

DIRECT EXAMINATION

BY MR. VOLKMER:

Q. Officer, describe the March arrest of Elijah Reed.

A. We arrested Elijah Reed. I believe he was outside of 49 San Jacinto where the people bond each other out. He was walking out of there. We arrested him as he walked out of that building.

Q. Who was with you?

A. Officer Vasquez, Officer Mares, and we had a patrol officer there.

Q. Was this March 5th, 2014?

A. Yes, sir.

Q. And when you approached the defendant, describe what he had, if anything, in his possession.

A. He had a phone in his hand.

Q. And what did you do -- well, how did you approach him?

A. We had police jackets on. We had a uniformed police officer there, and we advised him that he was under arrest.

Q. What did he do with the phone in his hand?

A. Officer Mares, I believe, had taken the

1 phone or I had taken the phone from his hand as he
2 was being handcuffed.

3 Q. From 49 San Jacinto, where was the
4 defendant transported?

5 A. To 61 Riesner, the police station.

6 Q. Where in 61 Riesner did you take him?

7 A. The third floor.

8 Q. Specifically what room on the third
9 floor?

10 A. There are several interview rooms on the
11 third floor. It's the old Homicide Division, but
12 they actually have interview rooms there.

13 Q. Did the phone come with you and the
14 other officers?

15 A. Yes, sir.

16 Q. And then in the interview room, what
17 occurred?

18 A. We attempted an interview.

19 Q. Where was the phone during this time?

20 A. It was on the -- there was a big desk
21 and I was sitting at a desk, one side of the desk,
22 and it was on the top of the desk, just property.

23 Q. The phone, the defendant's phone was now
24 on top of the desk?

25 A. Yes.

1 Q. And you had it -- had he been booked in
2 yet?

3 A. No, sir.

4 Q. Had he -- his property been entered for
5 inventory at this point?

6 A. No, it was just collected. It hadn't
7 been inventoried yet.

8 Q. Okay. At this point did you have a cell
9 phone on your person?

10 A. Yes.

11 Q. Was it your -- was it the phone you use
12 for your purposes for work?

13 A. Yes.

14 Q. What did you do?

15 A. During or toward the end of the
16 interview, I used my phone to dial the phone number
17 that we were given by Mr. Ghaffar.

18 Q. What phone was that?

19 A. It's 832-768-1603.

20 Q. Is that the same number in State's 14-A?

21 A. Yes, sir.

22 Q. When you dialed the phone number on your
23 phone, what occurred?

24 A. The phone rang.

25 Q. Which phone rang?

1 A. His phone rang, the phone that we had
2 there in front of him that was in his possession
3 when he was arrested.

4 Q. The defendant's phone?

5 A. Yes. It rang and it lit up and when it
6 lit up, I looked over and it had my phone number on
7 it.

8 Q. Did you ever interact or touch the
9 buttons on the defendant's phone?

10 A. No, sir.

11 Q. When your phone call ended, what
12 happened? When the phone -- when your call on your
13 personal phone ended --

14 A. I just -- I just closed my phone. It's
15 a flip phone.

16 Q. What occurred on the phone on the desk?

17 A. It stopped ringing.

18 Q. Did you ever touch the buttons or go
19 into the interior of the phone or scroll through or
20 look at a call log for the defendant's phone?

21 A. Never.

22 MR. VOLKMER: Pass the witness.

23 THE COURT: Mr. Ray.

24 MR. RAY: Thank you, Judge.

25

CROSS-EXAMINATION

1
2 **BY MR. RAY:**

3 Q. Officer Janke, that day you arrest
4 Elijah Reed, correct? You said 49 San Jacinto?

5 A. It was right outside where the booking
6 is. I believe that's 49.

7 Q. And you had -- you had a pocket arrest
8 warrant but not a search warrant, correct?

9 A. That's correct.

10 Q. Okay. Do you remember what else
11 Mr. Reed had on him? Car keys? Wallet? Anything
12 else in his pockets?

13 A. I don't recall everything that he had,
14 no. I know he was wearing a New Orleans Saints
15 jacket because it was cold.

16 Q. Did -- but, I mean, I guess he had other
17 things, other property, other than the cell phone,
18 like a wallet on him, some car keys?

19 A. Sure. I would imagine. I don't know.
20 I recall the phone.

21 Q. Okay. And so when -- what did you do
22 with the wallet and the car keys or other property?
23 You said you put his other property somewhere else?

24 A. Property -- property similar to that,
25 that usually goes with their -- with them to the

1 jail.

2 Q. Right.

3 A. And --

4 Q. That's their personal property, correct?

5 A. Yes, personal property.

6 Q. Okay. And you would -- you've made
7 arrests before, right?

8 A. Yes.

9 Q. And when you arrest someone and they've
10 got a cell phone, wallet, keys on them, all of that
11 goes with them to their personal property in the
12 jail, correct?

13 A. No.

14 Q. No?

15 A. No, not in all instances. No.

16 Q. But general practice, unless you've got
17 some sort of a warrant, you're not supposed to
18 seize -- seize their property and tag it into
19 evidence, correct?

20 A. That's -- that's not correct.

21 Q. Unless you have probable cause?

22 A. That's right.

23 Q. Okay. At the time that you made the
24 arrest of Elijah Reed, did -- had you issued any
25 sort of administrative subpoena for that phone

1 number?

2 A. No.

3 Q. Okay. Did you know who that phone
4 number belonged to at the time you arrested Elijah
5 Reed?

6 A. No, I did not.

7 Q. Okay. Did you know the carrier or the
8 phone number that was in Mr. Reed's hand at the time
9 you arrested him?

10 A. No.

11 Q. You didn't -- you didn't know Mr. Reed's
12 phone number that day as you arrested him, correct?

13 A. Only through information that we were
14 given from Mr. Ghaffar --

15 Q. Okay.

16 A. -- of the phone number itself.

17 Q. All right.

18 A. But the type of phone and his carrier,
19 no.

20 Q. Okay. And the phone that was in
21 Mr. Reed's hand that day, you didn't know whose
22 phone that was or what phone number was attributed
23 to that particular phone when you arrested him,
24 correct?

25 A. That's correct.

1 Q. All right. And so you took that phone
2 and you put it away from the wallet and the keys and
3 the other property that was in his pockets, correct?

4 A. It was -- his property and everything
5 was there on the desk, I'm sure, or somewhere else;
6 but it was there, all within that same room,
7 interview room.

8 Q. Were they -- I guess -- but you put on
9 there that you tagged -- according to your report,
10 you tagged the property into evidence about two
11 hours after the arrest at 49 San Jacinto?

12 A. Okay.

13 Q. All right. Where do you tag property
14 at?

15 A. In the property room.

16 Q. Okay. So you would have tagged his
17 phone into property, correct?

18 A. Yes.

19 Q. All right. And you did this at the
20 directive of ADA Keiter, correct?

21 A. If he ordered -- if he asked me to do
22 it, yes.

23 Q. Okay. Well, do you need to refresh your
24 recollection with your report?

25 A. Sure.

1 Q. Okay.

2 (Defense tenders document to
3 witness.)

4 A. Yes.

5 Q. (By Mr. Ray) All right. So at the time
6 that you seized that phone, you did so at the
7 directive of the District Attorney's Office,
8 correct?

9 A. Yes.

10 Q. All right. There was no warrant being
11 prepared or had been prepared at the time you seized
12 that phone, correct?

13 A. Not that I know of.

14 Q. Okay. And you didn't know anything
15 about that phone at the time you seized it from
16 Mr. Reed, right?

17 A. Other than the fact that when I dialed
18 that number that was given to me by Ghaffar --
19 Mr. Ghaffar, other than that, no, I didn't.

20 Q. Okay. But when you seized it from
21 him -- when you did the arrest, you didn't -- you
22 didn't know anything about that phone, right?

23 A. The phone itself?

24 Q. Right.

25 A. No.

1 Q. Was this a phone like an iPhone, like a
2 touch screen or was it a flip-over phone?

3 A. It was flat, just a touch screen, I
4 guess.

5 Q. Okay.

6 MR. RAY: Pass the witness, Judge.

7 THE COURT: State.

8 **REDIRECT EXAMINATION**

9 **BY MR. VOLKMER:**

10 Q. He's taken straight to the interview
11 room, correct?

12 A. From Patrol to us into the interview
13 room, that's correct.

14 Q. His property wasn't inventoried on the
15 way?

16 A. No, sir.

17 Q. He's -- all of his personal property is
18 right there on the desk?

19 A. That I recall, yes.

20 Q. Eventually Mares is going to tag this
21 phone and you're present when that happens, correct?

22 A. That's correct.

23 Q. But that took place after you called the
24 number from the case?

25 A. Yes.

1 Q. And you -- you were aware of the
2 telephone number 832-768-1603 going into the arrest
3 of Elijah Reed, correct?

4 A. Yes, sir.

5 Q. And you knew that was an important
6 number to your case?

7 A. Yes, sir.

8 Q. So none of his personal property had
9 been inventoried at the time that you made the phone
10 call on your personal phone?

11 A. That's correct.

12 Q. And that's when it rang and eventually
13 Keiter is going to tell you to tag it after this?

14 A. Yes.

15 MR. VOLKMER: Okay. Pass the
16 witness.

17 THE COURT: Mr. Ray.

18 **RECROSS-EXAMINATION**

19 **BY MR. RAY:**

20 Q. The wallet and keys, you separated those
21 from the cell phone, correct?

22 A. They -- I don't believe they were tagged
23 in the property room if that's what you're asking.
24 I think they went with his personal property.

25 Q. Okay. The -- when you -- when you

1 transported him down, where -- were you the one who
2 transported him?

3 A. No, sir.

4 Q. Okay. Where did the cell phone go? Did
5 that go with you?

6 A. Officer Mares and myself, yes.

7 Q. Okay. Where did his other personal
8 property go?

9 A. With Officer Mares and myself.

10 Q. Okay. Why did you -- isn't it HPD
11 policy to keep the personal property, such as the
12 wallet and stuff, with -- in the transport vehicle
13 with that prisoner?

14 A. No.

15 Q. No?

16 A. No.

17 Q. Okay. So Elijah Reed was not in y'all's
18 car during the transport, correct?

19 A. That's correct.

20 Q. Okay. So at that time -- what's it
21 called -- you would agree that you had taken that
22 cell phone from him, correct? You had seized it?

23 A. Officer Mares, yes. We had -- we had
24 the phone with us. That's correct.

25 Q. Okay. And at that time did you

1 intend -- what did you intend to do with that cell
2 phone?

3 A. We were going to -- we were going to
4 take it with the property and probably tag it in the
5 property room anyway.

6 Q. Okay. So at that time you were going to
7 tag that phone no matter what, correct?

8 A. It was possible, yes.

9 Q. Okay. Without knowing anything about
10 it, correct?

11 A. Sure.

12 Q. Okay. And the other -- his other
13 effects you were going to send down to the jail with
14 him or with his -- with his personal property so if
15 he bonded out he could get that, correct?

16 A. Correct.

17 Q. And y'all were going to maintain access
18 of his cell phone, though, correct?

19 A. I think we were responsible for his
20 phone. As far as access itself, it would be tagged.

21 Q. Okay. And by tag, like other evidence
22 in the case such as a gun or a knife, some sort of,
23 you know, evidence, correct?

24 A. That's correct.

25 Q. All right.

1 MR. RAY: Pass the witness.

2 THE COURT: State.

3 MR. VOLKMER: Nothing further, Your
4 Honor.

5 THE COURT: Okay. Any argument?

6 MR. VOLKMER: Yes, Your Honor.

7 **ARGUMENT BY THE STATE**

8 MR. VOLKMER: I've e-mailed to the
9 court coordinator; but the State would argue under
10 *Lawing*, which is the new United States Supreme --
11 the Fourth Circuit Court of Appeals case, and
12 *Claude*, which is an Eastern District of Pennsylvania
13 case, that this is a seizure but not a search, that
14 this phone was in plain view.

15 THE COURT: Mr. Ray hasn't -- he is
16 not saying this is a search. He's saying it's an
17 illegal seizure.

18 MR. VOLKMER: Okay. This was
19 property that was seized incident to arrest. A
20 valid search warrant, a valid arrest warrant --

21 THE COURT: There was -- wait a
22 minute. There was a search warrant?

23 MR. VOLKMER: No, I'm sorry. There
24 was only an arrest warrant.

25 THE COURT: Okay.

1 MR. VOLKMER: So when he was
2 arrested, this is property that he had in his
3 possession, in his hand. They are interviewing him,
4 and the property will be properly inventoried
5 incident to an arrest. It's been seized for that
6 purpose. And the officers aren't -- it would be
7 properly going with him to be included with his
8 wallet and keys and everything for that purpose.

9 THE COURT: Do you have a copy of
10 the pocket warrant?

11 MR. VOLKMER: Yes, I do.

12 THE COURT: Mr. Ray.

13 MR. RAY: Argument you mean?

14 THE COURT: Yes.

15 **ARGUMENT BY THE DEFENSE**

16 MR. RAY: Yes, Your Honor.

17 This is simple Fourth Amendment
18 search and seizure. You have to have probable cause
19 for a search. You have to have probable cause for a
20 seizure of any property.

21 In this situation, we know that
22 from Officer Janke or Janke -- I'm -- J-A-N-K-E --
23 from his testimony that he didn't know what that
24 cell phone -- who that cell phone belonged to. He
25 hadn't done any investigation as far as what that

1 phone number -- who that was even attributed to,
2 whether that would be something that Elijah Reed
3 would have versus Walter Barconey versus Bianca
4 Goudeau or any of his suspects.

5 At that time he didn't even know
6 the phone number of the cell phone in Mr. Reed's
7 possession. From his testimony he said it was his
8 intent to do with that cell phone was to tag it into
9 the property room, which he did, and send the other
10 evidence along the way with Mr. Reed to jail and put
11 in his personal property.

12 And that is the customary thing to
13 do is to -- all personal property, unless there's
14 some sort of search and seizure warrant for that
15 property -- is to send it with the prisoner.

16 THE COURT: Here's my question,
17 though. Can I see the pocket warrant?

18 *(States tenders document to Court.)*

19 MR. VOLKMER: And here's the
20 affidavit.

21 THE COURT: So State's 23, which is
22 in evidence, correct?

23 MR. VOLKMER: It is not.

24 THE COURT: It is not? Do you want
25 to admit it for purposes of this hearing?

1 MR. VOLKMER: Yes. State moves to
2 introduce State's 23 for purposes of this hearing as
3 well as --

4 *(State's Exhibit No. 23 offered.)*

5 THE COURT: Any objection to 23,
6 the pocket warrant, for the purpose of this hearing?

7 MR. RAY: Not for the purposes of
8 this hearing.

9 THE COURT: Okay.

10 *(State's Exhibit No. 23 admitted.)*

11 THE COURT: I'm sorry, Mr. Ray. I
12 cut you off.

13 MR. RAY: That's basically it,
14 Judge. He didn't have probable cause to seize the
15 phone is all, is the basic contention.

16 THE COURT: All right. Well,
17 the -- there is a valid warrant. There's been
18 nothing attacking that there was not a valid
19 warrant. I'm holding State's Exhibit 23 which was
20 signed by Magistrate Villagomez. Blanca Villagomez
21 signed this on March 4th, 2014, 2:37 p.m. So it's a
22 valid arrest warrant.

23 And based on the testimony of the
24 officer, it's a valid arrest; and the search
25 incident to arrest would be the phone. And so the

1 personal effects seized and held by the police
2 during the process, it was not even -- one, this
3 isn't a hard charge. He's not even booked into the
4 county jail yet. He's simply taken to HPD for their
5 investigation to talk to him. They have the legal
6 authority to hold him with this arrest warrant. And
7 so the taking of the phone and his other personal
8 effects I rule is appropriate. All right.

9 MR. RAY: If we could, Judge, get
10 Findings of Fact and Conclusions of Law at a later
11 date.

12 THE COURT: Well, I can do that
13 now.

14 MR. RAY: Okay.

15 THE COURT: I find the testimony of
16 Officer Janke to be credible. I find that on the
17 day in question the -- Mr. Reed was leaving IPC when
18 he was confronted by HPD, arrested with a valid
19 pocket warrant that was issued by Blanca Villagomez
20 on March 4th, 2014. That pocket warrant is good for
21 as long as it needs to be good for.

22 It describes Mr. Reed, his
23 appearance. It has a picture attached to him. I
24 find that there is probable cause -- that there is
25 no reason to dig into -- there's been no request by

1 me to dig into getting behind the warrant. I find
2 that he was lawfully arrested pursuant to the arrest
3 warrant.

4 I find that he was taken by HPD to
5 the police department for questioning where he was
6 taken into an interview room along with the rest of
7 his personal effects. That Officer Janke used --
8 based on the intelligence he had and the evidence he
9 had gotten during his investigation called the cell
10 phone number they believed or hoped to believe was
11 Elijah Reed's. The phone sitting there rang showing
12 that the call came from his -- the officer's phone.
13 There was no search of the phone. We're not going
14 to go into that.

15 So as a matter of law, it is a
16 lawful seizure of the defendant and his personal
17 property pursuant to the valid arrest warrant.

18 All right.

19 MR. RAY: Thank you, Judge.

20 THE COURT: Let's take lunch. Why
21 don't you guys be back in about a half hour or so by
22 this clock.

23 *(Lunch recess for Court, attorneys*
24 *and staff.)*

25 THE BAILIFF: All rise for the

1 jury.

2 (Jury seated.)

3 THE COURT: Y'all may be seated.

4 Who's Juror No. 3 who's got the
5 funeral? You do, ma'am.

6 Okay. We're going to be working
7 Monday. I'm not -- I canceled my Monday plans to
8 make sure we finish the trial because I know you
9 have your flight. What time is the -- I didn't tell
10 the attorneys yet. What time is the funeral Monday
11 morning.

12 JUROR: 10:00.

13 THE COURT: At 10:00. Okay.
14 I'll -- when we take our next break -- what part of
15 town? I mean, are you going to be, like, out way
16 outside of town or is it near? It's close?

17 JUROR: It's in Galveston.

18 THE COURT: It's in Galveston.
19 Okay. Well, I'll talk to the attorneys. We'll see
20 where we are towards the end of the day and maybe
21 we'll just plan on starting, like, around lunchtime
22 Monday or something but we'll talk about that at the
23 next break. All right.

24 All right. You may proceed.

25 MR. VOLKMER: Thank you, Your

1 Honor.

2 **DIRECT EXAMINATION CONTINUED**

3 **BY MR. VOLKMER:**

4 Q. Officer Janke, we left with State's 18
5 being admitted. Why -- what were you taking video
6 for? What was the purpose of taking video there at
7 4606 Langley?

8 A. The reason why I take video is to show
9 the first -- to show the first impression of people
10 when you approach them and to be able to convey that
11 other than just by telling someone this guy was
12 receptive or this person was receptive. They can
13 actually see the person and see their demeanor and
14 see what cooperation we had gotten from them.

15 Q. We talked earlier in your testimony
16 about investigating scrap yards. To be clear, after
17 Walter Barconey's arrest, were you investigating
18 Super Global Scrap Metal when you went there on
19 Monday?

20 A. Sure. I was investigating the reason
21 why we were there on Friday, and I wanted to look
22 further into their organization.

23 *(State's Exhibit No. 18 being*
24 *published.)*

25 Q. (By Mr. Volkmer) Now, what do we see

1 here on one of the videos of State's 18?

2 A. This is Super Global Scrap Metal
3 Company. It's on 4606 Langley. And it's a video
4 that I had taken of just the view from the street,
5 facing east to the south. To the right of the white
6 Ford pickup is the actual -- the location.

7 Q. What is this building here (indicating)?

8 A. That's the offices. That's the offices
9 where we're looking at there.

10 Q. And what do we see here (indicating)?

11 A. That's a scale, a truck scale.

12 Q. What do we see here (indicating)?

13 A. Some old machines, looks like they're
14 junk machines, and a warehouse.

15 Q. So these looked apparently like they had
16 been scrapped and they're holding onto them now?

17 A. Yes, sir. Almost all of them had flat
18 tires and rusty and had parts missing off of them.

19 Q. Now, what are we seeing -- what are we
20 seeing in this video? Who is this (indicating)?

21 A. This is Mr. Abdul Ghaffar.

22 Q. Who is this (indicating)?

23 A. That's Officer Freddy -- Alfredo Mares,
24 Freddy Mares, my partner.

25 Q. Okay. And showing this video, what's

1 going on in the back -- I mean, we don't have any
2 audio; but what's going on? What's taking place at
3 this point?

4 A. At this point Mr. Ghaffar is showing us
5 the photos and documents that he had taken of the
6 people that were involved in bringing him loads that
7 were also affiliated with Mr. Walter Barconey who
8 was arrested.

9 Q. Was that your -- was that your -- your
10 back side at that point?

11 A. Yes, it is.

12 Q. What is Mr. Ghaffar -- not what he's
13 saying, but what's going on as far as the
14 investigation?

15 A. Well, what he's doing is he's showing us
16 the files on his computer related to Walter Barconey
17 and the people that are related to bringing these
18 loads -- that are bringing the loads that we're
19 investigating.

20 Q. Now I'm just skipping through. I mean,
21 what is the time stamp down here (indicating)?

22 A. Four minutes and 51 seconds.

23 Q. How about we look again. Do you see
24 that (indicating)?

25 A. 24. I'm sorry. 24.

1 Q. So this is about 30 minutes in?

2 A. Yes, sir.

3 Q. And we're still just talking about --
4 this is you and Officer Mares at this point?

5 A. And Mr. Ghaffar.

6 Q. Did you have a search warrant when you
7 went to these premises?

8 A. No, sir.

9 Q. So how were you able to be in the
10 business records? How are you able to be in his
11 office?

12 A. He invited us in. We asked him if we
13 could come in and talk to him and he said, sure,
14 come on in.

15 Q. What does he have in his hand right
16 there (indicating)?

17 A. A camera.

18 Q. And what was the purpose -- I mean, what
19 was going on with that camera?

20 A. Well, that's the camera that he used to
21 take pictures of the loads, of all the loads that
22 come into his property, to his business.

23 Q. Now, without going into what anybody's
24 saying, what's being handed?

25 A. This is a --

1 Q. I'll go back. What are these documents
2 that we're seeing here?

3 A. They're the scale tickets. They're the
4 receipts for the loads that come into that property.
5 They include the date, the vehicle information, the
6 person who they sold it to or bought it from, a
7 fingerprint, their identification, the time that it
8 came to the scale, the time that it left the scale,
9 so they deduct that, and then they find out what the
10 amount that was left there, the weight.

11 Q. Did you subpoena these documents?

12 A. No, sir.

13 Q. How were you able to leave there with
14 them?

15 A. He freely gave them to me.

16 Q. What's the time stamp down here now?

17 A. 46:10.

18 Q. All right. What are we seeing here
19 still on State's 18, another video?

20 A. These are pieces of pipe that have been
21 cut in half and in pieces.

22 Q. And is this on the property there at
23 4606 Langley?

24 A. Yes, it is.

25 Q. And of the property that we already saw

1 on the video, where is this location-wise?

2 A. It's inside the warehouse to the -- just
3 to the right of the scale when we're looking from
4 the street at the scale to the warehouse to the
5 right. They're inside.

6 Q. Why did you take these videos?

7 A. This pipe here had markings on it, and
8 we were able to determine that this was part of the
9 stolen load.

10 Q. In this investigation?

11 A. In the entire investigation.

12 Q. Okay. Who brought you back here to see
13 this?

14 A. Mr. Ghaffar did.

15 Q. Now, again, when was Walter Barconey
16 arrested?

17 A. I believe it was the 24th of January,
18 2014.

19 Q. From your coming in and collecting these
20 records on Monday the 27th, did you become aware of
21 additional thefts that Walter Barconey had been
22 involved in?

23 A. Yes.

24 Q. Did you know about those before -- just
25 from the arrest of Walter Barconey on that Friday,

1 did you know about those thefts?

2 A. No, sir.

3 Q. Who -- how did you become aware of
4 those?

5 A. Well, when I looked on the -- looked at
6 the documents that he had from prior loads and the
7 photos, we were able to determine these were
8 actually the trailers, some of the trailers and
9 trucks that we had been recovering in that two to
10 three-month period and we were able to -- we were
11 looking at a trailer and go, wow, that's the trailer
12 I recovered over here. That's the trailer you
13 recovered and we were able to put that together.

14 Q. From here on State's 9, from the 24th to
15 the 27th, it's one, two, three days; is that
16 correct?

17 A. A little more than three, yes.

18 Q. In that time, if you know, would that
19 have been enough time, if you know, for Mr. Ghaffar
20 to delete all those records that were on his
21 computer?

22 A. Sure.

23 Q. Would it have been enough time to move
24 that pipe that was in his warehouse, if you know?

25 A. Yes, sir.

1 Q. But those records were maintained for
2 you?

3 A. That's correct.

4 Q. Were there additional records that you
5 wanted to collect after your January 27th interview
6 with Mr. Ghaffar?

7 A. Yes.

8 Q. What were those records?

9 A. His phone records, bank records
10 pertaining to the checks that were written in these
11 transactions.

12 Q. When you and Officer Mares began
13 identifying additional stolen loads based on the
14 records, were you able to inform Mr. Ghaffar at that
15 time about the additional loads that you were
16 identifying?

17 A. That they were stolen?

18 Q. Yes.

19 A. Yes, sir.

20 Q. What was his reaction?

21 A. He couldn't believe it. He couldn't
22 believe it. He had -- he was surprised that -- of
23 what happened the Friday before. He was -- at that
24 point, he was just so surprised that they were
25 stolen and that the officers showed up on that

1 Friday.

2 Q. Who had Ghaffar been buying these loads
3 from?

4 A. Elijah Reed.

5 Q. What was the name that came up as a
6 result of your investigation there on the 27th?

7 A. Well, there were several names. A Mike
8 Goudeau, a Bianca Goudeau.

9 Q. And who was the driver that came up?

10 A. The driver always was Walter Barconey.
11 He was always the driver.

12 Q. How did you come up with the name -- how
13 did the name Mike Goudeau come up?

14 A. On Friday, whenever Walter Barconey was
15 arrested, the officers asked him who had --

16 MR. RAY: I'm going to object to
17 hearsay, Your Honor.

18 THE COURT: Sustained.

19 Q. (By Mr. Volkmer) Did you go through the
20 various photographs with Mr. Ghaffar there on the
21 27th?

22 A. Yes.

23 Q. And in doing so, did you see photographs
24 of the people he had been buying loads from?

25 A. Yes.

1 MR. RAY: Judge, may we approach
2 real quick?

3 THE COURT: Okay.

4 (*Bench proceedings:*)

5 MR. RAY: I just -- I don't know
6 what he's doing, but I just want to make sure about
7 the Motion in Limine. Like, did this officer, like,
8 use the photograph of Mike Goudeau, you know, that
9 was taken in the office? He says, oh, I know that
10 guy as Elijah Reed from, like, previous
11 investigations and stuff. So I just didn't want,
12 you know, any of that to be mentioned.

13 MR. VOLKMER: All he's going to
14 say, Your Honor, is that he knows that -- Elijah
15 Reed by name and sight.

16 THE COURT: Okay. I mean. He's
17 already gotten a warrant for him with the picture.

18 MR. RAY: I know, yeah. I just
19 want to say, like, prior investigation.

20 THE COURT: Okay.

21 (*Bench proceedings concluded.*)

22 Q. (By Mr. Volkmer) So in the interview
23 with Mr. Ghaffar, did you observe photographs of
24 this person in State's 11, Walter Barconey?

25 A. Yes.

1 Q. And you recognized him as Walter
2 Barconey?

3 A. Yes.

4 Q. I'm showing you State's 13-B-1. Was
5 that one of the photographs that you observed on
6 that day in interviewing Abdul Ghaffar?

7 A. Yes, sir.

8 Q. How did this photo come up and in what
9 context?

10 A. When we were discussing the loads that
11 were brought by Walter Barconey to 4606 Langley, he
12 had said -- Mr. Ghaffar had told us that these two
13 people were the ones -- that the girl on the left
14 was the one that was receiving the money, presenting
15 her ID and thumbprint and everything for the loads
16 and he would pay that person and he was directed to
17 do so by the man on the right --

18 Q. Who --

19 A. -- that he said was Mike Goudeau.

20 Q. And when you saw this photograph, what
21 was your reaction?

22 A. I was surprised.

23 Q. Do you know this person in this
24 photograph (indicating)?

25 A. Yes.

1 Q. Who is this person?

2 A. Elijah Reed.

3 Q. Did you recognize him by name and sight?

4 A. Yes, I did.

5 Q. Do you see Elijah Reed in the courtroom
6 today?

7 A. Yes, I do.

8 Q. Could you identify him by an article of
9 clothing that he's wearing?

10 A. The man in the bluish green shirt and
11 the black tie (indicating).

12 MR. VOLKMER: May the record
13 reflect that the witness has identified the
14 defendant?

15 THE COURT: It will so reflect.

16 Q. (By Mr. Volkmer) What was your
17 reaction -- did you -- how did you continue your
18 investigation now that you recognized Elijah Reed
19 with Mr. Ghaffar?

20 A. Well, we -- we discussed how he was
21 involved.

22 Q. What was -- what was the -- what did you
23 come away with in your investigation? How was he
24 involved?

25 MR. RAY: I'm going to object. The

1 answer calls for hearsay.

2 THE COURT: Overruled.

3 A. When Mr. Ghaffar told us that he was the
4 person that was -- he was initially contacted by to
5 start purchasing these loads that were going to be
6 brought in and that he had directed -- he knew him
7 by the name of Mike Goudeau, but I knew him as
8 Elijah Reed. He said that he was directed to pay
9 Bianca Goudeau the money for the loads.

10 MR. RAY: Object to hearsay, Your
11 Honor.

12 THE COURT: Sustained.

13 Q. (By Mr. Volkmer) From the -- you've had
14 a chance to review these photographs, correct, the
15 over 100 photographs involved --

16 A. Yes.

17 Q. -- in this case?

18 A. Yes, sir.

19 Q. And State's 13, all of the State's 13
20 series, what were the theft dates that you were able
21 to link to Walter Barconey, Mike Goudeau and Bianca
22 Goudeau?

23 What were the dates of the various
24 thefts?

25 A. The dates, they ranged from around

1 approximately November 12th, 2013; November the
2 30th, 2013; December the 11th, 2013; the 12th --
3 December the 12th, 2013; December the 21st, 2013;
4 December the 27th, 2013; December the 30th, 2013;
5 the 9th of January, 2014; the 16th of January, 2014;
6 the 17th of January, 2014; and the 24th of January,
7 2014.

8 Q. Now, you just gave us more than ten
9 dates there. Are those the dates that property was
10 actually stolen as well?

11 A. Vehicles.

12 Q. So vehicles stolen and then property
13 identified in these records; is that correct?

14 A. Yes. In some of these cases, a trailer
15 was stolen at one location, a truck was stolen from
16 another, and that truck was linked to that trailer.

17 Q. And then are you -- here on State's 48,
18 do you recognize these folders, these digital
19 folders?

20 A. Yes.

21 Q. These dates, what's significant about
22 the thefts in these dates?

23 A. They were within a day or so of the
24 thefts.

25 Q. All right. Except for the November 13th

1 theft, who is the photograph of the buyer for these
2 thefts?

3 A. Bianca Goudeau.

4 Q. And what did you take away from the
5 investigation as far as Bianca Goudeau based on
6 that, on her being the payee for these thefts?

7 A. That she was involved in the thefts by
8 receiving the money for them and that she was
9 present and accepted the money for them.

10 Q. On January 27th, at that time were you
11 able to -- were there copies of the checks there at
12 that time on January 27th?

13 A. I believe it was either later that day
14 or the next day.

15 Q. And who provided those copies of the
16 checks to you?

17 A. Mr. Ghaffar.

18 Q. And those various checks, who were they
19 made out to?

20 A. Bianca Goudeau.

21 Q. Were you able to obtain receipts for
22 these loads?

23 A. Yes, sir.

24 Q. And on those receipts who -- what was
25 the name of the receipts in?

1 A. Bianca Goudeau.

2 Q. Was there a fingerprint on there?

3 A. Yes, there was.

4 Q. Did you send those fingerprints for
5 analysis?

6 A. Yes, I did.

7 Q. Were you able to obtain results?

8 A. Yes, I did -- I was.

9 Q. And based -- after that analysis was
10 complete, what did you believe about Bianca
11 Goudeau's involvement?

12 A. That Bianca Goudeau was receiving the
13 money or the checks for the stolen steel.

14 Q. What was your understanding about this
15 photograph here on December 2nd (indicating)?

16 A. My understanding is this is when they
17 were -- Mr. Goudeau -- I mean, Mr. Ghaffar was
18 approached and directed on how to conduct the
19 purchases of these metals and loads.

20 Q. What did you believe to be Elijah Reed
21 a/k/a Michael Goudeau's involvement at this point?

22 A. Well, that he had facilitated or had --
23 he was running the show, basically.

24 Q. What led you to believe that?

25 A. The fact that he shows up with her and

1 initially had approached them in November, I believe
2 it was, with the load of aluminum billet and which
3 was denied by Mr. Ghaffar because it's not scrap
4 metal. This was brand-new loads of aluminum. I
5 believe it was ferrous, aluminum metal, and he
6 doesn't deal in that. He deals in only scrap and
7 other types of metals, not the precious metals, like
8 brass or copper or anything like that. So basically
9 he didn't deal with those; therefore, he turned it
10 down.

11 So he was approached the next time where
12 these photos are with the load -- a different load
13 and was directed on how to pay it and that Mike
14 Goudeau/Elijah Reed would be the one contacting him
15 when he had a load coming in. He said he would call
16 him, he would let him know he's got a load coming
17 in, they'd work out the price, and then the load
18 would show up and then three days later Bianca
19 Goudeau would show up and get her money.

20 Q. But this is a story at this point from a
21 scrap yard manager who you're investigating; is that
22 correct?

23 A. That's correct.

24 Q. So why believe him?

25 A. Because the records and everything that

1 he had taken were so meticulous and the photos, the
2 documents --

3 MR. RAY: Judge, I'm going to
4 object. This invades the province of the jury.

5 THE COURT: Overruled.

6 A. The documents, the amount of photos that
7 were taken, it led us to believe -- and I still
8 believe that he was purchasing not knowing that they
9 were stolen, and he was running a legitimate
10 business. And he had opened everything up, never
11 closed the door to us, never stopped giving us what
12 we needed, continually called, hey, is there
13 anything else I can do, and would call and say, hey,
14 if these are bad guys, are y'all going to protect
15 me? He was worried about his safety. He was a --

16 Q. What was the telephone number on the
17 receipts?

18 A. 832-768-1603.

19 Q. And were you able to obtain -- on that
20 day, on January 27th, were you able to obtain cell
21 phone records for Abdul Ghaffar?

22 A. It was either that day or the next. It
23 was within a couple of days. It could have been
24 that day.

25 Q. Did you provide us -- did you issue a

1 subpoena for those cell phone records?

2 A. No, sir, I didn't.

3 Q. How were they provided to you?

4 A. He freely ordered them and gave them to
5 me.

6 Q. When you reviewed -- did you go through
7 those cell phone records?

8 A. Yes, sir.

9 Q. And what did you determine?

10 A. Determined that they were on the dates
11 or close to the dates of the thefts and the date of
12 delivery, that they were numerous phone calls
13 between Mr. Ghaffar and Elijah Reed.

14 Q. Were you able to inspect Mr. Ghaffar's
15 phone? Did he show you a subscriber list for his
16 phone?

17 A. I'm not sure if it was a subscriber list
18 or not.

19 Q. Did he show you what name he had
20 associated with that phone number in his cell phone?

21 A. Yes.

22 Q. Okay. What was that name that you saw?

23 MR. RAY: Object to hearsay.

24 THE COURT: Overruled. It's
25 already in evidence or from the documents, correct?

1 MR. RAY: They're talking about --
2 talking about Abdul Ghaffar showing Officer Janke
3 his cell phone.

4 THE COURT: Sustained.

5 Q. (By Mr. Volkmer) I want to show you --
6 now, were there cell phone records around November
7 the 13th -- were the first cell phone records, did
8 they begin approximately December 2nd?

9 A. They began approximately December the
10 2nd.

11 Q. And he provided you cell phone records
12 way before that and way after that, correct?

13 A. Yes, sir. Yes, sir.

14 Q. But these are just the phone calls with
15 the number associated with Mike Goudeau/Elijah Reed,
16 right?

17 A. That's correct.

18 Q. Now, what was -- how do we explain the
19 fact that at this point Abdul Ghaffar begins calling
20 the number he knows as Mike Goudeau?

21 MR. RAY: Object to speculation.

22 Q. (By Mr. Volkmer) If you know.

23 THE COURT: Overruled.

24 A. Would you repeat the question?

25 Q. (By Mr. Volkmer) So we begin to see

1 phone calls between these two numbers beginning
2 December 2nd, correct?

3 A. Yes, sir.

4 Q. Are they just incoming, or are they
5 incoming and outgoing?

6 A. They're both incoming and outgoing.

7 Q. What is the explanation on why Abdul
8 Ghaffar is calling Mike Goudeau?

9 MR. RAY: Object to speculation and
10 hearsay.

11 THE COURT: Sustained.

12 Q. (By Mr. Volkmer) In your training and
13 experience, scrap yards, do they solicit business?

14 A. Yes.

15 Q. And from your investigation, did you
16 determine if Mr. Ghaffar follows that practice?

17 A. Yes.

18 Q. Was he following that practice with Mike
19 Goudeau?

20 MR. RAY: Object to speculation.

21 THE COURT: Overruled.

22 A. Yes, sir.

23 Q. (By Mr. Volkmer) The load that was
24 stolen and brought to 4606 Langley on December 2nd,
25 we see an unavailable phone number calling in at

1 1:49; is that correct?

2 A. Yes.

3 Q. And then here on State's 14-A, I show a
4 time stamp of 13:53, heavy metal scrap plates coming
5 in at 1:53. That's a few minutes later, correct?

6 A. That's correct.

7 Q. We know from State's 48 that there was a
8 12:12 load that was associated with Walter Barconey
9 and Mike Goudeau and Bianca Goudeau, correct?

10 A. Yes, sir.

11 Q. We see again on 14-A, 12/12, 7:41 a.m.
12 and 8:07 a.m., incoming from Mike Goudeau's phone,
13 correct?

14 A. That's correct.

15 Q. The person that you know to be as Elijah
16 Reed?

17 A. That's correct.

18 Q. And so the time stamp at that point
19 would have been that morning there on the 12th after
20 these calls, correct?

21 A. Yes, sir.

22 Q. On the receipts?

23 A. Yes, sir.

24 Q. And continuing on and on, I mean, we see
25 this again on the 30th, correct? There was a load

1 that came in? We know that there was a load from
2 State's 48, 12/30?

3 A. Yes, sir.

4 Q. And then one listed on State's 14-B, we
5 can see this 8:23 a.m. incoming call --

6 A. Yes, sir.

7 Q. -- from that number --

8 A. That's correct.

9 Q. -- in that a.m.?

10 A. Yes, sir.

11 Q. Specifically I want to turn your
12 attention to 12/31 at 8:36 a.m. And we see some
13 calls in the day before where Abdul Ghaffar had
14 called Mike Goudeau's number, correct?

15 A. Yes, sir.

16 Q. And then in the morning, who is the
17 first person to call?

18 A. Elijah Reed --

19 Q. Okay.

20 A. -- called.

21 Q. Then we see here at 12/31 where a load
22 is on the scales, correct?

23 A. That's correct. At 8:36 -- wait.

24 Q. So 8:36 is the phone call --

25 A. That actually was -- the photo was at

1 8:42, six minutes later.

2 Q. I think that's a 45.

3 A. Could be.

4 Q. Let me get you to an optician after 32
5 years.

6 A. I have glasses. I just don't need them
7 that often to read.

8 Q. On all of these, except for the November
9 13th, who is the -- who is the driver for all of
10 these loads?

11 A. Walter Barconey.

12 Q. Who is being paid?

13 A. Bianca Goudeau.

14 Q. When we look at these phone calls,
15 December 31st, and then we look on State's 14-D,
16 moving to the load that occurs on January 17th and
17 then there's another load on January 18th, do we see
18 an incoming call in the morning there?

19 A. Yes, sir, at 8:01 a.m.

20 Q. What takeaway do you have from this
21 telephone number and its involvement in these thefts
22 being taken to 4606 Langley?

23 A. That the phone -- the phone from Elijah
24 Reed, that he's calling to announce the loads and to
25 let him know when the loads will be there and

1 they're going to be a few minutes away.

2 Q. Is this a form of direction of these
3 loads? Are these loads being directed by this phone
4 number?

5 A. Yes, they're directed to that scrap
6 yard.

7 Q. And, again, as far as the commission of
8 a theft offense, what is a very important part --
9 when a theft is being committed, what is an
10 important part as far as the commission of that
11 theft? What's important to the criminal, from your
12 training and investigation, if you know?

13 A. What's important for their defense?

14 Q. No, I mean, for the person who commits a
15 theft, what's the goal?

16 A. Is to make money.

17 Q. And how do they make that money?

18 A. Sell whatever they stole to someone that
19 will buy it.

20 Q. And so someone trying to sell these
21 loads, someone trying to sell these trailers, Walter
22 Barconey, Bianca Goudeau, is this sale an important
23 part of this theft?

24 A. Yes.

25 Q. Is it part of the commission of the

1 offense?

2 A. Yes, it is.

3 Q. Going back to State's 14-B, there was a
4 load on 12/30 and on 12/31?

5 A. Okay.

6 Q. I'm showing you State's 16-D. This is
7 the 12/30 -- that is the payout. What amount is
8 that?

9 A. \$400.

10 Q. Now, compare that amount to what the
11 payout to Bianca Goudeau and this crew had been,
12 compare the \$400.

13 A. Oh, it was approximately not even a
14 fifth.

15 Q. Have you -- in your training and
16 experience with investigating these thefts, what do
17 you typically expect to see when a payout is
18 drastically reduced?

19 A. That it was a smaller load or a mixed
20 load.

21 Q. And, if you know, what effect is that
22 going to have on the thieves on wanting to steal
23 another load, if you know?

24 A. They're going to want more money. I
25 mean, it was \$400 for a lot of work; and they're

1 going to want the bigger loads and better loads,
2 more expensive loads.

3 Q. And what was the next load after this
4 November -- December 30th?

5 A. The next day.

6 Q. The next day. Let's talk about that. I
7 want to play for you State's 21. It's already in
8 evidence.

9 *(State's Exhibit 21 published.)*

10 Q. (By Mr. Volkmer) Have you watched this
11 video?

12 A. Yes, sir.

13 Q. And what do we see occurring here in
14 this video as I skip through it?

15 A. Trucks going through in the back parking
16 lot of a Valero.

17 Q. And where was this?

18 A. Near Dayton, Texas, on Highway 90.

19 Q. And we see the truck leave the load,
20 correct?

21 A. Yes, sir.

22 Q. Now what do we see here?

23 A. Another truck coming into the parking
24 lot.

25 Q. Do you recognize that truck from your

1 investigation?

2 A. Yes, sir.

3 Q. Was it used in the loads to get to
4 stolen property to 4606 Langley?

5 A. Yes, sir.

6 Q. Was it in itself stolen?

7 A. Yes, sir.

8 Q. And based on your investigation, who
9 will be seen driving this truck at 4606 Langley?

10 A. Walter Barconey.

11 Q. Now, what do we observe here?

12 A. When he backs up to the trailer load of
13 pipe that was left earlier by another truck.

14 Q. Look real close and see if you can pick
15 up that time there.

16 A. 1:26:48.

17 Q. So what time of day is that?

18 A. 1:26 in the morning.

19 Q. Is this just -- is this less than a day
20 after the 400-dollar payout?

21 A. Yes, sir.

22 Q. And what day?

23 A. 12/31/2013.

24 Q. So 1:26 this truck is hooked up; and now
25 that it's out of frame, what time are we looking at

1 here?

2 A. 1:27 and 19 seconds.

3 Q. What time do we see here?

4 A. 1:27 and 32 seconds.

5 Q. That's within the same minute as the
6 other truck is leaving, correct, the stolen truck?

7 A. That's correct.

8 Q. Are you able to determine the make and
9 model of that vehicle?

10 A. Yes, sir.

11 Q. What is it?

12 A. It's a -- about a 2000 -- 2002 Lincoln
13 Navigator.

14 Q. Did you encounter a vehicle that was
15 very similar to this in your investigation?

16 A. Yes, sir.

17 Q. And where did you encounter it?

18 A. It was in a photo from 4606 Langley that
19 Mr. Ghaffar had taken.

20 Q. From your investigation, who was driving
21 this vehicle at 4606 Langley?

22 MR. RAY: I'm going to object to
23 hearsay.

24 THE COURT: Sustained.

25 Q. (By Mr. Volkmer) Is this the vehicle

1 that you were talking about (indicating)?

2 A. Yes.

3 Q. Who provided this photo to you?

4 A. Mr. Ghaffar.

5 Q. Does it appear to be the same vehicle?

6 I know you can't tell the license plate from the
7 surveillance video, but is it --

8 A. No. It has the same type of rims, same
9 type of vehicle.

10 Q. Now, you're saying no -- you're saying,
11 no, that you cannot see the license plate?

12 A. No, sir, I can't see the license plate
13 at all.

14 Q. But does it appear to be the same
15 vehicle?

16 A. This could be. I can't say that it is,
17 but it looks similar.

18 Q. And it is -- it is leaving the parking
19 lot at exactly the same time as the stolen truck and
20 stolen trailer is, correct?

21 A. That's correct.

22 Q. Now, moving forward in the video, what
23 do we see here?

24 A. That's the truck and the trailer that
25 just left, the stolen truck and the stolen load.

1 Q. And from your investigation, were you
2 able to determine if that trailer was the one that
3 was actually going to be on 4606 in a few hours?

4 A. Yes, sir.

5 Q. Now, we just saw that truck leave the
6 parking lot at 1:27, correct?

7 A. Correct.

8 Q. It's still time stamped 1:27, correct?

9 A. Yes, sir.

10 Q. And we just saw the blue SUV leave the
11 parking lot as well?

12 A. That's correct.

13 Q. Do we see another vehicle coming in
14 behind the truck, the stolen truck and stolen
15 trailer?

16 A. Yes, sir.

17 Q. And do we see the truck making its way
18 to Highway 90 in the direction of Houston?

19 A. Yes, sir.

20 Q. And --

21 A. It's going across and going over.

22 Q. -- does the vehicle follow as well?

23 A. Yes, sir.

24 Q. Based on this time of night, based on
25 the proximity of the time of these two vehicles

1 departing and heading the same direction, is there
2 anything suspicious about that to you?

3 A. Well, yes. That that vehicle was with
4 the stolen truck and trailer.

5 Q. What about its similarities to the
6 photograph in State's 13-B-4?

7 A. Yes, that's -- it's a similar vehicle to
8 that. That's correct.

9 Q. So the vehicle in the surveillance video
10 is similar to this photograph, correct?

11 A. Yes, sir.

12 Q. So at this point you've identified the
13 cell phone, 832-768-1603, as suspicious?

14 A. Yes, sir.

15 Q. And highly involved with the various
16 thefts?

17 A. Yes, sir.

18 Q. And you've identified this vehicle; is
19 that correct?

20 A. Yes, sir.

21 Q. The -- talk to the jury about your
22 impressions when you determined that Elijah Reed was
23 using a fake name. What did that indicate to you,
24 if you know?

25 A. Anytime you use a fake name or fake

1 identity you don't want people to know who you are.
2 You know, people that -- and so if any -- if you're
3 ever asked who this person is or anything, I don't
4 know. He said his name was Mike Goudeau. So he's
5 being very deceptive.

6 Q. From your training and experience, if
7 you know, what are the purposes of that deception?

8 A. Well, not to be identified.

9 Q. Was Mike Goudeau or Elijah Reed, was he
10 printed for any of the loads that were purchased by
11 Mr. Ghaffar?

12 A. No, sir.

13 Q. How was that avoided?

14 A. Well, he was -- he had directed
15 Mr. Ghaffar to pay Bianca Goudeau for the loads and
16 actually used the same last name as Bianca Goudeau
17 because he used the name of Mike Goudeau.

18 Q. I'm showing you what's in evidence as
19 State's 26. What cell phone is listed there?

20 A. 832-768-1603.

21 Q. And whose name is it listed with?

22 A. Elijah Reed.

23 Q. Under "friend" here, what name do we see
24 in the back of State's 26?

25 A. Oletha Basey.

1 Q. Okay.

2 MR. VOLKMER: At this time State
3 offers State's 19, tenders to Defense counsel for
4 inspection. And it's a certified government
5 document.

6 *(State's Exhibit No. 19 offered.)*

7 MR. RAY: No objection.

8 THE COURT: No objection, it's
9 admitted.

10 *(State's Exhibit No. 19 admitted.)*

11 Q. (By Mr. Volkmer) What is the license
12 plate in State's 13-B-4?

13 A. Can you come back in on it a little bit?
14 David Boy 2 David 941.

15 Q. So in State's 19, can you see that okay
16 or not? No, you cannot.

17 A. There, David Boy 2 David 941.

18 Q. Is that the same license plate?

19 A. Yes, same as this one (indicating).

20 Q. And so what are we looking at here?
21 What is this document?

22 A. This is the Texas Department of Motor
23 Vehicle registration.

24 Q. For which vehicle?

25 A. For a David Boy 2 David 941, the license

1 plate.

2 Q. Can you see -- what are we seeing here?

3 A. Year and make, it says a 2000 Lincoln.

4 Q. What's the major color?

5 A. Blue.

6 Q. What's the name?

7 A. Oletha Basey.

8 Q. What's the address?

9 A. 13827 Maximos Drive, Houston, Texas
10 77083-8047.

11 Q. Is that the same name that we see here
12 in State's 27 -- 26?

13 A. It's the top one, yes.

14 Q. Oletha Basey?

15 A. Yes, sir.

16 Q. Do you know Oletha Basey?

17 A. Yes, I do.

18 Q. Would you recognize her if you saw her?

19 A. Yes, sir.

20 MR. VOLKMER: May I approach the
21 witness?

22 THE COURT: You may.

23 Q. (By Mr. Volkmer) I'm showing you what's
24 marked as State's 20. Without going into its
25 contents, do you recognize it?

1 A. Yes.

2 Q. Is this a fair and accurate description
3 of what it purports to show?

4 A. Yes.

5 Q. Would it aid the jury in your testimony?

6 A. Yes.

7 MR. VOLKMER: Tender State's 20 to
8 Defense counsel for inspection, offers into
9 evidence.

10 *(State's Exhibit No. 20 offered.)*

11 MR. RAY: No objection.

12 THE COURT: It's admitted.

13 *(State's Exhibit No. 20 admitted.)*

14 Q. (By Mr. Volkmer) Who is State's 20?

15 A. Elijah Reed's wife.

16 Q. What's her name?

17 A. Oletha Basey.

18 Q. Would you recognize her?

19 A. Yes.

20 Q. So what was -- as a product of your
21 investigation when you saw that this vehicle was
22 registered to Oletha Basey, what was your takeaway?

23 A. That that was her vehicle and that
24 Elijah Reed was -- had control of it.

25 MR. VOLKMER: State offers State's

1 22, a certified government document, tenders to
2 Defense counsel for inspection.

3 *(State's Exhibit No. 22 offered.)*

4 MR. RAY: No objection.

5 THE COURT: No objection, it's
6 admitted.

7 *(State's Exhibit No. 22 admitted.)*

8 Q. (By Mr. Volkmer) State's 22, what are
9 we looking at here?

10 A. It's a voter registration document.

11 Q. Who is the person listed?

12 A. Basey, Oletha Basey.

13 Q. And what is the address on the voter
14 registration?

15 A. 13715 Aviva Lane, Houston.

16 Q. State's 26, is that the same address
17 that's listed here?

18 A. Yes, sir.

19 Q. Is that the same address listed as a
20 work address?

21 A. Yes, sir.

22 Q. Now, what is the employment -- place of
23 employment listed for Elijah Reed on State's 26?

24 A. Elite Freight Trucking.

25 Q. And what is the job description?

1 A. Driver.

2 Q. The -- these thefts, describe for the
3 jury, based on your training and experience, the --
4 if you know, the level of knowledge about the
5 trucking industry that would be required to
6 perpetrate these thefts.

7 A. Well, you'd have to be somewhat involved
8 in the industry. You'd have to know how the
9 trucking industry works, when people can deliver
10 loads, when they have to wait to deliver the next
11 day. They either -- some companies even have you
12 make an appointment when you can deliver. So you
13 have to have a working knowledge of the trucking
14 industry.

15 Q. Were you able to make contact with the
16 owners of the different loads in this case?

17 A. Yes, sir.

18 Q. Did you make contact with a Khoury
19 Thomas?

20 A. Yes, sir. Yes, we did.

21 Q. Did you make contact with a Brian
22 Dupree?

23 A. Yes.

24 Q. Did you make contact with a driver -- a
25 Michael Matysiak for Hoffman Transportation?

1 A. I spoke to him over the phone.

2 Q. Okay. Did you talk to a Mr. Carbonell
3 Moreno?

4 A. Yes, sir.

5 Q. And were you able to talk to a William
6 Duty, William David Duty?

7 A. Yes, sir.

8 Q. Okay. After you spoke to the
9 complaining witnesses, what was your takeaway as far
10 as Elijah Reed, Walter Barconey, Bianca Goudeau,
11 having their permission to have their trailers,
12 their trucks, their loads?

13 A. They did not have permission to have any
14 of this. None of them did.

15 Q. Were you able to obtain value documents
16 from them?

17 A. Documents and by word of mouth what the
18 value of them were, the vehicles and different
19 things; but the documents for the load itself, yes.

20 Q. Okay.

21 MR. VOLKMER: May the witness step
22 down to use a Texas Instruments calculator?

23 THE COURT: Okay.

24 Q. (By Mr. Volkmer) Would you step down,
25 please?

1 A. Is it on that? Okay.

2 (Witness complied.)

3 Q. Detective, we're going to do a math
4 exercise. What I want you to do is I'm going to
5 give you a number and I want you just to continue to
6 add it. Would you press on?

7 A. (Witness complied.)

8 Q. All right. So as I give you these
9 numbers, I want you to put them in the calculator
10 and then we'll add them. Okay?

11 A. Sure.

12 Q. 20,000. So 20,000.

13 A. Okay.

14 Q. Add that to 10,500. Add that to
15 47,931.20. We'll just leave out the .20 for now.

16 A. Okay.

17 Q. Add that to 13,500. Add that to 12,720.
18 Add that to 10,000. Add 20,000. Add 13,000. Add
19 39,551. Add 20,000. Add 31,609.

20 Read that amount, please.

21 A. 238,811.

22 Q. 2-3-8 --

23 A. 8-1-1.

24 Q. -- 8-1-1.

25 A. And then if you add the 20 cents in.

1 Q. We won't add the 20 cents.

2 How do you feel about your math,
3 assuming the calculator is correct?

4 A. Pretty good.

5 MR. VOLKMER: State moves to
6 introduce State's 49, tenders to Defense counsel for
7 inspection.

8 *(State's Exhibit No. 49 offered.)*

9 MR. RAY: No objection.

10 THE COURT: No objection, it's
11 admitted.

12 *(State's Exhibit No. 49 admitted.)*

13 Q. (By Mr. Volkmer) You can retake the
14 stand, sir.

15 A. Thank you.

16 *(Witness complied.)*

17 Q. You already had Walter Barconey in
18 custody?

19 A. That's correct.

20 Q. He was already charged?

21 A. Yes, sir.

22 Q. Based on the investigation of 4606
23 Langley, the documents that were provided by
24 Mr. Ghaffar, did you identify any new suspects based
25 on your investigation?

1 A. Yes, sir.

2 Q. Who were they?

3 A. Elijah Reed and Bianca Goudeau.

4 Q. Did you -- what happened with the
5 charges for Bianca Goudeau?

6 A. Well, they were filed and she was
7 arrested and is awaiting trial.

8 Q. The -- walk the jury through what you
9 did at this point when you -- once you had developed
10 Elijah Reed as -- I mean, was he a suspect at this
11 point or -- I mean, describe for the jury your level
12 of confidence of his involvement.

13 A. Oh, I was extremely confident that he
14 was involved in this given the information that we
15 had, the documents that we had, the phone calls that
16 we had, the vehicle being at the location, the phone
17 calls at the time that the loads were arriving, at
18 the time some of them were stolen.

19 Q. You left off your list Abdul Ghaffar.
20 Describe for the jury why.

21 A. Mr. Ghaffar from the very beginning was
22 extremely cooperative. He had all the documents.
23 He opened everything up without a court order,
24 without a subpoena, without anything. So it was my
25 determination the way he ran his business is that

1 this was a legitimate business. He just got caught
2 up -- in other words, he bought some stuff that he
3 didn't know was stolen from these guys.

4 Q. So with what you knew now at your point
5 in your investigation, what's the next step? Bianca
6 Goudeau has a warrant for her arrest. What's the
7 next step?

8 A. The next is to arrest Elijah Reed.

9 Q. How did you go about doing that?

10 A. We had a pocket warrant issued, a
11 probable cause warrant issued. They're not actually
12 charged at that point; but you have probable cause
13 enough to arrest them, to bring them in to try to
14 obtain more evidence, more information, and to give
15 them a chance to explain themselves.

16 MR. VOLKMER: Your Honor, at this
17 time State offers State's 23, a certified government
18 document, tenders to Defense counsel.

19 *(State's Exhibit No. 23 offered.)*

20 MR. RAY: No objection.

21 THE COURT: No objection, 23 is
22 admitted.

23 *(State's Exhibit No. 23 admitted.)*

24 Q. (By Mr. Volkmer) Let me clear off some
25 of these other exhibits.

1 What is State's 23?

2 A. It's the arrest warrant for Elijah Reed.

3 Q. And, again, what's the evidentiary
4 standard that you have to meet to get a warrant?

5 A. We have to give enough probable cause in
6 order to bring this person in. We have to have
7 additional information other than we've heard
8 something. We have to have some type of supporting
9 evidence or supporting information to bring this
10 person in, to arrest them, to talk to them.

11 Q. Now, this is something that I think
12 needs clarifying. Just because you have probable
13 cause doesn't mean that there's not evidence beyond
14 probable cause. That's just the standard you have
15 to meet, correct?

16 A. Yes.

17 Q. The evidence you could have on hand
18 could be well beyond probable cause, correct?

19 A. That's correct.

20 Q. And so that's just the standard that the
21 warrant has to meet?

22 A. Yes.

23 Q. So once you obtained this pocket
24 warrant, what happened next?

25 A. We -- my partner, Officer Mares, and

1 Officer Vasquez, and we had a patrol unit, we
2 arrested him at 49 San Jacinto, not too far from
3 here.

4 Q. Now, when he was arrested, I want you to
5 describe for the jury his appearance.

6 A. Oh, he had -- he was walking out of the
7 building. It was cold. He had a New Orleans Saints
8 jacket on. Dressed. He walked out, had a cell
9 phone in his hand, and we informed him -- we had a
10 patrol unit, a marked patrol unit, and a uniformed
11 officer with us and we had our jackets on that said
12 "Houston Police" and we arrested him.

13 Q. When you arrested him, what did you --
14 what happened to the cell phone when you put your
15 hands on him?

16 A. When he was being arrested, we had to
17 take the phone from his hand to get his hand behind
18 his back, you know, to be handcuffed and not to drop
19 the phone. And so we had taken that and his
20 property with us.

21 Q. Did you frisk him for weapons?

22 A. Yes. Oh, yes.

23 Q. And did he have other personal effects
24 on his possession?

25 A. I recall he did, yes.

1 Q. Okay. Where did you take Elijah Reed?

2 A. A patrol unit transported him to
3 61 Riesner, which is a downtown police station.

4 Q. And where did you take him within 61
5 Riesner?

6 A. We met the patrol unit, and we escorted
7 him to the third floor of 61 Riesner where there's
8 interview rooms set up on that floor.

9 Q. Describe the layout of the room that you
10 took Elijah Reed in.

11 A. If you walk into the room, there's some
12 chairs, a couple of chairs, two or three chairs on
13 the perimeter wall. There's a desk. There's a
14 chair behind the desk. It's probably a 10-by-10
15 room, not very large.

16 Q. Where were the defendant's personal
17 effects placed?

18 A. On the desk right there.

19 Q. Okay. During this time, what did you do
20 next?

21 A. I read him his Miranda warning. I asked
22 him if he wanted to talk and --

23 Q. Without going into that, what happened
24 with the -- with the phone?

25 A. Toward the end of the -- of our time

1 with Elijah Reed, the phone that he had in his hand
2 was still in our -- still on that desk and I decided
3 to call the number that I had gotten from
4 Mr. Ghaffar that he knew was Mike Goudeau's phone.
5 And when I did with my phone, that phone activated
6 and it rang and my number appeared on the screen of
7 that phone.

8 Q. Did you have to touch Elijah Reed's
9 phone at all to see any of that?

10 A. No, sir. It was right there in front of
11 me and I just looked over and there it was.

12 Q. And, so, to be clear, you called from
13 your personal phone the number from where? Where
14 did you get that number that you called?

15 A. I called from my City of Houston issued
16 phone.

17 Q. Sure. And what number did you call?

18 A. I called the 832-768-1603 number.

19 Q. Why did you pick that number?

20 A. Because that's the number that we had
21 from Mr. Ghaffar and on all the documents pertaining
22 to the transactions that I had, to see if that was
23 that phone.

24 Q. And so when you called that number,
25 prior to that was Elijah Reed's phone doing

1 anything?

2 A. No, sir, it was just sitting there.

3 Q. And when you completed the call on your
4 phone, what happened?

5 A. When I closed -- I've got a flip phone.
6 This is a city flip phone. That's what we get.
7 When I closed it, the phone -- the call ended. It
8 stopped. The light went out. No more tone or
9 anything on that phone.

10 Q. So when you called the number, his phone
11 wasn't doing anything, did it come on?

12 A. Yeah, it came on. You know, it
13 illuminated and it rang and then you could see on
14 there, there was my number.

15 Q. Right. And --

16 A. And then when I --

17 Q. Did you recognize your phone number?

18 A. Sure.

19 Q. And then when you ended the call, his
20 phone hung up?

21 A. It stopped.

22 Q. What did that tell you?

23 A. That told me that that's his phone and
24 that's the phone that was used in all these
25 transactions and that was the phone that was called

1 from Mr. Ghaffar.

2 Q. And this is on March 5th, 2014?

3 A. That's correct.

4 Q. All right.

5 A. 5th or 4th.

6 Q. It was around that date, on or about
7 that date?

8 A. I believe so.

9 Q. I believe you got the warrant March 4th;
10 is that correct?

11 A. It was the 5th of March is when this
12 happened.

13 Q. Was Elijah Reed booked in that day?

14 A. Yes, sir.

15 Q. Did you take -- what happened to the
16 phone from that room moving forward?

17 A. That phone was taken to the Houston
18 Police Property Room where it was tagged in the
19 property room for safekeeping and for later
20 analysis, if needed.

21 Q. Who took it to the property room?

22 A. I was with Officer Mares. I believe
23 he's the one that tagged it into the property room
24 itself, but I was with him when it happened.

25 Q. Did you see him put markings on it?

1 A. Yes, just a slight marking on the -- on
2 the --

3 Q. And you watched him physically check it
4 in?

5 A. Yes, sir.

6 Q. And you had inspected the phone as well?

7 A. That's correct.

8 Q. When did you see that phone again?

9 A. This year. I had seen the phone when I
10 was asked to go get the model number off the phone
11 itself.

12 Q. And what did you have to do to do that?

13 A. I had to go to the clerk, fill out the
14 documents to view that particular phone in which
15 they had it in a safe or wherever they keep it away
16 from anyone. They brought it to me. It was sealed
17 just as it was sealed when Officer Mares had put it
18 in there. He put red evidence tape on the seal of
19 the envelope itself. And at that point we have to
20 initial that or date it, whatever it took, and
21 that's what we do. And that seal was not broken.

22 So they opened it for me. I looked at
23 it, took the back off of it, took the battery out
24 and was able for them to make me a copy. They put
25 it on the -- on the copy machine and then made a

1 copy of all the serial numbers, the model numbers
2 and things like that. And then I placed it -- they
3 placed it back in the bag, resealed it, and they put
4 it back up.

5 Q. Okay. After that date when did you see
6 the phone again?

7 A. Later when I was asked to bring the
8 phone -- well, actually after I had -- actually
9 after I was asked to bring the phone or check the
10 phone out from the property room and take it to the
11 Special Crimes -- or Special Crimes Division of the
12 District Attorney's Office.

13 MR. VOLKMER: At this time State
14 offers State's 24, a certified government document,
15 tenders to Defense counsel for inspection.

16 *(State's Exhibit No. 24 offered.)*

17 MR. RAY: No objection.

18 THE COURT: No objection, it's
19 admitted.

20 *(State's Exhibit No. 24 admitted.)*

21 Q. (By Mr. Volkmer) So what are we looking
22 at here with State's 24?

23 A. It's a search warrant for the contents
24 of inside the phone, the messages, phone calls, all
25 the documents that have been through the records

1 inside that phone.

2 Q. What do we see here (indicating)?

3 A. "One black BLU Phone Model Studio 5.5,
4 FCC ID No. YHLBLUSTUDIO55, IMEI No.
5 359390050963455."

6 Q. Did you have this -- did you take this
7 warrant to be signed?

8 A. Yes, I did.

9 Q. Okay. And after the warrant was signed,
10 what did you do?

11 A. I met with you and an investigator with
12 the D.A.'s Office with the search warrant and the
13 phone; and at that time I gave -- I remanded custody
14 to the person in the D.A.'s Office, the analyst.

15 Q. Is that Tuan Pham?

16 A. Yes, sir.

17 Q. Have you seen the phone since that time?

18 A. No, sir.

19 Q. Describe for the jury what evidence
20 there is linking Elijah Reed to these thefts.

21 A. Elijah Reed approached Mr. Ghaffar in
22 November of 2013 with a load and with an offer to
23 sell loads to him. Mr. Ghaffar didn't take the load
24 because it was aluminum billet.

25 Q. Then what happened?

1 A. Elijah Reed shows up with a second load
2 which was purchased and under the direction of
3 Elijah Reed in the facilitation of the sale, he
4 offered truckloads of steel to Mr. Ghaffar and
5 directed him and used the name of Mike Goudeau --
6 not his real name -- offered to sell those but to
7 pay Bianca Goudeau with the same last name, with her
8 identification to sell and to just pay her and that
9 he would contact him when the loads are coming in,
10 they would work out the price, he would unload the
11 trucks and then Bianca Goudeau would get paid.

12 And he also -- or his vehicle was seen
13 in the video at Dayton, Texas -- or in Harris
14 County, near Dayton, Texas, that vehicle similar --
15 extremely similar, approximately six, seven hours
16 prior to arriving at Langley, being stolen from
17 Dayton, Texas, and arriving over there.

18 The phone calls are all consistent with
19 what most of the scale tickets are with the thefts
20 and when they were delivered. That would show that
21 he was facilitating it. And actually without him
22 doing that, I don't believe Walter Barconey or
23 Bianca Goudeau could have actually -- this couldn't
24 even have happened. So he made it happen. He put
25 these people out to do the deed and put a man's

1 business in jeopardy by doing this is what he did.
2 So that's his involvement in this. And he --

3 MR. VOLKMER: One moment, Your
4 Honor. May I check outside real quick?

5 THE COURT: Okay.

6 *(Brief pause.)*

7 MR. VOLKMER: State's 50 we're up
8 to?

9 THE REPORTER: 49 was the last one.

10 Q. (By Mr. Volkmer) I'm showing you what's
11 been marked as State's 50, and then I'm going to
12 mark as State's 51 its packaging.

13 What do we see in State's 51? What do
14 we see here?

15 A. That's where I initialed the evidence
16 tape on the back of this envelope when it was
17 sealed. It's broken. The seal is broken.

18 Q. What do we see here (indicating)?

19 A. This is a label that was printed at the
20 property room that went on this whenever it was
21 tagged in the property room.

22 Q. And is this the property case number
23 that you saw Officer Mares prepare for the phone?

24 A. This is the case number. That's
25 correct. That's the master case number.

1 Q. Okay. And State's 50, what do we see in
2 State's 50?

3 A. State's 50 is the phone that I checked
4 out, the one that was in Elijah Reed's possession
5 when we arrested him.

6 Q. Okay. And, again, when was the last
7 time that you saw this?

8 A. The phone, when I gave it to the
9 investigator at the Special Crimes Division for --
10 that was going to do an analysis.

11 Q. Okay. Did you open it up to provide it
12 to the investigator?

13 A. At -- the DA investigator?

14 Q. Yes.

15 A. No. The DA investigator opened it. It
16 was sealed.

17 Q. You provided it to him sealed?

18 A. That's correct.

19 MR. VOLKMER: Okay. Pass the
20 witness.

21 THE COURT: Defense.

22 MR. RAY: Judge, may we take a
23 break for me to go to bathroom?

24 THE COURT: Certainly.

25 Why don't we take a short bathroom

1 break.

2 THE BAILIFF: All rise for the
3 jury.

4 *(Jury retired.)*

5 *(Brief recess.)*

6 THE BAILIFF: All rise for the
7 jury.

8 *(Jury seated.)*

9 THE COURT: All right. Y'all may
10 be seated.

11 All right. Mr. Ray.

12 MR. RAY: Thank you, Judge.

13 **CROSS-EXAMINATION**

14 **BY MR. RAY:**

15 Q. Officer Janke, correct?

16 A. Yes, sir.

17 Q. All right. I know I'm going to butcher
18 that one.

19 All right. You specialize in these
20 types of investigations, right?

21 A. Yes, sir.

22 Q. It's what you do. It's what you've been
23 doing for years, correct?

24 A. Yes, sir.

25 Q. And you're in the Major Offenders

1 Division for HPD, right?

2 A. That's correct.

3 Q. You specialize in these cargo heists,
4 correct?

5 A. Yes, I -- at this point I'm not in that
6 squad; but up to then, until June of last year, I
7 moved squads.

8 Q. Okay. Right now you're not, but back
9 then you were?

10 A. That's correct.

11 Q. With the dates we're dealing with in
12 this case?

13 A. Yes.

14 Q. Okay. And so you obviously deal with
15 the scrap metal dealers from time to time.
16 Sometimes you run into them, correct?

17 A. That's correct.

18 Q. In fact, you knew a whole bunch of, I
19 guess, Mr. Ghaffar's competitors, correct?

20 A. Well, different locations in Houston,
21 yes.

22 Q. Okay. And sometimes you use the
23 different scrap metal yards to help you catch your
24 cargo heist people, correct?

25 A. Yes.

1 Q. Because they all usually are taking
2 pictures of these loads and getting documentation
3 from who they're selling or who the seller is and
4 stuff, right?

5 A. Most of them do, yes.

6 Q. Okay. And you've done, what did you
7 say, few or many of these cargo heist type cases?

8 A. Many.

9 Q. Okay. And from what you saw, this
10 was -- was it similar to some of the other cargo
11 heist cases you've done as far as, I guess, the
12 evidence you collected?

13 A. This is probably the most -- the case
14 that had the most evidence regarding the loads, the
15 documentation and the photos, yes.

16 Q. Okay. Well, are you familiar with the
17 Texas Occupation Code as it relates to scrap metal?

18 A. No, sir.

19 Q. Okay. So you wouldn't know if the
20 fingerprints, the receipts, the identification and
21 the pictures are actually required by law?

22 A. I was told that it was from Sergeant
23 McGinty who is in our Metal Theft. He told me those
24 are the requirements.

25 Q. Okay.

1 A. Now, I haven't learned that from there;
2 but those are things that he said that were
3 required.

4 Q. Okay. And there's criminal penalties if
5 you actually don't do those things. Are you aware
6 of that?

7 A. Probably.

8 Q. Okay. You also have to be a
9 certified -- you have to be certified or registered
10 with Texas DPS, correct?

11 A. I don't know about that.

12 Q. Okay. You ever -- you familiar with
13 the -- you've never used, I guess, the metal scrap
14 website that Texas DPS has?

15 A. No, sir.

16 Q. So you're not familiar with -- there's a
17 tool for law enforcement that you have to register,
18 and you can actually search for your loads on there.
19 You've never done that?

20 A. No, sir.

21 Q. Okay. You ever pull a list -- I'm going
22 to show you Defendant's Exhibit No. 2. Are you
23 familiar with this list at all?

24 A. No, sir.

25 Q. Okay. Do you know if Super Global Scrap

1 Metal was even registered or certified with Texas
2 DPS?

3 A. No, sir, not at the time, no. Not now.

4 Q. Okay. Didn't think to look into that?

5 A. That's a regulatory issue, and I was
6 working on the cargo theft end.

7 Q. I thought you told the prosecutor you're
8 investigating them as well?

9 A. As far as their documents and everything
10 to see if they were involved in the thefts itself;
11 but -- and that's why I had gotten the documents,
12 the photos, everything, phone records, everything.
13 Yes, I was -- at that point I was -- I want to know
14 if they were involved in the theft itself. That's
15 correct.

16 Q. Okay. Well --

17 A. Sure.

18 Q. -- obviously they weren't involved in
19 the theft itself and they just gave you the
20 documentation of their records, right?

21 A. That's correct.

22 Q. Okay. Now, talk to you a little bit
23 about, I guess, your ability as an investigator. In
24 these situations you've got -- what is an
25 administrative subpoena?

1 A. Administrative?

2 Q. Administrative subpoena.

3 A. I don't know.

4 Q. Okay. You've never issued an
5 administrative subpoena for a cell phone or an
6 Internet connection, anything like that before?

7 A. No, I don't do that. We have people in
8 our division that handle that.

9 Q. Okay. So you don't know what an
10 administrative subpoena is, but I guess you have
11 people in your division who do know what that is?

12 A. Well, once you described what it was
13 for, I --

14 Q. Okay.

15 A. It's my understanding that if that's
16 what that is, we do have people that do that.

17 Q. Did you ever issue any administrative
18 subpoenas for any of the cell phones involved or the
19 numbers involved in this case?

20 A. No, sir.

21 Q. Okay. Did you ever -- and obviously
22 you've got the power to get arrest warrants and
23 search warrants, right?

24 A. That's correct.

25 Q. Okay. And being in the Major Offenders

1 Division, it's not like you're on patrol. You kind
2 of get -- you have a little bit more power, a little
3 bit more pull, you would say, than a regular patrol
4 officer, correct?

5 A. No, I wouldn't.

6 Q. No?

7 A. No. We're all treated equally. We're
8 all policemen.

9 Q. Okay. So your -- I guess your funding
10 or your division's budget is the same?

11 A. Probably less.

12 Q. Less than Patrol?

13 A. Yes.

14 Q. Okay. Now, did you ever get a subpoena
15 for Bianca Goudeau's or Elijah Reed's or Walter
16 Barconey's bank accounts?

17 A. No, sir.

18 Q. Okay. Did you ever check to see if cash
19 deposits or anything were ever made in any of their
20 bank accounts or anything like that?

21 A. No, sir.

22 Q. Okay. Were you aware, I guess, that
23 these checks were cashed or deposited at all?

24 A. That they were cashed.

25 Q. Okay. You agree that obviously a bank

1 account or something that shows some sort of a cash
2 deposit right with the day -- I mean, if these were
3 cashed, it would be pretty incriminating, correct?

4 A. Well, they weren't cashed at a bank
5 under that. They were cashed at a truck stop --

6 Q. Right.

7 A. -- on Wallisville Road where they just
8 cash checks.

9 Q. You can take cash and put it into a bank
10 account, right?

11 A. Sure, you can.

12 Q. All right. Did you -- and you knew that
13 Elijah Reed and his wife, they run a business called
14 Elite Freight Trucking, right?

15 A. They did at one time, yes.

16 Q. Okay. Did you bother to see if any sort
17 of cash deposits that coincided with the dates of
18 these thefts and the receipts of the checks in their
19 bank accounts at all?

20 A. No, because people normally, if they're
21 doing business, that's normally by check; and they
22 have cash to avoid these type of documents and
23 tracing the money.

24 Q. Now, we -- we know that Elijah had this
25 cell phone on March 5th, I think it was, when he was

1 arrested, right?

2 A. That's correct.

3 Q. All right. When Walter Barconey was
4 arrested, do you know what property was tagged or
5 booked in with him?

6 A. No, sir, I don't.

7 Q. Okay. When an inmate bonds out, are you
8 familiar with how they get their property back?

9 A. Well, yeah, they -- whenever they bond
10 out, their property is in a bag and is given back to
11 them.

12 Q. Okay. And that could be a cell phone,
13 wallet, keys, whatever they're taken in with, right?

14 A. Whatever is tagged as personal property,
15 yes.

16 Q. Okay. And inmates who never bond out,
17 they can actually release their property to friends,
18 family members, things of that nature, right?

19 A. I have no knowledge of that. I don't
20 work in the jail.

21 Q. Did you ever bother pulling any
22 information on who Walter Barconey released his
23 property to after he was arrested?

24 A. No.

25 Q. Okay. Don't know if he ever released a

1 cell phone to Oletha Basey or not?

2 A. No, sir, I don't.

3 Q. Okay. Now, when you -- when you get
4 there to Super Global Scrap Metal, I guess three
5 days had passed, right?

6 A. It was on a Friday, and we arrived that
7 Monday morning.

8 Q. Okay. So about three days had passed,
9 right?

10 A. Approximately.

11 Q. Okay. When you got there, you said
12 Mr. Ghaffar was already waiting for you at the gate?

13 A. No, sir, he wasn't. We pulled up, we
14 walked up to the gate and he walked up to the gate.

15 Q. Okay. What did you -- what kind of
16 vehicle did you pull up in?

17 A. Ford F-250, white, four-door.

18 Q. Unmarked or was it HPD marked or --

19 A. No, it's unmarked.

20 Q. Unmarked car.

21 A. Sure.

22 Q. All right. Were you wearing, I guess, a
23 police vest, police shirt, police uniform that day?

24 A. No, sir.

25 Q. Okay. When you got there, you would

1 agree with me that there were some other employees
2 other than Mr. Ghaffar there, right?

3 A. When we first arrived, there wasn't. He
4 was the only one that walked out to us. I didn't
5 see anyone else walking around, no.

6 Q. I guess as you were talking in
7 Mr. Ghaffar's office, there were other people that
8 are in and out, right?

9 A. Not in the office. There was one guy
10 showed up -- I think it was his uncle -- later into
11 the office.

12 Q. Okay. And these are the -- you learned
13 that, I guess, Mr. Ghaffar and his uncle, they own
14 Super Global together, right?

15 A. He said something to the effect of the
16 other guy, but I don't know if they were actual part
17 owners or what the arrangement is there.

18 Q. Okay. And throughout your talking to
19 him, you kept reassuring them that they weren't in
20 trouble, that they were safe, right?

21 A. Sure.

22 Q. All right. And they kept -- they kept
23 asking you about that, you know, if they were going
24 to be in trouble and stuff like that, right?

25 A. That's right.

1 MR. VOLKMER: Objection to the
2 question. Calls for hearsay.

3 THE COURT: Sustained.

4 Q. (By Mr. Ray) Now, you would agree that
5 Mr. Ghaffar, when he was -- he was showing you these
6 documents, they were basically in the -- on his
7 computer screen in these folders he had prepared,
8 correct?

9 A. Yes.

10 Q. And it looked kind of like -- I think
11 it's State's 48.

12 It looks like -- it looks something like
13 State's 48 where he had these different files that
14 he had put it all in, like, a folder for y'all,
15 right?

16 A. Yes.

17 Q. All right. And y'all were getting him,
18 I think, maybe to try and save that on, like, a
19 flash drive or e-mail it to y'all or something of
20 that nature, right?

21 A. Flash drive.

22 Q. Okay. Did you ever go and look and
23 search and see through his files for the records
24 when he would sell these materials? Did you ever
25 ask him for those?

1 A. No.

2 Q. Okay. Did you ever ask him to see how
3 much profit he would make off the different loads
4 that he received for this case?

5 A. No.

6 Q. Okay. Did you ever -- did you ever ask
7 him -- I guess, did you ever ask to go through all
8 of his records at his company?

9 A. No.

10 Q. Okay. So were you there investigating
11 him, or were you investigating these -- this theft?

12 A. I was investigating the loads that he
13 purchased involving these people.

14 Q. Okay.

15 A. Bianca Goudeau, Elijah Reed, Walter
16 Barconey.

17 Q. Okay.

18 A. That's -- that was my reason to be
19 there.

20 Q. Right. He's not a suspect to you,
21 right?

22 A. I'm interested -- at the very beginning,
23 yeah, I'm interested in what his involvement is.
24 Sure, I am.

25 Q. Okay. But nowhere in your offense

1 report do you list him as a suspect ever, right?

2 A. No, sir.

3 Q. Okay. And according to you, you kind of
4 gave a summary kind of why you -- why you arrested
5 Mr. Reed in this case, right?

6 A. Sure.

7 Q. Okay. And everything -- you would agree
8 with me that everything that you based your opinion
9 on came from this Mr. Ghaffar, right?

10 A. Yes.

11 Q. All right.

12 A. Documents.

13 Q. You were never present when he's talking
14 on the phone to Mike Goudeau, were you?

15 A. No, sir.

16 Q. Never heard a recording, voice
17 recording, anything like that, of who was on the
18 phone and who wasn't on the phone when you're going
19 through these call logs, right?

20 A. Correct.

21 Q. Okay. All you know is that a number was
22 contacting -- or being contacted back and forth with
23 Mr. Ghaffar, right?

24 A. Yes, a number that he said was Mike
25 Goudeau.

1 Q. Correct. So everything is based off
2 what Mr. Ghaffar said, right?

3 A. Yes.

4 Q. All right. And so, again, other than
5 what he said, you have no conversation as far as who
6 was on the other line? No other evidence of that,
7 right?

8 A. What he said and the times and the video
9 that we have.

10 Q. Okay.

11 A. Yes.

12 Q. When you were talking to him about that
13 rejected load -- you know, undercover stings got
14 brought up when talking about that aluminum load,
15 right?

16 A. Could have.

17 Q. Okay. When you got the records -- you
18 got the phone records from Mr. Ghaffar -- I'm going
19 to show you Defense Exhibit No. 5. You went through
20 these phone records, right?

21 A. To the best of my ability. They were a
22 stack about this high (indicating).

23 Q. All right. And do you recognize Defense
24 Exhibit 5?

25 A. Yes, this is a copy of some phone

1 numbers that I wrote down --

2 Q. Okay.

3 A. -- involving this.

4 Q. So you created this document, right?

5 A. Yes, I did.

6 Q. Does this -- does it -- is it, I guess,
7 a fair and accurate copy of the notes you took from
8 the phone records?

9 A. That's definitely my handwriting, and
10 it's what I provided to you and to the prosecutor.
11 Yes, that's correct.

12 Q. All right.

13 MR. RAY: At this time I'm going to
14 offer Defense Exhibit 5 and tender to opposing
15 counsel for any objection.

16 *(Defendant's Exhibit No. 5*
17 *offered.)*

18 MR. VOLKMER: Your Honor, these are
19 investigative notes that are hearsay. The officer's
20 testimony and the phone records themselves speak for
21 themselves. They're the best evidence.

22 THE COURT: All right.

23 MR. VOLKMER: I'd also like the
24 opportunity --

25 THE COURT: Could I see them,

1 please?

2 MR. VOLKMER: Yes.

3 *(State tenders documents to Court.)*

4 MR. VOLKMER: Judge, I'll withdraw
5 my objection.

6 THE COURT: You do?

7 MR. VOLKMER: Yes.

8 THE COURT: I mean, I was -- all
9 right. I guess they're admitted then.

10 *(Defendant's Exhibit No. 5*
11 *admitted.)*

12 MR. RAY: Permission to publish,
13 Judge?

14 THE COURT: Sure.

15 Q. (By Mr. Ray) Now, these are the notes
16 you said you took of the phone calls to and from the
17 832-768-1603 number and Mr. Ghaffar's phone number,
18 correct?

19 A. Yes.

20 Q. All right. You put, you know, the date,
21 you put whether it's outgoing, incoming, the time
22 and kind of how long the call lasted, correct?

23 A. Pretty much.

24 Q. All right. And from your understanding
25 in talking with Mr. Ghaffar, every single time a

1 load was coming, this Mike Goudeau -- or this -- he
2 would get this phone call, right?

3 A. Most of the time, yes.

4 Q. Okay.

5 A. If he -- he said that if he -- they
6 arranged some of them ahead of time.

7 Q. Okay. Now, like, did he say how far
8 ahead of time?

9 A. Like, a day. Like, tomorrow, like, when
10 he walked out -- one time after he paid Bianca
11 Goudeau, he -- Mr. Ghaffar walked out to the parking
12 lot. Elijah Reed was in the vehicle and Elijah Reed
13 rolled down the vehicle window and said I'll be
14 here. Another load is going to be here in the
15 morning. And that was the conversation that we had.

16 Q. Okay. He gave you that name of Elijah
17 Reed, and Elijah Reed was in this vehicle?

18 A. No, I was saying Elijah Reed. It's Mike
19 Goudeau. I just wanted that for the jury.

20 Q. Did he tell you what vehicle that was?

21 A. It wasn't -- it wasn't the Lincoln
22 Navigator.

23 Q. Okay.

24 A. He said it was a different vehicle.

25 Q. Is that -- it that anywhere in your

1 offense report at all?

2 A. I don't know. I -- I don't see it
3 there.

4 Q. Okay. Well, you've got a whole bunch of
5 notes right in front of you in your offense report,
6 right?

7 A. It's probably in the -- where the video
8 is.

9 Q. Probably where the video is?

10 A. Yeah, in the -- in the sound with the
11 video.

12 Q. Okay. Well, we'll let you review that
13 and see if it's really in there later.

14 A. Okay.

15 Q. Now, you took -- according to
16 Mr. Ghaffar, Mr. Elijah Reed or this Mike Goudeau,
17 he's the one who's making these phone calls and
18 telling him about these loads that are coming,
19 right?

20 A. Yes, that's what he told --

21 THE COURT: Hold on. Y'all come on
22 up here real quick, please.

23 *(Bench proceedings:)*

24 THE COURT: Okay. You don't get it
25 both ways with the video. Either the sound's in or

1 the sound's out.

2 MR. RAY: Okay.

3 THE COURT: So if you have
4 something to impeach him with, you can do that.

5 MR. RAY: I mean, I would like
6 to --

7 THE COURT: I mean, there's all
8 these extraneouses you didn't want them to hear
9 about, but you don't get it both ways.

10 MR. RAY: But what I would like him
11 to do is be able to at least watch the video and see
12 if he ever said that.

13 THE COURT: Well, do you even know
14 the answer to that?

15 MR. RAY: I do know the answer to
16 that because I watched it.

17 THE COURT: Okay. Well, then we
18 can deal with that later; but if you want to impeach
19 him, there's also an appropriate way to do it.

20 MR. RAY: Okay.

21 THE COURT: If you're going to
22 leave some sort of false impression in front of the
23 jury, okay, you're opening the door to --

24 MR. RAY: All right. Do you want
25 me to save it for later? Like, let him watch it --

1 THE COURT: Let's not stop right
2 now.

3 MR. RAY: Yeah, it could take some
4 time.

5 *(Bench proceedings concluded.)*

6 THE COURT: You may continue.

7 Q. (By Mr. Ray) All right. And on January
8 27th when you're out there, Mr. Ghaffar told you --
9 y'all talked about the -- obviously, the January
10 24th incident, right?

11 A. Yes.

12 Q. That's what brought you to Global Scrap
13 Metal that day, correct?

14 A. That's correct.

15 Q. All right. And you knew Walter Barcone
16 had been arrested that day, right?

17 A. Yes.

18 Q. And from talking with Mr. Ghaffar, he
19 told you that Mike Goudeau had called him that
20 morning, right?

21 A. I don't recall that.

22 Q. Would you like to review your offense
23 report to refresh your memory?

24 A. Sure. I know the phone records indicate
25 that, that he called him about six minutes prior to

1 the load arriving, several calls.

2 Q. What's the purpose of an offense report?

3 A. It contains the information regarding
4 the investigation.

5 Q. Okay. Can you use it to help you --
6 obviously a lot of times you end up testifying
7 years, months later after --

8 A. Sure, years.

9 Q. -- your investigation. It helps you
10 refresh your memory, right?

11 A. That's correct.

12 Q. All right. You want me to help you just
13 direct you to that?

14 A. Sure.

15 MR. VOLKMER: Your Honor, the
16 State's not opposed to the offense report coming
17 into evidence.

18 THE COURT: They didn't move for it
19 to be entered. So unless you want it in evidence,
20 Mr. Ray.

21 MR. RAY: Well, they're not allowed
22 into evidence, Your Honor.

23 THE COURT: Well, you -- yes and
24 no, unless you wanted them. I mean, if both sides
25 agree, but you're correct.

1 MR. RAY: I would need to, like --
2 I guess, because there's so many, I would want to
3 review, you know, all of them first.

4 THE COURT: Please just continue,
5 Mr. Ray.

6 MR. RAY: All right.

7 Q. (By Mr. Ray) You kind of would
8 generate, I guess, a main report; and this is kind
9 of -- this area is what I'm talking about
10 (indicating). If you could read that to refresh
11 your memory.

12 A. Which part?

13 Q. This paragraph right here (indicating).
14 This is when you went out there on the 27th.

15 A. Okay. So where do you want me to end?

16 Q. Basically just if -- I mean, do you want
17 to read the whole thing or just see if he told you
18 that?

19 A. Well, is there a specific area that
20 you'd like for me to look at?

21 THE COURT: Mr. Ray, there's a
22 proper way to refresh someone's memory with an
23 offense report. So why don't we lay the foundation
24 and you do it correctly so we don't waste
25 everybody's time.

1 MR. RAY: Yes, sir.

2 Q. (By Mr. Ray) All right. Would you just
3 read your offense report and refresh your memory
4 whether or not -- whether or not Mr. Ghaffar ever
5 said that he received a call from Mike Goudeau?

6 MR. VOLKMER: Objection, calls for
7 hearsay.

8 THE COURT: Overruled.

9 A. This isn't all the reports. This isn't
10 everything.

11 Q. (By Mr. Ray) Okay. But that's --

12 A. There's probably a stack this high
13 (indicating). There's probably a stack this high
14 (indicating).

15 Q. All right.

16 A. Okay.

17 Q. I mean, that's the part that's going to
18 deal with that. I mean, if you want to --

19 A. What particular part would you like me
20 to refer to?

21 Q. Your conversations with Mr. Ghaffar.

22 A. Okay. This is -- when I'm making an
23 offense report, it's a -- it has the evidence of the
24 case. It has a generalization, not exact verbatim
25 word of every conversation that you have because it

1 would just continually go on if you said, yes, and I
2 understand, and different things. You would have a
3 verbatim conversation of what's going on and what
4 was said, and that's why we do take the recorders
5 out there. That's why we do videotape things to
6 where I have it exactly as it's said because I could
7 miss a word --

8 Q. Okay.

9 A. -- on the video or I could miss
10 something on this report and be told that I'm not
11 telling the truth or that I mistook something. But
12 if I recall a part of a conversation that's not
13 listed here, then I just didn't put it down here.
14 I'm not trying to avoid it. I'm not trying to do
15 anything. It's just when you look at these
16 reports -- like I said, there's a stack of reports
17 this high (indicating); and if I didn't put in there
18 that I talked to him about this or that he mentioned
19 that, then I just didn't put it in here. But I
20 recall that conversation that we had. So if it's
21 here, it is. If it's not, it's not.

22 Q. Okay. But Mr. Ghaffar indicated to you
23 that he got a call from Mike Goudeau. That was your
24 understanding, correct?

25 A. Yes, he told me that.

1 Q. All right. He didn't say, I called Mike
2 Goudeau, right?

3 A. He said he had a conversation with him,
4 and then the phone records acknowledged that.

5 Q. All right. And the phone records as you
6 wrote them would acknowledge that Mike Goudeau
7 called Mr. Ghaffar first that day, right?

8 A. Those were my notes. They were quick.
9 I had a stack of stuff, and I was writing down quick
10 things like this until we had it like this
11 (indicating). Correct.

12 Q. So -- I mean, you're the main
13 investigator on this case, right?

14 A. Yes.

15 Q. Okay. Your job is to figure out whether
16 or not your different people, your different
17 suspects are involved in this case, correct?

18 A. That's correct.

19 Q. All right. Phone records, you requested
20 them. Obviously you wanted to go through them,
21 right?

22 A. I looked through them. That's correct.

23 Q. About how much time did you spend going
24 through the phone records?

25 A. Two hours at tops.

1 Q. Okay.

2 A. Tops two hours, maybe an hour and a
3 half.

4 Q. Did you ever call Mr. Ghaffar and ask
5 him any questions about the phone records?

6 A. No, because we discussed that this was a
7 number that he contacted or had a contact for and
8 that this would be the only number that he recalled
9 using.

10 Q. So after going through the phone
11 records, you found Mr. Ghaffar still to be credible,
12 correct?

13 A. And everything else together, yes.

14 Q. Okay. So nothing about the phone
15 records raised any suspicions or you didn't find
16 anything odd about them?

17 A. No.

18 Q. Okay. Didn't make any notes about that
19 in your offense report, if you found something odd
20 or anything about the phone records you went
21 through, right?

22 A. Odd as far as -- what's odd?

23 Q. Just anything that didn't add up, didn't
24 make sense to you as far as how these transactions
25 and these conversations went down.

1 A. As far -- to the effect of being a
2 suspect because he has -- the metal people, they
3 contact the people that provide them metal. They
4 provide them loads because that's how they make
5 their living. And they want to know. It's such a
6 competitive business. One penny a pound makes a
7 giant difference in a load or what they make. It
8 does. And the market fluctuates.

9 And so these guys are constantly
10 calling, hey, you know, are you going to bring me a
11 load? This is what it brings. This is how much it
12 is today. Do you have any customers that are
13 wanting to sell their metal or to bring me, things
14 like that. And that happens in the industry.

15 And at the same time, there are --
16 people get calls from other people, hey, what do you
17 have? So they like to keep the competition out in
18 the metal industry because it's a cut-throat
19 industry. And, like I say, one penny, a guy will
20 jump from one customer to the next customer for a
21 penny. And so you want to keep your customers on
22 contact to let them know you're still interested,
23 this is what's going on.

24 So I guess looking at it that way, no, I
25 don't. I don't see it odd.

1 Q. And on State's Exhibit 14-D, on January
2 24th, who made the first contact, Mr. Ghaffar or
3 that cell phone number?

4 A. It's outgoing at 9:42.

5 Q. So Mr. Ghaffar, right?

6 A. Yes.

7 Q. All right. Do you know about what time
8 that load was reported stolen that morning?

9 A. Just one second. Give me one second. I
10 have it right here.

11 Q. Would you trust me?

12 A. It was stolen from Chambers County on
13 1/24/2014, and it was brought in over there -- it
14 was -- the exact date is on -- or the time should be
15 on the report from Chambers County.

16 Q. Okay. Would you trust me if I said it
17 was 9:30?

18 A. It's possible.

19 Q. Okay. Did you ever go and look and ask
20 Mr. Ghaffar why he called this number 12 minutes
21 after this load had been stolen? Did you ever ask
22 him that?

23 A. The load was stolen -- it can't be
24 stolen 12 minutes and be driven from Chambers County
25 to that location in 12 minutes.

1 Q. That's correct.

2 A. Okay.

3 Q. Stolen at 9:30, arrives around 10:50
4 something, right?

5 A. Just a second. Around -- around 10:50,
6 something like that. That's correct.

7 Q. So did you ask Mr. Ghaffar what he was
8 doing calling that number 12 minutes after the load
9 was stolen?

10 A. No, I didn't.

11 Q. Did you ever notice that when you were
12 going through these phone records?

13 A. Yeah. Yes, sir, I did. Uh-huh.

14 Q. You noticed that he made the first
15 outgoing call that day, right?

16 A. Yes, right here (indicating).

17 Q. Which is why you wrote the incoming call
18 first on your records, right?

19 A. That's correct.

20 Q. Okay.

21 A. And that was by mistake.

22 Q. Okay. Now, did you ever -- you're
23 saying that these -- these scrap metal guys, they're
24 calling their customers all the time is what you
25 said, right?

1 A. Sure.

2 Q. All right. Did you ever ask Mr. Ghaffar
3 what he was doing calling at 9:03 p.m. to this
4 number on January 10th?

5 A. No. No, sir, not that specific call,
6 no.

7 Q. Okay. Did you ever ask him why he
8 seemed to be calling five times in one day on
9 January 10th?

10 A. He said that he had several
11 conversations and would always try to return calls
12 and to make calls. And he made several calls to
13 different people as we were there. And several
14 occasions there were people who would show up.
15 People would call. He would call people, leave
16 messages. So, no, I didn't.

17 Q. Okay. Did you find it odd that he's
18 calling over and over and over again and there seems
19 to be no incoming calls from that cell phone?

20 A. Yes.

21 Q. You found that odd?

22 A. No, I just -- I observed that, and he
23 would say that sometimes he had a check for them or
24 something and wanted to make sure he was there.

25 Q. So -- and this was all in that recorded

1 video interview or --

2 A. It was during a conversation, either
3 recorded or not.

4 Q. I thought you said that you never had a
5 conversation about these cell phone records with
6 Mr. Ghaffar?

7 A. No, I said that we didn't discuss them
8 in-depth and that he did in a general sense say that
9 he would call and they would call as in normal
10 business transactions.

11 Q. Okay. So you have no idea about these
12 specific times and stuff?

13 A. No, sir, I do not.

14 Q. Okay. Did you find it puzzling that on
15 1/7 and 1/8 Mr. Ghaffar was calling three and a half
16 hours after he had closed?

17 A. No. No, these guys work 24 hours a day.

18 Q. Okay.

19 A. It's their business.

20 Q. Did you find it odd as you were
21 investigating this case that no phone call was made
22 for that 1/18 load that arrived there?

23 A. No.

24 Q. You didn't find that was odd?

25 A. Not necessarily. Sometimes these guys

1 just pull up with a load on the scales.

2 Q. Well, from your understanding,
3 Mr. Ghaffar and this Mike Goudeau always negotiated
4 price, right?

5 A. Unless the price is the same and he may
6 have told him in the past, hey, the next load -- I
7 can't speculate to what they -- to what they talked
8 about. No.

9 Q. Okay. So you didn't find it was odd
10 that there was no phone call --

11 A. No. No, sir.

12 Q. -- on a day that one of the loads
13 arrived?

14 A. No, I didn't. I didn't.

15 Q. No? Okay.

16 A. No.

17 Q. Did you find it odd that there were more
18 outgoing phone calls altogether than incoming phone
19 calls in this case?

20 A. No.

21 Q. Okay. Because Mr. Ghaffar was so
22 credible to you, right?

23 A. No. Just the calls didn't seem odd to
24 me given -- given the nature of the business. So...

25 Q. You would agree your case relies heavily

1 on what Mr. Ghaffar provided you, right?

2 A. Sure.

3 Q. Okay. When you looked at those loads,
4 you would agree you recognized some of the pipes and
5 the different loads that had been accepted, correct?

6 A. Recognized as what was reported prior to
7 or after the theft, yes.

8 Q. But you also kind of knew what these
9 materials were, like 18-inch pipe, 20-inch billets?
10 You knew what that was?

11 A. Yes.

12 Q. Okay. And you know that these items are
13 extremely expensive, right?

14 A. Some were expensive. Some aren't as
15 expensive as others, no.

16 Q. Okay.

17 A. It's all expensive to me.

18 Q. I mean, all of these loads -- I think
19 the cheapest one was about, what, \$12,000?

20 A. On that list?

21 Q. On this list.

22 A. Yes.

23 Q. Okay. Someone -- one load was \$47,000,
24 right?

25 A. Yes.

1 Q. Okay. And you saw pictures of these
2 loads, correct?

3 A. Yes, sir.

4 Q. Part of your investigation was to try to
5 identify where these loads came from and their
6 owners, right?

7 A. That's correct.

8 Q. You had to look at these pictures, you
9 know, each one, correct?

10 A. Yes, sir.

11 Q. When you looked at these pictures, did
12 you notice dents or damage on any of those items?

13 A. On some. Some they have some light
14 rust. Some don't.

15 Q. Okay. Did this look like scrap metal to
16 you?

17 A. Well, it just depends what you consider
18 scrap metal. If a customer orders a pipe or a
19 threaded pipe and it's not threaded correctly or if
20 it's not -- doesn't have the right metal content or
21 it's been bent or it's just not what they ordered,
22 then most times they just scrap it and make them --
23 the foundry, make them new stuff because they can't
24 use it for that application. So it has to be
25 replaced. So it's scrapped.

1 Q. Now, you -- you did some investigation
2 into Oletha Basey, correct?

3 A. Ms. Basey?

4 Q. Ms. Basey.

5 A. Yes.

6 Q. All right.

7 A. Well, I didn't do any -- not on this
8 case other than the fact that that vehicle that was
9 at the scene with him driving it, that's the
10 information that I knew. I didn't contact her.

11 Q. So you saw him driving it? You saw him
12 driving that vehicle?

13 A. It was told -- no, sir, that's what I
14 was told by Mr. Ghaffar, that he was driving it,
15 that vehicle.

16 Q. So if Mr. Ghaffar said he was a
17 passenger, that would be incorrect?

18 A. I don't know. He said he was in that
19 vehicle.

20 Q. Okay. Now --

21 A. I understood that was probably the
22 driver.

23 Q. -- you get all these records, the voter
24 registration records for Oletha Basey, right?

25 A. Yes, sir.

1 Q. All right. Did you bother getting their
2 Texas liability insurance policy to see what
3 vehicles were listed under her insurance?

4 A. No, sir.

5 Q. All right. I'm going to approach and
6 show the witness what has been premarked Defense
7 Exhibit No. 7. Do you recognize what that document
8 is?

9 A. It's an insurance card.

10 Q. Okay. Who's it for?

11 MR. VOLKMER: Objection, calls for
12 questions on a document that's not in evidence.

13 THE COURT: Sustained.

14 Q. (By Mr. Ray) Does it fairly and
15 accurately depict an insurance card?

16 A. It appears to be an insurance card. I
17 don't know if it's a valid insurance card or not.

18 Q. Okay. But does it fairly and accurately
19 depict an insurance card as you know them to look
20 like?

21 A. It looks similar to others, yes.

22 Q. Looks similar probably to the one you
23 have, right?

24 A. Not with the same company, but with
25 information on here.

1 Q. Okay.

2 MR. RAY: At this time I'm going to
3 tender to opposing counsel and offer into evidence
4 Defense Exhibit 7.

5 *(Defendant's Exhibit No. 7*
6 *offered.)*

7 MR. VOLKMER: We would object to
8 predicate.

9 THE COURT: May I see it, please?

10 MR. VOLKMER: And hearsay.

11 *(Defense attorney tendered document*
12 *to the Court.)*

13 THE COURT: Do you have any
14 personal knowledge as to this insurance card?

15 THE WITNESS: No, sir.

16 THE COURT: Okay. It's --

17 THE WITNESS: Not at this time.

18 THE COURT: It's sustained. It's
19 not admitted.

20 Q. (By Mr. Ray) You'd at least agree if
21 you -- if it was your vehicle, the one that you
22 personally drive, it would be in your -- you would
23 get insurance in your name for it, right?

24 A. If it's one that I drive, yes.

25 Q. Okay. Now, did you ever have a chance

1 to investigate Elite Freight Trucking, the company
2 that you knew Elijah Reed to work for?

3 A. In this investigation?

4 Q. Yes.

5 A. I was aware of Elite Freight Trucking.

6 Q. Okay. Did you -- I guess, did you
7 subpoena any of their records or anything?

8 A. No, sir.

9 Q. Okay. Did you talk with Oletha Basey at
10 all in this case?

11 A. No, sir.

12 Q. Okay. The only person you talked to was
13 Abdul Ghaffar, correct?

14 A. No.

15 Q. Okay. Who did you all talk to?

16 A. I talked to Bianca Goudeau over the
17 phone -- a lady that said it was Bianca Goudeau, and
18 I talked to Elijah Reed.

19 Q. Okay. Did you ever talk to Oletha
20 Basey?

21 A. No, sir.

22 Q. Okay. Just pulled her voter
23 registration record, right?

24 A. Yes.

25 Q. Okay. Did you ever talk to David Duty?

1 A. Yes.

2 Q. Okay. Did you get to see the
3 photographs and kind of the little report he put
4 together?

5 A. No, sir. That was viewed by Officer
6 Mares. He actually dealt with Mr. Duty.

7 Q. Okay. When you're talking to
8 Mr. Ghaffar, did you ask him why when the police
9 rolled up that day all his employees were running
10 out and getting into their cars and leaving?

11 A. I wasn't aware that that happened.

12 Q. Okay. What do you think about that?
13 What does that tell you if all the employees are
14 running to their cars and leaving as the police roll
15 up, in your training and experience?

16 A. I don't know. I don't know the reason
17 why. I wasn't there. I can't tell you.

18 Q. Okay.

19 A. And I wasn't aware that that had
20 happened.

21 Q. Does it sound suspicious?

22 A. It just -- it just depends.

23 Q. Okay.

24 A. No, I wasn't there. I don't know. I
25 can't answer for those people if that happened.

1 Q. After you had Elijah Reed as your
2 suspect, did you, I guess, ever try and look into
3 his actual truck or his trailer or anything like
4 that?

5 A. No. These cases happened, the loads
6 were delivered, they were dropped and the vehicles
7 were abandoned. At no time was his truck or any
8 trailer registered to him videoed, photographed,
9 documented at 4606 Langley. So there wasn't any
10 reason to do that.

11 Q. Okay. So you never searched his truck
12 or his trailer or anything, right?

13 A. At that scene?

14 Q. In your investigation in this case.

15 A. In my investigation in this case, no,
16 but --

17 Q. Okay.

18 A. -- but I did tow a vehicle that belonged
19 to him that was abandoned for several days --

20 Q. Okay.

21 A. -- off the East Freeway but that wasn't
22 the result of this investigation.

23 Q. I'm going to approach and show the
24 witness what has been marked as Defense Exhibit
25 No. 6. Do you recognize that?

1 A. Yes, I do.

2 Q. All right. What is that?

3 A. That's a parking ticket.

4 Q. All right. And is it the same or
5 substantially the same --

6 THE COURT: Hold on. Did you say
7 Defense 6? We already have a Defense 6. Yes, I
8 believe we do.

9 MR. RAY: I'll do Defense 8.

10 THE COURT: Okay.

11 Q. (By Mr. Ray) Is it the same or
12 substantially the same -- similar to the parking
13 ticket that you issued?

14 A. Yes, sir.

15 Q. All right. And we see your name on
16 there?

17 A. That's correct. Right here
18 (indicating).

19 MR. RAY: I'm going to offer
20 Defense 8 and tender to opposing counsel at this
21 time.

22 (*Defendant's Exhibit No. 8*
23 *offered.*)

24 MR. VOLKMER: No objection.

25 THE COURT: No objection, it's

1 admitted.

2 (*Defendant's Exhibit No. 8*
3 *admitted.*)

4 MR. RAY: Permission to publish.

5 THE COURT: Yes.

6 (*Defendant's Exhibit No. 8*
7 *published.*)

8 Q. (By Mr. Ray) Now, right here we see
9 T.A. Janke (indicating), right?

10 A. That's correct.

11 Q. That's you, correct?

12 A. Yes, sir.

13 Q. That's your employee number, correct?

14 A. That's my badge number.

15 Q. Badge number.

16 A. Correct.

17 Q. All right. What date do you issue this
18 parking citation on?

19 A. On the 28th of January.

20 Q. All right. So one day after you've
21 talked to Mr. Ghaffar, correct?

22 A. Yes.

23 Q. Okay. And you said it was parked on the
24 street more than 24 hours, right?

25 A. Yes, and it was actually parked over the

1 curb. It's a long van. It's a 48 to 53-foot van
2 that you see -- you know, a truck with white on the
3 side. It's covered. And it was parked over the
4 curb and at an angle blocking in the street into --
5 just cater-corner on the lane.

6 Q. And you didn't -- you didn't check
7 "parked obstructing the street" or anything, right?

8 A. Well, there was several other tickets --
9 parking tickets in the back of that truck, in the
10 back of the trailer. They were in the trailer.
11 They were put on there, and the door was shut. They
12 were in there --

13 Q. Okay. How did you find --

14 A. -- from days prior to this.

15 Q. How did you find this trailer a day
16 after Elijah Reed became your suspect?

17 A. Well, honestly, I'm going down and
18 this -- I'm just going down the road. I'm looking
19 for other stolen vehicles; and I was actually
20 looking in the area where a truck was recovered, a
21 stolen truck was recovered. And right across the
22 freeway was this trailer. It just happened to be in
23 the same area.

24 So at that time -- and it's registered
25 to Elite -- Elite Trucking. I think Oletha Basey.

1 And it has several other parking tickets in the
2 back. So I issued another parking ticket to it.

3 Q. Right. And when you did that, you made
4 sure to get the trailer towed, correct?

5 A. Yeah, that's correct, because it was
6 parked more than three or four days at that location
7 and some people across the street were tired of
8 people dumping things out. So I had it towed per
9 our policy.

10 Q. And you -- so you observed it parked for
11 three or four days in this location?

12 A. No, sir, I did not. Now, that one
13 day -- that one day I observed it there and it had
14 several parking tickets already in the back of the
15 van -- of the truck, whatever.

16 Q. Now, one of the reasons -- and explain
17 to the jury what a -- what y'all's inventory policy
18 is when you tow a vehicle.

19 A. When we tow a vehicle, we -- on the tow
20 slip itself, you put what kind of damage is to it,
21 what is in the -- what it has in the inventory,
22 what's -- papers, assorted straps, things like that.

23 Q. Okay. And when you do that, that means
24 you searched the contents of that vehicle at that
25 time, right?

1 A. Well, it was -- the door was open. You
2 could see in it.

3 Q. Okay.

4 A. And that's where the -- the other
5 parking tickets were.

6 Q. Okay. And so you towed it and you did
7 an inventory for this trailer, correct?

8 A. Yeah, I put it on the tow slip itself.

9 Q. Okay. And nothing that you found in
10 that trailer, I guess, was stolen or anything like
11 that, right?

12 A. No, sir.

13 Q. All right. And can you explain to this
14 jury why you did not document the search of
15 Mr. Reed's trailer, of this Elite Freight Trucking
16 trailer, the day after he becomes a suspect in your
17 offense report?

18 A. Because this wasn't part of the
19 investigation. At no time was this trailer ever
20 seen at that location. At no time was this trailer
21 a part, that we could tell from video, from
22 pictures, at 4606 Langley.

23 Q. Okay.

24 A. That had -- this has totally nothing to
25 do with this investigation that I'm conducting here.

1 It was just a happenstance that I was looking at a
2 location across the freeway where a stolen truck
3 that once had a load of pipe was actually dumped and
4 later recovered. So I was in that area which is
5 extremely close to his trailer.

6 Q. So just coincidence that the day after
7 he becomes the suspect you go to and search his
8 trailer, right?

9 A. Yes, sir.

10 Q. Okay. You've been back to Super Global
11 Scrap Metal since the 27th?

12 A. Yes, sir.

13 Q. Okay. When is the last time you've been
14 there?

15 A. It's been a while. It's been a long
16 while.

17 Q. Have you driven by there recently?

18 A. I wouldn't say recently. I drove by
19 there a couple or three months ago possibly.

20 Q. Are they still called Super Global Scrap
21 Metal?

22 A. I don't know. At the time that I drove
23 by there, I don't -- I didn't look at the sign; but
24 I did notice a couple of trucks in there that had
25 loads of pipe. They were actually delivering loads

1 of pipe there.

2 Q. When you were looking at these files and
3 these folders and you got -- you could basically
4 take all this back to the office with you, right,
5 that -- these files and these folders that you
6 received?

7 A. They -- the scale tickets, yes, I did
8 take them. We made copies. He had the copies.

9 Q. Okay.

10 A. The others was on a zip drive, flash
11 drive for Officer Mares that Mr. Ghaffar had
12 prepared.

13 Q. I'm going to show you State's
14 Exhibit 16-B, and this is -- when they say scale
15 ticket, this is what you're talking about, right?

16 A. Yes, sir, that's what I consider a scale
17 ticket.

18 Q. Okay. And one of the things that
19 Mr. Ghaffar puts on his scale tickets is basically a
20 way to try and protect him from knowledge of any
21 sort of stolen material, right?

22 A. Sure.

23 Q. Okay. Makes someone pretty hard to
24 charge for a crime when they kind of have a built-in
25 clause, right?

1 A. Not necessarily.

2 Q. Okay. What do you mean "not
3 necessarily"?

4 A. Well, it's not a built-in clause, you
5 know. You would have -- you would have to go beyond
6 the fact of having a clause like that to the actual
7 facts on how things appeared, how they got there,
8 how they were actually documented. Now, the fact
9 that he has this documented and all the information,
10 the scale, the time, the check number, all the
11 documentation that he has, that's all -- that's all
12 designed to do that, yes. And this person is
13 telling them "I promise that this is mine. Here you
14 go." So if that's protection, sure it is.

15 Q. And throughout your other
16 investigations, all your other scrap metal companies
17 had something similar to this, right?

18 A. Not -- not with as much information. I
19 mean, in some we would have just a receipt for
20 things.

21 Q. So they were breaking the law?

22 A. I don't know. At that point we were
23 just -- and actually some of those were arrested,
24 the scrap dealers.

25 Q. Okay. Now, when you were going

1 through -- you got to take this thumb drive with
2 these files and these pictures and everything back
3 to your office, right?

4 A. Yeah, Officer Mares and I did. He's the
5 actual thumb drive guy. I'm more of the old school.

6 Q. All right. Did you go back through
7 these at all, look back through these?

8 A. Oh, yes, sir, we looked at those there
9 on -- we had put them on disks. So we had made a
10 couple of disks. I'm sure we provided everyone with
11 that.

12 Q. All right. Did you ever ask Mr. Ghaffar
13 why he labeled these files always with Bianca
14 Goudeau?

15 A. Actually when we were looking at his
16 computer, we asked him. We said, "Hey, how do you
17 know which loads these people -- how do you know
18 them?" He said, "I have them by category, by name,
19 by the people that bring me stuff." So we said,
20 "Okay. What about this stuff that -- that she
21 brought or that was brought and you paid?" "Oh, it
22 just goes into this file"; and he'd click on it.
23 There it was.

24 He had several different people under
25 those type -- different kind of files. That's

1 how -- apparently that's how he kept his records.

2 Q. So he kept records based on who brought
3 it, correct?

4 A. Or who brought it or who he paid for it.

5 Q. From your understanding of the November
6 13th, that aluminum billet that was a rejected load,
7 who was -- who was present that day?

8 A. It's my understanding that Elijah Reed
9 was there and Walter Barconey was there.

10 Q. No Bianca Goudeau that day, right?

11 A. I can't -- I wasn't there. I can't tell
12 you. I don't recall.

13 Q. And how did -- what name is used to
14 document who was there that day?

15 A. I don't know.

16 Q. Does it look kind of like Arron
17 (indicating)?

18 A. It says Arron. It could be some type of
19 name for the aluminum. Could be something --
20 because everything else is Bianca Goudeau.

21 Q. Right. And we see the aluminum shaft
22 describing the aluminum shaft, right?

23 A. That's right. That's correct. A
24 rejected load.

25 Q. You said he would document these based

1 on who was bringing it, right?

2 A. He would have a file; and under that
3 file, it was this. So I can't tell you that. And
4 he didn't say a guy named Arron brought me this. I
5 can just say it says Arron, but I don't know for
6 what reason.

7 Q. Did you ever ask him why he put Arron or
8 who Arron was?

9 A. No, sir.

10 Q. Okay. Did you ever ask him why he
11 didn't put Mike Goudeau or Walter Barconey on that
12 first day where they're the only two people who
13 showed up?

14 A. It was during a conversation that we
15 had.

16 Q. Okay.

17 A. And, no, I didn't ask him why he does
18 that. Everyone has their own way of documenting
19 their sales, different things. So I'm not going to
20 ask him his business practices on the way he does
21 this.

22 Q. Well, you're trying to do a criminal
23 investigation, aren't you?

24 A. Oh, I am doing a criminal investigation.
25 I was. That's correct.

1 Q. Okay. Don't you want to know who's
2 present when these crimes are supposedly being
3 committed?

4 A. Yes, sir. And when you open this file,
5 you see the pictures, you see the documentation that
6 he had taken on the load that he rejected. He still
7 had taken pictures of people that were out there.
8 And so -- and there was no identification. There
9 was no purchase at that time.

10 Q. So he was taking pictures of the people
11 who were out there that day on November 13th?

12 A. In some of the loads he has taken
13 pictures of the driver, that's correct.

14 Q. On November --

15 A. I can't say for this one specifically,
16 no; but there is -- there are pictures of this load.

17 Q. Okay.

18 A. Because we used those to identify the
19 load.

20 Q. You never saw a picture of Elijah Reed
21 on that November 13th load, right?

22 A. That's correct.

23 Q. Okay. But you do see a picture of, I
24 guess, a hand. Someone was sitting in the driver's
25 seat of that truck, right?

1 A. I would have to see the picture.

2 MR. VOLKMER: 13-A-1. I think it's
3 up there.

4 THE WITNESS: There's several
5 pictures up here. Here's a stack right here
6 (indicating).

7 MR. VOLKMER: There's a stack right
8 there (indicating).

9 MR. RAY: Oh.

10 Q. (By Mr. Ray) I show you State's
11 Exhibit 13-A-1.

12 A. Yes, sir.

13 Q. Can you see kind a glove or a hand on
14 the steering wheel on that truck?

15 A. I can see something yellow. I can't
16 tell if it's a person or a glove or if it's a
17 reflection inside --

18 Q. Okay.

19 A. -- on the seat.

20 Q. Can you see a reflection of anybody in
21 13-A-4?

22 A. Yes.

23 Q. Does that look like Mr. Ghaffar?

24 A. It's a white-haired guy with glasses. I
25 can't tell you that that's him, but it sort of

1 resembles him.

2 Q. All right. Do you see anybody standing
3 next to him or around him?

4 A. No.

5 Q. Don't see Elijah Reed in there, right?

6 A. No, sir.

7 Q. And so after you talked with
8 Mr. Ghaffar, he basically gave you all the pictures,
9 all the stuff and you eventually arrested Mr. Reed,
10 correct?

11 A. That's correct.

12 Q. All right. Didn't do very much
13 independent investigation on your own. Pretty much
14 relied on everything Mr. Ghaffar told you, correct?

15 A. No, that's not correct.

16 Q. Okay. When you described why you -- why
17 you arrested Mr. Reed, it was because it was your
18 belief that he facilitated all this, correct?

19 A. That's correct.

20 Q. And where did you get that information
21 from?

22 A. From his phone records, from his photo
23 being there and from the information from
24 Mr. Ghaffar.

25 Q. Okay. Who told you that it was Mike

1 Goudeau who you think is Elijah Reed that made all
2 these phone calls? Who told you that?

3 A. Mr. Ghaffar did.

4 Q. Okay. So everything you pretty much got
5 came from Mr. Ghaffar?

6 A. Yeah, and it was supported by photos
7 that he took with Elijah Reed in his office.

8 Q. Which was on one occasion, correct?

9 A. Sure.

10 Q. All right.

11 MR. RAY: Pass the witness.

12 THE COURT: State.

13 **REDIRECT EXAMINATION**

14 **BY MR. VOLKMER:**

15 Q. State's 14 is some 60 pages of cell
16 phone records, correct?

17 A. Can I --

18 Q. Here we go. State's 14, do you
19 recognize these?

20 A. Yes.

21 Q. And you said you spent about two hours
22 going through those?

23 A. Approximately two hours.

24 Q. Did -- what are these copies of,
25 Defendant's 5?