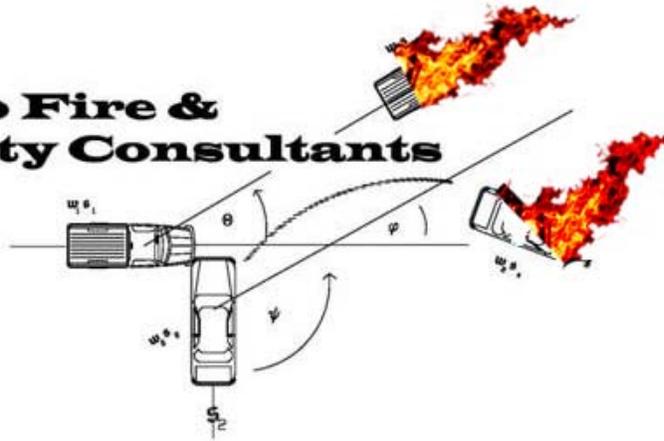


**Auto Fire &  
Safety Consultants**



Preliminary

Relative to the Matter of  
*Roxana Regaldo Harrison and Joseph Santellana Individually and  
as Representative of the Estate of Jonathen Santellana vs. CH  
Condominiums GP, LLC and Rey Garza*

**AFSC File: 15120**

November 6, 2015

Prepared for:

George K. Farah

The Law Offices of Guerra and Farah, PLLC  
4101 Washington Avenue, 3<sup>rd</sup> Floor  
Houston, Texas 77007  
713-529-6605

Date of Shooting:

November 13, 2013

17:00 hours

Location:

8727 Point Park Dr.

Houston, Texas

Villages of Copperfield Apartments  
CH Condominiums GP

# Jonathen Santellana

George K. Farah of The Law Offices of Guerra & Farah, PLLC, contacted the undersigned to evaluate and reconstruct a fatal shooting that occurred on November 13, 2013 at approximately 5:05 pm. The fatal shooting occurred at the Villages of Copperfield apartment complex located on 8727 Point Park Drive, Harris County, Texas.

Mr. Cope will testify with regard to the reconstruction of this fatal shooting. The evaluation and reconstruction will encompass a discussion of the events leading up to, during, and after the fatal shooting of Jonathen Santellana by Rey Garza. Mr. Cope is being compensated for his services at the rate of \$225.00 per hour.

## SHOOTING FATALITY TIMELINE

On November 13, 2013, at approximately 5:05 pm, Rey Garza, a courtesy officer at the apartment, not on duty and wearing a t-shirt with gray gym shorts was driving his personal 2007 Dodge Magnum where he parked it next to a car driven by Jonathen Santellana. Mr. Garza parked in front of his apartment 1015, building 10, next to the white Chevrolet Malibu, near building 19, which has 24 units, and is in front of building 19. Mr. Garza saw a white male whom he did not recognize walking down the stairs away from building 19. The white male was holding something in his hands and looking down at an unidentified object. The white male came from building #19. Mr. Garza crossed paths with Jonathen Santellana on the sidewalk, as he was going to his apartment. Jonathen was returning to his car. Because of seeing Jonathen carrying an unknown object while walking on the sidewalk, Mr. Garza went to his apartment and retrieved his firearm. Mr. Garza never communicated with Jonathen Santellana while on the sidewalk.

Mr. Garza testified he is 280 lbs. and six feet, three inches tall. Jonathen Santellana was 180 lbs. and five feet, nine inches tall. Mr. Garza stated that Jonathen did not seem dangerous to him. Jonathen Santellana did not seem scary, intimidating or threatening (Page 111, Rey Garza's deposition). Mr. Garza did not see Jonathen enter the white Chevrolet Malibu parked next to his personal vehicle. Jonathen entered the driver's seat of the white Chevrolet Malibu, where the white female, Kalee Marsteller was seat in the front passenger seat, with the engine running. Mr. Garza then walked along the passenger side of his vehicle between the two-parked vehicles. Mr. Garza glanced in the white Chevrolet Malibu as he walked past and observed the white male holding a prescription bottle. Mr. Garza stated the driver appeared to Mr. Garza, to be placing a green leafy substance into the top of the bottle. The driver's side window was in the closed position (Page 118, Rey Garza's deposition). Mr. Garza then alleged he displayed his badge and police identification, saying "Police, step out of the car" (Page 119). Mr. Garza alleged that the driver of the Chevrolet Malibu was attempting to start his car. Mr. Garza alleged he opened the unlocked driver's door. Mr. Garza further testifies he then reached inside the vehicle with his right hand to get the ignition keys. His firearm was in the holster in the pocket of his gym shorts, and alleged his badge was in his left hand. He then placed the badge back in the shorts having both hands free (Page 122). Mr. Garza testifies he is between the door and his car, as he fired 4-5 rounds from his Glock 40 caliber automatic, before the car exited the parking space (Page 123).

## Jonathen Santellana

As the white Chevrolet Malibu is reversing and turning left, Mr. Garza alleges he removed his arm from the interior, drawing his firearm from the holster in his pocket and firing 4-5 times before the white Chevrolet Malibu was completely out of the parking space (the 10 feet from the driver's door to the end of the parking space).

The first round fired from Mr. Garza's gun penetrated the rear passenger side window (Page 140). Mr. Garza then alleges he fired a second shot while being crushed, split second after the first shot, while the white Chevrolet Malibu is still backing out of the parking space. Mr. Garza testified that he aimed at Jonathen Santellana through the rear back driver's side and that he could not see where he is shooting, just shooting at him (Page 142). Every shot is during the time Jonathen is backing out of the parking space, between 4-5 shots (Page 144). Mr. Garza never checked on Jonathen Santellana or provided and any type of medical assistance, as he lay bleeding, on the surface of the parking lot.

According to one of the two eye witnesses, Jonathen Santellana was walking from the area of building 19 along the sidewalk to his parked 2000 white Chevrolet Malibu, VIN 1G1ND52J7Y6227393, located on the premises of 8727 Point Park Drive in Harris County, Texas. A female passenger, Kalee Marsteller, one of two eyewitnesses, was located in the front passenger seat of the stationary vehicle with the engine running. Rey Garza employed at the Villages of Copperfield as a Courtesy Officer and was unknown to Eyewitness Kalee Marsteller. Mr. Garza approached Jonathen Santellana's white Chevrolet Malibu wearing his gym clothes and sandals. Mr. Garza was carrying his off duty holstered Glock model 27, 40-caliber service pistol in his hands, according to eyewitness Kalee Marsteller. When Kalee first noticed Mr. Garza, he was beside their car, banging on the driver's side window with a gun in his right hand, demanding they open the door (Page 27 Kalee Marsteller's deposition).

AFSC can estimate with a reasonable degree of scientific certainty that it takes 1-2 seconds to back out of the parking space (that is 1001, 1002). It is not reasonable to believe a person that is 6ft. 3 in., weighing 280 pounds, fits in the space between the door and the driver's seat to get the ignition keys with his right hand while placing the gun and badge in the pockets of his shorts within this time frame. The six shell casings documented by investigating officers and shown in Photograph 2 were not fired from a 40 Caliber Glock in the area between Mr. Garza's car and the white Chevrolet Malibu, based on testing of this type of firearm at AFSC. Firing all shots while pinned between the Dodge and the Malibu is scientifically incorrect, based on time and location of the six casings from Mr. Garza's weapon.

Please note: the parking space for the white Chevrolet Malibu is 16 ft. by 9ft. The white Chevrolet Malibu is 15.87 ft. by 5.78 ft., the difference in width is 3.22 ft. or 1.6 ft. (18 inches) on the sides, depending on the exact location, which was not documented by investigating officers. The door of the white Chevrolet Malibu is only about 10 ft. from the end of the parking space. If the white Chevrolet Malibu is rapidly accelerating from the space, as testified to by Mr. Garza, for an example, at 5 mph, that's 7.33 feet per second, at 10 mph, that's 14.66 feet per second, 15 mph would be 21.99 fps, peeling out. Mr. Garza has alleged there was possible damage to the passenger side of his Dodge vehicle because of his being pinned by Jonathen's door, and the white car door damaged his vehicle as a result of this very small space.

# Jonathen Santellana

## SCENE INFORMATION AND DOCUMENTATION



Photograph 1

Aerial view of the location where Jonathen Santellana was fatally shot and killed.



Photograph 2

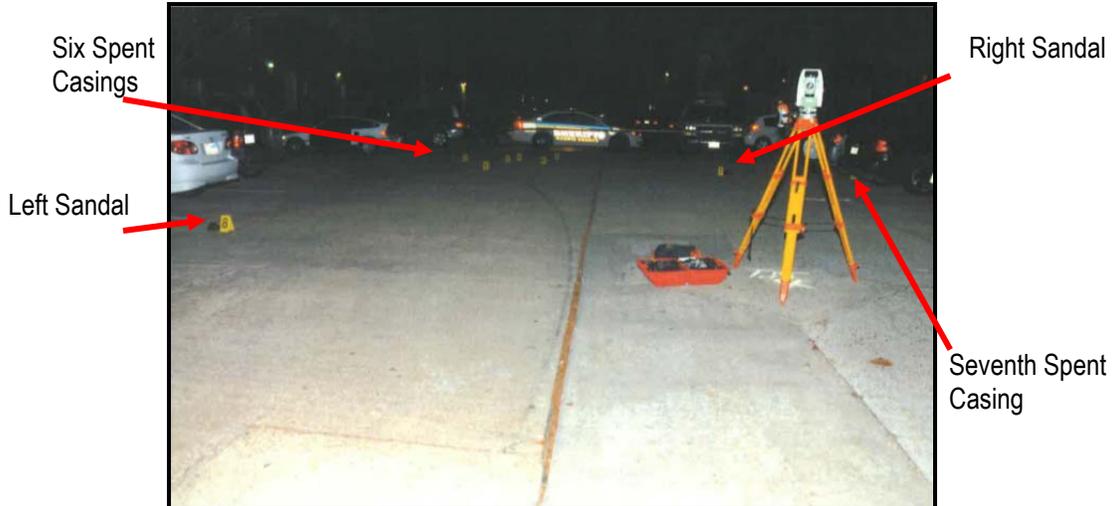
Six of the seven bullet casings identified, were found grouped in a relatively small area with regards to bullet casing ejection. Casing trajectory from semi-automatic pistols is typically to the right and slightly rearward of the firearm/shooter. This indicates that these six rounds were fired from a single approximate area and a single approximate direction, with only one casing in the area of the parking space.

# Jonathen Santellana



Photograph 3

A seventh casing was identified and located slightly rearward of the rear passenger wheel of a Dodge Magnum. The Chevrolet Malibu was parked to the right of this vehicle in the parking spot now occupied by another vehicle. This is the round that was most likely fired from the front of the vehicle, penetrating the upper driver's side "A" pillar. As Unit 1/Malibu was backing out, the officer removed the firearm from the holster, throwing it onto the windshield and firing from the driver's side front, not from the area between the door and the occupant.



Photograph 4

In total, seven bullet casings were identified and labeled as evidence. Six casings were grouped together and one was identified in a different location. The pair of sandals identified and found separated from each other. The six casings shown above could not have been fired from the car spaces on the right side of the photograph. These shots were fired from the middle of the parking lot at a vehicle that was exiting the parking lot.

# Jonathen Santellana

## VEHICLE DOCUMENTATION

Unit 1 is a 2000 model white Chevrolet Malibu. Unit 1/Malibu was inspected, documented and photographed on June 3, 2015. Projectile intrusion, as well as collision intrusion was identified and documented.



Photograph 5

The front end of Unit1/Malibu showed evidence of crush intrusion because of a frontal impact, as Jonathen was fleeing from the shooter in the parking lot of the apartment complex. The front driver's side of Unit 1 showed significantly more damage than the passenger side. The driver's side front wheel was pushed rearward during the impact and the driver's side front quarter panel was pushed rearward and upward. The front bumper was pushed upwards and rearwards and the driver's side front fender well experienced lateral intrusion resulting in damage directed towards the centerline of the vehicle. The front headlight assemblies are no longer present and the front bumper body panel has been broken and is no longer properly mounted to the vehicle. The driver's door was damaged because of the impact with the red truck, rotation and impact with the curb.

## Jonathen Santellana



Two bullet entry holes from bullets fired rearward of the vehicle. Driving away from the shooter.

Photograph 6

The right rear driver's side door panel had evidence of multiple bullet impacts. Dowels were used to assist in trajectory identifications. The elongated entry holes are evidence of a bullet with a trajectory having an acute vector angle rearward of the vehicle. These elongated entry holes show that the individual firing the bullets was not standing alongside the driver's or passenger's door, but was rearward of the rear driver's side door at the time these bullets were fired. These rounds were fired as the vehicle was driving away from the shooter.



Photograph 7 and Photograph 8

The rear driver's side door has evidence of a bullet impact along the B-Pillar. The bullet impact into the B-Pillar portion of the rear driver's side door resulted in the bullet entering the external fascia of the door and exiting through the backside of the weather stripping leaving a bulge of displaced metals and polymers. This bullet was fired with the firearm roughly perpendicular to the B-Pillar, not from the area between the door and the driver.

There is no evidence any of the 40 caliber bullets were fired from the area between the driver's door and the driver. No bullet entering or exiting damage to the driver's seat shown above, no powder burns. No bullets penetrated the driver's door.

# Jonathen Santellana



Photograph 9 and Photograph 10

The front driver's side A-Pillar showed evidence of bullet impact related damage. The bullet did not completely pass through the A-Pillar and became lodged within the A-Pillar structure. The trajectory vector for the bullet was approximately perpendicular to the vehicle's longitudinal axis, fired from outside the vehicle as the Chevrolet Malibu was pulling forward, after exiting the parking space. This shot was not fired from a shooter pinned between the interior driver's seat and the driver's door and was not fired at close range.



Photograph 11

Bullet impact related damage is present to the front dash to the upper right of the center-mounted radio. The impact damage is not consistent with a bullet that was fired from the side of the vehicle. The damage is more consistent with a bullet trajectory vector coming from the rear of the vehicle, most likely through the rear window. Had the bullet entered from an area just outside of the driver's side door, you would expect to see grazing or an elongated entry hole with even margins.

# Jonathen Santellana



Photograph 12

An exit hole created from a bullet was present on the passenger's side of the front windshield. The bullet's trajectory vector is undetermined though the damage patterns present on the windshield would indicate a trajectory vector coming from the rear of the vehicle. The rear window made of tempered glass was shattered because of bullets impacting it as the Chevrolet Malibu drove away.

## FINDINGS AND OPINIONS

The following findings and opinions offered with regards to this fatality are from the information available to me at the time this report is written. The opinions in this report are expressed with a reasonable degree of investigative accident reconstruction certainty. I reserve the right to supplement or modify my opinions as new information is received or in response to investigation or opinions of other experts.

1. On November 13, 2013, at approximately 5:05 pm, Jonathen Santellana was returning to his vehicle from the area of Apartment building 19 when he passed Mr. Garza on the sidewalk. No communications were exchanged between the individuals. Jonathen had an unknown object in his hand and was returning from an area where there is a lot of alleged drug activity according to Mr. Garza. Jonathen went to the driver's seat of a parked 2000 white Chevrolet Malibu where the eyewitness, Kalee Marsteller was seated in the passenger front seat. The white Chevrolet Malibu engine was running during the time it was in the parking space.
2. Mr. Garza, employed as a Courtesy Officer at the Villages of Copperfield, was dressed in gray gym shorts and a t-shirt when he approached Jonathen on the sidewalk between Buildings 10 and 19. Mr. Garza testified he was not threatened, nor did he consider Jonathen a dangerous person. Jonathen had been visiting a person named Christopher Risario in building 19. After passing Jonathen on the sidewalk, Mr. Garza went to his apartment and retrieved his off duty Glock model 27, 40 caliber automatic pistol and holster. He then proceeded to locate Jonathen and determine the unknown object. No police type badge was identified with the leather holster or shown in any photographs provided. Kalee Marsteller only remembers seeing the Hispanic male, gym clothes and tattoos, beating on the driver's side window with the gun. He had no badge or identification.

## Jonathen Santellana

3. Mr. Garza (Hispanic male) approached the driver's side door of the Chevrolet Malibu while wearing gym clothes and sandals, pretending to be going to his Dodge, which was parked next to the white Chevrolet Malibu. Mr. Garza alleges he saw Jonathen putting a green leafy substance in a prescription bottle. He allegedly asked Jonathen to get out of the Chevrolet Malibu, then opened the driver's door and reached in with his right hand to remove the keys from the ignition, as he alleges Jonathen was attempting to start the car. Mr. Garza also alleges he showed his badge and police identification as he opened the door. Mr. Garza then alleges that he had the gun and holster in his pocket as he attempted to remove the ignition keys with his right hand, then pulled the gun from the holster, showed the badge, fired 4-5 rounds, without aiming, as the driver's door moved rearward 10-12 feet, peeling out (Rey Garza's deposition). Please note Mr. Garza's holster was located on the front driver's side windshield of Jonathen's car at final rest.
4. Mr. Garza testimony is not consistent with any of the factual evidence or the two eyewitnesses Sheila Moreno or Kalee Marsteller.
5. Eyewitness Sheila Moreno, in her statement to police on November 13, 2013, stated she heard gunshots and saw a Hispanic male standing on the sidewalk near the center of building 5. She saw a white sedan heading in the direction of the leasing office with the Hispanic male walking towards the front of the white sedan holding a normal size handgun in his hand, pointing at the sedan. He stopped about 2 feet, firing 3 to 5 shots into the windshield of the sedan. The six empty 40 caliber shell casings shown in Photograph 2 and Photograph 4 were in the middle of the parking lot. This testimony is supports the facts and is consistent with a person firing at the back of a vehicle as it is driving toward the leasing office. The Hispanic male then walked back to the sidewalk where the Ms. Moreno believed he went back into an apartment in building number 5 (Sheila Marie Moreno statement).
6. Jonathen Santellana, while attempting to avoid a large and unidentified Hispanic male with tattoos trying to enter his vehicle without his consent, and pointing a gun at Jonathan, who put the Chevrolet Malibu into reverse and rapidly peeled out, rearward in an attempt to remove himself from a perceived dangerous situation and armed Hispanic male. According to eyewitness Kalee Marsteller, the badge was pulled after the Chevrolet Malibu was fully backed out (Page 30, Kalee Marsteller deposition). Sheila Moreno never saw a badge of any kind, but had both hands on the gun. Kalee was unsure if the possible badge was real or fake. Bothe eyewitnesses mention that the white car was driving towards the leasing office.
7. Kalee Marsteller testified Jonathen Santellana was afraid for his and his passenger's personal welfare when a large Hispanic male wearing gym clothes and carrying a firearm attempted to gain entry into Jonathen's vehicle. Mr. Garza pulled on the door from the outside and Jonathen was pulling from the inside, the door was never open. Mr. Garza was much larger than Jonathen, weighing 280 and 6ft 3in. versus Jonathen at 5ft. 9 in. and weighing 180 pounds (Page 30, Kalee Marsteller deposition).
8. Mr. Garza testified that Jonathen never threatened him verbally or physically.
9. Mr. Garza's holster, with no attached badge for his Glock was photographed by police on the hood/front windshield cowl of the white Chevrolet Malibu at its final rest position. It is my opinion that Mr. Garza approached the white Chevrolet Malibu with the Glock in the right hand and the holster in the left hand. This is normally how the pistol is removed from the holster, then throwing the holster on the hood to open the driver's door with the left hand and the pistol in the right hand, as witnesses have stated (Holster position not consistent with Mr. Garza's testimony).

## Jonathen Santellana

10. Rey Garza fired multiple bullets at Jonathen Santellana, the driver of the Chevrolet Malibu, after Jonathen Santellana was driving away from him. When we started to drive off and was fully out of the parking space, he started shooting (Page 38, Kalee Marsteller deposition).
11. The factual evidence of the location of the 40 caliber cases, in the middle of the parking lot, make it impossible to believe Mr. Garza's testimony of firing all the rounds (4-5 rounds per Garza's testimony) while trapped between Mr. Garza's Dodge and the door of Mr. Santellana's Chevrolet Malibu, as the Malibu was exiting (1 to 2 seconds). Mr. Garza's testimony regarding where he fired the Glock and how many times he fired the Glock is not correct. This is a false statement according to the positions of shell casings shown in Photograph 2 and 4.
12. Rey Garza recklessly fired multiple bullets at Jonathen Santellana, his vehicle and passenger, while Jonathen posed no threat. Mr. Garza testified he was not aiming and all of the bullets fired have been identified or documented. There were men, women and children living in this busy apartment complex and stray bullets, which were fired in unknown directions, could have shot them. Fortunately, no other residents, school children or guests were injured or fatally shot.
13. According to Rey Garza's testimony, he only fired 4-5 bullets into a vehicle occupied by two minors. However, police records show a minimum of seven cases at the scene. No evidence of a search of the sidewalk area or final rest position of the vehicle for bullets or cases. There is no evidence of a search for additional bullets, clips or casings.
14. Rey Garza fired a minimum of seven (7) bullets into a white sedan, that contained two teenage occupants, not only were the occupants in extreme danger, but so were the many other guests and residents of the surrounding area of the large apartment complex, at a busy time of the day. The two eyewitnesses, Kalee Marsteller and Sheila Moreno both confirm the white sedan was moving away from the shooter, and the Hispanic male with a gun in his hand, was never in danger of the white Malibu. There is no physical evidence to support the allegation that the shooter was ever threatened, harmed or in danger of the white Malibu.
15. Peeling out of parking space, 14-20 feet per second, and the driver's door only travels about 10-12 feet to exit the 16 ft. parking space, since the Chevrolet Malibu is only 15.87 feet long. It would take less than 1 second to peel out of the parking space, for the driver's door, the issue in this case.
16. Two bullets entered the backside of Jonathen Santellana's, head and back causing massive internal bodily damage that resulted in his death. The medical records will prove Jonathen was shot in the back. Yet no bullet holes were ever documented in the driver's seat or head rest, leaving this investigator to the belief that when Jonathen pushed Kalee down, as she testified to, Jonathen would have been leaning over her to protect her, exposing the back of his head and his back. Jonathen was shot in the back (Page 37 Kalee Marsteller deposition).
17. The bullet hole in the "A" pillar of the white Malibu, shown in Photograph 9 was not fired from a position between the driver's door and the interior driver's seat as testified by Mr. Garza. This bullet was fired by a tall standing person and from a distance. No powder burns were noted on the white Malibu. The shallow penetration of the bullet, which is still present. This evidence was critical to the investigation, yet was not noted or documented by police.

## Jonathen Santellana

18. No evidence of gunpowder burns or gunpowder residue was identified by investigating officers or this investigator associated with the interior fabrics, seat, exterior paint or the body of Jonathen Santellana. If the Glock 40 caliber was fired from between the parked vehicles or between the door and the seat, as testified to by Mr. Garza, powder burns and residue would have been present on Jonathen and the vehicle (refer to Medical Examiner's report and photographs of the white Malibu).
19. Rey Garza used excessive and deadly force on a vehicle that posed no threat to him at the time the force was used.
20. Rey Garza never attempted to provide medical assistance to Jonathen Santellana that is provided for police officers in basic training. Kalee Marsteller testified when she got out of the car Jonathen was still breathing.
21. The careless use of deadly force by Rey Garza to stop a vehicle occupied by minors who posed no threat of bodily harm as they drove away was unnecessary and excessive. This act shows a total disregard for the human lives of not only those in the white Malibu but the entire apartment complex.
22. Kalee Marsteller was terrified as Mr. Garza approached their vehicle with a gun, and testified she had been robbed before in this apartment complex, known for tramping and drugs, so she assumed they were getting robbed (Page 97-98, Kalee Marsteller deposition). Mr. Garza was never in any danger (Page 101, Kalee Marsteller deposition).
23. According to the Record of Evidence Release document from the Harris County Institute of Forensic Sciences Firearms Identification Laboratory, one unfired round was found in the chamber of the subject firearm and three unfired rounds were found in the nine-round magazine of the subject firearm giving us four unfired rounds. With seven casings present and identified at the scene of the fatality and four unfired rounds identified as being present within the firearm when it was taken as evidence that would account for 11 rounds. Fact: the magazine can only hold nine rounds +1 round present in the chamber. It would be impossible to have 11 rounds present in that firearm and it is therefore impossible for there not to have been an additional magazine that is unaccounted for.

I reserve the right to supplement or modify my opinions as new information is received or in response to investigation or opinions of other experts. My curriculum vita is attached.

Best regards,

AUTO FIRE & SAFETY CONSULTANTS, INC.



Cam Cope, CFII, CFEI, CVFI  
President

# Jonathen Santellana

## MATERIALS REVIEWED

In addition to my education, training, and experience in accident reconstruction, the following sources of information and activities were utilized to form my observations and findings. Additional materials forming the basis of the undersigned opinions include many documents reviewed and general literature, knowledge of accident reconstruction and products associated with vehicles.

1. Harris County Sheriff's Department Police Records;
2. Incident Report Office of Sheriff Ron Hickman;
3. Harris County Institute of Forensic Science Laboratory Examination Report;
4. Harris County Institute of Forensic Science Laboratory Examination Supplemental Report;
5. Autopsy Report;
6. AutoStats of Unit 1/Malibu;
7. VinLink for Unit 1/Malibu;
8. Title Info for Unit 1/Malibu;
9. AFSC Vehicle Inspection Photos;
10. AFSC Scene Inspection Photos;
11. Police Scene Photos;
12. Police Photos of Unit 1/Malibu;
13. Aerial Photos of Scene;
14. Photos provided by Attorney;
15. Deposition of Rey Garza with Exhibits;
16. Deposition of Kalee Marsteller;
17. Witness Statements;
18. Viewed Vehicle Conspicuity references;