

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

OR-1509104

CASE NO. 2015-OC-337

SEP 11 2015

SEP 11 2015

SEP 11 2015

THE CITY OF ELY

Plaintiff

vs.

CYNTHIA THROM

Defendant

_____ \

FILED

2015 SEP 11 AM 10:21

NICHOLE BALDWIN
WHITE PINE COUNTY CLERK

BY DU
DEPUTY

MISDEMEANOR TRIAL AND SENTENCING

August 20, 2015

PAGE 1 OF 2

2
3 IN THE ELY MUNICIPAL COURT OF THE CITY OF ELY
4 COUNT OF WHITE PINE, STATE OF NEVADA

5 HONORABLE MICHAEL KALLERES MUNICIPAL COURT JUDGE

6
7 THE CITY OF ELY

8 Plaintiff

9 vs.

TRANSCRIPT

10 CYNTHIA THROM

11 Defendant

12 _____ \

13 MISDEMEANOR TRIAL AND SENTENCING

14 August 20, 2015

15
16 COUNSEL APPEARING

17 For the City:

CHARLES ODGERS, ESQ
Ely City Attorney-480 Campton St.
Ely, Nevada 89301

18
19
20
21 For the Defense:

KELLY BROWN, ESQ
Po Box 151117
Ely NV 89315

22
23
24
25
26
27 Transcribed by: Linnea Prengel, Sworn Court Transcriber

1
2 IN THE ELY MUNICIPAL COURT OF THE CITY OF ELY,
3 COUNTY OF WHITE PINE, STATE OF NEVADA
4

5 *****

6 THE CITY OF ELY,

7 Plaintiff,

8 vs.

9 CYNTHIA THROM,

10 Defendant.
11

12 _____ \

13 TRANSCRIPT OF PROCEEDINGS

14 BE IT REMEMBERED, the above-entitled matter came on duly and
15 regularly for Sentencing before the above-entitled Court on August 20,
16 2015, before the HONORABLE MICHAEL KALLERES, Municipal Court
17 Judge of said Court, presiding.

18 The City of Ely is present and represented by CHARLES ODGERS,
19 ESQ., Ely City Prosecutor, Ely Nevada.

20 The Defendant, CYNTHIA THROM, is present with her retained
21 counsel, KELLY BROWN, ESQ., Ely Nevada.

22 WHEREUPON, the following proceedings were had:
23
24

1 (Court convenes at 9:05 A.M.)

2 THE COURT: Ely Municipal Court is now in session.

3 Judge Michael Kalleres presiding.

4 Today is the twentieth day of August , two thousand fifteen.

5 The time is five minutes after nine a.m.

6 This is the time and place set for trial wherein the City of Ely is the
7 Plaintiff and the Defendant is Cynthia Thom, Case Number Two Zero One
8 Five Dash Three Three Seven .

9 Miss Thom is presently in Court-Will you please stand.

10 Give me your true and correct name.

11 DEFENDANT: Cynthia Ann Thom

12 THE COURT: And where do you live? Address?

13 DEFENDANT: Las Vegas Nevada

14 THE COURT: Do you have a mailing address?

15 DEFENDANT: Seventy Three Forty Seven Rani Road, Las
16 Vegas Nevada Eight Nine One Three Nine.

17 THE COURT: How about a telephone number?

18 DEFENDANT: Seven O-Two, Two Five Five, Zero Seven Two
19 Zero.

20 THE COURT: Are you working?

21 DEFENDANT: Yes, I am.

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

THE COURT: What kind of work do you do?

DEFENDANT: I'm an insurance broker.

THE COURT: Very good, thank you. Please have a seat.

Please in Court we have our City attorney, Mr. Odgers. Also present, the Defendant and her Attorney Mr. Brown.

Just a brief review of the record. First appearance and arraignment was waived by Mr. Kelly Brown. We have a citation WP Five Four Three Two. Violation of Battery which is NRS. Two Zero Zero dot Four Eight One.

Are parties ready to proceed?

MR. ODGERS: City is, Your Honor.

KELLY BROWN: Miss Throm is Your Honor.

THE COURT: Thank you.

Are there any motions to be heard prior?

MR. ODGERS: Exclusion, Your Honor.

MR. BROWN: We would agree, Exclusion of witnesses. Your Honor.

THE COURT: Does the City have any witnesses?

MR. ODGERS: Yes, Your Honor, we have quite a few. We have subpoenaed for today Virginia Austin, Kathy Ricci, we have Betsy Elizabeth Lopez, we have Deputy Monroe and Deputy Watterson, and we have Nichole Baldwin.

1 THE COURT: Thank you.

2 Are there any witnesses for the Defense?

3 KELLY BROWN: Kathy Ricci and Virginia Austin.

4 THE COURT: Will you Defendant be--

5 KELLY BROWN: Your Honor, we will be making that
6 determination at the end of the States case.

7 THE COURT: Very good thank you.

8 CHARGES ODGERS: The City's case --

9 KELLY BROWN: Sorry, City's case.

10 THE COURT: Will you please stand and raise your right
11 hand?

12 CHARLES ODGERS: Who is the gentleman on the Right?

13 CYNTHIA THROM: Am I suppose to stand?

14 KELLY BROWN: No.

15 CHARLES ODGERS: Sit down you're not a witness either.
16 You're a witness.

17 All the witnesses are standing Your Honor.

18 CLERK: Do you solemnly swear that the testimony you are
19 about to give will be the truth, the whole truth, and nothing but the truth, so
20 help you GOD?

1 WITNESSES RESPOND IN THE AFFIRMATIVE

2
3
4 THE COURT: Mr. Brown, you wanted witnesses
5 excluded?

6 KELLY BROWN: Yes, Your Honor.

7 CHARLES ODGERS: Your Honor, because Mr. Watterson is
8 on duty, we're going to call him out of order. I have discussed this with Mr.
9 Brown prior to the trial. So, he'll be our first witness.

10 THE COURT: Will the rest of you witnesses please take
11 a seat out in the lobby. Please do not discuss the case except with your
12 Attorney.

13 Do you have an opening statement at all or would you rather go ahead.

14 CHARLES ODGERS: Do you want to do opening?

15 KELLY BROWN: I don't believe that's necessary.

16 CHARLES ODGERS: Typically we don't do that in a
17 misdemeanor trial.

18 We'll call Dale Watterson.

19 THE COURT: Have a seat there Officer.
20 Remember you are under oath, give us your name address, and were you
21 live?

22 CITY'S WITNESS DEPUTY DALE WATERSON TESTIFIES

23 Witness: Dale Watterson, Ely NV

1 Q. Mr. Watterson were are you currently employed?

2 A. White Pine County Sheriff's Office.

3 Q. Were you so employed on or about June third Two Thousand
4 Fifteen?

5 A. Yes.

6 Q. Briefly can you give the Court the background that qualifies you to
7 become a sheriff's deputy.

8 A. Sixteen weeks of a field training officer program. Sixteen weeks
9 of a peace officers centered training academy, and continuing education.

10 Q, How long have you been in law enforcement?

11 A. Nineteen years.

12 Q. How long have you been in law enforcement in White Pine
13 County?

14 A. Nine years.

15 Q. Mr. Watterson, we're going to kind of take things out of sequence
16 so we can get you back out on the streets.

17 Do you recall an incident on or about June fourth or June fifth were
18 you were involved in investigating any portion of an alleged battery
19 between Miss Throm and Miss Lopez?

20 A. Yes.

21 Q. What was the nature of your investigation?

22 A. Miss Lopez came into the P.S.B. lobby to provide a witness
23 statement and have follow up have photos taken.

1 Q. Fair enough. Did you except that witness statement?

2 A. Yes I did.

3 Q. What did you do with the Witness statement once it was brought
4 in?

5 A. I added the witness statement to the incident and I supplemented
6 the incident that I had received it and taken photos.

7 Q. Thank you. And you took photos?

8 A. Yes I did.

9 Q. Do you remember approximately how many photos you took?

10 A. I don't know the exact number of photos I took.

11 Q. Your Honor, I'd like to approach with City's proposed exhibits five
12 through ten. Previously shown to Mr. Brown.

13 THE COURT: You may.

14 Q. What I'd like you do is to hold these away so the Judge can't see
15 them until we get them admitted into evidence. Exhibit number five, did
16 you take that photograph?

17 A. Yes I did.

18 Q. What is exhibit number five a photograph of?

19 A. Miss Lopez.

20 Q. Alright,

21 MR. BROWN: Excuse me, Your Honor, if I can see those –
22 because I didn't have a chance –

1 MR. ODGERS: It goes in this order. For some reason they
2 print out differently each time.

3 MR. BROWN: Okay, so I don't know which they are.

4 MR. ODGERS: That's five.

5 MR. BROWN: That's five.

6 Q. This is just a general photo?

7 A. Yes, that is to just identify the person I am taking pictures of.

8 Q. It is true and correct of the way she looked on or about June Fifth
9 Two Thousand Fifteen?

10 A. Correct.

11 MR. ODGERS: Move to admit exhibit five.

12 MR. BROWN: No Objection.

13 THE COURT: Granted.

14 MR. ODGERS: You can go ahead and hand that to the Judge.

15 Q. Can you show Mr. Brown what is shown as exhibit six?

16 This one.

17 Can you identify what is pictured in exhibit six?

18 A. That what be a photograph of the underside of Miss Lopez's arm.

19 Q. What were you photographing?

20 A. The mark on her arm, the scratch mark that appears to be on her
21 arm.

1 Q. Okay, was that true and correct of the way her left arm appeared
2 on or about June Fifth Two Thousand Fifteen?

3 A. Yes.

4 MR. ODGERS: I move to admit exhibit six.

5 THE COURT: Granted.

6 MR. BROWN: No objection Your Honor.

7 Q. Exhibit seven – can you show -. Can you identify what exhibit
8 seven is?

9 A. This is a photograph of the same back side of the arm. This is
10 just pulled back for a broader view.

11 Q. Is that a fair and accurate representation of the way her left arm
12 looked when you took the photograph?

13 A. Yes.

14 MR. ODGERS: Move to admit exhibit seven.

15 MR. BROWN: No objection.

16 THE COURT: Granted.

17 MR. ODGERS: Exhibit eight is which one? Okay.

18 Q. Can you identify which is in proposed exhibit eight?

19 A. Photographing again the inside of the left arm.

20 Q. Is it a true and accurate representation of the way the left arm
21 looked on June Fifth, Two Thousand Fifteen?

22 A. Yes.

1 MR. ODGERS: Move to admit exhibit eight.

2 THE COURT: Granted.

3 MR. BROWN: No Objection.

4 Q. Alright, proposed exhibit nine? Can you identify to the Court what
5 proposed exhibit nine is?

6 A. This is the backside of the arm, circled, she had previously circled
7 those before coming in stating that is were the bruising was on her arm.

8 Q. Did you observe bruising on exhibit number nine when you took
9 the photographs.

10 A. I did observe some faint bruising on the arm.

11 Q. Is that a fair and accurate representation of the way that arm
12 looked when you took the photograph on or about June Fifth, Two
13 Thousand Fifteen.

14 A. Yes.

15 MR. ODGERS: Move to admit exhibit nine.

16 MR. BROWN: No Objection.

17 THE COURT: Granted.

18 MR. ODGERS: And ten.

19 Q. Can you identify what is in City's proposed exhibit ten? This one
20 right here.

21 MR. BROWN: That looks a lot different than the one you gave
22 to me.

1 MR. ODGERS: Oh, sorry it's this one.

2 MR. BROWN: Okay.

3 Q. Can you identify what is in proposed exhibit ten?

4 A. That is a photograph of the scratch marks on the arm.

5 Q. On which arm?

6 A. The right arm.

7 Q. Is it a true and accurate representation of the way the right arm
8 appeared on or about June Fifth Two Thousand Fifteen when you took the
9 photograph?

10 A. Yes.

11 MR. ODGERS: Move to admit exhibit ten.

12 MR. BROWN: No Objection.

13 THE COURT: Granted.

14 Q. Did you identify any marks in exhibit ten?

15 A. Just the scratch.

16 Q. Other than taking these photographs did you have any thing
17 further to do with the investigation?

18 A. No.

19 MR. ODGERS: Pass the Witness.

20 THE COURT: Mr. Brown?

21 MR. BROWN: Thank you, Your Honor.

1 Q. What was the date you took these photographs?

2 A. On the Fifth sir.

3 Q. And that is when you excepted the report?

4 A. Yes.

5 Q. Is that report in a standard form that you provide to witnesses?

6 A. It was on a witness statement I believe. I don't recall exactly
7 which format it was in.

8 Q. Okay. So – would you be surprised if it wasn't on a witness
9 statement – if it was just on a blank piece of paper?

10 A. No, I wouldn't.

11 Q. Okay. I want to ask you about exhibit nine, and unfortunately I
12 just have a page that has a whole bunch of photos on it. I don't have the
13 blown up photos that the City has.

14 MR. ODGERS: Objection. Narrative. Move to strike –

15 MR. BROWN: He's not provided me that Your Honor.

16 MR. ODGERS: I don't have to provide that in a eight by ten.
17 He has the photographs as being submitted. He is being narrative and I
18 move to strike.

19 MR. BROWN: I haven't been provided the photograph that
20 admitted. I was provided a small sheet with a bunch of photographs. That
21 is the fact. If he doesn't like it, he could have provided me the actual
22 evidence he was going to admit.

1 MR. ODGERS: I'll move to strike Your Honor. He is being
2 argumentative, he is being narrative, it has nothing to do with his cross
3 examination.

4 MR. BROWN: It does, Your Honor because I was trying to
5 point out to the witness, I am going to be showing a page of a bunch of
6 photos, not what he looked at. I am doing it so that the witness can
7 understand what is going on here.

8 THE COURT: Overruled.

9 Q. So, Deputy Watterson, I am going to ask you to look at exhibit
10 nine, and on this sheet, it is this picture right here, and I don't know if you
11 can see it, perhaps the Court can hand you a larger exhibit nine. Those
12 circles were drawn by Betsy Lopez, correct?

13 A. I don't know if they were drawn by Miss Lopez, but they were
14 marked prior to her entering the building.

15 Q. You didn't put those marks on her?

16 A. No, I did not.

17 Q. Do those marks show any injuries on Miss Lopez?

18 A. I don't see the bruising showing up the photograph like I testified
19 to. There was some faint bruising marks inside those circles.

20 Q. When you say faint bruising marks. Do you know when she
21 alleges that she got those bruised?

22 A. No. I do not.

23 Q. You have no way of knowing when she got those bruises?

1 A. No, I do not.

2 Q. And, the – let me ask you to look at exhibit eight if you could.

3 That is a photograph of the inside of Betsy Lopez's or Elizabeth's Lopez's
4 left arm?

5 A. Correct.

6 Q. Do you see bruising on that photograph?

7 A. No, I do not.

8 Q. Let me ask you to look at exhibit six. That is a photograph of the
9 inside of Betsy's right arm. Is that correct?

10 A. I believe that is the backside of her left arm.

11 Q. Okay. Can you show us – when you say the back side of her
12 arm. Can you point on your left arm and show us what you mean by the
13 backside.

14 A. I believe it is this back portion of her trisect area of the arm.

15 Q. You see a scratch mark on that?

16 A. There is a reddish mark on the arm.

17 Q. Where exactly on that photograph is the reddish mark that you
18 are talking about?

19 A. That would be right here.

20 Q. Can you show the Judge what you are pointing at?

21 A. It would be right there Your Honor.

22 THE COURT: Okay.

1 Q. You can 't tell how she got that mark can you?

2 A. No.

3 Q. You can't tell when she got that mark?

4 A. No.

5 Q. Okay. I am going to ask you to look at exhibit ten, if you would.
6 Can you – because I got the last one wrong, I don't want to – I'll just ask
7 you – what is that a picture of again?

8 A. It would be the backside of the right arm. Again, the triceps area
9 of the arm.

10 Q. What is depicted in that picture?

11 A. The scratch marks coming across the arm here.

12 Q. Again, can you show the Judge?

13 THE COURT: Okay.

14 A. These marks here.

15 Q. You can't tell how she got those marks?

16 A. No.

17 Q. You can't tell us when she got those marks?

18 A. No.

19 MR. BROWN: That is all I have Your Honor.

20 THE COURT: Briggs, Re-direct?

21 MR. ODGERS: No, Your Honor.

1 THE COURT: Nothing else? Do you want to release
2 him?

3 MR. ODGERS: I do want to release him so he can go back to
4 the streets Your Honor.

5 THE COURT: Very good. Thank you Officer.
6 *Call your next witness.*

7 MR. ODGERS: Thank you Your Honor. We will call Miss Ricci.

8 THE COURT: Will you send Miss Ricci in?
9 Take a seat up here.

10 Remember you are under oath.

11 Give us your true and correct name and where you live.

12 MISS RITCHEE: My full name is Cathleen Rose Ritchee and I
13 live at Nine Twenty Two South Minnesota.

14 THE COURT: Thank you. You may proceed.

15 CITY'S WITNESS KATHY RICCI TESTIFIES

16 MR. ODGERS: Thank you Your Honor.

17 Q. Miss Ricci, how are you today?

18 A. I am good thank you.

19 Q. *Thank you for appearing on behalf of the City. On or about June*
20 *Third, Two Thousand Fifteen, how were you employed?*

21 A. I was employed – I am employed by White Pine County.

1 Q. Were you employed by White Pine County on June Third?

2 A. Yes.

3 Q. In what capacity?

4 A. Human Resource director.

5 Q. I'd like to get into your back ground on your human resource
6 training experience okay?

7 Do you have a bachelor's degree or anything in human resources?

8 A. No, I don't.

9 Q. Okay, have you worked in human resources prior to becoming the
10 human resources person for the county now?

11 A. Yes.

12 Q. Where did you work in human resource prior?

13 A. For White Pine County. I was the assistant human resource
14 assistant.

15 Q. What duties and responsibilities did you have as human
16 resources assistant?

17 A. Enrollment, handing health insurance issues with county
18 employees.

19 Q. That was the depth of your responsibilities as an assistant?

20 A. Yes.

21 Q. So, it was just to deal with issues pertaining to health insurance?

22 A. Also, enrollment, and

1 Q. That would be part of the health insurance – the enrollment, the
2 dis-enrollement?

3 A. Well, enrollment for new county employees and also enrollment
4 with the health insurance.

5 Q. On about June Third, Two Thousand Fifteen, what was your roll in
6 human resources?

7 A. I am the human resource director and um, now I play a larger roll
8 in enrollment and assist with the brokers.

9 Q. Do you also do recruitment?

10 A. Yes.

11 Q. Do you also do classification?

12 A. Yes.

13 Q. Do you also do compensation?

14 A. Yes.

15 Q. So, the breath is much larger right?

16 A. Yes.

17 Q. So, on June Third, Two Thousand Fifteen, the County was going
18 through open enrollment, is that correct?

19 A. Yes.

20 Q. Do you know a young lady by the name of Cynthia Thom?

21 A. Yes, I do.

22 Q. Do you see her in the courtroom?

1 A. Yes, I do.

2 Q. Can you point her out and identify a piece of clothing?

3 A. Yes, she is wearing a blue dress.

4 MR. ODGERS: Will the record reflect she has identified the
5 Defendant please.

6 THE COURT: Reflected.

7 Q. How do you know Miss Throm?

8 A. I know her through – she is the broker of record for White Pine
9 County.

10 Q. How long has she been the broker of record for White Pine
11 County?

12 A. Um, about seven years.

13 Q. To your knowledge is she now, or has she been related to any of
14 the County Commissioners?

15 A. She –

16 MR. BROWN: Objection. Relevance, Your Honor.

17 MR. ODGERS: Goes to foundation, Your Honor. It will come
18 into play when the Defendant – or when the Victim speaks.

19 THE COURT: Sustained.

20 A. She is -

21 MR. BROWN: Objection was sustained.

22 THE COURT: Pardon?

1 MR. ODGERS: Sustained or over-ruled?

2 THE COURT: Sustained you may go ahead.

3 MR. ODGERS: That would be overruled.

4 THE COURT: Overruled, your objection is overruled.

5 Right, Thank you.

6 Q. So, is she related to one of the County Commissioners, now or in
7 the past?

8 A. Lori Carson, is – was her- married to her cousin I believe.

9 Q. Okay, alright, that was Lori Carson's deceased cousin correct?

10 A. That is correct.

11 Q. Now, I have a – on June Third, Two Thousand Fifteen, were you
12 – what were you doing in open enrollment. was it just in one location?

13 A. No. We had two locations. Our first location was in the County of
14 White Pine.

15 Q. What time approximately did you start open enrollment that day?

16 A. You know, I am not certain of the time. I know it was in the
17 morning.

18 Q. Okay.

19 A. Roughly eight maybe nine.

20 Q. Alright, so in the morning, it started sometime. Alright, who was
21 present during that open enrollment as far as either county staff or brokers,

1 or – I'm not sure what the terminologies are for the different – non-
2 customers how is that?

3 A. There was myself, Cindy Throm, her assistant, Virginia Austin,
4 and Betsy Lopez and a representative from Aflac.

5 Q. Now, of the four people that were there. Can you describe how
6 the library was set up to do open enrollment?

7 A. The main table is were Cindy, Betsy, no, Betsy was over here.
8 Cindi, Virginia , and myself, we took this table. Aflac took this table over
9 here.

10 Q. If I can, do you see the white board up there, would it make you
11 more comfortable to draw it out?

12 A. Sure.

13 Q. I am going to hand you the black marker if you don't mind. We
14 understand this is not to scale correct?

15 A. I am not sure how much detail you want but here is the door to the
16 library, of the conference room.

17 Q. Okay, mark that as a door.

18 A. It's the conference room door. And then the table that we were at
19 here. I don't know if you want – and then there is the table over here that is
20 in a L shape. We – I kind of moved around to here, but there is were our
21 work was right here. This is were we had – the broker had talked to the
22 employees. When they –

23 Q. Let's go back a little bit. You are making some tic marks and we
24 have to mark stuff okay?

1 A. All righty.

2 Q. So you say the stuff that you have – that you marked at the top of
3 the page –

4 A. Right here?

5 Q. Yes.

6 A. That would be like our documents, work books.

7 Q. So, you can just identify that documents were laid out there. And
8 then you indicated Miss Throm would meet with the employees at the other
9 end of that table?

10 A. MM.

11 Q. Yes?

12 A. Yes.

13 Q. If you would just put a square and if you want to mark it as Miss
14 Throm? You can put a T in there I think that would work.

15 A. Well, we kind of moved around a bit so it would be either here, or
16 here where they would sit.

17 Q. Okay, so the employees and or the representative would sit at
18 one of those two locations?

19 A. Um Mm (yes).

20 Q. Yes?

21 A. Yes. Virginia would be sitting here.

22 Q. So, was Virginia always over in that location?

1 A. | - | -

2 Q. I mean generally? Obviously it's a room where people move
3 around. Was that generally where she was stationed?

4 A. Yes.

5 Q. So, can you put an A there? For Virginia Austin.

6 A. A for Virginia?

7 Q. Alright, now, for clarification that is the table that the
8 commissioners normally sit at during there commission meetings?

9 A. Yes.

10 Q. Okay. Then where were you generally stationed at?

11 A. Back here.

12 Q. Would you put an R there to represent you? Where was Miss
13 Lopez generally stationed at?

14 A. Right here.

15 Q. Can you put an L for her? Then generally which area was Miss
16 Throm?

17 A. Right here.

18 Q. Okay. So if you can put a T there? Now, is that the general
19 makeup for the entire day?

20 A. We were moving around a lot. I was in and out that day – a lot.
21 Going back and forth to the Courthouse. But, this is generally where we
22 were.

1 Q. If I could have you sign on the bottom, down in the lower right.

2 A. Then I will tell you we had a table here that had - there was a
3 table here that had freebies on it. Do you want me to sign right here?

4 Q. Yea, somewhere down in there.

5 When you say freebies, you mean like - -

6 A. Lip gloss, toothbrushes, toothpaste.

7 Q. So, just stuff.

8 A. Just stuff. I'll put S for stuff.

9 MR ODGERS. Move to admit as the next exhibit in order, Your
10 Honor.

11 THE COURT: Granted.

12 MR. ODGERS: Thank you. Miss Ricci.

13 What exhibit number would that be Madam Clerk?

14 THE CLERK: That's exhibit number twelve.

15 Q. Okay, so now. How long have you know Miss Throm?

16 A. Probably when she started working for the County, seven years
17 ago.

18 Q. Have you worked with her closely?

19 A. When we had issues with health insurance, yes.

20 Q. She makes recommendations to you, to give to the County
21 Commission on services?

1 A. Well, some, but she also works for the finance director to. A lot
2 goes through the finance director, Elizabeth Frances.

3 Q. Was Miss Frances in any way shape or form present any
4 interactions between any of the four of you women on or about June Third?

5 A. Not, No.

6 Q. How long have you known Miss Austin?

7 A. I met her through the business. Um, probably about the same
8 time I met Cindy. But, it was mainly by phone, the first few years.

9 Q. How long have you know Miss Lopez?

10 A. Since she became our Aflac agent. I'm not certain, maybe four
11 years ago. I – but – I'm really not sure.

12 Q. Okay, so, approximately four years ago? Give or take, I'm not -

13 A. Time goes by so fast –

14 Q. At our age it does – doesn't it.

15 A. Yes.

16 Q, But, you've known her since she became an Aflact representative
17 for the County?

18 A. Yes.

19 Q. Now, when the open enrollment first began that day what was the
20 demeanor like within that room? Between the four of you?

21 A. Well, it just seemed – we were busy trying to get things ready and
22 we just had a lot going on.

1 Q. So what was the demeanor like?

2 A. It was - -it was – good.

3 Q. You guys, laughing and joking?

4 A. Yeah, just small talk.

5 Q. At some point did things start to disintegrate?

6 A. Yes.

7 Q. What point was that?

8 A. Betsy came up to me, I did not witness this – like I said, - I was in
9 and out. Betsy came up to me and told me that –

10 MR. BROWN: Objection. Hearsay.

11 MR. ODGERS: You can't say what somebody else told you.

12 A. Okay, sorry. I didn't witness but Betsy came up to me.

13 MR. BROWN: Objection: Hearsay.

14 A. Sorry. Sorry.

15 THE COURT: You can't –

16 Q. Can you describe the nature of the incident you're speaking of
17 without speaking as to what somebody told you?

18 A. I just felt the change in the tone of the room, when she told me
19 that an incident had happened. Which I did not witness.

20 Q. Miss Ricci, I'm going to ask you a question and I'm to apologize
21 up front it's not meant to embarrassed you Okay?

1 Have you ever been questioned by law enforcement of White Pine County
2 by some alleged insurance fraud situation?

3 A. I'm sorry, could you –

4 Q. Sure. Within the last two years have you been questioned by law
5 enforcement about insurance fraud situation?

6 A. No.

7 Q. Did you have any discussions that day – did you make any
8 comment that day regarding an alleged fraud investigation?

9 A. Yes.

10 Q. Tell me about that? Statements that were made regarding the
11 alleged fraud investigation – by you?

12 A. Could you do that question again?

13 Q. Sure. What statements about an alleged fraud investigation did
14 you make?

15 A. That things are said in the community and they tend to escalate
16 into something that Cindy and Lori had to be –

17 Q. Lori Carson?

18 A. Lori Carson had to give statements to the Sheriff because of
19 something that Betsy had said.

20 Q. Did – was Miss Throm making any statements regarding this
21 alleged fraud investigation, at that same time?

22 A. I am certain that did come up in the conversation.

1 Q. Who initiated the conversation about the fraud investigation?

2 A. I couldn't tell you for sure.

3 Q. When Miss Throm was discussing the issues of the fraud
4 investigation – what was her demeanor like?

5 A. That she got –

6 Q. I'm asking what her demeanor was like?

7 A. She was upset.

8 Q. Okay. What do you mean by upset?

9 A. Just, upset saying that something like that – I don't know how to
10 explain but, she was – why would something like this happen?

11 Q. Let me ask you in a different way? How was she behaving while
12 she was making these statements? Can you describe her voice?

13 A. It was an explanation why – why things changed between her and
14 Betsy.

15 MR. ODGERS: Your Honor. I'm going to ask for something
16 about a revised statute that Miss Ricci be treated as a hostile witness.

17 THE COURT: Granted.

18 Q. Miss Ricci, isn't it true that Miss Throm's voice was elevated at
19 the time that the issue of the investigation came up? Almost yelling.

20 A. No.

21 Q. So, she was calm, cool and collected like you are?

22 A. No.

1 Q. So her voice was elevated? Miss Ricci, you're under oath you
2 have to be –

3 MR. BROWN: Objection Your Honor, let her answer the
4 question.

5 A. I can hear somebody talking out there. It wasn't to that level. So
6 it wasn't elevated to that level. I don't know how I can explain elevation of
7 her voice. She was - she wasn't yelling – no.

8 Q. She was angry?

9 A. She was upset. I wouldn't say angry.

10 Q. Were her hands animated?

11 A. Yes.

12 Q. Like you speak with your hands?

13 A. Yes, I speak with my hands so –

14 Q. But, that's normal? Were they exaggerated hand movements as
15 she was discussing it?

16 A. Yes.

17 Q. During this time when Miss Throm was discussing her – being
18 upset with Miss Lopez. where was Miss Lopez?

19 A. We were sitting at the table.

20 Q. If you need to go back up to the exhibit -

21 A. The first time that conversation happened, we were here, it was at
22 the end of the day. We were sitting at this end of the table there was four
23 of us.

1 Q. Okay, and everybody was seated at that point?

2 A. Yes.

3 Q. Where was Miss Throm in comparison to Miss Lopez at the
4 corner of that table?

5 A. Cindy was here -

6 Q. You have to move a little bit so the Judge can see

7 THE COURT: Move a little bit – thank you.

8 A. Cindy was here –

9 Q. At the head of the table for a lack of a better term?

10 A. Yes. Virginia was here. Betsy was here, and I was sitting here.

11 Q. So, it went Miss Throm at the head of the table, to Miss Throm's
12 immediate left and around the corner, would have been Miss Virginia? I
13 mean Miss Austin, pardon me. To Miss Austin's left would have been Miss
14 Lopez?

15 A. Yes.

16 Q. To Miss Throm's right would have been you?

17 A. Um Ugh.

18 Q. Yes?

19 A. Yes.

20 Q. I'm not doing that to be rude, it's just that everything is being
21 recorded and uh, and um mm's don't come across well.

22 A. Okay.

1 Q. At some point did that verbal altercation elevate past that? Where
2 the four of you were sitting at the end of the table. That area?

3 A. We had started packing – well we were trying to get ready to
4 leave when we had to come out to the Sheriff's Office so we stood up to –
5 to pack up our stuff and head this way – to the Sheriff's Office.

6 Q. Then –

7 A. So, we all stood up.

8 Q. Then what happened?

9 A. Then, the conversation again started up and we were all standing
10 there.

11 Q. Can you show the Court where you all were standing at the point
12 and time that this occurred?

13 A. Roughly about here.

14 Q. So, closer to the conference door and away from the table?

15 A. There is another door right here.

16 Q. Okay. And in what configuration were you all standing?

17 A. I was – I was standing to the right of Cindy -I was standing here -
18 Cindy was standing here. Virginia was here. Betsy was here.

19 Q. So, for the sake of clarity, Miss Throm and Miss Lopez were face
20 to face? Across from each other?

1 A. Not directly across. I was here, Betsy was more this way, and
2 Cindy was here. So she wasn't directly across , it was just – and then
3 Virginia was right here.

4 Q. Alright. So, from Miss Throm's position Miss Austin was to her
5 right, or to her left?

6 A. She was to her left.

7 Q. Sorry, I got myself confused there. You were to Miss Throm's
8 right?

9 A. Yes.

10 Q. Generally to the front of Miss Throm was Miss Austin, I mean
11 Miss Lopez.

12 A. No, She was not directly in front of her, she was more to – she
13 was facing her, but she was more to her right.

14 Q. Closer to you?

15 A. Closer to me.

16 Q. At some point did Miss Throm make physical contact with Miss
17 Aus- uh – Miss Lopez/

18 A. Yes.

19 Q. At the time that Miss Throm made physical contact with Miss
20 Lopez, what was Miss Throm's voice like?

21 A. It was – it was – we need to work this out. So it was a calming –
22 we need to calm this – we need to work this out. Those were the words
23 that she said.

1 Q. Then, what did you observe Miss Throm to do?

2 A. She took her hands out like things and said we need to work this
3 out.

4 Q. When did she have physical contact with Miss Lopez?

5 A. When she said we need to work this out.

6 Q. So, you never say Miss Throm grab Miss Lopez by the bicep,
7 triceps area by the arm?

8 A. No, I did not.

9 Q. Okay. You can have a seat again.

10 THE COURT: Were you leaving the area when you were
11 up towards the door?

12 A. We were –

13 Q. If the Court will allow I'll get through – I'll answer that question.
14 Because that is one of mine.

15 THE COURT: It's one of yours?

16 MR. ODGERS: Yes.

17 THE COURT: Then ask it.

18 MR. ODGERS: I'm going to Your Honor, I just had her sit
19 down.

20 THE COURT: Very good.

21 Q. Alright, so once this transpired that you say that Miss Throm
22 touched Miss Lopez's hands, or wrists gently, what did you guys do next?

1 A. Cindy left, walked out of the room, and then Virginia left and I
2 stood and talked to Betsy.

3 Q. Did you have any comments – did you make any comments to
4 Betsy regarding the incident.

5 A. No. I did not.

6 Q. You did not?

7 A. I – I don't know if you want me to explain?

8 Q. Yes.

9 A. I talked about professionalism and how things tend in a small
10 community explode and snowball and how comments get made and they
11 just tend to –

12 Q. This was in reference to the fraud investigation correct?

13 A. I did not bring up the fraud investigation.

14 Q. That wasn't my question.

15 A. I'm sorry.

16 Q. You commented how things get blown up was in reference to the
17 fraud investigation correct?

18 A. No.

19 Q. What was it in reference to then?

20 A. Small town gossip.

21 Q. Okay. Then discussions that you had prior to that all dealt with
22 the fraud investigation?

1 A. The fraud investigation came up but the discussion I had with
2 Betsy after they left was professionalism and how small town gossip ends
3 up being – causing problems.

4 Q. Did you ever say to Miss Lopez “She shouldn’t have done that”?

5 A. No.

6 Q. You never said that?

7 A. No.

8 Q. Did you ever apologize to Miss Lopez for Miss Throm’s behavior?

9 A. Can I go back to earlier in the day?

10 Q. Okay.

11 A. When Betsy came to me earlier in the day and told me that she
12 was upset with Cindy for interrupting her during a conference with one of
13 her clients, I had talked to Cindy about it and I agreed with Cindy and –
14 well, I took Cindy aside and told her Betsy is upset that you interrupted her
15 while she was with a client and that’s when I apologized to Betsy – no, she
16 shouldn’t have don’t that.

17 Q. Okay. So you left the library.

18 A. Um Mm.

19 Q. Yes?

20 A. Yes. I’m sorry. Yes.

21 Q. Again, I’m not trying to be rude –

22 A. No. I’m sorry.

1 Q. And then you came up here to the Public safety building?

2 Correct?

3 A. That's correct.

4 Q. From the time you left the library to the time that you arrived at the
5 public safety building do you have an approximate time?

6 A. Five, ten minutes maybe.

7 Q. Alright. Let's back up. When you were speaking with Miss Lopez
8 following the incident. Can you describe what her demeanor was like?

9 A. She was upset.

10 Q. How do you know she was upset?

11 A. Just by her body language.

12 Q. Her voice?

13 A. Her voice was still raised and –

14 Q. Tone was agitated?

15 A. Yes.

16 Q. Now when you got here to the public safety building, did you see
17 any interaction between Miss Throm and Miss Lopez?

18 A. Yes. They said hello and Cindy handed her a card.

19 Q. Did you see the contents of the card?

20 A. No.

21 Q. Since June Third Two Thousand Fifteen have you had any
22 discussions with Miss Throm regarding this incident specifically?

1 A. Yes.

2 Q. What did you discuss with her?

3 A. I got – I got an e-mail saying that she had been charged with
4 Battery.

5 Q. Did you provide that e-mail to her defense attorney?

6 A. No.

7 Q. Have you had conversations with the Defense attorney?

8 A. Yes.

9 Q. Did you inform him that you a e-mail from Miss Throm regarding
10 that?

11 A. No.

12 Q. Why not?

13 A. I didn't think it was important.

14 Q. What did the e-mail say?

15 A. That's all it said was that she – she had battery – I'm not certain
16 what the full content of the e-mail said.

17 Q. Do you still have it?

18 A. I'm sure I do.

19 Q. Did you have any other e-mail communication with Miss Throm
20 regarding this incident.

21 A. No.

1 Q. Did you have any verbal communication with Miss Throm about
2 this incident?

3 A. Yes.

4 Q. When did you have your conversation? Or was it multiple?

5 A. She just apologized to me.

6 Q. What did she apologize for?

7 A. For me having to go through this.

8 Q. You received my subpoena to appear in Court today?

9 A. Yes.

10 Q. When were you served?

11 A. I couldn't tell you for sure. It was probably about - I could look at
12 my -

13 Q. Within the last week?

14 A. No.

15 Q. More than a week ago?

16 A. Yes.

17 Q. Did you ever contact the City Attorney's office?

18 A. No.

19 Q. Did you read the Subpoena?

20 A. I read the date I was suppose to be here.

21 Q. So, you didn't read the Subpoena?

1 A.

2 Q. So, other than Miss Throm apologizing to you, for you having to
3 be called as witness, did you have any other discussions with Miss Throm
4 regarding this incident?

5 A. I work with her a lot. I don't know. Because we've been trying to
6 get this open enrollment so I work with her a lot. Maybe it came up, but
7 that's what I recall.

8 Q. Maybe came up in what context?

9 A. That she was sorry that I had to be involved in this – and go
10 through this.

11 Q. When Miss Throm comes to town do you and she go out to
12 dinner?

13 A. No. I've gone to lunch with her a couple of times.

14 Q. So, you've have lunch with her?

15 A. Yes.

16 Q. Do you associate with her after hours? Do you dinner, visit with
17 her when you're out of town?

18 A. No.

19 Q. Would you classify her as a friend?

20 A. A working friend.

21 Q. And you have a lot of trust in her?

22 A. Yes.

1 Q. She give you a lot of good advice on services, products, that kind
2 of stuff?

3 A. Yes.

4 Q. An area you're not real familiar with?

5 A. Yes. Correct.

6 Q. What would happen if Miss Throm was not allowed to be the
7 Broker for the County? What would that do to your job?

8 A. I would have to contact other individuals for information?

9 Q. Make it difficult? More difficult than it already is?

10 A. No. I don't think so.

11 Q. You generally like Miss Throm?

12 A. Yes.

13 Q. When you were here at the public safety building doing open
14 enrolment did anybody sign up?

15 A. We had a few individuals in the squad room, and then I talked to a
16 couple of the Officers up front here. It was six o'clock, so were going off
17 shift they just wanted some information, so I talked to a couple out here.

18 Q. Do you remember requesting keys from Mr. Miller?

19 A. Yes.

20 Q. Do you remember requesting keys for the library from Mr. Miller?

21 MR. BROWN: Objection Your Honor. Irrelevant.

22 MR. ODGERS: No, it's not Your Honor, it's base.

1 THE COURT: Overruled.

2 A. I didn't ask for the keys, I asked Bill Miller if he could take Cindy
3 back to the library, we – she was missing a file.

4 Q. Did anybody go with Miss Throm beside Mr. Miller?

5 A. I'm not certain. I know I didn't.

6 Q. Okay, that was going to be my next question. So, you didn't go
7 with her but you don't know if anybody else did? Fair statement?

8 A. Yes.

9 Q. Now, how long have you been the Director of Human Recourses
10 for White Pine County?

11 A. September it will be three years.

12 Q. You've been in the library before correct?

13 A. Yes.

14 Q. Been in the conference room multiple times?

15 A. Yes.

16 Q. Is there video cameras in the conference room?

17 A. Not that I'm aware of.

18 MR ODGERS Thank you. I pass the witness.

19 THE COURT: Mr. Brown.

20 MR. BROWN: Thank you, Your Honor.

1 Q. The – let me ask some questions about your relationship with
2 Miss Thom. You said that you work closely with her on some issues. Is
3 that correct?

4 A. Yes.

5 Q. Do you have daily contact with her?

6 A. No. I do not.

7 Q. Do you have – throughout the entire year do you have contact
8 with her every week?

9 A. No.

10 Q. So would it be fair to say that when you say you work closely with
11 her you work closely with her during enrolment?

12 A. Yes. That's correct.

13 Q. And other than that – uh, you work here in Ely, correct?

14 A. Yes.

15 Q. Miss Thom's office is located in Las Vegas, is that correct?

16 A. Yes.

17 Q. So, you don't have personal contact with her on a regular basis?

18 A. No. I do not.

19 Q. You do not have telephone contact with her on a regular basis?

20 A. No.

21 Q. Have you gone to the movies with her?

1 A. No.

2 Q. Gone out to a baseball game?

3 A. No.

4 Q. Go to the rodeo with her?

5 A. No.

6 Q. You don't have any kind of social actives with her that aren't work
7 related do you?

8 A. No, I do not .

9 Q. You testifies that Lori Carson was married to Miss Throm's
10 cousin.

11 A. Yes.

12 Q. Do you know how close Miss Throm is to her cousin?

13 A. No, I do not.

14 Q. And Miss Carson is no longer married to Miss Throm's cousin
15 because he is deceased. Correct?

16 A. Yes. That is correct.

17 Q. And let's get to a what these questions are all about. Do you feel
18 pressure to come in here and lie for Miss Throm because of the fact that
19 she one time she was married – or her cousin was at one time married to a
20 commissioner?

21 A. No. I do not.

1 Q. Let me ask about her relationship with Miss Lopez? Do you have
2 an opinion about her truthfulness?

3 A. Yes.

4 Q. What is that opinion?

5 MR. ODGERS: Objection. Calls for speculation.

6 MR. BROWN: It does not Your Honor, under NRS. 48.0451A,
7 48.055, and 50.085 I can ask about the truthfulness of a -a- -a alleged
8 victim in a case.

9 MR. ODGERS: That's correct he can specific questions as it
10 relates to specific examples. Not general terms.

11 MR. BROWN: That's exactly incorrect Your Honor. Mr. Odgers
12 on cross can go into specific examples. I am limited to asking opinions
13 about her truthfulness.

14 MR. ODGERS: Your Honor? Mr. Brown, I had her designated
15 I had Miss Ricci designated as an average witness, Mr. Brown at this point
16 can only ask open ended questions. It is shifted the burden to him as her
17 witness - as his client's witness and I am I the one who is able to cross
18 examine her.

19 MR. BROWN: That was -

20 MR. ODGERS: That was the designation of her as an adverse
21 witness.

22 MR. BROWN: That is not correct Your Honor. As an adverse
23 witness he can ask leading questions but it still is his witness and that
24 doesn't preclude me form asking leading questions, and it also - I wasn't

1 asking a leading question. I was asking what her opinion is, and she can
2 give her opinion and I can hand you the statute right now Your Honor, if
3 you would like.

4 THE COURT: Overruled. You may continue.

5 MR. BROWN: Thank you, Your Honor.

6 Q. What is your opinion as to Miss Lopez's truthfulness?

7 A. I have had some problems so – yes, I struggle with truthfulness.

8 Q. With – when you say you struggle with truthfulness not your truth-

9 A. With Betsy. Yes.

10 Q. Mr. Odgers asked you several questions about an insurance fraud
11 investigation. It wasn't insurance fraud was it?

12 A. I couldn't tell you for sure what – what the – what lead up to that
13 but I could tell you what I've heard.

14 Q. I can't ask you about what you've heard. Did you- do you know if
15 there was a finding that anybody had committed any insurance fraud?

16 A. Again, it's what I've heard.

17 Q. Are you aware of any finding, do you know if somebody was
18 found to have committed a fraud? Not – not

19 A. No.

20 Q. When this incident took place in the afternoon that you were
21 asked about where there was some kind of contact, was the discussion
22 about insurance fraud at that point?

1 A. It was part of the conversation at the desk, but I really couldn't tell
2 you when we were standing up if that's –

3 Q. Isn't it the case that Miss Lopez was upset about this –

4 MR. ODGERS: Objection. Leading.

5 MR. BROWN: I can do that Your Honor, it's his witness, this is
6 cross examination. You lead on cross examination.

7 MR. ODGERS: Your Honor, we had her designated as adverse
8 to the City because she is here as a friend and as a co-worker of Miss
9 Throm.

10 MR. BROWN: She is not a friend, Your Honor, just because
11 somebody has dealing with somebody in a business relationship does not
12 establish that and that is not what the point was. I can – I can lead on
13 cross-examination.

14 THE COURT: Overruled.

15 Q. Isn't it the case that Miss Lopez was upset about Miss Throm
16 interrupting her when she was meeting with a client?

17 A. Yes.

18 Q. And, isn't that what the discussion was about?

19 A. That was part of it. It – there was a lot of stuff going on. A lot of
20 discussion going on.

21 Q. I think you said before that Miss Throm was upset?

22 A. Yes.

23 Q. That's – Miss Lopez was upset?

1 A. Yes.

2 Q. How was Miss Lopez acting? Can you describe what she was
3 doing?

4 A. She was upset, she was agitated, her body language was moving.

5 Q. What about her hands?

6 A. Her hands were moving.

7 Q. How would you characterize the contact between Miss Throm
8 and Miss Lopez?

9 A. The contact? The touch?

10 Q. Yes.

11 A. It was a diffusing, we need to work this out.

12 Q. Did Miss Throm grab Miss Lopez's upper arms?

13 A. No.

14 Q. Did Miss Throm shake Miss Lopez?

15 A. No.

16 Q. Was there – in your opinion – any force used in the touching that
17 you described?

18 A. No.

19 Q. Did it appear in your opinion to be a violent act by Miss Throm?

20 A. No.

1 MR. BROWN: I'm going to ask the Court to provide exhibit ten
2 to Miss Ricci.

3 Q. Miss Ricci, I'm going to tell you that – that there has been
4 testimony that that is a picture of the back of Miss Throm's right arm.

5 MR. ODGERS: Correction. Lopez.

6 MR. BROWN: I'm sorry. Miss Lopez's right arm. When I say
7 the back I'm talking about the tricep area. Do you know what area that is?
8 Did you see any action at all by Miss Throm on June third that could have
9 caused the mark you see in exhibit ten?

10 A. No.

11 Q. What part of Miss Lopez's body did Miss Throm have contact
12 when she put her hands out?

13 A. It was this part?

14 Q. Would that be the inside of her wrist?

15 A. I – that's what I remember- that it was just – her hands were not
16 clinched, it was just like a brush here – we need to work this out.

17 Q. Later on when you were at the Sheriff's office and – is that correct
18 – it was five or ten minutes after this incident?

19 A. Yes.

20 Q. What was Miss Lopez's demeanor when she entered the public
21 safety building? Let me ask you first, were you in the public safety building
22 when she arrived?

23 A. Yes.

1 Q. What was her demeanor when she got there?

2 A. It was fine. It wasn't – she walked in the door she didn't – it was
3 like –

4 Q. Do you now how she walked in the door?

5 A. No. She had stuff because we all had stuff, she had

6 Q. Do you remember if anybody opened the door for her?

7 A. No, I can not remember.

8 Q. So, it could have happened you just don't recall?

9 A. Right.

10 Q. So, you were asked about and- let me make sure I have this right,
11 please tell me if I don't. You – you – at some point there was a
12 conversation between you and Betsy at the library after everyone else had
13 left?

14 A. Yes.

15 Q. You had apologized for a situation earlier in the day?

16 A. I know I apologized to her, but I don't when that happened.

17 Q. When you say apologized what did you apologize for?

18 A. That she – Cindy interrupted a client in her – during the
19 conversation. I just said well I'm sorry that happened and that's –

20 Q. When did that happen?

21 A. I didn't witness when that happened?

22 Q. When did you find out about that incident?

1 A. When Betsy approached me.

2 Q. Do you know about when that was?

3 A. I believe it to be mid-morning.

4 Q. So, it was no where near the time that this other incident took
5 place where Miss Lopez claims she was touched?

6 A. No.

7 MR. BROWN: I'll pass the witness Your Honor.

8 THE COURT: Any re-redirect Mr. Odgers?

9 MR. ODGERS: Yes, Your Honor.

10 Q. Do you remember a moment ago Mr. Brown asked you how Miss
11 Lopez was acting during the meeting?

12 MR. BROWN: I'm going to object Your Honor, he needs to be
13 more specific.

14 MR. ODGERS: I apologize. You were correct.

15 Q. At the end of the day when the four of you were standing up
16 somewhere between the door and the conference table. Do you remember
17 that? The discussion you had with Mr. Brown?

18 A. Yes.

19 Q. Do you remember describing Miss Lopez's actions as being
20 agitated, you could tell by her body language and her hand were moving?

21 A. Yes.

22 Q. And you said her voice was agitated, I believe.

1 A. Yes.

2 Q. Alright, When Miss Throm touched, grabbed, whatever did Miss
3 Lopez re-act?

4 A. Yes.

5 Q. How did she re-act?

6 A. She said don't touch me, no one touches me, I wouldn't touch
7 you.

8 Q. What did Cindy do? Or what did Miss Throm do next?

9 A. She walked away. She went back and said I'm sorry, and –

10 Q. Isn't it true that she said I'm sorry, I shouldn't have touched you,
11 isn't that what Miss Throm said?

12 A. Yes.

13 Q. Now, how – you indicated before that Miss Throm was very calm,
14 cool, collected during this conversation. Is that correct?

15 A. No.

16 Q. I misunderstood you? How was Miss Throm's behavior during the
17 interaction prior to the alleged touch?

18 A. She was upset too,

19 Q. Agitated?

20 A. Agitated.

21 Q. Voice was raised? Much like Miss Lopez?

22 A. It depends on how you say voices raised.

1 Q. Do you remember writing a written statement pertaining to this
2 incident?

3 A. Yes.

4 Q. Do you remember when you wrote that statement?

5 A. The day after the incident.

6 Q. According to the report it would have been June Fourth Two
7 Thousand Fifteen that you wrote your statement?

8 A. Yes.

9 Q. The incident was really fresh in your mind then right?

10 A. Yes.

11 Q. You wrote down all the things you thought were appropriate to
12 write down in your statement?

13 A. Yes.

14 Q. Would you like to look at your statement to refresh your
15 recollection?

16 A. Yes.

17 MR. ODGERS: May I approach Your Honor?

18 THE COURT: You may.

19 MR. ODGERS: Take a moment, review it, I'm specifically
20 referencing the issue on the back of the page if you want to jump to that?

21 When you've had a change to refresh your recollection let me know.

22 A. Okay. Yes. I did state loud.

1 Q. Uh, uh. No . Have you had a chance to refresh your recollection?

2 A. Yes.

3 MR. ODGERS: May I approach Your Honor?

4 THE COURT: You may.

5 MR. ODGERS: You can't testify from the document.

6 A. Okay.

7 Q. Isn't it true that you wrote "the conversation was still heated and
8 loud between Betsy and Cindy.

9 A. Yes.

10 Q. So Miss Throm was being loud correct?

11 A. Yes.

12 Q. Her behavior was heated. Correct?

13 A. Yes.

14 Q. So, it wasn't just Miss Lopez? Correct?

15 A. Correct.

16 Q. You said that you were at the public safety building five to ten
17 minutes after the incident occurred. That is what Mr. Brown asked and that
18 is what you testified to. Is that a correct statement?

19 A. I talked to Betsy after the incident.

20 Q. For about how long?

21 A. Maybe about ten minutes.

1 Q. You weren't obviously looking at your watch were you?

2 A. No.

3 Q. So it was some time –

4 A. No. I did talk to her.

5 Q. For some time?

6 A. Yes.

7 Q. Then you came up here, is that when you said five to ten minutes,
8 that was after you had already finished talking to Miss Lopez?

9 A. Yes.

10 Q. So, it could have been as much as thirty-forty minutes? From the
11 incident to the time you reported here?

12 A. Yes.

13 Q. Have you have ever had problems with truthfulness with Miss
14 Throm?

15 A. No.

16 Q. On cross-examination by Mr. Brown you indicated that part of this
17 discussion was the fraud investigation correct? And then you said a lot of
18 other stuff?

19 A. Can I go into detail?

20 Q. Yes.

21 A. When we were sitting at the table – well – we were sitting at the
22 table a lot of stuff was going – meaning – Betsy said she was going to pull

1 our section one twenty five. Which is a pre-tax for our employees, we
2 were down to the wire on – on getting this done before – during open –
3 before – we have time frames that we have- when she said she was going
4 to pull our section one twenty five, I stepped away from the table because I
5 thought I needed to call the finance director and then I just thought, I'm not
6 going to involve her I went back down and sat down. That was another –
7 that was a big deal to me and I 'm - I just wanted to get that straitened
8 around because we needed to move forward in our enrolment, and that
9 was a big deal to our employees. So, that part of the conv-

10 Q. So section one twenty five was part of it, what else?

11 A. How we wanted Aflac presented to the employees because the
12 employees, it was a rough budget year and they are pretty – it has been
13 upsetting to our employees what has been going on during our budget
14 process. This was a big part how it was going to affect our wages, what
15 the employees enrolled in, so we wanted it completed explained to them,
16 black and white in front of them during this open enrolment. So that was
17 part of the conversation to.

18 Q. All that was directed at Miss Lopez?

19 A. How Aflac was suppose to be presented?

20 Q. Anything else?

21 A. The discussions that Cindy Thom had with her boss and her.

22 Q. What do you mean?

23 A. They had a phone converse-

24 Q. With Cindy Thom's boss?

1 A. No, with Betsy's boss, and I wasn't involved with that.

2 Q. So there was a discussion between Cindy Throm and Betsy's
3 boss, that came up as part of the conversation?

4 A. As part of the conversation. They had a conference call. Betsy,
5 her boss, Cindy. That was part of the conversation too.

6 Q. Anything else?

7 A. Not that I can think of – not – there was a lot going on .

8 Q. That's what I'm trying to figure out because you said there was a
9 lot. I'm trying to figure out what a lot was. All this conversation was Miss
10 Throm having issues with Miss Lopez?

11 A. Yes.

12 Q. You participated in that conversation as well?

13 A. I was involved because the section one twenty five was going to
14 affect my employees directly. Along with the Aflac deductions.

15 Q. How about Miss Austin? Was she involved in that discussion as
16 well?

17 A. Yes. Well, not – she didn't really – she contributed but –

18 Q. So when you said the contact between Miss Lopez or –or by Miss
19 Throm with Miss Lopez was defusing, that kind of contradicted with your
20 statement in, that you just gave that the discussion was heated and loud
21 between Betsy and Cindy is that correct?

22 MR. BROWN: Objection Your Honor, that's argumentative.

1 MR. ODGERS: She made two different statements Your Honor,
2 I have the right to query into which statement is correct.

3 THE COURT: Overruled.

4 Miss Ricci: Could you?

5 Q. Sure, earlier on direct when I was asking you questions, you
6 indicated that the contact between Miss Throm and Miss Lopez was in a
7 diffusing manor, but in your written statement that I cross-examined you on,
8 you said the discussion was heated and loud between Betsy and Cindy. In
9 fact you were the one that was trying to diffuse – isn't that true?

10 MR. BROWN: I'm going to object Your Honor. That misstates
11 the testimony, and if you want talk -

12 MR. ODGERS: If you want to go through her written
13 statement, I'll withdraw the statement and I'll re-fresh her recollection and
14 we'll go again.

15 THE COURT: Very good.

16 MR. ODGERS: May I approach?

17 THE COURT: You may.

18 Q. Is this the same statement I handed you before?

19 A. Yes.

20 Q. The discussion is on the back side of it. At the top of the page.

21 MR. BROWN: I'm going to ask, Your Honor, that she read the
22 entire document. He's singling out parts – he's singling out parts.

1 MR. ODGERS: Mr. Brown can put on his defense in a way he
2 likes, I'm doing cross-examination or re-direct. I have the right to re-direct
3 on statements she has made. I am going to make my case and Mr. Brown
4 can re-cross if he so choose.

5 MR. BROWN: If he is going to re-fresh somebody's
6 recollection, he needs to follow the procedure, and the procedure is to let
7 her review that document, not to single out one single part, question her on
8 that, and then use that against her in another part. She has the opportunity
9 to read the entire document.

10 MR. ODGERS: If she wishes to do so.

11 THE COURT: Do you wish to do so?

12 Q. Has your memory been refreshed?

13 A. Yes.

14 MR. ODGERS: May I approach?

15 THE COURT: You may.

16 Q. Isn't it true in your written statement that when the discussion was
17 loud and heated, that you were the one trying to diffuse the situation?

18 A. Yes.

19 Q. That's when the contact occurred while the conversation was loud
20 and headed? Correct?

21 A. Can I explain?

22 Q. Is that correct?

23 A. Yes.

1 MR. ODGERS: Nothing further.

2 THE COURT: Re-cross?

3 MR. BROWN: Thank you, Your Honor.

4 Q. Let me ask you to clarify on that question that you were just
5 asked by Mr. Odgers, what it was you were going to explain?

6 A. It was loud and they were both agitated, but Cindy – when she
7 touched her, she said, we need to work this out. That's when it was – we
8 were trying to get this taken care of in a professional – she didn't go into
9 that – excuse me – we need to work this out.

10 Q. And that was Miss Throm's – what she said as she was touching
11 Betsy?

12 A. Yes, and it was just one touch, just we need to work this out.

13 Q. Is that what you meant before when you said she was trying to
14 diffuse the situation?

15 A. Yes.

16 Q. Now, Mr. Odgers had asked you, and I'm going to ask another
17 clarifying question, that Throm- and this was the discussion that everyone
18 was having leaving the library that Miss Throm had issues with Miss Lopez,
19 that that is what this was all about. I'm going to ask you to clarify that. Isn't
20 it true that Miss Lopez had issues with Miss Throm?

21 A. Yes.

22 Q. It wasn't all one sided?

23 A. No.

1 Q. Now the first time that Mr. Odgers showed you your statement
2 and then he read to you the part, that said the conversation was heated –
3 do you recall that?

4 A. Yes.

5 Q. Do you recall writing on your statement shortly after that Betsy
6 kept antagonizing Cindy?

7 A. Yes.

8 Q. Do you also recall in that statement where it says- that you wrote
9 that Betsy was irritated with Cindy?

10 A. Yes.

11 Q. Those comments are – when you say Betsy you're talking about
12 Miss Lopez right?

13 A. Yes.

14 MR. BROWN: That's all I have Your Honor.

15 MR. ODGERS: Nothing further, Your Honor.

16 THE COURT: When Cynthia touched Betsy, with an
17 open hand, two open hands, do you recall where she touched her?

18 A. It was – because – I mean – she was animated- I – it was on her
19 wrists.

20 THE COURT: What part of her body - of Betsy's did she
21 touch?

22 A. Cindy touched her wrists. It was just – her arms were up like this
23 and Cindy just went like – we need to work this out.

1 THE COURT: Thank you.

2 MR. ODGERS: Clarification for the record, you are identifying
3 and touching the inside or the bottom of the wrist area is that correct?

4 A. Yes.

5 THE COURT: The inside.

6 A. Yes.

7 MR. ODGERS: I just did that for clarification of the record. She
8 was showing the court, I was wanted the record to be clear what she was
9 explaining.

10 THE COURT: Anything else Mr. Brown?

11 MR. BROWN: No, Your Honor.

12 MR. ODGERS: No, Your Honor.

13 THE COURT: Do you want to hold her?

14 MR. ODGERS: No, Your Honor.

15 THE COURT: She can go back to work?

16 MR. BROWN: I'm sorry, Your Honor, I'd ask for her to be held.
17 I have her listed as a witness.

18 MR. ODGERS: I never got a witness list from you.

19 MR. BROWN: I didn't get one from you.

20 MR. ODGERS: I don't have to give one to you.

21 MR. BROWN: I don't have to give one to you.

22 THE COURT: Take a seat out there.

1 MR. ODGERS: Nevada revised statute does require the
2 defense to provide a list of the witnesses he intends to call at the time of
3 trial.

4 MR. BROWN: The same statute that requires the City to
5 provide a list of witnesses he intends at the time of trial Your Honor.

6 MR. ODGERS: As long as the documentation that the defense
7 receives, identifies the witnesses that are being called, somebody that is
8 not identified in the list, then Mr. Brown would be correct.

9 MR. BROWN: Your Honor, we don't need to be doing into all
10 this argument but I am just going to point out that when I refer to a statute I
11 have the statute here and I can provide it to the Court, he's telling you what
12 is in the statute and he's misrepresenting it.

13 MR. ODGERS: If you'll give me a minute, I'll go pull the statue
14 out of the book for you.

15 THE COURT: We're going to hold her for cross-
16 examination, and a witness. So, Mr. Odgers do you have anybody else
17 you want to –

18 MR. ODGERS: We'll call Miss Austin.

19 THE COURT: Have a seat right here. Thank you.
20 Remember, you're under oath. Give us your true and correct name and
21 where you live.

22 MISS AUSTIN: My name is Virginia Austin. I live at Seventeen Fifty
23 Eight Ash Spring Drive North Las Vegas Nevada, Eight Nine Zero Three
24 Two.

25 THE COURT: Thank you. You may proceed Mr. Odgers.

CITY'S WITNESS VIRGINIA AUSTIN TESTIFIES

1
2 Q. Miss Austin how are you currently employed.

3 A. Employer's Benefits.

4 Q. Were you so employed on or about June Third, Two Thousand
5 Fifteen?

6 A. Yes.

7 Q. How long have you been employed by Employers Benefits?

8 A. A little over fifteen years.

9 Q. Who is your boss at Employers Benefits?

10 A. Cynthia Thom.

11 Q. Do you see Miss Thom in the Courtroom today?

12 A. Yes.

13 Q. Can you describe a piece – point her out and describe a piece of
14 clothing for the Court?

15 A. Right there in the blue dress.

16 MR. ODGERS: Will the record reflect that she has identified
17 the Defendant?

18 THE COURT: Reflected.

19 MR. ODGERS: Thank you.

20 Q. Your continued employment is at Miss Thom's desires, correct?

21 A. I'm not sure I understand what you are saying?

1 Q. You work for Miss Throm?

2 A. Yes.

3 Q. She can fire you?

4 A. Of course she can?

5 Q. On or about June Third, Two Thousand Fifteen, were you in
6 White Pine County?

7 A. Yes.

8 Q. Do you recall what you were here for?

9 A. An enrolment meeting? Medical enrolment meeting.

10 Q. Just generally, I mean real generally, please. What is an
11 enrolment meeting?

12 A. White Pine County's health insurance was renewing, so when
13 they are changing plans we like to educate their employees on their
14 benefits.

15 Q. Okay. so plans were changing.

16 A. At that time, the plans were changing.

17 Q. You actually did two enrolments that day correct?

18 A. That day yes.

19 Q. When I say that I mean, you had meetings scheduled for two
20 different locations and periods of time? Correct?

21 A. Yes.

22 Q. First one was at the library, Is that correct?

1 A. Yes.

2 Q. I'm doing this only by way of foundation to speed this up a little
3 bit. Do you recall what time the meeting started? Open enrolment started?
4 Approximately?

5 A. Ohhh,

6 Q. You don't have to be real specific, but generally.

7 A. Probably around nine, something like that, it was in the morning.

8 Q. And that was at the library?

9 A. Yes.

10 Q. Who was present at the – when I say who, non-employee wise,
11 who was present at the open enrolment?

12 A. Myself, Cindy Throm, Betsy. That were not employees.

13 Q. Miss Ricci was there?

14 A. She is an employee, so I didn't say her name.

15 Q. I agree, give me a second. She was there in here capacity of
16 human resource director and assisting with the open enrolment correct?

17 A. Yes.

18 Q. Then you had employees come through out the day to sign up or
19 get information on the change of plans etcetera? Right?

20 A. Yes.

21 Q. When you arrive that day, did you and Miss Throm come in the
22 door at the same time? Do you recall?

1 A. We were bringing in boxes so I don't know if walked in together,
2 but I know we left the car together with boxes in our hands. I don't know if
3 we actually walked through the door together but pretty much so.

4 Q. Did you – do you recall anybody opening the door for you?

5 A. No Sir, I don't remember.

6 Q. Is it possible somebody did?

7 A. It's possible.

8 Q. When you got in the meeting in the four – I apologize when the
9 four individuals that were participating in the open enrolment, before that
10 you described. What was the demeanor, tenure, discussions early on?

11 A. In the morning?

12 Q. Yes.

13 A. We were setting up our tables, so when the people came in we
14 had the information ready. That's kind of what we did.

15 Q. Any interactions between the four of you besides how you doing
16 today?

17 A. Not really. Not that I remember.

18 Q. At some point in the day did that change?

19 A. Yes.

20 Q. At what point did that change?

21 A. There was – we were having our usual meeting and Betsy was
22 giving a discussion with another employee, giving her some information

1 about what the changes were going to be at Aflac, and she made a
2 comment that I heard –

3 Q. She made a comment?

4 A. She made a comment.

5 Q. Who?

6 A. Betsy made a comment to the young lady that –

7 Q. I was trying to get to who she was.

8 A. That's okay. She looks like the person, the person out there looks
9 like the lady that was there. The other lady sitting out there I don't
10 remember her face, I just remember there was another person there, and
11 she was giving her some information, and what she said was – because
12 with new employees, we're not going to be offering this more. I looked at
13 Cindy, and Cindy looked at me and she walked over and said wait, wait,
14 wait, Betsy, that's not what we discussed, on the phone, they had a phone
15 conversation.

16 Q. You can't talk about what other people said.

17 A. What I heard her say, and Cindy walked over and that's not what
18 we discussed. She and Betsy exchanged some words and Cindy walked
19 away.

20 Q. Did the tenure of the rest of the day change?

21 A. Yes, when the room was cleared out then – I don't even know
22 how the conversation started back up, I wish I could tell you, but it stated
23 back up and she and Betsy exchanged some more words in a different
24 discussion on that, and then it went into stuff that I would be repeating that I

1 heard, about stuff that happened when I wasn't there, this happened, that
2 happened, I just told them to stop, let's just move on, this is unprofessional.
3 Let's just stop. Cindy walks away, and Betsy kept going, and I said Betsy
4 come-on this is unprofessional, we can't do this, this is not the time or the
5 place, and she said I know you are a professional person Virginia, but her
6 – and I said Betsy let's just move on. She kept going and Cindy came back
7 over and they started the conversation again and then finally I said this is
8 enough, we need to stop. Cindy walked off.

9 Q. Mam.

10 A. You're asking me what happened I'm giving it to you the best that
11 I can Sir.

12 Q. I understand that, but that's not the question that I asked. The
13 question I asked was did the tenure of the meeting change?

14 A. Of course it did.

15 Q. Now, when did the tenure of the meeting change?

16 A. When there was nobody in the room but us, the four of us.

17 Q. Was that at the end of the day?

18 A. No it wasn't because we had another meeting to come to.

19 Q. Okay, at the library –

20 A. At the end of the meeting at the library, yes.

21 Q. *During the interactions between the four of you, was there a*
22 *discussion about an alleged fraud investigation?*

23 A. Yes.

1 Q. Who brought up the issue of the alleged fraud investigation?

2 A. What I heard was- how it came up – it could have come up
3 another way, but what I heard was Betsy said to Cindy that Kathy treated
4 her different now, and I don't know about that, that's when she said
5 because of the accusations that you have made. That's when the fraud
6 stuff started. I don't know which one announced it, I just overheard it.

7 Q. When you drove up from Las Vegas, was that last night or today?

8 A. Last night.

9 Q. Did you drive up with Miss Throm?

10 A. No, I didn't, my husband brought me up.

11 Q. Since June Third, of Two Thousand Fifteen, have you and Miss
12 Throm discussed this issue?

13 A. Of course we did.

14 Q. What did you discuss specifically about –

15 A. We just said we were flabbergasted, we didn't understand how
16 any of this came to be, it didn't happen, why is this happening. I mean we
17 were just like shocked. We couldn't believe it.

18 Q. I'd like to get into the specifics of the alleged touching, battery
19 okay?

20 A. Okay.

21 Q. I'm going to ask you to walk up to the white board right there, I'm
22 going to hand you a blue pen, if that's okay.

23 A. Okay.

1 Q. I know this is not going to be to scale but, can you draw the library
2 out to the best of your recollection. Where the meeting was?

3 A. Me draw? Okay. Inside the library.

4 Q. Do you remember, where the door was?

5 A. Yea, the door was right her, I guess, you walk in and here's the
6 door, there is some tables over here.

7 Q. Hold on, hold on, would you identify the door as the door? Go
8 ahead.

9 A. There is a table over here.

10 Q. Now, Mam, the table you just drew is there a mural of some sort
11 behind it?

12 A. There is a wall behind it.

13 Q. Okay.

14 A. Do you want me to write a wall?

15 Q. Nope. I'm just trying to make sure I'm oriented correctly.

16 A. There's a table over here, there's a door right here that leads
17 actually into the library.

18 Q. Okay.

19 A. I don't recall anything being there – well there was kind of another
20 table here with some little chairs. They all had chairs all around them. So
21 there was another table. There was a little round table I believe right here
22 by the door, and that's were our stuff that we weren't using was set up.

1 Q. That says tab, you mean table?

2 A. So, there was a chair here that I was sitting at, there was a chair
3 here, and there was a chair here.

4 Q. Hold on, you're going way to fast. The round table, you said you
5 were sitting there?

6 A. I was sitting at a chair right here.

7 Q. Were you stationed there generally throughout the day?

8 A. No, I was moving around because when people came in I had to
9 sit over here and talk to them, there was chairs around here.

10 Q. Okay, do me a favor, you can't make all the little marks, I'm trying
11 to get a schematic drawing. Were you generally at the round table though
12 if customers or employees weren't around?

13 A. No. That's just were we placed all of our stuff, our purses, and
14 materials we were not using.

15 Q. When employees were there, you'd be at the table on the left
16 hand side – I mean the right hand side of the drawing near the top of the
17 page?

18 A. There could be four or five people there at one time, so there was
19 people all around, it just depends.

20 Q. Where was Miss Lopez generally located throughout the day?

21 A. Right here, sitting at this chair.

1 Q. You just kind of made a scribble. Do me a favor put a L where
2 Miss Lopez was generally during the day. Where was Miss Throm
3 generally through the day?

4 A. Walking around. There was a little table over here that she
5 actually sat in at one time. It just depended on where the people were. We
6 didn't want people hearing other peoples business, so she kind of came
7 over here. It just depended. She sat over here at one point. She sat over
8 here at one point.

9 Q. So it depended on where employees were?

10 A. Absolutely.

11 Q. I'm going to hand you a red marker at this point. Can I get the
12 blue one back? Is that generally how you recall that room being set up?

13 A. Well, now that I'm doing this, the door was probably further back
14 down here but I think it was set up this way.

15 Q. That's okay. Again we'll agree this is not to scale. Fair enough?

16 A. Fair enough.

17 Q. You didn't go to architecture school?

18 A. At all.

19 Q. I can't draw a line with ruler. Now, at the end of day there was a
20 confrontation, is that true?

21 A. That's true.

22 Q. Before you start marking on the board, generally what area did
23 the confrontation occur?

1 A. Right in here.

2 Q. Do you remember how people were situated? Who was next to
3 whom, or across from whom?

4 A. I was sitting – I was over at this table, it's hard, let me think. It's
5 really hard because we moved around, and it wasn't like anybody was in a
6 specific designated area.

7 Q. I'm getting to the issue of when the altercation occurred.

8 A. That all happened over here. I know that Kathy and I might have
9 been sitting over here talking, and then I walked over this way because I
10 walked over this way that I remember – because I went to get a copy of
11 what Betsy had been using in the meeting and I didn't want Cindy to go out
12 for it, because her and Cindy – you know -had already had that talk at the
13 meeting, so I said let me go get it. So, I went over to ask Betsy for a copy
14 of the paper and I ended up staying in that area.

15 Q. Is that down where –

16 A. Right here.

17 Q. Now, I want to talk specifically about the incident where the
18 argument occurred.

19 A. That was right in here, because everybody was kind of in this
20 area.

21 Q. *Would you do me a favor? To the best of your recollection, use an*
22 *A for you, where do you recall – during the incident where do you recall you*
23 *were standing?*

24 A. Probably about right here.

1 Q. Where was Miss Throm standing?

2 A. Probably about right there.

3 Q. Where was Miss Ricci standing? Where was Miss Lopez?

4 A. Right here. Kind of all in the same –

5 Q. Now, that table that you marked there, if you look at the table that
6 defense counsel and I are sitting on, is that table about the same length as
7 this? Smaller than this?

8 A. It might be the same, I'm not really good with that kind of thing,
9 but we were pretty close together. We weren't as spread out as I have us.

10 Q. That was my question because you have yourself –

11 A. I just did that because I didn't want us all to run together.

12 Q. I would actually like to know how close, you believe you were to
13 each other.

14 A. I was probably --

15 Q. Here let me give you green so we can keep things in order. So
16 the green marks that we are going to make –at the incident are
17 approximately how close everybody was.

18 A. This was me. This was Cindy, this was Kathy. The room was not
19 that big so we weren't miles apart.

20 Q. So, when you're using the X's on that – that reflects where each
21 person was.

22 A. Where each person was.

1 Q. Right. So, for example you wrote a R, and down and to the left as
2 you're looking at it, is the R, is the green R or the green X.

3 If you were to estimate distance, from you to the clerk, the young lady
4 sitting right there in brown.

5 A. I am close as I am to her to Betsy.

6 Q. How close was Betsy to Miss Throm, or Miss Throm to Betsy?

7 A. Probably right there where that thing is. They were pretty close –
8 when they first started talking they weren't as close but, they probably
9 could have been that close, just as close as I am to her. We were all
10 probably within – we could have all reached out and grabbed – held hands.

11 Q. So, if I said and estimate of three to four feet, that would be fair?

12 A. That could be. That very well could be, I mean we were – I don't
13 know.

14 Q. You're okay.

15 A. Because I'm not-

16 Q. You didn't have a measuring stick.

17 A. Yeah.

18 Q. I'm just trying to get an estimation. Could it have been closer that
19 three feet?

20 A. Probably not, right at the beginning.

21 Q. As the discussion continued –

1 A. Escalated, yes. They both got closer to each other, and hands
2 were -

3 Q. Both people had hands flying?

4 A. Absolutely. Yeah, absolute.

5 Q. Both I have you do that, would you mind – let me finish before I
6 do that – go ahead and have a seat. I'll have you sign it in a minute, as
7 soon as I know there is no more changes.

8 So, let's talk about the incident, alright? Tell me what were – what
9 was the general – how did the end of the day, at the library, how did the
10 incident start- the confrontation, how did that start?

11 A. I don't really remember exactly what was said, I just, they were
12 talking and it just started getting heated. It just escalated, they were talking
13 about –

14 Q. Let, me, stop right there.

15 You say it was escalated, was it one person, both people?

16 A. Both, Both. Cindy and Betsy were having a discussion about
17 something that Cindy apologized her for and said I should have never said
18 that while you had a client there. I'm sorry, I should have waited. Then she
19 said, but I just didn't know what to do Betsy because you and your boss
20 and I had a conversation over the phone,

21 Q. We can't get into that.

22 A. Right, well, until, you told me to tell you how it got started, and I'm
23 just trying to tell you that.

1 Q. I understand, but you can't talk about, you can't say what Miss
2 Throm said, you can – because you're describing agitated behavior,

3 A. Miss Throm said, this isn't what was discussed. I thought we
4 discussed this and you're saying something different, that is not what was
5 discussed.

6 Q. Now, when they were having – when that discussion was
7 occurring, was it as calm, and cool and collected as you are now?

8 A. Yes. Pretty much. It pretty much was, and then Betsy said well,
9 my boss doesn't live in Ely.

10 Q. Before you do that, can you describe Betsy's behavior?

11 A. Neither one of them was out of control at this point. They were
12 both having a conversation like two professionals.

13 Q. At that point we can't get into what Betsy may have said. When
14 they start getting agitated, we can get into what each of them said.

15 Fair enough?

16 A. Okay.

17 Q. At some point the discussion became agitated. Yes?

18 A. Yes. Very much so.

19 Q. Can you describe Miss Throm, how she behaved while she was
20 agitated?

21 A. She was just saying- you know, you're not understanding. You're
22 not understand, this is what we discussed.

23 Q. Mam, I understand you're trying to tell me what she said –

1 A. Do you want me to show you what she did?

2 Q. Mam, I want to know what her behavior was. Can you describe
3 the elevation of her voice? Was it loud? Was it calm?

4 A. They were both yelling.

5 Q. I'm asking you about Miss Throm.

6 A. Yes. She was very upset.

7 Q. We have to do this step by step, I apologize.

8 A. I've never done this before so I apologize.

9 Q. It's fair. This is not something that a lot of people do on a daily
10 basis, unlike Mr. Brown and I.

11 When I ask you about Miss Throm and her behavior, just describe
12 what you observed as far as her behavior. Just describe what you
13 observed as far as her behavior. Hands, posture, voice, Okay? Right
14 before the incident starts to elevate – escalate.

15 A. Right before it started to escalate, she walked away.

16 Q. Miss Throm?

17 A. Miss Throm walked away. She just – I said stop and she did, and
18 she walked away.

19 Q. Then she came back?

20 A. She cam – can I use Betsy's name yet?

21 Q. Well, we're talking about Miss Throm's behavior first.

22 A. Okay, so she walked away,

1 Q. At some point she came back?

2 A. She came back, this time when she came back - can I touch you?

3 Q. Sure.

4 A. At this point -

5 Q. You aren't going to hit me are you?

6 A. No. Put your hands up, at this point she came back, and they
7 were both- just move your hands – and they are both, and she went like
8 this. Can we just stop right now and move on?

9 Q. Now, for the record we have to describe what happened.

10 A. She,

11 Q. Miss Thom.

12 A. Miss Thom touched Betsy's wrists with her hands open like this.

13 Q. You're touching the underside of my arm, fair?

14 A. Um mm (yes) that's just how she did it.

15 Q. At my wrist?

16 A. Yes, at your wrist.

17 Q. Thank you. I want to go back to what was Miss Thom's behavior
18 like? Was her voice elevated?

19 A. Yes.

20 Q. I want to use the term yelling, but that's the term I'm familiar with.
21 When I say elevated what do you understand me to mean by elevated?

1 A. They were yelling. We have the same definitions of yelling.

2 Q. Good. So both of them were yelling.

3 A. Both of them were yelling.

4 Q. Can you describe body language from Miss Throm? I'm going to
5 have you do the same thing here in a minute.

6 A. That's okay, her hands were going, both of their hands were
7 going. They talk with their hands, both of them do.

8 Q. More than normal though? During this discussion were the
9 animation of the hands more than normal?

10 A. I can only speak, because I'm in her presence more, when she
11 talks about something wonderful she uses her hands. She just uses her
12 hands when she talks.

13 Q. So she is very animated?

14 A. So, she is, yes. She can tell you something great and be doing the
15 design, be showing you that. So, when she is upset, her hands go. It was
16 no more anger then it is when she is excited about something.

17 Q. You've seen Miss Throm angry in other situations?

18 A. Oh, yea.

19 Q. Was her behavior on June Third consistent with the type of
20 behavior you've seen when she was upset before?

21 A. Yes.

1 Q. Now, Miss Lopez? Can you describe what Miss Lopez's general
2 demeanor was, right before the incident you just described when you
3 showed me what happened.

4 A. They were – like I said – her hands were flying, and they were
5 going at and everything, I actually walked over to Miss Lopez, and I said –
6 Miss Throm had walked away, and I said Betsy it's enough, this is
7 unprofessional, you guys need to stop, and she said Virginia, you are
8 professional, but her – and I said Betsy we're not going to do that anymore,
9 we're not kids, we're adults, this is a meeting, let's stop. She said okay,
10 then she walked away and said but her, she just went back at it. That's
11 when Mrs. Throm walked over and said and can we please stop. When
12 she did that Betsy- she dropped her hands – and Betsy said, don't touch
13 me, I don't touch you, she said you're right, I'm sorry, and we packed up.

14 Q. You packed up and then did Miss Lopez leave at the same time
15 as you?

16 A. No.

17 Q. Let me be really quick. When you packed up and left did
18 somebody else pack up and leave with you?

19 A. Cindy and I packed our stuff together and took it to the car.

20 Q. Were you in one car that day?

21 A. Yes.

22 Q. Did you make any stops before your next appointment?

23 A. Yes. We went back to our hotel.

1 Q. Did you observe Miss – did you and Miss Throm have a
2 discussion regarding what had just transpired?

3 A. No, not really.

4 Q. You say not really.

5 A. I mean I don't recall us having a – anything about it except Miss
6 Throm was just saying I – that was unprofessional Virginia, you're right.
7 That should have never happened, and I said no, it shouldn't' of. That was
8 pretty much it. She goes you know I just – I wish I would have just walked
9 away. That's what she said, I wish I would have just walked away.

10 Q. Anything else that – did you stop and pick up a card?

11 A. Yes, we did stop. When we left our hotel we stopped at Ralley's,
12 Railey's

13 Q. Ridley's?

14 A. Ridley's? Sorry,

15 Q. The grocery story?

16 A. The grocery story, we went over there , she said, I want to get her
17 a card because that was unprofessional, and tell her we just need to move
18 on, so she got her a card, you know.

19 Q. Have you ever seen the card?

20 A. I seen the card, I can't – it just said that, you know that this should
21 have never happened, and it was unprofessional.

22 Q. That's your recollection of what was in the card?

23 A. I don't remember verbatim. No.

1 Q. That's fair. It's been a day or two since this occurred?

2 A. Yeah.

3 Q. And you've slept once or twice?

4 A. Yeah.

5 Q. When, were was your next appointment?

6 A. The Sheriff's office.

7 Q. Right here at the public safety building?

8 A. Um Mm (yes)

9 Q. From the time that you and Miss Throm to the time that Miss
10 Throm arrived at the public safety building, can you give us an estimation of
11 how long that was?

12 A. That meeting was over at two three, four, maybe a couple of
13 hours.

14 Q. You think it was a couple of hours?

15 A. I don't know, I mean, I wasn't really trying to keep up with time, so
16 I know we had a meeting here at six, and I think we finished over there at
17 like four something?

18 Q. When you say finished up over there, that was when the last
19 employee came through?

20 A. The last – when we packed up. To take our stuff to the car. Two,
21 four I don't remember.

1 Q. The incident happened after everybody was gone, it was just the
2 four of you correct?

3 A. That's correct.

4 Q. Now, during that discussion, where things were animated. Was
5 the issue of the so called or alleged fraud investigation discussed?

6 A. Fraud investigation? Be more specific.

7 Q. Were you aware? The question is specific. Was part of Miss
8 Throm's being upset with Miss Lopez based on some alleged fraud
9 investigation from a couple of years ago?

10 A. No.

11 Q. To your recollection that did not come up in the -

12 A. It did come up but if I remember correctly, if I can say this - I
13 recall when it happened was when Betsy made the statement to Kathy that
14 she's treated her differently since she's been working with Cindy, and
15 Kathy explained to her it had nothing to do Cindy, it is because of what you
16 did to me. Then that's when they started talking some fraud. I don't know
17 what that was all about.

18 Q. So, you didn't participate in any discussion regarding fraud.

19 A. No, because I wasn't there and I didn't know a lot about it, so I
20 heard them discussing it but-

21 Q But, was that discussion about the alleged -

22 A. That discussion was brought up in that one yes. They did have
23 that discussion to yes.

1 Q. Did that discussion occur while the alleged touching, grabbing
2 incident occurred? Was that part of that overall elevated, yelling, discussion
3 between the two of them? To your recollection?

4 A. To my recollection, the frustration for Mrs. Throm and her anger
5 and frustration came from giving employees the wrong information. That
6 what she was trying to explain to her, and she is very passionate about
7 what she does. She was saying this isn't right, what we discussed, you're
8 giving them the wrong information.

9 Q. Was there any other discussions you recall during that same time,
10 about the section one twenty five?

11 A. Yes. Betsy said to Kathy, she said they need to see all the
12 employees, and Kathy said we have them sign section one twenty five. I
13 can't remember exactly what Mrs. Throm –

14 Q. We can't get into – it really can't get into the specifics.

15 A. I'm not. I'm going to tell you, it was about the one twenty five and
16 Betsy made a statement about, she'll just cancel it, the one twenty five.

17 Q. Was there discussions how Aflac was suppose to be presented to
18 the employees?

19 A. The only thing that I recall about that discussion about Aflac was
20 Betsy said H.R. should be handling it, and Cindy shouldn't have anything to
21 do with Aflac and the enrolment, that should be strictly H.R.

22 Q. Was Miss Throm saying how Aflac should have been presented
23 to the employees?

24 A. Yes she did.

1 Q. Was Miss Throm saying anything to Miss Lopez about the section
2 one twenty five?

3 A. I can't remember.

4 Q. Do you recall any other specific items, potentially the fraud, you
5 don't have a real good recollection on that, the section one twenty five, now
6 how Aflac was presented. Can you recall any other specific issues Miss
7 Throm was having with Miss Alfac that was being discussed during that
8 heated discussion?

9 A. That, the main thing that I recall about the discussion was, Miss
10 Throm was frustrated that the information that had been discussed was not
11 being presented as it was discussed.

12 Q. So, she was frustrated?

13 A. Yes.

14 Q. When all of you showed up at the public safety building. Did you,
15 Miss Throm, Miss Ricci, and Miss Lopez arrive at the same time?

16 A. Here?

17 Q. Yes.

18 A. We got here before she did. Before Miss Lopez did.

19 Q. Okay. Did Miss Ricci arrive before Miss Lopez?

20 A. I think so. I think so.

21 Q. Do you recall whether or not somebody opened the door at that
22 point for you?

1 A. Yes. I believe Betsy had some – Miss Lopez had some boxes in
2 her hand, and Miss Throm opened the door for her.

3 Q. Anybody open the door for you and Miss Throm?

4 A. I don't recall, because I just don't remember that. If I might say,
5 we could see her coming in and she had boxes in her hands and that is
6 why Miss Throm saw her coming with the boxes and just walked over and
7 opened the door. That is what I remember.

8 Q. How was the tenure of the meeting here at the public safety
9 building?

10 A. We did the meeting, there wasn't a lot of people here, it was short
11 to the point where we finished up the meeting. We did the enrolment
12 meeting with the few people that were here. Nothing was really discussed
13 any further about what had happened.

14 Q. At some point during that meeting, did somebody – do you know
15 a gentleman by the name of Bob or Bill Miller?

16 A. I do now yes.

17 Q. Do you remember from the meeting?

18 A. Um Mm (Yes)

19 Q. Do you remember trying to obtain keys from Mr. Miller ?

20 A. No. I remember Miss Throm asking him if he could over to the
21 library with us and open the door because we had thought we had left a
22 folder.

23 Q. Did he go over to the library?

1 A. Yes, he did.

2 Q. Did you find the folder?

3 A. No, it wasn't in there, we realized we had left it at our hotel room,
4 something was sitting on top of it so we didn't have it there.

5 Q. When you went back into the library did you look to see if there
6 were any videos of the – in that room?

7 A. No Sir, we did not.

8 Q. Well, you didn't.

9 A. I did not.

10 Q. Do you know whether or not there are video cameras in there?

11 A. No, Sir I do not, well maybe because the next day, if I might ad, at
12 the next meeting we had, Betsy made the statement that she wish there
13 was video cameras in that room. So, I assumed that there weren't

14 Q. But, you do not know whether not there are?

15 A. I have no idea.

16 MR. ODGERS: Pass the witness Your Honor.

17 THE COURT: Mr. Brown?

18 MR. BROWN: Thank you, Your Honor.

19 MR. ODGERS: Oh, I'm sorry, before I do that I need to have
20 her sign –

21 THE COURT: You bet.

1 MR. ODGERS: If you sign on the lower right hand corner, and
2 if the clerk would, if she would for me, mark it for me the next number in
3 sequence.

4 Move to admit exhibit number thirteen.

5 THE COURT: Granted.

6 You may proceed Mr. Brown.

7 MR. BROWN: Thank you, Your Honor.

8 Q. You were just asked about going back to the library the next day.
9 I'm just going to go backwards here. Just start where we just left off.

10 You said that Miss Lopez wishes there was camera's there. What
11 was your reaction to that?

12 A. Well, I was kind of – I kind of have to back up, because her boss
13 was there, and he asked me what happened.

14 Q. Just, was this the day after?

15 A. The day after. The next morning we got there, Betsy was there
16 when we got there and so was her boss, Kevin. He asked me what
17 happened, it was just – I was in the room with the two of them by myself at
18 this point, and I explained to him what had happened. He said –

19 MR. ODGERS: Objection. Speculation.

20 MR. BROWN: You can't say what he said.

21 A. Oh, okay, and then I was asked what happened, and I explained
22 what happened. Then, Betsy was there, and she asked me if I saw what
23 happened, and I said that I was there, and that's when she told me she was

1 shaken, and I said to her, sweetheart, that never happened, I'm really
2 sorry, and I said this is what happened, I said what are you talking about? I
3 was shocked.

4 Q. So, you showed her what you believed happened?

5 A. I told her, I showed her boss exactly what happened.

6 Q. To get back, my question was about your response to her, saying
7 she wished there were cameras.

8 A. I said, I wish there were to after I found out what was going on. I
9 had no idea.

10 Q. You said that —did you say that because you believe the cameras
11 would support what you had told Betsy happened?

12 A. Absolutely.

13 Q. Now, I'm just going to continue to go backwards through this,
14 when, the night before at the Sheriff's office, when you and Cindy in the
15 public safety building, here, and Miss Lopez came in, how did she act as
16 she came through the door?

17 A. She had boxes in her hands, she just walked in with all her boxes
18 in her hands.

19 Q. At that time, is it correct that Miss Throm was holding the door
20 open?

21 A. Yes, sir.

22 Q. Did you notice any hesitation on Miss Lopez's part to walk
23 through the door?

24 A. No. She just walked right in.

1 Q. She didn't - she didn't hide and say don't touch me?

2 A. No sir.

3 Q. Now, I'm going to talk a little bit about the incident itself at the
4 library, and I think you testified about Miss Lopez's reaction, saying, don't
5 touch me, she didn't say don't grab my arms?

6 A. No sir.

7 Q. Don't shake me.

8 A. No, sir.

9 Q. Is my understanding correct that Betsy was upset that Cindy had
10 raised the issue that Miss Lopez was not providing the information that was
11 agreed upon at the meeting?

12 A. That is correct.

13 Q. Miss Throm confronted Miss Lopez about that?

14 A. Yes sir.

15 Q. Miss Lopez was not happy about that?

16 A. Absolutely not.

17 Q. You were asked about the fact that you work for Miss Throm
18 right?

19 A. Yes sir.

20 Q. How long have you worked for Miss Throm?

21 A. A little over fifteen years.

1 Q. Because of that relationship you have with Miss Throm, did you
2 come into court and lie for her?

3 A. No sir. Can I elaborate on that?

4 Q. Sure.

5 A. I answer to a much authority than Cindy, I answer to God, and I
6 think she knows that.

7 Q. How long have you known Betsy Lopez?

8 A. I guess it was the first – two years maybe, a little over two years, I
9 don't know, I'm not really sure – maybe three, because I didn't come last
10 year. So, this year would have been two, two and half years, or
11 somewhere around there.

12 Q. During that time have you developed an opinion about Miss
13 Lopez's truthfulness?

14 A. Yes.

15 Q. What is that opinion?

16 A. She doesn't speak truthfully?

17 MR. BROWN: I'll pass the witness, Your Honor.

18 THE COURT: Mr. Odgers?

19 MR. ODGERS: If Miss Throm was unhappy about your
20 performance today, she could in fact fire you correct?

21 A. Of course.

1 Q. The meeting on June fourth, which was a day after you said you
2 met with Miss Lopez and her boss, that was here in White Pine County?

3 A. Um Mm (Yes).

4 Q. Yes?

5 A. Yes sir.

6 Q. Sorry. At that point and time did Miss Lopez show you the
7 bruising she had obtained?

8 A. She said, see these marks, she had a red spot on each one of her
9 arms.

10 Q. So, she showed you the bruising?

11 A. They were red marks.

12 Q. Did she explain to you how she believed she obtained those
13 marks?

14 A. Yes sir.

15 Q. What did she explain to you how she obtained those marks?

16 A. She said, Mrs. Throm took her by her arms and shook her so hard
17 her head was going back and forth like that.

18 Q. She showed you marks on both her right and left arms?

19 A. Yes.

20 Q. Where were the marks located?

21 A. Up here somewhere.

22 Q. The bicep area?

1 A. Yes.

2 Q. Is that a fair statement?

3 A. Yes.

4 Q. On the inside of the arm meaning closer to the body?

5 A. Not quite on the inside, but close like right in there.

6 Q. But meaning closer on the inside of the body but not on the
7 outside.

8 A. Right. On the inside, not on the outside. _

9 MR. ODGERS. Your Honor, could the Court pass to the
10 witness exhibit six please.

11 Q. The City's exhibit six which has already been admitted into
12 evidence. There is some discoloration on the inside of the left arm. Is that
13 the same area that she showed you the discoloration – or red mark on the
14 fourteenth, - excuse me, let me try that again. Is that the same area that
15 she showed you the red mark on the Fourth of June Two Thousand
16 Fifteen?

17 A. It could be.

18 MR. ODGERS: Your Honor, if the Court could pass to Miss
19 Austin exhibit number seven. I apologize, I'm sorry exhibit six was the right
20 arm, exhibit eight Your Honor.

21 Q. The discoloration on exhibit eight on the right arm is that
22 consistent with the area that she showed you?

23 A. There is no discoloration on here.

1 Q. You do not see it on there?

2 A. No.

3 MR. ODGERS: Then how about exhibit ten Your Honor.

4 Q. Do you see a mark – you have to turn it the other way. Do you
5 see the mark that goes about half way up the arm in a lateral fashion?

6 A. That?

7 Q. Up.

8 A. Is that what you are talking about?

9 Q. No, that - up.

10 A. I don't see anything else.

11 Q. Mam, go up.

12 A. Okay. Up.

13 Q. Do you see that mark that goes lateral?

14 A. This?

15 Q. Yes.

16 A. Yes.

17 Q. Is that the general area on the left arm where Miss Lopez showed
18 you she had been hurt? Been grabbed?

19 A. No, because that looks like it is way up higher. She showed me
20 down here.

21 MR. ODGERS: Nothing further Your Honor.

1 THE COURT: Mr. Brown?

2 MR. BROWN: I have just a couple questions, Your Honor.

3 THE COURT: Very good.

4 Q. On the, I'm trying to do this quickly, I apologize. I think it might
5 have been exhibit six, but on one of the photos you were shown. Did you
6 indicate that you saw red marks?

7 A. No.

8 Q. Did you see any kind of mark on there? On Miss Lopez?

9 A. On the picture? On the photos?

10 Q. Yes.

11 A. Not really.

12 Q. Did the photos to you show anything any kind of a mark that could
13 have been made from the incident that happened between Miss Lopez and
14 Miss Throm?

15 A. No Sir.

16 Q. Did you see Miss Throm use force against Miss Lopez?

17 MR. ODGERS: That's outside the scope of re-direct.

18 MR. BROWN: Your Honor, first of all, we can bring her back
19 and have her re-testify about it, but it's not outside the scope because she
20 was asked marks in the photograph and I'm asking if she saw force or
21 violence that would have caused those marks.

1 MR. ODGERS: That's outside the scope Your Honor, I was
2 asking specifically about whether or not the marks were shown to her on
3 June Fourth, Two Thousand Fifteen. That was the – whether or not those
4 photographs were the marks that were shown. That's the limit of the re-
5 direct.

6 MR. BROWN: That's correct, Your Honor, she did testi – there
7 was testimony about what happened. It's the Court discretion to allow me
8 to go into it now, or if you would like we could waste time and come back
9 and talk about it later.

10 THE COURT: No, I'm going to overrule it, I want you to
11 answer that question. Thank you.

12 Q. Do you remember the question mam?

13 A. No, I really don't

14 Q. Did you see Miss Throm – in this incident between Miss Throm
15 and Miss Lopez, when Miss Throm touched Miss Lopez, did she do so
16 forcefully?

17 A. No sir.

18 Q. Was it violent?

19 A. No sir.

20 MR. BROWN: That 's all I have Your Honor.

21 THE COURT: Mr. Odgers?

22 MR. ODGERS: Nothing Your Honor.

1 THE COURT: If nothing else, we'll have her take a seat
2 outside.

3 Call in your next witness Mr. Odgers.

4 MR. ODGERS: Deputy Monroe, Your Honor.

5 Is Mr. Brown releasing Miss Austin?

6 MR. BROWN: I will, Your Honor, I'm sorry, Your Honor, I
7 believe – I think I need to hold Miss Ricci.

8 THE COURT: You may leave. Thank you.

9 Have a seat Officer. Remember you are under oath. Give us
10 your name, address, where you live.

11 OFFICER MONROE: David Monroe.

12 THE COURT: Where do you live?

13 OFFICER MONROE: White Pine County.

14 CITY'S WITNESS DEPUTY DAVID MONROE TESTIFIES

15 Q. Deputy Monroe who do you currently work for?

16 A. White Pine County Sheriff's Office.

17 Q. How long have you worked for the White Pine County Sheriff's
18 Office?

19 A. A little over eight years.

20 Q. Can you give the Court a brief description of the qualifica- the
21 training you have to be a deputy for the White Pine County Sheriff's Office?

1 A. Graduation from the Nevada Post Academy, completion of a field
2 training program here at the department, and some other training.

3 Q. In on or about June Third, Two Thousand Fifteen, where were
4 you employed?

5 A. At the Sheriff's office of White Pine County.

6 Q. Do you remember having a discussion with Miss Lopez on or
7 about June Third, Two Thousand Fifteen?

8 A. Yes sir.

9 Q. Where did you have your initial discussion with her?

10 A. I'm sorry, I can't recall where I first saw her but, I saw her earlier in
11 the day when I was doing something else, and then later on there was a
12 call that she – we went down to. I don't recall when I first saw her at,
13 because I was in the middle whatever else I had going on.

14 Q. Do you remember June Third, Two Thousand Fifteen was the
15 graduation of the White Pine High School?

16 A. Yes.

17 Q. Were you at the High School?

18 A. Yes sir.

19 Q. Were you working security, safety, making sure nothing bad
20 happened at the graduation?

21 A. I was on duty that night, I wasn't actually doing security, but I
22 showed up there, and she – that's when she approached me.

23 Q. What was the nature of the initial conversation?

1 A. She indicated that she had some type of issue with the other lady,
2 the insurance lady that she described, the lady that I didn't know, but I
3 knew who she was talking about.

4 Q. Had you seen the other individual earlier in the that day, do you
5 recall?

6 A. I don't remember if it was that day, or if it was the day before, I
7 think we were doing our enrolment stuff, somewhere around that time
8 frame though.

9 Q. Do you see the other lady that was identified in the room?

10 A. Yes sir.

11 Q. Can you identify her and identify a piece of clothing.

12 A. Yes sir, she is sitting here, wearing a blue dress.

13 MR. ODGERS: Request the record reflect that the Deputy has
14 identified the Defendant.

15 THE COURT: Reflected.

16 MR. ODGERS: Thank you.

17 Q. When you were speaking with Miss Lopez, can you describe her
18 general demeanor?

19 A. She was excitable I guess. She wasn't crying, she wasn't
20 emotional, but she was talking kind of fast.

21 Q. Agitated?

22 A. Possibly.