1 SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

2 CRIMINAL DIVISION

3 ----------X

4 UNITED STATES OF AMERICA :

5 v. : Criminal Action No.:

6 ALBRECHT MUTH, : 2011-CF1-15683

7 Defendant. :

8 ----------X

9 Washington, D.C.

10 Friday, September 9, 2011

11 The above-entitled action came on for a Preliminary Hearing before the **HONORABLE GERALD I.**
12 **FISHER**, Associate Judge, in Courtroom Number 320 commencing at approximately 11:17 a.m.

13

14 THIS TRANSCRIPT REPRESENTS THE PRODUCT OF AN OFFICIAL REPORTER, ENGAGED BY THE
15 COURT, WHO HAS PERSONALLY CERTIFIED THAT IT REPRESENTS THE RECORDS OF TESTIMONY
16 AND PROCEEDINGS OF THE CASE AS RECORDED.

17 APPEARANCES:

18 On behalf of the Government:

19 GLENN KIRSCHNER, Esquire
ERIN LYONS, Esquire
20 Assistant United States Attorney
Washington, D.C.

21

On behalf of the Defendant:

22

DANA PAGE, Esquire
23 CRAIG HICKEIN, Esquire
Washington, D.C.

24 * * * * * * *

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1 **P R O C E E D I N G S**

2 DEPUTY CLERK: United States v. Albrecht Muth,
3 2011-CF1-15683, on your Honor's preliminary hearing
4 calendar.

5 MR. HICKEIN: Good morning, your Honor. Craig
6 Hickein on behalf of Mr. Muth.

7 THE COURT: Good morning, Mr. Muth.

8 MR. HICKEIN: Your Honor can tell Ms. Page is
9 not here.

10 THE COURT: I think she's in the cell block.

11 (Pause in proceeding.)

12 THE COURT: Good morning. Could I just ask
13 counsel to identify themselves for the record, please.

14 MS. LYONS: Good morning, your Honor. Erin
15 Lyons for the United States.

16 MR. KIRSCHNER: And Glenn Kirschner for the
17 United States. Good morning, your Honor.

18 THE COURT: Good morning to both of you.

19 MS.PAGE: Good morning, your Honor. Dana Page
20 on behalf of Mr. Muth, whose present.

21 MR. HICKEIN: Good morning, your Honor. Craig
22 Hickein on behalf of Mr. Muth.

23 THE COURT: Okay. Mr. Muth, if you would just
24 state your name for the record, please.

25 THE DEFENDANT: Albrecht Muth, M-U-T-H.

1 THE COURT: All right. Thank you. This matter
2 is here for a preliminary detention hearing. Are the
3 parties ready to go forward?
4 MR. KIRSCHNER: Yes, your Honor.
5 THE COURT: The Defense is ready to go forward
6 as well, Ms. Page?
7 MS.PAGE: Yes.
8 THE COURT: You want to call your first witness,
9 then?
10 MS.PAGE: Your Honor, before the Government
11 calls their first witness, there are a couple of issues
12 that Mr. Muth wanted me to raise. One, I believe he
13 wants to address the Court on the appropriateness of
14 this -- of the Court's jurisdiction or something to
15 that effect. Also he wants me to raise the issue of
16 his property, which -- all of which is in the house.
17 There were a few things that we -- there was
18 one -- there were some boxes that we specifically had
19 requested that the Government preserve. However, there
20 is also a lot of other items of Mr. Muth's property,
21 some of which is mostly just personal things, but some
22 of which also could be quite relevant to his defense,
23 that he and we would like to be preserved. And I just
24 wanted to raise that issue.
25 THE COURT: Have you identified those additional

1 items to the Government, at this point?
2 MS. PAGE: No, I have not. And I'm happy to do
3 that.
4 THE COURT: Sure. Mr. Kirschner, I'm assuming
5 if that request is made that the Government would
6 preserve those items?
7 MR. KIRSCHNER: Your Honor, we're happy to work
8 with the Defense team. We have already given them
9 excess to the house so they could photograph it,
10 examine it. And Ms. Page did send me an email saying
11 there were some additional boxes and some additional
12 items. But if she would specifically identify them, we
13 will do our best to accommodate that.
14 The house will be turned back over to the
15 family, the owners of the home, in the very near
16 future, but we will work with Ms. Page to try to
17 accommodate any reasonable requests.
18 THE COURT: So Ms. Page, is there anything you
19 specifically need from me in order to put this into
20 place. It sounds like the Government is willing to
21 preserve whatever you request to preserve. I don't
22 know if -- it sort of falls into two categories. One
23 might be items that you think are material to Mr.
24 Muth's defense. The others may just be personal items
25 that you need to store in some way.

1 MS.PAGE: Right. I think that that's right,
2 that there are those two categories. It sounds like
3 the Government is willing to work with us on that, and
4 so I'm happy to deal with it through them until --
5 unless and until it becomes an issue.
6 THE COURT: All right. And are you aware of
7 what the substantive arguments are on the jurisdiction
8 issue?
9 MS.PAGE: No. I mean, Mr. Muth did sort of
10 brief me on it a little bit, but no. I think -- and
11 this is why he wants to be heard on it as opposed to
12 me. It has something to do with him being from Germany
13 and not from the United States, but I'm not exactly
14 clear what that is. He does -- he is clear, though,
15 that with respect to the preliminary hearing and the
16 detention hearing, he would like me to represent him.
17 Whether that's true for trial or not, I guess we will
18 cross that bridge when we get to it. But he would like
19 to be heard, just himself, on this other issue.
20 THE COURT: Mr. Muth, let me just say a couple
21 of things to you, if I could. There may be -- I don't
22 know whether there's a legitimate challenge to the
23 jurisdiction of this court or not. I do have
24 attorneys. And ordinarily, when someone is represented
25 by counsel, the expectation is that whatever motions

1 would be filed or legal arguments would be made would
2 be made by the attorney.
3 And on the issue of jurisdiction, I certainly
4 wouldn't decide that without giving the Government some
5 opportunity to respond to it. So it may be that the
6 more appropriate procedure at this point would be to
7 put that in writing. And whether your attorneys file
8 that or whether you file that and they submit it to me.
9 And then I will give the Government an opportunity to
10 respond to it and then I would decide it.
11 I don't know if you want to take a moment to
12 talk to counsel about that.
13 (The Defendant confers with his counsel.)
14 THE COURT: Ms. Page, can I just interrupt for a
15 moment. May I just ask in terms of what -- I see
16 there's a written document you're talking about. Can I
17 just ask how long that document is.
18 MS.PAGE: It's one side and a half of a page.
19 THE COURT: Well, this is -- Mr. Muth, I would
20 allow you to read that into the record now, but it
21 would then need to be filed. I'd give the Government
22 an opportunity to respond to it if they think it's
23 appropriate, and I will decide that at an appropriate
24 time. All right. Thank you.
25 THE DEFENDANT: Thank you, your Honor. Again,

1 good morning.

2 THE COURT: Good morning.

3 THE DEFENDANT: I would like to lodge the

4 following four complaints against the United States.

5 One -- and this is contrary to what the attorney just

6 said -- not challenging the jurisdiction of the Court

7 in the case. You have full jurisdiction and sole

8 jurisdiction.

9 However, one: The United States is in open

10 violation of my rights under the Geneva Convention. I

11 am and remain a serving officer in a foreign army and,

12 as such, am entitled to direct access to the

13 International Committee of the Red Cross Geneva, Dr.

14 Calinberger (sp), international president. That has

15 now been denied to me for almost four weeks.

16 Further, as a serving officer in a foreign army,

17 I am entitled to my uniform and rank insignia. That,

18 too, has now been denied me for almost four weeks.

19 Number two, as a citizen of the Federal Republic, I am

20 entitled to counselor access. The United States is in

21 violation of international law and bilateral agreement

22 between the United States and the Federal Republic for

23 having denied me said access now for almost four weeks.

24 Number three. I shall bring to the attention of

25 the Court the conditions at D.C. Central bordering

substandard the inhumane in open violation of DOC's own rules and regulations set forth in the inmate handbook that, apparently, nobody reads and certainly nobody abides by.

3.1. I am in need, as of this moment, of urgent dental surgery, which prior to my arrest, had been scheduled for 26th August on account of serious gland infections as a result of which I can't open the mouth properly; threatening, blood poisoning due to old East German lead fillings breaking away and taking away teeth. As said, surgery had been scheduled for August 26th. As of this moment, for almost four weeks, I have been denied access to a dentist at D.C. Central.

I can assure you sometime within the next six weeks, I shall suffer blood poisoning.

3.2. I am in protective custody on account of manifest threats against my person. I am to be in 23-hour lockdown, however, now for almost four weeks, have been in 24-hour lockdown as opposed to having a customary one-hour rec time which I get at will about every four to five days.

3.3. I have only been issued one set each of clothing, linen, as opposed to the two sets set forth mandated in the handbook. The one set, again, as I brought to the attention, in violation of DOC rules set

1 forth in the handbook, has not been changed once in one
2 month until yesterday in time for court. And this
3 morning, in time for court, I also was given the
4 privilege of a shower.
5 3.4. I have had one shower per week, no haircut,
6 shave except for a shower this morning to make sure
7 that you don't get the whiff.
8 3.5. I have not been issued the cleaning
9 materials to bring myself up to the required sanitary
10 standards.
11 3.6. I am denied freedom of religion in terms
12 of access to Mass and, in particular, Holy Communion,
13 which prior to my arrest, I was partaking in daily.
14 All of the above brought to proper attention, in
15 person, in writing; no corrective measure taken. All
16 of the above in violation of the law, rules and
17 regulation.
18 Addendum to the written, as of yesterday
19 afternoon, a direct threat from one of the correctional
20 officers. If I continue to make waves, they will know
21 how to make my life in D.C. Central unpleasant.
22 Addendum 2: This morning, I got clothes to not
23 being brought here, but taken to St. E's because I
24 refused to wear underwear. I refuse to wear underwear,
25 as I pointed out, since I am a serving officer in the

1 Iraqi Special Forces. We don't wear underwear, which
2 apparently -- to make a long story short, had it not
3 been for the intervention of the marshal, I would have
4 missed my rendezvous with you today. Thank you, your
5 Honor. You may file this. Thank you.
6 THE COURT: All right. Ms. Page, I would
7 request that you file that, provide copies to the
8 Government. With regard to the -- what I would say are
9 more personal issues rather than legal matters, I will
10 speak to our person here at the court who coordinates
11 with the Department of Corrections and have her look
12 into those and see if there's -- both with the status
13 of them are. And if there are improprieties, what we
14 can do to correct them, Mr. Muth.
15 THE DEFENDANT: Thank you, your Honor.
16 THE COURT: Are we, otherwise, ready to proceed,
17 Ms. Page?
18 MS.PAGE: Yes.
19 You want to call your first witness, Mr.
20 Kirschner.
21 THE COURT: I would give the Government ten days
22 to respond to -- in writing to the jurisdictional -- I
23 wouldn't call them jurisdictional -- to the legal
24 issues about violations of rights under the Geneva
25 Convention.

1 MR. KIRSCHNER: So will something be briefed by
2 the Defense, or do we just want to reply to what we
3 just heard?
4 THE COURT: I would give you ten days to respond
5 in writing to it, if you want.
6 MR. KIRSCHNER: To what we just heard? All
7 right.
8 THE COURT: Sure.
9 MR. KIRSCHNER: And if I may, your Honor, on
10 behalf of the family, can I invoke their rights under
11 the Crime Victims Rights Act to be present. The two
12 people, in particular, that are present today that may
13 become witnesses at trial are the decedent's daughter
14 and the decedent's grandson.
15 I do think under the language of 23.1901, there
16 really is absolutely no chance, in the Government's
17 opinion, that their testimony would be materially
18 affected if they were -- if they were to be permitted
19 to sit in here and participate or attend all
20 proceedings in this case. They have indicated a desire
21 to do that and we would like to invoke their rights on
22 their behalf.
23 THE COURT: Ms. Page, do you have a position on
24 that?
25 MS.PAGE: Yes. We object. If I am correct on

1 who the witnesses are in the affidavit and who the
2 witnesses are in the room, they are the same people.
3 There will be testimony from the detective about
4 information provided to them to the detective in
5 cross-examination of the detective on those matters.
6 And I think that that could certainly affect their
7 testimony at trial and I think that they are key
8 witnesses at trial and would ask that the rule on
9 witnesses be invoked.
10 THE COURT: If you could give me just one
11 moment.
12 (Pause in proceeding.)
13 THE COURT: Mr. Kirschner, could I just ask.
14 I've read the affidavit, but I'm not -- it's not clear
15 to me who each of the actors or the witnesses in the
16 affidavit might be. Will there be, beyond the
17 affidavit itself, at least on direct examination,
18 testimony about the two family members as witnesses?
19 MR. KIRSCHNER: Beyond the testimony -- beyond
20 the information contained in the affidavit, there will
21 be no further testimony from this detective about W-1
22 or W-2. And I, again, can't imagine that their
23 ultimate trial testimony would be materially affected
24 by them sitting in, and I don't know that the Court
25 would have a basis to find that, but that's up to your

1 Honor.

2 THE COURT: But it would be somewhat difficult,

3 I think, to sort of know in advance.

4 Ms. Page, can you give me some idea of what the

5 content of the examination might be as to W-1 and W-2

6 in this proceeding?

7 MS. PAGE: Can we approach?

8 THE COURT: Sure.

9 MS.PAGE: Ex parte, your Honor.

10 THE COURT: Let me start ex parte to see if I

11 need to include the Government.

12 (Whereupon, there was an ex parte bench

13 conference between the Court and Ms. Page.)

14 MS. PAGE: At least with respect to Witness 1,

15 who, as I understand it, is the daughter -- I believe

16 that Witness 2 is the grandson. I'm not sure. But

17 with respect to Witness 1, there is all the information

18 about the letter that was provided by Mr. Muth to her

19 as the -- you know, for the money or whatever.

20 It's our understanding that that letter is

21 authentic. It was agreed to and signed by her mother

22 and it's not clear -- it's not clear to me -- and I

23 think through at least some cross-examination of the

24 Detective, I will be asking questions about that and

25 about her -- sort of when she provided that letter to

1 the detectives and what context -- and what stage of
2 the investigation when the circumstances of how that
3 letter was produced to her by Mr. Muth and those sorts
4 of things. And I think that that is certainly
5 something that she could change her testimony at trial.
6 THE COURT: With regard to Witness Number 2,
7 it's my understanding, I don't think that there was
8 anything -- I don't quite remember -- I read the
9 overall facts of the affidavit, not which witness is
10 which.
11 MS. PAGE: Right. I think Witness 2 is the
12 witness that just provides the hearsay information
13 about the domestic violence and the -- there is one
14 incident that Witness 2 specifically alleges. I mean,
15 I think my cross-examination of the detective about
16 Witness 2 will be, you know, where did that information
17 come from? Did Witness 2 observe that -- those things
18 that Witness 2 is -- has the information that Witness 2
19 has provided.
20 THE COURT: That seems fairly clear from the
21 affidavit, right, whether he observed those third or
22 secondhand.
23 MS.PAGE: Well, right. I mean, mostly I think
24 he did not -- assuming it's a he -- he did not observe,
25 but -- so I'm not sure that Witness 2 is someone that

1 testimony would be as likely changeable based on the
2 cross-examination. But I also am concerned that if the
3 grandson were in the room, that people being as they
4 are --
5 THE COURT: Right. Some other relatives. I,
6 mean, I think at a certain level, I can't really
7 prevent that possibility from happening.
8 I think what I would be inclined to do is if you
9 would let me know when you're going to be examining
10 with regard to Witness 1's information, I think I might
11 exclude her at that point, but, otherwise, allow her to
12 remain for the remainder of the hearing. Some of the
13 other issues doesn't seem like that would have any
14 impact on her testimony.
15 MS.PAGE: I mean -- also, I just think that a
16 lot of the information that's not even specific to
17 Witness 1, but just the sort of general -- there is a
18 lot of failure to investigate sort of when was this --
19 when did this become a crime scene-type question, that
20 I think could influence her testimony or her, even,
21 recollection of when she perceived certain things of
22 what was apparent at what time to her, never mind to
23 the police.
24 And so I just think that a lot of the
25 cross-examination will be on subject matters that

1 could -- her testimony could -- they won't -- her
2 testimony certainly won't be about those -- I mean, not
3 her testimony. But the information with respect to her
4 at this hearing won't address the police's
5 investigation, but I think that hearing the information
6 on that could affect her -- potentially affect her
7 trial testimony.
8 THE COURT: I think I'd still --
9 (Open Court.)
10 THE COURT: Okay. Mr. Kirschner, this is what I
11 would require. There is a subject matter area, I
12 think, within the affidavit that may pertain to the
13 individual who is identified as Witness Number 1. Ms.
14 Page will inform me when she is going to examine about
15 that particular area. And at that time, I would
16 exclude Witness 1 from the courtroom and then she can
17 come back after that and be here up until that time.
18 MR. KIRSCHNER: Can I be heard in response to
19 that, your Honor?
20 THE COURT: Sure.
21 MR. KIRSCHNER: Simply to say, the Government
22 would also understand if the Court were to rule
23 otherwise and not find that -- not make the requisite
24 finding that the witness' testimony would be affected,
25 the Defense could always cross-examine that witness

1 come trial time in the event that witness were to be
2 called and could raise that matter. The Government
3 wouldn't object.
4 THE COURT: Sure. But that would be true at all
5 times. So it just make this finding a sort of
6 non-entity in every instance. It would just mean that,
7 automatically, under the statute that victims would be
8 permitted to be here for all proceedings. And, then,
9 they could just be cross-examined at trial.
10 MR. KIRSCHNER: And if there were one key
11 eyewitness in the whole case road on the testimony of
12 that person, I wouldn't necessarily quibble with your
13 Honor. With respect to the daughter of the decedent,
14 who has expressed a desire to be here and who is
15 certainly, in the affidavit, providing some important
16 information, we would still make that request. But I
17 understand your Honor --
18 THE COURT: I understand. Let me say: I'm not
19 unsympathetic to that request. I think that given what
20 has been proffered to me, that there is a legitimate
21 concern that could materially affect her testimony.
22 And I think on that one limited area, I would exclude
23 her from the courtroom, but, otherwise, permit her to
24 being here for the remainder of the proceedings.
25 MR. KIRSCHNER: I understand.

1 THE COURT: So you want to call your first
2 witness, then?
3 MR. KIRSCHNER: Yes. The Government calls
4 Detective James Wilson.
5 THE COURT: Detective Wilson, if you could come
6 forward, please.
7 * * * * *
8 Thereupon,
9 **JAMES WILSON,**
10 having been called as a witness for and on behalf of the
11 Government and having been first duly sworn by the Deputy
12 Clerk, was examined and testified as follows:
13 **DIRECT EXAMINATION**
14 BY MR. KIRSCHNER:
15 Q Sir, good morning.
16 A Good morning.
17 Q Can you please state your name. And although
18 it's a common spelling, can you spell your name for
19 the reporter.
20 A Yes. My name is James Wilson, J-A-M-E-S,
21 W-I-L-S-O-N.
22 Q And how are you employed, sir?
23 A I'm a detective with the Metropolitan Police
24 Department.
25 Q How long have you been with MPD?

1 A December 8th will be 14 years.
2 Q And what's your present assignment?
3 A I'm assigned to the homicide branch.
4 Q How long have you been a homicide detective?
5 A I have been a detective for six years. I have
6 been at the homicide branch, the last three years.
7 Q Now, did you participate in the investigation
8 into the homicide of Viola Drath that occurred on the
9 late night hours of August 11th into the early morning
10 hours of August 12, 2011?
11 A Yes.
12 Q And on August 16th, 2011, did a judge of this
13 Superior Court issue an arrest warrant for a
14 particular person for the murder of Ms. Drath?
15 A Yes.
16 Q And for whom was that arrest warrant issued?
17 A It was issued for Albrecht Muth.
18 Q Have you seen the affidavit in support of the
19 arrest warrant for Mr. Muth?
20 A Yes.
21 Q Are you the affiant or not?
22 A No.
23 Q Who is the affiant on that document?
24 A Detective Konstantinos Giannakoulias.
25 Q And for the court reporter, is that spelled

1 K-O-N-S-T-A-N-T-I-N-O-S, G-I-A-N-N-A-K-O-U-L-I-A-S?
2 A Yes.
3 Q And is he commonly referred to as Detective Gus,
4 to make it easy for everybody?
5 A Yes.
6 Q What was his role in the investigation?
7 A Gus was the lead detective.
8 Q And are you the second or assisting detective?
9 A Yes, I am.
10 Q Now, notwithstanding the fact that Detective
11 Giannakoulias is the affiant, are you personally
12 familiar with the facts and circumstances contained in
13 the affidavit?
14 A I am.
15 Q Generally, how are you familiar with the facts
16 and circumstances in the affidavit?
17 A Although Gus was the lead detective, myself and
18 Gus, we both responded to the scene. We were both
19 there when evidence was processed and collected. We
20 interviewed all the witnesses. We interviewed the
21 defendant both times.
22 Q So you were present for, basically, the same
23 participation that Detective Gus was present for?
24 A Yes.
25

1 MR. KIRSCHNER: I'm going to show the Defense,
2 Government Exhibit 1, a copy of which they had been
3 provided previously.
4 May I approach the witness, your Honor?
5 THE COURT: Yes.
6 BY MR. KIRSCHNER:
7 Q Detective Wilson, you recognize Exhibit 1?
8 A Yes.
9 Q What is that?
10 A This is the affidavit in support of an arrest
11 warrant for Albrecht Muth.
12 Q And if the Court were to allow you to adopt
13 that, would you be willing to adopt it as part of your
14 sworn testimony at these proceedings?
15 A Yes.
16 MR. KIRSCHNER: With the Court's permission,
17 your Honor, we would like to ask that the witness be
18 permitted to adopt this as part of his substantive
19 testimony today, Government Exhibit Number 1, and that
20 it be admitted into evidence?
21 THE COURT: Any objection, Ms. Page?
22 MS.PAGE: Yes. He didn't author it.
23 THE COURT: I permit it to be admitted subject
24 to cross-examination.
25 MR. KIRSCHNER: Does the Court have a copy?

1 THE COURT: I do.
2 BY MR. KIRSCHNER:
3 Q Detective Wilson, during the course of the
4 investigation, you said that you personally
5 participated in the interview of the defendant?
6 A Yes.
7 Q Do you recognize him?
8 A I do.
9 Q Can you tell us where he is seated and what he's
10 wearing?
11 A He's seated to my right to the male defense
12 counsel's left and he's wearing an orange jumpsuit,
13 white socks and orange slippers or sneakers.
14 MR. KIRSCHNER: Your Honor, may the record
15 reflect an identification of the defendant?
16 THE COURT: The record will so reflect.
17 BY MR. KIRSCHNER:
18 Q Now, Detective Wilson, have you had an
19 opportunity to go back and review the affidavit?
20 A Yes.
21 Q Have you also had an opportunity to go back and
22 review the recorded interview of the defendant that is
23 referenced in the affidavit in sort of bullet-point
24 fashion?
25 A Yes.

1 Q And have you come across any changes that you
2 would like to make to the affidavit to make it more
3 accurate?
4 A Yes.
5 Q Specifically, what is that change and how would
6 you like to change the language of the affidavit to
7 make it more accurate?
8 A On the third page, second paragraph.
9 Q Would that be the paragraph that starts on
10 Sunday, August 14, 2011?
11 A Yes.
12 Q Go ahead, please.
13 A The last sentence, it reads: The affiant
14 confronted the defendant about his inconsistent
15 statements, as he previously stated that he never
16 touched the decedent upon finding her body, but the
17 defendant did not explain the discrepancy.
18 Q And upon reviewing the recorded DVD of the first
19 interview with the defendant, what did you discover
20 with respect to what he said about whether he had ever
21 touched the body when he claimed he discovered it?
22 A After reviewing the video, Mr. Muth indicated
23 that he may have flicked -- he used his hand. I'm not
24 sure if it was one finger or all four fingers, but he
25 may have flicked either the left or right arm.

1 Q And you're demonstrating -- and I'll just say
2 for the record -- with your right hand a motion. Were
3 you trying to kind of replicate the defendant's motion
4 on the videotape?
5 A Yes.
6 Q And you kind of flicked your hand an inch or two
7 upward?
8 A Yes.
9 Q So you said he may have done that?
10 A He may have done that, yes.
11 Q Any other changes to the affidavit as you
12 reviewed it?
13 A No.
14 Q Now, beyond the affidavit, in recent weeks,
15 since the time of the arrest, you have been involved
16 in continued investigative efforts, correct?
17 A That is correct.
18 Q I want to ask you about some additional
19 information that you discovered during the course of
20 your ongoing investigation. First of all, directing
21 your attention to interviews that you conducted with
22 special investigators -- excuse me -- special agents
23 of the United States Department of State. Did you
24 interview investigators from the State Department?
25 A Yes.

1 Q Did they tell you anything about interactions
2 that they had had with Viola Drath?
3 A Yes.
4 Q Specifically, did you discuss with them
5 incidents that occurred in September of 2010?
6 A Yes.
7 Q And what did they tell you about how it was they
8 came into contact with Ms. Drath in September of 2010?
9 What prompted the conduct?
10 A During the interview with the agents, they
11 indicated that they had received a fax from a phone
12 number that was associated with Ms. Drath's home
13 address, 3206 Q Street, Northwest.
14 Q Did they say what the nature of the fax was?
15 A The nature of the fax was, it was a fax in
16 reference to a case that -- there was ongoing
17 investigation in reference to the Wiki Leaks.
18 Although the information was already put out to the
19 public, he termed the information as still being
20 classified.
21 Q So the State Department received a fax that was
22 a document that had been leaked during the Wiki Leaks
23 incident?
24 A That's correct.
25 Q But you said they -- because, technically, it

1 still remains classified, they looked into it?
2 A Yes.
3 Q So how did their contact with Ms. Drath occur?
4 A Based on the address, they telephoned the
5 residence where the fax came from.
6 Q And who did they speak with when they called the
7 Drath household?
8 A They spoke to a woman who identified herself as
9 Viola Drath.
10 Q What did they tell you about the conversation
11 they had with Ms. Drath in September of 2010?
12 MS.PAGE: Your Honor, I would object to
13 relevance.
14 THE COURT: Can I ask what the relevance is, Mr.
15 Kirschner?
16 MR. KIRSCHNER: This goes to intent, motive,
17 opportunity, MO. It goes to his dangerousness.
18 THE COURT: Well, let me hear --
19 MR. KIRSCHNER: His identity as the perpetrator,
20 if I haven't said that already.
21 THE COURT: I will hear some more and I will
22 reconsider if I don't think we are headed toward
23 relevant areas.
24 BY MR. KIRSCHNER:
25 Q What did Ms. Drath tell the State Department

1 special agents?
2 A They asked Ms. Drath who sent the fax. She
3 indicated that it was her husband, Mr. Muth. During
4 this conversation, the agent said he heard what he
5 thought was a commotion. Shortly thereafter, the
6 phone went dead.
7 Q So after they heard the commotion and the phone
8 went dead, what did the special agents from the State
9 Department do?
10 A They got concerned. They armed themselves with
11 their weapons and they immediately went to 3206 Q
12 Street.
13 Q And what did they do -- what did they tell you
14 happened when they arrived?
15 A Shortly after getting there, they knocked and
16 there was no response.
17 Q Did they follow up and have any additional
18 meetings with Ms. Drath?
19 A Yes. Approximately a week later, I believe it
20 was September 17th, Ms. Drath had instructed them
21 not to come back to the house because she was
22 concerned. So they met at a central location. I
23 believe it was a restaurant in Georgetown.
24 Q And that was her desire to meet them somewhere
25 other than her house?

1 A Yes.
2 Q So did they meet at that restaurant?
3 A They did.
4 Q First of all, what did they observe with respect
5 to Ms. Drath?
6 A Ms. Drath was seated in the restaurant. She had
7 on dark colored shades.
8 Q Dark glasses?
9 A Dark glasses, correct. They asked her to remove
10 the shades or glasses, and they observed Ms. Drath
11 with a black eye.
12 Q And did they talk to her at all about the
13 earlier phone conversation when the line went dead?
14 A Briefly, yes.
15 Q And what did she say about that?
16 A She stated that Mr. Muth, the defendant, knocked
17 the phone out of her hand.
18 Q Did they ask her how she received the black eye?
19 A They did.
20 Q What did she say?
21 A She indicated that she ran into a banister.
22 Q At that meeting with the State Department
23 special agents, did she express any concerns for her
24 safety?
25 A Yes, she did.

1 Q What did she tell them?
2 A She advised the agents that she was afraid of
3 her husband and requested assistance in getting him
4 deported, I believe.
5 Q Did she report any other sentiment that the
6 defendant had been expressing that made her concerned?
7 A Yes.
8 Q What was that?
9 A Anti-American sentiment.
10 Q And did she report any threats to kill other
11 people that the defendant had made?
12 A All Americans.
13 Q To kill all Americans?
14 A Yes.
15 Q Did she say whether the police had responded to
16 their house recently?
17 A Yes.
18 Q What did she say about that?
19 A She advised, about a week before the 17th --
20 September 17th 2010 meeting, that the police had
21 been called out to her residence in reference to a
22 disorderly -- police responded in reference to a
23 disorderly male in the 3200 block of Q Street.
24 Q Did she say that they had responded?
25 A Yes.

1 Q Did she say that told the police the same
2 information that she was now telling the State
3 Department investigators?
4 A Yes.
5 Q Now, let me direct your attention to September
6 12th, 2010, before the meeting that you have just
7 been testifying about. Did Metropolitan Police
8 Department officers respond to the Drath household on
9 Q Street?
10 A Yes, they did.
11 Q And what did they notice when they arrived?
12 A Once they arrived, they entered into the
13 residence. They observed what they described as a
14 white male in full military uniform, however, his
15 hands weren't visible.
16 Q Did they give him any commands at that point?
17 A Yes. He gave him commands, let me see your
18 hands, let me see your hands, which eventually he
19 complied, but initially he did not.
20 Q And who was that? Did they identify that
21 person?
22 A Yes.
23 Q Who was that?
24 A The person was identified as the defendant in
25 this case, Albrecht Muth.

1 Q And how was the defendant's demeanor when the
2 police responded to that call for a disorderly person?
3 A He was drunk, intoxicated.
4 Q And did they notice anything out in the street?
5 A Yes.
6 Q What?
7 A Trash. It was reported that he had thrown trash
8 into the street from inside the house.
9 Q And did Ms. Drath indicate anything about
10 whether he was yelling out threats?
11 A Yes.
12 Q What did she tell them?
13 A Similar to what she had told the State
14 Department agents. Kill all Americans or I'll kill
15 you all. I believe.
16 Q Now, I want to ask you about a witness who is a
17 captain in the U.S. Army, Judge Advocate General's
18 Corps. We are going to refer to him as W-4. Did you
19 interview a witness who is a captain in the U.S. Army
20 Judge Advocate General's Corps?
21 A Yes.
22 Q And did he tell you that he had met with Viola
23 Drath in November of 2010?
24 A Yes.
25 Q What did he tell you the reason for that meeting

1 was?
2 A I believe it was in November. Ms. Drath had met
3 with the JAG officer in reference to executing a will.
4 Q And did she bring anything with her that she
5 provided to the JAG officer that he then provided to
6 you?
7 A Yes.
8 Q What was that?
9 A It was a -- one piece -- it was a piece of paper
10 with a few lines on it, a paragraph or a paragraph and
11 a half.
12 Q And when the Army captain told you she presented
13 this piece of paper to him, what did she say?
14 A She indicated that this piece of paper was given
15 to her by her husband and her husband wanted this
16 information on his paper added to the will.
17 Q And what did Viola Drath tell the captain?
18 A The captain asked Ms. Drath -- I work for you.
19 Do you want this information in the will, and she
20 indicated no.
21 Q What did she say she wanted to do with respect
22 to her will concerning her husband Albrecht Muth?
23 A She wanted to disinherit him.
24 MR. KIRSCHNER: I show you Government's Exhibit
25 Number 2, showing to the Defense first. I'm sorry.

1 BY MR. KIRSCHNER:
2 Q Detective Wilson, do you recognize Government
3 Exhibit Number 2?
4 A Yes.
5 Q What is that a copy of?
6 A It's a copy of the document provided to us by
7 the JAG officer.
8 MR. KIRSCHNER: Your Honor, we move Government
9 Exhibit Number 2 in for purpose of the preliminary
10 hearing?
11 THE COURT: Any objection, Ms. Page?
12 MS.PAGE: No.
13 THE COURT: That will be received.
14 (Government's Exhibit Number 2 was admitted into
15 evidence.)
16 BY MR. KIRSCHNER:
17 Q Can you read the very short paragraph that
18 appears at the top of that page.
19 A It states: I, Viola Herms Drath, of 3206 Q
20 Street, Northwest, Washington, D.C. 20007, do hereby
21 make, publish and declare this to be my last wish
22 hereby expressly revoking all wills and codicils
23 heretofore made by me pertaining to this particular
24 matter.
25 The whole thing?

1 Q Please.
2 A "I do give and irrevocably bequeath upon my
3 death to Albrecht Gero Muth of 3206 Q Street in the
4 words of $150,000 United States dollars and an
5 additional amount of -- in numbers, 50,000 -- I'm
6 sorry. My husband of 20 years, the amount of $150,000
7 USD and an additional amount of 50,000 USD in the
8 event my liquid assets: Stocks, bonds or cash, exceed
9 the total amount of 600,000 USD, and instruct the
10 executors of my will and testament, my heirs to
11 execute my wish expeditiously and diligently and
12 without purpose of evasion. In the event my husband
13 shall not survive me, then this bequeath is nullified
14 and reversed to my estate, Washington, D.C. dated,
15 sign, sign. No signatures.
16 Q And you indicated that she said -- that was her
17 husband's wishes not hers?
18 A That is correct.
19 Q And she said: I don't want that. I want to
20 dis-inherent my husband?
21 A That is true.
22 Q Did she have a meeting with the JAG officer a
23 week later after he had drafted a will in compliance
24 with her wishes and had her back in to execute it?
25 MS.PAGE: Your Honor, I object to the leading.

1 THE COURT: Sustained as to the leading
2 questions.
3 BY MR. KIRSCHNER:
4 Q Did you talk with the JAG officer about a
5 subsequent meeting with Ms. Drath?
6 A Yes.
7 Q How long after the first meeting was the second
8 meeting?
9 A It was November 17.
10 Q And what was the purpose of the second meeting?
11 A To execute the will, which she came in a week
12 prior to discuss.
13 Q And did the army captain say that she came to
14 that appointment a week later?
15 A Yes.
16 Q And what did she do once there?
17 A Executed the will.
18 MR. KIRSCHNER: I will show the Defense,
19 Government's Exhibit Number 3.
20 BY MR. KIRSCHNER:
21 Q Government's Exhibit Number 3, do you recognize
22 that?
23 A Yes.
24 Q And what does that appear to be, those four
25 pages?

1 A Portion of the will.
2 Q And what's the date that that will was executed?
3 A November 17, 2010.
4 Q Are there some redactions to sort of take out
5 some personal names and information?
6 A Yes.
7 Q And is this the entire will or just a portion of
8 the will?
9 A A portion.
10 Q How much of the will did the captain provide you
11 when you met with him?
12 A The entire will.
13 Q And who is the will signed by as the person
14 executing the will?
15 A Viola H. Drath.
16 MR. KIRSCHNER: Your Honor, we would move --
17 understanding it's a partial document and it has
18 redactions, Government's Exhibit Number 3, for purposes
19 of this hearing.
20 THE COURT: Any objection to that exhibit, Ms.
21 Page?
22 MS.PAGE: No.
23 THE COURT: All right. That will be received as
24 well.
25 (Government's Exhibit Number 3 was admitted into

1 evidence.)

2 BY MR. KIRSCHNER:

3 Q And if I turn to the second page, the second

4 paragraph, and it says "second," what does that

5 paragraph say with respect to Ms. Drath's wishes as

6 announced in her will?

7 A It says "Second, because of support arrangements

8 have been made for his benefit, I hereby dis-inherent

9 my husband, Albrecht Muth, as to any interest in my

10 estate and in accordance with our premarital agreement

11 dated April 3rd -- I'm sorry -- 3rd April 1990. All

12 provisions of this will, including without limitation,

13 any provisions which may refer to persons taken by

14 intestacy shall be construed to effectuate such

15 dis-inheritance of my husband.

16 Q She disinherited him in that paragraph?

17 A Yes.

18 Q Before we move on to other witnesses, in the

19 affidavit there is an indication that the defendant

20 presented a document to the family on the very day

21 that he reported she was dead in the bathroom on the

22 scene itself, correct?

23 A That is correct.

24 Q This is Government's Exhibit Number 4. Do you

25 recognize Government's Exhibit Number four?

1 A Yes.
2 Q What is that?
3 A This is the document given to us -- this is the
4 document that the Defendant gave to a family member at
5 the scene upon Ms. Drath's death.
6 Q And is it a typewritten document that also
7 includes handwritten notations?
8 A Yes, it is.
9 Q And is that the way it was as your investigation
10 revealed at the time the Defendant gave it to family
11 members?
12 A Yes.
13 MR. KIRSCHNER: Your Honor, we would move
14 Government's Exhibit 4 in.
15 THE COURT: I'd receive that in evidence as
16 well.
17 (Government's Exhibit Number 4 was admitted into
18 evidence.)
19 BY MR. KIRSCHNER:
20 Q And Detective Wilson, let me ask you, the
21 typewritten portion of Government's 4, how does that
22 compare with the typewritten -- the entire document as
23 typewritten in Government's Exhibit Number 2?
24 A It's exactly the same.
25 Q But it has some handwritten notations purporting

1 to make some changes?
2 A Yes.
3 Q And does it purport to have the signature of a
4 person on it?
5 A Yes.
6 Q Who?
7 A Viola Drath.
8 Q Is it even on the signature line or not?
9 A No, it is not.
10 Q Where is it?
11 A It's below the signature line underneath,
12 actually, Mr. Muth's name and it's also dated April
13 the 11th, 2011.
14 Q Thank you. Now, did you interview a witness who
15 reported that in 2011, the early portion of 2011, he
16 traveled to the Defendant's house to see the
17 defendant?
18 A Yes.
19 Q We're going to call that witness W-5.
20 Did W-5 indicate he saw any interaction between
21 the defendant and his wife, Viola Drath, when he, W-5,
22 was present in the Q Street home in early 2011?
23 A Yes.
24 Q What did he say he observed?
25 A He indicated he was there to see Mr. Muth.

1 While there, the decedent, Ms. Drath, entered into the
2 room. She asked him if he would like some water. She
3 was carrying water on a tray and walking towards the
4 witness. At this time, the witness advised that Mr.
5 Muth sort of dismissively, with his hands, went like
6 this.
7 Q And is that the motion that the witness made to
8 demonstrate what he saw the defendant do?
9 A Yes.
10 Q For the record, you're putting your hands out in
11 front of you. You're extending your arms out in front
12 of you with your -- with the back of your hand facing
13 out, your fingers down and then kind of raising them
14 up as to shoo somebody away?
15 A That's correct.
16 Q What did the defendant do after he shooed his
17 wife away?
18 A The witness advised that the defendant, Mr.
19 Muth, spoke in German to his wife, but translated it
20 as -- excuse my language -- get the fuck out of here.
21 Nobody wants your hospitality or no water.
22 Q And the witness said that Mr. Muth said that to
23 his wife in German?
24 A He said it in German, correct.
25 Q Did the witness indicate that he, himself, spoke

1 and understood German?
2 A Yes.
3 Q After W-5 related what he heard the defendant
4 say, what did he tell you he saw the defendant do?
5 A The witness advised Mr. Muth stood up and begin
6 walking towards Ms. Drath. And then he described it
7 as, with both hands facing outward, palms facing
8 outward, he forcibly pushed Ms. Drath hard enough that
9 she felt backwards in between the doorframe which
10 caught her from falling.
11 Q And did you ask the witness to kind of
12 replicate, as best he could, the amount of force that
13 he witnessed the defendant use against his wife?
14 A Yes.
15 MR. KIRSCHNER: And with the Court's permission,
16 could I have the witness step down?
17 THE COURT: Sure.
18 BY MR. KIRSCHNER:
19 Q I'm going to ask you to replicate that for the
20 Court. If you would imagine that you are Witness 5
21 and I'm Ms. Drath, can you just show, using the same
22 amount of force and the same motion, what W-5 said he
23 saw that man do to his wife?
24 MS.PAGE: Your Honor, it's just not clear
25 whether Witness 5 demonstrated this for the detective

1 and so I'm not sure it's appropriate for the detective
2 to demonstrate what he --
3 THE COURT: Sure. That's fine. Did the witness
4 demonstrate it for you, Detective?
5 THE WITNESS: Yes.
6 THE COURT: I overrule the objection.
7 BY MR. KIRSCHNER:
8 Q Step into the well. Just try to replicate, as
9 best you can, the motion and the amount of force that
10 W-5 used, assuming I'm Ms. Drath, when he recreated it
11 for you.
12 A He described that the defendant, Mr. Muth,
13 walked towards Ms. Drath, the decedent, with two
14 hands, pushed her hard enough that she fell backwards
15 into the doorframe.
16 MR. KIRSCHNER: And I would just put on the
17 record, although the Court has seen it, the witness
18 approached me and sort of, with a quick motion, both
19 palms facing me, sort of smacked his two hands into my
20 upper chest, caused moderate force, hard to quantify,
21 causing me to step back a couple of steps.
22 Thank you, Detective.
23 THE COURT: I think that's a fair description.
24 BY MR. KIRSCHNER:
25 Q Did W-5 indicate that the defendant made any

1 requests of him for future services?
2 A Yes.
3 Q What did he say the defendant asked him to do?
4 A He indicated that the defendant requested
5 that -- he asked if he would be able to hack into
6 Government computers, in Government files.
7 Q And did W-5 agree to do that or not?
8 A He disagreed.
9 Q Let me ask you about a witness that we will
10 refer to as Witness 6. Did you interview Witness 6 in
11 connection with a meeting he had with Ms. Drath at Ms.
12 Drath's insistence?
13 A Yes.
14 Q And turning your attention to April of 2011, did
15 W-6 indicate that he met with Ms. Drath?
16 A Yes.
17 Q Did he tell you how that meeting came about?
18 A Yes.
19 Q Go ahead.
20 A Ms. Drath requested to meet with him to discuss
21 concerns about her safety with Mr. Muth.
22 Q And do you recall whether the meeting was held
23 at Ms. Drath's house or was it held somewhere else?
24 A No. It was definitely held someplace else in
25 the Georgetown area, but not at her home.

1 Q What did Ms. Drath tell W-6 in April of 2011?
2 A Again, Ms. Draft conveyed her concern about her
3 safety and that Mr. Muth was becoming more
4 anti-American.
5 Q Did she say anything about wanting some help
6 from W-6 with respect to Mr. Muth?
7 A Yes.
8 Q What did she say?
9 A She, again, requested from this witness, who was
10 separate from the agents, assistance in getting him
11 deported.
12 Q And did she indicate that Mr. Muth had made any
13 particular claims about what he wanted to do in
14 Georgetown?
15 A Yes.
16 Q What did he say?
17 A He reported to us that Ms. Drath told him that
18 Mr. Muth was going to bomb Georgetown.
19 Q Now, April of 2011, that was when W-6 said he
20 had this meeting with Ms. Drath and she expressed
21 these concerns?
22 A Yes.
23 Q And Government's Exhibit Number 4, which is the
24 second version with the handwritten notations of the
25 paragraph where the defendant is to get money upon her

1 death. What was the date that that purports to show
2 in handwritten notation?
3 A It appears to say April 11, 2011.
4 Q Let me ask you about W-7. Did you interview an
5 individual that we will refer to as W-7 who spent the
6 early evening into the late night hours with the
7 defendant on August 11, 2011?
8 A Yes.
9 Q And did this witness tell you how he came to
10 meet the defendant?
11 A Yes.
12 Q What did he tell you?
13 A He met Mr. Muth through an ad on Craigslist that
14 was posted by the witness.
15 Q The witness posted the ad and Mr. Muth responded
16 to it?
17 A That is correct.
18 Q Did the witness tell you he got together with
19 Mr. Muth?
20 A Yes.
21 Q On one occasion or more than one occasion?
22 A On more than one occasion.
23 Q I want to ask you about the final occasion on
24 August 11, 2011. Did W-7 say that he met up with the
25 defendant on August 11th?

1 A Yes.
2 Q And can you, generally, describe what W-7 told
3 you about how many different locations they went to?
4 And then I will have some follow-up questions.
5 A He advised that they had went to three separate
6 locations on the evening of August 11th.
7 Q Did W-7 tell you about what time he met up with
8 the defendant?
9 A Yes.
10 Q What time?
11 A It was between 6:00 and 6:30 p.m. on the 11th
12 of August.
13 Q And at the first location, was that sort of a
14 public commericial location?
15 A Yes.
16 Q Not a private home?
17 A No.
18 Q And did W-7 tell you whether the defendant was
19 consuming alcohol at that first location?
20 A At the first location, he described Mr. Muth as
21 having something similar to a cranberry spritzer, but
22 it was no alcohol involved.
23 Q Non-alcoholic?
24 A Yes.
25 Q Did W-7, by the way, say that he was drinking

1 alcohol during the evening?
2 A He indicated that he did not drink alcohol at
3 all.
4 Q Not that night or ever?
5 A Not that night, not ever.
6 Q And did W-7 say they went to a second location?
7 A Yes.
8 Q And did he talk about alcohol consumption at
9 that location?
10 A Yes.
11 Q What did he tell you the defendant begin
12 drinking at that location?
13 A W-7 advised, at the second public location, the
14 defendant had a drink which he described as could have
15 been rum.
16 Q Could have been rum. Was he clear that it was
17 an alcoholic drink as opposed to a non-alcoholic
18 drink?
19 A It was definitely an alcoholic drink. It wasn't
20 wine and it wasn't a beer. It was alcohol.
21 Q Did W-7 tell you they went to a third location?
22 A Yes.
23 Q And was that a public or a private location?
24 A The third location was a private location.
25 Q Did W-7 tell you about the defendant's alcohol

1 consumption on the evening of August 11th at the
2 third location?
3 A Yes. He indicated, the third location, this is
4 where the decedent [sic] begin to progressively drink
5 more, started out one drink in a glass, I guess. I
6 don't know if you could describe that to the court
7 reporter.
8 Q Is that what the witness -- you're making a
9 motion. Is that what the witness showed you with
10 respect to how large the defendant's glass was?
11 A Yes.
12 Q And you just kind of put your finger -- your
13 thumb and index finger in a circle with one another,
14 correct?
15 A Yes. That's his description, yes.
16 Q And is it fair to say, it's about as big around
17 as a baseball?
18 A That is correct.
19 Q So what did he tell you about the defendant's
20 progression with respect to alcohol consumption at the
21 third location?
22 A He advised that he was drinking alcohol
23 straight, which means it didn't have a chaser. For
24 those who don't know what a chaser is; no soda, no
25 juice. It was just straight alcohol with ice. The

1 first drink was average. The second drink was
2 average. And he described the third drink as being
3 approximately four inches filled in the glass with
4 ice.
5 Q Straight liquor?
6 A Straight liquor. No chaser.
7 Q Did he tell you about what time he and the
8 defendant left the third location?
9 A Yes. He indicated they left prior to 10:30,
10 between, I guess, 9:45 and ten o'clock.
11 Q Prior to 10:30 on the night of August 11th?
12 A That is correct.
13 Q Did he tell you what the defendant's demeanor
14 was like during the course of the evening and whether
15 it changed from the beginning of the evening to the
16 end of the evening?
17 A Yes.
18 Q What did he tell about that?
19 A Like I said, the evening started at one
20 location. He described the defendant's demeanor as
21 pleasant and kind. By the time they ended up at the
22 third location, he described the defendant's demeanor
23 as obnoxious, belligerent, insistent, even mentioned
24 the defendant grabbing one of the other guest and
25 being forceful about going out to dinner, and that

1 sort of activity.
2 Q And did W-7 tell you where he and the defendant
3 went when they left that third location?
4 A Yes.
5 Q Where?
6 A They walked to the 3200 block of -- to Q Street,
7 right off of Wisconsin Avenue.
8 Q Ms. Drath's home?
9 A That's correct. Ms. Drath's home.
10 Q Now --
11 MS.PAGE: I'm sorry? They both did?
12 THE WITNESS: Yes.
13 BY MR. KIRSCHNER:
14 Q Did W-7 report it was just the two of them?
15 A Yes. It was just the defendant and the witness.
16 Q Did W-7 tell you what he observed regarding the
17 defendant's intoxication on that walk back to his --
18 to the defendant's home?
19 A His description of Mr. Muth was he was
20 staggering, he was slurring his words and he was
21 sluggish.
22 Q Where did W-7 last see the defendant?
23 A He indicated that the defendant entered into the
24 home -- into a house through the basement door. He
25 wasn't sure of the address. But based on a

1 description, he described the house next door as being
2 for sale, Q Street, Wisconsin Avenue. It was Ms.
3 Drath's home.
4 Q And is the house immediately adjacent to the
5 Drath home on Q Street for sale?
6 A The house to the East, yes. If you are facing
7 Ms. Drath's home, the house immediately to the left is
8 for sale.
9 Q With a sign posted out front indicating it's for
10 sale?
11 A Yes.
12 Q Did W-7 tell you about what time it was he saw
13 the defendant heading down into that basement entryway
14 into Ms. Drath's home?
15 A Yeah. He indicated between ten and 10:30,
16 probably closer to 10:30.
17 Q Did W-7 tell you whether he communicated with
18 the defendant the next day?
19 A Yes.
20 Q What did he tell you about that?
21 A W-7 advised that he and the defendant
22 communicated and that he told the defendant he could
23 not be around him if he's going to be drunk.
24 Q Did the defendant reply?
25 A Yes.

1 Q What did he say?
2 A Based on the witness, he indicated the defendant
3 said he couldn't remember what happened last night or
4 couldn't recollect what happened last night, something
5 to that effect.
6 Q Did he say why he couldn't remember what
7 happened the night before?
8 A No.
9 Q But the context of the conversation was about
10 the defendant couldn't be around W-7 if he continued
11 to get that drunk?
12 A Yes.
13 Q Did you interview an individual who we will
14 refer to as W-8 who provided information about the
15 defendant once asking him to do something to Ms.
16 Drath?
17 A Yes.
18 Q Now, how did W-8 indicate he knew the defendant?
19 A He advised that he knew Mr. Muth from the Dupont
20 Circle area.
21 Q And what interaction -- over what course of time
22 had he been seeing and interacting with Mr. Muth?
23 A Early part of 2000, I guess late 90s, over the
24 years, on more than one occasion.
25 Q On more than a dozen occasions?

1 A Yes.
2 Q And what was the nature of the relationship
3 between W-8 and Mr. Muth? Why were they communicating
4 and coming in contact?
5 A Based on this witness, he advised that Mr. Muth
6 would purchase narcotics from him.
7 Q Did this individual indicate how it would be
8 that Mr. Muth would purchase narcotics from him, what
9 the MO was, so to speak?
10 A I don't understand that question.
11 Q Did he say, for instance, he was alone and would
12 come up to W-8 or he would be with others?
13 A He would be with others.
14 Q Any others, in particular?
15 A Young males.
16 Q Did W-8 tell you that he had any conversation in
17 March or April of 2011 with Mr. Muth where Mr. Muth
18 asked him to do something?
19 A Yes.
20 Q Tell the Court about that, please.
21 A He, basically, said that Mr. Muth and he had a
22 conversation and that Mr. Muth asked him if he would
23 be willing to, while Ms. Drath was going on a walk, if
24 he would rob her in Georgetown, because robberies are
25 frequent up in Georgetown, nobody would think any

1 lesser of it.
2 Q Did he say anything beyond what W-8 should do as
3 part of the robbery of Ms. Drath?
4 A Yes. Basically, his words were: be done with
5 her or done with it. Something to that effect.
6 Q Were those the words that he recall the
7 defendant using?
8 A Those are the words that the witness told us
9 during the interview.
10 Q And how did the defendant refer to the person or
11 the woman that he wanted W-8 to rob and be done with?
12 A His exact words in quotation -- again, excuse
13 me -- the bitch.
14 Q Did he, W-8, indicate that Mr. Muth said
15 anything about why he wanted something done to, quote,
16 the bitch?
17 A Basically, the witness advised that Mr. Muth,
18 the defendant, told him that -- I will use the term
19 "Ms. Drath" -- molested him at one time, that Ms.
20 Drath was his stepmother at one time. But the main
21 concern Mr. Muth conveyed to the witness was about
22 money, that the bitch stopped giving me money, she
23 controls the money and he was very concerned about
24 that.
25 Q Did W-8 agree to do anything to -- I

1 apologize -- the person he referred to as the bitch?
2 A No. He did not want to do anything to her.
3 Q After the defendant was arrested, more recently
4 arrested for this murder, did W-8 indicate that he had
5 a conversation with the defendant?
6 A Yes.
7 Q And did he ask the defendant about what
8 happened?
9 A Yes.
10 Q And what did the defendant say happened?
11 A The witness advised Mr. Muth said that she
12 slapped me and all hell broke loose, or something to
13 that effect.
14 Q Do you remember how he put it or not?
15 A I don't remember exactly how he put it, but: I
16 lost control.
17 I don't remember exactly what he said, but he
18 indicated that she had slapped him.
19 Q That Ms. Drath had slapped him?
20 A Yes.
21 Q And he lost control and all hell broke lose, or
22 words to that effect?
23 A Words to that effect.
24 Q W-8, when he was providing this information, was
25 he seeking any assistance in connection with his own

1 criminal matter?
2 A Yes.
3 Q Did you interview a witness, W-9, who spoke with
4 Mr. Muth in the early 2000s about what Mr. Muth said
5 he should have done to his wife?
6 A Yes.
7 Q And what did W-9 tell you about a conversation
8 he had with the defendant in the early 2000s?
9 A W-9 reported to us that Mr. Muth had told him
10 that during a trip overseas, it was in a Middle
11 Eastern country -- I don't know if it was Jordan or
12 one of these countries -- that Mr. Muth told the
13 witness that they were in a remote area --
14 Q They, being who?
15 A The decedent, Ms. Drath, and the defendant were
16 in a remote area of this country and Mr. Muth said he
17 should have pushed her down and killed her there or
18 left her for dead there, but, unfortunately, there
19 were too many people around and he didn't want nobody
20 to see, didn't want to get caught.
21 Q And did W-9 say whether this was a joking
22 lighthearted comment or whether it seemed serious?
23 A It indicated that it seemed very serious.
24 Q I think that's all I have, Detective Wilson.
25 Thank you.

1 THE COURT: Ms. Page, you want to cross-examine?
2 MS. PAGE: Yes.
3 **CROSS-EXAMINATION**
4 BY MS.PAGE:
5 Q Let's start with the information that comes
6 after that. The information that was provided by this
7 special agent with the Department of State, was that
8 person sought out or did that person come forward?
9 A That person came forward.
10 Q And that was when?
11 A I don't remember the exact date, but it was soon
12 after the arrest -- soon after her death. The person
13 contacted us.
14 Q Before the arrest?
15 MR. KIRSCHNER: I'm going to object to
16 relevance, unless there is a bias underlying that the
17 Defense is trying to get at, how people came forward.
18 THE COURT: Overruled.
19 THE WITNESS: If I recall, it's before the
20 arrest.
21 BY MS.PAGE:
22 Q After the death and before the arrest?
23 A Yes.
24 Q And -- this person came forward but was not
25 sought out, was not otherwise sought out?

1 A We had no idea who he was at the time.
2 Q And you, yourself, spoke to him?
3 A Yes.
4 Q And the information that this person -- I guess,
5 we didn't number this witness. But the information
6 that this special agent provided, this special agent
7 had not given to anyone prior to speaking to you on
8 whatever this date was?
9 A He didn't do what? I'm sorry.
10 Q Didn't convey this information before at all?
11 A To.
12 Q To anyone?
13 A His supervisor, who was also there at the time
14 when they responded to the house.
15 Q When they went to the house and knocked on the
16 door, there was no response?
17 A Yes.
18 Q But -- all right. And after that, that's when,
19 according to the special agent, they met with Ms.
20 Drath in this restaurant where she had the black eye?
21 A That's correct.
22 Q And they met with her, she gave the excuse of
23 running into a banister about the black eye and she,
24 according to this witness, expressed concerns for her
25 safety to this witness?

1 A I believe she expressed concerns about
2 assistance in getting him deported.
3 Q Okay. You said on direct that she expressed
4 concerns for her safety and requested assistance in
5 getting him deported.
6 A Correct.
7 Q And she also expressed concern, according to
8 this witness, about some Anti-American statements that
9 she claims Mr. Muth had made?
10 A That's correct.
11 Q And that was the end of it with them?
12 A That was the end of it.
13 Q The special agents didn't report this to MPD or
14 to whoever you would report such a thing to and they
15 didn't intercede at all?
16 A They expressed concern to Ms. Drath in reference
17 to her black eye, and I believe they -- being that
18 they are federal agents, they are not local police, I
19 think they informed her to make her report. I don't
20 believe they contacted MPD.
21 Q If they had contacted MPD, there would be some
22 sort of record of that?
23 A If MPD was contacted and responded out, I would
24 assume there would be a record, yes.
25 Q And being federal agent and having heard this

1 business about the Anti-American threat, they would be
2 in a position to do something about that? Is that
3 true or not true?
4 A I don't know if that would have fell into the
5 purview of their job or not in reference to whatever
6 statements, Anti-American or not. They were actually
7 investigating Wiki Leaks. So I don't know if
8 Anti-American statements were -- is something that
9 they were investigating.
10 Q Regardless, they didn't do anything about it or
11 report it to any other agency which would?
12 A Not that I'm aware of.
13 Q Not that he told you, not that this special
14 agent told you?
15 A Right.
16 Q Did you ask him that?
17 A No, I don't believe so.
18 Q All right. Now, you talked about an incident in
19 -- and forgive me if I've gotten this a little bit
20 confused. But the week before September 17th, 2010,
21 the police were called for a disorderly in the 3200
22 block of Q?
23 A Yes.
24 Q That's completely separate from the information
25 from the special agent?

1 A That's correct.
2 Q And that's just someone called MPD about someone
3 being disorderly and they responded?
4 A Yes.
5 Q And they spoke to Ms. Drath?
6 A Yes.
7 Q On that occasion?
8 A Yes.
9 Q Is she the person that had called?
10 A Yes, because she was listed as the complainant
11 in the report.
12 Q And how is it that you are aware of this
13 information?
14 A Well, MPD has a database called RMS. I'm not
15 sure what the acronyms are for, but -- and based on
16 this database, we ran the address and a report was
17 pulled. A 251 was done in reference to a family
18 disturbance at that address on September 12th, 2010.
19 Q Okay. So you read the 251?
20 A Yes.
21 Q And is that the source of your testimony?
22 A Yes.
23 Q Did you speak to any of the officers that were
24 involved or anything like that? Anything beyond
25 reading the 251?

1 A I know we spoke to an officer, but I'm not sure
2 if it was in reference to that.
3 Q And you said that at that time, I think you said
4 that Ms. Drath told the police the same information
5 that she had told the special agent. I may have
6 gotten this wrong.
7 A At that point, Ms. Drath had complained because
8 the defendant was drunk and was throwing trash out
9 into street. That's what lead the police to her home.
10 Q Okay. And that's the time when they came in and
11 the person was in the military uniform and didn't
12 immediately show their hands?
13 A That's correct.
14 Q And that's the information that you got from the
15 251?
16 A Yes.
17 Q And Ms. Drath, according to the 251, did report
18 some threats to herself and some threats to Americans
19 at this incident?
20 A Yes.
21 Q And nothing was done?
22 A Like what?
23 Q No arrests was made, no -- I mean, what action,
24 if any, did MPD take?
25 A MPD took a police report. They couldn't

1 determine if a crime had been committed. And they
2 took an incident report.
3 Q Okay. So no arrests were made for the
4 threats -- the alleged threats on Ms. Drath at that --
5 on that day?
6 A Correct.
7 Q And no arrests were made for the general threats
8 on Americans on that day?
9 A Correct.
10 Q Because the police couldn't determine whether
11 there was a crime that had been committed?
12 A Is that a question?
13 Q Yes.
14 A Yes.
15 Q Witness 4. Witness 4 is the, I guess, lawyer
16 with the Army that dealt with the letter?
17 A Yes.
18 Q And the will?
19 A Yes.
20 Q Now, When is it that -- I'm sorry. It was
21 November 11th, 2010, according to Witness 4 that Ms.
22 Drath met with him about this -- about wanting to
23 dis-inherit Mr. Muth?
24 A I believe it was November 10th, but -- the 10th
25 or the 11th, yes.

1 Q And at that point -- in November of 2010, she,
2 according to Witness 4, presented Witness 4 with this
3 one-paragraph document that you read that's Government
4 Exhibit 1, I think?
5 A Number 2?
6 Q Two. I'm sorry.
7 A Yes, ma'am.
8 Q And at that point had -- well, I'm sorry.
9 Witness 4 -- did Witness 4 draw up the will which is
10 Government's Exhibit 3, I believe?
11 A Yes.
12 Q Witness 4 did draw up this will?
13 A Talking about the lawyer, the JAG officer?
14 Q Yes.
15 A Yes.
16 Q And that will was drawn up after the day that
17 she came in and presented this letter?
18 A Yes. Between the tenth, and it was executed on
19 the 17th of November 2010.
20 Q Now, the will -- and you read the second
21 paragraph. It said "Second, because other support
22 arrangements have been made for his benefit, I
23 disinherit my husband, Albrecht Muth." And it goes
24 on.
25 Did Witness 4 indicate what the other support

1 arrangements were that had been made?
2 A No. I don't recall if he did or not.
3 Q Do you recall -- you don't recall having a
4 conversation about what other support -- what other
5 arrangements had been made for Mr. Muth's support
6 outside of this will?
7 A I guess because of the investigation, we had
8 information of what other support he was getting. So
9 I don't think we inquired as to what was stated in the
10 will.
11 Q Actually, let me ask you a question about that
12 before I get back to this. When did you speak to
13 Witness 4, the JAG officer guy?
14 A Post-arrest. I don't remember the exact date,
15 but it was post-arrest.
16 Q And did Witness 4 come forward or did you seek
17 Witness 4 out?
18 A We were informed of -- I believe we -- I'm not
19 sure if he came forward on his own or not. I don't
20 recall if he came forward on his own or not or if we
21 sought him out. But we were told that she had met
22 with an attorney in order to have a will drafted. I
23 don't know if he came forward or if we contacted him.
24 Q By whom were you told that she had met with an
25 attorney?

1 A A family member.
2 Q Now, according to Witness 4, Ms. Drath indicated
3 to Witness 4 that this one-paragraph document was
4 something that she was not interested in, but that her
5 husband had asked her to do?
6 A Told her, yes.
7 Q And this -- Court's indulgence.
8 This document -- and you read the whole thing,
9 but the beginning says "I, Viola Herms Drath, of 3206 Q
10 Street, Northwest, Washington, D.C. 20007 --
11 THE COURT: Ms. Page, if you can slow down.
12 MS.PAGE: -- do hereby make, publish and declare
13 this to be my last wish hereby expressly revoking all
14 wills and codicils heretofore made by me pertaining to
15 this particular matter."
16 Did Witness 4 indicate what this particular
17 matter was?
18 A The will itself?
19 Q No. The matter that's referred to in the
20 paragraph, in the letter.
21 A I don't understand the question, ma'am. I'm
22 sorry.
23 Q This -- well, let me ask you this: Did Witness
24 4 indicate to you if Witness 4 knew what, if any, will
25 there was and if there was one what it said with

1 respect to Mr. Muth before Ms. Drath came in with this
2 paperwork on the tenth or the 11th of November?
3 A No. However, what he did say was that Ms. Drath
4 was very concerned about, upon her death, Mr. Muth not
5 obtaining any property or any rights to her property
6 or anything. As far as any prior wills, I don't
7 believe he mentioned that at all. I know there was a
8 pre-nup in 1990.
9 Q And the information about the pre-nup in 1990,
10 did that come from Witness 4 or somewhere else?
11 A Somewhere else.
12 Q And did Ms. Drath indicate -- well, let me show
13 you. This is a copy of Government's Exhibit Number 2.
14 On the bottom, there are -- there is a spot for
15 two signatures?
16 A That's correct.
17 Q Viola Herms Drath and Albrecht Gero Muth?
18 A Yes.
19 Q And that would indicate that it was an addendum
20 to something else that was signed by both of them. Is
21 that fair?
22 A I don't know if that would indicate it was an
23 addendum to anything. I don't see an addendum,
24 attachment or anything attached to this participate.
25 Q Well, we will get to that later. But, anyway

1 the will is signed solely by Ms. Drath, right, aside
2 from the notary in that business?
3 A Besides from the two witnesses and the notary,
4 yes, Ms. Drath.
5 Q As would be typical for a will, right? I mean,
6 it's your property -- or it's your will, so you sign
7 it, you, whoever the --
8 A If that's what the rules are. I'm not sure.
9 Q All right. And a will wouldn't be signed by
10 someone whose property is not being willed?
11 MR. KIRSCHNER: Objection.
12 THE COURT: I think we're probably beyond this
13 officer's expertise.
14 BY MS.PAGE:
15 Q Now, I want to get -- I will get back to the
16 signed copy of the letter later. But, anyway, you
17 have no idea, based on your conversation with Witness
18 4 or with anyone else, what the other arrangements
19 were that are mentioned in the will?
20 A In this will?
21 Q In the four-page will -- four pages of the will?
22 A Right. No.
23 Q And this four pages, you testified, is not the
24 complete will. It's a portion of it?
25 A It's a portion of it, yes.

1 Q Did MPD receive the entire will?
2 A Yes.
3 Q Is there anything else about Mr. Muth or his
4 inheritance or lack thereof in the portion of the will
5 that were not provided?
6 A From what I can remember, I don't believe it is.
7 Q And I presume that all of the pages of the will
8 were provided to the Government?
9 A Yes.
10 Q All right. Witness 5. You testified that
11 Witness 5 indicated that Witness 5, in 2001, had
12 traveled to Mr. Muth's house to see him and this is
13 the witness that you testified about the shoveling?
14 A That's correct.
15 Q When did you speak to Witness 5?
16 A Post-arrest.
17 Q And did Witness 5 come forward or was Witness 5
18 sought out?
19 A Came forward.
20 Q And Witness 5 did not report any of the
21 information that Witness 5 provided to MPD after the
22 arrest at the time of the incident?
23 A You're talking about early 2000, did he report
24 it then?
25 Q Whenever the incident was, yes.

1 A No.
2 Q Didn't intercede or do anything at all?
3 A Actually, he indicated that he had spoken to Mr.
4 Muth about his behavior with his wife.
5 Q But didn't report it to any authorities and
6 certainly didn't speak to Ms. Drath about it?
7 A Correct.
8 Q And this Witness 5, does Witness 5 speak German?
9 A That's what he told us.
10 Q He said that he understood the German
11 conversation?
12 A That's correct.
13 Q And so Witness 5 had translated what Witness 5
14 said Mr. Muth said?
15 A That's correct.
16 Q I see. Okay. And when was this incident,
17 according to Witness 5? I don't mean the exact date,
18 but the year, I guess.
19 A 2011, I believe. Earlier this year.
20 Q And so it's fair to say that at the time of this
21 incident, Ms. Drath was fairly elderly?
22 A Ninety-one.
23 Q At the time of the Witness 5 incident?
24 A In her 90s, yes.
25 Q And she was fairly frail?

1 A Actually, based on everyone that we have
2 interviewed, it's the total opposite. She was very
3 agile, could walk on her own, didn't have a problem
4 holding her balance and that's based on multiple
5 interviews of just about everyone we've met.
6 Q And those people that you've interviewed had
7 given you that information with respect to her
8 abilities recently?
9 A Recently. Yes.
10 Q And Witness 5, when Witness 5 said that,
11 according to Witness 5, Mr. Muth pushed her, shoved
12 her so hard that when you demonstrated you moved Mr.
13 Kirschner, who's certainly not frail, Ms. Drath was
14 not injured?
15 A Well, if she was injured, it wasn't reported,
16 but she had caught herself on the doorframe.
17 Q And Witness 5 also said that, according to
18 Witness 5, Mr. Muth requested or asked if Witness 5
19 could hack into Government files?
20 A Yes.
21 Q Is Witness 5 someone that one would think to ask
22 that question?
23 A Well, I could say that Witness 5 expressed to us
24 he was very skilled in the computer -- in the
25 computers.

1 Q And according to Witness 5, did Mr. Muth make
2 this request on the same day that he, according to
3 Witness 5, shoved his wife?
4 A Yes.
5 Q And Witness 5 indicated that Witness 5
6 declined?
7 A Yes, ma'am.
8 Q Witness 6. You testified that Witness 6 met
9 with Ms. Drath at her insistence in April of 2011?
10 A Correct.
11 Q And that was about her safety with respect to
12 Mr. Muth?
13 A Yes.
14 Q And also, according to Witness 6, Witness 6
15 indicated Ms. Drath was concerned about some other
16 Anti-American statements made by Mr. Muth?
17 A Yes, based on the witness.
18 Q And she also, according to Witness 6, asked
19 Witness 6 for help in getting Mr. Muth deported?
20 A Yes.
21 Q And she is also the per -- this person -- I'm
22 sorry -- is also -- Witness 6 also said that Ms. Drath
23 said that Mr. Muth was going to bomb Georgetown?
24 A That is correct.
25 Q And when did you speak to Witness 6?

1 A Post-arrest.
2 Q And did Witness 6 come forward or was Witness 6
3 sought out?
4 A Came forward.
5 Q And this information that Ms. Drath had provided
6 to Witness 6 -- well, do you know when in April 2011
7 this was, according to Witness 6?
8 A No, I don't. I'm sorry.
9 Q This information -- Witness 6 didn't do anything
10 with this information? Didn't call the police or
11 report it in any way?
12 A No.
13 Q And let me just ask: There has been two or
14 three witnesses that you testified that Ms. Drath
15 requested assistance in having Mr. Muth deported?
16 A Yes.
17 Q She did not request any other type of assistance
18 from these witnesses, just having him deported, right?
19 A I'm sorry. Repeat the question.
20 Q She didn't request of these witnesses that they
21 intercede on her behalf, that they call the police for
22 her, that they get him away from her. She requested
23 that they assist her in having him deported, according
24 to these witnesses?
25 A I believe getting him deported would be the same

1 as getting him away from her.
2 Q I guess that's true, but in a more immediate
3 sense. Witness 6 and I think it was the special agent
4 that you didn't number, neither one of those witnesses
5 indicated that she asked for immediate physical
6 assistance with Mr. Muth?
7 A No. Besides the deportation, no.
8 Q Okay. Let me go back. The special agent, how
9 is it that the special -- according to the special
10 agent, he or she came into contact with Ms. Drath.
11 And I guess what I'm asking is, how is it that she
12 thought to call this person as opposed to the police?
13 A Well, I believe I testified that they had
14 received a fax.
15 Q Okay. I'm sorry. So he followed up on the fax?
16 A Followed up on the fax in reference to the Wiki
17 Leaks.
18 Q All right. So he, in some way, contacted her to
19 follow up and then she provided him with the
20 information that she provided?
21 A That's correct.
22 Q Witness 6, the witness who met with -- who,
23 according to the witness, met with Ms. Drath in April
24 of 2011, to whom she also requested assistance in
25 getting Mr. Muth deported, how is it, according to

1 Witness 6, that they came to have this conversation or
2 that she would ask this person for this type of help?
3 A Because he -- she had known him and she
4 requested a meeting with him.
5 Q Known him personally, or is he in a position to
6 have people deported or --
7 A No.
8 Q All right. Witness 7. When did you speak to
9 Witness 7?
10 A Post-arrest.
11 Q And did you seek Witness 7 out or did Witness 7
12 come forward?
13 A We sought him out.
14 Q And did you seek him out based on information
15 that you had been provided by Mr. Muth, information
16 that had come from Mr. Muth?
17 A As well as another person, yes.
18 Q And the other person that provided you the
19 information, was that person someone that was -- whose
20 information was provided to you by Mr. Muth? Does
21 that make sense?
22 A Not really.
23 Q You sought out Witness 7, in part, because of
24 information provided by Mr. Muth and, in part, by
25 information that you received from someone else?

1 A That's correct.
2 Q The someone else that you received information
3 from, is that someone else a person that Mr. Muth made
4 you aware of?
5 A Yes.
6 Q And Witness 7 spent the evening with Mr. Muth on
7 August 11th, according to Witness 7?
8 A When you say spent the evening, a few hours
9 during the evening, yes.
10 Q And according to Witness 7, Witness 7 had met
11 Mr. Muth prior to this night?
12 A Yes.
13 Q And had spent time with him on a number of
14 occasions?
15 A At least -- yes.
16 Q Did you say three or did I make that up?
17 A I think you made that one up.
18 Q All right. And he and Mr. Muth had met on an ad
19 that Witness 7 had posted on Craigslist?
20 A That is correct.
21 Q And what was the ad about? I mean, what was the
22 -- What was the ad about?
23 MR. KIRSCHNER: Objection. Relevance.
24 THE COURT: Sustained.
25

1 BY MS.PAGE:
2 Q All right. And Witness 7 indicated that they
3 had gone to three locations on that night, the 11th?
4 A Yes, ma'am.
5 Q And Witness 7 indicated that Witness 7 does not
6 drink alcohol at all?
7 A That's correct.
8 Q And according to Witness 7, at the first place
9 that they went, which I believe you said Witness 7
10 said it was between 6:00 and 6:30, that place was a
11 public place?
12 A Yes.
13 Q And Mr. Muth, according to Witness 7, was not --
14 was drinking a non-alcoholic beverage?
15 A At the first place, yes.
16 Q Okay. And at the second location, was that a
17 private or a public location?
18 A It was another public location.
19 Q And when you say "public," do you mean like a
20 bar?
21 A Yes, like a bar. Hotel, bar.
22 Q And at that place, according to Witness 7, Mr.
23 Muth drank what the witness said could have been rum,
24 but he knew it was an alcoholic drink?
25 A That's correct.

1 Q One?
2 A One.
3 Q And then at the third location, that was a
4 private location?
5 A Yes.
6 Q And did Witness 7 say how they got from place to
7 place?
8 A I believe he met Mr. Muth at the first location
9 and I believe they walked or biked. I don't believe
10 it was a car, but somehow they manually got to the
11 second location. I believe the third location, I want
12 to say a cab, but I'm not 100 percent sure, but I
13 think it was a cab.
14 Q All right. And the third location was a private
15 home?
16 A Yes, it was.
17 Q And there were, apparently, other people besides
18 Mr. Muth and Witness 7 at this private home?
19 A Yes.
20 Q Did you speak to those other people?
21 MR. KIRSCHNER: Objection.
22 I'll withdraw.
23 THE WITNESS: Yes.
24 BY MS.PAGE:
25 Q All of them?

1 A Yes.
2 Q Did any of those people provide information that
3 is inconsistent with what Witness 7's information was
4 about what happened in the home?
5 A No.
6 Q Was it consistent with what Witness 7 had said?
7 A It was consistent, yes, ma'am.
8 Q And according to Witness 7, Mr. Muth was
9 drinking and was, I guess, according to the witness,
10 being obnoxious at that point, at the third location?
11 A Yes, ma'am.
12 Q And according to Witness 7, Mr. Muth grabbed
13 another guest?
14 A Yes.
15 Q Did you speak to that guest that was supposedly
16 grabbed?
17 A Yes.
18 Q And did that guest indicate that they had been
19 grabbed?
20 A At the time we didn't know about -- no, he did
21 not.
22 Q Okay. So let me be clear. You spoke to the
23 person that Witness 7 said Mr. Muth grabbed?
24 A First.
25 Q Before you spoke to Witness 7?

1 A That's correct.
2 Q And I presume that you asked this person what
3 had happened?
4 A Yes.
5 Q And that person never said anything about having
6 been grabbed?
7 A Not having been grabbed, no.
8 Q But they told in detail their version of
9 whatever it was that they say happened that night?
10 A Yeah. The belligerency, the insistency. Yes.
11 Q Okay. All right. And, then, according to
12 Witness 7, he and Mr. Muth walked home to Mr. Muth's
13 house?
14 A To Ms. Drath's house, yes.
15 Q To 3206 Q?
16 A Yes.
17 Q And it was just the two of them?
18 A Yes.
19 Q All right. And Witness 7 saw Mr. Muth enter
20 through the basement door and that's the end of that
21 for the night?
22 A That's the -- for the night, yes, ma'am.
23 Q And then, according to Witness 7, who contacted
24 who the next day?
25 A I believe the witness contacted Mr. Muth.

1 Q Did the witness indicate how he contacted Mr.
2 Muth?
3 A I believe it was via e-mail.
4 Q And that's when he said -- Witness 7 said
5 something to the effect of I can't be around you if
6 you're drunk?
7 A If you're going to be drunk like that, yes.
8 Q And according to Witness 7, Mr. Muth responded
9 that he didn't remember what happened the night
10 before?
11 A Correct.
12 Q Or something to that effect?
13 A Or something to that effect. I don't know the
14 exact wording.
15 Q And that was also via e-mail?
16 A Yes.
17 Q Did Witness 7 indicate what time this e-mail
18 back and forth happened the next day?
19 A It did, but I just don't recall when it was.
20 But I believe it was before noon, but I'm not 100
21 percent sure.
22 Q And just so I'm clear, the next day that we are
23 talking about that this e-mail back and forth happened
24 is the day that 911 was called and Ms. Drath's body
25 was discovered; is that right?

1 A If that's the first of August, that's correct.
2 Q And the night -- the night that they went to the
3 three separate locations was the 11th?
4 A Yes.
5 Q And so to the best of your recollection, this
6 email conversation happened later in the morning --
7 late in the morning?
8 A Now that I think about it, I don't want to be
9 stuck with a specific timeframe. I just know it
10 was -- it was the next day. I'm not sure what time it
11 was, but it was definitely the next day.
12 Q Was it after the 911 call?
13 A Again, I don't -- without seeing -- I don't
14 recall.
15 Q And are those e-mails something that you've
16 seen?
17 A Yes.
18 Q And you preserved?
19 A We have them, yes.
20 Q All right. Witness 8. Witness 8 is the person
21 that claims they sold drugs to Mr. Muth?
22 A That is correct.
23 Q When you said that they said that they --
24 Witness 8 sold narcotics, did Witness 8 indicate what
25 type of narcotics Witness 8 sells?

1 MR. KIRSCHNER: Objection. Relevance.
2 THE COURT: Overruled.
3 THE WITNESS: I know meth. I believe it was
4 meth and crack cocaine, I think.
5 BY MS. PAGE:
6 Q And Witness 8 was arrested for distribution of
7 one or both of those things when Witness 8 was talking
8 to you all about this information?
9 A He was arrested on a drug charge. I don't
10 recall if it was distribution or possession or what,
11 but it was a drug charge, yes.
12 Q When was Witness 8 arrested on this drug
13 charge --
14 A I don't know.
15 Q -- after Mr. Muth was arrested?
16 A I believe he was already incarcerated when Mr.
17 Muth was arrested. I believe.
18 Q Did you speak to Witness 8?
19 A Yes.
20 Q Where was Witness 8 when you spoke to Witness 8?
21 MR. KIRSCHNER: Objection. Relevance.
22 THE COURT: Overruled.
23 THE WITNESS: On the B-1 level of 555 4th
24 Street, Northwest.
25

1 BY MS. PAGE:
2 Q So Witness 8 would have been incarcerated in
3 order to be brought to the B level to speak to you?
4 A Yes.
5 Q And did Witness 8 come forward or did you all
6 seek Witness 8 out?
7 A Witness 8 came forward.
8 Q And did Witness 8 ask for some sort of deal in
9 connection with his information?
10 A He requested assistance, yes.
11 Q In the form of -- well, what kind of assistance?
12 A Assistance to get him out of jail if he provided
13 the truthful information.
14 Q And was Witness 8 promised assistance if he
15 provided truthful information?
16 A I believe he was told that the Government would
17 represent that truthful information was provided and
18 they would try to assist him. I don't know it was
19 considered a promise, but I know they said they would
20 try to help him.
21 Q Okay. Was Witness 8 pending pretrial or pending
22 sentencing, do you know?
23 MR. KIRSCHNER: Objection.
24 THE COURT: Overruled.
25 THE WITNESS: I believe serving a sentence, but

1 I'm not 100 percent sure.
2 BY MS. PAGE:
3 Q So Witness 8 was asking that the Government help
4 him undue something that had already been done in
5 terms of his sentence.
6 A If it was sentencing. Like I said, I'm not sure
7 if he was pending or serving sentence, but he had
8 requested assistance, based on his information.
9 Q And did Witness 8 indicate how it was that
10 Witness 8 decided to seek out this assistance, decided
11 to come forward?
12 A You mean how?
13 Q How he knew that this was an issue, Mr. Muth was
14 an issue?
15 A I don't think I understand the question. I
16 don't understand the question.
17 Q Did he read about it in the news and decide to
18 come forward or what? Do you know?
19 A I believe he saw Mr. Muth over at the jail.
20 Q Okay. And according to this witness, Mr. Muth
21 had interacted with him over decades in Dupont Circle?
22 A Decades, over ten years, I guess, yes.
23 Q Did you say since the '90s?
24 A Yes.
25 Q And according to this witness, Mr. Muth would

1 purchase narcotics from this witness how often?
2 A Plenty of times. I'm not sure if it was daily
3 or weekly, but plenty of times over a course of years.
4 Q Is this person someone that MPD knows to have
5 sold narcotics in Dupont Circle for ten years?
6 A Yes.
7 Q And according to Witness 8, Mr. Muth would be
8 with young men when he came by?
9 A Yeah, white males. Yes.
10 Q All right. And according to this witness, it
11 was in March or April of 2011 when Mr. Muth asked him
12 this stuff about robbing the B?
13 A Yes, ma'am.
14 Q And this person indicated that he -- did this
15 person -- did Witness 8 indicate that he declined to
16 rob her?
17 A Yes.
18 Q Did this witness -- did Witness 8 indicate what
19 the point would have been of robbing her? Or did this
20 witness -- Did Witness 8 indicate that Mr. Muth had
21 given any reason for robbing?
22 A Beside what I testified to earlier about the
23 money issue, he -- Mr. Muth purported to be sexually
24 abused by his stepmother, who Mr. Muth described Ms.
25 Drath as.

1 Q And so Witness 8 was under the impression that
2 Ms. Drath was Mr. Muth's stepmother?
3 A Based on what Mr. Muth reported to him, yes.
4 Q Is Witness 8 someone that is known by MPD to rob
5 people?
6 A I have no knowledge. I don't know.
7 Q The conversation that Witness 8 reported having
8 had with Mr. Muth after the murder, when did Witness
9 8 -- did Witness 8 report this conversation at the
10 same time Witness 8 reported the information about the
11 narcotics and the robbery?
12 A Yes.
13 Q And was Witness 8 spoken to once or more than
14 once by you all?
15 A Twice.
16 Q And -- but all the information that you
17 testified to that Witness 8 provided was in one of the
18 meetings?
19 A It was in one of the meetings, then confirmed in
20 a second meeting or retold to us in a second meeting.
21 Q Did Witness 8 provide any inconsistencies in
22 Witness 8's version at the two meetings?
23 A No, ma'am. Very consistent.
24 Q And Witness 8 indicated that he had had a
25 conversation with Mr. Muth after the murder, right?

1 A Yes.
2 Q When did Witness 8 say this conversation was?
3 A I'm not sure of the arrest date. It would have
4 been after he got to D.C. jail.
5 Q So according to Witness 8, this conversation
6 happened at the jail?
7 A Yes.
8 Q About what Witness 8 said -- well, Witness 8
9 says that Mr. Muth told Witness 8 that Ms. Drath
10 slapped him and either all hell broke loose or he lost
11 control or something to that effect?
12 A I believe it was the last part, he lost control,
13 but yes.
14 Q And according to Witness 8, this conversation
15 happened at the jail?
16 A Yes.
17 Q And according to Witness 8, who initiated this
18 conversation?
19 A Mr. Muth.
20 Q Mr. Muth just walked up to Witness 8 and said
21 this?
22 A It was described that Mr. Muth likes to talk,
23 keeps talking, so the witness said he listened.
24 Q And was there -- okay. All right. And Witness
25 9 --

1 THE COURT: Ms. Page, can I ask you this: I
2 think we probably need to give the court reporter a
3 break and it's lunchtime now as well. You have a sense
4 of maybe how much longer, because I just have one other
5 matter to schedule around this.
6 MS. PAGE: I haven't even started with my
7 questions that I knew I was going to ask. This was all
8 the stuff that came up after the affidavit, so I don't
9 know.
10 THE COURT: Then, let's do this: Let's return
11 at 2:10. We will resume at that time. I think we will
12 call the parties in the other matter and have them come
13 in at a somewhat later time.
14 (The proceedings adjourned at 1:06 p.m.)
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1 CERTIFICATION

2 I, MARGARY F. ROGERS, an Official Court
3 Reporter for the Superior Court of the District of
4 Columbia, do hereby certify that I reported by machine
5 shorthand, in my official capacity, the proceedings had
6 and testimony adduced, upon the Preliminary Hearing in
7 the case of the ***UNITED STATES OF AMERICA v. ALBRECHT***
8 ***MUTH, Criminal Action No. 2011-CF1-15683*** in said Court
9 on the 9th day of September, 2011.

10 I further certify that the foregoing 90 pages
11 constitute the official transcript of said proceedings,
12 as taken from said shorthand notes, my computer
13 realtime display, together with the audio sync and tape
14 recording of said proceedings.

15 In witness whereof, I have hereto subscribed
16 my name, this 30th day of September, 2011.

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20 OFFICIAL COURT REPORTER

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