

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
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GRAND JURY SESSION  
WEDNESDAY, OCTOBER 24, 2018; 9:00 A.M.  
OFFICER-INVOLVED SHOOTING; EAGLE POINT, OREGON  
-oOo-

CONDUCTED BY:  
BETH HECKERT  
DISTRICT ATTORNEY

INDEX

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

WITNESS	PAGE
Michael Graves . . . . .	.4
Haileigh Strains . . . . .	.13
Daniel Cardenas . . . . .	18
Clarence Davis . . . . .	.51
Pamela Kosacki . . . . .	.67
David Rathburn . . . . .	.72
David Seese . . . . .	75
James Olsen, M.D. . . . .	85
John Black . . . . .	.88

1 MEDFORD, OREGON

2 WEDNESDAY, OCTOBER 24, 2018; 9:00 A.M.

3 -oOo-

4  
5 MS. HECKERT: So this is the matter of the  
6 Carl's Jr. officer-involved shooting where Matthew Thayer  
7 Graves was shot and killed. I'm going to go get his dad,  
8 and that will be our first witness.

9 Have a seat here. This is Michael Ernest Graves.  
10 And if you raise your right hand, this lady is going to  
11 swear you in.

12 \*\*\*

13 MICHAEL ERNEST GRAVES,  
14 having been first duly sworn,  
15 was examined and testified as follows:

16  
17 EXAMINATION

18 BY MS. HECKERT:

19 Q. So, Mr. Graves, Matthew Graves was your son?

20 A. Yes.

21 Q. And he lived with you?

22 A. Yes.

23 Q. Okay. And you live out in the Eagle Point area?

24 A. Uh-huh.

25 Q. How far would you say from the Carl's Jr.?

1           A. Oh, maybe a couple miles.

2           Q. Okay.

3           A. Something like that.

4           Q. And can you just tell us a little bit about what was  
5 going on that day with Matthew, how he was acting,  
6 whatever -- what his normal routine might have been that  
7 you're aware of.

8           A. He was, he was -- it was, it was a normal routine  
9 for him that day. Typically, his days started out helping  
10 my wife with her -- she has a cat business. She raises  
11 kittens, and, anyway, he -- typically in the morning, he'd  
12 come over and help her with the cattery, and, and other  
13 chores that came up.

14           Then, oh, he lived at our place there. We have a --  
15 we call it a guest house. It's a detached building from our  
16 main house, but it's just within walking distance of the  
17 main house within like 50 feet or something. But anyway, he  
18 stayed the nights out there, but in the daytime, he would be  
19 back and forth into the house. And, and, and he'd be, you  
20 know, we'd give him meals and stuff.

21           But anyway, later on in the day, my wife, Vicki,  
22 went into the WalMart, and typically, she would have him go  
23 in and do the shopping. She'd give him the debit card, and  
24 so he -- and this is something he did frequently. But he,  
25 he did that, and then on the way home, he, he wanted to stop

1 at Carl's Jr., but my wife was in a hurry to try to get  
2 home. So she said she couldn't stop. So they came on home.

3 Later on, then, Matt decided to walk to Carl's Jr.  
4 from the house, and this is, this is something he did many  
5 times. He used to walk to WalMart, Carl's Jr. Sometimes  
6 he'd walk to the Cinemark in White City, so he was on the  
7 road frequently walking. Our neighbors knew him from sight.

8 But anyway, he, he walked down to Carl's Jr. that  
9 night, and my wife, my wife said there was no -- nothing  
10 wrong with his behavior. He was calm that day. It  
11 wasn't -- he wasn't agitated. He was just going down there  
12 to get his hamburgers for his dinner.

13 He had -- he would trade in bottles for deposit,  
14 bottle deposit money, and that's what he was going to use to  
15 get his hamburgers that night.

16 Q. So did you have dinner with him that night, or did  
17 he decide to do this instead?

18 A. No. He decided to do this instead, yeah.

19 Q. Okay. And then are you aware of any mental health  
20 issues with your son?

21 A. Yes. He -- we believe it was 2012 -- he was  
22 diagnosed with schizophrenia, and it -- Matt wasn't right  
23 mentally. He, he could function doing things like  
24 especially routine things, but there were things that, that  
25 just weren't normal. Like he would -- well, when he was

1 walking, he'd walk really fast. He'd be like speed walking.  
2 And, and, and he would talk, talk to himself a lot.  
3 Sometimes he'd get so loud, you had to ask him to tone it  
4 down some because he would, he would talk.

5 Sometimes he would get mentally flustered when  
6 you're trying to explain something to him. He would, he  
7 would, he could get confused, and, and then he just -- you  
8 could just tell he was having a hard time processing what  
9 was being told to him, and eventually he would usually come  
10 around to what you wanted him to do.

11 Q. You said he was diagnosed. Was that by an actual  
12 doctor? Did he ever seek like treatment or medications or  
13 anything like that?

14 A. This -- the diagnosis -- Matt went through a period  
15 of drug use. I think it was like 2010 to 2012, back in that  
16 period. He got in with a bad crowd, and, and he got  
17 involved with meth. And it was at the -- and because of  
18 this, he, he had to serve some jail time. I don't remember  
19 how long it was. I think it was under, under a month, like  
20 under 30 days.

21 But while he was in jail there, he was evaluated by  
22 a psychiatrist. Now, I can't remember her name. My wife  
23 couldn't either. But she worked with La Clinica, and part  
24 of her duties was to cover the jail. And anyway, she, she  
25 diagnosed him with schizophrenia.

1           After the jail time, he was on probation for a  
2 while, and she saw him at La Clinica. I don't know how many  
3 times. She did prescribe some medicine for him. He, he  
4 took it. He didn't like it, and he stopped taking it. And,  
5 and he wouldn't go back. And then she, she transferred out  
6 or moved out or something, but anyway, he didn't want to go  
7 back for more evaluations.

8           We, my wife and I, over the -- since 2012 have tried  
9 to get him to go back to see a specialist, but he felt there  
10 was nothing wrong with him and would not go.

11           Q. How about -- did your son have some issues with the  
12 police that you're aware of?

13           A. Yeah. I, I, I -- one thing I'd like to mention  
14 too.

15           Q. Oh, sure.

16           A. If I can.

17           Q. Uh-huh.

18           A. Matt had a period of drug use, but in 2012, he's  
19 been clean ever since, no more drug use. He, he quit cold  
20 turkey, which is amazing, but he's been clean ever since.  
21 We know that because he lived with us. We knew what he was  
22 like when he was using drugs, and we didn't observe any of  
23 the drug behavior anymore. And, and he didn't have the same  
24 friends anymore. In fact, he didn't have hardly any friends  
25 after that period. So he was drug-free after 2012. I'm



1       sorry.  What was your --

2           Q.  Did you know if he had any issues with the police?

3           A.  Oh, during the -- he had a couple run-ins during  
4       the -- when he was using.

5           Q.  But like, currently, was he -- did he ever say  
6       anything to you about the police or make comments or  
7       anything?

8           A.  He, he was afraid of the police.  I -- there was --  
9       my wife and I were talking about an incident maybe two,  
10       three years ago -- we're trying to remember when -- but she  
11       called him -- called the Eagle Point Police out because Matt  
12       and our older brother -- older son were having an argument,  
13       and she felt it was escalating to the point where they might  
14       exchange blows, you know.

15                  And so she called the Eagle Point Police, and they  
16       came out, and they defused the situation and got him to calm  
17       down.  He was pretty agitated.  I wasn't there that day.

18           Q.  Okay.

19           A.  But we don't remember what date that was.

20           Q.  But it had been a few years?

21           A.  It had been a few years, yeah.  I can't recall any  
22       other involvement with the police in recent --

23           Q.  Okay.  Now, you said like sometimes he would have  
24       difficulty understanding what it was you wanted --  
25       "processing" was the word you used -- wanted him to do or

1 were trying to tell him or something. Would he become kind  
2 of defiant, then, in that situation?

3 A. No.

4 Q. No? Okay.

5 A. He'd just, just kind of stand there, and, and it  
6 wasn't all the time either.

7 Q. Uh-huh.

8 A. It was just sometimes that -- where he just didn't  
9 understand, you know. It took him a while to understand  
10 what you're after.

11 Q. Okay. Is there anything else you wanted to tell us  
12 about him that I haven't asked you about?

13 A. He was basically a nonviolent person. He was not  
14 aggressive. He -- if he was in a group, he'd be in the  
15 back. He'd be -- he was kind of reclusive. He -- I, I  
16 don't know if I can say this, but if there was -- if he  
17 became aggressive that night, it would have been because of  
18 what the officers said or, or their actions that caused him  
19 to get aggressive.

20 He would not have initiated things with the police  
21 that night. He would have just wanted to be left alone.  
22 That's what he would have wanted, just so he could get his  
23 hamburger and come home. Let's see. Well, he was a good  
24 helper around the house.

25 Q. Okay. Let me see if anyone has any questions for

1 you --

2 A. Sure.

3 Q. -- while you're still thinking if there's anything  
4 else you want to tell us.

5 Anyone have any questions for Mr. Graves?

6 (No response from jurors.)

7 Q. BY MS. HECKERT: Okay. All right.

8 A. I just, you know, I -- I mentioned before, but he  
9 routinely did these walks, and we, we are not aware of any  
10 complaints from anybody, any merchants, you know, and he  
11 went to WalMart many times, Carl's Jr., the Cinemark.  
12 Just -- we're not aware of him causing any trouble at all at  
13 any of these places that he -- any complaints at all about  
14 his behavior.

15 Q. I appreciate you coming in. I know it's been  
16 difficult for you and your family, I'm sure.

17 A. I'm just trying to get some answers on this to find  
18 out what happened.

19 Q. Sure. Yeah.

20 A. We don't think it was justified, what happened,  
21 based on what we know. We find out -- we think it's -- that  
22 it could have been handled a different way without a  
23 shooting incident.

24 Q. Uh-huh.

25 A. Can I comment on one thing? I, I have heard about

1 the investigation that I really wonder about, or is that --

2 Q. I don't know. I'm not sure what you're going to  
3 say. So go ahead.

4 A. Well, I heard one of the complaints, or one of the  
5 statements, is that Matt was nonresponsive to the officers,  
6 and, and because of that, they pursued the incident with  
7 him. And I, I can see, from being with Matt, that and being  
8 afraid of the police, that he probably had one of these  
9 mental confusion, panicky -- he got scared, probably very  
10 scared.

11 And I think that -- I'm wondering why the police  
12 didn't recognize this and, being nonresponsive, why they  
13 didn't consider that maybe he's being nonresponsive because  
14 he had a mental problem and, and that, and that, that could  
15 be why he was being nonresponsive. And I think if they had  
16 taken that tact, they might have had a different outcome  
17 here if, if they would have treated it as a mental illness  
18 situation instead of just being aggressively avoiding the  
19 police.

20 He just wasn't processing the matter properly. I  
21 think, I think he panicked when he got into the confines of  
22 the bathroom, and, and I just wish they would have backed  
23 off him and let him cool down. If they had done that, it  
24 would have been -- we would have had a different outcome if  
25 they would have just backed off him. He was cornered. He

1       couldn't go anywhere; so why not back off him?

2               MS. HECKERT:   Okay.  I appreciate you coming in.

3               THE WITNESS:   Thank you.

4

5

EXAMINATION

6       BY MS. HECKERT:

7               Q.   Have a seat here.  And, Haileigh, state your full  
8       name.

9               A.   Haileigh Renee Strain.

10              Q.   And, Haileigh, how old are you?

11              A.   17.

12              Q.   And where do you work at?

13              A.   Black Rock Coffee.

14              Q.   Where is that in relation to the Carl's Jr.?

15              A.   Like on the same block.  Like I could see into the  
16       entrance --

17              Q.   Okay.

18              A.   -- from the window.

19              Q.   Were you working on the night of the --

20              JUROR:   Do I need to swear you in?

21              MS. HECKERT:  Right.  Thank you.

22

\*\*\*

23

HAILEIGH STRAIN,

24

having been first duly sworn,

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was examined and testified as follows:

## EXAMINATION

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BY MS. HECKERT:

Q. We'll start over. How old are you again?

A. 17.

Q. And you work at?

A. Black Rock.

Q. Black Rock?

A. Yeah.

Q. That's located right across the parking lot from the Carl's Jr.?

A. Uh-huh.

Q. Were you working on the night of the shooting?

A. Yes, I was.

Q. What did you first see, I guess, that drew your attention to what was going on?

A. I was cleaning, and then I saw the cop come in with his lights on. It kind of looked like he was pulling a car over, but there was no car, so I kind of thought that was weird.

Q. Okay.

A. And he got further into the parking lot and parked kind of weird in the parking lot, and then the -- I saw a guy in the entrance of Carl's Jr. And then they were like -- I didn't hear anything. I just like -- you could see there was kind of like pointing and stuff.

1 Q. Who was pointing?

2 A. The guy that went to the Carl's Jr., not the police  
3 officer.

4 Q. Okay.

5 A. And then all of a sudden, the police officer got out  
6 of his car and then went after the guy and -- that went into  
7 the Carl's Jr. And then it wasn't like 30 seconds to a  
8 minute later that there was backup. And then after that, it  
9 just kept going with the cops and ambulances and stuff like  
10 that.

11 Q. All right. So did you -- I think, in the police  
12 report, you said you noticed the male like at the stop sign.  
13 Do you remember that?

14 A. Uh-huh. It was -- yeah.

15 Q. So you noticed him before he was actually at the  
16 Carl's Jr. door?

17 A. Yeah. But I didn't think it was like any  
18 relationship to the cop until they got into it.

19 Q. Got you.

20 A. Yeah.

21 Q. What did you notice about him when you saw him at  
22 the stop sign?

23 A. He kind of looked scruffy, kind of longish hair kind  
24 of thing. I didn't really -- didn't really think anything  
25 of it because I thought it was just a guy walking, and then

1 they got into the Carl's Jr. parking lot, and that's when  
2 they kind of saw everything.

3 Q. Was he walking? running? Did you notice anything  
4 about that?

5 A. Speed walking.

6 Q. And you say you couldn't hear what was being said --

7 A. Uh-huh.

8 Q. -- but could you see -- could you tell they were  
9 saying something?

10 A. Yeah.

11 Q. And so the guy was saying something?

12 A. Yeah, and pointing at the cop.

13 Q. Okay.

14 A. Yeah.

15 Q. All right. And did they ask you about the video  
16 cameras at your business at the Human Bean(sic)?

17 A. Yeah.

18 Q. Do they cover like the area that we would have been  
19 interested in, what was happening at the Carl's Jr.?

20 A. No. They don't point anywhere like towards Carl's  
21 Jr. It is kind of far away from the camera's point of view.

22 Q. Uh-huh.

23 A. They kind of just go around like the cars pulling up  
24 and stuff like that.

25 Q. Meant for your business as for the Black Rock?



1           A.    Yeah.

2           MS. HECKERT:  All right.  Any questions for her?

3           JUROR:  Had you ever seen him walking in the area  
4 before?

5           THE WITNESS:  No.

6           Q.  BY MS. HECKERT:  Have you worked there a while?

7           A.  Yes, ever since it happened.

8           Q.  Do you usually work the evening shifts?

9           A.  Every night, yeah.

10          Q.  Okay.  Other questions?  Sure.

11          JUROR:  So you saw the scruffy-looking guy pointing  
12 at the police officer?

13          THE WITNESS:  Uh-huh.

14          JUROR:  Did you see him agitated?  angry?

15          THE WITNESS:  Yeah, yeah.  He seemed agitated.

16          JUROR:  Agitated?

17          THE WITNESS:  Yeah.

18          MS. HECKERT:  Anybody else?

19          JURY:  (No response.)

20          MS. HECKERT:  All right.  Thank you.

21          THE WITNESS:  Thank you.

22          MS. HECKERT:  Cardenas.

23                 This is Officer Daniel Cardenas.  You can raise your  
24 right hand and swear you.

25

1 \*\*\*

2 OFFICER DANIEL CARDENAS,  
3 having been first duly sworn,  
4 was examined and testified as follows:

5  
6 EXAMINATION

7 BY MS. HECKERT:

8 Q. So Officer Cardenas, where are you employed?

9 A. I work for the City of Eagle Point and the Eagle  
10 Point Police Department.

11 Q. How long have you work for them?

12 A. Just over two-and-a-half years.

13 Q. Do you have police experience someplace else before  
14 there?

15 A. No. My first employment.

16 Q. How old are you?

17 A. I'm 26 years old.

18 Q. Okay. So what is your typical duties at the police  
19 department?

20 A. I'm a patrol officer; so I just handle routine  
21 patrol calls, domestics, thefts -- everything, just anything  
22 at patrol level.

23 Q. And normally, when you're working in the evening  
24 shift, Eagle Point, is there other officers on also?

25 A. There's always usually one or two other officers on.

1 Q. So taking you back to the date that this happened on  
2 September 19, what was going on that evening? What time did  
3 you come to work?

4 A. That night I was working a graveyard shift, and I --  
5 that starts at eight o'clock and ends at 6:00 in the  
6 morning, so I had just started my shift at eight o'clock  
7 so --

8 Q. All right.

9 A. -- came to work, got ready.

10 Q. Anything unusual that day? Did you get a good  
11 night's rest? eat normally? everything going normal for you?

12 A. I ate dinner right before -- or breakfast right  
13 before going to work. Everything was normal.

14 Q. Okay.

15 A. Slept the night before, got eight hours of sleep the  
16 night before.

17 Q. Okay. All right. And so when you come on your  
18 shift, tell us when you first noticed Matthew Graves.

19 A. I was driving southbound.

20 Q. And there's a map there, if that's helpful to you.  
21 You can get up and walk over there, if you want, or pull it  
22 over this way.

23 A. So I was driving southbound. I made a left-hand  
24 turn from Crystal and ended up southbound on Highway 62. So  
25 as I was driving down here, right in the intersection, I had

1 a green light; so I started to go, and I noticed Mr. Graves  
2 standing at this corner, the northeast corner of the  
3 intersection.

4 Q. But it was dark at this time; right?

5 A. It was. It was night, nighttime.

6 So I had a green light; so I started to go. As I  
7 started to pass right through this crosswalk, Mr. Graves  
8 started to cross as well. As he started to cross, I hit the  
9 brakes and started to slow down.

10 Q. Since you had a green light, he shouldn't have  
11 crossed at that time?

12 A. He shouldn't have been crossing, and I had seen him  
13 looking southbound; so he was looking to oncoming traffic,  
14 and then there was not any immediate traffic at the time.  
15 So he started to step forward and walk when I came across  
16 his path like this. So he was walking across to the west,  
17 and I'm heading south.

18 So as soon as he sees my patrol vehicle, he steps  
19 back. I hit the brakes, and I start to slow down. And then  
20 he just stands there, and I said, okay. "He gets the  
21 picture. He's go -- going to stop and stay there. I let  
22 off the brake. As soon as I let off the brake and step on  
23 the gas, he was back, back on the crosswalk again. So then  
24 I immediately said --

25 Q. At that point, do you think the light still would

1 have not been for him?

2 A. It was not for him. I mean, I had just crossed. It  
3 was green. It was not yellow when I crossed. It was green.  
4 As soon as I let off the brakes, he starts going again. I  
5 immediately decide to make a U-turn here to go contact him.

6 By the time I get to the intersection over here, I  
7 start to call out on the radio, "Subject stopped at the 62  
8 and Linn." I wait for traffic to clear because, by the time  
9 he's here, now we have a red light and cars going in the  
10 left-hand turn. So I wait for the cars to clear, and I  
11 pulled in the intersection here. By the time that I get  
12 here, we kind of meet paths. He's already coming to the  
13 crosswalk and over here. By that time, I turn on my lights,  
14 activate my body camera, and that's when my contact with him  
15 began.

16 Q. Okay. Now, let's talk about your body camera are  
17 for a minute. Were body cameras new to you at that time?

18 A. It was my -- the beginning of my third shift with  
19 the new camera. So they were -- we had cameras before.

20 This was a completely new model so --

21 Q. It operated differently?

22 A. Yeah.

23 Q. You turned them on and off differently, things like  
24 that?

25 A. Yeah.

1           Q. Then do your cars in Eagle Point have what we call  
2 "mavs," cameras inside the cars?

3           A. One of the vehicles does, not the one that I was  
4 driving.

5           Q. So you said you turn on your lights. What does the  
6 subject do?

7           A. As I'm getting out and turning my camera on and  
8 activating it, he points across the highway back in the  
9 direction he was coming. So he's continuing to walk still  
10 this way, westbound. And he just continues to walk, turns  
11 around, points that way as he's saying something to me, but  
12 I can't hear him because I'm getting out of the car.

13                   Once I get out of the car, he continues to walk.  
14 And so I said, "What are you doing?"

15                   He tells me, "You're not stopping me. Fuck off."

16                   I said, "What?" I'm still trying to put -- still  
17 trying to understand why is he pointing across the highway?  
18 Why is he saying this? So in the moment, I get out of the  
19 car and address him and try to interact with him. It's  
20 clear to me that he is pissed off. He is beyond pissed off.  
21 He's so upset. You could see it in his face.

22           Q. And what was your intention at that moment? Like if  
23 he had acted in a different way, what were you planning on  
24 doing?

25           A. Talking to him about not doing that, identify who he

1 was, and explain to him why crossing in the middle of a  
2 green light is not a good idea; you could cause an accident  
3 or injure himself. People do that all the time there at  
4 that intersection.

5 Q. Have you done that before, stopped and talked to  
6 people about it?

7 A. Talked to multiple people in that intersection.  
8 That's the thing that caught me. What was just weird to me  
9 is I've contacted so many people, so many people, and not  
10 once has anyone ever said something like that. People  
11 always say, "You got me" or "You got nothing better to do,"  
12 typical stuff. But they'll stop and talk and identify who  
13 they are.

14 And I stress, "It's not a good idea to be doing this  
15 because this, this, and this." They get the picture, go on  
16 about their day. I've never had someone tell me, "You're  
17 not stopping me" and "Fuck off," so I was just very confused  
18 as to what was going on.

19 So my first thought is something just happened  
20 across the street, which is why he's so upset. I thought  
21 maybe he got in a fight across the street or maybe he's  
22 telling me: You're not stopping me; like go stop that  
23 person instead.

24 So as he continues to walk away, he's just walking  
25 away and looking back at me and looking back at me. And so

1 I stand there a little bit. I pause for a little bit  
2 because I'm looking across the street, and I don't see  
3 anything.

4 So then red flags starting to go up for me, like,  
5 okay, this guy is clearly not going to stop. He's walking  
6 away from me. And in my reality in my job, every single  
7 time someone has walked away from me or ran, it's been for  
8 four different reasons: Person either has a warrant; person  
9 has drugs on them; people have a concealed weapon they are  
10 not supposed to have; and/or they just committed a crime.

11 So I see that there's nothing across the street; so  
12 he's continuing to walk away. But he's so irate and so mad,  
13 he just keeps glancing back at me. So I decide to get in my  
14 vehicle and follow him because he's not stopping. He's,  
15 he's going. That's when I get on the radio and say, "He's  
16 walking away from me. Start me another unit," and I  
17 specifically asked for Officer Davis. I knew he was the  
18 only other officer working at the time.

19 So I requested Officer Davis show up, and I began to  
20 follow the -- Mr. Graves. I began to follow the subject,  
21 Mr. Graves. And he continued to walk, and my thought was:  
22 He's just going to keep walking and go up to West Linn,  
23 which is this street, and this street takes you out into  
24 like the County. There's nothing out there. There's  
25 houses. There's property, but there's no businesses, no



1 where he can go into. It's just road.

2 So I'm thinking, okay, he's going to go out that  
3 way: Just let him go until somebody -- like my cover  
4 unit -- gets here. But instead, as soon as I pull up next  
5 to him, by the time he's already crossed over here, he's  
6 already walking over here. And my patrol car is still here.  
7 I'm still trying to make sense of the situation, trying to  
8 look over here, see what's going on that he pointed to. I  
9 get in my car, call for another unit, start pulling up here.

10 Right as I get to here, I plan to follow him --  
11 right? -- and he gets to here, he stops. He starts  
12 addressing me again, and that's when the posturing and the  
13 body -- how can I say? -- the posture begins. He starts,  
14 starts like talking to me like this.

15 So I get out of the car, and I'm like, "What are you  
16 doing?"

17 And he mumbles something, tells me to "fuck off,"  
18 and then it was like something, something, "you little  
19 bitch," but he's like stepping towards me like towards my  
20 direction, like telling me to get out of -- I'm assuming he  
21 said something about, "Get out of here. Fuck off, you  
22 little punk bitch" or something like that.

23 Q. How far are you from him at this point?

24 A. He's right at the front doors of Carl's Jr., and my  
25 car is right here.

1 Q. Can you estimate the distance then?

2 A. The distance of a car-and-a-half to two cars. I was  
3 right here, and a whole parking stall and then that whole  
4 walkway into the front door. So then, so then going back to  
5 those four reasons why -- that people have walked away from  
6 me, ran from me; so I'm starting -- so the reason of  
7 suspicion is starting to build up for me. Okay. I hope he  
8 continues to walk, but instead, he just goes into the Carl's  
9 Jr., so I'm like, great.

10 My fear at that point was him going into the  
11 bathroom and doing like -- how can I say? -- like  
12 barricading himself or luring me in there because, back  
13 again, all I'm thinking is warrant, drugs, weapon at this  
14 point because I don't see any crime being committed over  
15 there or that I could see at the time.

16 As soon as he goes into the bath -- he goes into the  
17 Carl's Jr. I follow him. He immediately ducks into the  
18 bathroom. At that time, that's what I'm saying, he's luring  
19 me, if there is going to be a barricade situation, or he's  
20 going to dump the drugs that he has.

21 So I lost sight of him for about one to two seconds;  
22 so at that point, I didn't know what he was doing in there.  
23 So I open the door, and by this time, I drew my gun and  
24 turned on the light. I opened the door, and I ordered him  
25 to show me his hands.

1 Q. Why did you draw your gun at that point?

2 A. Because I had lost sight of him, and in our  
3 training, it's always repeated to us, "It's the hands that  
4 kill you." If you lose sight -- like I don't want to lose  
5 sight of people's hands. That's when they start grabbing  
6 things and going for whatever they have concealed or dumping  
7 whatever they have.

8 I lost sight of him for that one to two seconds that  
9 he went around the corner because, as soon as you go into  
10 the restaurant -- I don't know if we have a layout of the  
11 restaurant.

12 Q. No, we don't.

13 A. As soon as you go in here, you can -- it's literally  
14 probably this distance. That's the front door. You come  
15 into another hallway, and it splits to a female's rest room  
16 male's rest room; so he went in there. So by the time it  
17 took me to get from my patrol car, a little quick power walk  
18 into the restaurant, he was already in the restaurant. He  
19 looked at me and went inside the bathroom, and I knew the  
20 layout right away. I've been there several times.

21 He looks at me, goes into the bathroom; so then  
22 that's when the hairs stand up like: Okay, here we go.  
23 He's dumping whatever he has now or whatever he has  
24 concealed, whatever weapon he has concealed. So that's why  
25 I drew my gun because I lost sight of his hands, and I

1 didn't know what his intentions were.

2 Q. When you first walk into the bathroom, that's a  
3 dangerous time for you?

4 A. Yeah.

5 Q. You don't know what you're going to see?

6 A. My fear is I walk in the door, and there's a barrel  
7 of a gun pointed at me or a knife. And he's coming at me.  
8 I immediately open the door with my left hand, have a gun  
9 out with the light on, and I order him to show me his hands.  
10 And by this point, I immediately identify he's at the sink,  
11 and his hands are at his waist level, but I also hear the  
12 water.

13 And I order him to show me his hands, and that's  
14 when like all the hairs started to stand up because he  
15 looked right at my gun. So I had my gun. I'm ordering him  
16 to show me his hands. He looked at my gun, and he looks me  
17 in the eyes and then just turned back around and keeps  
18 washing his hands, and that's not normal behavior. People  
19 don't do that when you have a gun pointed at them, at least  
20 in my experience.

21 When I point guns at people, for whatever situation  
22 that has occurred, people don't react that way. So then my  
23 hair stands up even more because now he's, he's just looked  
24 at a gun, and he looked at me in the eyes, and he didn't  
25 care. So he starts to continue to wash his hands, and I

1 lean more forward because I see his hands are in the sink,  
2 and that's when I identified that he was just washing his  
3 hands. I thought, okay, he's dumping something right now,  
4 trying to wash it down the sink.

5 So I lean in, and there's nothing in his hands. But  
6 he's not listening to me. He's, he's, he's looked at the  
7 gun, looks at me, doesn't listen. And then I address him,  
8 like I said, "What are you doing? What the fuck are you  
9 doing?"

10 And he's like -- he said, "Trying to eat here" or  
11 "I'm trying to eat." Okay. So I guess we're at Carl's Jr.,  
12 okay, he's trying to eat. He turns around and goes to  
13 the -- so as soon as you go to the bathroom, you open the  
14 door, the sink is on this side, and then the dry -- the  
15 drying paper towels are on the opposite wall behind him.

16 He turns around completely, again looks at my gun,  
17 looks at me, and just goes and grabs his paper towels. So  
18 at that point, I put my gun away because I can see his  
19 hands.

20 I see he has nothing in them, and he's not reaching right  
21 now for his waistband or anything.

22 Q. So in your mind, kind of the danger level to you --

23 A. The danger starts to go down, but the hairs are  
24 still standing up because that's not normal behavior. So I  
25 put the gun away, and I take out my taser. And I turn it

1 on, and I point it at him. And I tell him -- if I remember  
2 right, I tell him to get on the ground. "Get on the  
3 ground."

4 And he says, "No," same thing. He looks at my  
5 taser, and he looks at me in the eyes, and he tells me, "If  
6 you do it, you're done." So it took me a little bit to  
7 process that.

8 And then he starts to walk towards me, and I'm like,  
9 "What are you doing?" I think I asked him again.

10 And then he's like, "Do you even know what this  
11 place is?" And that's when he starts to do this little  
12 leaning, like, "Do you know what this place is?" And he  
13 tells me like, "If you do it, you're done." He leans toward  
14 me, "If you do it, you're done."

15 Okay. So I tell -- at this point, at this point, I  
16 have determined 100 percent this guy wants to fight. It's  
17 just clear to me. If I get anywhere near him, he's going to  
18 fight. If I touch him, he's going to want to fight. So I  
19 stayed right there in the threshold of that door. I stayed  
20 there and, and let him do his thing in there.

21 Q. You called for backup?

22 A. At that point, that's when I said, okay, I got to  
23 get on the radio, and I said, "Step it up."

24 It's clear to me, as he turns around and he says,  
25 "You do it, you do it, and you're done." And he starts

1 walking toward he.

2 And I said, "Step it up. What are you doing?"

3 "Do you even know what this place is?" he asks me.

4 I'm like, "What?" So I try to lower my voice, like  
5 "What's your name?" I try to change the tone of the voice  
6 to deescalate the situation, and I said, "What's your name?"

7 And he goes, "Your name," but he's doing these  
8 little head tilts, not talking to me directly. He says,  
9 "Your name."

10 I'm like, "Do you have ID on you?"

11 I think he says, "No," and that's when he goes like,  
12 like, like this. He goes back, reaches towards his back,  
13 and that's when my heart dropped, and I was like, here we  
14 go, because I had a taser pointed at him, and I knew I was  
15 not going to be able to transition with enough time to  
16 react. I knew. So my heart dropped imagining he's going to  
17 grab whatever he has in his waistband.

18 He immediately comes out with cash. He has money  
19 and some cards, looked like some cards in his hand, and I'm,  
20 okay, he's going to give me his ID, but he doesn't. And  
21 that's when the -- he's -- we're like -- at this point we're  
22 like from myself here and Ms. Heckert here. We're this far  
23 away from each other, and I'm trying to keep -- I think I  
24 had my arm out like this. I'm trying to keep him away. I'm  
25 trying to keep him away. I'm trying to keep him away.

1           And at that point, he's like -- he said something  
2 about wanting to go out or doesn't say anything about going  
3 out. He just tries to go, tries to walk past me, and I told  
4 him, "Get back." And at that point, I touch him. I touch  
5 his chest, and I push him back, "Get back." At this point,  
6 I'm waiting for, for Officer Davis to get there, and I can  
7 hear him coming. I can hear the, the -- I could hear the  
8 siren. I don't see the lights, but I can hear it, and I can  
9 hear in the radio when I said, "Step up it."

10           And things happening quick, just like super quick.  
11 All this that I'm saying is happening quick, quick; like  
12 two, three seconds this all happened. So I hear on the  
13 radio, he's asking, "Where is he at?" Dispatch says,  
14 "Carl's Jr." And then I hear him -- I could hear he's right  
15 by like over here by West Linn and 62. I can hear the  
16 sirens. I need to buy more time, buy more time, but I don't  
17 want him out of the bathroom either.

18           Q. Why not let him go out of the bathroom at this  
19 point? What are you thinking?

20           A. At this point, it was very clear to me that this guy  
21 was hostile and that he wanted to fight. I didn't want him  
22 out there because there's other people out there, and I  
23 didn't want to get anyone else involved. The thing about  
24 Eagle Point is our community likes to get involved, and it's  
25 not a bad thing. It's to our benefit at times.



1           Like I said, there's always one or two officers  
2 working. We're by ourselves out there, and the community  
3 really supports us, and there's times where, in situations  
4 where we're trying to take somebody into custody, and people  
5 help out. And I just didn't want that situation to be in  
6 there because I didn't want anyone to get hurt because it  
7 was clear to me that the entire time he's posture to me,  
8 he's talking to me like this and getting close to me. Every  
9 time he does that, I'm like, all right, here comes the  
10 punch, here comes the punch every time he's doing that  
11 getting closer to me, here comes the punch.

12           So at that point, I didn't want him out there  
13 because I didn't want him to hurt anybody else out there,  
14 and I didn't want anybody else to get involved. I wanted to  
15 keep him contained in there.

16           Q. Okay. He's tried to push past you once, and then  
17 what happened?

18           A. And then he tries to do it. I push him back, and he  
19 says, "Don't you fucking touch me," and he looks at me. Now  
20 we're, like, we're pretty close because we're at the door.  
21 So now he looks right at me and "Don't you fucking touch  
22 me." And I was like, "Don't you fucking touch me," and he's  
23 just staring at me. And if I could -- I can't put it into  
24 words, his face. Just it's this evil look. It's just like  
25 he's staring past me, but not like he's staring through me.

1 Sorry.

2 Q. It's okay.

3 A. Yeah. So --

4 Q. So second push and "Don't you touch me."

5 A. Second push, and he says, "Don't you fucking touch  
6 me. Don't you fucking touch me. Get back."

7 He said something about getting out, and I go, "No."

8 And he's like, "Do you want to bet?"

9 And I was like, "Do you want to bet?"

10 And he goes, "Yeah," and I push him back. And at  
11 that point, I feel him tense up. As I'm pushing him back,  
12 he tenses up and like braces himself. He tenses up and  
13 braces himself, and I'm like, oh, crap, here we go.

14 I'm like, "Where are you, Davis? Where are you?"  
15 And that's when I hear the doors open, and I hear the doors  
16 open, and I'm thinking, okay, it's CJ. And I think it's CJ  
17 because, as soon as -- just the perfect amount of time. The  
18 doors open, and I'm looking at this guy, and his eyes just  
19 open up.

20 His eyes open up, and it's "go time." And then he  
21 reaches, and it's almost like he's doing this. He reaches  
22 for my chest area. So I have my taser like this up to my  
23 chest. And he reaches right there, and I said, "Get back,"  
24 and so I push him with all I could. "Get back," and then it  
25 was like, all right, you little -- he tried to reach for my

1 throat, my chest area-throat. That's when I activated my  
2 taser, and I tased him.

3 I'm telling him, "Get down on the ground," and as  
4 soon as I shot the taser, I knew it didn't work because he,  
5 he immediately curls up and starts to walk back. And now  
6 he's walking towards that back stall, the furthest stall,  
7 the handicapped, the big stall. And I'm like, please don't  
8 go in there. Please don't go in there.

9 And he stops right at the entrance and turns around,  
10 and then it's "go" from there. And then from there,  
11 everything just went sideways. He -- that angry look is  
12 multiplied now. His eyes are wide open, and it's clear. He  
13 starts walking to us and does this little head tilt that he  
14 does, and he's like, "Why would you do that?"

15 And he starts coming, and I can see him start to  
16 cock back his right arm, and then he swings. And at this  
17 point, I have the taser in my right hand, and my left hand  
18 is free. And I'm trying to grab his hand because, as we  
19 tased him and I noticed it didn't work, he starts to turn  
20 around and walk away. So then I step into the bathroom and  
21 see -- and Officer Davis steps in the bathroom behind me,  
22 and so we're both in there now, and we're trying to get him.  
23 It was clear that the taser did not work.

24 As we're walking in, he turns around; so we stop.  
25 And he says, "Why would you do that?" And he starts coming

1 at us, and he cocks back and swings. So I had my hand like  
2 this, and I just braced myself like I'm going to get punched  
3 right now. And that's when I hear just "pop," loud audible  
4 "pop." He connected. I knew -- well, I knew it wasn't me.  
5 I knew, like, that's CJ; that's Officer Davis. I'm sorry.  
6 He just got socked.

7 So the guy goes back again and looks like he's about  
8 to go again. That's when I reach him, grab him, and take  
9 him to the ground. So this all happened -- so now we're  
10 facing -- I guess, to give you guys a layout, this is the  
11 sink. This is the wall where he's drying his hands. That's  
12 the back stall he was going to go into. And now we have a  
13 wall. We're here, and the doors open like this. The  
14 bathroom doors open like this.

15 So by the time we both step in there, the door  
16 closes behind us. I start to step in, and then I brace  
17 myself for the punch. He socks Davis. I grab him, and I  
18 throw him. So now I throw him into that corner of that wall  
19 in there. And I start going for his hands. On the way  
20 down, I did one focus blow, what we call a "one punch" to  
21 the rib area. I do that as we're going down. It's  
22 ineffective. It doesn't phase him at all.

23 We go to the ground, and then I go for his right  
24 hand because, at this point now, he's in the fetal position  
25 with his back to me, and he's facing the corner. So he's in

1 that corner. It all happened so quick.

2 Q. Where is CJ, do you know, at this point?

3 A. CJ, at this point --

4 Q. Do you realize --

5 A. -- I don't know where he's at. I just hear him get  
6 socked, and I hear him go, "Uh." I hear the groan of pain.  
7 Oh, he's just been socked. That's when I take him to the  
8 ground. At this point, I'm on him, and at this point now,  
9 CJ is over his hips. He's in the corner like this. I'm on  
10 his back, and I have my knee, my left knee, on his back and  
11 my right -- my left hand on his back. CJ is right next to  
12 me, and he's on his knees over his hips, like the buttocks  
13 area and on his hips, and I see his hands like this. They  
14 are fighting for something, and that's when, that's when I  
15 hear "a gun" and --

16 Q. Who says, "Gun"?

17 A. Officer Davis says, "Gun." He says, "Gun." So I  
18 stopped, and I look over my left shoulder. As I'm asking --  
19 and I ask him, "He's got a gun?" And as I asked him, I look  
20 over. I can see Mr. Graves has his hands around something  
21 black, and I can see his hands like this. So his hands are  
22 like this on, on the, on the grip, and CJ's hands are on the  
23 top. And he had it trapped, and he's trying to move it  
24 offline.

25 Q. What does that mean, "offline"?

1           A. Trying to get it away from us --

2           Q. Pointing to it.

3           A. -- offline and away, trying to push the object out  
4 of his reach and out of our area. So, so essentially what I  
5 saw was a gun. So he's trying to pull the muzzle of it away  
6 because we don't want to get shot. And as he's doing this,  
7 I can see Mr. Graves squeezing. He's squeezing. He's  
8 squeezing. And all I can see is a black handle and like a  
9 pinkie extension.

10                   Like there's some guns that are small that  
11 manufacturers, aftermarket folks, sell these pinkie  
12 extensions so you can get the full three-finger grip on the  
13 butt of the gun. And I see that. As I'm seeing this, CJ  
14 again says, "Gun," and I realize that he's squeezing it and  
15 doing this. He's trying to point it at us, and CJ is doing  
16 everything he can and pushing it away, and saying, "Gun.  
17 Gun," and it was quick.

18                   And I realized that the only thing keeping this guy  
19 from rolling onto his back and pointing it at CJ and myself  
20 was me because I had like my knee on his back and, and my  
21 hand on his left shoulder, my left hand on his left  
22 shoulder. I realize it's my body weight that's keeping him  
23 down. This is all going through my head really quick.

24                   So then the time I heard, "Gun." I, I, I knew I had  
25 to do something. I knew I had to stop the threat because CJ

1 was going to get shot. I knew CJ was going to get shot, and  
2 then it was going to be me. So I drew my gun again, and  
3 that's when I shot twice.

4 Q. Okay.

5 A. Shot him in the back twice.

6 Q. I'm going to back up and go through a couple things  
7 with you. So once you, once you shoot him, you fire twice.

8 A. Sorry.

9 Q. What are you thinking as far as that gun you had  
10 seen? What happens with that? What do you -- what's the  
11 conversation you are having about that?

12 A. Well, in my head, my focus was CJ first. Sorry.

13 Q. That's okay.

14 A. "CJ, CJ, Officer Davis, are you okay?" I ask him,  
15 "Are you okay?"

16 Q. Did you get a chance to look at him at this point --

17 A. I'm looking at him.

18 Q. -- see if he's injuries?

19 A. And I'm looking at him, and I can see that he's  
20 bleeding. He's got blood on his face, and so I ask him,  
21 "Are you okay? Are you okay?"

22 He's -- "I'm good, I'm good."

23 And then I holster, and I was just so frustrated. I  
24 think I yelled at the guy, "Why would you do that? Why  
25 would you do that?" I was like, "You don't do that." At

1 that point, it's like, "Where is the gun? Where is the  
2 gun?"

3 And then I realized -- as I'm looking for the gun, I  
4 realize my body camera is back there. So I think, at that  
5 point, I had already holstered up, or I holstered up. I put  
6 my gun away, and then I go back there, and I grab my camera,  
7 put it back on. And then I'm asking, "Where is the gun?  
8 Where is the gun?" And we couldn't find it.

9 And then that's when CJ stops, and I say, "That's my  
10 taser" because now my taser is over there on the opposite  
11 side of CJ away from us. It's over there. It's like,  
12 "Well, that's my taser. Where is the gun?"

13 That's when I remember him saying, "That might be  
14 it." And that's when I just get on the radio and say, "Hey,  
15 shots fired. I need medical here." And I told them, "We're  
16 okay," and I asked for -- I asked for, for medical to get  
17 there because, at this point, the guy is like -- as soon as  
18 I shot him in the back, that tension just dropped; he  
19 stopped fighting. So I knew immediately I needed to get him  
20 some medical attention. So I get on the radio and -- yeah.

21 Q. What effect do you expect the taser to have on  
22 somebody? So when you tase somebody, ideally, what would --

23 A. So every time that I've tased someone effectively,  
24 they lock up. Essentially, they are -- their body goes  
25 rigid, and they go to the ground. And that gives us enough



1 time for us to essentially get on top so when that tension  
2 is released, so when their body stops and the tension, we're  
3 there to grab -- because you can't grab someone when they  
4 are being tased. Their body, it's rigid. All their muscles  
5 flex up. You can't grab them or anything.

6           Essentially, they go down, and you wait for those  
7 five-second intervals to go. It goes for five seconds.  
8 When you pull the trigger, it automatically goes for five  
9 seconds. They go down, and you grab them. And at that  
10 point, you then put them in handcuffs. That's an effective  
11 taser. That's how I knew it didn't work.

12           Q. And Mr. Graves never went to the ground at all until  
13 you pushed him to the ground?

14           A. Until I threw him to the ground, yeah.

15           Q. And so at the door when CJ shows up and Mr. Graves  
16 punches CJ --

17           A. Uh-huh.

18           Q. -- do you have a recollection of like what happened  
19 to your taser? You know, then -- now you're diving on to  
20 him. So do you have any recollection of what happened to  
21 it?

22           A. No.

23           Q. How it --

24           A. I -- was it in my hand?

25           Q. How it was out of your hand.

1           A. I -- it was in my hand, and I think, when I went and  
2 grabbed him and we went to the ground, everything fell off,  
3 camera fell off. I think, at that point, I still had my  
4 taser because I'm right-hand dominant. So essentially, when  
5 I decided to throw a focus blow, it would have been my right  
6 hand, but my right hand was full; so I instinctively went to  
7 my left hand. That's why I decided to do a focus blow with  
8 my left hand.

9           So, at the time, I thought I still had everything,  
10 but do I know when I, when I dropped the taser? I don't  
11 know. In my mind, I still had it. It wasn't until I was  
12 reaching, and then I hear, "Gun. Gun," and then I'm  
13 reaching for my gun, and I realized, obviously, I was going  
14 to draw my gun.

15          Q. When the transcript -- we're going to watch the body  
16 cam in a minute. So in the transcript you say -- so on the  
17 video you say something about, "He grabbed your taser" or  
18 something like that. Do you recall saying that?

19          A. I recall saying it, yeah, after I reviewed the video  
20 but --

21          Q. But you don't remember that actually happening,  
22 though?

23          A. I think the thought process behind it was: When he  
24 reached for my chest area, I had the taser, and he reached  
25 here. I think my thought process was: My taser is over

1 there. Did he reach for it, or it just came out? I thought  
2 he reached for my taser.

3 Q. But at this -- today, after reflecting on it and  
4 thinking about it --

5 A. I don't know.

6 Q. -- you don't have a recollection of him --

7 A. No.

8 Q. -- actually taking the taser from you?

9 A. He didn't, no. I -- he didn't.

10 MS. HECKERT: Here, will you pass those around.

11 Q. And the whole contact that you had with him inside  
12 the bathroom, like how long do you think it was?

13 A. To me, it felt like an eternity --

14 Q. Sure.

15 A. -- but not -- thinking realistically, I don't know,  
16 two minutes, two to four minutes. I mean, it's weird. It's  
17 a weird concept of time because, at the time, it's so quick.  
18 So like right after the incident, holy cow, that just  
19 happened like that in a matter of 10 seconds; but then when  
20 you think about it, observation, it felt like an eternity.  
21 But it's just, like in my construct of time at this point  
22 during this incident is -- it's all over the place.

23 Q. Sure. Okay. So my suggestion is -- this does go by  
24 pretty fast. So my suggestion is: We watch it -- whoops.  
25 That won't be good.

1 (Technical difficulties; pause proceedings.)

2 MS. HECKERT: My suggestion is we watch it straight  
3 through once, and we can watch it a second time, and he can  
4 tell you a few points along the way or something.

5 (Pause in proceedings.)

6 (Video played at this time.)

7 Q. BY MS. HECKERT: All right. So, Officer Cardenas,  
8 where are you at right here?

9 A. The front bumper of the patrol vehicle.

10 Q. This is recording off our body cam --

11 A. Yeah.

12 Q. -- not the car thing because you don't have the car  
13 recorder?

14 A. On my body.

15 (Video played at this time.)

16 Q. BY MS. HECKERT: Take it back here a ways. So at  
17 that point, have you called dispatch and told them that he's  
18 walked away from you?

19 A. That's what I was doing right there, calling.

20 Q. And asking for another officer?

21 A. And you can hear CJ get on the radio, and say, "I'm  
22 en route."

23 Q. Okay. What are you

24 (Video played at this time.)

25 MS. HECKERT: So when the camera is positioned in

1 the middle of your chest --

2 A. I have it --

3 Q. -- normally --

4 A. -- normally right here.

5 Q. Down almost above your stomach then?

6 A. Yeah, right here.

7 Q. And we're not seeing like what your head sees. Can  
8 you explain that, how you blade and so forth.

9 A. So at this point, I'm like this. The door is open  
10 like this, and I'm like that. And I tell him to show me his  
11 fucking hands. He's not doing it. So I lean forward. I  
12 lean a little bit more this way, my head, so I can see what  
13 he's doing. His hands are in the sink right now. He's  
14 right at the sinks right there.

15 Q. You can actually see that, even though the body cam  
16 is showing us the towel dispenser?

17 A. Yeah. My body is like this, but I'm like this. I'm  
18 looking over here.

19 Q. Okay.

20 A. Because it recesses back a little bit into the  
21 sinks.

22 Q. Okay.

23 (Videotaped played at this time.)

24 Q. BY MS. HECKERT: Okay. So what we hear, kind of, is  
25 that leather whatever. The clicking, that's you holstering

1 the gun, and now you've pulled your taser?

2 A. Uh-huh, yeah.

3 (Videotape played at this time.)

4 THE WITNESS: That's when he started threatening me.

5 (Videotape played at this time.)

6 Q. BY MS. HECKERT: Now, you can hear CJ?

7 A. Uh-huh.

8 Q. He's arrived now, but we never really see him?

9 A. Because he's behind me.

10 Q. CJ Davis?

11 A. Officer Davis.

12 Q. Officer Davis.

13 (Videotape played at this time.)

14 Q. BY MS. HECKERT: Okay. So we can kind of hear that  
15 crackly sound. That's the taser?

16 A. That's the taser.

17 Q. The noise the taser makes. So at first, before we  
18 can see CJ, CJ Davis, that's the first time you fired it?

19 A. Yes.

20 Q. And then when CJ kind of tries to intervene and  
21 you're both trying to get hands on him, you kind of hear it  
22 again?

23 A. Uh-huh.

24 Q. Does that mean you deployed it again?

25 A. I must have. I think I deployed it again. Well,

1 it's five seconds. It goes five seconds.

2 Q. You have to pull the finger again to make it go  
3 another five seconds?

4 A. Another five seconds. I think, when he punched him,  
5 I think I clicked it again.

6 Q. Okay.

7 A. Or I may have clicked it again. It -- clearly it  
8 went off again.

9 Q. Okay. And when they are down on the ground, we can  
10 they're again?

11 A. Yes.

12 Q. When everyone is on the ground, we can hear it  
13 again?

14 A. It activates again.

15 (Videotaped played at this time.)

16 MS. HECKERT: Okay. Do you want me to play the rest  
17 of it the way or further through their conversation  
18 afterwards?

19 JURY: No response.

20 MS. HECKERT: No? Okay.

21 Q. So when the taser goes off and -- the third time  
22 down on the ground, you didn't pull the trigger of the taser  
23 that time?

24 A. No.

25 Q. Okay.

1           A. I didn't, I didn't have the taser.

2           Q. And when I watch it, it's -- there's -- I think  
3 there's four seconds between, "He has a gun" and you firing  
4 the shots. Does that -- when you watched it, does that seem  
5 like it's about accurate?

6           A. Yeah.

7           MS. HECKERT: Anybody have any questions for  
8 Officer Cardenas?

9           JUROR: When you -- I have one question.

10          MS. HECKERT: Sure.

11          JUROR: Sorry. He lost it.

12          MS. HECKERT: That's all right.

13          JUROR: So what did you mean when you say, "Touch me  
14 again and see what fucking happens"?

15          THE WITNESS: That's when he -- I warned him to not  
16 touch me. At that point, I think I'm going to tase him. I  
17 told him, "Get on the ground. You're going to get tased."  
18 And he comes back again. "Touch me again and see what  
19 happens." I'm telling him, I'm giving him his warnings,  
20 "You're going to get tased. You're going to get tased."

21                 The first version I'm telling him is not making  
22 sense to him. If you notice, I start out with, "Hey, what  
23 are you doing? What are you doing?" The whole time he's  
24 "mother f'g" me and "bitch that, bitch that" and all this.

25                 So at that point, in my experience as a police



1 officer, sometimes you have to match the way people talk  
2 because you got to communicate. It's all about  
3 communication. That's when I go in there, I tell him, "Show  
4 me your fucking hands." Because he's talking to me like  
5 that, maybe if I speak to him like that, it will click;  
6 he'll see that, okay, yeah, all right, dude, I'll show you  
7 my hands.

8 But even then, it wasn't working. So I -- again,  
9 "Get on the ground. You're going to get tased," and it was  
10 like, all right. So I told him -- that the other way, I'm  
11 constantly repeating him, warning him what's going to  
12 happen, what's going to happen. That's why I talked to him  
13 like that. That's why I told him.

14 JUROR: Do you remember hearing him say, "excuse  
15 me"?

16 THE WITNESS: No.

17 JUROR: Okay.

18 Q. BY MS. HECKERT: And had you ever dealt with  
19 Mr. Graves before?

20 A. I don't think I've ever seen him in my life.

21 Q. Okay. At the time when you're talking with him, I  
22 mean, is mental illness -- are you thinking of that at all  
23 with him, like maybe he's mentally ill, he's not  
24 understanding me?

25 A. No. At one point, he tells me, "I'm sober and

1 everything. You're gone." So I'm like okay. So he says  
2 that to me, so that's, that's completely out the window for  
3 me at that point.

4 Q. He didn't appear under the influence to you or  
5 something like that? That just wasn't crossing your mind at  
6 all?

7 A. All I can think is this guy is pissed off.

8 Q. He's mad?

9 A. He's very irate. That's all I can -- all I see is a  
10 very mad individual who is wanting to fight, so, no.

11 Q. Okay. And at the moment when you made your decision  
12 to pull your gun and fire at him, you believed that  
13 Officer Davis's life was in danger?

14 A. I thought he was going to get shot. I thought we  
15 were both going to get shot. I was going to shoot him  
16 first. CJ is going to ease up, and he's going to go away  
17 back and point at me and shoot.

18 MS. HECKERT: Any other questions?

19 JURY: (No response.)

20 MS. HECKERT: Okay. Thank you. CJ Davis.

21 Okay. This is Officer CJ Davis. If you'll raise your right  
22 hand, this lady will swear you.

23

24 /

25 //



1           Q. And when you first heard the radio traffic, where  
2 were you?

3           A. I was in the office.

4           Q. Okay. And anything unusual at first about the radio  
5 traffic that drew your attention or anything?

6           A. Initially, when he called for backup, a lot of time  
7 on the radio, you get to -- you can hear things in their  
8 voices. And where it was -- it wasn't just a normal,  
9 everyday backup request of a second unit. It was -- you  
10 could tell in his voice there was something going on  
11 significant, more than just a normal "just in case" backup  
12 call.

13          Q. Okay. And so then what do you do? You said you're  
14 at the office?

15          A. I was at the office. At that point, I stopped what  
16 I was doing and went out to get in my car and responded to  
17 the scene.

18          Q. And where is the office in like relation to where  
19 the Carl's Jr. is, so we have a sense --

20          A. The office is, oh, boy, probably less than a quarter  
21 mile down a side road from Highway 62, and Carl's Jr. is  
22 across Highway 62, not too far off, off that, maybe  
23 30, 40 yards off of Highway 62, so less than a quarter mile.

24          Q. Okay. All right. As you're going there, what do  
25 you hear or find out about?

1           A. As I'm going there, initially, it was just a call  
2 for backup. So I'm going, and I believe he got on the radio  
3 and asked dispatch to have me -- I think he said, "Step it  
4 up," which means it's getting more serious, and I need to  
5 get there as soon as possible. So at that point, I did  
6 activate my overhead lights and sped up from my normal  
7 response to get there.

8           Q. All right. And then when you arrived, what do you  
9 first do or see?

10          A. When I first pulled in, I see his car in the parking  
11 lot of Carl's Jr. I parked next to it. I get out of my  
12 car, and I can't see the front door. I can't see  
13 Officer Cardenas inside. There's a large truck parked right  
14 in front of the double doors for -- or in front of the doors  
15 of the restaurant.

16                 So I can't see, but another customer was just  
17 entering the doors. He opened it, and I could hear  
18 Officer Cardenas giving verbal commands to the subject. I'm  
19 not exactly sure what they were, but I could hear his raised  
20 voice, as they were just inside the door in the bathroom to  
21 the right of the open front door.

22          Q. Okay. And you wear a body cam as well?

23          A. I do.

24          Q. And you have it on?

25          A. I have it on.

1 Q. Well, you have it on today?

2 A. I have it on today.

3 Q. So they can see what it looks like.

4 A. Yes, exactly. I had -- when I exited my patrol car,  
5 you hit the main button twice to activate it if it's on  
6 standby. I didn't realize at the time, when I went back to  
7 the office and used the rest room, we shut them off so they  
8 don't record obviously. So from when I got the calling to  
9 get there, since I had shut it off at the office, I hadn't  
10 put it back on standby. So I didn't realize, when I hit it,  
11 it didn't activate because it was shut off.

12 Q. So when you first get there and you come around to  
13 the bathroom, tell us what you first see.

14 A. When I first enter the doors to the restaurant, I  
15 see Officer Cardenas to my right. I engaged in a verbal,  
16 giving commands to the subject who was in the bathroom.  
17 Officer Cardenas was in the doorway, and I believe he had  
18 the door propped open with his foot to keep the door open.  
19 And he wasn't entering the bathroom at that point, standing  
20 there giving verbal commands to the subject.

21 That's the -- at that point, I entered and walked  
22 around Officer Cardenas to his left. And at that point, as  
23 soon as I walked in and walked around Officer Cardenas, the  
24 subject lunged at both of us. I was struck on the face and  
25 side of the head, and it kind of rang my bell a little bit.

1           Next thing I kind of remember is waking up on the  
2 ground in the, in the bathroom right there with the subject  
3 laying on his right side. I'm kind of half on top of him.  
4 Officer Cardenas is to my right and on top of him struggling  
5 to try and grab hands and get him under control.

6           At that point, when I kind of came to -- again, it  
7 kind of rung my bell a little bit when I got hit -- I looked  
8 down. I see what appears to be a gun in the subject's hand.  
9 I remember looking at it and thinking as it was coming up  
10 thinking, oh, God, this is going to hurt. At least I have  
11 my vest on. I remember getting real tense and just kind  
12 of -- you can feel this is not a good thing and -- but at  
13 least I have my vest on. I remember thinking that at that  
14 point.

15           I yell, "Gun" once, maybe twice. I'm not sure. So  
16 Officer Cardenas understands or knows that we're dealing  
17 with a weapon now. As it's lifting up pointing at my  
18 stomach-chest area, I -- as I yell, "Gun," I grab it with my  
19 hand, trap it, and push it offline and against the floor and  
20 hold it down.

21           When I do that, the gun goes off. It actually ended  
22 up not being a gun. At the point I realized it wasn't a  
23 gun. I was getting zapped from the taser. The subject  
24 pulled the trigger; it discharged the taser. And there's  
25 two contacts on the front part of the taser that doesn't

1 have to be have a cartridge to fire; it can just be a touch  
2 or a drive stun is what they call it.

3           When it makes connection, you could feel the  
4 electrical charge, very painful, very debilitating. I  
5 remember, at the point of when I was getting tased by the  
6 taser, realizing that, at that point, it wasn't a gun at  
7 that point. Officer Cardenas, after hearing me say, "Gun,"  
8 disengages from trying to get the subject in custody and  
9 wrestling with him, stands up and fires two rounds into the  
10 subject due to the weapon being involved.

11           At that point, as soon as he did that, the subject  
12 quit struggling and fighting with us. I believe we applied  
13 the handcuffs, and then we were talking to the subject,  
14 trying to keep him conscious and had some radio traffic.  
15 Officer Cardenas stated to dispatch, "Shots been fired." I  
16 believe he stated that he fired two shots into the subject.

17           I think I got on the radio and requested dispatch  
18 notify the supervisor, and at that point, we had a lot of  
19 backup units were coming. Sheriff's department was  
20 responding to assist. And as they got there, we -- the  
21 deputies open the bathroom door because it had gotten shut  
22 when we were struggling with the subject inside. They  
23 opened the door, made sure we were okay.

24           I believe we pulled the subject out of the bathroom,  
25 out of the front door to the sidewalk as we had requested



1 medical also and had them respond. Typically, they stage  
2 until the scene is safe and secure for them to come in and  
3 perform their duties. I believe Officer Cardenas requested  
4 medical and requested they not stage and have them arrive  
5 Code 3, which is the quick response.

6 We pulled him out, and then deputies got there,  
7 secured the scene, secured us; medical personnel began to  
8 treating the subject. At that point, we were removed from  
9 the scene. We were assigned what's called a "companion  
10 officer," an officer that stays with the officers involved  
11 in the critical incident such as this, just making sure they  
12 are okay. Any medical needs -- any of that gets attended to  
13 as the scene is secured for investigation by the Major  
14 Assault and Death Investigation unit that was called out to  
15 the restaurant.

16 Q. So when the -- taking you back to when the taser,  
17 what you first believe is a gun --

18 A. Uh-huh.

19 Q. -- is on the ground --

20 A. Uh-huh.

21 Q. -- is Mr. Graves actually -- he's got his hands on  
22 it you said?

23 A. Correct.

24 Q. And then you're putting your hands over his hands?

25 A. My hand -- I believe one was on the barrel of the

1        weapon, and the other was next to it. So it's either on his  
2        hand or just right next to it. I'm not exactly sure if it  
3        was on -- covering his hand or not.

4            Q. And then while that struggle is happening, it  
5        deploys?

6            A. Yes.

7            Q. Goes off?

8            A. Correct.

9            Q. You didn't pull the trigger?

10          A. No.

11          Q. That's the way it would go off?

12          A. It functions just as a gun. I do have one with me,  
13        if you want to see it.

14          Q. We have one too. We'll see it later. It functions  
15        as a gun. It has a trigger that has to be activated. The  
16        safety has to be off. So it has to be in the armed position  
17        to be activated. Trigger has to be pulled for it to be  
18        activated and deployed?

19          A. Okay.

20          Q. Okay. And then when it does deploy, you actually  
21        are getting shocked by it?

22          A. Correct. My, my left hand was getting shocked by  
23        it --

24          Q. Okay.

25          A. -- at the time I was putting it off and trapping it

1       against the floor.

2           Q.   Had you ever had any dealings with this person  
3       before that you recognized him or anything?

4           A.   I did not recognize him at the time.  I had, a  
5       number of years prior, had responded, as most officers from  
6       the Eagle Point Police Department had, to the residence and  
7       various other incidents involving him, nothing that I  
8       recollected again.  I did not recognize him at the time, and  
9       it had been several of years since I had any contact, to my  
10      recollection.

11          Q.   Uh-huh.

12          A.   No.

13          Q.   And when he struck you, you said it kind of rung,  
14      rang your bell?

15          A.   Uh-huh.

16          Q.   So, I mean, did you see like the punch coming, or  
17      did it surprise you that way, or did you actually see him?

18          A.   I didn't see it.  I stepped around Officer Cardenas  
19      and then got hit.  He lunged at us, which is where I  
20      assumed -- when he punched me, I did not see it coming.  I  
21      did not -- I wasn't able to attempt to block it or partially  
22      block anything.  And then the next thing I know, I kind  
23      of -- my next recollection is I'm on the floor, and we're  
24      struggling, and there's a weapon.

25          Q.   Okay.

1           A. So there was a gap that I don't have any  
2 recollection of what actually had occurred.

3           Q. And so you don't know, like, whether the punch  
4 actually knocked you to the ground, or the next thing you  
5 remember, you're on the ground?

6           A. The next thing, I'm on the ground. I -- yeah, I  
7 don't know.

8           Q. Okay.

9           A. I stepped around Officer Cardenas and either -- you  
10 know, there's a couple seconds or -- at least that I have no  
11 recollection of.

12          Q. Uh-huh. And I -- maybe I shouldn't assume -- but I  
13 assume that maybe you've been hit before?

14          A. I have been hit before.

15          Q. When people have punched you before?

16          A. Yes.

17          Q. Was this a different type of a punch than that, like  
18 it really --

19          A. I've never been punched that hard. I do recall  
20 that. I had never been to the point of not recalling  
21 several seconds afterwards.

22          Q. Uh-huh.

23          A. Very disorienting and -- yeah.

24           MS. HECKERT: Okay. Any questions from the jurors?

25           JUROR: Did you have your weapon deployed?

1 THE WITNESS: I did not.

2 JUROR: Was it your taser, or whose taser was it?

3 THE WITNESS: I believe it was Officer Cardenas's  
4 taser?

5 JUROR: So you realized it was a taser before shots  
6 were fired by the officer?

7 THE WITNESS: It was pretty -- about the same time.

8 JUROR: Same time.

9 THE WITNESS: Because I was getting -- as I yelled,  
10 "Gun," grabbing it, pushing it offline, Officer Cardenas  
11 responded. As, as I yelled that, "I'm getting zapped" and  
12 then fired two rounds, we dealt with it. And right after  
13 the subject stopped struggling, I believe Officer Cardenas  
14 asked me, "Where is the gun?" And I said, "I don't have a  
15 gun. I have a taser." At that point was when I realized  
16 that it was a taser and not a firearm.

17 JUROR: Have you ever struggled with someone who had  
18 a gun before?

19 THE WITNESS: Not that was actively attempting to  
20 use one. I had struggled with subjects that had weapons on  
21 them -- guns, knives -- not when they are actively trying to  
22 use one against me.

23 JUROR: Is that something that police officers train  
24 for?

25 THE WITNESS: It is.

1           JUROR: In that training, would it be typical for an  
2 officer to disengage, once having their hands on a person  
3 with a weapon, and to move away and draw your weapon?

4           THE WITNESS: It depends on the circumstance, but it  
5 definitely is. In the point where you're struggling with  
6 someone, depending on the circumstances, you may want to  
7 disengage, get distance, go to another option depending on  
8 what that might be, you know, depending on the  
9 circumstances. But you train from, you know, one to the  
10 other. If something is not working, do something else; you  
11 know, find another option, that is. And, again, depending  
12 on the circumstances, what that might be.

13           Q. BY MS. HECKERT: In a situation where one officer  
14 has said, "Gun" and the other officer has confirmed it's a  
15 gun --

16           A. Uh-huh.

17           Q. -- and the officer said, "Gun," is there -- do you  
18 have any other tool that you could use other than your gun?

19           A. Typically, no. I mean, if someone has a weapon, is  
20 actively attempting to use it against you or another  
21 officer, another person, you respond to it appropriately.  
22 But, you know, if they have that weapon, and they are  
23 attempting to use it, if you're in fear for your life or  
24 someone else's life, that's the step typically we go for.

25           JUROR: Are the officers -- do they receive any

1 training of recognizing persons with mental deficiencies?

2 THE WITNESS: We do. We do. There's mental health  
3 professionals have come out, and we do -- dealing with  
4 mental health or mentally unstable people and deescalation,  
5 you know, techniques and whatnot. We do receive training on  
6 that.

7 Q. BY MS. HECKERT: When the little bit of contact, I  
8 guess, you had with him before you're down on the ground,  
9 did you recognize that he had a mental health issue? Did  
10 that cross through your head, or did you not have enough  
11 time?

12 A. I, I did not have enough time. By the time I saw  
13 the subject when I walked around Officer Cardenas, they were  
14 on the floor, fighting and whatnot, maybe two, three  
15 seconds, I guess. I'm not exactly sure, but not enough  
16 time -- and there wasn't -- I didn't have enough interaction  
17 with him to really form an opinion one way or the other.

18 Obviously, you know, if someone is not responding to  
19 verbal commands from an officer, it's escalated to that  
20 point, you never know what is going on, but it was  
21 something. What that was, we don't know whether it's  
22 intoxication, drugs, mental illness. We don't know, or it's  
23 hard to determine sometimes. A lot of times it's a  
24 combination of everything.

25 Q. And at the time when -- before you identified it to

1 be a taser and you believed it was a gun, did you fear for  
2 your life?

3 A. I was definitely in fear for my life. I remember  
4 thinking and tensing up and thinking I was going to get  
5 shot, and it was really going to hurt, but I was glad I had  
6 my vest on.

7 Q. When someone asked you -- you didn't draw your gun.  
8 So why didn't you draw your gun in that situation?

9 A. At the time, if I recognized the gun, for me to  
10 draw, my first reaction was to move the gun that was  
11 pointing at me offline and inform the other officer that  
12 there's a weapon. It was quicker for me to trap the gun and  
13 push it offline for me than to try and draw my gun at that  
14 point when in a pile on the ground.

15 Q. You had to let go of the object you thought was a  
16 gun --

17 A. Exactly.

18 Q. -- in order to draw --

19 A. I could do it with one hand.

20 Q. -- your gun?

21 A. At that point, it was quicker for me, which my hands  
22 were free, to reach out and trap it and push it offline and  
23 pin it to the floor. That was much quicker than for me to  
24 draw my own weapon.

25 JUROR: Did you give him any verbal commands?



1 THE WITNESS: You know, I don't believe I did. I  
2 stepped around the officer and got hit. I don't believe I  
3 said anything before that. On the ground, I may have, but  
4 not to my recollection specifically.

5 JUROR: Okay.

6 THE WITNESS: I don't believe so.

7 JUROR: In your experience, is that normal for an  
8 officer to have that kind of interaction with a suspect  
9 verbally using that type of language?

10 THE WITNESS: Sometimes. It depends on the officer.  
11 Are you talking officer or subject?

12 JUROR: Yeah, officer.

13 THE WITNESS: Sometimes in a real tense situation,  
14 sometimes the -- you can say stuff, you can swear, cuss  
15 sometimes, and, you know, some people, that's what they  
16 respond to. You don't know. I mean, it depends on the  
17 circumstances. I've certainly yelled at subjects over the  
18 years, and they don't comply. Things get amped up, and you  
19 get all worked up, and sometimes, you know, sometimes you do  
20 swear. And sometimes that gets their attention. Sometimes  
21 they respond to that. Sometimes they don't.

22 JUROR: Was Mr. Graves tased before you got there?

23 THE WITNESS: In reviewing the body cam video, yes,  
24 he was. I did not know that at the time. I did not know  
25 that until a week and a half later, actually, when I

1 reviewed the body cam video.

2 JUROR: So you weren't aware that a taser was  
3 already in --

4 THE WITNESS: No.

5 JUROR: -- in motion at that time?

6 THE WITNESS: No, I was not.

7 JUROR: Is there a specific place on your body that  
8 you need to be tased to actually have the stiff reaction  
9 or --

10 THE WITNESS: To have -- I'm the department's taser  
11 instructor as well. It depends. The taser, if the  
12 cartridge is used, there's two darts that come out. They  
13 both have to make contact or close contact, close to contact  
14 with skin to have two points of contact for the electricity  
15 to flow through. And the greater the spread of those  
16 probes, it effects the muscles between that, between the  
17 probes. So the greater the spread, the greater effect it  
18 has on whatever muscles are in between.

19 If they are real close together, a lot of times it  
20 doesn't cause a stiffening or tensing of the muscles per se.  
21 It, it -- the fewer -- depending on where the contact is and  
22 whatnot. With the drive stun, the points of contact are  
23 close together, so there's a very smaller area that is  
24 affected, still extremely painful and debilitating that way.  
25 But not the large group of muscles that are affected. So it

1 depends on a lot of factors for that.

2 JUROR: And those are pretty good at going through  
3 clothing?

4 THE WITNESS: Honestly, I've probably had about --  
5 I'm just guessing here -- about 30 percent of effective rate  
6 going through sweatshirts or coats or stuff like that.  
7 Sometimes you, you know -- sometimes, yes; sometimes no. It  
8 depends.

9 MS. HECKERT: Any other questions?

10 JUROR: (No response.)

11 MS. HECKERT: Great. Thank you.

12 Go ahead and have a seat here.

13 THE WITNESS: Okay.

14 MS. HECKERT: And state your name.

15 THE WITNESS: My name is Pamela Kosacki. My last  
16 name is spelled K-o-s-a-c-k-i.

17 \*\*\*

18 PAMELA KOSACKI,

19 having been first duly sworn,

20 was examined and testified as follows:

21

22 EXAMINATION

23 BY MS. HECKERT:

24 Q. Now, where are you employed?

25 A. I'm employed with the Oregon State Police and at the

1 Central Point forensic lab.

2 Q. What's your position there?

3 A. I'm a forensic scientist.

4 Q. Okay. And did you respond out that night --

5 A. Yes, I did.

6 Q. -- to the Carl's Jr.?

7 I don't have this like blown up, but we can pass it  
8 around. So can you just kind of -- you examined the  
9 bathroom and were looking at dimensions and so forth?

10 A. Yes. I, I did. I took measurements of the  
11 bathroom, general measurements, and created a diagram. This  
12 generally shows the layout of the bathroom.

13 Q. What -- just tell us what the measurements are, and  
14 you can pass that around.

15 A. Okay. So in the entranceway to the rest room, there  
16 was a small alcove for both the women's bathroom and the  
17 men's bathroom, and that was approximately 5 feet across.  
18 And then there was a doorway approximately 3-feet wide and  
19 where you could -- it was a swinging door that you could  
20 enter the men's room through.

21 And then that area was approximately 5-foot-4 wide.  
22 And then it -- as you turned into the bathroom and went to  
23 the west, the bathroom opened up to 7 feet 1 inches wide,  
24 and it was about 17 inches -- or 17 feet 4 inches across the  
25 length of the bathroom. And on the far end of the bathroom,

1 there was a stall with a toilet and then a urinal and two  
2 sinks.

3 Q. Okay. Okay. We'll pass this around. Sorry.

4 And then there was a little bit of blood in the  
5 bathroom and -- but there was also -- can you talk about  
6 like what -- the paper that comes out of the taser?

7 A. Yeah. So tasers contain a small amount of these  
8 little disks that have a serial number on them. And those  
9 are expelled when the taser is used, and my understanding is  
10 approximately 20 to 30 of them come out, and they kind of  
11 explode out all over the place.

12 And I saw these disks all around the bathroom  
13 including even in the toilet stall because they eject pretty  
14 far, and they are just small paper disks. And I  
15 photographed some of them, and then I collected seven of  
16 those disks, and I photographed two with their serial  
17 numbers on them and was able to put the serial number in my  
18 notes as well.

19 Q. Okay. And then there was some U.S. currency.  
20 They've watched the body cam. So they can see he had the  
21 currency. You collected that as well or documented that?

22 A. I documented that, and Detective Thorton actually  
23 collected the money.

24 Q. It was how much currency?

25 A. One \$5.00 bill and three \$1.00 bills.

1 Q. Was it two 5s?

2 A. Was it two 5s?

3 Q. It was \$13, I think.

4 A. Yeah. I'm sorry. Two \$5.00 bills.

5 Q. And is there really anything else that you were able  
6 to do from a criminalist's perspective with this particular  
7 scene?

8 A. I, I was just -- I basically just classified the  
9 blood stains that I was able to see. One of the blood  
10 stains was a blood pool and -- which is a volume of blood,  
11 and then there was -- against the wall and the trim, there  
12 was a little bit of flow downward. And then there was a  
13 smear mark that went across and toward the entrance and then  
14 some drip stains in the alcove that I was talking about.

15 Q. Okay.

16 A. And then basically I just documented the, the taser  
17 and some of the other items in the, in the bathroom.

18 Q. All right. Like the cartridge and the cartridge  
19 doors, those were things you collected as well?

20 A. Yes. And there were two cartridge cases that I  
21 collected as well.

22 Q. Does that mean they were both deployed?

23 A. The -- well, the cartridge cases were from, from --

24 Q. Cartridge cases?

25 A. -- not from the taser, but from the firearm.

1 Q. Oh, I'm sorry.

2 A. The two fired casings.

3 Q. The two fired cartridges?

4 A. Yeah.

5 MS. HECKERT: Any questions for her?

6 JUROR: Is there any record as to how many times a  
7 taser can be triggered?

8 THE WITNESS: I'm not sure. I'm not very familiar  
9 with tasers.

10 JUROR: Okay.

11 MS. HECKERT: Actually, John Black -- there are  
12 graphs that it produces, and so he'll have that information  
13 for you.

14 JUROR: All right.

15 MS. HECKERT: Any other questions? Good questions.  
16 All right. Thank you.

17 This is David Rathburn. If you'd raise your right  
18 hand, she'll swear you in.

19 \*\*\*

20 DAVID RATHBURN,

21 having been first duly sworn,

22 was examined and testified as follows:

23 /

24 //

25

## EXAMINATION

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BY MS. HECKERT:

Q. What is your position at the Sheriff's department?

A. I'm a Community Service Officer, and I am a latent print examiner.

Q. What experience do you have in being a latent print examiner?

A. I've been doing it for about five years now. I've had about eight different courses. They are all about 40-hour courses that are external to the sheriff's office. And then I went through about a 2,000-hour training program with our senior latent print examiner, Brian Kerns, kind of on-the-job training type stuff.

Q. What did you examine out of this case?

A. I was provided the taser and asked to see if I could develop a latent print on the taser itself.

Q. Tell us what you did.

A. So I was able to develop two prints by putting it in a glue chamber. Basically we put it in a chamber, and we heat up essentially Super Glue, and that adheres to the latent prints. There were two prints that I was able to photograph, mark and photograph; but after I printed them out and reviewed them, there's not enough detail in either one of the prints to be able to use for identification. And so that was the extent of what I did.



1           Q. Okay. And why would there not be enough detail on  
2 the fingerprint on an object?

3           A. So a fingerprint, to be identified to a person, you  
4 have to have enough ridge events that are occurring. The  
5 ridges that go around on a fingerprint, they end, they  
6 bifurcate. You can have scars in there. The ridges  
7 themselves can have detail as far as where they've been from  
8 another ridge.

9           All of that needs to be enough that you can say this  
10 print was put there by a certain person. And when you're  
11 looking at latent prints, you're only looking at just a  
12 little bit of a print, not a full finger that you normally  
13 would see like on a fingerprint card. You're only looking  
14 at a little one.

15           So we're always looking, in latent prints, at if  
16 those prints are good enough to be able to be used for  
17 identification. Really what we're looking for is how many  
18 points are there where the ridges end or bifurcate, or are  
19 there other things going on in the ridges like a scar or a  
20 ridge bowing-type thing that we might be able to use. And  
21 so on both of these prints, there was not enough of that to  
22 be able to use.

23           Q. If an object has been like something someone has  
24 struggled over, does that have an effect on whether you're  
25 going to get a good print or not?

1           A. There's so many things that cause prints to be able  
2 to be used or not. One of them is the person themselves  
3 that is putting their hand on it, whether they are sweaty or  
4 they have stuff on their hand that will transfer. The item  
5 that they are grabbing can have an effect. Anything that  
6 happens afterwards can have an effect. It's hard to say,  
7 "Because of this, we didn't have enough detail."

8           Q. Uh-huh.

9           A. It's just -- there's so many variables that cause  
10 prints to not be usable, and it's certainly not uncommon.  
11 Almost all cases, we'll get a print that could be usable,  
12 and we'll get a number of just basically parts of a  
13 fingerprint, and they can't be used, so that's very common.

14           MS. HECKERT: Any questions for him?

15           JUROR: Were you the only one that reviewed the  
16 prints?

17           THE WITNESS: I have a second examiner in our  
18 office. It's Brian Kerns, and he reviews everything I did.  
19 So these two prints, when I decided that they were not good  
20 enough to be used, I bring them over to him, and he does his  
21 own analysis to decide if they can be used or not, and he  
22 agreed with me.

23           MS. HECKERT: Any other questions? All right.  
24 Great. Thank you.

25           THE WITNESS: You're welcome.

1 MS. HECKERT: All right. This is Detective Seese.

2 THE WITNESS: Hello, everybody.

3 JUROR: Hi.

4 MS. HECKERT: Raise your right hand, and she will  
5 swear you in.

6 \*\*\*

7 DETECTIVE DAVID SEESE,

8 having been first duly sworn,

9 was examined and testified as follows:

10

11

EXAMINATION

12

BY MS. HECKERT:

13

Q. So you are were assigned as the case agent on this  
14 case. Can you tell us a little bit about what that means.

15

16

A. Kind of like the manager, the detective that's  
17 overseeing the investigation and assigning other detectives  
to perform different investigative tasks.

18

19

20

Q. All right. And we had two witnesses that we wanted  
to call, Kristy Chandler and a Chris Meeks as well, and we  
weren't able to find them. Can you say what efforts you put  
21 in to try to find them?

22

23

24

25

A. Using different databases that we have available to  
us, I tried to find various addresses or relatives to try  
and get a hold of them because the information they gave the  
deputies on scene, the contact information was not accurate.

1 And in doing so, I was able to locate Ms. Chandler's father.

2 Can I say what he told me?

3 Q. Just that he believes she's out of the area; right?

4 A. She's in Portland.

5 Q. And he didn't have a good contact way of reaching  
6 her. He was attempting, but she hasn't gotten in touch with  
7 you?

8 A. Correct. I asked him to pass a message to her  
9 through Facebook Messenger. That's how he was talking to  
10 her. He did, but she has not contacted me.

11 Q. Both of those people were people who were at the  
12 restaurant at the time?

13 A. She, she worked at the restaurant.

14 Q. At Carl's Jr.?

15 A. Right. But Meeks, who is her significant other, was  
16 just there at the time.

17 Q. Okay. And their statements don't really cover  
18 anything that's not covered on the body cam; is that  
19 correct?

20 A. Correct, yeah.

21 Q. They didn't see something different?

22 A. It's just what they saw or heard, but it's all  
23 during the time. It's all captured on the body cam.

24 Q. And then what effort did we make to find some video  
25 from maybe adjoining businesses or something that might add

1 some more information here for us?

2 A. So there were two detectives that I assigned to  
3 canvas the neighborhood. They were looking for different  
4 surveillance cameras that might be on other businesses. The  
5 restaurant itself, Carl's Jr. itself, had one camera that  
6 was focused on the drive-through window and didn't capture  
7 any of this event. There were no cameras at the entrance or  
8 dining room area, and, obviously, there wouldn't be in the  
9 bathroom.

10 So those detectives were able to locate -- the only  
11 two businesses in the area that had surveillance footage  
12 that showed any of this incident was the WalMart, one of  
13 their rooftop cameras. So, obviously, that's really far  
14 away, and it doesn't provide any kind of detail.

15 And then the Eagle Point Liquor Store that was  
16 across the other side of Highway 62 shows the initial  
17 contact, sort of the initial contact. You can see the --  
18 you can see Mr. Graves walking on the sidewalk in front of  
19 the liquor store headed north on 62. He goes off the camera  
20 view as he crosses the intersection crossing Linn Road.

21 And you can see Officer Cardenas's car southbound on  
22 62. You can see him stop for a little while and then drive  
23 south, comes back up, activates his overhead lights; but  
24 when he actually pulls over to contact Mr. Graves, it's  
25 obscured. The view is obscured by trees there. You don't

1 see any of that interaction. But at that point,  
2 Officer Cardenas's body cam is activated and kind of takes  
3 over and fills in that spot.

4 Q. Okay. But like what he described of going up and  
5 going -- doing a U-turn and coming back, you see that on the  
6 liquor store --

7 A. Yeah. You can't -- so you can't see the traffic  
8 lights to see who's got --

9 Q. The right-of-way?

10 A. -- the right-of-way or anything like that. You do  
11 see him come to just about a complete stop as he's headed  
12 south at that intersection on the north side of that  
13 intersection. And then he goes through, does a U-turn, and  
14 comes back, stops at that intersection again as other cars  
15 are going through, and then he activates his overhead lights  
16 and goes over to contact Mr. Graves.

17 Q. Okay. And we didn't find any other businesses or  
18 anyplace else that had a video that would be helpful to us?

19 A. The bank had an ATM camera that didn't capture  
20 anything, and the business you see there on the northeast  
21 part of that intersection is -- it's vacant office  
22 buildings, and there were no active cameras at all there.  
23 So that's it.

24 MS. HECKERT: Okay. Any questions for  
25 Detective Seese?

1 JURY: (No response.)

2 MS. HECKERT: All right. Thank you.

3 So we only have two witnesses left. It's going to  
4 be John Black and Dr. Olson. And so it might make more  
5 sense that we might have Mr. Wall. Nobody has been able to  
6 contact him, but we're still trying. He's a manager person  
7 at the Carl's Jr. So we haven't been able to track him  
8 down.

9 What I think what would be best is if we went ahead  
10 and take our lunch break. Does it work best for you to get  
11 a full an hour, or do you need an hour and a half? Do you  
12 want to come back at 12:30? Do you want to come back at  
13 1:00? What works best for you guys? And we'll have those  
14 last couple witnesses.

15 (Lunch recess.)

16 MS. HECKERT: So this is Detective Gabe Burchfiel.

17 If you'd raise your right hand, this lady will swear  
18 you in.

19 \*\*\*

20 DETECTIVE GABRIEL BURCHFIEL,

21 having been first duly sworn,

22 was examined and testified as follows:

23

24 BY MS. HECKERT:

25 Q. So what's your position at the sheriff's department?

1           A. I'm a detective with the criminal investigations  
2 division there.

3           Q. And did you respond out to the Carl's Jr. on the  
4 night this happened?

5           A. I did.

6           Q. And typically, when an officer is involved in the  
7 shooting, we have kind of a set protocol we do with that  
8 officer. Can you describe that a little bit, what you do.

9           A. Yeah. Normally, when the officer -- the one that is  
10 involved in the shooting, we may remove them from the scene  
11 and get a companion officer to be with them and take them  
12 back to the office, whichever is closest to the one  
13 investigating the case. And somebody is with them, and we  
14 don't interview them or anything at that time. We just  
15 collect any evidence that may be important for the case that  
16 they had on their person or something, and they've been  
17 transferred over to them from the incident itself.

18          Q. So where was Officer Cardenas and Officer Davis?

19          A. They were both at our office, the sheriff's office,  
20 at 5179 Crater Lake Highway in Central Point. They were in  
21 separate rooms. Officer Cardenas was downstairs, and  
22 Officer Davis was upstairs in a separate room. They were  
23 not alone; they had people with them.

24          Q. And then so one of the things that we always are  
25 trying to do is just like an ammo count, looking at their --



1 whatever equipment they have. Different officers carry  
2 their guns loaded different ways actually; is that true?

3 A. Uh-huh, yeah, some of them. Some officers will  
4 carry just the full magazine and then put one into the  
5 chamber, others -- and not top the magazine back off.  
6 Others will load one into the chamber and top the magazine  
7 off because the top round will be put into the chamber.  
8 Some carry more than. I personally just carry one magazine  
9 because I'm a detective. Some carry one; some carry three.  
10 It's a personal preference on what they want to carry.

11 Q. When you met with Officer Cardenas, what did you  
12 find as far as in his gun?

13 A. Officer Cardenas had four total magazines for his  
14 9 millimeter handgun. One was in the gun itself; the other  
15 three were carried on his duty belt. And in the magazine  
16 that was in the gun, there were 16 live rounds, indicating  
17 that he had -- when he loads his magazine, he chambers one  
18 and tops it back off because the magazines were a 17-round  
19 capacity. And we talked about how many shots were fired,  
20 I'm assuming, already. So the two shots fired would be  
21 consistent with the 16 rounds that were left in the gun  
22 itself.

23 Q. Was there anything else on Officer Cardenas that was  
24 a particular note or interest?

25 A. The rest of the magazines were totally full with 17,

1       indicating they were not used in the incident. He had like  
2       a spot of blood on his boots, so we took those. And then  
3       his body-worn camera was also taken off of him at that  
4       point. And that's the -- that is all that we've recovered  
5       from him personally during that time.

6             Q. And then do you meet with Officer Davis as well and  
7       kind of do the same thing even though he didn't fire?

8             A. Yeah. We meet with him. He's there. He's part of  
9       the incident itself. I didn't -- like I said, we don't talk  
10      to them the day of. They get interviewed later on. He  
11      didn't have any weapon or anything like that that we had  
12      seized. Photos were taken of him, and we took his body cam  
13      as well, just to make sure that the video that he had on  
14      it -- it turned out his body cam was not on during the  
15      incident; so there was no footage off that one, but  
16      Officer Cardenas had his camera on at the time.

17            Q. Officer Davis, did you see any injury to him?

18            A. I personally did not see any injury to him. I saw  
19      the pictures later and saw that he had a cut or some blood  
20      on his face, and I didn't see anything in the aftermath of  
21      that, no.

22            Q. So the body cam, tell us a little bit about how, how  
23      they work as far as what you understand.

24            A. Okay. So they --

25            Q. They have the same kind you guys do?

1           A. They do. Eagle Point has the same, made by Axon,  
2           which is the same company that makes the tasers. They had  
3           only had them for a short period of time. We've had ours  
4           for a while; so I don't know if they knew exactly how they  
5           worked. But -- so for the cameras, you can plug it into our  
6           computer system. It's called "Taser Sync" and watch the  
7           video at that point live; however, you can't take an actual  
8           copy of the video. They have to be docked at the agency  
9           where they belong.

10                  And that system automatically uploads it into the  
11           evidence cloud for this specific agency. And then, once  
12           that's uploaded into the cloud, then it can be downloaded  
13           afterwards. And the copy can be made. So in order to  
14           prevent a bunch of other officers from watching the video or  
15           anything like that, we hold on to them until they could be  
16           docked and then get the video back ourself. And so that way  
17           it just kept, kept everything consistent, and a bunch of  
18           other people didn't view it or anything like that.

19           Q. And like the police officer can't do anything to it,  
20           either like erase it or -- I don't know -- do something,  
21           edit it, do anything with it. The officer can't do -- no  
22           one can get into the system unless it's back at the agency?

23           A. Right. You can't -- yeah, the administrators -- so  
24           I mean, at our agency at least -- I don't know how Eagle  
25           Point is -- I know afterwards, our administrators met with

1 theirs to figure out the parameters they are going to set.  
2 Our deputies cannot view other deputy's videos just because  
3 it keeps an audit trail. If you keep looking at videos  
4 numerous times, it can look suspicious. Why do people keep  
5 watching these video?

6 So, yeah, none of the deputies can view another  
7 deputy's videos, and administrators are the ones that -- you  
8 can watch it, but as far as editing, you can't edit it. You  
9 can create bookmarks; like you can put like a -- it will  
10 create a bookmark. Okay? At this time, something  
11 significant happened. But as far as the video itself, you  
12 can't alter anything on it.

13 MS. HECKERT: Any questions for Detective Burchfiel?

14 JUROR: The companion officers, were they body  
15 "camera'g" the whole time they were with the officers?

16 THE WITNESS: No. It's -- so the companion officers  
17 are there to make sure everybody is set up. They get  
18 everything they need. They have -- maybe their family gets  
19 called and is there with them. And we will not body cam  
20 that because they have representation from their union and  
21 stuff like that, and we don't want to -- we don't want to  
22 capture anything that's going on there at that point.

23 Our officers -- one of our officers was in there.  
24 He has a body cam, but they are not going to film a private  
25 conversation with another officer at that point.

1 MS. HECKERT: Any other questions? Did that answer  
2 your question?

3 JUROR: Yeah.

4 MS. HECKERT: Any other questions?

5 JURY: (No response.)

6 MS. HECKERT: Okay. Thank you.

7 THE WITNESS: Uh-huh. Thanks.

8 MS. HECKERT: This is Dr. James Olson. If you'd  
9 raise your right hand, this lady will swear you in.

10

11

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12

JAMES OLSON, M.D.,

13

having been first duly sworn,

14

was examined and testified as follows:

15

16

EXAMINATION

17

BY MS. HECKERT:

18

Q. So, Dr. Olson, tell us what your role is in Jackson  
19 County.

20

A. I'm the Deputy State Medical Examiner employed with  
21 the Oregon State Police Medical Examiner Division. I'm  
22 based in the Central Point O.S.P. headquarters, and I cover  
23 six counties as a forensic pathologist and deputy medical  
24 examiner -- Deputy State Medical Examiner consisting of  
25 Jackson, Josephine, Klamath, Lake, Curry, and Coos.

1 Q. If you could just briefly tell them -- I know you've  
2 been doing this a long time -- a little bit about your  
3 background and education.

4 A. Bachelor of Science degree in zoology and medical  
5 school, both University of Washington; internship,  
6 University of Washington; and pathology residency at Tacoma  
7 General Hospital in Tacoma, Washington. I'm board certified  
8 in anatomic, clinical, and forensic pathology. I practice  
9 both forensic pathology and hospital pathology since 1976  
10 and retired from hospital pathology and the Medford  
11 Pathology Group at the end of 2015 and then took a job with  
12 the State rather than being on contract as I was previously.

13 Q. Okay. And you've been Jackson County's medical  
14 examiners for quite a few year?

15 A. At least, I think, since 1986. You can give me a  
16 plaque pretty soon.

17 Q. Before my time. So would you tell us what you  
18 learned in the autopsy in relation to where the gunshot  
19 wounds were and what damage they did.

20 A. There were two gunshot wounds, one of which stayed  
21 in the body, the other one went through the body; and  
22 eventually the bullet was recovered at the scene in the  
23 clothing as it was being cut away. The highest wound was  
24 just to the right of center in the upper back, and it went  
25 through the back, through the right lung, and out the chest

1 cavity about here.

2           And the other one was just below the armpit on the  
3 left upper back laterally. It went through the back into  
4 the chest cavity, through the lung and lodged in the  
5 12th thoracic vertebral body. And I recovered the bullet  
6 there. So damage was to both lungs. There was quite a bit  
7 of blood in the left chest cavity, almost two liters or  
8 approximately 500 ML, or half a liter, in the right chest  
9 cavity. And the thoracic spinal cord was severed by the  
10 bullet that lodged in the spinal column. The heart wasn't  
11 hit. The aorta was not hit.

12           Q. With the wound, especially to the spinal column, he  
13 would have been immobilized --

14           A. Yes, he would have.

15           Q. -- from that?

16           How about any damage you saw from the taser barbs?

17           A. There were two taser marks on the body. One was in  
18 the left upper chest. The other one was in the left  
19 forearm, and it basically looked like small pinpricks with  
20 surrounding red hemorrhage bruising around them.

21           Q. The barbs weren't actually like embedded?

22           A. No. The barbs were not on the body or with the body  
23 at the time I examined him.

24           Q. And there was a tox screen done?

25           A. Yes.

1 Q. And the results came back?

2 A. Completely negative, I think, except for  
3 cannabinoids, just marijuana, but not quantitative. But  
4 drugs that would -- we would typically see or search for,  
5 such as being intoxicated with alcohol or methamphetamine,  
6 were not present at all. So --

7 MS. HECKERT: All right. Any questions for  
8 Dr. Olson?

9 JURY: (No response.)

10 MS. HECKERT: Okay. Thank you. Appreciate you  
11 coming in.

12 THE WITNESS: See you.

13 MS. HECKERT: All right. This is John Black. If  
14 you'd raise your right hand, this lady will swear you in.

15 \*\*\*

16 JOHN BLACK,

17 having been first duly sworn,

18 was examined and testified as follows:

19

20 THE WITNESS: B-l-a-c-k; first name common spelling,  
21 J-o-h-n.

22 EXAMINATION

23 BY MS. HECKERT:

24 Q. If you could tell us a little bit about your  
25 background so we have a little better sense about you.



1           A. Sure. I recently retired from the Washington County  
2 Sheriff's Office after approximately 23 years. During that  
3 time, I served in many positions ranging from patrol deputy  
4 up to and including command staff. And I oversaw the four  
5 different divisions, whether corrections, patrol. My final  
6 was I oversaw investigations in cases like homicides, child  
7 abuse -- any type of those violent crimes.

8           In addition to that, during that time frame with the  
9 police, I ran the Use-Of-Force Program for Washington  
10 County, was also a use-of-force instructor at the State  
11 academy. And during those two times, because of my training  
12 and other stuff, I've become qualified as an expert witness  
13 for police practices, whether it was in corrections and/or  
14 patrol practices as well as officer use-of-force.

15           For about those 20 plus years of the 23, I was  
16 either instructor at a national level or being instructed at  
17 a national level. In addition to that, I have 30 years in  
18 the military. In the military, I was also a hand-to-hand  
19 combatives instructor. I've dealt with, I'll say,  
20 use-of-force and violence up to the highest levels. My  
21 entire time in the military, I spent in special operations.  
22 From an educational standpoint, I recently just obtained a  
23 doctorate in business intelligence, specifically  
24 decision-making, how people arrive at insights or what they  
25 perceive as insights, specifically from visual models.

1 Q. Okay. And what did you review in order to be  
2 prepared to talk about this case for us?

3 A. I reviewed all the police reports. I reviewed the  
4 interviews of the two officers. I took a look at all the  
5 photos of the scene. I reviewed the video of the scene. I  
6 reviewed many of the evidence such as taser pulse logs, the  
7 autopsy reports, the O.S.P., Oregon State Police, crime lab,  
8 and then I also, this morning, went and did a visual  
9 walk-through of the bathroom of Carl's Jr. myself.

10 Q. Okay. So, first, I guess let's talk about the  
11 taser. So I gave it to you. This is the actual taser that  
12 was used. You had a chance to kind of look at that, and you  
13 said you looked at the logs?

14 A. Uh-huh.

15 Q. Tell us what information you can gather from that.

16 A. Okay. For those that have not seen a taser before,  
17 this is a X26P. It's a law enforcement model. It's safe at  
18 the moment. The reason it's safe is it doesn't have a  
19 battery. If it has a battery, it can create an electrical  
20 charge, and the electrical charge can create NMI, "November,  
21 Mary, India." NMI is a short acronym for neuromuscular  
22 incapacity. That is the goal. It does not always do that.

23 The way it does that, specifically on this model,  
24 is -- and I don't have any probes here, but I can just sort  
25 of explain them to you. This cartridge, which goes in the

1 end like this, fires. There's two little doors on here.

2 It's basically compressed air, compressed inner gas.

3 And these cartridge will come out, and they  
4 basically look like a fishing wire with a fish hook at the  
5 end of it. Behind that trails a small plastic-coated wire.  
6 As these wires and these probes come out, they expand at the  
7 rate of approximately 12 inches of spread for every 7 feet  
8 it travels forward. Okay. The goal of this is that, when  
9 these two barbs stick into a human body, that it will create  
10 an arch through the human body, and what that arch will do  
11 is it will cause the muscles, muscular incapacitation to  
12 basically lock up, to freeze.

13 The way it does this, it has what they called micro  
14 pulses. It's not that it's -- I've, I've had to wire  
15 houses. I've grabbed things I shouldn't have. For any of  
16 you that have done that inadvertently, it's not like that.  
17 It's very small micro pulses, and what those micro pulses do  
18 is they get the muscles to the point of freezing, of locking  
19 up.

20 The reason why you want to get a good spread is  
21 that, if I can lock up enough of the large muscles, then the  
22 person can't do anything. It will travel up the arms and  
23 everything else, but basically, you are locked up. That's  
24 why they call it neuromuscular incapacitation. If you don't  
25 get that, you won't get neuromuscular incapacitation.

1 You'll get partial. Maybe if it hits the leg, maybe this  
2 leg won't work, or if it hits from here to here, you'll see  
3 the side go down or something like that.

4 Normally, on a single-trigger activation, what will  
5 happen is that, as you pull the trigger, even if I were to  
6 let it go, it will run for five seconds. So it delivers  
7 19 micro pulses per second for the duration of 5 seconds.  
8 The idea being is that, if an officer is dealing with a  
9 person that's at the other end of the taser, they have that  
10 5 seconds to get that person under control, or you would  
11 pull the trigger one more time, get them neuromuscular  
12 incapacitation and get them under control.

13 You can override this on an X23P if I were to  
14 continue to hold the trigger down greater than 5 seconds.  
15 It can run up to 30 seconds. That's sometimes done during a  
16 cuffing procedure so that, if there's two people trying to  
17 get that person and they are still fighting, you would pull  
18 this. And never put your hand between the two probes, or  
19 you'll get shocked. It's happened.

20 And then that would allow you to get the cuffs on,  
21 and then we now -- we used to take the barbs out ourselves.  
22 It's like removing a fish hook. We usually let the  
23 paramedics do that, just a precaution. From that point on,  
24 that's basically it.

25 Q. And then from the charts that you reviewed --

1           A. Uh-huh.

2           Q. -- you said you could hold it for 30 seconds. What  
3 do you know about what actually happened on that day?

4           A. Right. So what the charts are indicative of is the  
5 taser was activated in a firing mode three times and very  
6 short spaces. And I think you've already seen the video,  
7 and you've heard those three activations. So what I'm going  
8 to do is speak to those three activations.

9                        So what is happening is on the first one, the  
10 activation ran five seconds, which would indicate that it  
11 was a single-trigger pull, with the barbs that come out.  
12 But the other thing that was indicated, if you can take a  
13 look at the video and also indicated by the charts, is that  
14 the probes did not get to where they needed to, to get  
15 neuromuscular incapacitation.

16                       The first obvious thing about that is the person  
17 wasn't incapacitated. The second thing is just the movement  
18 of the person. So you can see the red dot here, and I know  
19 from the autopsy report, so the spread here would be maybe  
20 7 inches max, and you see that the left arm is sort of rigid  
21 in the video. That indicates to me that this area over here  
22 was probably locked up, but not a lot more because the  
23 person was still able to walk and do whatever.

24                       That's also supported by the fact that what I looked  
25 at this morning -- that even though the diagram of the

1 bathroom is of this distance and this distance, the actual  
2 space that this was occurring in between the sinks and the  
3 towel racks and the stall door and the floor area was  
4 approximately 7 to 8 feet by, at the most, 4 feet. So I  
5 already know there's no way they could have gone widespread.

6 And the physical evidence here would indicate that  
7 in this case, Officer Cardenas did not -- it ran for 5  
8 seconds. You hear a second firing in the video, and it's  
9 also indicated on the log for also 5 seconds. The pulse  
10 logs, when I reviewed them, showed a consistent activation  
11 or voltage for the first 5 seconds and a slight drop off on  
12 the second 5 seconds. But what was interesting to me is  
13 that the charge being delivered was at 150 microcoulombs.  
14 What does that mean? It's designed, during hits micro pulse  
15 that, if you had a good connection, it should be  
16 100 microcoulombs. It should be less.

17 The taser's battery will apply more charge as it's  
18 trying to make that connection. So what that indicates to  
19 me is there probably wasn't a good connection somewhere.  
20 Now, I don't know why. It could have been the clothing,  
21 which is very common. It could have been the movement. It  
22 could have even been some of the wire had been scraped off  
23 and shorted. There's no way for me to know. I just know  
24 what that's indicative of is that there probably wasn't the  
25 connection that it needed to be in addition to the fact that

1 the spread would not have created neuromuscular  
2 incapacitation at that range.

3 The third chart, there -- or the third pulse chart  
4 is entirely different. The third pulse chart starts out  
5 high and dropped down to 100 microcoulombs. Now, given the  
6 fact, if you look at the video and you take into the  
7 officer's account of what occurred, is that there was what's  
8 called a drive stun.

9 After these two things fire, there are two -- and  
10 I'll hand this around without the battery in it, and you're  
11 more than welcome to put the battery in it. I would suggest  
12 the first time without the battery. You'll notice there's  
13 two metal probes here, also two here. These are contacts.  
14 If I'm close to somebody and I'm going to pull the trigger,  
15 I would get a charge across those areas.

16 The fact is: It doesn't make a lot of sense most of  
17 the time. The reason is: What's the person to do to stop  
18 it from happening, basically, with their hand? That's why a  
19 drive stun is used in very specific instances. And you  
20 could, if I had a probe here and I put this here, I would  
21 create a circuit from here to the probe with this.

22 So there are ways to use it that will create a  
23 charge, but it will get -- the final pulse charge at the end  
24 of it would be indicative of something that started out over  
25 here, and at some point, when this thing was being pressed

1 and running again for 5 seconds, the third pulse chart  
2 indicates a 5-second charge or 5-second activation.

3 At some point, a drive stun occurred because there  
4 was a direct correction, and I know the probes didn't move,  
5 and I know the second cartridge wasn't fired, and I know at  
6 this point by the video and both the accounts, neither  
7 Officer Cardenas or who is referred to as CJ in this case,  
8 neither one of them had this in their hand.

9 So to me, the only thing that's left out of those  
10 possibilities would be that it would be a drive stun  
11 contacting with some form of flesh. There wasn't clothing  
12 in the way or anything else. So that's what the pulse chart  
13 states to me.

14 Q. And I think you've said this the only way to get it  
15 to charge -- to go off is to pull the trigger?

16 A. Correct. So the battery system is basically pretty  
17 simple. It looks like a battery. The battery is housed in  
18 there. You can see. It's designed not to fall out.  
19 There's a small dent that will allow it to come out. The  
20 activation, by flipping it up, basically goes through a  
21 charging sequence and tells you how much charge is in the  
22 battery.

23 Okay. Now, when I pull the trigger -- this has an  
24 empty cartridge -- there's nothing in it now. Either way it  
25 would work the same. You notice my hand is not on the



1 trigger, 5 seconds, and it actually shows a digital display.  
2 It will count down 5 seconds. If I want to, or if there is  
3 something going on, I could -- in this case, I overrode it  
4 for 5 seconds. Notice, as soon as I released my finger, the  
5 activation stops.

6 So in order to go for 5 seconds exactly, a person  
7 would either have to hold their finger for 5 and let go, or  
8 they would have to hold it once and let go. Either way,  
9 that would give you a 5-second activation. The rest of the  
10 operation is pretty simple. Think of this as safety or  
11 activation. It's on. You notice the red dot. You've seen  
12 it in the video. The goal of that red dot, that is where  
13 the top barb or the top probe would impact. The bottom  
14 probe will spread 7 inches per -- excuse me -- 12 inches per  
15 7 feet as it travels forward.

16 Q. Okay. So then maybe we can talk a little bit about  
17 the, the appearance of it. And you've watched the video?

18 A. Yeah.

19 Q. You've read the officers' statements, how they both  
20 perceived it to be a firearm for at least a period of time.

21 A. So way back when, when I started, there were what's  
22 called electrical stun devices, or now they are called  
23 conducted -- conduct electrical weapons, and these type of  
24 things. People used to call them stun guns or anything  
25 else. They've changed shape over time. Some of them still

1 hold another shape. They've got cattle prongs and  
2 everything else.

3           These are designed, much like I demonstrated the  
4 drive stun, to be used close up. Well, it didn't work, and  
5 it didn't make a lot of sense, and it wasn't doing what it  
6 was supposed to. As the weapons progressed in technology,  
7 the goal was to get them further back because my goal is to  
8 bring this person under control. Yes, they may fall down,  
9 and we've had fall injuries that occur from tasers. That's  
10 your most likely injury because a person can't stop  
11 themselves from falling when they are in NMI, when they are  
12 locked up.

13           Occasionally, you'll get bad shots where they'll  
14 shoot into a soft area where the barb shouldn't have been  
15 in. Those will happen too. The idea is if you're going to  
16 a fight or something else similar and the level of force is  
17 reasonable, why would I be trying to do this close and  
18 making a person angry? So the technology moved it back.

19           Well, the first sets of cartridges that came out  
20 looked much more like something you'd find in a sci-fi  
21 movie, much better. They moved it back to 11, 15 feet. Now  
22 the cartridge was going up to 25, 30 feet. That means I  
23 don't have to be wrestling with this person. I still have  
24 to hit the person with the barbs for it to work. What  
25 happened now is you have to have a sighting system.

1           And the problem was: How do you teach law  
2 enforcement officers to sight a different weapon system? So  
3 Tasers choice was to make it something they already know how  
4 to sight. So they made it basically the shape of a firearm.  
5 That's, in a nutshell, about why they did what they do. The  
6 downside of it, obviously, is this looks very much like a  
7 firearm.

8           The worst part about it, too. If I've got this  
9 thing drawn and it's low light or dark and I'm wrestling and  
10 you see this out here, if you saw this in my holster when I  
11 came in, are you willing to bet your life on that's a gun or  
12 a taser? That's the downside of it. And I'm not passing  
13 judgment on it. I'm saying this is something -- everything  
14 has got its pros and cons.

15           What happens is -- it's very common -- these things  
16 are designed to be held and sighted and shot exactly like a  
17 gun, so you don't have to learn another weapon system that  
18 they can be sometimes confused by looking like a gun,  
19 especially if you -- if this stub is sort of out of view.  
20 This part up to here looks very much like a gun, so that  
21 would be the downside.

22           Q. And we've heard testimony from CJ Davis,  
23 Officer Davis, that he actually got stunned by it, got tased  
24 by it. And the -- because the barbs were already gone, the  
25 only way for that to happen is he had to have his hand over

1 the end for the drive stun, or is there another way that  
2 could have happened?

3 A. All right. So Officer Davis -- or we've referred to  
4 him in the different reporting as CJ or CJ Davis -- was in  
5 his words, wrestling for the gun, and he had two hands on  
6 it. So, more likely than not, one of the hands was in  
7 contact with one of these two probes or potentially both  
8 even. Now, what could have happened, then -- we're  
9 wrestling, this kind of stuff -- if there was a probe -- if  
10 there's a probe someplace else that was still making the  
11 circuit that could have made a worse charge; but at minimum,  
12 as long as he was making connection between these two or one  
13 hand was on one and one was on the other, he would have  
14 gotten shocked.

15 The only thing about that, though, is the only way  
16 it could have happened is if the trigger was activated. So  
17 the gun would have to be on. I'm not going to demonstrate  
18 being shocked, but the gun would have to be on, but in order  
19 for that to happen, the trigger would have to be pulled.  
20 And what's indicated by that is that the trigger was pulled.

21 Now, whether a person pulled it, whether a finger  
22 got stuck in between and it activated, I don't know. I  
23 can't tell that because of the video. What would be borne  
24 out by the video and the audio track, since it only ran for  
25 5 seconds, it was a single activation. So something

1 happened that was a single activation, the pulse locks, and  
2 audio track and everything else would indicate that it was a  
3 drive stun, and maybe another probe was making it worse for  
4 better, but at a minimum, that this was happening.

5 Q. Okay. So you have done a lot of -- read a lot of  
6 studies and done a lot of research on just the adrenaline  
7 response basically that the body was in a situation like  
8 this --

9 A. Yeah.

10 Q. -- for an officer. So can you talk a little bit  
11 about those physiological changes and reactions?

12 A. Yeah. These studies have been around for quite a  
13 while now, and they are getting a little bit better, which  
14 is nice. They've been done with police, fire, military a  
15 lot. And what they found out is the human body, regardless  
16 of how well you're trained for it, if you train very well  
17 for it, you can help manage these things, but they never  
18 completely go away. Because at the core, we're all  
19 hard-wired the same way. We're all humans.

20 So what do humans experience under stress? The best  
21 way you might be able to relate to this yourself is think of  
22 being involved in maybe a car accident or the infamous black  
23 ice in Oregon where, all of a sudden, you're facing the  
24 wrong way that you didn't intend to, in the middle of the  
25 highway, these sorts of things and what happens to you.

1           There's a couple things that can happen. Time can  
2 appear to slow down for some; other people, time might speed  
3 up. Sounds will disappear. Auditory exclusion is one of  
4 the most common side effects of adrenaline response. You  
5 don't hear things. There's actually been documented  
6 instances where shotguns have gone off right next to another  
7 officer, literally a foot away, and not only did they not  
8 hear it, they suffered no tinnitus or no other type of  
9 medical effects.

10           The human body is an amazing thing under stress. It  
11 was designed to do some very cool things, but it can also  
12 short circuit. Your pulse rates will increase. Once your  
13 pulse rate gets somewhere at the 175-beats-per-minute range  
14 whether because of stress or -- and stress can be induced by  
15 you're physically injured or mentally under a high bit of  
16 stress. You'll lose your fine motor skills. They just  
17 won't work. That's why you have heads-up displays with  
18 fighter pilots and other things.

19           The other thing that will happen is your processing  
20 speed -- think about it. The human computer is in a space  
21 where it's thinking it might die, and so what it does is it  
22 gets rid of all the other stuff that isn't going to help it  
23 live. That's basically what it does. And so it gives all  
24 it's processing power to the things that are right at hand.

25           The downside is you'll miss things that are -- I run

1 training scenarios with very experienced police officers,  
2 civilians, people that never touched a gun, people that have  
3 been combat vets, and I've created the same thing every time  
4 where if I start them out in highly adrenalized stuff, I can  
5 put a gun in a chair like maybe this far away; they'll go  
6 through all the stuff. They'll come in. I'll ask them,  
7 "What about the gun that was sitting on the chair?" And  
8 they will swear to me there was never a gun there.

9           And the thing is they are not lying to me. They  
10 never saw the gun, and they may have looked at it, but their  
11 brain never processed it because it didn't matter because  
12 they were focused so much on this thing that was down range  
13 shooting at them. And that's the way the human is wired.

14           The other thing you can have in highly adrenalized  
15 situations is what they call intrusive thoughts. People in  
16 the middle of a fire fight will wonder if they left the  
17 stove on. It's a strange thing, but it happens more often  
18 than not, I think somewhere around 20 percent or 17 percent,  
19 but those are the primary ones.

20           Q. Reviewing the video for yourself, I guess, what  
21 kinds of things did you see that indicates to you there's  
22 that adrenaline, highly adrenaline response?

23           A. Well, there's a couple things in there. The first  
24 thing is just, even if I weren't listening to the voice -- I  
25 don't know what they normally speak like -- "they" being

1 Officer Davis and Officer Cardenas, but there was an  
2 argument -- not an argument a suggestion about -- in one of  
3 the interviews that one of the officers -- the  
4 investigators, they had asked -- I think it was,  
5 Officer Davis -- about things like inflection and tone, and  
6 he said that the way that Officer Cardenas was speaking  
7 meant that something serious was going on.

8 I would argue, from all my years of experience,  
9 there is that sort of flavor that something is different  
10 this time from your fellow officer. If you're a parent, you  
11 know that between the scream of a kid screaming when they  
12 are playing or when something is wrong, and it's sort of one  
13 of those things you can't really tell you why, but somewhere  
14 at a subconscious level, you know. You do know because your  
15 brain has been processing that for caring for the child for  
16 many, many years. Cops are the same way. They sort of know  
17 where their partners are and their frame of mind.

18 From the video itself, you're in a closed space. It  
19 is obvious that things are not going the way that  
20 Officer Cardenas planned. This is an anomaly to him. This  
21 is not -- people don't usually do this. People don't do  
22 this. What's happening right now, that's not a good place  
23 to be in decision processing. You have to play catch up at  
24 that point. You're trying to figure out what's going on.

25 So that would cause a slowing of processing time, as



1 I call it, for the computer. Being in closed spaces -- and  
2 cops get afraid too -- and the fear factor going up. Fear  
3 absolutely slows down your processing time, and so I saw  
4 indications of that.

5 The other thing, too, is there's a real -- well,  
6 this is sort of a -- the word used is prima facie evidence,  
7 so it's evidence on the face -- is the third taser  
8 activation. So if you time the third taser activation, it  
9 goes for 5 seconds, but somewhere in the third taser  
10 activation, Officer Davis realizes that this now is not a  
11 gun. So two things are going on. The first thing is  
12 Officer Davis, by being dazed enough that he was disoriented  
13 up -- at least by the interviews -- until even after the  
14 event occurred, and that you can see it sort of in the, in  
15 the processing or even after the fact about, you know,  
16 "Where is the gun? I'm still trying to find that gun" and  
17 this kind of stuff. That's Cardenas playing catch up  
18 with -- he hasn't even processed the -- Officer Davis saying  
19 it's a taser.

20 Well, Davis realizes the taser when? He didn't  
21 realize it by looking at it. He realized it when he got an  
22 electrical voltage going through his hand. You can hear the  
23 third tase activation, and then in the transcript, and then  
24 his thing in the video at that point. From that point on  
25 until when the shots were fired is less than two seconds,

1 somewhere around about a second and a half, maybe even a  
2 little bit less than that.

3 The processing at that point going on hasn't  
4 occurred, at least indicated by Cardenas's comments, because  
5 Cardenas, even after that's going on, is still looking for  
6 the gun. Well, all those are pointing, to me, the things  
7 where people are at a high adrenaline stress, and they are  
8 simply not -- the computer is simply focused on survival,  
9 and it's not, it's not focused on the finite type of -- the  
10 term is called "Systems 2 thinking" or more rationale,  
11 deliberate thinking. They are in survival mode, System 1  
12 thinking.

13 Q. So when Officer Cardenas says he never heard  
14 CJ Davis say, "It's a taser," that that makes -- that  
15 doesn't -- you don't question that? That makes sense to you  
16 given all the studies and so forth that you've looked at?

17 A. Well, I questioned it, but I also know that that's  
18 entirely feasible. I mean, I've been in multiple things  
19 where things aren't heard that are said. It happens a lot  
20 on radio transmissions. It happens in fights. Yeah. So,  
21 yeah, I question all those things, but it doesn't surprise  
22 me, I guess, would be the way to put it.

23 Q. And although we can hear that third taser going  
24 off --

25 A. Uh-huh.

1 Q. -- you know, presumably Officer Cardenas didn't hear  
2 that or it didn't register at some point with him?

3 A. Yeah. And that might be a better way to put it. In  
4 other words, the sound is in the ambient noise of what's  
5 going on in the room. But you're not making connection that  
6 that sound should mean anything relevant to you because, in  
7 other words, you're concentrating on something else. Your  
8 brain is having you concentrate on something else. And the  
9 fact is, when you're concentrating on something else, you  
10 simply -- it may be there, but you're not actually  
11 processing it, so --

12 Q. Okay. When we heard from Matthew Graves's father  
13 and he said that sometimes Mr. Graves is -- kind of has  
14 trouble processing and gets confused about things --

15 A. Uh-huh.

16 Q. -- when you were watching the video, do you see that  
17 in Matthew Graves' response to the police officer at all,  
18 like that he's having a difficulty understanding what the  
19 officer is saying to him or anything?

20 A. So I helped "Stand Up" and ran for many years a  
21 mental health response team for Washington County. I'm  
22 still a part of the negotiations statement, that type of  
23 thing. I am not a mental health practitioner, so please  
24 understand when I respond to that, that this is my  
25 perspective from dealing with a lot of people that are

1 having a bad day and are under stress, whether it's  
2 schizophrenia, Asperger's, autism -- anything else. I'm not  
3 a mental health physician.

4 My best guess on what I've seen, from watching the  
5 video and just reviewing the officer's perceptions, would  
6 be, at some point, Mr. Graves made a decision -- whatever  
7 that decision was -- and I'm not talking about to be shot or  
8 anything else like that. What I'm talking about is maybe in  
9 his world was this is right, and this is wrong or whatever  
10 it is.

11 And then he continued that decision all the way  
12 through the process because maybe he felt what was going on  
13 was wrong. But those types of thinking would indicate that  
14 there's processing occurring. I'm able to figure stuff out.  
15 I just may come to a conclusion that the officer didn't or I  
16 myself or somebody else wouldn't. But the fact that  
17 processing was occurring, I would argue that there was  
18 processing occurring. That doesn't mean that the processing  
19 was rational or it would have occurred like you or me.

20 Q. And you're familiar with Oregon law --

21 A. Uh-huh.

22 Q. -- of whether a person -- when a person can use  
23 deadly physical force?

24 A. Uh-huh.

25 Q. So they reasonably believe someone is about to use

1 deadly physical force against them or another person. And  
2 from what you've seen in the video, does that seem like a  
3 reasonable conclusion that the officers made here --

4 A. Well, it was a reasonable --

5 Q. -- at the moment?

6 A. -- reasonable conclusion by one officer. So by  
7 Officer Cardenas to use lethal force in defense of another,  
8 was it reasonable? My belief, yes. And please understand  
9 that does not remove the tragedy of the situation. My  
10 analysis of something that is reasonable is not speaking to  
11 the ultimate outcome.

12 If Officer Cardenas reasonably believed that  
13 Officer Davis was about to get shot and/or he himself was  
14 about to get shot and/or this could have spilled out to  
15 other ones beyond those two, the idea of having immediacy --  
16 obviously, we've got hands-on immediacy if there is a gun in  
17 place or at least the believable gun -- the idea that that  
18 gun has the ability to cause harm to others at that same  
19 level, lethal -- it's a gun -- then the reasonableness of  
20 the response to use lethal force to react to that, to  
21 attempt to stop that, is a reasonable -- in my mind, would  
22 be a reasonable -- use of force by reasonable officer.

23 MS. HECKERT: So anybody have questions for him?

24 JUROR: I have one.

25 MS. HECKERT: Sure.

1           JUROR: If you miss with a taser and those barbs, is  
2 there a second set to deploy, or is that tool spent?

3           THE WITNESS: So the taser holster and some of the  
4 different types of tasers, not the way this was  
5 configured -- actually, some of them will have a second  
6 cartridge on the bottom, or you'll carry one or two other  
7 cartridges with you. They are actually the same thing  
8 that's on the taser holster.

9           I'm reaching for my right side. I would always  
10 carry my taser on my left side. Almost all people, if I  
11 draw -- I'm strong-side dominant with my right hand. If I  
12 put my firearm on my right side, I would load my taser in  
13 some other place so that I would have to reach across my  
14 body so that I'm not inadvertently reaching for the wrong  
15 thing.

16           The holster that, at this time I carry, would have  
17 additional cartridges. So what you would do is, after this  
18 one is spent -- right? -- you would eject this one away and  
19 put the new one in. And this is where actually -- if the  
20 people are still activating on their charges -- I've watched  
21 police officers brush their hands across it and shocked  
22 themselves and dropped the taser.

23           But, yes, they do come with that, but this in its  
24 current configuration, once this cartridge has fired, once  
25 this here has fired the two probes, it cannot fire anymore.

1 It's done.

2 JUROR: Okay.

3 MS. HECKERT: By an officer's training, if you  
4 believed the other person had a firearm, would you ever  
5 deploy your taser?

6 THE WITNESS: No, absolutely not. That's -- and  
7 we've already -- you've already seen why. First of all, you  
8 have to understand. Handguns are not real good weapons to  
9 stop people. They are the best things that police officers  
10 have in a short amount of distance. That's not a bad thing  
11 because medical care has gotten very good, and there's a lot  
12 of other factors in there.

13 But they are the most expedient thing that we can  
14 carry that we have with lethal force that we're not going to  
15 harm other people with because we can aim them accurately  
16 and not watch them go over there. We can control the round  
17 expansion, so they don't go through five different things  
18 like a rifle might or anything else. So they work for that  
19 reason.

20 But you've already seen in the video this didn't do  
21 what it was supposed to do; so if that person was wrestling  
22 with a gun and I've got this chance for it to work, how many  
23 chances are you going to take that it doesn't work? Because  
24 even if I shoot somebody, the only way a person is sort of  
25 rendered -- and "instant" is a subjective term, but we'll

1 use it -- instantly not a threat, that they don't have the  
2 ability to harm me is I take some type of nerve shot that  
3 stops them from processing nervous commands -- or commands  
4 by the nervous system, which is usually a shot through the  
5 medulla oblongata.

6 I was a sniper in the military. If I shoot here,  
7 even if a take a shot through the heart or something else,  
8 people can still fight. I mean, you die by either loss of  
9 blood, loss of volume, loss of air, or turning the computer  
10 off. The computer being turned off is the only thing you're  
11 going to get an instantaneous drop. So that's not -- yeah.

12 JUROR: Yeah. With the handgun --

13 THE WITNESS: Uh-huh.

14 JUROR: -- is it common, since there's already a --  
15 I guess what's -- what was his weapon style? Is it a  
16 two-point trigger? Like two hole where he's -- like how --

17 THE WITNESS: Oh.

18 JUROR: -- how did he get two rounds off? I don't  
19 want to say that quickly or whatever, but just would one  
20 have been sufficient kind of thing? Or what's, what's his  
21 weapon?

22 THE WITNESS: Yeah. If I remember correctly, I  
23 think Officer Davis was carrying a Smith & Wesson .40, and I  
24 want to double-check my reports on this.

25 MS. HECKERT: Cardenas has a 9.



1           THE WITNESS: Generation 4 Glock 9 millimeter,  
2 correct. So a Glock 9 millimeter has what's called an  
3 internal safety, and there's actually a small -- there's  
4 what's called a block safety, and right up here on the  
5 trigger, there's a very small detent. So what happens is  
6 when you pull that in against that, and the block safety,  
7 there is no other external safety that you have to activate.

8           The only thing you have to do to get the second  
9 round off with a Glock is, after you pull it, rather than  
10 the entire trigger going all the way out and coming back in,  
11 you have to let it out about halfway or a third of the way.  
12 There will be a small reset of the safety, and you pull a  
13 second round.

14           So the ability to fire two rounds that quickly, as  
15 he did in the video, is -- you could actually -- let me put  
16 it this way: You can have -- with a Glock you can fire two  
17 rounds quicker than what he did, but it has to be single  
18 trigger pulls. There's no automatic.

19           Q. BY MS. HECKERT: And when a police officer is  
20 trained, what's typically the training on -- if you're going  
21 to use deadly force, what's the officer trying to do at that  
22 point?

23           A. Well, short answer is you -- let's just say you've  
24 made -- whatever is occurring, you've reached the conclusion  
25 that deadly force is the level of force you're going to use

1 to fix what's going, stop the threat. If you made that  
2 conclusion, you would continue to use the deadly force even  
3 though the threat is stopped. It could be one bullet. It  
4 could be ten bullets. The fact is it's the amount of  
5 bullets that could be indicative of him doing it.

6 So I fire two rounds, and the person begins to peel  
7 off and he can't grab a gun or anything, I can step back at  
8 that point and reassess. I fire two rounds and the person  
9 is getting close or nothing is changing, I'd probably fire  
10 more rounds. It's indicative about what it's actually  
11 doing.

12 Q. You've talked a little bit about it, but the time it  
13 takes to you process -- your brain to say pull the trigger  
14 and your brain to say stop pulling the trigger --

15 A. Yeah.

16 Q. -- the threat has stopped?

17 A. Yeah. And that's again the idea that, you know, as  
18 humans, we're more alike than we are different. It doesn't  
19 matter. We can train to some degree and everything else.  
20 But so I was looking at the video, and I was doing a  
21 frame-by-frame analysis, and if you listen to the sound of  
22 the third trigger pull, it sort of goes like this -- it all  
23 makes sense -- by the third trigger pull --

24 Q. You mean the taser?

25 A. Taser, yes. The taser gets pulled. We hear the

1 activation of the taser, which is the arcing, and then  
2 somewhere in there you hear the sound like, "Uh, it's a  
3 taser." Well, yeah, you wouldn't know that it's a taser if  
4 the person knew what was going on until they start feeling  
5 electrical voltage, and the brain is catching on, wait a  
6 minute. This thing I'm holding on to didn't blow a hole  
7 through me. It shocked me. Okay. I processed it.

8 At that time you can still hear the count of the  
9 taser going off. The taser hasn't stopped. It's been  
10 activate for 5 seconds. By the time you hear the, "Uh, it's  
11 a taser," that's occurring after the, the word "Gun" had  
12 come out, and Officer Cardenas is -- has -- at least  
13 indicated by his interviews and his perceptions, he's now  
14 operating under this idea that, crap, there's a gun  
15 involved. Maybe he grabbed this gun. Maybe he had a gun.  
16 Maybe I missed something. Who knows why, but there's a gun.

17 He's already -- you can see this in the video. You  
18 can see him working on his holster to get his gun out as a  
19 way of response. When he fires his first round after the  
20 words are out in the air, "Ah, it's a taser," again, it's  
21 less than two seconds, and it's closer to like  
22 one-and-a-half.

23 If I, in high-adrenaline situation, have made this  
24 decision that I'm focusing on where I'm going to shoot, that  
25 I don't shoot through him and into my buddy, and that when

1 you have to shoot close up, you have to do what's called  
2 indexing or the round won't cycle a second time. If I push  
3 a gun in, especially a semiautomatic, it works off a gas --  
4 the gas from the firing of the round moves the slide back  
5 and forth. If I push it up, it's going to jam.

6           So, you know, I'm doing this. I'm doing this. The  
7 ability to even process that through to let the brain catch  
8 up to stop that action at one-and-a-half is probably slim to  
9 done none. There are actual studies done on what they call  
10 stop actions, that they basically have a person that's ready  
11 to shoot, and they put a little light out to see if they can  
12 stop in time, and that's the case.

13           Probably one of the easiest ways to think about  
14 reaction time -- they used to have it, but you remember the  
15 one about where they used to have reactions times for  
16 braking for car distances -- right? -- where, you know,  
17 you're supposed to do that to improve your reaction time.  
18 They always tell you drive two car lengths behind. Well,  
19 that's because, even if you know that car's light is going  
20 on, you can't get -- granted there's friction and traction  
21 and everything else -- but a big part of that is you've made  
22 that decision to what that means to translate that into a  
23 command to get your quadriceps to tighten up and push down  
24 on the brake pedal. That's where you're losing a lot of  
25 your reaction time. So right now in that one-and-a-half

1 seconds, I -- I don't see how that would be feasible.

2 MS. HECKERT: Other questions?

3 JUROR: Would you say that his reaction afterwards  
4 where he's yelling at him -- that it was like, "Why would  
5 you do that?" -- do you think that would be normal to the  
6 stress of the situation or --

7 THE WITNESS: It is.

8 JUROR: Yeah.

9 THE WITNESS: And, again, I'm -- I've testified in a  
10 lot of different cases and I've talked to a lot of different  
11 police officers. I'm, I'm recounting to you my experience.  
12 I'm not saying this is the world at large. I've never  
13 talked to a police officer -- and understand something. I  
14 have testified against police officers. I'm a firm believer  
15 that, in the career of law enforcement, that we should be  
16 the first ones that are removing people that should not be  
17 in the profession.

18 That being said, I've never talked to a police  
19 officer that said, "Today I'm waking up to kill somebody."  
20 It is -- most police officers I've worked with and even the  
21 vets I've worked with -- will -- a very common outcome of  
22 police shootings, they leave law enforcement. The idea of  
23 it's over, and I was just placed in this area of mortality.  
24 I just now -- I'll use the word -- he's young compared to  
25 me. I've just now had to address my mortality. I may be a

1 age I didn't plan on. The first thing -- well, not the  
2 first thing, but a very common thing you see them do is talk  
3 to whoever caused this and basically say: Why, why did you  
4 put me in this situation? How could you do this?

5 And I've actually seen other cops that have been on  
6 pursuits highly adrenalized almost like jump out of the car  
7 and beat the other -- go running towards the other cop  
8 because he was so pissed off that they got involved in a  
9 pursuit he didn't think should have happened.

10 So this idea of adrenaline dump afterwards, you have  
11 to plan for it, and you want to remove them as soon as  
12 possible from that type of scene. It's a human reaction to  
13 being placed in a life-or-death situation.

14 JUROR: Is there an optimum range for the deploying  
15 of a taser?

16 THE WITNESS: Ideally somewhere between 15, 21 feet.  
17 You'll get neuromuscular incapacitation if they are greater  
18 than 12 feet, which means that chances are, if they are  
19 going to lunge at you or do something at you, you could  
20 probably get off at least one shot.

21 Ideally, it would be better to be sort of a little  
22 bit past that 15 because, if that one shot doesn't work, you  
23 sure as hell aren't going to have time to reload your taser  
24 and get a second shot off. So you'll have to go to some  
25 sort of hand-to-hand combatives or basically move the person

1 so that you can then go to pistol or some other type  
2 response. But usually 15 to 21 is ideal.

3 MS. HECKERT: Distance is because those probes or  
4 stretching out --

5 THE WITNESS: Yes.

6 MS. HECKERT: -- as they go. You want that further  
7 stretch.

8 THE WITNESS: Yeah.

9 JUROR: We didn't have that kind of distance even  
10 available in this situation?

11 THE WITNESS: No. I mean, it's not even close. If  
12 you take a look at the -- just the distance -- so -- and you  
13 can see in the video, he wasn't all the way in, but let's  
14 say he's at the threshold of the door, between that -- and  
15 even if he was -- even if his back was entirely -- "he"  
16 being Mr. Graves -- is entirely against the stall, the most  
17 you would have gotten out of that, I would estimate, would  
18 be 11 to 12 feet.

19 And, again, the one thing that was obvious by the  
20 video too was Officer Cardenas wasn't controlling the  
21 distance. Mr. Graves was. Because Officer Cardenas  
22 really -- at the most I saw him do was maybe move one step  
23 in. You know, like take-a-brace type step. I didn't see  
24 him closing distance. It was Graves, you know, the  
25 challenging type of thing coming up so --

1           JUROR: Are officers trained for weapon retention  
2 with tasers as they are with firearms?

3           THE WITNESS: Yes. Now, I don't know -- I looked at  
4 the training hours on each of the officers. I did not look  
5 at the training syllabuses. But they are trained on weapon  
6 retention as a matter of practice for any weapons they  
7 carry.

8           JUROR: We talked to one officer who mentioned that  
9 it's kind of personal preference for the number of rounds  
10 you may load into a firearm and the number of magazines you  
11 might carry --

12          THE WITNESS: Uh-huh.

13          JUROR: -- auxiliary. Is there any similar data  
14 showing a correlation between officers using deadly force  
15 and the number of magazines or rounds they carry?

16          THE WITNESS: None that I'm aware of. So I will  
17 tell you what I'm aware of. First of all, most officers are  
18 directed by the departments or directed by range masters to  
19 carry one round short in their magazines -- that's not an  
20 uncommon practice -- or carry them topped off. Those are  
21 the two ways you'll see them.

22                 The reason they carry one round short is not to over  
23 pressurize the spring over long periods of time because that  
24 can create a first-round jam. So there's arguments on  
25 either side. I've seen them carried both ways. So



1 whatever -- how many magazines you carry, they'll probably  
2 be carried in one of those two configurations depending on  
3 the department policy or something similar.

4           There is -- there has been research done that, with  
5 the advent of high capacity magazines, there's been this  
6 argument that accuracy has gone down, and where that stems  
7 from -- it's not really true; it's a misnomer -- is that  
8 since I have more bullets, I'll shoot more times, and maybe  
9 not as many of them will get on target.

10           That argument has been made, but I've never seen  
11 research that necessarily backs it. And the other thing,  
12 too, is if your department is having an accuracy issue,  
13 that's a training problem. It really doesn't have a lot to  
14 do with what you carry. It's sort of a, it's sort of a  
15 training by convenience. Because you still have to --  
16 regardless of -- and this is in the state of Oregon and also  
17 the state of Washington; I think California does the same  
18 thing too. What I have to do to qualify by Oregon standards  
19 X amount of times or by my department standards is usually  
20 done off what they call a handgun qualification course, HQC.

21           The amount of magazines and rounds I use for that  
22 qualification case is standard. It doesn't matter how many.  
23 If I have ultra-high capacity magazines, it doesn't matter.  
24 I have to do so many magazine changes, and I have to get so  
25 many rounds in so many different scoring areas. It doesn't

1 matter whether I carry four magazines, two magazines. It  
2 really doesn't matter. So your training to something that  
3 has nothing to do with the amount of magazines or bullets  
4 you carry. That's a standard that people qualify against.

5 JUROR: Does this particular model of taser come in  
6 any other color?

7 THE WITNESS: I think the X26P does have a yellow  
8 sighted model.

9 JUROR: Is it agency decision or a personal  
10 decision?

11 THE WITNESS: Agency. Well, it could be either, but  
12 I've never seen it not be an agency decision.

13 MS. HECKERT: Other questions?

14 JURY: (No response.)

15 MS. HECKERT: Okay. Do you want to watch the video  
16 anymore of the body cam or no? Okay. All right. I thank  
17 you very much.

18 THE WITNESS: Leave that here?

19 MS. HECKERT: You can leave that for me. Thank you.

20 All right. Well, he talked a little bit about  
21 Oregon law. I asked him a question about Oregon law. So I  
22 want to let you know a little bit more about what that says.

23 So the limitations on the use of deadly physical  
24 force in defense of another person -- and the way they use  
25 "person" a bunch of times in here -- so you're entitled to

1 use deadly physical force against a person if you reasonably  
2 believe the other person is using or about to use unlawful  
3 deadly physical force against a person, so against you or  
4 another person. So you can defend another person or  
5 yourself, and it's whether that is a reasonable belief at  
6 the time is really what it boils down to.

7           And then you haven't really asked a question about  
8 this. If you were thinking, like, well, you know, what's he  
9 actually going to try to arrest Mr. Graves for? So let's  
10 presume that it's an unlawful arrest. I mean, he doesn't  
11 have a crime to arrest him for at some points along the way.  
12 I'd argue there are times along the way where a crime has  
13 been committed. At the very beginning, we have a traffic  
14 violation. We have failure to obey a traffic device. He  
15 could have written him a ticket. He could have warned him.  
16 But he couldn't arrest him for that.

17           Under Oregon law, a person is not allowed to use a  
18 physical force to resist an arrest by a peace officer who he  
19 knows is a peace officer even if the arrest is unlawful. So  
20 that doesn't give a person a right -- if I know you're about  
21 to arrest me and I know you're a police officer, but I'm  
22 thinking, well, I have done nothing wrong; so I'm going to  
23 resist your arrest. I'm not entitled to do that under  
24 Oregon law.

25           JUROR: So is shouting -- I'm -- address the

1 shouting.

2 MS. HECKERT: I think when you -- when you break it  
3 down, at the beginning he clearly -- the officer has no  
4 crime. It's a violation. Once they get into the bathroom  
5 and Mr. Graves has put his hands on the officer, he's  
6 committed the crime of harassment, offensive physical  
7 contact.

8 JUROR: Then he punches the other one so --

9 MS. HECKERT: That's later.

10 JUROR: Yeah.

11 MS. HECKERT: So it's the first time is a couple  
12 pushes, so those harassments, misdemeanors, but he had a  
13 right to arrest him for that at that moment. And then once  
14 he -- once Mr. Graves punches Officer Davis, then he's  
15 committed Assaulting a Public Safety Officer, and that's a  
16 felony.

17 So I mean, at the beginning, he doesn't have a right  
18 to be arresting him. Like when he very first tells him, you  
19 know, "Get on the ground." You know, it's not a crime.  
20 There hasn't been a crime yet. So there's an issue there,  
21 but again, Mr. Graves' reaction isn't allowed by Oregon law  
22 either.

23 JUROR: So just asking him to show his hands and him  
24 resisting that, is that enough to have him get on the  
25 ground? Because he asked him several times to show his

1 hands, and he didn't really show his hands. So does that --  
2 is that cause to get him on the ground?

3 MS. HECKERT: By not showing your hand is not the  
4 crime. It's more -- it's like a normal officer safety.

5 JUROR: Yeah.

6 MS. HECKERT: I can see, from his point of view, why  
7 he wants to see his hands. He wants to know where his hands  
8 are. He's going to give him commands about that. If I  
9 don't show you my hands, that doesn't give you a right to  
10 arrest me. It goes to the point where the push happens,  
11 then he now -- that's the first time he really has a crime  
12 he can arrest him for. Then the punch, he clearly has a  
13 right to arrest him.

14 JUROR: So it wasn't an issue for him to ask him to  
15 get on the ground even though he didn't show his hands?

16 MS. HECKERT: Right. I mean, I don't know -- had  
17 Mr. Graves complied, you know, what would have happened.  
18 That's the "what if" part you can never figure out. I mean,  
19 maybe Cardenas just says, you know, "What the heck is going  
20 on with you, buddy?" and he does nothing else. I made sure  
21 you're safe. I'm safe, and I'm done for the day. That's  
22 the part, the "what ifs" you never know.

23 JUROR: What about Officer Cardenas then blocking  
24 him from leaving the bathroom?

25 MS. HECKERT: Right. So is that the unlawful arrest

1 at that point? I mean --

2 JUROR: I'm just --

3 MS. HECKERT: -- once Cardenas puts his hands --  
4 once Mr. Graves puts hands on the officer, now he has a  
5 right to arrest him. Just before that, he doesn't have a  
6 right to arrest him.

7 JUROR: And he didn't have a right to tell him not  
8 to leave the room. He doesn't really have any rights to  
9 give any orders until he's accosted?

10 MS. HECKERT: No, not necessarily.

11 JUROR: He said he was worried about someone else  
12 getting hurt.

13 MS. HECKERT: Right. So he's explained to you  
14 what's going on in his mind, what he's thinking.

15 JUROR: Right.

16 MS. HECKERT: And that's somewhat based on his  
17 training and experience and so forth.

18 JUROR: Sure.

19 MS. HECKERT: But to actually look at what happened  
20 and for me to identify, here is the crime, here is where a  
21 crime happened, so that gives him a right to actually arrest  
22 him, I don't see that until he the pushes happens.

23 JUROR: And then --

24 MS. HECKERT: He can still get him -- he could have  
25 still talked to him in the bathroom. There's nothing that

1 says he can't talk to him in the bathroom. And it's really  
2 partly how Mr. Graves reacts that kind of escalates it.

3 JUROR: Well, I guess what I'm -- I mean, like if a  
4 policeman stops me --

5 MS. HECKERT: Right.

6 JUROR: -- in a car --

7 MS. HECKERT: Uh-huh.

8 JUROR: -- and so if they ask me to do certain  
9 things --

10 MS. HECKERT: Right, you're going to do them.

11 JUROR: -- I am typically going to do them, but does  
12 that mean that they don't really have the right to ask me to  
13 do them?

14 MS. HECKERT: So it kind of depends. If they've  
15 watched you do a traffic violation --

16 JUROR: Yeah.

17 MS. HECKERT: -- they have a right to ask you for  
18 your driver's license.

19 JUROR: Right.

20 MS. HECKERT: When they are talking to you and they  
21 start to think you're impaired, they have a right to ask you  
22 to do field sobriety tests.

23 JUROR: Right.

24 MS. HECKERT: So it builds; it's not necessarily --

25 JUROR: Yeah.

1 MS. HECKERT: -- something that's necessarily the  
2 first thing. Typically an officer is not going to walk up  
3 to your window, "I'd like you to get out and do a sobriety  
4 test."

5 JUROR: No.

6 MS. HECKERT: It's built.

7 JUROR: I have a question: What she was saying with  
8 a traffic, if you get pulled over, you're supposed to stop.  
9 The minute you keep going, you're running. So with him  
10 trying to make contact with him and the guy keeps walking  
11 away, is that a crime that he's ignoring that officer and  
12 still walking away? Is that the same as like a car? I know  
13 he wasn't running, but he sure as heck wasn't stopping when  
14 he was trying to address him.

15 MS. HECKERT: So in a car, it's called an allude,  
16 and it's a crime. On foot, I mean, he had a right to write  
17 him a citation if he wanted to --

18 JUROR: Yes.

19 MS. HECKERT: -- for failure to obey a traffic  
20 signal device. When he's not stopping for that, at some  
21 point, could he eventually arrest him? And I think it's a  
22 little gray area.

23 JUROR: Gray area. Because he did follow him quite  
24 a ways, in my opinion, trying to make contact with him all  
25 the way to the bathroom. We were talking about that whole



1 him not letting him in the bathroom. Technically, that was  
2 quite a long ways he was trying to make contact, and the guy  
3 was virtually refusing, without being -- he wasn't running  
4 or anything --

5 MS. HECKERT: Right, yeah.

6 JUROR: -- but quietly avoiding.

7 JUROR: Is there any chance that Mr. Graves did not  
8 recognize him as a cop in his capacity?

9 MS. HECKERT: I don't know.

10 JUROR: I mean, all of his words here doesn't,  
11 doesn't recognize him, okay, this is a cop in front of me.  
12 I'm just wondering --

13 MS. HECKERT: Right. But he's in full uniform. I  
14 don't know how you'd ever know that.

15 JUROR: Yeah.

16 JUROR: It doesn't seem likely.

17 MS. HECKERT: He's in a police car. He had his  
18 light on him.

19 JUROR: Yeah.

20 JUROR: He does know. He knows it's a police  
21 officer. He says, "I'm sober and everything," pretty much  
22 you can't get me for it.

23 JUROR: I think he understood that he was a police  
24 officer.

25 MS. HECKERT: And that may be more just for your

1 deliberations for your discussions, you know, around the  
2 table for what you think.

3 JUROR: Yes.

4 MS. HECKERT: Do you have any other questions about  
5 what Oregon law says when you can use deadly force?

6 JURY: (No response.)

7 MS. HECKERT: And I will leave the taser in here.  
8 Don't put all the parts together and tase each other,  
9 please.

10 JUROR: Yes, please.

11 MS. HECKERT: I will leave the taser in here. If  
12 you want to look at it any closer, he's got it separated.  
13 This part is not going to hurt you at all. And the video,  
14 if you -- I can -- well, you guys are probably more computer  
15 literate than I am. You obviously could watch it again if  
16 you wanted to, if you have any questions while you're  
17 deliberating. If you have any questions for me, we will now  
18 leave and let you deliberate.

19 JUROR: I have one quick question for you here.  
20 What exactly are we deciding at this time? What are we  
21 supposed to decide?

22 MS. HECKERT: Did the officer act lawfully under  
23 Oregon law?

24 JUROR: Okay.

25 MS. HECKERT: So at that moment when he fires, did

1 he reasonably believe his life was in danger or someone  
2 else's life was in danger and that's why he shot?

3 JUROR: Okay.

4 MS. HECKERT: That's what you're focusing on is that  
5 moment.

6 JUROR: That exact moment when he shot the gun.

7 JUROR: Okay. Perfect.

8 (Off the record.)

9 JUROR: One thing that was mentioned and even asked  
10 of Mr. Black was about the different colors of tasers that  
11 the manufacturers offered.

12 MS. HECKERT: Uh-huh.

13 JUROR: Is there a way to, in the future, like  
14 establish a thing where departments have to use something  
15 that's not the same color as their weapon?

16 JUROR: It seems retarded they have the same color  
17 as their gun. It should be yellow or orange or green.

18 MS. HECKERT: So most likely --

19 JUROR: Something that could come out of this  
20 situation.

21 MS. HECKERT: So most likely -- a couple different  
22 things. The legislature could make rules around that. The  
23 company themselves could change, and there may be a civil  
24 lawsuit type of things.

25 JUROR: What about the department?

1 MS. HECKERT: And then, of course, the department  
2 itself. So, you know, I could convey that to the Police  
3 Chief. Eagle Point has a city counsel, you know, a mayor.

4 JUROR: And the sheriff's departments too. They  
5 said they carry that one.

6 JUROR: The same one.

7 MS. HECKERT: It's definitely something you can  
8 bring up to law enforcement.

9 JUROR: It seems like that may have not come to this  
10 if it was a bright color that was pretty obvious that it  
11 wasn't a gun.

12 MS. HECKERT: Absolutely true.

13 JUROR: There were 5 that voted that he did act  
14 lawfully.

15 MS. HECKERT: All right. So I think, although I  
16 told you I was only going to have you do this one thing,  
17 they snagged something else for you to do. They say it's  
18 going to be really fast.

19 JUROR: This wasn't enough?

20 MS. HECKERT: I know. I feel bad.

21 (At 1:59 P.M. the above-entitled  
22 grand jury session was concluded.)  
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REPORTER'S CERTIFICATE

I, EILEEN LEDDY, Oregon CSR No. 93-0265,  
California CSR No. 9649, Certified Shorthand Reporter,  
certify:

That the foregoing proceedings were taken  
before me at the time and place therein set forth, at which  
time the witness was put under oath by me;

That the testimony of the witness and all  
objections made at the time of the examination were recorded  
stenographically by me and were thereafter transcribed;

That the foregoing is a true and correct  
transcript of my shorthand notes so taken.

I further certify that I am not a relative or  
employee of any attorney or of any of the parties nor  
financially interested in the action.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_

/s/ Eileen Leddy

Certified Shorthand Reporter

(541) 479-7277



<p style="text-align: center;"><b>\$</b></p> <p><b>\$1.00</b> Vol. 1 - 69:25  <b>\$13</b> Vol. 1 - 70:3  <b>\$5.00 [2]</b> - Vol. 1 - 69:25, 70:4</p> <hr/> <p style="text-align: center;"><b>1</b></p> <p><b>1 [2]</b> - Vol. 1 - 68:23, 106:11  <b>10</b> Vol. 1 - 43:19  <b>100 [3]</b> - Vol. 1 - 30:16, 94:16, 95:5  <b>11 [2]</b> - Vol. 1 - 98:21, 119:18  <b>12 [4]</b> - Vol. 1 - 91:7, 97:14, 118:18, 119:18  <b>12:30</b> Vol. 1 - 79:12  <b>12th</b> Vol. 1 - 87:5  <b>13</b> Vol. 1 - 3:6  <b>15 [5]</b> - Vol. 1 - 51:10, 98:21, 118:16, 118:22, 119:2  <b>150</b> Vol. 1 - 94:13  <b>16 [2]</b> - Vol. 1 - 81:16, 81:21  <b>17 [6]</b> - Vol. 1 - 13:11, 14:4, 68:24, 68:24, 81:25, 103:18  <b>17-round</b> Vol. 1 - 81:18  <b>175-beats-per-mi</b> Vol. 1 - 102:13  <b>18</b> Vol. 1 - 3:7  <b>19 [2]</b> - Vol. 1 - 19:2, 92:7  <b>1976</b> Vol. 1 - 86:9  <b>1986</b> Vol. 1 - 86:15  <b>1:00</b> Vol. 1 - 79:13  <b>1:59</b> Vol. 1 - 132:21</p> <hr/> <p style="text-align: center;"><b>2</b></p> <p><b>2</b> Vol. 1 - 106:10  <b>2,000-hour</b> Vol. 1 - 72:11  <b>20 [3]</b> - Vol. 1 - 69:10, 89:15, 103:18  <b>2010</b> Vol. 1 - 7:15</p>	<p><b>2012 [5]</b> - Vol. 1 - 6:21, 7:15, 8:8, 8:18, 8:25  <b>2015</b> Vol. 1 - 86:11  <b>2018 [3]</b> - Vol. 1 - 2:7, 4:2, 133:17  <b>21 [2]</b> - Vol. 1 - 118:16, 119:2  <b>23 [2]</b> - Vol. 1 - 89:2, 89:15  <b>24 [2]</b> - Vol. 1 - 2:7, 4:2  <b>25</b> Vol. 1 - 98:22  <b>26</b> Vol. 1 - 18:17  <b>2:00</b> Vol. 1 - 51:24</p> <hr/> <p style="text-align: center;"><b>3</b></p> <p><b>3</b> Vol. 1 - 57:5  <b>3-foot</b> Vol. 1 - 68:18  <b>30 [9]</b> - Vol. 1 - 7:20, 15:7, 52:23, 67:5, 69:10, 89:17, 92:15, 93:2, 98:22</p> <hr/> <p style="text-align: center;"><b>4</b></p> <p><b>4 [4]</b> - Vol. 1 - 3:5, 68:24, 94:4, 113:1  <b>40 [2]</b> - Vol. 1 - 52:23, 112:23  <b>40-hour</b> Vol. 1 - 72:10</p> <hr/> <p style="text-align: center;"><b>5</b></p> <p><b>5 [18]</b> - Vol. 1 - 68:17, 92:7, 92:10, 92:14, 94:7, 94:9, 94:11, 94:12, 96:1, 97:1, 97:2, 97:4, 97:6, 97:7, 100:25, 105:9, 115:10, 132:13  <b>5-foot-4</b> Vol. 1 - 68:21  <b>5-second [3]</b> - Vol. 1 - 96:2, 96:2, 97:9  <b>50</b> Vol. 1 - 5:17  <b>500</b> Vol. 1 - 87:8  <b>51</b> Vol. 1 - 3:8  <b>5179</b> Vol. 1 - 80:20  <b>541)479-7277</b> Vol. 1 - 133:23  <b>5s [2]</b> - Vol. 1 -</p>	<p>70:1, 70:2</p> <hr/> <p style="text-align: center;"><b>6</b></p> <p><b>62 [9]</b> - Vol. 1 - 19:24, 21:7, 32:15, 52:21, 52:22, 52:23, 77:16, 77:19, 77:22  <b>67</b> Vol. 1 - 3:9  <b>6:00</b> Vol. 1 - 19:5</p> <hr/> <p style="text-align: center;"><b>7</b></p> <p><b>7 [6]</b> - Vol. 1 - 68:23, 91:7, 93:20, 94:4, 97:14, 97:15  <b>72</b> Vol. 1 - 3:10  <b>75</b> Vol. 1 - 3:11</p> <hr/> <p style="text-align: center;"><b>8</b></p> <p><b>8</b> Vol. 1 - 94:4  <b>85</b> Vol. 1 - 3:12  <b>88</b> Vol. 1 - 3:13</p> <hr/> <p style="text-align: center;"><b>9</b></p> <p><b>9 [4]</b> - Vol. 1 - 81:14, 112:25, 113:1, 113:2  <b>93-0265</b> Vol. 1 - 133:3  <b>9649</b> Vol. 1 - 133:4  <b>9:00 [2]</b> - Vol. 1 - 2:7, 4:2</p> <hr/> <p style="text-align: center;"><b>A</b></p> <p><b>A.M [2]</b> - Vol. 1 - 2:7, 4:2  <b>ability [4]</b> - Vol. 1 - 109:18, 112:2, 113:14, 116:7  <b>able [20]</b> - Vol. 1 - 31:15, 59:21, 69:17, 70:5, 70:9, 72:18, 72:21, 72:24, 73:16, 73:20, 73:22, 74:1, 75:20, 76:1, 77:10, 79:5, 79:7, 93:23, 101:21, 108:14  <b>above-entitled</b> Vol. 1 - 132:21  <b>absolutely [3]</b> - Vol. 1 - 105:3, 111:6, 132:12  <b>abuse</b> Vol. 1 -</p>	<p>89:7  <b>academy</b> Vol. 1 - 89:11  <b>accident [2]</b> - Vol. 1 - 23:2, 101:22  <b>accosted</b> Vol. 1 - 126:9  <b>account</b> Vol. 1 - 95:7  <b>accounts</b> Vol. 1 - 96:6  <b>accuracy [2]</b> - Vol. 1 - 121:6, 121:12  <b>accurate [2]</b> - Vol. 1 - 48:5, 75:25  <b>accurately</b> Vol. 1 - 111:15  <b>acronym</b> Vol. 1 - 90:21  <b>across [17]</b> - Vol. 1 - 14:9, 20:15, 20:16, 22:8, 22:17, 23:20, 23:21, 24:2, 24:11, 52:22, 68:17, 68:24, 70:13, 77:16, 95:15, 110:13, 110:21  <b>act [2]</b> - Vol. 1 - 130:22, 132:13  <b>acted</b> Vol. 1 - 22:23  <b>acting</b> Vol. 1 - 5:5  <b>action [2]</b> - Vol. 1 - 116:8, 133:16  <b>actions [2]</b> - Vol. 1 - 10:18, 116:10  <b>activate [6]</b> - Vol. 1 - 21:14, 53:6, 54:5, 54:11, 113:7, 115:10  <b>activated [8]</b> - Vol. 1 - 35:1, 58:15, 58:17, 58:18, 78:2, 93:5, 100:16, 100:22  <b>activates [3]</b> - Vol. 1 - 47:14, 77:23, 78:15  <b>activating [2]</b> - Vol. 1 - 22:8, 110:20  <b>activation [15]</b> - Vol. 1 - 92:4, 93:10, 94:10, 96:2, 96:20, 97:5, 97:9,</p>	<p>97:11, 100:25, 101:1, 105:8, 105:8, 105:10, 105:23, 115:1  <b>activations [2]</b> - Vol. 1 - 93:7, 93:8  <b>active</b> Vol. 1 - 78:22  <b>actively [3]</b> - Vol. 1 - 61:19, 61:21, 62:20  <b>actual [5]</b> - Vol. 1 - 7:11, 83:7, 90:11, 94:1, 116:9  <b>add</b> Vol. 1 - 76:25  <b>addition [3]</b> - Vol. 1 - 89:8, 89:17, 94:25  <b>additional</b> Vol. 1 - 110:17  <b>address [5]</b> - Vol. 1 - 22:19, 29:7, 117:25, 123:25, 128:14  <b>addresses</b> Vol. 1 - 75:23  <b>addressing</b> Vol. 1 - 25:12  <b>adheres</b> Vol. 1 - 72:20  <b>adjoining</b> Vol. 1 - 76:25  <b>administrators [3]</b> - Vol. 1 - 83:23, 83:25, 84:7  <b>adrenaline [6]</b> - Vol. 1 - 101:6, 102:4, 103:22, 103:22, 106:7, 118:10  <b>adrenalized [3]</b> - Vol. 1 - 103:4, 103:14, 118:6  <b>advent</b> Vol. 1 - 121:5  <b>affected [2]</b> - Vol. 1 - 66:24, 66:25  <b>afraid [3]</b> - Vol. 1 - 9:8, 12:8, 105:2  <b>aftermarket</b> Vol. 1 - 38:11  <b>aftermath</b> Vol. 1 - 82:20  <b>afterwards [7]</b> - Vol. 1 - 47:18, 60:21, 74:6, 83:13, 83:25, 117:3, 118:10  <b>against [13]</b> -</p>	<p>Vol. 1 - 55:19, 59:1, 61:22, 62:20, 70:11, 109:1, 113:6, 117:14, 119:16, 122:4, 123:1, 123:3, 123:3  <b>age</b> Vol. 1 - 118:1  <b>agency [7]</b> - Vol. 1 - 83:8, 83:11, 83:22, 83:24, 122:9, 122:11, 122:12  <b>agent</b> Vol. 1 - 75:13  <b>aggressive [3]</b> - Vol. 1 - 10:14, 10:17, 10:19  <b>aggressively</b> Vol. 1 - 12:18  <b>agitated [5]</b> - Vol. 1 - 6:11, 9:17, 17:14, 17:15, 17:16  <b>agreed</b> Vol. 1 - 74:22  <b>Ah</b> Vol. 1 - 115:20  <b>ahead [3]</b> - Vol. 1 - 12:3, 67:12, 79:9  <b>aim</b> Vol. 1 - 111:15  <b>alcohol</b> Vol. 1 - 88:5  <b>alcove [2]</b> - Vol. 1 - 68:16, 70:14  <b>alike</b> Vol. 1 - 114:18  <b>allow [2]</b> - Vol. 1 - 92:20, 96:19  <b>allowed [2]</b> - Vol. 1 - 123:17, 124:21  <b>allude</b> Vol. 1 - 128:15  <b>alone [2]</b> - Vol. 1 - 10:21, 80:23  <b>already [16]</b> - Vol. 1 - 21:12, 25:5, 25:6, 27:18, 40:5, 66:3, 81:20, 93:6, 94:5, 99:3, 99:24, 111:7, 111:7, 111:20, 112:14, 115:17  <b>alter</b> Vol. 1 - 84:12  <b>although [2]</b> - Vol. 1 - 106:23, 132:15  <b>amazing [2]</b> - Vol. 1 - 8:20,</p>
---	---	---	---	--	---

<p>102:10  <b>ambient</b> Vol. 1 - 107:4  <b>ambulances</b> Vol. 1 - 15:9  <b>ammo</b> Vol. 1 - 80:25  <b>amount [7]</b> - Vol. 1 - 34:17, 69:7, 111:10, 114:4, 121:19, 121:21, 122:3  <b>amped</b> Vol. 1 - 65:18  <b>analysis [3]</b> - Vol. 1 - 74:21, 109:10, 114:21  <b>anatomic</b> Vol. 1 - 86:8  <b>and/or [4]</b> - Vol. 1 - 24:10, 89:13, 109:13, 109:14  <b>angry [3]</b> - Vol. 1 - 17:14, 35:11, 98:18  <b>anomaly</b> Vol. 1 - 104:20  <b>answers</b> Vol. 1 - 11:17  <b>anymore [4]</b> - Vol. 1 - 8:23, 8:24, 110:25, 122:16  <b>anyplace</b> Vol. 1 - 78:18  <b>anyway [6]</b> - Vol. 1 - 5:11, 5:17, 5:21, 6:8, 7:24, 8:6  <b>aorta</b> Vol. 1 - 87:11  <b>appear [2]</b> - Vol. 1 - 50:4, 102:2  <b>appearance</b> Vol. 1 - 97:17  <b>appears</b> Vol. 1 - 55:8  <b>applied</b> Vol. 1 - 56:12  <b>apply</b> Vol. 1 - 94:17  <b>appreciate [3]</b> - Vol. 1 - 11:15, 13:2, 88:10  <b>appropriately</b> Vol. 1 - 62:21  <b>approximately [8]</b> - Vol. 1 - 68:17, 68:18, 68:21, 69:10, 87:8, 89:2, 91:7, 94:4  <b>arch [2]</b> - Vol. 1 -</p>	<p>91:10, 91:10  <b>arcing</b> Vol. 1 - 115:1  <b>area-throat</b> Vol. 1 - 35:1  <b>areas [2]</b> - Vol. 1 - 95:15, 121:25  <b>aren't [2]</b> - Vol. 1 - 106:19, 118:23  <b>argue [3]</b> - Vol. 1 - 104:8, 108:17, 123:12  <b>argument [5]</b> - Vol. 1 - 9:12, 104:2, 104:2, 121:6, 121:10  <b>arguments</b> Vol. 1 - 120:24  <b>arm [3]</b> - Vol. 1 - 31:24, 35:16, 93:20  <b>armed</b> Vol. 1 - 58:16  <b>armpit</b> Vol. 1 - 87:2  <b>arms</b> Vol. 1 - 91:22  <b>arresting</b> Vol. 1 - 124:18  <b>arrive [2]</b> - Vol. 1 - 57:4, 89:24  <b>arrived [2]</b> - Vol. 1 - 46:8, 53:8  <b>asking [5]</b> - Vol. 1 - 32:13, 37:18, 40:7, 44:20, 124:23  <b>asks</b> Vol. 1 - 31:3  <b>Asperger's</b> Vol. 1 - 108:2  <b>Assault</b> Vol. 1 - 57:14  <b>Assaulting</b> Vol. 1 - 124:15  <b>assigned [3]</b> - Vol. 1 - 57:9, 75:13, 77:2  <b>assigning</b> Vol. 1 - 75:16  <b>assist</b> Vol. 1 - 56:20  <b>assume [2]</b> - Vol. 1 - 60:12, 60:13  <b>assumed</b> Vol. 1 - 59:20  <b>assuming [2]</b> - Vol. 1 - 25:20, 81:20  <b>ate</b> Vol. 1 - 19:12  <b>ATM</b> Vol. 1 - 78:19  <b>attempt [2]</b> -</p>	<p>Vol. 1 - 59:21, 109:21  <b>attempting [4]</b> - Vol. 1 - 61:19, 62:20, 62:23, 76:6  <b>attended</b> Vol. 1 - 57:12  <b>attention [4]</b> - Vol. 1 - 14:15, 40:20, 52:5, 65:20  <b>attorney [2]</b> - Vol. 1 - 2:25, 133:15  <b>audible</b> Vol. 1 - 36:3  <b>audio [2]</b> - Vol. 1 - 100:24, 101:2  <b>audit</b> Vol. 1 - 84:3  <b>Auditory</b> Vol. 1 - 102:3  <b>autism</b> Vol. 1 - 108:2  <b>automatic</b> Vol. 1 - 113:18  <b>automatically [2]</b> - Vol. 1 - 41:8, 83:10  <b>autopsy [3]</b> - Vol. 1 - 86:18, 90:7, 93:19  <b>auxiliary</b> Vol. 1 - 120:13  <b>available [2]</b> - Vol. 1 - 75:22, 119:10  <b>avoiding [2]</b> - Vol. 1 - 12:18, 129:6  <b>Axon</b> Vol. 1 - 83:1</p> <hr/> <p style="text-align: center;"><b>B</b></p> <hr/> <p><b>B-I-a-c-k</b> Vol. 1 - 88:20  <b>Bachelor</b> Vol. 1 - 86:4  <b>backed [2]</b> - Vol. 1 - 12:22, 12:25  <b>background [2]</b> - Vol. 1 - 86:3, 88:25  <b>backs</b> Vol. 1 - 121:11  <b>backup [7]</b> - Vol. 1 - 15:8, 30:21, 52:6, 52:9, 52:11, 53:2, 56:19  <b>bad [6]</b> - Vol. 1 -</p>	<p>7:16, 32:25, 98:13, 108:1, 111:10, 132:20  <b>bank</b> Vol. 1 - 78:19  <b>barb [2]</b> - Vol. 1 - 97:13, 98:14  <b>barbs [9]</b> - Vol. 1 - 87:16, 87:21, 87:22, 91:9, 92:21, 93:11, 98:24, 99:24, 110:1  <b>barrel [2]</b> - Vol. 1 - 28:6, 57:25  <b>barricade</b> Vol. 1 - 26:19  <b>barricading</b> Vol. 1 - 26:12  <b>basically [20]</b> - Vol. 1 - 10:13, 70:8, 70:16, 72:19, 74:12, 87:19, 91:2, 91:4, 91:12, 91:23, 92:24, 95:18, 96:16, 96:20, 99:4, 101:7, 102:23, 116:10, 118:3, 118:25  <b>bath</b> Vol. 1 - 26:16  <b>bathroom [41]</b> - Vol. 1 - 12:22, 26:11, 26:18, 27:19, 27:21, 28:2, 29:13, 32:17, 32:18, 35:20, 35:21, 36:14, 43:12, 53:20, 54:13, 54:16, 54:19, 55:2, 56:21, 56:24, 68:9, 68:11, 68:12, 68:16, 68:17, 68:22, 68:23, 68:25, 68:25, 69:5, 69:12, 70:17, 77:9, 90:9, 94:1, 124:4, 125:24, 126:25, 127:1, 128:25, 129:1  <b>battery [10]</b> - Vol. 1 - 90:19, 90:19, 94:17, 95:10, 95:11, 95:12, 96:16, 96:17, 96:17, 96:22  <b>Bean(sic)</b> Vol. 1 - 16:16</p>	<p><b>beat</b> Vol. 1 - 118:7  <b>became</b> Vol. 1 - 10:17  <b>become [2]</b> - Vol. 1 - 10:1, 89:12  <b>beginning [4]</b> - Vol. 1 - 21:18, 123:13, 124:3, 124:17  <b>begins [2]</b> - Vol. 1 - 25:13, 114:6  <b>behavior [5]</b> - Vol. 1 - 6:10, 8:23, 11:14, 28:18, 29:24  <b>behind [7]</b> - Vol. 1 - 29:15, 35:21, 36:16, 42:23, 46:9, 91:5, 116:18  <b>belief [2]</b> - Vol. 1 - 109:8, 123:5  <b>believable</b> Vol. 1 - 109:17  <b>believed [4]</b> - Vol. 1 - 50:12, 64:1, 109:12, 111:4  <b>believer</b> Vol. 1 - 117:14  <b>believes</b> Vol. 1 - 76:3  <b>bell [3]</b> - Vol. 1 - 54:25, 55:7, 59:14  <b>belong</b> Vol. 1 - 83:9  <b>belt</b> Vol. 1 - 81:15  <b>benefit</b> Vol. 1 - 32:25  <b>best [6]</b> - Vol. 1 - 79:9, 79:10, 79:13, 101:20, 108:4, 111:9  <b>bet [3]</b> - Vol. 1 - 34:8, 34:9, 99:11  <b>BETH</b> Vol. 1 - 2:24  <b>better [7]</b> - Vol. 1 - 23:11, 88:25, 98:21, 101:4, 101:13, 107:3, 118:21  <b>beyond [2]</b> - Vol. 1 - 22:20, 109:15  <b>bifurcate [2]</b> - Vol. 1 - 73:6, 73:18  <b>bill</b> Vol. 1 - 69:25  <b>bills [2]</b> - Vol. 1 -</p>	<p>69:25, 70:4  <b>bit [27]</b> - Vol. 1 - 5:4, 24:1, 24:1, 30:6, 45:12, 45:20, 54:25, 55:7, 63:7, 69:4, 70:12, 73:12, 75:14, 80:8, 82:22, 86:2, 87:6, 88:24, 97:16, 101:10, 101:13, 102:15, 106:2, 114:12, 118:22, 122:20, 122:22  <b>bitch [4]</b> - Vol. 1 - 25:19, 25:22, 48:24, 48:24  <b>black [13]</b> - Vol. 1 - 3:13, 13:13, 14:6, 14:7, 16:25, 37:21, 38:8, 71:11, 79:4, 88:13, 88:16, 101:22, 131:10  <b>blade</b> Vol. 1 - 45:8  <b>bleeding</b> Vol. 1 - 39:20  <b>block [5]</b> - Vol. 1 - 13:15, 59:21, 59:22, 113:4, 113:6  <b>blocking</b> Vol. 1 - 125:23  <b>blood [10]</b> - Vol. 1 - 39:20, 69:4, 70:9, 70:9, 70:10, 70:10, 82:2, 82:19, 87:7, 112:9  <b>blow [4]</b> - Vol. 1 - 36:20, 42:5, 42:7, 115:6  <b>blown</b> Vol. 1 - 68:7  <b>blows</b> Vol. 1 - 9:14  <b>board</b> Vol. 1 - 86:7  <b>body [41]</b> - Vol. 1 - 21:14, 21:16, 21:17, 25:13, 38:22, 40:4, 40:24, 41:2, 41:4, 42:15, 44:10, 44:14, 45:15, 45:17, 53:22, 65:23, 66:1, 66:7, 69:20, 76:18, 76:23, 78:2, 82:12, 82:14,</p>
--	--	--	--	--	---



82:22, 84:14, 84:19, 84:24, 86:21, 86:21, 87:5, 87:17, 87:22, 87:22, 91:9, 91:10, 101:7, 101:15, 102:10, 110:14, 122:16 <b>body-worn</b> Vol. 1 - 82:3 <b>boils</b> Vol. 1 - 123:6 <b>bookmark</b> Vol. 1 - 84:10 <b>bookmarks</b> Vol. 1 - 84:9 <b>boots</b> Vol. 1 - 82:2 <b>borne</b> Vol. 1 - 100:23 <b>bottle</b> Vol. 1 - 6:14 <b>bottles</b> Vol. 1 - 6:13 <b>bottom [2]</b> - Vol. 1 - 97:13, 110:6 <b>bowing-type</b> Vol. 1 - 73:20 <b>brace</b> Vol. 1 - 36:16 <b>braced</b> Vol. 1 - 36:2 <b>braces [2]</b> - Vol. 1 - 34:12, 34:13 <b>brain [7]</b> - Vol. 1 - 103:11, 104:15, 107:8, 114:13, 114:14, 115:5, 116:7 <b>brake [3]</b> - Vol. 1 - 20:22, 20:22, 116:24 <b>brakes [3]</b> - Vol. 1 - 20:9, 20:19, 21:4 <b>braking</b> Vol. 1 - 116:16 <b>break [2]</b> - Vol. 1 - 79:10, 124:2 <b>breakfast</b> Vol. 1 - 19:12 <b>Brian [2]</b> - Vol. 1 - 72:12, 74:18 <b>briefly</b> Vol. 1 - 86:1 <b>bright</b> Vol. 1 - 132:10 <b>bring [3]</b> - Vol. 1 - 74:20, 98:8, 132:8 <b>brother</b> Vol. 1 -	9:12 <b>bruising</b> Vol. 1 - 87:20 <b>brush</b> Vol. 1 - 110:21 <b>buddy [2]</b> - Vol. 1 - 115:25, 125:20 <b>build</b> Vol. 1 - 26:7 <b>building</b> Vol. 1 - 5:15 <b>buildings</b> Vol. 1 - 78:22 <b>builds</b> Vol. 1 - 127:24 <b>built</b> Vol. 1 - 128:6 <b>bullet [4]</b> - Vol. 1 - 86:22, 87:5, 87:10, 114:3 <b>bullets [4]</b> - Vol. 1 - 114:4, 114:5, 121:8, 122:3 <b>bumper</b> Vol. 1 - 44:9 <b>bunch [3]</b> - Vol. 1 - 83:14, 83:17, 122:25 <b>Burchfiel [3]</b> - Vol. 1 - 79:16, 79:20, 84:13 <b>businesses [5]</b> - Vol. 1 - 24:25, 76:25, 77:4, 77:11, 78:17 <b>butt</b> Vol. 1 - 38:13 <b>buttocks</b> Vol. 1 - 37:12 <b>button</b> Vol. 1 - 54:5 <hr/> <b>C</b> <hr/> <b>California [2]</b> - Vol. 1 - 121:17, 133:4 <b>calling [2]</b> - Vol. 1 - 44:19, 54:8 <b>calm [2]</b> - Vol. 1 - 6:10, 9:16 <b>cam [16]</b> - Vol. 1 - 42:16, 44:10, 45:15, 53:22, 65:23, 66:1, 69:20, 76:18, 76:23, 78:2, 82:12, 82:14, 82:22, 84:19, 84:24, 122:16 <b>camera [13]</b> - Vol. 1 - 21:14, 21:16, 21:19, 22:7, 40:4, 40:6,	42:3, 44:25, 77:5, 77:19, 78:19, 82:3, 82:16 <b>camera'g</b> Vol. 1 - 84:15 <b>camera's</b> Vol. 1 - 16:21 <b>cameras [9]</b> - Vol. 1 - 16:16, 21:17, 21:19, 22:2, 77:4, 77:7, 77:13, 78:22, 83:5 <b>can't [26]</b> - Vol. 1 - 7:22, 9:21, 22:12, 33:23, 41:3, 41:5, 53:12, 53:12, 53:16, 74:13, 78:7, 78:7, 83:7, 83:19, 83:21, 83:23, 84:8, 84:12, 91:22, 98:10, 100:23, 104:13, 114:7, 116:20, 127:1, 129:22 <b>cannabinoids</b> Vol. 1 - 88:3 <b>cannot [2]</b> - Vol. 1 - 84:2, 110:25 <b>canvas</b> Vol. 1 - 77:3 <b>capacity [4]</b> - Vol. 1 - 81:19, 121:5, 121:23, 129:8 <b>capture [3]</b> - Vol. 1 - 77:6, 78:19, 84:22 <b>captured</b> Vol. 1 - 76:23 <b>car's</b> Vol. 1 - 116:19 <b>car-and-a-half</b> Vol. 1 - 26:2 <b>card [2]</b> - Vol. 1 - 5:23, 73:13 <b>Cardenas [48]</b> - Vol. 1 - 3:7, 17:22, 17:23, 18:2, 18:8, 44:7, 48:8, 51:18, 53:13, 53:18, 54:15, 54:17, 54:22, 54:23, 55:4, 55:16, 56:7, 56:15, 57:3, 59:18, 60:9, 61:10, 61:13, 63:13, 80:18, 80:21,	81:11, 81:13, 81:23, 82:16, 94:7, 96:7, 104:1, 104:6, 104:20, 105:17, 106:5, 106:13, 107:1, 109:7, 109:12, 112:25, 115:12, 119:20, 119:21, 125:19, 125:23, 126:3 <b>Cardenas's [4]</b> - Vol. 1 - 61:3, 77:21, 78:2, 106:4 <b>cards [2]</b> - Vol. 1 - 31:19, 31:19 <b>care [2]</b> - Vol. 1 - 28:25, 111:11 <b>career</b> Vol. 1 - 117:15 <b>caring</b> Vol. 1 - 104:15 <b>Carl's [30]</b> - Vol. 1 - 4:6, 4:25, 6:1, 6:3, 6:5, 6:8, 11:11, 13:14, 14:10, 14:23, 15:2, 15:7, 15:16, 16:1, 16:19, 16:20, 25:24, 26:8, 26:17, 29:11, 32:14, 52:19, 52:21, 53:11, 68:6, 76:14, 77:5, 79:7, 80:3, 90:9 <b>carried [3]</b> - Vol. 1 - 81:15, 120:25, 121:2 <b>carry [22]</b> - Vol. 1 - 81:1, 81:4, 81:8, 81:8, 81:9, 81:9, 81:10, 110:6, 110:10, 110:16, 111:14, 120:7, 120:11, 120:15, 120:19, 120:20, 120:22, 121:1, 121:14, 122:1, 122:4, 132:5 <b>carrying</b> Vol. 1 - 112:23 <b>cartridge [14]</b> - Vol. 1 - 56:1, 66:12, 70:18, 70:18, 70:20, 70:23, 70:24, 90:25, 91:3, 96:5, 96:24, 98:22, 110:6, 110:24 <b>cartridges [4]</b> -	Vol. 1 - 71:3, 98:19, 110:7, 110:17 <b>case [12]</b> - Vol. 1 - 52:11, 72:14, 75:13, 75:14, 80:13, 80:15, 90:2, 94:7, 96:7, 97:3, 116:12, 121:22 <b>cases [6]</b> - Vol. 1 - 70:20, 70:23, 70:24, 74:11, 89:6, 117:10 <b>cash</b> Vol. 1 - 31:18 <b>casings</b> Vol. 1 - 71:2 <b>cat</b> Vol. 1 - 5:10 <b>catch [3]</b> - Vol. 1 - 104:23, 105:17, 116:7 <b>catching</b> Vol. 1 - 115:5 <b>cattery</b> Vol. 1 - 5:12 <b>cattle</b> Vol. 1 - 98:1 <b>caught</b> Vol. 1 - 23:8 <b>cause [8]</b> - Vol. 1 - 23:2, 66:20, 74:1, 74:9, 91:11, 104:25, 109:18, 125:2 <b>caused [2]</b> - Vol. 1 - 10:18, 118:3 <b>causing</b> Vol. 1 - 11:12 <b>cavity [4]</b> - Vol. 1 - 87:1, 87:4, 87:7, 87:9 <b>center</b> Vol. 1 - 86:24 <b>Central [3]</b> - Vol. 1 - 68:1, 80:20, 85:22 <b>certain [2]</b> - Vol. 1 - 73:10, 127:8 <b>certainly [2]</b> - Vol. 1 - 65:17, 74:10 <b>CERTIFICATE</b> Vol. 1 - 133:1 <b>certified [3]</b> - Vol. 1 - 86:7, 133:4, 133:22 <b>certify [2]</b> - Vol. 1 - 133:5, 133:14 <b>chair [2]</b> - Vol. 1 - 103:5, 103:7 <b>challenging</b>	Vol. 1 - 119:25 <b>chamber [5]</b> - Vol. 1 - 72:19, 72:19, 81:5, 81:6, 81:7 <b>chambers</b> Vol. 1 - 81:17 <b>chance [4]</b> - Vol. 1 - 39:16, 90:12, 111:22, 129:7 <b>chances [2]</b> - Vol. 1 - 111:23, 118:18 <b>Chandler</b> Vol. 1 - 75:19 <b>Chandler's</b> Vol. 1 - 76:1 <b>change [2]</b> - Vol. 1 - 31:5, 131:23 <b>changed</b> Vol. 1 - 97:25 <b>changes [2]</b> - Vol. 1 - 101:11, 121:24 <b>changing</b> Vol. 1 - 114:9 <b>charge [12]</b> - Vol. 1 - 56:4, 90:20, 90:20, 94:13, 94:17, 95:15, 95:23, 95:23, 96:2, 96:15, 96:21, 100:11 <b>charges</b> Vol. 1 - 110:20 <b>charging</b> Vol. 1 - 96:21 <b>chart [5]</b> - Vol. 1 - 95:3, 95:3, 95:4, 96:1, 96:12 <b>charts [3]</b> - Vol. 1 - 92:25, 93:4, 93:13 <b>chest [11]</b> - Vol. 1 - 32:5, 34:22, 34:23, 35:1, 42:24, 45:1, 86:25, 87:4, 87:7, 87:8, 87:18 <b>Chief</b> Vol. 1 - 132:3 <b>child [2]</b> - Vol. 1 - 89:6, 104:15 <b>choice</b> Vol. 1 - 99:3 <b>chores</b> Vol. 1 - 5:13 <b>Chris</b> Vol. 1 - 75:19 <b>Cinemark [2]</b> - Vol. 1 - 6:6,
---	---	--	--	---	---

<p>11:11  <b>circuit [3]</b> - Vol. 1 - 95:21, 100:11, 102:12  <b>circumstance</b>  Vol. 1 - 62:4  <b>circumstances [4]</b> - Vol. 1 - 62:6, 62:9, 62:12, 65:17  <b>citation</b> Vol. 1 - 128:17  <b>city [3]</b> - Vol. 1 - 6:6, 18:9, 132:3  <b>civil</b> Vol. 1 - 131:23  <b>civilians</b> Vol. 1 - 103:2  <b>CJ's</b> Vol. 1 - 37:22  <b>Clarence [2]</b> - Vol. 1 - 3:8, 51:2  <b>classified</b> Vol. 1 - 70:8  <b>clean [2]</b> - Vol. 1 - 8:19, 8:20  <b>cleaning</b> Vol. 1 - 14:16  <b>clear [9]</b> - Vol. 1 - 21:8, 21:10, 22:20, 30:17, 30:24, 32:20, 33:7, 35:12, 35:23  <b>clearly [4]</b> - Vol. 1 - 24:5, 47:7, 124:3, 125:12  <b>click</b> Vol. 1 - 49:5  <b>clicked [2]</b> - Vol. 1 - 47:5, 47:7  <b>clicking</b> Vol. 1 - 45:25  <b>Clinica [2]</b> - Vol. 1 - 7:23, 8:2  <b>clinical</b> Vol. 1 - 86:8  <b>close [12]</b> - Vol. 1 - 33:8, 33:20, 66:13, 66:13, 66:19, 66:23, 95:14, 98:4, 98:17, 114:9, 116:1, 119:11  <b>closed [2]</b> - Vol. 1 - 104:18, 105:1  <b>closer [3]</b> - Vol. 1 - 33:11, 115:21, 130:12  <b>closes</b> Vol. 1 - 36:16  <b>closest</b> Vol. 1 - 80:12  <b>closing</b> Vol. 1 -</p>	<p>119:24  <b>clothing [4]</b> - Vol. 1 - 67:3, 86:23, 94:20, 96:11  <b>cloud [2]</b> - Vol. 1 - 83:11, 83:12  <b>coats</b> Vol. 1 - 67:6  <b>cock</b> Vol. 1 - 35:16  <b>cocks</b> Vol. 1 - 36:1  <b>Code</b> Vol. 1 - 57:5  <b>Coffee</b> Vol. 1 - 13:13  <b>cold</b> Vol. 1 - 8:19  <b>collect</b> Vol. 1 - 80:15  <b>collected [5]</b> - Vol. 1 - 69:15, 69:21, 69:23, 70:19, 70:21  <b>color [4]</b> - Vol. 1 - 122:6, 131:15, 131:16, 132:10  <b>colors</b> Vol. 1 - 131:10  <b>column [2]</b> - Vol. 1 - 87:10, 87:12  <b>combat</b> Vol. 1 - 103:3  <b>combatives [2]</b> - Vol. 1 - 89:19, 118:25  <b>combination</b>  Vol. 1 - 63:24  <b>comes [8]</b> - Vol. 1 - 31:18, 33:9, 33:10, 33:11, 48:18, 69:6, 77:23, 78:14  <b>coming [16]</b> - Vol. 1 - 11:15, 13:2, 21:12, 22:9, 28:7, 32:7, 35:15, 35:25, 55:9, 56:19, 59:16, 59:20, 78:5, 88:11, 113:10, 119:25  <b>command [2]</b> - Vol. 1 - 89:4, 116:23  <b>commands [8]</b> - Vol. 1 - 53:18, 54:16, 54:20, 63:19, 64:25, 112:3, 112:3, 125:8  <b>comment</b> Vol. 1 - 11:25</p>	<p><b>comments [2]</b> - Vol. 1 - 9:6, 106:4  <b>committed [5]</b> - Vol. 1 - 24:10, 26:14, 123:13, 124:6, 124:15  <b>common [8]</b> - Vol. 1 - 74:13, 88:20, 94:21, 99:15, 102:4, 112:14, 117:21, 118:2  <b>communicate</b>  Vol. 1 - 49:2  <b>communication</b>  Vol. 1 - 49:3  <b>community [3]</b> - Vol. 1 - 32:24, 33:2, 72:4  <b>companion [4]</b> - Vol. 1 - 57:9, 80:11, 84:14, 84:16  <b>company [2]</b> - Vol. 1 - 83:2, 131:23  <b>compared</b> Vol. 1 - 117:24  <b>complaints [3]</b> - Vol. 1 - 11:10, 11:13, 12:4  <b>complete</b> Vol. 1 - 78:11  <b>completely [5]</b> - Vol. 1 - 21:20, 29:16, 50:2, 88:2, 101:18  <b>complied</b> Vol. 1 - 125:17  <b>comply</b> Vol. 1 - 65:18  <b>compressed [2]</b> - Vol. 1 - 91:2, 91:2  <b>computer [7]</b> - Vol. 1 - 83:6, 102:20, 105:1, 106:8, 112:9, 112:10, 130:14  <b>concealed [4]</b> - Vol. 1 - 24:9, 27:6, 27:24, 27:24  <b>concentrate</b>  Vol. 1 - 107:8  <b>concentrating [2]</b> - Vol. 1 - 107:7, 107:9  <b>concept</b> Vol. 1 - 43:17  <b>concluded</b> Vol. 1 - 132:22  <b>conclusion [5]</b> -</p>	<p>Vol. 1 - 108:15, 109:3, 109:6, 113:24, 114:2  <b>conduct</b> Vol. 1 - 97:23  <b>conducted [2]</b> - Vol. 1 - 2:23, 97:23  <b>CONFIDENTIAL</b>  Vol. 1 - 1:8  <b>configuration</b>  Vol. 1 - 110:24  <b>configurations</b>  Vol. 1 - 121:2  <b>configured</b> Vol. 1 - 110:5  <b>confines</b> Vol. 1 - 12:21  <b>confirmed</b> Vol. 1 - 62:14  <b>confused [4]</b> - Vol. 1 - 7:7, 23:17, 99:18, 107:14  <b>confusion</b> Vol. 1 - 12:9  <b>connected</b> Vol. 1 - 36:4  <b>connection [7]</b> - Vol. 1 - 56:3, 94:15, 94:18, 94:19, 94:25, 100:12, 107:5  <b>cons</b> Vol. 1 - 99:14  <b>conscious</b> Vol. 1 - 56:14  <b>consider</b> Vol. 1 - 12:13  <b>consistent [3]</b> - Vol. 1 - 81:21, 83:17, 94:10  <b>consisting</b> Vol. 1 - 85:24  <b>constantly</b> Vol. 1 - 49:11  <b>construct</b> Vol. 1 - 43:21  <b>contact [23]</b> - Vol. 1 - 21:5, 21:14, 43:11, 59:9, 63:7, 66:13, 66:13, 66:13, 66:14, 66:21, 66:22, 75:25, 76:5, 77:17, 77:17, 77:24, 78:16, 79:6, 100:7, 124:7, 128:10, 128:24, 129:2  <b>contacted [2]</b> - Vol. 1 - 23:9, 76:10</p>	<p><b>contacting</b> Vol. 1 - 96:11  <b>contacts [2]</b> - Vol. 1 - 55:25, 95:13  <b>contain</b> Vol. 1 - 69:7  <b>contained</b> Vol. 1 - 33:15  <b>continue [3]</b> - Vol. 1 - 28:25, 92:14, 114:2  <b>continued [2]</b> - Vol. 1 - 24:21, 108:11  <b>continues [4]</b> - Vol. 1 - 22:10, 22:13, 23:24, 26:8  <b>continuing [2]</b> - Vol. 1 - 22:9, 24:12  <b>contract</b> Vol. 1 - 86:12  <b>control [5]</b> - Vol. 1 - 55:5, 92:10, 92:12, 98:8, 111:16  <b>controlling</b> Vol. 1 - 119:20  <b>convenience</b>  Vol. 1 - 121:15  <b>conversation [3]</b> - Vol. 1 - 39:11, 47:17, 84:25  <b>convey</b> Vol. 1 - 132:2  <b>cool [2]</b> - Vol. 1 - 12:23, 102:11  <b>Coos</b> Vol. 1 - 85:25  <b>cop [6]</b> - Vol. 1 - 14:16, 15:18, 16:12, 118:7, 129:8, 129:11  <b>cops [4]</b> - Vol. 1 - 15:9, 104:16, 105:2, 118:5  <b>cord</b> Vol. 1 - 87:9  <b>core</b> Vol. 1 - 101:18  <b>corner [7]</b> - Vol. 1 - 20:2, 20:2, 27:9, 36:18, 36:25, 37:1, 37:9  <b>cornered</b> Vol. 1 - 12:25  <b>correct [9]</b> - Vol. 1 - 57:23, 58:8, 58:22, 76:8, 76:19, 76:20, 96:16, 113:2, 133:12  <b>correction</b> Vol. 1 -</p>	<p>96:4  <b>corrections [2]</b> - Vol. 1 - 89:5, 89:13  <b>correctly</b> Vol. 1 - 112:22  <b>correlation</b> Vol. 1 - 120:14  <b>couldn't [6]</b> - Vol. 1 - 6:2, 7:23, 13:1, 16:6, 40:8, 123:16  <b>counsel</b> Vol. 1 - 132:3  <b>count [3]</b> - Vol. 1 - 80:25, 97:2, 115:8  <b>counties</b> Vol. 1 - 85:23  <b>County [5]</b> - Vol. 1 - 24:24, 85:19, 89:1, 89:10, 107:21  <b>County's</b> Vol. 1 - 86:13  <b>couple [9]</b> - Vol. 1 - 5:1, 9:3, 39:6, 60:10, 79:14, 102:1, 103:23, 124:11, 131:21  <b>course [2]</b> - Vol. 1 - 121:20, 132:1  <b>courses [2]</b> - Vol. 1 - 72:9, 72:10  <b>cover [5]</b> - Vol. 1 - 7:24, 16:18, 25:3, 76:17, 85:22  <b>covered</b> Vol. 1 - 76:18  <b>covering</b> Vol. 1 - 58:3  <b>cow</b> Vol. 1 - 43:18  <b>crackly</b> Vol. 1 - 46:15  <b>crap [2]</b> - Vol. 1 - 34:13, 115:14  <b>Crater</b> Vol. 1 - 80:20  <b>create [8]</b> - Vol. 1 - 84:9, 84:10, 90:19, 90:20, 91:9, 95:21, 95:22, 120:24  <b>created [3]</b> - Vol. 1 - 68:11, 95:1, 103:3  <b>crime [15]</b> - Vol. 1 - 24:10, 26:14, 90:7, 123:11, 123:12, 124:4,</p>
---	--	---	---	---	--

124:6, 124:19, 124:20, 125:4, 125:11, 126:20, 126:21, 128:11, 128:16 <b>crimes</b> Vol. 1 - 89:7 <b>criminal</b> Vol. 1 - 80:1 <b>criminalist's</b> Vol. 1 - 70:6 <b>critical</b> Vol. 1 - 57:11 <b>cross [3]</b> - Vol. 1 - 20:8, 20:8, 63:10 <b>crossed [4]</b> - Vol. 1 - 20:11, 21:2, 21:3, 25:5 <b>crosses</b> Vol. 1 - 77:20 <b>crossing [4]</b> - Vol. 1 - 20:12, 23:1, 50:5, 77:20 <b>crosswalk [3]</b> - Vol. 1 - 20:7, 20:23, 21:13 <b>crowd</b> Vol. 1 - 7:16 <b>Crystal</b> Vol. 1 - 19:24 <b>CSR [2]</b> - Vol. 1 - 133:3, 133:4 <b>cuffing</b> Vol. 1 - 92:16 <b>cuffs</b> Vol. 1 - 92:20 <b>curls</b> Vol. 1 - 35:5 <b>currency [3]</b> - Vol. 1 - 69:19, 69:21, 69:24 <b>current</b> Vol. 1 - 110:24 <b>currently</b> Vol. 1 - 9:5 <b>Curry</b> Vol. 1 - 85:25 <b>cuss</b> Vol. 1 - 65:14 <b>custody [2]</b> - Vol. 1 - 33:4, 56:8 <b>customer</b> Vol. 1 - 53:16 <b>cut [2]</b> - Vol. 1 - 82:19, 86:23 <b>cycle</b> Vol. 1 - 116:2	87:6, 87:16 <b>danger [5]</b> - Vol. 1 - 29:22, 29:23, 50:13, 131:1, 131:2 <b>dangerous</b> Vol. 1 - 28:3 <b>Daniel [3]</b> - Vol. 1 - 3:7, 17:23, 18:2 <b>dark [2]</b> - Vol. 1 - 20:4, 99:9 <b>darts</b> Vol. 1 - 66:12 <b>data</b> Vol. 1 - 120:13 <b>databases</b> Vol. 1 - 75:22 <b>date [3]</b> - Vol. 1 - 9:19, 19:1, 51:15 <b>Dated</b> Vol. 1 - 133:17 <b>David [5]</b> - Vol. 1 - 3:10, 3:11, 71:17, 71:20, 75:7 <b>Davis [36]</b> - Vol. 1 - 3:8, 24:17, 24:19, 32:6, 34:14, 35:21, 36:5, 36:17, 37:17, 39:14, 46:10, 46:11, 46:12, 46:18, 50:20, 50:21, 51:2, 51:8, 80:18, 80:22, 82:6, 82:17, 99:22, 99:23, 100:3, 100:4, 104:1, 104:5, 105:10, 105:12, 105:18, 105:20, 106:14, 109:13, 112:23, 124:14 <b>Davis's</b> Vol. 1 - 50:13 <b>daytime</b> Vol. 1 - 5:18 <b>dazed</b> Vol. 1 - 105:12 <b>deadly [10]</b> - Vol. 1 - 108:23, 109:1, 113:21, 113:25, 114:2, 120:14, 122:23, 123:1, 123:3, 130:5 <b>dealing [4]</b> - Vol. 1 - 55:16, 63:3, 92:8, 107:25 <b>dealings</b> Vol. 1 - 59:2	<b>dealt [3]</b> - Vol. 1 - 49:18, 61:12, 89:19 <b>Death</b> Vol. 1 - 57:14 <b>debilitating [2]</b> - Vol. 1 - 56:4, 66:24 <b>debit</b> Vol. 1 - 5:23 <b>decide [5]</b> - Vol. 1 - 6:17, 21:5, 24:13, 74:21, 130:21 <b>decided [5]</b> - Vol. 1 - 6:3, 6:18, 42:5, 42:7, 74:19 <b>deciding</b> Vol. 1 - 130:20 <b>decision [10]</b> - Vol. 1 - 50:11, 104:23, 108:6, 108:7, 108:11, 115:24, 116:22, 122:9, 122:10, 122:12 <b>decision-making</b> Vol. 1 - 89:24 <b>deescalate</b> Vol. 1 - 31:6 <b>deescalation</b> Vol. 1 - 63:4 <b>defend</b> Vol. 1 - 123:4 <b>defense [2]</b> - Vol. 1 - 109:7, 122:24 <b>defiant</b> Vol. 1 - 10:2 <b>deficiencies</b> Vol. 1 - 63:1 <b>definitely [3]</b> - Vol. 1 - 62:5, 64:3, 132:7 <b>defused</b> Vol. 1 - 9:16 <b>degree [2]</b> - Vol. 1 - 86:4, 114:19 <b>deliberate [2]</b> - Vol. 1 - 106:11, 130:18 <b>deliberating</b> Vol. 1 - 130:17 <b>deliberations</b> Vol. 1 - 130:1 <b>delivered</b> Vol. 1 - 94:13 <b>delivers</b> Vol. 1 - 92:6 <b>demonstrate</b> Vol. 1 - 100:17 <b>demonstrated</b> Vol. 1 - 98:3	<b>dent</b> Vol. 1 - 96:19 <b>department [13]</b> - Vol. 1 - 18:10, 18:19, 51:9, 51:14, 56:19, 59:6, 72:3, 79:25, 121:3, 121:12, 121:19, 131:25, 132:1 <b>department's</b> Vol. 1 - 66:10 <b>departments [3]</b> - Vol. 1 - 120:18, 131:14, 132:4 <b>depending [6]</b> - Vol. 1 - 62:6, 62:7, 62:8, 62:11, 66:21, 121:2 <b>depends [7]</b> - Vol. 1 - 62:4, 65:10, 65:16, 66:11, 67:1, 67:8, 122:14 <b>deploy [3]</b> - Vol. 1 - 58:20, 110:2, 111:5 <b>deployed [5]</b> - Vol. 1 - 46:24, 46:25, 58:18, 60:25, 70:22 <b>deploying</b> Vol. 1 - 118:14 <b>deploys</b> Vol. 1 - 58:5 <b>deposit [2]</b> - Vol. 1 - 6:13, 6:14 <b>deputies [5]</b> - Vol. 1 - 56:21, 57:6, 75:25, 84:2, 84:6 <b>deputy [5]</b> - Vol. 1 - 51:13, 85:20, 85:23, 85:24, 89:3 <b>deputy's [2]</b> - Vol. 1 - 84:2, 84:7 <b>describe</b> Vol. 1 - 80:8 <b>described</b> Vol. 1 - 78:4 <b>designed [5]</b> - Vol. 1 - 94:14, 96:18, 98:3, 99:16, 102:11 <b>detached</b> Vol. 1 - 5:15 <b>detail [5]</b> - Vol. 1 - 72:23, 73:1, 73:7, 74:7, 77:14 <b>detective [11]</b> -	Vol. 1 - 51:14, 69:22, 75:1, 75:7, 75:15, 78:25, 79:16, 79:20, 80:1, 81:9, 84:13 <b>detectives [3]</b> - Vol. 1 - 75:16, 77:2, 77:10 <b>detent</b> Vol. 1 - 113:5 <b>determine</b> Vol. 1 - 63:23 <b>determined</b> Vol. 1 - 30:16 <b>develop [2]</b> - Vol. 1 - 72:16, 72:18 <b>device [2]</b> - Vol. 1 - 123:14, 128:20 <b>devices</b> Vol. 1 - 97:22 <b>diagnosed [3]</b> - Vol. 1 - 6:22, 7:11, 7:25 <b>diagnosis</b> Vol. 1 - 7:14 <b>diagram [2]</b> - Vol. 1 - 68:11, 93:25 <b>die [2]</b> - Vol. 1 - 102:21, 112:8 <b>differently [2]</b> - Vol. 1 - 21:21, 21:23 <b>difficult</b> Vol. 1 - 11:16 <b>difficulties</b> Vol. 1 - 44:1 <b>difficulty [2]</b> - Vol. 1 - 9:24, 107:18 <b>digital</b> Vol. 1 - 97:1 <b>dimensions</b> Vol. 1 - 68:9 <b>dining</b> Vol. 1 - 77:8 <b>dinner [3]</b> - Vol. 1 - 6:12, 6:16, 19:12 <b>direct</b> Vol. 1 - 96:4 <b>directed [2]</b> - Vol. 1 - 120:18, 120:18 <b>direction [2]</b> - Vol. 1 - 22:9, 25:20 <b>directly</b> Vol. 1 - 31:8 <b>disappear</b> Vol. 1 - 102:3 <b>discharged</b> Vol. 1 - 55:24	<b>discussions</b> Vol. 1 - 130:1 <b>disengage [2]</b> - Vol. 1 - 62:2, 62:7 <b>disengages</b> Vol. 1 - 56:8 <b>disks [4]</b> - Vol. 1 - 69:8, 69:12, 69:14, 69:16 <b>disoriented</b> Vol. 1 - 105:12 <b>disorienting</b> Vol. 1 - 60:23 <b>dispatch [5]</b> - Vol. 1 - 32:13, 44:17, 53:3, 56:15, 56:17 <b>dispenser</b> Vol. 1 - 45:16 <b>display</b> Vol. 1 - 97:1 <b>displays</b> Vol. 1 - 102:17 <b>distance [13]</b> - Vol. 1 - 5:16, 26:1, 26:2, 27:14, 62:7, 94:1, 94:1, 111:10, 119:3, 119:9, 119:12, 119:21, 119:24 <b>distances</b> Vol. 1 - 116:16 <b>DISTRICT</b> Vol. 1 - 2:25 <b>diving</b> Vol. 1 - 41:19 <b>division [2]</b> - Vol. 1 - 80:2, 85:21 <b>divisions</b> Vol. 1 - 89:5 <b>docked [2]</b> - Vol. 1 - 83:8, 83:16 <b>doctor</b> Vol. 1 - 7:12 <b>doctorate</b> Vol. 1 - 89:23 <b>documented [4]</b> - Vol. 1 - 69:21, 69:22, 70:16, 102:5 <b>domestics</b> Vol. 1 - 18:21 <b>dominant [2]</b> - Vol. 1 - 42:4, 110:11 <b>door [24]</b> - Vol. 1 - 15:16, 26:4, 26:23, 26:24, 27:14, 28:6, 28:8, 29:14,
<b>D</b>					
<b>dad</b> Vol. 1 - 4:7 <b>damage [3]</b> - Vol. 1 - 86:19,					

30:19, 33:20, 36:15, 41:15, 45:9, 53:12, 53:20, 53:21, 54:18, 54:18, 56:21, 56:23, 56:25, 68:19, 94:3, 119:14 <b>doors [12]</b> - Vol. 1 - 25:24, 34:15, 34:15, 34:18, 36:13, 36:14, 53:14, 53:14, 53:17, 54:14, 70:19, 91:1 <b>doorway [2]</b> - Vol. 1 - 54:17, 68:18 <b>dot [3]</b> - Vol. 1 - 93:18, 97:11, 97:12 <b>double</b> Vol. 1 - 53:14 <b>double-check</b> Vol. 1 - 112:24 <b>downloaded</b> Vol. 1 - 83:12 <b>downside [4]</b> - Vol. 1 - 99:6, 99:12, 99:21, 102:25 <b>downstairs</b> Vol. 1 - 80:21 <b>downward</b> Vol. 1 - 70:12 <b>Dr [4]</b> - Vol. 1 - 79:4, 85:8, 85:18, 88:8 <b>draw [10]</b> - Vol. 1 - 27:1, 42:14, 62:3, 64:7, 64:8, 64:10, 64:13, 64:18, 64:24, 110:11 <b>drawn</b> Vol. 1 - 99:9 <b>drew [5]</b> - Vol. 1 - 14:14, 26:23, 27:25, 39:2, 52:5 <b>drip</b> Vol. 1 - 70:14 <b>drive [11]</b> - Vol. 1 - 56:2, 66:22, 77:22, 95:8, 95:19, 96:3, 96:10, 98:4, 100:1, 101:3, 116:18 <b>drive-through</b> Vol. 1 - 77:6 <b>driver's</b> Vol. 1 - 127:18	<b>driving [4]</b> - Vol. 1 - 19:19, 19:23, 19:25, 22:4 <b>drop [2]</b> - Vol. 1 - 94:11, 112:11 <b>dropped [6]</b> - Vol. 1 - 31:13, 31:16, 40:18, 42:10, 95:5, 110:22 <b>drug [4]</b> - Vol. 1 - 7:15, 8:18, 8:19, 8:23 <b>drug-free</b> Vol. 1 - 8:25 <b>drugs [6]</b> - Vol. 1 - 8:22, 24:9, 26:13, 26:20, 63:22, 88:4 <b>dry</b> Vol. 1 - 29:14 <b>drying [2]</b> - Vol. 1 - 29:15, 36:11 <b>ducks</b> Vol. 1 - 26:17 <b>dude</b> Vol. 1 - 49:6 <b>due</b> Vol. 1 - 56:10 <b>duly [10]</b> - Vol. 1 - 4:14, 13:24, 18:3, 51:3, 67:19, 71:21, 75:8, 79:21, 85:13, 88:17 <b>dump [2]</b> - Vol. 1 - 26:20, 118:10 <b>dumping [3]</b> - Vol. 1 - 27:6, 27:23, 29:3 <b>duration</b> Vol. 1 - 92:7 <b>duties [3]</b> - Vol. 1 - 7:24, 18:18, 57:3 <b>duty</b> Vol. 1 - 81:15	<b>edit [2]</b> - Vol. 1 - 83:21, 84:8 <b>editing</b> Vol. 1 - 84:8 <b>education</b> Vol. 1 - 86:3 <b>educational</b> Vol. 1 - 89:22 <b>effect [5]</b> - Vol. 1 - 40:21, 66:17, 73:24, 74:5, 74:6 <b>effective [2]</b> - Vol. 1 - 41:10, 67:5 <b>effectively</b> Vol. 1 - 40:23 <b>effects [3]</b> - Vol. 1 - 66:16, 102:4, 102:9 <b>effort</b> Vol. 1 - 76:24 <b>efforts</b> Vol. 1 - 75:20 <b>eight [4]</b> - Vol. 1 - 19:5, 19:6, 19:15, 72:9 <b>Eileen [2]</b> - Vol. 1 - 133:3, 133:21 <b>either [16]</b> - Vol. 1 - 7:23, 10:6, 24:8, 32:17, 58:1, 60:9, 72:23, 83:20, 89:16, 96:24, 97:7, 97:8, 112:8, 120:25, 122:11, 124:22 <b>eject [2]</b> - Vol. 1 - 69:13, 110:18 <b>electrical [7]</b> - Vol. 1 - 56:4, 90:19, 90:20, 97:22, 97:23, 105:22, 115:5 <b>electricity</b> Vol. 1 - 66:14 <b>else's [2]</b> - Vol. 1 - 62:24, 131:2 <b>embedded</b> Vol. 1 - 87:21 <b>employed [4]</b> - Vol. 1 - 18:8, 67:24, 67:25, 85:20 <b>employee</b> Vol. 1 - 133:15 <b>employment [2]</b> - Vol. 1 - 18:15, 51:12 <b>empty</b> Vol. 1 - 96:24 <b>en</b> Vol. 1 - 44:22 <b>ended [2]</b> - Vol. 1 -	19:24, 55:21 <b>ends</b> Vol. 1 - 19:5 <b>enforcement [5]</b> - Vol. 1 - 90:17, 99:2, 117:15, 117:22, 132:8 <b>engaged</b> Vol. 1 - 54:15 <b>enter [2]</b> - Vol. 1 - 54:14, 68:20 <b>entered</b> Vol. 1 - 54:21 <b>entering [2]</b> - Vol. 1 - 53:17, 54:19 <b>entire [3]</b> - Vol. 1 - 33:7, 89:21, 113:10 <b>entirely [4]</b> - Vol. 1 - 95:4, 106:18, 119:15, 119:16 <b>entitled [2]</b> - Vol. 1 - 122:25, 123:23 <b>entrance [5]</b> - Vol. 1 - 13:16, 14:23, 35:9, 70:13, 77:7 <b>entranceway</b> Vol. 1 - 68:15 <b>equipment</b> Vol. 1 - 81:1 <b>erase</b> Vol. 1 - 83:20 <b>Ernest [2]</b> - Vol. 1 - 4:9, 4:13 <b>escalated</b> Vol. 1 - 63:19 <b>escalates</b> Vol. 1 - 127:2 <b>escalating</b> Vol. 1 - 9:13 <b>especially [4]</b> - Vol. 1 - 6:24, 87:12, 99:19, 116:3 <b>essentially [6]</b> - Vol. 1 - 38:4, 40:24, 41:1, 41:6, 42:4, 72:20 <b>establish</b> Vol. 1 - 131:14 <b>estimate [2]</b> - Vol. 1 - 26:1, 119:17 <b>eternity [2]</b> - Vol. 1 - 43:13, 43:20 <b>evaluated</b> Vol. 1 - 7:21 <b>evaluations</b> Vol. 1 - 8:7	<b>evening [4]</b> - Vol. 1 - 17:8, 18:23, 19:2, 51:16 <b>event [2]</b> - Vol. 1 - 77:7, 105:14 <b>events</b> Vol. 1 - 73:4 <b>eventually [3]</b> - Vol. 1 - 7:9, 86:22, 128:21 <b>everybody [2]</b> - Vol. 1 - 75:2, 84:17 <b>everyday</b> Vol. 1 - 52:9 <b>everyone</b> Vol. 1 - 47:12 <b>everything [20]</b> - Vol. 1 - 16:2, 18:21, 19:11, 19:13, 35:11, 38:16, 42:2, 42:9, 50:1, 63:24, 74:18, 83:17, 84:18, 91:23, 98:2, 99:13, 101:2, 114:19, 116:21, 129:21 <b>evidence [6]</b> - Vol. 1 - 80:15, 83:11, 90:6, 94:6, 105:6, 105:7 <b>evil</b> Vol. 1 - 33:24 <b>exact</b> Vol. 1 - 131:6 <b>exactly [9]</b> - Vol. 1 - 53:19, 54:4, 58:2, 63:15, 64:17, 83:4, 97:6, 99:16, 130:20 <b>examination [11]</b> - Vol. 1 - 4:17, 13:5, 14:1, 18:6, 51:6, 67:22, 72:1, 75:11, 85:16, 88:22, 133:10 <b>examine</b> Vol. 1 - 72:14 <b>examined [12]</b> - Vol. 1 - 4:15, 13:25, 18:4, 51:4, 67:20, 68:8, 71:22, 75:9, 79:22, 85:14, 87:23, 88:18 <b>examiner [8]</b> - Vol. 1 - 72:5, 72:7, 72:12,	74:17, 85:20, 85:21, 85:24, 85:24 <b>examiners</b> Vol. 1 - 86:14 <b>except</b> Vol. 1 - 88:2 <b>exchange</b> Vol. 1 - 9:14 <b>exclusion</b> Vol. 1 - 102:3 <b>excuse [2]</b> - Vol. 1 - 49:14, 97:14 <b>exited</b> Vol. 1 - 54:4 <b>expand</b> Vol. 1 - 91:6 <b>expansion</b> Vol. 1 - 111:17 <b>expect</b> Vol. 1 - 40:21 <b>expedient</b> Vol. 1 - 111:13 <b>expelled</b> Vol. 1 - 69:9 <b>experience [9]</b> - Vol. 1 - 18:13, 28:20, 48:25, 65:7, 72:6, 101:20, 104:8, 117:11, 126:17 <b>experienced</b> Vol. 1 - 103:1 <b>expert</b> Vol. 1 - 89:12 <b>explain [4]</b> - Vol. 1 - 7:6, 23:1, 45:8, 90:25 <b>explained</b> Vol. 1 - 126:13 <b>explode</b> Vol. 1 - 69:11 <b>extension</b> Vol. 1 - 38:9 <b>extensions</b> Vol. 1 - 38:12 <b>extent</b> Vol. 1 - 72:25 <b>external [2]</b> - Vol. 1 - 72:10, 113:7 <b>extremely</b> Vol. 1 - 66:24
				<b>F</b>	
					<b>fg</b> Vol. 1 - 48:24 <b>face [6]</b> - Vol. 1 - 22:21, 33:24, 39:20, 54:24, 82:20, 105:7 <b>Facebook</b> Vol. 1 - 76:9

<b>facie</b> Vol. 1 - 105:6	40:19, 56:12, 63:14, 92:17	47:1, 47:3, 47:4, 72:8, 92:6, 93:10, 111:17	<b>foregoing [2]</b> - Vol. 1 - 133:6, 133:12	<b>G</b>	50:1, 94:5, 99:24, 102:6, 121:6
<b>facing [3]</b> - Vol. 1 - 36:10, 36:25, 101:23	<b>figh</b> s Vol. 1 - 106:20	<b>five-second</b> Vol. 1 - 41:7	<b>forensic [5]</b> - Vol. 1 - 68:1, 68:3, 85:23, 86:8, 86:9	<b>Gabe</b> Vol. 1 - 79:16	<b>gotten [5]</b> - Vol. 1 - 56:21, 76:6, 100:14, 111:11, 119:17
<b>factor</b> Vol. 1 - 105:2	<b>figure [4]</b> - Vol. 1 - 84:1, 104:24, 108:14, 125:18	<b>fix</b> Vol. 1 - 114:1	<b>forth [7]</b> - Vol. 1 - 5:19, 45:8, 68:9, 106:16, 116:5, 126:17, 133:7	<b>GABRIEL</b> Vol. 1 - 79:20	<b>grab [12]</b> - Vol. 1 - 31:17, 35:18, 36:8, 36:17, 40:6, 41:3, 41:3, 41:5, 41:9, 55:5, 55:18, 114:7
<b>factors [2]</b> - Vol. 1 - 67:1, 111:12	<b>fills</b> Vol. 1 - 78:3	<b>flags</b> Vol. 1 - 24:4	<b>forward [5]</b> - Vol. 1 - 20:15, 29:1, 45:11, 91:8, 97:15	<b>gap</b> Vol. 1 - 60:1	<b>grabbed [4]</b> - Vol. 1 - 42:2, 42:17, 91:15, 115:15
<b>failure [2]</b> - Vol. 1 - 123:14, 128:19	<b>film</b> Vol. 1 - 84:24	<b>flavor</b> Vol. 1 - 104:9	<b>frame [2]</b> - Vol. 1 - 89:8, 104:17	<b>gas [4]</b> - Vol. 1 - 20:23, 91:2, 116:3, 116:4	<b>grabs</b> Vol. 1 - 29:17
<b>fall [3]</b> - Vol. 1 - 96:18, 98:8, 98:9	<b>final [2]</b> - Vol. 1 - 89:5, 95:23	<b>flesh</b> Vol. 1 - 96:11	<b>frame-by-frame</b> Vol. 1 - 114:21	<b>gather</b> Vol. 1 - 90:15	<b>grand [2]</b> - Vol. 1 - 2:6, 132:22
<b>falling</b> Vol. 1 - 98:11	<b>financially</b> Vol. 1 - 133:16	<b>flex</b> Vol. 1 - 41:5	<b>free [2]</b> - Vol. 1 - 35:18, 64:22	<b>gave [2]</b> - Vol. 1 - 75:24, 90:11	<b>granted</b> Vol. 1 - 116:20
<b>familiar [2]</b> - Vol. 1 - 71:8, 108:20	<b>fine</b> Vol. 1 - 102:16	<b>flipping</b> Vol. 1 - 96:20	<b>freeze</b> Vol. 1 - 91:12	<b>general [2]</b> - Vol. 1 - 68:11, 86:7	<b>graphs</b> Vol. 1 - 71:12
<b>family [2]</b> - Vol. 1 - 11:16, 84:18	<b>finger [5]</b> - Vol. 1 - 47:2, 73:12, 97:4, 97:7, 100:21	<b>floor [6]</b> - Vol. 1 - 55:19, 59:1, 59:23, 63:14, 64:23, 94:3	<b>freezing</b> Vol. 1 - 91:18	<b>generally</b> Vol. 1 - 68:12	<b>Graves [36]</b> - Vol. 1 - 3:5, 4:7, 4:9, 4:13, 4:19, 4:19, 11:5, 19:18, 20:1, 20:7, 24:20, 24:21, 37:20, 38:7, 41:12, 41:15, 49:19, 57:21, 65:22, 77:18, 77:24, 78:16, 107:13, 107:17, 108:6, 119:16, 119:21, 119:24, 123:9, 124:5, 124:14, 124:21, 125:17, 126:4, 127:2, 129:7
<b>fast [3]</b> - Vol. 1 - 7:1, 43:24, 132:18	<b>fingerprint [5]</b> - Vol. 1 - 73:2, 73:3, 73:5, 73:13, 74:13	<b>flow [2]</b> - Vol. 1 - 66:15, 70:12	<b>freely</b> Vol. 1 - 91:12	<b>Generation</b> Vol. 1 - 113:1	<b>graveyard [4]</b> - Vol. 1 - 19:4, 51:19, 51:19, 51:23
<b>fear [7]</b> - Vol. 1 - 26:10, 28:6, 62:23, 64:1, 64:3, 105:2, 105:2	<b>finite</b> Vol. 1 - 106:9	<b>flustered</b> Vol. 1 - 7:5	<b>friction</b> Vol. 1 - 116:20	<b>gets [10]</b> - Vol. 1 - 20:20, 25:4, 25:11, 57:12, 65:20, 84:18, 102:13, 102:22, 107:14, 114:25	<b>greater [5]</b> - Vol. 1 - 66:15, 66:17, 66:17, 92:14, 118:17
<b>feasible [2]</b> - Vol. 1 - 106:18, 117:1	<b>fire [13]</b> - Vol. 1 - 39:7, 50:12, 56:1, 82:7, 95:9, 101:14, 103:16, 110:25, 113:14, 113:16, 114:6, 114:8, 114:9	<b>focus [4]</b> - Vol. 1 - 36:20, 39:12, 42:5, 42:7	<b>front [12]</b> - Vol. 1 - 25:24, 26:4, 27:14, 44:9, 53:12, 53:14, 53:14, 53:21, 55:25, 56:25, 77:18, 129:11	<b>given [2]</b> - Vol. 1 - 95:5, 106:16	<b>green [7]</b> - Vol. 1 - 20:1, 20:6, 20:10, 21:3, 21:3, 23:2, 131:17
<b>feel [4]</b> - Vol. 1 - 34:11, 55:12, 56:3, 132:20	<b>firearm [8]</b> - Vol. 1 - 61:16, 70:25, 97:20, 99:4, 99:7, 110:12, 111:4, 120:10	<b>focused [4]</b> - Vol. 1 - 77:6, 103:12, 106:8, 106:9	<b>frustrated</b> Vol. 1 - 39:23	<b>gives [3]</b> - Vol. 1 - 40:25, 102:23, 126:21	
<b>feeling</b> Vol. 1 - 115:4	<b>firearms</b> Vol. 1 - 120:2	<b>focusing [2]</b> - Vol. 1 - 115:24, 131:4	<b>fuck [5]</b> - Vol. 1 - 22:15, 23:17, 25:17, 25:21, 29:8	<b>giving [4]</b> - Vol. 1 - 48:19, 53:18, 54:16, 54:20	
<b>fell [2]</b> - Vol. 1 - 42:2, 42:3	<b>fired [14]</b> - Vol. 1 - 40:15, 46:18, 56:15, 56:16, 61:6, 61:12, 71:2, 71:3, 81:19, 81:20, 96:5, 105:25, 110:24, 110:25	<b>folks</b> Vol. 1 - 38:11	<b>frustration</b> Vol. 1 - 39:23	<b>glad</b> Vol. 1 - 64:5	
<b>fellow</b> Vol. 1 - 104:10	<b>fires [4]</b> - Vol. 1 - 56:9, 91:1, 115:19, 130:25	<b>follow [6]</b> - Vol. 1 - 110:12, 24:20, 24:20, 25:10, 26:17, 128:23	<b>glancing</b> Vol. 1 - 24:13	<b>glance</b> Vol. 1 - 24:13	
<b>felony</b> Vol. 1 - 124:16	<b>firing [4]</b> - Vol. 1 - 48:3, 93:5, 94:8, 116:4	<b>follows [10]</b> - Vol. 1 - 4:15, 13:25, 18:4, 51:4, 67:20, 71:22, 75:9, 79:22, 85:14, 88:18	<b>Glock [4]</b> - Vol. 1 - 113:1, 113:2, 113:9, 113:16	<b>goal [5]</b> - Vol. 1 - 90:22, 91:8, 97:12, 98:7, 98:7	
<b>felt [5]</b> - Vol. 1 - 8:9, 9:13, 43:13, 43:20, 108:12	<b>firm</b> Vol. 1 - 117:14	<b>foot [3]</b> - Vol. 1 - 54:18, 102:7, 128:16	<b>glue [2]</b> - Vol. 1 - 72:19, 72:20	<b>God</b> Vol. 1 - 55:10	
<b>female's</b> Vol. 1 - 27:15	<b>first-round</b> Vol. 1 - 120:24	<b>footage [2]</b> - Vol. 1 - 77:11, 82:15	<b>glue</b> Vol. 1 - 72:19, 72:20	<b>goes [26]</b> - Vol. 1 - 26:8, 26:16, 26:16, 27:21, 29:12, 29:17, 31:7, 31:11, 31:12, 34:10, 36:7, 40:24, 41:7, 41:8, 47:1, 47:21, 55:21, 58:7, 77:19, 78:13, 78:16, 90:25, 96:20, 105:9, 114:22, 125:10	
<b>fetal</b> Vol. 1 - 36:24	<b>fish [2]</b> - Vol. 1 - 91:4, 92:22	<b>force [17]</b> - Vol. 1 - 98:16, 108:23, 109:1, 109:7, 109:20, 109:22, 111:14, 113:21, 113:25, 113:25, 114:2, 120:14, 122:24, 123:1, 123:3, 123:18, 130:5	<b>glue</b> Vol. 1 - 72:19, 72:20	<b>gone [5]</b> - Vol. 1 -	
<b>fewer</b> Vol. 1 - 66:21	<b>fishing</b> Vol. 1 - 91:4	<b>forearm</b> Vol. 1 - 87:19	<b>glue</b> Vol. 1 - 72:19, 72:20		
<b>field</b> Vol. 1 - 127:22	<b>five [10]</b> - Vol. 1 - 41:7, 41:8, 47:1,		<b>glue</b> Vol. 1 - 72:19, 72:20		
<b>fight [9]</b> - Vol. 1 - 23:21, 30:16, 30:18, 30:18, 32:21, 50:10, 98:16, 103:16, 112:8			<b>glue</b> Vol. 1 - 72:19, 72:20		
<b>fighter</b> Vol. 1 - 102:18			<b>glue</b> Vol. 1 - 72:19, 72:20		
<b>fighting [5]</b> - Vol. 1 - 37:14,			<b>glue</b> Vol. 1 - 72:19, 72:20		

<p><b>grip [2]</b> - Vol. 1 - 37:22, 38:12</p> <p><b>groan</b> Vol. 1 - 37:6</p> <p><b>ground [28]</b> - Vol. 1 - 30:2, 30:3, 35:3, 36:9, 36:23, 37:8, 40:25, 41:12, 41:13, 41:14, 42:2, 47:9, 47:12, 47:22, 48:17, 49:9, 55:2, 57:19, 60:4, 60:5, 60:6, 63:8, 64:14, 65:3, 124:19, 124:25, 125:2, 125:15</p> <p><b>group [3]</b> - Vol. 1 - 10:14, 66:25, 86:11</p> <p><b>guess [11]</b> - Vol. 1 - 14:14, 29:11, 36:10, 63:8, 63:15, 90:10, 103:20, 106:22, 108:4, 112:15, 127:3</p> <p><b>guessing</b> Vol. 1 - 67:5</p> <p><b>guest</b> Vol. 1 - 5:15</p> <p><b>gun [105]</b> - Vol. 1 - 26:23, 27:1, 27:25, 28:7, 28:8, 28:15, 28:15, 28:16, 28:19, 28:24, 29:7, 29:16, 29:18, 29:25, 37:15, 37:16, 37:17, 37:17, 37:19, 38:5, 38:13, 38:14, 38:16, 38:17, 38:24, 39:2, 39:9, 40:1, 40:2, 40:3, 40:6, 40:7, 40:8, 40:12, 42:12, 42:12, 42:13, 42:14, 46:1, 48:3, 50:12, 55:8, 55:15, 55:18, 55:21, 55:22, 55:23, 56:6, 56:7, 57:17, 58:12, 58:15, 61:10, 61:14, 61:15, 61:18, 62:14, 62:15, 62:17, 62:18, 64:1, 64:7, 64:8,</p>	<p>64:9, 64:10, 64:12, 64:13, 64:16, 64:20, 81:12, 81:14, 81:16, 81:21, 99:11, 99:17, 99:18, 99:20, 100:5, 100:17, 100:18, 103:2, 103:5, 103:7, 103:8, 103:10, 105:11, 105:16, 105:16, 106:6, 109:16, 109:17, 109:18, 109:19, 111:22, 114:7, 115:11, 115:14, 115:15, 115:15, 115:16, 115:18, 116:3, 131:6, 131:17, 132:11</p> <p><b>guns [5]</b> - Vol. 1 - 28:21, 38:10, 61:21, 81:2, 97:24</p> <p><b>gunshot [2]</b> - Vol. 1 - 86:18, 86:20</p> <p><b>guys [4]</b> - Vol. 1 - 36:10, 79:13, 82:25, 130:14</p> <hr/> <p style="text-align: center;"><b>H</b></p> <hr/> <p><b>hadn't</b> Vol. 1 - 54:9</p> <p><b>Haileigh [5]</b> - Vol. 1 - 3:6, 13:7, 13:9, 13:10, 13:23</p> <p><b>hair [2]</b> - Vol. 1 - 15:23, 28:23</p> <p><b>hairs [3]</b> - Vol. 1 - 27:22, 28:14, 29:23</p> <p><b>half [5]</b> - Vol. 1 - 55:3, 65:25, 79:11, 87:8, 106:1</p> <p><b>halfway</b> Vol. 1 - 113:11</p> <p><b>hallway</b> Vol. 1 - 27:15</p> <p><b>hamburger</b> Vol. 1 - 10:23</p> <p><b>hamburgers [2]</b> - Vol. 1 - 6:12, 6:15</p> <p><b>hand-to-hand [2]</b> - Vol. 1 - 89:18, 118:25</p> <p><b>handcuffs [2]</b> - Vol. 1 - 41:10, 56:13</p>	<p><b>handgun [3]</b> - Vol. 1 - 81:14, 112:12, 121:20</p> <p><b>Handguns</b> Vol. 1 - 111:8</p> <p><b>handicapped</b> Vol. 1 - 35:7</p> <p><b>handle [2]</b> - Vol. 1 - 18:20, 38:8</p> <p><b>handled</b> Vol. 1 - 11:22</p> <p><b>hands [45]</b> - Vol. 1 - 26:25, 27:3, 27:5, 27:25, 28:9, 28:11, 28:13, 28:16, 28:18, 28:25, 29:1, 29:3, 29:5, 29:19, 36:11, 36:19, 37:13, 37:20, 37:21, 37:21, 37:22, 45:11, 45:13, 46:21, 49:4, 49:7, 55:5, 57:21, 57:24, 57:24, 62:2, 64:21, 100:5, 100:6, 110:21, 124:5, 124:23, 125:1, 125:1, 125:7, 125:7, 125:9, 125:15, 126:3, 126:4</p> <p><b>hands-on</b> Vol. 1 - 109:16</p> <p><b>happen [8]</b> - Vol. 1 - 49:12, 49:12, 92:5, 98:15, 99:25, 100:19, 102:1, 102:19</p> <p><b>happened [25]</b> - Vol. 1 - 11:18, 11:20, 17:7, 19:1, 23:19, 32:12, 33:17, 36:9, 37:1, 41:18, 41:20, 43:19, 80:4, 84:11, 92:19, 93:3, 98:25, 100:2, 100:8, 100:16, 101:1, 118:9, 125:17, 126:19, 126:21</p> <p><b>happening [9]</b> - Vol. 1 - 16:19, 32:10, 32:11, 42:21, 58:4, 93:9, 95:18, 101:4, 104:22</p>	<p><b>happens [12]</b> - Vol. 1 - 39:10, 48:14, 48:19, 74:6, 99:15, 101:25, 103:17, 106:19, 106:20, 113:5, 125:10, 126:22</p> <p><b>harassment</b> Vol. 1 - 124:6</p> <p><b>harassments</b> Vol. 1 - 124:12</p> <p><b>hard-wired</b> Vol. 1 - 101:19</p> <p><b>hardly</b> Vol. 1 - 8:24</p> <p><b>harm [3]</b> - Vol. 1 - 109:18, 111:15, 112:2</p> <p><b>hasn't [5]</b> - Vol. 1 - 76:6, 105:18, 106:3, 115:9, 124:20</p> <p><b>haven't [3]</b> - Vol. 1 - 10:12, 79:7, 123:7</p> <p><b>having [19]</b> - Vol. 1 - 4:14, 7:8, 9:12, 13:24, 18:3, 39:11, 51:3, 62:2, 67:19, 71:21, 75:8, 79:21, 85:13, 88:17, 107:8, 107:18, 108:1, 109:15, 121:12</p> <p><b>he'd [9]</b> - Vol. 1 - 5:11, 5:19, 6:6, 7:1, 7:1, 7:3, 10:5, 10:14, 10:15</p> <p><b>he'll [2]</b> - Vol. 1 - 49:6, 71:12</p> <p><b>he's [118]</b> - Vol. 1 - 8:18, 8:20, 12:13, 20:21, 21:9, 21:12, 22:9, 22:11, 22:21, 23:20, 23:21, 23:24, 24:5, 24:12, 24:12, 24:14, 24:14, 24:15, 24:15, 24:22, 25:2, 25:5, 25:5, 25:19, 25:24, 26:18, 26:19, 27:23, 28:7, 28:10, 28:23, 28:23, 29:3, 29:6, 29:6, 29:6, 29:6, 29:10, 29:12, 29:20,</p>	<p>30:10, 30:17, 30:18, 31:7, 31:16, 31:20, 31:21, 32:1, 32:13, 32:14, 33:7, 33:8, 33:10, 33:16, 33:22, 33:25, 33:25, 34:8, 34:21, 35:6, 35:14, 36:7, 36:11, 36:24, 36:25, 36:25, 37:5, 37:7, 37:9, 37:12, 37:19, 37:23, 38:5, 38:6, 38:7, 38:7, 38:14, 38:15, 39:18, 39:19, 39:20, 39:22, 44:17, 45:11, 45:13, 45:13, 46:8, 46:9, 48:23, 49:4, 49:23, 49:23, 50:8, 50:9, 50:16, 57:21, 78:11, 79:6, 82:8, 82:8, 107:18, 112:16, 115:13, 115:17, 117:4, 117:24, 119:14, 124:5, 124:14, 125:8, 126:9, 126:13, 126:14, 128:11, 128:20, 129:13, 129:17, 130:12</p> <p><b>headed [2]</b> - Vol. 1 - 77:19, 78:11</p> <p><b>heading</b> Vol. 1 - 20:17</p> <p><b>headquarters</b> Vol. 1 - 85:22</p> <p><b>heads-up</b> Vol. 1 - 102:17</p> <p><b>health [7]</b> - Vol. 1 - 6:19, 63:2, 63:4, 63:9, 107:21, 107:23, 108:3</p> <p><b>hear [41]</b> - Vol. 1 - 14:24, 16:6, 22:12, 28:11, 32:7, 32:7, 32:7, 32:8, 32:9, 32:12, 32:14, 32:14, 32:15, 34:15, 34:15, 36:3, 37:5, 37:6, 37:6, 37:15, 42:12, 44:21, 45:24, 46:6, 46:14, 46:21,</p>	<p>47:12, 52:7, 52:25, 53:17, 53:19, 94:8, 102:5, 102:8, 105:22, 106:23, 107:1, 114:25, 115:2, 115:8, 115:10</p> <p><b>heard [10]</b> - Vol. 1 - 11:25, 12:4, 38:24, 52:1, 76:22, 93:7, 99:22, 106:13, 106:19, 107:12</p> <p><b>hearing [2]</b> - Vol. 1 - 49:14, 56:7</p> <p><b>heart [4]</b> - Vol. 1 - 31:13, 31:16, 87:10, 112:7</p> <p><b>heat</b> Vol. 1 - 72:20</p> <p><b>heck [2]</b> - Vol. 1 - 125:19, 128:13</p> <p><b>Heckert [116]</b> - Vol. 1 - 2:24, 4:5, 4:18, 11:7, 13:2, 13:6, 13:21, 14:2, 17:2, 17:6, 17:18, 17:20, 17:22, 18:7, 31:22, 43:10, 44:2, 44:7, 44:16, 44:25, 45:24, 46:6, 46:14, 47:16, 47:20, 48:7, 48:10, 48:12, 49:18, 50:18, 50:20, 51:7, 60:24, 62:13, 63:7, 67:9, 67:11, 67:14, 67:23, 71:5, 71:11, 71:15, 72:2, 74:14, 74:23, 75:1, 75:4, 75:12, 78:24, 79:2, 79:16, 79:24, 84:13, 85:1, 85:4, 85:6, 85:8, 85:17, 88:7, 88:10, 88:13, 88:23, 109:23, 109:25, 111:3, 112:25, 113:9, 117:2, 119:3, 119:6, 122:13, 122:15, 122:19, 124:2, 124:9, 124:11, 125:3, 125:6, 125:16,</p>
--	--	--	--	--	---

<p>125:25, 126:3, 126:10, 126:13, 126:16, 126:19, 126:24, 127:5, 127:7, 127:10, 127:14, 127:17, 127:20, 127:24, 128:1, 128:6, 128:15, 128:19, 129:5, 129:9, 129:13, 129:17, 129:25, 130:4, 130:7, 130:11, 130:22, 130:25, 131:4, 131:12, 131:18, 131:21, 132:1, 132:7, 132:12, 132:15, 132:20</p> <p><b>held</b> Vol. 1 - 99:16</p> <p><b>hell</b> Vol. 1 - 118:23</p> <p><b>Hello</b> Vol. 1 - 75:2</p> <p><b>helped</b> Vol. 1 - 107:20</p> <p><b>helper</b> Vol. 1 - 10:24</p> <p><b>helpful [2]</b> - Vol. 1 - 19:20, 78:18</p> <p><b>helping</b> Vol. 1 - 5:9</p> <p><b>hemorrhage</b> Vol. 1 - 87:20</p> <p><b>Hey [2]</b> - Vol. 1 - 40:14, 48:22</p> <p><b>Hi</b> Vol. 1 - 75:3</p> <p><b>high-adrenaline</b> Vol. 1 - 115:23</p> <p><b>highest [2]</b> - Vol. 1 - 86:23, 89:20</p> <p><b>highly [4]</b> - Vol. 1 - 103:4, 103:14, 103:22, 118:6</p> <p><b>highway [9]</b> - Vol. 1 - 19:24, 22:8, 22:17, 52:21, 52:22, 52:23, 77:16, 80:20, 101:25</p> <p><b>himself [6]</b> - Vol. 1 - 7:2, 23:3, 26:12, 34:12, 34:13, 109:13</p> <p><b>hips [3]</b> - Vol. 1 - 37:9, 37:12, 37:13</p> <p><b>hit [12]</b> - Vol. 1 - 20:8, 20:19, 54:5, 54:10, 55:7, 59:19, 60:13, 60:14,</p>	<p>65:2, 87:11, 87:11, 98:24</p> <p><b>hits [3]</b> - Vol. 1 - 92:1, 92:2, 94:14</p> <p><b>hold [8]</b> - Vol. 1 - 55:20, 75:24, 83:15, 92:14, 93:2, 97:7, 97:8, 98:1</p> <p><b>holding</b> Vol. 1 - 115:6</p> <p><b>hole [2]</b> - Vol. 1 - 112:16, 115:6</p> <p><b>holster [6]</b> - Vol. 1 - 39:23, 99:10, 110:3, 110:8, 110:16, 115:18</p> <p><b>holstered [2]</b> - Vol. 1 - 40:5, 40:5</p> <p><b>holstering</b> Vol. 1 - 45:25</p> <p><b>holy</b> Vol. 1 - 43:18</p> <p><b>homicides</b> Vol. 1 - 89:6</p> <p><b>Honestly</b> Vol. 1 - 67:4</p> <p><b>hook [2]</b> - Vol. 1 - 91:4, 92:22</p> <p><b>hope</b> Vol. 1 - 26:7</p> <p><b>hospital [3]</b> - Vol. 1 - 86:7, 86:9, 86:10</p> <p><b>hostile</b> Vol. 1 - 32:21</p> <p><b>hour [2]</b> - Vol. 1 - 79:11, 79:11</p> <p><b>hours [3]</b> - Vol. 1 - 19:15, 51:24, 120:4</p> <p><b>housed</b> Vol. 1 - 96:17</p> <p><b>houses [2]</b> - Vol. 1 - 24:25, 91:15</p> <p><b>however</b> Vol. 1 - 83:7</p> <p><b>HQC</b> Vol. 1 - 121:20</p> <p><b>human [8]</b> - Vol. 1 - 16:16, 91:9, 91:10, 101:15, 102:10, 102:20, 103:13, 118:12</p> <p><b>humans [3]</b> - Vol. 1 - 101:19, 101:20, 114:18</p> <p><b>hurry</b> Vol. 1 - 6:1</p> <p><b>hurt [6]</b> - Vol. 1 - 33:6, 33:13,</p>	<p>55:10, 64:5, 126:12, 130:13</p> <hr/> <p style="text-align: center;"><b>I</b></p> <hr/> <p><b>ice</b> Vol. 1 - 101:23</p> <p><b>ID [2]</b> - Vol. 1 - 31:10, 31:20</p> <p><b>idea [10]</b> - Vol. 1 - 23:2, 23:14, 92:8, 98:15, 109:15, 109:17, 114:17, 115:14, 117:22, 118:10</p> <p><b>ideal</b> Vol. 1 - 119:2</p> <p><b>ideally [3]</b> - Vol. 1 - 40:22, 118:16, 118:21</p> <p><b>identification [2]</b> - Vol. 1 - 72:24, 73:17</p> <p><b>identified [3]</b> - Vol. 1 - 29:2, 63:25, 73:3</p> <p><b>identify [4]</b> - Vol. 1 - 22:25, 23:12, 28:10, 126:20</p> <p><b>ifs</b> Vol. 1 - 125:22</p> <p><b>ignoring</b> Vol. 1 - 128:11</p> <p><b>ill</b> Vol. 1 - 49:23</p> <p><b>illness [3]</b> - Vol. 1 - 12:17, 49:22, 63:22</p> <p><b>imagining</b> Vol. 1 - 31:16</p> <p><b>immediacy [2]</b> - Vol. 1 - 109:15, 109:16</p> <p><b>immediate</b> Vol. 1 - 20:14</p> <p><b>immediately [8]</b> - Vol. 1 - 20:24, 21:5, 26:17, 28:8, 28:10, 31:18, 35:5, 40:19</p> <p><b>immobilized</b> Vol. 1 - 87:13</p> <p><b>impact</b> Vol. 1 - 97:13</p> <p><b>impaired</b> Vol. 1 - 127:21</p> <p><b>improve</b> Vol. 1 - 116:17</p> <p><b>inadvertently [2]</b> - Vol. 1 - 91:16, 110:14</p> <p><b>incapacitated</b> Vol. 1 - 93:17</p>	<p><b>incapacitation</b> <b>[7]</b> - Vol. 1 - 91:11, 91:24, 91:25, 92:12, 93:15, 95:2, 118:17</p> <p><b>incapacity</b> Vol. 1 - 90:22</p> <p><b>inches [7]</b> - Vol. 1 - 68:23, 68:24, 68:24, 91:7, 93:20, 97:14, 97:14</p> <p><b>incident [11]</b> - Vol. 1 - 9:9, 11:23, 12:6, 43:18, 43:22, 57:11, 77:12, 80:17, 82:1, 82:9, 82:15</p> <p><b>incidents</b> Vol. 1 - 59:7</p> <p><b>including [2]</b> - Vol. 1 - 69:13, 89:4</p> <p><b>increase</b> Vol. 1 - 102:12</p> <p><b>INDEX</b> Vol. 1 - 3:1</p> <p><b>indexing</b> Vol. 1 - 116:2</p> <p><b>India</b> Vol. 1 - 90:21</p> <p><b>indicate [4]</b> - Vol. 1 - 93:10, 94:6, 101:2, 108:13</p> <p><b>indicated [6]</b> - Vol. 1 - 93:12, 93:13, 94:9, 100:20, 106:4, 115:13</p> <p><b>indicates [4]</b> - Vol. 1 - 93:21, 94:18, 96:2, 103:21</p> <p><b>indicating [2]</b> - Vol. 1 - 81:16, 82:1</p> <p><b>indications</b> Vol. 1 - 105:4</p> <p><b>indicative [5]</b> - Vol. 1 - 93:4, 94:24, 95:24, 114:5, 114:10</p> <p><b>individual</b> Vol. 1 - 50:10</p> <p><b>induced</b> Vol. 1 - 102:14</p> <p><b>ineffective</b> Vol. 1 - 36:22</p> <p><b>infamous</b> Vol. 1 - 101:22</p> <p><b>inflection</b> Vol. 1 -</p>	<p>104:5</p> <p><b>influence</b> Vol. 1 - 50:4</p> <p><b>inform</b> Vol. 1 - 64:11</p> <p><b>information [5]</b> - Vol. 1 - 71:12, 75:24, 75:25, 77:1, 90:15</p> <p><b>initial [2]</b> - Vol. 1 - 77:16, 77:17</p> <p><b>initially [2]</b> - Vol. 1 - 52:6, 53:1</p> <p><b>initiated</b> Vol. 1 - 10:20</p> <p><b>injure</b> Vol. 1 - 23:3</p> <p><b>injured</b> Vol. 1 - 102:15</p> <p><b>injuries [2]</b> - Vol. 1 - 39:18, 98:9</p> <p><b>injury [3]</b> - Vol. 1 - 82:17, 82:18, 98:10</p> <p><b>inner</b> Vol. 1 - 91:2</p> <p><b>inside [6]</b> - Vol. 1 - 22:2, 27:19, 43:11, 53:13, 53:20, 56:22</p> <p><b>insights [2]</b> - Vol. 1 - 89:24, 89:25</p> <p><b>instances [2]</b> - Vol. 1 - 95:19, 102:6</p> <p><b>instant</b> Vol. 1 - 111:25</p> <p><b>instantaneous</b> Vol. 1 - 112:11</p> <p><b>instantly</b> Vol. 1 - 112:1</p> <p><b>instead [6]</b> - Vol. 1 - 6:17, 6:18, 12:18, 23:23, 25:4, 26:8</p> <p><b>instinctively</b> Vol. 1 - 42:6</p> <p><b>instructed</b> Vol. 1 - 89:16</p> <p><b>instructor [4]</b> - Vol. 1 - 66:11, 89:10, 89:16, 89:19</p> <p><b>intelligence</b> Vol. 1 - 89:23</p> <p><b>intend</b> Vol. 1 - 101:24</p> <p><b>intention</b> Vol. 1 - 22:22</p> <p><b>intentions</b> Vol. 1 - 28:1</p>	<p><b>interact</b> Vol. 1 - 22:19</p> <p><b>interaction [3]</b> - Vol. 1 - 63:16, 65:8, 78:1</p> <p><b>interest</b> Vol. 1 - 81:24</p> <p><b>interested [2]</b> - Vol. 1 - 16:19, 133:16</p> <p><b>interesting</b> Vol. 1 - 94:12</p> <p><b>internal</b> Vol. 1 - 113:3</p> <p><b>internship</b> Vol. 1 - 86:5</p> <p><b>intersection [11]</b> - Vol. 1 - 19:25, 20:3, 21:6, 21:11, 23:4, 23:7, 77:20, 78:12, 78:13, 78:14, 78:21</p> <p><b>intervals</b> Vol. 1 - 41:7</p> <p><b>intervene</b> Vol. 1 - 46:20</p> <p><b>interview</b> Vol. 1 - 80:14</p> <p><b>interviewed</b> Vol. 1 - 82:10</p> <p><b>interviews [4]</b> - Vol. 1 - 90:4, 104:3, 105:13, 115:13</p> <p><b>intoxicated</b> Vol. 1 - 88:5</p> <p><b>intoxication</b> Vol. 1 - 63:22</p> <p><b>intrusive</b> Vol. 1 - 103:15</p> <p><b>investigating</b> Vol. 1 - 80:13</p> <p><b>investigation [4]</b> - Vol. 1 - 12:1, 57:13, 57:14, 75:16</p> <p><b>investigations</b> <b>[2]</b> - Vol. 1 - 80:1, 89:6</p> <p><b>investigative</b> Vol. 1 - 75:17</p> <p><b>investigators</b> Vol. 1 - 104:4</p> <p><b>involved [11]</b> - Vol. 1 - 7:17, 32:23, 32:24, 33:14, 56:10, 57:10, 80:6, 80:10, 101:22, 115:15, 118:8</p> <p><b>involvement</b> Vol. 1 - 9:22</p> <p><b>involving</b> Vol. 1 -</p>
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59:7 <b>irate [2]</b> - Vol. 1 - 24:12, 50:9 <b>isn't [2]</b> - Vol. 1 - 102:22, 124:21 <b>issue [4]</b> - Vol. 1 - 63:9, 121:12, 124:20, 125:14 <b>issues [3]</b> - Vol. 1 - 6:20, 8:11, 9:2 <b>item</b> Vol. 1 - 74:4 <b>items</b> Vol. 1 - 70:17 <b>itself [10]</b> - Vol. 1 - 72:16, 77:5, 77:5, 80:17, 81:14, 81:22, 82:9, 84:11, 104:18, 132:2	17:14, 17:16, 48:9, 48:11, 48:13, 49:14, 49:17, 60:25, 61:2, 61:5, 61:8, 61:17, 61:23, 62:1, 62:25, 64:25, 65:5, 65:7, 65:12, 65:22, 66:2, 66:5, 66:7, 67:2, 67:10, 71:6, 71:10, 71:14, 74:15, 75:3, 84:14, 85:3, 109:24, 110:1, 111:2, 112:12, 112:14, 112:18, 117:3, 117:8, 118:14, 119:9, 120:1, 120:8, 120:13, 122:5, 122:9, 123:25, 124:8, 124:10, 124:23, 125:5, 125:14, 125:23, 126:2, 126:7, 126:11, 126:15, 126:18, 126:23, 127:3, 127:6, 127:8, 127:11, 127:16, 127:19, 127:23, 127:25, 128:5, 128:7, 128:18, 128:23, 129:6, 129:7, 129:10, 129:15, 129:16, 129:19, 129:20, 129:23, 130:3, 130:10, 130:19, 130:24, 131:3, 131:6, 131:7, 131:9, 131:13, 131:16, 131:19, 131:25, 132:4, 132:6, 132:9, 132:13, 132:19 <b>jurors [2]</b> - Vol. 1 - 11:6, 60:24 <b>jury [10]</b> - Vol. 1 - 2:6, 17:19, 47:19, 50:19, 79:1, 85:5, 88:9, 122:14, 130:6, 132:22 <b>justified</b> Vol. 1 - 11:20	Vol. 1 - 38:18, 38:22 <b>keeps [4]</b> - Vol. 1 - 24:13, 28:17, 84:3, 128:10 <b>kept [3]</b> - Vol. 1 - 15:9, 83:17, 83:17 <b>Kerns [2]</b> - Vol. 1 - 72:12, 74:18 <b>kid</b> Vol. 1 - 104:11 <b>kill [2]</b> - Vol. 1 - 27:4, 117:19 <b>killed</b> Vol. 1 - 4:7 <b>kinds</b> Vol. 1 - 103:21 <b>kittens</b> Vol. 1 - 5:11 <b>Klamath</b> Vol. 1 - 85:25 <b>knee [3]</b> - Vol. 1 - 37:10, 37:10, 38:20 <b>knees</b> Vol. 1 - 37:12 <b>knife</b> Vol. 1 - 28:7 <b>knives</b> Vol. 1 - 61:21 <b>knocked</b> Vol. 1 - 60:4 <b>knows [4]</b> - Vol. 1 - 55:16, 115:16, 123:19, 129:20 <b>Kosacki [3]</b> - Vol. 1 - 3:9, 67:15, 67:18 <b>Kristy</b> Vol. 1 - 75:19	<b>laterally</b> Vol. 1 - 87:3 <b>law [13]</b> - Vol. 1 - 90:17, 99:1, 108:20, 117:15, 117:22, 122:21, 122:21, 123:17, 123:24, 124:21, 130:5, 130:23, 132:8 <b>lawfully [2]</b> - Vol. 1 - 130:22, 132:14 <b>lawsuit</b> Vol. 1 - 131:24 <b>laying</b> Vol. 1 - 55:3 <b>layout [4]</b> - Vol. 1 - 27:10, 27:20, 36:10, 68:12 <b>lean [4]</b> - Vol. 1 - 29:1, 29:5, 45:11, 45:12 <b>leaning</b> Vol. 1 - 30:12 <b>leans</b> Vol. 1 - 30:13 <b>learn</b> Vol. 1 - 99:17 <b>learned</b> Vol. 1 - 86:18 <b>least [12]</b> - Vol. 1 - 28:19, 55:10, 55:13, 60:10, 83:24, 86:15, 97:20, 105:13, 106:4, 109:17, 115:12, 118:20 <b>leather</b> Vol. 1 - 45:25 <b>leave [7]</b> - Vol. 1 - 117:22, 122:18, 122:19, 126:8, 130:7, 130:11, 130:18 <b>leaving</b> Vol. 1 - 125:24 <b>Leddy [2]</b> - Vol. 1 - 133:3, 133:21 <b>left-hand [2]</b> - Vol. 1 - 19:23, 21:10 <b>leg [2]</b> - Vol. 1 - 92:1, 92:2 <b>legislature</b> Vol. 1 - 131:22 <b>length</b> Vol. 1 - 68:25 <b>lengths</b> Vol. 1 - 116:18 <b>less [6]</b> - Vol. 1 - 52:20, 52:23, 94:16, 105:25, 106:2, 115:21	<b>let's [6]</b> - Vol. 1 - 10:23, 21:16, 90:10, 113:23, 119:13, 123:9 <b>lethal [4]</b> - Vol. 1 - 109:7, 109:19, 109:20, 111:14 <b>letting</b> Vol. 1 - 129:1 <b>level [9]</b> - Vol. 1 - 18:22, 28:11, 29:22, 89:16, 89:17, 98:16, 104:14, 109:19, 113:25 <b>levels</b> Vol. 1 - 89:20 <b>license</b> Vol. 1 - 127:18 <b>life-or-death</b> Vol. 1 - 118:13 <b>lifting</b> Vol. 1 - 55:17 <b>lights [8]</b> - Vol. 1 - 14:17, 21:13, 22:5, 32:8, 53:6, 77:23, 78:8, 78:15 <b>likely [5]</b> - Vol. 1 - 98:10, 100:6, 129:16, 131:18, 131:21 <b>likes</b> Vol. 1 - 32:24 <b>limitations</b> Vol. 1 - 122:23 <b>Linn [4]</b> - Vol. 1 - 21:8, 24:22, 32:15, 77:20 <b>liquor [3]</b> - Vol. 1 - 77:15, 77:19, 78:6 <b>listen [2]</b> - Vol. 1 - 29:7, 114:21 <b>listening [2]</b> - Vol. 1 - 29:6, 103:24 <b>liter</b> Vol. 1 - 87:8 <b>literally [2]</b> - Vol. 1 - 27:13, 102:7 <b>literate</b> Vol. 1 - 130:15 <b>liters</b> Vol. 1 - 87:7 <b>lived [3]</b> - Vol. 1 - 4:21, 5:14, 8:21 <b>load [3]</b> - Vol. 1 - 81:6, 110:12, 120:10 <b>loaded</b> Vol. 1 - 81:2 <b>loads</b> Vol. 1 - 81:17	<b>locate [2]</b> - Vol. 1 - 76:1, 77:10 <b>located</b> Vol. 1 - 14:9 <b>lock [3]</b> - Vol. 1 - 40:24, 91:12, 91:21 <b>locked [3]</b> - Vol. 1 - 91:23, 93:22, 98:12 <b>locking</b> Vol. 1 - 91:18 <b>locks</b> Vol. 1 - 101:1 <b>lodged [2]</b> - Vol. 1 - 87:4, 87:10 <b>log</b> Vol. 1 - 94:9 <b>logs [3]</b> - Vol. 1 - 90:6, 90:13, 94:10 <b>longish</b> Vol. 1 - 15:23 <b>looking [24]</b> - Vol. 1 - 20:13, 20:13, 23:25, 23:25, 24:2, 34:18, 39:17, 39:19, 40:3, 45:18, 55:9, 68:9, 73:11, 73:11, 73:13, 73:15, 73:17, 77:3, 80:25, 84:3, 99:18, 105:21, 106:5, 114:20 <b>looks [14]</b> - Vol. 1 - 27:21, 28:16, 29:7, 29:16, 29:17, 30:4, 30:5, 33:19, 33:21, 36:7, 54:3, 96:17, 99:6, 99:20 <b>lose [3]</b> - Vol. 1 - 27:4, 27:4, 102:16 <b>losing</b> Vol. 1 - 116:24 <b>loss [3]</b> - Vol. 1 - 112:8, 112:9, 112:9 <b>lost [5]</b> - Vol. 1 - 26:21, 27:2, 27:8, 27:25, 48:11 <b>loud [2]</b> - Vol. 1 - 7:3, 36:3 <b>low</b> Vol. 1 - 99:9 <b>lower</b> Vol. 1 - 31:4 <b>lunch [2]</b> - Vol. 1 - 79:10, 79:15
<b>J</b>		<b>L</b>			
<b>J-o-h-n</b> Vol. 1 - 88:21 <b>Jackson [3]</b> - Vol. 1 - 85:18, 85:25, 86:13 <b>jail [4]</b> - Vol. 1 - 7:18, 7:21, 7:24, 8:1 <b>jam [2]</b> - Vol. 1 - 116:5, 120:24 <b>James [3]</b> - Vol. 1 - 3:12, 85:8, 85:12 <b>job [2]</b> - Vol. 1 - 24:6, 86:11 <b>John [5]</b> - Vol. 1 - 3:13, 71:11, 79:4, 88:13, 88:16 <b>Josephine</b> Vol. 1 - 85:25 <b>Jr [30]</b> - Vol. 1 - 4:6, 4:25, 6:1, 6:3, 6:5, 6:8, 11:11, 13:14, 14:10, 14:23, 15:2, 15:7, 15:16, 16:1, 16:19, 16:21, 25:24, 26:9, 26:17, 29:11, 32:14, 52:19, 52:21, 53:11, 68:6, 76:14, 77:5, 79:7, 80:3, 90:9 <b>judgment</b> Vol. 1 - 99:13 <b>jump</b> Vol. 1 - 118:6 <b>JUROR [100]</b> - Vol. 1 - 13:20, 17:3, 17:11,	<b>K</b> <b>K-o-s-a-c-k-i</b> Vol. 1 - 67:16 <b>keeping [2]</b> -				



<p><b>lung [2]</b> - Vol. 1 - 86:25, 87:4</p> <p><b>lunge</b> Vol. 1 - 118:19</p> <p><b>lunged [2]</b> - Vol. 1 - 54:24, 59:19</p> <p><b>lungs</b> Vol. 1 - 87:6</p> <p><b>luring [2]</b> - Vol. 1 - 26:12, 26:18</p> <p><b>lying</b> Vol. 1 - 103:9</p> <hr/> <p style="text-align: center;"><b>M</b></p> <hr/> <p><b>M.D [2]</b> - Vol. 1 - 3:12, 85:12</p> <p><b>mad [3]</b> - Vol. 1 - 24:12, 50:8, 50:10</p> <p><b>magazine [7]</b> - Vol. 1 - 81:4, 81:5, 81:6, 81:8, 81:15, 81:17, 121:24</p> <p><b>magazines [13]</b> - Vol. 1 - 81:13, 81:18, 81:25, 120:10, 120:15, 120:19, 121:1, 121:5, 121:21, 121:23, 122:1, 122:1, 122:3</p> <p><b>main [3]</b> - Vol. 1 - 5:16, 5:17, 54:5</p> <p><b>Major</b> Vol. 1 - 57:13</p> <p><b>makes [6]</b> - Vol. 1 - 46:17, 56:3, 83:2, 106:14, 106:15, 114:23</p> <p><b>making [7]</b> - Vol. 1 - 48:21, 57:11, 98:18, 100:10, 100:12, 101:3, 107:5</p> <p><b>male</b> Vol. 1 - 15:12</p> <p><b>male's</b> Vol. 1 - 27:16</p> <p><b>manage</b> Vol. 1 - 101:17</p> <p><b>manager [2]</b> - Vol. 1 - 75:15, 79:6</p> <p><b>manufacturers [2]</b> - Vol. 1 - 38:11, 131:11</p> <p><b>map</b> Vol. 1 - 19:20</p> <p><b>marijuana</b> Vol. 1 - 88:3</p> <p><b>mark [2]</b> - Vol. 1 -</p>	<p>70:13, 72:22</p> <p><b>marks</b> Vol. 1 - 87:17</p> <p><b>Mary</b> Vol. 1 - 90:21</p> <p><b>masters</b> Vol. 1 - 120:18</p> <p><b>match</b> Vol. 1 - 49:1</p> <p><b>Matt [7]</b> - Vol. 1 - 6:3, 6:22, 7:14, 8:18, 9:11, 12:5, 12:7</p> <p><b>matter [10]</b> - Vol. 1 - 4:5, 12:20, 43:19, 103:11, 114:19, 120:6, 121:22, 121:23, 122:1, 122:2</p> <p><b>Matthew [6]</b> - Vol. 1 - 4:6, 4:19, 5:5, 19:18, 107:12, 107:17</p> <p><b>mavs</b> Vol. 1 - 22:2</p> <p><b>max</b> Vol. 1 - 93:20</p> <p><b>maybe [30]</b> - Vol. 1 - 5:1, 9:9, 12:13, 23:21, 23:21, 49:5, 49:23, 52:22, 55:15, 60:12, 60:13, 63:14, 76:25, 84:18, 92:1, 92:1, 93:19, 97:16, 101:3, 101:22, 103:5, 106:1, 108:8, 108:12, 115:15, 115:15, 115:16, 119:22, 121:8, 125:19</p> <p><b>mayor</b> Vol. 1 - 132:3</p> <p><b>meals</b> Vol. 1 - 5:20</p> <p><b>means [5]</b> - Vol. 1 - 53:4, 75:14, 98:22, 116:22, 118:18</p> <p><b>meant [2]</b> - Vol. 1 - 16:25, 104:7</p> <p><b>measurements [3]</b> - Vol. 1 - 68:10, 68:11, 68:13</p> <p><b>Medford [2]</b> - Vol. 1 - 4:1, 86:10</p> <p><b>medical [15]</b> - Vol. 1 - 40:15, 40:16, 40:20,</p>	<p>57:1, 57:4, 57:7, 57:12, 85:20, 85:21, 85:23, 85:24, 86:4, 86:13, 102:9, 111:11</p> <p><b>medications</b> Vol. 1 - 7:12</p> <p><b>medicine</b> Vol. 1 - 8:3</p> <p><b>medulla</b> Vol. 1 - 112:5</p> <p><b>Meeks [2]</b> - Vol. 1 - 75:19, 76:15</p> <p><b>meet [3]</b> - Vol. 1 - 21:12, 82:6, 82:8</p> <p><b>men's [2]</b> - Vol. 1 - 68:17, 68:20</p> <p><b>mental [13]</b> - Vol. 1 - 6:19, 12:9, 12:14, 12:17, 49:22, 63:1, 63:2, 63:4, 63:9, 63:22, 107:21, 107:23, 108:3</p> <p><b>mentally [5]</b> - Vol. 1 - 6:23, 7:5, 49:23, 63:4, 102:15</p> <p><b>mention</b> Vol. 1 - 8:13</p> <p><b>mentioned [3]</b> - Vol. 1 - 11:8, 120:8, 131:9</p> <p><b>merchants</b> Vol. 1 - 11:10</p> <p><b>message</b> Vol. 1 - 76:8</p> <p><b>Messenger</b> Vol. 1 - 76:9</p> <p><b>met [2]</b> - Vol. 1 - 81:11, 83:25</p> <p><b>metal</b> Vol. 1 - 95:13</p> <p><b>meth</b> Vol. 1 - 7:17</p> <p><b>methamphetamine</b> Vol. 1 - 88:5</p> <p><b>Michael [3]</b> - Vol. 1 - 3:5, 4:9, 4:13</p> <p><b>micro [5]</b> - Vol. 1 - 91:13, 91:17, 91:17, 92:7, 94:14</p> <p><b>microcoulombs [3]</b> - Vol. 1 - 94:13, 94:16, 95:5</p> <p><b>middle [4]</b> - Vol. 1 - 23:1, 45:1, 101:24, 103:16</p> <p><b>midnight</b> Vol. 1 -</p>	<p>51:24</p> <p><b>mile [2]</b> - Vol. 1 - 52:21, 52:23</p> <p><b>miles</b> Vol. 1 - 5:1</p> <p><b>military [5]</b> - Vol. 1 - 89:18, 89:18, 89:21, 101:14, 112:6</p> <p><b>millimeter [3]</b> - Vol. 1 - 81:14, 113:1, 113:2</p> <p><b>mind [6]</b> - Vol. 1 - 29:22, 42:11, 50:5, 104:17, 109:21, 126:14</p> <p><b>minimum [2]</b> - Vol. 1 - 100:11, 101:4</p> <p><b>minute [5]</b> - Vol. 1 - 15:8, 21:17, 42:16, 115:6, 128:9</p> <p><b>minutes [2]</b> - Vol. 1 - 43:16, 43:16</p> <p><b>misdeemeanors</b> Vol. 1 - 124:12</p> <p><b>misnomer</b> Vol. 1 - 121:7</p> <p><b>miss [2]</b> - Vol. 1 - 102:25, 110:1</p> <p><b>missed</b> Vol. 1 - 115:16</p> <p><b>ML</b> Vol. 1 - 87:8</p> <p><b>mode [2]</b> - Vol. 1 - 93:5, 106:11</p> <p><b>model [5]</b> - Vol. 1 - 21:20, 90:17, 90:23, 122:5, 122:8</p> <p><b>models</b> Vol. 1 - 89:25</p> <p><b>moment [9]</b> - Vol. 1 - 22:18, 22:22, 50:11, 90:18, 109:5, 124:13, 130:25, 131:5, 131:6</p> <p><b>money [3]</b> - Vol. 1 - 6:14, 31:18, 69:23</p> <p><b>month</b> Vol. 1 - 7:19</p> <p><b>morning [4]</b> - Vol. 1 - 5:11, 19:6, 90:8, 93:25</p> <p><b>mortality [2]</b> - Vol. 1 - 117:23, 117:25</p> <p><b>motion</b> Vol. 1 - 66:5</p> <p><b>motor</b> Vol. 1 - 102:16</p> <p><b>move [6]</b> - Vol. 1 -</p>	<p>37:23, 62:3, 64:10, 96:4, 118:25, 119:22</p> <p><b>moved [3]</b> - Vol. 1 - 8:6, 98:18, 98:21</p> <p><b>movement [2]</b> - Vol. 1 - 93:17, 94:21</p> <p><b>moves</b> Vol. 1 - 116:4</p> <p><b>movie</b> Vol. 1 - 98:21</p> <p><b>multiple [2]</b> - Vol. 1 - 23:7, 106:18</p> <p><b>multiplied</b> Vol. 1 - 35:12</p> <p><b>mumbles</b> Vol. 1 - 25:17</p> <p><b>muscles [8]</b> - Vol. 1 - 41:4, 66:16, 66:18, 66:20, 66:25, 91:11, 91:18, 91:21</p> <p><b>muscular</b> Vol. 1 - 91:11</p> <p><b>muzzle</b> Vol. 1 - 38:5</p> <p><b>myself [6]</b> - Vol. 1 - 31:22, 36:2, 36:17, 38:19, 90:9, 108:16</p> <hr/> <p style="text-align: center;"><b>N</b></p> <hr/> <p><b>national [2]</b> - Vol. 1 - 89:16, 89:17</p> <p><b>necessarily [4]</b> - Vol. 1 - 121:11, 126:10, 127:24, 128:1</p> <p><b>needed [3]</b> - Vol. 1 - 40:19, 93:14, 94:25</p> <p><b>needs [2]</b> - Vol. 1 - 57:12, 73:9</p> <p><b>negative</b> Vol. 1 - 88:2</p> <p><b>negotiations</b> Vol. 1 - 107:22</p> <p><b>neighborhood</b> Vol. 1 - 77:3</p> <p><b>neighbors</b> Vol. 1 - 6:7</p> <p><b>neither [2]</b> - Vol. 1 - 96:6, 96:8</p> <p><b>nerve</b> Vol. 1 - 112:2</p> <p><b>nervous [2]</b> - Vol. 1 - 112:3, 112:4</p>	<p><b>neuromuscular [7]</b> - Vol. 1 - 90:21, 91:24, 91:25, 92:11, 93:15, 95:1, 118:17</p> <p><b>nice</b> Vol. 1 - 101:14</p> <p><b>night's</b> Vol. 1 - 19:11</p> <p><b>nights</b> Vol. 1 - 5:18</p> <p><b>nighttime</b> Vol. 1 - 20:5</p> <p><b>NMI [3]</b> - Vol. 1 - 90:20, 90:21, 98:11</p> <p><b>Nobody</b> Vol. 1 - 79:5</p> <p><b>noise [2]</b> - Vol. 1 - 46:17, 107:4</p> <p><b>none [3]</b> - Vol. 1 - 84:6, 116:9, 120:16</p> <p><b>nonresponsive [4]</b> - Vol. 1 - 12:5, 12:12, 12:13, 12:15</p> <p><b>nonviolent</b> Vol. 1 - 10:13</p> <p><b>nor</b> Vol. 1 - 133:15</p> <p><b>normal [13]</b> - Vol. 1 - 5:6, 5:8, 6:25, 19:11, 19:13, 28:18, 29:24, 52:8, 52:11, 53:6, 65:7, 117:5, 125:4</p> <p><b>normally [8]</b> - Vol. 1 - 18:23, 19:11, 45:3, 45:4, 73:12, 80:9, 92:4, 103:25</p> <p><b>north [2]</b> - Vol. 1 - 77:19, 78:12</p> <p><b>northeast [2]</b> - Vol. 1 - 20:2, 78:20</p> <p><b>note</b> Vol. 1 - 81:24</p> <p><b>notes [2]</b> - Vol. 1 - 69:18, 133:13</p> <p><b>nothing [14]</b> - Vol. 1 - 6:9, 8:10, 23:11, 24:11, 24:24, 29:5, 29:20, 59:7, 96:24, 114:9, 122:3, 123:22, 125:20, 126:25</p> <p><b>notice [7]</b> - Vol. 1 -</p>
--	--	---	--	---	--

<p>15:21, 16:3, 48:22, 95:12, 96:25, 97:4, 97:11 <b>noticed [5]</b> - Vol. 1 - 15:12, 15:15, 19:18, 20:1, 35:19 <b>notify</b> Vol. 1 - 56:18 <b>November</b> Vol. 1 - 90:20 <b>numbers</b> Vol. 1 - 69:17 <b>numerous</b> Vol. 1 - 84:4 <b>nutshell</b> Vol. 1 - 99:5</p> <hr/> <p style="text-align: center;"><b>O</b></p> <p><b>o'clock [2]</b> - Vol. 1 - 19:5, 19:6 <b>O.S.P [2]</b> - Vol. 1 - 85:22, 90:7 <b>oath</b> Vol. 1 - 133:8 <b>obey [2]</b> - Vol. 1 - 123:14, 128:19 <b>object [4]</b> - Vol. 1 - 38:3, 64:15, 73:2, 73:23 <b>objections</b> Vol. 1 - 133:10 <b>oblongata</b> Vol. 1 - 112:5 <b>obscured [2]</b> - Vol. 1 - 77:25, 77:25 <b>observation</b> Vol. 1 - 43:20 <b>observe</b> Vol. 1 - 8:22 <b>obtained</b> Vol. 1 - 89:22 <b>obvious [4]</b> - Vol. 1 - 93:16, 104:19, 119:19, 132:10 <b>obviously [8]</b> - Vol. 1 - 42:13, 54:8, 63:18, 77:8, 77:13, 99:6, 109:16, 130:15 <b>Occasionally</b> Vol. 1 - 98:13 <b>occur</b> Vol. 1 - 98:9 <b>occurred [7]</b> - Vol. 1 - 28:22, 60:2, 95:7, 96:3, 105:14, 106:4,</p>	<p>108:19 <b>occurring [7]</b> - Vol. 1 - 73:4, 94:2, 108:14, 108:17, 108:18, 113:24, 115:11 <b>OCTOBER [2]</b> - Vol. 1 - 2:7, 4:2 <b>offensive</b> Vol. 1 - 124:6 <b>offered</b> Vol. 1 - 131:11 <b>office [15]</b> - Vol. 1 - 52:3, 52:14, 52:15, 52:18, 52:20, 54:7, 54:9, 72:10, 74:18, 78:21, 80:12, 80:19, 80:19, 89:2, 117:13 <b>officer [129]</b> - Vol. 1 - 15:3, 15:5, 17:12, 17:23, 18:2, 18:8, 18:20, 24:17, 24:18, 24:19, 32:6, 35:21, 36:5, 37:17, 39:14, 44:7, 44:20, 46:11, 46:12, 48:8, 49:1, 50:13, 50:21, 51:2, 51:8, 51:13, 51:18, 53:13, 53:18, 54:15, 54:17, 54:22, 54:23, 55:4, 55:16, 56:7, 56:15, 57:3, 57:10, 57:10, 59:18, 60:9, 61:3, 61:6, 61:10, 61:13, 62:2, 62:13, 62:14, 62:17, 62:21, 63:13, 63:19, 64:11, 65:2, 65:8, 65:10, 65:11, 65:12, 72:4, 77:21, 78:2, 80:6, 80:8, 80:9, 80:11, 80:18, 80:18, 80:21, 80:22, 81:11, 81:13, 81:23, 82:6, 82:16, 82:17, 83:19, 83:21, 84:25, 89:14, 92:8, 94:7, 96:7, 99:23, 100:3,</p>	<p>101:10, 102:7, 104:1, 104:1, 104:5, 104:6, 104:10, 104:20, 105:10, 105:12, 105:18, 106:13, 107:1, 107:17, 107:19, 108:15, 109:6, 109:7, 109:12, 109:13, 109:22, 112:23, 113:19, 113:21, 115:12, 117:19, 119:20, 119:21, 120:8, 123:18, 123:19, 123:21, 124:3, 124:5, 124:14, 124:15, 125:4, 125:23, 126:4, 128:2, 128:11, 129:21, 129:24, 130:22 <b>officer's [3]</b> - Vol. 1 - 95:7, 108:5, 111:3 <b>officer-involved</b> <b>[2]</b> - Vol. 1 - 2:8, 4:6 <b>officers [32]</b> - Vol. 1 - 10:18, 12:5, 18:24, 18:25, 33:1, 57:10, 59:5, 61:23, 62:25, 81:1, 81:3, 83:14, 84:14, 84:15, 84:16, 84:23, 84:23, 90:4, 97:19, 99:2, 103:1, 104:3, 109:3, 110:21, 111:9, 117:11, 117:14, 117:20, 120:1, 120:4, 120:14, 120:17 <b>offline [8]</b> - Vol. 1 - 37:24, 37:25, 38:3, 55:19, 61:10, 64:11, 64:13, 64:22 <b>older [2]</b> - Vol. 1 - 9:12, 9:12 <b>Olsen</b> Vol. 1 - 3:12 <b>Olson [5]</b> - Vol. 1 - 79:4, 85:8, 85:12, 85:18, 88:8 <b>on-the-job</b> Vol. 1 - 72:13 <b>oncoming</b> Vol. 1 - 20:13 <b>one-and-a-half</b></p>	<p><b>[3]</b> - Vol. 1 - 115:22, 116:8, 116:25 <b>ones [4]</b> - Vol. 1 - 84:7, 103:19, 109:15, 117:16 <b>onto</b> Vol. 1 - 38:19 <b>oOo [2]</b> - Vol. 1 - 2:9, 4:3 <b>open [16]</b> - Vol. 1 - 26:23, 28:8, 29:13, 34:15, 34:16, 34:18, 34:19, 34:20, 35:12, 36:13, 36:14, 45:9, 53:21, 54:18, 54:18, 56:21 <b>opened [4]</b> - Vol. 1 - 26:24, 53:17, 56:23, 68:23 <b>operated</b> Vol. 1 - 21:21 <b>operating</b> Vol. 1 - 115:14 <b>operation</b> Vol. 1 - 97:10 <b>operations</b> Vol. 1 - 89:21 <b>opinion [2]</b> - Vol. 1 - 63:17, 128:24 <b>opposite [2]</b> - Vol. 1 - 29:15, 40:10 <b>optimum</b> Vol. 1 - 118:14 <b>option [2]</b> - Vol. 1 - 62:7, 62:11 <b>orange</b> Vol. 1 - 131:17 <b>order [7]</b> - Vol. 1 - 28:9, 28:13, 64:18, 83:13, 90:1, 97:6, 100:18 <b>ordered</b> Vol. 1 - 26:24 <b>ordering</b> Vol. 1 - 28:15 <b>orders</b> Vol. 1 - 126:9 <b>Oregon [17]</b> - Vol. 1 - 2:8, 4:1, 67:25, 85:21, 90:7, 101:23, 108:20, 121:16, 121:18, 122:21, 122:21, 123:17, 123:24, 124:21, 130:5, 130:23, 133:3</p>	<p><b>others [3]</b> - Vol. 1 - 81:5, 81:6, 109:18 <b>ours</b> Vol. 1 - 83:3 <b>ourself</b> Vol. 1 - 83:16 <b>ourselves [2]</b> - Vol. 1 - 33:2, 92:21 <b>outcome [4]</b> - Vol. 1 - 12:16, 12:24, 109:11, 117:21 <b>overhead [3]</b> - Vol. 1 - 53:6, 77:23, 78:15 <b>overlap</b> Vol. 1 - 51:24 <b>override</b> Vol. 1 - 92:13 <b>overrode</b> Vol. 1 - 97:3 <b>oversaw [2]</b> - Vol. 1 - 89:4, 89:6 <b>overseeing</b> Vol. 1 - 75:16</p> <hr/> <p style="text-align: center;"><b>P</b></p> <p><b>P.M</b> Vol. 1 - 132:21 <b>pain</b> Vol. 1 - 37:6 <b>painful [2]</b> - Vol. 1 - 56:4, 66:24 <b>Pamela [3]</b> - Vol. 1 - 3:9, 67:15, 67:18 <b>panicked</b> Vol. 1 - 12:21 <b>panicky</b> Vol. 1 - 12:9 <b>paramedics</b> Vol. 1 - 92:23 <b>parameters</b> Vol. 1 - 84:1 <b>parent</b> Vol. 1 - 104:10 <b>parked [3]</b> - Vol. 1 - 14:21, 53:11, 53:13 <b>parking [6]</b> - Vol. 1 - 14:9, 14:21, 14:22, 16:1, 26:3, 53:10 <b>partial</b> Vol. 1 - 92:1 <b>partially</b> Vol. 1 - 59:21 <b>particular [3]</b> - Vol. 1 - 70:6, 81:24, 122:5 <b>parties</b> Vol. 1 - 133:15</p>	<p><b>partly</b> Vol. 1 - 127:2 <b>partners</b> Vol. 1 - 104:17 <b>pass [6]</b> - Vol. 1 - 20:7, 43:10, 68:7, 68:14, 69:3, 76:8 <b>passing</b> Vol. 1 - 99:12 <b>past [4]</b> - Vol. 1 - 32:3, 33:16, 33:25, 118:22 <b>path</b> Vol. 1 - 20:16 <b>pathologist</b> Vol. 1 - 85:23 <b>pathology [6]</b> - Vol. 1 - 86:6, 86:8, 86:9, 86:9, 86:10, 86:11 <b>paths</b> Vol. 1 - 21:12 <b>patrol [13]</b> - Vol. 1 - 18:20, 18:21, 18:22, 20:18, 25:6, 27:17, 44:9, 51:13, 51:13, 54:4, 89:3, 89:5, 89:14 <b>pause [3]</b> - Vol. 1 - 24:1, 44:1, 44:5 <b>peace [2]</b> - Vol. 1 - 123:18, 123:19 <b>pedal</b> Vol. 1 - 116:24 <b>peel</b> Vol. 1 - 114:6 <b>people's</b> Vol. 1 - 27:5 <b>per [4]</b> - Vol. 1 - 66:20, 92:7, 97:14, 97:14 <b>perceive</b> Vol. 1 - 89:25 <b>perceived</b> Vol. 1 - 97:20 <b>percent [4]</b> - Vol. 1 - 30:16, 67:5, 103:18, 103:18 <b>perceptions [2]</b> - Vol. 1 - 108:5, 115:13 <b>perfect [2]</b> - Vol. 1 - 34:17, 131:7 <b>perform [2]</b> - Vol. 1 - 57:3, 75:17 <b>period [6]</b> - Vol. 1 - 7:14, 7:16, 8:18, 8:25, 83:3, 97:20</p>
---	---	--	---	---	---

<p><b>periods</b> Vol. 1 - 120:23</p> <p><b>personal [3]</b> - Vol. 1 - 81:10, 120:9, 122:9</p> <p><b>personally [3]</b> - Vol. 1 - 81:8, 82:5, 82:18</p> <p><b>personnel</b> Vol. 1 - 57:7</p> <p><b>persons</b> Vol. 1 - 63:1</p> <p><b>perspective [2]</b> - Vol. 1 - 70:6, 107:25</p> <p><b>phase</b> Vol. 1 - 36:22</p> <p><b>photograph [2]</b> - Vol. 1 - 72:22, 72:22</p> <p><b>photographed [2]</b> - Vol. 1 - 69:15, 69:16</p> <p><b>photos [2]</b> - Vol. 1 - 82:12, 90:5</p> <p><b>physical [8]</b> - Vol. 1 - 94:6, 108:23, 109:1, 122:23, 123:1, 123:3, 123:18, 124:6</p> <p><b>physically</b> Vol. 1 - 102:15</p> <p><b>physician</b> Vol. 1 - 108:3</p> <p><b>physiological</b> Vol. 1 - 101:11</p> <p><b>pictures</b> Vol. 1 - 82:19</p> <p><b>pile</b> Vol. 1 - 64:14</p> <p><b>pilots</b> Vol. 1 - 102:18</p> <p><b>pin</b> Vol. 1 - 64:23</p> <p><b>pinkie [2]</b> - Vol. 1 - 38:9, 38:11</p> <p><b>pinpricks</b> Vol. 1 - 87:19</p> <p><b>pissed [4]</b> - Vol. 1 - 22:20, 22:20, 50:7, 118:8</p> <p><b>pistol</b> Vol. 1 - 119:1</p> <p><b>placed [2]</b> - Vol. 1 - 117:23, 118:13</p> <p><b>places</b> Vol. 1 - 11:13</p> <p><b>plan [3]</b> - Vol. 1 - 25:10, 118:1, 118:11</p> <p><b>planned</b> Vol. 1 - 104:20</p> <p><b>planning</b> Vol. 1 -</p>	<p>22:23</p> <p><b>plaque</b> Vol. 1 - 86:16</p> <p><b>plastic-coated</b> Vol. 1 - 91:5</p> <p><b>play [2]</b> - Vol. 1 - 47:16, 104:23</p> <p><b>played [8]</b> - Vol. 1 - 44:6, 44:15, 44:24, 45:23, 46:3, 46:5, 46:13, 47:15</p> <p><b>playing [2]</b> - Vol. 1 - 104:12, 105:17</p> <p><b>please [6]</b> - Vol. 1 - 35:7, 35:8, 107:23, 109:8, 130:9, 130:10</p> <p><b>plug</b> Vol. 1 - 83:5</p> <p><b>plus</b> Vol. 1 - 89:15</p> <p><b>point [106]</b> - Vol. 1 - 2:8, 4:23, 9:11, 9:13, 9:15, 16:20, 16:21, 18:9, 18:10, 18:24, 20:25, 22:1, 25:23, 26:10, 26:14, 26:22, 27:1, 28:10, 28:21, 29:18, 30:1, 30:15, 30:15, 30:22, 31:21, 32:1, 32:4, 32:5, 32:19, 32:20, 32:24, 33:12, 34:11, 35:17, 36:24, 37:2, 37:3, 37:8, 37:8, 38:15, 39:16, 40:1, 40:5, 40:17, 41:10, 42:3, 43:21, 44:17, 45:9, 48:16, 48:25, 49:25, 50:3, 50:17, 51:9, 51:12, 52:15, 53:5, 54:19, 54:21, 54:22, 55:6, 55:14, 55:22, 56:5, 56:6, 56:7, 56:11, 56:18, 57:8, 59:6, 60:20, 61:15, 62:5, 63:20, 64:14, 64:21, 68:1, 77:15, 78:1, 80:20, 82:4, 83:1, 83:7, 83:25, 84:22,</p>	<p>84:25, 85:22, 91:18, 92:23, 95:25, 96:3, 96:6, 104:24, 105:24, 105:24, 106:3, 107:2, 108:6, 113:22, 114:8, 125:6, 125:10, 126:1, 128:21, 132:3</p> <p><b>pointed [4]</b> - Vol. 1 - 25:8, 28:7, 28:19, 31:14</p> <p><b>pointing [10]</b> - Vol. 1 - 14:25, 15:1, 16:12, 17:11, 22:17, 38:2, 38:19, 55:17, 64:11, 106:6</p> <p><b>points [7]</b> - Vol. 1 - 22:8, 22:11, 44:4, 66:14, 66:22, 73:18, 123:11</p> <p><b>police [46]</b> - Vol. 1 - 8:12, 9:2, 9:6, 9:8, 9:11, 9:15, 9:22, 10:20, 12:8, 12:11, 12:19, 15:2, 15:5, 15:11, 17:12, 18:10, 18:13, 18:18, 48:25, 51:9, 59:6, 61:23, 67:25, 83:19, 85:21, 89:9, 89:13, 90:3, 90:7, 101:14, 103:1, 107:17, 110:21, 111:9, 113:19, 117:11, 117:13, 117:14, 117:18, 117:20, 117:22, 123:21, 129:17, 129:20, 129:23, 132:2</p> <p><b>policeman</b> Vol. 1 - 127:4</p> <p><b>policy</b> Vol. 1 - 121:3</p> <p><b>pool</b> Vol. 1 - 70:10</p> <p><b>pop [2]</b> - Vol. 1 - 36:3, 36:4</p> <p><b>Portland</b> Vol. 1 - 76:4</p> <p><b>position [7]</b> - Vol. 1 - 36:24, 51:11, 51:12, 58:16, 68:2,</p>	<p>72:3, 79:25</p> <p><b>positioned</b> Vol. 1 - 44:25</p> <p><b>positions</b> Vol. 1 - 89:3</p> <p><b>possibilities</b> Vol. 1 - 96:10</p> <p><b>possible [2]</b> - Vol. 1 - 53:5, 118:12</p> <p><b>posture [2]</b> - Vol. 1 - 25:13, 33:7</p> <p><b>posturing</b> Vol. 1 - 25:12</p> <p><b>potentially</b> Vol. 1 - 100:7</p> <p><b>power [2]</b> - Vol. 1 - 27:17, 102:24</p> <p><b>practice [3]</b> - Vol. 1 - 86:8, 120:6, 120:20</p> <p><b>practices [2]</b> - Vol. 1 - 89:13, 89:14</p> <p><b>practitioner</b> Vol. 1 - 107:23</p> <p><b>precaution</b> Vol. 1 - 92:23</p> <p><b>preference [2]</b> - Vol. 1 - 81:10, 120:9</p> <p><b>prepared</b> Vol. 1 - 90:2</p> <p><b>prescribe</b> Vol. 1 - 8:3</p> <p><b>present</b> Vol. 1 - 88:6</p> <p><b>pressed</b> Vol. 1 - 95:25</p> <p><b>pressurize</b> Vol. 1 - 120:23</p> <p><b>presumably</b> Vol. 1 - 107:1</p> <p><b>presume</b> Vol. 1 - 123:10</p> <p><b>prevent</b> Vol. 1 - 83:14</p> <p><b>previously</b> Vol. 1 - 86:12</p> <p><b>prima</b> Vol. 1 - 105:6</p> <p><b>primary</b> Vol. 1 - 103:19</p> <p><b>print [8]</b> - Vol. 1 - 72:5, 72:6, 72:12, 72:16, 73:10, 73:12, 73:25, 74:11</p> <p><b>printed</b> Vol. 1 - 72:22</p> <p><b>prints [12]</b> - Vol. 1 - 72:18, 72:21, 72:21,</p>	<p>72:24, 73:11, 73:15, 73:16, 73:21, 74:1, 74:10, 74:16, 74:19</p> <p><b>prior</b> Vol. 1 - 59:5</p> <p><b>private</b> Vol. 1 - 84:24</p> <p><b>probably [14]</b> - Vol. 1 - 12:8, 12:9, 27:14, 52:20, 67:4, 93:22, 94:19, 94:24, 114:9, 116:8, 116:13, 118:20, 121:1, 130:14</p> <p><b>probation</b> Vol. 1 - 8:1</p> <p><b>probe [7]</b> - Vol. 1 - 95:20, 95:21, 97:13, 97:14, 100:9, 100:10, 101:3</p> <p><b>probes [11]</b> - Vol. 1 - 66:16, 66:17, 90:24, 91:6, 92:18, 93:14, 95:13, 96:4, 100:7, 110:25, 119:3</p> <p><b>problem [3]</b> - Vol. 1 - 12:14, 99:1, 121:13</p> <p><b>procedure</b> Vol. 1 - 92:16</p> <p><b>proceedings [3]</b> - Vol. 1 - 44:1, 44:5, 133:6</p> <p><b>process [6]</b> - Vol. 1 - 30:7, 42:23, 42:25, 108:12, 114:13, 116:7</p> <p><b>processed [3]</b> - Vol. 1 - 103:11, 105:18, 115:7</p> <p><b>processing [18]</b> - Vol. 1 - 7:8, 9:25, 12:20, 102:19, 102:24, 104:15, 104:23, 104:25, 105:3, 105:15, 106:3, 107:11, 107:14, 108:14, 108:17, 108:18, 108:18, 112:3</p> <p><b>produces</b> Vol. 1 - 71:12</p> <p><b>profession</b> Vol. 1 - 117:17</p> <p><b>professionals</b> Vol. 1 - 63:3</p> <p><b>program [2]</b> -</p>	<p>Vol. 1 - 72:11, 89:9</p> <p><b>progressed</b> Vol. 1 - 98:6</p> <p><b>prongs</b> Vol. 1 - 98:1</p> <p><b>properly</b> Vol. 1 - 12:20</p> <p><b>property</b> Vol. 1 - 24:25</p> <p><b>propped</b> Vol. 1 - 54:18</p> <p><b>pros</b> Vol. 1 - 99:14</p> <p><b>protocol</b> Vol. 1 - 80:7</p> <p><b>provide</b> Vol. 1 - 77:14</p> <p><b>provided</b> Vol. 1 - 72:15</p> <p><b>psychiatrist</b> Vol. 1 - 7:22</p> <p><b>Public</b> Vol. 1 - 124:15</p> <p><b>pull [21]</b> - Vol. 1 - 19:21, 25:4, 38:5, 41:8, 47:2, 47:22, 50:12, 58:9, 92:5, 92:11, 92:17, 93:11, 95:14, 96:15, 96:23, 113:6, 113:9, 113:12, 114:13, 114:22, 114:23</p> <p><b>pulled [12]</b> - Vol. 1 - 21:11, 46:1, 53:10, 55:24, 56:24, 57:6, 58:17, 100:19, 100:20, 100:21, 114:25, 128:8</p> <p><b>pulling [4]</b> - Vol. 1 - 14:17, 16:23, 25:9, 114:14</p> <p><b>pulls [2]</b> - Vol. 1 - 77:24, 113:18</p> <p><b>pulse [11]</b> - Vol. 1 - 90:6, 94:9, 94:14, 95:3, 95:4, 95:23, 96:1, 96:12, 101:1, 102:12, 102:13</p> <p><b>pulses [4]</b> - Vol. 1 - 91:14, 91:17, 91:17, 92:7</p> <p><b>punch [9]</b> - Vol. 1 - 33:10, 33:10, 33:11, 36:17, 36:20, 59:16, 60:3, 60:17, 125:12</p>
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<p><b>punched [5]</b> - Vol. 1 - 36:2, 47:4, 59:20, 60:15, 60:19</p> <p><b>punches [3]</b> - Vol. 1 - 41:16, 124:8, 124:14</p> <p><b>punk</b> Vol. 1 - 25:22</p> <p><b>pursued</b> Vol. 1 - 12:6</p> <p><b>pursuit</b> Vol. 1 - 118:9</p> <p><b>pursuits</b> Vol. 1 - 118:6</p> <p><b>push [15]</b> - Vol. 1 - 32:5, 33:16, 33:18, 34:4, 34:5, 34:10, 34:24, 38:3, 55:19, 64:13, 64:22, 116:2, 116:5, 116:23, 125:10</p> <p><b>pushed</b> Vol. 1 - 41:13</p> <p><b>pushes [2]</b> - Vol. 1 - 124:12, 126:22</p> <p><b>pushing [3]</b> - Vol. 1 - 34:11, 38:16, 61:10</p> <p><b>puts [2]</b> - Vol. 1 - 126:3, 126:4</p> <p><b>putting [4]</b> - Vol. 1 - 57:24, 58:25, 72:18, 74:3</p> <hr/> <p style="text-align: center;"><b>Q</b></p> <hr/> <p><b>quadriceps</b> Vol. 1 - 116:23</p> <p><b>qualification [2]</b> - Vol. 1 - 121:20, 121:22</p> <p><b>qualified</b> Vol. 1 - 89:12</p> <p><b>qualify [2]</b> - Vol. 1 - 121:18, 122:4</p> <p><b>quantitative</b> Vol. 1 - 88:3</p> <p><b>quarter [2]</b> - Vol. 1 - 52:20, 52:23</p> <p><b>questioned</b> Vol. 1 - 106:17</p> <p><b>quick [11]</b> - Vol. 1 - 27:17, 32:10, 32:10, 32:11, 32:11, 37:1, 38:17, 38:23, 43:17, 57:5, 130:19</p>	<p><b>quicker [4]</b> - Vol. 1 - 64:12, 64:21, 64:23, 113:17</p> <p><b>quickly [2]</b> - Vol. 1 - 112:19, 113:14</p> <p><b>quietly</b> Vol. 1 - 129:6</p> <p><b>quite [5]</b> - Vol. 1 - 86:14, 87:6, 101:12, 128:23, 129:2</p> <hr/> <p style="text-align: center;"><b>R</b></p> <hr/> <p><b>racks</b> Vol. 1 - 94:3</p> <p><b>radio [15]</b> - Vol. 1 - 21:7, 24:15, 30:23, 32:9, 32:13, 40:14, 40:20, 44:21, 52:1, 52:4, 52:7, 53:2, 56:14, 56:17, 106:20</p> <p><b>raise [8]</b> - Vol. 1 - 4:10, 17:23, 50:21, 71:17, 75:4, 79:17, 85:9, 88:14</p> <p><b>raised</b> Vol. 1 - 53:19</p> <p><b>raises</b> Vol. 1 - 5:10</p> <p><b>ran [7]</b> - Vol. 1 - 24:7, 26:6, 89:9, 93:10, 94:7, 100:24, 107:20</p> <p><b>rang [2]</b> - Vol. 1 - 54:25, 59:14</p> <p><b>range [5]</b> - Vol. 1 - 95:2, 102:13, 103:12, 118:14, 120:18</p> <p><b>ranging</b> Vol. 1 - 89:3</p> <p><b>rate [3]</b> - Vol. 1 - 67:5, 91:7, 102:13</p> <p><b>rates</b> Vol. 1 - 102:12</p> <p><b>Rathburn [3]</b> - Vol. 1 - 3:10, 71:17, 71:20</p> <p><b>rather [2]</b> - Vol. 1 - 86:12, 113:9</p> <p><b>rational</b> Vol. 1 - 108:19</p> <p><b>rationale</b> Vol. 1 - 106:10</p> <p><b>reach [6]</b> - Vol. 1 - 34:25, 36:8, 38:4, 43:1,</p>	<p>64:22, 110:13</p> <p><b>reached [4]</b> - Vol. 1 - 42:24, 42:24, 43:2, 113:24</p> <p><b>reaches [4]</b> - Vol. 1 - 31:12, 34:21, 34:21, 34:23</p> <p><b>reaching [6]</b> - Vol. 1 - 29:20, 42:12, 42:13, 76:5, 110:9, 110:14</p> <p><b>react [3]</b> - Vol. 1 - 28:22, 31:16, 109:20</p> <p><b>reaction [8]</b> - Vol. 1 - 64:10, 66:8, 116:14, 116:17, 116:25, 117:3, 118:12, 124:21</p> <p><b>reactions [2]</b> - Vol. 1 - 101:11, 116:15</p> <p><b>reacts</b> Vol. 1 - 127:2</p> <p><b>ready [2]</b> - Vol. 1 - 19:9, 116:10</p> <p><b>real [5]</b> - Vol. 1 - 55:11, 65:13, 66:19, 105:5, 111:8</p> <p><b>realistically</b> Vol. 1 - 43:15</p> <p><b>reality</b> Vol. 1 - 24:6</p> <p><b>realize [7]</b> - Vol. 1 - 37:4, 38:14, 38:22, 40:4, 54:6, 54:10, 105:21</p> <p><b>realized [7]</b> - Vol. 1 - 38:18, 40:3, 42:13, 55:22, 61:5, 61:15, 105:21</p> <p><b>realizes [2]</b> - Vol. 1 - 105:10, 105:20</p> <p><b>realizing</b> Vol. 1 - 56:6</p> <p><b>really [27]</b> - Vol. 1 - 7:1, 12:1, 15:24, 15:24, 33:3, 38:23, 46:8, 60:18, 63:17, 64:5, 70:5, 73:17, 76:17, 77:13, 104:13, 119:22, 121:7, 121:13, 122:2, 123:6, 123:7,</p>	<p>125:1, 125:11, 126:8, 127:1, 127:12, 132:18</p> <p><b>reason [6]</b> - Vol. 1 - 26:6, 90:18, 91:20, 95:17, 111:19, 120:22</p> <p><b>reasonable [10]</b> - Vol. 1 - 98:17, 109:3, 109:4, 109:6, 109:8, 109:10, 109:21, 109:22, 109:22, 123:5</p> <p><b>reasonableness</b> Vol. 1 - 109:19</p> <p><b>reasonably [4]</b> - Vol. 1 - 108:25, 109:12, 123:1, 131:1</p> <p><b>reasons [2]</b> - Vol. 1 - 24:8, 26:5</p> <p><b>reassess</b> Vol. 1 - 114:8</p> <p><b>recalling</b> Vol. 1 - 60:20</p> <p><b>receive [2]</b> - Vol. 1 - 62:25, 63:5</p> <p><b>recent</b> Vol. 1 - 9:22</p> <p><b>recently [2]</b> - Vol. 1 - 89:1, 89:22</p> <p><b>recess</b> Vol. 1 - 79:15</p> <p><b>recesses</b> Vol. 1 - 45:20</p> <p><b>reclusive</b> Vol. 1 - 10:15</p> <p><b>recognize [6]</b> - Vol. 1 - 12:12, 59:4, 59:8, 63:9, 129:8, 129:11</p> <p><b>recognized [2]</b> - Vol. 1 - 59:3, 64:9</p> <p><b>recognizing</b> Vol. 1 - 63:1</p> <p><b>recollected</b> Vol. 1 - 59:8</p> <p><b>recollection [8]</b> - Vol. 1 - 41:18, 41:20, 43:6, 59:10, 59:23, 60:2, 60:11, 65:4</p> <p><b>record [3]</b> - Vol. 1 - 54:8, 71:6, 131:8</p> <p><b>recorded</b> Vol. 1 - 133:10</p> <p><b>recorder</b> Vol. 1 - 44:13</p>	<p><b>recording</b> Vol. 1 - 44:10</p> <p><b>recounting</b> Vol. 1 - 117:11</p> <p><b>recovered [3]</b> - Vol. 1 - 82:4, 86:22, 87:5</p> <p><b>red [6]</b> - Vol. 1 - 21:9, 24:4, 87:20, 93:18, 97:11, 97:12</p> <p><b>referred [2]</b> - Vol. 1 - 96:7, 100:3</p> <p><b>reflecting</b> Vol. 1 - 43:3</p> <p><b>refusing</b> Vol. 1 - 129:3</p> <p><b>regardless [2]</b> - Vol. 1 - 101:15, 121:16</p> <p><b>register</b> Vol. 1 - 107:2</p> <p><b>relate</b> Vol. 1 - 101:21</p> <p><b>relation [3]</b> - Vol. 1 - 13:14, 52:18, 86:18</p> <p><b>relationship</b> Vol. 1 - 15:18</p> <p><b>relative</b> Vol. 1 - 133:14</p> <p><b>relatives</b> Vol. 1 - 75:23</p> <p><b>released [2]</b> - Vol. 1 - 41:2, 97:4</p> <p><b>relevant</b> Vol. 1 - 107:6</p> <p><b>reload</b> Vol. 1 - 118:23</p> <p><b>remove [3]</b> - Vol. 1 - 80:10, 109:9, 118:11</p> <p><b>removed</b> Vol. 1 - 57:8</p> <p><b>removing [2]</b> - Vol. 1 - 92:22, 117:16</p> <p><b>rendered</b> Vol. 1 - 111:25</p> <p><b>Renee</b> Vol. 1 - 13:9</p> <p><b>repeated</b> Vol. 1 - 27:3</p> <p><b>repeating</b> Vol. 1 - 49:11</p> <p><b>report [2]</b> - Vol. 1 - 15:12, 93:19</p> <p><b>Reporter [2]</b> - Vol. 1 - 133:4, 133:22</p> <p><b>REPORTER'S</b> Vol. 1 - 133:1</p>	<p><b>reporting</b> Vol. 1 - 100:4</p> <p><b>reports [3]</b> - Vol. 1 - 90:3, 90:7, 112:24</p> <p><b>representation</b> Vol. 1 - 84:20</p> <p><b>request</b> Vol. 1 - 52:9</p> <p><b>requested [5]</b> - Vol. 1 - 24:19, 56:17, 56:25, 57:3, 57:4</p> <p><b>research [3]</b> - Vol. 1 - 101:6, 121:4, 121:11</p> <p><b>reset</b> Vol. 1 - 113:12</p> <p><b>residence</b> Vol. 1 - 59:6</p> <p><b>residency</b> Vol. 1 - 86:6</p> <p><b>resist [2]</b> - Vol. 1 - 123:18, 123:23</p> <p><b>resisting</b> Vol. 1 - 124:24</p> <p><b>respond [7]</b> - Vol. 1 - 57:1, 62:21, 65:16, 65:21, 68:4, 80:3, 107:24</p> <p><b>responded [3]</b> - Vol. 1 - 52:16, 59:5, 61:11</p> <p><b>responding [2]</b> - Vol. 1 - 56:20, 63:18</p> <p><b>response [20]</b> - Vol. 1 - 11:6, 17:19, 47:19, 50:19, 53:7, 57:5, 67:10, 79:1, 85:5, 88:9, 101:7, 102:4, 103:22, 107:17, 107:21, 109:20, 115:19, 119:2, 122:14, 130:6</p> <p><b>rest [8]</b> - Vol. 1 - 19:11, 27:15, 27:16, 47:16, 54:7, 68:15, 81:25, 97:9</p> <p><b>restaurant [10]</b> - Vol. 1 - 27:10, 27:11, 27:18, 27:18, 53:15, 54:14, 57:15, 76:12, 76:13, 77:5</p> <p><b>results</b> Vol. 1 - 88:1</p> <p><b>retarded</b> Vol. 1 - 131:16</p>
--	--	--	--	--	--

<p><b>retention [2]</b> - Vol. 1 - 120:1, 120:6</p> <p><b>retired [2]</b> - Vol. 1 - 86:10, 89:1</p> <p><b>review</b> Vol. 1 - 90:1</p> <p><b>reviewed [10]</b> - Vol. 1 - 42:19, 66:1, 72:23, 74:15, 90:3, 90:3, 90:5, 90:6, 92:25, 94:10</p> <p><b>reviewing [3]</b> - Vol. 1 - 65:23, 103:20, 108:5</p> <p><b>reviews</b> Vol. 1 - 74:18</p> <p><b>rib</b> Vol. 1 - 36:21</p> <p><b>rid</b> Vol. 1 - 102:22</p> <p><b>ridge [3]</b> - Vol. 1 - 73:4, 73:8, 73:20</p> <p><b>ridges [4]</b> - Vol. 1 - 73:5, 73:6, 73:18, 73:19</p> <p><b>rifle</b> Vol. 1 - 111:18</p> <p><b>right-hand</b> Vol. 1 - 42:4</p> <p><b>right-of-way [2]</b> - Vol. 1 - 78:9, 78:10</p> <p><b>rights</b> Vol. 1 - 126:8</p> <p><b>rigid [3]</b> - Vol. 1 - 40:25, 41:4, 93:20</p> <p><b>road [4]</b> - Vol. 1 - 6:7, 25:1, 52:21, 77:20</p> <p><b>Rock [4]</b> - Vol. 1 - 13:13, 14:6, 14:7, 16:25</p> <p><b>role</b> Vol. 1 - 85:18</p> <p><b>rolling</b> Vol. 1 - 38:19</p> <p><b>rooftop</b> Vol. 1 - 77:13</p> <p><b>room [9]</b> - Vol. 1 - 27:15, 27:16, 54:7, 68:15, 68:20, 77:8, 80:22, 107:5, 126:8</p> <p><b>rooms</b> Vol. 1 - 80:21</p> <p><b>round [9]</b> - Vol. 1 - 81:7, 111:16, 113:9, 113:13, 115:19, 116:2, 116:4, 120:19, 120:22</p>	<p><b>rounds [14]</b> - Vol. 1 - 56:9, 61:12, 81:16, 81:21, 112:18, 113:14, 113:17, 114:6, 114:8, 114:10, 120:9, 120:15, 121:21, 121:25</p> <p><b>route</b> Vol. 1 - 44:22</p> <p><b>routine [4]</b> - Vol. 1 - 5:6, 5:8, 6:24, 18:20</p> <p><b>routinely</b> Vol. 1 - 11:9</p> <p><b>rules</b> Vol. 1 - 131:22</p> <p><b>run [3]</b> - Vol. 1 - 92:6, 92:15, 102:25</p> <p><b>run-ins</b> Vol. 1 - 9:3</p> <p><b>running [2]</b> - Vol. 1 - 55:7, 59:13</p> <p><b>running [6]</b> - Vol. 1 - 16:3, 96:1, 118:7, 128:9, 128:13, 129:3</p>	<p>73:19</p> <p><b>scared [2]</b> - Vol. 1 - 12:9, 12:10</p> <p><b>scars</b> Vol. 1 - 73:6</p> <p><b>scenarios</b> Vol. 1 - 103:1</p> <p><b>scene [12]</b> - Vol. 1 - 52:17, 57:2, 57:7, 57:9, 57:13, 70:7, 75:25, 80:10, 86:22, 90:5, 90:5, 118:12</p> <p><b>schizophrenia [3]</b> - Vol. 1 - 6:22, 7:25, 108:2</p> <p><b>sci-fi</b> Vol. 1 - 98:20</p> <p><b>Science</b> Vol. 1 - 86:4</p> <p><b>scientist</b> Vol. 1 - 68:3</p> <p><b>scoring</b> Vol. 1 - 121:25</p> <p><b>scraped</b> Vol. 1 - 94:22</p> <p><b>scream</b> Vol. 1 - 104:11</p> <p><b>screaming</b> Vol. 1 - 104:11</p> <p><b>screen</b> Vol. 1 - 87:24</p> <p><b>scruffy</b> Vol. 1 - 15:23</p> <p><b>scruffy-looking</b> Vol. 1 - 17:11</p> <p><b>se</b> Vol. 1 - 66:20</p> <p><b>search</b> Vol. 1 - 88:4</p> <p><b>seat [3]</b> - Vol. 1 - 4:9, 13:7, 67:12</p> <p><b>seconds [37]</b> - Vol. 1 - 15:7, 26:21, 27:8, 32:12, 41:7, 41:9, 43:19, 47:1, 47:1, 47:3, 47:4, 48:3, 60:10, 60:21, 63:15, 92:6, 92:7, 92:10, 92:14, 92:15, 93:2, 93:10, 94:8, 94:9, 94:11, 94:12, 96:1, 97:1, 97:2, 97:4, 97:6, 100:25, 105:9, 105:25, 115:10, 115:21, 117:1</p> <p><b>secure</b> Vol. 1 - 57:2</p>	<p><b>secured [3]</b> - Vol. 1 - 57:7, 57:7, 57:13</p> <p><b>seeing [2]</b> - Vol. 1 - 38:13, 45:7</p> <p><b>seek</b> Vol. 1 - 7:12</p> <p><b>seem [3]</b> - Vol. 1 - 48:4, 109:2, 129:16</p> <p><b>seemed</b> Vol. 1 - 17:15</p> <p><b>seems [2]</b> - Vol. 1 - 131:16, 132:9</p> <p><b>sees [2]</b> - Vol. 1 - 20:18, 45:7</p> <p><b>Seese [4]</b> - Vol. 1 - 3:11, 75:1, 75:7, 78:25</p> <p><b>seized</b> Vol. 1 - 82:12</p> <p><b>semiautomatic</b> Vol. 1 - 116:3</p> <p><b>senior [2]</b> - Vol. 1 - 51:13, 72:12</p> <p><b>sense [9]</b> - Vol. 1 - 25:7, 48:22, 52:19, 79:5, 88:25, 95:16, 98:5, 106:15, 114:23</p> <p><b>separate [2]</b> - Vol. 1 - 80:21, 80:22</p> <p><b>separated</b> Vol. 1 - 130:12</p> <p><b>September</b> Vol. 1 - 19:2</p> <p><b>sequence</b> Vol. 1 - 96:21</p> <p><b>serial [3]</b> - Vol. 1 - 69:8, 69:16, 69:17</p> <p><b>serious [2]</b> - Vol. 1 - 53:4, 104:7</p> <p><b>serve</b> Vol. 1 - 7:18</p> <p><b>served</b> Vol. 1 - 89:3</p> <p><b>Service</b> Vol. 1 - 72:4</p> <p><b>session [2]</b> - Vol. 1 - 2:6, 132:22</p> <p><b>sets</b> Vol. 1 - 98:19</p> <p><b>seven</b> Vol. 1 - 69:15</p> <p><b>several [5]</b> - Vol. 1 - 27:20, 51:24, 59:9, 60:21, 124:25</p> <p><b>severed</b> Vol. 1 - 87:9</p>	<p><b>shape [3]</b> - Vol. 1 - 97:25, 98:1, 99:4</p> <p><b>She'd</b> Vol. 1 - 5:23</p> <p><b>she'll</b> Vol. 1 - 71:18</p> <p><b>she's [2]</b> - Vol. 1 - 76:3, 76:4</p> <p><b>sheriff's [7]</b> - Vol. 1 - 56:19, 72:3, 72:10, 79:25, 80:19, 89:2, 132:4</p> <p><b>shift [8]</b> - Vol. 1 - 18:24, 19:4, 19:6, 19:18, 21:18, 51:15, 51:19, 51:20</p> <p><b>shifts</b> Vol. 1 - 17:8</p> <p><b>shocked [7]</b> - Vol. 1 - 58:21, 58:22, 92:19, 100:14, 100:18, 110:21, 115:7</p> <p><b>shoot [11]</b> - Vol. 1 - 39:7, 50:15, 50:17, 98:14, 111:24, 112:6, 115:24, 115:25, 116:1, 116:11, 121:8</p> <p><b>shooting [7]</b> - Vol. 1 - 2:8, 4:6, 11:23, 14:12, 80:7, 80:10, 103:13</p> <p><b>shootings</b> Vol. 1 - 117:22</p> <p><b>shopping</b> Vol. 1 - 5:23</p> <p><b>short [8]</b> - Vol. 1 - 83:3, 90:21, 93:6, 102:12, 111:10, 113:23, 120:19, 120:22</p> <p><b>shorted</b> Vol. 1 - 94:23</p> <p><b>shorthand [3]</b> - Vol. 1 - 133:4, 133:13, 133:22</p> <p><b>shot [23]</b> - Vol. 1 - 4:7, 35:4, 38:6, 39:1, 39:1, 39:3, 39:5, 40:18, 50:14, 50:15, 64:5, 99:16, 108:7, 109:13, 109:14, 112:2, 112:4, 112:7, 118:20, 118:22, 118:24, 131:2, 131:6</p> <p><b>shotguns</b> Vol. 1 -</p>	<p>102:6</p> <p><b>shots [9]</b> - Vol. 1 - 40:15, 48:4, 56:15, 56:16, 61:5, 81:19, 81:20, 98:13, 105:25</p> <p><b>shoulder [3]</b> - Vol. 1 - 37:18, 38:21, 38:22</p> <p><b>shouldn't [5]</b> - Vol. 1 - 20:10, 20:12, 60:12, 90:15, 98:14</p> <p><b>shouting [2]</b> - Vol. 1 - 123:25, 124:1</p> <p><b>showed [2]</b> - Vol. 1 - 77:12, 94:10</p> <p><b>showing [3]</b> - Vol. 1 - 45:16, 120:14, 125:3</p> <p><b>shows [4]</b> - Vol. 1 - 41:15, 68:12, 77:16, 97:1</p> <p><b>shut [4]</b> - Vol. 1 - 54:7, 54:9, 54:11, 56:21</p> <p><b>sidewalk [2]</b> - Vol. 1 - 56:25, 77:18</p> <p><b>sideways</b> Vol. 1 - 35:11</p> <p><b>sight [9]</b> - Vol. 1 - 6:7, 26:21, 27:2, 27:4, 27:5, 27:8, 27:25, 99:2, 99:4</p> <p><b>sighted [2]</b> - Vol. 1 - 99:16, 122:8</p> <p><b>sighting</b> Vol. 1 - 98:25</p> <p><b>sign [2]</b> - Vol. 1 - 15:12, 15:22</p> <p><b>signal</b> Vol. 1 - 128:20</p> <p><b>significant [3]</b> - Vol. 1 - 52:11, 76:15, 84:11</p> <p><b>similar [3]</b> - Vol. 1 - 98:16, 120:13, 121:3</p> <p><b>simple [2]</b> - Vol. 1 - 96:17, 97:10</p> <p><b>simply [3]</b> - Vol. 1 - 106:8, 106:8, 107:10</p> <p><b>single [4]</b> - Vol. 1 - 24:6, 100:25, 101:1, 113:17</p> <p><b>single-trigger [2]</b> - Vol. 1 - 92:4, 93:11</p>
<b>S</b>					

<p><b>sink [6]</b> - Vol. 1 - 28:10, 29:1, 29:4, 29:14, 36:11, 45:13</p> <p><b>sinks [4]</b> - Vol. 1 - 45:14, 45:21, 69:2, 94:2</p> <p><b>siren</b> Vol. 1 - 32:8</p> <p><b>sirens</b> Vol. 1 - 32:16</p> <p><b>sitting</b> Vol. 1 - 103:7</p> <p><b>situation [19]</b> - Vol. 1 - 9:16, 10:2, 12:18, 25:7, 26:19, 28:21, 31:6, 33:5, 62:13, 64:8, 65:13, 101:7, 109:9, 115:23, 117:6, 118:4, 118:13, 119:10, 131:20</p> <p><b>situations [2]</b> - Vol. 1 - 33:3, 103:15</p> <p><b>six</b> Vol. 1 - 85:23</p> <p><b>skills</b> Vol. 1 - 102:16</p> <p><b>skin</b> Vol. 1 - 66:14</p> <p><b>sleep</b> Vol. 1 - 19:15</p> <p><b>Slept</b> Vol. 1 - 19:15</p> <p><b>slide</b> Vol. 1 - 116:4</p> <p><b>slight</b> Vol. 1 - 94:11</p> <p><b>slim</b> Vol. 1 - 116:8</p> <p><b>slow [3]</b> - Vol. 1 - 20:9, 20:19, 102:2</p> <p><b>slowing</b> Vol. 1 - 104:25</p> <p><b>slows</b> Vol. 1 - 105:3</p> <p><b>smaller</b> Vol. 1 - 66:23</p> <p><b>smear</b> Vol. 1 - 70:13</p> <p><b>Smith</b> Vol. 1 - 112:23</p> <p><b>snagged</b> Vol. 1 - 132:17</p> <p><b>sniper</b> Vol. 1 - 112:6</p> <p><b>sober [2]</b> - Vol. 1 - 49:25, 129:21</p> <p><b>sobriety [2]</b> - Vol. 1 - 127:22, 128:3</p>	<p><b>socked [3]</b> - Vol. 1 - 36:6, 37:6, 37:7</p> <p><b>socks</b> Vol. 1 - 36:17</p> <p><b>soft</b> Vol. 1 - 98:14</p> <p><b>somebody [9]</b> - Vol. 1 - 25:3, 33:4, 40:22, 40:22, 80:13, 95:14, 108:16, 111:24, 117:19</p> <p><b>someone [14]</b> - Vol. 1 - 23:16, 24:7, 40:23, 41:3, 61:17, 62:6, 62:19, 62:24, 63:18, 64:7, 73:23, 108:25, 126:11, 131:1</p> <p><b>someplace [2]</b> - Vol. 1 - 18:13, 100:10</p> <p><b>somewhat</b> Vol. 1 - 126:16</p> <p><b>somewhere [8]</b> - Vol. 1 - 94:19, 102:13, 103:18, 104:13, 105:9, 106:1, 115:2, 118:16</p> <p><b>son [4]</b> - Vol. 1 - 4:19, 6:20, 8:11, 9:12</p> <p><b>sorry [9]</b> - Vol. 1 - 9:1, 34:1, 36:5, 39:8, 39:12, 48:11, 69:3, 70:4, 71:1</p> <p><b>sort [15]</b> - Vol. 1 - 77:17, 90:24, 93:20, 99:19, 104:9, 104:12, 104:16, 105:6, 105:14, 111:24, 114:22, 118:21, 118:25, 121:14, 121:14</p> <p><b>sorts</b> Vol. 1 - 101:25</p> <p><b>Sounds</b> Vol. 1 - 102:3</p> <p><b>south [3]</b> - Vol. 1 - 20:17, 77:23, 78:12</p> <p><b>southbound [5]</b> - Vol. 1 - 19:19, 19:23, 19:24, 20:13, 77:21</p> <p><b>space [3]</b> - Vol. 1 - 94:2, 102:20, 104:18</p>	<p><b>spaces [2]</b> - Vol. 1 - 93:6, 105:1</p> <p><b>speak [3]</b> - Vol. 1 - 49:5, 93:8, 103:25</p> <p><b>speaking [2]</b> - Vol. 1 - 104:6, 109:10</p> <p><b>special</b> Vol. 1 - 89:21</p> <p><b>specialist</b> Vol. 1 - 8:9</p> <p><b>specific [3]</b> - Vol. 1 - 66:7, 83:11, 95:19</p> <p><b>specifically [5]</b> - Vol. 1 - 24:17, 65:4, 89:23, 89:25, 90:23</p> <p><b>sped</b> Vol. 1 - 53:6</p> <p><b>speed [4]</b> - Vol. 1 - 7:1, 16:5, 102:2, 102:20</p> <p><b>spelled</b> Vol. 1 - 67:16</p> <p><b>spelling</b> Vol. 1 - 88:20</p> <p><b>spent [3]</b> - Vol. 1 - 89:21, 110:2, 110:18</p> <p><b>spilled</b> Vol. 1 - 109:14</p> <p><b>spinal [3]</b> - Vol. 1 - 87:9, 87:10, 87:12</p> <p><b>splits</b> Vol. 1 - 27:15</p> <p><b>spot [2]</b> - Vol. 1 - 78:3, 82:2</p> <p><b>spread [7]</b> - Vol. 1 - 66:15, 66:17, 91:7, 91:20, 93:19, 95:1, 97:14</p> <p><b>spring</b> Vol. 1 - 120:23</p> <p><b>squeezing [4]</b> - Vol. 1 - 38:7, 38:7, 38:8, 38:14</p> <p><b>staff</b> Vol. 1 - 89:4</p> <p><b>stage [2]</b> - Vol. 1 - 57:1, 57:4</p> <p><b>stains [3]</b> - Vol. 1 - 70:9, 70:10, 70:14</p> <p><b>stall [9]</b> - Vol. 1 - 26:3, 35:6, 35:6, 35:7, 36:12, 69:1, 69:13, 94:3, 119:16</p> <p><b>stand [5]</b> - Vol. 1 - 10:5, 24:1,</p>	<p>27:22, 28:14, 107:20</p> <p><b>standard [2]</b> - Vol. 1 - 121:22, 122:4</p> <p><b>standards [2]</b> - Vol. 1 - 121:18, 121:19</p> <p><b>standby [2]</b> - Vol. 1 - 54:6, 54:10</p> <p><b>standing [3]</b> - Vol. 1 - 20:2, 29:24, 54:19</p> <p><b>standpoint</b> Vol. 1 - 89:22</p> <p><b>stands [3]</b> - Vol. 1 - 20:20, 28:23, 56:9</p> <p><b>staring [3]</b> - Vol. 1 - 33:23, 33:25, 33:25</p> <p><b>start [13]</b> - Vol. 1 - 14:3, 20:19, 21:7, 24:16, 25:9, 27:5, 35:15, 36:16, 36:19, 48:22, 103:4, 115:4, 127:21</p> <p><b>started [13]</b> - Vol. 1 - 5:9, 19:6, 20:1, 20:6, 20:7, 20:8, 20:8, 20:9, 20:15, 28:14, 46:4, 95:24, 97:21</p> <p><b>starting [3]</b> - Vol. 1 - 24:4, 26:6, 26:7</p> <p><b>starts [16]</b> - Vol. 1 - 19:5, 21:4, 25:11, 25:13, 25:14, 28:25, 29:23, 30:8, 30:11, 30:25, 35:5, 35:13, 35:15, 35:19, 35:25, 95:4</p> <p><b>state [11]</b> - Vol. 1 - 13:7, 67:14, 67:25, 85:20, 85:21, 85:24, 86:12, 89:10, 90:7, 121:16, 121:17</p> <p><b>stated [2]</b> - Vol. 1 - 56:15, 56:16</p> <p><b>statement</b> Vol. 1 - 107:22</p> <p><b>statements [3]</b> - Vol. 1 - 12:5, 76:17, 97:19</p>	<p><b>states</b> Vol. 1 - 96:13</p> <p><b>stay</b> Vol. 1 - 20:21</p> <p><b>stayed [4]</b> - Vol. 1 - 5:18, 30:19, 30:19, 86:20</p> <p><b>stays</b> Vol. 1 - 57:10</p> <p><b>stems</b> Vol. 1 - 121:6</p> <p><b>stenographically</b> Vol. 1 - 133:11</p> <p><b>step [13]</b> - Vol. 1 - 20:15, 20:22, 30:23, 31:2, 32:9, 35:20, 36:15, 36:16, 53:3, 62:24, 114:7, 119:22, 119:23</p> <p><b>stepped [3]</b> - Vol. 1 - 59:18, 60:9, 65:2</p> <p><b>stepping</b> Vol. 1 - 25:19</p> <p><b>steps [2]</b> - Vol. 1 - 20:18, 35:21</p> <p><b>stick</b> Vol. 1 - 91:9</p> <p><b>stiff</b> Vol. 1 - 66:8</p> <p><b>stiffening</b> Vol. 1 - 66:20</p> <p><b>stomach</b> Vol. 1 - 45:5</p> <p><b>stomach-chest</b> Vol. 1 - 55:18</p> <p><b>stop [22]</b> - Vol. 1 - 5:25, 6:2, 15:12, 15:22, 20:21, 23:12, 23:22, 24:5, 35:24, 38:25, 77:22, 78:11, 95:17, 98:10, 109:21, 111:9, 114:1, 114:14, 116:8, 116:10, 116:12, 128:8</p> <p><b>stopped [10]</b> - Vol. 1 - 8:4, 21:7, 23:5, 37:18, 40:19, 52:15, 61:13, 114:3, 114:16, 115:9</p> <p><b>stopping [6]</b> - Vol. 1 - 22:15, 23:17, 23:22, 24:14, 128:13, 128:20</p> <p><b>stops [8]</b> - Vol. 1 - 25:11, 35:9, 40:9, 41:2, 78:14, 97:5, 112:3, 127:4</p>	<p><b>store [3]</b> - Vol. 1 - 77:15, 77:19, 78:6</p> <p><b>stove</b> Vol. 1 - 103:17</p> <p><b>straight</b> Vol. 1 - 44:2</p> <p><b>Strain [2]</b> - Vol. 1 - 13:9, 13:23</p> <p><b>Strains</b> Vol. 1 - 3:6</p> <p><b>strange</b> Vol. 1 - 103:17</p> <p><b>street [6]</b> - Vol. 1 - 23:20, 23:21, 24:2, 24:11, 24:23, 24:23</p> <p><b>stress [9]</b> - Vol. 1 - 23:14, 101:20, 102:10, 102:14, 102:14, 102:16, 106:7, 108:1, 117:6</p> <p><b>stretch</b> Vol. 1 - 119:7</p> <p><b>stretching</b> Vol. 1 - 119:4</p> <p><b>strong-side</b> Vol. 1 - 110:11</p> <p><b>struck [2]</b> - Vol. 1 - 54:24, 59:13</p> <p><b>struggle</b> Vol. 1 - 58:4</p> <p><b>struggled [3]</b> - Vol. 1 - 61:17, 61:20, 73:24</p> <p><b>struggling [6]</b> - Vol. 1 - 55:4, 56:12, 56:22, 59:24, 61:13, 62:5</p> <p><b>stub</b> Vol. 1 - 99:19</p> <p><b>stuck</b> Vol. 1 - 100:22</p> <p><b>studies [4]</b> - Vol. 1 - 101:6, 101:12, 106:16, 116:9</p> <p><b>stuff [17]</b> - Vol. 1 - 5:20, 14:25, 15:9, 16:24, 23:12, 65:14, 67:6, 72:13, 74:4, 84:21, 89:12, 100:9, 102:22, 103:4, 103:6, 105:17, 108:14</p> <p><b>stun [11]</b> - Vol. 1 - 56:2, 66:22, 95:8, 95:19, 96:3, 96:10, 97:22, 97:24,</p>
--	---	--	--	---	--

<p>98:4, 100:1, 101:3 <b>stunned</b> Vol. 1 - 99:23 <b>style</b> Vol. 1 - 112:15 <b>subconscious</b> Vol. 1 - 104:14 <b>subject [20]</b> - Vol. 1 - 21:7, 22:6, 24:20, 53:18, 54:16, 54:20, 54:24, 55:2, 55:23, 56:8, 56:10, 56:11, 56:13, 56:16, 56:22, 56:24, 57:8, 61:13, 63:13, 65:11 <b>subject's</b> Vol. 1 - 55:8 <b>subjective</b> Vol. 1 - 111:25 <b>subjects [2]</b> - Vol. 1 - 61:20, 65:17 <b>sudden [2]</b> - Vol. 1 - 15:5, 101:23 <b>suffered</b> Vol. 1 - 102:8 <b>sufficient</b> Vol. 1 - 112:20 <b>suggest</b> Vol. 1 - 95:11 <b>suggestion [4]</b> - Vol. 1 - 43:23, 43:24, 44:2, 104:2 <b>super [2]</b> - Vol. 1 - 32:10, 72:20 <b>supervisor</b> Vol. 1 - 56:18 <b>supported</b> Vol. 1 - 93:24 <b>supports</b> Vol. 1 - 33:3 <b>supposed [6]</b> - Vol. 1 - 24:10, 98:6, 111:21, 116:17, 128:8, 130:21 <b>surprise [2]</b> - Vol. 1 - 59:17, 106:21 <b>surrounding</b> Vol. 1 - 87:20 <b>surveillance [2]</b> - Vol. 1 - 77:4, 77:11 <b>survival [2]</b> - Vol. 1 - 106:8, 106:11</p>	<p><b>suspect</b> Vol. 1 - 65:8 <b>suspicion</b> Vol. 1 - 26:7 <b>suspicious</b> Vol. 1 - 84:4 <b>swear [12]</b> - Vol. 1 - 4:11, 13:20, 17:24, 50:22, 65:14, 65:20, 71:18, 75:5, 79:17, 85:9, 88:14, 103:8 <b>sweatshirts</b> Vol. 1 - 67:6 <b>sweaty</b> Vol. 1 - 74:3 <b>swing [3]</b> - Vol. 1 - 51:21, 51:22, 51:23 <b>swinging</b> Vol. 1 - 68:19 <b>swings [2]</b> - Vol. 1 - 35:16, 36:1 <b>sworn [10]</b> - Vol. 1 - 4:14, 13:24, 18:3, 51:3, 67:19, 71:21, 75:8, 79:21, 85:13, 88:17 <b>syllabuses</b> Vol. 1 - 120:5 <b>Sync</b> Vol. 1 - 83:6 <b>system [9]</b> - Vol. 1 - 83:6, 83:10, 83:22, 96:16, 98:25, 99:2, 99:17, 106:11, 112:4 <b>Systems</b> Vol. 1 - 106:10</p> <hr/> <p style="text-align: center;"><b>T</b></p> <hr/> <p><b>table</b> Vol. 1 - 130:2 <b>Tacoma [2]</b> - Vol. 1 - 86:6, 86:7 <b>tact</b> Vol. 1 - 12:16 <b>take-a-brace</b> Vol. 1 - 119:23 <b>taken [5]</b> - Vol. 1 - 12:16, 82:3, 82:12, 133:6, 133:13 <b>takes [3]</b> - Vol. 1 - 24:23, 78:2, 114:13</p>	<p><b>taking [4]</b> - Vol. 1 - 8:4, 19:1, 43:8, 57:16 <b>target</b> Vol. 1 - 121:9 <b>tase [4]</b> - Vol. 1 - 40:22, 48:16, 105:23, 130:8 <b>tased [12]</b> - Vol. 1 - 35:2, 35:19, 40:23, 41:4, 48:17, 48:20, 48:20, 49:9, 56:5, 65:22, 66:8, 99:23 <b>taser [89]</b> - Vol. 1 - 29:25, 30:5, 31:14, 34:22, 35:2, 35:4, 35:17, 35:23, 40:10, 40:10, 40:12, 40:21, 41:11, 41:19, 42:4, 42:10, 42:17, 42:24, 42:25, 43:2, 43:8, 46:1, 46:15, 46:16, 46:17, 47:21, 47:22, 48:1, 55:23, 55:24, 55:25, 56:6, 57:16, 61:2, 61:2, 61:4, 61:5, 61:15, 61:16, 64:1, 66:2, 66:10, 66:11, 69:6, 69:9, 70:16, 70:25, 71:7, 72:15, 72:16, 83:6, 87:16, 87:17, 90:6, 90:11, 90:11, 90:16, 92:9, 93:5, 99:12, 105:7, 105:8, 105:9, 105:19, 105:20, 106:14, 106:23, 110:1, 110:3, 110:8, 110:10, 110:12, 110:22, 111:5, 114:24, 114:25, 114:25, 115:1, 115:3, 115:3, 115:9, 115:9, 115:11, 115:20, 118:15, 118:23, 122:5, 130:7, 130:11 <b>taser's</b> Vol. 1 - 94:17 <b>tasers [8]</b> - Vol. 1 -</p>	<p>69:7, 71:9, 83:2, 98:9, 99:3, 110:4, 120:2, 131:10 <b>tasks</b> Vol. 1 - 75:17 <b>teach</b> Vol. 1 - 99:1 <b>team</b> Vol. 1 - 107:21 <b>Technical</b> Vol. 1 - 44:1 <b>Technically</b> Vol. 1 - 129:1 <b>techniques</b> Vol. 1 - 63:5 <b>technology [2]</b> - Vol. 1 - 98:6, 98:18 <b>telling [5]</b> - Vol. 1 - 23:22, 25:20, 35:3, 48:19, 48:21 <b>tells [7]</b> - Vol. 1 - 22:15, 25:17, 30:5, 30:13, 49:25, 96:21, 124:18 <b>ten</b> Vol. 1 - 114:4 <b>tense [3]</b> - Vol. 1 - 34:11, 55:11, 65:13 <b>tenses [2]</b> - Vol. 1 - 34:12, 34:12 <b>tensing [2]</b> - Vol. 1 - 64:4, 66:20 <b>tension [3]</b> - Vol. 1 - 40:18, 41:1, 41:2 <b>term [2]</b> - Vol. 1 - 106:10, 111:25 <b>test</b> Vol. 1 - 128:4 <b>testified [12]</b> - Vol. 1 - 4:15, 13:25, 18:4, 51:4, 67:20, 71:22, 75:9, 79:22, 85:14, 88:18, 117:9, 117:14 <b>testimony [2]</b> - Vol. 1 - 99:22, 133:9 <b>tests</b> Vol. 1 - 127:22 <b>thank [13]</b> - Vol. 1 - 13:3, 13:21, 17:20, 17:21, 50:20, 67:11, 71:16, 74:24, 79:2, 85:6, 88:10,</p>	<p>122:16, 122:19 <b>Thanks</b> Vol. 1 - 85:7 <b>Thayer</b> Vol. 1 - 4:6 <b>thefts</b> Vol. 1 - 18:21 <b>theirs</b> Vol. 1 - 84:1 <b>themselves [5]</b> - Vol. 1 - 73:7, 74:2, 98:11, 110:22, 131:23 <b>there's [54]</b> - Vol. 1 - 11:3, 18:25, 19:20, 24:11, 24:24, 24:24, 24:25, 24:25, 28:6, 29:5, 32:22, 33:1, 33:3, 38:10, 48:2, 48:3, 53:13, 55:24, 59:24, 60:10, 63:2, 64:12, 66:12, 66:23, 72:23, 74:1, 74:9, 91:1, 92:16, 94:5, 94:23, 95:12, 96:19, 96:24, 100:10, 102:1, 102:5, 103:21, 103:23, 105:5, 108:14, 111:11, 112:14, 113:3, 113:3, 113:5, 113:18, 115:14, 115:16, 116:20, 120:24, 121:5, 124:20, 126:25 <b>thereafter</b> Vol. 1 - 133:11 <b>therein</b> Vol. 1 - 133:7 <b>they'll [5]</b> - Vol. 1 - 23:12, 98:13, 103:5, 103:6, 121:1 <b>they're</b> Vol. 1 - 47:10 <b>they've [7]</b> - Vol. 1 - 69:20, 73:7, 80:16, 97:25, 98:1, 101:14, 127:14 <b>thing [55]</b> - Vol. 1 - 8:13, 11:25, 15:24, 23:8, 30:4, 30:20, 32:23, 32:25, 38:18, 44:12, 55:1, 55:12, 59:22, 60:4,</p>	<p>60:6, 73:20, 82:7, 93:12, 93:16, 93:17, 95:25, 96:9, 99:9, 100:15, 102:10, 102:19, 103:3, 103:9, 103:12, 103:14, 103:17, 103:24, 105:5, 105:11, 105:24, 107:23, 110:7, 110:15, 111:10, 111:13, 112:10, 112:20, 113:8, 115:6, 118:1, 118:2, 118:2, 119:19, 119:25, 121:11, 121:18, 128:2, 131:9, 131:14, 132:16 <b>thinking [22]</b> - Vol. 1 - 11:3, 25:2, 26:13, 32:19, 34:16, 39:9, 43:4, 43:15, 49:22, 55:9, 55:10, 55:13, 64:4, 64:4, 102:21, 106:10, 106:11, 106:12, 108:13, 123:8, 123:22, 126:14 <b>third [14]</b> - Vol. 1 - 21:18, 47:21, 95:3, 95:3, 95:4, 96:1, 105:7, 105:8, 105:9, 105:23, 106:23, 113:11, 114:22, 114:23 <b>thoracic [2]</b> - Vol. 1 - 87:5, 87:9 <b>Thorton</b> Vol. 1 - 69:22 <b>though [7]</b> - Vol. 1 - 42:22, 45:15, 82:7, 93:25, 100:15, 114:3, 125:15 <b>thoughts</b> Vol. 1 - 103:15 <b>threat [5]</b> - Vol. 1 - 38:25, 112:1, 114:1, 114:3, 114:16 <b>threatening</b> Vol. 1 - 46:4 <b>three-finger</b> Vol. 1 - 38:12 <b>threshold [2]</b> - Vol. 1 - 30:19,</p>
---	--	--	--	---	--

<p>119:14  <b>threw</b> Vol. 1 - 41:14  <b>throat</b> Vol. 1 - 35:1  <b>throw [3]</b> - Vol. 1 - 36:18, 36:18, 42:5  <b>ticket</b> Vol. 1 - 123:15  <b>tighten</b> Vol. 1 - 116:23  <b>tilt</b> Vol. 1 - 35:13  <b>tilts</b> Vol. 1 - 31:8  <b>tinnitus</b> Vol. 1 - 102:8  <b>today [4]</b> - Vol. 1 - 43:3, 54:1, 54:2, 117:19  <b>toilet [2]</b> - Vol. 1 - 69:1, 69:13  <b>tone [3]</b> - Vol. 1 - 7:3, 31:5, 104:5  <b>tool [2]</b> - Vol. 1 - 62:18, 110:2  <b>top [9]</b> - Vol. 1 - 37:23, 41:1, 55:3, 55:4, 81:5, 81:6, 81:7, 97:13, 97:13  <b>topped</b> Vol. 1 - 120:20  <b>tops</b> Vol. 1 - 81:18  <b>total</b> Vol. 1 - 81:13  <b>totally</b> Vol. 1 - 81:25  <b>touch [14]</b> - Vol. 1 - 30:18, 32:4, 32:4, 33:19, 33:21, 33:22, 34:4, 34:5, 34:6, 48:13, 48:16, 48:18, 56:1, 76:6  <b>touched</b> Vol. 1 - 103:2  <b>toward [3]</b> - Vol. 1 - 30:13, 31:1, 70:13  <b>towards [7]</b> - Vol. 1 - 16:20, 25:19, 25:19, 30:8, 31:12, 35:6, 118:7  <b>towel [2]</b> - Vol. 1 - 45:16, 94:3  <b>towels [2]</b> - Vol. 1 - 29:15, 29:17  <b>tox</b> Vol. 1 - 87:24  <b>track [3]</b> - Vol. 1 - 79:7, 100:24, 101:2</p>	<p><b>traction</b> Vol. 1 - 116:20  <b>trade</b> Vol. 1 - 6:13  <b>traffic [12]</b> - Vol. 1 - 20:13, 20:14, 21:8, 52:1, 52:5, 56:14, 78:7, 123:13, 123:14, 127:15, 128:8, 128:19  <b>tragedy</b> Vol. 1 - 109:9  <b>trail</b> Vol. 1 - 84:3  <b>trails</b> Vol. 1 - 91:5  <b>train [4]</b> - Vol. 1 - 61:23, 62:9, 101:16, 114:19  <b>trained [4]</b> - Vol. 1 - 101:16, 113:20, 120:1, 120:5  <b>training [16]</b> - Vol. 1 - 27:3, 62:1, 63:1, 63:5, 72:11, 72:13, 89:11, 103:1, 111:3, 113:20, 120:4, 120:5, 121:13, 121:15, 122:2, 126:17  <b>transcribed</b> Vol. 1 - 133:11  <b>transcript [4]</b> - Vol. 1 - 42:15, 42:16, 105:23, 133:13  <b>transfer</b> Vol. 1 - 74:4  <b>transferred [2]</b> - Vol. 1 - 8:5, 80:17  <b>transition</b> Vol. 1 - 31:15  <b>translate</b> Vol. 1 - 116:22  <b>transmissions</b> Vol. 1 - 106:20  <b>trap [3]</b> - Vol. 1 - 55:19, 64:12, 64:22  <b>trapped</b> Vol. 1 - 37:23  <b>trapping</b> Vol. 1 - 58:25  <b>travel</b> Vol. 1 - 91:22  <b>travels [2]</b> - Vol. 1 - 91:8, 97:15  <b>treated</b> Vol. 1 - 12:17  <b>treating</b> Vol. 1 -</p>	<p>57:8  <b>treatment</b> Vol. 1 - 7:12  <b>trees</b> Vol. 1 - 77:25  <b>tried [4]</b> - Vol. 1 - 8:8, 33:16, 34:25, 75:23  <b>tries [4]</b> - Vol. 1 - 32:3, 32:3, 33:18, 46:20  <b>trigger [24]</b> - Vol. 1 - 41:8, 47:22, 55:24, 58:9, 58:15, 58:17, 92:5, 92:11, 92:14, 95:14, 96:15, 96:23, 97:1, 100:16, 100:19, 100:20, 112:16, 113:5, 113:10, 113:18, 114:13, 114:14, 114:22, 114:23  <b>triggered</b> Vol. 1 - 71:7  <b>trim</b> Vol. 1 - 70:11  <b>trouble [2]</b> - Vol. 1 - 11:12, 107:14  <b>truck</b> Vol. 1 - 53:13  <b>true [4]</b> - Vol. 1 - 81:2, 121:7, 132:12, 133:12  <b>turkey</b> Vol. 1 - 8:20  <b>turn [6]</b> - Vol. 1 - 19:24, 21:10, 21:13, 22:5, 29:25, 35:19  <b>turned [6]</b> - Vol. 1 - 21:23, 26:24, 28:17, 68:22, 82:14, 112:10  <b>turning [2]</b> - Vol. 1 - 22:7, 112:9  <b>turns [6]</b> - Vol. 1 - 22:10, 29:12, 29:16, 30:24, 35:9, 35:24  <b>twice [5]</b> - Vol. 1 - 39:3, 39:5, 39:7, 54:5, 55:15  <b>two-and-a-half</b> Vol. 1 - 18:12  <b>two-point</b> Vol. 1 - 112:16  <b>type [14]</b> - Vol. 1 - 60:17, 65:9, 72:13, 89:7,</p>	<p>97:23, 102:8, 106:9, 107:22, 112:2, 118:12, 119:1, 119:23, 119:25, 131:24  <b>types [2]</b> - Vol. 1 - 108:13, 110:4  <b>typical [3]</b> - Vol. 1 - 18:18, 23:12, 62:1  <b>typically [11]</b> - Vol. 1 - 5:9, 5:11, 5:22, 57:1, 62:19, 62:24, 80:6, 88:4, 113:20, 127:11, 128:2</p> <hr/> <p style="text-align: center;"><b>U</b></p> <p><b>U-turn [3]</b> - Vol. 1 - 21:5, 78:5, 78:13  <b>U.S</b> Vol. 1 - 69:19  <b>Uh [3]</b> - Vol. 1 - 37:6, 115:2, 115:10  <b>Uh-huh [33]</b> - Vol. 1 - 4:24, 8:17, 10:7, 11:24, 14:11, 15:14, 16:7, 16:22, 17:13, 41:17, 46:2, 46:7, 46:23, 57:18, 57:20, 59:11, 59:15, 60:12, 60:22, 62:16, 74:8, 81:3, 85:7, 90:14, 93:1, 106:25, 107:15, 108:21, 108:24, 112:13, 120:12, 127:7, 131:12  <b>ultimate</b> Vol. 1 - 109:11  <b>ultra-high</b> Vol. 1 - 121:23  <b>uncommon [2]</b> - Vol. 1 - 74:10, 120:20  <b>understand [8]</b> - Vol. 1 - 10:9, 10:9, 22:17, 82:23, 107:24, 109:8, 111:8, 117:13  <b>understanding [4]</b> - Vol. 1 - 9:24, 49:24, 69:9, 107:18  <b>understands</b> Vol. 1 - 55:16</p>	<p><b>understood</b> Vol. 1 - 129:23  <b>uniform</b> Vol. 1 - 129:13  <b>union</b> Vol. 1 - 84:20  <b>unit [5]</b> - Vol. 1 - 24:16, 25:4, 25:9, 52:9, 57:14  <b>units</b> Vol. 1 - 56:19  <b>University [2]</b> - Vol. 1 - 86:5, 86:6  <b>unlawful [4]</b> - Vol. 1 - 123:2, 123:10, 123:19, 125:25  <b>unless</b> Vol. 1 - 83:22  <b>unstable</b> Vol. 1 - 63:4  <b>unusual [2]</b> - Vol. 1 - 19:10, 52:4  <b>uploaded</b> Vol. 1 - 83:12  <b>uploads</b> Vol. 1 - 83:10  <b>upper [3]</b> - Vol. 1 - 86:24, 87:3, 87:18  <b>upset [2]</b> - Vol. 1 - 22:21, 23:20  <b>upstairs</b> Vol. 1 - 80:22  <b>urinal</b> Vol. 1 - 69:1  <b>usable [2]</b> - Vol. 1 - 74:10, 74:11  <b>use-of-force [4]</b> - Vol. 1 - 89:9, 89:10, 89:14, 89:20  <b>using [6]</b> - Vol. 1 - 8:22, 9:4, 65:9, 75:22, 120:14, 123:2  <b>usually [8]</b> - Vol. 1 - 7:9, 17:8, 18:25, 92:22, 104:21, 112:4, 119:2, 121:19</p> <hr/> <p style="text-align: center;"><b>V</b></p> <p><b>vacant</b> Vol. 1 - 78:21  <b>variables</b> Vol. 1 - 74:9  <b>various [2]</b> - Vol. 1 - 59:7, 75:23  <b>vehicle [3]</b> -</p>	<p>Vol. 1 - 20:18, 24:14, 44:9  <b>vehicles</b> Vol. 1 - 22:3  <b>verbal [5]</b> - Vol. 1 - 53:18, 54:15, 54:20, 63:19, 64:25  <b>verbally</b> Vol. 1 - 65:9  <b>version</b> Vol. 1 - 48:21  <b>vertebral</b> Vol. 1 - 87:5  <b>vest [3]</b> - Vol. 1 - 55:11, 55:13, 64:6  <b>vets [2]</b> - Vol. 1 - 103:3, 117:21  <b>Vicki</b> Vol. 1 - 5:21  <b>video [42]</b> - Vol. 1 - 16:15, 42:17, 42:19, 44:6, 44:15, 44:24, 65:23, 66:1, 76:24, 78:18, 82:13, 83:7, 83:8, 83:14, 83:16, 84:5, 84:11, 90:5, 93:6, 93:13, 93:21, 94:8, 95:6, 96:6, 97:12, 97:17, 100:23, 100:24, 103:20, 104:18, 105:24, 107:16, 108:5, 109:2, 111:20, 113:15, 114:20, 115:17, 119:13, 119:20, 122:15, 130:13  <b>videos [3]</b> - Vol. 1 - 84:2, 84:3, 84:7  <b>Videotape [3]</b> - Vol. 1 - 46:3, 46:5, 46:13  <b>Videotaped [2]</b> - Vol. 1 - 45:23, 47:15  <b>view [8]</b> - Vol. 1 - 16:21, 77:20, 77:25, 83:18, 84:2, 84:6, 99:19, 125:6  <b>violation [3]</b> - Vol. 1 - 123:14, 124:4, 127:15  <b>violence</b> Vol. 1 - 89:20  <b>violent</b> Vol. 1 - 89:7  <b>virtually</b> Vol. 1 - 129:3</p>
---	---	--	--	--	---



<p><b>visual [2]</b> - Vol. 1 - 89:25, 90:8</p> <p><b>voice [5]</b> - Vol. 1 - 31:4, 31:5, 52:10, 53:20, 103:24</p> <p><b>voices</b> Vol. 1 - 52:8</p> <p><b>voltage [3]</b> - Vol. 1 - 94:11, 105:22, 115:5</p> <p><b>volume [2]</b> - Vol. 1 - 70:10, 112:9</p> <p><b>voted</b> Vol. 1 - 132:13</p> <hr/> <p style="text-align: center;"><b>W</b></p> <hr/> <p><b>waist</b> Vol. 1 - 28:11</p> <p><b>waistband [2]</b> - Vol. 1 - 29:21, 31:17</p> <p><b>wait [4]</b> - Vol. 1 - 21:8, 21:10, 41:6, 115:5</p> <p><b>waiting</b> Vol. 1 - 32:6</p> <p><b>waking [2]</b> - Vol. 1 - 55:1, 117:19</p> <p><b>walk [22]</b> - Vol. 1 - 6:3, 6:5, 6:6, 7:1, 19:21, 20:15, 22:9, 22:10, 22:13, 23:24, 24:12, 24:21, 26:8, 27:17, 28:2, 28:6, 30:8, 32:3, 35:5, 35:20, 93:23, 128:2</p> <p><b>walk-through</b> Vol. 1 - 90:9</p> <p><b>walked [8]</b> - Vol. 1 - 6:8, 24:7, 26:5, 44:18, 54:21, 54:23, 54:23, 63:13</p> <p><b>walking [21]</b> - Vol. 1 - 5:16, 6:7, 7:1, 7:1, 15:25, 16:3, 16:5, 17:3, 20:16, 23:24, 24:5, 24:16, 24:22, 25:6, 31:1, 35:6, 35:13, 35:24, 77:18, 128:10, 128:12</p> <p><b>walks</b> Vol. 1 - 11:9</p> <p><b>walkway</b> Vol. 1 -</p>	<p>26:4</p> <p><b>wall [6]</b> - Vol. 1 - 29:15, 36:11, 36:13, 36:18, 70:11, 79:5</p> <p><b>WalMart [4]</b> - Vol. 1 - 5:22, 6:5, 11:11, 77:12</p> <p><b>wanted [12]</b> - Vol. 1 - 5:25, 7:10, 9:24, 9:25, 10:11, 10:21, 10:22, 32:21, 33:14, 75:18, 128:17, 130:16</p> <p><b>wanting [2]</b> - Vol. 1 - 32:2, 50:10</p> <p><b>wants [3]</b> - Vol. 1 - 30:16, 125:7, 125:7</p> <p><b>warned [2]</b> - Vol. 1 - 48:15, 123:15</p> <p><b>warning</b> Vol. 1 - 49:11</p> <p><b>warnings</b> Vol. 1 - 48:19</p> <p><b>warrant [2]</b> - Vol. 1 - 24:8, 26:13</p> <p><b>wash [2]</b> - Vol. 1 - 28:25, 29:4</p> <p><b>washing [2]</b> - Vol. 1 - 28:18, 29:2</p> <p><b>Washington [7]</b> - Vol. 1 - 86:5, 86:6, 86:7, 89:1, 89:9, 107:21, 121:17</p> <p><b>watch [10]</b> - Vol. 1 - 42:15, 43:24, 44:2, 44:3, 48:2, 83:6, 84:8, 111:16, 122:15, 130:15</p> <p><b>watched [5]</b> - Vol. 1 - 48:4, 69:20, 97:17, 110:20, 127:15</p> <p><b>watching [4]</b> - Vol. 1 - 83:14, 84:5, 107:16, 108:4</p> <p><b>ways [8]</b> - Vol. 1 - 44:16, 81:2, 95:22, 116:13, 120:21, 120:25, 128:24, 129:2</p> <p><b>we'd</b> Vol. 1 - 5:20</p> <p><b>we'll [7]</b> - Vol. 1 - 14:3, 58:14, 69:3, 74:11,</p>	<p>74:12, 79:13, 111:25</p> <p><b>we're [31]</b> - Vol. 1 - 9:10, 11:12, 29:11, 31:21, 31:21, 31:22, 33:2, 33:4, 33:20, 33:20, 33:20, 35:22, 35:22, 35:22, 35:24, 36:9, 36:13, 36:21, 40:15, 41:2, 42:15, 45:7, 55:16, 59:23, 73:15, 73:17, 79:6, 100:8, 101:18, 101:19, 111:14, 114:18</p> <p><b>we've [7]</b> - Vol. 1 - 82:4, 83:3, 98:9, 99:22, 100:3, 109:16, 111:7</p> <p><b>weapon [22]</b> - Vol. 1 - 24:9, 26:13, 27:24, 55:17, 56:10, 58:1, 59:24, 60:25, 62:3, 62:3, 62:19, 62:22, 64:12, 64:24, 82:11, 99:2, 99:17, 112:15, 112:21, 120:1, 120:5, 131:15</p> <p><b>weapons [5]</b> - Vol. 1 - 61:20, 97:23, 98:6, 111:8, 120:6</p> <p><b>wear</b> Vol. 1 - 53:22</p> <p><b>WEDNESDAY [2]</b> - Vol. 1 - 2:7, 4:2</p> <p><b>week</b> Vol. 1 - 65:25</p> <p><b>weight</b> Vol. 1 - 38:22</p> <p><b>weird [5]</b> - Vol. 1 - 14:19, 14:22, 23:8, 43:16, 43:17</p> <p><b>welcome [2]</b> - Vol. 1 - 74:25, 95:11</p> <p><b>weren't [5]</b> - Vol. 1 - 6:25, 66:2, 75:20, 87:21, 103:24</p> <p><b>Wesson</b> Vol. 1 - 112:23</p> <p><b>west [4]</b> - Vol. 1 - 20:16, 24:22,</p>	<p>32:15, 68:23</p> <p><b>westbound</b> Vol. 1 - 22:10</p> <p><b>what's [27]</b> - Vol. 1 - 25:8, 31:5, 31:6, 39:10, 49:11, 49:12, 57:9, 68:2, 79:25, 95:7, 95:17, 97:21, 100:20, 104:22, 104:24, 107:4, 112:15, 112:20, 112:20, 113:2, 113:4, 113:20, 113:21, 114:1, 116:1, 123:8, 126:14</p> <p><b>whatever [17]</b> - Vol. 1 - 5:6, 27:6, 27:7, 27:23, 27:23, 27:24, 28:21, 31:17, 45:25, 66:18, 81:1, 93:23, 108:6, 108:9, 112:19, 113:24, 121:1</p> <p><b>whatnot [3]</b> - Vol. 1 - 63:5, 63:14, 66:22</p> <p><b>whether [13]</b> - Vol. 1 - 60:3, 63:21, 73:24, 74:3, 89:5, 89:13, 100:21, 100:21, 102:14, 108:1, 108:22, 122:1, 123:5</p> <p><b>whichever</b> Vol. 1 - 80:12</p> <p><b>who's</b> Vol. 1 - 78:8</p> <p><b>whoever</b> Vol. 1 - 118:3</p> <p><b>whole [6]</b> - Vol. 1 - 26:3, 26:3, 43:11, 48:23, 84:15, 128:25</p> <p><b>whoops</b> Vol. 1 - 43:24</p> <p><b>whose</b> Vol. 1 - 61:2</p> <p><b>wide [4]</b> - Vol. 1 - 35:12, 68:18, 68:21, 68:23</p> <p><b>widespread</b> Vol. 1 - 94:5</p> <p><b>wife [8]</b> - Vol. 1 - 5:10, 5:21, 6:1, 6:9, 6:9, 7:22, 8:8, 9:9</p> <p><b>willing</b> Vol. 1 - 99:11</p>	<p><b>window [4]</b> - Vol. 1 - 13:18, 50:2, 77:6, 128:3</p> <p><b>wire [4]</b> - Vol. 1 - 91:4, 91:5, 91:14, 94:22</p> <p><b>wired</b> Vol. 1 - 103:13</p> <p><b>wires</b> Vol. 1 - 91:6</p> <p><b>wish</b> Vol. 1 - 12:22</p> <p><b>within [2]</b> - Vol. 1 - 5:16, 5:17</p> <p><b>witness [59]</b> - Vol. 1 - 3:3, 4:8, 13:3, 17:5, 17:13, 17:15, 17:17, 17:21, 46:4, 48:15, 49:16, 61:1, 61:3, 61:7, 61:9, 61:19, 61:25, 62:4, 63:2, 65:1, 65:6, 65:10, 65:13, 65:23, 66:4, 66:6, 66:10, 67:4, 67:13, 67:15, 71:8, 74:17, 74:25, 75:2, 84:16, 85:7, 88:12, 88:20, 89:12, 110:3, 111:6, 112:13, 112:17, 112:22, 113:1, 117:7, 117:9, 118:16, 119:5, 119:8, 119:11, 120:3, 120:12, 120:16, 122:7, 122:11, 122:18, 133:8, 133:9</p> <p><b>witnesses [3]</b> - Vol. 1 - 75:18, 79:3, 79:14</p> <p><b>women's</b> Vol. 1 - 68:16</p> <p><b>won't [5]</b> - Vol. 1 - 43:25, 91:25, 92:2, 102:17, 116:2</p> <p><b>wonder [2]</b> - Vol. 1 - 12:1, 103:16</p> <p><b>wondering [2]</b> - Vol. 1 - 12:11, 129:12</p> <p><b>works [2]</b> - Vol. 1 - 79:13, 116:3</p> <p><b>worried</b> Vol. 1 - 126:11</p> <p><b>worse [2]</b> - Vol. 1 -</p>	<p>100:11, 101:3</p> <p><b>worst</b> Vol. 1 - 99:8</p> <p><b>wouldn't [4]</b> - Vol. 1 - 8:5, 77:8, 108:16, 115:3</p> <p><b>wound [2]</b> - Vol. 1 - 86:23, 87:12</p> <p><b>wounds [2]</b> - Vol. 1 - 86:19, 86:20</p> <p><b>wrestling [6]</b> - Vol. 1 - 56:9, 98:23, 99:9, 100:5, 100:9, 111:21</p> <p><b>written</b> Vol. 1 - 123:15</p> <p><b>wrong [8]</b> - Vol. 1 - 6:10, 8:10, 101:24, 104:12, 108:9, 108:13, 110:14, 123:22</p> <hr/> <p style="text-align: center;"><b>X</b></p> <hr/> <p><b>X23P</b> Vol. 1 - 92:13</p> <p><b>X26P [2]</b> - Vol. 1 - 90:17, 122:7</p> <hr/> <p style="text-align: center;"><b>Y</b></p> <hr/> <p><b>yards</b> Vol. 1 - 52:23</p> <p><b>yeah [66]</b> - Vol. 1 - 6:18, 8:13, 9:21, 11:19, 14:8, 15:14, 15:17, 15:20, 16:10, 16:12, 16:14, 16:17, 17:1, 17:9, 17:15, 17:15, 17:17, 21:22, 21:25, 28:4, 34:3, 34:10, 40:20, 41:14, 42:19, 44:11, 45:6, 45:17, 46:2, 48:6, 49:6, 60:6, 60:23, 65:12, 69:7, 70:4, 71:4, 76:20, 78:7, 80:9, 81:3, 82:8, 83:23, 84:6, 85:3, 97:18, 101:9, 101:12, 106:20, 106:21, 107:3, 112:11, 112:12, 112:22, 114:15, 114:17, 115:3, 117:8, 119:8, 124:10,</p>
--	--	---	---	---	--

125:5,  
127:16, 127:25,  
129:5, 129:15,  
129:19

**yell [2]** - Vol. 1 -  
55:15, 55:18

**yelled [4]** - Vol. 1 -  
39:24, 61:9,  
61:11, 65:17

**yelling** Vol. 1 -  
117:4

**yellow [3]** - Vol. 1 -  
21:3, 122:7,  
131:17

**yet** Vol. 1 -  
124:20

**you'd [6]** - Vol. 1 -  
71:17, 79:17,  
85:8, 88:14,  
98:20, 129:14

**you'll [12]** - Vol. 1 -  
50:21, 92:2,  
92:19, 95:12,  
98:13, 102:16,  
102:25, 110:6,  
118:17, 118:24,  
120:21

**young** Vol. 1 -  
117:24

**yourself [3]** -  
Vol. 1 - 101:21,  
103:20, 123:5

---

**Z**

---

**zapped [2]** -  
Vol. 1 - 55:23,  
61:11

**zoology** Vol. 1 -  
86:4