

**STATE OF NEW MEXICO  
COUNTY OF SANTA FE  
FIRST JUDICIAL DISTRICT COURT**

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Santa Fe County  
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KATHLEEN VIGIL CLERK OF THE COURT  
Marina Sisneros

**STATE OF NEW MEXICO,  
Plaintiff,**

**No. D-101-CR-2024-0013**

**vs.**

**Judge Mary Marlowe Sommer**

**ALEXANDER RAE BALDWIN,  
Defendant.**

**STATE’S RESPONSE TO DEFENDANT’S MOTION TO DISMISS THE INDICTMENT  
WITH PREJUDICE BASED ON THE STATE’S DESTRUCTION OF EVIDENCE**

COMES NOW the State of New Mexico by and through Special Prosecutors Kari T. Morrissey and Erlinda O. Johnson, and hereby respectfully submits its response in opposition to Defendant Alexander Baldwin’s Motion to Dismiss the Indictment with Prejudice Based on the State’s Destruction of Evidence and in support thereof the State submits the following.

**INTRODUCTION**

***Events Leading up to October 21, 2021***

Some time before October 2021, Defendant Alexander Baldwin partnered with other producers to form Rust Productions, LLC. (Exhibit 1, Transcript, “TR”, from 12-8-21, OSHA interview of Defendant Baldwin, at pp. 8-9, 13) Defendant Baldwin executed two separate contracts—one as a producer and one as an actor. (*Id.* at p. 13) Production of the film started on a set in New Mexico in early October 2021. Defendant Baldwin arrived in New Mexico on October 11<sup>th</sup>. (*Id.* at p. 14) Defendant Baldwin stated that prior to October 21<sup>st</sup>, the firearm did not have any mechanical defects or problems. (*Id.* at p. 42) Between October 11<sup>th</sup> and 21<sup>st</sup>, the film set experienced safety concerns expressed by crew members, including two accidental

firearm discharges. (See Exhibit 5, Grand Jury TR at pp. 231-232) However, the accidental discharges did not involve defendant's firearm at issue in this matter.

### ***Events of October 21, 2021***

On October 21, 2021, after lunch, Defendant Baldwin was rehearsing a scene. Prior to the rehearsal, he was handed his firearm—the same firearm he had been using during filming. During the rehearsal, Defendant pulled the firearm from his holster and showed it to the director. (Exhibit 2, TR of Alec Baldwin interview on 10-21-21, p. 12) Defendant then cocked and pointed the gun. (*Id.*) The evidence gathered indicates that Defendant Pointed the gun at Halyna Hutchins, cocked and fired it, mortally wounding Ms. Hutchins. While the defendant claims the gun “went off”, the results of forensic testing of the firearm indicates that under the circumstances of October 21, 2021, on the set of Rust, that firearm could not have fired absent a pull of the trigger.

### ***Events After October 21, 2021***

After Ms. Hutchins was fatally shot, law enforcement was called to the set of Rust. When law enforcement officers arrived on scene, they seized evidence, including the revolver used by defendant during the filming and the fatal shooting of Ms. Hutchins. Almost immediately after mortally wounding Ms. Hutchins, Defendant disavowed any responsibility, claiming he did not pull the trigger and the gun just “went off.” However, the defendant never claimed that the gun had been modified or altered in any way. He simply claimed he did not pull the trigger.

In an effort to determine whether Defendant's claims that the gun discharged without a pull of the trigger, law enforcement officers with the Santa Fe County Sheriff's Department (SFCSD) requested assistance from the Federal Bureau of Investigation (FBI). (Exhibit 3, letter by Sheriff Mendoza to the FBI) The FBI laboratory agreed to conduct testing on the firearm and

other items of evidence. FBI Firearms and Toolmark Examiner Bryce Ziegler examined the revolver at issue in this case.

When Mr. Ziegler initiated the firearm examination, in April 2022, he spoke with FBI Agent Jose Cortez about the testing Mr. Ziegler was going to conduct on the firearm. (Exhibit 4, TR of Ziegler pretrial interview at p. 19) Mr. Ziegler first did a function test on the revolver to ensure it was operating correctly and that it had not been modified. (Defendant's exhibit E to motion to dismiss for destruction of evidence, at p. 31) Mr. Ziegler examined the safeties of the firearm. (*Id.*) When he went through the function evaluation everything appeared to be operating correctly. (*Id.* at 31, 22) He test fired the revolver 12 times. (*Id.* at 23) In addition, Mr. Ziegler did a variety of testing on the revolver to determine if it was feasible for the hammer in either the quarter cock or half-cock position to detonate the cartridge. (*Id.* at 32) Mr. Ziegler noted that if he put "the hammer in the quarter cock as well as the half-cock notch" and he squeezed the trigger hard enough and he allowed the hammer to fall, it was not feasible for the hammer to detonate the cartridge in those positions (*Id.* at 32)

Mr. Ziegler then told Agent Cortez about a test known as an accidental discharge test (*See* exhibit 4 at 24). An accidental discharge test would determine whether the revolver could discharge without a pull of the trigger. Although that test was not part of the original request by the Santa Fe County Sheriff's Department and FBI Agent Cortez, Mr. Ziegler explained the test to Agent Cortez. (Exhibit 4 at 19) Mr. Ziegler explained the caveats of the test to Agent Cortez who in turn explained the test to the sheriff's department detectives. (*Id.*) They decided to proceed with that test. (*Id.*) Mr. Ziegler explained that the "test is destructive" and there was a "chance that the firearm may become damaged or may no longer be functional." (*Id.*)

After he conducted all the other exams and tests on the revolver, Mr. Ziegler proceeded with the accidental discharge test. (*Id.* at 22) Mr. Ziegler followed FBI standard operating procedures (SOP) in conducting this test. (*Id.* at 22-23) The goal of the test was to determine if he could get the firearm to discharge without pulling the trigger. (*Id.* at 23) Mr. Ziegler followed the SOP in conducting this test. (*Id.* at 23-24) The accidental discharge test involved using a rawhide mallet to strike the firearm on six planes. (*Id.* at 24) Mr. Ziegler began by striking the hammer with the mallet when the hammer was in its resting position, the position where the hammer is resting on the firing pin. In this position the gun did fire without a pull of the trigger. Mr. Ziegler noted that “[T]his is consistent with normal operation for a single-action revolver of this design.” (Exhibit 6- Ziegler report page 4). Mr. Ziegler proceeded to strike the hammer when the gun was in the quarter-cock and half-cock positions but was unable to cause the gun discharge without a pull of the trigger. When he struck the hammer with the mallet while the hammer was in the full-cock position, it ultimately fractured the trigger sear and shaved off the full-cock notch of the hammer. (Defense Exhibit E at 33-35) Even when the components of the gun failed under the extreme stress of the mallet strikes, the gun did not fire without a pull of the trigger. Notably, according to Mr. Ziegler and Forensic Firearms and Toolmark experts Michael and Lucien Haag, when the revolver was received by the FBI, it was in working order. (Defendant’s exhibit E to Motion to Dismiss at p. 31; Defendant’s exhibit A to Motion to Dismiss at 70-72)

Importantly, according to Expert Lucien Haag, when examining the hammer of the revolver under a microscope, it is evident that the full-cock notch was broken away, “beaten away or knocked away. (Defendant’s exhibit A at 78) The damage to the trigger and the hammer were caused by the impacts to the hammer. (*Id.* at 78-79) That is further corroborated by the



“very rough tool marks” on the full cock notch of the hammer Mr. Haag was able to observe under the microscope. (*Id.* at 79) According to Mr. Haag, there is no evidence that the full-cock hammer notch had been filed or modified. (*Id.* at 80, 82) Contrary to the defendant’s claim, the full-cock hammer notch was not rounded off, it was broken off during the testing at the FBI. (*Id.* at 82)

To further illustrate the fallacy in the defendant’s claim that the revolver had been altered or damaged prior to October 21, 2021, Messrs. Luke and Michael Haag conducted specific testing on the firing pin impression on the primer on the cartridge of the fired bullet that killed Ms. Hutchins. Based on their testing, the hammer had to have been in the full cock position at the time the gun was fired, killing Halyna Hutchins. (Defendant’s exhibit G to Motion to Dismiss at p. 25) If the hammer had been modified prior to the FBI receiving the gun, it would not have stayed in the full cock position as demonstrated by the Haag videos from their examination in August 2023. If defendant’s claim that the full-cock notch had been modified prior to October 21, 2021, were true, the hammer would not have remained in the full cock position, and it would not have left a firing pin impression on the primer that measures from the full-cock position. (Defendant’s Exhibit A at p. 100) Contrary to defendant’s protestation, on October 21, 2021, the revolver had to have functioned normally with an undamaged hammer and Defendant Baldwin had to pull the trigger. (*See id.* at p. 102-103)

The notion that defendant’s gun had been modified and not working properly prior to its seizure by law enforcement was not only refuted by firearms and toolmark forensic experts but also by the defendant. Indeed, he told the OSHA investigator, “I had used that gun before, I didn’t have a problem.” (Exhibit 1, TR. of OSHA interview at p. 42) On October 21, 2021, at approximately 1:30 p.m., while rehearsing a scene, Defendant pulled out his revolver, containing

a live bullet. He cocked it, pointed it at Halyna Hutchens and pulled the trigger. The live bullet struck Ms. Hutchins and Joel Souza. Ms. Hutchens died from the gunshot wound.

Defendant now seizes on the fracture to the trigger sear and the reduction of the full-cock hammer notch caused by the accidental discharge test conducted by the FBI, to argue that he has been deprived of exculpatory evidence, thus resulting in a violation of his right to due process. First, defendant's representation that other parts of the revolver "showed unrelated alterations and damage," inconsistent with the FBI testing is based on rank speculation unsupported by the most miniscule shred of evidence. Second, defendant's fantastical argument that the state of New Mexico acted in bad faith because it is on a myopic quest to prosecute a celebrity and that is why law enforcement damaged the gun, thereby depriving him of exculpatory evidence is simply fictional. In fact, it is telling that defendant could not find a credible expert who would support his theory that the revolver's parts had been altered or modified prior to October 21, 2021. Accordingly, Defendant's motion must be denied without a hearing.

### **ARGUMENT**

#### **I. Defendant's Right to Due Process was not Violated by the Fracture to the Trigger Sear and Reduction to the Full-Cock Hammer Notch of the Firearm which Resulted from the Accidental Discharge Test.**

A due process violation occurs when the government fails to preserve constitutionally material evidence. *California v. Trombetta*, 467 U.S. 479, 488 (1984). Under *Trombetta*, the government violates a defendant's right to due process when: (1) it destroys evidence whose exculpatory significance is apparent before destruction; and (2) the defendant remains unable to obtain comparable evidence by other reasonably available means. *Trombetta*, 467 U.S. at 489. "To invoke *Trombetta*, a defendant must demonstrate that the government destroyed evidence possessing an "apparent exculpatory value." *United States v. Bohl*, 25 F.3d 904, 910 (10th Cir.

1994) (quoting *California v. Trombetta*, 467 U.S. at 489). This means that the evidence must be actually exculpatory, and not merely evidence that could potentially be exculpatory. *Id.* (emphasis added).

“The mere possibility that lost or destroyed evidence could have exculpated a defendant is not sufficient to satisfy *Trombetta*’s requirement that the exculpatory value be ‘apparent’ to the police before destruction.” *United States v. Parker*, 72 F.3d 1444, 1451 (10th Cir. 1995).

Additionally, even when critical evidence is destroyed, a *Trombetta* claim will fail at the second step of the test when the defendant “enjoy[s] at least one other means for obtaining comparable evidence — namely, by calling and questioning the witnesses to the event.” *United States v. Ludwig*, 641 F.3d 1243, 1254 (10th Cir. 2011); *see also*, *United States v. Parker*, 72 F.3d 1444, 1452 (10th Cir. 1995) (“Defendants had a readily available source to replace the missing video tape — [the officer’s] testimony . . . and their own testimony of the events.”)

Here, the Defendant’s Motion to Dismiss fails to point to any evidence sufficiently definite, specific, detailed and nonconjectural, demonstrating that the firearm is exculpatory or potentially exculpatory. The Defendant argues in his Motion to Dismiss that the firearm’s condition on October 21, 2021, contained apparent exculpatory value because the defendant did not pull the trigger. However, simply claiming he did not pull the trigger is not sufficient to show the firearm had exculpatory value. The defendant’s current claims that some parts of the firearm showed signs of “alterations and damage” not consistent with the mallet strikes employed during the accidental discharge test are unsupported by any shred of evidence, are pure conjecture and do not arise to the level of a *Trombetta* violation. *See United States v. Martinez*, 744 F.2d 76, 79-80 (10th Cir. 10984). When the defendant stated he did not pull the trigger, there simply was no way for law enforcement to divine that he actually meant the gun had been altered and modified,

thereby causing it to discharge on its own. The reality is that defendant's claims that the gun was modified prior to October 21, 2021, only surfaced after gun parts were damaged by the accidental discharge testing at the FBI lab.

Defendant Baldwin has simply failed to meet the requirements under *Trombetta*. Other than conjecture, there is no evidence the firearm had exculpatory significance before parts of it were damaged pursuant to the FBI's accidental discharge examination. The defendant's belated and unsupported claims that parts of the hammer notch show it was smooth and rounded "and show file marks—none of which is consistent with damage caused by a mallet", do not transform the firearm into an exculpatory piece of evidence. To the contrary, the firearm is the most damning piece of evidence against the defendant. Notably, by his own admission, the firearm was working properly in the days leading up to the shooting of Ms. Hutchins. (See Exhibit 1 at p. 42) Additionally, the FBI firearms examiner confirmed defendant's admission as the firearm was test fired 12 times when it was received at the FBI lab, and it fired properly. (See Defendant's exhibit E at pp. 22-23, 31) There was nothing about the defendant's contrived claim that he did not pull the trigger that renders the firearm exculpatory when all the evidence demonstrates the firearm was working properly and showed no signs of malfunction on October 21, 2021, or on the days leading up to October twenty-first. Accordingly, the defendant has failed to establish the first prong of the *Trombetta*, test.

Even if the Court were inclined to find that the defendant's claims that he did not pull the trigger give the firearm apparent exculpatory significance, the defendant's argument under *Trombetta*, still fails because the defendant is able to obtain comparable evidence by other reasonably available means. In fact, Forensic Firearms and Toolmarks Expert Lucien Haag conducted testing of the firearm utilizing the original hammer with the reduced full-cock

hammer notch. The only new part inserted was a new trigger from an exact revolver make and model. According to Mr. Haag, with the original hammer and new trigger the firearm could not be discharged absent the pull of the trigger. (See Defendant's exhibit G at p.25; Defendant's exhibit A at pp. 94-96) Additionally, defendant is able to cross examine the FBI firearms examiner who conducted the accidental discharge test that resulted in the fracture to the trigger sear and the reduction to the full-cock hammer notch, therefore, defendant fails to satisfy the second prong of the *Trombetta* test. See *Ludwig*, 641 F.3d at 1254.

**A. The Firearm Did not have Apparent Exculpatory Value**

The defendant cannot show, and does not even try to show, that the condition of the firearm before some of its parts were damaged during accidental discharge testing was exculpatory, much less "apparently exculpatory". To show that the evidence possessed exculpatory value that was apparent, a defendant must show something more than the evidence was potentially useful to the defense. *United States v. Parker*, 72 F.3d 1444, 1451 (10th Cir. 1995). The mere possibility that evidence could have been tested and the result might have exonerated the defendant had it been preserved, is not sufficient to satisfy the constitutional materiality standards set out in *Trombetta*. *Arizona v. Youngblood*, 488 U.S. 51, 56 n.7 (1988). Compare *United States v. Bohl*, 25 F.3d 904, 911 (finding violation occurred where defendant supported contention that destroyed evidence possessed potentially exculpatory value with objective, independent evidence), with *United States v. Martinez*, 744 F.2d 76, 79-80 (10th Cir. 1984) (holding that destruction of evidence did not rise to level of *Trombetta* violation when defendant's contention that lost evidence contained exculpatory value was "based purely on speculation and conjecture").

As the Supreme Court has stated, “the possibility that the samples could have exculpated respondent if preserved or tested is not enough to satisfy the standard of constitutional materiality in *Trombetta*.” *Youngblood*, 588 U.S. at 56; *see also United States v. Turner*, 287 Fed. Appx. 426, 432 (6th Cir. 2008)(government's destruction of boot print from bank robbery did not violate defendant's due process rights since alleged exculpatory nature of print was not apparent before its destruction and destruction occurred before defendant was indicted).

Here, the exculpatory value of the firearm in its condition on October 21, 2021, is indeterminate and if one were to afford defendant's claims some credibility, the firearm is useful at best. Although the defendant presents his own version of the events, he presents no objective evidence regarding the actual signs of alteration and modification he so vociferously contends existed on October 21, 2021. This is a critical distinction. Assuming, *arguendo*, that the firearm contained some file marks and smoothed parts on October 21, 2021, the defendant failed to present any evidence that the smoothed parts and file marks actually caused the revolver to discharge without a pull of the trigger. This is fatal to Defendant's claim as it is the defendant's burden to make this basic showing. *See Bohl*, 25 F.3d at 910. Nor can the defendant show how, again assuming the defendant's version is true, the “file marks” or smoothed parts would serve as direct evidence that he did not pull the trigger when defendant shot and killed Ms. Hutchins on October 21, 2021. *See, e.g., Arizona v. Youngblood*, 488 U.S. 51, 68 (1988) (Blackmun, J., dissenting) (drawing a distinction between the potential impeachment value of evidence in *Trombetta* and the potentially exonerating evidence in *Youngblood*). Instead, the defendant hides pure speculation behind audacious statements. Motion to Dismiss at 3 (“The surviving evidence shows that those parts were smoothed and rounded and show file marks—none of which is

consistent with damage caused by a mallet) 9 (“while some parts exhibited damage consistent with the mallet strikes, other parts showed unrelated alterations and damage”).

Additionally, in his motion, Defendant Baldwin makes the bold and unsupportable statement that: “There is a strong basis to believe that, before the accident, the sear and hammer had been modified, making an accidental discharge more likely.” (Motion to Dismiss at p. 11) First, the defendant not only fails to demonstrate any evidence that the sear and hammer had been modified prior to October 21, 2021, he absolutely fails to support his claim that the modifications he argues existed prior to October 21st made an accidental discharge more likely.

The State’s evidence will be that during the shooting of the Rust film, defendant Baldwin was assigned the revolver at issue in this case. He not only attended a brief training session on October 12, 2021, he also shot several scenes with that same revolver over a period of several days, without incident. On October 21, 2021, he rehearsed with the revolver in the set’s makeshift church. During that rehearsal, witnesses observed the defendant with his finger on the trigger of the revolver. After lunch, the defendant returned to the church to rehearse once again. At least one witness observed his finger on the trigger. It was during this rehearsal that the defendant cocked the revolver and pulled the trigger ejecting the round that hit and killed Halyna Hutchins.

Almost immediately after the incident, the defendant began to release his self-serving statement that he had not pulled the trigger. However, defendant’s claim is belied not only by his own admissions that the gun worked without issue on the days before October 21st (*see* exhibit 1 at p. 42) but also by the 12 instances during which the revolver was subsequently test fired by the FBI examiner who conducted the accidental discharge test. (Exhibit 4 at p. 23) Therefore, the

defendant has failed to show the gun had apparent exculpatory significance before certain parts thereof were damaged by the FBI's testing.

**B. Defendant has Failed to Prove the Second Prong of the *Trombetta* Test Because Defendant Baldwin has not Shown That Comparable Evidence is Not Reasonably Available.**

*Trombetta* requires the police to preserve “clearly exculpatory evidence” in their possession that might not be available to the defendant through other means. *Trombetta*, 467 U.S. at 489; *United States v. Gomez*, 191 F.3d 1214, 1218 (10th Cir. 1999). In order to establish a due process violation under *Trombetta*, in addition to showing that the items destroyed had exculpatory significance that would have been “apparent” before their destruction, the defendant must show that the destroyed evidence was “of a nature that the defendant would be unable to obtain comparable evidence by other reasonably available means”. *See Trombetta*, 467 U.S. at 488; *Gomez*, 191 F.3d at 1218. Defendant Baldwin has failed to show that the condition of the firearm on October 21, 2021, was either “clearly exculpatory” in appearance to the officers at the scene as well as the FBI firearms examiner and that the item was “of such a nature that the defendant would be unable to obtain comparable evidence by other reasonably available means.”

While the revolver's trigger sear fractured and the full-cock hammer notch diminished during the accidental discharge test, the defendant still has the ability to obtain comparable evidence by other reasonable means. For example, defendant is able to cross examine Mr. Ziegler about the accidental discharge test that led to the damage to the firearm. Defendant is also able to cross examine Lucien Haag about his numerous tests conducted with exact duplicate trigger parts and the original hammer. Accordingly, the defendant has failed to meet the second prong of the *Trombetta* test. *See Ludwig*, 641 F.3d at 1254.



**II. The *Youngblood* Test was Not Met by Defendant Baldwin, Because the Evidence Was Not “Potentially Useful” to the Defense, and Defendant Has Not Shown Bad Faith on the Part of the Officers and the FBI Firearms Examiner who Did the Accidental Discharge Test that Resulted in the Fracture to the Trigger Sear and the Diminution to the Full-Cock Hammer Notch.**

In cases where the exculpatory value of the evidence is indeterminate and all that can be confirmed is that the evidence was potentially useful for the defense, a defendant must show that the government acted in bad faith in destroying the evidence. *United States v. Bohl*, 25 F.3d 904, 910 (10th Cir. 1994). The inquiry into bad faith must necessarily turn on the government’s knowledge of the exculpatory value of the evidence at the time it was lost or destroyed. *Arizona v. Youngblood*, 488 U.S. 51, 58 (1988). Pursuant to the Supreme Court, unless a criminal defendant can show bad faith on the part of the police, failure to preserve potentially useful evidence does not constitute a denial of due process of law. *Illinois v. Fisher*, 540 U.S. 544, 548 (2004); *United States v. Ray*, 899 F.3d 852, 863 (10th Cir. 2018).

In *Arizona v. Youngblood*, the United States Supreme Court found no due process violation (requiring reversal of defendant’s conviction) due to the failure of the police, in investigating the alleged sexual assault of a ten-year-old boy, to refrigerate the boy’s clothing or to perform tests on semen samples taken from the boy by a doctor after the incident. *Id.* at 53-54. The Arizona Court of Appeals had reversed Youngblood’s conviction on the grounds that the State had breached the constitutional duty to preserve the semen samples taken from the victim’s body and clothing. *Id.* at 54. At Youngblood’s trial, expert witnesses testified that the defendant might have been completely exonerated by timely performance of tests on properly preserved semen samples. *Id.* Youngblood was convicted of child molestation, sexual assault and kidnapping in an Arizona court. Nevertheless, the United States Supreme Court held that absent a finding of bad faith on the part of the police, there was no Due Process constitutional right to

have the semen tests performed or the clothing and semen samples preserved, since those facts were made known to the defendant before trial, and a Tucson Police Department criminologist tested the items but was unable to identify anyone from the tests of the semen samples taken from the boy or from his clothing. *Id.* at 58.

The *Youngblood*, Court noted, “unless a criminal defendant can show bad faith on the part of the police, failure to preserve potentially useful evidence does not, constitute a denial of due process of law.” 488 U.S. at 58; *see also Bullock v. Carver*, 297 F.3d 1036, 1056 (10th Cir. 2002); *United States v. Gomez*, 191 F.3d at 1219. Here too, defendant Baldwin has failed the *Youngblood* tests. Not only has defendant Baldwin failed to show that the revolver’s condition on October 21, 2021, would have been “potentially useful,” but he has completely failed to show that the State acted in bad faith when it subsequently damaged the revolver during accidental discharge testing. The accidental discharge test that led to the damage to the trigger sear and the full-cock hammer notch was conducted in accordance with an established FBI procedure and therefore, this Court is precluded from finding bad faith, absent other compelling evidence. *Gomez*, 191 F.3d at 1219 (quoting *United States v. Deaner*, 1 F.3d 192, 202 (3rd Cir. 1993)).

The U.S. Court of Appeals for the Tenth Circuit has held that the following five factors bear on the inquiry into bad faith:

(1) whether the government had explicit notice that [the defendant] believed the [evidence] was exculpatory; (2) whether the claim that the evidence is potentially exculpatory is conclusory, or instead backed up with objective, independent evidence ...; (3) whether the government could control the disposition of the evidence once [the defendant] indicated that it might be exculpatory; (4) whether the evidence was central to the case; and (5) whether the government offers any innocent explanation for its disposal of the evidence.

*United States v. Simpson*, 845 F.3d 1039, 1059 (10th Cir. 2017) (internal quotation marks omitted). It is the defendant's burden to demonstrate that the government acted in bad faith. See *United States v. Pedraza*, 27 F.3d 1515, 1527 (10th Cir. 1994). The “inquiry into bad faith ‘must necessarily turn on the [government's] knowledge of the exculpatory value of the evidence at the time it was lost or destroyed.’” *Bohl*, 25 F.3d at 911 (alterations in original) (*quoting Arizona v. Youngblood*, 488 U.S. at 57). “[T]he district court's determination regarding bad faith is a mixed question of fact and law, in which the quintessentially factual question of intent predominates....” *United States v. Richard*, 969 F.2d 849, 853 (10th Cir. 1992)(internal quotations omitted). “[M]ere negligence on the government's part in failing to preserve such evidence is inadequate for a showing of bad faith.” *Bohl*, 25 F.3d at 912 (*citing Arizona v. Youngblood*, 488 U.S. at 58). “[F]ailure to use best practices in preserving evidence is not sufficient, by itself, to establish bad faith.” *United States v. Gutierrez*, 415 Fed.Appx. 870, 875 (10th Cir. 2011) (unreported).

In this case, first, the defendant never once before the filing of his motion to dismiss notified the State that the gun malfunctioned prior to and on October 21, 2021. A claim that he did not pull the trigger is not equivalent to notification to the state that the gun had been altered and was malfunctioning prior to October 21, 2021. Second, the fracture to the trigger sear and the diminution of the hammer's full-cock notch which occurred during the FBI's accidental discharge test, was exculpatory of nothing relevant to the charge defendant Baldwin is facing in the Indictment that he seeks to have dismissed. Contrary to the defendant's contention, the firearm worked without issue prior to October 21, 2021. (Exhibit 1 at p. 42; Defendant's exhibit E at pp. 31, 22; Defendant's exhibit A at pp. 102-103) The defendant does not present any objective evidence to substantiate his bold claims that the gun was altered and modified prior to

the date he shot Halyna Hutchins. It is important to note the accidental discharge test was conducted only after the defendant made claims that he had not pulled the trigger. (*See* exhibit 5 at p. 58) Therefore, the FBI Firearms Examiner suggested conducting an accidental discharge test to determine whether the revolver could discharge without a pull of the trigger. (*see* Exhibit 4 at p. 19, 24) FBI Examiner Ziegler told the Santa Fe County Sheriff's Detective and FBI Agent Cortez that there were possible caveats to conducting the accidental discharge test, (*see* exhibit 4 at p. 19) in that the test could damage the gun. While the test was nonetheless conducted, it was done so pursuant to FBI standard operating procedure. (*see id.* at pp. 22-24)

The State elected to have the FBI conduct the test to determine whether defendant's claim that he had not pulled the trigger was even feasible. The test that resulted in the damage to certain parts was not conducted to destroy "exculpatory" or "potentially exculpatory" evidence. It was a test, among several, that was conducted according to FBI procedure. The fact that the test damaged certain revolver parts does not transform the revolver into potentially useful evidence—let alone exculpatory evidence.

Moreover, Defendant's claims that law enforcement should have known the firearm's potential exculpatory value because there had been a previous accidental discharge on set and a rifle that had been used during the filming was found by officers to be jammed, are misleading. First, the accidental discharge that occurred on October 16, 2021, involved the props master and a completely different firearm. (Exhibit 5, at pp. 231-233) The jammed rifle involved a cartridge that was stuck in the gun. While the rifle was jammed, there is a difference between a jam and a malfunction. (Defendant's exhibit A at pp. 34-35) Without having his own expert in forensic firearms and toolmarks examine the revolver used to shoot Ms. Hutchins and declare that it was altered before October 21, 2021, Defendant cannot demonstrate the firearm was altered or

modified prior to October 21<sup>st</sup>. Therefore, the firearm had no potential useful value. Even if this Court finds the firearm had potential useful value, in order to find a due process violation, the Court must also find the State acted in bad faith in damaging the firearm. *See United States v. Youngblood*, 488 U.S. at 58.

Defendant bears the burden of showing bad faith on the part of the State when the firearm was damaged. *United States v. Fleming*, 19 F.3d 1325, 1331 (10th Cir. 1994) (citing: *United States v. Molina-Cuartas*, 952 F.2d 345, 349-50 (10th Cir. 1991)). “Mere negligence on the Government's part in failing to preserve such [potentially useful] evidence is inadequate for a showing of bad faith.” *United States v. Parker*, 72 F.3d 1444, 1451 (10th Cir. 1995). Defendant Baldwin has wholly failed to show “bad faith” on the part of the State as a result of the damage to the revolver when the accidental discharge test was conducted, pursuant to FBI procedure.

In *Youngblood*, the United States Supreme Court distinguished between “potentially useful” evidence and “materially exculpatory” evidence. 488 U.S. at 58. The court held that “unless a criminal defendant can show bad faith on the part of the police, failure to preserve potentially useful evidence does not constitute a denial of due process of law.” 488 U.S. at 58. Given the fact that Defendant Baldwin cannot show that officers damaged the firearm for the sole purpose of depriving defendant of exculpatory evidence, Defendant cannot demonstrate that law enforcement officers acted in bad faith. In fact, the defendant has been unable to show the firearm was modified and not working properly during the days leading up to October 21, 2021. Therefore, the firearm is simply not exculpatory evidence or potentially useful evidence damaged by the FBI during the testing. Even if it had some potential useful value, the damage caused during testing does not rise to a due process violation because the defendant has not demonstrated bad faith.

The cases relied upon by the Defendant in his motion to dismiss the indictment are not binding authority for this court and can easily be distinguished. For example, in *United States v. Cooper*, 983 F.2d 928 (9th Cir. 1993), the defendants owned a small chemical laboratory and obtained a contract to manufacture dextran sulfate. *Id.* at 929. The DEA suspected the lab was being used to manufacture methamphetamine. A search warrant was executed at the laboratory and the DEA concluded that it was an operational methamphetamine lab. *Id.* DEA policy mandated the destruction of hazardous materials when dismantling clandestine labs. DEA determined that most of the glassware and equipment should be seized and destroyed because it might be contaminated. *Id.* at 930. Pursuant to DEA policy, the removal and destruction was assigned to a private waste disposal company under contract with the DEA. The defendants claimed that the lab equipment was used to manufacture naval jelly and dextran sulfate and requested the return of the equipment. *Id.* Instead, the equipment was shipped to a toxic waste dump for burial. *Id.*

The defendants moved to dismiss the indictment arguing the government violated their due process rights by its bad faith destruction of potentially exculpatory evidence. *Id.* at 931. The district court granted the motion and the government appealed. *Id.* Unlike the present case, the government in *Cooper*, did not challenge the district court's conclusion that the equipment's exculpatory value was apparent before its destruction. *Id.* at 931-32. Nor did the government challenge the district court's conclusion that the police acted in bad faith by allowing the equipment to be destroyed while assuring the owner of the laboratory and his attorney that it was being held as evidence. *Id.* The government argued that the defendants were able to obtain comparable evidence by other reasonably available means. *Id.* at 933. The court stated that there was no adequate substitute for the laboratory equipment and the defendants had no comparable,

alternative means of defending themselves against testimony from government witnesses about the lab. *Id.*

In the present case, the condition of the firearm on October 21, 2021, had no apparent exculpatory value. The defendant did not notify the State that he had evidence that prior to October 21, 2021, the firearm had been modified. Therefore, the FBI and SFCSD did not act in bad faith when certain parts of the revolver were damaged during standard accidental discharge testing by the FBI, in accordance with FBI standard operating procedure. Moreover, the defendant has an adequate substitute for comparable evidence. Not only are the relevant witnesses available for cross examination, but also the parts that fractured are readily replaceable as the firearm manufacturer makes identical replacement parts that could be inserted into the revolver as demonstrated by Lucien Haag. (Defendant's exhibit A at p. 83, 92-96)

In *United States v. Bohl*, 25 F.3d 904 (10th Cir. 1994), the defendants built radio transmission towers for the Federal Aviation Administration. The defendants were indicted for using steel that did not meet industry standards in strength. *Id.* at 907. When a leg on one of the towers fractured, the FAA conducted tests on the item which revealed excess levels of carbon and manganese in the sampled steel. *Id.* The towers were destroyed.

The Court found that Bohl had failed to meet the first prong of the *Trombetta* test as the exculpatory value of the evidence was not apparent. *Id.* at 910. The Court then went on to evaluate the destruction of evidence under *Youngblood v. Arizona*, *supra*. *Id.* In determining whether the government acted in bad faith, the court noted that the government was explicitly placed on notice that the defendants' belief that the tower legs were potentially exculpatory was not merely conclusory, but instead was backed up with objective, independent evidence giving

the government reason to believe that further tests on the leg might lead to exculpatory evidence. *Id.*

At the time the government disposed of the evidence, it had received substantial independent evidence suggesting that its tests of the steel might have been flawed and that the steel might, in fact, have conformed to the contract specifications. *Id.* at 911. The government was placed on notice the tower legs were potentially exculpatory. *Id.* However, the government destroyed the tower legs and failed to offer an innocent explanation for its failure to preserve the steel which formed the core of its criminal case against the defendants. *Id.* at 911-912. The government did not contend that the towers were destroyed inadvertently or negligently or pursuant to standard procedure before it knew of their potential exculpatory nature. *Id.* at 913. The court therefore concluded that absent any innocent explanation offered by the government, the facts gives rise to a logical conclusion of bad faith. *Id.*

Nevertheless, the court in *Bohl* noted:

Moreover, courts have held that the government does not necessarily engage in bad faith conduct when the destruction of evidence results from ***a standard procedure employed by the governmental department or agency regarding the disposal*** of like evidence, at least then there is adequate documentation of the destroyed evidence. *United States v. Gibson*, 963 F.2d 708, 711 (5th Cir. 1992) (United States Border Patrol agents “routinely” destroy seized controlled substances 60 days after informing the United States Attorney about the seizure, pursuant to agency procedure); *United States v. Belden*, 957 F.2d 671, 673-73 [sic] (9th Cir.) (cutting of marijuana plants pursuant to routine practice due to lack of storage capacity does not rise to the level of bad faith), *cert denied* 506 U.S. 882 (1992).

25 F.3d at 912-913.

In the present case, the damage to the firearm was negligent, at worst. However, the State has offered an innocent explanation for the damage to certain revolver parts which occurred during a standard test conducted pursuant to FBI policy, standard operating procedures, regulations for conducting accidental discharge testing and the defendant offered no objective,



independent evidence giving the State reason to believe that the revolver had been altered prior to October 21, 2021. Accordingly, defendant's right to due process was not violated by the damage to the revolver.

In *United States v. Belcher*, 762 F.Supp. 666 (W.D. Va. March 13, 1991), while the Court found a due process violation based on the destruction of suspected marijuana plants, *id.* at 672-73, it only reached that holding because the government had failed to perform any testing on the suspected marijuana and the plants were no longer available to the defendant. *Id.* at 672. Unlike the law enforcement officer in *Belcher*, in this case, law enforcement conducted several tests and examination of the revolver before employing the accidental discharge test which damaged parts of the revolver. Additionally, the revolver and the parts that were damaged during the testing are available to the defendant.

In *United States v. Dennison*, 2014 WL 7140044 (D. UT. Dec. 12, 2014), the Court found a due process violation under *Trombetta*, because the defendant was able to demonstrate through objective evidence that the computer hard drives which were destroyed by the government contained exculpatory evidence as the defendant's co-defendant, turned government's key witness, Sandra Hernandez, initially admitted that she, acting on her own, coached patients to lie about their immigration status on forms she provided to them, thereby committing health care fraud. *Id.* at \*\* 1, 4. Dennison was able to show that the forms on the destroyed computers were in Spanish and had been created and modified by Hernandez. *Id.* at \*5. Dennison was also able to show that the files on the destroyed computer would have demonstrated that she did not create or modify the files. *Id.* Unlike the facts in *Dennison*, in this case, Defendant Baldwin is unable to demonstrate through objective evidence that the revolver had been modified and altered prior to

October 21, 2021. Therefore, he is not able to prove the revolver as it existed on October 21, 2021, was exculpatory or had exculpatory value.

Other courts have refused to reverse, on due process grounds, the convictions of defendants who claimed the Government destroyed or lost exculpatory or “potentially useful” evidence. *United States v. Fleming*, 19 F.3d 1325 (10th Cir. 1994) [allegations by the defendant that the Government destroyed a handwritten statement by one of the Government's key trial witnesses that would have been exculpatory towards the defendant, thus prohibiting the defendant from using it to impeach the Government's witness at trial]; *United States v. Parker*, 72 F.3d 1444 (10th Cir. 1995) [defendant's allegations that the State purposely recorded over a portion of a video tape of a traffic stop that might have exculpated the defendants, and that such bad faith conduct warranted dismissal of the indictment, rejected on the grounds that the defendant had not shown that the evidence destroyed had any exculpatory value that was apparent to the police before the evidence was destroyed, (2) was of a nature that defendant would be unable to obtain comparable evidence by other reasonably available means, and (3) that the defendant had not shown bad faith under *Youngblood*.]; *United States v. Harges*, 128 F.3d 1358 (10th Cir. 1997).

In this case, defendant's wholly speculative claims that the firearm was modified and altered prior to October 21, 2021, are simply unsupported by any evidence and therefore, the firearm is neither exculpatory nor potentially useful evidence for the defendant. And even if the firearm was potentially useful evidence, there was no bad faith when the FBI firearms examiner damaged the gun during the accidental discharge testing, pursuant to FBI procedure. The defendant's additional wholesale complaints that the State has acted in bad faith because it initially charged the defendant under a statute not enacted until after the shooting of Ms.

Hutchins and because the state has allegedly engaged in an unethical press campaign are not relevant to this motion and must not be considered by this court. Simply, there is no evidence of law enforcement bad faith. Therefore, the defendant's argument pursuant to *Youngblood*, must also fail.

### **III. The Accidental Damage to the Firearm During Testing did not Result in a Violation under New Mexico Law.**

New Mexico courts apply a three-part test for determining what sanction, if any, or remedy is appropriate when the State loses, destroys, or fails to preserve evidence. *See States v. Ware*, 1994-NMSC-091, ¶ 15, 881 P.2d 679; *State v. Chouinard*, 1981-NMSC-096, ¶16, 634 P.2d 680. In *Chouinard*, the New Mexico Supreme Court adopted the following three-part test courts must employ when evaluating the loss or destruction of evidence: (1) Whether the State breached a duty or intentionally deprived the defendant of evidence; (2) the materiality of the lost or destroyed evidence; and (3) whether the defendant suffered prejudice as a result of the absence of the material evidence. *See id.* at ¶ 16.

Where the state shows it did not act in bad faith, the defendant must show materiality and prejudice which must be determined on a case-by-case basis. *Chouinard*, at ¶ 24. It is important to note that there must be a "realistic basis, beyond extrapolated speculation, for supposing that availability of the lost evidence would have undercut the prosecution's case" *State v. Chouinard*, 1981-NMSC-096, ¶ 26, 634 P.2d 680, 685; *State v. Bartlett*, 1990-NMCA-024, ¶¶ 6-9, 789 P.2d 627, 629; *State v. Duarte*, 2007-NMCA-012, 149 P.3d 1027.

In *Duarte*, the state lost a videotape showing the defendant taking a second set of field sobriety tests, and the defendant moved to suppress all evidence that the videotape may have impeached or for dismissal of the charge. Applying *Chouinard*, this Court held that the defendant was not prejudiced by the loss of the videotape. *Duarte*, 2007-NMCA-012, ¶¶ 9-11, 149 P.3d

1027. The Court reasoned that defendant was not prejudiced because (1) the defendant was able to cross-examine the officer about the lost video and to argue its significance to the jury, including attacking the officer's credibility and reliability; (2) the defendant had the officer's report at his disposal and the report contained information relating to the field sobriety tests; and (3) there was other evidence of the defendant's guilt including his breath alcohol content reading. *Id.* ¶ 11.

In this case, Defendant Baldwin has failed to demonstrate that the State intentionally deprived him of evidence. Prior to conducting the accidental discharge test that eventually damaged parts of the firearm, law enforcement carefully documented and recorded the revolver's condition, pre-test, by photographing it, examining it and test firing it. All the tests conducted before the accidental discharge test revealed that the firearm was functioning properly. Those findings were corroborated by the defendant's own admission that prior to October 21, 2021, the revolver did not show any signs of mechanical defects and had been working without issue. (Exhibit 1 at p. 42) Accordingly, the State did not intentionally deprive defendant of the gun in its October 21, 2021, condition when it subjected it to accidental discharge testing.

Additionally, defendant has not shown the gun's condition on October 21, 2021, is material to his defense. New Mexico courts have defined "material" as a "reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." *State v. Fero*, 107 N.M. 369, 371, 758 P.2d 783 (1988) (quoting *United States v. Bagley*, 473 U.S. 667, 682 (1985)). Here, the gun's condition on October 21, 2021, is not material to the defendant because other than a self-serving statements that he did not pull the trigger and the gun just "went off", the defendant has not presented any objective evidence that shows the gun was modified or altered prior to October 21, 2021. Those claims are based on pure

conjecture, and not supported by objective evidence. Accordingly, the defendant has failed to meet the second prong of the *Chouinard*, test. See 1981-NMSC-096, ¶ 26. Finally, defendant Baldwin has failed to demonstrate that he suffered prejudice as a result of the damage that occurred to parts of the firearm during the accidental discharge test. When a defendant can vigorously cross-examine the state's witnesses about the destroyed evidence and what the defense believes it could have shown, the defendant fails to demonstrate prejudice as a result of the destruction of evidence. *State v. Reed*, 2013-NMCA-089, ¶¶ 32-34, 308 P.3d 1000 (when defendant has other means to point out issues between the destroyed or lost evidence and the evidence that is available defendant is not prejudiced by the lost evidence). Accordingly, defendant Baldwin has failed to meet the three-part *Chouinard*, test and dismissal is not appropriate. Indeed, it is important to note that dismissal is an extreme sanction and not a proper remedy without a showing that the defendant "will be deprived of a fair trial if ... tried without the missing evidence." *State v. Bartlett*, 1990-NMCA-024, ¶ 4, 789 P.2d 627, 628–29.

Defendant's request for dismissal with prejudice is unsupported by the law and not proper given the fact that the defendant still has access to the gun, the damaged parts and can vigorously cross-examine the FBI firearms examiner, the State's forensic firearms and toolmarks expert and Detective Hancock. Accordingly, defendant's motion fails both under the U.S. Supreme Court due process analysis and New Mexico's analysis for lost or destroyed evidence. As such, this Court must deny defendant's motion without a hearing.

Wherefore, for the foregoing reasons the State of New Mexico respectfully requests this Court deny Defendant's Motion to Dismiss for Destruction of Evidence.

Respectfully Submitted,

/s/Erlinda O. Johnson

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Erlinda O. Johnson

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I hereby certify that a true and accurate  
Copy of the foregoing was provided to  
Counsel for the defendant via e-mail  
This 21st day of May 2024.

/s/Erlinda O. Johnson

Erlinda O. Johnson

# EXHIBIT 1

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**TRANSCRIPT OF  
INTERVIEW OF ALEC BALDWIN  
FROM AN AUDIO RECORDING**

**December 8, 2021  
9:00 a.m.**

**ATTENDING:**

**ALEC BALDWIN**

**LORENZO MONTOYA  
Safety Compliance Officer  
Occupational Health and Safety Bureau  
525 Camino de Los Marquez, Suite 3  
Santa Fe, New Mexico 87505  
lorenzo.montoya@state.nm.us**

**TRANSCRIBED BY: CHERYL ARREGUIN, RPR  
New Mexico CCR No. 21  
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3150 Carlisle Boulevard, Northeast  
Suite 104  
Albuquerque, New Mexico 87110  
abqcrs@gmail.com**

Exhibit 1



1           MR. MONTOYA: Okay. So, Mr. Baldwin, thank  
2 you very much for taking time out of your day to speak  
3 with me this morning.

4           MR. BALDWIN: Right.

5           MR. MONTOYA: If I could ask you to -- I'll  
6 introduce myself, and then I'm going to ask you to do so  
7 for yourself.

8           My name is Lorenzo Montoya, and I'm an  
9 inspector with New Mexico OSHA.

10          MR. BALDWIN: I'm Alec Baldwin.

11          MR. MONTOYA: Pleasure.

12          So, I guess, let me open my notes here.

13          My first question for you would be if you  
14 could please tell me how long you've been in the  
15 industry as an actor.

16          MR. BALDWIN: Since August, I believe was the  
17 month, of 1980.

18          MR. MONTOYA: An acting career. Thank you.

19          And how long have you been producing and the  
20 like?

21          MR. BALDWIN: I think I formed my -- I formed  
22 my first real production company in -- '87, '88. I  
23 can't remember. But it was '8 -- around that time, '87,  
24 '88.

25          MR. MONTOYA: I see.

1           And so I have had the opportunity to speak  
2 with Joel Souza, and he was able to describe that this  
3 film, Rust, was -- was something of a cooperative idea  
4 between the two of you. He had written a very basic  
5 sort of script or a screenplay or the sort.

6           Could you explain how the Rust movie had --  
7 had come to be?

8           MR. BALDWIN: What -- what do you mean  
9 specifically?

10          MR. MONTROYA: How -- how did -- how was the  
11 production company, which is Rust Movie Productions,  
12 created? Because from what I understand, you and Joel  
13 had wanted to make this film, and so you hired the  
14 producers and them all to be --

15          MR. BALDWIN: You -- you know, not  
16 necessarily --

17          MR. MONTROYA: Okay.

18          MR. BALDWIN: -- hired. I mean, everybody is  
19 going to have their own words and their own terminology,  
20 and in this case you partner with producers. There are  
21 producers --

22          MR. MONTROYA: Oh, okay.

23          MR. BALDWIN: -- who raise money. There --  
24 these are the essential categories. There are producers  
25 that raise money. There are producers that then spend

1 the money. They decide who the crew is going to be.  
2 They try to make deals with states based on tax breaks.  
3 There was a constant, and I do mean constant, unending  
4 process of marching toward where you're going to get the  
5 best tax breaks.

6           So one day you're on the phone, and they're  
7 saying you're going go to Georgia, and the next day  
8 you're going to Louisville, or the next day you're going  
9 to Buffalo. You know, it all just keeps changing, until  
10 they finally settle on a funding package that the  
11 financiers are comfortable with in terms of their  
12 profits.

13           And then you have a -- you know, deals to be  
14 made with unions and hotels and flying people. There's  
15 many, many considerations that the people who do the  
16 physical production, what they call the line producers  
17 and executive producers, who decide where the money  
18 goes, how many days you're going to shoot, what does it  
19 cost per day, what are your insurance costs, what are  
20 your contingency fees for weather and so forth, what do  
21 you want to pay for set design, all these things.

22           So all of that organization and execution of  
23 the actual physical production, that's one group of  
24 people. As I said, the other group of people, they  
25 raise the money, they get the financiers to the table

1 and come to terms with them.

2 MR. MONTOYA: Um-hum.

3 MR. BALDWIN: And then there are people who  
4 fall under varying categories. Pretty much in the movie  
5 business anybody that brings to the table -- anyone that  
6 brings what is called an essential element to the table,  
7 someone, a person or a thing, that gets the movie  
8 made -- if I'm an agent for a writer and that agent --  
9 or I'm his manager, and I say to you "My client, Bob  
10 Jones, has a movie script," and I give it to the  
11 producers, then the manager for Bob Jones, the writer,  
12 sometimes gets a producing credit. He brought the  
13 script to the movie star, to the producer with the  
14 money. He -- the essential element that he put on the  
15 table was the script.

16 Then there are people that represent managers,  
17 that represent stars. If you are a manager that  
18 represents a big star and you deliver that star to film,  
19 sometimes they're given a producing credit.

20 The credit that I had was kind of a -- a meld  
21 between my rights and approvals as an actor and my  
22 rights and approvals as a creative producer. I don't  
23 have anything to do with raising the money. I don't  
24 have anything to do with spending the money. I don't  
25 have anything to do with hiring the crew, nothing.

1           What I did is that Joel and I rewrote the  
2 script together. I mean, I gave him my input as to what  
3 I wanted to change, some of which he did and some of  
4 which he talked me out of. I mean, he is the writer and  
5 the director. And then I come in, and as a -- and as an  
6 actor, or an actor/producer, the only approvals I have  
7 are over cast and script. You can't change one word of  
8 the script without my permission, and you can't hire  
9 anybody to be in the movie that I don't want to act  
10 with. Those are my only two approvals.

11           Everything else, the physical production and  
12 so forth, is left to the other producers.

13           MR. MONTTOYA: I see. Okay. I appreciate you  
14 explaining all that. The film industry is totally alien  
15 to us. It's not every day we engage with --

16           MR. BALDWIN: It's still alien to me, believe  
17 me.

18           MR. MONTTOYA: So I do want to write down what  
19 you had said. You can't rewrite the script, and you  
20 can't --

21           MR. BALDWIN: My only approvals are script and  
22 casting. That's it.

23           MR. MONTTOYA: Right. Casting. Got it.

24           MR. BALDWIN: I would -- I would add to that  
25 location. So for example, with -- you get a financial

1 deal, and it's a better deal for you to go to Hawaii,  
2 and it becomes a 12-hour commute for me to go home, then  
3 I have -- I do have some input into -- I would say that  
4 I have what's called -- there are two things. You have  
5 approval, and you have what's called meaningful  
6 consultation, meaning they have to consider your  
7 opinion, but they can ignore it if they have to.

8 So if --

9 MR. MONTTOYA: Um-hum.

10 MR. BALDWIN: -- a film -- if they tell me  
11 we're going to shoot the film in my backyard and every  
12 day I'm going to commute to New Jersey and go home to my  
13 family -- that's, obviously, one of my goals in my life,  
14 is to stay home --

15 MR. MONTTOYA: Um-hum.

16 MR. BALDWIN: -- then if they say to me "Well,  
17 we lost that financier, and we have to go to Buffalo,"  
18 and I'm not going to commute from Buffalo, well, then, I  
19 have to accept the fact that -- and in one case, the  
20 other movie I worked on with Joel, which was a police  
21 drama called Crown Vic, like the car Crown Victoria --  
22 Crown Vic was a movie that he and I worked on for two  
23 years, and eventually when they got the financing  
24 together and they got the locations and tax breaks  
25 together, I was unavailable.

1           So I had -- I was going to star in the film,  
2 and I had them go make the film without me. We cast  
3 another actor in my role, and they proceeded to make the  
4 film. And this does happen from time to time. I didn't  
5 want to stand in Joel's way. And the actor that they  
6 got was wonderful. He was marvelous.

7           So I would say casting and script I have  
8 approvals over, and I have a very significant  
9 consultation into the location, because if they all of a  
10 sudden decide they're going to go somewhere and I can't  
11 commute home on the weekends to see my family, then  
12 sometimes I drop out.

13           MR. MONTAYA: I see. I see. Okay. Good to  
14 know. All righty.

15           Now, I'm going to ask you another question,  
16 because I -- I don't understand any of this, of course.  
17 So I'm totally ignorant.

18           So you and Joel wanted to create this movie,  
19 and so you partner with producers that you've either  
20 worked with in the past or you know them or you know  
21 their -- you've seen their work, at least, and you can  
22 appreciate it.

23           Rust Movie Productions, LLC is not at all your  
24 production company. Did they technically partner with  
25 you, or did they technically hire you with a contract

1 and everything?

2 MR. BALDWIN: Well, as producers we partner in  
3 terms of a back end. We -- we are a limited liability  
4 corporation. We are a pure LLC.

5 MR. MONTTOYA: Ah.

6 MR. BALDWIN: The various production  
7 companies, if you -- you'll have Thomasville Productions  
8 and Ryan Smith and his group, they're very much in terms  
9 of -- you know, they're the ones that raise the money.  
10 They have contacts. They have sources of revenue who  
11 are investing in films. They're shooting, you know,  
12 four, five, six movies at a time. He -- he's very, very  
13 active, Smith. And Thomasville will raise the money.  
14 And Thomasville will help control the sale of the film,  
15 the distribution of the film.

16 Everything -- everything that kind of speaks  
17 to profit and loss is Smith's and Thomasville's  
18 responsibility.

19 The -- Winterstern and his group, they're much  
20 more physical production, finding the location, the tax  
21 breaks, you know, setting up a production office,  
22 housing for the crew, getting all the vehicles you need,  
23 you know, getting all the equipment you need.

24 You know, it's a -- it's a big operation.  
25 It's a big kind of almost military style, very precise



1 operation in terms of cost. You know, you need a crane  
2 to shoot a certain day, and you want to make sure you  
3 have that crane on those days and no other days. You  
4 know, you don't want to pay for things you don't need.

5 MR. MONTOYA: Right.

6 MR. BALDWIN: They're constantly flying and  
7 moving pieces together for the physical production of  
8 the film. That's Winterstern.

9 MR. MONTOYA: I see.

10 MR. BALDWIN: So those two will get together  
11 with the star of the film, in this case me, and his  
12 company, and that actor will often come with his ideas  
13 about the script. The director might be a producing  
14 partner. All of them share in a formula of the profits  
15 of the film, if the film were to go into profit, which  
16 is always, you know --

17 MR. MONTOYA: The idea. Yeah.

18 MR. BALDWIN: -- nearly impossible. They  
19 almost never make a profit.

20 MR. MONTOYA: Hmm. I see.

21 MR. BALDWIN: But the producers who lay out  
22 the money -- like when Smith brings to the table his  
23 investors, very often that -- that mechanism is such  
24 where -- so you understand the -- there's people who  
25 don't make money, but the people who lay out the money,

1 they do make money.

2 If Lorenzo Montoya is making a film, and your  
3 budget is \$5 million, and I peel my 20 percent profit, I  
4 want 20 percent of my money over 18 months. From the  
5 moment we sign the papers, you're supposed to deliver  
6 the movie to me within 18 months. We go to the  
7 festivals, and we start to sell. I'm giving you just  
8 some boilerplate numbers.

9 MR. MONTOYA: Right. Appreciate it.

10 MR. BALDWIN: Let's say Montoya brings us the  
11 money and we're going to go shoot this movie and we sign  
12 the papers and 18 months after that I'm supposed to have  
13 the print ready to take into the market to sell, and if  
14 you give me \$5 million for the movie, you peel off your  
15 20 percent up front. You don't -- you give us -- you  
16 don't give us 5 million. You give us 4 million. You  
17 take the 20 percent up front. You take your fee up --  
18 many producers do that.

19 MR. MONTOYA: Um-hum.

20 MR. BALDWIN: They take their 20 percent up  
21 front. They give you 4, and you owe -- and you owe them  
22 5 -- they give you 4, you owe them 5.

23 MR. MONTOYA: I see.

24 MR. BALDWIN: So they don't -- they don't risk  
25 5 million, they risk 4, and -- but you owe them 5.

1 They -- the people that -- that put up the money for  
2 these films, they protect themselves very aggressively.  
3 The financial terms are -- are clearly, clearly to their  
4 advantage.

5 MR. MONTOYA: Right, right. It's basically a  
6 loan of sorts.

7 MR. BALDWIN: (Unintelligible and/or  
8 inaudible).

9 MR. MONTOYA: Okay. I appreciate you breaking  
10 that all down for me.

11 MR. BALDWIN: Sure.

12 MR. MONTOYA: Okay.

13 Now, by chance, I do want to ask you, and I  
14 know I sort of asked this, but in terms of like a  
15 contract. Now, one thing that we were curious about is,  
16 of course, a lot of the regular crew have contracts for  
17 their employment, here's your duties and  
18 responsibilities.

19 Did you happen to have any sort of contract  
20 policies that you were beholden to, let's say, as an  
21 actor on the film, or, you know, as --

22 MR. BALDWIN: Well, you always -- you always  
23 have a contract as an actor, always.

24 MR. MONTOYA: Okay.

25 MR. BALDWIN: It's a union film, so you have

1 a -- you have a standard SAG contract, the Screen Actors  
2 Guild. Yeah. You'll -- when you act -- I never act in  
3 nonunion films. I mean, I have years ago, when I was  
4 first starting out, but now I would never work in a  
5 nonunion film. They're -- my agreement is a SAG  
6 agreement. Yeah. My agreement --

7 MR. MONTOYA: Oh, okay.

8 MR. BALDWIN: -- is a SAG agreement.

9 And then I have a separate -- then my  
10 produce -- production company, El Dorado Pictures,  
11 partnered with them to form Rust Productions, LLC. We  
12 all partnered together.

13 MR. MONTOYA: I see.

14 MR. BALDWIN: So I have two separate  
15 contracts, one as a producer, one as an actor.

16 MR. MONTOYA: Right. Okay.

17 All right. So let me jump from the  
18 background -- thank you very much for explaining all of  
19 that. Let's see.

20 So you're here in New Mexico. I -- we're --  
21 let me restart it this way. I understand you arrived  
22 after basically production had started in -- on set in  
23 New Mexico, you arrived a few days later.

24 MR. BALDWIN: Yeah. Some of the -- some of  
25 the production people arrive early to prep --

1 MR. MONTTOYA: Uh-huh.

2 MR. BALDWIN: -- the director and so forth, to  
3 scout locations. Halyna, the cinematographer, they go  
4 and they drive around, and they -- they go on a location  
5 scout and find out where they want to shoot that works  
6 for them. They look at sets and the ranch and so forth,  
7 and they start to imagine how they want to shoot certain  
8 scenes and make notes.

9 Wardrobe people, different departments come  
10 in. In the old days, people would have eight and  
11 10-week preps. And the reason that's all died is  
12 because they're on the payroll starting then. Now they  
13 have preps that are like two weeks. They cut it down to  
14 nothing. And everything is done virtually. People do a  
15 lot of Zoom calls and FaceTime calls to see things  
16 that -- because they've cut the cost of these prep  
17 periods way back.

18 So --

19 MR. MONTTOYA: I see.

20 MR. BALDWIN: -- they started on Wednesday,  
21 the 6th. I arrived on the 11th, that Monday. Had  
22 dinner with Halyna and Joel that night. Tuesday I went  
23 to rehearse with the wrangler with the horses. I rode  
24 the horses. And I did my gun safety rehearsal with  
25 Hannah Reed on Tuesday, the 12th, as well.

1 MR. MONTTOYA: I see.

2 And that was going to be my next question, is  
3 do you remember that little gun safety training and what  
4 you did exactly, what she showed you?

5 MR. BALDWIN: Yes. Yeah. I mean, it's the  
6 same thing I've done in every movie, just very similar.  
7 Yeah.

8 MR. MONTTOYA: Okay. Yeah. Could you ex --  
9 could you describe it?

10 MR. BALDWIN: We get to the location, and she  
11 wanted to show me -- you know, I would -- she would fire  
12 the pistol and show me how -- I think I -- I think my  
13 recollection is she fired it once or twice to show me  
14 the -- that there was no recoil in the gun.

15 One of the things she stressed was "When  
16 you're doing the film, because this is a blank round,  
17 because there's no projectile coming out, there's no  
18 recoil, you have to create the recoil. So when you take  
19 the pistol and fire the pistol, you have to have the  
20 kick, you have to kind of fake that with your hand, and  
21 have the cat -- gun kick back." She said -- she  
22 stressed that.

23 Then the basic things. Don't drop the gun in  
24 the dirt. Always hold the gun down. Don't -- I --  
25 she -- I don't think she -- I can't recall whether she

1 told me don't point the gun at anyone, but I already  
2 knew that. She may have said that.

3 It was much more about how to handle not only  
4 for safety -- essentially for safety, because if you  
5 throw the gun in the dirt, stuff can go in that barrel,  
6 and they have to -- and she was very good at this. She  
7 was always cleaning the gun and cleaning the barrel so  
8 that no projectiles might get stuck in there.

9 So for example, when Halyna was shot, the  
10 first thing I thought was was it a stone that was jammed  
11 into the barrel of the gun.

12 MR. MONTTOYA: Right.

13 MR. BALDWIN: And -- hold on one second,  
14 please. Hold on.

15 When Halyna fell to the ground, the first  
16 thing we thought was was there a stone in the gun, did  
17 that -- is that what happened.

18 MR. MONTTOYA: Right.

19 MR. BALDWIN: So -- yeah. Her -- I mean, the  
20 idea of pointing a gun at someone on a movie set and  
21 pulling a trigger, whether you're being -- whether  
22 anybody is being incautious and like they think they're  
23 being playful, I -- those aren't my words, but they  
24 think this is harmless -- I've never done that in my  
25 life, never.

1 MR. MONTOYA: Um-hum.

2 MR. BALDWIN: Never. And when we get to the  
3 circumstances of what happened with Halyna, it's -- it's  
4 very tragic and rare, but nonetheless the case.

5 But that is for me always keep the gun down,  
6 don't point the gun at someone, don't click the gun.  
7 People have told me from day one that even though the  
8 damage to the firing pin is incremental, even though  
9 it's very modest -- these guns are not period guns,  
10 they're reproductions, but you need to treat them  
11 carefully. You don't fire the empty gun and click the  
12 gun, because you do incremental damage to the firing  
13 pin. So I don't do that.

14 MR. MONTOYA: Right.

15 MR. BALDWIN: Every safety thing I've been  
16 taught since the first time I shot a gun in a film in  
17 1987, or something, '88 -- we did this movie Miami  
18 Blues, and I -- you know, there was a lot of gun firing  
19 in that. People shooting at me, as well. Remember that  
20 my safety protocols are things that I developed not only  
21 with me pointing a gun at someone, but people pointing  
22 guns at me.

23 MR. MONTOYA: Right.

24 MR. BALDWIN: I've had people point guns at me  
25 and shoot me in, you know, multiple films. So I -- I've



1 had the same safety consciousness throughout.

2 But to get back to her, so then we shot the  
3 rifle. We had a -- a Henry lever rifle. She taught  
4 me -- you know, we talked about different ways to use  
5 that rifle. And we never got around to using the rifle.  
6 All the scenes where I would have shot the rifle --  
7 where I would have shot the rifle, the rifle was on my  
8 horse, the rifle was -- was nearby, was proximate to me.  
9 But the scenes that involved me shooting the rifle were  
10 all after the incident happened. So therefore we never  
11 got around to those scenes.

12 MR. MONTTOYA: Right.

13 MR. BALDWIN: But the safety instruction with  
14 her was about the pistol, you know, shooting the pistol,  
15 to mimic the recoil, to watch out for loose things.

16 And, of course, the moment that they say cut,  
17 and this is a protocol that I have observed every day of  
18 my life on the set, every day -- but the important thing  
19 for you to remember is the same thing I've told  
20 everybody, is that we did the same thing every day on  
21 this set. On the day that Halyna was shot, that day and  
22 what we did wasn't different from any other day. No one  
23 came up to me and said "Oh, Alec, you didn't do this,  
24 and you didn't do that."

25 We would -- with one or two exceptions, Hannah

1 always handed me the gun, except that day, except that  
2 day. And I always handed the gun to either Halyna or  
3 Halls, because sometimes if Halyna loaded the gun,  
4 checked the gun and handed me the gun -- I mean Hannah  
5 rather --

6 MR. MONTTOYA: Hannah, right. No worries.

7 MR. BALDWIN: -- Hannah -- if Hannah handed me  
8 the gun, then sometimes we were in an arroyo set that  
9 was very narrow and crowded, so the people that are  
10 nonessential are asked to leave. Hannah hands me the  
11 gun, she leaves.

12 There was a scene where I shot somebody -- I  
13 mean, I shot into a blank space, but I'm killing Travis  
14 Fimmel in the end of the film. We did that shooting.

15 And when they say cut, Halls would take the  
16 gun from me. If she wasn't around, Halls would strip  
17 the gun from me. So the moment I was done shooting, I  
18 got rid of the gun. I handed it to Hannah, or I handed  
19 it to Halls.

20 Now, I handed the gun to Halls when they said  
21 cut. I was stripped of the gun by Halls on a few  
22 occasions, because she would not be proximate to the  
23 set. The set was too crowded. But with the exception  
24 of Halls handing me the gun that day that Halyna died,  
25 Hannah had handed me the gun every other time we were on

1 the set. Every time we were on the set and I was handed  
2 a firearm to use in a scene, as a prop, Hannah handed me  
3 the gun, except -- except that day, that moment.

4 Because we had rehearsed the scene with the  
5 gun prior to lunch. And when you're -- when you call  
6 lunch on the set of a film, it's a union obligation, you  
7 drop whatever you're doing. You stop. So we're there  
8 talking about the shot, and if we wanted to continue to  
9 rehearse, it doesn't matter. When they call lunch, you  
10 stop. The whole crew goes to lunch on time.

11 MR. MONTOYA: Um-hum.

12 MR. BALDWIN: They have their lunch break,  
13 they come back. And then we came back after lunch, and  
14 we resumed this process of rehearsing for the camera.  
15 And this is when she was shot.

16 Now, when I was handed the gun, after lunch,  
17 to resume this process, at the moment that Halyna was  
18 killed, Halls handed me the gun. And I don't recall any  
19 other time that Halls handed me the gun. I don't.

20 MR. MONTOYA: Right.

21 MR. BALDWIN: He may have, and I don't recall,  
22 but -- that's typically what happened. Yeah.

23 MR. MONTOYA: Right. Appreciate it. Okay.

24 So let me -- let's jump back a little bit.

25 You mentioned over the years that you've done

1 film you've developed your own sort of gun safety  
2 rules --

3 MR. BALDWIN: No.

4 MR. MONTTOYA: -- yourself --

5 MR. BALDWIN: No.

6 MR. MONTTOYA: -- or others acting with you.

7 MR. BALDWIN: No. That's incorrect.

8 MR. MONTTOYA: Okay.

9 MR. BALDWIN: I didn't -- I did not, quote,  
10 unquote, develop my own gun safety rule. I didn't do  
11 that.

12 MR. MONTTOYA: Okay.

13 Then perhaps -- perhaps you were saying that  
14 you have the rules that you follow because you also have  
15 guns aimed at you, and so you're -- you're very --

16 MR. BALDWIN: Oh, I -- the gun safety rules  
17 that I observe are the same ones I've observed from day  
18 one.

19 MR. MONTTOYA: I see. Okay.

20 MR. BALDWIN: Everybody says the same thing.

21 And, of course, the one missing piece there that's  
22 essential for you to write this down is that you don't  
23 want the actor to be the final firewall between some  
24 catastrophic events and gun safety.

25 Meaning there are people on the set -- I have

1 always deferred to -- I mean, the word "armorer" is new  
2 to me. We called them prop people, my early career.  
3 We've always deferred to the prop people that handle the  
4 guns to indicate -- now, some of them would just --  
5 without demanding or insisting, they just made it part  
6 of their process, where they would do the demonstration  
7 every time. Every time we handled the gun they would  
8 open the gun and show you the empty chamber, the empty  
9 clip.

10 If the gun was hot and they put a -- a blank  
11 round in there with a charge and a flash, they would  
12 show you that the gun was going hot. The gun never went  
13 hot until we were going to roll the camera. During  
14 rehearsals the gun was empty.

15 Always the same. Always the same. Always.  
16 Is a person there, a man, a woman, they're an armorer,  
17 or they have a kit, and they would demonstrate to me  
18 that it was safe, the gun was empty, or they wouldn't  
19 demonstrate to me and I -- I trusted them.

20 And of course, when you think about it, I  
21 mean, I've often asked the same rhetorical question, how  
22 many hundreds of millions of bullets have been fired on  
23 TV sets and film sets in the last 75 years --

24 MR. MONTROYA: Right.

25 MR. BALDWIN: -- and yet you have, I think,

1 five deaths, five -- five fatalities.

2 So there's a lot of surface area there for  
3 things to go wrong, and the -- the almost inconceivably  
4 overwhelming amount of time things don't go wrong,  
5 because the people are very, very, very careful.  
6 They're very careful. You've never seen people more  
7 careful in your life than people on a film set. They're  
8 very professional.

9 I mean, regardless of how trivial the movie  
10 business may seem on the outside, the shooting of films,  
11 the making of a film is very different from all the  
12 other red carpet horse shit that you see and magazines  
13 and social media that -- that trivializes and just  
14 points out just how idiotic the fucking business is.

15 And the business is idiotic. But that part of  
16 it isn't. The work that's done by the crew there, they  
17 work long days, they work very hard, they're very  
18 focused. They have good-paying jobs. They want to keep  
19 those jobs. You know, you have very few people on the  
20 set of a film who mess around. You know what I mean?  
21 They handle the gun thing so carefully.

22 And again with Hannah, everything we did on  
23 that day that Halyna was killed, we did the same thing  
24 every other day that I was there. We didn't change  
25 anything. We didn't modify anything. Halls handed me a

1 gun and said "This is a cold gun." He's on the record  
2 about that. He said "This is a cold gun." That means  
3 it's supposed to be -- have only dummy rounds with no  
4 charge in them, or they drill a hole in the casing.

5 MR. MONTTOYA: Right.

6 MR. BALDWIN: You know, all the things you've  
7 probably learned.

8 So that day when Halyna was killed, we didn't  
9 change anything. We did everything the same way. But  
10 the one difference was Halls handed me the gun as  
11 opposed to Halyna -- to Hannah.

12 MR. MONTTOYA: Right.

13 So everything you've said has been very  
14 valuable, but to jump back a little bit.

15 The safety protocols that you've been taught  
16 over many years, are you familiar with the ones that are  
17 written down, Gun Safety Bulletin or -- or called  
18 something like that, the last draft was in 20 -- 2008, I  
19 believe? I'd have to open it just to make sure here.  
20 But are you familiar with any written gun safety  
21 policies or protocols, or are you just that you've been  
22 so many years, you know --

23 MR. BALDWIN: I'm -- if I was given that  
24 material years ago, I don't recall. I wouldn't rule it  
25 out. But mostly -- any time I'd do a film where there

1 was guns involved, we would go to a range and shoot.

2 MR. MONTOYA: Okay.

3 MR. BALDWIN: And we would review all the  
4 safety measures, we would go. I -- I've done films  
5 where we went to ranges and we shot a lot of different  
6 guns, semiautomatic guns. No fully automatic guns.  
7 We'd shoot every kind of contemporary pistol, Walther,  
8 Beretta, Glock. We shot shotguns. We'd go to our --  
9 one film in particular I did, we went to a range in  
10 Arizona, and we shot for like, you know, half a day. We  
11 were there for like three or four hours.

12 MR. MONTOYA: Hmm.

13 MR. BALDWIN: And so everything is to --  
14 everything is to have the gun and to handle the gun in a  
15 way that you appear like you know what you're doing, in  
16 addition to the safety measures that you go over.

17 MR. MONTOYA: Right. Okay.

18 For this film did you all go to a range and  
19 practice shooting, or --

20 MR. BALDWIN: No. We went to the -- to the  
21 ranch. We did the practice shooting with our -- as I  
22 mentioned, on the 12th.

23 MR. MONTOYA: Okay.

24 MR. BALDWIN: That Tuesday I met with Hannah  
25 and Sarah Zachary. And I believe Nicole, the other prop



1 person, was there.

2           Because one of the issues we had with the prop  
3 people was that they did not cut and measure and make  
4 the holster for me to my liking. It was not at all what  
5 I asked for. And we didn't have time -- because these  
6 were custom made pieces, we didn't have time to adjust  
7 it to my liking. I wanted to -- I mean, I wanted to  
8 draw, and I wanted to kind of -- an availability of the  
9 gun. I wanted it to be in a perfect spot, in a certain  
10 spot, which they did not do. We had to modify that with  
11 laces and things to hold the thing in place.

12           And so that was our discussion, was the  
13 fitting, if you will, like wardrobe, a fitting of the  
14 holster, and how we were going to address that problem.  
15 And -- and the safety routine with the gun, and  
16 practicing shooting the rifle and the pistol.

17           MR. MONTTOYA: Right. But with blanks.

18           MR. BALDWIN: Well, with -- with -- not with  
19 dummies, with blanks, where there was a -- yeah, blanks  
20 that made a sound.

21           MR. MONTTOYA: Right. And thus --

22           MR. BALDWIN: Dumb -- dummies are no charge,  
23 and blanks are the ones with no -- no projectile, but a  
24 flash and a bang. Yeah.

25           MR. MONTTOYA: Right, right. Okay.

1           If you give me just a moment.

2           Oh, I do -- I suppose I have one question for  
3 that. Did you ever meet a gentleman by the name of Seth  
4 Kenney, who is apparently the individual who trained and  
5 instructed Hannah and Sarah --

6           MR. BALDWIN: I don't believe -- I mean, if he  
7 was there on a day that I was there, I'm not aware of  
8 that. I mean, there's been some discussion as to what  
9 days was Kenney actually on the set, because we were  
10 told by very verifiable sources that Kenney was on the  
11 set the day that this happened.

12          MR. MONTTOYA: Hmm.

13          MR. BALDWIN: We were told that he visited --  
14 that people saw him there the day that this happened.  
15 And Kenney, of course, was the one who they -- is  
16 certainly one of the people they believe is responsible  
17 for bringing the live ammo onto the set. And I don't  
18 know anything about that. I'm just saying that --  
19 that --

20          MR. MONTTOYA: Right.

21          MR. BALDWIN: -- Kenney, who I -- if Kenney --  
22 here's the problem. It's like saying "Did you ever meet  
23 Jeffrey Epstein?" You know, for me, I could have gone  
24 to an event in New York in the 1990s that had 800 people  
25 there --

1 MR. MONTTOYA: Right.

2 MR. BALDWIN: -- and if Jeffrey Epstein was in  
3 the room, people would say to me "Oh, you were in the  
4 same room with Jeffrey Epstein."

5 MR. MONTTOYA: Right.

6 MR. BALDWIN: And I'd go "Well, yeah, with 800  
7 other people who were supporting the Museum of Natural  
8 History," whatever.

9 The same thing with Seth Kenney. He may have  
10 been on the set the same day I was. He may have been on  
11 the set on days that I was there. But I never met him,  
12 never. No.

13 MR. MONTTOYA: Right, right, right. Yeah. I  
14 just want to know if you had met him --

15 MR. BALDWIN: Well, I want to be very clear  
16 that in your work if you -- on the cover that he was  
17 there as this master armorer or this mentor armorer -- I  
18 want to be very clear I never met him once. He may have  
19 been there, but I never met him.

20 MR. MONTTOYA: Right. No worries. That's all  
21 I want to know, is if you had by chance met him  
22 personally.

23 MR. BALDWIN: No.

24 MR. MONTTOYA: Because we keep hearing he may  
25 or may not have been there. And so I'm just trying to

1 figure out whether he was or wasn't.

2 MR. BALDWIN: Well, we've heard from very  
3 reliable people that he indeed was there. Yeah.

4 MR. MONTTOYA: I see. Okay.

5 Oh, I should say -- usually I say this at the  
6 beginning, is all my questions are just to the best of  
7 your memory, you know. And if you "Oh, well, I've only  
8 heard it," that's fine. You can say that. That's okay.  
9 Or if you don't know, it's perfectly fine to say that  
10 you're -- you're not at all sure. Let's see.

11 I have some questions here that I've written  
12 ahead, but they're sort of not in an order. I like to  
13 do things in chronological order.

14 So some of the things we've heard is that  
15 there were misfires. At this point we know that there  
16 were indeed misfires. And with these old style of  
17 weapons, misfires aren't uncommon. You know, the  
18 simpler the weapon is, the older it is, the more likely  
19 it is that it could very easily be set off.

20 The -- are you familiar with either of the two  
21 weapons misfires that occurred on --

22 MR. BALDWIN: No.

23 MR. MONTTOYA: -- scenes?

24 MR. BALDWIN: No.

25 MR. MONTTOYA: Okay.

1           MR. BALDWIN: No. When I came to work on my  
2 first day, when I came to the set for the first time was  
3 on the 12th, I met with Hannah first, went and did the  
4 horseback riding second. The company wasn't working  
5 that day. Remember they weren't shooting, and they --  
6 they shot Wednesday through Sunday. So on Tuesday, the  
7 12th, when I came on to the set, everybody was free.

8           MR. MONTROYA: Um-hum.

9           MR. BALDWIN: Hannah was free to schedule the  
10 shooting with me. I think we met at like ten or eleven  
11 o'clock in the morning. Then I went to go meet Ralieggh,  
12 the guy that was the wrangler with the horses. I rode  
13 the horses and went over that one, because I have a bad  
14 hip, and I have to have my hip replaced. So jumping on  
15 the horse became almost impossible with my leg.

16          MR. MONTROYA: Hmm.

17          MR. BALDWIN: So they got this guy that was my  
18 double to do most of that.

19                But the point is -- is that -- then I went and  
20 met with Joel to go look at the sets, because we were  
21 adjacent to the -- we were adjacent to the church. You  
22 know, we went to the church, which is to the edge of  
23 the -- of the staging area.

24          MR. MONTROYA: Um-hum.

25          MR. BALDWIN: And we -- I went and rode horses

1 there for a while, out in the open country, and then --  
2 but prior to that had shot with Hannah adjacent to the  
3 church.

4 And the -- what was your question again?

5 MR. MONTROYA: So my question is if you were  
6 present or familiar with the two --

7 MR. BALDWIN: Right. Was -- when I came on  
8 that first day, and any of my subsequent days I was  
9 there, I heard no mention whatsoever of any accidental  
10 discharge that had happened.

11 But I will say that accidental discharges that  
12 involved blank rounds, you know, there -- there's a --  
13 there's a flash and a bang, and, you know, people at  
14 first get very shocked and surprised, then they get  
15 angry, because they didn't have their goggles on, they  
16 didn't have their earplugs in.

17 I mean, especially if you're inside. If  
18 you're inside a building and the gun goes off -- now,  
19 sometimes a gun will jam, and in a pistol that's a  
20 contemporary pistol, and that person will walk to the  
21 perimeter of the set, and the only way to discharge --  
22 or the quickest way to discharge is to fire it. And  
23 they'll announce that. They'll say "Fire in the hole.  
24 I'm testing a weapon." And they'll fire the gun. The  
25 whole crew is notified.

1           But when it goes off accidentally, when  
2 there's an accidental discharge, people -- I mean,  
3 people get yelled at. I mean, it's taken very, very  
4 seriously.

5           But I was not informed of any accidental  
6 discharge prior to -- during the entire time I was there  
7 until the situation resulted -- that resulted in Hannah  
8 dying.

9           MR. MONTROYA: I see.

10          MR. BALDWIN: Halyna dying rather.

11          MR. MONTROYA: Indeed. So -- okay.

12          Now, one more thing I should mention is that  
13 if you need to step away at any point during this  
14 interview, you know, drink of water, bathroom break,  
15 anything of that nature, you're more than welcome.

16          MR. BALDWIN: You think -- you think we are  
17 likely going to finish by 12:00, correct? Because I  
18 have a 12:30 appointment. Correct?

19          MR. MONTROYA: Yes. We've -- we've been in 30  
20 minutes, and we're -- I think we're halfway there. So  
21 no worries.

22          So let me just go through my questions. Some  
23 of these you've already answered.

24          Okay. So let's jump to the day of the  
25 incident. You've already discussed some of it.

1 I'd like you to, to the best of your memory,  
2 recount the events that resulted -- after lunch that  
3 resulted in you sitting in a pew and Halyna is -- is  
4 there in front of you. What are they doing? She's  
5 setting up for a shot, I know that, but if you could  
6 just detail just before the gun had gone off, what was  
7 everyone doing.

8 MR. BALDWIN: Well, as I mentioned, we  
9 originally started to discuss this angle, which it's  
10 vital for you to understand. This is what they call an  
11 insert shot of the pistol itself, meaning the camera is  
12 very tight on the gun, and I'm in soft focus in the  
13 background. I don't -- I didn't look into the lens to  
14 see the composition, but in some of these shots you  
15 might not even see my face at all.

16 MR. MONTROYA: Um-hum.

17 MR. BALDWIN: And so before lunch I said to  
18 her and Joel -- I said to Joel "Well, I kind of need to  
19 hold it this way for the light to hit the gun." You  
20 know, there's no point in doing it when -- unless it's  
21 lit. So there was a window there. So we just described  
22 what we were going to do.

23 And then lunch was called, and I handed Hannah  
24 the gun. Hannah took the gun. Because there might be  
25 more people in the room when you're rehearsing than when



1 you're shooting. Because when you're shooting, you got  
2 to be very careful who you see in the lens. You can't  
3 have -- you can't have nonessential people there.

4 MR. MONTOYA: Right.

5 MR. BALDWIN: So during the rehearsal, I  
6 believe Hannah might have been in the building. I don't  
7 remember whether she was in the church. But when they  
8 called lunch, I handed Hannah the gun. I handed the gun  
9 to Hannah.

10 I go to lunch. I come back from lunch. I sit  
11 down in the pew. And Halls hands me the gun. Halls  
12 gives me the gun, which was very unusual. That was very  
13 unusual. That was very unusual.

14 MR. MONTOYA: Okay.

15 MR. BALDWIN: And Halls hands me the gun, and  
16 then Halyna is standing to the right of the cameraman to  
17 my left. She's right in front of where I'm going to  
18 shoot the gun. I take that back. Where the gun is  
19 going to be aimed. The shot did not call for someone to  
20 fire the gun. In this shot on action, I cross-draw the  
21 pistol out of my holster, I pull it up, I aim it at a  
22 spot, and I pull the hammer back to cock the gun.

23 I said "Do you want to see me cock the gun?"

24 She said "Yes. Let's just see it."

25 Whether they use it or not. Sometimes you

1 will shoot things and you end up not using it in the  
2 film. It slows things down. You know, but while you're  
3 there shooting, you might as well have it.

4 MR. MONTTOYA: Right.

5 MR. BALDWIN: The idea is to try to bank as  
6 many options as you can while you're filming and while  
7 you have a crew there.

8 So I said "Do you want to see me cock the  
9 gun?"

10 She said "Yes." And she keeps saying to me  
11 "Okay. Hold it a little lower. Hold it to your left.  
12 Okay. Right there. Do you have a visual mark there?"

13 And she's right in front of me. And she's  
14 turned to her left. The camera operator is to her left.  
15 And she has both her hands up above her body, exposing  
16 her midriff, like below her armpit. So she's holding a  
17 monitor attached to the camera. She's looking into a  
18 monitor to see what he sees.

19 This is how they very often -- I mean, unless  
20 she looks through the camera herself, which is very  
21 common, she will look at a monitor to tell her what the  
22 camera is seeing.

23 And she's guiding me where to point the gun.

24 MR. MONTTOYA: I see.

25 MR. BALDWIN: And she and I, of course, are of

1 the same belief while we're doing this, and that is that  
2 the gun is empty. And this is the one vital thing we  
3 have in common.

4 I'm aiming the gun at her, and she's  
5 instructing me to aim the gun and -- and not at her, but  
6 in that direction. She's saying "Yeah, right there.  
7 Where -- how does that feel?"

8 I go "Now, you want to see me cock the gun?"

9 She goes "Well, tilt it down, just kind of  
10 cheat it so I can see your thumb."

11 Great. I like that. That's -- do you -- you  
12 have a good visual, you have a spot you can see, where  
13 you're going to line that up. Because you have all  
14 these tricks you play laterally and in front of you  
15 where you're going to -- because you want to just pull  
16 the gun up and do it very effortlessly.

17 MR. MONTROYA: Um-hum.

18 MR. BALDWIN: So you find these ways to find  
19 marks to the side, whatever, in terms of the height and  
20 how far you thrust the gun forward, all these things.

21 So to do exactly what she wants you to do,  
22 which is in your interest to try to do that and get the  
23 shot, we're aiming -- and she's instructing me, and  
24 she's aiming, and she's instructing me, and finally I  
25 said "Now, do you want to see me pull the hammer back?"

1           And as I pull the hammer back -- and I'm not  
2 going to cock the gun. I wasn't aiming to cock the gun,  
3 where it was locked. I was pulling the hammer back and  
4 pulling the hammer. I go "Do you see that?"

5           She said "Yes."

6           And then I -- and I said "Is that good?"

7           And she said "Yes."

8           And I let go of the hammer, and the gun goes  
9 off.

10          MR. MONTTOYA: I see.

11          MR. BALDWIN: Now, whether the -- whether the  
12 trigger was engaged by me pulling that hammer back -- I  
13 don't know anything about guns. I don't own guns. My  
14 father was an expert marksman in the Marine Corps and  
15 was a rifle instructor his entire career in high school.  
16 My father taught riflery at a public high school on Long  
17 Island his entire career. My brothers and I accompanied  
18 my father to a 22-caliber rifle range every day of our  
19 childhoods.

20                So gun safety was something that began for me  
21 as a child with my father. My father was a drill  
22 instructor. He was a DI in Parris Island in riflery.  
23 He was an expert marksman with a rifle.

24          MR. MONTTOYA: Um-hum.

25          MR. BALDWIN: And so when I was a boy, we

1 would go to the rifle range at the school, because back  
2 then in the '50s, when all these school districts were  
3 built, the downstate schools outside the city, in order  
4 to comply with state law, had to offer riflery the same  
5 as all the upstate schools do, which was all like farm  
6 country.

7 MR. MONTROYA: I see.

8 MR. BALDWIN: So guns and gun culture is so  
9 much more significant in upstate New York. But in order  
10 to comply with the New York State High School Athletic  
11 Association laws, you had to offer riflery in a school  
12 on Long Island if your population was X or larger. So  
13 the town we grew up in was big enough to qualify. So  
14 they forced them to build a rifle range and teach  
15 riflery in the heart of residential Long Island.

16 MR. MONTROYA: Um-hum.

17 MR. BALDWIN: And whether -- how many people  
18 were gun people I really don't know, but it was the  
19 suburbs. There weren't a lot -- I didn't -- never  
20 really saw any guns when I was a kid. But my dad taught  
21 the Massapequa High School rifle team his entire 28-year  
22 career.

23 So from my childhood safety with guns and  
24 safety with weapons was something that I was taught my  
25 entire life, prior to going into the movie business.

1 MR. MONTOYA: Right. Okay.

2 So when you're pulling the hammer back, do you  
3 recall if it had ever clicked?

4 MR. BALDWIN: No. I recall it did not click.  
5 I recall there -- I recall there was no -- I did not  
6 pull the hammer all the way back.

7 MR. MONTOYA: Right.

8 MR. BALDWIN: Because it would have locked.  
9 And then what I would do is assuming I had an empty gun  
10 in my hand, assuming I had a gun with nothing in it,  
11 or -- or dummy rounds that had no charge, what I would  
12 always do was -- because I didn't want to damage the  
13 firing pin, is I would hold my hand on the hammer, my  
14 thumb, and I would pull the trigger slowly, and I would  
15 guide the hammer back slowly.

16 MR. MONTOYA: Right. I --

17 MR. BALDWIN: I would guide the hammer back  
18 with the trigger depressed, with the gun pointed down.  
19 That's what I've always done. If a gun was cocked, and  
20 I wanted to uncock a cocked gun, I would pull the  
21 trigger slowly and guide the hammer down. I wouldn't  
22 click the gun and fire it.

23 MR. MONTOYA: Right.

24 MR. BALDWIN: I would never do that, never.  
25 Never, never, never.

1           MR. MONTTOYA: Right. And that is how you are  
2 supposed to return the hammer to its position.

3           MR. BALDWIN: That's exactly what I was --  
4 that's exactly what I would have done.

5           However, again when the gun went off, it was  
6 as more of a shock to me as anybody else, because again  
7 it was supposed to be dummy rounds or cosmetic rounds so  
8 when she's doing an insert of the gun you see that  
9 there's material in the cylinder. You can't have an  
10 empty cylinder.

11          MR. MONTTOYA: Right.

12          MR. BALDWIN: The shot is a shot -- it is an  
13 angle on the gun itself. It's like the gun is getting a  
14 close-up.

15          MR. MONTTOYA: Um-hum.

16          MR. BALDWIN: And as she's shooting this, you  
17 must have material inside the cylinder, or else you're  
18 going to see the empty cylinder. So they put the --  
19 what I call cosmetic rounds or blank -- or dummy rounds  
20 in there which have no charge. There's nothing there.

21                 So when the thing went off, everybody was  
22 really, really shocked, because there was no -- because  
23 there -- because the -- because the scene didn't call  
24 for any firing in the scene. All the scene was going to  
25 be was I brandish the gun, I pull back the hammer, cut.

1 I pull up the gun, we do it again, we do it again, until  
2 she says we got it, and then we move on.

3 MR. MONTTOYA: Um-hum.

4 MR. BALDWIN: So when the gun goes off,  
5 everybody was shocked because it was not supposed to  
6 have any charge in there. There was to be no blank  
7 rounds.

8 And then when she went down on the ground,  
9 people were shocked. I thought did she faint, because  
10 remember the notion that she was hit with a live bullet,  
11 that didn't even enter people's minds until like 45  
12 minutes later, when they saw -- when we saw that she was  
13 being medevaced and everything and it became clear  
14 that -- that the one in a billion prospect that someone  
15 put a live bullet in the gun -- that -- I thought she  
16 got hit by a stone.

17 I thought someone accidentally put a blank  
18 round in there with a charge, there was some projectile  
19 lodged in the barrel, maybe they didn't clean the  
20 barrel. I mean, I couldn't for the life of me figure --  
21 did a rock get shot into her abdomen or something? What  
22 did -- what did she get hit by?

23 MR. MONTTOYA: Right.

24 MR. BALDWIN: What would she possibly get hit  
25 by? Because there was no way -- there was no way on



1 earth that she could have been shot with a real bullet,  
2 because it wasn't possible, until we found out that's  
3 exactly what happened.

4 MR. MONTTOYA: Right.

5 So I do want to ask you about the gun itself.

6 So you had mentioned you don't recall hearing  
7 any clicks prior to this day, when Hannah's first  
8 showing you this revolver.

9 Did it click reliably? Did you feel the  
10 hammer would jump forward easily? Did it seem like the  
11 gun may have had a mechanical defect?

12 MR. BALDWIN: No. No, because I had used that  
13 gun before, I didn't have any problem.

14 MR. MONTTOYA: I see.

15 MR. BALDWIN: I mean, the prop -- the problem  
16 with the gun is somebody put a -- the problem with the  
17 gun is that there was a live bullet in there. That's  
18 the problem with the gun.

19 MR. MONTTOYA: Right.

20 MR. BALDWIN: The problem didn't have to do  
21 with the gun. It had to do with the bullet.

22 MR. MONTTOYA: Right. Okay.

23 All right. Now, after Halyna was shot and  
24 Joel, and they were removed by the EMTs, you remained in  
25 the church during this time?

1                   MR. BALDWIN: No. No, no. I -- I got up. I  
2 was -- I was, you know, pretty shocked and horrified.  
3 Because Joel was really -- I mean, she was very quiet.  
4 She laid there in this very -- again that's why I  
5 thought she fainted, because she seemed very out of it.  
6 I mean, she -- I mean, obviously, we found out why, but  
7 it -- I'm only dealing with what's in the moment.

8                   MR. MONTAYA: Um-hum.

9                   MR. BALDWIN: At that time in the moment, I  
10 thought what could possibly be wrong with her, did she  
11 faint, or did she have a heart attack, or something. I  
12 don't know.

13                   And then Joel kept screaming. "Oh, shit, my  
14 God, this really hurts." He's like really -- he's on  
15 the ground.

16                   And no one's letting us get near them. I  
17 looked at her. And then they pushed us all out of the  
18 building. Within a matter of minutes, the sheriffs  
19 arrived. Within a matter of minutes, they have the  
20 whole thing taped off with crime scene tape, and we've  
21 all moved over to some adjacent trucks to sit on the  
22 open tailgates of the very large trucks that they have  
23 on the set, generators, equipment, camera trucks, so  
24 forth. There's a battery of trucks there. And they  
25 open up these big steel tailgates, and we sit on them.

1 We were all sitting, people smoking and waiting.

2 And I must say that another observation I had  
3 was she was there for a very long time. She was on the  
4 ground in the church for what I thought was an excessive  
5 amount of time. I mean, she was laying there for like  
6 30 minutes, it seems. It's -- my recollection is for at  
7 least 30 minutes.

8 And they didn't medevac her out of there until  
9 maybe 40 or 40 -- by the time they got her out of there  
10 and on the helicopter, the helicopter took off, it might  
11 have been 40 minutes after she was shot, which I found  
12 unbelievable. And the fact that they didn't get her  
13 into a car and start driving or do something, they let  
14 her lay on the floor of that hospital. They kept saying  
15 "Well, we have to stabilize her. We have to stabilize  
16 her."

17 And I'm like -- you know, I mean, it's not for  
18 me to interfere. I'm not a medical expert. It's not  
19 for me to say anything. But the fact is she did stay  
20 there on the floor -- for someone that it -- that you  
21 could see clearly some projectile had gone through her  
22 and that same projectile had -- you can't say it was the  
23 same one, but something blew a hole in Joel's  
24 shoulder -- they had the two of them laying there for  
25 quite a while, quite a while. I was surprised by that.

1           MR. MONTTOYA: Right. Right. They don't want  
2 to move them before they have those wounds adequately  
3 plugged, let's say, to try to stop bleeding. So --  
4 okay. So -- I see. So they ushered you out of the  
5 building.

6           After Halyna was shot, who did you hand the  
7 gun to, or who took it from you?

8           MR. BALDWIN: I believe I gave it to Halls. I  
9 believe I gave it to Halls. Halls was there. Hannah  
10 wasn't there. Hannah -- they moved Hannah out of the  
11 building. When we were about getting ready to shoot,  
12 Hannah was gone. As I said, Halls handed me the gun,  
13 and he stripped me of the gun after the incident  
14 happened.

15          MR. MONTTOYA: I see. Okay.

16          Okay. Now, I suppose my last question for you  
17 is did you ever see any incidents on set that gave you  
18 pause or concern in terms of how the armorer is doing  
19 their job, the props masters, how they're handling the  
20 firearms, are they taking their time, or was there a  
21 rush, or --

22          MR. BALDWIN: I didn't -- I didn't see  
23 anything -- I didn't see anything with them at all that  
24 was -- and again what we did on that day was the same  
25 thing we did every day except for Halls handing me the

1 gun. The one difference between all the other moments  
2 that I handled the gun -- now, remember I started  
3 shooting on Wednesday, the 13th, and I shot five days,  
4 then I came back the following week and shot Wednesday,  
5 the 20th, and then this happened on the 21st.

6 So I did six full days and a piece of the  
7 other -- half literally, because we came back from lunch  
8 of the other day. And in that time whatever number of  
9 times I handled the gun either as a prop -- like I'll  
10 have my gun sometimes -- like I won't wear a gun if you  
11 don't see it.

12 MR. MONTOYA: Hmm.

13 MR. BALDWIN: Like in other words, if I'm  
14 wearing a coat and I button a coat, I'm not going to  
15 have the pistol in there to -- to affect the line of my  
16 wardrobe. If you don't see it, we -- we get rid of it.  
17 I don't -- that's kind of a school I come from, which is  
18 if you're not going to see me open my coat and handle  
19 the gun, I don't wear the gun in the shot, in the scene.

20 MR. MONTOYA: Um-hum.

21 MR. BALDWIN: But the days that I had the  
22 coat -- like I say to my double, "Did you ride the horse  
23 and get off the horse with your coat open?" He'd say  
24 "Of course, I did. Yeah." So I had to open my coat,  
25 and you could see the gun, I put the gun in there.

1 Empty.

2           So sometimes I had the gun, rarely I had the  
3 gun on me, where the -- where the character was armed  
4 but not using the gun. Then there were the handful of  
5 times where I used the gun. And every time it was the  
6 same. There were no problems. There were no safety  
7 issues. Everything was done exactly the way I was used  
8 to it. Hannah would hand me the gun. She said "This  
9 gun is cleared." She'd hand me the gun. Halls would  
10 take the gun, or Hannah would take the gun if she was  
11 adjacent.

12           And only that day there were -- there were two  
13 very unusual things that day. That is the camera crew  
14 quit that day. The camera crew quit that day, that  
15 morning, which was very disruptive and very kind of --  
16 threw everybody off a bit.

17           And here's this guy, Luper, who is on the  
18 media all the time, this guy Lane Luper, who's  
19 complaining to everybody that will listen how unsafe the  
20 conditions were, and complaining how damaged he is about  
21 what happened to Halyna, when behind Halyna's back he  
22 bad-mouthed her every day, every day. He'd turn to the  
23 crew and say "This woman is a fucking amateur," and he  
24 was a very, very whiney, disruptive presence on the set  
25 from time to time.

1           And -- and of course, they want to quit the  
2 day before. This is a guy -- I mean, you deal with  
3 occupational health -- safety and health. This is a guy  
4 who came to me the day before Halyna died, he came to me  
5 Wednesday afternoon -- we -- we wrapped early. We  
6 wrapped about 30 minutes early. The sun was still up.  
7 Normally we shoot until the sun is gone. I mean, that's  
8 a rule. You just -- you just -- you shoot until you're  
9 out of sunlight. Even if you're shooting a picture of a  
10 horse, you don't give a shit. You're going to shoot  
11 until the sun goes down.

12           So we left a little early. And he came up to  
13 me, Luper, and he said "I want to thank you for the  
14 positions you've taken in support of IATSE on social  
15 media."

16           And I said "You're welcome." I said "If you  
17 guys are going to go on strike, we're going to support  
18 you, and SAG is going to go on strike, as well."

19           He said "Thank you." He said "Because we do  
20 have some issues on this show."

21           I said "Such as?"

22           And he said "Well, my men need a better hotel  
23 room."

24           He mentioned nothing about gun safety,  
25 accidental discharges. The one -- the only thing he

1 brought up while I'm standing there right in front of  
2 him, available to talk to him, was -- he said "My men  
3 need better hotel rooms."

4 Now, of course, their hotel package has been  
5 prenegotiated in a contract with his union. So they  
6 want to now renegotiate their contract in the middle of  
7 the film, which is really, really not cool.

8 But the second thing is -- is that he's -- I  
9 said "Well, will you be here tomorrow?" They hadn't  
10 quit yet. "I said "Will you be here tomorrow?"

11 And he said "Yes."

12 I said "Well, let's talk about it tomorrow."

13 And as I have on multiple occasions, even on  
14 this film, I was going to give up more of my fee in an  
15 attempt to make their hotel package right if it seemed  
16 like the right thing to do. I had to do some examining.

17 So for example, there was a producer who was  
18 entitled to a fee of \$50,000, and all the other  
19 producers decided to waive their fees and take their  
20 fees later at the sale of the film. They would be --  
21 we -- they would be reimbursed later on.

22 MR. MONTTOYA: Um-hum.

23 MR. BALDWIN: They would forego their fees,  
24 which is very common for producers who don't need the  
25 money, they -- they'll get their money later on.



1           And one of the producers couldn't afford to do  
2 that. He needed the money. So I gave them the money  
3 out of my paycheck.

4           Frances Fisher, the actress, they were going  
5 to make her a scale offer, a union scale offer, which is  
6 like, you know, \$2,100 to come and do the movie for a  
7 week. And I said "That's preposterous. This woman is a  
8 famous actress. And the optics are terrible. You need  
9 to offer her something that's real." So I took out  
10 \$50,000 more from my paycheck and gave it to Frances.

11           So my combined fees were \$250,000. There's  
12 already 50,000 to Frances, \$50,000 to this producer,  
13 Matt DelPiano. Now I'm down to 150. I tell them that  
14 I'll pay half a day -- the day rate for shooting is  
15 75,000 a day. I said I'll cover half.

16           Lane Luper, I'm going to -- talked a bit about  
17 him. I mean, I just kept giving all my money away. I  
18 mean, I'm not counting on this money to, you know, pay  
19 my bills, but it was -- we got down to the point where  
20 it was like I gave away half or more of my fees. And I  
21 was prepared to do the same thing for Lane Luper if upon  
22 examination I found out that what they were offered  
23 wasn't sat -- was unfair.

24           MR. MONTROYA: Um-hum.

25           MR. BALDWIN: What I later found out was they

1 were in the same hotel with the rest of the crew and  
2 they just wanted a better hotel. This guy -- there's  
3 something about this guy that doesn't add up. Because  
4 he's in the media now, shooting his mouth off all the  
5 time about how unsafe it was and how horrible it was,  
6 what happened to Halyna. We've got people on the crew  
7 ready to testify that all he did was bad-mouth her  
8 behind her back.

9 MR. MONTTOYA: Right.

10 MR. BALDWIN: And then they quit that day.  
11 They don't pack up their equipment the night before.  
12 They come in the following day, they quit, they pack up  
13 their equipment. Seth Kenney is on the set, I'm told.  
14 Halls hands me the gun for the first time to shoot the  
15 scene. The gun's got a live round in it.

16 There's a lot of very, very anomalous things  
17 and unusual things that happened that day, a lot.

18 MR. MONTTOYA: Right. Okay.

19 MR. BALDWIN: There's a lot.

20 MR. MONTTOYA: So, Mr. Baldwin, we are  
21 approaching your other appointment.

22 MR. BALDWIN: Yeah.

23 MR. MONTTOYA: And so let me ask you, is it all  
24 right if other questions come up that I didn't have the  
25 opportunity to ask if I can send your office an e-mail,

1 and then you can address those questions by e-mail?

2 MR. BALDWIN: Yeah.

3 MR. MONTTOYA: At this time I don't necessarily  
4 have any --

5 MR. BALDWIN: Come on in. Come on in. Come  
6 here, come here, come here.

7 Are you there? All right. Don't go away.

8 Go ahead. I'm sorry.

9 At this point you don't have anything else,  
10 but you may want to follow up later on with something by  
11 e-mail?

12 MR. MONTTOYA: At this point off the top of my  
13 head, I don't have questions for you, but I might in 30  
14 minutes, I might in next week. And so if I could send  
15 you an e-mail if I do develop a few more questions for  
16 you, I would like the opportunity if you're willing  
17 to --

18 MR. BALDWIN: Just e-mail Jonah. Okay?

19 MR. MONTTOYA: Right. Okay.

20 Well, then, thank you very much for your time,  
21 for explaining what you saw and what had been going on  
22 from your perspective and the like. Yeah. Thank you.

23 (Simultaneous speaking.)

24 MR. BALDWIN: All right. Thank you. Be in  
25 touch. Thank you so much. Thank you. Bye-bye.

1                   MR. MONTTOYA: Bye-bye.  
2                   (End of transcription.)  
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**CORRECTION PAGE**

Any changes to your statement may be listed below with a statement as to the reason for such change.

| PAGE | LINE | CORRECTIONS | REASON FOR CHANGE |
|------|------|-------------|-------------------|
| N/A  | N/A  | N/A         | N/A               |

I have read and had the opportunity to correct this statement consisting of 54 pages, and these facts are true and correct to the best of my knowledge.

I request that this statement be held in confidence to the extent provided by law.

ALEC BALDWIN



DATE 1/13/2022

## EXHIBIT 2

1 **FIRST JUDICIAL DISTRICT COURT**  
2 **COUNTY OF SANTA FE**  
3 **STATE OF NEW MEXICO**

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11 **IN THE MATTER OF: RUST**  
12 **JAILHOUSE INTERVIEW OF**  
13 **ALEC BALDWIN**  
14 **OCTOBER 21, 2021**  
15  
16  
17  
18

19 **TAKEN BY:** **Detective Alexandria Hancock**  
20 **Detective Samantha Talamante**  
21 **TRANSCRIBED BY:** **Raquel Piña-Baca,**  
22 **Certified Stenotranscriptionist**  
23  
24  
25

Exhibit 2

1 MR. BALDWIN: Gun guy. Movie gun guy.

2 DETECTIVE TALAMANTE: And what about the  
3 other girls in her crew?

4 MR. BALDWIN: I don't remember their names.

5 DETECTIVE TALAMANTE: Okay. Do you know  
6 what they look like?

7 MR. BALDWIN: Blond, thin, not too short.  
8 You know, kind of medium height and brunette, somewhat  
9 on the shorter side. Maybe the same height as Hannah,  
10 brunette. And -- and also there's -- there's -- you go  
11 back and forth between -- they're wearing a mask most  
12 of the time on set. They've -- they've been ordered to  
13 do that.

14 DETECTIVE HANCOCK: Right.

15 MR. BALDWIN: But I've seen them with their  
16 masks off.

17 DETECTIVE HANCOCK: Okay. All right. What  
18 time did you guys start today?

19 MR. BALDWIN: I don't know what time they  
20 started. I came in slightly later, but they had a  
21 couple of shots without me in the morning. So I came  
22 in at -- I guess, I arrived there at like about quarter  
23 to 8:00.

24 DETECTIVE HANCOCK: Okay.

25 MR. BALDWIN: Around there at like 6:30.



1 DETECTIVE HANCOCK: All right. And then  
2 anything abnormal in the day? Who handed -- or should  
3 I say, who handed you your weapon in the day?

4 MR. BALDWIN: Hannah.

5 DETECTIVE HANCOCK: Hannah did. Okay. And  
6 physically handed? Or put it in the holster?

7 MR. BALDWIN: Handed it to me.

8 DETECTIVE HANCOCK: Okay.

9 MR. BALDWIN: She would show me the gun.

10 DETECTIVE HANCOCK: Okay.

11 MR. BALDWIN: Or she'd say, cold -- a cold  
12 gun. She'd say, test it or some language, too, as she  
13 handed me the gun. Then it was fine. And she'd say,  
14 "Do you want to check?" And I always knew I didn't  
15 want to insult her; I figured there wouldn't be a  
16 problem.

17 DETECTIVE HANCOCK: Yeah.

18 MR. BALDWIN: I said, "Ah, I'm good."

19 So and the 1st AD will ask -- periodically,  
20 he'll say, "Let me check."

21 DETECTIVE HANCOCK: Okay.

22 MR. BALDWIN: And they'll have two people  
23 check for this very reason that we don't have any  
24 flat -- forget about live rounds with bullets. If we  
25 have any flash rounds in the gun while we're

1 rehearsing. Because if someone was to indicate,  
2 they're not thinking. They pull the trigger on the  
3 gun, you just hear the hammer, the -- the dead sound of  
4 the hammer hitting and -- and you have no flash rounds  
5 at all in there for the rehearsal. The rehearsal gun  
6 should be empty.

7 DETECTIVE HANCOCK: Okay.

8 MR. BALDWIN: And -- and as I said, for the  
9 two weeks I had been shooting, it has been empty. We  
10 haven't had one problem.

11 DETECTIVE HANCOCK: And you -- have you  
12 physically checked that? Or just by --

13 MR. BALDWIN: She announces to me that  
14 it's -- that it's clean.

15 DETECTIVE HANCOCK: Okay.

16 MR. BALDWIN: She'll say, "Cold gun." We  
17 rehearse. Then we say, "Done," she takes the gun, goes  
18 off to her corner. She as has a kit with a zipped  
19 fanny pack with her elements in there. She puts the  
20 flash rounds in there.

21 She'll say, you know, quarter load. You  
22 know, it's -- it's a lower sound. Or she'll say full  
23 load. And if I'm shooting and you're the crew and  
24 you're shooting me close, you better watch -- the full  
25 load it is rather loud. It's very loud.

1 DETECTIVE TALAMANTE: Okay.

2 MR. BALDWIN: She's always announcing  
3 what's going to happen.

4 DETECTIVE HANCOCK: All right.

5 MR. BALDWIN: And she's been very good  
6 about that.

7 DETECTIVE HANCOCK: So have you guys --  
8 backtracking a little bit on this. You know, because  
9 she's telling you what's in these guns. Have you guys  
10 been practicing with those quarter loads or full loads  
11 all that through the past couple weeks? Or have you  
12 shot with them?

13 MR. BALDWIN: I came in on Tuesday. That's  
14 what I did Tuesday.

15 DETECTIVE HANCOCK: Okay.

16 MR. BALDWIN: The 12th. I came to the  
17 ranch, rode the horse. I just got used to that, and  
18 they have a double who really rides in the distance  
19 fairly fast and all the athleticism. You see me on a  
20 horse and they cut to a guy riding a horse.

21 DETECTIVE HANCOCK: Okay.

22 MR. BALDWIN: Quite a crew of them.

23 DETECTIVE HANCOCK: So today was not the  
24 first day that --

25 MR. BALDWIN: No. I shot on Tuesday the

1 12th with the -- the Henry, the -- the lever. You  
2 know, arm action lever of the lever action's rifle.

3 DETECTIVE HANCOCK: Okay.

4 MR. BALDWIN: Hannah does. I shot both.

5 DETECTIVE HANCOCK: Okay. And --

6 MR. BALDWIN: But she was there.

7 DETECTIVE HANCOCK: All right. Moving  
8 back, what time did you guys break for lunch today?

9 MR. BALDWIN: Usually, I think today was  
10 probably 12:30.

11 DETECTIVE HANCOCK: Okay. And who took the  
12 weapons at that time?

13 MR. BALDWIN: Hannah.

14 DETECTIVE HANCOCK: Physically took it?

15 MR. BALDWIN: Always does. Rarely do the  
16 other ladies, the two other women handle the pistol  
17 that -- that's live shooting in the scene.

18 As I said, I have the hand rig in my hand  
19 as a prop. I'd be running through the scene but no --  
20 no bullets, nothing. When they say, "Cut." I could  
21 hand it to the blond girl.

22 DETECTIVE HANCOCK: Okay.

23 MR. BALDWIN: But whenever we were  
24 interacting with somebody where rounds were going to go  
25 in the gun, you would have flash round in the scene, we

1 shot flash, it was only Hannah. Only. With her fanny  
2 pack with the rounds in there, her equipment.

3 DETECTIVE HANCOCK: Okay. Do you know what  
4 time you guys got back from lunch?

5 MR. BALDWIN: I guess it was 1:30 by the  
6 time we all back to the setup. There's a base camp and  
7 there's the set. So we go to the base camp for lunch,  
8 and they always just drive back, get their wardrobe  
9 touched up, get their hair touched up, and makeup,  
10 whatever they do, and then we're onset, about an  
11 hour -- all -- before we go back on the set.

12 DETECTIVE HANCOCK: Okay. And was Hannah  
13 the one to physically hand you the gun at this point?

14 MR. BALDWIN: Yes.

15 DETECTIVE HANCOCK: Okay. During the time  
16 that you had it, was it ever handed off to anybody  
17 else?

18 MR. BALDWIN: No.

19 DETECTIVE HANCOCK: Okay. Did you see  
20 where she got the gun from?

21 MR. BALDWIN: No.

22 DETECTIVE HANCOCK: Okay.

23 MR. BALDWIN: She has a station somewhere  
24 with all her stuff.

25 DETECTIVE HANCOCK: Okay.

1           MR. BALDWIN: The -- the elements, and the  
2 gun, and a couple different guns. Guns for the other  
3 actors. She holds the guns.

4           DETECTIVE HANCOCK: Is anybody else allowed  
5 in that area?

6           MR. BALDWIN: I don't know. But I know  
7 that unless -- I never seen anything that was out of  
8 the ordinary. She had like a -- sometimes they have  
9 a -- a cart like almost like you would use in like in a  
10 hospital catering.

11           Like a big plastic tray, a dark plastic  
12 tray and levels and wheels. I think that's what she  
13 had but many of the departments have that. And on that  
14 tray would be her -- or something like that. I don't  
15 recall what exactly hers was like. But they have a  
16 station that they bring on the set --

17           DETECTIVE HANCOCK: Okay.

18           MR. BALDWIN: -- for her to put all of her  
19 stuff and if the weather is cooperative and sometimes  
20 they put her under a tent if it looks like it might  
21 rain and might damage the property. But she had a  
22 little place she would go to. And I think she has a  
23 truck where she stores it when they wrap. Everything  
24 goes into her truck and she takes off with it. It's  
25 her responsibility, to -- to secure the prop weapons.

1 DETECTIVE HANCOCK: Everything's there.

2 MR. BALDWIN: Which are real guns. They're  
3 real guns.

4 DETECTIVE HANCOCK: Can you, actually,  
5 describe the gun to me?

6 MR. BALDWIN: It's a Colt, a period Colt.  
7 In our emails back and forth when we were prepping the  
8 film, she showed me just a couple different styles of  
9 guns.

10 This is not a big-budget movie, so we  
11 didn't have a lot of choices. You -- you -- she shows  
12 you three or four choices. I said, give me the biggest  
13 gun you've got.

14 DETECTIVE HANCOCK: Okay.

15 MR. BALDWIN: And so I didn't -- and then  
16 she showed me different guns by email and different  
17 knives by email. Cruder knives that were made to  
18 put -- like someone fashioned the handle like El Corn  
19 or things -- traditional knife, a leather strap, and  
20 handle.

21 We went back and forth about the holster  
22 and the material and we just had a relatively brief  
23 conversation. I, having made a lot of movies, I know  
24 the amount of stress about the budget. When she shows  
25 me something, I try to make that work. And so she

1 showed -- I said, just give me the big Colt when we're  
2 done.

3 DETECTIVE HANCOCK: Uh-huh.

4 MR. BALDWIN: And then on that Tuesday, the  
5 12th, I came and shot that gun.

6 DETECTIVE HANCOCK: Okay. What color is  
7 it?

8 MR. BALDWIN: I believe it's a brown handle  
9 because she showed me two of the larger Colts. One had  
10 a cherry-colored handle and one had a brown handle and  
11 I chose the brown handle.

12 DETECTIVE HANCOCK: Do the cherry.

13 MR. BALDWIN: I could show you my emails.  
14 I didn't want the cherry. It was too shiny.

15 DETECTIVE HANCOCK: Ah, okay.

16 MR. BALDWIN: My character is a little bit  
17 of a retirement side of his career, so he's a retired  
18 bank robber.

19 DETECTIVE HANCOCK: I see out in the Wild  
20 West.

21 DETECTIVE TALAMANTE: You need the gun to  
22 match?

23 MR. BALDWIN: Well, you always have people  
24 in films. I mean, they go to extensive, ex -- you  
25 wouldn't believe some films that they have the budget,



1 the details you go into of the all things you wear,  
2 jewelry, hats, watches, guns, cars. I mean, people sit  
3 down -- I mean, I've made a lot of films and films that  
4 had bigger budgets. You can spend a whole week going  
5 to rehearsal, reading with the director. The writer  
6 goes and rewrites. They listen to how the dialogue\s  
7 sounds.

8 And then once you're done rehearsing the  
9 text with the director, the producers, and the writer,  
10 when you're done reading, they'll go make a memo of  
11 when they hear it come out of your mouth. They go,  
12 let's change that line. The way Bob says that -- and  
13 then they go -- they go -- then you go right to  
14 wardrobe, props. You go do a lot of stuff.

15 DETECTIVE HANCOCK: Okay. All right. So  
16 you get back from lunch and get ready. She hands you  
17 the gun. Was it inside or outside?

18 MR. BALDWIN: We were at the church, the  
19 church set.

20 DETECTIVE HANCOCK: Okay. And when it --  
21 the first rehearsal that the incident happened?

22 MR. BALDWIN: Yeah. I believe so because  
23 we talked about -- as we were going to lunch, we always  
24 talked about what's next.

25 DETECTIVE HANCOCK: Okay.

1 MR. BALDWIN: So as we were rehearsing  
2 scenes, he said, "Now, I want to do a scene where -- we  
3 did other shots before lunch." He said, "When we come  
4 back from lunch, we'll do this." And he said, "I want  
5 you to pull it out and show me." And I was showing him  
6 what I thought was the best angle to see the glint of  
7 the gun under my coat.

8 Because you want the scene to work, the  
9 shot to work. So we're -- the holster's here, the gun  
10 is here. My coat comes around, and I held my hand like  
11 I was -- like I was just cupping my hands. Like I was  
12 just resting.

13 DETECTIVE HANCOCK: Okay.

14 MR. BALDWIN: And I showed him in the  
15 mirror and so when we came back after lunch, we  
16 rehearsed for the camera. And I took the gun out.  
17 Really, I'm showing him. I'm going -- I'm going to go  
18 like this, like this, like this, caulk and turn. Bang.  
19 It went off the first time.

20 DETECTIVE HANCOCK: Okay. So was -- it  
21 was --

22 MR. BALDWIN: It was the very first time  
23 that we were shooting that shot that we were rehearsing  
24 for that shot.

25 DETECTIVE HANCOCK: Okay.

1 MR. BALDWIN: That camera shot.

2 DETECTIVE HANCOCK: And you mean -- if you  
3 don't know that's fine. Did you happen to see -- so,  
4 obviously, you guys left from that upper, your upper  
5 shooting area to go have lunch? Or did you eat lunch  
6 there?

7 MR. BALDWIN: No. We always went back to  
8 the base camp for lunch.

9 DETECTIVE HANCOCK: Okay.

10 MR. BALDWIN: For the stage.

11 DETECTIVE HANCOCK: Did the armorers -- or  
12 did you see the armorers go down?

13 MR. BALDWIN: No.

14 DETECTIVE HANCOCK: No.

15 MR. BALDWIN: Nor would I.

16 DETECTIVE HANCOCK: Okay.

17 MR. BALDWIN: Once they're gone, I'm gone.

18 DETECTIVE TALAMANTE: Okay. Do people stay  
19 on set? Or does everybody go down?

20 MR. BALDWIN: Well, there are many people  
21 who will forgo lunch.

22 DETECTIVE TALAMANTE: Okay.

23 MR. BALDWIN: I take that back. Not many.  
24 There are some who will forgo lunch because they had  
25 work to do.

1 DETECTIVE HANCOCK: Uh-huh.

2 MR. BALDWIN: Some will hold the plate.  
3 Some will bring their own lunch. They just -- many  
4 people, they -- they make sacrifices because of their  
5 pride for their department.

6 DETECTIVE HANCOCK: Uh-huh.

7 MR. BALDWIN: They may sit there and say, I  
8 think I need to paint that wall and touch up that wall.  
9 I think I need to distress those boots. They all have  
10 work to do. And very often, a small number of people  
11 will stay up top while we drive down from the set to  
12 the base camp. The caterer's there and need -- but  
13 maybe a modest number of people stay up there.

14 DETECTIVE TALAMANTE: Okay.

15 DETECTIVE HANCOCK: All right. And then I  
16 just want to clarify, really. I know you were drawing  
17 something.

18 All right. So when you had pulled out the  
19 gun, obviously, you were not at the cameraman, but you  
20 had identified there were two people there. Can you  
21 tell who those people were?

22 MR. BALDWIN: My recollection is that the  
23 operator was there. He's a steady cam operator.

24 DETECTIVE HANCOCK: Okay.

25 MR. BALDWIN: He's a man who there's either

1 a camera on sticks that's stationary.

2 DETECTIVE HANCOCK: Okay.

3 MR. BALDWIN: There was a man who operated  
4 the steady cam that moves. That camera operator was  
5 there behind the camera, and she was to his right.

6 DETECTIVE HANCOCK: And who is she that's  
7 behind the camera?

8 MR. BALDWIN: Halyna, the cinematographer.

9 DETECTIVE HANCOCK: Okay.

10 MR. BALDWIN: The camera director.

11 DETECTIVE HANCOCK: And she was right next  
12 to the cameraman?

13 MR. BALDWIN: She was to his right, to my  
14 left.

15 DETECTIVE HANCOCK: And who was behind her?

16 MR. BALDWIN: Joel.

17 DETECTIVE HANCOCK: And he is?

18 MR. BALDWIN: The director of the movie.

19 DETECTIVE HANCOCK: Okay. Can you recall  
20 who exactly was inside at the time --

21 MR. BALDWIN: No.

22 DETECTIVE HANCOCK: -- of the incident? Or  
23 anyone else --

24 MR. BALDWIN: Dave -- Dave Halls.

25 DETECTIVE HANCOCK: Okay.

1           MR. BALDWIN: The first day they -- he's in  
2 charge of the crew. The first assistant director is  
3 the man who's like the foreman of the set. He's in  
4 charge of all the grips, all the -- all the crew.

5           DETECTIVE HANCOCK: Okay.

6           MR. BALDWIN: Electric, cable.

7           DETECTIVE HANCOCK: Do you know his name?

8           MR. BALDWIN: Dave Wall -- Dave Halls.

9           DETECTIVE HANCOCK: Okay.

10          MR. BALDWIN: Dave Halls is always there.  
11 Halyna, Joel, me, the operator, and assistant camera  
12 person. The script supervisor, the woman who sits in  
13 the corner in some strategic position to take notes on  
14 all the action, on the take so you can match.

15                 If one day, you're doing a scene, you sit  
16 there and go, what is your first name?

17          DETECTIVE TALAMANTE: Samantha.

18          MR. BALDWIN: Samantha, you know, it's  
19 really important that you and I drink, drink, drink,  
20 and I get together and we talk about that case, you  
21 drank -- when did you -- she makes notes so we match  
22 everything. That's for continuity. That woman who  
23 does continuity -- she's always there watching. She  
24 was in the room.

25          DETECTIVE HANCOCK: Okay.

1           MR. BALDWIN: She's an older woman like in  
2 her 60s, maybe, with, you know, like coloring blond  
3 hair maybe or brown hair. But she -- I forget her name  
4 now but she is -- so there's a group of people that are  
5 always there for every shot even if you're in a kind of  
6 a cramped interior. This set of this church is not  
7 large so then the rest of the crew's outside and that  
8 was a limited number of people, maybe eight, nine. I  
9 don't -- I don't remember. But I know that every time  
10 that we shot, those people were always on the set.

11           Camera, assistant camera, cinematographer,  
12 director, first AD of the script.

13           DETECTIVE HANCOCK: Okay. So not too many?

14           MR. BALDWIN: Very few.

15           DETECTIVE HANCOCK: Do you think that any  
16 part of this incident that occurred was intentional?

17           MR. BALDWIN: I can only say this which  
18 is -- and it was -- to me, to place a bullet and  
19 position a bullet that is a live round to make sure  
20 that that bullet is in the chamber if I were to squeeze  
21 the trigger in a rehearsal that that bullet came out,  
22 someone has to have extraordinary access to that  
23 weaponry to do that.

24           I can't imagine that somebody walked around  
25 with a round that was a .45-caliber round. So you

1 would see other people on the set were speculating that  
2 if it was a .45-caliber round, she'd be dead. It would  
3 have blown a big hole in her.

4 And so we're wondering was the projectile  
5 that went in her some foreign material stuck and it was  
6 an accident? It was a flash round and something came  
7 out of the barrel. They didn't check. They always  
8 check. But --

9 DETECTIVE HANCOCK: But, see, your  
10 experience with these armorers is --

11 MR. BALDWIN: I've never heard of anything  
12 like this in my life, ever.

13 DETECTIVE HANCOCK: Okay.

14 MR. BALDWIN: I've never heard of a  
15 projectile coming out of a prop gun that went through a  
16 person's body regardless of her being a smaller woman.  
17 The bullet went in here, I'm told, went in here, came  
18 out here, her shoulder or whatever and went into his  
19 body and -- I've never heard of that in my life.

20 I don't know of any projectile in a gun in  
21 a flash prop gun that could accomplish that. Now, if  
22 somebody put a live round in there accidentally -- see,  
23 a very important question for Hannah is: Do -- have  
24 you ever co-mingled live rounds with theatrical rounds  
25 in your kit? Because they're forbidden to do that.



1 DETECTIVE HANCOCK: Uh-huh.

2 MR. BALDWIN: According to, I think, the  
3 union rules and the safety rules for all the unions,  
4 you're not allowed to do that because of the fear of  
5 what would happen if you co-mingle.

6 So whether someone accidentally -- and I  
7 can't even imagine this, deliberately placed a live  
8 round in that gun, I mean, I've never heard of it in my  
9 life. And I don't know anything about what happened.  
10 But all I know is when I -- see, the other thing about  
11 this is in a live round, you have a recoil.

12 DETECTIVE HANCOCK: Uh-huh.

13 MR. BALDWIN: Usually. When I shot that  
14 gun and it went off -- I didn't shoot it. When it went  
15 off, I didn't intend for it to -- to -- for what  
16 happened to happen. When that happened is it -- I've  
17 always told -- because I'm not a gun person. I don't  
18 own a gun. They've always told me they asked me to  
19 simulate the recoil.

20 When I shoot the Colt, which is a big gun,  
21 .45-caliber bullet, they always teach me what we should  
22 be -- action. I go, get back here. Boom. And they  
23 make me take my hand and go, boom and have the kick.

24 DETECTIVE HANCOCK: Uh-huh.

25 MR. BALDWIN: Because there's no kick in a

1 flash round.

2 DETECTIVE HANCOCK: Okay.

3 MR. BALDWIN: And when -- and this time, I  
4 don't recall there being any kick either. That's  
5 important.

6 DETECTIVE HANCOCK: Okay. Are you -- I  
7 know you said you don't own a gun, but are you  
8 experienced with shooting guns?

9 MR. BALDWIN: Only as much as an actress  
10 have to be experienced.

11 DETECTIVE HANCOCK: Okay. Which is really  
12 not --

13 MR. BALDWIN: I mean, if you do a movie,  
14 say a theme with weapons is -- is primary, you go off  
15 with people. You go off with armorman's people to  
16 ranges. I've gone to ranges in Arizona where we shot a  
17 lot of guns and I believe many years ago and you go to  
18 a range and you shoot for a few hours and they teach  
19 you how to shoot shotguns, a Walther, a different --  
20 you know, little small guns, James Bond guns, big guns,  
21 oozies, machine guns, whatever you're using, they make  
22 you go and -- and rehearse for hours, for a whole day.

23 DETECTIVE HANCOCK: Okay.

24 MR. BALDWIN: Yeah. They're very safety  
25 conscience, as they have been here. They've been very

1 safety conscious here throughout. That's what puzzles  
2 me.

3 DETECTIVE HANCOCK: Well --

4 MR. BALDWIN: They didn't have anything.

5 DETECTIVE HANCOCK: Yeah. And I guess  
6 that's more like the question that I'm trying to get  
7 out is do you think someone would deliberately do this?

8 MR. BALDWIN: I can't imagine who would.

9 DETECTIVE HANCOCK: Okay.

10 MR. BALDWIN: Now, people have said, you  
11 know, that six people got fired from the crew yesterday  
12 because they said that they -- you know, the union --  
13 I don't want to get into get into a long dire trap  
14 about this but the union -- the International  
15 Association of Theatrical Stage Employees, IATSE, is  
16 their name, IATSE is the union that controls all the  
17 actors. The director's guild controls the director.  
18 The screen actors guild -- but all of the crew are  
19 controlled by a contract in which those people voted to  
20 go on strike against the major studios, the major  
21 networks, the major streaming services but not the  
22 independent film community.

23 In fact, the IATSE rep for the New Mexico  
24 contract, because every state has different contracts,  
25 was instructed by his bosses in LA. He said, "Don't go

1 on strike." The strike against the majors not against  
2 the Indie people. And then the Indie comes, there's  
3 six different tiers, I believe, in terms of the  
4 contract how much they're paid.

5 DETECTIVE HANCOCK: Uh-huh.

6 MR. BALDWIN: A bunch of people on the set  
7 walked off anyway even though they were told not to --  
8 to strike. They -- they struck and they left.

9 DETECTIVE HANCOCK: And that was yesterday?

10 MR. BALDWIN: That was yesterday. I think  
11 it was their last day.

12 DETECTIVE HANCOCK: Yeah.

13 MR. BALDWIN: And the question becomes -- I  
14 mean, somebody said, would one of them do -- I -- I  
15 don't even know. I -- I have no idea. I have no idea.

16 DETECTIVE TALAMANTE: Well, I mean I was --  
17 because that was mentioned to me is that it sounded  
18 like it was most of the camera crew that walked offset  
19 --

20 MR. BALDWIN: Yes.

21 DETECTIVE TALAMANTE: -- yesterday and quit  
22 or maybe they got fired because they walked off.

23 So the other thing that the two major  
24 people, like you said, the director, those are the ones  
25 who got hurt. So with the camera crew and then

1 quitting and then your director getting injured as well  
2 as Halyna, you don't think there's anybody that had any  
3 anger towards them? Or anything that would --

4 MR. BALDWIN: I don't know the details. I  
5 know that one guy, whose name I'm forgetting. He was a  
6 very heavy set guy.

7 DETECTIVE TALAMANTE: Okay.

8 MR. BALDWIN: He was a very -- and lovely  
9 to me. And he walked up to me and he said, "Thank you  
10 for the things you posted on social media in support of  
11 the IATSE strike." And he said, "I'd like to talk to  
12 you privately." He goes -- he said, "Because I've got  
13 some of my guys sleeping in their car."

14 DETECTIVE TALAMANTE: Uh-huh.

15 MR. BALDWIN: Many of the crew here because  
16 they're shooting in Albuquerque and Santa Fe -- or  
17 Albuquerque based. They live there. So the drive  
18 time, it's kind of common knowledge in the business  
19 world that the -- the unions in New Mexico signed very  
20 bad deals in order to attract movie shooting here.

21 They wanted to grow the -- the crew base  
22 here. So they signed a deal that wasn't a good deal  
23 and that gave them a 60-mile commute radius -- radius.  
24 So that means if you live within 60 miles of the set.

25 DETECTIVE TALAMANTE: Uh-huh.

1 MR. BALDWIN: You come to work and you  
2 don't get paid any -- you know, to drive home and they  
3 don't hotel you. They don't -- now, New York, it's 30  
4 miles and they have to put you up in a hotel, and give  
5 you gas money, and there's a whole lot of complicated  
6 contracts in the -- in the more expensive markets.

7 Here, this guy was telling me, he turned to  
8 me and he goes, "My guys are sleeping in their car."  
9 And I went to the AD and the producers and I asked  
10 them, what's up with that? He said, "They knew what  
11 the contract was. We signed the IATSE contract New  
12 Mexico."

13 And then in the middle of shooting, they  
14 decided they wanted to rewrite their deal. They said  
15 put us up in a hotel. Now, if you put the camera crew  
16 up in a hotel, all the other crafts are going to ask  
17 you to put them in a hotel. We don't have the budget  
18 for that. That could be \$75, \$80,000. You know what I  
19 mean?

20 DETECTIVE TALAMANTE: Who was that man?

21 MR. BALDWIN: Who.

22 DETECTIVE TALAMANTE: Do you -- the one you  
23 said that --

24 MR. BALDWIN: Like I said I forget his  
25 name.

1 DETECTIVE TALAMANTE: Okay.

2 MR. BALDWIN: But anybody there could tell  
3 you who the big, heavy set guy was who was on the crew  
4 that quit yesterday. He didn't come to work today.

5 DETECTIVE TALAMANTE: Okay.

6 MR. BALDWIN: But my point is is that if  
7 I'm standing there at a rehearsal. I'm thinking to  
8 myself, "Could someone actually believe that at a  
9 rehearsal, I would actually aim the gun and hit those  
10 two people?" That's farfetched.

11 Would they want just somebody to get or I  
12 keep telling myself more likely: Was it an accident?  
13 A large quarter load is -- makes noise, but kind of a  
14 puff compare -- but a half load could shoot a  
15 projectile if something was stuck in the barrel.

16 And like I said, the thing that is I think  
17 going to answer all your questions is: What's in  
18 Joel's shoulder?

19 DETECTIVE TALAMANTE: Uh-huh.

20 MR. BALDWIN: Is it a rock? Or is it a  
21 bullet?

22 DETECTIVE TALAMANTE: I could, actually,  
23 show that to you.

24 MR. BALDWIN: What?

25 DETECTIVE TALAMANTE: What was in his

1 shoulder? We --

2 MR. BALDWIN: Did they get it out?

3 DETECTIVE TALAMANTE: So you being on set  
4 for so many years like you said, you -- have you ever  
5 seen -- you -- you said you've never seen anything come  
6 out before?

7 MR. BALDWIN: I've never seen --

8 DETECTIVE TALAMANTE: But had you --

9 MR. BALDWIN: No. I've never seen a  
10 projectile come out. No, no.

11 DETECTIVE TALAMANTE: Right.

12 DETECTIVE HANCOCK: So --

13 DETECTIVE TALAMANTE: But you know what the  
14 bullets like. It wouldn't have looked something like  
15 this if anything did ever come out of something?

16 MR. BALDWIN: Okay. Now, let -- let --  
17 okay.

18 DETECTIVE HANCOCK: So let's backtrack a  
19 little bit.

20 MR. BALDWIN: Let me say this to you.

21 DETECTIVE HANCOCK: Hold on.

22 MR. BALDWIN: That's a bullet.

23 DETECTIVE HANCOCK: Uh.

24 MR. BALDWIN: That's a bullet.

25 DETECTIVE HANCOCK: Right.



1           MR. BALDWIN: So as I suspected, somebody  
2 put a live round in the gun. If that's a bullet that  
3 was pulled out of his shoulder, then someone loaded a  
4 live round into the gun I was holding.

5           DETECTIVE HANCOCK: So, now, let me ask  
6 you. Did you see the rounds that were in the gun?

7           MR. BALDWIN: No.

8           DETECTIVE HANCOCK: Have you seen  
9 throughout the whole time on set, have you seen what  
10 they look like?

11          MR. BALDWIN: I've watched her load and  
12 reload the gun many times, many times.

13          DETECTIVE HANCOCK: Have you seen the  
14 bullets as well?

15          MR. BALDWIN: A bullet, yes, meaning you  
16 see sometimes the head -- if the casing and the head is  
17 a pinched -- it almost looks like a dumpling.

18          DETECTIVE HANCOCK: Uh-huh.

19          MR. BALDWIN: It's closed at the top.  
20 There is no piece. And you put the cosmetic round in  
21 when you know you're going to see.

22                 If I hold a gun up -- if I say to you, what  
23 is your first name again?

24          DETECTIVE HANCOCK: Alex.

25          MR. BALDWIN: If I say to you, Alex, don't

1 you move a muscle, dog, or I'm going to blow you -- the  
2 camera shoots me. You want to see the material in the  
3 cylinder, the cosmetic clay-based, non-bullet round.

4 DETECTIVE HANCOCK: So can you describe to  
5 me what those clay-based rounds look like?

6 MR. BALDWIN: They look like a bullet.

7 DETECTIVE HANCOCK: What colors?

8 MR. BALDWIN: They're -- they're gray and  
9 they look exactly like a bullet, brass, head, and they  
10 have a brass base packed with something, I'm assuming,  
11 and the -- and then the head looked like a bullet. So  
12 cosmetically you see that in the cylinder.

13 The other rounds you shoot have a -- it's  
14 the -- it's the base with the pin. This comes up and  
15 this comes up and it's a round like this and if you  
16 look at the top, if you're looking down, at the bullet  
17 with -- with a -- not the pin down here that toppled  
18 it. If you look it's folded in like -- almost like  
19 a --

20 DETECTIVE HANCOCK: Yeah. It's like a --

21 MR. BALDWIN: Yeah. Like a dumpling.

22 DETECTIVE HANCOCK: Like a pin shape.

23 MR. BALDWIN: Exactly. It's like a folded  
24 up thing and the char and all that -- this is -- boom.

25 DETECTIVE HANCOCK: So --

1 MR. BALDWIN: There's a projectile there.

2 DETECTIVE HANCOCK: If I showed you a  
3 couple rounds, would you be able to tell me if they are  
4 the ones that look like they were on the set?

5 MR. BALDWIN: Probably. If that -- I think  
6 I could probably tell you which were the rounds that  
7 were put in cosmetic.

8 DETECTIVE HANCOCK: Okay.

9 MR. BALDWIN: And which were the rounds  
10 that were the flash rounds.

11 DETECTIVE HANCOCK: All right.

12 MR. BALDWIN: Now, forgive me. Because I'm  
13 very upset right now.

14 DETECTIVE TALAMANTE: I know.

15 MR. BALDWIN: But if you know what I'm  
16 saying so please take -- don't -- forgive my -- my  
17 weirdness about this. That's what came out of Joel's  
18 shoulder?

19 DETECTIVE TALAMANTE: Yes.

20 MR. BALDWIN: Out of Joel's?

21 DETECTIVE TALAMANTE: Yes. And the reason  
22 why I was showing you because you said you have  
23 experience. But you're saying when this does come out,  
24 it's supposed to just puff and --

25 MR. BALDWIN: No. No.

1 DETECTIVE TALAMANTE: -- not fully be --

2 MR. BALDWIN: Well, usually --

3 DETECTIVE TALAMANTE: -- a hard object?

4 MR. BALDWIN: If there's any chance -- if  
5 there's any chance that when you look at the gun. So  
6 here is the barrel, here's the sight, and the cylinders  
7 around and it has the holes.

8 DETECTIVE TALAMANTE: Uh-huh.

9 MR. BALDWIN: We're just looking at the  
10 gun, the camera's eye view.

11 DETECTIVE TALAMANTE: Uh-huh.

12 MR. BALDWIN: When you look, the cosmetic  
13 rounds go in. They have no flash. So if you want to  
14 have cosmetic rounds that flash, if you want me to hold  
15 the gun, you see the bullets, and I shoot that material  
16 is often a clay or, you know, fabricated material that  
17 just disintegrates.

18 DETECTIVE TALAMANTE: Uh-huh.

19 MR. BALDWIN: It just turns to powder.

20 DETECTIVE TALAMANTE: And see --

21 MR. BALDWIN: Ask the round that you put --  
22 that you don't see, you're not seeing down the barrel,  
23 those are the flash rounds which have the top that  
24 looks like it's like -- like folded kind of things like  
25 this -- it looks like somebody packed it and closed it.

1 DETECTIVE TALAMANTE: But, specifically,  
2 today was supposed to be either empty or the ones that  
3 don't even make anything?

4 MR. BALDWIN: Cold rounds.

5 DETECTIVE TALAMANTE: So cold rounds, the  
6 one with the hole in it?

7 MR. BALDWIN: Yes.

8 DETECTIVE TALAMANTE: And it's not going  
9 to -- it's not supposed to puff up? Or powder off like  
10 you said?

11 MR. BALDWIN: Halls told me that when he  
12 checked the rounds with her, they were all -- had the  
13 holes in them.

14 DETECTIVE TALAMANTE: Holes in them.

15 MR. BALDWIN: And some -- and sometimes  
16 he -- when I wasn't familiar with this. They'll take  
17 the round, and if it's a cold round, it'll have the  
18 holes and inside will be BBs and you shake it.

19 DETECTIVE TALAMANTE: Yeah.

20 MR. BALDWIN: When you shake the BB, it's  
21 an acoustic thing to tell you that's a cold round.

22 DETECTIVE TALAMANTE: Okay. And, yeah,  
23 that's so -- and that's what --

24 MR. BALDWIN: Inside this base is stuff  
25 that rattles, little BBs that rattle. So you take your

1 BB gun that's a cold round that was in the gun.

2 DETECTIVE TALAMANTE: Okay. And that's  
3 what you were supposed to have today?

4 MR. BALDWIN: I was supposed to have an  
5 empty gun.

6 DETECTIVE TALAMANTE: Empty.

7 MR. BALDWIN: Or when we shot for the  
8 rehearsal empty.

9 DETECTIVE TALAMANTE: Uh-huh.

10 MR. BALDWIN: And then when we shot, the  
11 flash round that everybody preps, then she says, hot  
12 gun. She announces it and the crew gets ready.

13 DETECTIVE HANCOCK: But that -- that  
14 didn't -- that -- you didn't even get to that part?

15 MR. BALDWIN: I rehearsed with a hot gun.  
16 Now --

17 DETECTIVE TALAMANTE: But it was supposed  
18 to be cold?

19 MR. BALDWIN: Well, it was supposed to be  
20 cold or empty. But, now, not only did I rehearse with  
21 a hot gun; I rehearsed with a gun that had a bullet  
22 inside.

23 If that's what came out of -- this is the  
24 most horrifying thing I've ever heard in my life.

25 DETECTIVE TALAMANTE: And so, yeah. And

1 that's why I wanted to make sure that you -- any time  
2 that you shot a hot gun, you never seen anything like  
3 this come out before?

4 MR. BALDWIN: Never.

5 DETECTIVE TALAMANTE: Because I'm not  
6 familiar with prop guns.

7 MR. BALDWIN: Never.

8 DETECTIVE TALAMANTE: I could tell you what  
9 a projectile looks like and that does --

10 MR. BALDWIN: Well, let me ask you this.

11 DETECTIVE TALAMANTE: -- look like a  
12 projectile.

13 MR. BALDWIN: But, see, that's a bullet.

14 DETECTIVE TALAMANTE: Uh-huh. But, yeah,  
15 so that's what comes out of --

16 MR. BALDWIN: Well, I think the question --  
17 I don't even want to tell you your job.

18 DETECTIVE TALAMANTE: Yeah.

19 MR. BALDWIN: But I'm so sick about this.  
20 I'm sickened by this that a bullet passed through this  
21 girl's body. She's in critical condition at a hospital  
22 right now, and I fired the gun.

23 And you -- if you don't think I feel  
24 really, really shitty about that, I do. But the  
25 question becomes ask Hannah: Did you co-mingle live

1 bullets? What they call live rounds. When they a live  
2 round that's a bullet that -- that a police officer  
3 would shoot.

4 DETECTIVE TALAMANTE: Uh-huh.

5 MR. BALDWIN: Where did that come from --

6 DETECTIVE TALAMANTE: Yeah.

7 MR. BALDWIN: -- in her kit?

8 DETECTIVE TALAMANTE: Yeah.

9 MR. BALDWIN: Did she co-mingle live rounds  
10 with dummy rounds or movie rounds?

11 DETECTIVE TALAMANTE: And we asked her. We  
12 asked her that. Do you know where you guys get the  
13 rounds from? Who orders it? Or you don't have any  
14 part of any of that?

15 MR. BALDWIN: Who me?

16 DETECTIVE TALAMANTE: Yeah.

17 MR. BALDWIN: That's her. Yeah.

18 DETECTIVE TALAMANTE: Okay.

19 MR. BALDWIN: All I know is when we come to  
20 the set, you hand me a cold gun. Nothing's in, we  
21 rehearse. Let me load the gun with the flash rounds  
22 and we shoot. Every time. We never had a problem.

23 DETECTIVE TALAMANTE: So you didn't even  
24 get part -- to that second part of, you'll hand it  
25 back?



1           I do want to ask you about Dave Halls. I  
2 understand sometimes she'll hand the gun off to Dave  
3 Halls and then he'll hand it to you. Did that happen  
4 at this incident?

5           MR. BALDWIN: No, no. I don't recall her  
6 ever doing that.

7           DETECTIVE TALAMANTE: It was Hannah  
8 handing --

9           MR. BALDWIN: I never recall -- I recall  
10 that when we were stopped the scene, if we finished a  
11 scene, Halls is someone who was assumed by his position  
12 to be authorized to do nearly everything.

13          DETECTIVE TALAMANTE: Uh-huh.

14          MR. BALDWIN: So if I was doing a scene  
15 with you, and we finished the scene, we finished your  
16 angle and we were going to turn and shoot my angle.  
17 We -- when they say turning around that made the time  
18 to go to the bathroom, go get a bottle of water, go get  
19 a coffee, go smoke a cigarette. We had a break.

20                 And if I was going to go to the bathroom,  
21 I'd hand Halls the gun to give to her. I would only  
22 hand it to her. Or if she wasn't around -- if she  
23 was -- if she was away, she'd be at the hop. I'd give  
24 Halls the gun and I'd say, "Give it to her. Give this  
25 to -- to Hannah."

1 DETECTIVE TALAMANTE: So sometimes you  
2 would hand the gun to Halls but never -- he never  
3 handed the gun to you?

4 MR. BALDWIN: No.

5 DETECTIVE TALAMANTE: Okay.

6 MR. BALDWIN: No. Never.

7 DETECTIVE TALAMANTE: So you would hand it  
8 to him? He wouldn't --

9 MR. BALDWIN: I'd pass it and if she was  
10 not on site and I was going to run to use the bathroom  
11 or go get a -- that's very typical.

12 Halls is empowered and authorized to -- to  
13 hand in the weapon. He's the only other person who --  
14 after we were done. After we were done. Whether it  
15 was a cold gun with no things or flash rounds, I'd say.  
16 Hot gun. I hand it to him. Well, usually not.

17 Because usually it was -- it was a hot gun.  
18 If it was a hot gun, and we were going to shoot, she'd  
19 be right nearby.

20 DETECTIVE TALAMANTE: Okay.

21 MR. BALDWIN: If I hit -- because other  
22 times we had rubber guns. You think?

23 DETECTIVE TALAMANTE: And, specifically --  
24 sorry. Right before this incident, Hannah handed you  
25 the gun and said "cold." It wasn't Dave?

1           MR. BALDWIN: It be cold -- no, Hannah  
2 handed me the gun.

3           DETECTIVE TALAMANTE: Okay. It wasn't  
4 anybody else but Hannah?

5           MR. BALDWIN: No. Hannah handed me the  
6 gun.

7           DETECTIVE HANCOCK: And she specifically  
8 said?

9           MR. BALDWIN: I believe he said cold.  
10 That'll be cold.

11          DETECTIVE TALAMANTE: Where -- so this  
12 is -- I'm not that great of a drawer. But this is the  
13 church. This is the front where the -- the --

14          MR. BALDWIN: You enter here. Yeah.

15          DETECTIVE TALAMANTE: Cross -- cross is.  
16 Where did she hand it -- the gun to you? Inside while  
17 you were --

18          MR. BALDWIN: I mean, it's because I was  
19 seated.

20          DETECTIVE TALAMANTE: You were --

21          MR. BALDWIN: And then when I was -- the  
22 scene in the church when you come in and there's a lot  
23 of disarray. There's benches tipped over and here was  
24 one bench that was upright and sturdy.

25          Some of the other benches are prop benches

1 so they can smash easily with -- with explosives. You  
2 want the gunfire to have fake benches. They're made of  
3 a lighter wood so if they put charges inside. So when  
4 you shoot -- if you have -- cinematically when the  
5 guy's shooting a gun, you turn around and see what he's  
6 shooting at, you're going to see charge that are buried  
7 inside.

8           They put a little material. You're going  
9 to see. Boom, boom, boom and see the flash. That is a  
10 prop bench.

11           There were prop benches around. So they  
12 would have -- so you're going to put -- today we were  
13 going to put squids in to have them blow up. And this  
14 was a real bench, a heavy. Because if you sat on the  
15 prop bench, it would break.

16           DETECTIVE TALAMANTE: Uh-huh.

17           MR. BALDWIN: This is a live bench, and I  
18 sat here and the camera was here and she was here and  
19 Joel was here.

20           DETECTIVE TALAMANTE: She being Halyna?

21           MR. BALDWIN: Halyna.

22           DETECTIVE TALAMANTE: Okay.

23           DETECTIVE HANCOCK: And --

24           MR. BALDWIN: I'm here on the bench  
25 sitting. I'm right here to the right. I'm all the way

1 to one side. They wanted me to go all the way to that  
2 side. And the camera guy was here; he was behind.

3 Hannah was here and Joel was here. Where  
4 the other people, I believe that the prop -- the  
5 scripter is always in that corner so she would see the  
6 action.

7 And when I shot the gun away from the  
8 cameraman. I didn't against camera. I turned and I  
9 went like this and -- and she was there and the gun  
10 went off and she just went right on the ground.

11 DETECTIVE HANCOCK: What about the armorer,  
12 though? Where was she?

13 MR. BALDWIN: She's outside.

14 DETECTIVE HANCOCK: Okay.

15 MR. BALDWIN: She comes --

16 DETECTIVE TALAMANTE: She hands you the  
17 gun --

18 MR. BALDWIN: She hands me the gun all the  
19 time.

20 DETECTIVE TALAMANTE: And then went back --

21 MR. BALDWIN: If there's any shooting  
22 involved in the scene, she always hands me the gun.

23 DETECTIVE TALAMANTE: Uh-huh. Never has  
24 Dave handed you the gun?

25 MR. BALDWIN: Never.

1 DETECTIVE TALAMANTE: Okay. And then she  
2 goes back outside?

3 MR. BALDWIN: She waits outside because she  
4 just can't be there -- sometimes there's reflections  
5 like, you know, like you using --

6 DETECTIVE TALAMANTE: Uh-huh.

7 MR. BALDWIN: So she -- so you only need  
8 the necessary crew in there for shooting the camera.  
9 Everybody else leaves and as soon as they say, cut,  
10 they come running back in.

11 DETECTIVE TALAMANTE: Okay. Real quick  
12 before she shows you that. The other thing I wanted to  
13 know and it's probably helpful. She does show you  
14 those rounds. Have you and in your experience ever  
15 been told that you're not supposed to cock the gun?

16 MR. BALDWIN: No.

17 DETECTIVE TALAMANTE: No. You're -- you're  
18 okay --

19 MR. BALDWIN: He wanted -- he wanted me to  
20 cock the gun at the scene.

21 DETECTIVE TALAMANTE: Okay. Okay.

22 MR. BALDWIN: He wanted it as part of the  
23 scene. He said, take the gun out and turn and cock it  
24 into the -- to -- to the right, my left to their right  
25 of the lens.

1 I'm sitting here and you're the camera. We  
2 don't talk about my left; we talk about camera right.  
3 The camera right -- you only talk about the camera.  
4 The camera right is my left.

5 DETECTIVE TALAMANTE: Okay.

6 MR. BALDWIN: So I'll say to you, where do  
7 you want me to aim the gun? You'll say, camera right.  
8 So I aim the gun to my left.

9 DETECTIVE TALAMANTE: Okay.

10 MR. BALDWIN: So I always aim the gun away,  
11 but she was there. And in rehearsal he wanted me to  
12 pull out the gun and cock and gun and if you're  
13 assuming you have a cold gun, there's no problem.

14 DETECTIVE TALAMANTE: Right.

15 MR. BALDWIN: And, again, a cold gun I'd  
16 had. Every time we've used guns on this film, the last  
17 two weeks, we never had one problem. Never. Never.

18 DETECTIVE TALAMANTE: Okay.

19 DETECTIVE HANCOCK: And I don't -- maybe  
20 you guys discussed this when I was gone.

21 After the gun was shot, who did you hand  
22 the gun to?

23 MR. BALDWIN: I don't remember.

24 DETECTIVE HANCOCK: Okay.

25 MR. BALDWIN: I don't remember. I may

1 have -- everybody freaked out.

2 DETECTIVE HANCOCK: Yeah. I think so.

3 Okay.

4 MR. BALDWIN: It was one of those two  
5 people. Halls or her.

6 I don't really know how -- I would  
7 imagine -- well, there's the dummy there. So that's  
8 probably a dummy round. And there's no drill in this.  
9 So that might be a -- a flash round.

10 As I said earlier --

11 DETECTIVE HANCOCK: So flash rounds do not  
12 have holes?

13 MR. BALDWIN: Well, you -- the flash round  
14 has a charge in here.

15 DETECTIVE HANCOCK: Okay.

16 MR. BALDWIN: Or powder, different sizes.  
17 Like I said, quarter, half, full load and a wadding in  
18 there to pack it in. It's packed in tightly.

19 DETECTIVE HANCOCK: Okay.

20 MR. BALDWIN: So when you hit this pin, it  
21 explodes. Now, sometimes it has this material there if  
22 you have the cosmetic feature through the gun and then  
23 shoot.

24 But often, it has -- there's the BBs in  
25 there. This is a -- this is a dummy round. No dummy



1 here but there's -- my point is is that very often when  
2 you give me -- when she's loaded the gun with rounds  
3 for us to go hot and flash and shoot, they've had that  
4 creased, folded head.

5 DETECTIVE HANCOCK: Uh-huh.

6 MR. BALDWIN: The dumpling head as we say.

7 DETECTIVE HANCOCK: Okay.

8 MR. BALDWIN: They both never look like  
9 this for the flash. Only when the camera sees inside  
10 the cylinder do you put those in there.

11 DETECTIVE HANCOCK: But those are both  
12 dummy rounds?

13 MR. BALDWIN: That's a dummy round.

14 DETECTIVE HANCOCK: To your --

15 MR. BALDWIN: That's a dummy round. That's  
16 what they told me.

17 DETECTIVE HANCOCK: Yeah.

18 MR. BALDWIN: I'm -- I'm not an expert.

19 DETECTIVE HANCOCK: You have more  
20 experience than we do.

21 MR. BALDWIN: I doubt that. I'm sure my --  
22 I always say to my wife, I think I should get a gun.  
23 And gets a little nervous about the whole thing. No,  
24 no, no, no, no gun in my -- I have six kids. I'm 63  
25 years old, and I have an eight-year-old, a six-year-

1 old, and five-year-old, a three-year-old, a one-year-  
2 old, and an eight-month-old who has a surrogate --

3 DETECTIVE HANCOCK: Oh, my gosh.

4 MR. BALDWIN: -- my daughter. I'm 63 years  
5 old and -- we had six kids in seven years. So my wife  
6 is always -- she was born in the U.S. but raised in  
7 Spain. She's like, I likely will not be having any  
8 guns in the house. No, no, no. But --

9 DETECTIVE HANCOCK: Okay.

10 MR. BALDWIN: I believe that's a two -- a  
11 dummy round.

12 DETECTIVE HANCOCK: So you called this a  
13 flash round, right?

14 MR. BALDWIN: No. Flash round means  
15 there -- there's a charge in there. No charge in  
16 there. It doesn't give you that sound.

17 DETECTIVE HANCOCK: Okay.

18 MR. BALDWIN: No charge in there if you see  
19 that.

20 DETECTIVE HANCOCK: So what happens --

21 MR. BALDWIN: So I was told.

22 DETECTIVE HANCOCK: -- if you shoot these?  
23 Or to what you --

24 MR. BALDWIN: You can put them in there  
25 cosmetically with nothing in them so the two, the

1 cylinder you can see that.

2 DETECTIVE HANCOCK: Okay.

3 MR. BALDWIN: You can see on the cylinder  
4 whether the cylinder is empty --

5 DETECTIVE HANCOCK: Or --

6 MR. BALDWIN: -- bad continuity-wise. Or  
7 that there's a round in there. So they put a cosmetic  
8 round in the chamber. They load the gun, close it, and  
9 then I hold the gun. You see the things in there.

10 A flash round would be like -- what crimped  
11 is the word.

12 DETECTIVE HANCOCK: Yeah.

13 MR. BALDWIN: The crimped round with a  
14 charge inside and that one shoots and there's no  
15 projectile. I'm really challenged whether they ever  
16 see -- I doubt -- sometimes they have these or even do  
17 both but that's the clay material.

18 But, usually, 99 percent of the time, we  
19 shot a flash round. It was the crimp thing, and you  
20 don't see inside a cylinder.

21 DETECTIVE HANCOCK: Okay.

22 MR. BALDWIN: So you're the camera, and I'm  
23 not pointing where you can see it. I'm off a little  
24 bit. All you see is the flash.

25 DETECTIVE HANCOCK: Do you know what would

1 happen if you shot one of these? Have you ever had  
2 experience with that?

3 MR. BALDWIN: Nothing.

4 DETECTIVE HANCOCK: Nothing happens with  
5 them?

6 MR. BALDWIN: There's no charge in them.

7 DETECTIVE HANCOCK: Okay.

8 MR. BALDWIN: This is -- this is --

9 DETECTIVE HANCOCK: These two are just  
10 bottoms?

11 MR. BALDWIN: Right. Well, sometimes they  
12 have the pin to create something. I'm -- I'm just  
13 saying. When I look at this -- when I go like this --  
14 now, by the way, there could be a charge in there and  
15 that charge and those BBs could come out.

16 I don't know -- I don't know when -- but to  
17 know whether this rattling indicates that it's an  
18 empty, a cold round. That's obviously a cold round  
19 because that's where the gunpowder would be in here.

20 DETECTIVE HANCOCK: Uh-huh.

21 MR. BALDWIN: That's a cold round. This  
22 is -- I assume these are cold round because they go  
23 like this to tell themselves it's a cold round.

24 I believe -- please don't take my word for  
25 it. I am --

1 DETECTIVE TALAMANTE: Just in your  
2 experience.

3 MR. BALDWIN: I'm a father of six children  
4 pretty much. That's all I do these days.

5 My experience, those are both cold rounds.

6 DETECTIVE HANCOCK: Okay.

7 MR. BALDWIN: And I was told by Halls that  
8 when they took the gun away and looked, every round  
9 inside the gun was a cold round except the one round  
10 was not only a hot round. It was a live round. It was  
11 a bullet.

12 If you're telling me that that's what came  
13 out of his shoulder, there's something really, really  
14 scary going on here.

15 DETECTIVE TALAMANTE: Well, and I think  
16 that's what she was trying to --

17 MR. BALDWIN: Something's really bad.

18 DETECTIVE TALAMANTE: -- ask if -- if at  
19 any time -- well, you said these are cold one. But the  
20 ones that are not cold, the quarter --

21 MR. BALDWIN: Right.

22 DETECTIVE TALAMANTE: Those.

23 MR. BALDWIN: They have the crimped head.

24 DETECTIVE TALAMANTE: Have you ever seen  
25 anything like that ever come out on set?

1 MR. BALDWIN: No. It's not possible.

2 DETECTIVE TALAMANTE: It's not possible.

3 Okay.

4 MR. BALDWIN: It's not possible.

5 DETECTIVE HANCOCK: Yeah. They don't have  
6 a head. I'm saying these.

7 MR. BALDWIN: They -- they don't have a --  
8 there's no projectile.

9 DETECTIVE TALAMANTE: There's no  
10 projectile. Okay.

11 DETECTIVE HANCOCK: So then -- and these  
12 shouldn't --

13 MR. BALDWIN: Somebody put a live bullet in  
14 the gun.

15 DETECTIVE TALAMANTE: Okay. Because these  
16 shouldn't separate or do that either?

17 MR. BALDWIN: No.

18 DETECTIVE TALAMANTE: Okay.

19 MR. BALDWIN: Accept -- I don't follow you.

20 DETECTIVE TALAMANTE: Like that shouldn't  
21 come out either? When -- if it does?

22 MR. BALDWIN: If you hit a scratch round  
23 that would be there.

24 DETECTIVE TALAMANTE: Okay.

25 MR. BALDWIN: This is a cosmetic round

1   only.

2                   DETECTIVE TALAMANTE:   Right.

3                   MR. BALDWIN:   I point the gun that's in the  
4   cylinder.   When we shoot the gun, 99 percent of the  
5   time, it's a flash round that you don't see the  
6   cylinder.

7                   DETECTIVE TALAMANTE:   Uh-huh.

8                   MR. BALDWIN:   You're the camera and  
9   I'm sliding -- so you don't --

10                  DETECTIVE TALAMANTE:   I'm sorry.   We keep  
11   having you explain that but it's just because there's  
12   different rounds.

13                  MR. BALDWIN:   Right.   I'm saying.   This is  
14   a cosmetic round, to my knowledge.

15                  DETECTIVE TALAMANTE:   Uh-huh.

16                  MR. BALDWIN:   And if there is another  
17   question is -- is there a cosmetic round?   I mean, is  
18   there a flash round that has the head?   Which I believe  
19   they had where you could shoot into the gun, meaning if  
20   the director wants you to aim the gun at the camera,  
21   they put a loose sight screen up there, and I shoot the  
22   gun at you, you can see the bullets inside there where  
23   they can go -- do that with a computer.

24                  DETECTIVE TALAMANTE:   Uh-huh.

25                  MR. BALDWIN:   But if I put the thing toward

1 you and then shoot, it'll have a round that has this on  
2 it. It'll explode. But, again, I've been told that  
3 the clay material was in it that just dissolves on  
4 explosion.

5 DETECTIVE TALAMANTE: Uh-huh.

6 MR. BALDWIN: No projectile comes out. On  
7 the flash round -- on a flash round, it blows up. But  
8 you shoot on camera, quarter, half, full. There is no  
9 projectile. Some material is stuck if the barrel of  
10 the gun.

11 DETECTIVE TALAMANTE: Okay.

12 MR. BALDWIN: And I thought for sure what  
13 happened was did they not check? There was a stone or  
14 whatever. Now, again, I am speechless. We're here  
15 shooting, everything's going fine. Joel is my friend.  
16 I'm one of the producers on this movie.

17 DETECTIVE TALAMANTE: Uh-huh.

18 MR. BALDWIN: We've developed this movie  
19 together for three years. I left my wife and six kids  
20 in New York to come here for a month to shoot this  
21 movie, and I'm the one that shot the gun today that had  
22 a live bullet go through that woman's body and into his  
23 body.

24 And I need to know how did that happen?  
25 Where did that bullet come from? Where did -- there



1 are no live rounds in her kit, I'm told.

2 DETECTIVE TALAMANTE: Yeah.

3 MR. BALDWIN: Everybody's sitting around  
4 waiting for you to come here with all the sheriffs and  
5 all the people -- the people that were there waiting  
6 for us to get ready to come and do this with you. But  
7 then all they did was talk about that. The speculation  
8 of like in her kit, she doesn't have live rounds.

9 DETECTIVE TALAMANTE: And -- and that's  
10 what we were told. That's what when we asked her, she  
11 said, there is no live rounds, not even in her kit, not  
12 on set, anywhere so --

13 MR. BALDWIN: For that very reason.

14 DETECTIVE TALAMANTE: We want to know the  
15 same question, too. Yeah. How is -- there if there's  
16 not supposed to be any live rounds on set --

17 DETECTIVE HANCOCK: Then it comes down  
18 to --

19 DETECTIVE TALAMANTE: -- how and who.

20 DETECTIVE HANCOCK: -- possibly  
21 manufactured defect.

22 DETECTIVE TALAMANTE: Or that.

23 MR. BALDWIN: That a cosmetic round shot  
24 the -- this projectile through that. Is that possible?  
25 Did you find out? I don't know.

1 DETECTIVE TALAMANTE: It's possible.

2 MR. BALDWIN: Oh, it is. They told you the  
3 mechanically that's possible?

4 DETECTIVE HANCOCK: Yes. So sometimes  
5 there is a charge in the end of -- not intentionally  
6 but --

7 MR. BALDWIN: It's a mistake. Today, I sit  
8 here and whether it was a missed firing theatrical  
9 round or a live bullet, I shot this woman with a gun  
10 today. That doesn't feel so good, you know.

11 DETECTIVE TALAMANTE: No. I -- I can  
12 imagine that it would not feel good.

13 MR. BALDWIN: I feel really bad. You know,  
14 it's like I don't -- I mean, everything was going  
15 great. The only problem we had was when these six guys  
16 wanted to quit. And their, I don't know the jargon,  
17 but their, you know, union rep or whatever and the New  
18 Mexico contract, different contracts for different  
19 states. The person that was in charge of these people  
20 and the kind of -- of a pipeline, a lot of shooting  
21 going on, a lot of movie, TV work in Albuquerque, Santa  
22 Fe, the person, their head person told them, don't  
23 strike. It's not -- we want -- we don't want to  
24 cripple the Indie business in front of all of our  
25 employees.

1           Our Indie contract is -- is set for now.  
2   You have a contract you're under -- now, they can  
3   renegotiate that contract, which no doubt they will.  
4   But in the meantime, you have a contract that you  
5   agreed to and those men came -- I'm not criticizing  
6   them, they came under a contract which they knew what  
7   it was.

8           DETECTIVE TALAMANTE: Uh-huh.

9           MR. BALDWIN: They reported to work and  
10   then halfway through the -- the -- the shooting, they  
11   left. They -- they walked off. And I don't, you know,  
12   when you said to me, well, my guys are sleeping in my  
13   car, the ADs, and the producer said to me, well,  
14   they're -- they're, you know, they're -- they're all of  
15   a sudden complaining about a contract. They've been  
16   working on it for quite a while.

17           And -- and some days, we wrap and they  
18   have -- they shoot nights. Those are tough. The men,  
19   the women, they have to go back to their homes and  
20   maybe Albuquerque and drive an hour and it's 3:00  
21   o'clock in the morning, you know.

22           DETECTIVE TALAMANTE: Uh-huh.

23           MR. BALDWIN: And we try to put the night  
24   shooting on the weekends so that when you wake up the  
25   following day, you're off.

1 DETECTIVE TALAMANTE: Uh-huh.

2 MR. BALDWIN: And then the -- and then some  
3 days we wrap very -- the day before they walked off the  
4 job, we wrapped at 5:45 in the afternoon. It was a  
5 very reasonable day. A very easy day. It was 6:00  
6 o'clock.

7 As I'm driving away with them, and I wave  
8 to that guy, the guy said, "I want to talk to you." The  
9 heavy-set guy.

10 DETECTIVE TALAMANTE: Yeah.

11 MR. BALDWIN: And I'm thinking -- I said,  
12 "I'll see you tomorrow, and I left." Because I want to  
13 get -- I wanna get home.

14 DETECTIVE TALAMANTE: Right.

15 MR. BALDWIN: I want to go call my kids  
16 before they go to bed in New York. And the --  
17 yesterday when I was driving -- when I saw him, the sun  
18 was still out. We didn't shoot a day like we  
19 usually -- we shoot until we lose the lights. That's  
20 why we're here to shoot New Mexico.

21 DETECTIVE TALAMANTE: Yeah.

22 MR. BALDWIN: New Mexico is the star of the  
23 moon.

24 DETECTIVE TALAMANTE: The greenery.

25 MR. BALDWIN: Yeah.

1 DETECTIVE TALAMANTE: Okay. So do you --  
2 in your opinion feel that this could have been an  
3 accident? Or do you --

4 MR. BALDWIN: I want to believe that --  
5 well, let me ask you this: Because I don't know  
6 anything about this. Because it was -- it was such a  
7 mayhem when this happened.

8 DETECTIVE TALAMANTE: Uh-huh.

9 MR. BALDWIN: It literally was sick that  
10 this happened because we didn't know -- no -- no one  
11 imagined -- everyone thought she was hit by wadding or  
12 she got burned. No one presumed she was shot with a  
13 bullet any projectile went through her body. That's --  
14 no one even considered that that wasn't possible.

15 So the question is the cartridge that came  
16 out -- the cartridge when then gun -- have you got  
17 that?

18 DETECTIVE HANCOCK: So we have to send  
19 that -- we don't analyze that stuff. We collect it,  
20 but then we send it to a lab.

21 MR. BALDWIN: But it was collected? You  
22 have it?

23 DETECTIVE HANCOCK: It will be.

24 MR. BALDWIN: Right. Right. That's --  
25 that's all I'm saying is that to me like I'm wondering

1 what was that? What was in that? The mission I don't  
2 anything about that. Well, what are they -- well,  
3 ballistics -- how can they measure -- what was in that?

4 DETECTIVE TALAMANTE: Uh-huh.

5 MR. BALDWIN: How much of it?

6 DETECTIVE HANCOCK: And that's -- that'll  
7 all be done at the lab.

8 MR. BALDWIN: Yeah. I -- I don't know.  
9 All I knew was the gun went off, she hit the floor, he  
10 hit the floor. He started screaming. He was in a lot  
11 of pain. She went into shock. She went into -- she  
12 didn't talk.

13 DETECTIVE TALAMANTE: Right.

14 MR. BALDWIN: Her eyes are rolling back in  
15 her head and blah, blah, blah and bad. Everybody  
16 starts getting ready -- I mean, they start doing CPR,  
17 putting -- everybody gets really panicky. Then people  
18 start wondering, you know, what -- did something -- we  
19 assumed because the wadding can burn you, there's  
20 material that can come out under -- very rarely. But  
21 it could burn you. But remember, that often doesn't  
22 happen because it's always a cold gun at rehearsal.

23 DETECTIVE TALAMANTE: Uh-huh.

24 MR. BALDWIN: And by the time you leave,  
25 the wadding comes out of there and hits somebody,

1 they're 20 feet away from it, a gunfight. The crew is  
2 away, not shooting near the crew.

3 And my point is is that when this -- when  
4 she went down, I thought, what was stuck? We all said  
5 the same thing. What was stuck in the barrel? It was  
6 something that they didn't clean the barrel, which they  
7 always do. Always. And was there a rock or something  
8 that went through her body?

9 I didn't know about the passing through her  
10 body. I know she was hit. I didn't know where. And I  
11 don't know what -- to what extent. But we all presumed  
12 as we're sitting outside bullshitting for the last two  
13 hours while this went on, the aftermath, we assumed  
14 something was lodged in the barrel, it was a projectile  
15 that went into her body.

16 Now, when you tell me that's what came out  
17 of Joel's shoulder, that's a faulty round, which I've  
18 never heard of that before.

19 DETECTIVE HANCOCK: Okay.

20 MR. BALDWIN: Never. I've never heard of  
21 a -- of a theatrical flash round that was loaded into a  
22 gun that had a projectile that misfired and that  
23 projectile came out that was -- it was a lethal round.

24 Normally, what you're going to have a round  
25 that has this on it. It's the material that

1 disintegrates when you fire the gun.

2 DETECTIVE TALAMANTE: Right.

3 MR. BALDWIN: Because if you take a flash  
4 round with gunpowder in it, whether it's a quarter or  
5 half or full load, and you put a real bullet on --  
6 that's called a bullet.

7 That's not a movie bullet. That's a  
8 bullet.

9 DETECTIVE TALAMANTE: A real bullet, yeah.

10 MR. BALDWIN: How did that happen? I mean,  
11 I'm dying -- I'm the person that fired the gun. I'm  
12 dying to find out how that happened. How did that  
13 bullet that caused that end up in her kit?

14 DETECTIVE TALAMANTE: And -- and, again,  
15 we're not going to know if it was manufacturer issues  
16 or someone did bring a live round until it's been  
17 tested and we looked at the whole casing and projectile  
18 of it.

19 So is there anybody on set that you would  
20 think would want to cause a disturbance in the filming?

21 MR. BALDWIN: No.

22 DETECTIVE TALAMANTE: Or have any issues  
23 with anybody on set? Minus what happened, if you don't  
24 think --

25 MR. BALDWIN: No. In the movie business,



1   there are always some whiny people.

2               DETECTIVE TALAMANTE:   Okay.

3               MR. BALDWIN:   But not so much so that they  
4   want to shoot somebody.

5               DETECTIVE TALAMANTE:   So nothing --

6               MR. BALDWIN:   I've never heard of anything  
7   like this in my lifetime ever.   I've made 75 movies.

8               DETECTIVE TALAMANTE:   So in the past couple  
9   weeks that you've been on set, there's nobody really --

10              MR. BALDWIN:   There was no one I would  
11   imagine would be capable of doing something like this.

12              DETECTIVE TALAMANTE:   Nothing that -- out  
13   of the ordinary?

14              MR. BALDWIN:   But, again, I think it's a  
15   critical point to me was just if this is a flash round,  
16   if there's a flash round, and you have a piece here,  
17   this piece has to be a certain -- if you wanted it  
18   towards before -- if you want the shot to go off and  
19   see that the cylinder cosmetically has a round in  
20   there, this is not a thing that was in Joel's shoulder.

21              DETECTIVE TALAMANTE:   But I -- and then I  
22   want to come back to this.   You said that when the gun  
23   went off, you experienced no kick?

24              MR. BALDWIN:   Yeah.   There was no recoil.  
25   There was no recoil that I -- that I remember.

1 DETECTIVE HANCOCK: Okay.

2 MR. BALDWIN: I mean, literally, I'm  
3 holding the gun and -- and let me slowly, slowly pull,  
4 turn, cock, bang. As soon as I cock it, bang. And I  
5 jump because, I mean, you obviously -- that's the last  
6 thing you think is going to happen.

7 DETECTIVE HANCOCK: Uh-huh.

8 MR. BALDWIN: Everything has been done.  
9 Every breath we take is to -- is to obviate that  
10 possibility. And the gun went off and all I can think  
11 of is -- as -- as I keep saying is that I've never  
12 heard of a flash round that had a bullet on top. That  
13 had a projectile similar to what came out of Joel's  
14 shoulder. I've never heard of that in my life. Ever.  
15 Never, never, never, never.

16 Flash rounds never -- flash rounds normally  
17 have the crimping.

18 DETECTIVE TALAMANTE: Uh-huh.

19 MR. BALDWIN: If there's a head on there,  
20 it's made of a special material. And in this scene,  
21 you would look down the barrel of the gun and shoot.  
22 You have to ask them that, by the way. You have to  
23 ask -- well, both are in the hospital now. But was it  
24 their intention? Because -- because when I was given  
25 the gun, I'm assuming it's a cold gun with nothing in

1 it.

2 When it goes to time to shoot, are they  
3 going to see in the barrel that there's a gun there?  
4 There -- what they'll do is they'll have you put the  
5 cosmetic round, and I'll draw the gun and I'll aim it.  
6 They cut. And cinematically they'll cut to the other  
7 guy who went like this. Then they'll cut back to me  
8 with the flash round but no projectile.

9 But all I'm saying to you is a theatrical  
10 round, a flash round with a bullet head, I've never  
11 heard of that in my life ever. Never, never, never.  
12 Because that's a bullet. Less of a charge but that's a  
13 bullet. I don't know what to say. I've never heard of  
14 this in my life.

15 DETECTIVE HANCOCK: What's your date of  
16 birth, Alec?

17 MR. BALDWIN: April 3rd, 1958.

18 DETECTIVE TALAMANTE: Do we have -- is  
19 there someone that we can contact if we have other  
20 questions for you?

21 MR. BALDWIN: My assistant's name is Jonah.

22 DETECTIVE HANCOCK: Jonah. J?

23 MR. BALDWIN: J-o-n-a-h. His last name is  
24 Foxman. They told me that you wanted this, correct?  
25 J-o-n -- J-o n-a-h. Foxman; F-o-x-m-a-n. His number

1 is 814-573-5836.

2 DETECTIVE TALAMANTE: Do you have any  
3 other -- we have one more here.

4 MR. BALDWIN: What do you want me to do?

5 DETECTIVE TALAMANTE: You can go where  
6 ever --

7 MR. BALDWIN: Well, let me ask you this:  
8 Originally, this is a very complicated -- I mean, more  
9 honest compared to what happened to them but my wife  
10 and my whole family was scheduled --

11 DETECTIVE TALAMANTE: Uh-huh.

12 MR. BALDWIN: And on Saturday, my daughter  
13 was going to be in the movie. I had a little part for  
14 my daughter.

15 DETECTIVE TALAMANTE: The six-year-old?

16 MR. BALDWIN: The eight-year old. And she  
17 was so excited to come. And, now, the question is:  
18 Joel's not going to go back to work for a while.

19 DETECTIVE TALAMANTE: Right.

20 MR. BALDWIN: I doubt he'll be back to work  
21 in a week or two. I have doubts. Who knows what  
22 they're going to do. They're going to get the shit  
23 sued out of them.

24 DETECTIVE TALAMANTE: And he -- I mean, I  
25 think his was the shoulder. He might, you know, I

1 don't know -- it's up to him how he feels and stuff  
2 on --

3 MR. BALDWIN: I'm -- I'm sure that there  
4 are so many insurance issues.

5 DETECTIVE TALAMANTE: There's going to --

6 MR. BALDWIN: They shouldn't even film.

7 DETECTIVE TALAMANTE: -- probably a halt  
8 on --

9 MR. BALDWIN: A lot of trouble -- there's a  
10 lot of trouble insurance-wise and a civil action  
11 lawsuit. All I'm saying is this. I told them I would  
12 stay here tomorrow. My family's not going to come  
13 down.

14 DETECTIVE TALAMANTE: Okay.

15 MR. BALDWIN: I begged them to come, and my  
16 wife wants to cancel the trip. She thinks it's a weird  
17 energy.

18 I told the producers that I would stay  
19 tomorrow in case anybody else -- there were insurance  
20 investigators, anybody, their lawyers wanted to talk to  
21 me; I'll make myself -- and on Saturday, I was going to  
22 fly home to New York and just wait for them to tell me  
23 what to do.

24 Did you need me to stay here beyond  
25 Saturday? I -- I will do whatever you tell me to do.

1 DETECTIVE TALAMANTE: Okay. So I think the  
2 whole -- what we need to do -- we're going to go and  
3 process the scene. If there's any else that comes up  
4 and that we need to contact you, you said you'll be  
5 here till Saturday? Or you want --

6 MR. BALDWIN: As of now -- oh, no. As of  
7 now, I'm going to stay tomorrow.

8 DETECTIVE TALAMANTE: Uh-huh.

9 MR. BALDWIN: To make myself available to  
10 the insurance and their attorney -- production's  
11 attorneys.

12 DETECTIVE TALAMANTE: Yeah.

13 MR. BALDWIN: To make myself available.  
14 They told me they're not sure they need to talk to me.  
15 I'm going to stay tomorrow and get on a plane Saturdays  
16 to go home and God knows when I'm going to come back.  
17 It might be months.

18 DETECTIVE TALAMANTE: Okay.

19 DETECTIVE HANCOCK: I --

20 DETECTIVE TALAMANTE: So we can contact  
21 you.

22 MR. BALDWIN: Yeah.

23 DETECTIVE TALAMANTE: As long as we have  
24 this number and he's not going to change it.

25 MR. BALDWIN: No. No. What I'm trying to

1 say is that I'm going to leave on Saturday --

2 DETECTIVE TALAMANTE: You're okay --

3 MR. BALDWIN: -- unless you tell me not to.

4 DETECTIVE TALAMANTE: You're okay to leave.

5 MR. BALDWIN: You tell me to come back in,  
6 I'm going to do whatever you tell me to do but my -- my  
7 wife wanted me to come home.

8 DETECTIVE TALAMANTE: Yeah. Yeah. So as  
9 long as we have a way of contacting you.

10 MR. BALDWIN: Jonah.

11 DETECTIVE TALAMANTE: Is what we need to do  
12 to get ahold of you. Okay. But I think you -- unless  
13 tomorrow you hear something different from us. Because  
14 right now, we're going to go -- we're --

15 MR. BALDWIN: You call me again tomorrow;  
16 I'll come here right away.

17 DETECTIVE TALAMANTE: Okay.

18 DETECTIVE HANCOCK: Yeah.

19 MR. BALDWIN: Tell me what you want.

20 DETECTIVE HANCOCK: What's your work cell?

21 DETECTIVE TALAMANTE: 490 --

22 DETECTIVE HANCOCK: Or your office, sorry?

23 DETECTIVE TALAMANTE: That one, I -- I  
24 don't know. I don't use it.

25 DETECTIVE HANCOCK: Well --

1 DETECTIVE TALAMANTE: So 2850 -- 9 --  
2 490-2850 work cell.

3 MR. BALDWIN: So the two of you are not  
4 best friends and you go bowling together? Or the  
5 movies together? No?

6 DETECTIVE HANCOCK: Yeah.

7 DETECTIVE TALAMANTE: Yeah.

8 DETECTIVE HANCOCK: My -- so this is my  
9 card. That's -- I put her name on the back of that  
10 one. But my office is that --

11 MR. BALDWIN: How do you prefer to be  
12 contacted? Office?

13 DETECTIVE TALAMANTE: Let me put my --  
14 because mine's a different --

15 DETECTIVE HANCOCK: Yeah. I don't -- my  
16 desk phone has a shoe so I use my work cell phone all  
17 the time. And that's usually the best way to get a --  
18 and then if I'm not at my desk either.

19 MR. BALDWIN: If I don't hear from you,  
20 otherwise; I mean, I'll come in tomorrow if you prefer.  
21 But if I don't hear from you otherwise, as of now, I  
22 intend to go home on Saturday.

23 DETECTIVE TALAMANTE: So, yeah. And -- and  
24 that's fine because right now, we still have other  
25 interviews to do. We gotta go to the scene, process



1 it.

2 The -- the processing at the lab might take  
3 longer, so you might even not hear from -- if --

4 DETECTIVE HANCOCK: And they're two years  
5 backlogged right now.

6 DETECTIVE TALAMANTE: So our  
7 investigation --

8 MR. BALDWIN: Would you want to talk to me  
9 remotely?

10 DETECTIVE TALAMANTE: If it comes to it --

11 MR. BALDWIN: Just tell me what to do.

12 DETECTIVE TALAMANTE: We will figure it out  
13 at that point. So right now --

14 MR. BALDWIN: As of now, my wife wants me  
15 to come home.

16 DETECTIVE TALAMANTE: As of right now, you  
17 better listen to your wife and go home.

18 MR. BALDWIN: Don't go there.

19 DETECTIVE HANCOCK: Okay. Are we ready  
20 for -- I do have some very unfortunate news to tell  
21 you.

22 MR. BALDWIN: What?

23 DETECTIVE HANCOCK: She didn't make it.

24 MR. BALDWIN: No.

25 DETECTIVE HANCOCK: Yeah. So Joel's still

1 at the hospital but the other person involved didn't  
2 make it. Sorry. I just didn't want you to hear it  
3 outside of here.

4 DETECTIVE TALAMANTE: Is there something we  
5 could do for you? Can we get Jonah in here?

6 DETECTIVE HANCOCK: What?

7 DETECTIVE TALAMANTE: Jonah.

8 DETECTIVE HANCOCK: Let me go check.

9 DETECTIVE TALAMANTE: Would you want Jonah  
10 in here with you?

11 MR. BALDWIN: I want to go.

12 DETECTIVE TALAMANTE: You wanna -- what do  
13 you want to do? Do you want to --

14 DETECTIVE HANCOCK: You can sit.

15 MR. BALDWIN: We should go. We should go.

16 DETECTIVE TALAMANTE: Are you guys needing  
17 a ride? Or are you comfortable --

18 DETECTIVE HANCOCK: I think they got their  
19 ride.

20 DETECTIVE TALAMANTE: Are you comfortable  
21 driving, though?

22 MR. BALDWIN: I wanna go call my wife.

23 DETECTIVE TALAMANTE: Of course. We can  
24 give you privacy.

25 MR. BALDWIN: No. We're going to go.

1 DETECTIVE TALAMANTE: Okay.

2 MR. BALDWIN: If nothing else, we're going  
3 to go.

4 DETECTIVE TALAMANTE: Can I get you a water  
5 or anything?

6 DETECTIVE HANCOCK: I'll give you guys a  
7 few minutes in here.

8 MR. BALDWIN: I wanna go call my wife.

9 [The recording concludes.]

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1 In re:

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4 **CERTIFICATE**

5

6 I, Raquel Piña-Baca, Certified Transcriptionist,  
7 DO HEREBY CERTIFY that the above-captioned  
8 transcription was prepared by me **November 17, 2022;**  
9 that the RECORDING was reduced to typewritten  
10 transcript by me; that I listened to the entire  
11 RECORDING; that the foregoing transcript is a complete  
12 record of all material included thereon, and that the  
13 foregoing pages are a true and correct transcription of  
14 the recorded proceedings, to the best of my knowledge  
15 and hearing ability. The recording was of GOOD  
16 quality.

17

18 I FURTHER CERTIFY that I am neither employed by  
19 nor related to nor contracted with any of the parties  
20 or attorneys in this matter, and that I have no  
21 interest whatsoever in the final disposition of this  
22 matter.

23

24 Raquel Pina-Baca  
25 Raquel Piña-Baca  
Certified Transcriptionist  
AAERT CET-822

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## EXHIBIT 3



SANTA FE COUNTY SHERIFF'S OFFICE

SHERIFF ADAN MENDOZA  
amendoza@santafecountynm.gov

UNDERSHERIFF KEN JOHNSON  
kjohnson@santafecountynm.gov

October 26, 2021

Special Agent in Charge

Raul Bujanda

Sir,

On behalf of the Santa Fe County Sheriff's Office, I, Sheriff Mendoza, am requesting assistance for case number 2021-007949, a shooting and death investigation at the Bonanza Creek Ranch, which occurred on October 21, 2021.

We would like to request assistance in the processing of evidence, not limited to, but to include ballistic, firearm and tool marking analysis.

We can confirm that none of the evidence in question has been submitted, processed or analyzed by any other crime lab.

Your assistance in this matter is greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Adan Mendoza".

Adan Mendoza

Santa Fe County Sheriff

Exhibit 3

## EXHIBIT 4

Kari Morrissey:

... got Kari Morrissey, Alexander James and Connor Rice on behalf of the state.

Speaker 2:

And we are recording.

Kari Morrissey:

Okay.

Sarah Clark:

Thank you. Alexander, I know you said we are recording?

Speaker 2:

Yes, we are.

Sarah Clark:

Okay, great. And you've got Sarah Clark, Heather Leblanc and Rebecca Arno for Mr. Baldwin, and it looks like we've got-

Kari Morrissey:

Yes, and just Kathy Stott from FBI Office of General Counsel. That's all.

Sarah Clark:

And Mr. Ziegler. Can you see and hear me?

Bryce Ziegler:

Yes, I can.

Sarah Clark:

It is 11:05 Mountain Time on April 25th, 2024. This is the pre-trial interview of Bryce Ziegler in connection with State versus Alexander Baldwin. My name is Sarah Clark and I'll be doing the majority of the questioning today. Mr. Ziegler, is there anyone else there in the room with you?

Bryce Ziegler:

Nope, I'm by myself.

Sarah Clark:

Okay, great. Just before we get going, I want to ask you that if you have any issues hearing me or understanding me, whether it's because of the connection or I'm speaking to quickly, please just let me know so we can address those issues and make sure we get a pretty clear record. I'm going to do my best not to talk over you. I know sometimes it's weird on Zoom. I'd ask that you do the same. Try to let me finish my question and before you answer, just so everything comes out cleanly. Does that all sound good?

Bryce Ziegler:

Exhibit 4

Yes, it does.

Sarah Clark:

Okay, great. And then Mr. Ziegler, you're not under oath here today. I would like to ask you if you are going to agree to tell me the truth to the best of your ability the same way that you would if you were under oath?

Bryce Ziegler:

I do.

Sarah Clark:

Okay, great. Mr. Ziegler, if I could get just a quick background as relevant to the position that you currently hold with the FBI, starting with education and training, if you could run me through that.

Bryce Ziegler:

Sure. Out of high school I joined the United States Marine Corps Reserves, so that gave me the opportunity to get a good bit of exposure to firearms just generally as far as operation, handling, disassembly, assembly, that type of thing. It was during that time I started going to school, which I earned a Bachelor's of Science in Forensic Science from the Penn State University. And it was shortly after I earned that degree where I was hired by the FBI lab.

Sarah Clark:

And what year was that?

Bryce Ziegler:

2011.

Sarah Clark:

And in 2011 were you doing firearms or were you in a different role?

Bryce Ziegler:

No, I was initially hired in one of the DNA units here at the lab. Basically having the forensic science background and then getting some experience working in the laboratory that gave me the experience to then transfer into the firearms unit in 2015.

Sarah Clark:

And did you have to do any additional training or qualifications to transition into the firearms unit?

Bryce Ziegler:

Yes, so I was hired in that capacity as a forensic examiner, so I had to complete the training program in order to become a qualified forensic examiner.

Sarah Clark:

And how long is that training program?

Bryce Ziegler:



Approximately three years.

Sarah Clark:

And did you complete that?

Bryce Ziegler:

I did.

Sarah Clark:

And so in your current role as a... Is it forensic firearms' examiner, is that correct? How should I say it?

Bryce Ziegler:

That's fine, yes.

Sarah Clark:

All right. Can you explain to me what it is that you do in that role?

Bryce Ziegler:

Sure. Some of the relevant duties are I receive evidence that's typically related to firearms and tool marks. I conduct the necessary examinations on those items of evidence. The results of those examinations are issued in a formal laboratory report and then I can be called to testify to those results if requested.

Sarah Clark:

And is that your understanding of what your role will be in this trial is testifying to the results of a report prepared by your team?

Bryce Ziegler:

That's correct. Yes.

Sarah Clark:

And my understanding is that you do examination of firearms, firearms identification and shooting incident reconstruction. Is that correct?

Bryce Ziegler:

My unit does many different types of exams. The three that you mentioned, those are just three of them.

Sarah Clark:

And which ones did you do that are relevant to this case?

Bryce Ziegler:

I would say firearms examination and firearms identification.

Sarah Clark:

And can you run me through what firearms identification consists of?

Bryce Ziegler:

That's if you have fired ammunition components, so typically it's a fired bullet or a fired cartridge case. And I may then be asked to compare either several fired ammunition components together or I may be asked to compare them to a firearm. The firearms' identification, it's the microscopic comparison to determine if a bullet or cartridge case was or was not fired by a particular firearm.

Sarah Clark:

And firearms examination, what is that?

Bryce Ziegler:

That's really a general term that encompasses a variety of different examinations. It can just be the function of the firearm. In this case it included things like accidental discharge, but that can be a wide variety of just general exams related to firearms.

Sarah Clark:

I want us to talk... We may come back to identification, but I want to focus our conversation on examination. Is that okay?

Bryce Ziegler:

Sure.

Sarah Clark:

With respect to firearm examination, can you tell me what kind of policies and procedures you use to conduct those examinations?

Bryce Ziegler:

Sure. We do have a standard operating procedure that details a variety of those types of general exams that I mentioned before. The laboratory also has its own quality assurance system, so that's a set of policies and procedures that are in place to ensure essentially that we are providing the best product that we can and that being the results of the examinations, which are detailed in the lab report.

Sarah Clark:

I want to go back to that first statement of procedure. Does it have an identifying number or name?

Bryce Ziegler:

I have it right here. The SOP that I'm referring to, it's the Firearms Toolmarks Discipline Standard Operating Procedure Firearms Examinations.

Sarah Clark:

And did you rely on that standard operating procedure in connection with the testing that you did on the revolver in this case?

Bryce Ziegler:

Yes.

Sarah Clark:

Do you have any procedures or policies that are specific to testing on revolvers?

Bryce Ziegler:

No, not necessarily. This encompasses all types of firearms.

Sarah Clark:

And did you review any standard operating procedures or testing manuals from any other law enforcement agency in connection with this case?

Bryce Ziegler:

I did not.

Sarah Clark:

For the testing that you did in this case, were you working with anybody else?

Bryce Ziegler:

A technician typically does general notes, so they would do things like take photographs and start to annotate things, just make model caliber, that type of thing. Then anytime I'm doing either a shooting examination or an examination that may result in a shooting, I have to do that in the presence of another person that's been safety certified essentially, so that just in case there's some accident or some type of failure, there's a second person that essentially can call for help.

Sarah Clark:

Those general notes that you made reference to, are those recorded anywhere?

Bryce Ziegler:

Yes. That would be on the notes sheets. You would see the name of the individual who started those notes sheets at the top of the page and then they also initial those pages.

Sarah Clark:

All right. I do want to get into this case, but before we do that, I want to back up a little bit into general procedure. I know you said you receive evidence. Where do you get evidence from? How does it get to you?

Bryce Ziegler:

The evidence is routed through the laboratory by a unit called the Evidence Management Unit. Typically, it's going to go to several different locations in the laboratory. And then when it comes to my unit, there is a storage location that's specific for evidence drop-off and pickup, and that's edge access only. We get a notification that the evidence arrives in our unit and then from that point, either I can pick it up or a technician can pick it up and start their work on it.

Sarah Clark:

How do you know what you're getting or what to do?

Bryce Ziegler:

Oftentimes there is what's called an electronic communication and that's going to line out basically all the items that we are submitted. I can cross-reference that listing with what I actually receive to ensure that I have everything.

Sarah Clark:

Do you have any interaction with the person who's submitting the evidence for testing, like wherever it's coming from originally?

Bryce Ziegler:

That just depends on the case and it depends on... In that EC they can also request what exams need to be done. If I read the EC and for instance, maybe the case agent doesn't know that I can perform a certain exam so I can reach out to them and tell them, "Hey, we have this capability as well." And they can make that decision if they want to include that or not.

Sarah Clark:

And when you say the case agent, is that somebody within the lab or is that somebody exterior?

Bryce Ziegler:

No, that's going to be a special agent from whatever field office the case originated from.

Sarah Clark:

And is that electronic communication that you're referencing, is that a log or a document? What is it? I'm assuming it's not just an email, but if it's that.

Bryce Ziegler:

It's basically a write-up, it gets uploaded into what we call Sentinel. That's just basically a database for FBI documents. They write this EC and that's a request for a lab exam, that's an LDR, a lab examination request. And then when evidence gets submitted, our folks down in the evidence management unit can pull that EC from Sentinel and again, they're going to inventory it, they're going to look at what needs to be done and decide where the evidence needs to go.

Sarah Clark:

You said that's uploaded to Sentinel. Do you know if there was one of those electronic communications in this case?

Bryce Ziegler:

Yes.

Sarah Clark:

And to your knowledge it was complete in Sentinel, do you know?

Bryce Ziegler:

I don't believe I went into Sentinel to research that because typically when I get it it's already printed, so I have a paper copy.

Sarah Clark:

I want to make sure I understand what it is. The electronic communication, is it literally just a report of what the items are that you are getting or is it like background? I just want to understand what it is.

Bryce Ziegler:

Sometimes there's background, it is just... A case agent authors it, it's going to have the day they submitted the items, it's going to have... Sometimes there's a synopsis and then there's a listing of the items.

Sarah Clark:

And would it typically also include instructions, like conduct this testing?

Bryce Ziegler:

It can. It just depends on how that particular case agent authors that document. Sometimes the instructions are very specific and sometimes it may say something like conduct all logical exams.

Sarah Clark:

And is that a separate communication log just for you or is that everything related to the case? Does it all go into one or are they separate?

Bryce Ziegler:

Yes, it's based on the submission, so every time evidence is submitted, it's accompanied by this request. It's going to be for basically the whole lab for everything related to that request.

Sarah Clark:

You would be looking at the same log as DNA or as fingerprints, you guys would all be looking at the same thing?

Bryce Ziegler:

Correct. Unless there's another submission that is specific. If they're only requesting one unit, then I wouldn't see that document. But if it's requesting everybody, then yes, we are looking at the same document.

Sarah Clark:

That's helpful. Do you know how long those are maintained?

Bryce Ziegler:

I don't know Sentinel's retention policy, it may be permanent. I'm not sure.

Sarah Clark:

When was the last time you looked at that?

Bryce Ziegler:

This document specifically?

Sarah Clark:

Yeah, the electronic communication for this case.

Bryce Ziegler:

I reviewed it today, but the paper copy, not the electronic copy.

Sarah Clark:

If you have items of evidence that come in, for example, we have a firearm here and it needs to do firearms testing, ballistics testing, DNA testing, fingerprint testing, what is the order that that goes in?

Bryce Ziegler:

I'm not certain of the order between DNA and latent prints, but typically the firearms exams come at the end.

Sarah Clark:

And why is that?

Bryce Ziegler:

Because we have to handle these items and when we test fire them and load them, our exams are considered potentially destructive to types of evidence that are much smaller in detail.

Sarah Clark:

When you're doing all of that handling, are you wearing gloves?

Bryce Ziegler:

Typically, no, unless it's specifically requested or unless there's a safety reason too, sorry.

Sarah Clark:

Yeah, no. And please always clarify if you feel like you left something off. I'm not sure if this question will sound stupid or not, but I have a report from you and then I also have something that says FTD, Firearms Worksheet.

Bryce Ziegler:

Right.

Sarah Clark:

What is the difference between those two things?

Bryce Ziegler:

The report, those are the conclusions, so that's the report that I authored. They have the results of my examinations. The worksheets are all the documentation, the case notes, everything. That's the bulk of the work that was done in this case. If you read the report, you're only seeing the end result, but when you go back and look at the case notes, that's all the supporting data for how I got to that conclusion.

Sarah Clark:

And when you say case notes, do you mean whatever's entered on this thing that says Firearms Worksheet, is that the case notes, I'm understanding?

Bryce Ziegler:

Correct.

Sarah Clark:

When you get a piece of evidence in and you have your communications log, I know you said you can have communications with the case agent, do you also have communications with the contributor of the item?

Bryce Ziegler:

Typically the case agent is the contributor.

Sarah Clark:

Okay, understood. For example, in this case where you're testing items submitted from a state agency, would you end up having communications, you personally, with the representatives of the state agency or do you just go to the case agent?

Bryce Ziegler:

Most times I go directly to the case agent and then they essentially act as the liaison between the lab and the people who are investigating the case.

Sarah Clark:

All right. I want to move forward to this particular case. Who was the case agent who submitted the electronic communication for this case?

Bryce Ziegler:

That was Jose de Cortez.

Sarah Clark:

And do you know when you first learned about this case?

Bryce Ziegler:

I do not know the timeline, no.

Sarah Clark:

Would that be reflected on the electronic communication?

Bryce Ziegler:

That would show when the evidence was submitted to the lab.

Sarah Clark:

And if I wanted to see the date that you conducted your testing, where would I look for that? The actual date of the testing?

Bryce Ziegler:

That would be on the case notes. And each page has a date in the top left corner.

Sarah Clark:

All right. Recognizing that I know you don't know exactly when you first heard about the case, did you have communications with Agent Cortez about this testing that you were requested to do?

Bryce Ziegler:

Eventually I did, yes.

Sarah Clark:

What was the nature of those communications?

Bryce Ziegler:

When I was initially assigned to the case, there had already been some conversations about the types of exams prior to me actually being assigned to this case. Once I was assigned, I had to reach out to him to basically figure out exactly what they wanted done.

Sarah Clark:

And who was having those prior communications before you got on the case?

Bryce Ziegler:

I believe my unit chief was involved because they knew it was coming to my unit. They just didn't know who was going to be doing the exams yet. And I believe my supervisor was involved.

Sarah Clark:

And what are their names?

Bryce Ziegler:

Brett Mills is the supervisor and Robert Mothershead is the unit chief.

Sarah Clark:

Would they have been having conversations between themselves or with Agent Cortez, do you know?

Bryce Ziegler:

I do not know.

Sarah Clark:

You learned about it and then what happened? Who did you talk to?

Bryce Ziegler:

I talked to Special Agent Cortez.

Sarah Clark:



And what did you guys discuss?

Bryce Ziegler:

Initially I believe the firearm was being routed through the lab, so it was in other units. Initially the first thing that I received was ammunition in the case, so I had to talk to him about basically what exams they wanted on the ammunition.

Sarah Clark:

And what were those?

Bryce Ziegler:

There was initially a concern about the types of markings on the ammunition. And there was a question about whether I could determine if they were made by basically a bulk manufacturer or essentially a smaller manufacturer or even somebody hand loading their own ammunition. And ultimately we decided not to proceed with that exam.

Sarah Clark:

Why not?

Bryce Ziegler:

Because even with bulk manufacture, you still may get some similar marks on ammunition depending on the method that they use to make their ammunition. We had conversations and ultimately felt like even if I saw some of these marks, I would not necessarily be able to say the origin of those marks.

Sarah Clark:

Did you ultimately do any testing on the ammunition?

Bryce Ziegler:

Yes.

Sarah Clark:

What did you do?

Bryce Ziegler:

The ammunition testing essentially took place in three parts. The first was basically just a visual examination, so I basically looked at the components of the ammo and tried to figure out what I could see from the outside. The second thing I did was I x-rayed all the ammunition, so that was trying to give me an understanding of if I could learn anything about what's going on inside some of these cartridges. And then the last test that we did was I worked with the case agent and came up with a sampling plan for which of these cartridges actually needed to be disassembled so I could take them apart and physically see what's on the inside.

Sarah Clark:

You said you worked with the case agent too. Are those communications recorded anywhere?

Bryce Ziegler:

Yes, there is a communication log.

Sarah Clark:

And is that different than the electronic communication we were just talking about?

Bryce Ziegler:

Yes.

Sarah Clark:

Can you tell me what the communication log is and how you use it?

Bryce Ziegler:

That's in our lab database. It's called FA, Forensic Advantage, and basically that's a location where anyone who's involved in the case, if they have a communication with the field, they can go in there and make an annotation that that communication existed.

Sarah Clark:

And did you use that communication log?

Bryce Ziegler:

Yes, I did.

Sarah Clark:

And did Agent Cortez use that communication log?

Bryce Ziegler:

The field does not have access to our database, so it's up to me as the examiner to populate that.

Sarah Clark:

You would log your communications with Agent Cortez?

Bryce Ziegler:

Correct.

Sarah Clark:

And is that standard?

Bryce Ziegler:

Yes.

Sarah Clark:

It's standard practice? That's standard practice?

Bryce Ziegler:

Yes.

Sarah Clark:

Do you know if Agent Cortez logs his communications anywhere in particular with you?

Bryce Ziegler:

I do not. I don't know the policy of the field office for that.

Sarah Clark:

But the policy for your lab is that those communications are all logged in the communication log?

Bryce Ziegler:

Correct.

Sarah Clark:

And you said it's housed in something called Forensic Advantage, FA?

Bryce Ziegler:

Yes.

Sarah Clark:

Is that similar to Sentinel or is it something else?

Bryce Ziegler:

It's similar, but it's specific for our lab. That's also how we maintain chain of custody, track the evidence. I can look up a case and see what location the evidence is in, so it's really everything. It's the database, but it's specific to the evidence and how it's being worked at the lab.

Sarah Clark:

If I want to follow a particular piece of evidence... I'll put this up. I have one of your lab reports up here. I'm going to share this, I think. I'm going to try to. You should see a document 2021-2245-3LR. It's a 10-page document?

Bryce Ziegler:

Yes.

Sarah Clark:

I believe that this is your laboratory report. What I actually want to ask you about though is if I wanted to track this case, is this case ID number, what are these, all of case number, lab number-

Kari Morrissey:

Sarah? Hey Sarah, can you stop for just a second? I can't see what your... There it is. It just came up.

Sarah Clark:

Sorry. I think there's a bit of a lag.

Kari Morrissey:

I think so. I've got it now. All I can see is the front page that says FBI Laboratory, Laboratory report, so if we're supposed to be looking at something else, I'm not seeing it, but I do see that front page. Sorry for the interruption.

Sarah Clark:

Yep. Just asking about the front page right now. I want to ask about these various numbers, case ID number and lab number. Can you walk me through what each of those are and how they might, if they change?

Bryce Ziegler:

All right, so when the FBI opens an investigation, it gets assigned a case ID number. The first two letters are the field office it came from, and then it's a sequential numbering system after that. Out in the field office, they open a case and then when they collect evidence and submit it to the lab, the lab generates a lab number for those items. And again, so that's the year that it's submitted and sequentially.

Sarah Clark:

I see. That helps me understand that document title as well. Both the case number and the lab number refer to this set of evidence. Is the lab number just your piece, like just firearms, or do they change?

Bryce Ziegler:

The lab number is going to be the entire case here at the lab, the dash three at the end, that's called the case record number. The case is the lab number, but the record number, that dash three, that's specific to my exam. If you pulled up a latent print report, it would've a different dash number behind it.

Sarah Clark:

Understood. Now, I know some of the other sections, other labs have what's called a digital case file. Do you have that as well?

Bryce Ziegler:

No, it's just the lab number.

Sarah Clark:

Just the lab number. All right. I'm going to stop sharing this just because it's taking up a lot of screen. When you initially received this evidence, I think you said that you worked with the case agent to come up with a plan for the ammunition testing, and that was the first thing that you did?

Bryce Ziegler:

Correct.

Sarah Clark:

And then at some point you did some testing on the actual firearm as well, correct?

Bryce Ziegler:

That's correct.

Sarah Clark:

And walk me through how you knew what testing to do for that.

Bryce Ziegler:

When a firearm comes to the laboratory, there's just generally speaking, there are a couple of routine exams that we do. Typically, we need to make sure it's safe to fire, and if it is, if I deem it safe to fire, then we would perform a function test where I physically take it to one of the two locations in the lab here and actually test fire the gun. That's just standard for basically any gun that walks in the door. The second thing that I did was I was also submitted a fired bullet and a fired cartridge case. Again, when we have those items, it's standard practice to do comparisons on those items. That's where I would collect test fires from the known firearm and compare them to this fired bullet, fired cartridge case to attempt to determine if they were in fact fired by this firearm, or conversely, if not. And then the last set of testing that I did on the revolver was the accidental discharge testing.

Sarah Clark:

And did you do all of that testing together all at one, two, three, walk through it?

Bryce Ziegler:

No. The reason the accidental discharge testing is at the end is because that type of test is destructive in nature, so there's a chance the firearm may break. I need to be completely done with my other tests before I do that one. The function test came first, then I needed to ensure that I had collected all of the test fires that I was going to for my microscopic comparisons. Basically the first two exams had to be completely done before I moved to the third one.

Sarah Clark:

And so do you have a sense of how much time passed between the first tests and the last test?

Bryce Ziegler:

It could be recorded in the case notes, but sometimes the date is just the date that first part started. I can look if you want, but I'd have to double check on that.

Sarah Clark:

When you say the date that the first part started, which first part are you referring to?

Bryce Ziegler:

That would be the function testing.

Sarah Clark:

Do you recall when you conducted the initial testing on the... Or sorry, let me back this up. I just want to walk it through chronologically. You received quite a bit of ammunition right, in this case?

Bryce Ziegler:

Right.

Sarah Clark:

And so you said that you did your exam on that visual x-ray, and then comparing the internal components. Do you know roughly when in time you did that?

Bryce Ziegler:

I can check my notes here. It looks like as far as the ammunition is concerned, the notes were initially started, let's see, November 10th of 2021.

Sarah Clark:

And when did you start testing the firearm?

Bryce Ziegler:

That would be April 8th, 2022.

Sarah Clark:

Was the firearm at the FBI that whole time?

Bryce Ziegler:

I believe so. I would have to check the chain of custody, but I know there were some initial conversations about what needed to be done on the gun. And like I said, it may have gone to other units prior to me receiving it, so that could be why it was that much later when we started that.

Sarah Clark:

And those initial conversations, are you referring back to the ones between your unit chief, your supervisor and Cortez?

Bryce Ziegler:

The initial conversations that I had were not regarding the firearm, it was just the ammunition.

Sarah Clark:

And then at some point, did you have a conversation about the firearm?

Bryce Ziegler:

Yes, eventually.

Sarah Clark:

Do you know who that was with?

Bryce Ziegler:

That would be Jose Cortez also.

Sarah Clark:

And would that be reflected in the communication log?

Bryce Ziegler:

Yes.

Sarah Clark:

And do you know roughly when that was?

Bryce Ziegler:

I have it here.

Sarah Clark:

Do you have the communication log?

Bryce Ziegler:

I do. It's printed and it should also be part of the packet that you received.

Sarah Clark:

And when you say that you received, do you mean that you provided to the state and defense counsel?

Bryce Ziegler:

Correct. It's part of the discovery packet, so you should have received it.

Sarah Clark:

Okay, thanks. All right. I'm still going to ask you that same question because I can't find it. Do you know around when you spoke to Agent Cortez has about testing the firearm?

Bryce Ziegler:

Yes. It was shortly after we received the firearm. The first note that I have in my comm log is April 21st, 2022.

Sarah Clark:

And that's also about when you received it?

Bryce Ziegler:

It was shortly after. Like I said, we started the notes on April 8th, so general notes were started. At that point, we may have already done the function test because we knew we were going to have to do that anyway, that's just standard. Then at a certain point after that is when we had this conversation about does anything else need to be done?

Sarah Clark:

I'm going to put a pin right now in this and focus a little bit on these dates. I'm going to show you one of the pages of what I understand of the firearms' worksheet I'm carrying. This is the 128-page PDF. I'm going to put it up. Let me know when you guys can see it. I know it's got a delay. Are you able to see that Mr. Ziegler?

Kari Morrissey:

I can see it.

Bryce Ziegler:

I can't read it, but I have.

Kari Morrissey:

There we go. I can see it now.

Sarah Clark:

I'm going to zoom into it a little bit more now. Is that better Mr. Ziegler?

Bryce Ziegler:

It's a little better.

Sarah Clark:

I'll do my best here. There's a 4/8/2022 date.

Bryce Ziegler:

Correct.

Sarah Clark:

It says date 4/8/2022 prepare. What date does that refer to 4/8?.

Bryce Ziegler:

That is the date that this page of notes was started.

Sarah Clark:

There is another date in parentheses the top left corner, and that says 4/15/21. What does that date mean?

Bryce Ziegler:

That is the date that this standardized worksheet was implemented into our lab practice. That's a worksheet date, not an exam date. This is a standard case notes form. That's the date that that form was adopted.

Sarah Clark:

And then I've got more. Don't worry. There is a July 26th, 2022 date at the bottom in a red stamp. Do you know what that date is?

Bryce Ziegler:

Those are my initials in the bottom right. And that red stamp, that is the date that all of the notes were finalized. That's essentially me initialing this notes page and dating it that this is final, and that's when it starts to go through the review process.

Sarah Clark:

Can you describe that review process to me?

Bryce Ziegler:



Sure. Every case that has a report written goes through a two-step review process. This is part of the quality assurance system that I spoke about earlier. The first review is called a technical review, and essentially the purpose of that review is another qualified examiner reviews the work that I did, reviews the results that are in the report. And they're attempting to ensure that every result has support in the case notes, and they're also looking at technical information. But that's really the purpose of the tech review, to make sure that there is background support for the result. Now, the second review is an administrative review that's typically done by the unit chief, and that review focuses more on the report, so things like formatting, grammar, are there correct methods and limitations there, is the correct case information there. That focuses more on the report, but they still also review the case notes. If they see typographical errors for instance, that's something I would expect them to point out.

Sarah Clark:

In April of 2022, did you have conversations with Special Agent Cortez about the testing that you were going to conduct on this firearm?

Bryce Ziegler:

Yes.

Sarah Clark:

And what did you guys discuss?

Bryce Ziegler:

I believe we discussed the function exam, the microscopic comparisons, and then we also discussed the accidental discharge testing.

Sarah Clark:

When you say the microscopic comparisons, are you talking about the identification portion?

Bryce Ziegler:

Correct.

Sarah Clark:

And what was the upshot of those discussions? What did you guys decide?

Bryce Ziegler:

It was at that point... We already knew we were going to do the function and we decided to proceed with the microscopic comparisons, and that was the first time we talked about accidental discharge. That was not part of the original request. And so basically I explained the test to them, I explained the caveats to the test, and then he took that information to the detectives and they decided to proceed with that test.

Sarah Clark:

You said you described the accidental discharge test to them. Who all is them?

Bryce Ziegler:

Well, I explained it to Special Agent Cortez, and then he took that information to whoever the relevant parties were.

Sarah Clark:

Did you have any interaction with the San Francisco Sheriff's office? Santa Fe. Sorry, Santa Fe?

Bryce Ziegler:

I do believe they were CC'd on some of our email exchanges. For instance, when I was coming up with a sampling plan for the ammunition, I know that they were included on those emails because ultimately they had to approve it. But the majority of the communications were from me to the special agent. And then like I explained before, he was the liaison.

Sarah Clark:

Do you recall the names of any of those people who were copied on the emails about the sampling plan?

Bryce Ziegler:

I would have to go back through my emails. I believe one of the detectives was Alexandra, but I can't recall her last name.

Sarah Clark:

And do you keep those emails as part of a case file or what happens to those communications?

Bryce Ziegler:

No, the emails themselves are not typically saved. Sometimes they can be attached to the comm log that I have been referencing, but I don't believe I attached them.

Sarah Clark:

Those emails would have been included on the comm log, you would've logged those?

Bryce Ziegler:

Correct.

Sarah Clark:

You explained to them the types of testing, the accidental discharge testing, and you said and caveats. Can you tell me what the caveats are?

Bryce Ziegler:

That's basically explaining that the test is destructive and if we proceed with the test, there is a chance that the firearm may become damaged or may no longer be functional, so they need to know that before they give me permission to do that test. I needed them to understand that those conditions are possible, and then I need their permission to continue with that test.

Sarah Clark:

And just to make sure I'm clear, they then is referring to the people asking for the testing in this case, Santa Fe Sheriff's office?

Bryce Ziegler:

Correct.

Sarah Clark:

Do you know if you had any communications with the district attorneys on the case or the prosecutors at the time?

Bryce Ziegler:

I don't believe I did while the exams were ongoing.

Sarah Clark:

Do you know if Agent Cortez did?

Bryce Ziegler:

I don't know that.

Sarah Clark:

And then you said while the exams were ongoing, so I'm guessing you had some communications with them afterward?

Bryce Ziegler:

Correct.

Sarah Clark:

All right. We're going to come back to this and I want to try to keep us a little bit when you're here. You've explained to Agent Cortez and at least to your understanding is Agent Cortez would've explained to the Santa Fe Sheriff's department office that this testing could be destructive, could result in breakage of components of the firearms. Is that correct?

Bryce Ziegler:

Correct.

Sarah Clark:

And then what happened next?

Bryce Ziegler:

Eventually I heard back from them that wanted to proceed with the test. At that point, as I explained before, I had to ensure the first two exams I had to be completely done with those just in case the farm did become damaged, so I started conducting those tests in that order.

Sarah Clark:

And those tests are functionality and visual inspection?

Bryce Ziegler:

Function, the comparisons, and then lastly, the accidental discharge.

Sarah Clark:

Walk me through the usual process for each of those. For a function, what do you have to do?

Bryce Ziegler:

For a function, the first thing I need to do is inspect the firearm for safety purposes so that... When I open an item of evidence and it's a firearm, I know nothing about this gun. It's the first time I'm laying eyes on it, so I need to look for things like blockages in the barrel, bulges in the barrel, cracks in the frame, things that I may expect may cause this firearm to have a catastrophic failure on the range. And if I feel that it's safe to fire, I can then take it to one of two locations in the FBI lab using laboratory ammunition, and then I'll physically shoot that firearm to see how it's functioning.

Sarah Clark:

And when you receive a new firearm, do you talk to anybody else about the type of gun it is. Do you do any research about that type of firearm?

Bryce Ziegler:

Not typically.

Sarah Clark:

Do you typically consult with anybody else above or around you about the type of gun that you're about to work with?

Bryce Ziegler:

Not unless it's something that's very odd that maybe I haven't seen before.

Sarah Clark:

And is the process that you just described to me of checking for the cracks and the bulges, is that all laid out in the standard operating procedures?

Bryce Ziegler:

Yes, it's the same document that I've been referring to.

Sarah Clark:

And so you do your test firing, and then I think from there you go into comparison, so my understanding is those two are related, but can you walk me through that?

Bryce Ziegler:

They are related because I need to collect test fires in order to do the comparison. Again, I'm using laboratory ammunition and I'm physically shooting the firearm, collecting fired bullets and fired cartridge cases. And those items, at that point, they become my knowns because I know they came from this gun because I physically shot it and collected them, so I can then use those knowns and compare the markings on them to the unknowns or the evidence items in the case.

Sarah Clark:

And so you conducted both of those and then you moved on to the accidental discharge testing?

Bryce Ziegler:

Correct.

Sarah Clark:

And that's from the same statement of your standard operating procedure?

Bryce Ziegler:

It is.

Sarah Clark:

And walk me through what you usually do for that testing.

Bryce Ziegler:

If I can clarify, there is a separate SOP for the comparisons.

Sarah Clark:

They have a different one.

Bryce Ziegler:

But the safety evaluation, the function and the accidental discharge all appear in that general firearms SOP.

Sarah Clark:

I do want to get, if I can, what's the name of the SOP for the comparison?

Bryce Ziegler:

It has to do with what's called pattern matching. But again-

Sarah Clark:

If I look for that, I might find it.

Bryce Ziegler:

You should have received all of those in the discovery packet.

Sarah Clark:

The accidental discharge testing is the same SOP as the function testing and the safety testing. Is that correct?

Bryce Ziegler:

Correct.

Sarah Clark:

Walk me through how that testing is supposed to go.

Bryce Ziegler:

Essentially the goal of this test is to determine, can I get this firearm to discharge without pulling the trigger? And the method that's used here at the FBI lab, which is laid out in the SOP, is we attempt to do

this by striking the firearm on six planes with a rawhide mallet. Essentially, it's trying to see if just that amount of shock or vibration that's being introduced to that particular gun is that enough energy to cause this to fire without me touching the trigger.

Sarah Clark:

And whose idea was it to conduct that testing?

Bryce Ziegler:

I believe I first brought that to the attention of Special Agent Cortez.

Sarah Clark:

And then he would've discussed it with the sheriff's office and then relay it back to you?

Bryce Ziegler:

Correct.

Sarah Clark:

You strike it with a rawhide mallet and then see if it discharges. Were there any other policies or procedures around that, or do you just wait on it and go?

Bryce Ziegler:

Basically it lays out the tool that's used, so a rawhide mallet, what areas are struck? The six different planes. We use a primed cartridge case so that if there is a firing event, I'm not actually shooting a projectile. I feel that's about it.

Sarah Clark:

And any procedures or protocols for how hard you hit it?

Bryce Ziegler:

No, ma'am.

Sarah Clark:

How do you make that decision?

Bryce Ziegler:

It's not something that I'm able to quantify. It's just I'm taking this gun on the range and I'm striking it with a mallet and seeing if that type of interaction will cause it to fire.

Sarah Clark:

Just so I understand, I know a little bit about guns, but certainly not as much as you, are you holding it and hitting it with a hammer or is it in some kind of vice? How does it work?

Bryce Ziegler:

In this case, I had it in what's called a remote firing platform. It's essentially a clamp for firearms, and that's also permitted in the SOP.

Sarah Clark:

That's in the SOP as well. Any other testing that you recommended or suggested for this firearm?

Bryce Ziegler:

No, I believe that was it.

Sarah Clark:

And so you did your testing and then you generated the report. Did you author the report?

Bryce Ziegler:

I did.

Sarah Clark:

And then it went up through the review process you described?

Bryce Ziegler:

Correct.

Sarah Clark:

Do you know the names of the actual individuals who reviewed your report?

Bryce Ziegler:

I do. The technical review was Eric Smith and the administrative review was the unit chief Robert Mothershead.

Sarah Clark:

And did they have any substantial revisions?

Bryce Ziegler:

The tech reviewer did have me add some additional documentation.

Sarah Clark:

What about?

Bryce Ziegler:

I did make notes, so in your packet you should actually have two sets of notes. You have essentially the finalized version, and then you have a version that's marked draft for tech review. There's a watermark, so that's going to be at the very end. And then on the last page of that draft document, I made some handwritten annotations, basically constituting what the majority of the changes included. Basically it included additional information about, I found a similar type firearm in our reference collection at the lab, so I did some reviews of that firearm to basically ensure that what I was seeing with the case firearm was consistent with this reference firearm. And then I also added some information about the manufacturer of the cartridge cases and used some standardized definitions.

Sarah Clark:

And those notes will all be reflected in the draft document?

Bryce Ziegler:

Correct.

Sarah Clark:

Just so that I understand, Kari, I'm going to share my screen. It's page 15 of that same 128 page PDF. I think the question is going to be, is this the sample from the lab that you're talking about, so similar style firearm to item two?

Bryce Ziegler:

That's correct. That's a laboratory firearm.

Sarah Clark:

That's what that guy is helpful. And the laboratory firearm, you guys have just like a stockpile somewhere or where's this guy from?

Bryce Ziegler:

Yes, we have a reference collection here at the lab.

Sarah Clark:

And when did you go to that reference collection in the process of your testing? At what point did you go over there and check that guy out?

Bryce Ziegler:

I don't have a date on that.

Sarah Clark:

Would it have been before or after you did the accidental discharge testing?

Bryce Ziegler:

I am not certain, but I believe it was after.

Sarah Clark:

All right. Your report went through its review process. After you finished your report, did you have any conversations with the prosecution in this case?

Bryce Ziegler:

Yes, in preparation for trial.

Sarah Clark:

I'm going to back that up and split it into two groups. Did you ever have a conversation with what I'm going to call the first set of prosecutors, and that's Andrea Reeb, Mary Carmack-Altwies, and Jennifer Padgett?



Bryce Ziegler:

Yes, I did.

Sarah Clark:

When did that take place?

Bryce Ziegler:

I could not be certain of that.

Sarah Clark:

Was it just one conversation?

Bryce Ziegler:

This isn't something... Since this is after the exams, I wouldn't have a record of that in the comm log. We don't continue to add to it once the case is closed, at least as far as the lab is concerned.

Sarah Clark:

We can just talk about what you recall. You recall talking to them?

Bryce Ziegler:

Yes.

Sarah Clark:

Do you have any sense of when, even rough?

Bryce Ziegler:

I do not.

Sarah Clark:

Before Ms. Gutierrez's trial?

Bryce Ziegler:

Yes.

Sarah Clark:

And what did you guys discuss in that meeting?

Bryce Ziegler:

I believe there was just trying to educate them, trying to understand the report. And then at some point there was also some conversations about, they sent me photographs of a different hammer from basically another same make and model firearm of this type of gun. And they were asking me questions... Sorry.

Sarah Clark:

No, go ahead. You're going to answer my question.

Bryce Ziegler:

I recall them asking me questions about if I could determine if the original hammer had been modified or not.

Sarah Clark:

And what was the outcome of that conversation?

Bryce Ziegler:

I didn't have the items to physically examine, so I couldn't necessarily answer that question.

Sarah Clark:

When you say you didn't have the items, you already had returned the evidence revolver?

Bryce Ziegler:

Correct.

Sarah Clark:

And you didn't have physically whatever this picture is they were showing you?

Bryce Ziegler:

Correct.

Sarah Clark:

Do you know if they emailed that to you or did they just show you on the screen or something?

Bryce Ziegler:

I would've to go back and look. I can't remember if it was emailed or if it was a shared screen.

Sarah Clark:

And let me go back a little bit to that meeting. Was that meeting on Zoom or in person or how did that meeting go?

Bryce Ziegler:

I believe it was Teams. It was not in person. I know that.

Sarah Clark:

And who else was there? Do you remember?

Bryce Ziegler:

No, I don't recall.

Sarah Clark:

Do you know if Agent Cortez was there?

Bryce Ziegler:

I couldn't be certain of that.

Sarah Clark:

Maybe, maybe not?

Bryce Ziegler:

It's possible.

Sarah Clark:

And so did you ever end up conducting any kind of analysis of a different hammer?

Bryce Ziegler:

No, I did not.

Sarah Clark:

And so I think you had said that the case was closed and after that you wouldn't have a record. Have you amended your report since that case was closed?

Bryce Ziegler:

Yes, I did.

Sarah Clark:

How did that come about?

Bryce Ziegler:

When I was preparing for the first trial that I testified in, I noticed a typographical error in my report.

Sarah Clark:

What was that error?

Bryce Ziegler:

It had to do with the result in the accidental discharge portion, and there was a specific statement in regard to the quarter and half-cock settings. And it's my opinion that the overall result did not change, but I felt the description that I had there was inaccurate for how the testing was done.

Sarah Clark:

Can you explain to me, you can take as much detail as you need, but I want to understand that modification.

Bryce Ziegler:

Sure. There was a statement that said in those two positions that the revolver could not be made to fire without a pull of the trigger. Like I said, the conclusion that it could not be made to fire was correct. However, the design of this firearm allowed me to test those two positions by pulling the trigger, so the phrase without a pull of the trigger is an inaccurate description of that process.

Sarah Clark:

When you did the testing, you did pull the trigger for the half and a quarter, am I understanding that correctly?

Bryce Ziegler:

Yes, that's correct.

Sarah Clark:

The amended report that I have at least has an April 2024 date on it. When did you conduct this or when did you do this amending?

Bryce Ziegler:

It would've been after the first trial, so the date that I have on the amended report is April 5th.

Sarah Clark:

And that's after Ms. Gutierrez's trial concluded?

Bryce Ziegler:

That's correct. I didn't notice it until it may have been the day before that trial. It was right before.

Sarah Clark:

Sorry, back me up a little bit. It was right before... I don't understand that timing. Can you tell me what you're saying again?

Bryce Ziegler:

As I was prepping to testify in that trial is when I noticed the mistake.

Sarah Clark:

I see. You're saying it may have been the day before your testimony is when you noticed the issue?

Bryce Ziegler:

Correct.

Sarah Clark:

Let's go back to that. We discussed the meeting with Ms. Reeb, Ms. Carmack-Altwies and Miss Padgett on Teams. Did you have any other meetings with that group of prosecutors?

Bryce Ziegler:

So I believe the discussion about the hammer being modified or not was a second discussion.

Sarah Clark:

That's a second discussion. Was that also on Teams?

Bryce Ziegler:

I can't be certain if it was Teams or a phone call. It was not in person.

Kari Morrissey:

Hang on just a second. I'm going to intervene real quick, Sarah, and just try to correct something for you. And Mr. Ziegler, I would ask that you review your email when this is over to see if you received photos regarding the hammer from the previous prosecution team. I have reviewed my emails and I sent three photos that were provided to me by Luke Nikas to Mr. Ziegler, and I sent them to him via email on April 19th of 2023. And I asked him to review them and then I had a telephone call with him so that we could discuss those photos. I want to make sure, Bryce, that you are accurate in terms of which prosecution team you had that contact with. If you go back through your records and you received photographs and had a discussion with the previous prosecution team, please let me know that.

Bryce Ziegler:

I will do that.

Kari Morrissey:

And also, as a point of clarification, the only Zoom meeting that I appear to have had with Mr. Ziegler was in February in preparation for the Gutierrez trial. And I do have that email when we scheduled that meeting. And I believe we met on the 13th of February in preparation for that trial. I wanted to clear that up for you, Sarah, because I suspect Mr. Ziegler may be mistaken about who he received the hammer photos from that I want him to look and let us know.

Sarah Clark:

Great. Mr. Ziegler, then I want to move forward. Whichever prosecution team it is that sent you the images of the hammer, you ultimately did not do any additional testing or provide any further reports in connection with the images sent to you, is that correct?

Bryce Ziegler:

Correct.

Sarah Clark:

Following that communication and follow-up call, did you speak with any member of the Santa Fe Sheriff's office or any member of the prosecution team before this February meeting that Ms. Morrissey just referenced?

Bryce Ziegler:

I don't believe so.

Sarah Clark:

And in the meeting that you had with Ms. Morrissey, what did you discuss?

Bryce Ziegler:

That was preparation for trial.

Sarah Clark:

And what were you understanding that you were going to be testifying about in Ms. Gutierrez's trial?

Bryce Ziegler:

Essentially every result that you see in the lab report and as well as what's in the case notes, so the foundation for those results.

Sarah Clark:

Anything beyond your lab report and the case notes that you were prepared to testify to?

Bryce Ziegler:

I don't believe so.

Sarah Clark:

Anything in your lab report or case notes other than the amendment that you already made that you think is inaccurate or incorrect?

Bryce Ziegler:

I do not.

Sarah Clark:

And any communications with the prosecution or the Santa Fe Sheriff's office since Ms. Gutierrez's trial?

Bryce Ziegler:

The only communication I had was I just let the prosecutor know that I was doing the amendment. We had discussed that in preparation, so I just emailed her, notifying her that it was occurring.

Sarah Clark:

When you prepped with her in February, you guys discussed the amendment and then in April you did the amendment. Is that correct?

Bryce Ziegler:

Correct.

Sarah Clark:

Did she ask you to make that amendment?

Bryce Ziegler:

I notified her that I found an error and yes, I believe she asked if we could amend it, that that's what we should do.

Sarah Clark:

Any other errors that you're aware of or that you've found?

Bryce Ziegler:

No.

Sarah Clark:

Any other amendments that you've made to that report?

Bryce Ziegler:

No.

Sarah Clark:

Give me one second to look through my notes. Because it did not go as linearly as I want it to be going. That's all right. Have you followed this case in the media at all, Mr. Ziegler?

Bryce Ziegler:

I've seen a few headlines.

Sarah Clark:

On what? How have you seen those?

Bryce Ziegler:

They show up on Apple News.

Sarah Clark:

Did you follow Ms. Gutierrez's trial before you testified?

Bryce Ziegler:

No.

Sarah Clark:

Did you watch any of it after you testified?

Bryce Ziegler:

I watched portions.

Sarah Clark:

Which portions?

Bryce Ziegler:

I was required by the FBI lab to watch my own, because that's part of our testimony review process. And then I watched the two other testimonies that were related directly to firearms.

Sarah Clark:

And who were those by? Do you remember the names?

Bryce Ziegler:

It was Mr. Haig and I don't know the other individual's name.

Sarah Clark:

Would that have been the defense expert?

Bryce Ziegler:

That's correct.

Sarah Clark:

And have you followed the media on this case since Ms. Gutierrez's trial ended?

Bryce Ziegler:

I wouldn't say I followed it. Again, sometimes things pop up.

Sarah Clark:

Have you read anything about the charges against Mr. Baldwin that you recall?

Bryce Ziegler:

Again, I'm sure I've read some. I'm not sure about specifics.

Sarah Clark:

I want to circle back on other types of paperwork, and I know that you keep referencing a packet, but I just want to make sure that I understand what is supposed to be in the packet. We talked about the electronic communication, we talked about the communication log. I have a report. I've also seen reference to something called a 1A case file or an A1 case file. What does that mean?

Bryce Ziegler:

It's a 1A. There are two types of 1As. There is a physical copy, so everything that you have paper, well, you may have it digitally, but everything that is a copy of a piece of paper, that paper resides in a physical 1A. That 1A, in fact, the very first page of that is a photocopy of that 1A packet and handwritten on there is everything that's in that packet. Now, the digital 1A, that's produced by our laboratory database, and that includes things that are housed in that digital database. Things like the chain of custody, the comm log, any documents that are uploaded to that case file gets produced as part of that digital 1A.

Sarah Clark:

And does the physical 1A get updated when you amend?

Bryce Ziegler:

The physical? Yes, I added to it.

Sarah Clark:

Is your understanding that you'll be testifying in Mr. Baldwin's case to the same things that you were testifying in Ms. Gutierrez's case, namely your report?

Bryce Ziegler:

Yes, it is.

Sarah Clark:



Do you have any understanding of being asked to testify to anything other than report and the accompanying worksheet?

Bryce Ziegler:

I do not.

Sarah Clark:

Mr. Ziegler, do you have any specific expertise or qualifications related to 1873 Colt revolvers?

Bryce Ziegler:

Just my qualifications and training as far as general firearms examinations.

Sarah Clark:

But not beyond general firearms examinations?

Bryce Ziegler:

It's part of my training manual. I've disassembled, assembled, learned the function of very similar single-action type revolvers. I could not say that during my training I had to examine this exact revolver.

Sarah Clark:

Have you had any training specific to dummy ammunition?

Bryce Ziegler:

I wouldn't say specific to dummy ammunition. However, dummy ammunition is essentially real ammunition minus some of the components. Understanding, again, just generally the parts of ammunition, their purpose, what role they play. And then we also routinely use dummy ammunition here at the lab for things like capacity checks and verifying calibers.

Sarah Clark:

If there is one, what is the standard process to identify dummy ammunition that you follow in your lab?

Bryce Ziegler:

I don't believe there is a standard process for that.

Sarah Clark:

And what did you do here to identify it in your lab?

Bryce Ziegler:

Essentially, I was able to verify that some of the cartridges did not have the four components that are required to be a live cartridge.

Sarah Clark:

And did you do that just based on your eyesight or what did you do?

Bryce Ziegler:

It was a combination of eyesight, the x-ray, and then disassembling several of the cartridges.

Sarah Clark:

Fair to say, your test would not have been complete if you hadn't done the x-rays and disassembled the cartridges?

Bryce Ziegler:

Well, the disassembly is really the key in my opinion, because that's when you can physically see what is occurring inside. The x-ray is useful because it shows some things, but it doesn't show everything.

Sarah Clark:

The disassembly is the definitive part? I don't know what the right word is.

Bryce Ziegler:

It just depends on the type of ammunition because some of them have visual indicators on the outside, or some of them have audible indicators that indicate that they're not live cartridges.

Sarah Clark:

But you can't tell just by looking at them for sure, is that correct?

Bryce Ziegler:

It depends on the cartridge.

Sarah Clark:

If it doesn't have a hole in the side, can you tell just by looking at it?

Bryce Ziegler:

Just by looking at it, I would say no.

Sarah Clark:

And with respect to your testing of the ammunition on set, that's all reflected in your report and the worksheet, correct?

Bryce Ziegler:

Correct.

Sarah Clark:

What you tested and what you did. And any corrections or amendments to that part of the report?

Bryce Ziegler:

No.

Sarah Clark:

And you haven't been asked to make any corrections or amendments to that part of the report?

Bryce Ziegler:

No.

Sarah Clark:

I think that's all I have for you. I'm going to just confer very briefly with my co-counsel. I'm just going to go on mute and off video for a second. I'll be right back.

Kari Morrissey:

Bryce, how do you pronounce your last name? Is it Ziegler or Ziegler?

Bryce Ziegler:

I pronounce it Ziegler. It's probably supposed to be the former, but that's how my family pronounces it.

Kari Morrissey:

Okay, got it.

Sarah Clark:

All right. I am back, and I think I heard that I have been mispronouncing your name the whole time, so can you correct me?

Bryce Ziegler:

Oh, it's very common. I pronounce it Ziegler.

Sarah Clark:

Ziegler. I apologize for that. I wish you told me sooner. I'm sorry. I don't have any further questions Mr. Ziegler. I'm all done. Kari?

Kari Morrissey:

Mr. Ziegler you performed testing with regard to the amount of pressure it takes to pull the trigger on this gun. And obviously I'm not a scientist, so that's my very layperson description of your testing. Do you know what I'm talking about?

Bryce Ziegler:

Yes, that's a trigger pull examination.

Kari Morrissey:

And can you tell us how you tested the trigger pull, what methods you used and what results you got?

Bryce Ziegler:

Sure. This is also in that same SOP that I've been referencing. And the way we do this at my laboratory, it's typically with what's called arsenal weights. They're little round weights of varying sizes, and then they are fixed to a metal wire that essentially has a hanger on it, so it almost looks like a coat hanger. And you would hold the firearm vertically, put the hook portion of the hanger into the trigger guard, so making contact with the trigger and you would pull up on the firearm and if the weight is sufficient, that will pull the trigger and cause the hammer to drop. And so the way we do it here is I try to establish a range. I try

to figure out a number where it won't cause the hammer to drop and then I'll find a number where it causes the hammer to drop essentially every time.

Then I can be confident that the true trigger pull weight is somewhere within that range. And in this case, so I did that test for both the trigger pull just as it's normally functioning, so fully cocked. I did that test trigger to figure out how much weight will cause a fully cocked hammer to drop. And then the design of this gun, if you pull the trigger hard enough, it also allowed it to fall in the quarter and half-cocked position, but the trigger pull is much higher because you're actually working against the hammer, so I did it in those settings as well.

Kari Morrissey:

Can you tell us how many times did you measure it when it was in the full cocked position?

Bryce Ziegler:

I am not certain if there's a prescribed number, but basically I try to find, like I mentioned before, I try to find that the amount of weight that it will fire every time and the amount of weight that it won't, and then I'm confident it's within that range.

Kari Morrissey:

Can you give me an estimate of approximately how many measurements you would've had to have taken to feel comfortable with that?

Bryce Ziegler:

Well, the lower brand where it's not going to fire, the weights just hang there, it's not actuating the mechanism. Once you've reached that lower threshold, it wouldn't matter how many times you do it, it's just not going to fire. And the way that I was trained, I don't know if this is an SOP, but you conduct a test three times to try to see if you can get it reliably to fire at that up brim.

Kari Morrissey:

Just so that I'm clear, you would've measured it numerous times when it fired every time to make sure that you were getting an accurate measurement?

Bryce Ziegler:

Correct.

Kari Morrissey:

And what was the measurement in the full cocked position?

Bryce Ziegler:

It was between two and two and a half pounds.

Kari Morrissey:

And do you know from any research or the user's manual for this gun what the normal pressure would be for this Pietta revolver?

Bryce Ziegler:

I don't know it from the user's manual and I haven't done research, but just in my understanding of this type of firearm, similar firearms that I've examined personally, that typically a single action trigger pull is between two and 2.5 Pounds, so this is within a normal range.

Kari Morrissey:

And so in terms of... I understand that you did the same thing with the half-cocked and quarter-cocked positions and that measurement would have been significantly higher because of the force that you had to apply to the trigger because it was working against the hammer. Is that right?

Bryce Ziegler:

That's correct.

Kari Morrissey:

What were those measurements?

Bryce Ziegler:

For both of those, it was between 11 and 11 and a half pounds

Kari Morrissey:

And you used the same method by attaching arsenal weights, is that correct?

Bryce Ziegler:

That's correct.

Kari Morrissey:

And just to be clear, prior to the gun actually breaking ultimately, prior to that moment when the gun broke, did the gun ever malfunction in any way, in your opinion?

Bryce Ziegler:

Not during my testing.

Kari Morrissey:

I don't have anything else.

Sarah Clark:

Nothing from me. Mr. Ziegler, thank you so much for your time.

Bryce Ziegler:

Thank you.

Sarah Clark:

Thank you. Bye.

Kari Morrissey:

Thanks guys.

This transcript was exported on Apr 29, 2024 - view latest version [here](#).

## **EXHIBIT 5**

**(Partial Copy of Grand Jury Transcript)**

GRAND JURY, 01/18/2024, 9:08:37 AM

MS. MORRISSEY: I'm going to do a little reading. I apologize for that. Good morning. I'm Kari Morrissey. I'm a special prosecutor for the First Judicial District. Also present in the Grand Jury room is the court monitor along with the members of the Grand Jury. We also have --

MS. PADILLA: Alenna Padilla. I'm shadowing today.

MS. MORRISSEY: Okay. You're shadowing the court monitor?

MS. PADILLA: Court monitor.

MS. MORRISSEY: Okay. Great. And do we have an interpreter?

UNIDENTIFIED SPEAKER: Two interpreters over here.

MS. MORRISSEY: Two interpreters.

UNIDENTIFIED SPEAKER: Ashley (inaudible).

MS. MORRISSEY: Thank you. Appreciate you. And we have Shadrick Boe (ph). He is going to help us with technical issues. Today's date is January 18th, 2024. I show the time as 9:10 a.m. The District Attorney file number is SF 23-221. This morning I will be presenting to you a case where Alexander Baldwin is the target. The witnesses in this case will be Corporal Alexandra Hancock, Marissa Poppell, Michael Haag, Bryan Carpenter, Ross Addiego, Lane Luper, and Connor Rice.



1 MS. MORRISSEY: Sure. Predictably.

2 CPL. HANCOCK: Yes.

3 MS. MORRISSEY: Do you agree? Okay. Now, the gun

4 itself, what happened to that?

5 CPL. HANCOCK: That was also sent with our FBI agent for

6 testing at their lab.

7 MS. MORRISSEY: At the FBI lab?

8 CPL. HANCOCK: Yes.

9 MS. MORRISSEY: What kind of testing did you want to

10 have done of the gun?

11 CPL. HANCOCK: Just basic functionality testing is where

12 we started. And then, when Baldwin had made the claim

13 that he didn't pull the trigger, we did it's called

14 accidental damage testing -- so another phrase is drop

15 testing -- just to check the complete functionality of

16 that gun to make sure that it was doing what it needed

17 to do in terms of safety or functioning correctly.

18 So the FBI did test that gun, and the results of

19 that was that it was functioning completely fine up

20 until a point where this -- the accidental damage

21 testing it's -- it's hard on the weapon. So during that

22 testing, they did break an internal component on that

23 gun. And that was the only way that they got that gun

24 to fire without pulling the trigger.

25 MS. MORRISSEY: Was when they broke it?

1 assistant director did not check the weapon?

2 MR. LUPER: Yes.

3 MS. MORRISSEY: And was that concerning to you?

4 MR. LUPER: Yes.

5 MS. MORRISSEY: Why?

6 MR. LUPER: That's a major safety step. You know, if --  
 7 to bring up a historical context, that's the reason why  
 8 Brandon Lee died was there was a piece of material stuck  
 9 in the barrel of the firearm on The Crow, and then they  
 10 inserted a blank, just a standard blank, into it. When  
 11 they fired it, the -- the item that was stuck in the  
 12 barrel went through Brandon Lee and that's what killed  
 13 him. And that's -- so that's why that step of the  
 14 process is incredibly important, just in case, you know.  
 15 We're -- we're doing a Western. There's dirt, gravel,  
 16 dust. All of that can accumulate inside of a firearm  
 17 and be ejected by a blank.

18 MS. MORRISSEY: Was there ever an accidental discharge  
 19 on set?

20 MR. LUPER: Yes. There were two accidental discharges  
 21 on October 16th outside of the -- the cabin set, one  
 22 inside by the -- the stunt double for Alec Baldwin and  
 23 then one outside by Sarah Zachry, the props master.

24 MS. MORRISSEY: And so what do you mean when we say,  
 25 accidental discharge?

1 MR. LUPER: Firearm went off without any announcement to  
2 anyone. Cameras were not rolling. We were, you know,  
3 we were working to move gear around and then firearm --  
4 a firearm went off without any announcement.

5 MS. MORRISSEY: Well, when you say it went off, what  
6 would it have been loaded with?

7 MR. LUPER: It shouldn't have been loaded with a blank.  
8 But obviously, it was, it had to have been loaded with a  
9 -- with a blank for it to, you know, go off as loud as  
10 it did.

11 MS. MORRISSEY: Okay. Other than the skipping of these  
12 safety steps that you've outlined in the carrying of the  
13 gun and leaving guns out unattended, any other concerns  
14 that you can think of right now, specifically, about Ms.  
15 Gutierrez?

16 MR. LUPER: No. My personal experience with her was  
17 very, like, limited. It was -- so my -- my experience  
18 with her was just she was woefully underqualified to be  
19 there. And I had -- I made a report to Row Walters, the  
20 unit production manager, about the accidental discharges  
21 via text message to essentially report that and get some  
22 kind of followup. And that never happened.

23 MS. MORRISSEY: What's a unit production manager?

24 MR. LUPER: So, on a film set, the unit production  
25 manager, they directly report to the line producer.

## EXHIBIT 6

UNCLASSIFIED



# FBI Laboratory

2501 Investigation Parkway  
Quantico, Virginia 221354940 Fowler Road  
Huntsville, Alabama 35898

## LABORATORY REPORT

To: JOSE CORTEZ  
Special Agent  
Albuquerque

Date: July 26, 2022

Case ID No.: AQ-3514414

Lab No.: 2021-02245-3

Communication(s): October 28, 2021; December 14, 2021

Agency Reference(s):

Subject(s):

Victim(s): Halyna Hutchins

Discipline(s): Firearms/Toolmarks

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FBI Laboratory Evidence Designator(s):

- Item 1 Bullet from Joel Souza (1B4, E6842164; SFSO Item #25)
- Item 2 Revolver (1B1, E6842161; SFSO Item #1)
- Item 3 Cartridge case from top of cart (1B3, E6842163; SFSO Item #3)
- Item 4 Cartridge from top of cart (1B5, E6842165; SFSO Item #26)
- Item 5 Cartridge from top of cart (1B5, E6842165; SFSO Item #26)
- Item 6 Cartridge from bandolier on top of cart (1B6, E6842166; SFSO Item #27)
- Item 7 Cartridge from holster inside building (1B7, E6842167; SFSO Item #28)
- Item 8 Ammunition box (1B2, E6842162; SFSO Item #2)
- Item 9 Tray from Item 8 Ammunition box (1B2, E6842162; SFSO Item #2)
- Item 10 Cartridges from Item 9 Tray (1B2, E6842162; SFSO Item #2)
- Item 11 Ammunition box (1B2, E6842162; SFSO Item #2)
- Item 12 Tray from Item 11 Ammunition box (1B2, E6842162; SFSO Item #2)

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|             |   |
|-------------|---|
| Item 13     | Cartridges from Item 12 Tray (1B2, E6842162; SFSO Item #2)                      |
| Item 13-1   | Cartridge from Item 12 Tray (1B2, E6842162; SFSO Item #2)                       |
| Item 13-2   | Cartridges from Item 12 Tray (1B2, E6842162; SFSO Item #2)                      |
| Item 13-2-1 | Cartridge from Item 12 tray (1B2, E6842162; SFSO Item #2)                       |
| Item 13-2-2 | Cartridge from Item 12 Tray (1B2, E6842162; SFSO Item #2)                       |
| Item 13-3   | Cartridges from Item 12 Tray (1B2, E6842162; SFSO Item #2)                      |
| Item 13-3-1 | Cartridge from Item 12 Tray (1B2, E6842162; SFSO Item #2)                       |
| Item 13-3-2 | Cartridge from Item 12 Tray (1B2, E6842162; SFSO Item #2)                       |
| Item 20     | Box with tape from prop truck (SFCSO Item #140) (1B12, E6842262)                |
| Item 20-1   | Tray from Item 20 Box with tape (SFCSO Item #140) (1B12, E6842262)              |
| Item 21     | Cartridges from Item 20 Box with tape (SFCSO Item #140) (1B12, E6842262)        |
| Item 21-1   | Cartridge from Item 21 (SFCSO Item #140) (1B12, E6842262)                       |
| Item 21-2   | Cartridge from Item 21 (SFCSO Item #140) (1B12, E6842262)                       |
| Item 21-3   | Cartridge from Item 21 (SFCSO Item #140) (1B12, E6842262)                       |
| Item 22     | Cartridge from Item 20 Box with tape (SFCSO Item #140) (1B12, E6842262)         |
| Item 23     | Cartridge provided by Seth Kenney (SFCSO Item #210) (1B15, E6842265)            |
| Item 24     | Cartridges provided by Seth Kenney (SFCSO Item #211) (1B16, E6842266)           |
| Item 24-1   | Cartridge from Item 24 (SFCSO Item #211) (1B16, E6842266)                       |
| Item 25     | Cartridges provided by Seth Kenney (SFCSO Item #211) (1B16, E6842266)           |
| Item 25-1   | Cartridge from Item 25 (SFCSO Item #211) (1B16, E6842266)                       |
| Item 26     | Ammunition box from box at 126 Monroe Street (SFCSO Item #233) (1B19, E6842269) |
| Item 27     | Tray from Item 26 Ammunition box (SFCSO Item #233) (1B19, E6842269)             |
| Item 28     | Cartridges from Item 27 Tray (SFCSO Item #233) (1B19, E6842269)                 |
| Item 28-1   | Cartridge from Item 28 (SFCSO Item #233) (1B19, E6842269)                       |
| Item 28-2   | Cartridge from Item 28 (SFCSO Item #233) (1B19, E6842269)                       |
| Item 29     | Ammunition box from box at 126 Monroe Street (SFCSO Item #233) (1B19, E6842269) |
| Item 30     | Tray from Item 29 Ammunition box (SFCSO Item #233) (1B19, E6842269)             |
| Item 31     | Cartridges from Item 30 Tray (SFCSO Item #233) (1B19, E6842269)                 |



|           |  |
|-----------|--|
| Item 32   | Cartridge from box at 126 Monroe Street (SFCSO Item #234) (1B20, E6842270)   |
| Item 33   | Cartridge from box at 126 Monroe Street (SFCSO Item #235) (1B21, E6842271)   |
| Item 34   | Cartridges from box at 126 Monroe Street (SFCSO Item #235) (1B21, E6842271)  |
| Item 34-1 | Cartridge from Item 34 (SFCSO Item #235) (1B21, E6842271)  |
| Item 34-2 | Cartridge from Item 34 (SFCSO Item #235) (1B21, E6842271)  |
| Item 35   | Cartridge from box at 126 Monroe Street (SFCSO Item #236) (1B22, E6842272)   |
| Item 36   | Cartridges from box at 126 Monroe Street (SFCSO Item #236) (1B22, E6842272)  |
| Item 37   | Cartridges from box at 126 Monroe Street (SFCSO Item #236) (1B22, E6842272)  |
| Item 43   | FTU Secondary Evidence (12 bullets, 12 cartridge cases, 1 barrel cast, 2 live cartridges with toolmarks, 5 fired primed cartridge cases) |

The results of the firearms examinations are included in this report.

### **Results of Examinations:**

#### Firearm

Item 2 is a .45 Colt (.45 Long Colt) caliber F.lli Pietta single-action revolver, Model 1873 SA (Californian), Serial Number E52277, which functioned normally when tested in the Laboratory. Item 2 contains ¼ and ½ cock manual safeties, which are intended to prevent slippage of the hammer during cocking and the release of the hammer by a normal pull of the trigger. Additionally, Item 2 has a hammer with a fixed firing pin and does not contain any internal safety mechanisms to prevent the firing pin from striking the primer of a chambered cartridge, such as a transfer bar or hammer block. This is consistent with normal operation for a single-action revolver of this design.

A National Integrated Ballistic Information Network (NIBIN) search was not conducted on Item 2 due to revolver-type cartridge case images not being entered into the database.

#### Microscopic Comparisons

Item 1 is a .44/.45 caliber lead, flat nose bullet which was fired from a barrel rifled with a right twist and was significantly damaged at the time of examination. A pattern examination of

the Item 1 bullet compared to the Item 2 revolver was inconclusive due to damage and a lack of sufficient corresponding microscopic marks of value.

Item 3 is a .45 Colt caliber cartridge case which bears the headstamp of Starline brass. The Item 3 cartridge case was identified as having been fired in the Item 2 revolver.

### Accidental Discharge Testing

#### *Hammer at rest (de-cocked on a loaded chamber)*

With the hammer at rest on a loaded chamber, Item 2 detonated a primer without a pull of the trigger when the hammer was struck directly. With a revolver of this design, when the hammer is at rest on a loaded chamber, the firing pin sits directly on the primer of the cartridge. When force is applied to the hammer, such as striking or dropping, it can fire the cartridge without a pull of the trigger. This is consistent with normal operation for a single-action revolver of this design.

#### *Hammer at ¼ and ½ cock positions*

With the hammer in the ¼ and ½ cock positions, Item 2 could not be made to fire without a pull of the trigger. When enough pressure was applied to the trigger, each of these safety positions were overcome and the hammer fell. This is consistent with normal operation for a single-action revolver of this design.

With the hammer in the ¼ cock position, pressure was applied to the trigger and the hammer fell, however the firing pin did not have enough force to detonate the primer and resulted in light firing pin strikes.

With the hammer in the ½ cock position, pressure was applied to the trigger and the hammer fell, however the cylinder could not be properly aligned to the bore, the firing pin struck the outer headstamp area and did not detonate the primer.

#### *Hammer at full cock position*

With the hammer in the full cock position, Item 2 could not be made to fire without a pull of the trigger while the working internal components were intact and functional. During this testing, portions of the trigger sear and cylinder stop fractured while the hammer was struck. The fracture of these internal components allowed the hammer to fall and the firing pin and detonated the primer. This was the only successful discharge during this testing and it was attributed to the fracture of internal components, not the failure of the firearm or safety mechanisms.



## Ammunition

For the purposes of this report, the following ammunition definitions will be used:

*Cartridge:* A single round of ammunition consisting of the case, primer and propellant with or without one or more projectiles. Also applies to a shotshell.<sup>1</sup>

*Functional live cartridge:* A single unit of ammunition consisting of the case, primer, propellant, and projectile.

*Dummy cartridge:* An inert cartridge which cannot be fired under any circumstances. In America, an inert cartridge for gun functioning is usually black oxidized and may or may not have holes in the side wall of the case. An inert cartridge for display may be natural colored and should have a hole in the primer cup with holes in the side wall of the case optional.<sup>1</sup>

*Blank cartridge:* A cartridge loaded without a projectile designed to produce a loud noise. Often sealed at the mouth with a cardboard, plastic or fiber wad which is propelled from the muzzle with a dangerous force for a short distance when fired.<sup>1</sup>

Items 4 through 7 are .45 Colt (.45 Long Colt) caliber cartridges which bear the headstamp of Starline brass. The Item 4 through 7 cartridges contain the design and components of functional live cartridges.

Item 10 consists of fifty .45 Colt caliber cartridges which bear the headstamp of Starline brass. The Item 10 cartridges are physically consistent with blank cartridges.

Item 13 consists of two .44-40 caliber cartridges which bear the headstamp of Starline brass. The Item 13 cartridges are physically consistent with dummy cartridges.

Item 13-1 is a .45 Colt caliber cartridge which bears the headstamp of Starline brass. The Item 13-1 cartridge contains the design and components of functional live cartridges.

Item 13-2 consists of four .45 Colt caliber cartridges which bear the headstamp of Starline brass. Two cartridges were sub-divided from Item 13-2 for disassembly and were designated Items 13-2-1 and 13-2-2. The Item 13-2 cartridges are physically consistent with dummy cartridges. The Item 13-2-1 and 13-2-2 cartridges contain the design and components of dummy cartridges.

Item 13-3 consists of thirty .45 Colt caliber cartridges which bear the headstamp of Starline brass. Two cartridges were sub-divided from Item 13-3 for disassembly and were designated Items 13-3-1 and 13-3-2. The Item 13-3 cartridges are physically consistent with

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<sup>1</sup> <https://saami.org/saami-glossary>, © 2022 Sporting Arms and Ammunition Manufacturers' Institute, Inc. All rights reserved

dummy cartridges. The Item 13-3-1 and 13-3-2 cartridges contain the design and components of dummy cartridges.

Item 21 consists of fifteen .45 Colt caliber cartridges which bear the headstamp of Starline brass. Two cartridges were sub-divided from Item 21 for disassembly and were designated Items 21-2 and 21-3. The Item 21 cartridges are physically consistent with dummy cartridges. The Item 21-2 and 21-3 cartridges contain the design and component of dummy cartridges.

Item 21-1 is a .45 Colt caliber cartridge which bears the headstamp of Starline brass. The Item 21-1 cartridge is physically consistent with dummy cartridges.

Item 22 is a .45 Colt caliber cartridge which bears the headstamp of Starline brass. The Item 22 cartridge contains the design and components of dummy cartridges.

Item 23 is a .45 Colt caliber cartridge which bears the headstamp of Winchester ammunition. The Item 23 cartridge was reported as being a live exemplar from the manufacturer and is physically consistent with functional live cartridges.

Item 24 consists of three .45 Colt caliber cartridges which bear the headstamp of Starline brass. One cartridge was sub-divided from Item 24 for disassembly and was designated Item 24-1. The Item 24 cartridges were reported as being live exemplars from the manufacturer and are physically consistent with functional live cartridges. The Item 24-1 cartridge contains the design and components of functional live cartridges.

Item 25 consists of three .45 Colt caliber cartridges which bear the headstamps of Starline brass, CBC/Magtech, and Fiocchi ammunition. One cartridge was sub-divided from Item 25 for disassembly and was designated Item 25-1. The Item 25 cartridges were reported as being live exemplars from the manufacturer and are physically consistent with functional live cartridges. The Item 25-1 cartridge contains the design and components of functional live cartridges.

Item 28 consists of nine .45 Colt caliber cartridges which bear the headstamps of Starline brass, Black Hills, and Sellier & Bellot ammunition. Two cartridges were sub-divided from Item 28 for disassembly and were designated Items 28-1 and 28-2. The Item 28 cartridges were reported as being live exemplars from the manufacturer and are physically consistent with functional live cartridges. The Item 28-1 and 28-2 cartridges contain the design and components of functional live cartridges.

Item 31 consists of fifty .45 Colt caliber cartridges which bear the headstamps of Starline brass, Black Hills, Western, Remington, and Armscor ammunition. The Item 31 cartridges were reported as being live exemplars from the manufacturer and are physically consistent with functional live cartridges.

Item 32 is a .45 Colt caliber cartridge which bears the headstamp of Black Hills ammunition. The Item 32 cartridge was reported as being a live exemplar from the manufacturer and is physically consistent with functional live cartridges.

Item 33 is a .45 Colt caliber cartridge which bears the headstamp of Starline brass. The Item 33 cartridge was reported as being a live exemplar from the manufacturer and is physically consistent with functional live cartridges.

Item 34 consists of four .45 Colt caliber cartridges which bear the headstamp of Starline brass. Two cartridges were sub-divided from Item 34 for disassembly and were designated Items 34-1 and 34-2. The Item 34 cartridges were reported as being live exemplars from the manufacturer and are physically consistent with functional live cartridges. The Item 34-1 and 34-2 cartridges contain the design and components of functional live cartridges.

Item 35 is a .45 Colt caliber cartridge which bears the headstamp of Armscor ammunition. The Item 35 cartridge was reported as being a live exemplar from the manufacturer and is physically consistent with functional live cartridges.

Item 36 consists of four .45 Colt caliber cartridges which bear the headstamp of Armscor ammunition. The Item 36 cartridges were reported as being live exemplars from the manufacturer and are physically consistent with functional live cartridges.

Item 37 consists of four .45 Colt caliber cartridges which bear the headstamp of Armscor ammunition. The Item 37 cartridges were reported as being live exemplars from the manufacturer and are physically consistent with functional live cartridges.

Toolmarks were observed on the Item 10, 13, 13-2 (13-2-1, 13-2-2), 13-3 (13-3-1, 13-3-2), 21 (21-1, 21-2, 21-3), and 22 cartridges that are physically consistent with being produced by a primer press and shell holder. However, no determination could be made as to whether these toolmarks were produced by ammunition assembly, reloading, or commercial ammunition manufacturing. It should be noted that Starline only manufactures brass (cartridge cases) which must be loaded/assembled by another source.

#### Miscellaneous

The Item 8, 9, 11, 12, 20, 20-1, 26, 27, 29, and 30 ammunition boxes and trays were not examined in the Firearms/Toolmarks Unit.

#### **Methods:**

##### Firearms Function

The make, model, and caliber of a firearm are normally determined by directly observing manufacturer markings on the firearm in question. When these are not present, published

materials and firearms in the Laboratory's Reference Firearms Collection may be used to make determinations.

Unless otherwise noted, submitted firearms are test fired:

- 1) in the condition they are received in the Firearms/Toolmarks Unit,
- 2) with ammunition from the Laboratory's Reference Ammunition File,
- 3) in a manner that allows for testing of available modes of fire such as manual safety engaged, manual safety disengaged, single action, double action, semi-automatic, fully automatic, etc.

### Pattern Examination

Toolmarks, whether they are present on evidence items or secondary evidence created in the Laboratory, undergo two stages of comparison. First, the class characteristics are reviewed and compared. If the class characteristics of the toolmarks are not clearly different, the examination moves to a second stage using comparative microscopy.

A microscopic comparison examination consists of a search of the impressed and striated marks present in two toolmarks to determine if patterns of similarity exist. At the completion of these comparisons, one of the following three opinions is issued:

#### 1) Source Exclusion

Source exclusion is an Examiner's conclusion that two toolmarks did not originate from the same source. This conclusion is an Examiner's opinion that the observed difference(s) in class characteristics provides extremely strong support for the proposition that the two toolmarks came from different sources and extremely weak or no support for the proposition that the two toolmarks came from the same source. A source exclusion based on a minor difference in measured class characteristics requires a verification.

#### 2) Source Identification

Source identification is an Examiner's conclusion that two toolmarks originated from the same source. This conclusion is an Examiner's opinion that all observed class characteristics are in agreement and the quality and quantity of corresponding individual characteristics is such that the Examiner would not expect to find that same combination of individual characteristics repeated in another source. The basis for a source identification conclusion is an Examiner's opinion that the observed class characteristics and corresponding individual characteristics provide extremely strong support for the proposition that the two toolmarks originated from the same source and extremely weak support for the proposition that the two toolmarks originated from different sources. A source identification requires a verification and is the Examiner's opinion that the probability that the two toolmarks were made by different sources is so small that it is negligible.

### 3) Inconclusive (No Conclusion)

Inconclusive is an Examiner's conclusion that all observed class characteristics are in agreement but there is insufficient quality and/or quantity of corresponding individual characteristics such that the Examiner is unable to identify or exclude the two toolmarks as having originated from the same source. This conclusion is an Examiner's opinion that there is an insufficient quality and/or quantity of individual characteristics to identify or exclude. Reasons for an inconclusive conclusion include the presence of microscopic similarity that is insufficient to form the conclusion of source identification, or a lack of any observed microscopic similarity.

#### Accidental Discharge

An accidental discharge test is conducted in all modes of fire for a particular firearm, utilizing a primed cartridge case or shotshell case. The firearm is struck with a rawhide or similar styled mallet on its six planes: front of muzzle, butt plate, top of breech and chamber, bottom of trigger guard and frame and both sides of the receiver/frame. If necessary, tests can be undertaken in order to attempt to duplicate the conditions under which the firearm discharged.

#### Physical and Visual Examinations

Physical and visual evaluations compare the physical and class characteristics of evidence items. A conclusion of "physically consistent with" is reached if the observable or measurable physical dimensions and/or design features of two items are in agreement or are "physically consistent." If these dimensions and features are clearly different, an elimination conclusion is reached. If there is a lack of observable design features or measurable dimensions, the result is inconclusive.

#### **Limitations:**

##### Firearms Function

The results of firearms function examinations describe the operating condition of the firearm as received in the Firearms/Toolmarks Unit.

##### Pattern Examination

Firearms/Toolmark Identification is an empirical science that relies on objective measurements and a subjective comparison of microscopic marks of value. Due to variation in substrate, changes in tool working surfaces from wear, corrosion, and damage, or the employment of unusual tool/work piece orientations, it may not be possible for an Examiner to reach a source conclusion. Additionally, some tool manufacturing methods routinely produce working surfaces that leave limited microscopic marks of value. Damaged, corroded, or fragmented items may be of little or no value for comparison purposes.

### Accidental Discharge

When an accidental discharge examination is performed, it may not be possible to recreate or duplicate all of the circumstances which led to the discharge of a firearm without a pull of the trigger.

### Physical and Visual Examinations

A Physical and Visual Evaluation examination is unsuitable for determining a source identification conclusion. A conclusion of "physically consistent with" signifies a restricted group source, based on class characteristics and/or observable features, from which evidence may have originated. Post-manufacture features cannot be used for elimination purposes.

### **Remarks:**

Per communication with SA Jose Cortez on November 16, 2021, the microscopic comparisons of manufacturing toolmarks observed on ammunition components were discontinued at the FBI Laboratory.

For questions about the content of this report, please contact Forensic Examiner Bryce A. Ziegler at 703-632-7887 or baziegler2@fbi.gov.

For questions about the status of your submission, including any remaining forensic examinations, please contact Elizabeth K. Small at 703-632-7152.

The evidence, which includes secondary evidence, will be returned under separate cover.

This report conforms to the "Department of Justice Uniform Language for Testimony and Reports for the Forensic Firearms/Toolmarks Discipline - Pattern Examinations".

This report contains the opinions and interpretations of the issuing examiner(s) and is supported by records retained in the FBI Laboratory files. Please allow a minimum of thirty days from the date of a discovery request for the FBI Laboratory to provide the related materials. The FBI cannot ensure timely delivery of discovery requests received in less time.

The work described in this report was conducted at the Quantico Laboratory.

Bryce A. Ziegler  
Firearms/Toolmarks Unit

## EXHIBIT A

(Partial Copy of Defendant's Exhibit A  
to Motion to Dismiss )

1 permission to publish with the witness as we move  
 2 through his testimony.

3 THE COURT: Any objection?

4 MR. BOWLES: No objection, Your Honor.

5 THE COURT: All right. States 130 through 146 are  
 6 admitted and you may publish.

7 MS. MORRISSEY: Sir, so we have on your screen State's  
 8 Exhibit 130, but before we speak directly to this,  
 9 ultimately, did you form an opinion -- and I know we  
 10 haven't gotten there yet, but we're going to -- did you  
 11 form an opinion about how the damage to this firearm  
 12 occurred?

13 MR. HAAG: Yes, I did.

14 MS. MORRISSEY: And did you also form an opinion as to  
 15 the working condition of the firearm when it was  
 16 received by the FBI?

17 MR. HAAG: I did.

18 MS. MORRISSEY: Let's start there. What was your  
 19 opinion with regard to the working condition of this  
 20 firearm when it was initially received by the FBI?

21 MR. HAAG: By various means, I could see that it was in  
 22 proper working order, as designed by the original  
 23 inventor.

24 MS. MORRISSEY: And tell us what you took into  
 25 consideration in coming to that opinion.



1 MR. HAAG: Well, there are several ways. One of them is  
2 on my screen. I don't know if it's on your screen or  
3 not. But it's from the FBI examiner's report, a man  
4 named Bruce Ziegler, I believe, who I've --  
5 MS. MORRISSEY: Bryce.  
6 MR. HAAG: -- who I've met.  
7 MS. MORRISSEY: Bryce. Yes.  
8 MR. HAAG: But I looked at all of his photographs and  
9 notes. And on the left side are the four positions that  
10 the hammer can have with this gun when it's working  
11 properly and undamaged. The top one shows the hammer  
12 fully forward and down. That's the way it would appear  
13 if you had just fired it or even dry fired it. The next  
14 picture down looks pretty much the same, but it's not.  
15 The hammer is about an eighth of an inch rearward, and  
16 now it has engaged an Internal mechanism, a safety  
17 notch. So now, the hammer and firing pin cannot reach a  
18 fired -- a live cartridge. I'm sorry, a live cartridge.  
19 The third picture down is the loading position, also  
20 known as half cock. The previous position could be  
21 called, and is often called, quarter cock. At that  
22 half-cock position, the third picture down, the  
23 cylinder, which holds six -- is capable of holding six  
24 cartridges, is now free to rotate. Prior to this, in  
25 the upper two pictures, it was locked and secured by a

1 small latch that we can't see in these pictures. Final  
2 picture, and the most important one, the hammer is at  
3 the full cock, ready-to-fire position. You can now see  
4 the firing pin in the hammer, that it's fully rearward,  
5 and it's staying there. That will be important later.

6 MS. MORRISSEY: And if you would, because -- describe  
7 for us what the firearm is that you have in front of  
8 you. Is that this exact gun?

9 MR. HAAG: It's the brother to the evidence gun. Same  
10 make, model, caliber, it's just not the evidence gun.

11 MS. MORRISSEY: And would you demonstrate, for the  
12 ladies and gentlemen of the jury, the different  
13 positions and also, specifically, the half-cock position  
14 and the rotation of the cylinder?

15 MR. HAAG: Sure. Well, I checked it, but again, just so  
16 everyone feels as comfortable as they're going to be  
17 around a firearm.

18 MS. MORRISSEY: Hang on just a second.

19 THE COURT: I think you're going to need -- you should  
20 probably stand in the middle.

21 MR. HAAG: Okay.

22 MS. MORRISSEY: Yes. Do you want to stand and --

23 MR. HAAG: Sure.

24 MS. MORRISSEY: That would be great.

25 MR. HAAG: I'm left-hand dominant, so I have to explain

1 fall. There's a little piece in that circle I just  
2 drew. That's the broken-off sear of the trigger. So  
3 it's an incomplete trigger. And finally, the object up  
4 here has two names. The indus -- the company that makes  
5 this reproduction gun calls it the bolt, B-O-L-T. I've  
6 always called it a cylinder stop latch. It was the  
7 thing that was securing the cylinder in the safety  
8 position, in the full-cock position, but not in the  
9 loading position. That -- the left side of that goes up  
10 into the notches in the cylinder for those previous  
11 positions and drops down and allows the cylinder to  
12 rotate in the load position.

13 So, looking at those both photographically and in  
14 person, I can see that the full-cock step, or notch, on  
15 the hammer was broken away, beaten away, or knocked  
16 away. Kind of hard to describe it if you don't see it  
17 under the microscope. And the sear was broken off. And  
18 the stop latch, the little wings -- there's two pieces  
19 that protrude out -- that also was broken. And the gun  
20 can't work in the normal fashion if it had been that way  
21 on the movie set.

22 MS. MORRISSEY: And based on your document review, do  
23 you have an opinion about how the bolt, the trigger  
24 sear, and the hammer were damaged? What took place that  
25 caused that damage?



1 MR. HAAG: The hammer had to be in the full-cock  
2 position and one or more substantial blows, impacts, to  
3 the hammer 'cause it's just sitting -- the trig -- the  
4 sear and the trigger and the full-cock notch are just  
5 sitting there engaged with each other, and it's a small  
6 area, so if you give a substantial blow, one or more to  
7 the back of the hammer, it is stressing that area and it  
8 will finally and did finally fail. And I can see under  
9 the microscope a lot of very rough tool marks where it's  
10 just rolled over and rounded off. It's no longer a  
11 step. It's a rounded area, which cannot retain the  
12 trigger even if it was intact.

13 MS. MORRISSEY: What's your understanding of the  
14 circumstances of the blows you're talking about?

15 MR. HAAG: As I understood, reading the examiner's notes  
16 and report, it was an evaluation of whether this gun was  
17 prone to accidental discharge by an impact to the  
18 hammer.

19 MS. MORRISSEY: Okay. We're going to look at a few  
20 other photos here. But before I take this photo down,  
21 I'm going to pause.

22 THE COURT: Is this the --

23 MS. MORRISSEY: Yes.

24 THE COURT: Counsel, approach.

25 [Sidebar discussion held off the record.]

1 MS. MORRISSEY: Mr. Haag, let's shift gears for just a  
2 moment. Based on everything that you reviewed and also  
3 the examination and the firing of this gun that you,  
4 yourself, participated in, have you seen any evidence  
5 that the full-cock hammer notch was filed or modified to  
6 allow faster shooting?

7 MR. HAAG: No.

8 MS. MORRISSEY: Thank you, sir. I'm showing you what  
9 has been marked as State's Exhibit 134. Can you explain  
10 to the jury what we're looking at here?

11 MR. HAAG: Yes. You're looking at two triggers from a  
12 Colt reproduction single-action revolver. The lower one  
13 is from probably the very pistol that's here today. It  
14 was a new Pieta Colt single action that my younger son  
15 owns. So that's the way it should look. The one above  
16 is the broken, damaged trigger, and the tip of the sear  
17 is not even present in this picture. So that is  
18 missing. Just trying to get the hang of this. It's  
19 right there.

20 MS. MORRISSEY: Okay. And I'm going to show you what's  
21 been marked as State's Exhibit 137. Can you tell us  
22 what that is?

23 MR. HAAG: Yes. This is a view through an instrument  
24 called a stereo microscope to which a camera has been  
25 attached. And you're looking at a putting back

1 together, so to speak. It's like a broken teacup where  
2 I'm putting the two parts together. And all that  
3 roughness you see there are manufacturing marks. Those  
4 aren't breakage marks. But just when they made the part  
5 on the one side of it, it's been machined. And under  
6 the microscope, you can see those lines. So, if you  
7 look at that, you can sort of see the contour agrees.  
8 And if we put them -- my son and I put them right back  
9 together, you just see a faint line. So we deliberately  
10 pulled them apart a little bit so you can see they're  
11 two pieces, not just a crack in a piece.

12 MS. MORRISSEY: So just to be clear, what we're looking  
13 at here in State's Exhibit 137 is the trigger with the  
14 top part of the -- or part of the sear and then the part  
15 of the sear that was broken off. Is that right?

16 MR. HAAG: Yes. Two pictures back. If you remember,  
17 there was a little piece of metal off to one side and  
18 the trigger with a piece missing. That's what you're  
19 looking at here. Those have been put back together, or  
20 brought close together under the microscope.

21 MS. MORRISSEY: And this is just a demonstration that  
22 the piece of the sear that broke off fits back onto the  
23 trigger sear mechanism, sort of like pieces of a puzzle?

24 MR. HAAG: Yes.

25 MS. MORRISSEY: Okay.



1 MR. HAAG: It's not ground off or rounded off, it's  
2 snapped off. It's broken off.

3 MS. MORRISSEY: State's Exhibit 138. Can you tell us  
4 what we're looking at here?

5 MR. HAAG: Again, you're looking through the microscope  
6 at the evidence hammer, as I saw it. And this area --  
7 try to do this a little better. That's where there  
8 should be a nice right-angle step and there isn't. It's  
9 just rounded off toward the right. The other two are  
10 the load notch, and they truly are notches, and the  
11 quarter cock, or safety notch. But the circled area  
12 should not look like that. There's no step there at  
13 this point.

14 MS. MORRISSEY: And it's your opinion that that was  
15 shaved off during the aggressive testing at the FBI?

16 MR. HAAG: Yes.

17 MS. MORRISSEY: State's Exhibit 139. Can you tell us  
18 what we've got here?

19 THE COURT: Counsel, may I ask, were these introduced?  
20 Were they admitted?

21 MS. MORRISSEY: Yes.

22 THE COURT: Earlier?

23 MS. MORRISSEY: I believe so. I asked to admit --

24 THE COURT: Oh, 130 through 146. Okay. Thank you.

25 MS. MORRISSEY: You've got it.

1 THE COURT: Okay. Thank you.

2 MS. MORRISSEY: Okay. Go ahead, sir.

3 MR. HAAG: You're looking at four hammers in sort of an  
4 oblique view. Three of them, my younger son and I  
5 provided. I bought two, he took one out of the revolver  
6 you saw here today. But the one here is the evidence  
7 hammer. And if you look across at the other three, you  
8 can see that they're visually quite different. And  
9 again, the evidence hammer has very little left for the  
10 sear of even an unbroken trigger to rest on. So that  
11 was a purpose just to show what do these things look  
12 like and does the manufacturer make them in a  
13 reproducible way. And of course, they do.

14 MS. MORRISSEY: Okay. Thank you. State's Exhibit 135.

15 MR. HAAG: Yes. This is the -- again, the company calls  
16 it the bolt. I know it as the cylinder stop latch.  
17 You, as a user, would only see that part comes up and  
18 down inside the frame of the gun to lock the cylinder up  
19 or to release it. The rest of it's well within the gun,  
20 and it's being operated when you pull the hammer back  
21 and it's broken. One of the little ears, or tabs, is  
22 broken off.

23 MS. MORRISSEY: Can you hold up your exemplar revolver  
24 and just show the ladies and gentlemen of the jury --  
25 the area of that bolt that you have circled, can you



1 MS. MORRISSEY: They both have the Starline Brass head  
2 stamp?

3 MR. HAAG: That's right.

4 MS. MORRISSEY: And they both have nickel-plated  
5 primers.

6 MR. HAAG: Yes. Yes, they do.

7 MS. MORRISSEY: Thank you. Sorry, guys. Mr. Haig, at  
8 my request, did you meet me in August at the Santa Fe  
9 County Sheriff's Department?

10 MR. HAAG: Yes.

11 MS. MORRISSEY: August of 2023?

12 MR. HAAG: Yes.

13 MS. MORRISSEY: And can you summarize, for the ladies  
14 and gentlemen of the jury, what the exercise was that we  
15 engaged in that day with, also, I think your son was  
16 assisting us.

17 MR. HAAG: Yes, he was. I had been requested -- we had  
18 been requested to reassemble the evidence revolver with  
19 the broken parts, mainly the hammer and the -- the  
20 trigger. Or with just the -- I think just the broken  
21 hammer with the knocked-off full cock step to see if it  
22 even could be cocked and would retain the cocked  
23 position.

24 MS. MORRISSEY: And while we were there, did we take  
25 some videos?

1 MR. HAAG: I'm sorry.

2 MS. MORRISSEY: Did you record some videos while we were  
3 there?

4 MR. HAAG: Yes. We actually did it a number of times,  
5 after we reassembled it with and without the cylinder in  
6 the revolver, and videotaped I think it's six runs in  
7 one session and three or six in the other.

8 MS. MORRISSEY: We're only going to watch two.

9 MR. HAAG: Okay.

10 MS. MORRISSEY: Okay. Let's do it. I'm going to press  
11 -- I'm going to get him started once you give me the  
12 screen. What's that?

13 THE COURT: This is an exhibit.

14 MS. MORRISSEY: Thank you, Judge. Where are we?

15 UNIDENTIFIED SPEAKER 2: [inaudible] You're up to 147  
16 now. So this would be 147.

17 MS. MORRISSEY: This is 147. Okay. Hang on. Bear with  
18 me here. We're ready.

19 [Exhibit 147 video is played.]

20 MS. MORRISSEY: Stop it.

21 THE COURT: State's 147 and 148. Any objection?

22 MS. MORRISSEY: It's actually going to be 147 and 147A.

23 THE COURT: Okay. All right. Any objection?

24 MR. BOWLES: No, Your Honor. All right. So 147 and  
25 147A are admitted. You may publish.

1 MS. MORRISSEY: Let me turn that volume down. I'll play  
2 State's Exhibit 147.

3 [Exhibit 147 video is played.]

4 MS. MORRISSEY: Hang on. I took it down too far.

5 [Exhibit 147 video is played.]

6 MS. MORRISSEY: Is there an issue with audio?

7 [Exhibit 147 video is played.]

8 MS. MORRISSEY: So what we did is -- just as a recap,  
9 this is the Baldwin gun. Is that right?

10 MR. HAAG: That's correct.

11 MS. MORRISSEY: And the hammer -- or I'm sorry, the  
12 trigger is a new, unbroken trigger. Is that correct?

13 MR. HAAG: That's also correct.

14 MS. MORRISSEY: And the bolt that we saw in the photos  
15 that had kind of lost an ear, is that replaced?

16 MR. HAAG: Yes.

17 MS. MORRISSEY: But the hammer that's in this gun is the  
18 original hammer from this gun. Is that correct?

19 MR. HAAG: But damaged, yes. And that was the whole  
20 point. The damage, how does it affect the operation of  
21 the gun if we isolate the hammer?

22 MS. MORRISSEY: So this is the hammer that you believe  
23 was damaged at the FBI?

24 MR. HAAG: Yes.

25 [Exhibit 147 video is played.]



1 MS. MORRISSEY: So what did you ask your son to do?

2 He's the one holding the gun.

3 MR. HAAG: I asked him to go through the normal cycle.

4 If you produced this firearm and cocked it and expected

5 the hammer to stay caught until you pulled the trigger,

6 it will not because that full-cock step, or notch, has

7 been rounded off. The perfectly brand-new trigger

8 cannot retain the full-cock position. The hammer falls

9 to what you just saw, and it falls to that half-cock

10 notch. So the good trigger and its sear drop into that

11 notch, preventing the gun from firing. So that's --

12 that's intentional. That's what Mr. Colt intended. If

13 somehow the gun got worn and the hammer started to drop

14 when you cocked it, it's going to get captured. And if

15 it gets past that point, it'll be captured by the

16 quarter-cock notch.

17 [Exhibit 147 video is played.]

18 MS. MORRISSEY: Can you see the firing pin protruding

19 from the breach in this video?

20 MR. HAAG: Yes. When I first described how this gun

21 works for you, the hammer is fully down. So it's either

22 just fired a cartridge, or this would not be a good way

23 to carry this gun with live ammunition because that

24 firing pin is resting right against a live primer, if

25 there was a cartridge in this gun, and it wouldn't take

1 much of a blow. You don't have to hit it hard, just  
2 drop it from a few inches in this configuration and  
3 it'll fire.

4 [Exhibit 147 video is played.]

5 MS. MORRISSEY: Tell us what you mean there. And why is  
6 that important in gun handling? You indicated that the  
7 cylinder is now out of alignment with the axis of the  
8 bore.

9 MR. HAAG: Well, the two things you just saw was  
10 starting to bring the hammer back all the way. It went  
11 through the safety notch. Cylinder's still locked up.  
12 But, when you get to this position, the cylinder now  
13 rotates a few degrees -- more than a few, about 10 or  
14 so. If somehow you were able to fire this gun from that  
15 position that you're looking at in the screen right now,  
16 there's going to be a real disaster because the bullet  
17 can't go down the barrel. Maybe half of it might, but  
18 the other half is going to be jammed up against that  
19 area. That's really hard to do. And you're probably  
20 going to blow the cylinder apart. You may get injured.

21 So, there again, what Mike and I were demonstrating  
22 is if you -- it's called a slip off. If you're trying  
23 to cock the gun and you lose your grasp on it, the  
24 hammer falls, that safety notch captures it. And now,  
25 if we get this far, it's still is going to be captured,



1 MR. HAAG: And it's still up because we're falling from  
2 the full cock. If we'd come from the hammer down to  
3 this very position, it lowers itself so we can rotate  
4 the cylinder and load and unload the gun.

5 MS. MORRISSEY: Okay. Just for completeness, we'll  
6 finish playing it.

7 [Exhibit 147A video is played.]

8 MS. MORRISSEY: So, based on the experiment that we did  
9 with this gun back in August of 2023, even if the hammer  
10 of the gun was damaged on October 21st of 2021, would  
11 the trigger have to be pulled for the gun to fire?

12 MR. HAAG: Two things. Yes, the trigger would have to  
13 be depressed or pulled, the hammer would have to be at  
14 the full-cock position, and it can't be damaged because  
15 it would do what we saw here. And what you just saw  
16 here would not fire the gun.

17 MS. MORRISSEY: So hypothetically, though, even if it  
18 were damaged on October 21st, the operator, that being  
19 Mr. Baldwin, would have had to have pulled the trigger?

20 MR. HAAG: If you -- yes, if you could get the hammer to  
21 stay at the full cock position. That's the difficulty  
22 to overcome.

23 MS. MORRISSEY: Which it doesn't want to do.

24 MR. HAAG: It will not do.

25 MS. MORRISSEY: Okay. And did you have an opportunity

1 to examine the spent casing from the Rust movie set in  
2 this case?

3 MR. HAAG: Yes, I did.

4 MS. MORRISSEY: Did you make any conclusions about  
5 whether or not that spent casing was fired from this  
6 gun?

7 MR. HAAG: Yes, I did.

8 MS. MORRISSEY: What's that?

9 MR. HAAG: I'm in agreement with the FBI examiner. I  
10 was able to match it under the microscope. There are  
11 tool marks on the bridge face of the gun that print  
12 themselves, literally stamp themselves into the primer.  
13 And yet, there were a number of test-fired cartridges  
14 that the Bureau prepared, that I prepared, and under a  
15 specialized microscope for this purpose, I could see a  
16 very nice identification. So, in my view, the fired  
17 cartridge was fired in this gun. And then I went on to  
18 look at the shape, location, and depth of the firing pin  
19 impression as the next important question.

20 MS. MORRISSEY: And let's go ahead and talk about that,  
21 everything that you learned from the firing pin  
22 impression and what that tells you about the position  
23 that the hammer of the gun was in at the time it was  
24 fired.

25 MR. HAAG: It tells me two things -- that the cylinder

1 was locked up and aligned. So the hammer had been  
2 pulled all the way rearward. If it did not, it wouldn't  
3 be in alignment, from what I've shown you. Secondly,  
4 the depth of the firing pin impression told me, from  
5 doing test fires, multiple test fires and measuring all  
6 the 12 that the FBI lab conducted, that it was a  
7 cartridge that was fired from a full-hammer fall, not  
8 from an effort to let the hammer down and slip off or  
9 any other misadventure, but rather, a normal hammer fall  
10 from the full cock position.

11 MS. MORRISSEY: One final demonstration for us. If you  
12 would take your revolver out and come in front of the  
13 jurors. And you can stand right here so that you can  
14 speak into the microphone. So, just for completeness, I  
15 would like for you to demonstrate to the ladies and  
16 gentlemen of the jury, using this exemplar revolver, the  
17 position that the -- what had to have happened on  
18 October 21st, in your opinion, for this gun to fire?  
19 Let's show them rather than give them a verbal  
20 description.

21 MR. HAAG: It had to have a normally functioned,  
22 undamaged hammer. The handler -- in this case, Mr.  
23 Baldwin -- had to get it to this position. If he let go  
24 of the hammer, it would stay as you see it here.  
25 Pulling the trigger will fire it. Now, you can do that



1 as quickly as you cock it, or you can wait minutes,  
2 hours. But when I do that, if there's a live round in  
3 there, it's going to fire. The firing pin impression is  
4 going to have the full depth from this if -- and I've  
5 done it. If somehow I did this, I'm trying to let it  
6 down and I let it slip, it either won't fire at all or  
7 it makes a much shallower firing pin impression. I did  
8 that multiple times with the evidence gun and with the  
9 exemplars. I own several of these. My son owns several  
10 of them. So I could distinguish by the depth and the  
11 centering that this is a normal hammer fall from the  
12 full-cock position.

13 MS. MORRISSEY: So had the gun fired at a position less  
14 than full cock, lower than a full cock, in between a  
15 full and a half or half and quarter, you would be able  
16 to tell that by the depth of the firing pin impression.  
17 Is that correct?

18 MR. HAAG: If it -- what I call a slip off. If you're  
19 trying to let the hammer down and you get about the  
20 halfway point and it slips -- you also have to pull the  
21 trigger, by the way -- it'll be a much shallower firing  
22 pin and pressure because it doesn't hit the strike. It  
23 doesn't strike as hard. And from the quarter cock, if  
24 you're trying to put it in safety position and you lose  
25 control of it -- again, you have to pull the trigger --

## EXHIBIT E

(Partial Copy of Defendant's Exhibit E  
to Motion to Dismiss )

1 you were to look at the owner's manual, which this is  
2 one thing I did as part of my exam, you would actually  
3 see warnings not to carry this firearm with the hammer  
4 at rest on a loaded chamber. So, a lot of times, it's  
5 actually advised that you -- you load one less cartridge  
6 in the cylinder, so you have one empty chamber, and  
7 that's how it's carried with the hammer forward on that  
8 chamber. So these are recommendations in the owner's  
9 manual. So this isn't some phenomenon, this is  
10 something that's known about the design of these  
11 firearms.

12 MS. MORRISSEY: And what kind of testing did you perform  
13 on this firearm?

14 MR. ZIEGLER: So, initially, I did a function evaluation  
15 just to make sure it appeared that, you know, there  
16 weren't any odd modifications, that it was functioning  
17 correctly. After that, I was requested to do some  
18 microscopic comparisons, as I was also submitted a fired  
19 bullet and a fired cartridge case. And then the last  
20 type of testing I did on this particular gun is what's  
21 called accidental discharge testing. So, essentially,  
22 the goal of that test is to see if I can get this fire  
23 to function without pulling the trigger.

24 MS. MORRISSEY: So the first set of testing that you  
25 mentioned, what did that entail?

1 MR. ZIEGLER: So function examination is basically I  
2 need to inspect the firearm for safety purposes. Keep  
3 in mind, I've never seen this firearm before when I  
4 first opened the box, so I don't know what condition  
5 it's been in, I don't know how old it is, I don't know  
6 how well it's been taken care of. So, eventually, I'm  
7 going to want to test fire that gun, so I need to make  
8 sure I feel that it's safe to fire so I don't have some  
9 catastrophic failure while I do so. Once I determine  
10 that it is safe to fire, I will physically take the gun  
11 to one of two locations in the FBI Lab, and I will load  
12 it with ammunition from the laboratory and actually test  
13 fire the gun.

14 MS. MORRISSEY: And did you test fire this gun?

15 MR. ZIEGLER: Yes, I did.

16 MS. MORRISSEY: Approximately how many rounds of  
17 ammunition did you fire out of this gun?

18 MR. ZIEGLER: May I refer to my report?

19 MS. MORRISSEY: Sure.

20 MR. ZIEGLER: I physically fired this gun 12 times. So,  
21 as a result of that, I retained the fired bullet and  
22 fired cartridge cases that I produced during that test  
23 firing. And I also collected some other cartridge cases  
24 as a product of the testing that I did. So these would  
25 be cartridge cases that I collected during the



1 ammunition because I could hear some of these cartridges  
2 had it sounded like BBs inside when you shook them. So  
3 I wanted to get an idea of just a picture of what was  
4 going on inside these cartridges. So, again, I took  
5 those two pieces of information, sorted them into  
6 groups, and then, eventually, I worked with the  
7 contributor to determine which of these cartridges  
8 actually need to be disassembled so we could take out  
9 the bullet and we can look inside and see, is there any  
10 powder present, does it look like the primer is active  
11 or not. So those were kind of the three phases to sort  
12 of determine which categories these cartridges actually  
13 fell into.

14 MS. MORRISSEY: Okay. And quickly, I'm going to jump  
15 you to the accidental discharge testing that you did.  
16 Can you summarize, for the ladies and gentlemen of the  
17 jury, what that accidental discharge testing consisted  
18 of and why you did that testing?

19 MR. ZIEGLER: All right. So, again, accidental  
20 discharge, its goal is essentially to determine can I  
21 fire this fire without pulling the trigger. That's --  
22 that's kind of the end goal. And the way we do that is  
23 the test is designed to simulate the firearm being  
24 bumped or banged into something, just being jostled  
25 around, and seeing can those kind of interactions fire

1 the firearm.

2 So the way we replicate this in the laboratory is I  
3 will take the gun and actually strike it with a rawhide  
4 mallet on six planes. So, if you picture -- picture a  
5 box sitting in front of you, the six planes would be the  
6 front of the box, the rear of the box, the left side,  
7 the right side, the top, and the bottom. So those are  
8 the six planes. So, if you kind of picture the revolver  
9 and picture how those six planes work around that gun,  
10 I'm going to go around and strike the firearm in all six  
11 of those planes with a raw hide mallet, again, trying to  
12 determine if it will actually fire without me touching  
13 the trigger.

14 MS. MORRISSEY: And, specifically, when you're striking  
15 the firearm, are you striking the hammer?

16 MR. ZIEGLER: That was a part of the testing that I did,  
17 yes.

18 MS. MORRISSEY: Prior to conducting that testing, did  
19 you have any thoughts about whether that could  
20 potentially result in damage to the gun?

21 MR. ZIEGLER: Right. So this is actually in our  
22 standard operating procedures, that this type of testing  
23 is potentially destructive to the firearm. So just kind  
24 of generally speaking, if I'm going to do an exam that  
25 may destroy or alter the evidence permanently, I would



1 seek out the contributor's permission to do that exam  
2 before I actually go and do it. So that -- that is what  
3 was done in this case.

4 MS. MORRISSEY: So you obtained permission to proceed  
5 with that testing?

6 MR. ZIEGLER: That's correct.

7 MS. MORRISSEY: Understanding that it could result in  
8 damage?

9 MR. ZIEGLER: Yes.

10 MS. MORRISSEY: All right. Let's go ahead and -- well,  
11 let's go ahead and just briefly describe the striking of  
12 the mallet and whether or not, at some point, there was  
13 damage and kind of what you learned during that test.

14 MR. ZIEGLER: So, as we're doing this test, we want to  
15 test the firearm in all modes of fire that it's capable  
16 of. So, if I -- if I have a rifle, for instance, and  
17 say it's semi-automatic and fully automatic, I would do  
18 the test in both of those settings. In this case,  
19 completely different type of firearm, but I wanted to  
20 test this gun in all four positions of the hammer, so at  
21 rest, quarter cock, half cock, and fully cocked.

22 And, essentially, as a result of that testing,  
23 there were only two times that I was able to get this  
24 firearm to fire, the first one being when the hammer was  
25 at rest on a loaded chamber. So, as I previously

1 described to you, the firing pin was sitting directly on  
2 the primer. So, when I struck the hammer with the  
3 mallet, that provided enough force to detonate the  
4 primer. So again, that's a known feature of this type  
5 of firearm. The second test where this occurred was  
6 when the hammer was in the fully copped position, and I  
7 was doing my striking in the six planes, as I described,  
8 and eventually, I got to the rear of the firearm, so  
9 that -- that back plane, and eventually, at some point,  
10 I struck the hammer with a rawhide mallet, and the  
11 hammer actually fell, and it detonated the primer. So  
12 what happened was some of the internal components of the  
13 firearm actually broke to allow that hammer to fall and  
14 fire the -- the primed cartridge case.

15 So I previously mentioned those quarter and half  
16 cock notches. If the hammer were to fall and there was  
17 no damage inside the gun, I would expect that the -- the  
18 portion that makes contact with the hammer is called the  
19 sear. That sear should have been caught either by the  
20 quarter or the half-cock notch as the hammer was  
21 falling. It should not have been able to fall all the  
22 way. So this is what led me to believe that there was  
23 some type of damage that occurred within the gun. And,  
24 eventually, I disassembled it to figure out exactly what  
25 that damage was.



1 MS. MORRISSEY: So the damage that you discovered, just  
2 so we're clear, was that damage sustained at the FBI  
3 Lab?

4 MR. ZIEGLER: Yes, it was.

5 MS. MORRISSEY: Based on the testing that you did, when  
6 this gun was received by the FBI, was it in proper  
7 working order?

8 MR. ZIEGLER: Yes. So the -- the first exam I did was  
9 the function exam. So, again, that's making sure it's  
10 operating correctly and that it hasn't been modified.  
11 During that test, I also examined the safeties. So, as  
12 it was received in that condition, when I went through  
13 the function evaluation, everything appeared to be  
14 operating correctly. So it functioned normally as it  
15 was designed.

16 MS. MORRISSEY: So you were able to make it fire in the  
17 resting position. Correct?

18 MR. ZIEGLER: That's correct.

19 MS. MORRISSEY: And then did you put it in the quarter  
20 cock position?

21 MR. ZIEGLER: Yes.

22 MS. MORRISSEY: And did you strike it with a mallet?

23 MR. ZIEGLER: In that particular case for the quarter,  
24 as well as the half cock, I did not need to do the  
25 mallet testing.

1 MS. MORRISSEY: What kind of testing did you do?  
2 MR. ZIEGLER: So the quarter and half cock notches are  
3 not designed to essentially lock the trigger, put your  
4 firearm completely in a safe setting. So, again,  
5 they're designed that, if your finger slips off the  
6 hammer, it's going to catch it. So, in this type of  
7 gun, if your hammer is in either the quarter or the half  
8 cock, you can actually squeeze the trigger, and if you  
9 squeeze it hard enough, it's going to cock the hammer  
10 enough that it releases. So you can still make the  
11 hammer fall even though it's in these two intermediate  
12 safety positions if you apply sufficient pressure to the  
13 trigger.

14 So I did a variety of testing to determine if I put  
15 the hammer in the quarter cock as well as the half-cock  
16 notch and I squeeze the trigger hard enough that I allow  
17 the hammer to fall, is it even feasible for the hammer  
18 to detonate the cartridge? And I determined, in both of  
19 those positions, it was not.

20 MS. MORRISSEY: And we understand that the next testing  
21 that you did was in the full-cock position.

22 MR. ZIEGLER: That's correct.

23 MS. MORRISSEY: And ultimately, as you predicted, was  
24 the gun damaged?

25 MR. ZIEGLER: As a result of the testing, yes, it was

1 damaged.

2 MS. MORRISSEY: Okay. Let's move to State's Exhibit  
3 97A. Can you tell us what we're looking at here?

4 MR. ZIEGLER: Yes. So this is a photograph that I took  
5 after the accidental discharge testing was complete.  
6 So, on the right-hand side, we have the hammer. As I  
7 mentioned before, the firing pin is fixed to the hammer,  
8 so that's that piece that you see protruding from the  
9 hammer. In the top left, this piece is called the  
10 cylinder stop. So you can see a piece of that component  
11 fractured off. The bottom left here, we have the  
12 trigger. And this tiny piece here is what actually  
13 fractured off the trigger. Now, as I mentioned before,  
14 I explained the quarter and half cock-notches, so I'm  
15 actually going to point those out to you. On the  
16 hammer, these kind of jagged edges, the first one is a  
17 quarter-cock notch. So, as you're cocking the hammer  
18 and you hear that first click, that is the -- the sear  
19 portion of the trigger, which is now broken, locking  
20 into that little recess. Your second click is the  
21 half-cock notch, so that's that second jagged edge. And  
22 then your last click is the actual sear notch. So  
23 that's where the trigger is sitting when the hammer is  
24 in its fully cocked position. So when I struck the  
25 hammer with the mallet, it actually broke off that piece



1 of the trigger that was sitting up against the hammer  
2 there.

3 MS. MORRISSEY: And is there anything unusual to you in  
4 this photo about the full-cock notch on the hammer?

5 MR. ZIEGLER: So, again, this -- this notch here is the  
6 full-cock notch. So you may notice, when looking at  
7 this, that this notch appears much flatter when you  
8 compare it to the other two notches. So it could be  
9 that a small portion of this surface was also damaged  
10 during the testing. But, in addition to that, there are  
11 times where the sear notch is just not as pronounced as  
12 the other two notches. So I didn't observe any damage,  
13 myself, in this particular area, but it's possible that  
14 that area was damaged as well.

15 MS. MORRISSEY: And, based on your testing, did you form  
16 an opinion about whether or not this gun could be fired  
17 without the handler pulling the trigger?

18 MR. ZIEGLER: So, again, the only two times that  
19 occurred was with the hammer at rest on a loaded  
20 chamber, and the second time, I attributed this to the  
21 breakage of internal components. So, again, if these  
22 parts had not broken, I would expect that the trigger  
23 should've been caught by either the quarter or the  
24 half-cock notch as the hammer was coming forward. So I  
25 would not expect this to occur had this breakage not

1 happened.

2 MS. MORRISSEY: So, just to be clear, did you form an  
3 opinion about whether the handler would have to pull the  
4 trigger of the gun to make the gun fire?

5 MR. ZIEGLER: My opinion is that the only reason this  
6 occurred is because of the breakage. So, in order to  
7 move the trigger away from the hammer, that's typically  
8 accomplished by pulling the trigger. So, in this case,  
9 the only way that was possible is because the trigger  
10 actually fractured.

11 MS. MORRISSEY: Okay. So, in order for you -- just so  
12 that we're clear, in order for you to make the gun fire  
13 without pulling the trigger, when it was in the  
14 full-cocked position, you had to break it.

15 MR. ZIEGLER: That's what I had to do in my lab. I  
16 can't account for all the other possibilities that may  
17 have existed in, you know, some hypothetical scenario,  
18 but this is the result as I tested in my laboratory. It  
19 would not fire without pulling the trigger in the  
20 full-cock setting without being broken.

21 MS. MORRISSEY: Thank you. Let's move to State's  
22 Exhibit 98. Can you tell us what we're looking at here?

23 MR. ZIEGLER: Yes. This is a photograph of a fired  
24 bullet that was submitted for comparison.

25 MS. MORRISSEY: And can you describe to us, in a little