

1           A     Yes, I did.

2           Q     All right. And if you would, tell the Court how it  
3 is you go about trying to track the location of the cellphone  
4 in this case.

5           A     Okay. It varies by case. But specifically for this  
6 incident we made contact with the provider, who was Verizon  
7 wireless. They were able to provide us with the tower, the  
8 cellphone tower or cell site for which that handset is  
9 currently registered and communicating with. In addition,  
10 they are able to provide us with a distance from that tower,  
11 an approximate distance. But we're able to use that to define  
12 a general area that that handset will be located.

13           From that point, we will take equipment that is meant to  
14 intercept the radio signals emanating from that device and  
15 provide us some direction finding capabilities and allow us to  
16 basically walk to the device, to the handset.

17           Q     Okay. So if I understand you correctly, you're  
18 indicating that you find out, you knew who the provider was --  
19 Verizon?

20           A     Yes.

21           Q     You contact Verizon. And did they give you some  
22 information as to whether or not that cellphone is using any  
23 towers in the area?

24           A     Correct.

25           Q     All right. And when you said an approximate

1 distance from the tower, is that information that you got from  
2 Verizon that -- that would indicate how far away from the  
3 tower the actual cellphone was being used?

4 A That's correct.

5 Q Okay. And when we say used, does that mean somebody  
6 is actually using it, or does it just need to be on?

7 A It varies by provider. But, for this case, the  
8 handset merely needed to be on and registered and they were  
9 able to determine that distance.

10 Q Okay. And then I think you've indicated that you  
11 have some sort of device that you use that can intercept radio  
12 signals?

13 A That's correct.

14 Q Okay. How does that work?

15 A In essence, we emulate a cellphone tower. So just  
16 as the phone was registered with the real Verizon tower, we  
17 emulate a tower; we force that handset to register with us.  
18 We identify that we have the correct handset and then we're  
19 able to, by just merely direction finding on the signal  
20 emanating from that handset -- we're able to determine a  
21 location.

22 Q Okay. And what kind of training were you provided  
23 in the use of this equipment?

24 A The manufacturer of the equipment provides  
25 approximately a six-day training program. In addition to that

1 I attended numerous classes on the use of cell phones and  
2 various communications, communication items for locating  
3 persons.

4 Q Okay. And are there any quality assurance things  
5 that are in place? I mean how do you know the equipment is  
6 working properly when you're using it?

7 A Well, it's very difficult to say quality assurance.  
8 The -- in hundreds of uses the equipment has proven completely  
9 reliable. The equipment will basically decode information  
10 from the handset and provide certain unique identifying  
11 information about the handset, being a subscriber identity and  
12 equipment identity.

13 The equipment provides that to us. We compare that with  
14 the information provided from Verizon to insure that we are  
15 looking at the correct handset. Once we know that that  
16 information is correct, then the location of that becomes  
17 simply a matter of detecting where the signal is the  
18 strongest. And it's a matter of getting closer and closer.

19 Q And when you say the handset you're referring to the  
20 cellphone that you're attempting to locate through the use of  
21 basically forcing that cellphone to come to your equipment  
22 rather than going to a tower that it normally would?

23 A That is correct.

24 Q And is that -- what information do you put into your  
25 equipment that will lead that signal to be transferred to your

1 equipment, versus going to the tower?

2 A Well, the equipment -- or the information that we  
3 would put in would be that unique subscriber identity and  
4 unique equipment identity, a serial number and a subscriber  
5 identity --

6 Q -- of the cellphone you're looking for?

7 A Of the cellphone we're looking for, which would be  
8 the victim's cellphone. We put that information into the  
9 equipment. And as the equipment is evaluating all the  
10 handsets in the area, when it comes across that handset -- the  
11 one that we're looking for, for the information that we put  
12 into the box -- then it will hang onto that one and allow us  
13 to direction find at that point.

14 Q And is that subscriber information and that serial  
15 number unique to the telephone that you're actually trying to  
16 find or track?

17 A In the case of a Verizon phone, the serial number is  
18 unique to the physical handset. The subscriber identity is  
19 unique to that handset, so long as that handset is registered  
20 to the account. The subscriber identity can be changed;  
21 that's how we're able to port our phone numbers. You can go  
22 from one carrier to the next.

23 So that number can change over time. The serial number  
24 is always unique to that specific handset.

25 Q Okay. And you had information that -- you had

1 information that linked the serial number that you diverted to  
2 your equipment actually belonged to the victim in this case.

3 Is that correct?

4 A That is correct.

5 Q All right. Okay so what were the results of your  
6 attempts to track this phone?

7 A We were, after some time based upon the environment  
8 there -- we were able to locate the phone, or to actually  
9 capture the phone to begin with and then a relatively lengthy  
10 process of determining exactly where that signal was emanating  
11 from.

12 Using portable equipment we were able to actually  
13 basically stand at every door and every window in that complex  
14 and determine, with relative certainty you know, the  
15 particular area of the apartment that that handset was  
16 emanating from.

17 Q Okay. Now you started off by saying based on the  
18 environment. What do you mean by that?

19 A Just the apartment complex.

20 Q Okay.

21 A Being multi-story, with the way it's configured.

22 Q Okay. So and then you used the phrase you captured  
23 the phone. That means that after putting that information  
24 into your equipment you were able to direct the signal from  
25 the tower to your equipment?

1           A     That is correct.

2           Q     And that being the phone -- that was the serial  
3     number that belonged to the handset of the victim in this  
4     case. Is that correct?

5           A     That is correct.

6           Q     All right. And you said it was a lengthy process.  
7     Did that mean finding the apartment complex in general, or  
8     finding the actual location at the apartment complex?

9           A     Really finding the complex was the difficult part,  
10    just that signal, getting it to emanate outside of the  
11    apartment complex. We actually worked during the day and it  
12    was actually later into the evening when there was less  
13    interference around, less other traffic around that our  
14    equipment was able to detect the handset. Once we were able  
15    to detect it and get close to it, then it became very simple  
16    at that point.

17          Q     Okay. And what, if any, time constraints are there?  
18    when you're in this case you're talking about Verizon and as  
19    long as the phone is on, you're able to utilize the technique.  
20    Correct?

21          A     Correct.

22          Q     Are there time restraints on how effective this is  
23    going to be or before you might lose your potential to find  
24    this evidence?

25          A     Certainly. In the case of a victim phone, victim

1 handset being taken, there is not an apparent ability to  
2 charge the handset so the battery going dead for us is always  
3 a concern. Additionally, once the equipment comes into play  
4 and we capture that handset, to make locating it easier, the  
5 equipment forces that handset to transmit at full power.

6 Again, that's why I say once we capture it, it becomes  
7 much easier to specifically locate.

8 So we're forcing that handset to transmit at full signal,  
9 consuming battery faster, in an effort to help us locate that  
10 handset. So it going dead would -- that battery dying would  
11 essentially end our ability to locate it.

12 Q Okay. And you mentioned earlier that you were able  
13 to eventually locate or track the signal from this cellphone  
14 to an apartment complex. Is that correct?

15 A That is correct.

16 Q And what was the name of the apartment complex?

17 A 2060 Continental, Berkshire Manner, if I recall  
18 correctly.

19 Q All right. And what exactly did you do to narrow it  
20 down, once you got to the apartment complex?

21 A Again, using portable equipment, quite literally  
22 stood in front of every door and window measuring, determining  
23 that direction of where that signal was emanating from and  
24 contacting investigators, and advised them that we had an  
25 apartment.

1 Q Okay. And what apartment was that?

2 A I don't recall the specific number (inaudible)  
3 recall the specific door number, Apartment number.

4 Q Okay. Once you located the apartment then, did you  
5 let the other investigators take over?

6 A Yes, I did. I pointed out the specific apartment  
7 that I identified to them as they arrived and remained close  
8 by as they continued the investigation.

9 Q Do you have a recollection or do you have anything  
10 in your notes that would indicate what time it was when you  
11 located the apartment that you believe the cellphone would be  
12 in, based on your tracking of it?

13 A When we first identified the apartment it was  
14 probably approximately 1:00 to 2:00 a.m. I'm not sure if I  
15 have anything in my notes specifically, to that. I know that  
16 we returned to the area sometime around midnight and located  
17 it shortly thereafter.

18 Q Do you have any idea how much time elapsed between  
19 the time of the sexual assault in this case and the time you  
20 tracked the phone to the apartment complex?

21 A If I recall, the sexual battery occurred early,  
22 early Saturday morning -- you know, late, late Friday night  
23 into Saturday morning. And it was now early Sunday morning  
24 when we had actually located a handset.

25 Q Okay. Was time becoming of the essence to you

1 all --

2 A Yes.

3 Q -- based on what you have already testified to about  
4 not having the ability to necessarily recharge the phone or  
5 know someone was recharging it --

6 A Absolutely.

7 Q -- and the drain of power that would be on the phone  
8 based on your directing, I guess, it to your equipment?

9 A That's correct.

10 Q And you did not actually enter the residence; is  
11 that correct? I think you said the other investigators took  
12 over at that point. Is that correct?

13 A That is correct.

14 Q And was it your belief, based on your training and  
15 experience as both an officer and that equipment, that you  
16 believed the property of the victim of that sexual assault to  
17 be at the residence where you tracked that cellphone to?

18 A That is correct.

19 MS. RAY: I have nothing further.

20 THE COURT: Cross?

21 MR. SHIPPY: Yes, Your Honor. Thank you.

22 CROSS-EXAMINATION

23 BY MR. SHIPPY:

24 Q Good afternoon, sir.

25 A Good afternoon.

1           Q     I may have missed it, but how long have you been  
2 with the Tallahassee Police Department Technical Operations  
3 Unit?

4           A     The Technical Operations Unit, a little over five  
5 years. I've been with the police department since '95.

6           Q     Is it a requirement in order for the equipment, that  
7 apparently TPD has purchased, to track a cellphone that the  
8 cellphone be turned on?

9           A     The cellphone does have to be powered on for us to  
10 be able to actively locate the handset. And it's not -- the  
11 Tallahassee Police Department is not the owner of the  
12 equipment.

13          Q     And it's a technical question, but bear with me.  
14 When we say turned on, that means the battery still may  
15 be full, but if I turn the phone off then the equipment that  
16 you're utilizing doesn't work. Is that correct?

17          A     That is correct.

18          Q     And as long as the cellphone is turned on and as  
19 long as there is power where the battery has power, I guess  
20 then you're able to track the cellphone?

21          A     Generally speaking, yes. As long as the handset is  
22 on, then you know we have the ability to attempt to track it.

23          Q     And for how long has the Tallahassee Police  
24 Department been utilizing this equipment?

25          A     If I recall, it was March. Spring of '07 is when we

1 first started utilizing the equipment, if I remember properly.

2 Q Are you the person within the Department who  
3 primarily utilizes the equipment?

4 A Yes, I am.

5 Q In your estimation, since the spring of 2007, how  
6 many times have you utilized the equipment to locate a  
7 particular cellphone?

8 A Probably, I could answer specifically. But off the  
9 top of my head, probably in the 200 or more times.

10 Q And in those 200 or more times, what have you found  
11 to be the level of reliability as to the accuracy of the  
12 equipment?

13 A Truthfully at this point, 100 percent.

14 Q Does the equipment undergo any sort of maintenance  
15 or anything of that nature, similar to what we're -- similar  
16 to what we experience in the DUI machines?

17 A There is not maintenance, per se. The equipment is  
18 under a maintenance contract. The software is periodically  
19 updated. The equipment performs self calibration, but there  
20 is not a specific maintenance schedule for it.

21 Q Would it be -- if this is a good way to phrase it --  
22 similar to if my car is running okay, it's continuing to run  
23 okay?

24 A Yes, for the most it's -- you know, it works or it  
25 doesn't. And as long as everything is functioning properly

1 all the process that goes on insures the reliability.

2 Q And the proprietary nature of the equipment is that  
3 it allows you to stand in the place of the service provider.  
4 Is that correct?

5 A That's correct.

6 Q In this instance you picked up the signal from the  
7 cellphone. That is correct?

8 A Yes.

9 Q When you initially do that, are you doing that from  
10 the Tallahassee Police Department or some other location?

11 A No. We have to be within close proximity of the  
12 handset to capture it.

13 Q That's where Verizon then first comes in, that  
14 they're providing you some information as to what tower it's  
15 close to?

16 A That is correct.

17 Q Then you go to some general vicinity/location,  
18 operate your equipment, and then that's when you then hone  
19 your location?

20 A That is correct.

21 Q And in this instance, although you weren't able to  
22 recall the apartment number, if I was to tell you that it was  
23 Apartment 251 at Berkshire Manor Apartments, would you agree  
24 with that?

25 A I would. I actually have it written down on a note.

1 Yes, 251.

2 Q All right. And how much time in your memory elapses  
3 from when you get to the general vicinity, to the point where  
4 you have actually located a specific apartment? What's your  
5 best case estimate in this case?

6 A In this case, we actually -- I actually worked  
7 several hours to attempt to capture the phone, initially. So  
8 from the time that -- the time that we actually captured the  
9 handset the first time, then I know that I'm relatively close  
10 to it. That was from a vehicle-based system.

11 At that point, then we know that we're close. We use the  
12 vehicle-based system to help give us an area of the apartment  
13 complex. And at that point we switch over to a hand held  
14 device. With a hand held device it took really approximately  
15 -- I would say really no more than 20 to 25 minutes, maybe 30  
16 minutes to confidently determine the apartment. And we  
17 continue to, you know -- continually check that and measure  
18 that and continue to confirm that. But from the initial  
19 determination, probably 25 to 30 minutes.

20 Q And if I understood your testimony on direct  
21 examination, your best estimate is that may have been  
22 somewhere in the neighborhood of 1:00 to 2:00 in the morning,  
23 on that Sunday morning?

24 A I as I recall, yes. I basis that again on having  
25 gone home for a little bit and coming back out as I recall,

1     shortly after midnight and then working from that point.

2           Q     And at that point in time, do you pass it on to the  
3     primary investigating officer in the case?

4           A     Yes.

5           Q     Would you pass that information on, to Investigator  
6     Wester?

7           A     He was present; Investigator Suleski was present.  
8     Several ended up responding to the scene at that point. I  
9     believe that Sergeant Adams was present as well, and that  
10    information was provided to numerous people.

11          Q     Were you present when contact was made with the  
12    occupants of Apartment 251 at Berkshire Manor Apartments?

13          A     I was present, close by.

14          Q     What is your memory with respect to how much time  
15    elapsed from the point when you know you've got the apartment  
16    where the cellphone is in, versus someone arriving at the door  
17    and knocking on it. How much time elapses between those two?

18          A     It's very hard for me to recall. I know that there  
19    was discussion as far as tactics and techniques that would be  
20    employed. But I was waiting for a supervisor to arrive on  
21    scene, waiting for sufficient officers to arrive on scene.  
22    But I don't recall that being more than you know, maybe an  
23    hour or two at most.

24          Q     What were the techniques that were discussed while  
25    you were deciding what it is you're going to do to do after