teresa Halbach.

4 Please recall, at this early stage, the
5 police don't know what they are looking for yet.
6 They don't really have an idea yet of the kinds
7 of things that they are looking for. So when you
8 remember this search plan, you will hear evidence
9 and some officers may even call it the funnel
10 approach, nothing fancy about calling it the
11 funnel approach, it makes sense.

12 It's a way to describe search efforts.
13 It is actually an interviewing technique as well.
14 But it's a way to find evidence in a funnel type
15 of approach. We're looking for the body first.
16 Then we're looking for obvious signs of evidence.
17 Then as you get closer and closer into more
18 detail, more thorough, more directed searches,
19 because you are able to go back into all of those
20 places and all of those properties, that's the
21 methodology.

22 And as you hear officers testify
23 throughout this case, when they testify on the
24 witness stand, remember that funnel approach.
25 Remember that kind of methodology as they talk

1 about these kinds of things. But make no
2 mistake, that on the first night, they are
3 looking for Teresa and they are hoping to find
4 Teresa alive.

5 When that was unsuccessful, the next
6 morning, on the 6th, Mr. Fassbender, Mr. Wiegert,
7 were able to secure some help. They needed
8 bodies. They needed some cops. They needed some
9 volunteers. And so they got volunteer
10 firefighters from all over the Manitowoc and
11 Calumet County areas.

12 And they all showed up in force, en
13 masse, on the morning of Sunday, November 6th.
14 And for the first time, everyone of those 4,000
15 vehicles was opened up. Everyone of those 4,000
16 trunks was opened by a firefighter with a police
17 officer with them, looking for the body of Teresa
18 Halbach.

19 Also on Sunday, November 6th, a firearm
20 was found, or recovered; it was actually found
21 the evening before. But it was seized; it was
22 recovered. It was hanging over the bed of the
23 defendant, Steven Avery. He thought it was
24 appropriate to recover that as a piece of
25 evidence and, in fact, it was.

1 You are going to hear that the brand
2 name of this semi-automatic .22 caliber rifle is
3 Marlin. You are going to hear that it is
4 something called tube loaded. Not that any of
5 these things are going to mean much to you at
6 this point, but there are a number of bullets
7 that are able to be loaded into this
8 semi-automatic rifle.

9 You are going to hear, by the way,
10 although hanging over Mr. Avery's bed and his
11 exercising control over that, should be obvious
12 that on the 31st of October, Mr. Avery exercised
13 a great deal more control.

14 A deserving piece of evidence was seized
15 on the -- Sunday, the 6th of November. And it
16 is, what we believe, the last recorded voice of
17 25 year old Teresa Halbach. When Mr. Avery, the
18 evidence will show, made arrangements to have
19 this young woman come out to his property that
20 afternoon, he didn't use his own name.

21 He didn't use the name Steven Avery.
22 Even though Ms Halbach had been out to the
23 property, as I told you, on a number of occasions
24 before; Mr. Avery used a different person's name.
25 He used the name B. Janda, the initial B. Janda,

1 J-a-n-d-a. That's Barb Janda, can be Barb Janda,
2 but when we called the *Auto Trader Magazine*
3 people in Milwaukee, and you are going to hear
4 from Ms Schuster and Ms Pliszka, two employees of
5 *Auto Trader*, Mr. Avery used the name and used the
6 number for B. Janda.

7 Teresa Halbach doesn't know who B. Janda
8 is. You are going to hear evidence that Ms
9 Halbach called back the telephone number for Barb
10 Janda and she left this voice mail. This voice
11 mail was recovered, was retrieved. You are going
12 to hear this voice mail.

13 And you are going to hear from Teresa in
14 her own words, in this courtroom, that she got
15 the message, that she knows that you want me to
16 come out to the property. Teresa Halbach tells
17 B. Janda that she's going to be out there
18 sometime after 2:00 p.m., that very day, on the
19 31st of October.

20 This will be important for you in
21 determining a timeline. Where was Teresa all
22 that day; was this before or after she went to
23 the Schmitz photo shoot and the Zipperer photo
24 shoot. That's going to be uncontroverted.
25 Absolutely, this is the last stop that she made

1 on the 31st of October.

2 Two days into this, folks, we're now on
3 Monday, the 7th of November, and the first
4 results come from the Wisconsin State Crime
5 Laboratory. The first results find several
6 things.

7 First of all, in the back cargo area of
8 Teresa's SUV, they find that there's female
9 blood. They find there is a lot of female blood
10 in the back of Teresa's SUV. But they also
11 found, interestingly, male blood, at least at
12 that early stage with their early typing, they
13 could find that it was male blood.

14 And interestingly and importantly that
15 already on Monday, the 7th of November, there is
16 male blood found in the victim's vehicle in at
17 least six different locations. Six different
18 places they find male blood. Mr. Wiegert,
19 Mr. Fassbender, all of the investigators don't
20 understand the significance of the male blood
21 being in six different places. They do, however,
22 understand the significance of a lot of female
23 blood. And they suspect early on that something
24 horrible has come to Teresa Halbach.

25 Also on Monday, a burn barrel was

1 discovered, not just any burn barrel. Again,
2 here's a picture, an overview, a part of the
3 aerial photograph of the Avery property itself.
4 There is Steven Avery's trailer and located
5 outside of Steven Avery's trailer was a burn
6 barrel that was recovered.

7 Now, again, not just any burn barrel,
8 but Steven Avery's burn barrel. And you will
9 hear later in my opening and you will hear a lot
10 of evidence about the trial, about what critical
11 pieces of information were found from that burn
12 barrel. But put it in perspective, on Monday,
13 that was found.

14 I provide this slide just as another
15 example for you of where that burn barrel was in
16 relationship, not only to the proximity of Steven
17 Avery's trailer, but the proximity to this red
18 Dodge Caravan. You may also have guessed, this
19 is the car that Steven Avery asked Teresa Halbach
20 to come take a picture of. All right. So the
21 proximity of the burn barrel to his front door
22 and also to the Dodge Caravan will be important
23 in the determination at the close of this case
24 when you decide who was responsible for these
25 crimes.

1 The next day, three critical pieces of
2 evidence are found on Tuesday, the 8th. Now, we
3 talked about these more detailed searches. On
4 Tuesday, one of these more detailed searches
5 occurred in Mr. Avery's trailer.

6 You are going to hear evidence that this
7 bookcase was pulled out, was jostled about. You
8 are going to hear evidence about this particular
9 binder having been pulled out of the bookcase.
10 And after the officers looked through it, how it
11 was slammed back in as the book case was actually
12 pulled out from the wall.

13 And after jostling and after searching
14 it, after slamming things around and after
15 putting the bookcase back in its location, you
16 are going to hear this is what the officers saw.
17 They saw a Toyota vehicle key in the bedroom of
18 Mr. Avery. You are going to hear evidence that
19 it had obvious evidentiary value, that the
20 officers at that time stopped what they were
21 doing and Investigator Dan Kucharski of the
22 Calumet County Sheriff's Department seized or
23 took control of that key during that more
24 detailed search.

25 More detailed searches were also

1 occurring at the same time of the entire Avery
2 Salvage Yard, which included now officers,
3 volunteer firefighters, going through all of the
4 cars again; 4,000 searches occurred again, on
5 Tuesday. But you are going to hear this time
6 they weren't looking for a body, at this time
7 they were looking for stuff. They were looking
8 for evidence.

9 After the body wasn't found in their
10 first search, they are going back and they are
11 looking for items of obvious evidentiary value.
12 You are going to hear testimony they found
13 something of obvious evidentiary value; they
14 found the victim, Teresa Halbach's, license
15 plates crumpled up in a station wagon.

16 I just show you this slide to show you
17 what the vehicle looked like, the station wagon
18 that the license plates were found in. And also
19 provide this aerial photograph to give you an
20 idea of the vehicle that the license plates were
21 found in.

22 Very quickly, I want to remind you of
23 Steven Avery's trailer is down in the lower left
24 hand corner; that the access road leading to
25 Mr. Avery's trailer comes from the top of this

1 figure down towards the right. Teresa Halbach's
2 vehicle is found in the first vehicle (sic) next
3 to the access road on its way to Steven Avery's
4 trailer. Again, the evidence is going to show,
5 not by accident, the proximity to the defendant's
6 roadway, the proximity to the defendant's
7 trailer, all becoming important.

8 Now, I told you that there were three
9 important discoveries on the 8th. And the third
10 and perhaps the most important discovery that day
11 is something that's being referred to as a burn
12 area. Again, just to orient you, it's the same
13 kind of picture that we have been looking at:
14 Steven Avery's trailer; Steven Avery's garage.
15 The Dodge Caravan, the van that Ms Halbach was
16 taking pictures of, was located right there; and
17 there's the burn area.

18 The proximity of this burn area to the
19 garage is obvious; the proximity of this burn
20 area to Mr. Avery's trailer itself is obvious.
21 To provide you with another view of this burn
22 area, again located -- you can see his trailer,
23 you can see the garage on the right.

24 But, importantly, that burn area
25 contained human remains. It contained obvious

1 bone fragments. Even to the untrained officers
2 that stumbled upon this particular burn area,
3 even when they called over the Crime Lab to
4 process this particular location, it was obvious
5 that there were human remains in this particular
6 burn area.

7 Now, this next picture is particularly
8 important because it was taken before any
9 processing begins. There's the burn area that
10 we're talking about. That's the burn area that
11 contained the obvious human remains. You will
12 see and you will hear from the officers who were
13 at the scene, that this burn area, from the first
14 night, was guarded, was guarded by Mr. Avery's
15 German Shepherd. I believe his name was Bear.

16 But this particular German Shepherd, not
17 of the friendly sort, did not allow law
18 enforcement officers to get close to this burn
19 area. Did not allow any of the canine help that
20 was out there to get close to that area. And any
21 time -- excuse me -- law enforcement even got
22 close to the burn area, Bear made sure that they
23 were shooed away.

24 But I think it's also important about
25 this case, when we talk about proximity, there

1 isn't any question who exercises control over
2 this burn area. And in the background, just --
3 just see how close it is to that van that Teresa
4 Halbach was asked to take a picture of.

5 The next day, Wednesday, November 9th,
6 was the first time that recovered bone fragments
7 from that burn area are identified by an
8 anthropologist. An anthropologist is a
9 professional who looks at bones and can identify
10 whether they are human, or that they are
11 non-human, where they go. We'll talk about that
12 a little bit later.

13 But even though these fragments are
14 small, even though they are burned almost beyond
15 recognition, on Wednesday, the 9th, they
16 determined that those were, in fact, adult female
17 remains found right behind the defendant's
18 garage.

19 All right. This is the first image that
20 is not a photograph that I'm showing you. This
21 is computer generated. And we're going to hear
22 from a man who created these images. His name is
23 Tim Austin. He works for the State patrol, the
24 State of Wisconsin, in scene reconstruction.

25 And what Tim Austin will tell you is

1 that he was out at the scene -- and we'll talk
2 about this a little bit later -- but he was out
3 at the scene and took over 4100 measurements out
4 at the scene. And after taking his own
5 photographs and after taking over 4100 images --
6 excuse me -- measurements, he was able to
7 recreate some of these scenes for you, for the
8 jury.

9 And these are created for the jury so
10 that you can see things that the naked eye can't
11 see; so that you can see things that photographs
12 can't show; so that you can see relationships
13 between some evidence and fixed objects or other
14 evidence that's found. And so as you see this
15 perspective you will see that you are up, you
16 know, dozens of feet above the ground. And it's
17 something, again, unless you are that tall, you
18 are not going to be able to see this kind of
19 location.

20 But this particular computer generated
21 animation is important to embrace or to -- for a
22 jury to look at in the case because the burn area
23 is clearly visible. How close it is to
24 Mr. Avery's garage; how close it is to the
25 trailer; how close it is to the other area,

1 what's called the curtilage, that is the area
2 that surrounds Mr. Avery's property, all becomes
3 important.

4 All right. So these are -- And when
5 something is not a picture, when it, in fact, was
6 created through computer animation or computer
7 generation, I will let you know that.

8 One of the bones that was recovered was
9 a long bone. And I'm showing you this for a
10 reason, in my opening statement, so that you
11 understand what we're looking at here. That we
12 aren't just looking at some bone in abstract.
13 We're not just looking at some DNA profile.

14 It's Teresa Halbach's shinbone. All
15 right. It's Karen Halbach's daughter's tibia.
16 And attached to Teresa Halbach's tibia was some
17 tissue. Now, despite Mr. Avery -- The evidence
18 will show, that despite Mr. Avery's effort to
19 completely obliterate all these bones, by
20 burning, to incinerate these bones completely,
21 this bone survived.

22 This tissue that was on the bone
23 survived, which allowed a DNA match, which
24 allowed the State of Wisconsin analyst, guess
25 who, Sherry Culhane, when she performed an

1 analysis on that tissue, to match it with the
2 blood found in the back of the SUV; with a soda
3 can that is found in the front of the SUV; and
4 with a standard.

5 Now, the standard is also called an
6 exemplar. You are going to hear those two
7 statements, but Teresa Halbach, before the 31st
8 of October, had a Pap smear performed, a cervical
9 swab that was performed. And thankfully for us,
10 that was kept at Bellin, up in Green Bay. Well,
11 Sherry, also -- Ms Culhane, also, was able to
12 develop a DNA profile from the Pap smear.

13 We know that's Teresa. And from that
14 exemplar, from that example, matches the tissue
15 on the leg bone; matches the blood; matches the
16 soda can. We can say with 100 percent certainty
17 that those human remains are those of Teresa
18 Halbach.

19 The first 11 days of this case become
20 extremely important. And for just about five
21 minutes here, I want to give you those 11 days
22 in. And what you have just heard, that part of
23 the investigation, you have only heard 11 days
24 worth of investigation, which has gone on 15
25 months now. But the first 11 days are important

1 and I want to just run through those for you.

2 Ms Halbach is killed on the 31st of
3 October, at the Steven Avery salvage property,
4 sometime after 2:45 p.m. You are going to hear
5 from a gentleman by the name of Tom Pearce, who
6 is Teresa Halbach's business partner, that she
7 doesn't show up for work on the 1st or 2nd.

8 And on the 3rd, Teresa Halbach is
9 reported missing to law enforcement authorities.
10 That's when the missing persons investigation,
11 from a law enforcement standpoint, begins. I
12 think, if you will, as to the feelings of the
13 Halbach family and friends and how worried they
14 are even on the 3rd.

15 But on the 4th, you are going to hear
16 from a witness named Ryan Hillegas who helped
17 coordinate the citizen search efforts.

18 You are going to hear that there was
19 something called cell tracking. We're going to
20 hear a little bit about that. A cell phone
21 actually is almost a transmitting device and it
22 pings or beeps, if you will, off of cell towers
23 all over the state, whenever you carry it in your
24 pocket, whether it's on or not. You are going to
25 hear evidence about attempts to find Teresa's

1 cell phone; if we find her cell phone, we can
2 find Teresa.

3 We also looked at those early stages for
4 whether or not she used any of her credit cards.
5 Where is Teresa Halbach? We try to find that
6 out.

7 You are going to hear that a gentleman
8 by the name of Curt Drumm, a pilot in the
9 Manitowoc area, volunteered his airplane and
10 helped law enforcement fly over Mr. Zipperer's
11 residence and Mr. Schmitz's residence and the
12 Avery compound and any of the roads that may have
13 led to and from there to try and find Teresa
14 Halbach.

15 On the 5th, we know that Teresa's
16 vehicle was found at the Avery salvage property.
17 You will hear that search warrants were obtained.
18 You will hear during the course of this case that
19 a search warrant is nothing more than a piece of
20 paper. It's a judicial authorization; a judge
21 authorizes law enforcement officers to search the
22 property, in private areas. And we got many,
23 many search warrants in this case and searched
24 for her body.

25 You have heard already, that on the 6th,

1 firearms are obtained or taken from Mr. Avery's
2 bedroom; his garage is searched, at least the
3 first search of the garage for those items of
4 obvious evidentiary value. But remember, on that
5 Sunday we don't have any results yet, from the
6 Crime Lab. Those don't come until sometime on
7 Monday, when the Crime Lab determines that both
8 male and female blood is located in the SUV.

9 We search, for the first time, all of
10 the junked vehicles, at least all of the trunks
11 are searched.

12 And Mr. Avery's burn barrel is
13 discovered and searched.

14 And other things will happen and you are
15 going to hear from other officers that the
16 surrounding areas, not just the 40 acres, but
17 hundreds of acres of gravel pits and the like are
18 being searched in these early days.

19 On Tuesday, perhaps the most important
20 of all the days as far as discoveries go, those
21 three critical discoveries are made: The Toyota
22 key, the license plates, and the burn area behind
23 the defendant's property.

24 On Wednesday, the 9th, there is an
25 identification made of male blood in the victim's

1 vehicle. That blood matches the DNA profile of
2 the defendant, Steven Avery. And bones are
3 recovered and determined to be that of an adult
4 female.

5 You will hear on the 10th, on Thursday,
6 the burn area is further excavated by arson
7 investigators and other Crime Lab and other types
8 of officials but, interestingly, the defendant's
9 DNA is now found on the key.

10 And, finally, on Friday, the 11th, the
11 female blood that was found, the great pool, if
12 you will, of female blood, in the cargo area, is
13 now matched. It is determined to match the soda
14 can -- the saliva from the diet Wild Cherry
15 Pepsi, I believe, soda can in the front of
16 Teresa's car. The blood is now presumed to be
17 that of the victim, Teresa Halbach.

18 You have heard the term that they told
19 me there would be no math, well, there is going
20 to be some science. And here's where I have to
21 at least give you an overview of what the science
22 of this case is going to be.

23 The science, the blood part of the
24 science, the DNA analysis and explanation of this
25 case is going to come from this gentleman right

1 here, Norm Gahn. Mr. Gahn, you will learn by his
2 examination, is quite knowledgeable in DNA and DNA
3 from a prosecution standpoint. And in all
4 honesty and in all candor, that's why he was
5 added to the prosecution team, because this is
6 such an important part of the case. The science
7 becomes very, very important.

8 You are going to hear about a DNA
9 analyst from the Wisconsin Crime Lab named Sherry
10 Culhane. Again, Ms Culhane, almost unbelievably,
11 is the very analyst that exonerates Mr. Steven
12 Avery several years earlier. She's the same
13 analyst that does the detailed DNA work on
14 Mr. Avery's work with the Innocence Project and
15 frees Mr. Avery from his incarceration.

16 Well, that same woman, Sherry Culhane,
17 processes this vehicle. Because she's the unit
18 head, because this is such an important case, she
19 does the work herself. She does all of the
20 analysis of all of the blood that's found in
21 these cases.

22 You are going to hear from Ms Culhane,
23 through the assistance of Mr. Gahn, what DNA is,
24 that it is a genetic fingerprint, if you will.
25 Provides an opportunity, as most of you may

1 already know, to take a sample and to take a
2 unknown sample, something like blood that's found
3 in the back of an SUV and to take a known DNA
4 sample, since our DNA is all the same in all of
5 our bodily fluids.

6 Our blood has the same DNA as our
7 saliva, as our semen, as the skin cells, as our
8 tissue; it's all the same DNA. So once you
9 develop a profile, each of us all has different
10 DNA; it's unique to each of us. And Mr. Gahn
11 will explain all of that for you.

12 But with that as the background, Ms
13 Culhane was able to establish all of the places
14 in that SUV that had Teresa Halbach's DNA. You
15 are going to learn that they found a large
16 quantity of the blood and DNA in the cargo floor
17 and the side panel. The back cargo door, you are
18 going to hear that there were splatters, spatters
19 of Teresa's blood in the back cargo door.

20 You are going to hear that on the rear
21 tailgate there were droplets of Teresa's blood;
22 her DNA is found on the door handle; and, also,
23 as I have already alluded and you might expect,
24 the saliva from the soda can, Ms Culhane will
25 find DNA evidence.

1 I told you about male blood that was in
2 the SUV. On Wednesday, the 9th of November,
3 Steven Avery subjected to a very thorough medical
4 examination, again, as result of a warrant, as a
5 result of a judicial authorization to do that
6 particular kind of examination. And what they
7 found was a very, very deep cut to Mr. Avery's
8 right middle finger but, importantly, on the
9 outside of his right middle finger. And that's
10 where the cut was.

11 This cut was actively bleeding on the
12 31st of October. And I guess, thankfully, for
13 the State. And as a jury, I hope at the
14 conclusion of this case you will say thankfully
15 for you. Because DNA analysis was then possible
16 because of his actively bleeding, of his leaving
17 his DNA behind, inside of Teresa's vehicle.

18 Ms Culhane will tell you that the
19 defendant's blood was found in at least six
20 places in Teresa Halbach's SUV including the rear
21 passenger door, smeared or wiped on the rear
22 passenger door. Okay. There's a front door;
23 there's a back door; kind of like a four door
24 car. It was in the backdoor and it's along the
25 edge or along the metal of the rear passenger

1 door. That's Steven Avery's blood. That's how
2 much blood he left on the side of the door.

3 We have heard about the defendant's
4 blood on the ignition. That positively matched
5 that of Steven Avery. As you think about this
6 case and I will argue at the end of the case, but
7 there isn't any secret and the defense
8 understands this is as well, an actively bleeding
9 middle right finger. And when you look at the --
10 excuse me -- When you look at the smear, kind of
11 visualize turning the ignition and how that can
12 smear from the outside of the middle finger and
13 leave that particular kind of DNA evidence.

14 Other places that the defendant bled
15 inside of the victim's car included blood on her
16 CD case in her front seat. Both front seats had
17 droplets of Mr. Avery's blood on it. The rear
18 tailgate, remember I told you there was a droplet
19 of Teresa's blood; because Mr. Avery is actively
20 bleeding, there is a droplet of his blood as
21 well. And also on the front console floor, is
22 kind of up in that particular area.

23 Sherry Culhane and Mr. Gahn are better
24 able to explain all those for you, but it's
25 important for you to know. Now, again, the

1 jigsaw puzzle, when you hear the evidence and
2 when you have to decide who killed Teresa
3 Halbach, this evidence points to one person.

4 Now, Mr. Gahn and his questioning, and
5 Ms Culhane is going to tell you, that DNA
6 evidence, again, is not just from blood. It can
7 be from skin cells which are left through
8 perspiration, sweat, okay, saliva and sweat and
9 all those other kinds of bodily fluids that we
10 talked about. So when somebody's hands are
11 sweating and you handle something, it's possible
12 that you can leave your DNA on that thing that
13 you handled.

14 You heard a suggestion already in which
15 there will be evidence in this case that the
16 battery was disconnected on Ms Halbach's vehicle.
17 We'll tell you, or at least we'll argue as to why
18 that happened. But importantly, in reaching up
19 underneath the hood, to open up Teresa Halbach's
20 vehicle, Mr. Avery was kind enough to leave his
21 DNA on the hood latch. Okay. That will come
22 from Sherry Culhane as well.

23 In handling Ms Halbach's key that starts
24 the ignition and putting it into his bedroom,
25 Mr. Avery was kind enough to leave his DNA on

1 that portion of the Toyota key that was found.

2 So that's part of the science.

3 Other science is going to include things
4 like teeth, teeth that were recovered from the
5 burn area. This part of the science, by the way,
6 will be handled by Mr. Fallon, and other expert
7 witnesses, but most importantly, through somebody
8 called a forensic odontologist.

9 That's a big word, kind of scared me
10 when I first heard it. Gentleman's name is
11 Dr. Donald Simley. Mr. Simley is a odontologist.
12 From a forensic standpoint, it's kind of a
13 dentist who matches stuff up.

14 So Mr -- or Dr. Simley, the dentist, the
15 odontologist, will show you a -- what's called a
16 panorex x-ray. We went to Teresa's dentist. We
17 got her x-rays from when she had work being done
18 and Dr. Simley will show you tooth number 31,
19 which is the second last tooth in the bottom left
20 jaw.

21 Dr. Simley will also tell you that
22 x-rays were taken of teeth that were found from
23 the burn area. He will show you tooth number 31
24 that was actually recovered from the burn area
25 and will allow the jury to make their own

1 comparisons.

2 We talked about an anthropologist. Our
3 anthropologist is Dr. Leslie Eisenberg.
4 Dr. Eisenberg will tell you about her
5 credentials, about how she does this -- this
6 whole kind of work. And although, unfortunately,
7 the bones that she had to deal with and, again,
8 we aren't talking about a full skeleton that was
9 found in that -- that bone (sic) pit.

10 If we did, by the way, we may not be
11 including a charge against Mr. Avery for
12 mutilation of a corpse. But mutilation of this
13 little girl -- excuse me -- not this little girl,
14 but this young woman, absolutely occurred.
15 Because this is what's left, small tiny pieces of
16 bone fragment.

17 And when you talk about a jigsaw puzzle,
18 when you talk about trying to put all of this
19 together; it's a very, very difficult process.
20 And when I asked -- And the testimony, actually,
21 of Dr. Eisenberg is going to allude to this
22 jigsaw puzzle kind of analogy and we don't even
23 have a box or a cover to go on. Luckily for us
24 and luckily for you, Leslie Eisenberg is your
25 jigsaw puzzle covered box.

1 In other words, Dr. Eisenberg knows
2 where everyone of these bones goes.
3 Dr. Eisenberg will identify all of these bone
4 fragments. She'll identify, from a female
5 skeleton and from examples that are used, all of
6 the different parts of Teresa that were found.
7 Okay. And it will help you as far as
8 identification processes go, as to what parts of
9 Teresa's bones and what parts of the body were
10 actually recovered in this case.

11 Now, not all evidence is of equal
12 weight. And two really important pieces of bone
13 were found. And those were two pieces of what
14 are called the cranium, the skull, that were
15 burned very, very badly but were identified as
16 such by Dr. Eisenberg.

17 The parts of the skull, this picture
18 that you are looking at is actually a part of the
19 skull now. This brilliant woman is going to tell
20 you that this isn't just part of the skull, but
21 this is a little piece of the skull that's just
22 on top of or over somebody's left ear.

23 How do you tell that kind of thing
24 looking at a bone like that, but that's what an
25 anthropologist apparently -- apparently does.

1 And that's why she's an expert, and we're not, in
2 this area. But, importantly, the damage, the
3 defect that's caused, the evidence is going to
4 show that you are looking at the inside, from the
5 inside out, the inside of Teresa's skull out;
6 that the circular or half circle -- because this
7 isn't the full piece, this is half of the
8 important piece here -- is extremely important.

9 The defect, the damage here, the
10 testimony will be, is caused by a high velocity
11 projectile. We take this same bone fragment and
12 you are going to hear evidence about other
13 experts and it allows some other analysis of this
14 particular piece of bone, this particular piece
15 of cranium.

16 You are going to hear from a gentleman
17 by the name of Ken Olsen from the Crime Lab; he
18 is an expert in trace evidence, the CSI kind of
19 stuff, but the trace from an elemental
20 standpoint. When you x-ray something, the
21 evidence is going to show bone and other kinds of
22 vascular or veins and things show up after you
23 x-ray even a burned piece of bone.

24 But what also shows up are things that
25 don't burn up. All right. When Mr. Olsen

1 testifies, he's going to point to these little
2 bright dots. See those okay from there? These
3 little bright dots that are right on the lip of
4 the cranial defect.

5 Those little bright dots he's going to
6 say he examined. He recovered those and he did
7 his analysis on them, elemental analysis, and
8 found that they are lead. These little dots are
9 lead, what's called lead spray. You are going to
10 hear testimony that there's only one thing, only
11 one item that can travel fast enough, as a
12 projectile, to cause this kind of a defect and
13 also leave lead. And as you might predict,
14 that's a bullet. All right. Lead spray is left
15 by bullets.

16 Dr. Eisenberg, then, with the assistance
17 of a gentleman by the name of Jeffrey Jentzen, is
18 the Milwaukee County Medical Examiner.
19 Dr. Jentzen, has -- and you will hear he has a
20 great deal of experience nationally, a national
21 expert in things like gunshot wounds.

22 Dr. Jentzen and Dr. Eisenberg will
23 render two expert opinions: First of all, that
24 the left parietal region, the region just above
25 the left ear, the thing that you just saw, the

1 combination of the projectile and the lead spray,
2 leads these two experts -- and especially the
3 pathologist -- especially Dr. Jentzen, who will
4 tell you that that's an entrance wound, just
5 above the left ear of Teresa Halbach.

6 They will also find a second and we will
7 show you a second entrance wound, similar kind of
8 defect that's found in a recovered bone that is
9 on what's called the occipital region of the
10 skull. That's to the back and just to the left
11 side of the back of the skull and that was a
12 second entrance wound.

13 Finally, their opinion, when they put
14 together -- when you ask of the State, what was
15 the cause of death, what was the mechanism of
16 death, at the conclusion of this case I will be
17 able to tell you, this was a homicide and it
18 included at least two gunshot wounds to the head
19 of 25 year old Teresa Halbach.

20 I'm almost done so hang on. Remember
21 this burn barrel, remember found outside of
22 Mr. Avery's trailer, well, this burn barrel, as I
23 told you, was examined. And although Mr. Avery,
24 the evidence will show you, attempted to burn up
25 all of the stuff that was in the burn barrel, it

1 didn't burn. It didn't burn up.

2 And the things that didn't burn up were
3 electronic components. All of these electronic
4 components were found in Mr. Avery's burn barrel.
5 This is other evidence. This is more evidence,
6 not just the science, not just the DNA, not just
7 the blood, but at the conclusion of the case will
8 be other evidence that will be able to assist you
9 in pointing to who killed Teresa Halbach.

10 Of those electronic components, included
11 Teresa's cell phone. You will hear evidence that
12 Teresa had a Motorola V3 RAZR cell phone. And
13 when we look at and when the experts show you
14 those electronic components that are found within
15 the burn barrel, you will recognize or some of
16 you might, the Motorola sign.

17 But for those of you that don't, we're
18 going to have a gentleman by the name of
19 Mr. Thomas from the FBI come here from Virginia
20 and he's going to show you all those components
21 and he's going to show you what they looked like
22 when they were recovered from Mr. Avery's burn
23 barrel and what they used to look like on a
24 Motorola V3 RAZR cell phone. All right. So you
25 are going to be able to match up the components

1 itself and what it used to look like before Mr.
2 Avery's attempts to destroy that evidence as
3 well.

4 You are going to hear about a digital
5 camera that Teresa Halbach had; digital camera
6 that she used to take pictures was a Canon A310,
7 PowerShot A310. You are going to hear all kinds
8 of interesting evidence about how a digital
9 camera -- and some of you may know this and
10 certainly our media friends know this. But when
11 you take a picture with a digital camera, that
12 photo, that image that you take with a digital
13 camera leaves a signature. It leaves an
14 electronic imprint on the image itself.

15 And so, if you put that picture on a
16 laptop computer or your home computer and you
17 take your little mouse and put what's called the
18 cursor, the little arrow thing, over the picture
19 itself, it gives you an incredible amount of
20 information. Gives you the date that that
21 picture was taken. It tells you things about the
22 picture itself, including what kind of camera was
23 used.

24 And you are going to learn and you are
25 going to see at least six different pictures that

1 were taken at Steven Avery's property by Teresa
2 Halbach. And all six of those include that
3 little imprint, include that signature, will tell
4 you conclusively that Teresa uses the Canon
5 PowerShot A310. All right.

6 We'll have these even more blown up for
7 you, but that says PowerShot A310. There isn't
8 going to be any question at all about whose
9 camera it was that Mr. Avery burned in his burn
10 barrel on the 31st of October.

11 You are going to hear about those other
12 electronic components, by the way. I don't know
13 if you use a palm pilot or a PDA, a personal data
14 assistant. Teresa had one of those. That was
15 also burned up and found in that burn barrel with
16 some other information.

17 But when on the topic of what other
18 evidence, what additional evidence, we're not
19 done there folks. All right. We have other
20 evidence that we have developed in the last 15
21 months. You are going to learn that in
22 Mr. Avery's garage, after shooting the bullets
23 into 25 year old Teresa Halbach, they ejected
24 what are called shell casings.

25 Those are the little brass casings that

1 come out of a gun after you shoot the gun. Well,
2 it's possible for experts, for toolmark experts
3 from the Crime Lab to match up those shell
4 casings with a specific gun. And they will, in
5 fact, match that .22 caliber rifle that's hanging
6 over Mr. Avery's bed.

7 Now, March 1st and 2nd, 2 bullets were
8 found, also, in Mr. Avery's garage. Through a
9 more detailed search, you will find out why that
10 happened. Through a more detailed search of the
11 garage, two bullet fragments were found in
12 Avery's garage. One of those bullet fragments,
13 after going through Teresa Halbach, included
14 Teresa's DNA.

15 And so as a matter, through Mr. Gahn and
16 through his experts, you will learn that Teresa
17 helped you too, that she left behind some
18 evidence for you to consider in this case.
19 Teresa left behind her DNA for you to consider on
20 one of the bullets that's found in the defendant,
21 Mr. Avery's, garage.

22 You will hear about things like phone
23 calls. You'll hear about how phone calls can't
24 be changed in the records and we can provide a
25 timeline as to when certain things happened; when

1 Mr. Avery called for Teresa; when he called her
2 two times before she ever got there; and when he
3 places a -- what we're going to be called an
4 alibi call, two hours after she's already at the
5 property. You are going to hear about all those
6 kinds of phone calls.

7 And as I mentioned, at least briefly,
8 before other analysis of bone and tissue, other
9 things to point to, if in fact the State even
10 question whose bones and whose tissue it is
11 behind Mr. Avery's property.

12 Lastly, I just want to remind you of the
13 kinds of exhibits that you are going to hear in
14 this case. You are going to see items that were
15 seized, stuff that was seized from the scene,
16 from Mr. Avery's property. You are going to get
17 photographs from out at the scene, but you are
18 also going to see photographs after the evidence
19 was already obtained so that you have a more
20 pristine or a better view of some of this
21 evidence.

22 You are going to look at documents and
23 records. You are going to hear from experts.
24 And they will provide some written expert reports
25 and also summary and demonstrative exhibits.

1 Just a little bit on summary exhibits.
2 When there's lots of evidence like documents;
3 lots of things in documents, phone records, you
4 know, things like this; when it's hard for you to
5 digest, we'll try to create a one or a two page
6 summary of all that information to help the jury
7 and find out exactly what all of it means.

8 And, finally, audio and videotaped kinds
9 of evidence, you would expect to find those kinds
10 of things.

11 Remember I told you before, just talking
12 about different kinds of photos, about those
13 pictures that Teresa took, those six different
14 pictures; this is one of them. It was taken on
15 June 20th, by Teresa Halbach.

16 I use this as the example because --
17 because I wanted to. But it shows very clearly
18 Mr. Avery's trailer, his garage. It's clear
19 through *Auto Trader Magazine*, when Mr. Avery, in
20 June of this year tried to sell this particular
21 trailer, Teresa Halbach took this picture, again,
22 with a Canon PowerShot A310. You will hear all
23 those kind of things.

24 But the reason, at least for this part
25 of the presentation, I'm showing you this, is it

1 tells you a difference between a scene photo and
2 things that I mentioned at least briefly before;
3 computer generated scene models. Again, this
4 isn't a picture. This is a -- provided by
5 Mr. Austin, but you will note that it's something
6 that you couldn't see with your eye.

7 Again, usually there's elevations that
8 are involved. These kinds of models are, by the
9 way, within an inch, you will hear, accurate.
10 Every measurement is within an inch. So this
11 isn't some blackboard that was taken down and you
12 just do the best you can.

13 And these are 4100 measurements that
14 make everything geometrically perfect,
15 geometrically accurate to within an inch. But
16 these kinds of models should assist you. Since
17 it's the middle of February, we're not going to
18 be traipsing off to the Avery property.

19 These kinds of things may help you in
20 understanding better and getting a better tour of
21 the Avery property. But just this model, as an
22 example, shows you how close Mr. Avery's burn
23 barrel is to his front door; how close it is to
24 the vehicle that Ms Halbach took pictures of.
25 And even things like after taking the pictures,

1 the path that Teresa Halbach took as she walked
2 towards Mr. Avery's property.

3 For those of you big picture people, not
4 detail oriented people, you all were asked that
5 question, we'll have aerial photographs for you.
6 Again, when we look at all of the surrounding
7 gravel pits on at least three sides of the Avery
8 property and how that may fit into some of those
9 kind of things.

10 We have interior photos as well. Photos
11 of the inside of Mr. Avery's garage. Now, you
12 will note a couple things about this photo.
13 First of all, you will note how cluttered, to say
14 the least, that it is. And this might help you
15 understand how difficult it was for officers, not
16 knowing what they are looking for, in November,
17 to kind of go through this garage, not knowing
18 that the shooting -- not knowing that the
19 shooting happened in this garage. The officers
20 didn't really know what they were looking for.

21 But in March, when this picture was
22 taken, and they know what they are looking for
23 and they know where to look in the garage, these
24 kind of pictures should be able to help you. But
25 Mr. Austin also will help you in giving you a

1 geometric perspective, ripping the roof off, if
2 you will, of the garage and show you models of
3 the insides of the garage.

4 By the way, just so there isn't any
5 question why I'm showing you this exhibit, one of
6 the bullets, number 9, which was found in the
7 crack of a -- the cement, that was not cleaned up
8 in this case. And tent number 23A, underneath
9 what was a air compressor, the evidence is going
10 to show, is the bullet that Teresa left her DNA
11 for you. Underneath that air compressor is where
12 they recovered that second bullet.

13 Other interior photos, you are going to
14 see photos of the interior of Mr. Avery's
15 bedroom, the gun rack that hangs over Mr. Avery's
16 bed with two firearms, one was a .50 caliber
17 muzzleloader and on top of that was a .22 caliber
18 automatic -- semi-automatic rifle.

19 But Mr. Austin, again, provides you
20 with, ripping off the roof, if you will, interior
21 scene models, where you are going to be able to
22 look at the living room of Mr. Avery and his
23 spare bedroom and his bathroom and Mr. Avery's
24 master bedroom, be able to kind of walk around
25 within that space. So it will help you

1 understand where some of these evidence -- or
2 some of this evidence was found.

3 Finally, the kinds of witnesses that you
4 are going to hear from, include citizens and law
5 enforcement officers and records kinds of people;
6 although, most of those will be agreed to between
7 Mr. Strang and us, as well as expert witnesses.

8 You will hear from various kinds of
9 citizens like Bobby Dassey, who is one of the
10 sons of Barb Janda, who you will hear testimony
11 about, that at about 2:45 on the 31st of October,
12 Bobby saw a young girl drive up to the Avery
13 property.

14 Bobby Dassey saw this young girl, later
15 identified as Teresa Halbach, get out of her
16 teal, or blue, or green colored SUV and actually
17 take pictures of the van that her mom had for
18 sale. Bobby Dassey is going to tell you, that
19 after looking out the window and after seeing
20 Teresa Halbach take these photographs of this
21 vehicle and finish her job, that Teresa walked
22 towards Steven Avery's trailer.

23 You will hear evidence that she was
24 walking towards the main entrance of Steven
25 Avery's trailer and that Bobby thereafter took a

1 shower and left to go deer hunting, bow hunting,
2 about 15 minutes later. You are going to hear
3 from Bobby that when he left 15 minutes later,
4 Teresa's SUV was there, but Teresa was nowhere to
5 be found.

6 You are going to hear that Bobby Dassey
7 was the last person, the last citizen that will
8 have seen Teresa Halbach alive. You are going to
9 hear from other citizens like that, other people
10 that will help place this case into context for
11 us.

12 Juries are triers of fact. You don't
13 decide what the law is, the judge does that. But
14 you decide what the facts of the case are. And
15 the facts in this case aren't just going to point
16 to who did it; it's not just a who done it case.
17 It's a what happened and where it happened and
18 when it happened.

19 But we're also going to provide you
20 evidence, not just that Steven Avery did it, but
21 to the exclusion of other people as well. In
22 other words, positive evidence about who done
23 know it, but also negative evidence of why that
24 necessarily excludes others. And so you get to
25 find those facts and at the end of this case, you

1 will search for the truth. You are not to search
2 for doubt, you are to search for the truth.

3 I told you when you started this case
4 and when this opening statement started, that
5 this may, in fact, be the most important decision
6 that you will ever -- going to make.

7 That leaves us, then, with the end. I'm
8 going to remind you through this case, I'm not
9 going to apologize about it, but this is Teresa
10 Halbach. I'm not going to apologize about the
11 fact that this is not a DNA profile number. This
12 isn't a box of recovered bones, but as I have
13 mentioned before, remembering the humanity of
14 Teresa Halbach. Remembering who she is, what she
15 meant to these people, is an important part of
16 this process.

17 Ultimately, this process includes
18 assigning accountability. It will require you to
19 assign responsibility for the murder and
20 mutilation of an innocent 25 year old young lady.
21 I'm confident, members of the jury, that after
22 the conclusion of this, what could in fact be a
23 six week trial, that you are going to agree with
24 me. You are going to agree with the State that
25 we have met our burden, that is, beyond a

1 reasonable doubt. I will ask at the conclusion
2 of this case, that you return verdicts of guilty.
3 Thank you. Thank you, Judge.

4 THE COURT: Thank you, Mr. Kratz. Members
5 of the jury, it's quarter to 12. It's a little
6 earlier than we normally take our lunch break, but I
7 don't believe there is time enough to get started
8 with anything else before lunch.

9 During the course of the trial the Court
10 will attempt to give you a break every hour and a
11 half or so, because I realize that your attention
12 is required and sitting for much longer than that
13 can impair your attention.

14 I do want to remind you at this time, as
15 I will periodically throughout the trial, that
16 you are not to begin your deliberations and
17 discussion of the case until all of the evidence
18 is presented and I instruct you on law at the
19 conclusion of the case.

20 Do not discuss the case among
21 yourselves, including the opening statement given
22 today, or with anyone one else, until you begin
23 your final deliberations in the jury room. We'll
24 take our lunch break now and resume at 1:00.

25 (Jury not present.)

1 THE COURT: You may be seated. Counsel, in
2 terms of the schedule for this afternoon, is the
3 State going to have some evidence to present after
4 the opening statement?

5 ATTORNEY KRATZ: We will, Judge, we'll have
6 as many witnesses as the Court wants to proceed with
7 this afternoon.

8 THE COURT: All right. We'll see you back
9 at 1:00.

10 ATTORNEY STRANG: I have just one quick --

11 THE COURT: Go ahead.

12 ATTORNEY STRANG: -- matter if I might.

13 I decided against interrupting
14 Mr. Kratz's opening statement because I thought
15 this could wait, honestly, and I don't like to
16 interrupt someone's opening. But probably in the
17 first 20 minutes of his opening, Mr. Kratz
18 explained to the jurors that the presumption of
19 innocence persists only until that moment when
20 the evidence overcomes it and proves guilt,
21 beyond a reasonable doubt.

22 I understand -- I understand the
23 argument. I understand what was meant, no ill
24 intent was meant, but that's enough of a
25 variation from the actual instruction that the

1 presumption of innocence attends the defendant
2 until after closing arguments and deliberations
3 begin, that I simply would ask the Court to
4 repeat part of that presumption of innocence
5 instruction this afternoon, before I start.

6 We don't have to make a big deal out of
7 it; I just thought an abbreviated reminder might
8 help. I also noted in the State's Power Point
9 slide that explained the element of false
10 imprisonment that the language, during her
11 lifetime, was omitted.

12 That's, I think, the kind of thing that
13 the Court already has covered and can cover
14 again, but it might be a good idea, and this
15 covers me too, for the Court simply to remind the
16 jury that all legal instructions come from the
17 Court in the end.

18 THE COURT: All right. I did -- I do
19 recall the statement regarding the presumption of
20 innocence that you referred to. And I do agree that
21 the precise extemporaneous statement for Mr. Kratz
22 is not technically correct. I'm going to grant your
23 request and repeat the presumption of innocence
24 instruction before you give your opening.

25 The other item about during the victim's

1 lifetime, I think I covered in the initial
2 instructions, again, and I'm confident that six
3 weeks from now the jury will have forgotten any
4 subtle distinction that may have taken place in
5 the opening. But I will repeat the presumption
6 of innocence instruction without giving any
7 specific reason why --

8 ATTORNEY STRANG: No.

9 THE COURT: -- because I doubt that the
10 jury caught the significance of it, but it was
11 technically incorrect.

12 ATTORNEY STRANG: Right. And it was
13 unintended and there doesn't have to be a big deal
14 made about this.

15 THE COURT: All right. Anything else
16 before we break?

17 ATTORNEY KRATZ: No, that's fine, Judge,
18 thank you.

19 (Noon recess taken.)

20 THE COURT: Members of the jury, a question
21 came up during break concerning the definition of
22 presumption of innocence, so I'm going to read that
23 excerpt to you again at this time, from the opening
24 instructions I gave you earlier. Then we'll hear
25 the opening statement from the defense.

1 Defendants are not required to prove
2 their innocence. The law presumes every person
3 charged with the commission of an offense to be
4 innocent. This presumption requires a finding of
5 not guilty unless in your deliberations you find
6 it is overcome by evidence which satisfies you,
7 beyond a reasonable doubt, that the defendant is
8 guilty. Mr. Strang, at this time you may begin.

9 ATTORNEY STRANG: Thank you, your Honor.
10 Good afternoon. This summer it will be 22 years, 22
11 years since a woman running on the beach in
12 Manitowoc was raped and beaten nearly to death. The
13 Manitowoc County Sheriff's Department investigated
14 those awful crimes and they charged Steven Avery
15 with rape and attempted murder on that Manitowoc
16 beach, 22 summers ago.

17 He said consistently that he was
18 innocent, that he had not done it. No one
19 believed him, no one but his own family believed
20 him.

21 And as that case was making its way
22 through the Manitowoc County Circuit Court, just
23 one county over, Teresa Marie Halbach was five
24 and was starting kindergarten. Somewhere else,
25 somewhere we don't know, a man named Gregory

1 Allen, presumably, was laughing and planning his
2 next violent rape.

3 Eleven years later, in 1996, Steven
4 Avery was trying, still, to make people
5 understand that he was innocent. DNA testing was
6 in its infancy. It was beginning to move into
7 courtrooms, out of scientific laboratories. But
8 we have come a long way, just a few years since
9 1996, and it was not as advanced as it is today.

10 But in 1996, Steven Avery took a chance
11 and had blood drawn, a little vial of blood. It
12 was sent off, through the help of his lawyers,
13 for early DNA testing. It couldn't clear him
14 entirely. It helped, but it did not conclusively
15 prove Steven Avery's innocence of the attempted
16 murder and rape on the Manitowoc beach.

17 And when the tests failed to prove him
18 entirely innocent, that blood was sent back, in a
19 box sealed with evidence tape, to the Manitowoc
20 County Clerk of Court. And there, in 1996, that
21 blood vial, sealed in the box with evidence tape,
22 took up residence in the now 11 year old file of
23 the 1985 case; in a box, in the open, in the
24 Manitowoc County Clerk of Court's Office. And
25 there it sat.

1 And in 1996, here, just a few miles
2 north of here, Teresa Marie Halbach was learning
3 to drive at age 16, I assume. And the irony --

4 Could you hear me before? Can you hear
5 me now?

6 THE COURT: We can hear you better now.

7 ATTORNEY STRANG: All right. Is it the
8 Verizon guy who says that?

9 Teresa was learning to drive, I assume,
10 at age 16. And the irony -- the irony is that
11 the blood vial in the Clerk's Office probably is
12 what ends up in her car, eventually.

13 And time moves forward, though, to 2002.
14 Science also has moved forward. DNA testing has
15 improved, and a new effort is made to exonerate
16 Steven Avery.

17 Now, the blood in the vial, in the box,
18 under the evidence tape, in the Clerk's Office,
19 is not, you will learn, what is used for the 2002
20 and 2003 DNA testing. But, some materials from
21 that box, that file, the overall file from the
22 1985 case, some are sent to the Wisconsin State
23 Crime Laboratory in Madison, to Sherry Culhane,
24 to whom Mr. Kratz introduced you.

25 And the person from the Manitowoc County

1 Sheriff's Department involved, low these many
2 years later, the department was, but a person
3 from the Manitowoc County Sheriff's Department
4 who documented the things that were sent from
5 that old court file to the Crime Laboratory and,
6 therefore, presumably looked at the box and
7 assisted in deciding what to send. That person
8 was, by that time, a lieutenant -- or a
9 detective, now a lieutenant, named James Lenk.

10 Now, Detective Lenk was with the
11 Manitowoc County Sheriff's Department, had his
12 office in the Sheriff's Department that adjoins,
13 or is connected by a small courtyard, to the
14 Manitowoc County Circuit Court and the Clerk's
15 Office, by a small courtyard to the south of the
16 courthouse. He was, as I say, a detective with
17 the Sheriff's Department. Today he is the
18 lieutenant of the detectives and leads the
19 Detective Unit.

20 He documented, in 2002, what was sent to
21 the State Crime Laboratory from that file. 2002
22 is the year that Teresa Halbach graduated from
23 the University of Wisconsin at Green Bay and came
24 home a short distance back, here to Calumet
25 County, to start off a promising career.

1 In 2003, nearly a year after the
2 necessary DNA samples were sent, the Wisconsin
3 State Crime Laboratory was able to establish that
4 Steven Avery did not rape and beat the woman on
5 the Manitowoc beach, as he had been saying all
6 along. And because of the advance of science,
7 the Crime Lab was better -- was able to do better
8 than that. It was able to establish that Gregory
9 Allen did.

10 Now, unfortunately, in the time that
11 passed, Mr. Allen had raped violently, again,
12 because he had his liberty while that man did his
13 time. But in the fall of 2003, as the weather
14 was cooling, the State of Wisconsin at long last
15 joined Steven Avery in a motion to set aside his
16 conviction, and an innocent man also went home.

17 Home for Steven Avery, home is the
18 salvage yard of which you have seen, now, many
19 glorious pictures, from up high, from down low,
20 from angles all over. The pictures are a good
21 deal more glorious looking than the salvage yard
22 itself, but this was home. It's the only home
23 that would take him back after this time.

24 Allen Avery, Steven's father, back there
25 in the working shirt, just as you might expect;

1 Allen Avery started that business nearly 40 years
2 ago on the 40 acres that he scrimped to buy. He
3 raised sons and a daughter. And they didn't
4 wander far from the business.

5 Chuck and Earl joined it, Barb works
6 elsewhere, works a factory job, but lives on the
7 property. And this is the sort of business where
8 the family, as you saw, shares the perimeter of
9 this property with the 4,000 rusting, decaying
10 cars that are the refuse, the wreckage of other
11 people's lives.

12 This is not a glamorous business, but it
13 is a necessary business. It is a good business.
14 And, yes, as you will learn, you have got to get
15 your hands dirty if you're going to be in the
16 salvage business. Not just dirty, you get your
17 hands bloody, because you are working with
18 rusted, jagged metal disassembling cars. And the
19 dirt that grinds into your palms and that you
20 find under your fingernails doesn't wash off at
21 night.

22 But this was his family's business and
23 this was home. And he rejoined his brother's,
24 Chuck and Earl; and his father, Allen; his
25 mother, Delores, on the family's property and at

1 the business. He became, again, one in the Avery
2 clan, one man in the Avery clan. And tried to
3 resume some normalcy of life, sharing the
4 perimeter of that salvage yard, not in a pretty
5 house in town, on a nice stone foundation, but in
6 a trailer home, down from his sister's trailer
7 home. Both of them down from the doublewide that
8 mom and dad have, and Chuck's trailer toward the
9 back, on the path toward the crusher.

10 And it is, although not glamorous, a
11 worthwhile business and it's work with its own
12 dignity. What would we do, if we didn't have the
13 salvage yards in which to find spare parts. I
14 guess we would be reliant entirely on the big
15 corporations that make the cars, to continue to
16 make spare parts for them and sell them at such
17 prices they might see fit.

18 So it would be pretty tough without the
19 Allen Averys and the Steven Averys of the world.
20 It would be pretty tough for the guy who is
21 restoring the 1968 Pontiac GTO hard top, in his
22 garage, to do that economically. It would be
23 pretty tough for the guy working on a 1965
24 Mustang convertible, in his spare time, to do
25 that.

1 Maybe more importantly, it would be
2 pretty tough for the woman who's got young kids
3 to feed, and a job to hold down, and medical
4 bills, and she just has to get another
5 50,000 miles out of that 1988 Oldsmobile. And
6 for these people, maybe for you, for many of us,
7 it's a good thing that that young woman's father,
8 or brother, or maybe she, can go to the salvage
9 yard and keep the 1988 Oldsmobile running a
10 little while longer.

11 Now, in 2003, when Steven went home,
12 Teresa Halbach also was home. Her photography
13 business was flourishing and things were going
14 reasonably well. In 2004, Steven Avery filed a
15 lawsuit seeking some recompense for the hole in
16 his life, the time he had spent as an innocent
17 man, for the crimes that Gregory Allen committed.

18 This was a serious lawsuit. It was in
19 federal court, down in Milwaukee, and there was
20 no question but that a Manitowoc County Sheriff's
21 Department and, in the end, the court system, had
22 gotten the wrong guy.

23 And as that lawsuit crept forward, as
24 lawsuits do, we came to October 2005. In October
25 2005, about the middle part of the month, James

1 Lenk and another ranking officer of the Manitowoc
2 County Sheriff's Department, Sergeant Andrew
3 Colborn, Mr. Lenk and Mr. Colborn both were
4 pulled into the lawsuit, not as defendants or
5 parties to the lawsuit, but as witnesses,
6 witnesses who had their depositions taken in the
7 middle of October, 2005.

8 Now, a deposition, typically in a civil
9 lawsuit, is an event where you get a subpoena as
10 a witness; you come normally to a lawyer's
11 office, the conference room, the library, the
12 lawyer's office; lawyers from both or all sides
13 are there.

14 A court reporter is there; these days
15 often a videographer as well. And the court
16 reporter swears the witness under oath, the
17 lawyers ask questions of the witness under oath
18 and they are recorded, much as Mrs. Tesheneck is
19 recording what we're saying here. There's no
20 judge; it happens, as I say, typically in a
21 lawyer's office.

22 And these two men, Lenk and Colborn,
23 were witnesses. They were witnesses about their
24 own conduct. Neither had been with the Manitowoc
25 County Sheriff's Department in 1985, but an event

1 in 1995 or 1996 came up in that lawsuit. And as
2 to that event, both of them were witnesses being
3 questioned about their own activity and conduct
4 with respect to Mr. Avery's imprisonment.

5 By the end of that month, unfortunately,
6 those depositions would begin to matter. And
7 indeed, from the time it was filed in 2004, you
8 will learn, the lawsuit itself mattered. This
9 sort of lawsuit, or the public cry of the
10 innocent man wrongly convicted and imprisoned has
11 to be, as you will see here I think, it has to
12 be, as you get into the heads of law enforcement
13 and begin to understand the process of law
14 enforcement, this kind of thing has to be a
15 nightmare for every good law enforcement officer.

16 These folks do not want to put innocent
17 people in prison. They want to put guilty people
18 in prison. And when they get it wrong, when the
19 whole system gets it wrong, there understandably
20 are feelings of shame, of embarrassment, anger,
21 humiliation, conflicting feelings about this.

22 This is a good cops worst nightmare,
23 made all the more worse by the fact that Gregory
24 Allen, free, thanks to Steven Avery being
25 convicted instead, Gregory Allen went on to rape

1 and beat again.

2 This lawsuit kindled real difficult
3 emotions. And the focal point of those emotions,
4 naturally, was the Manitowoc County Sheriff's
5 Department which had investigated the rape many
6 years ago on the Manitowoc beach.

7 And so when October 31, 2005, Halloween,
8 rolls along, Lieutenant Lenk and Sergeant Colborn
9 not only have the lawsuit to contemplate, but
10 now, within the last three weeks, have been made
11 witnesses in it and had their depositions taken.

12 October 31, 2005, began at the Avery
13 Auto Salvage Yard, much as any workday would.
14 This was a Monday, the yard was open. Not long
15 after 8:00 in the morning, about 8:12 in the
16 morning, Steven Avery called *Auto Trader* down
17 in -- actually I think in Hales Corners, Highway
18 100 down on the southwest side of Milwaukee,
19 called *Auto Trader*, as he had done a number of
20 times before, and said, we need a photographer,
21 we have a car for sale.

22 Now, the car belonged to Barb Janda, the
23 van, the mini van you saw computer images of and
24 actual photographs of. It was there. It was
25 hers. It was for sale. I don't expect there

1 will be any dispute about that. And it was
2 Barb's to sell. The calls about it were Barb's
3 to take, the price was Barb's to dicker or
4 negotiate with people interested in making an
5 offer, on the used van.

6 Steve left B. Janda as the name because
7 that was the name of the seller. But Barb works
8 during the day at a factory in town. She does
9 not work at the salvage yard as Steven did. He
10 leaves her telephone number because that's where
11 the phone calls have to go if there's an
12 interested buyer.

13 And this, you will find out, is not at
14 all unusual or sinister. It doesn't involve
15 luring anyone anywhere. There was a car for
16 sale. There were photographs to be taken. And,
17 indeed, on that day alone, for Teresa Halbach,
18 with the three appointments we know about; this
19 was not the only appointment where the seller of
20 the car was not the person whose name was given
21 to *Auto Trader*.

22 The Schmitz car was called in by and
23 listed as an appointment for a Craig Sippel
24 (phonetic). And that little bit of confusion was
25 quickly cleared up by the police. Wasn't really

1 Sippel's car; it was Schmitz's car, no big deal.
2 But she thought she was going to see a Craig
3 Sippel, not a Steven Schmitz.

4 She thought that she was going to see a
5 B. Janda, I suppose, not a Steven Avery. But
6 here's what she knew, she knew the address.
7 Steven gave the address. This is an address, as
8 Mr. Kratz explained to you and I agree, to which
9 Teresa Halbach had been a number of times,
10 probably about a half dozen, five, six, maybe
11 more times, to take photographs of cars or the
12 trailer for sale, for example, the photograph you
13 saw.

14 She knows the address. She knows where
15 she's going. As you will see, this is not a
16 surprise, or a secret to her or to anyone else.
17 And at 11:45 that morning, she called Barb
18 Janda's number and evidently left a voice mail
19 message saying that she would be able to get
20 there that day, sometime after 2:00.

21 Now, this Manitowoc County area was
22 Teresa's territory so to speak, for *Auto Trader*.
23 This was her freelance work as I understand, not
24 her main source of income. Her photography
25 studio work I think probably was her passion and

1 this was a side job for a young photographer to
2 generate some more money.

3 She has a territory for Auto Trader.
4 Steven Avery wouldn't necessarily know what her
5 territory is or whether she's the only
6 photographer working it. And sometime close to
7 2:30, he's obviously getting fidgety. He makes
8 two phone calls to her cell phone from his cell
9 phone and he uses the *67 feature, you will find
10 out, which as I understand it on the -- on
11 Teresa's telephone, then, no telephone number
12 would come up; come up is unavailable, or
13 something like that, or blocked.

14 But he is on his own cell phone and he
15 may not want, not being entirely sure whose
16 number he is calling, he may not want to be
17 giving out his cell phone number. At least the
18 second of those calls goes unanswered.

19 And the time frame gets fuzzy here.
20 Mr. Kratz said that it was late afternoon that
21 Teresa arrived and I'm inclined to agree with
22 that; although it is difficult to nail down. But
23 I think the best evidence you will hear is that
24 although Teresa Halbach is in the neighborhood of
25 the Zipperers, who are really just -- I don't

1 know how far, but not too far down Highway 147
2 and then south toward Manitowoc a little bit. So
3 they are in the general vicinity.

4 And I think at about 2:15 she's near the
5 Zipperers, trying to figure out exactly where
6 she's going to get to the Zipperers to take that
7 photograph of their car. But I think the best --
8 the best estimate we'll get out of the evidence
9 of when she actually arrives at Avery Road, which
10 is that gravel road that leads down towards,
11 first, Barb Janda's trailer and then Steven
12 Avery's trailer, which you saw on the north edge
13 of the 40 acre parcel; the best estimate of when
14 she swings her Toyota down that gravel road is
15 probably shortly before 3:30, probably not 2:45,
16 as one of Barb Janda's sons, Bobby Dassey,
17 recalls it.

18 Why do I say the best estimate, because
19 there is a school bus driver. Two of Barb
20 Janda's boys, Brendan and Blaine, are still in
21 Mishicot High School and it's Monday, as I said.
22 And they ride the school bus. And school
23 schedules being what they are, of course, unless
24 there is really terrible weather or something,
25 school lets out at the exact same time every day,

1 the bell rings and kids run out the door.

2 The bus is going to be leaving about the
3 same time and the bus driver will be driving the
4 same route every day. So this bus driver, who's
5 no relation to the Avery family, or the Halbachs,
6 or anybody else for that matter, just happens to
7 be the school bus driver; her name is Lisa
8 Buchner.

9 Lisa Buchner, when interviewed by the
10 police says, you know, about 3:30 when I dropped
11 the Dassey boys off at the head of Avery Road, I
12 looked down the road and I saw a young woman
13 taking a photograph, or photographs, of a van.
14 Now, Buchner actually isn't sure when she's
15 questioned about this whether it's Monday,
16 Tuesday, or Wednesday of that week.

17 But Monday is the day that a young woman
18 would have been taking a photograph of the van,
19 down near the end of Avery Road. So she's got a
20 pretty good reason to have a good bead on the
21 time. She's going to know her route, this is
22 something she's doing five days a week. And it's
23 about 3:30 that she sees this young woman down
24 the road, taking a photograph of the van.

25 Teresa Halbach does her business. And

1 the way this works is the person selling the car
2 then gives the photographer \$40. The
3 photographer makes out a receipt for the
4 transaction, typically also offers the customer
5 the current copy, current edition of the *Auto*
6 *Trader Magazine* and leaves.

7 And that's what Teresa Halbach did.
8 Steven Avery last sees her going back out Avery
9 Road and about to turn left to go back out to
10 Highway 147.

11 Now, somebody clearly sees her later.
12 We don't know who, I don't know where, I don't
13 know when. And I, like Mr. Kratz, don't know
14 why.

15 I do know this and can tell you that you
16 will hear this about the evidence. One of the
17 things that the photographers who freelance or
18 work for *Auto Trader* do, is to go take
19 photographs on appointments that have been set
20 for them through the *Auto Trader* office.

21 But there is another thing they can do,
22 they get some money for that, obviously. Some of
23 the \$40 goes to the photograph. But there's
24 another thing they can do and that's called a
25 hustle shot. The hustle shot is exactly that,

1 it's business that the photographer hustles up
2 for herself, or for himself.

3 And as an incentive for the
4 photographer, to hustle a little bit and, you
5 know, thicken the *Auto Trader Magazine* with new
6 customers selling cars, or boats, or trailers, or
7 whatever, as an incentive for their photographers
8 to do that, *Auto Trader* gives the photographer a
9 little bigger cut on a hustle shot.

10 You are going to learn that Teresa
11 Halbach was good at hustle shots. She drummed up
12 a lot of these. She was likeable. She was hard
13 working. She was good at getting hustle shots.

14 I have no idea -- I have no idea at all
15 and I don't think you will either, unfortunately,
16 whether she had a hustle shot, or two, or three,
17 that day or not. It would not have been
18 uncommon. But if, in fact, she's near the
19 Zipperers at 2:15 and as I think is probable from
20 the evidence, she doesn't show up to the Averys
21 until about 3:30, it's possible there's a hustle
22 shot in there or I suppose stopping for lunch or
23 something, we don't know.

24 It's possible there are hustle shots
25 that are not scheduled through *Auto Trader* after

1 the Avery shot. Because after all, I mean, if
2 we're at 3:30, there's a good bit of daylight
3 left in the working day, I suppose. But we don't
4 know.

5 What we do know is that someone sees her
6 later. And Steven Avery calls her later, as a
7 matter of fact, from his cell phone. Again, he
8 calls her cell phone at about 4:35 that
9 afternoon. Why, because he thought, I have got
10 another car I would like to sell. I might as
11 well, if she's still around, or if she can swing
12 back, I might as well have her shoot that one
13 too.

14 But he doesn't get an answer from her,
15 doesn't answer the phone, when he calls at 4:35.
16 He sticks around. And at that point his
17 girlfriend, Jodi Stachowski, is in jail serving
18 some time for a drunk driving conviction. She's
19 in the Manitowoc County Jail.

20 Jodi, you will learn, calls Steven
21 regularly. Because she's in jail, she has to
22 call collect. And you can't call collect from a
23 jail to a cell phone. I don't know if you can
24 call collect to any cell phone from anywhere.
25 But in any event, you can't call a cell phone

1 from the jail, calling collect. So you have got
2 to call a land line.

3 So that's exactly what Jodi Stachowski
4 does, first a little bit after 5:30 in the
5 evening she calls. And jail systems, I don't
6 know if you know this, but jail systems,
7 typically, and the Manitowoc County Jail clearly
8 does this, cut off phone calls after 15 minutes.
9 Inmates have a lot of time on their hands,
10 sometimes people they are calling don't. So the
11 call just ends at 15 minutes.

12 So Jodi calls about a little bit after
13 5:30 on the land line. And then she calls again
14 just shortly before 9:00 p.m. And Steven is
15 home. Steven answers the phone in his little red
16 trailer there, both times. And both of those
17 conversations go 15 minutes, almost to the
18 second.

19 He tells her that he's been doing a
20 little cleaning. He tells her that Brendan, his
21 nephew, Brendan Dassey, is over. They hassle.
22 These are inane conversations, honestly, but they
23 are tape recorded, because every phone call out
24 of the jail is tape recorded, so we know they
25 happen.

1 Does it sound like he's just killed
2 someone, no. Does he hide the fact that his
3 nephew, Brendan, from 50 yards away, or whatever
4 it is, Barb's trailer, has come over, no.
5 Doesn't have to tell Jodi that, if they were up
6 to something no good, but he does. Brendan is
7 around.

8 And for all the world, as I say, these
9 conversations simply are inane, they don't ring
10 of someone who has committed a murder or in the
11 midst of committing a murder, or in the midst of
12 mutilating a corpse or falsely imprisoning
13 anyone, no screaming in the background. They are
14 just inane telephone conversations between a
15 squabbling boyfriend and a squabbling girlfriend.

16 And October 31 comes to a close. It's
17 about three days later, Thursday evening about
18 5:00, November 3, when Mrs. Halbach reports
19 Teresa missing. Teresa lives almost next door to
20 the elder Halbachs; I mean, the two houses, you
21 can see the one from the other, on the dairy
22 farm, up north of here, in Calumet County.

23 So the report goes to the Calumet County
24 Sheriff's Department. It's a missing person
25 report. No one has seen Teresa since Sunday,

1 actually. And the Calumet County Sheriff's
2 office responds, interviews the family, a couple
3 of close friends, and learns very quickly about
4 these three appointments that Teresa had on
5 Monday. Now, at least two of those -- at least
6 two, maybe the third even, but at least two, are
7 in Manitowoc County; Zipperers and Avery, or B.
8 Janda.

9 So the Calumet County Sheriff's
10 Department calls for help from the Manitowoc
11 County Sheriff's Department on this missing
12 person report; that very night, 5:00, the report
13 is made. By the end the of the dinner hour,
14 Calumet County is calling the Manitowoc County
15 Sheriff's Department for a little bit of help.

16 And who do we get? We get Sergeant
17 Andrew Colborn. And he's told, look, two places
18 we would like to sort of check out and see if
19 Teresa Halbach showed up on Monday, the Zipperer
20 residence and Steven Avery. Well, that's a name
21 that rings a bell, you better believe; less than
22 three weeks, or about three weeks, after his
23 deposition.

24 And it is interesting that of those two
25 places that Sergeant Colborn is asked to check

1 out and inquire after Teresa Halbach, he only
2 goes to one. He goes to Steven Avery's home and
3 Steven cooperates with him. Tells him
4 essentially what I have told you about Teresa
5 Halbach coming to take the picture of Barb
6 Janda's van. Doesn't clam up, doesn't seem
7 nervous, isn't uncooperative; that very night,
8 November 3, around 7:00, when Sergeant Colborn
9 knocks on his door.

10 Out of the blue, the same night,
11 Lieutenant James Lenk, now the head of the
12 Detective Unit in Manitowoc County Sheriff's
13 Department, calls Calumet about this missing
14 person report. Now, at this time, on Thursday
15 night, November 3, this is -- let's be clear,
16 this is just a missing person report, a young
17 woman who hasn't been seen for three days.

18 It's in another county. It's not even
19 Manitowoc County at all. And nobody has called
20 for Lieutenant Lenk. And nobody's called looking
21 for him. But the chief detective of Manitowoc
22 County takes it upon himself, that night, to call
23 Calumet and offer to get involved in the missing
24 person investigation where one of the
25 appointments that was to be kept was Steven

1 Avery.

2 And the next morning, Lieutenant Lenk
3 does one better than that, he goes out himself to
4 Steven Avery's trailer with another officer from
5 Manitowoc. And he knocks on the door again, just
6 as Sergeant Colborn had done the night before,
7 inquiring after Teresa Halbach. Again, Steven
8 Avery is cooperative.

9 Lieutenant Lenk asks, could I take a
10 walk through your trailer, can I look around, do
11 you mind? No, I don't mind. Come on in.
12 Lieutenant Lenk walks through Steven's trailer,
13 sees nothing amiss, thanks him for his
14 cooperation and leaves.

15 November 5, Saturday, Steven has left to
16 go to the family cabin up in Crivitz, early that
17 morning, where Allen goes every weekend and most
18 of the family goes up too. Steven has gone up on
19 Saturday morning. But about 10:30 on Saturday
20 morning, Pam and Nikole Sturm find the Toyota
21 they suspect, correctly, as it turns out, is
22 Teresa's. As it turns out, is Teresa's, in the
23 far diagonal corner of the salvage yard from
24 Steven Avery's trailer.

25 As you might expect, law enforcement

1 officers descend on the property and the first to
2 arrive are Manitowoc County Sheriff's Department
3 officers at just about 11:00, in the morning, on
4 the nose. And, folks, from that point forward,
5 from 11:00 a.m. on Saturday, November 5, 2005,
6 this is not so much a funnel approach, as you
7 will see. It is a tunnel approach. It is a
8 tunnel vision approach to this case.

9 All of the feelings about Steven Avery,
10 all of those churning emotions, all of that,
11 within the Manitowoc County Sheriff's Department,
12 floods out. You can call it tunnel vision, you
13 can call it investigative bias, but from that
14 point on, this investigation is about Steven
15 Avery and not much else.

16 From 11:00 in the morning on Saturday,
17 November 5, 2005, before the police say they have
18 even opened the car; before they say they know of
19 any blood of any sort in or on the car; before
20 anybody even knows whether this young woman has
21 been hurt or killed, the focus is on Steven
22 Avery.

23 Other people are asked, her male
24 roommate; former boyfriend and current friend,
25 Ryan Hillegas; others are asked: Do you know

1 anything about her disappearance? Did you have
2 anything to do with it? All of them say no. And
3 those denials, those statements are accepted.

4 Not Steven Averys, not Steven Avery's
5 denials or expressions of innocence. Time and
6 again the police go back to Steven Avery and ask
7 the same questions. And he talks to them every
8 time.

9 Even by the time his lawyers in the
10 civil lawsuit down in federal court in Milwaukee
11 find out about it and are trying to encourage him
12 not to the talk to the police, he talks. On the
13 3rd to Colborn, on the 4th to Lenk, on the 5th to
14 officers up in Crivitz, on the 6th, on the 9th,
15 he talks. And he is not believed. Do they want
16 to go through his house, sure, come on in my
17 house, on November 4, Lieutenant Lenk.

18 After the Toyota is found and the police
19 arrive at about 11:00, that Saturday morning,
20 Lieutenant Lenk and Sergeant Colborn come in to
21 work and they too arrive at the Avery property.
22 You will hear that Lieutenant Lenk now has
23 changed his sworn version of when he arrived that
24 afternoon.

25 And he has the ability to change his

1 sworn story about when he arrived that afternoon
2 at the Avery property, because somehow he avoided
3 signing in on the log, the log sheets that the
4 Calumet County Sheriff's Department was keeping
5 of that potential crime scene. He signed out,
6 but somehow he managed not to sign in.

7 And on that 40 acre parcel, after the
8 Toyota has been turned over to the Division of
9 Criminal Investigation in Madison, now, as search
10 efforts are to be begin on that parcel, now the
11 Manitowoc County Sheriff's Department nominally
12 turns over control of the investigation to
13 Sheriff Jerry Pagel of the Calumet County
14 Sheriff's Department, this county's sheriff's
15 department. Nominally, that afternoon, control
16 of this investigation was turned over to Calumet
17 from Manitowoc because of the apparent conflict
18 of interest that Mr. Avery's lawsuit represents
19 for the Manitowoc County Sheriff's Department.

20 Now, if you are thinking, though, that
21 the evidence will show you that Manitowoc County
22 bowed out because of the conflict of interest
23 after it turned the investigation over to Calumet
24 County; if you are thinking that, it's
25 reasonable, but you are wrong. Manitowoc County

1 Sheriff's Department stays very much involved in
2 this investigation.

3 And what does Lieutenant Lenk and what
4 does Sergeant Colborn do by way of volunteering
5 to help, that very afternoon, Saturday
6 November 5. Do they volunteer to help look in
7 the 4,000 cars? No. Do they volunteer to search
8 Allen and Delores Avery's home? No. How about
9 the pole barns or the outbuildings of the salvage
10 property's business itself? No. They volunteer
11 to search Steven Avery's trailer. And they do,
12 on November 5.

13 And once they get into that trailer with
14 the search warrant, well, then, what these two
15 do -- and there are two other officers with them,
16 one from Manitowoc and one from Calumet -- what
17 Lenk and Colborn do is, they say, don't worry,
18 we'll take Steven's bedroom. And they search
19 this bedroom.

20 Now, this is a mobile home. If the
21 bedroom itself is 10 by 12, or 12 by 12, or 10 by
22 10, I would be surprised if it was much bigger
23 than that. From me to the wall in front of you
24 is about the depth and roughly the width of that
25 bedroom in the small trailer in which Steven

1 Avery lives.

2 They search, that is, Lenk and Colborn
3 search his bedroom on the night of November 5.
4 And they find nothing of interest. They see the
5 guns; they stay on the wall. But don't bother
6 seizing guns on the 5th, come back to those the
7 next day. And it is Lenk and Colborn who come
8 back the next day, not somewhere on the property,
9 but to Steven Avery's trailer.

10 On November 6, they search his garage,
11 garage is actually between him and his sister
12 Barb's trailer, but for our purpose here, let's
13 call it his garage. You will find out that the
14 Dassey boys have access to the garage, Barb has
15 access, the family has access to this garage.

16 But it's Lenk and Colborn and another
17 detective from Manitowoc County named Dave
18 Remiker who searched the garage on Sunday, the
19 6th. They find 10, maybe it's 11, something, 10
20 or 11 spent .22 casings. And they pick all of
21 those up.

22 But remember -- remember the bullet
23 that's found under little tent number 9 on the
24 picture that Mr. Kratz showed you? The bullet
25 that's apparently in a crack in the floor, right

1 smack in the middle of the garage near the front
2 where the door is? That, no one sees or picks up
3 on November 6th, November 7th, November 8th and
4 so forth through November 12th.

5 Neither does anyone see a bullet back
6 under the air compressor. But you will see
7 photographs of that garage as it was in
8 November 2005, not as it was in March, 2006,
9 when, finally, low and behold, why there's
10 bullets, why don't we pick up these bullets.

11 You will see the garage in photographs,
12 not computer simulations, photographs, as it was
13 in November, 2005. You will be able to see, that
14 although the garage is very cluttered, there's no
15 clutter under the air compressor. There's no
16 clutter there, where four months later someone
17 finds a magic bullet, there, as you walk into the
18 garage, looking at the floor.

19 November 7, Steven Avery's trailer is
20 searched again, guess who; Lenk and Colborn. Now
21 there probably -- There certainly are over 50 law
22 enforcement officers on this property, 24 hours a
23 day, well before November 7th, probably by
24 sometime late the night of the 5th, certainly by
25 the 6th. There may be over 100 law enforcement

1 officers working this property.

2 They have got the family excluded. They
3 have got a perimeter around the entire 40 acres
4 and more. They are controlling traffic and
5 entry. They are logging in who comes and goes.
6 They control this place.

7 And as you heard Mr. Kratz say, they
8 have got any number of people searching, but it's
9 Lenk and Colborn, again, who are searching
10 Mr. Avery's trailer, there in the northwest
11 corner of that salvage yard. And on November
12 7th, they find nothing of interest in his home.

13 Tuesday, November 8, they are back.
14 They are back in Mr. Avery's home, back in that
15 small bedroom. And now, Lieutenant Lenk, on what
16 you will hear is probably the seventh search of
17 that small bedroom, Lieutenant Lenk, now, when
18 he's the only one in that room, says, why, my
19 gosh, there's a key sitting in plain view, next
20 to the night stand.

21 There is, you saw a picture of it as he
22 says he found it, one solitary key on a ring,
23 connected to a fob. That key fob is just like,
24 and probably is, the one that Teresa Halbach's
25 younger sister bought her as a little present.

1 One key, and one key only, on the ring connected
2 to that fob, it's a Toyota key.

3 And the man whom the State would have
4 you believe bled all over Teresa's car, manages
5 not to bleed on her key. His blood isn't found
6 there, although, apparently, somehow his DNA is,
7 but not his fingerprints. And more
8 interestingly, although this is a 1999 Toyota and
9 I gather she's been using this key, the State
10 believes, every day to start her car and turn it
11 off, Teresa Halbach's DNA and fingerprints are
12 not found on her key.

13 For good measure, on November 8,
14 Lieutenant Lenk and Sergeant Colborn searched
15 Steven Avery's garage yet again. No bullets, no
16 nothing. And the case against Steven Avery,
17 largely, is made at that point. And a whole lot
18 of it, as you will see, depends on lieutenant
19 James Lenk, Sergeant Andy Colborn.

20 And they, both of them, have elected
21 never to tell Sheriff Jerry Pagel, the man in
22 charge of the investigation for Calumet County;
23 they have elected not to tell him that they had
24 their depositions taken in Steven Avery's case
25 probably three weeks earlier. They didn't tell

1 anybody in the Calumet County Sheriff's
2 Department that.

3 November 8 is also the day that the bone
4 fragments are found in a burn area hardly 20
5 yards outside Steven Avery's master bedroom
6 window. Hardly 20 yards. Small burnt bone
7 fragments, human burnt bone fragments. But what
8 you will learn and you do not hear this morning,
9 what you will learn is that burnt human bone
10 fragments also apparently are found in one of the
11 burn barrels behind Barb Janda's house.

12 Burnt the same way, fragmented about the
13 same way, and apparently human in origin. Not
14 Steven Avery's burn barrel, not the one you heard
15 about, but there are four burn barrels to the
16 southeast, that is the most distant corner of
17 Barb Janda's trailer, from Steven Avery's
18 trailer. Four burn barrels back there for Barb
19 Janda and the Dassey boys. Burnt bone fragments.

20 And there are what seem to be probable
21 human burnt fragmented bones found in the Radandt
22 Gravel Quarry, probably a quarter mile south of
23 Steven Avery's property.

24 Now, I don't think that the State has
25 been able to link, through DNA analysis, those

1 burnt bone fragments conclusively to Teresa
2 Halbach.

3 But how many burnt human bone fragments
4 are there supposed to be, and when you only have
5 one person missing. And the burnt human bone
6 fragments in the Janda burn barrel, about which
7 you did not hear this morning, those are
8 fragments from bones that are not connected, not
9 part of one limb, not connected to one another
10 within the human body. Sort of a random mix of
11 bone fragments, as apparently are those that are
12 found a quarter mile to the south in the Radandt
13 gravel pit.

14 And as you piece this evidence together,
15 here's what you are going to have to conclude,
16 bone fragments, parts of this body were found
17 where they were not burned. They were burned and
18 moved because, again, the fragments aren't
19 connected to one another.

20 It's not that, you know, it's not that
21 an arm could have been removed and burned one
22 place and the rest of the body another place. We
23 have got the fragments themselves mixed up and
24 found in three different places. The body
25 couldn't have been burned in that way, in three

1 different places or even two, if you set aside
2 the Radandt gravel pit. These bone fragments
3 were moved.

4 The question then becomes, the question
5 you will have to decide eventually is, were they
6 moved from Steven Avery's burn area to the Janda
7 burn barrel or the gravel quarry, or were they
8 moved from somewhere else to Steven Avery's burn
9 area and maybe to one of the other places where
10 bone fragments, burnt, are found.

11 At least, did they start in the burn
12 area and get moved somewhere else, or did they
13 start somewhere else, burned somewhere else and
14 get moved to the burn area. Now, an expert --
15 experts here, in what scientists will call
16 thermal injuries to bodies, cremation, an expert
17 or two, to the extent you hear that, may be able
18 to give you some help on that question, some
19 help, but I'm not sure that an expert can answer
20 this conclusively.

21 In the end, you folks are going to have
22 to do the hard work and the hard thinking on
23 that. But I think when you have heard it all,
24 you will conclude that it's at least most likely,
25 more probable, that the bones were moved to

1 Steven Avery's burn area, not burned there and
2 moved from that area to another place or two.

3 Why? You are going to find out that
4 there are better places, even on the Avery
5 salvage yard property, in which to incinerate a
6 body. The burn area is relatively flat and
7 scooped out a little bit, but it's relatively
8 flat and open. It's a burn area, like many farms
9 or rural homes have, just folks have burn
10 barrels.

11 It doesn't have well developed sides to
12 focus heat back inward on the fuel or things
13 being burned. Neither does it have a ready
14 external source of fuel. But the aluminum
15 smelter, the aluminum smelter at the Avery Auto
16 Salvage property does. Big propane jets, an
17 enclosed area, it will take an aluminum
18 transmission down to liquid in a few minutes.

19 The wood furnace that heats the
20 outbuildings of the Avery Auto Salvage business;
21 Chuck's home; Allen and Delores' home, that's an
22 enclosed area that will incinerate fuel in it
23 very quickly.

24 And because we have got probable human
25 burnt bone fragments found on the adjoining

1 property, the gravel quarry to the south, we
2 can't rule out other possible burn sites. And an
3 expert won't be able to tell you what other
4 possible burn sites there are. Expert or not,
5 that's not something he or she will be able to
6 tell you.

7 But once it's more likely, as I think
8 you will find it to be more likely, that the body
9 is burned somewhere else and bone fragments then
10 are brought to Steven Avery's burn area, then
11 he's not guilty. Because if he's the one who
12 burned the body somewhere else, he's not going to
13 bring the bones back to dump them 20 yards
14 outside his bedroom window.

15 Neither is he going to dump a cell phone
16 and a digital camera and a palm pilot in his own
17 burn barrel. Too many other places where these
18 things could be disposed of out in the salvage
19 yard, whether the retention pond, whether the
20 gravel quarry, or some other burn barrel in the
21 woods. So once you understand that those bones
22 probably were not burned in that burn area, the
23 fact that they are found there, you will see
24 tends to suggest he's not guilty, not that he is.

25 It is perfectly clear to anyone around

1 this investigation on whom the focus of the
2 Manitowoc County Sheriff's Department and the
3 other investigators, to the extent that tunnel
4 vision, that investigative bias bled over, it's
5 perfectly clear on whom the focus of this
6 investigation is.

7 The police didn't kill Teresa Halbach,
8 obviously, they have that in common with Steven
9 Avery, but they wanted to believe he did. They
10 very much wanted to believe that he did. And
11 whoever did kill her, or burned that body,
12 exploited that tunnel vision pretty skillful.

13 Suggesting this sort of tunnel vision,
14 suggesting this kind of investigative bias,
15 planting blood in her car, fairly serious
16 allegations to make. In fact, I will take away
17 the fairly, they are serious allegations.
18 Understand them, that bias and tunnel vision are
19 human anomalies.

20 And if you conclude, reluctantly, that
21 Mr. Lenk or Mr. Colborn, in addition to all the
22 other interests they took in searching and
23 focusing on Steven Avery, planted blood in her
24 car, you will also conclude that they put it
25 there because they figured it had to be there.

1 It should be there. It must be him.

2 This wasn't so much, I think the
3 evidence will show you, an effort to frame an
4 innocent man, it was an intense, intense desire
5 to conclude that he, in fact, was the guilty man;
6 all other possible leads for information not
7 withstanding. It was an immediate focus on this
8 man, starting shortly after 11:00, Saturday,
9 November 5, 2005. But you do not have to take my
10 word for that.

11 I can make this work; I'm not as adept
12 at it as I should be. I'm going to play for you,
13 two tapes, a part of it, just excerpts, short
14 excerpts of two tapes.

15 The first one is Saturday, November 5,
16 2005, at 11:35 in the morning, 35 minutes give or
17 take a minute or two, after the Manitowoc County
18 Sheriff's Department first has arrived at the
19 Avery property, because that Toyota has been
20 found; well before the police say they opened the
21 Toyota; well before they say they knew of any
22 blood; well before Brutus, the friendly cadaver
23 dog comes along and hits; 35 minutes after the
24 first officers arrived when the Sturm's called
25 and said, hey, we think we found something.

1 What I'm going to do is scroll through a
2 transcript that we prepared and then I will play
3 the excerpt of the tape for you. It is not a
4 great recording. The transcript is not evidence,
5 the tape will be, I expect. So if you think my
6 transcript is wrong, listen to the tape; it's the
7 evidence, or it will be. That's the tape that
8 matters. The transcript may help you in
9 understanding it or hearing it.

10 Detective Remiker is calling in, he's
11 asking for dispatch. Dispatch responds, I put
12 unintelligible, I think it's go ahead, but I'm
13 not sure, you can decide. Maybe you won't
14 understand it for sure either.

15 Detective Remiker says to the
16 dispatcher, you will need to get ahold of the
17 Crime Lab for their evidence response team to
18 start responding to this location. Now, he's out
19 at the Avery Salvage Yard. As you will hear.
20 Dispatch says, 10-4, Crime Lab out of Madison,
21 Milwaukee, where?

22 Our Crime Lab has branches in Wausau,
23 Madison and Milwaukee. The main one is in
24 Madison. Detective Remiker says, it's going to
25 be the Madison response team and he was right.

1 Now, Detective Jacobs joins in, this
2 radio traffic, radio conversation. Calls in with
3 his badge number, his squad number, I'm in code,
4 you will find out what that means, anything you
5 need other than a portable for Schetter. And
6 what you'll find out is he's talking about a
7 portable radio for Deputy Inspector Greg Schetter
8 of the Manitowoc County Sheriff's Department who
9 is, I think, the number two or three ranking
10 officer in the Department and who's probably also
11 going out to the Avery property. Detective
12 Remiker, not that I can think of right now,
13 Dennis. Dennis Jacobs. Let's see if this work.

14 (Tape recording played.)

15 DETECTIVE REMIKER: Yeah, need to get a
16 hold of the Crime Lab for their evidence response
17 to start responding at this location.

18 DISPATCH: 10-4. Crime Lab out of
19 Madison, Milwaukee, where?

20 DETECTIVE REMIKER: Madison response
21 team.

22 DETECTIVE JACOBS: 278, I'm in code,
23 anything you need other than a portable for
24 Schetter.

25 ATTORNEY STRANG: It cut off. Sorry about

1 that, you will hear -- You will get a chance to hear
2 the whole conversation. And it continues, Dennis
3 Jacobs says, okay, other than the car, do we have
4 anything else. He's talking to Remiker here. Dave
5 Remiker says, not yet. Detective Jacobs, Okay. Is
6 he in custody? Detective Remiker, Negative, nothing
7 yet.

8 Not who, not is who in custody, but
9 negative. He is not in custody, nothing yet.
10 Detective Jacobs, Okay. I'll gather my stuff and
11 head out.

12 (Tape recording played.)

13 DETECTIVE JACOBS: Okay. Other than the
14 car do we have anything else?

15 DETECTIVE REMIKER: Not yet.

16 DETECTIVE JACOBS: Is he in custody?

17 DETECTIVE REMIKER: Not yet, nothing
18 happening.

19 DETECTIVE JACOBS: Okay. I will gather
20 my stuff and head out.

21 ATTORNEY STRANG: Now, that's 11:35, is he
22 in custody yet. Detective Remiker, clearly, I
23 gather, as I hear it, knows who Detective Jacobs is
24 talking about, but we don't, 35 minutes after the
25 police have arrived.

1 And to get a better feel for that
2 conversation at 11:35, we have to go back five
3 minutes earlier when Detective Jacobs is calling
4 in on the land line, 5 minutes earlier, 30
5 minutes, 30 minutes after the police have arrived
6 at the Avery property after Teresa's car has been
7 found there.

8 Dispatcher answers the phone. Detective
9 Jacobs, Katie -- the name of the dispatcher --
10 just rolled into the parking lot. Can you tell
11 me, do we have a body or anything yet? Do we
12 have a body or anything yet? This is 30 minutes
13 after they found the car.

14 I don't believe so. I believe they
15 wouldn't find the first bone fragment for three
16 days. Do we have Steven Avery in custody,
17 though? I have no idea. You can hear it
18 yourself.

19 (Tape recording played.)

20 DISPATCH: Good morning. Manitowoc
21 County Sheriff's Department, Katie speaking.

22 DETECTIVE JACOBS: Katie, I just rolled
23 into the parking lot. Can you tell me, do we
24 have a body or anything yet?

25 DISPATCH: I don't believe so.

1 DETECTIVE JACOBS: Do we have Steven
2 Avery in custody?

3 (Tape recording starts playing again.)

4 DISPATCH: Good morning. Manitowoc
5 County Sheriff's Department, Katie speaking.

6 DETECTIVE JACOBS: Katie, I just rolled
7 into the parking lot, can you tell me do we have
8 a body or anything yet?

9 DISPATCH: I don't believe so.

10 DETECTIVE JACOBS: Do we have Steven
11 Avery in custody at all?

12 DISPATCH: I have no idea.

13 ATTORNEY STRANG: Now, I will finish it out
14 so you can link it up to the call -- the discussion
15 with Detective Remiker 5 minutes later. Oh, I heard
16 him say pick up that party. Oh no, the dispatcher
17 says, Pete, who is just another Manitowoc County
18 Sheriff's officer, is sitting up there waiting and
19 stopping people from going in and that. He found
20 someone with a body only warrant for our department.

21 A body only warrant is an arrest warrant
22 or a bench warrant where they are going to take
23 the person into custody, rather than immediately
24 grant him bail. Okay. Do we have -- All right.
25 I will talk to Remiker. Yeah, your best bet is

1 to talk -- because nothing has come through. We
2 have the vehicle, that I know. But more than
3 that, I don't know. All right. Bye. Bye.

4 (Tape recording played.)

5 DETECTIVE JACOBS: Oh, I heard him say
6 pick up that party.

7 DISPATCH: Oh, no. We have -- Well,
8 Pete is sitting up there waiting and stopping
9 people from going in and that. He found somebody
10 with a body only warrant for our department.

11 DETECTIVE JACOBS: Okay. Do we have --
12 All right. I will talk to Remiker.

13 DISPATCH: Yeah, your best bet is to
14 talk to -- Nothing has come through. We have the
15 vehicle, that I know.

16 DETECTIVE JACOBS: All right. Thank
17 you.

18 DISPATCH: But what more, I don't know.
19 All right. Bye.

20 DETECTIVE JACOBS: Bye.

21 ATTORNEY STRANG: So you can take the
22 tunnel vision and investigative bias from them, not
23 from me. Now, in the end here, in the end, when you
24 have heard it all, there's not a speck of Teresa
25 Halbach's blood anywhere in Steven Avery's trailer.

1 There's not a piece of hair, nothing, nothing to
2 suggest she's ever been in the trailer. And only
3 the magic bullet found 4 months later to suggest
4 she's ever been anywhere near the garage.

5 And when you consider the forces, the
6 emotions, the very human failings at work here,
7 it's no surprise that the blood from that
8 unsecured vial, in the box, in the Clerk's
9 Office, that Lieutenant Lenk examined back in
10 2002, ends up in that Toyota. Because that's
11 where it ought to be. Is he in custody yet?

12 Jerome Buting and I will not ask you to
13 make that kind of snap judgment here. The
14 Halbachs deserve better than that. The police
15 deserve better than that. You owe it to
16 yourselves, in making this decision, to do better
17 than a snap judgment, a snap judgment 30 minutes
18 after that Toyota is found.

19 Jerome Buting and I are going to ask you
20 to do your job right. Think long and hard about
21 all of the evidence. But in the end, after the
22 full and fair consideration of everything and
23 everyone, the full and fair consideration that
24 Steven Avery did not get in 2005, from the
25 Manitowoc County Sheriff's Department; we're

1 going to ask you to send him home. We're going
2 to ask you to send him home, again. We're going
3 to ask you to get it right this time. We're
4 going to ask you to set it right when this case
5 is over.

6 THE COURT: Thank you, Mr. Strang. Members
7 of the jury, we're going to take an afternoon break
8 now. We'll resume in 15 minutes and the State will
9 begin the presentation of evidence. I will remind
10 you again, as I will a number of times throughout
11 the trial, do not discuss the case during the break
12 or at any other time until all the evidence has been
13 received.

14 (Jury not present.)

15 THE COURT: All right. Counsel, we should
16 be ready to go promptly at 2:45.

17 (Recess taken.)

18 THE COURT: At this time the State may call
19 its first witness.

20 ATTORNEY KRATZ: State will call Mike
21 Halbach, your Honor.

22 THE CLERK: Please raise your right hand.

23 **MICHAEL D. HALBACH**, called as a witness
24 herein, having been first duly sworn, was
25 examined and testified as follows:

1 THE CLERK: Please be seated. Please state
2 your name and spell your last name for the record.

3 THE WITNESS: Michael Daniel Halbach,
4 H-a-l-b-a-c-h.

5 **DIRECT EXAMINATION**

6 BY ATTORNEY KRATZ:

7 Q. Mr. Halbach, did you know a young woman by the
8 name of Teresa Halbach?

9 A. I did.

10 Q. Describe, who was Teresa, please.

11 A. Teresa was -- or is my sister. She was born on
12 March 22nd, 1980. Grew up with my family on a
13 dairy farm near Hilbert.

14 She loved travel; she had been to Spain,
15 Mexico, New Zealand, Australia.

16 She had many friends. She loved doing
17 things with her friends. She was a good friend
18 of mine, as well.

19 She was my big sister, someone I could
20 go to talk to about any problems I would have.
21 We would go to lunch, talk about her business
22 which she ran, called Photography by Teresa.

23 And in August of 2005, she coached her
24 sister's 7th grade volleyball team to second
25 place in their league. So I know that that's

1 something she really loved doing, was working
2 with those kids. That was the main focus of her
3 photography business as well.

4 And she graduated from the University of
5 Wisconsin, Green Bay, in 2002, major in
6 photography and she graduated summa cum laude.

7 Q. I'm going to hand you a couple of exhibits.
8 First exhibit is that which is marked as Exhibit
9 No. 1. Could you tell us what that is, please.

10 A. It's a photo of Teresa.

11 Q. Do you know when that photo was taken?

12 A. Not exactly, but by the looks of it, it was
13 fairly recent. I would say 2005.

14 Q. Does that particular photo accurately depict your
15 sister, Teresa, and as it did the last time that
16 you saw her?

17 A. Yes.

18 Q. By the way, when was the last time that you saw
19 her; do you recall?

20 A. The last time I saw my sister was October 30th,
21 2005, the day before she went missing. We were
22 at my grandparents house. It was my grandpa's --
23 Halloween was my grandpa's birthday. And the day
24 before we went to their house, the entire family
25 was there, aunts, uncles.

1 Q. Mr. Halbach, I'm sure we'll get better at this
2 with the jury, but I'm going to direct your
3 attention to the large screen in the courtroom,
4 is that another version or a larger version of
5 what's been marked as Exhibit No. 1?

6 A. Yes, it is.

7 Q. You mentioned that Teresa was part of your
8 family, can you tell us who else was involved in
9 your immediate family, please?

10 A. I have an older brother, Tim; and then Teresa
11 would be the second oldest; myself; and two
12 younger sisters, Katie and Kelly; parents, Tom
13 and Karen.

14 Q. Directing your attention to Exhibit No. 2, I'm
15 also putting that on the screen for the jury; can
16 you tell us what that is, please.

17 A. It's a photo we took outside my parents farm. I
18 believe it was in 2004, that summer, early fall.
19 It's a photo we used for our Christmas cards that
20 year. And it's a photo of my family.

21 Q. And as you are pointing to Exhibit No. 2, please,
22 could you tell us, or tell the jury, who all is
23 in that photo?

24 A. Tom, Teresa's, I guess legally would be her step
25 dad, standing in the back with the jean shirt; to

1 his left is, Katie, younger sister; and to her
2 left is Kelly, the youngest of the family. In
3 front from left to right is the oldest brother,
4 Tim; and then my mom, Karen; then myself holding
5 our dog, Eddy; and Teresa is on the end.

6 Q. All right. How often would you get to see
7 Teresa; how often would you interact with her?

8 A. Every few days I would probably talk to her
9 either on the phone, or if it was a weekend, we
10 would probably see each other, if I was at my
11 parent's house if she would stop over during the
12 week, or over the weekend. So I would see her --
13 see her or at least talk to her every three days
14 or so.

15 Q. Are you familiar with Teresa's electronic devices
16 that she owned?

17 A. Yes, I am.

18 Q. Could you tell us about those, please.

19 A. She owned a cell phone, a Motorola RAZR, and I
20 know this because she talked on it a lot. She
21 also had a palm pilot. I believe it was -- the
22 brand was Palm 1, I believe.

23 She had tons of photography equipment,
24 obviously. Hasselblad is one camera; Canon is
25 another; and through one of her jobs she had a

1 little snapshot camera for the job. She worked
2 through *Auto Trader Magazine*. She had this
3 little snapshot camera to do that job.

4 Q. Do you know what kind of vehicle Teresa drove?

5 A. It was a Toyota RAV4. It was bluish-green in
6 color.

7 Q. We're going to have the actual photo marked as an
8 exhibit, but I'm going to direct your attention
9 up to the large screen. Could you tell us what
10 it is we're looking at there.

11 A. Could you repeat that.

12 Q. Sure, I'm about to have this photo made part of
13 the -- or to complete the record, but could you
14 tell us and can you look at the large screen and
15 tell us what it is that we're looking at.

16 A. That's Teresa holding one of her cameras she had
17 with her professional photography business,
18 standing outside the driver's side door of her
19 Toyota RAV4.

20 Q. Mr. Halbach, could you -- regarding Teresa's
21 RAV4, could you tell us how often you had contact
22 with that vehicle?

23 A. I would say I have ridden in it a few times, but
24 I would see it whenever I saw her. It was her
25 only vehicle, so when she would drive it or when

1 she would drive around, she would be in that
2 vehicle. So I was very familiar with it and had
3 ridden in it a few times.

4 Q. Teresa's license plate said -- as you sit here
5 today, did you know or were you familiar with
6 what Teresa's license plates were?

7 A. Yes, I was.

8 Q. And how are you familiar with that?

9 A. One of Teresa's jokes and how she remembered her
10 license plate, her license plate numbers -- or
11 letters and numbers were SWH-582. She remembered
12 those letters because she would joke that it
13 stood for single white Halbach.

14 (Exhibits No. 3 & 4 marked for identification.)

15 Q. Mr. Halbach, I provided you with two exhibits
16 Exhibit No. 3 and Exhibit No. 4, can you tell us,
17 though, what those are, please?

18 A. Pictures of Teresa's license plate.

19 Q. And which one of them has the sticker on it.

20 A. Exhibit No. 3.

21 Q. All right. Just so the jury is shown Exhibit
22 No. 3, I'm going to direct your attention to the
23 large screen, again; what is it that we're
24 looking at?

25 A. Teresa's license plate?

1 Q. SWH-582, is that right?

2 A. That's correct.

3 THE COURT: Excuse me, Mr. Kratz, just for
4 the record, I think the photo of Teresa Halbach with
5 the RAV4 was referred to as an exhibit, but we
6 haven't marked it yet; are you still looking for the
7 original?

8 ATTORNEY KRATZ: We are, Judge. Although
9 we have the original, Judge, we'll be referring to
10 it either with this witness or the next witness who
11 also has familiarity with that.

12 THE COURT: Just, I think, to keep the
13 record straight, it should be reflected that while
14 it may have been referred to as an expected exhibit
15 number, it has yet to be numbered.

16 ATTORNEY KRATZ: All right, judge.

17 THE COURT: You may proceed.

18 Q. (By Attorney Kratz)~ And the other vehicle, or
19 what I guess would be considered the front
20 license plate, you said that was Exhibit No. 4;
21 is that right?

22 A. Yes, that's correct.

23 Q. And I have now directed your attention to that on
24 a large skween -- screen, excuse me, once again,
25 Exhibit No. 4, the large screen photo here,

1 accurately reflects Exhibit No. 4; is that
2 correct?

3 A. Yes, it does.

4 Q. All right. I have now handed you what's been
5 marked for identification as Exhibit No. 5, tell
6 us what that is, please.

7 A. It is the picture we looked at not too long ago
8 with Teresa standing outside the driver side of
9 her Toyota RAV4.

10 Q. Just for the record, Exhibit No. 5, then, would
11 be the image that we're looking at on the screen
12 now; is that correct?

13 A. Yes.

14 Q. All right. By the way, Mr. Halbach, did you have
15 an idea as to when this photo was taken? Did I
16 ask you this?

17 A. You didn't ask me that. I mean, I would guess
18 sometime maybe 2004, maybe early 2005.

19 Q. I guess the question that the jury needs to know
20 is, was this Toyota RAV4, the vehicle in which
21 your sister is standing in front of, the same
22 vehicle that she was driving at the end of
23 October of 2005?

24 A. Yes, it is.

25 Q. You mentioned that Teresa was involved in the

1 photography business; can you tell us about that
2 a little bit?

3 A. Yeah, through college she developed a passion for
4 photography and, hence, why she declared that as
5 her major. I would say her sophomore and junior
6 year she worked at Bay Park Square Mall in Green
7 Bay at Picture People taking photos of children,
8 mainly families.

9 After she got done doing that, during
10 her last semester at Wisconsin, Green Bay, she
11 started this internship with Tom Pearce of Pearce
12 Photography in Green Bay, doing many of the same
13 things, taking pictures of children, families,
14 some, and also doing weddings on the weekends.
15 So she continued working with him and then later
16 on in 2002, she started her business, which she
17 named Photography by Teresa, which continued up
18 until Halloween of 2005.

19 Q. Now, you indicated that you are familiar that at
20 least one of her clients was *Auto Trader*
21 *Magazine*; is that what you told us?

22 A. Yes, that's correct. She in, I think it was
23 October of 2004, she started working for *Auto*
24 *Trader Magazine* as a way to supplement her income
25 for her professional business. Since she was

1 just starting out with her own business, she
2 wouldn't always have clients. So. Yeah, just as
3 a way to have some steady income, she got this
4 job with the *Auto Trader Magazine* to take
5 pictures of vehicles in people's yards, that they
6 were selling themselves.

7 Q. First photo I'm showing you has been marked as
8 Exhibit No. 7, can you tell us what that is,
9 please?

10 A. Exhibit No. 7 is Canon PowerShot A310; it's the
11 box for the Canon camera. It's not the camera
12 itself.

13 Q. And, once again, were you familiar that that was
14 one of the cameras that Teresa had used in her
15 employment?

16 A. Yes, I am, in her employment with *Auto Trader*,
17 yes.

18 Q. The other exhibit, I think it was Exhibit No. 6;
19 is that correct?

20 A. That's correct.

21 Q. Can you tell me what that is, please?

22 A. It's a box for a Palm 1 Zire 31 palm pilot.

23 Q. And, once again, the large screen, does that
24 accurately depict the box, again, recovered from
25 your sister's home, the box that she saved for

1 her palm pilot?

2 A. Yes, it does.

3 Q. Was your sister kind of a pack rat; did she save

4 this kind of stuff?

5 A. Having gone through her stuff, yeah, she saved a

6 lot of stuff, yes.

7 Q. Was your sister married?

8 A. No, she's not.

9 Q. Who did she live with?

10 A. She lived with a friend of hers from high school,

11 named Scott Bloedorn. He lived in the upstairs

12 of the apartment -- or of the house she was

13 renting from my parents.

14 Q. How close was this to your parents' house?

15 A. Down the road a short ways, eighth mile, roughly

16 quarter mile. Not too far.

17 Q. Okay. Mike, did you ever have an opportunity to

18 see or talk with your sister as she either went

19 to work for the *Auto Trader Magazine* or as she

20 went to work at her own studio?

21 A. As she went there?

22 Q. Yes. In other words, were you familiar with how

23 she dressed to go to work?

24 A. Yes.

25 Q. Can you tell us about that.

1 A. She would always dress professionally, especially
2 when she was going to her professional
3 photography business, you know, black pants, a
4 nice shirt. And if she happened to be doing *Auto*
5 *Trader* that same day, she would go in those same
6 clothes.

7 But if it was -- if she wasn't going to
8 her job that day, she would dress comfortably,
9 not necessarily in professional clothes, but nice
10 clothes nonetheless. Might be a nice pair of
11 jeans and a nice shirt or, you know, maybe khakis
12 and a shirt, sweatshirt.

13 Q. Mike, as long as we have the photos, again, what
14 we're looking at here, that's a picture -- which
15 picture is that, No. 6?

16 A. That is Exhibit No. 6.

17 Q. We're going to have the actual exhibit marked so
18 that we don't just have a photo of it?

19 ATTORNEY KRATZ: Janet, is that going to be
20 No. 8?

21 THE CLERK: Yes.

22 (Exhibit No. 8 marked for identification.)

23 ATTORNEY KRATZ: Mr. Wiegert, could you
24 provide that to the witness.

25 Q. (By Attorney Kratz)~ Mr. Halbach, we're showing

1 you what's marked for identification as Exhibit
2 No. 8; can you show the jury and tell them what
3 that is, please?

4 A. This is the same box as in the Exhibit No. 6,
5 it's the box for Teresa's Palm 1 Zire 31 palm
6 pilot.

7 Q. And if I'm not mistaken, Exhibit No. 7, I think,
8 was the box for the Canon PowerShot A310; is that
9 right?

10 A. That's correct.

11 Q. We're going to have that box, actually, marked
12 for identification as Exhibit No. 9.

13 (Exhibit No. 9 marked for identification.)

14 Q. Once, again, Mr. Wiegert will be providing that
15 to you. If you could show it to the jury and
16 tell them what Exhibit No. 9 is, please?

17 A. Exhibit No. 9 is the box for the Canon PowerShot,
18 the A310, that Teresa used for her *Auto Trader*
19 job.

20 Q. Once again, after your sister's disappearance and
21 after investigators began contacting you,
22 specifically, and your family, these items were
23 found in her personal effects and turned over; is
24 that right?

25 A. That's correct.

1 Q. Can you tell me who Pam Sturm is?

2 A. Pam Sturm, to me, would be my first cousin once
3 removed. She would be my grandma's sister's
4 daughter.

5 Q. Okay. The involvement of Pam and her daughter,
6 Nikole, after your sister was missing, could you
7 describe that for the jury?

8 A. You said her involvement?

9 Q. Yes.

10 A. Pam Sturm was the person who ended up finding
11 Teresa's vehicle on the Avery salvage yard. I
12 recall coming home that day, after I had been
13 with my brother driving, in her -- being inside
14 my parents' house crying and my mom telling me
15 that we found the vehicle -- or Pam found the
16 vehicle, Pam and her daughter, Nikole. So, I
17 guess that would be her involvement.

18 Q. All right. Let's go back just a little bit,
19 Mike, if we can. After your mom reported your
20 sister missing on the 3rd of November, how was it
21 that you were informed of that?

22 A. On Thursday, November 3rd, I was working. I got
23 a call from my mom that afternoon at about 2:00
24 or 2:30 wondering if I knew where -- or if I had
25 talked to my sister in the previous, you know,

1 since Sunday. And I said that I hadn't.

2 And so I went on to call one of Teresa's
3 good friends at her work and asked her if she had
4 known where Teresa could be. Because it was
5 completely unlike her to go somewhere without
6 telling anyone, especially a family member, a
7 good friend, her roommate, or her boss.

8 So, I guess after we made those calls it
9 became very evident to me that something was
10 seriously wrong and I expressed that to my mom.
11 Then shortly after -- and she was, you know, she
12 was in agreement, obviously; she knew something
13 was wrong, just like everyone else did.

14 Q. Did the family ask for some assistance and did
15 you receive it from some of Teresa's friends
16 regarding searching for her?

17 A. In searching for her we, you know, all we had to
18 do was make a couple phone calls to some of
19 Teresa's friends and they would call numerous
20 other people. We needed help passing -- passing
21 out posters on Friday, November 4th and also
22 doing searches by car on Saturday, the 5th and
23 doing searches by foot a few days following that.
24 So, whenever we needed help, we had help from
25 Teresa's friends, family members, community

1 members. Anyone who wanted to help, who had
2 time, would help us out in searching for Teresa.

3 Q. Who is Ryan Hillegas?

4 A. Ryan Hillegas is -- he was Teresa's ex-boyfriend.
5 They were together a few years and then were off
6 a few years once they went to college. And he,
7 basically, organized most or probably all the
8 search efforts that we did for Teresa. Him,
9 along with Scott Bloedorn, did the majority of
10 getting people together and telling people where
11 to go to search for Teresa.

12 Q. I ask you to refer back to this photo, can you
13 tell me what exhibit that is, again?

14 A. Exhibit No. 5.

15 Q. Okay. I can see by your sister's physical
16 stature, but if you can just verify for us, was
17 Teresa in good physical condition?

18 A. Yes, she was. She had a -- she went to a gym. I
19 don't know how regularly, but she had a
20 membership at a gym and was -- seemed physically
21 fit, yes.

22 Q. Mike, I think you talked about, on the 3rd,
23 meeting with your family, and on the 4th, really,
24 the citizen efforts for Teresa's search kind of
25 ramped up; but can give you us any more details

1 about that?

2 A. Yeah, on the -- Well, the day we reported Teresa
3 missing, that Thursday, we had got a call from a
4 man named Jay Breyer who offered his services at
5 Youth Educated in Safety, which is a missing
6 persons organization. He offered to make copies
7 and make up a missing persons poster.

8 So we took him up on that offer that
9 night, finalized the poster and then the
10 following afternoon we had got copies made. He
11 had made the copies and around 2:00 or 2:30 in
12 the afternoon was when we were meeting with
13 whoever had the time and the vehicle to drive
14 across all of northeast Wisconsin to put up these
15 posters, which basically said, you know, missing
16 person, Teresa Halbach, height, weight, what she
17 was wearing that day. So that's what happened on
18 Friday afternoon.

19 Q. Mike, Mr. Fallon is going to hand you what's been
20 marked for identification as Exhibit No. 10. I'm
21 going to put it up on the screen for the jurors.
22 Can you tell us what we're looking at, please?

23 A. That's the missing persons poster that Jay Breyer
24 helped us make that we put up on the 3rd -- or
25 the Friday, the 5th -- or, yeah -- the 4th,

1 Friday, the 4th. That's right.

2 Q. Indicates that your sister was 5 feet 6 inches
3 tall, 135 pounds; is that approximately accurate?

4 A. Yes.

5 Q. Now, after -- First of all, let me ask you
6 where -- where these posters distributed, if you
7 recall?

8 A. It would have been a very large area of northeast
9 Wisconsin including Appleton, Green Bay,
10 Manitowoc, Chilton, south towards Milwaukee, east
11 to the Lakeshore. And I recall semi-drivers
12 wanting to, you know, stop at the house, pick up
13 some fliers because they were concerned as well.
14 And they were going to Madison, Milwaukee and
15 further. So they had volunteered to put up
16 posters for us on their routes.

17 Q. Mr. Halbach, let me ask you this, did you try to
18 recreate, from the 31st of October, routes that
19 Teresa may have taken?

20 A. Yes. Yeah, so those were our main areas we
21 wanted to put up these posters, as well as to
22 search by vehicle and by foot, because we could
23 trace her whereabouts to, you know, a certain
24 location. That's where you want to focus most of
25 your efforts. So that's what we did.

1 Q. All right. Perhaps you answered this and I
2 apologize if you did, but do you recall how many
3 thousands of these posters you distributed?

4 A. I guess I can't recall specifically, but it would
5 be, you know, probably a couple thousand.

6 Q. All right. Now, we're going to hear from Mr.
7 Hillegas a little bit later in the trial
8 regarding the specifics of the missing persons
9 investigations, but did those search efforts
10 include actually walking around or looking in
11 roadways or ditches?

12 A. Yeah, that Saturday morning, the 5th, that
13 morning, it was about 7:00 a.m., a group of
14 volunteers met at my sister's house and we set
15 out by vehicle to -- to basically trace the
16 routes that she may have taken that Monday.

17 And certain people were given different
18 areas, not necessarily the places she definitely
19 traveled, but perhaps she drove down to Milwaukee
20 to meet with someone, or drove up to Door County,
21 so we had people driving in those areas as well.
22 But myself, specifically, I went with my brother
23 to the places where we -- and the routes that we
24 thought for sure she could have taken, you know.
25 Since we were her brothers, we can get it in her

1 mind better than anyone. So we drove over there.

2 I can recall specifically driving down
3 Highway 147, getting out, looking down
4 embankments where, if you would drive by
5 casually, you wouldn't be able to see down there.
6 So, we thought maybe she had gotten in an
7 automobile accident, was trapped, you know,
8 unconscious, whatever it may be. So we wanted to
9 do what we could to eliminate that possibility.

10 So, you know, we looked wherever we
11 could, drove around as many roads as we could,
12 side roads, back roads, whatever, just looking
13 for signs of her vehicle or Teresa herself.

14 Q. And until that call came, or until the news came
15 on the 5th, that Teresa's vehicle had been found,
16 was that your hope that there had been some
17 accident or something?

18 A. Yeah, I mean, from the start I think it's just
19 the way my family is, is we're strong,
20 optimistic, also, you know, realistic too. But,
21 yeah, we hoped to find some sign and we hoped we
22 would find Teresa alive.

23 So when we found her vehicle, it was
24 good because we were getting closer to finding
25 Teresa. So we were happy to find the vehicle,

1 but we didn't find Teresa, so that half the goal
2 was missing. We didn't accomplish half the goal
3 when we found the vehicle.

4 Q. All right. Mike, I had mentioned at the early
5 stages of the presentation of this case, in fact,
6 to the jury, about meetings that you had with law
7 enforcement, meetings you had with me,
8 individually, throughout this case. Have you
9 been kept informed as to the developments and the
10 evidence, not just that was found, but the
11 evidence that was going to be presented at this
12 case?

13 A. Yes, we had always -- were informed in advance of
14 anything, whether it be a news conference,
15 whether it be information that would be submitted
16 to the courthouse and available to the media,
17 shortly thereafter. We would always be aware of
18 what was going to be said in the media or what
19 not. And in advance of every court hearing, we
20 have been kept informed of what we would hear
21 that day, just so there were no surprises; so we
22 could prepare ourselves emotionally for those
23 events.

24 Q. That includes the physical evidence that is going
25 to be presented at this trial?

1 A. Yes, that's correct.

2 Q. The last question I have, Mike, and I'm going to
3 apologize in advance as to the insensitivity of
4 it, but at any time after the 31st of October,
5 had you ever seen, spoken from, or heard from
6 your sister, Teresa Halbach?

7 A. No, I have not.

8 ATTORNEY KRATZ: I would move the admission
9 of Exhibit 1 through 10.

10 THE COURT: Any objection?

11 ATTORNEY STRANG: No objection at all.

12 THE COURT: Those exhibits are admitted.

13 ATTORNEY KRATZ: No further questions.

14 THE COURT: Mr. Strang.

15 ATTORNEY STRANG: Is this working now?

16 THE COURT: Yes, it is.

17 ATTORNEY STRANG: All right.

18 **CROSS-EXAMINATION**

19 BY ATTORNEY STRANG:

20 Q. Thanks for coming. And I don't have a lot of
21 questions. I don't want to make this any harder
22 a day for you than it's already been. But, we
23 have established that Teresa was 5 foot 6, about
24 135 pounds, back in October of 2005?

25 A. Yes.

1 Q. Give or take. You said she was fit. She was an
2 athlete to some extent?

3 A. To some extent, she played a little in high
4 school, but I know she would exercise at our home
5 as well.

6 Q. Sure. Little volleyball, was that her sport, or
7 basketball, or both?

8 A. Well, she coached her sister's 7th grade
9 volleyball team, so there was definitely an
10 interest there.

11 Q. Was that her sport in high school?

12 A. She played some. I don't think she played past
13 her sophomore year, but ...

14 Q. Okay. But, you know, I mean, somebody who was at
15 least reasonably athletic and fit?

16 A. Right.

17 Q. In addition to working out at home, she belonged
18 to some private gym somewhere?

19 A. Correct.

20 Q. Okay. You guys were all raised on a dairy farm;
21 did you grow up there?

22 A. Yeah, for the most part, yeah.

23 Q. Working a dairy farm?

24 A. Yes.

25 Q. And when you say for the most part, is that not

1 when you were a little bitty boy, or ...

2 A. Up until I was eight years old on, I was on the

3 dairy farm, yes.

4 Q. Okay. Sure. And you, the kids, helped out with

5 chores, I assume?

6 A. Correct.

7 Q. Like all farm kids have to?

8 A. Yes.

9 Q. That included Teresa?

10 A. She didn't help out in the barn as much as she

11 helped out in the house, babysitting for our

12 sisters and taking care of chores in the house.

13 Q. She did get acquainted with milking, though, at

14 some point, I assume?

15 A. Very seldomly.

16 Q. Was that mostly the boys?

17 A. Yeah. Yes.

18 Q. She was someone who had a good sense of humor?

19 A. Yes.

20 Q. Also could stand up for herself, though?

21 A. Absolutely.

22 Q. Little bit feisty in a good way?

23 A. Yes.

24 Q. Yeah, and I don't mean in a bad way, but I mean

25 she was personable?

1 A. Yes, independent.

2 Q. And your family, I take -- I take it is

3 tightknit, your immediate family?

4 A. Yes.

5 Q. By that, I mean Tom and Karen, your folks, or you

6 and Tim, Katie and Kelly and Teresa?

7 A. Yes.

8 Q. But you guys also have a pretty good extended

9 family in this area, as I understand it?

10 A. Yes, we do.

11 Q. Has the family been in Calumet County or this

12 area for generations?

13 A. Yes. Yeah.

14 Q. Okay. I mean, in other words, you know Pam

15 Sturm, you were saying is a first cousin once

16 removed?

17 A. Correct.

18 Q. I couldn't possibly tell you how you got there

19 but, I mean, you have got all kinds of cousins,

20 aunts, uncles?

21 A. Yes.

22 Q. That kind of thing, in the area?

23 A. Yes.

24 Q. So, in addition to Teresa's friends, you had a

25 lot of family to pull on when looking for her?

1 A. Correct.

2 Q. This -- this effort to retrace her steps on
3 October 31, did that -- did that get going,
4 Mr. Halbach, pretty much right away, the evening
5 that you all reported her missing.

6 A. Yeah. Yeah, we had talked about where we knew
7 Teresa was on the 31st; what appointments she
8 had, where she was supposed to be before then,
9 you know, where she was supposed to be after then
10 and the days following, as well.

11 Q. Okay. On the 31st, were you able to nail down
12 appointments?

13 A. Yes.

14 Q. So, I mean, do you think it was that Thursday
15 night that you figured out that Avery Auto
16 Salvage was one of the appointments; if you
17 remember?

18 A. I don't remember exactly if it was that night, or
19 if it was the next day, or -- it was one of those
20 two.

21 Q. Either Thursday night or Friday morning, the 4th?

22 A. Yes.

23 Q. Okay. And at some point pretty quickly, the
24 media all got interested in this; am I recalling
25 that correctly?

1 A. Yes.

2 Q. Was it Friday, already on the TV they were
3 talking about the Avery Auto Salvage or flying
4 over it, that kind of thing?

5 A. I don't recall, specifically, myself, you know,
6 seeing the media involvements saying Steven
7 Avery, but I know that they reported on the
8 missing persons case involving my sister, that
9 Thursday night.

10 Q. Oh, right away Thursday night?

11 A. Correct.

12 Q. And then Friday and I know by Saturday, there was
13 a lot of media coverage?

14 A. Yes.

15 Q. Not that you were watching but, I mean, you were
16 out -- that you were just sort of aware of it?

17 A. Yes.

18 Q. Did you -- Did you have access to her computer
19 passwords or account information for, like, her
20 cell phone, for example, or bills, that kind of
21 thing?

22 A. Cell phone, yes; computer password, yes.

23 Q. She had shared that with you at some time
24 earlier?

25 A. I did business work for her, website graphics,

1 so --

2 Q. Oh.

3 A. I, yeah, I just knew it through that.

4 Q. So, you knew it through that --

5 A. Correct.

6 Q. -- because you would have a reason to get on to

7 her computer to help her with her website?

8 A. Well, I didn't have to go on her computer, but I

9 had to connect to a web host --

10 Q. Sure.

11 A. -- just to put stuff for her website, so.

12 Q. Okay. I'm nodding like I know what you are

13 talking about and I really don't. But the point

14 is you had -- you had access to her password

15 information so you could check her cell phone

16 bill?

17 A. I never did. I don't know -- So since I never

18 did, I wouldn't know if I had the right password

19 for her cell phone bill. I knew --

20 Q. Okay.

21 A. -- her password for her voice mail.

22 Q. And that's where I was going. I think -- I think

23 on Thursday evening, November 3, somebody was

24 able to get at her cell phone records on the

25 computer, but that was not you?

1 A. I don't think on her computer, no.

2 Q. Okay. And you didn't have her voice mail?

3 A. I said I did -- did have her voice mail password.

4 Q. You did have her voice mail password. Okay. Did

5 you check voice mails?

6 A. I did.

7 Q. Do you remember when you did that?

8 A. It was probably Thursday evening, early evening.

9 Q. After your mom --

10 A. Yes.

11 Q. -- had --

12 A. Yes.

13 Q. -- filed a missing persons report?

14 A. Yes.

15 Q. Okay. So I take it you were at work earlier that

16 day?

17 A. Correct.

18 Q. And the missing person report was sort of at the

19 end of the day, 5:00 or something?

20 A. Correct.

21 Q. Were you familiar enough with Teresa Halbach's

22 everyday stuff to know what -- what she carried

23 keys to?

24 A. I mean, yes, I think I would have an idea of what

25 keys she would have, yes.

1 Q. Okay. Let's just -- Let's start with the house
2 that she and Scott Bloedorn were sharing, this
3 was the older farmhouse?

4 A. At one point it was a farmhouse.

5 Q. Okay. Is it actually on the Halbach farm or just
6 next door or ...

7 A. It's next door, my parent's home, the house and
8 the land.

9 Q. Okay. But it --

10 A. It's not -- It doesn't share a driveway at all.

11 Q. Yeah.

12 A. It has its own driveway.

13 Q. Separate parcel, but next door.

14 A. Correct.

15 Q. Can you see the two houses from one another?

16 A. You have to look through a line of evergreens and
17 there's a big shed a little further back, but you
18 can see it through the trees, yes.

19 Q. But they are next door neighbors, essentially;
20 although it's a rural area?

21 A. Correct.

22 Q. Okay. And I take it there was -- there was a
23 house key to the house? Go ahead.

24 A. Yes, there was.

25 Q. Do you know whether there was a separate garage

1 key?

2 A. I believe that's correct.

3 Q. Okay.

4 A. I would imagine there was.

5 Q. And do you have -- do you have any way of knowing

6 whether Teresa would also have had keys to your

7 folk's house?

8 A. I don't think she did.

9 Q. You told us the Toyota was the only car she was

10 driving, so she didn't have keys to other cars,

11 as far as you know?

12 A. Correct, she didn't, no other keys.

13 Q. Swipe card for the gym?

14 A. I can't recall if she specifically had a swipe

15 card. She must have had something to get into

16 the gym. I forget what it would have been.

17 Q. Okay. And if you know, was she someone with,

18 like, a lot of people, I guess, who would have

19 had some doodads, or charms, or that kind of

20 thing on the key chain?

21 A. I don't ever recall her having any of that, a lot

22 of fancy stuff on her key chain, no.

23 Q. Okay. The gathering at -- was at grandpa's house

24 on Sunday, October 30?

25 A. That's correct.

1 Q. For his -- for his birthday?

2 A. Correct.

3 Q. And then, I think -- Were there, if you know, did

4 she -- had she had plans to go to a Halloween

5 party the Saturday night right before that?

6 A. I believe so. Earlier in the evening she was

7 helping me with a wedding, shooting a wedding

8 video. After that I think she would have went to

9 a Halloween party. I believe that's correct.

10 Q. Okay. Saturday night, October 29?

11 A. Right. Yeah, it would have been later on in the

12 night.

13 Q. Let's just sort of help the jury with that.

14 You're -- You're a videographer. You're in the

15 video business?

16 A. Correct.

17 Q. So not only would she be a photographer for

18 weddings, but you also videotape weddings as a

19 business, or a side business at times.

20 A. Well, that was the only one that I had. That was

21 my first time and I haven't done one since then.

22 Q. Okay. But the two of you were helping each other

23 out with that one?

24 A. Right.

25 Q. I didn't notice one in the picture, whichever

1 number it is, where Teresa is standing next to
2 her Toyota when she has got her camera; I didn't
3 notice there, but did she ordinarily carry a
4 purse?

5 A. I don't recall her having a purse -- well -- I
6 can't say for sure.

7 Q. That's okay. That's all right. How about, I
8 mean, did you -- did you notice, was she a
9 jewelry person, bracelets, necklaces?

10 A. Not a whole lot of jewelry, really, at all. I
11 don't -- maybe a couple of rings.

12 Q. Not bracelets, though, or necklaces.

13 A. Probably not too often.

14 Q. How about earrings?

15 A. I don't recall her wearing earrings very often
16 either.

17 ATTORNEY STRANG: That's all I have. Thank
18 you.

19 THE COURT: Mr. Kratz, any redirect?

20 ATTORNEY KRATZ: Not for this witness,
21 Judge. Thank you.

22 THE COURT: Very well, you are excused.

23 ATTORNEY KRATZ: Next witness, Judge?

24 THE COURT: You may call your next witness.

25 ATTORNEY KRATZ: Tom Pearce.

1 THE CLERK: Raise your right hand, please.

2 **THOMAS PEARCE**, called as a witness

3 herein, having been first duly sworn, was

4 examined and testified as follows:

5 THE CLERK: Please be seated.

6 THE COURT: You may proceed, Mr. Kratz.

7 THE CLERK: Please state your name and
8 spell your last name for the record.

9 THE WITNESS: Thomas Pearce, P-e-a-r-c-e.

10 **DIRECT EXAMINATION**

11 BY ATTORNEY KRATZ:

12 Q. Mr. Pearce, how are you employed?

13 A. I'm sorry?

14 Q. How are you employed?

15 A. I'm self-employed.

16 Q. Can you tell the jury in what capacity?

17 A. I'm a professional photographer. I have my own
18 studio.

19 Q. Did you know a young woman by the name of Teresa
20 Halbach?

21 A. Oh, yes, I did.

22 Q. Can you tell the jury how you first became
23 knowledgable about Ms Halbach?

24 A. It was in January of 202 (sic), through an
25 internship program through the university. She

1 approached me to do an internship through the
2 university and I took her on as an intern. And
3 from there on, through the internship program
4 which ends when she graduates, I saw that she was
5 an exceptional person in photography and for her
6 age, that I asked her to stay on and work through
7 my studio or with me doing weddings and
8 portraits.

9 Q. What university was this?

10 A. University of Green Bay.

11 Q. I think you mentioned that you had seen something
12 in her that actually made you offer her a job;
13 can you tell us what that was?

14 A. Well, you know, in this field, you see -- and I
15 have worked with other interns and some of them
16 do have the drive, the passion, the want and
17 knowing that -- Being a photographer, a lot of
18 people think it's very easy. It's a lot of
19 hours. It's a lot of dedicated work.

20 And she had that and I haven't seen that
21 in many people in a lot of years. And I was
22 impressed with that. She knew the
23 responsibility, the sacrifices it took. And she
24 was eager to learn. She was consistently asking
25 questions and from -- doing different projects

1 and so on. So I was very impressed with her and
2 that's why I asked her to stay on.

3 Q. Was she technically good at what she did?

4 A. Yes. The university -- I also went to school,
5 but not here in Green Bay. They teach you the
6 book. And how should I say, you should know the
7 rules before you know how to break them. And
8 that's part of out in the field.

9 And that's why I think the internship
10 program is a good program. Because it has -- In
11 many different fields, people come out and see
12 what it's really like in everyday life and not so
13 much how the book says it. But you have got to
14 know the book, but you have to break the rules
15 when you are out there.

16 Q. After offering Teresa a job, or employment
17 through your studio; how long did that last and
18 did that evolve into some other business
19 relationship.

20 A. As far as working for me, or I should say really
21 with me, she was a go-getter, like I said, she
22 had that passion. And I looked and as a -- when
23 you are a staff photographer for someone, you
24 have got to abide by their ways of doing things,
25 their policies, because you are working for them,

1 so you have to do stuff their way.

2 Well, I didn't want to hold her back
3 because she was incredibly involved and had that
4 passion for this. So, on the other hand, I
5 didn't want to not lose her, but have her go out
6 and go, hit and miss, hit and miss, which a lot
7 of young photographers do.

8 I had a full studio, plenty of room for
9 both of us. So we sat down and we talked and we
10 did something that no one has done before. She
11 started her own business, not be in competition,
12 but complimenting each other.

13 So she worked out of my studio; she used
14 all the facilities of the studio, but she ran her
15 own business through that -- through my studio.
16 Meanwhile, we cooperated in doing advertising
17 together, promotions, learning, helping one
18 another. I would book weddings for her, she
19 would book for me. There was never any
20 competition between us. And it was something
21 unusual, but it worked out very well for both of
22 us.

23 Q. Did she call upon you for advice?

24 A. Many times, yes. And it was, basically, not only
25 the technical end of it, the photography end of

1 it, but on how to run a business, what is needed
2 behind the scenes. And that's where in this
3 business a lot of the people that get into the
4 photography business, they know photography but
5 they don't know the business end of it.

6 So, yes, I did mentor her in a lot of
7 different areas. Thirty-eight years of
8 experience, and I wanted to share that with her,
9 because I could see that she was, basically, like
10 me when I came out of college -- school. I was
11 eager. I had the passion. We had a lot of
12 similarities. I graduated from -- with a degree
13 in photography.

14 I was the -- also worked the photo
15 school newspaper and she did. And I worked at
16 many different studios before I moved up here in
17 the Green Bay market. So we had that same
18 background. And I think it's a duty for any of
19 us to share what we have learned, our experiences
20 with someone up and coming.

21 Q. I think, Mr. Pearce, you talked about weddings
22 and portraits and the like, that was -- or at
23 the -- by the fall of 2005, had Teresa been
24 developing a particular niche within the
25 photography business?

1 ATTORNEY STRANG: Your Honor, I wonder if
2 we could approach the side bar for just a moment.

3 THE COURT: Sure.

4 (Side bar taken.)

5 Q. (By Attorney Kratz)~ Mr. Pearce, could you
6 discuss whether or not Teresa had developed a
7 particular niche within the photography business?

8 A. I think if there was any one area, it was
9 children. She loved to photograph children of
10 all ages. She had a knack for that. But as far
11 as a niche, I mean, we all -- that would be her
12 certain niche, but she was well versed at doing
13 weddings, and good at doing weddings and
14 portraits and family. But her love was doing
15 children, from all ages of children.

16 Q. Now, as part of that business, as part of
17 Teresa's photography business, were you aware of
18 a particular client that she serviced, which was
19 *Auto Trader Magazine*?

20 A. There was a time when she had told me about, that
21 she had picked up a client, which was *Auto*
22 *Trader*, and she would be running around taking
23 pictures of cars, yes, I was aware of that.

24 Q. All right. And had she ever asked your opinion
25 or advice about working for *Auto Trader* or that

1 kind of photography?

2 A. I don't think she asked my advice, but I think I
3 may have suggested something to her. Her
4 photography business was picking up for studio
5 wise a lot. And it seemed like when she -- It
6 seemed when she first started with *Auto Trader*
7 was just on Mondays. Mondays we're typically
8 closed in the industry, because we worked a lot
9 of Saturdays.

10 So, it seemed all of a sudden that she
11 not only had to do *Auto Trader* on Monday, but
12 possibly Wednesdays and some Saturdays. She was
13 constantly telling me that she was running doing
14 *Auto Trader*. And I could see that she was
15 starting to burn the candle at both ends.

16 And at one time, I sat her down and I
17 said, gee, you know, you are running here, you
18 are running here, you're running and I didn't
19 want her to get to a burn out point. So I just
20 asked her, how is *Auto Trader*, is it a good
21 client, blah, blah, blah.

22 We never talked on how much she was
23 making, or whatever. That -- that was never
24 discussed. I mean, that was where we drew the
25 line in our business end of it, but I was more

1 concerned about her well being of running, of the
2 constant running. She was constantly running and
3 that's what she enjoyed. So that was the only
4 time I really had any discussion with her about
5 *Auto Trader*.

6 Q. Let me ask you this, Mr. Pearce, are you familiar
7 with the defendant, Steven Avery?

8 A. As far as familiar with him, as far as what?

9 Q. Have you heard the name before the 31st of
10 October?

11 A. Just one time and I think it was the spring, late
12 spring or early summer, Teresa had mentioned to
13 me, she said kind of matter-of-factly, you will
14 never guess whose cars I was taking pictures of.
15 And she told me the name and it didn't ring a
16 bell.

17 She actually had to remind me or say,
18 oh, that was the guy that was wrongfully
19 convicted and so on and so forth. And we had a
20 little discussion and then I remembered the case
21 and so on and so. We talked about -- a little
22 bit about her being out and about, running around
23 all over the county, by herself, and her safety
24 and so on and so forth. And that was basically
25 it. That was the only time she ever mentioned it

1 to me.

2 Q. All right. We have learned that Teresa Halbach
3 drove a 1999 Toyota RAV4 SUV, picture's in front
4 of you. Would you look on the back; what exhibit
5 number is that?

6 A. 05 CF 381, Exhibit 5.

7 Q. All right. Have you ever seen that vehicle
8 before?

9 A. Oh, sure. She was working with me when she
10 purchased it. Actually, I took that picture.
11 And she was happy as a lark to have her first
12 car. She used to have a beater that was an older
13 car, not a beater. And now this allowed her
14 freedom to go. Yeah, she was very happy with
15 that car.

16 Q. Turning now to a more serious series of topics,
17 Mr. Pearce, sometime after the 31st of October,
18 after that Monday, after the Halloween; did you
19 see Teresa the next day at work, Tuesday, the 1st
20 of November?

21 A. No, like I said earlier, Mondays we were closed.
22 Actually, the last time I saw Teresa was
23 Saturday, before the 31st. When Tuesday came,
24 she had her own hours because she had her own
25 business. Since I'm there like 60 hours a week;

1 she may have been there one week 20 hours. All
2 depended on her schedule and so on. But she
3 always kept me informed of was she going to be
4 gone for a day; did she have appointments; was
5 she going to take off for a weekend; etc. She
6 was very responsible in that sense, extremely
7 responsible for a young person.

8 Well, Tuesday came and by noon she
9 wasn't there. I didn't think too much, oh, okay,
10 I know she was there Saturday working, did *Auto*
11 *Trader*. So I'm going through my mind, well,
12 what -- I knew Wednesday, because every Wednesday
13 morning, she actually was one of the founders of
14 a BMG Group, BMG marketing group, Business
15 Marketing Group that meets once a week. Business
16 leaders, they go over leads and what's going on
17 in Green Bay and so on.

18 She was one of the founders and very
19 active in it. She usually would come in, oh,
20 about, sometimes 11:00, 11:30 on that Wednesday,
21 religiously. Because she would be in town for
22 that meeting. So Wednesday around noon, she
23 didn't show up. I thought, okay, this is a
24 little strange. I tried calling her and I got
25 her cell phone, but her phone book and it was

1 full, where I couldn't even leave a message.

2 Q. Her voice mail?

3 A. Her voice mail box, that's it, yes, it was full.

4 I couldn't even leave a message. I thought this
5 was a little strange, because typically you get
6 right through to her. She was very good at
7 returning calls; very good at leaving messages
8 and letting me know. So kind of, well, maybe
9 she's sick, you know, with the flu, flu season,
10 covered up under the covers, turn the cell phone
11 off, just go and doing that.

12 Q. Sure.

13 A. So I thought, well, for sure she'll be in
14 Thursday. And I had called, a couple times, her
15 cell phone. So by Thursday, now, I haven't heard
16 from her.

17 Q. This is Thursday the 3rd of November.

18 A. Right. Yes.

19 Q. Okay. What did you do then?

20 A. I tried to call her again, same thing, with the
21 phone. Now, some of her work was coming in,
22 being shipped in to be processed. And I knew
23 that she knew, she kept track of that. So, if
24 she was out of town or sick, I think she would
25 have called me by this time. And I started

1 getting really, really worried.

2 I didn't know who to call, her friends,
3 etcetera, so I think was around 1:00, somewhere
4 in that time period. I called Karen, Teresa's
5 mother, seeing if she knew. That was the only
6 phone number I had, other than Teresa's. I
7 didn't have any of her friend's. And talked to
8 Karen about it. And she was going to call some
9 of her friends, or she already had. And the next
10 thing I know it was 10:00, on the news, I heard
11 it was, officially, that Teresa was missing.

12 Q. Perhaps you can help us, Mr. Pearce. Are you
13 familiar with use of digital cameras, digital
14 film and how a digital camera can imprint or
15 create an electronic signature on photos that are
16 taken there from?

17 A. I'm not a real good expert on digital, but I know
18 some of what the digital cameras do, if that's
19 what you're --

20 Q. I'm going to direct you to some images and when
21 you take the cursor for a computer over a digital
22 image, as an example, this image gives the
23 dimensions, gives the date the picture taken is
24 10/10/05 at 3:18 p.m. Camera model, it indicates
25 Canon PowerShot A310 to JPEG image and the size

1 of that. Are you familiar with the taking, or
2 production of digital photography, that those
3 kinds of details are provided right in the image
4 itself? Do you understand the question?

5 A. Yes. Yes, sir. Absolutely true, they are.
6 Unless you get a 10 or \$15 or \$20 digital camera,
7 the nicer cameras, even the smaller ones, will do
8 that automatically in their programing for that.

9 Q. All right. Same question I have asked another
10 witness and I will ask you Mr. Pearce, after
11 the -- well, really after the 29th of October,
12 2005, had you ever heard or spoken to Teresa
13 Halbach?

14 A. No.

15 ATTORNEY KRATZ: That's all I have for this
16 witness, Judge. Thank you.

17 THE COURT: Mr. Strang.

18 **CROSS-EXAMINATION**

19 BY ATTORNEY STRANG:

20 Q. Mr. Pearce, the Teresa Halbach you knew was
21 someone you described once as feisty?

22 A. Well, depends on how you mean feisty.

23 Q. How did you mean it?

24 A. Full of energy.

25 Q. Someone who was in good shape and could fight

1 back?

2 A. I would think so.

3 Q. She carried a cell phone regularly?

4 A. I'm sorry, I can't hear you.

5 Q. She carried a cell phone regularly?

6 A. As far as I know, yes, that was her life line.

7 Q. But that wasn't something she would hook on a
8 belt or do one of these things, she would keep it
9 in her purse?

10 A. Well, most of the time when I would see her, she
11 would have it out of her purse and on the
12 counter.

13 Q. If she were out somewhere, though, the cell phone
14 was always in her purse, I think you have said
15 before?

16 A. I couldn't answer that 100 percent. I would
17 think so. She was in her car, maybe it would be
18 on the driver's seat. I know it went with her
19 wherever she went.

20 Q. And when she was at Pearce Photography, she
21 frequently would leave the cell phone out on the
22 counter. If she was out somewhere else, it was
23 in her purse, typically, that was your experience
24 with her?

25 A. Well, I know when she was at work it was always

1 out in the open on the counter, just like this
2 picture sitting here, because that was her
3 business line. When she was out -- out of the
4 studio, I really don't know what she did with her
5 cell phone.

6 Q. I'm going to show you a report of an interview
7 that you had with an agent named Alan Hunsader;
8 do you remember talking with him?

9 A. Sure.

10 Q. I'm going to offer it as an exhibit, I'm just
11 hoping it might refresh your recollection about
12 the cell phone. I invite you to look at the last
13 paragraph on that page. Just to yourself.

14 A. Yeah, I guess.

15 Q. Does that help --

16 A. Yeah.

17 Q. -- refresh your recollection about your
18 experience with Teresa Halbach and her cell
19 phone?

20 A. When we would shoot a wedding together she would
21 have her cell phone in her purse. Through her --
22 When -- When we would go to -- give an example,
23 we did a lot of work in a park which was 5
24 minutes away from us, doing weddings, even in her
25 training time she would keep her cell phone in

1 her purse. That was my oversight.

2 Q. You described it as her lifeline just a few
3 minutes ago.

4 A. Right.

5 Q. Was that the only number you had for her?

6 A. Yes.

7 Q. You don't know whether she had a land line phone
8 in her home?

9 A. I don't think so.

10 Q. You were aware that she evidently shared her cell
11 phone number with *Auto Trader* customers.

12 A. I knew at one time she said to me that she was
13 able to give out her business cards to the *Auto*
14 *Trader*. So in that respect I guess, yeah,
15 because her cell phone number would be on that.

16 Q. And indeed there was -- there were at least a few
17 occasions on which you were aware that she was
18 getting calls on her cell phone from customers or
19 dissatisfied customers of *Auto Trader* and she
20 would refer those to the *Auto Trader* office?

21 A. She mentioned to me a couple times that people
22 were calling her direct. They had a problem with
23 *Auto Trader*, or whatever the case may be.

24 Q. She said, don't bother me, call the *Auto Trader*
25 office?

1 A. Yes, sir.

2 Q. What -- What day was it, as best as you can
3 recall, and I'm going to chase the time to, if
4 you can, that you first called Teresa's cell
5 phone the week of October 31 and found the voice
6 mailbox full?

7 A. I think it would have been Tuesday afternoon and
8 that -- somewhere in that time period.

9 Q. And the voice mail box was full?

10 A. Yes.

11 Q. Okay. And then Wednesday, before this marketing
12 group luncheon, after she didn't show up; did you
13 try that again?

14 A. Yes, sir.

15 Q. Still full voice mailbox?

16 A. Still full.

17 Q. And if I understood you correctly, you said you
18 tried again Thursday?

19 A. Mm-hmm, yes, sir.

20 Q. So full voice mailbox Tuesday, Wednesday and
21 Thursday?

22 A. I believe, I'm almost positive all three times,
23 because I thought that was very unusual.

24 Q. Starting Tuesday, mid-afternoon.

25 A. Yes, sir.

1 Q. This studio, it was your studio, but she was
2 sharing space, if I understood you --

3 A. Yes.

4 Q. -- correctly?

5 A. Yes.

6 Q. Keys, keys to the studio, one, more than one?

7 A. She had a set of keys, yes, sir.

8 Q. What is a set of keys, meaning to the studio?

9 A. Well, as myself, we always carry two, so that --
10 I mean, it's the same key, but in case we drop
11 it. And Teresa had a funny thing about not
12 losing her keys, but misplacing her keys all the
13 time. So I gave her two, one to put on her key
14 chain and one to put in her purse somewhere, so
15 she always has it. So, two keys.

16 Q. If she mislaid the key chain?

17 A. Yes.

18 Q. Okay. So the office key was one of the keys on
19 that key chain?

20 A. I would think so.

21 Q. Is it a key chain you saw?

22 A. I'm sorry?

23 Q. Is it a key chain that you ever saw?

24 A. Laying on the counter or something, yes.

25 Q. Okay. It had a number of keys on it?

1 A. I would think maybe three or four.

2 Q. Okay. About three weeks before she disappeared,
3 Teresa Halbach, you were aware, had been getting
4 a lot of telephone calls that she was not
5 answering on the cell phone?

6 A. Yes, sir.

7 Q. They would leave no message?

8 A. If you are referring to the same thing, I think,
9 she was standing almost right next to me, in a
10 day, and she got this phone call. And she looked
11 at it and went, said, oh, not them again, or not
12 him again, and just kind of forgot about it.

13 She looked a little upset, so I
14 questioned her a little bit about this and she
15 told me, just forget about it. Somebody keeps
16 calling her all different hours, a nuisance call.
17 And that was about two or three weeks and she had
18 mentioned that she had been getting them for
19 awhile and I had said, well, why don't you give
20 me the number and I will call and find out
21 instead of her dealing with it and she said, no,
22 don't worry about it. But that's, I think, what
23 you're talking about.

24 Q. Right. And whatever the number was that came up
25 on the phone, she recognized it?

1 A. Yeah, she knew what it was, but she wouldn't let
2 me know.

3 ATTORNEY STRANG: Thank you.

4 THE COURT: Any other questions, Mr. Kratz?

5 ATTORNEY KRATZ: Just one area of inquiry
6 of Mr. Pearce.

7 **REDIRECT EXAMINATION**

8 BY ATTORNEY KRATZ:

9 Q. Mr. Pearce, would you have considered yourself as
10 long -- or together with a mentor, being a friend
11 of Teresa's?

12 A. A good friend and a good colleague, yes.

13 Q. In that regard, had you ever admonished or warned
14 Teresa about her behavior, if she was alone with
15 somebody in a home?

16 ATTORNEY STRANG: Relevance.

17 THE COURT: Mr. Kratz.

18 ATTORNEY KRATZ: Judge, it actually will be
19 relevant to the false imprisonment charge. The
20 issue of being restrained or confined. If
21 admonished by an individual that that shouldn't
22 occur, it goes to that particular element of that
23 offense.

24 THE COURT: Mr. Strang.

25 ATTORNEY STRANG: I don't know that we

1 ought to be arguing the point here. I'm not at all
2 convinced of the relevance.

3 THE COURT: I don't know about the
4 relevance, but I think its beyond the scope of
5 redirect. I'm going to sustain the objection.

6 ATTORNEY STRANG: We can't hear the Court.

7 THE COURT: It's beyond the scope of
8 redirect. I'm sustaining the objection.

9 ATTORNEY KRATZ: That's all I have of
10 Mr. Pearce then, Judge. Thank you.

11 THE COURT: You're excused.

12 ATTORNEY KRATZ: Could we approach just
13 briefly, Judge.

14 THE COURT: Sure.

15 (Side bar taken.)

16 THE COURT: For the benefit of the jurors,
17 I informed counsel that I really didn't want to go
18 beyond 4:30 today. I'm aware of the fact that you
19 have not only been sitting in the jury box most of
20 the day, but also the fact that there's travel to
21 and from Manitowoc each day. So unless it is really
22 important, I'm going to do my best to get you out of
23 here at 4:30 all the time. But I have been told
24 that there is a witness who isn't going to take very
25 long. So, Mr. Kratz, you may call your witness.

1 ATTORNEY KRATZ: Thank you, Judge. We call
2 David Beach to the stand.

3 THE CLERK: Please raise your right hand.

4 **DAVID BEACH**, called as a witness herein,
5 having been first duly sworn, was examined and
6 testified as follows:

7 THE CLERK: Please be seated. Please state
8 your name and spell your last name for the record.

9 THE WITNESS: My name is David Beach. My
10 last name is spelled B-e-a-c-h.

11 THE COURT: Mr. Beach, I'm going to ask you
12 to get a little closer to the microphone.

13 **DIRECT EXAMINATION**

14 BY ATTORNEY KRATZ:

15 Q. Mr. Beach, do you know a woman by the name of
16 Teresa Halbach?

17 A. Yes, I did.

18 Q. How did you know her?

19 A. She was my cousin.

20 Q. Sometime on Friday, the 4th of November, did you
21 volunteer to assist in a search for Teresa?

22 A. Yes.

23 Q. And in that regard, were you with somebody else,
24 or paired up with somebody in that search?

25 A. I was paired with my older sister, Sarah Beach.

1 Q. On Friday, the 4th of November, did you make any
2 stops, or what was your -- or what did your
3 search efforts entail?

4 A. I met up with my sister and our search effort was
5 to look for her vehicle. So we got some
6 information from the Halbachs about what her
7 schedule was, where she had -- the area that she
8 was going to and we just tried to track down the
9 Toyota.

10 Q. All right. In that effort, Mr. Beach, did you
11 find your way to the Avery Salvage Yard property?

12 A. Yes.

13 Q. And could you tell the jury, please, what
14 occurred once you got to that property.

15 A. We came to the property. I was the passenger in
16 the vehicle. I stepped out, I went into the
17 garage. There was a lone desk. There was a
18 person sitting at the desk talking on the phone.

19 Another person came to the desk to greet
20 me and then at that time point I asked the person
21 if -- if they ever had any photographers come to
22 the salvage yard to take pictures of vehicles.
23 And he said he didn't know. And then I came back
24 and I mentioned that my cousin was missing. She
25 was a photographer. And that was the reason for

1 my visit.

2 Q. All right. Let me ask you, Mr. Beach, do you
3 know the defendant, Steven Avery, the gentleman
4 seated in the courtroom today?

5 A. At the time I did not; today I do.

6 Q. When you got to the salvage yard on the 5th of --
7 excuse me -- on the 4th of November, that Friday;
8 was Steven Avery one of the people that you
9 talked to at the office or in what you call the
10 garage?

11 A. Yes, he was the second person.

12 Q. Did you specifically ask Mr. Avery whether or not
13 your cousin, Teresa, had been to the salvage
14 yard?

15 A. Yes.

16 Q. What did Mr. Avery tell you?

17 A. He said that she was there; roughly about 2:00 in
18 the afternoon.

19 Q. All right. Just, back up just a second.
20 Mr. Avery himself told you that Teresa was there
21 that day or the day that she had come to take
22 pictures?

23 A. Yes.

24 Q. At 2:00 in the afternoon, right?

25 A. Yes.

1 Q. This would have been three days after her
2 appearance there; is that right?

3 A. Yes, this was a Friday.

4 Q. Okay. Mr. Avery give you any more details about
5 what Teresa had done while at the property?

6 A. He told me that she was there, there was a
7 vehicle behind the office garage and she was
8 taken to the vehicle to be photographed. That
9 was about -- That was her purpose for being
10 there.

11 Q. Let me ask you, Mr. Beach, upon your stopping at
12 this *Auto Trader* or -- excuse me -- at the Avery
13 salvage lot, did you provide any information or
14 any literature to the -- either Mr. Avery himself
15 or to the Avery salvage business?

16 A. No, I did not.

17 Q. How long was it that you discussed your cousin
18 with Mr. Avery?

19 A. Five minutes.

20 Q. Finally, Mr. Beach, did Mr. Avery know who you
21 were talking about; in other words, did he
22 indicate whether or not this woman had been there
23 before?

24 A. Yes, I described her build, her -- what she
25 looked like, what she drove. And he confirmed

1 all that. And he confirmed that she was there to
2 take photographs.

3 Q. Had she been there before?

4 A. Had she been there before?

5 Q. Did he tell you?

6 A. Yes.

7 Q. What did he say, if you can remember?

8 A. In my line of questioning about my cousin, she
9 was missing, he said that, yes, Teresa Halbach
10 came there on a regular basis.

11 Q. So that the jury is clear, Mr. Beach, after that
12 five minute -- that brief contact with Mr. Avery;
13 did you return to the Avery salvage property or
14 did you have any other conversation with
15 Mr. Avery?

16 A. No.

17 ATTORNEY KRATZ: That's all I have of this
18 witness, then, Judge.

19 THE COURT: Mr. Buting.

20 ATTORNEY BUTING: Thank you, Judge.

21 **CROSS-EXAMINATION**

22 BY ATTORNEY BUTING:

23 Q. Now, Mr. Beach, do you know what time it was that
24 you came to see Mr. Avery at the Avery Salvage
25 Yard?

1 A. About 4:00.

2 Q. On Friday afternoon?

3 A. Yes.

4 Q. And by that time, of course, there had been

5 reports about your sister in the media, right --

6 I'm sorry, your cousin, with the media about her

7 being missing and all of that?

8 A. I do not know; I did not hear that.

9 Q. So you didn't see any of the news report about

10 your cousin?

11 A. Correct.

12 Q. Okay. So how was it that you ended up at the

13 Avery salvage lot?

14 A. Friday morning, I received a phone call from my

15 parents. They told me about my cousin, Teresa,

16 was missing. I -- Later that afternoon, I came

17 up, I met up with my sister. We then got

18 information from the Halbachs. After that we

19 just drove around and we started from Mishicot

20 and we worked our way north.

21 Q. Okay. My question, I guess is, did somebody give

22 you information about what her appointments were

23 that day?

24 A. The Halbachs told me the general area she had

25 work in, but they did not give me any idea of

1 where her stops were.

2 Q. So no one told you that she had an appointment on
3 Monday, the 31st, at the Avery salvage lot --
4 yard?

5 A. Correct.

6 Q. You just stumbled on that?

7 A. Yeah, by incident. It was incidental.

8 Q. Okay. And when you got there, Steven Avery, the
9 person sitting to my left, who you now know, came
10 up and seemed concerned about what you were
11 asking about, right?

12 A. Yes.

13 Q. Seemed calm?

14 A. Correct.

15 Q. Did not appear to be holding anything back?

16 A. No.

17 Q. Correct?

18 A. Correct.

19 Q. In fact, I think you described him as being very
20 forthright, didn't you?

21 A. Correct.

22 Q. Expressing genuine concern about, you know, what
23 happened to your cousin?

24 ATTORNEY KRATZ: Objection, Judge, calls
25 for speculation, how genuine it may be.

1 THE COURT: Well, he can testify as to his
2 impression.

3 THE WITNESS: He said that he was
4 concerned.

5 Q. (By Attorney Buting)~ Okay. And you accepted
6 that?

7 A. Yes.

8 Q. And he told you -- You described his vehicle --
9 I'm sorry, you described her vehicle, the RAV4?

10 A. Yes.

11 Q. And he said, yes, I do recall, she was driving
12 that. And she came -- he actually said she came
13 some time mid-afternoon, didn't he?

14 A. Yes, he said that she was at his garage, salvage
15 yard, around 2:00.

16 Q. But he actually -- he qualified that by saying
17 approximately mid-afternoon?

18 A. Correct.

19 Q. Okay. Wasn't exact on the time?

20 A. Correct.

21 Q. And he said that she did take photo of the
22 vehicle, right?

23 A. Correct.

24 Q. And that he did not know her next stop, right?

25 A. Yes.

1 Q. And he told you that when the RAV4 pulled out of
2 the driveway, that it went to the left from the
3 Avery property?

4 A. Correct.

5 ATTORNEY BUTING: All right. I have no
6 further questions.

7 THE WITNESS: Thank you.

8 THE COURT: Anything else? Very well, you
9 are excused.

10 Members of the jury, that's going to
11 conclude the court proceedings for today. I will
12 remind you again not to discuss this case with
13 anyone, before we resume tomorrow. And we'll see
14 you tomorrow morning.

15 (Jury not present.)

16 THE COURT: Counsel, I would just ask that
17 tomorrow morning the attorneys meet in chambers at
18 8:20 before the day begins, just to let me know
19 what's coming.

20 ATTORNEY BUTING: What time did you say the
21 jury is coming, 8:45?

22 THE COURT: Okay. Meet at 8:30. We'll
23 find out from experience what time they normally get
24 here. I believe you are right, meet at 8:30.

25 ATTORNEY FALLON: Excuse me, Judge, did you

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want to take up that other matter today or tomorrow morning?

THE COURT: I have a number of other matters listed, I'm not sure which one you want, but we'll discuss that tomorrow morning.

ATTORNEY FALLON: All right.

(Proceedings concluded.)