

JUAN VILLALOBOS - October 4, 2011
Cross-Examination by Mr. Barrow

1 Q. And did you do anything else involving this
2 case other than those things we've just talked about?

3 A. No, sir.

4 MR. BARROW: Pass the witness.

5 MR. BALDASSANO: No further questions,
6 Judge.

7 THE COURT: Okay. Let's take a two-minute
8 recess.

9 Court's in recess for two minutes.

10 *(Brief recess)*

11 *(Jury enters courtroom)*

12 THE COURT: Please be seated.

13 Okay. You may proceed.

14 **NORMAN HICKS,**

15 having been first duly sworn, testified as follows:

16 **DIRECT EXAMINATION**

17 BY MR. BALDASSANO:

18 Q. Please state your name for the jury.

19 A. Norman Hicks.

20 Q. And how are you employed?

21 A. I'm an arson investigator for the City of
22 Houston, City Fire Department.

23 Q. And how long have you been on the fire
24 department?

25 A. Over twenty years.

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1 Q. And how long with the Arson Division?

2 A. Over eight years.

3 Q. And can you tell us just briefly what your
4 function there is at the Arson Bureau?

5 A. My main job is to do origin and cause on fires.

6 Q. All right. And so, that is to find out where a
7 fire started and how it started?

8 A. Yes, sir.

9 Q. All right. And to do this, what type of
10 possible calls are there when you go to a fire? What
11 are the possibilities?

12 A. Well, there is accidental, there is incendiary,
13 undetermined, pending or natural.

14 Q. All right. I'm going to call your attention
15 back to October the 19th of 2007. And did you have an
16 occasion to get called out to the 7200 block of Rampart
17 Street here in Harris County, Texas?

18 A. Yes, sir.

19 Q. And about what time were you called, and about
20 what time did you go out there?

21 A. I received a call a little after 4:00 a.m., and
22 we got there before 5:00 a.m., I believe.

23 Q. And do you go out to every fire?

24 A. Not every fire, no, sir.

25 Q. And who called you out to this fire?

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1 A. It was the district chief.

2 Q. And when you got to the fire scene, what's the
3 first thing you saw out there?

4 A. There was a lot of fire trucks parked on the
5 main street out in front of the warehouses, and we
6 couldn't really get into the scene. We had to park a
7 little ways away and walk up.

8 Q. And were you working with any other fire
9 investigators?

10 A. Yes, sir.

11 Q. And who was that?

12 A. Juan Villalobos. He went to the hospital on
13 this call. And I had Senior Investigator Michelle
14 McLeod, who was the on-scene officer/investigator, Greg
15 Chappa with the Accelerant Canine and Matt Milam, the
16 arson photographer.

17 Q. And the Senior Investigator Michelle McLeod,
18 how long has she worked at the Arson Bureau?

19 A. She's been there approximately the same time I
20 have.

21 Q. All right. And is she a supervisor to you?

22 A. Yes, sir. She was my supervisor at the time.

23 Q. All right. And what does she do at the scene?

24 A. Basically, she's there to oversee our
25 operations, make sure we're looking in the right areas,

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1 that we're doing everything that we need to do for
2 collecting of evidence and finding witnesses and that
3 kind of thing, and also to assist us with those.

4 Q. Okay. And when you arrived at the scene, you
5 see all the fire trucks, what's the first thing you do
6 to sort of proceed with your investigation?

7 A. First thing we normally do is to go, first of
8 all, find the incident commander and let him know we're
9 on the scene so he can account for us, and also to get
10 his reason for calling us for the investigation.

11 Q. And is that the District Chief Schileter that
12 testified yesterday?

13 A. Yes, sir.

14 Q. And did you then talk to him?

15 A. Yes, sir, I did.

16 Q. All right. After speaking with the chief,
17 what's the next thing you did?

18 A. From there we start basically looking around
19 the scene to see the size of the scene, first of all,
20 and any possible witnesses that might be in the area.

21 Q. All right. And did you find any possible
22 witnesses in the area?

23 A. Yes, sir. They directed me to two people that
24 supposedly were occupying the building at the time.

25 Q. All right. And do you know the names of those

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1 people?

2 A. I believe that was the -- they both had the
3 same name of Garcia, I believe. I have to look and see
4 what their first names were.

5 Q. Their last names were Garcia?

6 A. Yes, sir, I believe so. The names that he gave
7 me were Juan Garcia and Alberto Garcia.

8 Q. Okay. All right. And did you just interview
9 them at the scene, or did you bring them back to the
10 fire station, or how do you proceed?

11 A. We interviewed them there at the scene.

12 Q. And do they give like a written statement, or
13 do they just tell you and you copy it down?

14 A. At the scene we just get a verbal indication of
15 what they saw, what they heard or what happened.

16 Q. Okay. So Juan and Alberto Garcia. And they
17 give a verbal statement to you?

18 A. Yes, sir.

19 Q. And then do you kind of copy down that
20 statement?

21 A. Yes, sir.

22 Q. All right. And do you -- and does anybody end
23 up that night taking them back anywhere to interview
24 them, like with an audio-taped statement?

25 A. No, sir.

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1 Q. And how about Juan Del Sid? Do you remember
2 interviewing him or any of the people that lived there,
3 Ignacio or Alvaro?

4 A. The two people that -- again, that said they
5 lived there in the building gave me the name of Juan
6 Garcia and Alberto Garcia. Those were the names that I
7 was given. I didn't interview any other occupants at
8 the time.

9 Q. And did you know that there were people living
10 in the place at the time of the fire at that point?

11 A. Yes, sir, when they told me they were living
12 there.

13 Q. Other than those two guys?

14 A. They told me there were also two other
15 gentlemen that were living in that same unit with them.

16 Q. Okay. And did you interview those two?

17 A. No, sir.

18 Q. Were they at the scene still?

19 A. I did not see them.

20 Q. And other than the two guys you mentioned, did
21 you interview anybody else at the scene that night?

22 A. Yes, sir. I interviewed a few other people,
23 actually, the owners of the shops that came to the
24 location later after the fire.

25 Q. And what were their names?

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1 A. We spoke with -- let's see -- it was -- it's
2 kind of hard -- the name -- one gentleman was named
3 Sonny -- I believe the pronunciation is Hack, is what he
4 gave me his last name. Spoke to him. He was a business
5 owner of 7209 Rampart. And spoke to Alfredo Mendoza and
6 Efrain Mendoza. And let's see. And then we spoke with
7 Mr. Bocan (phonetic), I believe is how he pronounced it.

8 Q. And did you speak to all those people at the
9 scene?

10 A. Not all of them were there. I spoke to, also,
11 Mr. Mooda (phonetic), and I spoke to him over the phone.

12 Q. All right, sir. So any of the people that you
13 mentioned, did you bring any of these people back to the
14 Houston Arson Bureau and take statements from them?

15 A. No, sir.

16 Q. And do you do that in some cases?

17 A. In some cases we do.

18 Q. Do you sometimes take a formal written
19 statement from a person?

20 A. Yes, sir.

21 Q. And they type it out and swear to it or write
22 it out and swear to it?

23 A. Yes, sir.

24 Q. Okay. And do you ever take an audio-taped
25 statement where you just talk to somebody with a tape

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1 recorder on?

2 A. Yes, sir.

3 Q. Is that fairly common?

4 A. Yes, sir.

5 Q. So at least back then, your initial interviews
6 at the scene, nobody was sent back out of the group that
7 you mentioned to go have a formal interview?

8 A. No, sir.

9 Q. What is the formal interview for? What do you
10 use that for? Why do you do that?

11 A. Usually we make a determination as to, I guess,
12 what their involvement with the situation is. And we
13 determine at that point if we need a written statement
14 right that moment or if it can wait for follow-up, to go
15 back and do that. If it's pertinent, like if they were
16 actually on the scene when it occurred or actually saw
17 the fire start, we'll normally get a written statement
18 from them.

19 Q. Okay. And that's done by the follow-up crew;
20 is that right?

21 A. Unless I have them there and I need to do it
22 right then. Like I said, it depends on what their
23 involvement was at the time.

24 Q. So some people, you could send them straight
25 back that night?

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1 A. Yes, sir.

2 Q. And just get an arson investigator, say, take
3 that guy back to our building and take a statement?

4 A. Yes, sir.

5 Q. Nothing -- nobody there that you felt that you
6 wanted to do that with then?

7 A. No, sir.

8 Q. All right. So after statements -- or, I guess,
9 what do you do after talking to people? How do you
10 proceed with your investigation?

11 A. From there we start looking at fire patterns,
12 start trying to narrow down exactly an area of origin.
13 Then once we determine an area of origin, we start
14 trying to determine a cause of origin. We are basically
15 trying to rule out several indications of accidental or
16 natural cause.

17 Q. In this case, were you able to rule out any
18 accidental causes?

19 A. Yes, sir. I didn't see any indication of an
20 accidental cause.

21 Q. And did you come to a determination that night
22 where the fire started? Did you find an origin?

23 A. Yes, sir. We determined the origin to be in
24 the passenger area of the van next to the building.

25 Q. Okay. And how about the cause of the fire?

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1 Did you figure that out?

2 A. Well, we had an idea; but I left the cause
3 pending, because we still had other witnesses to
4 interview and some other things to do. But the cause
5 was left pending that night.

6 Q. Okay. And you mentioned a hydrocarbon dog, I
7 think you said?

8 A. Yes, sir.

9 Q. Tell the jurors what that is.

10 A. The canine is actually trained to detect
11 accelerants, or your normal, typical accelerants such as
12 gasoline, lighter fluid, something like that that we
13 can't even -- if we can't detect it with our sense of
14 smell, they can sense that. And that kind of leads us
15 to areas where to look for samples and stuff like that.

16 Q. Okay. So when you say samples, is that
17 something that you're going to pick up a can and bring
18 to a lab to see if there is any kind of liquid in there
19 that might have been used to start the fire?

20 A. Yes, sir. It could be, yes, sir.

21 Q. And so, were you able to let the dog run around
22 this scene and sniff around to see if that dog could
23 alert to any kind of hydrocarbon?

24 A. No, sir, he did not.

25 Q. Did the dog actually get released to look at

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1 the scene?

2 A. No, sir.

3 Q. And how come?

4 A. That determination is made by the handler. He
5 determines whether or not the scene is safe or if he's
6 okay with letting the dog get in there. Because some of
7 these conditions are hazardous, and he has to make that
8 determination.

9 Q. And who was that?

10 A. That would be Investigator Greg Chappa.

11 Q. And was the -- was the canine released?

12 A. No, sir.

13 Q. All right. And so when it comes to picking up
14 samples, if the canine is not used to help identify
15 where a sample is, how do you know, you know, what to
16 pick up and where to scoop it up?

17 A. Well, basically, just through training and
18 experience, reading the fire patterns, try to narrow
19 down our area of origin as small as possible. And then
20 again, trying to get the areas where there might be --
21 if there was an accelerant, there might be some left
22 where it might have been salvaged from the fire.

23 Q. Is it easier if a canine alerts to the area to
24 try to figure it out yourself?

25 A. Yes, sir.

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1 Q. Has it ever come to pass where you try to --
2 you know, you collect where you think the fire started
3 and the accelerant is not there?

4 A. Yes, sir.

5 Q. What could cause that?

6 A. Could be that the firefighting activities may
7 have washed it away. Could be it was totally consumed
8 or evaporated. Could be any number of reasons why that
9 particular sample didn't come back positive.

10 Q. Could be no accelerant, too?

11 A. Could be no accelerant, yes, sir.

12 Q. So did you collect samples?

13 A. Yes, sir.

14 Q. And do you -- did you put the samples into
15 evidence or have them put into evidence?

16 A. Yes, sir.

17 Q. And do you know what the results from the lab
18 of those samples were?

19 A. I believe they came back negative.

20 Q. Okay. So at least for hydrocarbons or things
21 that might have been used to start the fire, the lab was
22 negative?

23 A. Yes, sir.

24 Q. And I think you explained this, I think, four
25 reasons why that could be?

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1 A. Yes, sir.

2 Q. And when you say firefighting activity, is that
3 just the firemen fighting the scene of the fire with a
4 big hose?

5 A. Yes, sir. The high pressure hose could wash it
6 away, or something like that.

7 Q. And I think you mentioned it could all burn up?

8 A. Yes, sir, it could have all been consumed.

9 MR. BALDASSANO: May I approach the
10 witness, Judge?

11 THE COURT: You may.

12 Q. (By Mr. Baldassano) I'm going to show you
13 what's been labeled State's Exhibit No. 22 and ask you
14 if you've seen this disk before, which contains multiple
15 sets of photographs?

16 A. Yes, sir.

17 Q. Are these the photographs that were taken by
18 the Houston Arson Bureau out at the scene or at the
19 hospital in relation to this case?

20 A. Yes, sir.

21 Q. Have you looked through these?

22 A. Yes, sir.

23 Q. I'm going to show you State's Exhibit No. 23
24 and ask you if you recognize this disk?

25 A. Yes, sir.

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1 Q. And is this the disk that you helped prepare
2 for trial that used the pictures that were in State's
3 Exhibit No. 22?

4 A. Yes, sir.

5 Q. Okay. And then the last thing I'm going to
6 show you is State's Exhibit No. 24, which is a diagram.
7 And does this diagram accurately depict the layout of
8 the scene over at Rampart on the day of the fire when
9 you went out there?

10 A. Yes, sir.

11 Q. And would these photographs and these diagrams
12 help the jury understand your testimony?

13 A. Yes, sir.

14 MR. BALDASSANO: Judge, at this time we'd
15 offer State's 22, State's Exhibit 23 and State's Exhibit
16 24, tender to defense counsel for inspection.

17 MR. BARROW: I have no objection, Your
18 Honor.

19 THE COURT: Okay. State's 22, 23 and 24
20 are admitted.

21 You may publish.

22 MR. BALDASSANO: Thank you, Judge.

23 Q. (By Mr. Baldassano) And I'm going to put in
24 State's Exhibit No. 23. And can you tell the jurors --
25 and this is the PowerPoint -- just kind of a rough idea

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1 of what we're going to be looking at with this
2 PowerPoint?

3 A. Basically, these are photos of the fire scene
4 kind of depicting what we saw and how we narrowed down
5 our area of origin from the fire patterns.

6 Q. Okay. Is this the unique case number that
7 applies to this case?

8 A. Yes, sir.

9 Q. And what are we looking at here? And if you
10 could -- you have that pointer, and I'm not sure how
11 well you can see it. But maybe if I tilt it a little
12 bit toward you, can you get on that pointer and -- if
13 you need to step down, feel free. Maybe if you could
14 stand here, it might be the best place.

15 MR. BARROW: May I reposition myself, Your
16 Honor?

17 THE COURT: You may.

18 MR. BARROW: Thank you.

19 Q. (By Mr. Baldassano) Okay. What are we looking
20 at there in the first picture?

21 A. That's a picture from the front of the building
22 showing one of occupancies there, the church that was
23 located in the building.

24 Q. And if you could, point to State's 24 to show
25 us where that is.

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1 A. That's taken from right here.

2 Q. And tell us what, if any, significance that
3 has, what we're looking at here, to your fire
4 investigation.

5 A. Basically, you're here on this side of the
6 building looking this direction with the sign here, and
7 we don't see any indications of -- there is no flame
8 damage, no smoke or anything that we can see on the
9 exterior of the building at this point.

10 Q. Okay. And what are we looking at there?

11 A. That's the inside of the building here in an
12 assembly area with the pews and stuff like that and the
13 door leading into the storage room in the back.

14 Q. Now you can point your pointer to the screen.
15 There up at the top, do you see any fire damage? Just
16 point it there where --

17 A. It's not showing up on the screen. But
18 basically at the top where the smoke deposit is noted,
19 that's where the smoke came through the door into the
20 assembly area. And then just to the left of that where
21 the wallpaper is torn and Sheetrock's damaged is where
22 the firefighters pulled down the ceiling Sheetrock to
23 look for an extension of the fire moving this way.

24 Q. Okay. So how much fire damage was done inside
25 that church room?

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1 A. In the assembly area, just basically what you
2 see there, a little bit of smoke damage and the
3 Sheetrock damage from the firefighters.

4 Q. What does that door lead to?

5 A. That leads into the storage room here in the
6 back.

7 Q. What are we looking at?

8 A. That's a little bit different view coming in
9 the door. You're looking at a little bit more of a
10 angle here where the stage was, or the podium. And you
11 can see again where the Sheetrock has been pulled in the
12 corner.

13 Q. Same room?

14 A. Same room, showing the combustibles are all
15 still intact. There was no damage there.

16 Q. Now if this room became involved in some fire,
17 would you expect the pews and the newspapers, whatever
18 paper is there, to kind of show some sign of that?

19 A. Yes, sir. We would expect a lot more fire
20 damage than what you see. This is basically depicting
21 how the smoke came through that doorway. And, of
22 course, heat rises. And it's up on the wall and the
23 ceiling above the door.

24 Q. Now is it typical for fire investigations to go
25 from the area of less involved and go toward the more

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1 involved area as you do your investigation?

2 A. Yes, sir.

3 Q. Which wall is that?

4 A. That's a -- moving over, that's the other
5 doorways over here as -- this doorway is out of view.
6 This is more of this southwest corner of that area.

7 Q. Now some of these photos you did not take,
8 correct?

9 A. Correct.

10 Q. You didn't actually physically take any of
11 them; but some weren't taken by Houston Arson at all,
12 were they?

13 A. No, sir.

14 Q. Did you come to look at these photos sometime
15 later? Is that the same room?

16 A. Yes, sir. Again, that's showing the room
17 leading in -- the doorway leading into the storage room.
18 At this point we're following the fire pattern to the
19 area of origin.

20 Q. Okay. So the arrow, in your opinion, is
21 pointing to where the fire started?

22 A. It's getting us closer to the area. It's
23 leading in that direction. This is a little bit closer
24 view of the doorway. You can see the heat and smoke
25 patterns actually on the door frame. It's kind of hard

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1 to tell from the view, but the angle of the burn
2 patterns indicate the heat damage was more on the
3 storage side of the door than the assembly side of the
4 door.

5 Q. You were walking into the -- I take it the
6 church and pews are at your back, and you're walking
7 through the door to the storage area?

8 A. Yes, sir.

9 Q. Does that eventually go to the outside back
10 area where those cars were?

11 A. Yes, sir.

12 Q. What are we looking at here?

13 A. This is inside the storage room. This area
14 here, you're basically looking at an angle across there,
15 this way, looking at the back door to the structure.

16 Q. Now these pictures -- and it says Pro Net.
17 When did you first get involved looking at these
18 pictures?

19 A. I saw these pictures back in January of this
20 year.

21 Q. Okay. So back in 2007, in October when you
22 were doing the examination, you weren't looking at these
23 pictures?

24 A. Not this picture here, no, sir.

25 Q. Okay. And not any of the pictures that say

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1 photo by Pro Net?

2 A. No, sir.

3 Q. So the other pictures that don't say that, are
4 those the pictures you considered?

5 A. Yes, sir.

6 Q. What are we looking at here?

7 A. Basically looking at, as you can see, a lot
8 lower line of where the smoke and heat damage was much
9 lower in the room. You can also see the burn patterns
10 above the door where the heat was a lot more intense
11 coming through the door there than what it was on the
12 other side of the room, the first door we came in.

13 Q. And if you could for the -- just to review it
14 again, what door are we looking at on the diagram?

15 A. You would be standing right here, looking at
16 this door here.

17 Q. Okay. So right outside that door, that's where
18 the cars were?

19 A. Yes, sir.

20 Q. Okay. And when you say a line of demarcation,
21 what do you mean? What does that say?

22 A. That's a visible line where you can visibly see
23 how far down the smoke was and/or where a heat pattern
24 was. As you can see, it was banked down within a foot
25 or two of the floor in this area.

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1 Q. And when you were out there that night, was
2 this room filled with stuff?

3 A. Yes, sir. There was a lot more debris in the
4 room.

5 Q. Somebody cleared the way and then took the
6 picture?

7 A. Yes, sir.

8 Q. Can you -- from looking at that picture, is
9 there any indication to you whether or not that door was
10 open or closed during the fire?

11 A. It does look like the door was closed. As you
12 can see, the demarcation line of the heat inside the
13 room is much lower than the line at the door frame
14 itself, showing where it was pushing through the door,
15 coming in the building.

16 Q. So if we were looking at this thing on fire,
17 would we see at the circle on top, like smoke and hot
18 air, coming through that crack?

19 A. Well, you wouldn't be able to see it; because
20 the smoke would probably be too dense, but yes, sir,
21 that's where you would see -- if you were looking at it
22 through a thermal imager, you would see the most heat at
23 the top of the door.

24 Q. What would you expect to see as an aftermath if
25 the door was open during the fire; that is, if somebody

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1 went through this door?

2 A. If the door was open or if the fire started in
3 this area, I would be looking at not having the ceiling
4 joist intact. Those would be probably consumed.

5 Q. Is that the wood on top?

6 A. Yes, sir. That's the wood at the top that you
7 see. Then the Sheetrock on the wall to the left would
8 have been calcinated and probably started coming off the
9 walls.

10 Q. So if the door was open, you would expect more
11 fire damage in that room?

12 A. Yes, sir.

13 Q. What are we looking at here?

14 A. That's the picture of the same doorway the
15 night of the fire. As you can see, there is a lot of
16 debris and stuff on the floor that was there in front of
17 the door and the arrow indicating -- showing the heat,
18 how the heat traveled inward through the doorway.

19 Q. Okay. And you put that arrow there to depict
20 this?

21 A. Yes, sir.

22 Q. All right. And right. There at the arrow
23 outside the door, what exactly is that? Were those
24 cars?

25 A. Yes, sir. That's the van.

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1 Q. Okay. Let me go back just one step here. Is
2 there anything about this picture that indicates whether
3 or not the door was open or closed during the fire?

4 A. Again, it's the same heat movement patterns.
5 If you look at the door frame, you could see that the
6 heat damage to the door frame was actually much lower
7 and it comes across as an angle. And you can see the
8 angle up the door and side of the wall, indicating the
9 heat was more intense and lower on the outside of the
10 door and came in.

11 Q. What are we looking at here?

12 A. Same heat and movement patterns coming across
13 the breaker panel there, showing the external heat to
14 the breaker panel itself.

15 Q. What is a breaker panel?

16 A. That's where the breakers for the electricity
17 for the building for this occupancy were located.

18 Q. When you say a breaker, are you talking about
19 like the fuses or like the box from where you turn your
20 electricity off?

21 A. Yes, sir. It's where the circuitry is for that
22 unit.

23 Q. Do you sometimes see that as the cause of a
24 fire?

25 A. Yes, sir.

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1 Q. When you see that as a cause of a fire, how
2 differently would it look than it looks in this photo?

3 A. The ones that I've seen, in my experience, have
4 more damage on the inside. And you can tell the
5 difference from the heating of the metal. The metal
6 will be heated from the inside out and not from the
7 outside in. And you'll see a different line of
8 demarcation, usually on the inside where the breakers
9 are located themselves. You'll see much more heat
10 damage inside there inside the door of the panel.

11 Q. Okay. And was that fairly easy to eliminate
12 this as the cause of the fire?

13 A. Yes, sir.

14 Q. What does that line show?

15 A. That shows the line of the heat, the
16 demarcation of the heat as it came through the doorway,
17 and then as it rows up to the top of the ceiling level
18 there in the room.

19 Q. What's this?

20 A. That's the inside of the breaker panel. You
21 can kind of still see the angulated line of the heat
22 pattern with the door to the right there, how the heat
23 traveled up at an angle across the panel.

24 Q. What room are we looking at here, if you could
25 point to the diagram?

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1 A. That's the same room; but now you're looking at
2 it from the doorway, this direction back towards the
3 assembly area in the church.

4 Q. And what -- any significance in this room?

5 A. The significant thing here is, as you can see,
6 although there is a lot of debris and contents here, the
7 further away you go from the doorway, the less damage
8 there is to the contents. You can see a lot of
9 plastics, paper, stuff like that that's still intact,
10 indicating that the heat was much closer to the door
11 than it is to the door going into the assembly area,
12 that it traveled across the room from the outside door
13 to the inside door.

14 Q. Okay. Okay. This is an after-the-fact photo?

15 A. Yes, sir. This is after the debris was cleared
16 away, and that's the doorway leading into the assembly
17 area of the church.

18 Q. What, if any, significance is -- let me back
19 up. That door, what does that door tell you?

20 A. Looking at the line of demarcation, you can see
21 how the smoke and heat was pushing through the edges of
22 the door, trying to get around the door and into the
23 area of the assembly room.

24 Q. And can you -- does that look like the door was
25 open or closed?

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1 A. From there it looks like it was more likely
2 closed. The line of demarcation on that side of the
3 door is much higher than the line of demarcation inside
4 the room here. Again, you can see the movement pattern
5 coming from the edge of the door, going around the door
6 and into the assembly area.

7 Q. Just for -- again, to recap, if you look at
8 State's 24, what two doors are you talking about that
9 seem to you, based on the fire patterns, to have been
10 closed?

11 A. This door here and this door here, the exterior
12 door and interior door to the storage room.

13 Q. Okay. Anything of significance there with
14 those arrows?

15 A. Again, showing the difference in the height of
16 demarcation of the heat and smoke patterns, indicating
17 it's more higher on the clean side of the door, or the
18 closed side of the door, showing that it was closed at
19 the time of the fire.

20 Q. So if the door was open like it is in the
21 picture, would it just look like one continuous line
22 from the door to the ground?

23 A. Right. You may see a little bit of a rise
24 going into the other room, but it's going to be much
25 more consistent with what's in the storage room.

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1 Q. What are we looking at here?

2 A. This is the door closed. This is the backside
3 of the door. As you can see, the line of demarcation
4 matches up with that on the walls, indicating that the
5 door was shut at the time.

6 Q. And again, which door is this?

7 A. That's this door leading into the assembly area
8 from the storage room. Again, just a wider angle of the
9 lines of demarcation of the storage room.

10 Q. Same door?

11 A. Yes, sir.

12 Q. Okay. What is significant about the ceiling
13 joists?

14 A. That's another picture of the storage room
15 showing that the wooden ceiling joists were undamaged.
16 The Sheetrock was intact, so there was no fire damage to
17 the ceiling level or above the ceiling level of this
18 room. These are ceiling joists. And as you can see,
19 even the ones in close proximity where the door was, the
20 heat was able to be contained by the Sheetrock, allowing
21 it to protect those ceiling joists.

22 Q. Was there any indication to you whatsoever that
23 the building was intentionally caught on fire or the
24 fire started in the building?

25 A. No, sir, no indications that it started inside

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1 the building.

2 Q. What are we looking at here?

3 A. This is another, just showing the condition of
4 the ceiling joists and the other items in the attic
5 area. You can see the wiring, the duct work and stuff
6 that survived the fire were undamaged.

7 Q. And talking about the attic area, is there any
8 breaks between these units, or do you have -- do you
9 know whether there is a continuous flow of air that you
10 could walk from the attic in one unit and walk across
11 the entire building?

12 A. I didn't look in all the attic space. But in
13 some of the units, you can tell this one here, that
14 Sheetrock wall goes up to the roof deck. That would be
15 your fire barrier between that occupancy and the next.

16 Q. Would that prevent fire, as well as smoke, from
17 going through that area?

18 A. Yes, sir. That's why it's installed.

19 Q. This is the outside of this back door. Are you
20 now at the cars, looking in?

21 A. Yes, sir. We're here looking across the front
22 of the van, looking at the doorway. You can see the
23 heat damage to the cinder block wall and to the door
24 frame. The paint has been burned away, and there is
25 heavy oxidation to this side of the door frame. And

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1 like I said, you can see the clean burn, burned paint
2 and stuff off the bricks in that area.

3 Q. All right. What are we looking at here?

4 A. This was the metal door that was in that
5 doorway, and it was removed by firefighters.

6 Q. And what, if anything, is significant about the
7 door?

8 A. As you can see, that's where the firefighters
9 had to force entry. And the lock is still there, and
10 the locking mechanism was still in the locked position.

11 Q. And again, what door are we looking at on the
12 diagram?

13 A. That's the rear door of the storage room.

14 Q. Okay. And that's the position that it was
15 found?

16 A. Yes, sir. That's the position where I found
17 it.

18 Q. Okay. Did you have any indication whatsoever
19 that that door was either, A, unlocked, or, B, open
20 during the fire?

21 A. No, sir.

22 Q. Was the evidence all the other way, that it was
23 shut and locked?

24 A. Yes, sir.

25 Q. Okay. What are we looking at here?

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1 A. This is from the north end of the alleyway,
2 looking down the alley in a southward direction with the
3 involved car on the right-hand side there.

4 Q. Okay. Can you tell us what we're looking at?

5 A. Yes, sir. As you can see, there is three
6 vehicles across with the Sienna minivan being up in
7 front of those three vehicles.

8 Q. What's the, I guess, looks like moisture on the
9 ground behind the cars?

10 A. Yes, sir. That's the water from the
11 firefighting activity.

12 Q. Okay. And you have a line there that there is
13 none of the backs of the cars look like they were
14 impinged by the fire; is that accurate?

15 A. Yes, sir.

16 Q. Okay. What are we looking at here?

17 A. Again, we're following the fire patterns with
18 the damage to get back to our area of origin. As you
19 can see, the cars that are further away, the Camaro and
20 Jeep Cherokee, sustained less damage; and the damage
21 they had was in close proximity to the Sienna van. Then
22 your -- also, what you can tell is the center over here
23 just to the left of the van has significant damage.

24 Also, looking at the burn patterns on the
25 side of the van, you can see the heat patterns where the

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1 fire came out of the door and along the outside of the
2 passenger door here on this left-hand side of the van.

3 Q. You can take your seat. And you can possibly
4 use that screen, and I'm going to move this back in case
5 we have to use it anymore. You could use that little
6 pointer if you want to. Show where on State's 4 we're
7 talking to. Also, on the screen, if you push it down
8 you can mark on there.

9 A. Okay.

10 Q. Okay. So the Sienna van, I think you spoke of,
11 you're talking about some intense damage. What parts
12 are you looking at there?

13 A. I'm looking at this area coming around here
14 across the outside of the passenger door on the left
15 side. You can see the difference in the burn patterns
16 on the outside of this door as compared to the rear of
17 the vehicle. You have the same heat patterns on the
18 outside of the driver's door.

19 Q. And why does that look more intense than any
20 other burned-out car?

21 A. Basically, we see that when the door is open
22 during the fire.

23 Q. What are you seeing, though, that makes it look
24 more intense to you?

25 A. Well, you can see the oxidation and the

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1 deformity of the metal there. It's different than it is
2 as you go to the back of the vehicle, indicating that it
3 was in closer contact to more extreme heat.

4 Q. So what we're seeing is brown and white.
5 You're saying that brown is -- is that the oxidation?

6 A. Yes, sir.

7 Q. So just rust from the fire?

8 A. Yes, sir.

9 Q. And it looks like, then, the fire at that door
10 is just maybe longer and hotter than the rest of the car
11 that we're looking at?

12 A. That's correct.

13 Q. And what does that suggest? Does that give you
14 any indicator?

15 A. Normally we see this when -- if -- like I said,
16 if the driver's door is open during the fire.

17 THE COURT: Excuse me, Counsel. Looking
18 at the time, we're going to recess for lunch.

19 In an effort to finish up, we're going to
20 take a shorter lunch break. So you'll have forty-five
21 minutes. We're ordering in. And you guys please
22 remember your admonitions from the Court. Do not
23 discuss this case with anyone, not even among
24 yourselves.

25 Court's in recess. We will resume

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1 testimony at 1:00 o'clock. It's going to be longer than
2 forty-five minutes.

3 (Lunch recess)

4 (Jury enters courtroom)

5 THE COURT: All right. Thank you. Please
6 be seated.

7 Did you guys enjoy your lunch? Good.

8 You may proceed, Counsel.

9 Q. (By Mr. Baldassano) We're up to this picture
10 here. I think we had already gone through it, and you
11 had talked -- I think we left off about the door being
12 damaged, right, that middle door that you circled
13 before?

14 A. Yes, sir.

15 Q. Okay. So now you have a note here saying,
16 looks like the Sienna van, the one that was mostly
17 damaged from what your prior testimony was, has a door
18 open. Can you tell us why you think the door -- well,
19 first of all, is that how the door was found when you
20 photographed it?

21 A. Yes, sir. That's how I found it.

22 Q. And do you have an opinion, based on the
23 damages, as to whether or not that door was opened or
24 closed during the fire, based on what you see?

25 A. The damage, as it presents itself here,

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1 indicates that the door was open.

2 Q. Why is that?

3 A. Looking at the -- as I said -- the oxidation
4 and the metal and stuff indicates where the fire was
5 rolling out the door on the outside of this other
6 passenger door.

7 Q. Okay. Now looking at the door, if it was, say,
8 closed during the fire, then would it be able to even be
9 opened after a significant burn like this?

10 A. My experience, I've never had one that was
11 easily opened once it went through a fire like this.
12 Usually all the parts are melted together, and they have
13 to have the firefighters force it open.

14 Q. Now can you tell from the condition of the
15 door -- and I'm going to point your attention over to
16 the door locks, I guess, over here -- can you tell after
17 the fact, when you look at this vehicle, whether or not
18 that door lock was damaged prior to the fire?

19 A. Well, the lock itself where the key would go in
20 and the door handle were missing. They were consumed by
21 the fire, melted. And so, all I had to go by was the
22 metal of the outside of the door, and there were no
23 indication of tool marks or anything like that on the
24 metal.

25 Q. But how about the locks themselves? Could you

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1 tell if anybody had punched a lock or anything like
2 that?

3 A. No, sir, you couldn't tell anything on the
4 lock.

5 Q. And could you tell if -- if looking at the
6 Sienna van -- let me back up a second. When you go --
7 have you gone to car fires on few or many occasions?

8 A. Many.

9 Q. When you go to car fires, do you ever notice a
10 situation where the car is stripped?

11 A. Yes, sir.

12 Q. Is that fairly common?

13 A. Yes, sir, it is.

14 Q. Okay. And what does that mean to you,
15 stripped?

16 A. We use the term "stripped" to say that
17 someone's taken some of the parts off the vehicle.

18 Q. Okay. Is that like the good stuff, like the
19 radio and the rims, that kind of stuff?

20 A. Right. It could be whatever parts they want.
21 Sometimes it's the interior seat. Sometimes it's the
22 stereo system. Sometimes it's the rims, or maybe even
23 motor and transmission, just whatever parts they want.

24 Q. Is that fairly common in a burglary situation
25 where somebody would get into a car and take the good

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1 stuff out, like a radio?

2 A. Yes, sir.

3 Q. Did you notice any of that in any of these cars
4 where it looked like someone took out the radio or took
5 the rims or anything like that?

6 A. I didn't notice anything like that. As a
7 matter of fact, I found the remains of the radio and
8 stuff in the van.

9 Q. And could you tell from looking at the door
10 whether it was unlocked before the fire?

11 A. The mechanism on the inside was damaged by the
12 fire. There was no way of telling whether or not it was
13 locked. It was just in the open position.

14 Q. Okay. So is it safe to say from your
15 examination you couldn't tell whether the door was --
16 the lock was either broken or the door was open at the
17 time of the fire?

18 A. That's true. Just that it was open.

19 Q. All right. Okay. Now explain what these
20 arrows signify.

21 A. These are showing the flow of the heat pattern
22 away from this van. As you can see, the heat damage, as
23 you go out, it gradually gets less and less all the way
24 over to the other vehicles where they only show heat
25 damage on the right side, basically showing how the heat

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1 traveled from the passenger area of the van out to the
2 other vehicle.

3 Q. And what does that signify to you, as far as
4 the origin of the fire?

5 A. Basically, that our origin was in the passenger
6 area of the van.

7 Q. When you say the van, the Sienna van?

8 A. Yes, sir, the Sienna van.

9 Q. What does this show?

10 A. Well, basically, we're looking in the alley,
11 looking southward. And this is on the other side of the
12 Sentra and showing the damage just to the west side of
13 these vehicles, which was in closer proximity to the van
14 where the fire originated.

15 Q. Okay. And let me call your attention to the
16 left-hand area over here. And what does that show?

17 A. Much less heat damage. You can see the paint
18 and stuff is still intact. There is no oxidation in the
19 metal or anything like that. Even the plastic lenses is
20 undamaged.

21 Q. Okay. Does that also confirm that the heat
22 came from the direction, at least, of the van?

23 A. Yes, sir.

24 Q. All right. And what are we looking at here?

25 A. Basically, what we're looking at is the heat

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1 that was from the van onto the cinder block wall. As
2 you can tell, it's much greater here towards the front
3 of the passenger area than the rear of the passenger
4 area.

5 Also, that it's low on the brick. It's
6 not just above the van; but it's equal to the height of
7 the van where the windows and stuff were, where the fire
8 rolled out of the van onto the wall.

9 Q. Now that door was open. I think we talked
10 about this earlier. Would smoke, I guess, go in faster
11 than if the door was shut in this fire?

12 A. Yes, sir.

13 Q. Is that true for the doors throughout this
14 whole unit, that the doors were open and it would be
15 more likely that smoke would go in?

16 A. Yes, sir. If the doors were open, it would be
17 much more likely smoke would go into the building.

18 Q. What were we looking at here?

19 A. Again, the -- just the damage to the exposed
20 vehicle on the driver's side where the door was open,
21 and it extended more readily to that vehicle because of
22 the door being open.

23 Q. Okay. Anything here indicate anything to you?

24 A. Yes, sir. Again, the fire patterns, as you can
25 see along -- at the doors rather than on the fender,

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1 they're much greater here at the doors where the --

2 Q. You can push on the screen. We'll know what
3 you're pointing at.

4 A. Okay. See how the fire damage is much greater
5 in this area here, which coincided with the door being
6 open here on the van. It's kind of hard to tell from
7 this photo, but it was more in proximity to where the
8 van was.

9 Q. Okay. Is that a picture of that?

10 A. Yes, sir.

11 Q. Roughly, how much space was between the van and
12 the door?

13 A. I want to say it was approximately three feet.

14 Q. I think it was brought up earlier about the
15 firefighters banging on the door. If this Sienna van
16 was fully involved, would somebody be able to go through
17 that door, in your opinion, based on what you're looking
18 at?

19 A. Yes, sir. There was room to go in and out of
20 the door.

21 Q. How about if this fire was going; that is, the
22 van was fully consumed in fire?

23 A. No, sir, not unless you were wearing full
24 protective clothing.

25 Q. All right. What's significant in this picture?

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1 A. Again, this is the back of the van just showing
2 that, as you can tell, there is less damage even towards
3 the rear of the van as the front of the passenger area.

4 You can see the damage is on the Camaro
5 and the Cherokee and the Gallant only where they were in
6 proximity to the van, so the fire didn't start over in
7 those areas. It started in the van and moved that way.

8 Q. Tell us about the Camaro.

9 A. The Camaro was the second row over from the
10 van.

11 Q. If you could point over on this diagram, 4, use
12 your little pointer there that's near you. Point out
13 which one is the Camaro.

14 A. The Camaro is going to be this one here, I
15 believe. And it's going to be -- this is the van and
16 the Gallant and the Cherokee and the Camaro.

17 Q. Okay. And does the Camaro look like, at least
18 the damage we're seeing in it, that it came from the
19 minivan, or the van?

20 A. Yes, sir.

21 Q. Okay. What did you do regarding the Camaro?

22 First of all, do you remember if it was
23 locked or unlocked?

24 A. I checked both doors. They were locked at the
25 time.

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1 Q. Could you see in the Camaro?

2 A. No, sir. The windows were so dark on there, I
3 could not see into the car.

4 Q. Why didn't you just, you know, get someone to
5 break into the Camaro?

6 A. Well, to be honest with you, the vehicle was
7 not on fire any longer. And since it didn't -- wasn't
8 my area of origin, I didn't want to cause any more
9 damage to the vehicle. I would have had to have the
10 firefighters force the doors open in order to get in
11 there.

12 Q. So you didn't look in the Camaro?

13 A. No, sir.

14 Q. And the damage you're seeing from the Camaro,
15 is it consistent with the fire coming out of the van, at
16 least the stuff we see on the outside of the right side
17 of the Camaro?

18 A. Yes, sir.

19 Q. And what are we looking at in there?

20 A. This is the other side of the van from the
21 wall. Like I said, there was approximately three or
22 four feet between the van and the wall. You can see
23 that the -- while this door is deformed, the heat damage
24 and stuff on here, even though it was reflected from the
25 wall, was even less than the damage on the driver's

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1 side, basically because the doors were shut and intact
2 during the fire.

3 Q. Now we're talking about these cars here. Were
4 there other cars in that area; that is, in that
5 alleyway?

6 A. Yes, sir.

7 Q. Can you point to -- use your pointer and point
8 to State's 24 where those other vehicles were?

9 A. The other vehicles were on this end of the
10 alleyway. I believe there was some racks with tires and
11 stuff, and vehicles were parked in front of them.

12 Q. Were they damaged at all?

13 A. No, sir, not from this fire.

14 Q. Did they look like they were damaged from a
15 burglary?

16 A. I didn't notice any damage from a burglary.

17 Q. Now did you check the doors of all the vehicles
18 other than the van that was open?

19 A. Other than the van and the Sentra, I checked
20 all the door handles. And I pulled them to see if they
21 were locked, and they were all locked at the time.

22 Q. Okay. And does this show the gap between the
23 doors and the vehicles?

24 A. Yes, sir. That's between the wall and the
25 Sienna van.

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1 Q. And what is this? What are we looking at in
2 this picture?

3 A. This is some of the debris that firefighters
4 actually pulled out of the doorway here that was inside
5 the door, and they had to pull it out when they were
6 getting in there to put the fire out.

7 Q. Is that part of the overhaul?

8 A. Yes, sir. That's where they're going to make
9 sure the fire is completely out. They're going to
10 remove whatever debris or whatever parts of the
11 structure they need to to confirm the fire is
12 extinguished.

13 Q. So this pile of junk here, it could be from the
14 firefighters putting stuff out here?

15 A. Yes, sir.

16 Q. Okay. And where is this car in relation to the
17 origin of the fire?

18 A. This car is in front of the Sienna van.

19 Q. And does it show damage to the back of it?

20 A. Yes, sir, and the closest proximity to the van.

21 Q. All right. Now in car fires, is it important
22 to look into the engine compartment to see if maybe that
23 started the fire?

24 A. Yes, sir.

25 Q. Do you do that in this case?

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1 A. Yes, sir, we did.

2 Q. All right. And what do you find in the engine
3 compartment of the Sienna van?

4 A. Basically, our greatest damage is up near the
5 fire wall, up in this -- it went onto the next level.
6 Okay. This area here along the fire wall, you can see
7 the heavy oxidation and stuff. You can see that the
8 manifold here is melted, where the manifold on the front
9 of the engine is still intact. You see a lot greater
10 damage in this area here where the fire came through the
11 openings in the fire wall.

12 Q. So you're saying -- when you say the manifold,
13 are you talking about the block in the engine that is
14 damaged toward the -- where the occupants were and less
15 damage in the front?

16 A. Yes, sir. There was much more significant
17 damage on the passenger side of the motor than the front
18 side of the motor.

19 Q. And is that another view of that?

20 A. Yes, sir. This is an overhead view. You can
21 still see the remains of the battery and stuff up here
22 to the left. You can see that this area here got much
23 less damage than where the openings are over here coming
24 down.

25 Q. I can't tell what you're looking at there.

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1 Push down on it.

2 A. It just showed up on mine.

3 Q. Oh, okay. All right. And do you eliminate the
4 battery and everything else inside the engine
5 compartment?

6 A. Yes, sir. We look at the wiring and try to see
7 if we see any indications of arcing, something like
8 that, rather than external heating, where you're going
9 to get the -- where the copper gets brittle and
10 unpliable. We didn't see any indications of the arcing
11 there.

12 Q. Is this inside the van?

13 A. Yes, sir.

14 Q. Okay. What is that arrow showing? Are those
15 arrows?

16 A. Basically, it's showing the difference inside
17 the van where the fire originated; and you can see the
18 difference in the doors, indicating how the passenger
19 side door was closed and the driver's side door was
20 open. You can see the difference in the oxidation where
21 the fire was much more intense because of the
22 ventilation of the door being opened.

23 Q. So you're saying on the left side, that's the
24 driver's side?

25 A. Yes, sir. And this is the steering column, and

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1 you can see some of the opening through the firewall.

2 Q. Okay. So more oxidation showing. This -- we
3 talked about this earlier. So all this material is all
4 completely gone, as far as the locking mechanism and
5 everything to do with it?

6 A. Yes, sir.

7 Q. Shows more damage on the inside of that van?

8 A. Yes, sir. You can see how it's moving from the
9 front of the van to the rear of the van. This is the
10 backseat. As you can see, there's actually more debris
11 left in the rear of the van than there was the front,
12 showing how it -- how the fire spread here. And there
13 is less damage, actually, in the back than the front.

14 Q. Now, how do you decide, or what do you look
15 for, like debris samples to bring to the lab, out of all
16 this junk?

17 A. Well, what we do is we try to determine as
18 close as we can the area of origin. We try to narrow it
19 down to as small a point as possible where we're going
20 to take the sample. Then from there we try to
21 distinguish areas where, if it was a liquid, where would
22 that liquid flow? Liquid flows downhill and absorbs
23 into some materials better than others, so we normally
24 take it at the lowest point nearest the area of origin.

25 Q. And did you do that in this case?

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1 A. Yes, sir.

2 Q. And where in this car did you take samples
3 from?

4 A. From the driver's floor panel.

5 Q. Now it looks like there's quite a bit of all
6 the upholstery is gone. Could that stuff have burned
7 off in the upholstery?

8 A. Yes, sir. This is where we took the samples
9 there in front of the driver's seat, on the driver's
10 floor panel.

11 Q. Is that your best guess as to where you think
12 it might be?

13 A. Yes, sir. That was our best guess of where we
14 were going to get a possible sample. That's where it
15 would come from.

16 Q. Okay. Going back to the cars, did you have
17 a -- at that point in time -- a feeling that you knew
18 probably where the origin of the fire was and probably
19 what caused it?

20 A. Yes, sir. We knew where it started. We just
21 needed to confirm how it started on the car.

22 Q. And where did it start?

23 A. It started in the front of the passenger area
24 of this Sienna van.

25 Q. And at that point, did you have any -- did you

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1 eliminate all accidental causes, as far as you could, at
2 the scene?

3 A. Yes, sir. We didn't find any indication of any
4 accidental causes there.

5 Q. Okay. Now show us, if you could, with the
6 laser pointer on State's Exhibit 24 what we're looking
7 at here.

8 A. Okay. This is a unit lower, further down.
9 It's here, and this is 7209. This pointer is not
10 working, but it's in 7209, as depicted on the chart.
11 It's a couple of doors down when you're looking at the
12 overhead doors from approximately where the man was, and
13 you can see there is no fire damage there.

14 Q. So -- I think it's depicted on here where it
15 says sleeping materials?

16 A. Yes.

17 Q. Okay. So that's -- exhibit here is in
18 reference to this where I'm pointing on State's 24?

19 A. Yes, sir.

20 Q. And what -- how would you describe that area
21 after having been in it?

22 A. It looked like someone had been living there.
23 We didn't see any evidence of fire damage there. There
24 wasn't any flame or heat, no charge, anything like that
25 in the area.

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1 Q. Okay. And were you informed of where the
2 defendant was found that night?

3 A. Yes, sir. They informed us he was found at
4 the -- I believe at the front of 7209.

5 Q. So in the same place where the -- this bedding
6 material is, the front of that same part of the
7 building?

8 A. Yes, sir, in that same unit.

9 Q. Okay. And did you -- you said there is no --
10 was there any soot or any kind of smoke damage in
11 anyplace around where the defendant's bedding material
12 was, that you observed?

13 A. No, sir.

14 Q. Okay. Did you find any other situations like
15 this, like bedding material in one of these places --
16 well, let me back up -- in the place where you found the
17 defendant's stuff, any other place have bedding?

18 A. The front of the 7203, there was bedding
19 material and stuff there, also.

20 Q. Was that where those other guys were staying?

21 A. Yes, sir.

22 Q. All right. And this unit where the defendant's
23 bedding was, is there any other bedding in that unit?

24 A. I don't believe so.

25 Q. Same picture, same place?

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1 A. Yes, sir.

2 Q. All right. Now I'm going to call your
3 attention to these two items here. Did you remember
4 seeing the fire extinguisher there?

5 A. Yes, sir.

6 Q. Any other fire extinguishers that you remember?

7 A. I believe there was one in the debris at Unit
8 7203. It was in the debris, so we didn't take any
9 photos of it specifically.

10 Q. Do you know if it was like somebody tried to
11 use it?

12 A. No, sir, it didn't look like it.

13 Q. And how about this lighter fluid? What's --
14 was that where you see it depicted in the photograph?

15 A. Yes, sir.

16 Q. Okay. And is that just regular, you know, you
17 have a barbeque with lighter fluid?

18 A. Yes, sir. It's not seen in the picture, but
19 there was --

20 MR. BARROW: Your Honor, I'm going to
21 object to anything that's not seen in the picture.

22 THE COURT: Okay. Sustained.

23 Q. (By Mr. Baldassano) All right. And did you
24 collect the lighter fluid?

25 A. No, sir.

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Direct Examination by Mr. Baldassano

1 Q. And how come?

2 A. Because there was a barbeque grill there, and I
3 just assumed it went with it.

4 Q. Okay. Would there be a way of testing, if the
5 lab found ignitable liquids, to test it against this
6 ignitable liquid?

7 A. Yes, sir, if we would have took an exemplar
8 (sic) and have them tested and see if they both match.

9 Q. Have you ever done that in other cases where
10 you're not sure if it's part of the fire, but it might
11 be so you take a sample?

12 A. Yes, sir.

13 Q. What are we looking at here?

14 A. It's a different view of the bedding and
15 showing what -- the overhead door there.

16 Q. When you arrived, were these doors all opened
17 already?

18 A. Yes, this door was opened already.

19 Q. If this door was opened during the fire, would
20 that let smoke into this room?

21 A. It could have.

22 Q. And about how far away is this bedding material
23 from the scene of this Sienna van that was on fire?

24 A. I would say approximately thirty feet.

25 Q. Have you ever, in your work as an arson

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1 investigator, been involved in a situation where the
2 arsonist actually got burned lighting the fire?

3 A. Yes, sir.

4 Q. Is that uncommon?

5 A. It happens sometimes. I don't know how common
6 it is.

7 Q. All right. And have you ever seen a person get
8 singed chest hair?

9 A. Yes.

10 Q. Or singed hair from lighting a fire?

11 A. Yes, sir.

12 Q. And can you describe how that would go?

13 A. Normally, it's -- it would be real similar to
14 lighting your barbeque grill, and you light it and it
15 flashes, burns the hair off your arm, but with no
16 blistering normally. It's a flash fire, and then it
17 goes out.

18 Q. Back then, did you have any information about
19 the defendant's singed hair? Did you know that back
20 then?

21 A. Not at that time, no, sir.

22 Q. All right. About how long did you stay out
23 there at the fire scene?

24 A. I believe it was approximately three hours.

25 Q. And then did you turn -- well, let me step

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1 back. After your analysis of the scene, is it common
2 that an insurance company would send a representative to
3 look at the fire, seeing if there is some insurance
4 coverage?

5 A. Yes, sir.

6 Q. Do you know if that happened in this case?

7 A. Yes, sir.

8 Q. And do you know who the insurance company hired
9 to go out and look at the scene or do an investigation?

10 A. I don't know the name of the company, no, sir.

11 Q. And when a company is called, do you ever
12 request, or can you request information from the
13 insurance company by law?

14 A. Yes, sir.

15 Q. And do they have to comply and give you
16 information about a fire over a certain amount of
17 damage?

18 A. Yes, sir.

19 Q. Did you do any of the follow-up in dealing with
20 the insurance company after this?

21 A. No, sir.

22 Q. And after your hours out at the scene, what --
23 did you take any further action on this case?

24 A. Just basically writing the report and informing
25 the day shift or follow-up crew of the scene so that

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1 they could begin their follow-up.

2 Q. Okay. And do you do that that night? Do you
3 sort of call day shift sort of out there, like between
4 shifts? Or do you just, like, leave a message for them
5 and they get to it later?

6 A. It normally depends on the size of the fire or
7 what type of impact it had. On this one we notified the
8 day shift, and then they make a determination whether
9 they want to come out there while we're still there or
10 if they want to wait and do the follow-up later.

11 Q. And did they come out while you were still
12 there?

13 A. No, sir.

14 MR. BALDASSANO: I pass the witness,
15 Judge.

16 THE COURT: Okay. Cross.

17 MR. BARROW: Thank you, Judge.

18 **CROSS-EXAMINATION**

19 BY MR. BARROW:

20 Q. Investigator Hicks, you indicated that there
21 were approximately nine cars in this area; is that
22 correct?

23 A. Yes, sir.

24 Q. Could there have been more than that?

25 A. The other -- there was four others, but they

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1 were a little bit further forward.

2 Q. Well, if somebody testified earlier that there
3 was as many as twelve cars in here, could they be
4 mistaken, or are you sure there were only nine cars that
5 were close to the fire area?

6 A. There was approximately twelve cars total in
7 the alley. Like I said, there was just a little space
8 between them.

9 Q. Well, a little space or -- well, with your
10 pointer, could you show the jury where the other four
11 cars that were not involved in the fire were?

12 A. They were starting about right here, because
13 they were parked in line like those were.

14 Q. And can you judge the distance between where
15 these four cars were parked to where those other nine
16 were?

17 A. I didn't measure, but approximately twenty feet
18 maybe.

19 Q. Far enough away that they weren't affected at
20 all by the fire?

21 A. No, sir.

22 Q. Now you spoke to Mr. Efrain Mendoza out at the
23 scene. It was the early morning hours, probably about
24 5:00 or 6:00 a.m. by then?

25 A. Yes, sir.

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1 Q. And you spoke to Mr. Efrain Mendoza?

2 A. Yes, sir.

3 Q. And you also spoke to Mr. Alfredo Mendoza; is
4 that correct?

5 A. Yes, sir.

6 Q. Now they are the two owners of the business
7 that's located here, correct?

8 A. That's what they told me, yes, sir.

9 Q. Okay. And that's also where they told you, or
10 you discovered, that there were four people that were
11 sleeping in this office area?

12 A. Yes, sir.

13 Q. And I believe that your testimony was that you
14 were able to speak to two of those people who gave their
15 names as Juan Garcia and Alberto Garcia?

16 A. Yes, sir.

17 Q. The other two occupants of that business
18 location, they were not at the scene?

19 A. Not at that time.

20 Q. Okay. Did you or anybody on your team ever
21 attempt to find and talk to those other two people?

22 A. We did ask some of the fire crews if they had
23 seen where they went, but nobody knew where they had
24 gone when they left the scene. So --

25 Q. And after talking to those four people, did you

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1 have an idea of who might have caused that fire?

2 A. Not at that time.

3 Q. You also indicated that you spoke to a Mr.
4 Sonny Haig that night or early morning?

5 A. Yes, sir.

6 Q. And that was by telephone, correct?

7 A. Yes, sir.

8 Q. Because Mr. Haig was actually in Florida?

9 A. Yes, sir.

10 Q. And Mr. Haig, you discovered, was the owner of
11 this property?

12 A. Yes, sir.

13 Q. And did Mr. Haig tell you that John Morin slept
14 in his building?

15 A. Yes, sir.

16 Q. So you had Mr. Morin's name?

17 A. Yes, sir.

18 Q. Now you indicated on direct examination that
19 you ruled out most accidental causes, right?

20 A. Yes, sir.

21 Q. But it's your opinion, as an arson
22 investigator, that there was some type of ignitable
23 liquid or accelerant liquid used to start the fire in
24 the Sienna van, correct?

25 A. That's how it appeared to me.

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1 Q. Okay. And that was your opinion, although you
2 found absolutely no evidence of an accelerant?

3 A. Yes, sir.

4 Q. And that's from the sample that was taken from
5 the Sienna van, correct?

6 A. Yes, sir.

7 Q. And did you know whether lab work was done on
8 the pants that Mr. Morin had on at the hospital that
9 were taken by Inspector Villalobos?

10 A. Not at that time, I didn't know that.

11 Q. Did you later find out about those sweatpants?

12 A. Yes, sir.

13 Q. And there was no accelerant on those
14 sweatpants, either, was there?

15 A. No, sir.

16 Q. And they were certainly in much better
17 condition than the Sienna van?

18 A. Yes, sir.

19 Q. Now I believe you testified earlier that there
20 is a number of reasons for an accelerant to not be where
21 you think you might find it, right?

22 A. Yes, sir.

23 Q. And it can be destroyed by the fire itself?

24 A. Yes, sir.

25 Q. It can be -- it could evaporate prior to

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1 collection analysis?

2 A. Yes, sir.

3 Q. It could actually be through the firefighters'
4 attempts to put the fire out. They could wash it away?

5 A. Yes, sir.

6 Q. And sometimes it's just where you decide it was
7 a good place to take a sample?

8 A. It just wasn't there. That's true.

9 Q. You indicated it was dangerous circumstances
10 that keep the dog from being allowed on the scene,
11 right?

12 A. Yes, sir.

13 Q. And that judgment call is by the dog handler,
14 right?

15 A. Yes, sir.

16 Q. Now sometimes -- do you know when the insurance
17 company sent out their investigator?

18 A. No, sir.

19 Q. But you're familiar with what his findings
20 were?

21 A. Yes, sir.

22 Q. And so, based on that, the cars were probably
23 in the same place and in the same condition they were
24 when you did your investigation, correct?

25 MR. BALDASSANO: I'm going to object to

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1 that as speculation about the same condition. He
2 doesn't -- I don't know if he knows when it happened or
3 where it was when it happened that the investigator
4 looked at it.

5 *THE COURT:* What's your response?

6 *MR. BARROW:* He said he was -- looked at
7 the report. And based on the findings from the report,
8 he thought that he might be able to decide whether or
9 not the cars were in a similar place, if he knew.

10 *THE COURT:* If the witness knows, you can
11 answer.

12 A. All I know from the report is he concurred that
13 it started in the Sienna van, also.

14 Q. (By Mr. Barrow) Did he also make a finding
15 that there was another point of origin?

16 A. Yes, sir.

17 Q. And that was in the Camaro, correct?

18 A. Yes, sir.

19 Q. Now, you didn't find that?

20 A. No, sir.

21 Q. And you testified earlier that the Camaro doors
22 were definitely locked?

23 A. Yes, sir.

24 Q. Now the only thing about that Sienna van door
25 on the driver's side, you're not sure whether that door

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1 was locked or not, are you?

2 A. I have no idea if it was locked or not.

3 Q. At the beginning of the fire?

4 A. Yes, sir.

5 Q. Was the fire that originated in the Camaro
6 also -- was the finding that there was an accelerant
7 used in that fire, as well?

8 A. I don't believe so.

9 Q. And is that because there was no accelerant
10 found?

11 A. I don't know what the testing was that they did
12 it on.

13 Q. You and your team certainly didn't do any
14 testing on the Camaro; you didn't take any samples from
15 the Camaro?

16 A. I did not.

17 Q. By 6:00 a.m. on the morning of October 19th, is
18 it fair to say that the fire was out?

19 A. Yes, sir.

20 Q. Could the dog have been let loose at that time
21 to investigate for an accelerant?

22 A. That's totally up to the handler.

23 Q. Was the handler still there?

24 A. Yes, sir.

25 Q. And he didn't do it?

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1 A. No, sir.

2 Q. Do you know whether the handler ever brought
3 the dog back to check those cars?

4 A. I do not know.

5 Q. Now when we were discussing the distance
6 between -- and there is the Sienna van, correct?

7 A. Yes, sir.

8 Q. And this is the door -- now is this the normal,
9 regular door? You know, there is two types of doors in
10 this building, correct?

11 A. There is an overhead door and a man door.

12 Q. And the man door?

13 A. Yes, sir.

14 Q. Are you calling the man door the -- a regular
15 door?

16 A. Yes, sir.

17 Q. And does this represent the man door or the
18 garage door, or do you know?

19 A. The small space there would be the man door.

20 Q. This one here?

21 A. Yes, sir.

22 Q. Okay. If this van was totally engaged in fire,
23 it would be extremely difficult and dangerous for a
24 firefighter to come right between here and bang on those
25 doors, correct?

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1 A. Until they get the fire knocked down, you're
2 correct.

3 Q. Inspector Hicks, arson, it's not an exact
4 science, is it?

5 A. Well, arson is a crime. It's not a science.

6 Q. Well, arson investigation. I'm sorry.

7 A. It's not conducted in a lab, but it is a
8 science.

9 Q. So when you say that it's your best guess, is
10 that an exact science or is that your best guess?

11 A. I don't really understand the question, because
12 I don't think I said I guess.

13 Q. Well, at one point you and Mr. Baldasano were
14 discussing the smallest place to take the sample, and
15 you said that it was your best guess that that would be
16 the place to take the sample. And I believe you were
17 discussing about the Sienna front passenger seat, liquid
18 flows downhill. And that's where you took the sample,
19 correct?

20 A. Yes, sir.

21 Q. And that would have been your best guess as to
22 a good place to take the sample?

23 A. Yes, sir.

24 Q. Did anybody fingerprint the charcoal lighter
25 fluid container?

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1 A. Not that I know of, no, sir.

2 Q. And I believe you testified that you could have
3 collected that charcoal lighter fluid and taken it to
4 the lab and tested it, but you didn't?

5 A. No, I didn't.

6 MR. BARROW: Pass the witness.

7 THE COURT: Okay.

8 MR. BALDASSANO: No further questions,
9 Judge.

10 THE COURT: Let's take a two-minute
11 recess. Please remember the admonitions from the Court.
12 Do not discuss this case with anyone, not even among
13 yourselves.

14 *(Brief recess)*

15 *(Jury enters courtroom)*

16 THE COURT: Thank you. Please be seated.
17 You may proceed, Counsel.

18 **BRIAN HEINTZ,**

19 having been first duly sworn, testified as follows:

20 **DIRECT EXAMINATION**

21 *BY MR. BALDASSANO:*

22 Q. Please introduce yourself to the jury.

23 A. My name is Brian Heintz. I'm a certified fire
24 and explosion investigator licensed through the National
25 Association of Fire Investigators. I did the origin and