

Texas High School Mock Trial Competition
2013 Case Materials

STATE OF TEXOMA

v.

IRION WILBARGER



Cause No. 12-144

STATE OF TEXOMA	§	
v.	§	
	§	IN THE CRIMINAL DISTRICT COURT
IRION WILBARGER,	§	
	§	OF
Defendant.	§	LANDRY COUNTY, TEXOMA
	§	
	§	
	§	

CASE MATERIALS

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STATE OF TEXOMA v.	§ § § § § § § § § §	IN THE CRIMINAL DISTRICT COURT OF LANDRY COUNTY, TEXOMA
IRION WILBARGER, Defendant.		

STIPULATIONS OF THE PARTIES

The parties agree and stipulate as to the following:

I.

This is a criminal trial that will be tried before a jury. The Prosecution is being made by and in the name of the State of Texoma. Irion Wilbarger is the Defendant. The Defendant has been charged by indictment with the criminal offense of aggravated robbery. This will be a bifurcated trial. The parties will only try the issue of guilt or innocence. Should the Defendant be found guilty, there will be a separate trial on the issue of punishment at some future date. An appropriate punishment or the range of punishment is, therefore, not at issue in this trial and is not to be argued or raised in any manner at trial. Each person who is a witness has been properly advised of their constitutional rights.

II.

The Information reads as follows:

In the name and by the authority of the State of Texoma, the Criminal District Court of Landry County, in said court at said Term, do present an information that one Irion Wilbarger, on or about the 22nd day of May, 2012, in Landry County and the State of Texoma, by use or exhibition of a firearm, did commit the crime of aggravated robbery, in the County of Landry, located within the State of Texoma, against the peace and dignity of the State. Signed by A. C. Ducey, the Criminal District Attorney of Landry County, Texoma.

III.

There are no defects or infirmities in the information, and none may be argued. Defendant has been properly warned of all rights, appropriate bail was set, and said bail has been posted. There is no defense of entrapment in this case.

Irion Wilbarger's statement was given freely and voluntarily, and all of the legal requirements for the taking of said statement have been met. Wilbarger's state and federal constitutional rights, including the right against self-incrimination, right to counsel, and right to

due process of law, are not at issue with regard to the statement. The court has both subject matter and *in personam* jurisdiction over the parties. All questions of fact are being submitted to a jury. Questions of law will be decided by the court.

Dallam Brewster's criminal history includes misdemeanor convictions for petty theft, simple assault and shoplifting.

Entrapment is not a defense to the charges in this case, and is no longer recognized as a defense to any matter in Texoma.

IV.

All exhibits included in the case materials are authentic and are accurate copies of the originals. No objections to the authenticity of the exhibits will be entertained. The only exhibits to be used at trial are those included in the case packet. The signatures on the witness statements and on all other documents are authentic. The Addenda are signed on the day of trial, and no continuances have been granted in this case.

An exhibit that may qualify as a business record, such as reports from institutions, qualifies as a business record under the Rules of Evidence.

The following phone numbers are stipulated as to their registered owners:

555-987-6543...Dallam Brewster	555-208-5599...Carson Bell
555-523-4567...Irion Wilbarger	555-789-3344...Bailey Callahan
555-749-9211...Big Paul's Pizza and Gumbo	

V.

Dallam Brewster, Shelby Erath Newton, and Tyler Grimes are to testify on behalf of the Prosecution. They may not testify for or be called on behalf of Defendant. Irion Wilbarger, Carson Bell, and Bailey "Maverick" Callahan are to testify on behalf of Defendant. They may not testify for or be called on behalf of the Prosecution.

The male pictured in Exhibits 6, 7, and 8 is positively identified as Kerr Bandera.

VI.

The Prosecution must prove the following elements beyond a reasonable doubt:

- 1) That Defendant, by use of exhibition of a firearm, did commit the offense of aggravated robbery.

VII.

The following instructions will be submitted to the jury:

The occurrence in question made the subject of this prosecution is the events of May 22, 2012 in which Defendant, Irion Wilbarger, is alleged to have committed, with the use or exhibition of a firearm, the offense of aggravated robbery.

All persons are presumed to be innocent, and no person may be convicted of an offense unless each element of the offense is proved beyond a reasonable doubt. The fact that a person has been arrested, confined or indicted for, or otherwise charged with, an offense gives rise to no inference of guilt at trial. The law does not require a defendant to prove his innocence or produce any evidence at all. The presumption of innocence alone is sufficient to acquit the defendant, unless the jurors are satisfied beyond a reasonable doubt of the defendant's guilt after careful and impartial consideration of the evidence.

The prosecution has the burden of proving the defendant guilty, and it must do so by proving each and every element of the offense charged beyond a reasonable doubt. If it fails to do so, you must acquit the defendant. It is not required that the prosecution prove guilt beyond all possible doubt; it is required that the prosecution's proof excludes all "reasonable doubt" concerning the defendant's guilt.

A "reasonable doubt" is a doubt based on reason and common sense after a careful and impartial consideration of all the evidence in the case. It is the kind of doubt that would make a reasonable person hesitate to act in the most important of his own affairs.

Proof beyond a reasonable doubt, therefore, must be proof of such a convincing character that you would be willing to rely and act upon it without hesitation in the most important of your own affairs. In the event you have a reasonable doubt as to the defendant's guilt after considering all the evidence before you, and these instructions, you will acquit him/her and say by your verdict "Not guilty."

A person is criminally responsible if the result would not have occurred but for his conduct, operating alone or concurrently with another cause, unless the concurrent cause was clearly sufficient to produce the result and the conduct of the actor is clearly insufficient.

"Aggravated Robbery" is when a person commits robbery as defined and he:

- (1) causes serious bodily injury to another, or
- (2) uses or exhibits a deadly weapon....

"Robbery" is when a person commits the offense of theft and, with the intent to obtain or maintain control of the property, he:

- (1) intentionally, knowingly, or recklessly causes bodily injury to another; or
- (2) intentionally, knowingly, or recklessly threatens or places another in fear of imminent bodily injury or death.

"Theft" is when a person unlawfully appropriates property with the intent to permanently deprive the owner of said property. Appropriation of property is unlawful if it is without the owner's effective consent.

VIII.

Applicable Penal Code Sections:

Texoma Penal Code Section 3.03(1) states: "Conduct is justified when the actor reasonably believes his conduct to be required or authorized to assist a public officer in the performance of his duties, notwithstanding that the officer exceeded his legal authority."

Texoma Penal Code Sec. 7.02(1)(a)(iii) (Responsibility for Conduct of Another): "(iii) A person is criminally responsible for an offense committed by another if: ... acting with the intent to promote or assist the commission of the offense, he solicits, encourages, directs, aids, or attempts to aid the other person to commit the offense."

IX.

The Charge of the Court is accurate in all respects, and no objections to the Charge will be entertained.

X.

The following issue will be submitted to the jury:

On May 22, 2012, did Defendant, with the use or exhibition of a firearm, commit the offense of aggravated robbery?

Answer Yes or No: _____

Respectfully submitted,

Attorney for the State

Attorney for the Defendant

1
2 **FACT STATEMENT OF DALLAM BREWSTER**
3

4 My name is Dallam Brewster and I'm 23 years old. The first thing I want you to know about me
5 is that I did wrong, and I'm trying to make it right. I'm no angel. That's the truth. But I have a
6 one year old daughter named Angie. And I'm trying to do right by her. I'm going to do
7 everything I can to make sure that I can be there for her. I want to be there on her wedding day,
8 and there's nothing I won't do to protect her.
9

10 That's how I got into all this mess in the first place. I went to high school with Irion Wilbarger's
11 cousin, and we used to play MeBox together. I met Irion at that cousin's house a few months
12 ago. Everyone calls Irion Ronnie. As it got later and later that night, we started to talk.
13 Ronnie's real easy to talk to. Good listener. And I was saying how I didn't know if I'd be able to
14 make it. I was failing world history, and some other stuff and probably wasn't gonna graduate. I
15 was let go from my job at the Patterson Autoworks Distribution Center because I couldn't show
16 up on time, and when I did, sometimes I was a little unfocused. And I owed some people some
17 money. From some stuff. But that's another story.
18

19 And then there's Angie. Right now, we live with my mom, and she's taking care of Angie and
20 paying the bills. But that's not right. I should be able to get a job, keep a job and pay the bills.
21 Patterson Autoworks was just about the only place that would hire me, once I got out of jail. Kid
22 stuff, really, but no one wants to hire someone who spent a couple months in Landry County for
23 jacking some stuff and some shoplifting and assault. Never any felony anything, though. And
24 that's what I told Ronnie.
25

26 So it's late one night. And we're hanging out. And Ronnie's like, "Hey, I got an idea." So I'm
27 like, "what?" And then Ronnie tells me about this idea to grab some cigarettes out the back of a
28 truck at the truck depot, Crawfish or something. Real easy like. Ronnie knew someone who
29 knew a guy who knew when the cigarettes would be there. No one gets hurt, just get a bolt
30 cutter, open the back of a truck, grab some, and then sell them on the street. No victims, even.
31 Cigarette companies got crazy money. Wouldn't miss a few cartons. And we could sell them,
32 and we'd split the money three ways. So that's like, what, a few hundred bucks a person easy.
33 Not even really a crime. I could pay back those dudes who I owed. And be able to start fresh
34 with Angie. So I said, "Sure, yeah, whatever." Didn't mean for it to go like this.
35

36 So I didn't even think about it much after that. Then one day, Ronnie was like, "You know that
37 thing we was gonna do? We do it tonight." So I just showed up. Didn't think it was all that big
38 a deal. All I wanted to do was grab a few cigarettes. So I just went along. Never meant no
39 harm. Ronnie picked me up and we went to Bandera's apartment. There, Bandera and Ronnie
40 laid out the whole plan.
41

42 So we get to the truck stop and Bandera has bolt cutters and we make a hole in the fence away
43 from the guard shack. Hole wasn't that big, but we all got through. Ronnie takes us straight to
44 the truck with the cigarettes and before I know it, Ronnie is crowing about another truck loaded
45 with MePads. So Ronnie says, "Forget the cigarettes, we're hunting MePads tonight, gang!"
46 One of 'em starts to hotwire the truck and all of a sudden, out of nowhere this flatfoot guard

1 appears. Guy had to be 70 and weighed 400 pounds if he weighed an ounce. Before I know it
2 Wilbarger pulls a gun, gun's pushed into the guard's nose. My head was spinning. Let me tell
3 you, the guard fainted dead away, just like that. We didn't even have to tie him up. So we took
4 the truck and split. Ronnie told me to yank the GPS tracker off of the dash and toss it out the
5 window, so I did. We rammed the gate open, stopped long enough to let Ronnie get the car and
6 Kerr and I followed Ronnie. I never saw the gun again, but I knew Ronnie had said something
7 about knowing how to shoot or something like that.

8
9 Ronnie leads us to this steel frame warehouse that used to have something in it but is now empty
10 in this really scary part of town. Sure enough, the warehouse is abandoned, so we pull in and
11 shutter the place. We open the truck and Bandera hands Ronnie a few of the MePads. Ronnie
12 splits to meet the fence – telling us to sit tight and wait for more instructions. Even gave us the
13 fence's name, a dude called Deaf Smith. Well, we're sitting there in this dark warehouse for like
14 forever and we hear the sirens and see lights. Both of us jet out of the warehouse, but there are
15 cops everywhere. I can't even make it 10 feet, and I'm fast! I swear, as they take me down, I
16 could see Ronnie's car a block away cutting a U-turn and ditching. Oh, and they could have
17 made the cuffs looser.

18
19 So it's even later, and I'm in a room with some cop, and I don't know who this cop is. But this
20 cop knows about Angie. And this cop knows about all that stuff I did before I went to jail the
21 last time. And tells me that Kerr was saying that I planned all this. Which I totally didn't. And I
22 wasn't going to let Ronnie get away scot-free with it. And the cop said that if I just tell what
23 happened, they could make sure that I could be with Angie, and no one was mad at me and stuff.
24 Even gave me a bottle of water and a breakfast taco. And some tater tots.

25
26 And that's why I'm here. I just want to tell the truth cause it ain't like Ronnie says. And even
27 though I did some stuff before that I'm not proud of, and even though I was gonna take a few
28 cigarettes or MePads or whatever from some guys who wouldn't have missed them, I didn't do
29 like they say. And now I hear that Ronnie says it was all me, when it was them and stuff. So
30 that's really all I wanna say. And the cops said that if I said it and tell the truth, that things would
31 be okay for me and Angie.

32
33 Further, affiant sayeth naught.
34

35 *Dallam Brewster*

36 DALLAM BREWSTER

37
38 SIGNED AND SWORN TO ME BEFORE the undersigned authority on this the 22nd day
39 of June, 2012.

40 *Biff Steak*

41 Notary Public in and for the State of Texoma
42
43

1 ADDENDUM FACT STATEMENT OF DALLAM BREWSTER

2 A few months ago, my deal got finalized. I got credit for time served and was put on deferred
3 adjudication for misdemeanor theft. If I keep my nose clean for 2 years, the charges drop off my
4 record and that's that. One of the conditions of the deal is testifying in court today, truthfully.
5 So that's what I will do.

6
7 Ronnie is saying that this was my idea. Still. I can't believe that. Ronnie really took the lead on
8 the whole heist. Ronnie had the gun. Ronnie found the MePads. Ronnie took the MePads to the
9 fence. It was all Ronnie's idea.

10
11 Now, they tell me that Ronnie was working with some federal cop as some sort of undercover
12 secret agent or something. I never saw any federal cop. But since this all happened, I heard that
13 Ronnie was leading this fed around by the nose. When the score was small, Ronnie let the feds
14 have it. But, Ronnie had a few other scores that the feds never found out about. At least, that's
15 what I heard.

16
17 Oh, I got this postcard and a few pictures from Bandera back in December. I can't tell if
18 Bandera was just rubbing it in or what, but it really irked me. I mean, Bandera was sucked in
19 just like me, he just got away and the he sends me these pictures of him living it up. At least he
20 got away empty handed. I still don't know where he gets his cash.

21
22 I have had sole custody of Angie, ever since Kenedy died in that car wreck. See Kenedy and I
23 were making a life, but when Angie was about a month old - car wreck and I was a single parent.
24 Now, my mom died about a month ago, so it's me and Angie now. And I intend to do whatever
25 it takes to make sure she's safe.

26
27 I have nothing else to add.
28

29 *Dallam Brewster*

30 DALLAM BREWSTER

31
32 SIGNED AND SWORN TO ME BEFORE the undersigned authority at 7:11 a.m. on this
33 the day of trial.

34 *Biff Steak*

35 Notary Public in and for the State of Texoma
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1 **FACT STATEMENT OF SHELBY ERATH NEWTON**

2
3 My name is Shelby Erath Newton, DCePT, CSA, CSE. I am 44 years old and live in Corpuz,
4 Texoma. I am not married and have no children, but I do have four labra doodles and seven cats.
5 I also have a rather large collection of cellular phones, many of which have great historical
6 significance. I am currently working on cataloging the collection, with a goal of opening the first
7 cell phone museum in Texoma sometime in 2013. Or 2014.

8
9 I am a digital investigator and an expert in cell phone tracking and signal analysis. I was pre-law
10 in college and have a bachelor's degree in applied communications and a master's degree in
11 cellular telephone technology, both from DiGwyn Global Institute of Technology (DiGGIT). I
12 also have a PhD in global positioning systems (GPS) analysis from Judy Jay University. I am
13 certified by the Association of Certified Cell Phone Technicians (ACCePT) as a Diplomat in Cell
14 Phone Technology (DCePT). I am also a Certified Cell Phone and GPS Signals Analyst (CSA)
15 and a Certified Steganography Examiner (CSE). My work also involves geographic information
16 systems (GIS) and I have taken, and taught, numerous GIS courses. I am quite familiar with
17 legal issues as a result of my pre-law studies and often testify as an expert witness on various
18 subjects, from cell phone systems to mapping systems to comparative law issues. I have a
19 passing familiarity with electromagnetic fields, RFID technology, and bovine scatology and
20 occasionally consult on those topics as well. With my education and experience, you could say I
21 know a little about a lot.

22
23 I have been asked to give expert testimony in this case. Let me start by saying I know nothing
24 about the criminal acts of the accused other than what I've been told by the prosecuting
25 attorneys. My charge was to review and interpret cell phone data to determine the use, including
26 location, of a cell phone with number 555-523-4567 on the dates in question. This number is
27 registered to Irion Wilbarger.

28
29 I should start by noting that location-based services are used by all cellular providers and can be
30 used to identify a cell phone's geographic location. This can be done in real-time, although
31 historical data is more often analyzed. In this case, I reviewed historical data provided to me by
32 the Landry County District Attorney's office. That data consists of call records from Texoma
33 Tel & Telegraph for the defendant's cell phone from 1800 hours 21 May 2012, to 1800 hours 22
34 May 2012. That data, which is presented in the form of a spreadsheet, is Exhibit No. 4.
35 Unfortunately, the data is not complete. The data stop at about 0430 hours 22 May 2012 and do
36 not resume until about 0645 hours that same day. I asked the cell phone company several times
37 to explain this data loss, but nobody there seems to know why the data are missing, aside from
38 calling it a technical issue. Interestingly, although all data during this time period were
39 apparently lost, calls could be still made.

40
41 As shown by Exhibit No. 4, eighteen calls were made or received from/by the Defendant's cell
42 phone during the time covered by the data. Those calls were made to several different telephone
43 numbers and are summarized in Exhibit 4, which I prepared in the course of my investigation
44 from the information I observed and relied upon.

1 The Cell Tower Location represents the location of the cell tower through which the Defendant's
2 cell phone first connected at the time of the call initiation. Of course, cell towers pick up signals
3 in the general area of the tower. An area may also be covered by several towers. The specific
4 range of any particular tower depends on various factors not important to the issues in this case,
5 but it should be noted that the Cell Tower Location data are not as precise as GPS data. That
6 said, this data still tells us the general area where the Defendant's cell phone was located at the
7 time of the call. The Call Duration shows the duration of the call in minutes and seconds. While
8 I do not know for sure, I believe that every call of 20 seconds would have been a call that was
9 not answered, as that is the time out window for this area – the time frame when calls drop into
10 voicemail and stop registering as connected. Calls in voicemail are not connected, no matter
11 how long the message is.

12
13 The data show various calls to or from the cell phone registered to the Defendant during the time
14 period represented by the data. In particular, the Defendant's cell phone was used to call a
15 device registered to Bailey Callahan once at 2122, from the general vicinity of the animal shelter.
16 The call data also shows calls to or from number 555-987-6543, which I am advised is a cell
17 phone registered to Dallam Brewster. There is also a call to a local restaurant and calls from a
18 device registered to Carson Bell. Finally, there are a couple of calls from blocked or private
19 numbers, which are usually sales or political polling calls.

20
21 I have prepared Exhibit No. 5 which shows the approximate location of the Defendant's phone
22 during certain times pertinent to my investigation. In conjunction with Exhibit 4, we are able to
23 generally locate the Defendant's cell phone at times on 21 May and 22 May 2012. Since the
24 Patterson area is littered with cell towers, we are able to tell generally where the Defendant's cell
25 phone was based on which towers were collecting the calls.

26
27 Exhibit No. 5 also shows a summary the tracking location of the based on pings from the cellular
28 phone system. Defendant's cell phone was at Defendant's home from the time the data begin at
29 1800, 21 May 2012 until 0244, 22 May 2012, when the data show the cell phone in route to the
30 Kerr Bandera's home. The data show the cell phone was at the Bandera location until about
31 0341 when it left and stopped in the vicinity of the truck depot at 0358. The cell phone remained
32 in that general vicinity until 0404, when the data showed it began moving and traveled to a
33 warehouse located on Smith Street, arriving at about 0415. At 0422 the cell phone began
34 moving again and traveled in the general direction of Green Arbor Heights. I have reviewed the
35 various fact statements in this matter and know that a well-known fence who has associated with
36 the Defendant in the past lives in the Green Arbor Heights area. Unfortunately, the data outage
37 that affected the call records also affected the tracking data and all signals were lost from about
38 0431 until 0637. When the tracking data resumed, the cell phone was located at Defendant's
39 home. The cell phone remained at that location and then moved to a nearby police substation.

40
41 The question may come up about compensation. As a highly qualified expert, I am of course
42 being compensated. My standard hourly rate for pre-trial evaluation and analysis is \$375 per
43 hour. So far, I've spent twelve hours working on this case and have billed the county \$4,500. I
44 will send another invoice for the time spent preparing to testify at trial and actually testifying.
45 My standard hourly rate for court appearances is \$575 per hour. I know that is a lot of money,
46 but I am very well qualified on this and many other subjects.

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My report and testimony are complete.

Shelby Newton Erath
Shelby Newton Erath

SIGNED AND SWORN TO BEFORE ME the undersigned authority on this the 27th
day of September, 2012.

Biff Steak
Notary Public in and for the State of Texoma

1
2
3 **FACT STATEMENT OF TAYLOR GRIMES**
4

5 My name is Taylor Grimes. I am 36 years old and haven't married. I live at 2212 McCoy Lane
6 in Patterson, Texoma. I am a Detective Sergeant with the City of Patterson Police Department.
7

8 I first became interested in law enforcement and investigation during 8th grade when my pet
9 chimpanzee, Miller, was stolen from his cage in my room. My father said my mother got rid of
10 him because he creped her out, but I never believed that. My gut instinct told me that someone
11 stole him. I doggedly tried to track down the thief, interrogating my parents, sister and all my
12 friends. I lost most of my friends, but the truth is more important than friends. I never found
13 Miller, but I discovered something about myself – I was born to be an investigator.
14

15 After two years of studying law enforcement at Landry County Community College, I wanted to
16 work for the Patterson Police Department. I applied and took the entrance exam but failed the
17 first two times. Third time's a charm, right? The academy was great and I was amazed by the
18 various investigative tools and methods I learned there. If only I'd known those tricks of the
19 trade in 8th grade, I surely would have caught whoever stole my chimp. I graduated 47th out of
20 98 in my class.
21

22 I became a detective sergeant with the City of Patterson Police Department about a year ago,
23 after working several years as a patrolman – too many years, if you ask me. I was determined to
24 become a detective and knew that I would, eventually. It was my destiny.
25

26 Early on in my detective work, my investigative techniques weren't perfect, I know. I may have
27 been a bit too determined and sometimes failed to follow proper crime scene procedure,
28 inadvertently overlooking some evidence such as fingerprints, and once there was a problem
29 with the chain of custody of a murder weapon. But my superior officers alerted me to these
30 issues, and I've learned from my mistakes. I have several solid investigations to my credit now.
31

32 On the day of this truck robbery, I was awakened at around 4:30 a.m. because I was the detective
33 on call. I was informed of a robbery at the Crawford Truck Depot and was dispatched
34 immediately to the scene.
35

36 I arrived at the truck depot at 4:52 a.m. and received a quick briefing from the Patterson PD
37 officers already on the scene. I interviewed the security guard who had been assaulted by the
38 truck thieves. He reported to me that there were three assailants, and he only remembered seeing
39 one of them with a gun, but was unable to provide a description of any assailants. The trucking
40 company had already reported the theft due to the unauthorized movement and provided the
41 current GPS coordinates of the stolen truck. The coordinates placed the GPS transmitter at an
42 abandoned warehouse in an industrial district of Patterson.
43

44 I left the depot and requested additional backup to meet me near the old McElhaney Warehouse
45 in the Weber District of town – a pretty shady place. I instructed the officers to use "silent
46 approach," no lights, no sirens. We surveilled the scene at the warehouse from about a block

1 away and noted no activity, but low, intermittent light levels from inside the warehouse. We
2 were able to approach and surreptitiously observe two particular individuals in the warehouse,
3 near the truck. I ordered the officers to move in quickly from different directions so the two
4 particular individuals could not get away. Both suspects, Dallam Brewster and Kerr Bandera,
5 were arrested on the scene and put in separate squad cars. I instructed the officers to book them
6 at the station for aggravated robbery and then have them sequestered in separate interrogation
7 rooms until I arrived later to question them.

8
9 Upon examination of the truck, I saw that the seal to the trailer door had been broken. Upon
10 opening the trailer, I observed that very little of the product inside appeared to be missing. I was
11 not wearing gloves when investigating the truck and opening the trailer door to see inside,
12 because I thought that the scene had been dusted for fingerprints. Later, I found out that that
13 crime scene unit hadn't dusted for fingerprints as they should have. Not surprisingly, after a
14 comparison of the latent fingerprints, the only prints which could be reliably identified were
15 mine.

16
17 Later, when I learned that the truck depot from where the truck was stolen had a video
18 surveillance system of the point of ingress and egress, I obtained the video from the night of the
19 truck theft. Upon review of that video, I observed the stolen truck leaving the depot, being
20 driven through the gate and leaving the premises. I was able to observe what appeared to be
21 three figures in the cab of the stolen truck. The time on the tape of this occurrence was 4:01 a.m.

22
23 I drove to the station where the two suspects had been separated, per my instructions. I was told
24 that both had been Mirandized. I questioned each suspect separately. It was from this detailed
25 examination that I learned from Brewster of the involvement of a third perpetrator, Irion
26 Wilbarger. Kerr Bandera said nothing at all. Both Brewster and Bandera later made bail and
27 Bandera subsequently skipped town. There is currently a warrant for Bandera's arrest, but we
28 have been unable to locate him. If you see him, please report it to an officer.

29
30 On May 22, 2012, at 9:30 a.m., I went to the registered address for Irion Wilbarger. We intended
31 to set up a surveillance at the Wilbarger residence when Wilbarger exited the front door of the
32 residence and approached a car. Wilbarger got in the car and I feared we would have a chase on
33 our hands, so we converged on the car and arrested Wilbarger for aggravated robbery. Wilbarger
34 was later indicted on this charge.

35
36 When I made the arrest, I took custody of Wilbarger's cell phone, which Wilbarger was holding
37 at the time of the arrest. I later obtained a search warrant to review the call log and text
38 messages for that phone which indicated that Wilbarger was involved in the robbery and
39 corroborated the video evidence that Wilbarger was at the scene of the robbery. I later
40 subpoenaed the cell phone records of Wilbarger's phone and learned that Wilbarger had called
41 Brewster and Bandera on the night of the robbery. Unfortunately, due to some event at the
42 phone company, there was a blackout of cell data for a couple of hours after the robbery had
43 occurred so we don't have any cell data from 4:30 a.m. to 6:35 a.m. on May 22, 2012.

44
45 It turns out that, at the time of the truck theft, the Defendant happened to be a confidential
46 informant (CI) for the Federal Investigation Bureau (FIB). Apparently the Defendant had been

1 instrumental in helping FIB solve crimes similar to this one. Defendant has maintained
2 innocence in stealing the truck. The Defendant is equally insistent that all actions were as a CI
3 for the FIB at the time. Patterson PD was never notified by FIB, in particular Agent Bailey
4 Callahan, of Defendant's work as a CI in my jurisdiction. Such notification is not required, but
5 is typically extended. In fact, I didn't verify this relationship until I questioned Agent Callahan,
6 whose phone number was listed in the Defendant's cell phone and the records from the night of
7 the robbery. I don't know Callahan personally, but I am not surprised that FIB withheld
8 information that was valuable to our investigation.
9

10 Further investigation through the cell phone company revealed that the calls to Brewster and
11 Bandera by Defendant not only occurred before, during and after the robbery, but pinpointed the
12 location of the Defendant at the times of those calls. Some of those calls were in close proximity
13 the truck depot and other locations pertinent to the robbery. Again, the cell phone company
14 messed up the data somehow and we don't have any location data for a couple of hours after the
15 robbery.
16

17 Further, affiant sayeth naught.
18

19 *Taylor Grimes*

20 _____
Taylor Grimes

21
22 SIGNED AND SWORN TO BEFORE ME the undersigned authority on this the 23rd
23 day of July, 2012.
24

25 *Biff Steak*

26 _____
Notary Public in and for the State of Texoma
27

1 ADDENDUM TO FACT STATEMENT OF TAYLOR GRIMES

2
3 We recovered the Bill of Lading from the floorboard of the stolen truck. It appeared to have
4 been discarded. It was recovered, but not dusted for prints. I am certain that I instructed the
5 crime scene unit to dust. Slackers. Anyway, that is Exhibit 2, and we gave copies of it to the
6 Defendant's lawyers months ago. We also recovered a damaged GPS unit that had been
7 discarded from the stolen truck. There was also a GPS unit hidden in the shipment, those Orange
8 guys don't take chances. The damaged GPS receiver was returned to Orange.

9
10 Brewster and Wilbarger each accused the other of having a gun. The guard also saw a gun. We
11 never recovered a gun either at the truck depot, the warehouse or Wilbarger's home. The
12 thought of an unregistered firearm makes me nervous, but I would be a year's salary that
13 Wilbarger got rid of it at some point after the robbery.

14
15 We did not have to obtain a warrant to search Wilbarger's car, since Wilbarger was present and
16 gave us permission. We were also performing an inventory search incident to arrest. During this
17 search, we found three (3) unopened Orange, Inc. Mepads in the trunk of Wilbarger's car. I
18 think Wilbarger yelled something about being a CI for the FIB at that time. I probably should
19 have included this in my original statement, but you can't expect me to be on 24-7-365, you
20 know. And, really, that was pretty far-fetched as an explanation for aggravated robbery.

21
22 The video from the truck depot was taken into custody and placed into the Evidence Room at the
23 Sorrels Sub-Station, Northeast District of the Patterson PD. It probably should have gone to the
24 main headquarters, but did not. Unfortunately, the Evidence Custodian at the Sorrels Station,
25 Brooks Hale, used that tape to record a birthday celebration and going-away party for one of the
26 officers in the unit. Hale has since been fired.

27
28 I have nothing else to add.

29 *Taylor Grimes*

30 _____
31 Taylor Grimes

32
33 SIGNED AND SWORN TO ME BEFORE the undersigned authority at 7:54 a.m. on this
34 the day of trial.

35 *Biff Steak*

36 _____
37 Notary Public in and for the State of Texoma
38

1 **FACT STATEMENT OF BAILEY "MAVERICK" CALLAHAN**

2
3 I am Bailey Callahan, an Agent with the Federal Investigation Bureau ("FIB"). Most
4 folks call me Maverick. I live at 7444 Fife Drive, Petro City. I am 38 years old, married, with
5 three kids; a son, 14, and twin daughters, 10. I graduated from the University of Texoma at Petro
6 City in 1997 with a bachelors in Criminal Justice with a minor in Print-Making. After
7 graduation, I did a few odd jobs before applying to the Bureau in 2001. After training, I was sent
8 to a few odd outposts out west before being transferred to the General Interstate Trailer Theft –
9 Investigation and Recovery unit (called GITT'IR for short). Since then, I have worked for FIB
10 GITT'IR, promoted through the ranks, and I am now the Agent with the highest stolen-trailer
11 recapture rate in the region. FIB GITT'IR does not assign partners, and I much prefer to work
12 alone.
13

14 Two years ago, I busted Irion Wilbarger for transporting across state lines a semi full of
15 goods stolen from a trans-shipment terminal. I think the load back then was ergonomic chairs
16 and bladeless fans. Anyway, I busted Wilbarger as the semi was being moved from the terminal
17 to a drop off destination to sell the load. I only collared Wilbarger that night, but Wilbarger
18 turned on the gang before I even had a chance to get the cuffs on. Wilbarger fully cooperated
19 with FIB GITT'IR, giving us the names and addresses of everyone involved, and testified against
20 them during the trials.
21

22 For that assistance, our bureau recommended and the US Attorney gave Wilbarger a deal
23 for helping with this case, Wilbarger received probation. I believe that a condition of the plea
24 deal stipulated Wilbarger could not break the law, or consort with any known criminals.
25 However, we also didn't want to let a great informant go. So, for continued assistance, the deal
26 stated that Wilbarger would continue to work trailer-theft jobs, but could not break the law
27 without approval from FIB GITT'IR. Wilbarger would be paid based on the value of the goods
28 recovered, with a cap of \$1,000 per conviction. It was a good deal, if you ask me. No jail time,
29 and a job. I don't know how much Wilbarger has made on this deal, but given my track record, I
30 bet it's a good amount.
31

32 Wilbarger and I worked jobs together for the next year and a half. With this deal, my
33 trailer recovery rates sky-rocketed. I became Wilbarger's sole handler. Technically, I was
34 probably supposed to get my supervisor's permission for each bust Wilbarger helped with, but
35 after a while, it seemed like a non-issue. What with all the success we were having. I mean, I
36 never hid anything...and in most cases, we were working with a very short timeline. Sometimes,
37 it's just easier to ask forgiveness than permission. With Wilbarger's help and the other cases I
38 worked alone, I recovered the most trailers in FIB GITT'IR in 2010 and 2011. I was well on my
39 way to breaking my record for 2012, and probably a fat promotion, until Wilbarger, well, all of
40 this.
41

42 In May of 2012, Dallam Brewster and Kerr Bandera contacted Wilbarger about stealing a
43 cigarette shipment from the truck terminal on the east side of Patterson. Bandera and Brewster
44 apparently wanted Wilbarger to help steal the truck and act as intermediary in the sale of the
45 goods. The plan was for Wilbarger to feign going to meet a fence, while in reality, I would get a
46 call about the stolen truck. When Wilbarger told me about this, I thought it sounded like another

1 notch in the belt. I didn't bother asking my supervisor for permission since this operation was so
2 cut and dried. Wilbarger would let me know where the truck was headed, I would park my
3 vehicle nearby and nab both Brewster and Bandera. Trailer and goods would be recovered,
4 Wilbarger would get a reward, and I would continue my recovery streak.

5
6 Wilbarger told me the cigarette heist was going down the night of May 21-22.
7 Wilbarger always uses the same cell phone, and I have that number in my phone. Wilbarger
8 called me at 9:00 p.m. that night, and said everything was a go, and that the next call later that
9 night would let me know where they dropped off the trailer. Typically in these terminal heists,
10 the perps take the trailer from a terminal and park it a few miles away in an isolated location.
11 They take a sample of the goods to a buyer, and once a deal is negotiated, the perps bring the
12 truck to the buyer. This provides ample time for me to cross paths with the trailer and either
13 apprehend the perps, or at least recover the trailer and goods.

14
15 After I talked to Wilbarger, I sat tight at my home office and waited. I set my phone on
16 loud and got in bed. I woke up at about 4:00 a.m. and had not gotten any calls, so I went back to
17 sleep. I got up at about 6:30, and called Wilbarger then. No answer. At that point, I figure
18 something went wrong with the plan, and the theft was not happening that night, and so I got up
19 and got ready for work and headed in.

20
21 I'm driving my desk that morning when I got a call from Taylor Grimes, a detective with
22 the Patterson Police Department, asking me if Wilbarger is an informant for the FIB. I
23 confirmed that Wilbarger was. Then Grimes informs me that our bosses will be talking, and
24 starts going on about local and federal agencies working together and collaboration and whatnot.
25 I finally get it out of Grimes that Wilbarger was collared about an hour earlier for aggravated
26 robbery of a truckload of MePads. Aggravated robbery is not Wilbarger's M.O., and to my
27 knowledge Wilbarger does not have a gun. Besides, possession of a weapon is prohibited under
28 the terms of the probation and our CI deal.

29
30 My supervisor, Lee Leon, called me shortly after I got off the phone with Grimes and
31 read me the riot act. I am currently under investigation by the FIB Inspector General for not
32 obtaining supervisor approval for my operations with Wilbarger as well as for failing to follow
33 protocol and not informing the Patterson Police Department that Wilbarger was an informant.
34 But really, how good is any informant that everyone *knows* is a snitch!?

35
36 These are all the facts that I can remember about this case.
37

38 *Bailey Callahan*

39 **BAILEY CALLAHAN**

40
41 SIGNED AND SWORN TO ME BEFORE the undersigned authority on this the 22nd day
42 of June, 2012.

43 *Chuck Steak*

44 Notary Public in and for the State of Texoma
45

1 **ADDENDUM TO FACT STATEMENT OF BAILEY "MAVERICK" CALLAHAN**

2
3 I was demoted from my position with FIB GITT'IR and put on desk duty shortly after
4 this investigation began. FIB IG decided that the entire thing was my fault and I was then
5 transferred to the FIB office in Dead Horse, Alaska... where there's never any crime. Darn that
6 Wilbarger for messing up a good thing. For both of us!

7
8 The CI agreement with Wilbarger was, as is usual, not in writing. That way, there is
9 nothing to trace, but the CI still has to cooperate – FIB holds all the cards.

10
11 Whatever went down, I am still convinced that Wilbarger was not involved in the crime
12 the way that the Police Department in Patterson says. I worked closely with Wilbarger and
13 Wilbarger never crossed me. Wilbarger had these ridiculous aspirations to be a part of FIB, but
14 was a rule follower as far as our work was concerned. I will admit that if Irion Wilbarger is
15 acquitted of this crime, there is a chance I will get a job stateside. But I am telling the truth,
16 because Dead Horse or not, I'm still in law enforcement.

17
18 I have nothing else to add.

19
20 *Bailey Callahan*

21 _____
22 BAILEY CALLAHAN

23 SIGNED AND SWORN TO ME BEFORE the undersigned authority at 7:54 a.m. on this
24 the day of trial.

25 *Chuck Steak*

26 _____
27 Notary Public in and for the State of Texoma

1 **FACT STATEMENT OF CARSON BELL**

2
3 My name is Carson Bell. I am best friends with Irion Wilbarger, the Defendant in this
4 case – I call Irion “Ronie,” most everyone does. We have known each other since we turned
5 over trash cans in the school lunch room in elementary school. We got into lots of trouble
6 together all the way through school, but after I graduated, I turned things around and got my
7 college degree and a post graduate degree. I have my own business now in Patterson City as a
8 vet and taxidermist. I call my business “CertainTeed Pet Return, Dead or Alive”.

9
10 Ronie did not do as well though. Ronie had a lot of difficulty staying out of trouble. But
11 I have always been there for Ronie. We have always been good friends and trusted each other.
12 A few years ago, we were even going to get matching tattoos, but Ronie said we better not,
13 because it would be an identifying mark and could be a problem someday. I have no idea what
14 that meant. But sometimes when Ronie is around and things are going good, we put on matching
15 temporary tats, just as a goof.

16
17 Ronie has never been real stable. After dropping out of high school, Ronie had lots of
18 odd jobs and then joined the Marines. That didn’t work out, but I don’t think that was Ronie’s
19 fault. Some people just have it in for other people, you know what I mean. Anyway, when Ronie
20 came back to Patterson after the Marines, I had a place and we lived together because, you know
21 how parents can be, and Ronie’s folks did not exactly extend the red carpet. Really ever since
22 then, I have purposefully kept a 2 bedroom 2 bath apartment so Ronie will always have a place
23 to stay. I think my place is Ronie’s only real home now.

24
25 I know about Ronie’s arrest a couple of years ago and it surprised me because I know that
26 Ronie is not a criminal, no matter what anyone else thinks or says. I testified for Ronie in that
27 trial and because of my testimony, Ronie got probation. I think that was fair because no matter
28 what anyone else says, Ronie would never do any of the things that they say, you know, stealing
29 from trucks. When Ronie was staying with me, we never had boxes of stuff around the
30 apartment and Ronie never brought anything suspicious home. Actually, I bought most of
31 Ronie’s clothes and stuff. It seemed like Ronie never had anything.

32
33 I know Ronie is not really a criminal. I go to the animal shelter every Monday evening to
34 provide vet care to the animals there and Ronie sometimes goes with me. Ronie likes to play
35 with the animals and is especially helpful when we enter information about my work onto the
36 shelter’s MePad.

37
38 For some reason, Ronie has always had trouble getting and keeping steady work. I have
39 considered offering Ronie a job at my place, but I have plenty of employees, and Ronie doesn’t
40 really have the necessary training in veterinary medicine or taxidermy. I am glad Ronie seems
41 interested in the work at the shelter though, maybe it could lead to something better someday. I
42 worry about Ronie’s work stuff all the time. So when Ronie told me about starting to do
43 undercover work, I was really glad. It was a real good career move and seemed like solid
44 employment. I think Ronie’s street smarts makes undercover work a natural fit.

1 On the night of the robbery, Ronie and I went to the shelter at about 8 or 8:30 and got
2 home around 10, or maybe 10:30. I think we got home before 10:30 because Ronie turned on the
3 TV to watch the news and ordered a pizza – Ronie asked if I wanted any. I wasn't hungry, so I
4 went to my room and went to bed. I woke up at around 4:30 or 4:45 because I thought I heard a
5 door slam. I got up and could tell that the TV was still on. I figured Ronie had been in the living
6 room, so I got up to tell Ronie to go on to bed. The TV was on, but it was on a different channel
7 than when I had gone to bed. Ronie was not in the living room and the bedroom door was
8 closed, so I assumed Ronie was in bed sleeping already. I turned off the TV and went back to
9 bed.

10
11 I woke up at my usual time, 6:45 a.m. and started getting ready for work. I made coffee
12 and started my breakfast; biscuits and sausage gravy. I was just about to leave for work at 8:30
13 when Ronie came out of the bedroom and said, "Hey, I can't find my cellphone, give it a call."
14 That way, we could look for it while it was ringing. I was a little irritated because doing all this
15 was going to make me late opening my clinic, but I dialed the number on my phone. We didn't
16 hear it ring so Ronie went out to the car. A few minutes later, Ronie came back in escorted by
17 the Patterson police. I was just shocked. I could not believe that my friend would be involved in
18 anything like this crime. As I have said, Ronie is not a bad person, and I do not think Ronie
19 would have committed armed robbery, and most certainly would not have planned it. Ronie was
20 working for the sheriff after all.

21
22 This is my sworn testimony in this matter.
23

24 *Carson Bell*

25 CARSON BELL
26

27 SIGNED AND SWORN TO ME BEFORE the undersigned authority on this the 23rd day
28 of July, 2012.

29 *Chuck Steak*

30 Notary Public in and for the State of Texoma
31
32

1
2 ADDENDUM FACT STATEMENT OF CARSON BELL
3

4 I don't know what Ronie did during the days because I was at work all day, but some
5 days, I come home for lunch. I assume most days Ronie was working for the sheriff. However,
6 on more than one of those days, Ronie had some friends over to our apartment. I am pretty sure
7 one of them was named Dallas or something like that, and I can't recall the name of the other
8 one. I saw them several times when I came home for lunch. One day when I came home, the
9 three of them were playing Grand Theft Semi on a MeBox. As I came in the door I overheard
10 their conversation and one of them was saying that in just a few days this will be real. Just then
11 Ronie saw me and I could tell that Ronie was real uncomfortable with that conversation and me
12 hearing it. I don't think Ronie liked the conversation.
13

14 I know I didn't like the looks of Ronie's friends and I wish I would have asked Ronie not
15 to bring those friends around. Most of the time, they didn't come around when I was there.
16 They weren't mean or anything, but I just didn't like the looks of them.
17

18 I did not look out the window at 4:30, so I don't know if Ronie's car was there. But, the
19 TV channel had been changed and I'm sure Ronie was home then.
20

21 I have nothing else to add.
22

23 *Carson Bell*

24 CARSON BELL
25

26 SIGNED AND SWORN TO ME BEFORE the undersigned authority at 8:04 a.m. on this
27 the day of trial.

28 *Chuck Steak*

29 Notary Public in and for the State of Texoma
30

FACT STATEMENT OF IRION WILBARGER

1
2
3 My name is Irion Wilbarger. My friends call me “Ronie.” My enemies never call. I am 21 years
4 old and live at 2101 Ross Ave. here in Patterson with my friend, Carson Bell. I was born and
5 raised in Patterson by my momma and poppa. I had “behavior problems” in junior high and high
6 school. Seems like I was always getting into trouble with my teachers and running around with
7 the “wrong crowd,” according to my teachers and parents. I had enough of their attempts to
8 discipline me and dropped out of high school at the beginning of my senior year. After that, I
9 went through a lot of odd jobs like working at fast food restaurants and construction before
10 deciding to join the US Marines so I could “Be All That I Wanted to Be.” And I wanted to be a
11 jet fighter pilot. I washed out of the Marines in about three months with an “administrative
12 discharge.” It was so bogus. I didn’t like all the rules, like when to go to bed and get up, and
13 following orders. (I wasn’t going to peel no potatoes. Besides, when was I going to get to fly
14 and shoot things???)

15
16 After being discharged from the Marines, I tried house painting, but lost that job because I would
17 stay up all night with friends more or less hanging out. I just couldn’t manage to get to work the
18 next day. My parents kicked me out of their house because I wouldn’t go back to school, didn’t
19 have a job, and hung out at the house all day, playing my guitar and just hanging out, and
20 watching “Coppers” on TV. They should have been grateful that I wasn’t getting into trouble
21 anymore!

22
23 I had been staying with Carson for several months while I was looking for a job. Carson is my
24 BFF. Carson and I go all the way back to grade school. We used to goof around a lot and get into
25 trouble all the time in elementary, middle and high school. We spent a lot of time with our
26 parents sitting in school hallways outside principals’ offices. Carson got serious after high school
27 and now has a good job as a veterinarian/taxidermist and a 2-bedroom apartment. We still are
28 BFFs and go on double dates lots. Carson thinks I have a lot of potential as a musician and just
29 need to find my way. Deep down I know I am a good person, and with my talent and a few
30 breaks, I could win “America’s Most Talented,” easy greasy!

31
32 After the Marines, I began hanging out with a group that was into stealing, especially truckloads
33 of goods from local truck terminals. They gave me some “on the job training,” if you know what
34 I mean, and I learned how to fence stuff. I made a few bucks that kept me in guitar strings and
35 stuff. Carson had no idea I was into that stuff.

36
37 My one conviction occurred almost two years ago, when I was caught driving a stolen 18-
38 wheeler in another state. My “buddies” got away, but I was busted by the feds. To get
39 probation, I ratted out my buddies. I am still on probation for the crime. My “friends” are in
40 prison. You gotta do what you gotta do.

41
42 After pleading guilty, I was approached by Special Agent Bailey Callahan with the feds. Agent
43 Callahan – Bailey told me to use “Maverick” because that’s what Bailey was – asked me to
44 become a confidential informer (known in the trade as a “CI”). The deal was that I would notify
45 Maverick when I heard that a theft was going down. If Maverick gave me the okay, I’d infiltrate
46 the gang, and let Maverick know when and where the goods were to be stolen and fenced. Then,

1 Maverick would swoop in, bust everyone and get all sorts of promotions and glory and stuff. I'd
2 get a percent of the value of the goods and truck recovered! This CI gig was crazy good! I now
3 had a job as a real crime-fighter with good money prospects, and maybe a chance down the road
4 to become a federal agent myself! The bummer was that I couldn't tell anyone except Carson,
5 who I'd trust with my life. But, now I could hang with my "hooligan friends" (as my mother
6 refers to them) with the blessing of the feds and make some Benjamins! As a CI with the feds,
7 they won't let me can't carry a gun – a real downer! Also, I can't get involved in a crime without
8 Maverick's approval in advance, and I can't be involved in any crime where life is put at risk,
9 such as an armed robbery. Unfortunately, Maverick won't let me shoot people.

10
11 Maverick and I were a primo crime-fighting team. Over about 18 months, we successfully
12 busted four or five gangs of "perps," earning me a cool \$14,000, tax free!

13
14 In late January this year, I was approached by Dallam Brewster and Kerr Bandera. They are
15 high school dropouts who hang together. Brewster is a small time thief always looking to score
16 big. Really delusional! Brewster has been in and out of jail for burglary, larceny and receiving
17 stolen goods. Nothing big time. A real loser. "Coppers" is a certain stop someday, face down
18 on the hood of a cop car! Bandera is Brewster's "remora," if you know what I mean.

19
20 Brewster and Bandera were going to steal an 18-wheeler from the Crawford Truck Terminal in
21 Patterson and wanted my help getting to and from the terminal and fencing the goods. I was cool
22 with that. This was perfect for a Maverick sting and I could make some buck-os. Brewster had
23 it all planned. We would go to the terminal in my car, cut the fence, find this truck loaded with
24 cigarettes Brewster claimed to know about, hot-wire the truck, and leave with fake authorization
25 papers that Bandera had forged. After we'd left the terminal, I would follow the truck in my car
26 to a concealed area near the abandoned McElhaney Pet Rock and Mood Ring warehouse on
27 Stafford Drive. I was supposed to have contacted the fence in advance. (Of course, I hadn't.) I
28 was supposed to take a "sample" of the stolen goods to the fence and negotiate the deal.
29 Brewster and Bandera would stay with the truck. When a deal was reached, I'd drive back and
30 lead them to the fence. We'd split the cash and disappear. Sounded simple enough. So I let
31 them think I was gung ho.

32
33 Shortly after Brewster first called, I called Maverick. Maverick seemed real pleased and okayed
34 my involvement in the heist. Maverick and I agreed, as usual, that I would call a few hours
35 before the heist to confirm that it was still on. Then, I'd call after the heist to say when and
36 where the truck was hidden. Maverick and a backup team of feds would swoop in and "roll them
37 up" (as they say on "Coppers"). I asked if this bust could be videoed for some reality show but
38 Maverick chilled the idea. Maverick said if I was shown on TV cuffing somebody, it would
39 blow my cover. I didn't think of that. Someday, maybe.

40
41 Brewster called me Sunday, May 20, 2012, and told me that the Crawford terminal job was
42 going down that Monday night after midnight. I immediately relayed this to Maverick. I always
43 called Maverick from my cell phone. It was the only way we communicated. Maverick said
44 they'd be ready.

45

1 Around 8:00 p.m. on Monday night, May 21, I went with Carson to the animal shelter. Carson
2 talked me into going there most Mondays to help care for the animals. I love dogs, especially
3 Rottweilers. They are so cool. While I was there, Brewster called me to tell me to bring my car
4 to Bandera's house at 3:00 a.m. that night (Tuesday) and to wear dark clothes. They'd be
5 waiting for me there, ready to do "the job." I slipped out into the parking lot and called
6 Maverick around 9:00 p.m. to report that the job was still on for later that night. Carson and I
7 returned home around 10:00. Just before 3:00 a.m., I slipped quietly out of the house so as to not
8 wake Carson, and drove to Bandera's house.

9
10 But, it went wrong and it went wrong fast. Brewster, Bandera and I drove to the terminal in my
11 car, parked it a block away, and cut through the chain link fence. It was just before 4:00 a.m.
12 Tuesday. Even the owls were asleep. We got to the trailer Brewster said had the cigarettes, but
13 Bandera noticed that the truck next to it had a manifest on the seat and the cab was unlocked.
14 We looked at the manifest and saw it was for a trailer load of new MePads. This was a really big
15 score – I mean, tens of thousands of dollars more than they planned to steal. Brewster got really
16 torqued up and decided we'd boost the MePads instead. I was cool with this. My reward would
17 be just that much greater when Maverick stung these knuckleheads.

18
19 But just then, when Brewster was in the cab hot-wiring the ignition, a guard with a flashlight and
20 a pistol got the drop on me and Bandera, demanding we put our hands up and tell him what we
21 were doing there. Brewster snuck out of the cab behind the guard and stuck a gun in his ear.
22 The guard dropped his light, and Brewster gave a roll of duct tape to Bandera and told Bandera
23 to tape the guard's hands behind him and his mouth shut.

24
25 I was, like, totally stunned. I had no idea Brewster was "packing." This was supposed to be a
26 simple truck theft, not an armed robbery. I wasn't authorized by Maverick to participate in
27 anything this serious. And for all I knew, that idiot Brewster might kill the guard. I had no
28 choice but to go along with Brewster, though, if I was to maintain my cover. And, I was sure I'd
29 get a medal or something now for catching some armed robbers. This could be totally cool! So,
30 all three of us jumped into the truck hauling the MePads and busted through the gate. Just like in
31 the movies! They let me out at my car, and I followed them to the McElhaney warehouse. It
32 must have been about 4:15 a.m. I lied that I was going to drive to the fence, make the deal, and
33 return to take them to the fence. But, one of them demanded to know where the fence was. To
34 sound credible, I gave them the location of a fence that I had used once before my conviction,
35 Deaf Smith. Bandera broke open the trailer and gave me a few MePads to show to Smith. I even
36 took a picture of the open trailer full of MePad boxes with my cell phone "to show him." That
37 picture is Exhibit 1.

38
39 I drove off, intending, of course, to call Maverick not only to tell where the truck and the two
40 perps were, but also to explain how the theft became an armed robbery and how I had no choice
41 but to go along with them to maintain my cover. Of course, Maverick would not be happy that a
42 CI was involved in something like this. If it went public, it could be bad for Maverick and the
43 feds. They might cancel my CI status and turn me in to the police. Then, my probation could be
44 revoked and I might go to prison. But, since Maverick would now be busting a couple of armed
45 robbers and recovering tens of thousands of dollars of goods, I was pretty sure I was coming out
46 of this a hero. Heck, a super-hero!

1 I pulled my car over to call Maverick on my cell. I had Maverick's cell number in my phone, but
2 not memorized or written anywhere for security reasons. I couldn't find my cell. I panicked.
3 Without the phone, I had no idea how to contact Maverick. I think Maverick worked somewhere
4 out of town. I knew Maverick would be mad I had not called. But I knew Maverick might be
5 calling my cell phone ... wherever it was! And it was on silent, and was not set to vibrate. I was
6 worried it had fallen out at the warehouse.

7
8 I had no choice but to drive to my apartment. I arrived there around 4:30 a.m. I searched
9 everywhere for my cell and couldn't find it. I wanted to call Brewster with Carson's cell phone
10 but I didn't know Brewster's cell number either. It was on my cell! I wanted to tell Bandera and
11 Brewster that the fence didn't have enough cash to cover a load of MePads, but to sit tight and
12 that he'd be ready to do the deal tomorrow. I didn't want them to get spooked when I didn't
13 return and run off with the truck to parts unknown. I needed them to stay put until I could find
14 my phone and tell Maverick where they were. If they got away with the truck, I was in deep
15 trouble. Ultimately, I assumed that Brewster, not hearing from me, would keep the truck at the
16 warehouse that night. The cops would be looking for it by then and Brewster knew it was too
17 risky to move it. I'd find them the next morning, and set up the sting again. So, I went to bed,
18 planning to find my cell in the morning and getting this thing back on track. Undercover crime
19 fighting is exhausting. I totally zonked out around 5:00 a.m. (I dreamt I was in a James Bond
20 movie.)

21
22 Around 9 a.m., I got up and asked Carson to help me find my phone by calling my cell to see if it
23 was nearby; maybe I could see it light up. No luck. Around 9:30 a.m., I went to my car to drive
24 to the McElhane warehouse to see if the truck was still there. I got in my car and was feeling
25 around for the seatbelt when I felt my phone stuck down between the seat and back. That's
26 where it was all along! I was checking to see if Maverick had called me when the cops rolled up
27 and busted me. I didn't know that the semi had a hidden GPS in it and that police had found the
28 truck shortly after I left it. They had already arrested Brewster and Bandera. Apparently,
29 Brewster told the cops I was the ring leader on this job. What a lying weasel!

30
31 At the Patterson police station, I told Detective Grimes that I was working undercover for the
32 feds and that Maverick was my handler. The detective called Maverick who confirmed this. I
33 was let out of jail on bail.

34
35 When I got out of jail, I called Maverick, who was really angry with me over my being involved
36 in an armed robbery. Maverick demanded to know why I didn't call as soon as I could after the
37 theft to say that someone had pulled a gun on the guard and where the MePads were hidden. I
38 explained how I had lost my phone and Maverick's phone number. Maverick warned me that if I
39 was lying and decided to hide something so I could take a cut of the cash from the sale of the
40 MePads instead, Maverick would tell my probation officer that I was involved in an
41 unauthorized crime. In short, I would be headed to prison in no time flat. Also, if I was lying,
42 Maverick would refuse to testify on my behalf when I was tried for the crime.

43
44 Apparently, being a CI for the feds and fighting crime doesn't impress the local district attorney.
45 I've been charged with armed robbery or something.

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Further, affiant sayeth naught.

Irion Wilbarger

IRION WILBARGER

SIGNED AND SWORN TO ME BEFORE the undersigned authority on this the 13th day of August, 2012.

Chuck Steak

Notary Public in and for the State of Texoma

Exhibit #1

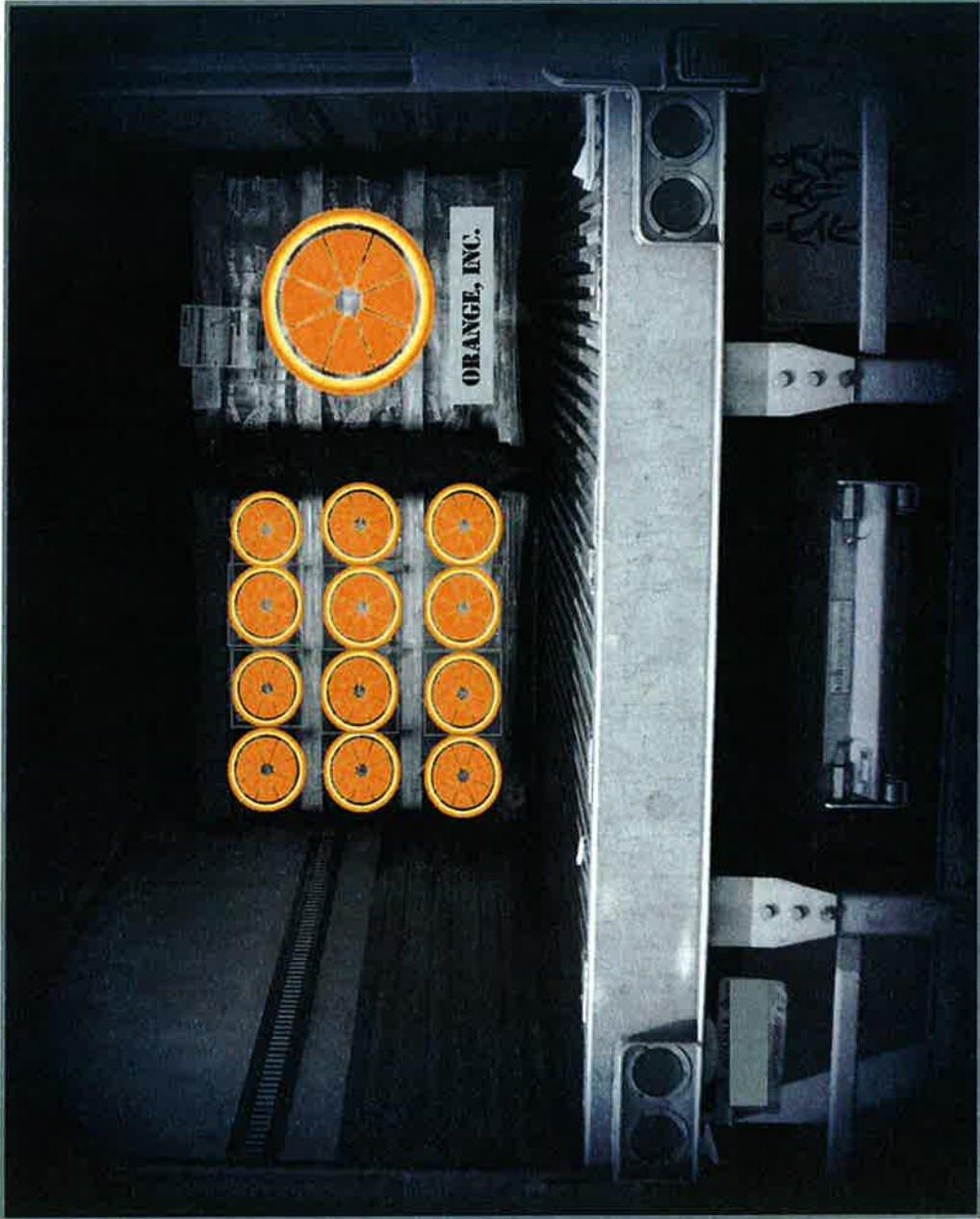
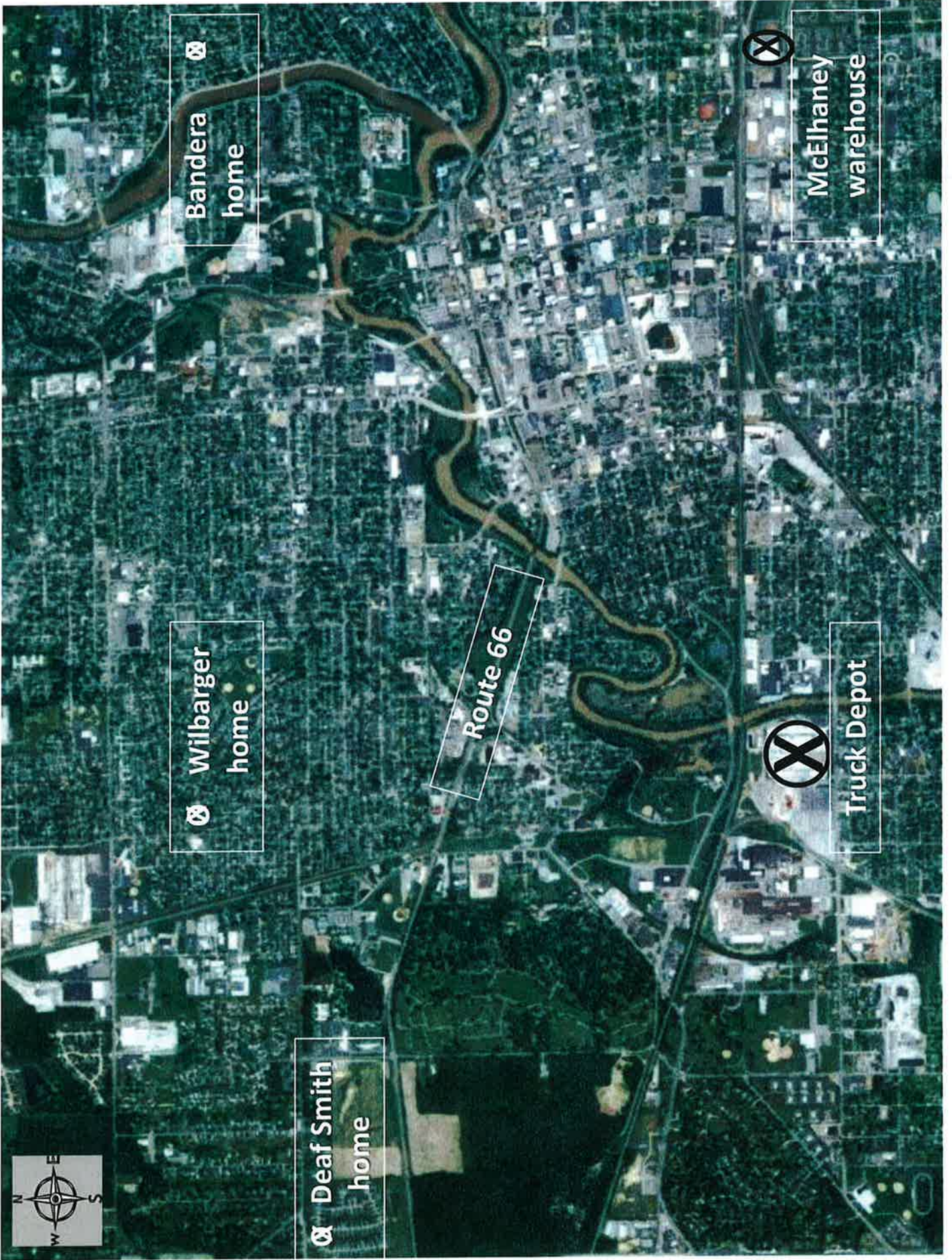


Exhibit #3



Deaf Smith home

Wilbarger home

Bandera home

Truck Depot

McElhaney warehouse

Route 66

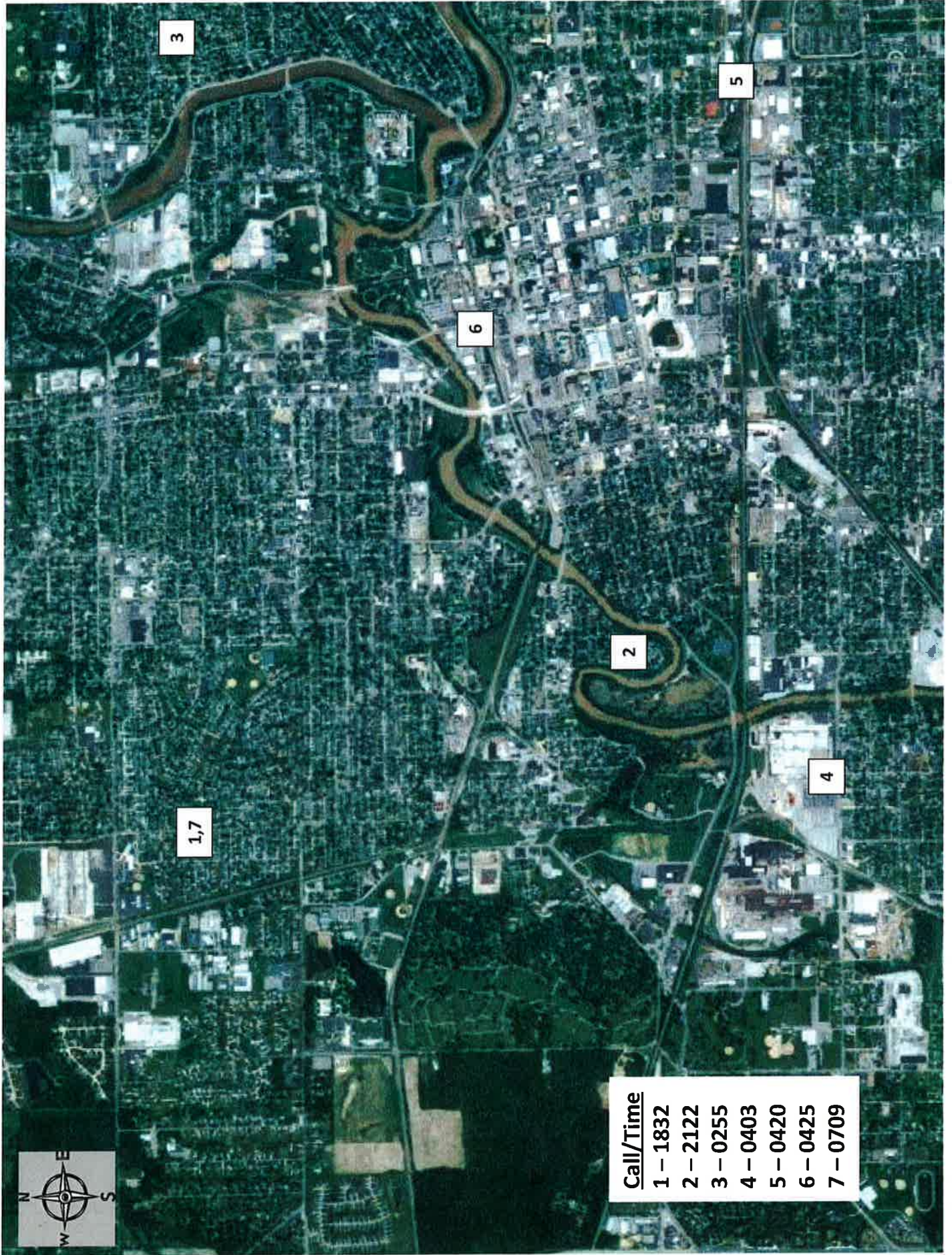


Exhibit #4

Call Date	Call Initiation Time	Cell Tower Location	Originating Number	Receiving Number	Call Duration
21 May 2012	1832	<i>Wilbarger</i>	555-987-6543	555-523-4567	00:42
21 May 2012	1837	<i>Wilbarger</i>	555-208-5599	555-523-4567	00:20
21 May 2012	1912	<i>Wilbarger</i>	555-523-4567	555-208-5599	4:11
21 May 2012	2026	<i>Shelter</i>	555-523-4567	555-987-6543	0:58
21 May 2012	2052	<i>Shelter</i>	555-208-5599	555-523-4567	1:35
21 May 2012	2122	<i>Shelter</i>	555-523-4567	555-789-3344	2:19
21 May 2012	2258	<i>Wilbarger</i>	555-523-4567	555-749-9211	07:57
22 May 2012	0032	<i>Wilbarger</i>	555-789-3344	555-523-4567	00:20
22 May 2012	0255	<i>Bandera</i>	555-987-6543	555-523-4567	00:20
22 May 2012	0403	<i>Depot</i>	555-789-3344	555-523-4567	00:20
22 May 2012	0420	<i>Warehouse</i>	555-987-6543	555-523-4567	00:32
22 May 2012	0425	<i>On the road</i>	555-789-3344	555-523-4567	00:20
22 May 2012	0709	<i>Wilbarger</i>	555-789-3344	555-523-4567	00:20
22 May 2012	0859	<i>Wilbarger</i>	555-208-5599	555-523-4567	00:20
22 May 2012	1107	<i>Police</i>	Private #	555-523-4567	00:20
22 May 2012	1312	<i>Police</i>	555-789-3344	555-523-4567	00:20
22 May 2012	1442	<i>Police</i>	555-208-5599	555-523-4567	00:20
22 May 2012	1508	<i>Police</i>	Blocked #	555-523-4567	00:20

Key:
Wilbarger = Wilbarger residence
Shelter = Animal Shelter
Bandera = Bandera residence
Depot = Crawford Truck Depot
Warehouse = McElhaney Warehouse
Police = Central sub-Station

Exhibit #5



<u>Call/Time</u>
1 - 1832
2 - 2122
3 - 0255
4 - 0403
5 - 0420
6 - 0425
7 - 0709

Exhibit #6



Exhibit #7



Exhibit #8

